

**CULTURAL RESOURCES COMMISSION
REGULAR MEETING
APRIL 7, 2005**

A. CALL TO ORDER

The regular meeting of the Cultural Resources Commission (Commission) was called to order by Vice-Chair Keeaumoku Kapu at 9:00 a.m., Thursday, April 7, 2005, Planning Department Conference Room, Kalana Pakui Building, 250 South High Street, Wailuku, Maui, Hawaii.

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

Mr. Keeaumoku Kapu: I call this meeting to order. Okay, first of all, before I get into the agenda, this is the time when we open up for public testimony. We'd like to open up for public testimony on any agenda item in order to accommodate those individuals who cannot be present at the meeting when the agenda item, basically, is occurring at that moment. So if anybody wants to come up? If not, okay, next on the agenda. Introduction of new commissioner members. We have some new members in the house. Welcome.

B. INTRODUCTION OF NEW COMMISSION MEMBERS - DELDRINE K. KAPUNI (MOLOKA); NANI WATANABE (LANAI); LEE KALEI MOIKEHA; DOROTHY PYLE

Mr. Wayne Boteilho: Would the new members care to say a few words? If not, that's okay too. Is it on? Oh, good time to test the mike anyway. Short recess.

Mr. Kapu: Short recess.

C. ELECTION OF CHAIRPERSON AND VICE-CHAIRPERSON FOR THE 2005-2006 YEAR

Mr. Boteilho: Wayne Boteilho, Deputy Planning Director. What I'd like to do is be an outside official to preside over the election of the chair. The reason of that is so that everybody is neutral. There's two ways we can do this. We can have nominations, one person nominated, then we vote on that one person, up or down, or we could have multiple nominations and then we would vote on the first person nominated; if that person fails, then we vote on the second person nominated. I'll throw it open to you but if there's no objections, I would prefer that we do it the second way, just whoever wants to nominate somebody, just make that motion, and we'll have several nominees but we'll vote on the first one. If the first one passes, then that person is the chair. Okay, so seeing no objections, are there any nominations for Chair of the Cultural Resources Commission?

Mr. James Giroux: Wayne, do you want me to go over the duties of the chair just in case the new members don't understand the --

Mr. Boteilho: Okay, yeah.

Mr. Giroux: Hi, James Giroux, with Corporation Counsel, and I figure since we are going to do introductions and all that stuff today, I might as well point to the rules that if somebody is going to be voted chair, it's nice to know what your responsibilities are going to be. So I'm looking at our own rules, 12-530-18, and it, basically, states that the chairperson shall be the presiding officer of the Commission and the vice-chairperson shall act as the presiding officer in the absence of the chairperson, and the presiding officer shall open all meetings of the Commission at the appointed hour by taking the chair and calling the meeting to order, as you saw was done this morning by Mr. Keeaumoku here; and call for the approval of the minutes of any preceding meeting where a quorum is present; maintain order and proper decorum, meaning that you're going to be called on to make decisions of order regarding Robert's Rules of Order; who has the floor; if people appear to be stepping out of line as far as conduct; you have to make those kinds of calls; announce the business before the Commission, basically, with our agenda, you would be calling what's going to be discussed next on the agenda; review all matters properly brought before the Commission; call for votes upon the same and announce the results; appoint all hearings officers and any committee chairperson's with the approval of the proper majority of the members; authenticate by your signature all acts of the Commission as may be required by law, unless delegated to the Planning Director; do and perform such other duties as may be required by law or such as may properly appertain to such office; make known all rules of order when so requested and to decide all questions of order subject to an appeal to the Commission. So those are kinda, you know, what you -- so you know what you're getting yourself into.

Mr. Boteilho: Yeah, just to add, we have this Robert's Rules of Order in plain English, which for the past member, you folks have yours; the new members will be getting a copy also, and parliamentarily the chair makes parliamentary rulings, I mean right or wrong, the chair makes parliamentary rulings, right or wrong, unless the body wishes to overturn the chair, but short of that, the chair, what the chair rules goes. If you rule someone out of order, that's it. Okay, so back to the motions, Lon, did you have a motion?

Mr. Lon Whelchel: I'd like to nominate Lisa Hazuka for president -- chairman.

Mr. Boteilho: Okay, it's been moved that Lisa be nominated for chair. Is there a second?

Mr. Perry Artates: Second.

Mr. Boteilho: It's moved and seconded that Lisa be nominated for chair.

Ms. Lisa Rotunno-Hazuka: You know what? I cannot be chair.

Mr. Boteilho: Well, okay, let's --

Ms. Rotunno-Hazuka: I just want you to know that.

Mr. Boteilho: Okay, well, I tell you what, comment on the motion? Is there any discussion on the motion?

Ms. Rotunno-Hazuka: Well, I appreciate being nominated, I just can't do it right now, so --

Mr. Boteilho: Okay, would you like to discuss further or shall the motion be withdrawn?

Mr. Whelchel: I withdraw the motion.

Mr. Boteilho: Okay, the motion is withdrawn. Second?

Mr. Artates: I second withdrawn.

Mr. Boteilho: Okay, are there any further motions for Chair of the Cultural Resources Commission? Yes, Lisa?

Ms. Rotunno-Hazuka: I would like to nominate Dorothy Pyle.

Mr. Boteilho: Is there a second to that motion?

Mr. Kapu: Second.

Mr. Boteilho: Okay, it's moved and seconded that Dorothy be the Chair of the Cultural Resources Commission. Is there any discussion on the motion?

Ms. Dorothy Pyle: Since I have laryngitis it's very hard for me to talk today. Lisa, I really appreciate that, and she knows from past experiences that I've been on this Commission before and that I was the chair of it before and so I understand that you know that I would know how things are operated, but I haven't been involved for a number of years and I don't know which things are upcoming. I would be happy to be the vice-chair, but I think that someone who has actually been on the Commission for the last four, two -- at least two years would be an appropriate person to be the chair. I really appreciate that though, thank you.

Mr. Boteilho: Is there further discussion? Seeing none. If we have consensus, can the motion be withdrawn, motion and second.

Ms. Rotunno-Hazuka: Yeah, I withdraw the motion.

Mr. Kapu: Second.

Mr. Boteilho: Okay, motion and second withdrawn. Are there any further nominations for Chair of the Cultural Resources Commission? At the rate we're going, I might end up being the chair, okay, but are there any further motions? Yes, Perry?

Mr. Perry Artates: I nominate Keeaumoku Kapu.

Mr. Boteilho: Okay, it's been moved that Keeaumoku be the chair. Are there any -- is there a second to the motion?

Ms. Rotunno-Hazuka: I second.

Mr. Boteilho: It's moved and seconded that Keeaumoku be the Chair of the Cultural Resources Commission. Any discussion on the motion?

Mr. Kapu: Yeah.

Mr. Boteilho: Go ahead. Go ahead, Keeaumoku.

Mr. Kapu: I recently signed up for the State Burial Council so there may be some kind of confliction if comes to the point where I am appointed under the State Burial Council with the Cultural Resources Commission, so that's the reasons why I cannot accept.

Mr. Boteilho: Well, are you saying that you would like to withdraw ...(inaudible)...

Mr. Kapu: I'd like to withdraw.

Mr. Boteilho: Okay, if we have consensus, then the motion and second is withdrawn for Keeaumoku. So, now, we can do two things, like we can take a short recess to like think about it --

Ms. Rotunno-Hazuka: Well, yeah, that's --

Mr. Boteilho: Or, I tell you what, let's try it one more time and if we cannot get a vote this time, we're going to take a short recess, everybody can think about it. Is there a motion for chair?

Ms. Rotunno-Hazuka: As we're going down the line, what about Sam? I'd like to nominate Sam.

Mr. Boteilho: Okay, is there --

Mr. Whelchel: Is Sam still on the board ...(inaudible)...

Ms. Rotunno-Hazuka: Yeah, I didn't think he way because I didn't -- but, of course, we don't know if he ...(inaudible)...

Mr. Boteilho: Okay, well, you know what we can do in this case, he's not here, we could go forward with the election of Sam. If he is elected, then we can have it provided that he accepts, and we can elect a chair pro-temporary and I guess, Keeaumoku being the Vice-Chair, he would be the temporary chair for this meeting only and then we could contact Sam after that. And if he declines, then the next meeting we can have another election. Okay? Is there a second for Sam to be the chair?

Mr. Whelchel: Second.

Mr. Boteilho: Okay, it's been moved and second that Sam be the Chair of the Cultural Resources Commission. Is there any discussion on the motion? Okay, seeing no discussion, I shall repeat the motion that Sam shall be the Chair of the Cultural Resources Commission provided that he accepts.

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

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

VOTED: that Commissioner Kalalau be the Chair of the Cultural Resources Commission provided that he accepts.

Mr. Boteilho: Okay, none opposed. Sam is elected provided that he accepts. Therefore, you know, I would like to leave the election of a vice-chair to Sam. He shall preside over that. So now I'd like to have motions for a chair pro-temporary. Are there any motions for that for a chair, a temporary chair, to preside over this meeting.

Ms. Rotunno-Hazuka: I make a motion that Keeaumoku be the temporary chair for this meeting.

Mr. Boteilho: Okay, it's been moved. Is there a second?

Ms. Pyle: Moved and seconded for chair pro-temporary shall be Keeaumoku.

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

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

VOTED: that Commissioner Kapu be the pro-temporary chair for this meeting.

Mr. Boteilho: Motion carried. You may preside over the meeting, Mr. Chair.

Mr. Kapu: Okay, mahalo. Wow, that was a long one. Okay, well --

Ms. Pyle: May I say something?

Mr. Kapu: Sure.

Ms. Pyle: Even with my voice the way it is, really, it would be very nice, I think, for everyone on the Commission, for everyone to at least introduce themselves a little bit so we, you know, I know some of you, some of you don't know who I am, but it might be a good idea if we just had two lines about who everybody is just for background. Thank you.

Mr. Kapu: Starting with you, Lisa.

Ms. Rotunno-Hazuka: My name is Lisa and I'm an archaeologist on Maui, all of our work is done on Maui, and I've been on the Cultural Resources Commission now a little over a year, and I was also on the Commission about four years ago but had to step down.

Mr. Kalei Moikeha: Kalei Moikeha. I live in Kihei. I'm a longshoreman. I'm going to Tahiti on Saturday. Thank you.

Mr. Artates: Aloha, everybody, my name is Perry Artates. I'm a born and raised resident of Keokea, Kula. I'm an employee of the Operating Engineers for 20 years now and I have a family of ten.

Ms. Deldrine Kapuni: Aloha, my name is Deldrine Kauinohea Kapuni. I am from the island of Molokai, was born and raised on Molokai. I work at Alu Like as the Manager of the Kupuna Program. It is really nice to be part of this body and I look forward to working with the commissioners. Mahalo.

Mr. Kapu: Good morning, everybody, my name is Keeaumoku Kapu. I reside in Lahaina. I'm one small guy with many hats. I'm also the President of Hui O Wa`a Kaulua in Lahaina, the place of the double-haul canoes, that's my temporary job, and I only have four kids. Nice to meet you.

Mr. Giroux: I'm James Giroux, I'm the Deputy Corporation Counsel assigned to this Commission so I'll be available to answer and legal questions.

Ms. Pyle: Sorry for my voice. I'm Dorothy Pyle. I'm a history teacher at Maui Community College. One of the classes that I teach is a history of the Hawaiian Islands so I've been a long time involved in this particular subject. I've also previously served on the Cultural Resources Commission and was the chair for about three years a while ago.

Ms. Nani Watanabe: Aloha, my name Nani Watanabe and I'm the Cultural Resource Manager for Castle & Cooke Resorts, and actually I'm a native of Lanai, so I'm back home on my island, and I've been there for now about a year and -- but I still live here on Maui, so I live two islands, and I have four daughters and my husband lives here and I have to have a Costco connection.

Mr. Whelchel: I'm Lon Whelchel. I'm an architect. I've been on the island self-employed for about 12 years. It's wonderful here. I'm glad to see we have such good adverse additions to our council. It's going to be great to have people that can give us some more depth, and I agree with Dorothy Pyle that to be chair, you need to have two years experience and nobody on the council has been here two years --

Ms. Pyle: Oh well.

Mr. Whelchel: That's why we're struggling, but we'll get over it, as my daughter always says. It's good to have all of you here.

Mr. Boteilho: Mr. Chair, may I introduce the staff?

Mr. Kapu: Sure.

Mr. Boteilho: Yeah, well, first of all, yeah, I'm Wayne Boteilho, born and raised Maui boy, 23 year veteran of the County of Maui, and with us today, we have staff Dawn Duensing, the Department's Cultural Planner; next to her we have Aaron Shinmoto, he's the Division Head for the Zoning Administration and Enforcement Division, and he'll be participating in part of the orientation today; and last, but not least, Suzie Esmeralda, and she'll be your secretary to this Commission. Thank you.

Mr. Kapu: Okay, mahalo for that. Without further adieu, Item D, Orientation. First on the list is Commission Roles and Responsibilities.

D. ORIENTATION

1. Commission Roles and Responsibilities

Ms. Duensing: Good morning, commissioners. I'm Dawn Duensing and I am the Cultural Resources Planner. Welcome to the new members and welcome back to our tried and true commissioners and some of you guys have been here for more than two years. Just a little bit more about myself. I'm a historian and I was formerly on this Commission until we got a Cultural Resources Planner, so I served five years and I was the vice-chair and chair for a few years as well. What I wanna do is tell you a little bit about what the CRC is all about, how you get your roles and responsibilities, and today's agenda will give you a good opportunity to learn what those roles and responsibilities are.

First of all, Title 2, Chapter 2.88 of the Maui County Council Code, or the Maui County Code, excuse me, states that preservation of historic properties enhances the educational, cultural, economic, and general welfare of this county, and the council believes that it is essential that the qualities relating to the history and cultural of Maui be preserved through comprehensive historic preservation planning, and that's why we established this Cultural Resources Commission. For a number of years, it was just simply known as the Maui Historic Commission.

In Chapter 2.88, which you all received in your binders -- did you guys get your binders I hope? Okay, so you can review these rules for yourself. I just wanna point out the most important pieces of this legislation. First and foremost, you are charged with protecting and preserving historic properties, encouraging the appropriate use of historic sites. Another important role that you play is to encourage restoration, rehabilitation, and continued functional use of historic properties. Third, you also encourage the identification, designation, preservation, and enhancement of historic properties that represent distinctive elements of cultural, social, economic, political, and architectural history. So the cultural resources are really a wide-ranging variety. We have architectural resources, archaeological resources, you know, the Hawaiians had the connection to the land, it just goes on and on. And then another thing is that we try to formulate a countywide comprehensive historic preservation policy and have programs and plans to facilitate this. And all of these things are encouraged to ensure the preservation of Maui County's cultural and historic heritage, not only for this generation, but for also future generations, for both residents and visitors.

Now, as for your official duties, you have a variety of powers and duties and, primarily, you have an advisory role to play in this County but you also have, not only an advisory role, but you have power in the County's three Historic Districts, and that is there are two Historic Districts in Lahaina, and there's one Historic District in Wailuku, right across the street with the old Bailey House and some of the other buildings over there.

Now, your duties in the Historic Districts include: number one, you review architectural designs for renovations of historic buildings and also for new buildings, and in that you have the power to say "yes" or "no;" this is not an advisory capacity; this is something that you

say, "yes, we approve it," or "no, we don't." If no, we don't, you say what you can do to make it better so that you can approve it, okay, so that is an absolute power, and you'll see that on the first item on the agenda today, which is for the approval of a Historic District Permit for the new comfort station at Lahaina Harbor; this is a yes or no thing; you have the power to approve or deny the application.

You also have powers over the sign designs in the Lahaina Historic District, and we have sign design guidelines, you should have received a copy of that. And you also look at the uses of properties in the historic district. As an example, the banyan tree and Banyan Tree Park, you decide what's an appropriate activity to go on underneath that tree. Should we have art fairs? Should we not? Should have a canoe hoolaulea or should we not? That's the CRC's powers to do that.

Now, you also have an advisory capacity and this is where a lot of the things you'll see on the agenda really come into play. You don't have the power to say, "No, we don't like that archaeological plan. You have to do it." What you can do is advise the applicant as to how you would like to improve it, but you can't tell them what to do, so you have a lot of advisory roles, and I'll list a few of these. First of all, we are asked to assist and advise the State and Federal agencies with historic preservation responsibilities. So, at the local level, the CRC provides guidance to the County for implementing the General Plan, for implementing community plans, cultural resources management plans. At the State level, the CRC helps implement Chapter 6E of Hawaii Revised Statutes and we advise the State Historic Preservation Division. They have power over a lot of things in the State, what Chapter 6E says is anything pertaining to cultural resources, for instance, if a building is more than 50 years old and somebody proposes to demolish it, they need to review that, that's their duty. In such case, they might say, "You know what? We can't come over to see a site visit, you know, see what that building is all about," so they'll send us a letter and they'll ask the CRC for an advisory review on the matter. At the Federal level, and you'll see this in play today, the CRC serves as a consulting party to review projects that may impact historic resources, and this is given in Section 106 of the National Historic Preservation Act, and what it says is that projects that receive Federal funding, which is this comfort station, the first item on the agenda, must have review as to whether this project will affect historic resources. The historic resources to be considered now is the National Historic Landmark District, which Lahaina is designated as. So these resources need community input and you're part of the community input that advises this project that is Federally funded.

The major reason for the existence of the Cultural Resources Commission is to administer the Certified Local Government program, and we refer to that as the CLG, and what a CLG is is that it was established by the National Historic Preservation Act, that was done in 1966, and the Certified Local Government program is a nationwide program, we have two Certified Local Governments in Hawaii: one is you and one is your commission counterparts on the island of Kauai. And what the program does is this is a formal link that

links the State to the Feds, okay, we get Federal funding because we are a Certified Local Government, we get it every other year, here in Hawaii, Kauai gets it one, we get it another year, and what we do with that money is to preserve and promote historic preservation. For instance, this year we got the money and one of the things that we did is we brought an engineer from Oregon to look at our Hana bridges and say whether they can be rehabilitated or not and to advise you, as commissioners, but also advise the Department of Transportation as well as the Department of Public Works as to how they might better preserve the bridges, and the Federal Government funding we got paid for that program. So every year we have a work plan. What I'll try to do is give you what our work plan was for this year. I kind of spaced that out, and I didn't bring it with me, but I'll have it next time.

And one other important role that we have is to initiate, accept, review, and recommend properties to the State and National Register of Historic Places. Currently, the CRC is involved in getting the Mantokuji Mission listed on the National Register of Historic Places. When these nominations are ready, they come to the Cultural Resources Commission first, what you guys do is you review it, does it look like this is significant, it should be listed as a historic property, you advise the Mayor, yes, we want this to be listed or, no, we don't, and then it goes to the State and to the Federal level, so we're really at the local level here, we're the grassroots reviewers of the State and National Register.

And another important role we have in the advisory capacity is what you'll see on your agenda today we will be advising this Palaua cultural preserve project and we will also be reviewing the Ukumehame Draft EA. And, again, you'll see how that works a little bit later today.

So you have guidelines for how we work in your package, you should have got the Cultural Resources Management Plan, the Maui County General Plan, and the community plans. Very importantly is the Lahaina Design Guidelines and the Architectural Style Book for Lahaina. We have revisions that have not been approved and accepted by this board, but, for now, that's a very important document because it tells you how to review projects in Lahaina for approval or denial. We also have OHA guidelines and, very importantly, because we're connected to the Federal Government, we try to adhere to the Secretary of the Interiors Guidelines for Historic Preservation and Archaeology.

Just a few of the little things. There's nine members. We're missing Sam Kalalau today. We meet the first Thursday of each month, usually in Wailuku, but we also meet, as needed, in Lahaina. There's a lot of Lahaina issues, so we take our meetings to the community. And our rules say that we're supposed to meet on Molokai and Lanai once a year too, and we haven't quite managed to do that on a regular basis but, hopefully, with active members from our other neighbor islands, we can try to do that. And, again, that's something that we can use our Federal funding for. And I think that Wayne covered the

other things. If there's any questions, I'm happy to answer them, otherwise, feel free to contact me here at the Planning Department for any concerns that you might have.

Ms. Pyle: What's that phone number for you?

Ms. Duensing: Yeah, you can contact me at 270-7841, and that's my direct line, and I also respond to email. I'll give all of you a card so you know where to find me. Anything else?

Mr. Giroux: Dawn, is Wayne going to cover Parliamentary Procedure?

Ms. Duensing: Yeah, Wayne's supposed to cover Parliamentary Procedure. Aaron, why don't you just -- we'll just skip that part of the agenda.

Mr. Kapu: Okay, County Policy on Sexual Harassment. We're going to skip the line item Parliamentary Procedure until Wayne shows up.

3. County Policy on Sexual Harassment

Mr. Aaron Shinmoto: Good morning. I'll try to keep this as brief as possible because I'm also fighting a lingering cough and you should have all received a copy the sexual harassment policy, I think, in your packets. Hopefully, you had time to read it. The County has a zero tolerance policy against sexual harassment and we are required to do annual training for boards and commissions and, basically, to tell you what sexual harassment is and where and how to file a claim. Anyway, sexual harassment is not only illegal, it does cost money, legal fees, lawsuits, back pay, and all these other things that go with it.

First of all, let me read a portion of the definition, which is on Page 2 of your policy, it defines sexual harassment as any unwelcome sexual advance, request for sexual favors or any other verbal or physical conduct or visual display of a sexual nature directed to an individual by either an officer or an employee of the County. On Page 3 you'll also see a listing of actions that you are not to do, it may be construed as sexual harassment. Okay, the list includes: making unwelcome sexual advances or request for sexual favors; making remarks of a sexual nature; using gender based or sexually abusive language and sexual innuendos; visually displaying materials of a sexual nature; or physical contact of a sexual nature.

For members of boards and commissions, like yourselves, you are covered by this policy and you would be held accountable should any sexual harassment occur. If you feel that were subjected to sexual harassment, you are to report it to your chairperson. If he or she is the violator, then you can report to our Director Mike Foley, our Deputy Wayne Boteilho, or the County's Equal Employment Opportunity Officer, who happens to be our Managing Director, Keith Regan.

The important thing we would like to stress is that you do report it, again, it is illegal and the County has a stringent policy on that. Everyone in the County does receive this training so if you don't want to report it our director or deputy or whoever you can report it to, any County employee, we do have procedures on who to report to and we can start an investigation. Aside from the County people, you can also report it to the Hawaii Civil Rights Commission, also to the Federal Equal Employment Opportunity Commission, and those numbers are listed in your policy memo.

Any investigation will be, you know, we'll conduct it discreetly and a lot of -- and we'll keep the facts of the investigation as confidential as possible, as far as the law will allow us to do. We do have a half-hour video, which I will not show you today. It kind of goes further, it gives examples on this kinda thing. I know you guys are pressed for time. If you guys do wanna see it later on, let Dawn know and we can schedule an appropriate time for that. It's an half-hour thing. It's an interaction thing. Questions and answers. Examples. I did promise to make it brief, and this is brief. You have any questions? Okay, thank you.

2. Parliamentary Procedures

Mr. Boteilho: Okay, thank you, Mr. Chair. Yeah, pardon me, you know, parliamentary procedure, since we passed out the book and bought the book, I was thinking that, you know, maybe less for me, yeah, you know, just taking up time, but, no, okay, you folks requested it and that's good. I would say, okay, parliamentary procedure, first of all, the main purpose is to maintain order, one. The second purpose is to maintain equality for each member, basically, justice for each member. So I don't wanna go too much into it because you have the book, a condensed version, and, you know, the main advice I give to every board and commission is that, you know, you run the meeting, run the meeting as you see fit. You don't have to follow Robert's Rules exactly, maybe that's part of the reason I was thinking of not doing the training because everybody kinda run it the way they want anyway so, but, no, no, no, but that's good and I encourage that because that's your prerogative. Sometimes Legislature, you watch them, they're such a stickler for parliamentary procedure, nothing gets done. But just a couple of pointers, I guess, I seen - - that's I've seen boards and commissions sometimes they get hard time. First of all, I would say the strongest rule in parliamentary procedure is consensus. If you get consensus, you can move on and save time and -- because with consensus, and it actually says it in Robert's Rule, you know, you can like -- you can do anything. You don't even need a motion. So, like the chair especially, I would advise, you know, things like saying like, you know, if there's consensus, we shall move on, or if there's consensus, we shall defer. But if one person objects, then you don't have consensus; you have division. Even if one person. And, in that case, you have to vote; you have to have formal motion and vote.

About motions, one thing I see a lot of members that they state what they want to do but it's not in a form of a motion, for example, they would say, "Oh, Mr. Chair, can we make sure that the applicant provide a report on drainage?" Yeah, okay, but I think it would be stronger if the member said, "Mr. Chair, I move that the applicant provide a report on drainage." And then you vote on it and then it's much stronger. Then it's in the official report and official decision and order of the County. So I'm going to move on. As an example of that, let me move on to, no, to amendments of motions. Okay, you have the main motion. Somebody says, "I move to approve this project." Seconded. Okay, that's the main motion. Now, you can amend the main motion and Robert's Rules says you should only amend it twice because sometimes if you go beyond that, you forget what the main motion was. But, anyway, yeah, so if there's a main motion, approve this project, somebody -- that's the proper time for somebody to come and say, "Oh, Mr. Chair, I'd like to amend the main motion by having the applicant provide a report on drainage." And then that must be seconded also. Now, if you have an amendment to a main motion, you vote on that first. You vote on the amendment. If the amendment passes, then you go back to the main motion as amended. One thing about amendments to the main motion is that the amendment to the main motion cannot be directly contrary to the main motion. I mean you cannot have the main motion say, "Oh, that we approve this project," but then the amendment say, "Oh, I move, I'd like to amend the motion to say that we disapprove this project." Cannot. You must modify the main motion; you cannot be contrary to it.

Other than that, I think that's the basics, but, again, I encourage you to run the meetings as you see fit, informally, I mean, you know, technically, like you should be recognized by the chair first before you speak and all that sort of thing, but, no, you play it by ear, that is allowed. Again, if you have consensus that that's the way you wanna run the meeting, then I say that you should do it that way.

I already brought up about the duties of the chair and the chair making the final rulings and the body can overturn the chair. So I'll end by saying that if there's any questions, well, you can bring up questions after I finish, but if there's any questions beyond that, please feel free to give me a call or even like just before the meeting, you can let me know, and then I'll come down and then talk story with you about if you have any questions. So are there any questions? Yes, Lon?

Mr. Whelchel: The meetings run fairly smoothly and when we have some irrate person come to the mike and read us the riot act, do we just have to bite the bullet and take it or can we smooth them down a little bit, can we tell them that they're out of order?

Mr. Boteilho: The chair can rule them out of order, but I would suggest though that, at the beginning of the meeting, the chair lay down the rules for testimony, I believe it's three minutes, you could extend it to five.

Mr. Whelchel: I'm not talking about the length, I mean attitude.

Mr. Boteilho: Yes, the chair can rule that person out of order, especially when you get into a case where there's name calling, you know, it's clearly beyond business, you know, name calling or even debating a member. I mean the chair should not allow debate between a testifier and the Commission. Any other questions? Okay, seeing none --

Mr. Giroux: Wait, Wayne, can you just touch on two matters that I've noticed that the second -- a lot of times the members think that if they second something, they have to vote in the affirmative on that. As far as the concept that once there's a motion that somebody can second it for the purpose of discussion because a lot of times the person's afraid or people are afraid to second something cause they think they're voting to pass the main motion but, actually, there's a period, once you move, you second, and discussion, and then that is really the fruitful part of the motion portion because, as Wayne said, that now there can be full discussion of the matter that was put forth, and also it gives the body an opportunity to formulate amendments to a main motion, so that's something to think about cause I've noticed on some of the commissions I've advised is there'll be a motion and then nobody will second it and then it dies but then people wanna discuss it. So the spirit is is if somebody moves for something, you know, let's second it and let's get it on for a spirited debate, and then, you know, even you seconded it, it doesn't mean you have to vote for it in the end.

Mr. Boteilho: Yeah, my understanding is that the maker of the motion cannot vote against his own motion and, you know, that's to prevent somebody to making endless motions and voting against it, but the seconder does not, you can vote against the motion even if you second. Okay? Thank you. And, again, any questions, let me know.

Ms. Rotunno-Hazuka: Okay, thank you.

Mr. Kapu: Well, if we have consensus, can we move on? Okay, Orientation No. 4, Sunshine Law and Ethics.

4. Sunshine Law and Ethics

Mr. Giroux: Okay, I guess that's my part. Basically, the Sunshine Law, our rules state that we must run our meetings according to Chapter 92, which is the State Sunshine Law, and the policy behind that is that any action that we take, it needs to be open to the public, we're trying to get transparency, we're trying to get away from the feeling that these boards act on their own without public scrutiny, without public knowledge. One of the main things that goes along with that is that our agendas are posted so people know what we're going

to talk about at the meetings and we have to conform our discussions to our agenda so we have to follow our agenda. We try to get away from putting things on the agenda that haven't been agendaed because then people wouldn't have notice to come to give their mana`o to what decisions we're going to make. So it's very important that when we discuss things or we try to get to conclusions that we make sure they're things that are on the agenda. Basically, part of the open meeting is that we do give people time to testify so -- but we can limit that and we can extend that. We -- this also extends to site visits, when we go and visit a site, people are allowed to know what's going on.

If we are going to have a closed meeting, the law allows us to have close meetings but there are very narrow exceptions of why we would shut down the meeting, kick everybody out, and then discuss something, and the most common one is that we're going to discuss our liabilities with your attorney, so, basically, there may be a decision on and the body wants to know if we make this decision, are we exposed to liability, you know, what's the possibility of a lawsuit, who's going to be a party to this lawsuit, what would be the positions of the parties, possibly, if we were sued because of this decision; those are the types of things that we would -- I would probably say, "You know, this is probably a good time for an executive session." We cannot go into an executive session unless two-thirds of the members present vote and it's of the majority of the members are also in agreement. So we would take a vote and if we don't have the proper amount of people to go into executive session, we wouldn't be allowed to, so that's another thing of quorum, that's we want to encourage that you come to as many meetings as possible because if we don't have quorum in certain situations, some actions can't be taken, and if we don't have the minimum of five people here, we wouldn't even be able to take any action, so we would actually just have to shut down the meeting and let people know when we're going to come back with a quorum.

Another part of the Sunshine Law is to avoid ex-parte communications meaning that sometimes, as a commissioner, people know that you're on the Commission, something might be coming up and somebody might want to just get your ear. We encourage people to, you know, let that person know, look, you know, this is something that you'll have an opportunity to testify on, we'll take this on public record, and we want to get away from this influence of people because what might happen is somebody else might hear about this interaction and then try to recuse you from even taking decisions on the board and we wanna get away from that too because we want full participation of the people who are on the board to make decisions because that's why you're spending your time volunteering to be on these boards.

Any questions about the Sunshine Law? And, if not, that's the segway into ethics. Basically, this board is governed by a Board of Ethics that it must follow and in the Charter, it's Article 10, basically, in our own rules also has couple of rules on, basically, there's two kinds of things that we have to think about when we're on boards, whether or not we have

a financial interest in the decision that we're making; if you do, you have to disclose that and you have to refrain from voting. Our office has taken the position though that you can enter into discourse on the record as long as the disclosure has been made so then people know, oh, okay, well, if that's the, you know, if that's their position, okay, maybe that's the reason they are giving us these ideas as far their perception of the project. The other thing is is that a person who has, you know, most likely we'll be dealing with a person's property right, you know, their property, their building. When a person has those concerns and is asking for entitlements so that they can use their property, we have to be concerned about due process and that person is entitled to a fair and impartial body, meaning that if somebody on the panel has a personal grudge or, you know, something against that person, that might need to be disclosed and -- but not necessarily be a matter of recusal. If there is questions like that, you should either ask me and we can discuss it, or also you can get a formal opinion from the Board of Ethics, and that's part of financial and, you know, impartiality too. I think one of the biggest ones is like if somebody had actually had a lawsuit against you and they're in front of us asking for a permit, that's something that the applicant might remember and might bring to the board's attention, so that might be something that you wanna disclose to the board that, oh, you know, me and so and so, you know, we're in the middle of, you know, big litigation about property lines. Those are kinds of things that you have to be aware of because when you have the final decision over an applicants application, you are acting in what is called a quasi-judicial capacity and you need to uphold those standards as if you were a judge meaning that you have to, you know, it has to fair, impartial, and that person should feel like they're coming before a board that will listen at least, you know, impartially to their request.

Another thing is that, as far as ethics, is if you gain something confidentially through this board, and it could be, you know, when we go into executive session, something like that, that's not to be disclosed to the public. And also, as far as, you know, your business activity with the County, it's gotta be limited to contracts under \$500. So if you have any of these concerns, you know, you can bring it up to me, we can discuss it, we can look at, you know, what kind of issues this brings up, and then if we can't resolve it, we can go to the Board of Ethics and get a formal opinion. Okay?

Ms. Duensing: Mr. Chair, excuse me. Can I remind Corp. Counsel, could you please explain the two or more rule for the Sunshine Law? I think you overlooked that. Thank you.

Mr. Giroux: Oh, okay. Alright, that's a good point. Basically, the Sunshine Law, you know, it allows for you to have chance encounters with other members on the board as long as you're not discussing business that is before the board or possibly will be before the board. If you are going to have two or more people go to a function and those people are going to represent the board, it needs to be put on a vote before the board, well, first of all, it's gotta go on the agenda, and then it's gotta be voted on that, okay, we're going to nominate

so and so to go and either testify here, or represent us at this meeting, or meet with the Mayor, or do something like that, and once it's voted on, those people can -- and the purpose of that is put on the record, those people can go, and, you know, the public doesn't get to go and testify at that, but you have to come back and give a full reporting of what happened at that meeting in order to conform with the Sunshine Law.

Ms. Pyle: I just want to point out though that that does not constrain individuals from going and testifying as individuals even though they are members of the Cultural Resources Commission.

Mr. Giroux: Yeah, and as far as what you have to remember about that is is that, again, if you -- if you go and testify on something that is either before the board or going to be in front of the board, you run the risk of recusal again because we've had situations where people from the board went to Council and testified, that matter came back to the board, and then the applicant asked for recusal because that person revealed their animus against that project, so that's just a kind of a facet of the Sunshine Law.

Mr. Kapu: Okay, any other commissioner?

Ms. Pyle: This is probably a question more for Dawn, does the CRC have a website?

Ms. Duensing: No, the CRC is mentioned on the County Planning Department website what the responsibilities and duties are but, to my knowledge --

Ms. Pyle: Is that where the agendas are also posted?

Ms. Duensing: Yes. Suzie's shaking her head.

Ms. Pyle: So they are on the website?

Ms. Duensing: Yeah. And then we list the members on there and that's -- and then the duties and responsibilities, that's basically it, and also we have the sign design guidelines on.

Mr. Kapu: Okay, without further adieu, before we get into the permit review on Item E, there's a request to take a five-minute break. Let's go on a recess. Five minutes.

(A recess was called at 9:55 a.m., and reconvened at 10:00 a.m.)

Mr. Kapu: Okay, Permit Review, Historic District Applications.

E. PERMIT REVIEW

1. HISTORIC DISTRICT APPLICATIONS

- a. **MR. PETER YOUNG, DLNR, LAHAINA SMALL BOAT HARBOR IMPROVEMENTS. The DLNR is requesting approval of its plans for a new 1200 square foot comfort station at the Lahaina Small Boat Harbor. CRC members will approve or deny this application. Public testimony will be accepted. (D. Duensing)**

Mr. Mich Hirano: Good morning, Vice-Chair Kapu and members or Commission members. My name is Mich Hirano, I'm with Munekiyo & Hiraga, and our firm is representing the Department of Land and Natural Resources in the Historic District Approval this morning. This meeting is -- this meeting is a follow-up to three previous meetings that were held on this particular project by the Cultural Resources Commission and, as you know in your staff report, in September, we provided an update on the project to the Cultural Resources Commission and talked about the proposed plans the Department of Land and Natural Resources had for the Lahaina Small Boat Harbor and the comfort station. And during this meeting, we received comments on the early consultation for the Environmental Assessment that was performed for the particular project. Specifically, matters relating to the historic design guidelines and site specific location or relationships of the comfort station to existing historic sites in around the Lahaina Small Boat Harbor were discussed, and when we did the Environmental Assessment, we addressed those issues in the Environmental Assessment. On November 4, we received early comments from the Cultural Resources Commission on the proposed plans. And then in January 2005, we received comments from the Cultural Resources Commission on the Draft Environmental Assessment. And as indicated in the staff report, the final Environmental Assessment finding of no significant impact was published in the Environmental Notice on February 8, 2005.

So, today, we are before the Cultural Resources Commission to request Historic District Approval for the demolition of the existing comfort station and to get approval for the new comfort station improvements as proposed. Now, we'd just like to maybe orientate some of the new Commission members of the particular details of the project.

The comfort station is located on Wharf Street in Lahaina, adjacent to the small boat harbor. This is the small boat harbor, existing comfort station is at this location, so a .28 acre site, which has been -- the site is owned by the State of Hawaii but management and control through an executive order has been transferred to the County of Maui. The comfort station was built in 1984, it's a very small comfort station, it has, the existing comfort station, has two stalls on the women's side; two stalls on the men's side and two urinals. The new comfort station has 18 stalls; it has 12 stalls on the women's side; 6 stalls on the men's side. The comfort station is in compliance with the Lahaina Design --

Architectural Style Book of Lahaina, it is also accessible to Americans with Disabilities, and it meets the demand that is currently, I guess, existing at the Lahaina Small Boat Harbor because of the traffic that is generated in that particular area.

In preparation for this meeting, and I'd just like to refer you to the handouts that we provided to the Cultural Resources Commission, we don't have the colored boards for those, but I think there are two aspects that we would like to maybe have some decision on or some recommendations on this morning, and that is the color scheme for the particular building and, in our handout, we provided two color schemes: one with the green side walls and the red roof, and the second color scheme is the green with the green roof, and so, at our last meeting in January, we left that option open and said that we would come back with some options and maybe a determination of what might be recommended for the color scheme for the building. And the second item that we would like to have some discussion on and just provide some details is the revised landscaping plan. The current comfort station, there is a large banyan tree that may be impacting the integrity of the historic seawall. It was recommended by the Cultural Resources Commission that that be reviewed and, if possible, taken out or taken down and other landscaping be provided in its place, so the Department of Land and Natural Resources is -- had looked at that. We had the landscape architect provide a landscape plan for that particular area, which is provided in your handout, and what was -- and what will be proposed or what is proposed is a planting box that will extend on the water side or the seaward side of the seawall and it would be approximately 18 inches high and it would -- and in that planting area we would plant approximately six trees or trees at, you know, six feet apart to eventually grow and provide some screening and some shade for the comfort station. We would, as recommended by the Planning Department and by Dawn Duensing, we would present those plans to the County Arborist Committee and have their recommendations on the type of vegetation that would be preferable and it would be, we've suggested to the landscape architect, a number of possible of trees and variety and species of trees, two are native, there's the variegated hau and the milo, that could be planted, so that determination we would seek further input from the arborist committee on. So that concludes my presentation this morning, and if you have any questions on the project, Richard Rice, who is head of the Boating and Ocean Recreation Division of Department of Land and Natural Resources, and Eric Yuasa, who is Project Manager of the Engineering Division, Department of Land and Natural Resources are with me this morning to respond to any questions that may arise, so thank you.

Mr. Kapu: Mahalo. Any questions from the commissioners? Lisa?

Ms. Rotunno-Hazuka: I have. Mich, on the color scheme, what are the colors of the buildings around in the immediate --

Mr. Whelchel: You had a photograph showing all the buildings.

Mr. Hirano: The Pioneer Inn ...(inaudible)...

Ms. Duensing: Could you please use the microphone.

Mr. Hirano: The courthouse, as you can see, is kind of a beige with a red tile roof; the Pioneer Inn is green; and the Kamehameha Schools are a green kind of buildings. I think we have as well --

Ms. Rotunno-Hazuka: I thought we had a -- and the existing facility is green with a brown roof?

Mr. Hirano: It's kind of a --

Ms. Rotunno-Hazuka: A beige?

Mr. Hirano: A beige with a shake roof or wooden roof.

Ms. Rotunno-Hazuka: So which color schemes would be less or which color would be less obtrusive? Which would go in with the --

Mr. Hirano: Probably -- probably the green, I would think.

Ms. Rotunno-Hazuka: The green, no red roof.

Mr. Hirano: With the vegetation and the -- yes? No? Sorry, Commissioner Whelchel? Yes?

Mr. Whelchel: The dark green will make it hotter. The lighter green will be cooler and it would be more subdued and it'd give more accent, more emphasis on the courthouse, keep it as the predominant figure instead of trying to compete.

Ms. Rotunno-Hazuka: Okay, and then the banyan tree was the one that was in front, when you're coming in, right, it protects --

Mr. Hirano: Yes. The banyan tree is right here.

Ms. Rotunno-Hazuka: And there is no way to keep the tree and maintain the wall? Is that a true statement?

Mr. Hirano: I can't comment on that.

Ms. Rotunno-Hazuka: We don't know?

Mr. Hirano: Cause we haven't had it --

Ms. Rotunno-Hazuka: Oh, examined?

Mr. Hirano: Examined by an arborist.

Ms. Rotunno-Hazuka: Okay. That's all for now.

Mr. Kapu: Okay, any other commissioner? Mahalo. Yeah?

Mr. Moikeha: Mr. Chair, so, just learning, so the questions itself, the ones I got, then this is pretty much set then, size, everything?

Ms. Pyle: No.

Mr. Kapu: No.

Mr. Moikeha: So the decision as far size, how many stalls, and things like that, how did that come about?

Mr. Hirano: The decision on the size --

Mr. Moikeha: It says so in here it's inadequate anyway, right? It's what it ...(inaudible)...

Mr. Hirano: The existing comfort station is inadequate to meet the demand and the --

Mr. Moikeha: Well, it says here, "The new comfort station should help relieve the current situation. It is unlikely that any facility on this site, no matter how large, will be able to accommodate public demand at the harbor especially when there are cruise ships in port." So the question is how did you guys come up with the size and --

Mr. Hirano: The size was through, basically, consultation with the County; representatives of Planning Department; the Mayor's office; as well as the users in the area; we had from the Lahaina Town Action Committee discussions on size and this seemed to be a workable size and that's, basically, how it was determined.

Mr. Moikeha: I mean I have no -- I have no qualm as far as, you know, I mean, to me, the more the better, but I just wanted to see exactly how it was done, and I'm not even sure because it's, what, 1200 feet versus three -- I mean it's kinda huge --

Ms. Rotunno-Hazuka: Four hundred.

Mr. Moikeha: You know, so I mean I don't know the impact that that would be. I'd like to know hours that it'll be open also only cause, as a longshoreman, when the cruise ships come in the harbor --

Mr. Hirano: Yeah.

Mr. Moikeha: You know, everything is basically locked -- we can use it all the time. When the white ship comes in, the locals, we cannot go.

Mr. Hirano: The existing comfort station is open 24 hours a day, 7 days a week, and the -- I think the operating policy will remain the same. This will be open 24 hours a day, 7 days a week.

Ms. Watanabe: I have a question.

Mr. Hirano: Yes?

Ms. Watanabe: And who maintains this?

Mr. Hirano: The maintenance is carried out through contract by the Department of Land and Natural Resources, the Division of Boating and Ocean Recreation has a contract with a local agency that or company that comes and maintains it. They come into the building two times a day to clean and replace whatever is required.

Ms. Watanabe: Thank you.

Ms. Pyle: Pardon my voice again. I just have a few questions. I know that one of the -- that this is an issue that has been ongoing and that there does seem to be a necessity for some kind of repair, at least, or perhaps even replacement of a facility in this area because the one that's there is in poor condition, but it does seem like this particular issue is also very much tied up to the expansion or changing that will come about in the ferry or tender pier in Lahaina Harbor and, to me, that is not a decided issue, whether it will be enlarged, whether it will be improved, whether it will be moved, or anything of that type. If the ferry pier, for some reason or another and perhaps you even know about this, might be moved some place else, to Mala Wharf or somewhere else, which might make more sense than dumping hundred, thousands of people into Lahaina Town, then putting a 1200 square foot restroom in this area will be unnecessary and it will have an impact on the National Historic Landmark that Lahaina is that will be an unnecessary impact. And so I think that before we move too quickly in this direction, there are many, many other questions that need to be answered, and I'm not happy that this particular issue got separated from the other issue because the two things are entwined together, and I would move or hope, I won't

move yet, but I would hope that we would defer this for a period of time for the new members to get up to speed. Thank you.

Mr. Hirano: I'd just like to provide some information in response to some of the comments that were made. The comfort station is not related to the pier expansion. This is going to be done or proposed whether the pier expands or not; that is a decision that the Department of Land and Natural Resources and the Federal Transit Administration has kinda determined. And the comfort station is really based on existing need. I think that that's been clear in terms of earlier testimony that had come before the Commission that a comfort station has to be developed as soon as possible to respond to the existing need, and so I think these two projects, the pier and the comfort station, have been kind of separated and that the existing comfort station, as proposed, or the plans, as proposed, responds to the existing need whether the pier expands or not. So I think, you know, that's been the testimony, that's been the information that has come before the Commission.

Mr. Kapu: Okay, Dorothy?

Ms. Pyle: Just to -- my own opinion about this. The existing need is really based on the fact that that is where the tourists on the cruise ships come in now. If the cruise ships no longer come in there, the existing need will change.

Mr. Hirano: I think there are a number of harbor users, not only the cruise ships, but the tour operators and the inter-island ferry, but I don't want to argue the point, I'm just providing some information.

Mr. Kapu: Okay, mahalo.

Ms. Kapuni: I wanted to add to that. A lot of Molokai people travel on the ferry, and I do once in a blue moon when it's malia, but going to the lua is a problem and I think this is a refreshing approach to the problem because, you know, if you don't have a drink at Pioneer Inn, they get really upset, I don't blame them, a whole of us, "We can use your key to go to your thing?" So I think there is a need, and I'm not from Maui, e kala mai, but I am from Molokai and a lot of us have traveled to Lahaina Harbor. If we have to wait for our ohana or for the car or whatever, you need to go to the lua, so maybe this will be a nice way to address the problem.

Mr. Kapu: Thank you. Okay, Lon.

Mr. Whelchel: Are you familiar with the acquisition of the funds that were received?

Mr. Hirano: Pardon?

Mr. Whelchel: Are you familiar with the process of acquiring a grant?

Mr. Hirano: I would let Eric Yuasa from the Department of Land and Natural Resources speak to that, Commissioner Whelchel. Would that be --

Mr. Whelchel: Yes.

Mr. Hirano: Okay? Okay.

Mr. Whelchel: It's not like I'm getting away from it, but I'm getting back to it. You have a grant for this. Is there a possibility of getting a grant for the Maalaea -- Maalaea also?

Mr. Eric Yuasa: Hello. My name is Eric Yuasa. I'm the project engineer for this project. To answer your question, Lon, we are, simultaneously and concurrently, going after a separate grant for the Maalaea Small Boat Harbor and we propose major improvements of the harbor to accommodate the expanded ferry system to include Maalaea Harbor, Lahaina on Maui, and, right now, the operator for Expeditions has indicated in writing that they would like to provide service out of Maalaea, and we hope that this service would take off and maybe it will alleviate some of the demands that are faced at Lahaina, and some of the travelers that use the Lanai ferry would take advantage of using Maalaea as a -- another port. And, right now, we're in the process of completing a, what we call a concept paper. The concept paper will be used to initiate a grant proposal from the State DOT to the Federal Transit Administration. The deadline that we've been told by DOT that we need to comply with is April 30, so we need to submit this grant proposal or concept paper by April 30, and what we intend to submit is our grant proposal for this comfort station as, like Mich said, a separate project from the ferry pier.

Mr. Whelchel: It's good to know that. Thank you.

Mr. Kapu: Thank you. Anybody? Okay, Lisa.

Ms. Rotunno-Hazuka: In our packet, it talks about Section F where it states that Federal Highway Administration will not approve any project that requires the use of any publicly owned park or any land from an historic site unless there is no feasible and prudent alternative to the use, and I can't recall if we discussed other alternatives and what I'm getting at is like, you know, two small bathrooms as opposed to one large.

Mr. Hirano: We did do a Section 4(f) assessment and, in terms of the alternatives, it has been reviewed and I'd just like to go over those. In terms of the Section 4(f), it's to look at alternatives that are -- that would avoid development or potential development in the National Historic District Landmark. In this particular case, the boundaries of the Lahaina National Historic District Landmark are fairly broad, they go up to Mala Wharf to the north,

I'm not exactly sure where the boundary is to the south but it's -- it extends out a mile into the -- over the water and goes up close or beyond Honoapiilani Highway. So to avoid the Landmark District, our conclusion was that a comfort station outside the Landmark District really would not serve the purpose of the users of the commuter ferry and the harbor because it would just be too far away from that, you know, from the intended users. The second analysis was looking at alternatives within the National Historic District and three sites were proposed: one site was on the, actually, it was on the northern portion of the existing comfort station site; the other was in the old courthouse, there are some washrooms in the courthouse and to develop and expand on those washrooms; and the other was in Banyan Tree Park, on the northwestern portion of Banyan Tree Park. Those sites were discussed and were sent to the Department of Planning, the Office of the Mayor for consideration in terms of possible alternatives. It was decided unanimously to -- that those sites were not appropriate, that they would in fact have, you know, bring in new impacts to the National Historic Landmark area in that, you know, services would have to be provided, underground services to those new areas and so the recommendation from the Department of Planning, the County, was to rebuild the comfort station to meet the demand and the need at the current site.

Mr. Kapu: Okay, anyone else?

Ms. Rotunno-Hazuka: Just a quick question. When it goes to the Mayor's office, what are they looking at? What -- I would just think that the courthouse would be an option, I mean maybe you're not going to get that many stalls --

Mr. Hirano: Yeah, I'm not --

Ms. Rotunno-Hazuka: Or you don't know?

Mr. Hirano: Their criteria, basically, they said that it would impact the character of the Historic District and that by building a new comfort station in either of the alternative locations. So they were looking at the character of the Historic District, so that's what I would say.

Ms. Rotunno-Hazuka: Okay.

Ms. Duensing: I might be able to clarify that for Lisa is what we were asked to review was the comfort station being built adjacent to the courthouse, as one of the alternatives, and --

Ms. Rotunno-Hazuka: Oh, adjacent to the courthouse, not improving ...(inaudible)...

Ms. Duensing: Right. Right, and that was considered a worse alternative --

Ms. Rotunno-Hazuka: Right.

Ms. Duensing: Rather than an -- and that's pretty much a no-no to put another building in Banyan Tree Park --

Ms. Rotunno-Hazuka: Yeah.

Ms. Duensing: Was, basically, the gist of the letter and the Planning Department advised the Mayor and the Mayor agreed with the Planning Department.

Ms. Rotunno-Hazuka: Okay.

Ms. Duensing: Okay.

Ms. Rotunno-Hazuka: Thanks.

Mr. Kapu: Anyone else?

Ms. Watanabe: I just have comment.

Mr. Kapu: Okay.

Ms. Watanabe: I definitely know that, as a traveler back and forth to Lanai and as well as to Molokai, it's not easy to travel by boat and come back and there's no, you know, no, you know, comfort station that is clean and that we can use and I know that the boats do have bathrooms on there but it's not everybody that is -- can handle the comforts of riding the boat for 45 minutes, I think we have a better channel than Molokai as well, but maybe it's - - I think it's a little too big but because I think I'm looking at the standpoint of our local people because we are the ones that transit back and forth and utilize the harbor a lot.

Mr. Kapu: Thank you. Anyone else?

Mr. Moikeha: This is just a comment also. I mean I'm not set on as far as the size of the whole thing, definitely, there's a need, you know, that's a definite thing, and if we were to check hours as far as the usage, I think Lahaina, you folks would know, is there a ship everyday almost now in there or at least three times a week it's in there, at least, and so I mean I'm sure there's times when it's more busy than others and things and such. The thing that bothers me a lot is the usage by local people, is to have that accessibility, you know, that always bothers me. When -- cause what happens at the pier, for us, it's a lock-down. They lock us out, I already approached the State on this already and they actually brought in some stuff, but, you know, we cannot -- we can use it six days a week but when that white ship comes in, we have no access, and that was my only major complaints about

that. If this stays open 24 hours a day, that's great. Cleanliness is going to be, you know, I think it's a problem. But I would not know, you know, exactly what is a correct size and, granted, to me, to me, this is meant to accommodate those that are coming, which is important too, you know, we gotta try and accommodate everybody, but I'm just -- I'm not really settled on that. I'm not sure as to what would be a comfortable size.

Mr. Kapu: Mahalo.

Mr. Moikeha: And as far as Dorothy's question, that super ferry, is only scheduled for Kahului.

Ms. Pyle: No, no, what they're proposing to build is a tender pier --

Mr. Moikeha: Outside --

Ms. Pyle: Additional pier in Lahaina Harbor.

Mr. Moikeha: Not for the super ferry, yeah?

Ms. Pyle: No, no, no. It's to accommodate the cruise ships and is there a question about whether or not that accommodation should perhaps be somewhere else rather than dumping a thousand or two-thousand people everyday right into the heart of Lahaina. And if you remove that by putting that somewhere else, then is this comfort station really too big. Certainly, I understand that the ferry folks from, the local ferry folks and the local people really need this, but I'm not sure that it needs to be the size that they're proposing because of that question.

Ms. Duensing: I just wanna clarify that the FTA, the Federal Transit Administration, is providing the monies for inter-island ferry service, okay, that's supposed to be the main objective here, okay, but, you know, there are always ancillary and other effects of it, but just so everybody is clear on the fact that it's supposed to be servicing the tri-isle county that we have.

Ms. Pyle: I also, and perhaps this is a question that Dawn can answer or someone else that knows about it than I do, I do know that because this is a National Historic Landmark that there really does need to be a Section 106, it's a trigger for a review by the National Historic Preservation Council, and I see in here references to that but I don't see that there has been any hearing on that, I don't see there's any scheduled meetings, I don't see that there's been an opportunity for people from Maui to testify to the Federal Government or this Historic Preservation Council about these issues, I don't see that there's any letter specifically from this council saying that they have found that there's been no impact, and I really think that before we, as a Commission, approve this that we should be really careful

that this is a National Historic Landmark and that we are messing with something that's really important, that's not to say that we shouldn't down the road approve it, but I'd just like to have all the ducks in a row before we step out to something that the historic preservation commission might not go for.

Mr. Kapu: Mahalo. Being that's the case, is there any information pertaining to the Section 106 as a ...(inaudible)... to the project and who are the applicants?

Mr. Yuasa: Okay, you are correct that FTA or Federal Transit Administration is providing 80 percent of the funding. They provided 80 percent of funding for the planning phase, which we're in right now, and we intend to go after design and construction money in which FTA would also partner with us with 80 percent contributions. But, right now, we are working real closely with FTA and FTA has made a determination that a Section 106 is required, and we working, as I said, closely with FTA, and we have provided them with information that we've done so far. We've done an Archaeological Inventory Survey, Cultural Impact Assessment, and, like Mich said, we did go through the HRS Chapter 343, Environmental Assessment Process, and that was also given to FTA. So based on the information that we provided to FTA, we understand that FTA is in the process of writing a letter to the State Historic Preservation office to make a determination of no adverse effect, and this letter would also be given to the advisory council and also be given to interested parties, including the Cultural Resources Commission. And my understanding is that the interested parties have 30 days to provide comments to either the Federal Transit Administration or the State Historic Preservation Division. So we haven't -- that process hasn't been initiated yet, but all of the background research has been perform already and I understand the FTA will be initiating that letter real soon.

Mr. Kapu: Any other questions?

Mr. Yuasa: Can I call on Hal Silva to answer that comfort station question to provide some clarification?

Mr. Kapu: Sure.

Mr. Yuasa: Hal Silva is the Harbor Agent for Lahaina Small Boat Harbor.

Mr. Kapu: Okay, aloha.

Mr. Hal Silva: Hi. Good morning, everybody. Regarding your concern about the use of the facility during cruise ship port visits, when you refer to lock-down, what that addresses is what we -- what we all have to deal with everyday, the events following 9-11. Kahului Harbor is a secure facility during cruise ship port visits and while other ships are in port. The same applies to Lahaina Small Boat Harbor when a cruise ship is in port. Ironically,

the distance of the comfort station, from our main loading dock, basically excuses it from becoming part of the secure facility so, therefore, there's no limited access to cruise ship passengers or any members of the general public. One thing that we haven't addressed here is that although this comfort station is intended for harbor users, ferry passengers and the like, we gotta remember that we've got that big thing called the Banyan Tree Park where you got the canoe hoolauleas, you got the weekend arts and crafts events, you got the Christmas event where they, you know, do all of that snow thing. The only comfort station or restroom facilities in that area are the limited facilities that are inside the courthouse; the other facilities are all private, the Pioneer Inn, the Wharf Cinema Center, which are well away from that Banyan Tree Park and that side of town. For years the County and the State have been looking at locations or sites where some kind of facility could be built to provide service for the users or people that are in that side of town. We've got a location, it's size is, obviously, a question, but we've got a lot of people to service. We've got the boaters, the ferry users, some cruise ship passengers, and the general public. I believe years ago there was a proposal to develop a similar facility in the old library; that didn't pan out. We've got an existing facility that is serving some use to the community, we wanna improve it so we can better service the harbor users, the ferry users, and just the general public, and our visitors. Thank you.

Mr. Kapu: Mahalo. Okay, right now, I'd like to go into public testimony if anybody wants to testify on this. Keoki?

Mr. Keoki Freeland: Good morning, commissioners. My name is Keoki Freeland. I'm speaking as an individual, but by way of introduction, I'm the Executive Director of the Lahaina Restoration Foundation, born and raised in Lahaina, actually grew up on the mauka side of Front Street across from the Banyan Tree Park, so I've been around and quite familiar with that area. The most commonly asked question in Lahaina Town is where are the toilets because of this great need. Now, the Lahaina Restoration Foundation, as some of you know, has the lease on the courthouse and we try to do as best we can of taking care of that facility. Now the courthouse toilets are designed to handle the users and the visitors to the courthouse but because of the shortage of toilets in the area, especially underneath the banyan tree where activities take place under the banyan tree every weekend and every holiday, the only place where the visitors and the people partaking in activities underneath the banyan tree, what they can use is the toilets in the courthouse. Now half of the toilets in the courthouse don't even have tiles on the floor, just wooden floors, and there's no drains in any of the toilets, so if the toilet plugs up and overflows, it has to be cleaned manually with a bucket and a mop. Now we hire people to standby and clean up that mess as soon as it happens because it happens frequently because of the tremendous over-usage that's going on inside of the courthouse and this, you know, during the summer time, there's no cruise ships in Lahaina, but we got people in that courthouse standing by cleaning toilets. It's more than the cruise ships. It's the local people, everybody around there; use of the banyan tree; people going fishing; catching the ferry;

dinner cruise; whale watching, whale watching is winter time. Winter time, of course, is the most crowded period of time, that's when the cruise ships are there too. So we're doing the best we can to try and preserve this very important cultural site called the courthouse. We're fighting a losing battle because of the tremendous overuse and the seepage through the floors, I mean it's just going everywhere, but this is what we're faced with.

Now what I see from what they're proposing, from what I understand, they're utilizing the same footprint of the toilet that's already there, but what they're going to put together, with that same footprint, have a lot more toilets available that people can utilize, and the way they have it setup, it'll also be a lot more friendly, especially for the local people. Right now, the entrance is on the makai side and things are blocked and it's, you know, you scratch your head whether you wanna go inside there, especially when it's dark, but the way they have it setup, it'll, you know, a policeman can be driving by on the street there and they can very easily see if there's any kind of funny activities going on compared to the present facility.

So, you know, we're really for, I shouldn't say "we," I said I'm talking personally, I'm for this proposal here because of the problems that we're having, primarily, in the courthouse but also everybody else that's walking around saying, "Where's the toilets?" We're in bad shape. So we're not looking at hurry up and build it, it should have been built a long time ago. We've been looking for something like this for a long time. Any questions?

Ms. Rotunno-Hazuka: Do you see a big difference if -- in size, like right now this accommodates 12 women toilets, I believe, if it went down to 8, do you see that that's a big deal?

Mr. Freeland: Yeah. Yeah. I mean this is a much bigger facility, toilet wise, but the building size is supposedly the same, so I don't see it as being a bigger facility, but we need the toilets, not only for the visitors, so don't cut anything inside there.

Ms. Pyle: Keoki, can we look at the picture? Somewhere there's something that has an image of the current one and the proposed one and they are not the same size.

Ms. Rotunno-Hazuka: The footprint he's saying --

Mr. Freeland: The footprint is the same.

Ms. Watanabe: Not just taller, huh?

Ms. Pyle: ...(inaudible)... look like the footprint.

Mr. Freeland: Well, maybe you can ask --

Ms. Duensing: I think the footprint is not the same as the building. The footprint fits into what the existing walls are surrounding the current building.

Mr. Freeland: Yeah, that's the ...(inaudible)...

Ms. Duensing: The actual physical footprint of the building is not the same though.

Ms. Pyle: And then they're adding additional around that beyond that --

Ms. Rotunno-Hazuka: Height wise.

Ms. Pyle: Where the pathways and height wise and so on so that is considered ...(inaudible)...

Ms. Rotunno-Hazuka: Okay.

Ms. Pyle: Just another question. My own ignorance. None of these public events that take place in Lahaina under the banyan tree are required to have portable toilets?

Mr. Freeland: No.

Ms. Pyle: Why in the world not? That's absurd.

Ms. Rotunno-Hazuka: That's us.

Ms. Watanabe: Excuse me. I, for one, I don't like portable toilets because I, you know, it's just too hard and I think having a facility is much better.

Ms. Kapuni: Could I say something?

Mr. Kapu: Sure.

Ms. Kapuni: Mr. Freeland, I know you're speaking on behalf of yourself, but what do you think the majority of people that frequent Lahaina, are they feeling we need toilets? We're seeing an exodus of people in Rome right now, of course that'll never happen to Lahaina, but looking for a toilet is horrendous and I sympathize with your ...(inaudible)...

Mr. Freeland: No, like I said, this is the most commonly asked question. I attended the West Side Chamber meeting yesterday and this was discussed, and I'm not speaking for the chamber, but I'm just relating to what was discussed that, yeah, this is a tremendous need and, you know, we've been asking for this for a long time. Why isn't it already there?

Unfortunately, there are not too many other people from Lahaina that are here today, but there's a lot of organizations that would probably be saying the same thing.

Mr. Moikeha: Just a comment, Mr. Chair. You know, my thoughts on the size may not necessarily -- I wasn't necessarily saying it was too big, I mean when I asked the question about adequacy, in my mind I'm also thinking is it too small? I mean I'm thinking both ways that's why I asked the question how did they come up with that? Is there a formula that can be used? I mean why build something and then tomorrow it's too small anyway? Either which way that's what I'm asking. That's my question. Not so much as too big or too -- it's just is it adequate and in here it says it'll never be adequate, I understand that, and having traveled to many huge cities, that's always a major question. You know you gotta -- you can only buy so much stuff from McDonald's and stand in line.

Mr. Kapu: Point taken.

Mr. Moikeha: That's what you gotta do when you go to New York. There is none.

Mr. Kapu: Okay. Anyone else? Thank you, Keoki.

Mr. Freeland: Mahalo.

Mr. Kapu: Mahalo. Okay. Aloha.

Mr. Don Couch: Aloha, everybody, my name is Don Couch and, first, I'm going to speak for myself and then I'll speak -- I'll tell you what I'm going to speak about later. My wife and I have been going to Lahaina ever since we've been here, for about 15 years. She used to work at Lahaina as a bank manager and when she was working at the bank, 15 years ago over there, that was one of the things that she had always heard from her customers, you know, grumbling about the bathroom, so this has been a size issue for at least 10 to 15 years that I know of. And then I also ran for office three years ago, four years ago, and that was the major thing, when I went door to door, the major thing was the bathrooms, the size of the bathrooms at the harbor.

Now I'm going to start speaking, I'm Executive Assistant to Mayor Arakawa, and I'm going to speak on behalf of the Mayor. I just wanted to apologize, the Mayor wanted to be here today himself, he came two meetings ago, I believe, and talked about his issue. He's been sick for the last week, so he hasn't been doing anything, and so I'm here talking on his behalf. We have had plenty of meetings with the Lahaina Town Action Committee, the Lahaina Restoration Foundation, the DLNR, and the questions was asked how did we come up with that size. That size is we went down there, the Mayor and I and a few other people went down there and looked, and we said we'd like to keep it in the area that it's in now, that same footprint, it's a little bit bigger, the physical building size, but the area,

there's some walls that would have had to been taken -- somebody, when they first wanted to do it, they wanted to take down some walls and a few other things and we said, "No, let's keep it within the walls and not try not to take out those coconut trees that are that one boundary there." The other issue is there isn't adequate handicap access at this time and that's one of the reasons why it's -- the paths are the way they are is the handicap access. This, the count, 12 and 6, is a little bit less than what the Mayor asked for but it is the ratio is what the Mayor almost insisted when we talked to the engineers, he said, "We want two to one," because he knows when his wife needs to go to the bathroom, there's always the line out for the ladies room as oppose to the mens room, so he was very adamant as to the count. I think we were looking at 18 and 9, but it wouldn't fit in the area, so we agreed to as much as could have fit in that area; that's why we're -- it came up with the size it did. We helped them go through several iterations of how it might wanna look and that's since day one in 2003, January 2003, when we came into office, this was one of first things I had to work on on my to-do list.

As I said, the existing was there before the cruise ships came in and when the cruise ships aren't there, there's still a big stack. First of all, anybody who braves, who has enough bravery into the area, they're still -- they go to the Pioneer Inn, we get complaints from them all the time; the courthouse, as Keoki said, it always is overflowing, and one of them is a unisex bathroom and I think the upstairs, there might be two, but it's very inadequate; and then there is nothing else around other than, you know, the other businesses across Front Street, which we don't want people crossing Front Street too often just to go back and forth to the restroom.

Again, it's just basically way too small and a lot of this was, we feel, initiated from our office when we came in, when we talked to DLNR, and so much so that the Mayor was willing to and was ready to put the money in the budget to have the County do it, if the Fed's -- the State didn't get off the dime and do it. We were able to convince the Governor to put it in her budget, she put it in her budget, it was budgeted by the Legislature, aside from this whole ferry pier thing, that came up later, that was a whole new thing that came up later. It is in the State budget. The only problem is it's on -- the State Legislature put it in some funky bonds that, basically, the DLNR can't use those bonds, so it was kind of a red herring, but the Mayor was and still is ready to put it in his own budget if the State couldn't do it. However, when this, the new source of funds came up, the State is looking to try and get those funds first, but there are still -- there's still a line item in the budget for the State to fund this as well. So those are some of things I wanted to say. I just wanted to make sure. And, again, I apologize for the Mayor not being here.

Mr. Kapu: Any questions from the commissioners? No? Okay, thank you.

Ms. Rotunno-Hazuka: Thank you.

Mr. Kapu: Okay, anyone else?

Ms. Mary Helen Lindsey: Good morning, commissioners. My name is Mary Helen Lindsay, born and raised in Lahaina. You know, this is certainly a very, very critical, critical, it's beyond have not -- it's just beyond when people have to come, they don't have a toilet to go to. They run up to our -- up to the courthouse and it's upstairs, a lot of them don't know there's a elevator, so they have to rush up that stairs, go to our courthouse, and use the bathroom, but they stand in line, and many times it has overflowed. I need to identify myself. I'm the President of the Lahaina Restoration Foundation, but more so, my heart is Lahaina, and my heart is for Molokai and Lanai, that is their mainstay since the airlines have cutback. All food, all their livelihood, they have to take with them on the boat. They need to use the bathroom facility. The bathroom facility is way, way past needing it. Eighteen stalls of which twelve will be women, and you better believe it, the women have the hardest time. It's a must and we're glad at least the State has come forward. It is definitely needed in the historic district. There no question about it. You have to go; you have to go. Some people, I'm surprised Theo is not here, but Theo has actually seen some people waiting in line at the courthouse, upstairs, they pee their pants or they mess. She's seen it. And why is this? Why do we let our people go through this? It's shame. Very shameful. Becky over at the Pioneer Inn, I was going to say Keoki, but he had to go check his car, his two hours are up, but Becky over at the Pioneer Inn, who's part owner, she and her husband, before they did lock it because they say it was being misused and it was always -- it's not for their clients, but it's for everybody here on Maui, especially those on the cruise ship, and then they've come full circle, they say, "Okay, just come ask for the key," and they have started to let the general public use it because they and themselves have seen what's happened. You rather have them use the facility then go pee or mess their pants. It's not dignified. It's shameful. Just for that reason, I think they did a darn good job because we had input on this prior to and, hey, we all know that's not going to be enough in the future. Right now, today, there's a cruise ship right out of Lahaina. The other day we two cruise ships, and there's buses waiting for them but they -- a lot of them, after they come off after breakfast, they gotta go to the lua, that's human nature. Let's provide for them. Any questions? Thank you.

Mr. Kapu: Thank you. Anyone else?

Ms. Janet Six: I'm here for a different reason but my name is Janet Six. I'm a historic archaeologist but I worked at Lahaina Harbor from 1986 to 1993 as a diver and selling fishing charters. I left Maui in 1995 to go away to school prior to the cruise ship onslaught and I must say, in 1993, there wasn't enough bathroom stalls in Lahaina Harbor and I would see people use the luas on their boats as oppose to going into that harbor, I mean to the harbor bathroom, which was sketchy and scary and very dirty. I went back recently, it hasn't changed, Lahaina has changed a lot, so I would argue that the need was there prior to the onslaught of the cruise ships, which I know has definitely affected the harbor

and Lahaina tourism. So I just wanted to say that. I think it's the only public lua really in Lahaina too and so you have pregnant women, you have elderly people, and, you know, Pioneer used to be open and we did just use it, and I can I understand why they did close it, but I would just like to say that that need seem to pre-exist the cruise ship impact.

Mr. Kapu: Okay, thank you. Recommendations from the County.

Ms. Pyle: I have to go in about two minutes. All I would like to say is that I just have a couple of observations. One is is that there's an obvious need, there's absolutely no question about that, but from the other perspective, this is a National Historical Landmark and it cannot speak for itself. We are the Commission that is here to discuss and protect our historic and cultural resources, and I understand the need for people to go potty but, on the other hand, I also understand the real importance of protecting the historic sites that we have. So I'm very concerned about that and I just want to remind all of us commissioners to think about why we are on this Commission, not necessarily the absolute need to go potty; that's a different thing of why we are on this Commission. The other thing is is that I really am not really satisfied that the National Advisory Council has had a chance to comment on this. I'm not necessarily satisfied, even though I know that things are in process, the process isn't completed yet, and so I think we are in some ways being prematurely asked to make a decision about this, and my recommendation, even though I'm leaving right now, would be that we defer this until we have a more complete picture from these other agencies. Thank you.

(Ms. Pyle was excused from the meeting at 11:00 a.m.)

Mr. Kapu: Okay, can we have some comments from the County unless any commissioner wants to say anything.

Ms. Rotunno-Hazuka: I have kind of a question. I don't understand. What other agencies or what other reviews need to be done before this can move forward besides us, and it sounds like 106 is in process but it's not done, so what would that be?

Mr. Hirano: The other permitting approval that is required is a Special Management Area Use Permit.

Ms. Rotunno-Hazuka: Okay, and --

Mr. Hirano: And then the Section 106 process.

Ms. Rotunno-Hazuka: When do we think these processes will be complete?

Mr. Hirano: We will be scheduled for -- we're scheduled for the Special Management Area Use Permit application on May 10.

Ms. Rotunno-Hazuka: Okay, and then --

Mr. Hirano: And we did the noticing for that and, usually, the Historic District Approval is required prior to the Special Management Area Use Permit application and review.

Ms. Rotunno-Hazuka: Okay, SMA is submitted May 10?

Mr. Hirano: No --

Ms. Rotunno-Hazuka: The review?

Mr. Hirano: It's going to the Planning Commission for decision on May 10.

Ms. Rotunno-Hazuka: On May 10. And would a decision be made then? Is that pretty common?

Mr. Hirano: I think there's enough information before the Commission to make a decision on that, but that's my personal opinion.

Ms. Rotunno-Hazuka: Okay. Well, you've done it before so.

Mr. Hirano: It's up to the Commission.

Ms. Rotunno-Hazuka: Okay, SMA and what was the other one?

Mr. Hirano: The Section 106.

Ms. Rotunno-Hazuka: The Section 106?

Mr. Hirano: Yes.

Ms. Rotunno-Hazuka: Okay, what do we think on that as far as time line?

Mr. Hirano: I think the letter from the Federal Transit Administration is imminent. It would be probably issued by the Federal Transit Administration shortly, within a matter of weeks. We've had preliminary consultation on the Section 106 from the State Historic Preservation Officer on the review of the Environmental Assessment and on the review of the Archaeological Inventory Survey and, based on preliminary indication, they feel that, you

know, that there are no adverse impacts in that the project could proceed, but those are preliminary letters and we don't have the final approval yet.

Ms. Rotunno-Hazuka: And you're thinking that we, our decision it'd be nice if we had a decision today and you could use that at your May 10 meeting? Is that what your objective is?

Mr. Hirano: Yes, I would be concerned if the decision wasn't rendered and we went forward to the Special Management Use Permit application.

Ms. Rotunno-Hazuka: Okay.

Mr. Kapu: Okay, thank you.

Ms. Kapuni: May I say something please? You know, on Molokai we're facing the same problems, you know, as far as public bathrooms. There's really not a whole lot in Kaunakakai, so if you had to go do your thing, make sure you know aunty's shop or go to sister's garage because there's limited facilities in town. But what I wanted to ask is what is the alternative? If we keep this old facility and do away with this one, what is the alternative? And another thing I wanted to ask is this can possibly be a health issue if Department of Health ever should get involved, I mean, you know what I'm saying? It's -- this is a bad thing -- a good thing in a bad situation. So what is the alternative? Anybody?

Ms. Rotunno-Hazuka: I don't think there is an alternative. It doesn't seem like there is except to improve the bathroom or make it smaller.

Mr. Whelchel: This is the best of both worlds. They will evolve into better facilities. The number has been regulated by 50 percent of the people that gave input; 25 percent said we want larger, the other 25 said we want larger; 50 percent dominates that's why we get -- that's why we end up with that number, I'm sure. It's what happens when you draw plans. Mich will verify that. But this is a good place to be. We have a facility, it's within our cultural resource, and I feel like it should continue, I think. I'm ready to make a motion.

Mr. Kapu: Before we do that, recommendations from the County. Let's hear the County's recommendations.

Ms. Duensing: Well, there's several other issues that you need to decide before you make a motion to approve. The colors being one thing and then the landscaping plan.

Mr. Whelchel: Can that be amendments?

Ms. Duensing: Well, they're not necessarily amendments. It's just those things need to be decided in order to approve this project. And in getting back to Lisa's question on what other procedures need to be followed, two things I just wanted to say is I think what Dorothy's point is, that maybe not understood by other people, is how the Section 106 process is being carried out because, you know, is it going to the right people and she also questioned when it needed to be done. And then the other process that needs to be done, because this is Federal funding from the FHWA, Federal Highways, the Section 4(f) needs to be done as well. So, at the Federal levels, those are things that involve cultural resources is getting back to what Lisa's first point was when she pointed out the section in the staff report about 4(f); 4(f) is part of this National Transportation Act and says that you have to follow this when Federal money is being used for things that will impact historic resources, scenic resources, recreational resources, and the list goes on. Okay?

As far as this goes then is that there were two questions here and one of them was the color of the roof and building, that needs to be determined, and then the other thing is the landscaping thing, and the reason why the landscaping got brought to your attention this time is because the last time this Commission met, they asked the applicants to hire an arborist and figure out what was going on with that banyan tree cause the banyan tree is being used to hide the building and that indicates that there is an adverse impact, not a FONSI, but, that aside, that wasn't done so that's why the alternative landscaping plan was presented to the Commission, so that needs to be discussed as well, okay, and it's not staff recommendations that the landscaping plan go to the Arborist Committee, that's part of the Maui County Code that says it needs to go to the Arborist Committee so that's a requirement because of what the law says, not because that's what the Planning Department thinks is a good thing to do. Okay? So, yeah, you have a decision to make to deny, defer, accept, whatever, but if you're going to move ahead with this project and approve the permit, you got those two things, the landscaping and the color, that you need to address.

Ms. Rotunno-Hazuka: Okay, well, that's why I was asking about the tree cause I know that we want -- that the tree was important to make the building less obvious. So the color scheme I think if we went with the green, which makes it less obvious, I don't have a problem with that color scheme. I would like an arborist to look at the tree, I mean, yes, the seawall is important, but maybe there's a way to keep the tree and, I don't know if it's repair or whatever, the seawall because I think taking that down and waiting for vegetation to grow is going to take a while. And so that's what I would say about the colors and the landscaping.

Mr. Whelchel: Are those going to be resolved in the form of motions?

Ms. Rotunno-Hazuka: Well, I guess it depends what other people are thinking as far as the color.

Mr. Giroux: You can entertain a motion of just the color just to get that out of the way.

Mr. Kapu: Can we have a motion?

Ms. Rotunno-Hazuka: I make a motion that the CRC accept the color scheme of the green roof as shown on Exhibit E in our packet.

Mr. Moikeha: I'll second.

Mr. Kapu: Okay, seconded. Okay, comments?

Ms. Duensing: I have a suggestion, and I have no problem with the green on green, but I think that because the computer rendering isn't always so accurate that the color samples for these greens need to be submitted and approved by staff, if you wanted, or just double check before the building gets painted and the roof goes on.

Ms. Rotunno-Hazuka: Okay.

Ms. Duensing: Okay, and, again, it's only because, you know, what the color printer does is not necessarily what the paint palette does once the paint hits the wood or the roof.

Mr. Kapu: Okay. So the motion again?

Ms. Rotunno-Hazuka: I make a motion that the CRC approve the color scheme of the green roof, green siding, as shown in Exhibit E, with color chips that we can look at prior to the building being painted.

Mr. Kapu: Okay, motion by Lisa, do I hear a second?

Mr. Whelchel: Second.

Mr. Kapu: Second by Lon.

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

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

VOTED: to approve the color scheme of the green roof, green siding, as shown in Exhibit E of the staff report, with color chips that the CRC can look at prior to the building being painted.

Mr. Kapu: So moved.

Mr. Giroux: You wanna try to take care of the landscaping issue?

Mr. Kapu: What about the landscaping issue? Can we discuss the landscape issue a little bit more from all the commissioners?

Mr. Moikeha: This is the report saying that if the tree does stay, that it would it would uplift the wall as well as the foundation?

Ms. Duensing: Yeah. I wanted to just address this because, as part of my staff report and getting this ready, you know, I read the Final EA and reviewed that and compared it to what this Commission's recommendations were the last time we met, and that's where the banyan tree came into play here, and because the arborist had not been hired to go look at that, and we believe it is a historic wall dating to probably 1922 or thereabouts, I called one of the members on the County's Arborist Committee and what he told me is that the banyan tree, if it was left in place, would impact the historic wall, it probably, you know, has already, and it would also impact the new structure's foundation, especially since that foundation is going to grow by a factor of three, you know, that tree is going to keep growing and now the concrete's going to be much closer to the tree's roots. What he recommended is that trees such as milo, hau, or naupaka, it was, you know, the bushy kind that grows high would be a good suggestion to help screen the building; he said you could get a large specimen of a milo, he said that that was a good tree because it's salt tolerant. Those were the kind of suggestions he gave to me and, again, all of that is kind of unofficial, that's just me asking for advice so that, you know, to help you make your decision and, again, when I spoke to the consultants about that, they came back with this revised landscaping plan which would remove the banyan tree and create a planter that would have an 18 inch wall going out 3 feet and going around so that you could plant that because with a larger building, there's no room to plant anything else because the roof extends over the current area that's being planted, you know, that whole building is taking up that area. Okay, so that's how all of this came about, okay. And, again, the third thing to keep in mind is that the County Code says that the arborist need to consult with this and I know that the applicant has already contacted the Arborist Committee, getting on their agenda, so they are moving forward with that.

Ms. Rotunno-Hazuka: So, is this planter -- is the purpose of a planter as a root barrier so that they -- things don't spread or is it just primarily aesthetics?

Ms. Duensing: It's primarily to create a place where you can plant because if you go to that building, there's the wall --

Ms. Rotunno-Hazuka: Okay.

Ms. Duensing: The historic 1920's wall and then there's asphalt on the other side. You gotta have a place to plant things and so what they're doing is they're creating additional space for planting, and that might not necessarily be a bad thing because, right now, it's kind of an eyesore with, you know, leftover boat parts and other kinds of things there. If that were to be done, my recommendation would be that the new wall is not attached to the historic wall because now you're covering up the historic wall too, so there's pluses and minuses with that as well. But those are your options.

Ms. Rotunno-Hazuka: Obviously the banyan tree then is an impact and there's no way to prevent the roots from attacking a new building as well.

Ms. Duensing: You can do root barriers but I don't know how effective they are in the long run and that would be something for the arborist to --

Ms. Rotunno-Hazuka: The arborist. It's not our call.

Ms. Duensing: To address but because we didn't get that arborist report, it's hard to call that.

Ms. Rotunno-Hazuka: Okay.

Mr. Kapu: Okay.

Mr. Moikeha: I think part of it too is, I mean ...(inaudible)... build something new, I mean are you going to leave things there to hide it, to enhance it, I mean, you know, get one blue tarp or something, I mean you know what I'm trying to say? I mean I don't know. I'm just saying if you're going to do something, if you wanna bring it out, I think, at least. I don't know, necessarily, if you want people to remember Lahaina because of that bathroom but, you know, those kinds of things but --

Ms. Duensing: Well that's -- that's part of the background behind this is because the building is so much larger, the view plain in the historic landmark itself goes a mile out into the ocean so the idea is what do people see when they come into Lahaina Harbor, "Wow, there's the new bathroom," or do we try to hide it, and, you know, that's the crux of this problem with how do you mitigate the adverse impact, yeah.

Mr. Moikeha: That's my question.

Ms. Duensing: Exactly. You got it.

Ms. Rotunno-Hazuka: So without an arborist consultation now, we really can't vote on a landscaping theme if they're still going to consult with the arborist? You are going to consult or --

Mr. Hirano: We are consulting with the Arborist Committee right now with this plan, with the landscape plan.

Ms. Rotunno-Hazuka: Okay, and so, Mich, if they have suggestions like milo, no big deal?

Mr. Hirano: No, no, that's right. I think one thing about the landscape concept was to use native vegetation --

Ms. Rotunno-Hazuka: Right.

Mr. Hirano: So I think that it's more in character of the Historic District and whatnot with the landscaping scheme.

Ms. Rotunno-Hazuka: Okay.

Mr. Kapu: With this, does anybody want to entertain a motion to this landscape?

Ms. Duensing: I don't know if the applicant is -- would be willing to do this, but if you guys have some concerns on the landscaping and want it to go to the Arborist Committee and then know what their recommendations were, would that be a possibility, Mich, to have the landscaping come back before the Commission?

Mr. Hirano: That is a possibility but I think, perhaps, the condition could be worded on the recommendations of the Arborist Committee so that we could move forward with it; that we would comply with recommendations of the Arborist Committee and that report will be brought back to the Cultural Resources Commission the next available meeting.

Ms. Duensing: Yeah, and then what we can do is, by means of the letter, if this project is approved, I, as your staff person, can include in the letter what your concerns are regarding the landscape plan so that the Arborist Committee knows this and I will attend their meeting, you know, to ask -- answer any questions should they have. I mean it's -- they won't be operating in the dark. They're going to know what your concerns are.

Ms. Rotunno-Hazuka: So how are we going to make a motion then? Are we going to make a motion that we accept the landscaping plan on the condition that the arborist has --

Mr. Hirano: Committee has reviewed and approved.

Ms. Rotunno-Hazuka: And that the planter wall will not be -- will not adversely affect the seawall?

Ms. Duensing: Will not be attached to it, yeah.

Ms. Rotunno-Hazuka: Attached to and --

Mr. Moikeha: I second that motion.

Mr. Kapu: Okay. Can we have it one more time?

Ms. Rotunno-Hazuka: You mean intelligible?

Mr. Kapu: Yeah.

Ms. Rotunno-Hazuka: Okay, I make a motion that Exhibit F, the landscaping plan, be reviewed by the arborist and with input from Dawn and that the planter wall not be -- not adversely affect the seawall and not be attached to the seawall. Is that it?

Ms. Duensing: A question for Corp. Counsel. If I am to go to the Arborist Committee and represent this Commission, do they need to make a -- I mean that should be part of their motion, right?

Mr. Giroux: Yeah, I guess we could do that just to cover all the basis cause -- yeah --

Ms. Duensing: Cause the staff usually doesn't go and represent the Commission.

Ms. Rotunno-Hazuka: Right. Right. So can I make that a separate motion or it needs to be a part of this? Just add it on?

Mr. Giroux: Just throw it in there.

Ms. Rotunno-Hazuka: Okay. And then -- and then that Dawn represent the CRC in the meeting with the arborist.

Mr. Kapu: Any second?

Mr. Moikeha: I second.

Mr. Kapu: Okay, seconded by Kalei Moikeha.

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

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

VOTED: that Exhibit F, the landscaping plan, be reviewed by the Arborist Committee, with input from Dawn, and that the planter wall not adversely affect the seawall and not be attached to the seawall, and that Dawn represent the CRC in the meeting with the Arborist Committee.

Mr. Kapu: Okay, so moved.

Ms. Duensing: Should we go through the rest of the recommendations for this project then?

Mr. Kapu: Sure.

Ms. Duensing: Okay, so I'd just like to go over the rest of the recommendations for this project as presented by the -- on behalf of the Planning Director I am presenting these, and I guess we should make a motion to accept these as well. So the Planning Department, and I'm reading from Page 7 of your report, recommends approval of the Historic District application subject to the following conditions:

No. 1, that construction shall be in accordance with plans as presented and approved by the Cultural Resources Commission on April 7, 2005, and that is to cover what you just said about landscaping and what you agreed on the colors;

No. 2, and this is the typical language that you find in the Special Management Area Permit approval, that construction shall be initiated within two years of the Special Management Area Permit approval and shall be completed within five years from said initiation;

No. 3, that the applicant shall present the landscaping plan to the County Arborist Committee for review, comments shall be included with the preliminary compliance report and filed with the Planning Department prior to issuance of the building permit, irrigation shall be included as part of the landscaping, and that was from one of your previous discussions;

No. 4, that the construction staging plan take into consideration any impacts to cultural resources. A copy of the final construction staging plan shall be submitted to the Planning Department for review and approval;

Five, that archaeological monitoring be conducted during all ground disturbing work. In the event that cultural materials and/or human burials are identified, all work shall stop and the SHPD burial sites program, the Maui SHPD archaeologist, Oahu SHPD, and the Maui/Lanai Island Burial Council will be notified. Compliance with procedures outlined in HRS Chapter 6.E-43 shall be followed;

No. 6, that all signage and lighting shall comply with the Design Guidelines for Front Street Improvements and Sign Design Guidelines for the Lahaina Historic Districts;

And that the applicant, No. 7, should establish a maintenance agreement that shall be in place for the new facility prior to the certificate of occupancy being issued. A copy of this maintenance agreement shall be filed with the Planning Department;

No. 8, that a building permit be obtained prior to the initiation of construction;

No. 9, that appropriate measures shall be taken during construction to mitigate the short-term impacts of the project relative to soil erosion from wind and water, ambient noise levels, and traffic disruptions.

I'm gonna briefly skip over No. 10 because I believe the applicant may have some concerns with that. He just brought that to my attention this morning.

No. 11, that a preliminary compliance report be filed prior to obtaining the building permit. A final compliance report shall be submitted prior to granting a certificate of occupancy;

and, No. 12, the standard language that full compliance with all other applicable governmental requirements shall be rendered.

And, Mich, did you want to say something about No. 10?

Mr. Hirano: If this is the appropriate time, I would. I think the State has some concern with the language of -- the way it's worded in Condition No. 10 and would prefer to either remove that condition entirely or include "as applicable" then "the applicant, its successors and permitted assigns shall hold the County harmless . . ." and the reason for that is because the State of Hawaii is a sovereignty and it has a statement of self-insurance and liability for the State of Hawaii, so it's not applicable to hold the County harmless or the State. I think that's basically the gist of it. So we would, on behalf of the State, request consideration of eliminating that condition entirely.

Mr. Giroux: Mich, we've kind of, the Corp. Counsel has looked over some of the language because we've done variances for hospitals, we've done variances for schools, and the same question comes up and we've come up with some language that I think allows the

State to agree to certain things if the Legislature also approves, you know, the liability and we, the County, has accepted certain types of language when the State requires it of us and we've kind of incorporated it in our language, so I could probably get to Dawn, you know, the language that we're kind of starting to incorporate into these types of permits because it has become an issue that's come up again, and we do understand that you can't commit to indemnify somebody until the Legislature actually approves that so we have come up with some language to try to take care of that.

Mr. Hirano: Okay. Just on that, we were involved with the Maui Lani Elementary School height variance and we have, as an example, some statement of self-insurance and liability that maybe I can just pass on to you for the record that a statement like this perhaps would be acceptable to the State or Department of Land and Natural Resources as a condition amendment to No. 10.

Ms. Duensing: Okay, in discussion with Corp. Counsel, what we would like to do is we'll have two motions. Number one will be for Condition No. 10 and staff will use the language as suggested by Corp. Counsel, okay? And then we'll also have the second motion that you move to accept the recommendations by the Planning Department, the rest of the recommendations. Right, James?

Mr. Giroux: Sounds good.

Mr. Kapu: Okay, can we have a motion?

Mr. Artates: I make a motion that we accept the recommendations that was appropriated by the Planning Department excluding item No. 10.

Ms. Rotunno-Hazuka: Second.

Mr. Kapu: Okay, seconded by Lisa.

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

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

VOTED: to accept the recommendations of the Planning Department, excluding Condition No. 10.

Mr. Kapu: So moved. Second?

Ms. Rotunno-Hazuka: I make a motion then that Item 10 be amended per Corp. Counsel's suggestions.

Mr. Kapu: Do I hear a second?

Ms. Watanabe: Second.

Mr. Kapu: Seconded by Nani Watanabe.

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

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

VOTED: Condition No. 10 be amended with language suggested by Corporation Counsel.

Mr. Kapu: So moved. Okay.

Mr. Hirano: Thank you very much on behalf of the Department of Land and Natural Resources.

Mr. Kapu: Thank you. Okay, right now we're going to go into a five-minute break. Thank you.

(A recess was called at 11:45 a.m., and reconvened at 11:40 a.m.)

Mr. Kapu: Okay, we'd like to reconvene the Cultural Resources Commission meeting on Advisory Review.

2. ADVISORY REVIEW

- a. **MR. BRIAN IGE, PALAUEA DEVELOPMENT, LLC, requesting CRC review of the proposed University of Hawaii facility at the Palaeua Cultural Preserve, Lot 18, TMK 2-1-23:002, Makena, Maui, Hawaii. The CRC may advise and make recommendations on the proposed project. Public testimony will be accepted. (A. Cua)**

Ms. Ann Cua: Mr. Chairman and members of the Commission, we're actually asking for review and approval of this proposed structure. And just to give you a little bit of background information, back in 2000, the -- both the Cultural Resources Commission and

the Maui Planning Commission reviewed the overall project at Palauea, which is over 40 acres, 20 acres of which included a cultural preserve site, and just -- just real briefly for some of you who may not be familiar with the site, this is Makena Alanui, this is Makena-Keoneoio Road, and this is the Kea Lani Hotel, this is the Palauea site, and you've seen this get developed, these are their agricultural residential lots, and this is the area of the cultural preserve. As I mentioned, this came before you in 2000, it came before you twice, actually, and what I did, as part of your agenda packet, is I included two comment letters that were addressed to the applicant from the Planning Department on behalf of the Commission. One letter was dated, I believe, March of 2000, and the second one September of 2000, and the September 2000, September 19, 2000 letter, if you could get that out, is the letter that we will be focusing on today because that was the most recent comment letter that you had given -- that you had put forth with regard to the cultural preserve site.

Now, the reasons why we're here today is because back in 2000, when the Planning Department granted Special Management Area Permit approval for this project, there were two conditions that required compliance within the cultural preserve, and I'd like to go over that at this point in time. Condition No. 14 said that plans for the Cultural Preserve Park, I didn't give you this, yeah, so you don't have to -- Condition No. 14 said that plans for the Cultural Preserve Park, including the Native Hawaiian botanical gardens and all structures, shall be reviewed and approved by the Cultural Resources Commission prior to issuance of Phase 3 Project District approval for the Cultural Preserve Park. Now, the applicant has submitted a request, an application, for Phase 3 Project District approval, to put the first structure within the Cultural Preserve Park and, in accordance with this condition, that structure needs to come before you for review and approval, so that's the main reason we're here today and that's how it is agendaed on your agenda.

The second reason that we're here today is because of another condition, Condition No. 15 of the SMA Permit approval, which states that the applicant shall continue to update the Cultural Resources Commission on the establishment of the Cultural Preserve Park to include, but not be limited, to the short-term Preservation Plan, the interim Preservation Plan, the Data Recovery Plan, data recovery field work, and the monitoring plan.

Now the two letters that I have included in your packet, the March 2000 letter, which you do have, and the September 19, 2000 letter, are results of Condition 15, which requires the applicant to come before you and say, you know, this is year 2000, this is what we've done; this is year, you know, now 2005, and this is what we've done. We haven't had any update from 2000 to 2005 and my understanding from the applicant, and they will speak to you on this issue, is that there really has not -- has been nothing that's occurred since that time and that's why they haven't come before you knowing how filled your agendas are already so because we're coming for the structure, we had asked them to give you another update of the cultural preserve site, so that includes my introduction.

I did pass out three things to you. One was a colored photograph of the building. Now the building, for any of you who have gone down and drove through Makena Alanui, have probably seen this building. This is their sales office building. What they have communicated to the department is that they need to remove this building from its present location because the lot has been sold and so they are proposing and hoping to get your approval to move this building down to the cultural preserve site to be used as the office of the University of Hawaii. There were a couple of buildings, and I don't know if any of you were on the Commission in 2000, only Dawn and now she's a staff member, but at the time it was proposed that there would be several structures used by the University, one was a caretaker's residence and one other structure would be the basic office and work area for the University, so this proposed structure is not the caretaker's residence, it is going to serve as the office and work area for the University of Hawaii and so that's the first piece that I passed out. The second item that I passed out was given to me from the applicant today and it is a letter from Maui Community College to Brian Ige, and they'll go over that. And the third item that I passed out was I guess the mission statement from the college, from Maui Community College, and their vision in terms of work that they're proposing on the cultural preserve site. So, with that, I will turn this over to the applicant and have them take you through their presentation.

Mr. Kapu: Mahalo.

Ms. Gwen Hiraga: Good morning. My name is Gwen Hiraga representing the applicant, Palauea Development, LLC. This morning, we're going to have a brief presentation. First presentation is going to be by Brian Ige, second presentation is by the architect, Kurt Mitchell, and the third presentation is from the University of Hawaii, Maui Community College, Janet Six. So we're going to start off with Brian.

Mr. Brian Ige: Good morning, commissioners. My name is Brian Ige. We're here, I'm Palauea Developers, and we're basically proposing an existing sales office that we're proposing to dedicate to the University of Hawaii for use as a classroom and workshop building. As Ann mentioned, the structure is presently located up on Makena Alanui Road and we're proposing it to move it down to the preserve site pretty much in this location. This highlighted orange area is the total preserve area that will be dedicated to the University. As an update, we have completed all the subdivision improvements and we are now at the point where we can dedicate the whole preserve site to the University; however, we'd like to include the building as part of the dedication, so that's why we're here before you today. As Ann passed out a letter, the University is in support of this building and the use of this building on the site. We have agreed with them to participate in the eradication of some of the kiawe on the site and, as part of a sales agreement, we have put in there that should any re-lot or home be resold in the subdivision, five percent of the sales will go to the University for the upkeep of the preserve, so that provides some long-term funding for the University to keep the preserve going.

As originally -- we had shown in our SMA application, we had located the building pretty much in the same area and, for the most part, it's being placed in the same position as we had represented. This was the original building that we had proposed in our application. This was the location on this corner of the site as shown and it's been pretty much located in the same area although we moved it behind this rock wall here. The reason for that is this was a natural drainage way through the preserve and our civil engineer recommended that we move it on the other side of the wall, so it's moved in essence about 20 to 30 feet, and it also helps because it's being pushed away from the archaeological features on the preserve site.

As far as the building is concerned, I'll have our architect, Kurt Mitchell, come up here and explain some of the building to you.

Mr. Kurt Mitchell: Good morning, Chairman and commissioners. I'm Kurt Mitchell, I'm with Kober Hanssen Mitchell Architects and we're the original architects on the sales building that they are planning to relocate down into the preserve park. Let me talk a little about the building and maybe its differences from what was proposed in the original SMA back in the year 2000.

The original building was going to be or at least there were going to be a couple of buildings, actually, to create almost sort of like a village. One was going to be the caretaker's residence; the other one was going to be, as noted, the classrooms and workshop for the University of Hawaii. They were going to be typically high roof buildings, double-hip, and this was a metal roof shingle roof. The metal roof was going to be made to look like a grass type of a finish, I don't know, it's rarely used, but if you take a look at it, it has sort of an essence feeling of it, but it's a metal roof. It was not determined, back at that time, exactly how they were going to do the siding but it was going to be a slab on grade and just a simple square structure that housed the work room, and the tool and storage room, and an outdoor work area, and some restrooms, and this is about, well, it's 748 square feet, plus or minus, so lets say around 750 square feet.

The building that is being dedicated over to the University is roughly about 800 square feet, so about maybe 50 square feet larger. The building is, basically, it's a cedar shake roof, not a double-hip, but more of a single-hip high roof, cedar shake, the walls are plaster and will be painted in the colors that is -- that was allowed and is recommended within the One Palauea division, the residential division color scheme and that's, if you look at this, it's almost all earthtone colors are required within the One Palauea subdivision. Because this building has to be accessed by and will be used by the public or for the public for the University to do, not only research, but to allow in the future so that people can see the cultural park preserve, we have to also include into that -- they have to be ADA compliant and so we have include a ramp area into the building. The building itself, what was the -- in this -- this will be the classroom, this is the building that's right now used to show some

of the sales requirements that is going on in One Palauea, so that will be used as a classroom; the smaller building here will be used as an office; the intermediate area where the flat roof is will be used as a workshop area for the University. We are not building a slab on grade, it will be on a pier footing so we don't disturb the ground as much as possible. The other aspect is we're not using stone or any other -- everything is either built out of wood or plaster; we're trying to keep it as natural as possible. And one of the reasons we or the -- our client over at One Palauea wanted to also dedicate this building is because it has that sort of a same sort of design theme or requirement that we're looking for within the Palauea subdivision to have a much more tropical look and this building will fit very much appropriately, not only for the preserve park, but also for One Palauea Bay.

Let me see if there's anything else maybe I should bring up. We'll still stay with the same colors, we're not going to change the color scheme, it'll probably get repainted after it gets moved, so pretty much what you see in the pictures, less the, obviously, less some of the furniture, but that's what will be down in the preserve area.

At this time, I think I'll bring up Janet Six from Maui Community College and she'll talk about and update you on what's happening on the cultural preserve.

Ms. Six: Hi. I'm actually a graduate from Maui Community College and I just recently returned to the island and was hired at MCC as Assistant to the Chancellor, and my title is Special Projects Coordinator. I'm trained as an archaeologist. I do historic archaeology, primarily, and I was asked to get involved in this project, working with our Hawaiian Studies Department, Kiope Raymond and Lui Hokoana, so we could implement the non-native species eradication and reforestation of the Palauea Cultural Preserve as well as looking at stabilization, possible future access to the preserve based on Hawaiian community mandate.

I met with the archaeologist who's done a lot of work on the site, Theresa Donham; I've also went and toured the site in person. I want to say, on behalf of Maui Community College and Kiope, who could not make it due to classes, Lui and Kiope both had classes today, they have no problem with this building or the relocation, neither does the Chancellor, so I'm speaking on their behalf because I'm new to the project.

The area that it's going to be relocated in is actually farther away from the archaeological sites, which I'm quite pleased with, it's also post in pier which does -- it has less impact. The area it will be located in has been extensively tested with Archaeological Surveys, both by Archaeological Services of Hawaii as well as University of Hawaii Manoa, and they ran a field school here in 2003. Over 400 archaeological features have been identified within the preserve. The quite thick document you have before you is a grant I put together, with Kiope, Lui, and Ann Emmsley, from our Sustainable Agriculture, and we're requesting \$450,000 from the USDA Cooperative State Research Educational Extension Services for

the reforestation and revegetation of Palauea, so we're asking for funds for the campus in order to start native species propagation with the intention of implementing a four-phase plan for reforestation/revegetation, and the Dowling Corporation has agreed to give \$20,000 to the effort for eradicating the kiawe. We also have to look at deer fencing and eradicating the axis deer. So that's where we are as far if you guys have any questions for me where MCC is at. We're okay with this building, we're okay with the place, and we're actively going after grant funds in order to work on the cultural preserve.

Mr. Kapu: I get one question pertaining to the view plains of this building, where the location is, and if you're going to have any problems with the view plains? Just to the whole majority of the site area.

Mr. Ige: Pretty much this is the lowest part of the site in this area so, basically, the residential lots or the ag lots, whatever you call it, sit above this site, so this is about an elevation, I'd say, 12, and our building elevation floor is about 18, so, basically, it sits down at the lower end of the site.

Ms. Duensing: Is that also true for the archaeological sites because I remember what the Commission was concerned about, in 2000, was preserving the view plain from the archaeological sites and I think that's what Commissioner Kapu is concerned with.

Mr. Ige: Well, it sits, I mean, basically, this is elevated, it sits in the corner on the whole preserve at the bottom and it's tucked against -- in the back of it is a hill, so I think it's an appropriate location.

Ms. Cua: I could provide some additional comments, if that's okay. If you look at the September 19, 2000 letter, and I meant to mention that as part of my presentation and forgot, there's two comments I wanted to mention. When they gave an update in 2000 to the Commission and because of that issue of view plains, they communicated to us at that time, and the plans that they showed at that time for placement of structures, they're indicating, specifically, the caretaker's cottage was moved, actually it says, "and other related buildings," were moved to preserve view plain, so the location, from what I had gathered of where they want to put this building, is similar to what you indicated you were comfortable with in terms of placement. I think the main reason why we're here today is to get confirmation from you that you're okay with the design.

And the last comment I want to point you to is, if you look on Page 3 of that letter, you know, after you were given the update and you had discussion, you had some additional concerns, you had five additional concerns, and they're listed on Page 3, and No. 4 says that the Commission suggested that indigenous Hawaiian architecture be used for the caretaker's cottage, so, you know, again, you were focusing, I guess, primarily at that time, on the caretaker's cottage, so in terms of direction, we felt, you know, you really needed

to look at this, you know, the condition requires you to, but in terms of what we can provide you to help you make your decision, there was not a whole lot for this particular facility. You know, we can say that in terms of location placement, it's pretty much in the area, that triangular area, that you were comfortable with, so our discussion should really be focusing on, you know, the design, if you're comfortable with the design in this, in the preserve.

Mr. Kapu: Question, Lisa?

Ms. Rotunno-Hazuka: Yeah, I do have to recuse myself from this because this is my project, but I just wanted to show you, if you notice, this was what was approved before and these are the view plains that we were trying to maintain before; now this building is gone and these buildings are tucked in here, so it just kinda opens it up more for the view plains across the street to the ocean.

Ms. Cua: One last thing is that Item No. 5 says, "The Commission supported the creation of an advisory committee to review buildings within the cultural preserve. The make up of the committee should include individuals having a background in architecture and history and in addition to members of UH Archaeological Department." So I'm not -- I don't think that's been done but you might want to have that discussion and see where they're at with that.

Mr. Kapu: Okay, mahalo.

Ms. Duensing: And can I ask one other thing too? In reading the letter that Ann provided us about the kiawe removal, I remember that, and I think it was in one of our letters earlier, we were concerned about how that kiawe and other invasive species would be removed and maybe we could answer that question very briefly too cause the Commission had requested that in sensitive areas it be removed by hand, not by machine.

Ms. Six: Basically, I'll let Brian finish, but we're basing a lot of recommendations on the Phase 1 plan put out by Theresa Donham and Anna Palomino and they would have some chainsaw, but everything will be done under a cultural resource expert person on site and absolutely because what we're afraid we're going to find, not afraid, we're going to find more and more cultural sites underneath that kiawe, so we will not be bulldozing, we will not be going in, it would be, basically, from what I see from the report of recommendations would be by hand removal with chainsaws and then Garlan IV being injected into the stumps to kill the roots because we don't want to be ripping roots out that are growing into cultural features.

Mr. Kapu: Okay, mahalo. Was there any effort to even look into traditional architectural designs in the original plan before this one came up?

Mr. Ige: Not specifically although we tried to keep the forms towards a traditional Hawaiian hale. Because it's being used as a classroom and a workshop, we do have to comply with some of the code requirements for that type of facility so --

Mr. Kapu: Any questions from the commissioners? If not, I would like to entertain public testimony. Does anybody wanna comment from the public? Good morning, Michelle. Welcome.

Ms. Michelle Anderson: Thank you. Very timely. I'm sorry I missed all your previous discussion, I was in a hearing, and I couldn't be here, and I really just came down to see where you're at on this. I just have very strong feelings about this preserve. It's the one opportunity that I think we have here on Maui to really highlight the ancient Hawaiian culture and I think -- I was initially concerned about the siting of this but I understand now that it is going to be sited on the other side of the rock wall, which I think is a really good move because it keeps the cultural integrity of the site very pristine, and so I'm really happy to see that. I would like to say that it's really your purview and your power to see that the intention, the original intention of this site is fulfilled and that it doesn't just become a site for educational research because that's not the intention that was originally placed on this site, from the kupuna who cleared it way back when to everyone who has been involved in it since then, and in giving it a designation in the community plan for an interpretive center. So I would hope that, in your deliberations, you make sure that the owners of the property don't stop here but have a plan in place to see that this becomes an interpretive center, not just a place where students can come and study because we want to make it alive for people to enjoy the past and in a really pono way. So I do know that, back in 2000, State Historic requested that they come up with a Preservation Plan, I don't know that that's been done yet, and I hope that you would press for that to happen also. Once they get in there and they start studying sites, they can get lost in the minutia and the detail of that and not look at the overall purpose of this site. So I hope that you will, as the stewards of our cultural sites, see to it that that -- that original intention for this site is promoted in an aggressive way. That's all I have to add. Thank you very much.

Mr. Kapu: Mahalo. Thank you. Any questions from the commissioners? Okay, if not, recommendations from the County?

Ms. Cua: Maybe the applicant can talk a little bit about where they're at with --

Mr. Kapu: Okay.

Ms. Cua: Their discussions with SHPD and --

Mr. Ige: We haven't had any formal discussions with SHPD although we did submit to the Planning Department, as part of our Phase 3 approval, a packet that went to SHPD, but we

haven't heard anything. I know Janet had some discussions from MCC with SHPD and maybe she --

Ms. Cua: I don't mean, I'm sorry, maybe I should rephrase. I don't mean in terms of structure. I mean in terms of the Preservation Plan, you know, again, going back to your update to the Commission as to --

Mr. Ige: Maybe Janet should update you on that then.

Ms. Six: Again, I'm speaking for the people at our Hawaiian Studies Department. I want to say one thing about Ms. Anderson's comment is that this site is hardly pristine, I mean it's a very important, powerful pre-contact Hawaiian site that's been heavily impacted by ranching, invasive species, so when you use the word "pristine" when we talk about sites, sometimes I wanna say even no matter what our best intentions are, you know, when I'm dealing with Kiope, we want to make sure that it's also coming from the Hawaiian community, what do they want to do with it, not just how other people see it. You know, we would love to have it open as an interpretive center, we would love to allow people to come through the site, but you have all those preservation issues, and I'm an archaeologist, registered professional archaeologist, we have to deal with, you know, how do you have access to sites without having them impact it in a negative way, so I think that the Preservation Plan is going to be worked on with the native Hawaiians in the community as well as Kiope, Lui, and other people that would have input so we would want -- we envision this as a very powerful learning, educational place, and not just for students, definitely not just -- and not for archaeology. In fact, there probably will be no excavations, it's a preserve, an archaeology inherently destructive by nature, so we see site stabilization, eradication of invasive species, and having this be like a living laboratory for students and other community members to come in and have some positive effect due to propagation of native drought resistant species, have this be a showcase of what can be done, I mean this is obviously, and it's all in our grant proposal, where we would like to see this going. It definitely would not be just a UH site, not just a UH facility, but also I don't want to speak for what native Hawaiian community members might envision this site. So we're going to be working with Kiope and Lui and other people that are identified in the grant proposal that was done by Theresa Donham. I, personally, met with Melissa Kirkendall at the State Historic Department of Preservation here and I've given her a copy of our grant proposal, so that was just on an ad hoc informal way on my -- just to introduce myself as someone back on the island who's going to be working on this site. So if that helps address any concerns or questions. So, right now, we don't have a plan, that's part of the reason we put the grant in so to come up with a Preservation Plan.

Mr. Kapu: So you have no objections in incorporating an interpretive center then?

Ms. Six: I have no objections but, again, I would want to go with community mandate. You know, I'd wanna talk to people that have legitimate concerns and, obviously, people who have ancestral ties to that area, what do they want to see done with that site as well, not just what I'd like to see done.

Mr. Kapu: Well, maybe also including that you have certain rights, not to exclude native Hawaiians of certain rights because you have POSH Gathering Rights, 7-1 Native Tenancy Rights, all those kinds of things, hopefully, that won't be excluded from this also.

Ms. Six: And, again, I --

Mr. Kapu: That's a priority.

Ms. Six: Absolutely. I want to make sure that you understand that Kiope would love to be here and address it because he's going to be working with, clearly, with the Preservation Plan and we're very excited about, you know, their going to be finally conveying this land to University of Hawaii, we're going to be nominating it for the Registry of Historic Places, and start actually some movement in, as I'm a grant writer for MCC, I will be actively seeking funds for many aspects of this project, so we're looking for community input, so thank you.

Mr. Kapu: Okay, one more thing, I don't know whether or not this question is for you, but this was back in 2000, one of the recommendations that came from the County, pertaining to a committee that was -- is expected to be formed to address certain things, like a kupuna committee or a cultural committee within the area, who makes the decisions based upon creating this interpretive cultural historical center?

Mr. Ige: Right now, we haven't, as the original developer, haven't form a committee yet, but I'm presuming when in fact UH takes over this site, they will form some type of committee.

Mr. Kapu: So there was no input based upon this structure being placed on site then?

Mr. Ige: No.

Mr. Kapu: Okay, mahalo. Thank you. Anyone else here, public testimony? If not, can we go into the recommendations from the County?

Ms. Cua: We, basically, don't have a recommendation.

Mr. Kapu: Okay.

Ms. Cua: We, you know, we put this out for your consideration, we pointed out all the parameters, you know, the things pointed out was that, and part of the reason why we couldn't give a recommendation is, you know, there's some recommendations that you put forth, like indigenous Hawaii architecture be used for the caretaker's cottage, which I'm, you know, I'm assuming you meant would be for all the structures, but, you know, that's how the comments came out, and also the fact that, you know, this structure has not been able to be reviewed by this advisory committee because it hasn't been formed yet, so, you know, with those parameters, and they were your wishes, it was hard for the County to come up with a position.

Ms. Duensing: If I might interject something, as when this came to Ann's attention, she asked me to review it and I'm probably the only person that's still around that remembers discussing this five years ago, and I think what you guys need to look at is what -- does this building design follow what your predecessor Commission intended, you know. What we were looking for is something that was Hawaiian in appearance, and I don't know how much of my personal opinion I should interject into this, but that's what you guys need to address is does this building that they're proposing to move to that location does it meet the intent of what this Commission asked for five years ago being Hawaiian in style, and I'm not sure if you --

Mr. Kapu: Any recommendations from the commissioners?

Mr. Whelchel: It doesn't look like Hawaiian style but it's more than a typical home. It just doesn't turn me on as Hawaiian, but it's good looking.

Mr. Moikeha: I have a question then for Kurt. So then could something be adjusted, I mean as far as to make it more Hawaiian looking, I mean, I don't know if you could even up with a cost or anything like that, but can something be done or necessarily done or easily done to this structure at this point?

Mr. Mitchell: Commissioner Moikeha, any -- there are things that could be done to adjust it, but then the question I'm going to come and I'm going to put back to you, being Hawaiian and being an architect, I want someone to tell me what is an indigenous architecture for Hawaiians, other than a simple grass hale, what goes beyond that, because Hawaiian architecture is defined by the different period, there's territorial architecture, we're sitting in one right now, people call this Hawaiian style. People, anytime you tell them, if I came and did a simple grass roof, what happens when someone comes back and tells me how come it's not a double-hip roof, that's Hawaiian. See? And I do a lot work within the Hawaiian community and I've always -- my feeling has always been it's not the building, it's the people that are in it and what they're going to do in the building, and how the building is going to be used. If I was to build this building in an indigenous style, in an indigenous style, they didn't have classrooms back then, they didn't have offices back, you know, back

in the pre-contact era, so we would have to modify it and as soon as I start to modify it, I'm already not following an indigenous style of architectural, whatever that term is. But, yeah, things can be done if, you know, we look at it, and that's the question I always ask but what is that, you know, I mean I hear what the commissioner says that it looks good but is it Hawaiian? I like to say it's tropical and then I leave it up to the University of Hawaii and their archaeology department to determine how they're going to use it from that point on, as long as we don't do something that is a non-tropical building, I mean this building is, you know, it has operable windows, there's natural ventilation, it's sided so that it doesn't desecrate what's on the preserve right now, so we make it so that it doesn't disturb, or respect was there, and then it's not one big building, you know, I mean this one is only 50 square feet difference. This is a 750 square foot one big building. This is an 800 square foot building, only 50 square feet different, but we've massed it down, we sized it down, and I think that's one of things, if you wanna call it within a Hawaiian architectural realm, the buildings are much more what I call human scale. This will still be human scale, I mean it's only 800 square feet, but this one is even less of an intrusion onto the site and that's the whole intent is to make it so that it fits with, I hate to say this as an architect, but you fit it within the site so it sort of disappears, you now, and that's why this building is -- you know, although it was not designed for that, it can follow that into that line and actually work for that.

Mr. Kapu: Mahalo. Being that this thing was, basically, put together September 19, 2000, maybe we might get some information because it's just totally new to us, maybe we might get some information from Dawn being that she was sitting on the Cultural Resources Commission at that time based upon why these recommendations needed to be met. This would give us a better idea as pertaining to what they were thinking because this here, definitely, you know, draws questions, that's the only reason why. Okay, can?

Ms. Duensing: Okay, thank you, Commissioner Kapu. First of all, with what Mr. Mitchell was saying, I agree with him on some things and he brought out several things that the Commission was considered with. They started with a two-story structure and we believed that that was not Hawaiian in any case, it should be broken down, and we were looking for a small village kind of concept that would blend in with the nearby preserve and the surrounding area. And I think they've accomplished that size wise. And I agree that this building is human scale and it is tropical, but, in my mind, I know that we were working on getting the indigenous architecture bill established at that time and it wasn't in place, if I was looking at this now, I think one of the most notable things that we have records from the indigenous past is on people's drawings of what a Hawaiian thatched roof was and even if we can't replicate the thatch, we can replicate the form and, to me, that's an important part of making something look indigenous is the shapes and the forms that we see for the early explorers when they drew what they experienced when they came here before the missionaries came in and started building things of coral or whatever. Even when they built of coral, a lot of times they used roofs that were kind of modified on what

was here before, so I think the roof form is very important. I'm not sure that I like the stucco, I guess, because in some ways wood seems a more natural material but then again, wood wasn't natural material for Hawaiian buildings either so I think you're kind of between a rock and a hard place. But I think one of the things that struck me when I saw it was I didn't really like the stucco and the roof form is so important. I do agree that the post on pier is better than the slab on grade, we're not impacting the below ground resources, and I'm happy that they followed the Commission's desire to preserve the view plain from the archaeological preserve because those view plains are really important. So, based on my recollection and reviewing the meeting stuff that Ann provided and our letters, that's kind of my reaction to what I see and what I remember.

Mr. Kapu: Mahalo. You know, I sit on this one cultural commission from the Big Island, it's called . . . yeah, that's this be big heiau majestically placed on a hill in Kawaihae, they're going through a plan right now to put in a cultural center on the bottom of the heiau. We've been dealing with that for the past three years because Herb Kane, himself, gave us some information of some type of interpretative design of the building or the structure and we're getting all these different kinds of plans but the intent is to try to incorporate the history of the place versus what's going to be in place to educate the younger generations of tomorrow just so we don't create a facade that has nothing to do with the original site, yeah, and looking at this, from my point of view, we've been dealing with a lot of things like this, to create something that basically has to identify the area in general and not to try to -- we have to be cautious as pertaining to what we create because once that is created, then it becomes a standard interpretive design for future other things that might happen within or across or within, you know, the radius of the area is a concern that we might come to a point where, all of a sudden, the site which was once important, now is clustered by a facade and nobody pays attention to the site anymore. So we constantly deal with those things in the Big Island too as well; that's the reason why I guess the line item on the agenda as pertaining to the structure, there is a concern, on my part so -- any comments from the commissioners?

Mr. Whelchel: I think it makes a good tropical sales room. It says that. It could work as a school. It's a commercial type tropical building. I think it needs windows around. If it had windows like the restrooms in Lahaina, that it would give it a little break, but that's probably not what we're trying to resolve. But for its use as a school building, it probably would be tropical, but it's not a tropical residence. It's, like you said, between a rock and a hard place.

Mr. Kapu: Anyone else?

Mr. Moikeha: My thought goes back to what Dawn was saying as far as the intent, you know, I mean what is the intent, once again? I don't know if we make decisions based on cost. Do we even try and consider that too, I mean as we take a look at that or, you know,

and I like what Kurt said as far as what is and, to me, in today's architecture, when it comes to Polynesian design, even Hawaiian design, a lot is based on the roof, you know, and that sets it off. You may not have the thatch, you know, but you got the form and things as such and -- but, you know, I don't know what else to consider in those things, I mean I like what you had said, Keeaumoku, so all things to consider, many things.

Mr. Artates: Mr. Chair?

Mr. Kapu: Yes?

Mr. Artates: I feel that this is going to be dedicated to an area that is preserved, right? I'm assuming that dedicating meaning there's no financial cost to the University of relocating this structure. This is a window of opportunity to further other opportunities for the University to go after financial assistance to help perpetuate this area and, like you said, Kalei, if we're looking at it on dollar value, by going after these grants that you -- that you mentioned to help perpetuate the area, not only on education, but as well as preservation, and as well as maybe you're going even further with employment of who's going to be the caretaker, I'm assuming that it's going to be proposing these grants that you're going after also. You know when you guys talk about before we lived only in hales, I mean that's right, we lived only in hales before, no walls with just one roof over, and coming from a point of what we have today in Hawaiian homesteads, you no see us living in one grass shack anymore, yeah, we're going according to what we have of financial affordability. So in looking at this, yes, the structure is tropical, yet then if it's in a vision of how we can perpetuate our culture educational wise, through the funding of the University, I feel it's pono.

Mr. Moikeha: So, based on what Perry said also, then, to me, the question is is it Hawaiian? Even more so then, you know, I mean we gotta talk. My intent on the Commission is to perpetuate. To me, preserve is you can see but no touch. Perpetuate is come in bruddah, you wanna touch 'em? Touch 'em, you know. You wanna feel? Feel. But -- so the question once again is, you know, it comes back to Kurt also, I mean, and if it is, or if it isn't, or it cannot be adjusted, whatever, that was my -- the reason why I asked the first question.

Mr. Rotunno-Hazuka: Well, and just the thing is is that if the Commission is asking for an adjustment, what is that adjustment? What are you looking at?

Mr. Mitchell: I wanted to expand on what Kalei said and Perry and I think, and I'm taking my hat off as an architect and more coming from my background as a Hawaiian, and I go back to the City of Refuge, okay, you go there and you have a village that is built, basically, from the pre-contact era or around that time, but, yet, the facilities that support that are not. The facilities that support that are not even Hawaiian to begin with, you know, the buildings

that are there that are used to take care of the city, the City of Refuge. So when you come back to the question of a Hawaiian building for the preserve site to be used as what it was used in the pre-contact era, and if you want to do an interpretive site, do build other buildings eventually on the site so that when if this is used as an interpretive center, that the buildings are that in that location be of that indigenous era, grass hales, just the roof forms and, you know, no walls or whatever it is, I mean I've seen some drawings of some very wide interpretation of pre-contact era buildings. But then the buildings that are on the - the rest of the buildings on the side there to support, whether their tropical looking, or whether their territorial architecture, really should be, how should I put it? Should really be focused or based upon the use of what you're trying to do.

Now, Perry makes a good point, the developer, I'm not here to back up the developer or anything, but they're going to give to the University of Hawaii this building. Then this allows maybe the University of Hawaii to go get other money or grant money to go build an actual village if they wanted to of a Hawaiian -- they can go do something that is actually ...(inaudible)... you know.

So every site and how every site is used is going to -- and whether you're going to put another building site on it, you know, if it was up to me, I prefer that there be no buildings on this site, but they're going to have to use it, and they're going to use it so that we can continue so that our keikis can have a place where they can learn about Hawaiian culture and they can go and study in a place. But, actually, you know where the best thing for them to study is outside in the area, but they're going to -- I mean this place is maybe a place of an assembly for them, much more than that.

But so, you know, I know it's a hard decision to make as to what is Hawaiian because my question then going come back to you if we want to make it correctly, then what it is, and I don't think I'm going to get, from all of you sitting here, the same opinion, so then I going get one building that going look -- but who says that, you know, when you do -- if we're going to do, like Dawn said, the villages, why can't the caretaker's building come in be of a different material on the side because then it's, you know, if you make it all the same, then they're going to look all the same, so what about when the caretaker comes in, which will be a larger building than this one or be of a different -- can be of a different type of siding, whether it's wood or not, I don't -- you know, six one half a dozen, I mean the -- really, if you're going to put all windows in it, you know, that can be done or all doors, but then that will -- that's perfect for that kind of building because it's something that you live in. In my idea of Hawaiian architecture is you live on the entire property, you may sleep in the covered area so that in the day when you open up, you open everything up so you transition from a sheltered area, to a semi-sheltered area, to an outdoor area; that, to me, is Hawaiian architecture, you know, it's not what the thing looks like, it's what it does, and it's what it's used -- unfortunately, you're not going to do that with a classroom as much as you can because you're either going to be inside the classroom or outside. But, certainly,

when the caretaker's house comes up, maybe you might have more the style that is whatever that Hawaiian architecture is. You know, I've been in this business for 30 years and I'm still trying to figure out what Hawaiian architecture is, you know. I'm going to be working on Kahoolawe, and I'm still am sitting with some of the people trying to -- and their still wrestling as to what is Hawaiian architecture. So, you know, I mean it's a difficult thing to take a look at. But, you know, that's, I mean, as I sat here when we first designed this building, we looked at it as a tropical building, one that's very light, one that's, you know ...(inaudible)... we used plaster and not wood because I didn't wanna have everything being built out of wood, then it doesn't look good, it becomes very monolithic and I didn't want that to happen. Okay, thank you.

Ms. Cua: I think, to pick up on a lot of the conversation that went on today and I think, specifically, what your Vice-Chair had mentioned, whatever first building you approve on the site, I guess, would sort of maybe set the tone for what you might support for another building, so that's something that you need to keep in mind, I mean is it, you know, of concern to you to have buildings be similar, or do you know, do you want the diversity, as the architect had mentioned, by approving a structure such as this, is this what you're saying that you may be -- are you giving them direction as to what you would like them to do maybe for the next building, and that would give the Planning Department direction as well. And I really think the point of contention is not so much the roof and the size at all, I think the only thing maybe is the stucco material and that maybe you wanna have maybe a little bit more discussion on that and because I think if you're okay with the stucco, you know, I'm not so much concerned about the roof and the size, again, because I think it has, by virtue of how they've done the roof, I think it gives you an appearance of not a massive structure. So maybe we can discuss the stucco a little bit and, you know.

Ms. Kapuni: Meaning no disrespect to the architect because I think architects are really cool, you guys got a cool job, but this, my dear, the color, the look, I -- you know, too bad you didn't have like pick, there's three models and pick one, or something like that. I think if we had more options, and you're going to ring my neck for this and I e kala mai, but this isn't -- I wish I could say that this is -- it's screaming at me to -- what is that lip thing on the roof line? What is that? Is that just to -- that's just design?

Mr. Mitchell: It's the construction of the roof.

Ms. Kapuni: I see. I see. Is there -- I know Lon had mentioned adding windows because our old hale, you know what was a Hawaiian house? The popopo roof. Nah, only kidding. But, if anything, what you call, more windows, I don't know, add one Hawaiian quilt, I don't know.

Mr. Mitchell: You know, what you gotta realize is just take a look at the shell, I mean you go to the materials, because a building can repainted. The inside is going to be different

because the inside is going to be used however the University wants to use it and so, you know, how the building gets end up using is, and what's inside of it, is, you know, going to be up to them, but, you know, like I hear, it's a roof form and, you know, as a smaller building, this is about the tallest or highest roof -- if I was to do a double-hip roof on this thing, it would look ugly, because the building size is too small, you know, we're not dealing with a big building, we're dealing with a small little building, so you put a simple roof on it. Remember old haies are with simple roofs. Old haies only had one window and one door, you know, they didn't have all the windows going around.

Ms. Kapuni: That's true. That's true.

Mr. Mitchell: You know, but, I'm just making light of it, but, in any case, the whole idea is to set the inside too of this thing, you can open up and it can be run with natural ventilation if that's what the University wants to use it for, you know, and, you know, I mean I can sit here and give you all kinds of explanations but, you know, we didn't design this building to sit here, and as the commissioner -- we designed it as a sales office, but, you know, we can take this down and take it away and then they can go build their building, and I don't know what that's going to look like, or go get the funds to build their own building, but I bet you the building that's going to come back is not going to look better than this, and I don't mean it just because I'm the architect, because probably what will come back, being an architect for the University also at the same time, knowing their requirements, it's going to be much more simpler, it's going to be much more plain, you know, and maybe what's happening with this building is that the quality of level for this building is maybe just a lot more than maybe what we simply think as indigenous architecture, and that's what you -- and I think that's the trouble you're having with this. So if you take the finishes out of there, you know, take the carpet out of there, I mean we're using ohia wood, you know, cedar is not indigenous, but, you know, we use cedar on it, natural material, stucco is definitely not -- that's why Ann's, you know, she's talking about, stucco is not a natural use, but then again, then I'm going to have to come back and say well then tell me what is natural, you know, because it's not -- because you got three chances: you got concrete, which is not natural; you got metal siding, which we all know is not there; and you got plaster; and you got wood; and you got grass shack, if you wanna do -- but I mean just to do that, to build a grass -- to build an indigenous hale building will cost way more money than this because of all the things that we would have to do, code requirements, to make it work. So -- and, you know, although I hear what Ann is saying, I don't think this building will set a precedent for any cultural interpretation building anywhere or even on this site. Like I said, you can build a caretaker building to look entirely different from this one and what? Does that mean that the design has to be so odd that it doesn't work with this one? We're building a village. If you're building a village, you know, my grandfather down here is going to build one the way he likes it, and my dad's going to build down here the way he likes it, and that's what makes a village, you know. So just remember what the use is for more than anything else. We're going to use it for the children, we're going to use for the University, and we're going to use

it for people, the public hopefully, that they can come and take a look at some cultural sites that they can't even get to, you know, so -- and whether the -- whether this ends up being -- whether the caretaker's building ends up looking like this or not, I believe you're going to have a chance to decide that yourself also, so it might be completely different.

Mr. Kapu: Okay, mahalo.

Ms. Six: With regards to the windows, cause I thought the same thing when I first saw the building, but after we really talked about it with Kiope and Lui, there's more security, it's more secured little bit, and the whole back side is all glass with a lanai, so it kinda looks more closed than it is but because we might be keeping equipment in there, because we may be housing cultural artifacts, we're not exactly sure, because it'll be a classroom, office, perhaps interpretative center, at some point. I also would say this building is sort of ...(inaudible)... not too invasive and I think that, you know, we would definitely, any other building, this building is being given to us free, and Kiope just said, "A bird in a hand beats two in a bush," and we can get going on our project, we can use this, but we would definitely, any other buildings that are going on the preserve clearly would have input from a number of people and will be back here again. So I would like to say for college, this is probably a nicer building than we could construct and also, for the college, we have a lot of high roof buildings, we have huge electric bills, the idea that we could have natural air flow through here, it's hot down there, things like that would come into play, so as far as our Hawaiian Studies faculty, they're okay with this building as is and, in fact, are quite pleased. It's a very lovely building inside and very high quality, more than so then we would probably be able to put up.

Mr. Kapu: Mahalo. Okay, well, commissioners, recommendations?

Mr. Whelchel: It's worth the money. The price is right.

Mr. Moikeha: One last comment. Personally, I like it, and to me what, you know, I mean my question as far as -- my point as far as what is when everybody is saying it's tropical, I mean Jamaica's tropical, Phillipines is -- I mean you know what know what I'm trying to say? So that's my comment on, well, what is Hawaiian then, and so I basically got an answer too. You can go to the Mainland sometimes you look at different, you know, buildings and you can look, "Wow, that looks just like Hawaii." There's certain things that will come up and what would really make it, to me, I mean you not put one jacaranda tree up, you know, I mean that just wouldn't fit, but if that goes and the landscaping is as it should be, Hawaiian, you know, show the coconuts, I mean to me it can and will work.

Ms. Cua: Mr. Chair, one thing that we didn't get into that maybe would help is, you know, we did speak with the applicant about landscaping and they did come back with a landscaping plan for the parking lot area, parking lot which they're planning to gravel, not

put pavement, and they are planning to have some milo trees and a naupaka hedge and I had commented about the frontage of the building itself, you know, maybe putting some plants there and, in discussions with the community college, they indicated that, you know, that would be part of their project to plant out this area. So I think what the commissioner just mentioned, you know, could help in that when the building is planted, and we do have some indication of how they are planning to start the planting, you know, that might help and, you know, maybe you could make that as a comment or --

Mr. Artates: Mr. Chair, I have one comment. I believe that this is the first time the applicant has come before this committee since 2000 so I would -- I will make a motion to review and approve the applicants request since this applicant will be coming before us anytime there are changes that's going to be happening within this preservation area, according to this letter that was dated back in September 19, 2000, that the applicant will update the Commission minimally on a yearly basis on the progress, you know, on Item 7, so I'm pretty sure we're going to be somewhat like of a watchdog on whatever is going to be happening once this building is relocated to the preservation area.

Mr. Kapu: Okay. Can you re-entertain your motion again?

Mr. Artates: Well, I think, as Ms. Cua was mentioning, that I guess we're here today to review, which we did, and approve the proposed University of Hawaii facility at the Palaeua Cultural Preserve to Lot 18, TMK whatsoever, Makena, Maui.

Mr. Kapu: Okay, second? Anyone?

Mr. Whelchel: Second.

Mr. Kapu: Seconded by Lon.

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

It has been moved by Mr. Artates, seconded by Mr. Whelchel, then

VOTED: to approve the proposed University of Hawaii facility at the Palaeua Cultural Preserve, Lot 18, TMK 2-1-23:002, Makena, Maui, Hawaii.
(Assenting: P. Artates; L. Whelchel; N. Watanabe; D. Kapuni; K. Moikeha)
(Excused: S. Kalalau; D. Pyle)
(Abstain: L. Rotunno-Hazuka)

Mr. Kapu: Okay, so moved. Discussion?

Mr. Whelchel: I think this little building says that it's commercial and it's appropriate because it is commercial. It's not really a house. It's gotta be built under commercial codes, and it probably has been; it'll stay that way. So it should be appropriate.

Mr. Kapu: Okay, anyone else? No?

Ms. Kapuni: It's hard to be a woman and look at a house, you know, it's like, oh, you know, have a garden in the front and -- but you're probably right, Lon, it's commercial.

Mr. Whelchel: Probably not.

Mr. Kapu: Okay, I'd like to also add in a motion, if I may. That, basically, the site shall be preserved as a historic park and interpretive center as well.

Ms. Duensing: Can I ask one question before everybody leaves? You know, we were talking about the Preservation Plan five years ago in 2000 and I remember one of the problems was people just coming and picking up pohaku and going off with them wherever they wanted and the Commission requested signs and -- has any, you know, has the degree of public abuse of that site change?

Mr. Ige: Since we started construction, when we first got on the site, there was a whole bunch of homeless people there, they have since moved on, and we have put on signs, so we haven't seen much abuse of the site, but what the problem is now is the deers though. We have like 40 or 50 deer that kinda live in there and in our subdivision improvement, we planted a whole bunch of native plants as part of the improvements, and they love native plants so --

Ms. Duensing: Yeah, that's dessert.

Mr. Ige: So we've had a lot of problems, not with human contact, but basically deers and it will be a problem that ...(inaudible)...

Ms. Duensing: So what is the status of the Preservation Plan? Is it being worked on and how many more years --

Mr. Ige: There was a Phase 1 Preservation Plan that I think was submitted that Theresa Donham had done, so I don't know if the Commission has a copy but we can get a copy of that plan to you.

Ms. Duensing: I was just curious as to how the progress on that was coming because it's really important because it was such a problem earlier.

Mr. Ige: So we will forward that Phase 1 plan to you for review.

Ms. Duensing: Mahalo.

Mr. Kapu: Mahalo.

Mr. Ige: Okay, thank you, commissioners.

Mr. Kapu: Thank you. I had a motion.

Mr. Artates: You can repeat that motion?

Mr. Kapu: Okay, the motion was that this place shall be preserved as a historic park and interpretive center. That was the motion.

Ms. Cua: I have a question.

Mr. Kapu: Sure.

Ms. Cua: Maybe for Corp. Counsel. I guess I'm -- okay the item on the agenda is approval of this structure, the design of this structure, and then they're giving you an update of the cultural preserve, so I guess I'm not sure how that motion would fit into that.

Mr. Giroux: I think we'd have to interpret it as a recommendation that as part of the approval of the movement of the house to this parcel that --

Ms. Cua: The Commission recommends? Okay.

Mr. Giroux: The condition would be to recommend an interpretive --

Mr. Kapu: Okay, I will recuse my motion then and place it on --

Mr. Giroux: Well, you can just amend --

Mr. Kapu: Huh?

Mr. Giroux: You can just amend the wording.

Ms. Cua: Yeah, what I could do, maybe if I could ask the Commission's indulgence on this, is as part of the approval letter, and I think I would give some background as to some of the reasons why you supported this particular structure, this design of the structure in this location, but towards the end of the letter, just indicate, you know, in one paragraph that, you know, the Commission further recommended that the site or the applicant -- or that the site be preserved on a, you know, your statement that you made, and that's more a comment to them than a mandate, I think, in the context of how this application came before you. It's okay?

Mr. Giroux: And I think Kapu would want the words "highly recommend."

Mr. Kapu: Shall be preserved as a historic park and interpretive center.

Ms. Cua: Okay, got it.

Mr. Giroux: So you just need a second and a --

Mr. Artates: Second.

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

It has been moved by Mr. Kapu, seconded by Mr. Artates, then

VOTED: that the CRC highly recommends that the site shall be preserved as a historic park and interpretive center.
(Assenting: P. Artates; L. Whelchel; N. Watanabe; D. Kapuni; K. Moikeha)
(Excused: S. Kalalau; D. Pyle)
(Abstain: L. Rotunno-Hazuka)

Mr. Kapu: Okay, so moved. Okay, well, mahalo. Okay, where are we now? Okay, can we take a short five-minute break? We need to change the machine, the tape, some of the commissioners ran out of ink in their pen.

(A recess was called at 12:50 p.m., and reconvened at 1:00 p.m.)

Mr. Kapu: Okay, I'd like to reconvene the meeting, Cultural Resources Commission, April 7. I wanna defer the item on Advisory Review, B, and go into other business on the agenda for now until the applicant comes.

Ms. Duensing: You're not deferring it, you're just changing the items.

Mr. Kapu: Well, changing the item. Okay?

Ms. Duensing: Okay.

Ms. Rotunno-Hazuka: Yes.

F. UNFINISHED BUSINESS

1. HANA BELT ROAD BRIDGE PRESERVATION. Dawn Duensing will provide a progress report on issues related to the Hana Belt Road.

Ms. Duensing: This is a nice quiet time, I got everybody's attention, and I can bring the new commissioners up to speed on the Hana Belt Road, and all of you will come to learn very quickly that this is my pet project. I'm an R and B Historian, that means I'm a Roads and Bridges Historian, and what I'm passing out is, I mentioned this earlier during your orientation, we had an engineer come from Oregon to look at our historic bridges and I'm passing out his report of what he saw while he was here, and he has pretty much laid out in his memo how our Public Works Department and our DOT can preserve the Hana bridges. He's pretty much done all the work for them. And last month, I had given you guys a letter that we got from our DPW Director, Milton Arakawa, stating that four of these bridges that are scheduled for replacement along the Hana Belt Road, they'll reconsider two of those, okay, so two of them will be replaced because they've already done all the project design and spent all this money, but the good thing is is they at least said that they would reconsider the other two. So that's one thing that's going on.

And the other thing that's been going, since January, is during this Legislative session, there's been a bill introduced that would allow the Department of Transportation to use flexible design guidelines for rural, historic, and scenic roads, and I've got a letter here that was sent to the Commission because this went -- it's a Senate Bill and it went to the House Finance Committee on Tuesday afternoon, I believe it was, and it's passed out of the Senate, crossed over into the House, and it's still alive, so, you know, I'll be continuing to monitor this to see that we can get this passed. This bill is really important because if we get it passed, then we don't have to -- we can write design guidelines and not have to design our rural roads and dinky little bridges, like the Hana Belt Road, to freeway style standards. Okay, so that's basically the status update on the Hana Road.

And then I've got another letter here that I'll pass out and this is to the State Historic Preservation Division regarding one of their reviews of projects on the Hana Belt Road because they missed some stuff.

One of the things that the DOT is working on is, after what happened with Makapuu and the rock slide in Waimea Bay a couple years ago, they went out and they did a study

between Huelo and Hana that identified 35 areas along the Hana Road that might have a rock fall or a landslide, like happened at Makapuu, and I don't know if you guys have seen how they fixed Waimea Bay or Makapuu, but it's really ugly.

Ms. Watanabe: With the nets?

Ms. Duensing: With the nets, yeah. So up by Waikani Bridge, which is one of the most spectacular sections of the road, it's built in on a cliff, it was a real engineering achievement, it's got a beautiful concrete arch bridge, their proposing a 1300 foot cantilever structure and what they wanna do is move the whole road away from the cliff and put the mesh drape on and these hideous fences above the road, and the whole project will be really ugly, and the State Historic Preservation Division issued a "no effect" letter because all they did was look at the archaeological resources, not at how it would involve the road itself or the scenery. So I met with the DOT consultants last week and, basically, what I told them is in this letter, and I wrote to SHPD because what they need to do is reissue a letter because it's not a "no-effect." If they start doing projects like this in 35 spots along the road, it's going to be the ugliest road on Maui instead of the most beautiful road on Maui, so we need to stay on our toes and monitor the DOT and make sure that they're nice, not only to the historic bridges, but also to the road itself. So, I've been busy spending a lot of my time trying to, you know, get some good ideas on how we can design these projects, and I think moving the road in this area is not the best thing, but maybe if they could just install a fence, make it green so it blends into the scenery, and then, you know, cover it with vines or something, is a possibility. It's not a -- it's still not going to be a pretty picture, but it's better than what they've got proposed so I'm trying to reach some kind of compromise. Okay, any questions?

Ms. Rotunno-Hazuka: Oh, I guess maybe is there any chance that the bill would not pass on the --

Ms. Duensing: I don't know because, you know, it started both in the House and the Senate, and the Senate Bill -- or the House Bill died before it even got out of the Transportation Committee, it was kinda dead on arrival, and I got a email, cause when these go before committees, I pretty much put together an email list of people in Hanalei because Hanalei Road is also on the National Register and Holualoa on the Big Island, they have a Heritage Corridor along their road, so we've been getting a lot neighbor islanders faxing in positive public testimony for the bill, and one of the women went to the committee, the Judiciary Committee about ten days ago when they met, and I guess the Attorney General's office showed up and they were very positive on this and they saw that it was a workable measure, so that some people are getting encouraged that it actually may pass. And then the other thing I did is because once, it's not just the House and Senate that gotta pass it, the Governor's gotta sign it, and two years ago Governor Cayetano vetoed this, so in trying to put everything in order, I also went to the Maui

Advisory Committee to the Governor and they seemed to support it and, you know, will recommend it positively to the Governor too so, hopefully, we can, you know, keep moving forward in getting this done. So, and then the other thing is, of course, every time it goes to another committee, it gets another amendment added on to it so I don't even have any idea what it looks like now. Cause one of the major flaws in the bill, I found out when I re-read it, it says nothing about historic roads, it only says scenic roads, so we gotta get that road put in too. So, anyway, the answer to Lisa's question, hopefully, it'll keep going and then we wanna work on -- we'll need to write some letters to the Governor to get her to sign it.

Ms. Rotunno-Hazuka: Okay. Thank you.

Ms. Duensing: And then, you know, any of you that want to write letters, you know, it would be very helpful if we could all write letters as individuals too because I think the more faxes we send them, the better chance we have to get them to listen to us. Alright, well, I guess since they're still not here --

Ms. Rotunno-Hazuka: They're out and they're sitting, I think.

Mr. Kapu: Okay, welcome. No, that's alright. Okay, Advisory Review, Item B.

- b. MR. RORY FRAMPTON, CHRIS HART & PARTNERS, for Pacific Rim Land, Inc., requesting CRC review of the Ukumehame Subdivision, Phase I and II Draft Environmental Assessment. the CRC may advise and make recommendations on the Draft EA. Public testimony will be accepted. (Kivette Caigoy)**

Ms. Duensing: While Glen is setting up, I might just explain, you know, a little bit more about how this Commission operates. When we had our orientation earlier, I said you have some authority in the Historic District and then you went and you approved that comfort station Historic District application, right, so that's your authority. And these Environmental Assessments that will include cultural resources sections, usually an Archaeological Inventory Survey, they'll have Cultural Impact Assessments and the like, this is part of the Commission's advisory duties, okay, so you have no rights to demand how they do this, but what they do is they come to the Commission for recommendations, so it's a purely advisory capacity and that's what your role is in such like this, okay?

Mr. Kapu: You know, I've been going over the Environmental Assessment, the Archaeological Inventory Survey for this project, and the ahupua` for Ukumehame, I guess this is to the applicant, there's a lot of extensive things that you got down in here, by any chance, would it be possible for the Cultural Resources Commission to request a site visit?

That's just one of my questions.

Mr. Rory Frampton: We're going to do -- we'll do a little presentation.

Mr. Kapu: Sure.

Mr. Frampton: And, I think, are we waiting for Kivette, Dawn?

Ms. Duensing: No, Kivette can't make it, she had another meeting, so I'll be handling it for her.

Mr. Frampton: Okay, in about two minutes we'll be ready to do a presentation ...*(inaudible)*...

Mr. Kapu: Okay. Can we take a two minutes break just so our secretary don't run out of tape.

(A recess was called at 1:10 p.m, and reconvened at 1:13 p.m.)

Mr. Kapu: Reconvening Cultural Resources Commission, Advisory Review, Item B, Mr. Rory Frampton, Chris Hart & Partners, for Pacific Rim Land, Inc., requesting CRC review of the Ukumehame Subdivision, Phase I and II Draft Environmental Assessment. Aloha.

Mr. Frampton: Aloha. Thanks for your patience. I'm Rory Frampton from Chris Hart & Partners representing the Ukumehame co-tenants, that's the owners of this property, and I wanna just give a little bit of background first on the project and then I'll get into some locations maps and then we can get into more detailed discussions on the cultural and archaeological resources.

The property's owned by a group of Maui individuals that acquired the 439 acres back in the early '90's. They're all local Maui residents, businessmen that formed a hui to purchase the project. They were in the process or they actually did process a 12-lot subdivision back in the late '90's involving the property but, ever since the beginning, there were issues along this section of the coastline about the highway being so close to the ocean and there's been a long talk about trying to move the highway inland and trying to provide increased park space as well as another alignment for the highway along this section of coastline, so this led to a number of discussions with the County and, in 2003, the County Council actually appropriated or approved a bond for four million dollars to purchase 100 acres of this parcel along the coastline. And, in last November in '04, the County Council actually approved the purchase and sale agreement whereby the County would use that four million dollars to purchase 100 acres of this land. As part of that purchase and sale

agreement, the owners are going to be processing a subdivision of 45 lots. The total subdivision is 48 lots: 2 lots for the County, 1 lot for the river corridor, and the remaining 45 lots or ag lots are going to be sold by the developer.

The potential build out of this property is 96 lots, in other words, based on the County's agricultural ordinance and the sliding scale, you could take those 12 lots that they have now and make a combined total of 96; however, that possibility has now been eliminated with this purchase and sale agreement. Part of the County's purchase and sale agreement stipulates that, basically, what we have shown on this plan, that I'll be showing you, the 45 lots is all they can do with the potential of one additional lot in the river corridor lot.

So, there's been a lot of discussion at the County level, at the County Council level, on this project, and a lot of things are sort of have been -- a lot of the parameters have been set via that purchase and sale agreement that the County Council has approved back in '04.

I just kinda wanted to provide that information as an introduction, and I'll hit on some of those things as we go through, but now I'll go through the slide show. Oh, the other thing, as Dawn mentioned earlier, this is an Environmental Assessment that's before you right now. As part of that purchase and sale agreement, the County required that this ag subdivision, which is almost entirely outside the SMA, there's only the two roadway connections to the highway that are in the SMA, but the County said, "We want you to do an SMA permit and we want you to do an Environmental Assessment."

The Environmental Assessment, and for those of you who are new to this process, Environmental Assessments are used to disclose potential environmental impacts about a -- about a project, and so we do a Draft Environmental Assessment where we included all the information on impacts related to drainage, traffic, cultural resources, archaeological resources, we produce this document, and this is the document that we've done, and then it goes out for agency review, people can comment, the public can comment on it, we're getting comments back from, ultimately, probably 25 different agencies. One of those agencies is this body. And the real technical legal question is, is there enough information in this document about the impacts for the decision makers on the SMA to have an information decision. So it's really considered an environmental informational or more of a disclosure document in terms of impacts, and the idea is to present a thorough body of information, again, for the decision makers, in this case, the Planning Commission, to make an informed decision, and we'll take whatever the comments that you have here and, like for instance if you wanted us to include additional bits of information that you think the Planning Commission should know about, we'll take that, put it into the Final EA, which will go before the Planning Commission, they have to accept that Final Environmental Assessment before they can make a decision on the SMA, which would be about two months after that.

The one last thing, I hope to get to the slides, but the other thing is that we are on a real tight time frame. The purchase and sale agreement that was signed by the County Council says that we've gotta finish the EA and the SMA by July 15, or thereabouts, and so this EA has been published, we're in the public comment period right now, and the public comment period ends, I wanna say, April 21 is the legally -- the legal public comment period closes, of course, we can take -- we'll take comments after that, but we're going to be before the Planning Commission on May 10, so this kinda goes to the previous question about a site visit. We could certainly go out and do a site visit, but we wanna keep in mind the time frame and if we do do a site visit, and we're going to get additional comments from the CRC, it would be important to provide those to the Commission by the 10th, although that wouldn't be the end of the world because we could still have the public hearing on the SMA, which we're anticipating in late June where, of course, the Planning Commission will still receive comments. But let's go forward here and I'll present the information we have.

This is an aerial photo of the property, it's outline in yellow, and it's sort of triangular shaped. It goes up into the valley and then down along the flanks of the valley in the old former sugar cane fields. This photo was taken when the property was still being farmed by sugar cane -- or in sugar cane. The valley, as it gets up past the lower fields, it's very sharply defined with the steep edges on the gulches on the sides of the cliffs, and as it hits the lower area, it's a alluvial deposit, we call it, where basically this land form on the bottom is actually formed by all the runoff from the river and it's kind of a fan-shaped mound that spreads out towards the ocean, so the slope direction goes out that way. The stream runs right through the middle of it and it's covered by grasses. The stream water was, when Pioneer Mill farmed it, was totally diverted and would not find its way down, for the most part, would not make its way down to the ocean. Since the partners took over and since the Pioneer Mill ceased farming, the stream water has returned and there are -- you can go out there and see the opai and o`opu and stuff that are kinda making their way back up the stream.

Ms. Rotunno-Hazuka: Rory, is that a well site there that's clear, that one on the left, or what is that?

Mr. Frampton: That looks to me like an old push pile that was -- this was still in agricultural use so I don't think there was much activity by the owners at this point. This is another air photo which shows two, the two -- there's two large reservoirs that collect the stream water, these were built in the 1930's. The idea is to keep those reservoirs in place and use portions of those reservoirs and the old irrigation system for a non-potable system for the future owners, so the future owners will have the opportunity to have ag water, basically, that would be from the stream water. For water for the lots for the domestic purposes, we'll be drilling wells or there are wells that are already drilled in this portion. But this is just another photo of the property and it shows, as most of you are aware, the highway running along the makai boundary. The County's purchase is about a 1.4 mile stretch, it's about

six, seven hundred feet wide in here, that's the hundred acres that the County is going to be purchasing, and then the ag lots will be centered on these two flanks.

This just shows the community plan designation. The entire project's in the community plan agricultural district, and this line, right above the property, is the demarcation between conservation and agriculture and that, basically, follows the forest reserve line.

These are some photos, they're sweeping photos, so it looks, actually, on this top photo, you're standing up on the Lahaina side flank, looking into the valley, and then the camera's sweeping all the way down the slopes to the ocean and you can see Lanai in the background. This fence line is actually the boundary of the property, so everything above this fence line is State owned, and below that is owned by the property owners. From about the same location, looking across the valley and towards Maalaea, the flat lands across the valley or across the stream are owned by the owners, my clients, and then up above where the slope start getting steep, it's owned by the State of Hawaii.

This photo shows, again, it's looking from the other side of the stream, just looking down towards Kahoolawe, and looking at the flat lands that'll be part of the agricultural subdivision, and then these photos show the stream and the lower portion of the stream, it's kinda hard to see in these photos here, some taro lo'i and the reservoir that exist in the upper valley. Let me just step back a little here. Some of the uses in these valleys, right now there are old kuleana lots that aren't part of this project, it's surrounded by the lands included in this project, but there are old kuleanas where families still maintain taro patches and do -- there's one little pig farm and there's actually a noni farm way off to the side, but there are certain uses that are occurring in the valley that will be allowed to continue.

This is the subdivision plan and there's a lot of lines you see right here in the river corridor, we have, basically, we have a river corridor lot that separates the two flanks of the project. The river corridor lot will be kept as is as sort of a passive protection of the stream. There is no lots that are going to be sold to future homeowners located within that river lot. You can see some of these circles show the reservoirs, others show the old kuleanas that don't have clear title that will remain as is, and, again, as I mentioned earlier, the people that are there will continue to be -- will be allowed to do what they're doing up there and they will be provided access through this cul de sac, there'll be a road that, basically, that will hook up the existing dirt road that provides access to their properties.

The subdivision itself, there's 25 lots on one side and 20 on the other, 2 roads so we don't have to cross the streams, this line down here is the line that shows the hundred acres that the County's going to purchase, and there's some large lots, which abut the County land, and then a number of, like 3 to 5 to 7 acre parcels in the bulk of the project itself.

This just shows, if you're interested, we can go through the intersection details, but there's going to be intersections on each side that have acceleration/deceleration lanes, left turn lanes, right turn storage lanes, so this one goes by the piles.

This is hard to see but this is the landscape plan for the property. We are doing native landscaping along the roads, it's going to be in pockets or clusters, and some of these figures you may have in better detail, but this upper right-hand corner shows what a cluster of the planting would look like, so rather than just have a tree every couple hundred feet, we're going to have clusters of plants, with low plants, medium, and then trees in clusters along the roadway to provide some kind of variety of interest.

This project has gone through a lot of archaeological -- archaeological study. There was an archaeological inventory that was completed in February 1999 and was approved by the State of Hawaii. There were a number of archaeological sites, which I'll briefly summarize in a few minutes, some of them contained burials, others were important sites that needed to be preserved, so the Burial Treatment Plan for the burial sites was prepared in February and approved, well, we have the letter, the letter was dated in '03, but it was actually approved by the Burial Council back in 2000, it took about three years for them to give the approval letter, but so the Burial Treatment Plan as been reviewed and approved by the burial -- Maui Islands Burial Council and State Historic Preservation Division. The Archeological Preservation Plan, which sets out the buffers from each of the sites that are going to be preserved, has been prepared and approved by the State, and then the Archeological Monitoring Plan has been prepared and approved by the State of Hawaii as well.

This map might be a little hard to read on this screen, but the site does contain a variety of archaeological sites. There old historic sugar cane ditches, which run down from the stream and through the property, portions of those irrigation ditches are going to be preserved. There are two prominent heiau. The what's called, now days it's called the Ukumehame Heiau, is on the west side of the flank, right at the corner of the property. On the Maalaea side is a Hiki`i Heiau, and amongst the Hiki`i Heiau, or on either side of it, there's a lot of petroglyphs. In both of these heiau sites, there are burials, so both of those sites are subject to the Burial Preservation Plans. There's also a number of other sites in the area that are archaeological sites that have old habitation enclosures, agricultural terraces, and a variety of other features, especially in the valley itself, you know, there's old taro lo`i, and, again, habitation enclosures and the like. So ten sites are being preserved as archaeological sites, and another I think it's four sites are being preserved as burial preservation sites, and that information is in the -- the detailed information is in the packet of materials that was presented to you.

Ms. Rotunno-Hazuka: Rory?

Mr. Frampton: Yes?

Ms. Rotunno-Hazuka: The four sites are data recovery, right? The -- you said four were preserved as burial, I thought they were in the data recovery?

Mr. Frampton: No, the -- there's four, the distinction between, I think it's ten and four, if I'm not mistaken.

Ms. Rotunno-Hazuka: Right.

Mr. Frampton: The ten sites are archaeological, pure, I wanna say purely archaeological sites but they don't have a burial component where they don't -- they aren't believe to be -- to have burial components, so they were addressed in the Preservation Plan, and then the sites with known burials are addressed in the Burial Preservation Plan and, to my knowledge, there's no requirement for data recovery for those sites, with one exception is up on the flank of the hill is Site 3184, there's a portion of that site that's in the project area that's more just archaeological and they have a 25-foot buffer around it, but the site has a couple of component features and one of the features is a mound on State land that they think may contain a burial and they said if anything's ever going to occur on the State land in that vicinity, that you need to go in and do an investigation to see if that mound of rocks is indeed a burial or not. But when they prepared this plan, there was no anticipated activities in that area so they didn't go in and do that further work on the State owned property.

Ms. Rotunno-Hazuka: Cause, you know, like in the abstract and everything, it says four were slated for data recovery and then ten will be preserved.

Mr. Frampton: Yeah.

Ms. Rotunno-Hazuka: So, I don't know --

Mr. Frampton: Which page are you referring?

Ms. Rotunno-Hazuka: Like in the inventory survey, the abstract.

Mr. Frampton: Okay, well --

Ms. Rotunno-Hazuka: So, I mean, you know --

Mr. Frampton: They may have -- I think they've done -- I focused a lot more on the Preservation Plan and the Burial Preservation Plan and the --

Ms. Rotunno-Hazuka: Okay. Right, which would be --

Mr. Frampton: Yeah, which would be after that and so they, I'm assuming they did the required data recovery because in the Preservation Plan they do not recommend any additional data recovery, both in the Preservation Plan and in the Monitoring Plans that were approved.

Ms. Rotunno-Hazuka: Okay.

Mr. Frampton: This is a map showing the, this comes out of the Burial Treatment Plan, and it shows the Ukumehame Heiau with its buffer zone around it, it shows the Hiki`i Heiau with its buffer zone, which is actually demarcated by the edge of the cliff and an old cattle wall. And within that Hiki`i Heiau preservation area, there is that additional site that has the petroglyphs and the rocks on it. There's a burial off to the side with its own preservation area, and then a family burial plot, which is a historic family burial plot, the Lindsey, it's actually the Lindsey family cemetery is in the middle of what used to be cane fields but Pioneer Mill always kinda left that there, never really touched it, and they've maintained, the family has maintained that ever since, till today, so that's going to be preserved and access will be provided for the Lindsey family to continue to go maintain that area as well. So this shows the major sites that are being preserved from the burial plan. Lisa, this up here on the left-hand corner is that 3184 and you can see the property line going right down the side of it with the other features and the possible burial being located to the outside of it.

This is just a photo that actually goes beyond the property line and it shows the -- right where the highway comes down out of the pali and so the area where people, a lot of people go camping now, and then the rifle range, there's a, yeah, firing range, actually, right to the Maalaea side of the project, and this is a project boundary of where the project is.

That's the end of our slide show. We can turn on the lights and, if we need to, we can go back to these figures and, basically, we're here to receive any comments or questions that you may have.

Ms. Duensing: I have a question, Rory. When you were talking about the stream, you said that it was -- I think what you said is around the stream there was one lot, and that was separate, and you said that that would be in preservation?

Mr. Frampton: I said passive preservation.

Ms. Duensing: Passive preservation.

Mr. Frampton: Yeah, but the idea is that, with that lot being created to encompass both sides of the banks of the stream, all the way up into the valley, they didn't want to do subdivisions where the lots would actually go into the stream and you'd have multiple owners --

Ms. Duensing: Yeah.

Mr. Frampton: Which is a lot of times done along gulches and stuff where the lots go all the way down to the center of the stream, so they created one river corridor lot that'll be owned by the homeowners association. Right, Donna? Yeah, it'll be owned by the homeowners association and kept in the, basically, a natural state and, I'm sorry, Donna is here today, Donna Clayton, from Pacific Rim Land, and Glen Tadaki from our office, and Glen and Donna are doing a lot of the leg work on this project, so they're here to answer any -- to help me with any questions.

Ms. Duensing: Alright, I do have one question in reference to that and perhaps you can shed some light on it, or maybe Lisa, is in the Archaeological Inventory Survey, on Page 94, it talks about the valley stream parcel and it ends with the sentence that says, "The developers do not consider the entire valley/stream parcel be in strict "preservation" and reserve the right to develop within this parcel while maintaining the integrity of the agreed upon site buffer zones." Isn't that contradictory to what you said?

Mr. Frampton: Are you -- what are you reading out of?

Ms. Duensing: The inventory survey.

Mr. Frampton: And the date on that I think was 1999. Yeah, there's been a lot that's occurred since then.

Ms. Duensing: Okay, and that's why I'm asking.

Mr. Frampton: And, yeah, and the main thing being that this whole deal with the County for the purchase and sale agreement, essentially, and what they have reserved as part of that purchase and sale agreement is the ability to subdivide one lot out that 77 acre stream lot parcel, so, in the future, there could be one additional lot within that 77 acre parcel that they could use for or they could, you know, sell it or use for a future home site. But aside from that one lot, the 77 acres will not be further subdivided, and that's per the purchase and sales agreement. So I think that statement in that 1999 report has been, basically, overruled or specified even further clarified by the deals in terms of the purchase and sale agreement.

Ms. Duensing: Does that make sense to you, Lisa?

Ms. Rotunno-Hazuka: Yeah, I guess it just depends where that one lot is in relationship to other sites in the --

Mr. Frampton: Yeah, I don't think where they can -- where they locate that lot it's not going to do anything to change these archaeological sites and the approved Preservation Plans that have been accepted by the State Historic Preservation Division, I mean those sites have been documented, there's buffer areas that are going to be maintained. A statement in an archaeological report reserving future development rights, I don't think -- it's, let's put it this way, it's been, for lack of better words, trumped ...(inaudible)...

Ms. Rotunno-Hazuka: Negated.

Mr. Frampton: Yeah, it's negated or --

Ms. Duensing: Okay.

Ms. Rotunno-Hazuka: I mean that doesn't make sense in there.

Ms. Duensing: Yeah, I'm just questioning because it seems contradictory to what you said --

Mr. Frampton: Right.

Ms. Duensing: And I realize that it is an old document and, apparently, a lot's happened since then.

Mr. Frampton: And, yeah, and I'd say it's definitively been trumped by this purchase and sale agreement.

Ms. Duensing: Okay. Alright. Thank you.

Mr. Rotunno-Hazuka: So, Rory, can you kinda go over the buffers, I mean I went through them, it looks like everything's like 50 to 100 feet, sometimes there's a little bit less, is it roads or --

Mr. Frampton: It varies. For some of the irrigation ditches, it's approximately 10 feet. In some of the areas it's topography, like the edge of a cliff or an existing roadway, might be the boundary. For most of the archaeological features, they're usually 25 feet, and then the heiau structures have a combination of 50 and 100 foot buffers for the larger heiau, and it really depends on the topography in the surrounding area and what existing roads are in the vicinity. If you're concerned about a specific one, I could call it out for you.

Ms. Rotunno-Hazuka: Yeah, no, I think -- I did have one question too, on Page 36 of the EA, and we're talking access now, last paragraph, "In order to preserve the exercising of native Hawaiian rights related to access, gathering, and other customary activities, pursuant to Hawaii State Law . . . Cultural Impact Assessment recommends that communication continue between the developers, lineal descendants of the original ahupuaa . . . and cultural practitioners . . . In this way, mitigation efforts, such as coordination between the developers and cultural practitioners for working out the details for access to the valley . . . can be put in place before development occurs." Anyway, my concern, Rory, was that, you know, I know that they have been talking about the people that are doing traditional and customary rights and you got the access, how do we make sure that these people's needs are addressed before the development? This just recommends that they keep talking but what if somebody didn't really care what they thought and move forward?

Mr. Frampton: I think the paragraph before that is the -- that actually commits to providing access, so the paragraph immediately preceding that says, "Potential impacts on the traditional and customary activities mentioned above will be mitigated through the following measures," the first one being, "access to the upper valley through the river corridor lot will be maintained . . ." so we're committing to maintaining access and the idea is how do we manage that and who's allowed to go up there. The people that live there, you know, the existing dirt road, which is going to provide the access for the upper valley --

Ms. Rotunno-Hazuka: Right.

Mr. Frampton: Goes right across these people's properties and it goes across some of this kuleanas that have multiple ownership issues and so we can't or the developer can't promise unrestricted access across these properties, in fact, those people have said they want to make sure that it's a form of limited access, so there'll be a gate, and there'll be a key, and, right now, what we envision is that the homeowners association will manage providing -- allowing people to have access to that key but they'd have to contact the homeowners and if they want to go up there for a particular purpose, they can access the upper valley, but it's not -- it's gonna -- it's not going to be an unrestricted type of access at this point.

Ms. Rotunno-Hazuka: Okay.

Mr. Kapu: I get one question. Is there any traditional access from the bottom all the way up into the valley?

Mr. Frampton: Not to our knowledge. If there has been any access, maybe they've been going up through the stream, but, at present, we don't know of any trail or roadway that actually goes right up the side of the stream. The way people have been getting up to the

upper areas were through the old cane roads, and then when they get up to the top of the property, they sort of slide down into the valley on an old dirt road that goes into -- that provides access to the couple of kuleanas so --

Mr. Kapu: What about finding out from these families that live in the valley if there was any traditional access? How does the families that live in the valley, basically, have an access? How do they get to the area?

Mr. Frampton: The families that are in there are more in the upper reaches, I say the upper reaches of this property, which, basically, start about here, Mr. Fujishiro's area, and then the Duey's and Lindsey's and Ka`ahui's have areas up in here, so what they've been doing is they come up through the cane road that goes along the side of the stream, up through the cane road, all the way up to this corner, and then they actually, at this point, there's a fairly steep cliff between this area of former cane land and the bottom of the stream that drops off a fair amount, so what they do is they come up to this corner and then they slide down the side of the cliff along this dirt road, and then Fujishiro gets his access through that way, and then the other -- the road kinda meanders this way up to the valley like that, so they basically drop into the valley from this point. There's been no, and we've interviewed these families as part of the Cultural Impact Assessment, and going through that, I didn't see any mention of them traditionally using the stream as an access up to their property but they always kinda came up through these, the cane field roads, and then dropped into the stream from a point right about here.

Mr. Kapu: Okay. The reason why I bring up that concern is because, you know, we have some pending development in the Big Island called the Hokulea Project, yeah, and the reason why that fell into a big discussion was based upon not allowing families of its native Hawaiian traditional gathering spiritual access and they talk about -- they clarified tenancy within the area, yeah, so they clarify this by saying native tenants, so if it's only exclusive to the families that live within the valley but then you have other families that also of the valley that are, basically, going to get cutoff, then you might have some problems that may arise in that area. Native Hawaiian Traditional and Customary Rights, 7-1 Native Tenants Rights, POSH Rights, Kapaakae Case Rights. All those are addressed in, basically, some court proceedings right now where the developers are now starting to understand that if these rights are taken away from these families, and not just the families that living in the area, might I say, the families that can claim their genealogy within the area, if they are excluded from this, then there are some major problematic situations you might --

Mr. Frampton: Yeah, and I think we at least understand that to a certain degree and there's been no mention in these documents about excluding people that do not have tenancy in the stream, and, you know, the idea of providing for this access along the existing road was to allow for, just what you mentioned, for people to go up cause there's -- there are resources up in the upper valley that were identified in the Cultural Impact Assessment as

resources that native Hawaiians might wanna go either collect or go up and do some kind of observation for traditional and customary practices, and so the opportunity to continue to do that will be preserved by maintaining that access way, and some of the people that we did identify trace their genealogy in this area back to pre-contact days, and they don't reside in the area, but they certainly recall a number of the resources and stuff that's up there and the idea is to not preclude them from having the opportunity to go up there.

Mr. Kapu: Okay. Anybody else? In your Archaeological Inventory Survey, this was finalized in February 1999?

Mr. Frampton: Correct.

Mr. Kapu: Was there any changes to this prior to that time as of today or is this the same that was accepted from the State Historic Preservation?

Mr. Frampton: Yeah, that's the same document that was accepted in '99 or 2000. The additional work that's occurred since then is the Preservation Plan, so all the sites that were recommended for preservation, they had to do a site that came up with buffers for each of those sites, so that Preservation Plan was prepared and approved, and then the Burial Preservation Plan was also prepared and approved. And they did do a little bit of more work because there was one site that was mentioned in the Archaeological Inventory Survey that was thought to have had a burial, they did further investigation, and it was found not to include a burial. There was another site that Willie Waiohu had identified as, he lived in that valley and he has a real clear memory of a lot of features up there, and he had remembered a burial crypt that was subsequently covered with stones and, basically, they've -- that's one of the sites that was added and included in this site -- in the Burial Preservation Plan, so there have been a few changes. One was an elimination of one site that was a potential, and another was an actual recognition of a site that Willie had found.

Mr. Kapu: Any other commissioners have anything to add?

Ms. Rotunno-Hazuka: No, I do want to say that I think it's really great that they're preserving, what, 10 sites or 14 now, oh, 13.

Mr. Frampton: Depending how you count it.

Ms. Rotunno-Hazuka: Well, oh yeah.

Mr. Frampton: It's about 14.

Ms. Rotunno-Hazuka: Fourteen and then four are no longer significant and I mean that's really a good quantity. The Cultural Impact Statement, will that actually get reviewed, you

know how half of them don't ever get reviewed, the assessment? The Cultural Impact Statement that Leann McGerty did?

Mr. Frampton: Yeah, well, it's --

Ms. Rotunno-Hazuka: It's part of your EA.

Mr. Frampton: It's required as part of the EA and that's what it was included with --

Ms. Rotunno-Hazuka: Right.

Mr. Frampton: And it's being reviewed by this group as well as the public as well as 25 different agencies, so, yes, it's being reviewed as part of this Environmental Assessment.

Ms. Duensing: I think what Lisa means is that SHPD does not review those.

Ms. Rotunno-Hazuka: Yeah.

Mr. Frampton: But they're reviewing the EA --

Ms. Duensing: Yeah.

Mr. Frampton: But, yeah, but there is no formal, I mean the Cultural Impact Assessment doesn't go through a --

Ms. Duensing: Right.

Mr. Frampton: Formal review and approval process through SHPD.

Ms. Rotunno-Hazuka: No, it doesn't.

Ms. Duensing: Actually, I thought CIA ...(inaudible)... is one of the better ones I've seen recently cause some of them are not very good.

Ms. Rotunno-Hazuka: Yeah.

Ms. Duensing: This one had, you know, it was fairly informative. Were you satisfied with the buffer zones, Lisa?

Ms. Rotunno-Hazuka: Yeah, I think they're all -- I can remember them coming up before the Burial Council on the sites that had burials years ago, so I think it all looks pretty good, I didn't get to each one, but I think it looks okay. Again, I was really happy to see this many

sites get preserved. It's a nice assemblage of even historic and ag and the petroglyphs is neat. Do they think those boulders are in the original position that they were? Did they have any kind of idea on that?

Mr. Frampton: I don't recall any discussion on that but I would --

Ms. Rotunno-Hazuka: Okay, I'm just wondering if they got pushed or whatever, I mean it's kinda --

Mr. Frampton: There was road that went through there, it was a MECO maintenance road for accessing one of the poles, and that road, when came and created that road, did create some damage to some of the walls and so it may have knocked around some of those boulders, but there were quite -- I think there were 22 different boulders that had petroglyphs.

Ms. Rotunno-Hazuka: Yeah, and they're just like all in a line so it's kinda interesting.

Mr. Frampton: Yeah.

Ms. Rotunno-Hazuka: No, I didn't see anything that was glaring.

Mr. Kapu: Who was the archaeologist?

Mr. Frampton: Hal Hammatt and his group, Cultural Surveys Hawaii.

Ms. Rotunno-Hazuka: Hammatt and then didn't SCS did some --

Mr. Frampton: SCS did the Monitoring Plan. Hal Hammatt did the, and Cultural Surveys Hawaii, did the inventory survey, Burial Preservation Plan, and the Site Preservation Plan.

Mr. Kapu: Okay. Yeah, the question I asked originally before. You have something to say? Go ahead.

Mr. Whelchel: What purpose does the Easement C and D serve? Those cross your panhandle.

Mr. Frampton: Maui Electric has two lines, but there's two lines, there's an old line ...(inaudible)... probably up around here, there's an old line and then the new big power pole lines across the upper placement. And, just related to that, you know, Maui Electric will be, and the State of Hawaii, is actually -- Division of Forestry and Wildlife has asked for the ability to go up and access those areas to maintain the area around the poles to prevent fires. If any of you are familiar with this area, there's been a lot of fires and a lot

times it's related to the electric lines and so the idea is to try to maintain the brush around the bottom of those poles.

Ms. Rotunno-Hazuka: And there's going to be full-time monitoring during construction?

Mr. Frampton: Yes. Well, it's per the Monitoring Plan, which I believe was full-time, but --

Ms. Rotunno-Hazuka: Yeah.

Mr. Frampton: I would defer to the Monitoring Plan.

Mr. Kapu: Okay, you know, right now, just so we stay cordially, I need to open up for public testimony so, out of the hundred people in the room, does anybody want to speak on behalf of this project?

Ms. Uilani Kapu: Aloha, committee. I haven't been able to see that but listening to what you folks have just talked about, I'm having a hard time. My name is Uilani Kapu. I am the President of Kuleana Kuikahi and has been in litigation with Launiupoko Association, which is an ag lot subdivision. For Ukumehame, I know they're partners also with them. And I'm having a hard time with ag lots subdivision because of Launiupoko. I also know the kuleana landowners in this valley and their rights, as ours as kuleana landowners in Kauaula, need to be stipulated and made sure that their access rights are available, all water sources for their lo'i are not taken away and diverted to these other lots, and should be mandated in your books, I mean it's hard to make recommendations, it's hard to fill out something that has a time line, like they said, April 21, you have to answer to because this is a draft, and Kuleana Kuikahi will be one of those, as soon as I get my hands on one of those, to put their input on this. Uncle Palo them have done so much to this place in returning and keeping the lo'i as it is and I hate to see their access rights taken away or even changed to make the agricultural subdivision better, accommodating them and not kuleanas. And also having an association in charge of their rights is another problem I am having because Uncle Palo them will have to do to them, which is not right, it's not pono. Kuleana have first priority. In all of these, I'm also having a hard time with the heiaus. The sites that are in this location are massive. It all should be protected more than 25 or 50 buffers, and I'm having a hard time with State Historic Preservation always shortening those buffer zones and putting the associations in charge of it. These are heiaus you're talking about. These should be respected more and stronger. So I really think you folks need to think about your recommendations on this. It's a hard one. And that's all I'd like to say. Mahalo.

Ms. Rotunno-Hazuka: Thank you.

Mr. Kapu: Mahalo.

Ms. Kapuni: Could you ask questions?

Mr. Kapu: Yeah. Wait.

Ms. Kapuni: Kala mai. What would you like to see done with the heiaus? What would you like to see?

Ms. Kapu: Who would I like to see or --

Ms. Kapuni: What would you like to see done with the heiau?

Ms. Kapu: I'd like to see it protected with more than a 100-foot buffer. I'd like to see the kuleanas, the konohikis, the people of that area be the ones to protect it, have respect for it, be able to go to it at anytime because we have our traditional cultures, our ceremonies, and it doesn't fall on like Kamehameha Day. We go by moon phases, it depends on what kind of heiau it is, agriculture, luakini, all those kinds of things needs to be respected in that area. You need to look at what these lands were used for before all cane. You need to look at who were the people of the lands. And like they said, they said they have put a call out on it, there's more people that need to be aware of what's going on, some of them are lost, they don't know, you can bring out a name and they don't recognize the name, and I'm having a hard time because they don't own these lands, and that's another issue that I'm dealing with at Launiupoko, but I think the kuleanas are the ones that need to be the caretakers, not an association that has no clue onto what it is all about.

Ms. Kapuni: The owners of the kuleana lands feel the same way as you that they should take care of the heiau?

Ms. Kapu: I haven't talked to aunty them and uncle them because I didn't know about this. As soon as I am able to read or even get in touch with them, I'm pretty sure Uncle Palo ...(inaudible)... and Aunty Addy, and all of them, Adaleine, they would all go for that in protecting it because we are curators of Olowalu and it was mandated by Burial Council and so we malama that one and that should also go to kuleanas in Ukumehame. So that's my thing.

Ms. Rotunno-Hazuka: Thank you.

Mr. Kapu: Anyone else?

Ms. Rotunno-Hazuka: Rory, that does bring up a -- oh.

Mr. Kapu: No, anyone else wanted to question? No, okay. Mahalo.

Ms. Rotunno-Hazuka: Who is going to caretake the lots, the river lot, access, I mean the sites? Will there be any kind of maintenance? What is the plan?

Mr. Frampton: That's -- there's multiple parts to that question. The river corridor lot will be owned and maintained by the association. The rights for access to the -- for the kuleana parcels will be stipulated in the documents of that, of the parcels that are -- that the kuleana people need to cross over, so there will be, you know, stipulated terms of access that are in that -- it's not going to be a situation where the homeowners can all of sudden extinguish those rights. They'll be put into the deeds, you know, the documents. So the archaeological sites themselves, the terms of the Preservation Plans for the majority of the sites call for passive preservation, so just simply avoid them.

Ms. Rotunno-Hazuka: So it's just going to stay.

Mr. Frampton: And so there is no maintenance for the majority of the sites. The Lindsey cemetery, of course, as I mentioned earlier, will be maintained by the Lindsey family. The Hiki`i Heiau has -- there has been some, I wanna say like remediation work where people have gone back up and kind of fixed some of the walls that were in danger of collapsing, so there has been work by some individuals that have gone up and done that, but --

Ms. Rotunno-Hazuka: Do we know who that is?

Mr. Frampton: I don't know who that was and it was in conjunction, I thought it was in conjunction with or it was something that I think Paul Fujishiro had actually kinda had people do when MECO went up there just -- and kinda impacted some of those walls --

Ms. Rotunno-Hazuka: Oh, hit it.

Mr. Frampton: And so they kinda went up there and did some of that work as well as some additional work in the area. But there's nothing that I saw in the Preservation Plans for either the burial sites or the archaeological sites that talked about ongoing maintenance of the actual heiau, and that's not -- it happens in some cases, but it's not a typical component, as you know, of the Preservation Plans, typically and, in this case, the Preservation Plans call for passive protection.

Ms. Rotunno-Hazuka: And just one more question. So if people were going to use the heiau for, you know, traditional activities, are these in someone's lot where they would have -- or they're still within that corridor? I know the one --

Mr. Frampton: The two heiau are actually --

Ms. Rotunno-Hazuka: Oh, one's up in the preserve, the long one up there, and that can be accessed by the --

Mr. Frampton: Okay they're both part of, as I can tell, they're both part of the river corridor lot.

Ms. Rotunno-Hazuka: Okay, so people would have access to there for practices if they have the access through that cul de sac? Or that's for the --

Mr. Frampton: Well, they would for -- that would be true for the Ukumehame --

Ms. Rotunno-Hazuka: Residents.

Mr. Frampton: Heiau, which is the -- on the Lahaina side. For the Hiki`i Heiau, I don't know if there's a way, an easy way, from the bottom of the stream up to that site, so that's something that we will -- we'll look into and provide a discussion of in that Final EA is access to the Hiki`i Heiau site.

Ms. Rotunno-Hazuka: Cause aren't -- I know that -- I thought Adeline said that her parents were buried up there, her grandparents, so people must be visiting.

Mr. Frampton: I know people have visited the Ukumehame one and I would not be surprised if they're visiting the Hiki`i as well.

Ms. Rotunno-Hazuka: Okay.

Ms. Kapuni: Aloha, first of all, and I want to thank for being sensitive to the host culture in Hawaii and I hope you can understand why Hawaiians are so passionate about preserving our culture and I thank you for being sensitive. My question is will the kuleana owners, will their rights, their access, will it ever be changed or can they -- I mean I own kuleana lands on Molokai and it's an issue, a big issue, about access, blah, blah, blah, my question is can it be done where these people will never be denied access, never, forever, to the end of the world and a deal?

Mr. Frampton: I guess the difficulty here, and like many kuleanas, is this multiple ownership.

Ms. Kapuni: Right.

Mr. Frampton: And when you have, yeah, it makes it real hard and so it's hard to sort of guarantee that those ownership patterns don't change. A lot of time, when you have these

multiple ownerships, their family members are all over, and then you might get a majority of them who wanna sell --

Ms. Kapuni: Right.

Mr. Frampton: And, you know, that can happen and then if they sell, and if the other people get bought out, I don't, it's hard to make those kind of guarantees given the complexities of the ownership and how this is going to pass down generation after generation, you know. I can say that it's certainly as part of this action and in the near term, they will be provided with the access that they traditionally have had into the valley and into their kuleanas, and so that's not, certainly, as part of this action, that's not going to be changed.

Mr. Kapu: Let me sort of interject one small little point. In despite of the families was to sell off the interests through time, basically, that still doesn't exclude any of those families that have a decendency because it clarifies in the law, yeah, native tenant, that the native tenant are accessible in the area because of Native Hawaiian Traditionary and Customary Rights. It doesn't clarify based upon them owning a portion of property within the area.

Mr. Frampton: I think that's a good distinction and what I heard that question was related to specific access to that kuleana and I think what I hear you saying is the traditionary -- the rights to go up and do traditionary and customary practices ...(inaudible)...

Mr. Kapu: Doesn't have to involve a land ownership.

Mr. Frampton: Right, and it doesn't have to be specific to that parcel or that kuleana --

Mr. Kapu: Yeah.

Mr. Frampton: It could be up in the valley and higher up, it could be the lower reaches of the stream, so I --

Mr. Kapu: Well if the family can claim that their origin from the era through their genealogy through time, that's a condition, that's set into a condition for life pertaining to their rights in the area and despite they don't have any ownership rights, they still have that right to practice.

Ms. Rotunno-Hazuka: Well, you're right, cause that was my question when we were on that page I wanted to make -- I wanted to understand that on that one paragraph I read it's like, oh yeah, the developers will keep talking with these people, but I wanna make sure that they do have their rights and it looks like they did.

Mr. Frampton: That's why we, I mean I purposely inserted that section preceding that to make it clear that there will be access and it's just an idea of how is it going to be managed, and it's mainly the how it's going to be managed is not so much for the people that have the ownership, but the other people that wanna go up and do practices up in the valley, I mean they have the right to do that but it's going to be in a controlled manner, so it's not going to be an unlimited right, and that's mainly at the bequest of the people who are living there in the valley.

Ms. Rotunno-Hazuka: Who live there.

Mr. Frampton: Right.

Ms. Rotunno-Hazuka: And would they -- and the people who live there would be part of deciding the controlled access? I mean --

Mr. Frampton: Try that again.

Ms. Rotunno-Hazuka: So you have the people that are living up in the valley and are they going to be part of these conversations about controlled access?

Mr. Frampton: I think they're going to have to be because the road goes over some of their parcels.

Ms. Rotunno-Hazuka: Okay. That's what I'm trying to --

Mr. Kapu: Kalei, you had a question?

Mr. Moikeha: Yeah, actually, my question I was -- wanted to ask, since Uilani brought it up, pertains to the buffer zones. So does the owners -- do you folks set that? Who sets the buffer zones?

Mr. Frampton: The owners had hired some archaeologists previously who came up with the recommended buffer zones that were approved by the State of Hawaii. So, I'm sorry, so in answer to your question, it was done through a consultant that worked with the State of Hawaii.

Mr. Moikeha: Okay, so my question then is do we have to go back to the State of Hawaii to change that or can the CRC have a right that we decide buffers zones on Maui when it comes to the ...(inaudible)... the heiau and things like that, I mean who --

Mr. Kapu: We can only give recommendations.

Mr. Moikeha: And that's it?

Ms. Duensing: And I think it's important to know also that there's a variety of things that go into determining a buffer zone. It can be importance of the site, it can be based on topography, you know, so there's, you know, more than just, oh, let's just pick a number, but, yeah, you can make the recommendation, and one of the recommendations that I am suggesting that this Commission make is that this entire thing needs to be reviewed by the State Historic Preservation Division again because it was done so long ago, and with the problems that have been at SHPD in the past several years, they have also requested an opportunity to review all of this again.

Ms. Rotunno-Hazuka: SHPD has?

Ms. Duensing: Yeah. And I know the EA has been sent to them but, you know, that should be part of your letter is that, you know, this be reviewed again by the SHPD.

Mr. Kapu: Okay. Anyone else?

Ms. Kapuni: One last thing to say. As a private landowner, I own property in Kawela and I'm very, very particular as to who comes onto my property so I can understand, as a landowner versus someone coming up to collect or gather, especially native Hawaiians, you have your work cut out for you guys so -- but I appreciate and I can understand your point of view as well, but, again, I have to thank you for being -- for taking this into consideration. I'm grateful that you guys are doing that as developers.

Mr. Frampton: On behalf of the owners, I accept your --

Ms. Kapuni: Thank you.

Mr. Kapu: I get one more question. Out of all the people you interviewed was people that lived in the area? Do they all live in the area?

Mr. Frampton: Not, in fact, no one really lives in the area right now, except for one individual who's only kinda there part-time, the other people were the Duey's, that maintain lo'i plats in the area, Adeline was interviewed, I'm trying to remember some of the other people, but the majority of them were basic people that were known to have ties to the area.

Mr. Kapu: Okay, I just trying to get one feel because this is a lot of extensive work you did on the oral history portion of the Environmental Assessment. What I'm picking on is just, you know, what they know of the area based upon their reservations of the area, yeah, there's a difference in that, I mean if someone comes to me and wants to do, you know, an

oral history, to know about some place, that's all they're going to get. As pertaining to the dynamics of this area pertaining to its cultural history and what has been there versus what is being utilized today, is there any reservations in those areas of things that they might have cautions too pertaining to development on the lower side how is it going to, you know, affect them in certain ways because they have taro growing up there, you know, things like that? There's nothing in here that talks about a concern from the ones that were being interviewed, yeah, all it is is just an oral history based upon the history of the place. It would be good to understand and know whether or not they do have some type of reservation on certain things that they may, in the future, might end up losing, so, with that, and I asked for this before the meeting, basically, started is that if we could possibly schedule some type of site visit in the area and also, at the same time with that, defer this Environmental Assessment until we do have a site visit in the area? I mean I would like to get with a lot of families in despite just the three or the four people that you interviewed, I would like to get a feel as pertaining to, you know, the area itself, yeah, cause reading this oral history, there's some confictions inside here and it seems like the confictions is like somebody is trying to prove something in here, yeah, versus one family versus another family they're stipulating this area to be so it would be good that, well, it would be good that we can have more input on this.

Mr. Moikeha: So, along the same lines too, was there families that you folks did interview that was not favorable that you did not print?

Mr. Frampton: There was one, well, let me read the names that are contained in the report. Rose Marie and John Lindsey were interviewed, Rose Marie, anyway, Rose Marie and John Lindsey, Ed Lindsey, John Ka`aea, Adeline Rodgrigues, William Waiohu, and Paul Fujishiro. Paul Fujishiro did not want to have his interview included, and he's a very opinionated, outspoken person, for any of you who know him, and we, Glen and I, sat down with him for about two hours prior to the interview and discussed the project and talked about what was going to happen, and then after that, it was about two months later when the interview was actually performed and when he was, anyways, he decided that, when he realized what the purpose of the interview was, he didn't want to have it included in here. So I think there are, you know, like many projects, there's going to be whole different range of views from these people and that is the case here, yeah.

Mr. Moikeha: So then other than those that were -- are printed here, names, you folks didn't talk to anybody else then as far --

Mr. Frampton: We tried talking to a few other people that weren't -- couldn't schedule, you know, this was the list that we actually had interviews with and there were other people that were contacted that, for one reason or another, the schedule wasn't able to -- we weren't able to sit down with them.

Ms. Duensing: Just a quick correction. I think that Rory said John and Rose Marie Lindsey and you meant Duey, right?

Mr. Frampton: Duey. Yeah, it says Lindsey here but that's why I was pausing.

Ms. Duesing: Just to be corrected for the minutes.

Mr. Frampton: She's a Lindsey --

Ms. Rotunno-Hazuka: Yeah.

Ms. Duensing: Right.

Mr. Frampton: And the report says Rose Marie and John Lindsey.

Ms. Duensing: She's a Duey now. Yeah.

Mr. Frampton: But she married Duey but, obviously, she's a Lindsey. Thank you.

Ms. Rotunno-Hazuka: Do you know of any families or anybody who should have been talked to that were excluded that you can think of?

Mr. Kapu: Well there's a lot of people that, basically, can add to the input of the area. One person, in particular, because the grandmother has property in the area and that's John Keola Lake, yeah. So Keola Lake is -- he's prominent in the area and they did a site visit up there to, basically, do a survey on indigenous fauna with Doctor Sam Gaun and it was about them discovering the physical spiritual manifestation of things that was in the valley in that area so Keola Lake is a very heavy resource in that area to, basically, give you, not just the context of the physical things there, but I think there's other things that should be added over here in this Environmental Assessment as well in his line of work, basically, what he does, and also Sam Gaun, he's a doctor, he's a ethnobotany PhD, yeah, Sam Gaun is another resource too. Those kinda things because if this is an Environmental Assessment, well, there are also cultural practitioners as well, yeah --

Mr. Frampton: Right.

Mr. Kapu: So they can give even a wider scope of information.

Mr. Frampton: And I think those are important points but let me -- I just wanna clarify or point out one thing. We did have, or I should say the developers before we were involved, our firm was involved, but they did have Anna Palamino, I think it was Rene Silva, and Bob Hubby from the State, when Bob was working for the State, they went and they looked, but

they really focused on the area that the owners owned, you know, on the lower reaches, and most of that was disturbed by sugar cane, and in that letter that Bob wrote, which is included in our -- that's included in our Environmental Assessment, he said, you know, within the project boundaries themselves, there's not a lot of special plants but up above, once you get up above the valley, well into the valley, there's all kinds of stuff, and so, you know, that is there, that was mentioned in our report. We did have people come out and look too, and people that have sensitivity to these special plants and, basically, said the area that's being developed does really have a lot but, certainly, up in the valley does and that's one of the reasons for maintaining access to the upper valley.

Mr. Kapu: Not quite getting into the botany area, but these are practitioners that basically share a concept of the physical spiritual manifestation of these plants and how it coincides with that area in general. See, Ukumehame, for one, that wood is basically extinct, yeah, you can hardly even find any of those plants anymore which was known as the mehame, so in that general area, Ukumehame means, basically, the place where they all flourished, Ukumehame, so that kind of information to be added on to an assessment is very important, yeah, not just the physicalness of the plant, but just the name of the valley itself and the historics that had happened within the valley that, you know, believe it or not, but Kaahumanu went in that valley also and why did she go there. Kalola also went into that Ukumehame Valley also, you know, those historical points should come from people who know of the area because they was from the area and Keola Lake is one them that is very known to know a lot of things of those areas.

Ms. Watanabe: I have a comment. I really believe, I agree in getting a lot of the people that are very knowledgeable about that area because, you know, on Lanai, we have kuleana landowners and they're really -- they're really lost out there and what I'm -- what I don't wanna see is, yes, they'll have the access but when you have these new owners, will they understand the culture, will they understand the sensitivity of the Hawaiians and their gathering rights, and I think that is, you know, that is so important. If I take Lanai and I'm actually just gathering the Hawaiians to understand their rights as kuleana landowners and a lot of them, there's a lot of landowners but they feel so powerless, you know, and so I think the sensitivity to these landowners of kuleana lands is, to me, is a priority and to gather as much people that know about the area because you're trying to be as sensitive to, I mean, gosh there's so much heiau in that area and, you know, preservation is so important in our islands, and so I'm really worried about that part.

Mr. Frampton: I think your points are well taken, and I can say one immediate thing, and then I think we can work on some other long term ones, but the immediate issue, which of course should be done and will be done, is that the purchasers or these properties will be fully informed through disclosure documents of the existence of these resources and of the rights that are being guaranteed to the people within the valley, so I know that doesn't address everything you just said, but it does, I think, you know, there will be disclosure.

We've noticed -- we've talked about that in the document themselves. In terms of the long-term awareness of the area, and a lot of what I hear is just trying to make sure that we -- that we get as much information as we can to understand the importance or the uniqueness and the specialness of this area for certain people and that may happen I think long after -- I mean it probably rightfully should happen for a period of time after this project has been approved, and so maybe there's a way to somehow form some kind of advisory group or some kind of a project that could collect additional information. I mean standing up here as the consultant for the owners, I have to try to figure out a way to move this along in accordance with the purchase and sale agreement that the County Council's adopted and signed off on. But, you know, I don't think it should necessarily end just like that, when this thing's over, you get the approvals and you forget about everything that we talked about. So there might be ways that we can, you know, I know in certain other areas they have advisory groups or they just -- they do additional work in terms of collecting information, and if there's a way that we could figure out how to, I'm just thinking out loud, how to keep the project moving along but also commit to collecting additional information and including that information that will go to the landowners so that they're made aware of this as well as to other people in the community, it might be a way to solve that, but we could explore that further as we move along in this project.

Ms. Watanabe: Mahalo.

Mr. Kapu: Sure. Okay, right in the lower area, the development are where all those agricultural lots are going to be, right along side Honoapiilani Highway going into Lahaina, was there a site there going -- it's right on the left side of your map, right on the bottom, on the Lahaina side?

Mr. Frampton: This area?

Mr. Kapu: Yeah, right in that area cause there's a lot of clusters of -- we did a project and we went over there and we went cut some things down, but what I was told by, and this was like three years ago, what I was told by Paul Fujishiro was he wanted to prep something in that area because there was a site. There's no information on your map.

Mr. Frampton: Yeah, you know, it was all, most of that area was all formerly in sugar cane and the archaeologist didn't pick any up, but there are some kuleanas down there that are going to be within the hundred acres that are -- it's going to be turned over to the County. There are some kuleanas and there's one in particular that Paul is keenly interested in, and when he met with us, I mean he talked about maybe trying to do some emergent school or something on that piece that he claims to have ownership on; that's going to be in the land that's turned over to the County but so maybe that's what he was referring to is the -- there are some kuleanas along the highway that are still --

Mr. Kapu: Well, the reason why I ask because in that area, you know, when you're coming through the locked gate, that area is kind of heavily in brush, yeah, but then the plains of the area is kind of low until you get to that point, then it's sort of -- it slopes upwards, yeah. You know what I mean? It's like a -- it's a pu`u, it's a hill, and right in the middle of the cane field, you know, maybe boulders, maybe not, but we cleaned in that area and, I don't know, but what he told me was that it was a heiau, that's what I got from him three years ago. So when we started clearing within that area, we wanted to make sure that we was real cautious when we start cutting all those shrubs that was on the higher hill so --

Mr. Frampton: Well, my own answer to you -- my only answer to you is that the archaeologist did not mention that or indicate it in their report.

Ms. Duensing: So a question, it may sound stupid, I mean I did review the document but in the land that the County is getting, the archaeologist did look at that land prior to this agreement?

Mr. Frampton: Oh, yeah, when they did this report, they had no idea that the hundred acres was being turned over to the County.

Ms. Duensing: Right. Okay, that's what I thought. Thank you.

Ms. Rotunno-Hazuka: The only thing that's bad about this being done in '99 and '98 was a lot of subsurface testing wasn't done because there were so many sites. A lot of times what happens, like when you have all these LCA's, now, we really -- every time we have an LCA we make sure we back our test. Back, in this time period, we kinda were just developing that strategy, oh, yeah, I got LCA, gotta have sites, even though it's in cane, we need the subsurface test, which was why I wanted to make sure we had monitoring. So, I mean, yeah, but he -- if he's talking about something on the surface, I don't know.

Ms. Duensing: Well, I think that's why it's important for this to go back to SHPD too because, you know, it was done so long ago.

Mr. Kapu: Okay, mahalo. Recommendations from the Commission? Yeah, sure, summarize.

Ms. Duensing: Maybe I can just summarize some of the comments that I've been writing down as you guys have been discussing this and asking questions. I think one of the important points was maintaining access and how will this be done, and to add a little subsection to that that this must be sensitively done, must take into consideration the rights of kuleana landowners, and the new owners in the subdivision need to know this and, basically, somehow need to be informed and educated about these Hawaiian customs and what they can expect in dealing with these people who do have access rights.

Ms. Rotunno-Hazuka: And, Dawn, too and that the people that have the kuleana lands, that they are included in the process about access.

Ms. Duensing: Right. Okay, there was mention of a site visit. And because the Archaeological Inventory Survey was done in 1999, you should recommend that this be resubmitted to the SHPD along with the notification somehow that the County has this purchase and sale agreement on the 100 acres. And then I don't know if there needs to be any clarification due to changes since 1999 of what this stream and valley parcel is going to include, maybe that needs to be better --

Ms. Rotunno-Hazuka: Well, I think if they're still reserving the right to develop a lot in there, that they gotta take into consideration the sites and, you know, keep maintaining those same buffers. I don't know how you can just chose a lot. Do they have any idea of where?

Mr. Frampton: Regardless of where that lot goes, there's no way they could come in and change the Preservation Plan or the buffers, so they're going to have to acknowledge all those --

Ms. Rotunno-Hazuka: Right.

Mr. Frampton: All those sites.

Ms. Rotunno-Hazuka: Right.

Mr. Frampton: So there'll have to be a site within there that -- I mean wherever it's located, those sites that are designated for preservation in place will be preserved in place.

Ms. Rotunno-Hazuka: No, I know that, Rory, but what if it's maybe one doesn't really have a big buffer up there just because they didn't think it was going to be developed and now they may have something right next to there.

Mr. Frampton: I think we can go in and do a buffer area it should be regardless of whether there's going to be development in the area or not and I think that's what was -- that's what was considered. When they did these Preservation Plans, the only areas where they did not specify buffer areas was when it was on State owned property outside of the project area, anything that was within the project area, at that point in time, it was all proposed to be residential ag lots, so, at that point in time, they were contemplating that this whole thing would be developed and that none of it would be set aside for the County or as a river corridor lot, so they basically came up with recommendations for preservation and buffer plans. And I do have to comment that if it's going to be a common practice in the future for projects to have to keep submitting and going back to different agencies as times change, no projects will ever going to get approved, I mean this is going to be a endless circle of

going back and reviewing based on new standards and the guy's ready to go and you say, well, no, we're going to hold you --

Ms. Duensing: No.

Mr. Frampton: To the new standards today, but there is a basic concept in this, you know, development process where you do what's required at that time. If things change later on, then you're not -- you don't necessarily have to go back to square one.

Ms. Duensing: Yeah, but generally we're not re-reviewing plans that are nearly six years old either. They usually come before the Commission at a much earlier, you know --

Mr. Frampton: It took the Burial Preservation Plan, the letter from the State of Hawaii was signed off in 2003, so I mean that's not that old considering --

Ms. Duensing: That's not that old but the --

Mr. Frampton: This project started in 2004, so it really didn't -- it's not that big of a gap of time. When you think of the development time frame on Maui, and how long things take to occur, it's not often that you have work that was done a couple years prior to when the project actually comes to fruition so --

Ms. Duensing: Well, I think the AIS, you know, that is nearly six years old and the archaeologist from SHPD did ask that they be afforded the opportunity to review that.

Mr. Frampton: And they have been provided with the -- with this document so SHPD is reviewing this document so --

Mr. Kapu: Okay.

Ms. Duensing: Okay, so, getting back to the site visit, what do you folks want to do about that?

Mr. Kapu: I definitely wanna do a site visit.

Ms. Rotunno-Hazuka: Yeah, I'd like to ...(inaudible)...

Ms. Duensing: Do you want to, I mean, do you want to send these comments out prior to your site visit or how do you guys wanna handle that?

Ms. Rotunno-Hazuka: Well, if comments --

Ms. Duensing: I'd sure like to, you know, organize these comments though so we don't need to go through another two-hour discussion period over, you know, and reiterate things.

Mr. Kapu: I'd like to know whether or not if it's possible if we do have a site visit, if families from the area that, you know, basically were from the area give us the site visit just so we can get more feedback from them. If possible.

Ms. Rotunno-Hazuka: And we would wanna do that before the 21st so we could get our comments in.

Mr. Kapu: You said April 21 the deadline?

Mr. Frampton: April 21 is the legal deadline for comments to come in for the Draft Environmental Assessment. The practical deadline, it will be probably a week after that in terms of us assembling the document, turning in the Final EA, and getting it to the Planning Commission, in other words, if you want your comments to go to the Planning Commission, then the practical deadline is --

Ms. Duensing: Prior to that May meeting.

Mr. Frampton: Actually, technically, it's all the way up to May 10. If you submit a letter at the Planning Commission meeting on May 10, they can consider that. But the reality of submitting a letter and having us amend the EA --

Ms. Duensing: Yeah.

Mr. Frampton: Part of that 10th meeting, it's unlikely.

Ms. Rotunno-Hazuka: Right.

Mr. Frampton: So I'd say, anyway, the best thing to do is to get your comments in before the 21st or a couple days thereafter.

Ms. Duensing: So, basically, now you're talking about a special meeting.

Ms. Rotunno-Hazuka: Cause our other meeting would be what? May what?

Ms. Duensing: It's May 5, yeah.

Ms. Rotunno-Hazuka: Well, why don't we -- why don't we send in those comments and get them in before the deadline and then, for our next meeting, try to have a public notice so people could go out there for a site visit. Is that --

Mr. Moikeha: The 21st is two weeks away.

Ms. Rotunno-Hazuka: Right.

Mr. Moikeha: I mean to get all that notice out.

Ms. Rotunno-Hazuka: No, but I'm saying for our May meeting.

Ms. Duensing: No, what Lisa's saying is compile the comments that have been discussed today and then when you have your regular May 5 meeting, when we'll have our members from the other islands here, make the site visit and then, at that time, I guess you could determine whether you had any additional comments to forward to the Planning Commission.

Ms. Rotunno-Hazuka: I mean it's not ideal --

Ms. Duensing: A supplemental or a revised letter.

Ms. Rotunno-Hazuka: It's not ideal for the time line but --

Ms. Duensing: Right, this way you guys get in on the Final EA, cause you've made the comment period, but if you had something that you wanted to bring to the Planning Commission's attention, based on your site visit, you could do that as well. Right, James? Would that work?

Mr. Giroux: Yeah ...(inaudible)...

Ms. Duensing: Cause I think getting a site visit scheduled before April 21, you know, that's a lot for staff to do and, like you said, getting out the notice --

Ms. Rotunno-Hazuka: Especially get the ...(inaudible)...

Ms. Duensing: Getting our off-island members back here, assembling a quorum because it's hard to get a quorum assembled on special meeting dates cause, you know, people have reserve the first Thursday of the month.

Ms. Rotunno-Hazuka: No, I think that's the way we gotta do it, especially if it's being driven by this sale, which is kinda --

Mr. Frampton: Could I ask that you continue? So the last comment that I had had something to do about clarifying the stream and valley.

Ms. Duensing: Yeah, and, yeah, so I think that was basically all the comments that I had noted was the access and the consideration of the kuleana owners, the stream valley parcel, that the thing need to be resubmitted to SHPD, and I think by resubmitting this to SHPD that your concerns about the buffer zones, you know, they'll address that when they review the documents again.

Mr. Frampton: When you say resubmit to SHPD, do you mean in addition to having sent them the EA that contained all those documents?

Ms. Duensing: No.

Ms. Rotunno-Hazuka: No, they're going to be reading that.

Mr. Frampton: So the transmission to SHPD by the Planning Department, not by us --

Ms. Duensing: Right.

Mr. Frampton: Of this for review, which has already occurred.

Ms. Duensing: Yeah, it's already --

Mr. Frampton: Does that satisfy that concern?

Ms. Rotunno-Hazuka: Cause that, the inventory survey is in there, right, from '99?

Ms. Duensing: Right.

Mr. Frampton: The complete inventory survey is not in here, everything else is: the acceptance letter, the Preservation Plan, the Burial Preservation Plan, but they, obviously, have that inventory survey in their files.

Ms. Rotunno-Hazuka: Yeah, they should have it in their files.

Mr. Frampton: Right.

Ms. Duensing: Yeah, well maybe what we'll do is just cc this letter to them and we'll mention that the Final EA or the Draft EA has been submitted to you, please review the Archaeological Inventory Survey, we'll just ...(inaudible)...

Mr. Frampton: Just because of their workload having --

Ms. Duensing: Yeah.

Mr. Frampton: Giving them two separate documents to review containing the same information --

Ms. Duensing: No, no, you're -- yeah.

Mr. Frampton: Yeah, so the fact that they already have it, it's already in their pile, I think you sending them their letter with a little bit of urgency might get it moved up on top of their pile.

Ms. Duensing: Point well taken. Okay, so then I guess we just need to talk, you know, couple weeks about arranging this site visit on our May 5 meeting.

Mr. Frampton: So the site visit would occur on May 5, is that what you're saying for now?

Ms. Duensing: That's our regular meeting, right? That's Commission's desire, correct?

Ms. Rotunno-Hazuka: Yes.

Mr. Kapu: Well, how about if -- wanna bring it to a vote?

Ms. Duensing: Just go ahead and make a motion.

Ms. Rotunno-Hazuka: I make a motion that we do a site visit before our meeting on May 5.

Ms. Duensing: 9:00 on May 5, yeah?

Ms. Rotunno-Hazuka: 9:00 on May 5 at Ukumehame.

Mr. Kapu: Second?

Mr. Whelchel: Second.

Ms. Kapuni: How do you pronounce it? I mean everybody's saying it differently, you said it so nicely, so how do you say it?

Mr. Keeaumoku: Ukumehame.

Ms. Kapuni: Uku -- what?

Mr. Keeaumoku: Mehame.

Ms. Kapuni: Ukumehame. What does that mean? You said it once.

Mr. Keeaumoku: Yeah, that's the abundance of mehame.

Ms. Duensing: Yeah.

Mr. Keeaumoku: Or mehame, payment in mehame. Yeah.

Mr. Frampton: When we -- on that notice, we'll work with staff to say where we're going to meet and all kinda stuff.

Ms. Duensing: Yeah.

Ms. Kapuni: And we'll just be visiting the historical sites?

Mr. Frampton: It's a big parcel and what we can certainly do, it's easy to get up to the Lahaina side parcel, the Ukumehame Heiau and going down into the valley and seeing some of the taro lo'i and stuff, that could be easily done. To get -- we'll work to see if the roads are clear enough to get to the other side, it's a little bit rougher to get to the other side of the valley.

Ms. Rotunno-Hazuka: Yeah, we might not be able to do the whole thing.

Mr. Frampton: Yeah, and it would take a number of hours to go to all the different sites just cause you gotta go all the way back down to the highway to cross the stream and then come all the way back up the other side, so we could certainly get the Lahaina side and into the valley within a reasonable time frame.

Ms. Duensing: We can talk about that time frame and, right now, I believe there's only one item on the draft agenda I already have going so we'll try to limit what we get accomplished at our meeting.

Mr. Frampton: And from that other side too, you got a good visual access of the sites that are across the valley on the other side, so you do have a good visual access of -- or visibility of the Hiki'i Heiau and those sites.

Mr. Kapu: Okay, mahalo. So the motion was to have a site visit May 5 at Ukumehame, by Lisa,

Ms. Duensing: And to submit a letter --

Mr. Kapu: And to submit a letter --

Ms. Duensing: At this time.

Mr. Kapu: At this time, and seconded by Lon.

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

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

VOTED: to have a site visit on May 5 at Ukumehame.

Mr. Kapu: Okay, carried, mahalo. Okay, what we're into now, Demolition Permits? Okay, sure.

(Commissioner Rotunno-Hazuka was excused from the meeting at this time.)

3. DEMOLITION PERMITS - none

G. NEW BUSINESS

Mr. Kapu: Okay, next on our agenda, Demolition Permits, none, okay the Unfinished Business, Hana Belt Road, Finished, New Business? None. Sign Enforcement Program in the Lahaina Historic Districts.

H. SIGN ENFORCEMENT PROGRAM IN THE LAHAINA HISTORIC DISTRICTS

Ms. Duensing: Just one note, you -- I think you were given, at the beginning of the meeting, a letter that was drafted to Dain Kane as Chair of the Budget and Finance Committee, and one of our former members, Barbara Long, was voted by this Commission, as the last month's meeting, to go and present this public testimony in favor of the historic district officer, so that pertains to the sign enforcement cause that's one of the big things that the historic district officer would be doing, so Mrs. Long is planning on doing that next week.

Mr. Kapu: Okay, that's it?

Ms. Duensing: Yep, and then the Director's Report.

Mr. Kapu: Director's Report.

I. DIRECTOR'S REPORT

- 1. Kaanapali 2020 EISPN**
- 2. CLG funding, project status update**
- 3. May 5, 2005 meeting agenda**
- 4. Administrative Permit Reports**
 - a. Demolition Permits**
 - b. Historic District Approvals Report**

Ms. Duensing: Okay, every month at our meeting we finish up with some of the things that your Commission staff person, Director does and just bring things to your attention. Mostly, this is a quick part of our meeting, generally. First item on the Director's Report is the Kaanapali 2020 EISPN, which is the Environmental Impact Statement Preparation Notice, and that has been filed for this project. We don't really need to discuss it, there's no changes, this did come to the Commission, probably about three years ago, and they basically are going to file their EIS, and if any commissioners want to review this document, it'll be available to you just by asking or we can get you one and send it to you, but --

Mr. Kapu: I want.

Ms. Duensing: Huh? You want one?

Mr. Kapu: Yeah.

Ms. Duensing: Okay, so I'll make sure that you get that but -- so nothing major with that. Number two, CLG funding, the project status update. In your orientation session, at the beginning of this meeting, I talked about the Certified Local Government funding that we get from the feds every other year, and this should have been a document or a contract that was executed in October, but the SHPD only got us the contract last week, so we're finally going to get our money, and I don't know how we're going to finish all the work that we plan to do this year because we need to finish them by the end of the fed's fiscal year, which is September 30, so we'll see how that goes.

The May 5, 2005 meeting agenda, that'll be next month, and you've already decided that you're going to do the site visit to Ukumehame, and there's one other report for you to review, I don't remember what it was, but hopefully we'll have a light agenda on that day.

Administrative Permit Reports, actually, there were no demolition permits or historic district approvals to report this month, I think, so that's the Director's Report. Very quick this month.

J. COMMISSIONER'S ANNOUNCEMENTS

K. NEXT MEETING DATE: May 5, 2005

Mr. Kapu: Okay, mahalo. Any commissioner's announcements? None. Okay, next meeting, May 5, 2005.

Ms. Duensing: And we will be notifying you where we're going to meet for that site visit, probably we will meet out somewhere by Ukumehame at a gate or some place at 9:00 on May 5.

Mr. Kapu: Ukumehame.

Ms. Duensing: Ukumehame. Sorry. Ukumehame.

Mr. Kapu: Well, meeting adjourn.

L. ADJOURNMENT

There being no further business brought before the Commission, the meeting was adjourned at 2:45 p.m.

Respectfully submitted by,

SUZETTE L. ESMERALDA
Secretary to Boards & Commissions I

RECORD OF ATTENDANCE

Present

Keeaumoku Kapu, Vice-Chairperson
Lon Whelchel
Nani Watanabe
Dorothy Pyle (Excused from meeting at 11:00 a.m.)
Deldrine Kauai Kapuni
Perry Artates
Kalei Moikeha
Lisa Rotunno-Hazuka

Excused

Samuel Kalalau, III

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Others

Wayne Boteilho, Deputy Planning Director (9:00 to 9:20 a.m.)
Dawn Duensing, Planning Staff
James Giroux, Deputy Corporation Counsel