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(APPROVED: 09/06/07)

CULTURAL RESOURCES COMMISSION
COUNTY OF MAUI

10:00 a.m., AUGUST 2, 2007

Taken at the West Maui Senior Center, 788 Pauoa Street,
Lahaina, Maui, Hawaii, pursuant to Notice.

REPORTED BY: Rachelle Primeaux, CSR No. 370

1 APPEARANCES

2

MEMBERS PRESENT:

3

4 CHAIR: SAM KALALAU, III

5 VICE-CHAIR: DOROTHY PYLE

6 J. KE'EAUMOKU KAPU

7 LON WHELCHER

8 PERRY ARTATES

9 NANI WATANABE

10 LEE KALEI MOIKEHA

11

STAFF PRESENT:

12

13 CORPORATION COUNSEL: JAMES GIROUX

14 PLANNING DEPARTMENT: ANN CUA

15 STAN SOLAMILLO

16 LIVIT CALENTINE

17 SUZETTE ESMERELDA

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1 TRANSCRIPT OF PROCEEDINGS

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4 CHAIR KALALAU: Good morning, everyone. Thank you
5 for coming to this very important meeting for the west side
6 of Maui. We're happy to see great participation. Also, let
7 me just go over some house rules. Today's microphone for
8 those of you who are testifying on whatever agenda item we
9 have here today, there's a microphone there. Also, we will
10 have a sign-up list. Suzie, do we have one? Over there,
11 that table. Okay, the sign-up sheet for anyone who wants to
12 testify is over there in the corner. Also, the testimonies
13 will be limited, because -- or else we'll be here all night.
14 Let's try to control our testimonies.

15 Right now it's based on three minutes, and if you
16 have more to say, you can come back up after everybody else
17 has given their testimony. Okay, Commissioners, will the
18 Maui County Cultural Resource Commission August 2nd please
19 come to order.

20 Some of the first items, we will be going over the
21 minutes of the June 25th meeting. Commissioners, do we have
22 a motion on the minutes?

23 COMMISSIONER WHELCHER: Mr. Chair, I make a motion
24 we approve the minutes of the June 25th meeting.

25 COMMISSIONER ARTATES: Second.

1 CHAIR KALALAU: It has been moved and seconded.

2 All in favor, say aye.

3 (A chorus of aye's.)

4 CHAIR KALALAU: Any opposed?

5 (None.)

6 CHAIR KALALAU: Motion carried. The next item on

7 our agenda is -- first of all, before we go on with our

8 agenda, we would like to introduce our new member, who is

9 Mr. Fredericksen over there. Thank you for coming aboard.

10 Stan.

11 MR. SOLAMILLO: Good morning. Test. The first

12 application this morning is Mr. Michael Whitehead on behalf

13 of James and Siuafu Whitehead, requesting review and

14 approval to replace one over one light wood windows with six

15 over six light vinyl windows in a former Pioneer Mill

16 Company barracks located at 224 Lahainaluna Road TMK

17 (2)4-6-010:014 in the National Historic Landmark District,

18 Lahaina, Maui. This item was deferred from the June 5th CRC

19 meeting. The CRC may approve or deny the request and

20 provide recommendations, and public testimony will be

21 accepted. Can someone hit the lights, please?

22 If the Commissioners want to turn around and

23 revisit the case with the slides, they can. This case was

24 deferred from the July 5th CRC meeting and is located at 224

25 Lahainaluna Road. It is the third of three historic

1 barracks that the applicant Mr. Whitehead has acquired for
2 rehabilitation. The current barracks was originally one of
3 eight buildings that were erected by Pioneer Mill Company in
4 the 200 block of Lahainaluna Road to house bachelors and
5 workers, mostly Filipino, by 1924. This shows the location
6 of the site along Lahainaluna Road. This is the Sanborne
7 insurance map from 1924. It was entitled property, Pioneer
8 Mill Company, and it shows laborers' quarters with five
9 rooms each.

10 The arrow points to the property in question.
11 This is a Pioneer Mill map from 1930. It shows the barracks
12 on Lahainaluna Road, and the property in question is also
13 denoted by the arrow. This is a photograph from the annual
14 report of Pioneer Mill for 1947. It shows the mill located
15 along Lahainaluna Road as well as the barracks and the
16 property in question. It is shown by the white arrow. Six
17 barracks were removed for the construction of Honoapiilani
18 Highway expansion. Only five of the original buildings
19 remain intact along Lahainaluna Road. This is the house
20 that as it appeared prior to the last hearing.

21 The buildings in question were originally framed
22 as blocks frame or single wall construction with gable on
23 hip, corrugated metal roofs and vertical or piths on wood
24 siding. The original construction included panel wood doors
25 and windows that were in the 1920's six over six light and

1 single hung wood sash. Some were replaced in the late
2 1930's or early 1940's with one over one light single hung
3 wood sash while others were replaced in the 1950's with
4 jalousie type or louvered operable windows. Even with the
5 1950 jalousie type windows, however, this group of
6 plantation buildings prior to 2006 was eligible for listing
7 in the National Register of Historic Places.

8 This is the first in the group of houses addressed
9 as 252 Lahainaluna Road. It has been recently
10 rehabilitated. This is the adjacent house at 242
11 Lahainaluna Road, and it also has been rehabilitated. This
12 is 232 Lahainaluna Road, also rehabilitated. And this is
13 the property in question. In an oversight, the Planning
14 Department issued building permits to Mr. Whitehead for the
15 rehabilitation of two adjacent barracks located at 252 and
16 232 Lahainaluna Road in 2006.

17 Neither of these applications were transmitted to
18 the Cultural Resource Commission for review or to staff. In
19 both of the rehabilitations, Mr. Whitehead removed original
20 wood doors and wood windows and replaced them with modern
21 doors and vinyl windows. In addition, original wood siding
22 was covered by T-111 wood siding or equal with wood battens
23 at 252 Lahainaluna Road, and T-111 replacement siding or
24 equal was applied as an external wall covering at 232
25 Lahainaluna Road. Both porches were rebuilt and modern

1 details were employed throughout, including capitals and
2 railings. As a result of this work, although the buildings'
3 exteriors appear to have been approved to the average
4 passersby, they have been altered. They are no longer
5 eligible for listing in the National Register of Historic
6 Places and can no longer be considered as contributing
7 buildings to the NHL in their current state.

8 The buildings that are left are 216 Lahainaluna
9 Road, which shows the vertical siding as well as in the case
10 where we have louvered windows, which were applied in the
11 1950's. The building as it appears today is eligible for
12 listing in the National Register. Similarly at 208
13 Lahainaluna Road, the building has incurred possibly changes
14 through time, but we have the original exterior cladding,
15 piths on vertical siding and six over six wood windows, so
16 it, too, is still eligible for listing. The property across
17 the street like indicated at 208 Lahainaluna Road is
18 virtually untouched and has all of its features intact, and
19 it is eligible for listing in the National Register. This
20 is the property in question located at 224 Lahainaluna Road.
21 The original windows are still in place on three of the four
22 sides. The work is already being initiated, so this is, in
23 fact, an after-the-fact permit.

24 At this address, Mr. Whitehead was under the
25 impression that he could rehabilitate the current barracks

1 in the same way that he did at 252 and 232 Lahainaluna Road
2 and preordered \$7,000 worth of vinyl windows. He also
3 reroofed the building, but kept its original form and he
4 kept the original material, which was corrugated metal.
5 When he began to rebuild the porch, however, he used modern
6 details throughout.

7 Although some work has taken place with respect to
8 the porch and the roof, it is reversible, and the current
9 building is still eligible for listing in the National
10 Register of Historic Places. This is the view of the
11 interior of the building, which shows a cupboard, which is
12 built-in original interior doors, but for purposes of this
13 discussion, we're only talking about what is visible from
14 the public right-of-way, and these are the two over two sash
15 to your right, which are infamed between two studs. One of
16 the guidelines that this Commission uses in making its
17 decisions is called the Secretary of the Interior standards.
18 Parts 1 through 6 of the Secretary of the Interior standards
19 for the treatment of historic properties are applicable to
20 this case.

21 The first one, the property will be used as it was
22 historically or be given a new use that requires minimal
23 change to its distinctive materials, its features, spaces
24 and spacial relationships. Two, the historic character of
25 the property will be retained and preserved. The removal of

1 distinctive materials or alteration of features, spaces and
2 spacial relationships that characterize the property will be
3 avoided. Three, each property will be recognized as a
4 physical record of its time, place and use. Changes that
5 create a false sense of historical development such as
6 adding conjectural features and elements from other historic
7 properties will not be undertaken. Four, changes to a
8 property that have acquired historic significance in their
9 own right will be retained and preserved. Five, distinctive
10 materials, features, finishes and construction techniques or
11 examples of craftsmanship that characterize a property will
12 be preserved. Six, deteriorated historic features will be
13 repaired rather than replaced. Where the severity of the
14 deterioration requires replacements of a distinctive
15 feature, a new feature will match the old in design, color
16 texture and where possible materials.

17 Replacement of missing features will be
18 substantiated by documentary and physical evidence. The
19 Secretary of the Interior as well as the National Park
20 Service, which is the ultimate authority for the NHL, is
21 very emphatic about what is important and what are
22 character-defining features for historic buildings.
23 Remember that this building is located within the Lahaina
24 NHL. If you walk around the NHL, you will find things that
25 are very important, which the Secretary of the Interior

1 describes as those character-defining features. They are in
2 this case (inaudible) Society Hall, two over two light wood
3 sash, also six over six light wood sash the real elevations.
4 Single light bifold panel doors. If these were changed to
5 something else, it would diminish the integrity of the
6 building.

7 Looking at railings for (inaudible) Society Hall,
8 these are distinctive and these characterize construction
9 that was undertaken on this building in 1912. We can go to
10 Molokai, 1925, Haulanianaole Hall. Distinctive things on a
11 really simple building. Vertical wood siding and two over
12 two light wood sash. Looking at the interior of this
13 building, changing out these features would change the
14 building radically. Going even further back to a Hawaiian
15 church at Haleakala dated 1845, this building had six over
16 six light wood sash. We would not even presume to replace
17 it with something different.

18 Similarly wood doors, ten panel wood bifold doors,
19 although they may have been added during the '20s or the
20 '30s, they still represented a period of construction and an
21 improvement made by the congregation hall. Moving to this
22 side of the island or the other side, excuse me, this is
23 1925, the Masumoto House in Wailuku. Distinctive Japanese
24 craftsmanship applied to modern houses. This case one over
25 one light wood sash as well as wood trellis work, which is

1 characteristic of this specific neighborhood. We would not
2 advocate taking these windows out or removing the trellis.
3 All of these, by the way, are demolition cases, which were
4 documented. This is a 1925 house also in Wailuku, the
5 Yamasaki house. Distinctive for the period or are the two
6 over two light wood sash and how they are projecting from
7 the exterior wall.

8 The CRC today is being asked by the Planning
9 Department to review this case and consider what you have
10 been told about the definitive elements that are required to
11 be maintained for buildings which are deemed historic and
12 located in the National Historic Landmark or NHL as well as
13 buildings that are eligible to the National Register of
14 Historic Places. The CRC is required by Maui County Code,
15 Chapter 2.88.080 to use the Secretary of the Interior's
16 standards for the treatment of historic properties as a
17 guide on matters pertaining to the review functions of the
18 commission.

19 In addition, Maui County is also mandated by its
20 status as a certified local government to do the same. The
21 National Park Service and the Secretary of the Interior are
22 emphatic about the requirement of character-defining
23 elements such as has been just discussed be maintained and
24 preserved. Although we may be sympathetic with the
25 Applicant, who with respect to his expenditures, the

1 rehabilitation work was initiated on an NRHP eligible
2 property that is located within the Lahaina NHL without
3 consultation with CR staff, and therefore, the Commission
4 should recognize that fact.

5 At this point, if there are no questions from the
6 Commission, I will defer to the Applicant.

7 CHAIR KALALAU: Okay. Thank you, Stan. We would
8 like the Applicant to come forward, please.

9 MR. WHITEHEAD: Sorry, I got another board. My
10 name is Mike Whitehead. I am the -- one of the -- my wife
11 and I are the Applicants for the 224. If I may state, I
12 have nothing and did nothing with 252 Lahainaluna Road. I
13 don't know where people are getting the association of my
14 being with any of the other two. It was myself and one
15 person every afternoon and weekend on 232 doing all of the
16 work except the electrical and the plumbing, which we had a
17 licensed contractor take care of. So I just wanted to state
18 that for the record. I'll give you this pamphlet. I went
19 and took pictures because part of the issue on the last one
20 with the windows, which is our only issue supposedly that I
21 know of.

22 The muntins, as he showed you in pictures, which
23 are also business buildings and have signs in front of them
24 that say they're historic landmarks. The squares in the
25 windows, the muntins, were said that they were not part of

1 that era. He's showing you that they are part. And my
2 neighbor actually, and these are some pictures you guys can
3 pass around, she told me when I explained to her what
4 happened after the last meeting that she had an original
5 window still in the back that was replaced with louvers. My
6 house actually, in fact, still has, but I didn't know if
7 that was part of this discussion, has the fold-out windows
8 that also have the squares in the windows, which one of them
9 is not working. That's why I have boards on it. And
10 there's also some pictures in there. One of them is with
11 the windows where you can see it's already termite-eaten and
12 rotted out along with the seal, a closer picture than -- I
13 went through and did a more thorough inspection. You can
14 see where there's rotted frames.

15 There's also a picture in there, again, of the two
16 houses. The left side on each house where I painted so that
17 you can see if you can see a difference from the road. We
18 also have a board here that shows our street and all the
19 houses, which is actually ten. You've got these six houses,
20 the one across the street, and you have two in the back.
21 There's actually three. I couldn't get a picture because
22 they've got a wall and fence completely around it, so I
23 didn't want to bother them with that, but you can see I took
24 from the roof of 224, there's actually three houses in the
25 back of us, so there's actually ten in this cluster.

1 The other thing is, you know, we're talking about
2 historic landmarks and not demeaning it with new
3 construction, but you got historic Pioneer Inn. I mean
4 they've even got a sign claiming it's historic, and you've
5 got AC units sticking out of the wall of every room. You
6 know, I mean if we're looking at worrying about what the
7 public is seeing, why were they allowed to do that? I know
8 these bay windows aren't the type of muntins or the six over
9 six. In fact, this flat window and the -- it doesn't even
10 have -- it's actually one of the type of new window trims I
11 was showing you a picture of a house being done on Front
12 Street of the new type of window trim being used instead of
13 the squares because people aren't liking the squares.

14 The bay window as far as it protrudes into the
15 walkway doesn't have any of it, and this is a different one
16 with all of the muntins in it that's actually on the front
17 of the Pioneer Inn building, which was installed within the
18 last one year or two. I know, because I used to be there
19 every weekend and holiday helping my father-in-law set up
20 his wood-carving display and breaking it down. And when I
21 was down there a few weeks ago, I noticed they had installed
22 it. This is the state project of the bathrooms at Lahaina
23 Harbor. I can't tell if they tore down the building, but I
24 know it's a brand-new building at least from the outside.
25 Copper and flashing, I mean fascia were not part of that era

1 from the historic time. It was all open rafter. These
2 metal gates, I don't remember decorative metal gates being
3 part of the '40s. You know, and what I'm trying to do is
4 just show an inconsistency of what we're doing through here.
5 It's okay for some, but not okay for others. I'm not a
6 big-time developer. I'm not a big-time anything. I'm just
7 trying to get through life. That's why we're doing all the
8 work we can on our own without hiring contractors except for
9 electrical and plumbers, so it's basically I mean and we're
10 looking at the integrity of Lahaina.

11 I thought there was an ordinance on building
12 heights, and yet right behind Blackie's Pit Stop across from
13 Safeway, you've got a building that looks like it's about 40
14 feet tall. I thought we were allowed only two stories. If
15 you go with eight-foot walls, it's definitely over four
16 stories, but yet it was allowed. And I only bring up that
17 point because we're worried about the public and what the
18 tourists are looking at in Lahaina, Historic Lahaina. And
19 we go and allow a building of that size and nature to be
20 built instead of holding it to codes also. But like I said,
21 I'm not the big-time developer who is trying to get through
22 on this.

23 I know Kalei mentioned we could be opening doors.
24 For me, I think we're closing, because all of us know -- you
25 know, like for me, I'm in a position where I have the two

1 homes, so I think I'm a little more fortunate than most, but
2 those that don't and those inheriting homes like our
3 neighbors, their kids. Who are they to -- what if they
4 don't have the money to spend 25 to \$30,000 on wood windows?
5 Just because they inherited the house, so do they just turn
6 and sell it and let someone come in like Fidel did a couple
7 of years ago and knock the house down because he didn't want
8 to deal with the red tape. So he knocked it down and put it
9 up. That was in the article I presented at the last CRC
10 meeting last month.

11 All I'm trying to do is just get by and get a
12 piece of the pie here on Maui without ruffling any feathers,
13 but I'm not -- we're not big business. We're not big
14 development. We're just getting what we can for our kids
15 while we can. I mean the way Maui is growing, as is
16 anyplace in the state, it's hard to survive here so just
17 doing whatever you can. Do you want to say something?

18 MRS. WHITEHEAD: Hello again. My name is Siuafu
19 Whitehead, and I'm the spouse. And I just have a few
20 points. You know, we actually went through this before.
21 But I just want to go through it again for those of you that
22 weren't here the last time. You know, believing it or not,
23 we are a big fan of these plantation homes. And I think
24 that's why we got into it, because, you know, it's the look.
25 It's just different, you know. And we want to try and save

1 as much as we could on the house, restore as much as we
2 could, but there's one small, little thing, especially the
3 windows. The windows, to me, you know, we got two small
4 kids, and you know, I can't see anything happen. The window
5 fall on their hand because we're trying to keep the
6 61-year-old windows and trying to restore it. To try and
7 get new ones and stuff, you know, it's a lot. It's big
8 dollars, and we don't have, you know, that kind of money.

9 We don't have the time. It's already been seven
10 months, you know, going on eight months trying to get this
11 permit. And you know, the house wasn't cheap, you know.
12 Even though it was an old house, but it wasn't cheap, so we
13 are getting to the point to, you know, it depends on what's
14 going to happen today. Anyway, that was the big thing, and
15 of course, the termite infested, it's all around the
16 windows. You know, let me see my notes here. You know, the
17 other thing about seeing all the windows out there, you
18 know, unless you go up to feel the windows that it's vinyl,
19 then you know it's vinyl. But looking from the street, you
20 can't tell which is wood and which is vinyl.

21 And I think that's why we're putting up this board
22 and trying to show, you know, painting one side of that
23 house just so you can see that you can't tell the wood from
24 the vinyl, you know from the road. You know, and the big
25 thing, of course, it's not consistent. You know, we got the

1 permit and all the other two houses, you know, right -- the
2 first three houses from the corner, and we got it no
3 problem. And that's why we purchased the windows ahead of
4 time. It's just trying to be on top of the game here. When
5 we get the permit, we already have the windows because it
6 takes two to three months to get those windows ordered.

7 So when we get the permit, we already have the
8 windows. We'll put it in, and you know, we'll move in
9 there. You know, so that was the whole thing, and of
10 course, it didn't, you know, go that way. You know, and of
11 course, when we see the neighbors, even the old -- our
12 plantation homes neighbors, it's got louvers and sliding
13 doors. There's something wrong there. You know, I can see
14 you're trying to, you know, the County is trying to keep
15 this plantation look, which we all want, but it's one little
16 thing. You know, it's just the windows. We're not doing
17 anything different to the house, you know, besides restoring
18 what, you know, the look and everything.

19 And I think -- we're not rich. We're just a
20 small, little local family here who is trying to make a
21 living and trying to get something for our children, and you
22 know, I think that's all I have to say.

23 CHAIR KALALAU: Thank you. Questions,
24 Commissioners. Kalei.

25 COMMISSIONER MOIKEHA: Thanks for sharing once

1 again. Are we okay? Okay. Having seen what you saw, the
2 presentation, what do you folks think about the presentation
3 that was made by the Planning Department? Do you agree? Do
4 you disagree?

5 MR. WHITEHEAD: I disagree, because what he was
6 showing you were historic landmarks that are available and
7 need to be made available for the public to view, but then
8 they're also part of a non-profit organization that has
9 money coming in from the side or some type of big business
10 development, which, you know, I don't know. But most of
11 them, he showed you a couple of residences at the end but
12 even they were altered already with the -- with what looked
13 like hardy plank siding layered up. So in any other
14 word, I kind of disagree with what he was showing you,
15 because he could have went and took pictures of the three
16 buildings on the back, one across. And there's other
17 plantations homes right across the Seaman's Hospital, 1927.
18 That was in one of the pictures I provided last meeting.

19 COMMISSIONER MOIKEHA: But based on say
20 requirements and/or guidelines that is trying to be followed
21 and everything, I mean if you are not a home builder and you
22 saw this, I mean you're not improving what you had, would
23 there be a tendency to say that these are good guidelines to
24 follow for Lahaina in spite of whatever you said and things
25 like that I mean?

1 MR. WHITEHEAD: If it was in the effort of what
2 we're looking at for energy efficiency, I think which is a
3 huge issue now, I mean the County itself makes new builders
4 put up double-paned windows, vinyl windows that last
5 forever, insulate your walls, to leave it single wall even.
6 How do you insulate and become energy efficient without
7 going double wall? And if you do, if you don't cover up the
8 siding, I mean you're inviting an issue of mold to come
9 through the house, which then you're definitely putting not
10 just your kids, but yourself and any other family members
11 who are coming through there. And mold is a huge issue.

12 COMMISSIONER MOIKEHA: So in essence, what you're
13 saying is that within this National Historic District that
14 you kind of disagree with the requirements and guidelines?

15 MR. WHITEHEAD: I disagree in the fact that we
16 should have a right to choose in being a free country, and
17 basically, the County is trying to use a federal law to take
18 over our house is kind of how I feel. I understand it. I
19 see it and I agree with what they're trying to do. And if I
20 was a big business, then maybe, yeah, we should definitely
21 follow those because their funding is more. You're
22 obviously big business because somehow you've made it
23 through life and you got all this money and purchasing a
24 building for public viewing and venue, that you should be
25 able to and should be required.

1 But as a private home owner that is nothing more
2 than just trying to preserve the character of the building
3 without really altering it in any way that you can't see
4 from the street, I don't really agree with that. I feel
5 like is it my house or is it the federal government's house,
6 which the County needs to manage? And I mean if that's the
7 case, I'm kind of not even wanting it really. I mean I'm
8 out of the mix. If we were in the position to get the
9 neighbor's house, which some people are asking are you guys
10 going to get because they want to see us -- through the
11 community, they want to see us get and do what we're doing.

12 I mean depending on what's stated here, actually
13 on a statement that Stanley made last meeting that whoever
14 picks up that house or renovates it, if it's the kids,
15 they're going to make them put wood windows in. I mean that
16 is 25 to \$30,000 for solid wood windows. I got to imagine
17 that's the case, because we made the mistake of getting half
18 wood/half vinyl for this house, because someone talked us
19 into it. And we thought, okay, no problem, we have the
20 money. We didn't feel it until the end. That's when we
21 were like, wow, what a huge mistake. We shouldn't have
22 spent it, because it's not really that big of a difference.
23 And if I need to have wood trim on the inside, then I should
24 do it myself, which would save us thousands of dollars,
25 \$8,000 in cash.

1 COMMISSIONER MOIKEHA: I think also -- well, is
2 there a basic understanding of the integrity that is trying
3 to be kept?

4 MR. WHITEHEAD: That's why if you look at 232, I
5 didn't want to put fascia. I mean that is huge, and I tell
6 people that constantly. The only reason my house looks so
7 beautiful or for whatever reason it is is the little details
8 of the corrugated roof, which is not brand-new metal, that's
9 a hydra-stop rubberized coating, so that's the original
10 roof, original vents and not putting the fascia. Because
11 you don't see houses built without fascia nowadays. And
12 that open rafter for me is huge. If you cover that up,
13 well, you can't see because she's got trees all in front,
14 but she's added fascia to hers. If you were to look at her
15 house, which is original, and my house, you would think my
16 house was more from that era because there's no fascia.
17 That's the overall impression I think, and that's what I
18 tell people.

19 If I put fascia, well, then it's like any other
20 house out there on the street. You have to suffer the fact
21 that you can't put a gutter up there to keep the rain from
22 just slamming all around your house and ruining your garden
23 and whatever. You got to keep the open rafter if that's
24 what you want to do with the look.

25 CHAIR KALALAU: Dorothy.

1 COMMISSIONER PYLE: Can I just ask you a question?

2 I'm not sure you can answer this or want to answer this.

3 When did you purchase your house?

4 MR. WHITEHEAD: The 224?

5 COMMISSIONER PYLE: Yes.

6 MR. WHITEHEAD: December.

7 COMMISSIONER PYLE: December. Were you aware when
8 you purchased it, it was in a National Historic Landmark?

9 MR. WHITEHEAD: We were aware when we purchased
10 this one, and we were renovating this and had no problem or
11 concern with doing it.

12 COMMISSIONER PYLE: But what I'm getting at is
13 that the National Landmark was already there, and it has
14 many restrictions and many rules about it that have been in
15 place since the 1960's. And I'm not being argumentative.
16 I'm just trying to say something. But you purchased this
17 building and the other building within the National Historic
18 Landmark knowing that there are restrictions. And so saying
19 that the County then or the state or the federal government
20 is trying to tell you to do something with your private
21 property when you purchased it knowing full well that those
22 restrictions existed, that's kind of not exactly fair.

23 MR. WHITEHEAD: No, it is fair, because I didn't
24 know the restrictions existed.

25 COMMISSIONER PYLE: Well, how come?

1 MR. WHITEHEAD: We have vinyl windows here. They
2 put vinyl windows on their house, and they actually have a
3 split deck.

4 COMMISSIONER PYLE: But you didn't try to find out
5 if there is within a National Historic Landmark any
6 restrictions?

7 MR. WHITEHEAD: We're preserving the character of
8 the building with the exception of just the windows.

9 COMMISSIONER PYLE: But what Kalei was getting at
10 is that there are these guidelines that come from the
11 federal government.

12 MR. WHITEHEAD: I didn't look up those
13 restrictions if that was the case.

14 COMMISSIONER PYLE: Fine, I understand. But what
15 I'm also trying to get at and what he was trying to get at
16 in a way is that we, our job is to try to protect the
17 National Landmark. And I've been on this Commission and
18 I've been back again, and I've been around on Maui doing
19 historic preservation work for a long time, and I have
20 serious questions about whether Lahaina should be a historic
21 landmark, because of all of the very things that you point
22 out. But as long as it still is a historic landmark, there
23 are a lot of restrictions and a lot of rules that the County
24 is basically required to follow.

25 And I understand exactly where you're coming from,

1 believe me, but because it is a historic district, we have
2 real difficulties saying okay to everything that comes
3 along. You're right, people let things go by. Things come
4 through. There are errors that are made, but we can't turn
5 our backs to everything. If we did, we would have no
6 landmark.

7 And maybe the people of Maui should decide to ask
8 the federal government to remove Lahaina from the landmark
9 status, and then you can do what you want.

10 MRS. WHITEHEAD: Let me answer you with that. You
11 know, we didn't know this whole -- you know, this is like an
12 open door for us to learn so much more about this national
13 thing. You know, I think the whole thing here is because we
14 bought 232 Lahainaluna Road and we -- no problem. So why
15 weren't we told at the time? Because by then -- because by
16 then, we'll know exactly what to do with this. If we had to
17 go through this on the first house, we might not even buy
18 this house. So this was like, wow, there is such a thing.
19 We had no clue. So we all learned this from this.

20 But you know, one thing I wanted to say. There is
21 so many people out there who just go and change their
22 windows without -- we were trying to go through the right
23 way, you know, trying to follow, and this is what we got,
24 you know.

25 MR. WHITEHEAD: Or like Fidel.

1 MRS. WHITEHEAD: People are saying why did you
2 even ask? They say why did you even mention you're going to
3 change your windows? This is what our community said. So
4 but I'm like, you know, we're trying to go through the right
5 thing, and this is what we got.

6 CHAIR KALALAU: Okay. Thank you. Ann.

7 MS. CUA: Ann Cua from the Planning Department. I
8 just feel I needed to come up and say something, because I
9 was involved in the windows in the other homes. And
10 basically what happened on the three other properties, those
11 properties for years have been going through an amendment to
12 the change in zoning that existed on those three properties.
13 You know, in the '80s, the properties got zoned, and they
14 wanted to do -- one of them wanted to do a furniture store
15 and a dress-making shop. And at the time, there was lots of
16 testimony about traffic in that area. And so what the
17 Council did is they granted B2 business district zoning for
18 those properties with the conditions that it be very, very
19 limited in what they could do. I think they had three
20 permitted uses they could do in these structures.

21 And so these three properties came into the
22 department years ago, it's been several years already,
23 asking that they be able to expand the uses for these three
24 houses. There's -- in the B2 business district, there's
25 about 66 uses you can do. And these properties for the most

1 part are limited to like three, three or four, and so we
2 worked through -- with the applicants through the Commission
3 to be able to get a position from the department where we
4 did support the expansion of uses on this property, but
5 still restricting things like restaurants, high, intense
6 traffic generators. The Council is still dealing with the
7 change in zoning application that was sent up there probably
8 a couple of years ago. We still don't have resolution.

9 But in the meantime, what happened is these
10 property owners had come in to renovate the buildings. You
11 know, we did not have Stan with us when these initial
12 applications for rezoning came back in. And you know, I've
13 been with the department for 24 years. And you know, we --
14 in the historic -- in the Lahaina Historic District Proper,
15 we administer the historic district ordinance as well as the
16 architectural style book for Lahaina and the design
17 guidelines. And what we have always asked properties
18 outside of the Lahaina Historic District, but within the
19 National Historic Landmark boundary, which these are, is to
20 be sensitive to the character of the district.

21 And so while we had asked them to maybe modify
22 their character so that the style was in keeping with the
23 district, we didn't require the same amount of detail or
24 treatment as we did to the buildings themselves. Well, you
25 know, now with Stan in our department, you know, we're going

1 to be having all buildings go through him. But you know, in
2 my review of the renovations that came for these structures,
3 I was looking at what is the appearance of these structures,
4 how are they going to look to people driving by? Are they
5 going to -- do the windows have the same style? Are they
6 using the same roof? Are they trying to change the whole
7 roof style? And you know, that's why when they -- when I
8 looked at the other buildings and pretty much the character
9 was going to be the same, I didn't send it to SHPD.

10 And that was how the department had been
11 operating. We're operating differently now, but that is
12 what happened with the other structures on Lahainaluna Road,
13 so I just wanted to give you some explanation on that. We
14 do things differently now internally within the department,
15 but that is basically what happened with these other
16 structures. Yes.

17 COMMISSIONER PYLE: Can I ask a question?

18 CHAIR KALALAU: Go ahead.

19 COMMISSIONER PYLE: I think I'm really confused
20 here for a minute. This is listed on our agenda as
21 something we have the jurisdiction to approve or deny, which
22 to me indicates it's in the County's historic district. But
23 you said it's not.

24 MS. CUA: I said it's not in the Lahaina Historic
25 District. It's in the National Historic Landmark boundary.

1 COMMISSIONER PYLE: But I thought our jurisdiction
2 was limited to the County's Lahaina Historic District, and
3 the things that are in the National Landmark that are
4 outside the County's district, we do not have the absolute
5 say over.

6 MS. CUA: I don't believe that's correct. Maybe
7 Stan can clarify.

8 MR. SOLAMILLO: As a matter of point, this case
9 came in, and it was hot to get through, so we had the choice
10 of either sending it to SHPD in Oakland, and that is why you
11 were told when I introduced this item today the ultimate
12 authority does lie with NPS. But this is -- but this is a
13 historic property located within the NHL.

14 COMMISSIONER PYLE: But not in the County historic
15 district?

16 MR. SOLAMILLO: It's not in the County historic
17 district 1 or 2.

18 COMMISSIONER PYLE: There's a big difference. We
19 do not have a final say.

20 MR. SOLAMILLO: We do not have a final say.

21 MR. WHITEHEAD: But we can allow you to make the
22 decision. As I stated in the first one, we were waiting
23 eight months to do this. And it's killing us financially,
24 because we thought we were moving in at this time. If you
25 decide to say no, there's no hard feelings. We just want to

1 get our permit. And Stan said if we don't fight it, get a
2 lawyer and take it to court, we can get our permit. So yes
3 or no, as I stated, we can't afford to lose \$7,000 in
4 windows. Obviously, I'm going to try and sell some or all
5 if I can recoup the costs. But you know how it goes. It's
6 easy to say, well, just go sell it, put it in the Bulletin,
7 put it in the newspaper, so if it sells, it sells. But I
8 mean basically we just want to move on.

9 I mean I'm not going to restore the windows, as
10 I've stated. And you can go look at my roof, which is now
11 completed. The vents, a lot of them were rotted, but again,
12 time and money. I don't have the time and money to sit up
13 there pulling out, making custom cuts and putting them back
14 in and restore them, so I just primed them and painted them.
15 So for me, it's a completed roof right now.

16 CHAIR KALALAU: Thank you, Mike. I want to open
17 this portion of this agenda item to the public for anyone
18 who wants to come up here and testify on this agenda item.
19 Seeing that we have none.

20 MS. OLMSTED: I have a question.

21 CHAIR KALALAU: Come forward and state your name.

22 MS. OLMSTED: I have a couple of questions. One
23 is what are your other two houses used for that you have on
24 there?

25 MR. WHITEHEAD: We don't have two other houses.

1 MRS. WHITEHEAD: We have 232 and this one.

2 MS. OLMSTED: And then the other question, if
3 these folks decide they can't keep this house together, they
4 can't revitalize it to the demands of the County, then if
5 they let it just degrade, then are they going to be allowed
6 to knock it down even though it's within the historic
7 district and build whatever they like? That's what I want
8 to know, so that's my question.

9 MR. WHITEHEAD: I think it goes back to two years
10 ago, Fidel knocked down the manager's house right on Front
11 Street. He knocked it down, and he's got a two-story
12 whatever over there that he's using it for. So and at the
13 other end of Front Street, there's a two-story plantation
14 home that I provided a picture of last meeting, it's got
15 some big mansion taking up almost the whole lot. It was a
16 two-story plantation, and they knocked it down. Because
17 they were told if you build, you have to rebuild this. If
18 you knock it down, you have to build your house back here.

19 So what they did, the new owners obviously built
20 from where they were supposed to, but took it all the way
21 down as close as they could to the ocean.

22 CHAIR KALALAU: Okay, thank you. Anybody else
23 from the public that wants to testify on this agenda item?
24 Seeing that we have none, the floor is now closed.
25 Commissioners.

1 MR. WHITEHEAD: And just one more statement just
2 to say because other people do it. I would never, even if
3 we weren't -- I would never knock down a plantation house
4 because, like I said, I grew up here in Lahaina. To me,
5 this was a little bit of a way to give back, because
6 appreciate it so much. And that was part of the motivation
7 to get the other one. We didn't have problems here. We
8 didn't think we would run into this here, and we had so much
9 support from the community we decided, yeah, let's try and
10 get the one because it's the adjoining lot. We got a few
11 more signatures.

12 But didn't try to run around trying to get, but as
13 we see people, we got a few more signatures in the
14 community.

15 CHAIR KALALAU: Questions, Commissioners.

16 COMMISSIONER MOIKEHA: Mr. Chair, I just have a
17 comment, and I think I want to go on record. I guess I'm
18 trying to look at accountability, not necessarily finding
19 blame or anything like that. But there's three words in
20 here that has cost the Whiteheads some expense, "In an
21 oversight." In an oversight, the Planning Department -- I'm
22 not trying to place blame or anything like that as far as
23 who is here, who is not at that point, but we need to go on
24 record and point this out and say that's not right. In an
25 oversight, and then these people got to pay for something

1 like that. But I understand what they're saying. They want
2 fairness, and I understand what the Planning Department
3 wants. And that is to make something right. There's a
4 difference.

5 Fairness is that they put in air-conditioning,
6 someone else should be able to put in air-conditioning, but
7 what's right is should not have air-conditioning; therefore,
8 you should not have it either, because you're following a
9 guideline which is right. Fairness is what they're trying
10 to get at, and I can understand that. But there's also a
11 guideline for rightness also, what is right. And there's a
12 difference there all the way around. But it's a just a
13 comment that I just wanted to make as far as accountability
14 is concerned.

15 I think the Planning Department really needs to
16 take a look at that and understand when an oversight is
17 done, it costs people. And I don't know if there is a way
18 where we -- the Planning Department can assist and help
19 them. I understand what we're trying to do now at this
20 point, and it's to make things right. But I don't know -- I
21 don't have an answer. I just wanted to make a comment.

22 CHAIR KALALAU: Okay. Thank you. Anyone else?

23 COMMISSIONER WHELCHER: Mr. Chair, there are a lot
24 of illegal design options in Lahaina, and we can't follow
25 them. We have to follow design guidelines. There's only

1 one way to stop the illegal, or one way is when they submit
2 for a building permit, they have to bring it up to par.
3 They have to be correct. You see a lot that hasn't been
4 changed yet, but they will in time. Your Lahaina toilet
5 building came through our -- through this commission, and
6 they didn't show metal panels as far as I can tell.

7 As I remember, it didn't show the grass. Their
8 drawings were just regular architectural drawings, and these
9 things get added during construction. And quite possibly
10 they'll have to upgrade it if they ask for a permit to
11 remodel. We have three options. One is to approve or deny
12 this or the third one was to follow the application to the
13 National Park Service, and that's going to take another at
14 least a month, maybe more. And our design guidelines state
15 that all of the materials that are replaced or repaired will
16 be with like materials. And if you can --

17 MR. WHITEHEAD: You can see, too, my window trim
18 was taken -- or that's not my trim. My window trim on mine
19 was copied from this house.

20 COMMISSIONER WHELCHER: You can't go by copying.

21 MR. WHITEHEAD: One by six, whatever it was, I
22 copied it and made the window seal cut, which they didn't.
23 I mean, yeah, 242 and 252 did not. I was the only one of
24 the three that went and made the seal cuts, went as exact as
25 possible to get that same look, didn't use one by four, one

1 by three. I did the one by three on the bottom of the two
2 by four that was cut to a four degree and eight degree cut
3 to give it that seal and use the one by six with a half-inch
4 over, which people asked me what happened there, how come
5 it's sticking out because they're not used to seeing that.

6 You look at the house next door, it's sticking out
7 about a quarter inch, half-inch past the up and down trim.

8 COMMISSIONER WHELCHER: At one point, we were
9 denying the six over six.

10 MR. WHITEHEAD: And my windows, I haven't opened
11 them out of the box. I don't know if it's six over six or
12 eight over eight, but I did order them close to the size of
13 the existing windows.

14 COMMISSIONER WHELCHER: But I'm finding the 1930,
15 they were replaced. They originally were six over six.
16 They were replaced by one over one.

17 MR. WHITEHEAD: I thought the building was built
18 in 1946. I don't know how things are getting built and
19 changed to 1930. At least on our deed, it says it was built
20 in 1946.

21 COMMISSIONER WHELCHER: These comments are in your
22 favor.

23 MR. WHITEHEAD: I know, but I'm just saying I keep
24 hearing 1920, 1930, but on our deed, I thought it said
25 1940-something. Just to clarify because I'm not clear

1 either when it was actually built then. But I mean it could
2 have been in the '20s, too. I mean I don't actually know.
3 I just know on our deed, it said 1940 at least when the last
4 owner bought it, but I thought it said built in the '40s.

5 COMMISSIONER WHELCHER: I'm going by this
6 background.

7 MR. WHITEHEAD: Okay, yeah, I mean if it was built
8 back then. I'm just telling you what our deed says.

9 COMMISSIONER WHELCHER: Yeah.

10 MR. WHITEHEAD: I'm not clear when it was actually
11 built anymore after seeing Stan's --

12 COMMISSIONER WHELCHER: My comment was that they
13 were six by six, and the six by six, which was the original,
14 and now you're -- it had been replaced by one over one, so
15 the six over six should be more acceptable now because we
16 find that's what the original windows were.

17 MR. WHITEHEAD: Yeah, the ones we ordered could be
18 six over six. I just ordered them a month ago. We ordered
19 them as close as we could to the size, which are a little
20 smaller than the ones we have on the greenhouse, two over
21 two. So the eight over eight is a bit bigger on the
22 windows, but it's been so long, I can't tell you what's in
23 there. And I haven't opened the box, so I really don't know
24 how many -- what it is, if it's six over six or eight over
25 eight.

1 COMMISSIONER WHELCHER: Thank you, Mr. Chair.

2 CHAIR KALALAU: Anyone else before we wrap this
3 up?

4 COMMISSIONER ARTATES: Yes. First of all, Mike, I
5 really appreciate you coming before us the second time and
6 really did some homework before coming before the Commission
7 today. As you know, it was a presentation of what the law
8 is in the national and the federal jurisdiction and as well
9 as I heard what our planner from the Department of Planning
10 said about the jurisdiction. And I can sit here as a
11 Commissioner and say that there's some things that was in
12 place and done prior to you doing something and staying
13 within the guidelines and getting punished for it. We're
14 here about preservation. I understand that, too, as
15 Commissioners.

16 Yet then, I'm seeing that you're trying to
17 preserve something instead of letting it deteriorate. All I
18 can say is that things has been done like do what I say, but
19 don't do what I do. So in my opinion, we will make a
20 decision that will facilitate I feel in the best interest of
21 what is right.

22 MR. WHITEHEAD: Thanks, as long as we get a
23 decision.

24 COMMISSIONER ARTATES: Thank you.

25 CHAIR KALALAU: Thank you, Mike. Do we want to

1 make a motion? We're going to take a short recess and be
2 back in five minutes, and then we'll continue with the
3 Whitehead's project.

4 (Recess taken.)

5 CHAIR KALALAU: Okay. We're going to reconvene
6 this meeting. We're still on the agenda item addressing
7 Mr. Michael Whitehead's application. Okay, Commissioners.
8 We need someone to at least make a motion or if you have
9 anymore comments or questions before we decide on this
10 issue. Yes, Dorothy.

11 COMMISSIONER PYLE: Just for the sake of clarity
12 for everyone, and I would like to be corrected by anyone and
13 everyone if my attempt at clarification is not on. I wasn't
14 here the last time, so some of what I am trying to catch up
15 on and clarify maybe will help everyone. Your project is
16 not in the Lahaina Historic District.

17 MR. WHITEHEAD: Not the County.

18 COMMISSIONER PYLE: It's not in the County
19 Historic District, but it is in the National Historical
20 Landmark.

21 MR. WHITEHEAD: I didn't research it, but I
22 understand it qualifies.

23 COMMISSIONER PYLE: It is. It's within the
24 boundaries and the building itself qualifies to be listed as
25 a building in there, okay. Our Commission has the authority

1 to make decisions meaning to approve and deny, but that's a
2 decision for things that are in the County Historic
3 District. Your building is not. So what we are being asked
4 to do is to make a recommendation to you about whether we
5 think that this is something that we would approve or not
6 approve as a Commission. We cannot say yes or no. We can
7 make a recommendation.

8 Our recommendation will go to the Planning
9 Department, and then within the Planning Department, they
10 take our recommendation to make a determination about your
11 building permit. We are not the ones who may say yes or no.
12 We make a recommendation yes or no, not the final decision,
13 right? Correct. Okay. And so then, it then would be
14 determined at that level. You also are entitled I
15 understand to get a recommendation or an opinion from the
16 National Park Service because it is in their National
17 Landmark, and their recommendation may be different than
18 ours. It may be the same as ours.

19 I understand, you correct me, that you -- that
20 that is a long process and you would rather not take the
21 time to do that. Okay. So what you're telling us is that
22 our recommendation is what you are looking for understanding
23 that the decision will be made by the Planning Department.
24 Everybody okay on that, that's correct?

25 MS. CUA: Uh-huh.

1 MR. WHITEHEAD: It entitles me to get my permit.

2 COMMISSIONER PYLE: Well, it entitles you to apply
3 for the permit and maybe or maybe not get it. It depends on
4 what the Planning Department is going to say or what we're
5 going to say at this point.

6 CHAIR KALALAU: Yeah, go ahead.

7 COMMISSIONER FREDERICKSEN: Good morning. I only
8 got this material two days ago, so I haven't had a chance to
9 look at it a lot, but I think part of the problem we're
10 grappling with is there are guidelines that the Commission
11 is supposed to support. It's outside -- technically outside
12 of our jurisdiction, so it is advisory. I've got a nuts and
13 bolts question for you. The main hang-up on this seems to
14 be the windows. In looking at trying to get your permit,
15 you know, you can't go back and change things. Yeah, the
16 windows are ordered, et cetera. If getting back to trying
17 to work with the Planning Department to get windows that
18 would pass, are you willing to do something like that?

19 MR. WHITEHEAD: If it was -- I stated last
20 meeting --

21 COMMISSIONER FREDERICKSEN: I wasn't here.

22 MR. WHITEHEAD: If it's a no, the recommendation
23 is a no, leave the original windows, then we leave it. And
24 me, I'm easy. It's just move on, paint them, clean them up,
25 paint them, leave them as be. If they work, they work. If

1 they don't work, they don't work. I'm not going to fill
2 them up with bondo and wood putty so they look funky. I
3 just leave it as original and deal with it until they either
4 deteriorate or not work and then present that at a later
5 time. It just comes down to timing. And the mistake we
6 made, I'll remind you, is on the first one that we did that
7 has vinyl windows, 232, we had a construction loan because
8 the permit was already there just waiting to be pulled, so
9 we were able to get -- when we bought the place, we had the
10 construction loan.

11 We made the mistake, but didn't realize it was a
12 mistake until the end that we actually felt the cost. And
13 those half-wood/half-vinyl windows cost \$15,000. We didn't
14 want to spend that money, because in the end is when we felt
15 it towards the end of construction. And that's when we were
16 like, wow, money is really tight now. We shouldn't have
17 spent that that money on those windows. Next time we do
18 this or if we do do it, we won't go with the wood, because
19 nobody notices. Not one family member commented on the wood
20 trim on the interior of the house, and I was like we blew
21 eight grand -- now I know it's eight grand because we bought
22 the \$7,000 worth of just vinyl -- and so the cost for solid
23 wood windows would probably, I'm estimating, would be right
24 in the neighborhood of \$25,000, which I don't have that kind
25 of money.

1 COMMISSIONER FREDERICKSEN: Well, just again, to
2 go back to what my question was, and I think you did answer
3 it, just in terms of nuts and bolts, I mean it was
4 unfortunate that there was the oversight and that can't be
5 changed at this point. And you know, obviously if that flag
6 would have been raised before, you would have had that
7 knowledge.

8 MR. WHITEHEAD: We probably wouldn't have
9 purchased the next one.

10 COMMISSIONER FREDERICKSEN: Yeah, whatever. But
11 since, okay, here is the mess and try and move on from
12 there.

13 MR. WHITEHEAD: It will just stay the same. I
14 mean like there was a picture I circulated in the pamphlet
15 that I painted the left side of the house what the color I
16 wanted it to be, painted the windows, taped in the grids to
17 show that you really can't see a difference between the
18 vinyl and the wood until you get in the house. There's the
19 noise difference. The glass won't fully polish out. The
20 termite-eaten wood, you know, the energy.

21 COMMISSIONER FREDERICKSEN: I have a house that
22 has got the problems with the wood.

23 MR. WHITEHEAD: Energy efficient, it doesn't make
24 sense. But like I said, it's wanting to move on because
25 paying two mortgages is really killing us.

1 COMMISSIONER FREDERICKSEN: And we as a Commission
2 are kind of stuck, and as Dorothy pointed out, this is
3 advisory. But what the Commission says I believe is going
4 to have some effect on what you do. If you're willing to do
5 that, that might be a way to just -- I mean to just stick
6 with what you got, because that seems to be the issue that
7 brought this here.

8 MR. WHITEHEAD: Well, as Stanley mentioned, the
9 decision was the recommendation for you guys. If you guys
10 are okay with it, they're okay with it. If you are not okay
11 with it, then they're not okay with it. But it allows me to
12 get the permit. And like I said, I can't afford to lose
13 that kind of money.

14 COMMISSIONER FREDERICKSEN: Sure.

15 MR. WHITEHEAD: But obviously, I'm going to try
16 and recoup what I can if possible, and but at least move on
17 in life.

18 COMMISSIONER FREDERICKSEN: And as a homeowner, I
19 certainly sympathize with you. I've got kids. I've got
20 three boys, and I certainly sympathize with you; however,
21 we've got this larger picture stuff we've got to try to keep
22 a hold to.

23 MR. WHITEHEAD: I understand.

24 COMMISSIONER FREDERICKSEN: Thanks.

25 COMMISSIONER WHELCHER: Mr. Chair, does this

1 recommendation need to be put in the form of a motion?

2 CHAIR KALALAU: Yes.

3 COMMISSIONER WHELCHER: I would like to make a
4 motion.

5 COMMISSIONER MOIKEHA: Mr. Chair, I have a
6 comment. I just have a comment. I guess it's a point of
7 clarification, once again, because last month, according to
8 the agenda, we had the right to approve or deny. This month
9 we don't. It's just a recommendation. My point or my
10 question is exactly what Mr. Whitehead just asked, is the
11 Planning Department going to go along with our
12 recommendation?

13 COMMISSIONER PYLE: We don't know.

14 COMMISSIONER MOIKEHA: If they're not going to go
15 along with our recommendation, what does it matter? I mean
16 that's -- I mean that's the point. Because last month, we
17 could have told him yes or no. Now we cannot. We're just
18 here. What are we doing? We're going to recommend? You
19 know what I'm trying to say? So it's a point of
20 clarification. We need know if we make a recommendation,
21 how much weight does it carry, I mean or does it carry
22 weight?

23 CHAIR KALALAU: Thank you, Kalei. Good question.
24 Corp counsel.

25 MR. WHITEHEAD: We are here on the recommendation

1 of Stanley that if it was denied, but I can make an appeal
2 to the CRC. And the CRC would be the one that he would work
3 with. So the decision was -- my impression is why we're
4 here a second time, even from the first time was because
5 they were going to go with what you folks decided yes or no.

6 MR. GIROUX: Chair, I think Dorothy actually did a
7 really good outline of the process. Thank god she's so
8 knowledgeable. But just to take it a step further, this
9 applicant has applied for the building permit, okay. In
10 that process of a building permit, it was reviewed by the
11 historic professional within the County, and it's at that
12 time that the red flag goes up and that you're an historic
13 district and you have to build everything in accordance to
14 our guidelines. That's what that historic professional's
15 job is, the National Historic District. And you've got to
16 follow -- and he looks at the guidelines and he says you
17 need to build it with these materials and then there are
18 these guidelines.

19 Now, the Applicant brings to attention that he
20 can't follow that guideline. He needs -- he's already
21 bought the windows, and it's going to be a significant cost
22 to him. So the professional is put in the position of
23 saying, well, I can't give you this permit until you follow
24 this. Now, as a Commission that has the sensitivity to
25 these issues, they can bring this to you and as a body that

1 has the expertise in the area, they take your recommendation
2 as almost, you know, kind of like a second review, because
3 if Stanley were to go and make this change himself, he would
4 be in big trouble.

5 Now, we've got nine people who, if they make this
6 recommendation, you're a body. You guys have heard all of
7 the facts. Mr. Whitehead has had a public hearing. He's
8 had a fair -- a chance to represent himself, to represent
9 his project, to be asked questions, to bring all of the
10 facts related with his project to you. And now he's asking
11 for you to make a decision so that it can go back to the
12 professional with your professional or your expertise of the
13 community and everything that you bring to the table.

14 And then that's going to help Stanley do his job,
15 and so it's still a recommendation. But as part of the
16 County and part of the process, we don't -- being within the
17 County, you don't want to make decisions that are outside
18 the box, and that's why we have commissions. Commissions,
19 we have a Board of Variances, we have a Planning Commission.
20 These boards are made up of people who have the pulse of the
21 community, and they can look at this bureaucratic decision
22 and then take all of these facts under a public hearing and
23 bring that collective knowledge together and help the County
24 make a decision. Because
25 Mr. Whitehead is just asking us just make a decision.

1 MR. WHITEHEAD: Well, I'm thinking because in
2 Stanley's thing, he recommended making the appeal or not
3 recommend, but whatever the word. He said you can make an
4 appeal, which I felt if he wasn't trying to work with us,
5 because I think on his side, he feels both ways, so he
6 didn't want to just make the decision himself. If you go by
7 the law, then the law is the law. What we seen up there, he
8 showed, there is, it's black and white. There's no gray in
9 between. But I think he's trying to work with us, and he's
10 feeling it. Because he said make an appeal to the CRC and
11 see what they know.

12 So I'm under the assumption that he's looking to
13 you folks. And whatever recommendation you make, he'll work
14 with you. Because I've already stated I'm not getting a
15 lawyer. I'm not dragging this out. I really just want to
16 move on.

17 CHAIR KALALAU: Okay, thank you. The floor is now
18 open, Commissioners, for our recommendation.

19 COMMISSIONER WHELCHER: I would like to make a
20 motion.

21 CHAIR KALALAU: Go ahead.

22 COMMISSIONER WHELCHER: I want to make a motion as
23 an exception to recommend approval to replace one over one
24 light wood windows with six over six light vinyl windows in
25 a former Pioneer Mill Company barracks.

1 COMMISSIONER ARTATES: Second.

2 CHAIR KALALAU: Moved and seconded. Any
3 discussion? Discussion.

4 COMMISSIONER MOIKEHA: I think some key things
5 were made and said by corp counsel, and if we represent the
6 pulse of the community, I think Mr. Whitehead also
7 represents his community. He brought in information. He
8 brought in signatures of his community where he lives. I
9 think if anything else, he brought in the highest pulse that
10 I can think of as far as his area. And even another word he
11 used was sensitivity as a body, and we're trying to be
12 sensitive as to their needs and things as such. It's a
13 difficult decision, but I think he has the pulse.

14 CHAIR KALALAU: Anymore comments? Anymore
15 discussion? The Chair calls for a vote. All in favor,
16 raise your right hand.

17 (Hands raised.)

18 CHAIR KALALAU: All opposed?

19 (Hands raised.)

20 CHAIR KALALAU: Let's call for a vote again. All
21 in favor, raise your right hand.

22 (Hands raised.)

23 CHAIR KALALAU: All opposed?

24 (Hands raised.)

25 MS. CUA: Five to two.

1 CHAIR KALALAU: Motion carried.

2 (Applause.)

3 CHAIR KALALAU: Our next agenda item is the
4 Lahaina Halloween parade, but before we get into that, we
5 need some time to set up I guess the slides, so just give us
6 a couple of minutes. And then what we're going to do in the
7 process, I think we're going to open them up directly to
8 public testimonies first.

9 (Recess taken.)

10 CHAIR KALALAU: Excuse me, let me have your
11 attention. The staff is ready to present her -- the
12 Halloween parade.

13 MS. CALENTINE: Good morning, everybody. Good
14 morning, Commissioners, Mr. Chair. Today we're going to be
15 talking about the annual Halloween festivities that have
16 been traditionally taking place in Lahaina. The event
17 involves closure of Front Street and setup of stages in
18 banyan tree park and on the library lawn for music. And
19 also it involves a number of booths for artisans for food
20 and for water. And that is the -- that is the approval that
21 the Commission is reviewing right now, the application for
22 those particular activities.

23 Also, there's a keiki parade that begins the
24 event, and the keiki parade begins at 4. And that has
25 traditionally -- the keiki parade has traditionally gone to

1 Kamehameha Iki Park and terminated there, and we do have a
2 proposal for the change to that this year. So what happened
3 was at the last July 5th Cultural Resources Commission
4 hearing, the Commission deferred the -- deferred the item to
5 receive, acquire additional information. So the Commission
6 wanted to have the groups that were concerned about the
7 event and the group that is proposing the event, the
8 Applicant in this case, to meet and try to resolve the
9 differences that they've had about specific issues that I
10 will be going into, so these meetings did happen.

11 Also, the Commission requested that the Planning
12 Department conduct an evaluation of the cultural impacts on
13 Lahaina town. So what's happened since July 5th? Since
14 July 5th, the Lahaina Town Action Committee, which is the
15 Applicant in this event, and Na Kupuna O Maui and
16 representatives of Kuleana Kuikahi -- I'm sorry, yeah,
17 Kuikahi, met, and they met twice. But the Planning
18 Department was not present at either of those meetings. And
19 then last Friday, July 27th, the department actually
20 facilitated a meeting with members of each group, and we
21 also provided assistance from Glenn Kosaka, who is an
22 attorney on the Maui Planning Department's approved hearing
23 officer's list.

24 And there were five representatives from Lahaina
25 Town Action Committee and five representatives from the

1 community groups present. The department framed the
2 discussion around six main issues. Although there were
3 seven issues, as you'll see, we were only able to address
4 first six issues at this meeting, because it wasn't for four
5 hours. And we lost our space, and so the issues, the seven
6 issues, but as I said, we didn't get to the seventh issue,
7 were nudity, public consumption of alcohol and drugs,
8 expenditure of County funding for protective services,
9 adequacy of public rest rooms, traffic on side streets, the
10 duration of the event both in time and in distance and the
11 cultural impact of the event.

12 So generally, at this meeting on Friday, July
13 27th, the issues were discussed in the -- in the following
14 format. The staff planner would identify and state the
15 department's understanding of the issue. The community
16 groups would clarify and amend or change the description and
17 understanding provided by the department and then also
18 proposed mitigation to the impacts that were discussed. And
19 then following that, Lahaina Town Action Committee would
20 respond to the department and the community. There was some
21 back and forth that took place. And in many cases, an
22 agreement was reached.

23 As far as the issue of nudity during the event is
24 concerned, it was clarified that it was not just nudity, but
25 it was lewd behavior. It was suggestive costumes, false

1 body parts being displayed, so suggested behavior. The
2 groups requested that the police explain to the -- to all of
3 us what their procedures are for handling nudity or partial
4 nudity or lewd behavior. And at least one member of the
5 police department is here today and would be available to
6 answer your questions on this issue.

7 There was disagreement. The Applicant disagreed
8 that the image of the event needed to change and that there
9 was anymore lewdness or nudity than is normally found in
10 Lahaina on any given day. So Lahaina Town Action Committee
11 does not promote the event as riske they state, and so but
12 what they did -- they did agree to do was to develop and
13 promote costume guidelines that would foster a spirit of
14 creative, creative costuming and creative wholesome
15 costumes, not lewd, suggestive costumes, so the Applicant
16 has agreed that they would begin to do that.

17 It should be noted that in the past that they have
18 made changes in an attempt to try to mitigate impacts. One
19 of those changes was instead of referring to the event as
20 the Mardi Gras of the Pacific, they no longer do that. They
21 agreed to change the name, and it's really being promoted
22 now as Halloween in Lahaina. The department requested that
23 the Applicant do everything that they can do to promote the
24 event as a family-oriented entertainment event. This was
25 not -- it was not completely clear on the 27th how that was

1 actually going to be carried out. There are -- there is a
2 website, and certainly Lahaina Town Action Committee can
3 inform and request that the various vendors, the various
4 establishments do the same type of shifting of the image.
5 They cannot control that, nor can the County in that regard.
6 Another suggestion was in this regard was to actually
7 separate the keiki and the adult events and have the keiki
8 parade in the historic district, but move the adult event
9 out of the historic district. This issue was not resolved.

10 There was a great deal of concern on the part of
11 the merchants that this will really reduce their business
12 income for that evening. And the next issue then we talked
13 about was the use of alcohol and drugs in public places.
14 And we all agreed that that was not appropriate, but it
15 seemed that the outcome of our meeting, it was really the
16 police department that was going to need to enforce this.
17 And we have -- we will -- what we talked about was wanting
18 to know what is the police department's procedure regarding
19 public consumption of alcohol and drugs and how do they
20 actually station themselves.

21 There's I believe approximately 80 officers who
22 monitor and cover the event, but there was concern that
23 these officers were all just stationed in one particular
24 location, and they weren't roving around to see what was
25 actually happening in parked cars; for example, on side

1 streets. So the community really asked and the Applicant
2 was certainly -- and the department were both in favor of
3 this to request that the police department send roving
4 patrols throughout the neighborhoods to make sure there are
5 not folks sitting in cars drinking and using drugs.

6 In addition, there was a question about patrolling
7 the private parking lots. And it's the department's
8 understanding that the police -- that is not in the
9 jurisdiction of the police, but I hope to get that
10 clarified. I'm not clear on that today. I hope to get it
11 clarified. And also the Liquor Commission has been
12 requested to post signs in public places throughout the
13 town, so outside of establishments that read "Public
14 drinking is against the law and those caught doing so are
15 subject to arrest." Now, in my conversation with a
16 representative from the Liquor Commission, they do make sure
17 these signs are posted inside establishments that sell
18 alcohol, but it was a request and I hope to hear a response
19 from the Liquor Commission today regarding whether they
20 could actually post these signs out in public places
21 throughout Lahaina at least for this evening.

22 The next issue that we covered was expenditure of
23 County funding for protective services, so Lahaina Town
24 Action Committee explained at the last Cultural Resources
25 Commission hearing that it did not actually create this

1 event. This event had created itself. And some 15-odd
2 years ago, Lahaina Town Action Committee took it upon
3 themselves to organize the event to apply for a permit and
4 organize the event, which has by everyone's comments
5 improved it quite a bit. There's now port-a-potties
6 provided. There's now trash collection. There's police
7 control, so just as a little background. The expense we
8 don't know. We were talking on the 27th about, well, what
9 does it actually cost for the police department to provide
10 its services that night. We don't know, and we may be able
11 to find that information out today, because we have
12 requested that from the police department.

13 But Lahaina Action Committee has said that they
14 don't have the funding most likely to be able to provide the
15 services, and their rationale was the merchants and all the
16 people that own property in the area are paying property
17 taxes, which they assume are going partially to provide
18 protective services, so there was that question why should
19 they throw in extra money to provide for something they're
20 already paying for. The next issue we touched upon was the
21 adequacy of rest rooms for the public. We did -- the
22 department did an analysis of the number of toilets, both
23 permanent rest rooms and port-a-potties that would be
24 available, would be required, first of all, for this event
25 based on -- based on the projected number of attendees and

1 following along with a formula that was used at the Taste of
2 Lahaina event, which we were told was an appropriate measure
3 to use.

4 Based on that, we calculated that 69 toilets would
5 be required. And in the evaluation of -- excuse me, rest
6 rooms and port-a-potties that would be available to the
7 public for anyone to use during this event was 70. And that
8 is eight port-a-potties at the Banyan Tree Park on Canal
9 Street, four port-a-potties at the Lahaina library lawn,
10 eight rest rooms at the Lahaina Center, one restroom at the
11 Old Lahaina Center, six rest rooms at the Lahaina
12 Marketplace, nine rest rooms at Pioneer Inn, nine rest
13 rooms -- sorry, nine port-a-potties at the state harbor, and
14 that is possibly going to be -- the restroom improvements
15 possibly will be completed by Halloween.

16 If that is the case, there will be 18 toilets
17 available rather than the nine port-a-potties and 21
18 permanent toilets available at the Wharf Center and four at
19 505 Front Street. That's how we came up with our conclusion
20 that there are adequate rest rooms provided or will be
21 provided. Regarding traffic, this is about traffic on the
22 side streets. Front Street, as you know, is closed, but the
23 side streets aren't closed, and the neighbors and residents
24 on Luakini are particularly concerned about traffic on their
25 street and also parking of cars and whether there's adequate

1 emergency access on the street because it is a very narrow
2 street, and I believe it's also one-way. Yeah, it's
3 one-way. So the department has requested to the police if
4 Luakini could be closed to traffic and parking other than
5 for residents and emergency vehicles. And we hope to hear
6 an answer to that today.

7 Additionally, a light tower was offered as a
8 consideration, but this issue of providing an additional
9 light tower was not resolved on the 27th. Now, regarding
10 the duration of the event, we discussed as far as time goes,
11 the community groups requested that the event be shorter in
12 time and suggested that the food and water booths and the
13 music end at 10 p.m. Right now currently, the application
14 is and what's happened historically that the food and water
15 booths close at 11 and the music on the -- actually, the
16 music on the banyan tree stage only goes from 5 to 7, and
17 then the music on the library lawn stage goes until 11:30.
18 And there are two bands slated for that evening, so this was
19 not received well by the Applicant. And Lahaina Town Action
20 Committee said this would negatively impact the many
21 nonprofits that operate the food and water booths during the
22 event and use this as one of their chief sources of
23 fundraising throughout the year.

24 Further, the water and the food booths and the
25 activities actually provide a focus for the crowd who might

1 otherwise just be wandering around, wandering off into the
2 dark to do drugs and alcohol and other things, and so their
3 feeling was after many, many years of actually operating
4 this event, that that really provides a focus. And so they
5 would like to maintain -- they would be willing to close the
6 booths at -- the food and so forth booths at 11, but let the
7 music go on until 11:30 as is proposed. And the police also
8 had had a comment in one of their comment letters to the
9 department saying that last year the crowds were around 25
10 to 30,000 at midnight, so that's still a lot of people on
11 the streets.

12 They said one thing that swells the crowds that
13 late is the hotel staff that are actually getting off work
14 at 10 and 11:00, and they all come to the event, and that's
15 when they're just getting started, so that is something to
16 really consider. The department does not recommend shutting
17 down any of the booths or the music earlier than has been
18 proposed. Now, as far as the street closure goes, we had a
19 little more agreement. Traditionally, the street -- Front
20 Street has been closed from Baker to Shaw Street that
21 allowing the keikis to take their parade down to
22 Kamehameha Iki Park. For a couple of reasons, it would be a
23 good idea not to use Kamehameha Iki Park this year, one of
24 them being there's now a hale on the stage, so that would
25 really create logistics problems.

1 But what we suggested and which was agreed upon
2 was why not stop the keiki parade at Canal, have it turn off
3 of Front Street right on Canal and go to the banyan tree
4 stage, and there have their awards contest, which would
5 really set a tone for a family-oriented, family-friendly
6 event, and that was agreed to.

7 So that would mean if the police felt this was
8 appropriate, and I haven't yet heard a response to this
9 question, they could then end their street closure at Prison
10 Street rather than at Shaw, and it might relieve their
11 requirements a bit. The next item that we just ran out of
12 time trying to tackle, because it could be so large would be
13 the cultural impacts. I will note that the department
14 completed the Chapter 343 HRS compliance worksheet, and that
15 is the first two pages in the handout that I just handed you
16 today, Commissioners.

17 And further, our Cultural Resources planner, Stan
18 Solamillo will speak to this issue in a moment. However, I
19 wanted to make one more note, which wasn't -- wasn't brought
20 up at the -- our meeting on the 27th with the involved
21 parties. But we did request from Lahaina Action Committee
22 the breakdown on what was planned for as far as the medical
23 personnel, the emergency personnel. And I did -- I have
24 indicated -- this was indicated in your report that is dated
25 July 25th on page 4, there's a whole list of the personnel

1 and exactly where they will be stationed, so I won't go into
2 each of those details right now unless someone has questions
3 about it. I just wanted you to know that this was also
4 under control and being planned.

5 Finally, the department received a total of 48
6 letters in support of the event and a total of four letters
7 opposed to the event. And with this, I would like to turn
8 the mic over to Stan Solamillo to talk about the cultural
9 impacts.

10 MR. SOLAMILLO: Thank you, Livit. During our
11 mediation session, we ran out of time essentially before the
12 cultural issues could be addressed. And based upon a
13 cursory review of potential impacts, I think that the
14 Planning Department would need sufficiently more time in
15 order to adequately document what may be a source of
16 discomfort among residents in Lahaina. I think briefly I
17 think that several things have happened in previous events,
18 which I think, and I cannot speak for the Hawaiian
19 community, but I think have raised a potential for ire.

20 Namely, it was the characterization I think in a
21 T-shirt character, they showed a headless horseman with a
22 pineapple, and the horseman was of color. That was
23 perceived very negatively. I think the other thing that is
24 occurring at this point at a time when we are experiencing
25 something of a Hawaiian renaissance is that this is the

1 Hawaiian capital before Honolulu. It has great importance.

2 The road in Lahaina was an alii road or royal
3 road. And I apologize that I don't have the verbatim to
4 back or substantiate this, but it is a place of importance.

5 The first Constitution for the Hawaiian Kingdom was
6 promulgated in Lahaina in front of the lighthouse. These
7 are very important. The royal residence was located in
8 Lahaina, and that was the residence for kings. And that is
9 in the process of probably over the next ten years being
10 rebuilt with assistance from the National Park Service. I
11 think the conflict comes when we have a resurgence of people
12 interested in reclaiming the rightful place of Lahaina
13 vis-à-vis something that Lahaina has come to be viewed as in
14 popular culture as a place to come and party.

15 And this, of course, goes back to the whaling days
16 as to the source of that. But it was continued by the U.S.
17 Navy in 1940 when they moved their Pacific fleet to Lahaina
18 roads and for various festivals that occurred such as
19 whaling sprees and other events that were established or
20 just happened and became popular. And then for reasons,
21 which I don't know to give to you today, they were
22 discontinued, so this is kind of this ongoing thing. I
23 think the other thing that probably raises the ire of people
24 is that events such as Halloween tend to -- we have the
25 keiki component, but it goes into an adult component that

1 kind of denigrates into some sort of -- or has a
2 possibility, I won't make the judgment call, into other
3 things. And that has people concerned because there are
4 families that live in Lahaina. There are young children,
5 and everyone is concerned about the future of the next
6 generation and what's appropriate for children and what's
7 not.

8 Historically looking at a lot of the events that
9 were, you know, taking place in Lahaina, they're associated
10 with specific immigrant groups who come here and settle
11 here. And whether you're looking at the Lunar Festival of
12 Ching Ming, Easter, Christmas, all of these things, Rizal
13 Day, which the Filipino community practiced for a long time,
14 all of these things were associated historically with the
15 populations that moved here to work for Pioneer Mill. And
16 that time period is 1965 to 1999, so in longevity or time
17 spans, currently I think we're looking at an event that's
18 probably 17 years was one quote during mediation. And
19 that's not -- when you look at the whole life of Lahaina,
20 that's a significant span of time, but it is not, you know,
21 overly lengthy. I apologize, but that is all the
22 information I was able to gather for this Commission today.

23 CHAIR KALALAU: Thank you, Stan.

24 MS. CALENTINE: Just one more thing I would like
25 to say is our clerk just handed me a packet of additional

1 letters that appear to all be in support of the event. I
2 didn't have time to count them all. There's also several
3 petitions in here. That one says it has 70 signatures, and
4 another says it has 10 and they appear to be by some of the
5 employees that work own the west side, so I don't think we
6 have copies. We just got this today. I just want to let
7 you know that. You do have copies? Okay.

8 So Commissioners, that is the end of the
9 department report. And I will hold off on making
10 recommendations until you -- at such time you request them.

11 CHAIR KALALAU: Okay. Thank you. Can we have the
12 lights back on? Before we move on to our public
13 testimonies, I just want to introduce or just say that we
14 have representatives from the Police Department here today,
15 the Liquor, I guess, Department, the Fire Department and
16 Parks Department. We also have Mr. Kosaka back there, too.
17 We had people from the Fire Department. I think they might
18 have left.

19 MS. CUA: No, they're here.

20 CHAIR KALALAU: Okay, the Captain is here. Okay.
21 Thank you. I have a sign-up list right here, and the first
22 person on it is Ewalani Shim followed by Mr. Robertson and
23 Pat Endsley, Evelyn Toba. When you come forward, please
24 state your name.

25 MS. SHIM: Good morning, my name is Ewalani Shim.

1 I'm speaking as a kupuna and an individual. My name is
2 Ewalani Shim, born on the west side of Maui, Honolua Bay.
3 Do any of you know the history of this small town? Lahaina
4 has lots of mana. This small town was the first Hawaiian
5 capital. The palace was located on the premises where Holy
6 Innocence Church is located near my grandma's school,
7 Kamehameha III School.

8 Because of big development, we have grown into a
9 big tourist trap, million-dollar condominiums and expensive
10 homes. All our local people are working very hard, two
11 jobs. Halloween is for the children. It has got out of
12 control by the adults, lots of alcohol, drugs and sex.

13 People come from all over the world. No curfew
14 for the children. They are all on the street with the
15 parents watching the crazy adults doing crazy things. We
16 want to stop all of this drug trafficking and alcohol coming
17 into Lahaina. We are helping this bad habits. Keep drugs
18 out of the island, all of this dirtiness. Why are you
19 wasting our tax money to hire the Police Department to
20 baby-sit the crazy people? You should shut it down or put
21 it on a curfew, the town at 9:00. The County should not
22 waste tax money. Halloween is not a Hawaiian holiday and
23 culture.

24 It became an alcohol/drug celebration taking
25 this -- celebration for the adults. Please take this to

1 Louisiana. That's where it belongs at the Mardi Gras.
2 That's where the crazy people are. Save Lahaina. Save our
3 tax money. Keep drugs out of our island. Drug busts all
4 over the island. This is a children's festival. Keep it a
5 children's festival. Treat the children and not trick the
6 children.

7 CHAIR KALALAU: Thank you. Any questions? Okay.
8 Thank you. The next is Ms. Robertson, Peggy.

9 MS. ROBERTSON: I'm Peggy Robertson, and I live in
10 Lahaina. And I'm the art teacher here at the senior center
11 for the County. I have two quick questions. Please don't
12 be offended, but how many of you have been to the Halloween
13 festival here?

14 (Hands raised.)

15 And how many of you live here in Lahaina?

16 MR. FREDERICKSEN: I used to live in Lahaina.

17 MS. ROBERTSON: One, okay. My husband and I
18 have -- we've been attending for the past ten years, and we
19 always say -- we've gone to many street fairs in Cincinnati
20 and Washington, D.C., and Virginia and California. And we
21 always say this is the nicest group of people, community
22 people having fun with their friends and their family, and
23 you know, and children for the early part. Because I go to
24 both. I like both of them. And when you think that there's
25 30,000 people all walking around just having a good time,

1 it's -- for me as an artist, I think it's so creative and so
2 interesting. And if you came and looked at it, you would
3 probably feel the same way. I just think taking away
4 Halloween in Lahaina would be so sad. We all look forward
5 to that evening. You know, there's not a lot to do.

6 And it's also a time for business, they have --
7 it's kind of a slow period then, and most of all, it would
8 deprive the community of a night once a year to have healthy
9 fun with their family and friends. I think these things are
10 good. They've sat down and gone over some of these problems
11 that have come up. But like the Police Department says, to
12 have 30,000 people getting along and everything is done so
13 well, I also had a -- Patty left. I was thinking maybe we
14 could have a King Kamehameha contest and people could dress
15 up on the stage and see --

16 UNIDENTIFIED SPEAKER: No way. You're crazy.
17 That would be nuts.

18 MS. ROBERTSON: Okay, okay. I thought maybe if
19 you wanted to have a Hawaiiana -- okay, I'm sorry. I'm very
20 sorry. As an artist, I was just thinking. What's most
21 important is this is a time for our community. We love
22 doing this. And I'm 60 years old and I've taught school,
23 and I think it's a wonderful event where people can get
24 together and have a healthy, fun time. And I mean --

25 COMMISSIONER ARTATES: Three minutes.

1 MS. ROBERTSON: That's it. Thank you.

2 CHAIR KALALAU: Thank you. Pat Endsley followed
3 by Evelyn Toba.

4 MS. ENDSLEY: Good morning, and thank you for
5 allowing us to speak this morning. I am Pat Endsley, and
6 I've got laryngitis, but I'll do my best to represent the
7 Lahaina-Honolua Senior club members that many of them are
8 here today. First of all, I think that your presentation
9 this morning showed that your mediation issues are quite
10 well done, so thank you for the people who met to come up to
11 make the Halloween event in Lahaina much improved and a
12 happier and safer occasion for everyone. I would like to
13 say that Halloween organized by the Lahaina Town Action
14 Committee has been a very successful event for many years.

15 I have been a volunteer at this event and other
16 events for the LTCA for more than ten years, and I have seen
17 the benefits of Halloween, especially to the local
18 merchants, to the tourists who plan their vacations during
19 Halloween and to our local keikis and adults who look
20 forward to once a year dressing up and marching in the
21 parade sponsored by the Soroptomists. The Soroptomist
22 members give so much of their time and love to our keikis.
23 And I know being in the schools, I'm in all the four
24 schools, the children absolutely look forward to this event.
25 Now, tourists and locals love this event. One Japanese

1 tourist told me that he comes every single year to Lahaina
2 and has never missed it for over 12 years and he bought
3 about 12 T-shirts, you know, the nice kind that we all kind
4 of like.

5 And I would say that I have kind of a question.
6 What transforms this annual event enjoyed by thousands of
7 people in a remarkably controlled and safe environment into
8 an unacceptable and unwelcome event that should be
9 prohibited or at least not sanctioned by the CRC or
10 organized by LTAC and protected by adequate police and fire
11 personnel? I have that question pondering in my mind. Now,
12 if this event is banned, then what about the keiki parade?
13 What about the wonderful Wharf Cinema Center and Cannery
14 Mall events for our local keikis? I know that many, many
15 years ago, we had all the keikis go up and down in our
16 neighborhoods. And now rather than coming to the
17 neighborhoods, they go to these wonderful places that are
18 safe, all provided by the merchants.

19 And we are so lucky as community members to have
20 the merchants be so supportive of our keikis in this way.
21 We also live in a multiethnic community, and we are enriched
22 by it. Will the Chinese New Year be banned because people
23 complain about the fireworks and the noise? Will the Bon
24 dances that we all love that's multiethnic, will that be
25 banned? Let's continue to be multiethnic and celebrate all

1 cultures in Lahaina. That's what makes Lahaina so special
2 in addition to our fantastic Lahaina Hawaiian culture. I
3 was born on the Big Island and I feel so deprived as a
4 child. We had nothing, nothing like what you do in Lahaina,
5 and I love this place. And I treasure the Hawaiian cultural
6 events and the other multiethnic events.

7 So I have an idea. If we have a nudity problem,
8 that's the only thing my husband and I would go and see the
9 parade and the people and say, gosh, that's awful. I think
10 that was our only complaint. You know what we should do?
11 The police should hand out hospital gowns, and you know
12 those folding gowns that we get? And when they see somebody
13 that is not presented well, give them -- issue them a
14 hospital gown. I'm sure Kaiser and the medical company
15 would love to give us some free gowns. Well, that's about
16 all I can say. I hope that you do make a prudent decision
17 today and allow Lahaina a successful Halloween event to
18 continue in our culturally diverse Lahaina community. Thank
19 you for listening to me.

20 CHAIR KALALAU: Thank you.

21 Ms. Toba followed by Kaipo Kekona and Kenny
22 Hultquist.

23 MS. TOBA: It's pretty hard to follow Pat, my
24 friend Pat Endsley, but I just want to share with you some
25 of my personal feelings about Halloween. I grew up --

1 MS. CALENTINE: Would you state your name?

2 MS. TOBA: I'm sorry, my name is Evelyn Toba. And
3 I grew up in one of the small plantation villages here in
4 Lahaina, and Halloween was just not part of our culture. We
5 didn't celebrate Halloween. I think maybe because we were
6 too poor to afford costumes and buy candy and treats for the
7 neighborhood children. But Halloween became a part of my
8 life when my children were little, and they really enjoyed
9 being or becoming or pretending to be an astronaut or
10 Superman or a princess or Cinderella just for the day, and
11 they showed their creativity in carving pumpkins, you know,
12 jack-o'-lanterns, and they enjoyed, they really enjoyed
13 going house to house trick-or-treating in the neighborhood
14 where everybody knew everybody else.

15 Today though for my grandchildren's generation,
16 Halloween is just a completely different story. There are
17 too many negatives, and it's just not safe for them. And
18 that is why I feel that the parade for the keikis in the
19 early evening hours in their costumes is a very good thing,
20 and I feel that we all need fun and laughter in our lives
21 because it's good for your health. And even for the adults,
22 I think, you know, one night of fun and laughter would have
23 a lot of positive effects. And with the Lahaina Town Action
24 Committee coordinating this event and making sure,
25 coordinating with the Police Department and the business

1 people and making sure that everything is controlled and
2 having our safety concerns in mind, I think that the
3 Halloween parade would be an asset to the people in Lahaina
4 and to our community.

5 There are a number of our senior citizen club
6 members in attendance today, and although we are not in
7 complete agreement, there are many of us in support of the
8 continuing of this Halloween parade. I'm going to ask you
9 to stand all the senior citizens who are here today. Thank
10 you very much.

11 CHAIR KALALAU: Thank you. Kaipo has left
12 already. Followed by Kenny Hultquist, Sean and Ruth McKay.

13 MR. HULTQUIST: Good afternoon, it is afternoon
14 now. I'm Kenny Hultquist. I've lived on Luakini Street in
15 Lahaina for 11 years. I'm a fiber artist papermaker, and
16 I'm an Akaku producer. I've been a producer for about five
17 years, and I'm speaking for just myself today. I don't
18 represent Akaku in any way, shape or form. I wasn't going
19 to say anything about who puts on the -- who puts on the
20 show every year, but I do believe that because the Lahaina
21 Town Action Committee has advertised Halloween as Mardi Gras
22 of the Pacific, that's one of the reasons that there's so
23 many problems with it. The Mardi Gras of the Pacific, I
24 seriously doubt if there's anybody in this room that doesn't
25 know what Mardi Gras is all about. And so I won't go into

1 any of the details, but that's why people were coming over
2 here and thinking that they could have nudity on the streets
3 and drink on the streets and do all the same things that
4 happened in New Orleans. And that is a problem that you're
5 probably not going to ever get rid of.

6 One of the reasons I came by to testify today is
7 because I heard through the coconut wireless that because
8 some of the Akaku producers were shooting -- I've seen them
9 all -- they have a tendency to focus on the women that are
10 scantily clad. I'm not saying that's good or bad, but Akaku
11 has to show whatever you turn in. And if that's what you
12 want to turn in, then they play it. And there's always
13 going to be guys that want to look at scantily clad women.
14 There are things that on Akaku that actually offend a lot of
15 different people. There's two guys on Molokai that pepper
16 their sentences with the F-word. It gets a little old and
17 redundant, and their message doesn't even get across.
18 Everything is F-this and F-that, and I turn them off. And I
19 know what the message is, but I still turn it off.

20 As far as Akaku, there's -- there was an assault
21 on Akaku a few years ago. A developer didn't like the fact
22 that some of the producers were showing what was going on
23 over in Makena. And he spent over -- Everett Dowling, he
24 spent over \$350,000 trying to close down Akaku. Akaku is
25 doing fine in spite of that. So everybody can find

1 something, you know, that's -- that's offensive on TV. So
2 as a producer, I can shoot anything I want and turn it in.
3 And I was trying to think of an example. And Maui Time
4 Weekly provided that for me. And this is the issue of "The
5 Best Of" and they have "The Best Place to Check Out Chicks
6 on Bikes." And if I wanted to, I could get set up a camera
7 on Front Street and only video women on bicycles, and I
8 could do cleavage, breasts and okole. I could do whatever I
9 want and not even put their faces in, just have that coming
10 and going. And if I turned it in, they have to play it.
11 So, of course, I wouldn't do that. I hope I'm not giving
12 anybody any ideas either.

13 COMMISSIONER ARTATES: Three minutes.

14 MR. HULTQUIST: So that's something to consider.
15 Halloween is a good thing. And I'm sure you're well aware
16 that if you were to cancel it and say you couldn't have it,
17 all these people are going to come anyway. And it would be
18 a worse problem than it is today. Thank you for your time.

19 CHAIR KALALAU: Thank you. Question?

20 COMMISSIONER MOIKEHA: Question, is it Kenny?

21 MR. HULTQUIST: Yes.

22 COMMISSIONER MOIKEHA: So have some of your things
23 that you produced been on Akaku for Halloween?

24 MR. HULTQUIST: No, not for Halloween. Last year
25 to make a point, I actually only shot the keiki parade. I

1 was there for the whole thing. Unfortunately, I haven't had
2 time to edit that, but all it is is the mayor riding in the
3 car and the kids and the wagons and the moms and the dads
4 and everything. That hasn't been on, and I'm actually kind
5 of lacking in not having done that. Because some of these
6 problems may be, you know, in accusing or whatever Akaku of
7 adding to the problem might not be as bad as it is.

8 COMMISSIONER MOIKEHA: Well, then maybe as a
9 suggestion this year you might be able to shoot all the
10 pleasant things that are occurring maybe. All we see is,
11 and if it is, it's like what you said, it's a lot of the
12 scantily clad people that they're showing, you know. And
13 right, we have the opportunity to just change the station,
14 but it would be great if somebody did something kind of
15 positive maybe, you know.

16 MR. HULTQUIST: There are going to be the same
17 guys out there shooting the scantily clad girls again you
18 can guarantee, but yeah, we should focus on some of the
19 other stuff also and get that on. And I appreciate your
20 comments on that.

21 CHAIR KALALAU: Thank you. Sean Corpuel followed
22 by Ruth McKay.

23 MR. CORPUDEL: Hi, my name is Sean Corpuel, owner
24 operator of Cool Cat Cafe. Is that better? Sean Corpuel,
25 owner and operator of Cool Cat Cafe. And I just want to say

1 I've been here for five years now. This will be my fourth
2 Halloween, and over the last three years, I've seen it get
3 progressively better, you know, with one of the things at
4 the nighttime when they shut it down clearing the streets.
5 The police did a great job last year of getting everybody
6 off the street in a safe and timely fashion, and the fact
7 that Lahaina Action Committee kind of oversees the whole
8 thing, I think it's very important. Because all these
9 people have bought their plane tickets. All these people
10 have their hotel reservations. All these people are coming
11 to Lahaina. Whether we like it or not, they're going to be
12 here.

13 So if you have a body that's willing to take
14 responsibility for those people, take responsibility to make
15 sure they have enough toilets, they have enough places to
16 go, they have activities to do while they're here that keeps
17 them out of trouble and they also coordinate the police
18 effort to get the people off the street and clean up the
19 trash the next day, I think it's silly to tell them to go
20 away. It's silly to tell them we don't want you to do that.
21 If you had somebody that was going to come to your house,
22 coordinate a party for you, clean up the mess when you were
23 done, take the responsibility, would you tell them no, you
24 don't want them to do that? Of course, you would want them
25 to do that because they're taking that responsibility. The

1 people are going to be here.

2 The other point that I have is, you know, you guys
3 mentioned closing it at 10:00, shutting it down. The
4 problem I see with that, I have an overview right across
5 from the banyan tree. And I see the street from the keiki
6 parade all the way up until closing time. At 10:00 when you
7 propose to close the street, there is probably twice as many
8 people on the street than there is at 11:30. If you ask the
9 police to disperse that number of people, I believe it would
10 be somewhat chaotic, and all those would be forced to go
11 somewhere, which is into the businesses that are open. And
12 then those businesses would have to deal with that many more
13 people.

14 By 11:30, a lot of families, a lot of the people
15 have already disbursed and gone home on their own, so
16 there's less people to get off the street, and there's less
17 people for the police to have to manage. And we in our
18 restaurant, we have five or six security guards. In the
19 whole Wharf, there's probably about 25 security guards, so
20 we would be able to maintain our own. That wouldn't be a
21 problem, but there are a lot of other businesses and a lot
22 of other places that would not be able to handle that kind
23 of push of people being pushed into their place, so thank
24 you.

25 CHAIR KALALAU: Thank you. Questions.

1 COMMISSIONER MOIKEHA: So as a merchant, is there
2 anything that you do as far as to give back to Lahaina for
3 that night, I mean other than just caring for your own? Is
4 there like a -- I mean Lahaina Town Action Committee, or I
5 mean do you guys participate in that? Is there like a
6 marketing division for Lahaina's merchants where you guys
7 participate? I mean is there something you guys can do as
8 far as to assist and help the County with the policemen that
9 are there? I mean other than just taking in for yourself,
10 do you guys give back?

11 MR. CORPUEL: Right, we give back in different
12 events throughout the year. We do the Taste of Lahaina,
13 which provides a lot of money for local youth groups and
14 different groups. The Fourth of July, we participate in
15 some stuff. As far as Halloween, I don't have that answer
16 for you. You know, I know that the money that's generated
17 in taxes and revenues, you know, a lot of money comes in
18 through the west side, and a lot of tax money is generated.
19 Where exactly all that money goes, I don't know. But I feel
20 that there is a big revenue push, and you know, 4 percent of
21 every dollar that comes in goes to taxes along with our, you
22 know, plenty of other taxes that we pay, so I wish I had a
23 better answer for you.

24 CHAIR KALALAU: Another question on that. During
25 that night, as a business owner, I know a lot of the

1 business owners down here are saying during Halloween night,
2 their revenue, it's outrageously increased. Would you say
3 that your revenues increase 50 percent, 100 percent?

4 MR. CORPUEL: In the beginning our first couple of
5 years we were here, I would say 50 percent. And what that
6 meant for us at the time is that we were able to pay our
7 rent the next month. For a lot of small businesses, it does
8 make the difference of whether they have a profitable month
9 or they have a loss. Now that we've been here four years,
10 we're more established, we have a good business, so it's
11 maybe a 20 percent, 25 percent increase. It's not going to
12 make me or break me, but it is a nice push. There is a lot
13 of people. I do believe there's lot of businesses, it's the
14 difference they make that money or they don't. And a lot of
15 small businesses are family-owned, and it's whether they can
16 pay their bills and take care of their stuff.

17 COMMISSIONER KAPU: Hi, Ke'eaumoku Kapu. I guess
18 everybody is starting to feel that it's pick on the
19 so-called merchant day today, because you're the person that
20 came up. But what time does your establishment basically
21 open, and when do you close?

22 MR. CORPUEL: We close at about 1:30.

23 COMMISSIONER KAPU: So what kind of establishment
24 is that?

25 MR. CORPUEL: It is a restaurant and bar. We're a

1 '50s restaurant. We serve lunch and dinner.

2 COMMISSIONER KAPU: You made one comment based
3 upon the action starts at 11:30, what you see, the influx of
4 people, like the hot hour, 11:30. And does everybody
5 understand that this permit that is given is for closure at
6 11:30?

7 MR. CORPUEL: That's for closure on the street.
8 The businesses are allowed to open up --

9 COMMISSIONER KAPU: Your business is basically
10 separate pertaining to what you're asking for? Am I clear?

11 MR. CORPUEL: No.

12 COMMISSIONER KAPU: No?

13 MR. CORPUEL: Ask it one more time.

14 COMMISSIONER KAPU: Well, you made a comment based
15 upon the craziness happens -- if we close it down at 10:00,
16 that the craziness normally happens sometime at 11, 11:30.
17 So this application ends at 11:30.

18 MR. CORPUEL: Okay, I didn't say craziness at
19 11:30. What I was saying I was afraid it would be crazy at
20 10:00. We were actually full capacity the entire night,
21 from about 5:00 until we close, we are a full house. What
22 I'm afraid would happen at 10:00 is because there are still
23 so many people, that that would become craziness because all
24 those people are coming in. We've thinned out a little bit
25 by 11:00, and then we have a steady stream of people.

1 There's push of people at a couple of different time frames.
2 One of the time frames is when you have 10,000 people on the
3 street and make them all leave the street, they have to go
4 somewhere. A percentage of those are going to go home. A
5 percentage of those are going to wander off and do stuff
6 they shouldn't, just like any other night of the week that
7 happens. And a percentage are going to go into the
8 restaurants and bars that are open.

9 COMMISSIONER KAPU: Thank you.

10 COMMISSIONER MOIKEHA: So how has the crowds been
11 for you, I mean controllable, not bad?

12 MR. CORPUDEL: Controllable.

13 COMMISSIONER MOIKEHA: Would you be honest with
14 that as far as to let us no truly how they are when they
15 come into your establishment?

16 MR. CORPUDEL: I've had one person I've had to make
17 leave in four years on Halloween night, which is actually
18 better than the average night of the week. Because you can
19 go to any bar -- not at our place. We close at 11:30
20 normally. But you can go to any bar and you can randomly --
21 you'll see people that shouldn't be there. You can see
22 people that are getting in fights. You can see people
23 walking home, getting in fights. There's people doing drugs
24 and drinking on any given night. Percentage-wise, I would
25 say it is a lot less on Halloween based on the numbers than

1 it is on any given night. Because there are more police out
2 there. Everybody knows there are more police out there, and
3 they have a better handle on it.

4 When you see the police out there, it is a
5 deterrent, and that's what they've created by having their
6 presence.

7 COMMISSIONER MOIKEHA: So maybe we need policemen
8 out every night then, huh?

9 CHAIR KALALAU: Anymore questions? Okay. Thank
10 you. We're going to take a half-hour lunch break, but we'll
11 take one more testifier. Ruth McKay and then --

12 MS. McKELVEY: She had to leave for a meeting. I
13 also will be testifying later, but she asked me if I would
14 just say a few words on her behalf if that's permissible.

15 CHAIR KALALAU: Okay.

16 MS. McKELVEY: I'm not Ruth McKay, but I'm
17 speaking on her behalf. She wanted to express the worry
18 that in the hopefully unlikely event that you folks will not
19 give us the permit, that this will not impact the keiki
20 parade, because part of the permit involves the keiki
21 parade. And this I am expressing on her behalf.

22 CHAIR KALALAU: Thank you. We're going to take a
23 half-hour lunch break, and we'll continue at 1.

24 (Lunch recess taken.)

25 CHAIR KALALAU: We welcome everyone back. We're

1 going to reconvene with the Cultural Resource Commission
2 meeting. Before we go on with our testifiers, I would like
3 to bring the department representatives up because I know a
4 lot of people had questions for the specific departments.
5 First of all, we're going to bring the Liquor Department
6 representative.

7 MR. SILVA: Good afternoon, I'm Frank Silva,
8 director of the Department of Liquor Control. And in answer
9 to your questions, no.

10 CHAIR KALALAU: Okay. Did we have some questions
11 that was written in?

12 MS. CALENTINE: Yes, sir.

13 COMMISSIONER PYLE: A question about posting
14 signs.

15 CHAIR KALALAU: Yes, there was one about posting
16 signs, I know that.

17 MS. CALENTINE: Yes, Commissioners. The questions
18 that we asked the Liquor Department were are signs
19 prohibited drinking in public places posted in public areas;
20 and if not, could you post such signs in public areas within
21 the historic district in addition to within the bars and
22 restaurants which sell alcohol? That's the first question.

23 MR. SILVA: And that was my answer.

24 MS. CALENTINE: No and no?

25 MR. SILVA: No, let me explain. We have

1 jurisdiction only on the licensed premises, only strictly
2 within the licensed premises. We don't have any
3 jurisdiction outside of the licensed premises. We deal
4 directly with licensees, and we have jurisdiction on all
5 aspects inside of the licensed premises. That's why you
6 don't see bare okoles inside the bars, because it's very
7 strict. So even though you may see some extreme costumes
8 out on Front Street, you won't see them inside the
9 restaurant. But no, we don't do signs, and we don't do
10 anything within the historic -- that's the police
11 jurisdiction, or at least I think it is. I'm not sure.

12 MS. CALENTINE: So then followup, so you're not
13 responsible for putting signs inside the establishments
14 either, but they put their own up?

15 MR. SILVA: No, we require signs within the
16 premises, but licensees are required to put them up.

17 MS. CALENTINE: And you give them the wording of
18 the sign?

19 MR. SILVA: The wording normally comes from the
20 Department of Justice. It comes from the courts, for
21 instance, DUI signs, those kind of things.

22 CHAIR KALALAU: Under age.

23 MR. SILVA: Under age, yeah.

24 MS. CALENTINE: Okay. Thank you.

25 CHAIR KALALAU: Questions, Commissioners. No more

1 questions. Thank you very much.

2 MR. SILVA: Thanks a lot.

3 CHAIR KALALAU: Next we'll have someone from the
4 Fire Department.

5 MR. CORDEIRO: Good afternoon, Commission. I am
6 Allen Cordeiro, the assistant chief of operations for the
7 Maui County Department of Fire and Public Safety better
8 known as the Maui Fire Department. The questions that were
9 asked of me were would the department be able to provide
10 adequate fire control if Luakini Street were to be closed
11 from 3:30 p.m. to 11:30 on October 31st, 2007. Anytime
12 there's any type of closure or access problems, it would
13 cause a problem. But the type of closure that you're
14 talking about is just to vehicular traffic, is that what I
15 understand?

16 MS. CALENTINE: Actually, I'm glad you're bringing
17 this point up, because it was just clarified to me during
18 the break. And I wanted to bring it to the Commission's
19 attention. The proposal that was provided last year did not
20 closing Luakini, but merely prohibited parking on Luakini
21 during the event. So I think that might change your
22 response.

23 MR. CORDEIRO: Yes, that will make it easier for
24 us, less cars, less vehicles. But yes, if it's not closed
25 entirely, then it's not a problem. The second question was

1 how many incidents requiring Fire Department intervention
2 occurred in Lahaina on Halloween by years.

3 I started in 2002, which we had 11, and this is in
4 Lahaina district.

5 MS. CALENTINE: Okay.

6 MR. CORDEIRO: 2003, we had 11. 2004, we had only
7 two. 2005, back to ten; and last year 2006, we only had
8 five. This does not include any what the EMS or ambulance
9 might be running. This is just all types of calls we might
10 have had.

11 COMMISSIONER PYLE: In the whole district?

12 MR. CORDEIRO: Yes, of Lahaina. And there was
13 only one fire that wasn't that major in that period.
14 Everything else, falls, slips, type of things like that.
15 Any other questions?

16 CHAIR KALALAU: No more questions. Thank you very
17 much.

18 MR. CORDEIRO: Thank you.

19 CHAIR KALALAU: Can we have the Parks Department?

20 MR. STRAUB: Aloha, good afternoon, my name is Bob
21 Straub. And I'm the special events coordinator for the
22 Parks and Recreation Department. We also work closely with
23 Livit with regards to just about all the permits that go on
24 throughout the County. You asked a few questions of
25 ourselves with regards to the County Fair actually, and I

1 got the numbers from the people that run the County Fair.
2 And they estimate that there's about 100,000 people give or
3 take on any given year with an average of 20 to 30,000
4 people per day.

5 And then the question was related to portable
6 luas, and they approximate 40 portable luas that are put out
7 for the entire area. And that includes both the standard
8 luas as well as the now federal requirement, the ADA luas as
9 well. And that's very adequate for the numbers they have,
10 and it's pretty close I think to what the numbers were shown
11 here earlier today. The other question we had was with
12 regards to Kamehameha Iki Park. I understand it, the Shaw
13 Street is -- the area on Front Street at Shaw is only closed
14 until the keiki parade is over.

15 Then the closing -- the closure moves to Prison
16 Street, so that moving it to Prison Street seems to be a
17 little bit more common sense, because then you don't have to
18 do anything. As far as using Kamehameha Iki or Banyan Tree
19 Park, the stage is already at Banyan Tree Park. We don't
20 have any objection to that at all, none whatsoever. So I
21 think that pretty much -- I just want to make one comment
22 also. This is a personal comment. Two years ago, I had an
23 opportunity to go to Georgetown, Washington, D.C. My son
24 lives in Arlington, Virginia, and we went over to Halloween
25 in Georgetown where they did not close the street and where

1 the people were jammed, I'm talking sardines, on the
2 sidewalks both sides with people driving in between, people
3 jumping out of cars with costumes on.

4 To me it was a safety issue. I usually go to
5 these things when I go to the mainland, because I want to
6 compare it to see if I can pick up any good ideas. We have
7 the best idea for control, et cetera, et cetera, from my
8 perspective. Thank you.

9 CHAIR KALALAU: Any questions? You know, on the
10 stages, who is going to set the stages up, is it the Parks
11 Department?

12 MS. CALENTINE: Lahaina Town Action Committee sets
13 up those stages.

14 CHAIR KALALAU: Did you hear anything about
15 whether the arborist people have any concerns on the Banyan
16 Tree Park?

17 MR. STRAUB: No. As a matter of fact, Sue King,
18 who works with the Parks Department also, has had nothing
19 whatsoever with regards to any comments that I'm aware of at
20 this point.

21 CHAIR KALALAU: Okay. Thank you. Anymore
22 questions? No more questions. Thank you.

23 MR. STRAUB: Thank you.

24 CHAIR KALALAU: We'll now have the Police
25 Department.

1 MR. HIRATA: Good afternoon, members of the
2 Commission. My name is Captain Charles Hirata of the Maui
3 Police Department. I am the commander for the Lahaina
4 Police District. I submitted some answers to some of the
5 questions that were submitted to me yesterday, and I'm ready
6 to answer any questions that you have right now.

7 MS. CALENTINE: How about if I then repeat the
8 questions, and then because you probably gave me your only
9 copy.

10 MR. HIRATA: I gave you my only copy.

11 MS. CALENTINE: He tried to get it to me earlier,
12 but it didn't work.

13 MR. HIRATA: Server failure.

14 MS. CALENTINE: So the first question that had
15 come out of the meeting on July 27th and that is what is the
16 police budget for Halloween in Lahaina, and we asked for by
17 year, but you know.

18 MR. HIRATA: The person that usually takes care of
19 that budget stuff is my sergeant, who is currently in Las
20 Vegas. That came out pretty interestingly, didn't it? But
21 approximately half of the 80 officers who are assigned to
22 this event are on overtime. The other 40, approximately 40
23 are on regular time. They just had their schedules adjusted
24 so that they have to work at night versus having to work
25 during the day. So if you look at off-duty rates, I'm just

1 bringing this up just for understanding our off-duty rate is
2 about \$30 an hour per officer per hour, so you multiply by
3 8, and then by 40 and that kind of gives you the idea of the
4 overtime that's involved in this event.

5 This event, we staff it with what we feel is a
6 sufficient number of officers for the event as we would any
7 special event. We've had recently the visits by the Dalai
8 Lama, and we have other special events that we have to plan
9 for and we have to provide manpower for as well. And this
10 road closure came about -- I remember it because I was
11 working that night. I was working in dispatch. And
12 Sergeant Duane Asami, if some of you remember him, was one
13 of the first people to close Front Street back in the early
14 '80s, and because the sheer number of people who were
15 walking on the street who -- and the sidewalks cannot
16 accommodate it, so that's why the road was closed during
17 that time.

18 But hopefully I can get the exact amount that it
19 costs us for the future. We would actually like to put this
20 as a line item in our budget, so that, you know, we could
21 cover it. But because of our manpower shortage, we are able
22 to use some of that manpower shortage money for special
23 events such as Halloween in Lahaina.

24 MS. CALENTINE: Thank you. By my calculations,
25 that is about a \$9,000 budget for the Halloween if you said

1 40 officers at time and a half and 40 officers straight time
2 at \$30 an hour.

3 MR. HIRATA: The off-duty rate is \$30. That's if
4 you were to hire a police officer, that's what the rate
5 would be.

6 MS. CALENTINE: Oh, for all 80 officers then
7 approximately?

8 MR. HIRATA: Well, on regular time, you know,
9 that's 40 officers. And you know, on overtime, it's 1.5
10 times their regular pay.

11 MS. CALENTINE: That's what I did. I calculated
12 half of them at 1.5 at regular pay, and that was \$9,000 just
13 to clarify. Then the second question was how many arrests
14 are made by year on Halloween in Lahaina?

15 MR. HIRATA: We average about ten to 20 arrests
16 every year. Approximately ten to 13 of those are drunk
17 drivers, and they're usually caught at the road blocks.
18 Despite the fact that we advertise the fact that we are
19 going to have road blocks, roving patrols during that time
20 period, people still decide to drive drunk instead of using
21 a cab or a designated driver. If you're interested in what
22 the other MR type of offenses, some of it is disorderly
23 conduct, people fighting, people drinking illegally. We've
24 had -- we've broken up fights before after the event. A lot
25 of the fights are occurring after the event. But we do

1 arrest people for, you know, illegal drinking in the
2 historical district at well.

3 MS. CALENTINE: Thank you. How would this arrest
4 rate compare with a typical day in Lahaina or weekend night,
5 something comparable?

6 MR. HIRATA: Well, I've -- it's not uncommon to
7 come in on Monday morning and both of our cells having five
8 people each. And some people get released because of
9 posting bail and whatnot. But you know, a Tuesday night in
10 Lahaina can be pretty interesting, as anybody who knows
11 about dollar drink nights at some of our local drinking
12 establishments, can promote some pretty interesting effects.
13 There's several bars that are kind of known for events that
14 culminate in fights, you know, some bars used to have what's
15 called Thirsty Tuesday. They're now known as Taser
16 Tuesdays.

17 MS. CALENTINE: Okay. Thank you, Captain. The
18 third question was what are the procedures for police
19 officers in Lahaina on -- in Lahaina on Halloween,
20 specifically are some officers assigned to fixed stations
21 throughout the area and others assigned to rove; and if no
22 rovers, can the procedures be amended to include rovers?

23 MR. HIRATA: We have -- I also e-mailed you a
24 Power Point that shows our deployment. We also have a
25 couple of officers, all they do is rove back and forth on

1 Luakini Street. Luakini Street is kind of like our service
2 road, and we have officers specifically designated to pick
3 up the arrests. And you know, we've had some of our
4 officers make arrests as well while assigned to this duty
5 because they see people drinking illegally and whatnot.

6 So we do have a limited number of rovers, but you
7 know, I would like to increase that and to make a unit
8 specifically to find the illegal drinking and the under age
9 drinking and to bring those in. But you know, some of the
10 people that would come to Front Street drunk are drinking in
11 private residences. You know, the surf school that's
12 located near Kamehameha Iki Park, there's usually a big
13 party there on Halloween night, and there's a lot of under
14 age drinking going on over there. And then they move into
15 town under the influence. You know, so we also need to
16 remind adults, parents, it's part of their responsibility to
17 make sure that, you know, their kids -- they know what their
18 kids are doing, but unfortunately, sometimes they're with
19 the kids partying, so that doesn't help either.

20 MS. CALENTINE: Okay. Thank you.

21 MR. HIRATA: Once again, we would like to increase
22 our apprehension patrols. Back in the '80s and '90s, I was
23 in the crime reduction unit and we would actually dress up
24 in costumes and go look for people, and people would be
25 smoking dope right in front of us and all that stuff, so it

1 was pretty easy to make arrests back then.

2 MS. CALENTINE: I'm not sure you were in the room
3 when it was suggested that the police provide paper hospital
4 gowns to those attendees who were scantily clad.

5 MR. HIRATA: They still have that vertical smile
6 in the back though, huh? But you know, we based our
7 enforcement on community standards, and you know, if it's
8 something you can see walking down on Kaanapali beach, it's
9 difficult to say that -- to make a determination that that's
10 too little. And you know, we base our decisions on law,
11 what the law says we can do. You know, and we go by state
12 Supreme Court rulings as well as community standards as well
13 as, you know, what the law says we can or cannot do.

14 If somebody is, you know, doing something or
15 showing enough body parts where it's creating a situation,
16 then they could be guilty of disorderly conduct. We did
17 arrest one female one year for open lewdness. And I'm not
18 sure what the court decision was on that, but yes, we did
19 make an arrest for that. And since I'm up here speaking, I
20 might as well tell you what our chiefs have been talking
21 about, and that's to make Halloween a closed event. By
22 closing off the streets and limiting access and charging an
23 admission fee, you can do a lot as far as controlling the
24 liquor consumption, the types of costumes people are
25 wearing. Some of the outrageous mobile things that --

1 people were bringing in pirate ships last year. And
2 somebody, they wanted to look like the Jamaican bob sled
3 team. They had a bob sled that came in. These objects can
4 be dangerous because they're large, and they can hit people.
5 So making it a closed event is another possibility that we
6 would like to explore in the future, so that we can make
7 this a saner and safer event. And that's something we
8 should really explore.

9 MS. CALENTINE: Okay. Thank you, Captain. I
10 don't know if you said this, but you did write this in your
11 response to this question about officers, whether they're
12 roving or stationed, permanently stationed. And I think
13 this is a good point you made, that the number of officers
14 that you provide ensures that your officers have eyesight
15 contact with each other, and that seems to be really
16 important, that they can kind of signal each other when
17 there's something going on.

18 MR. HIRATA: There's sufficient numbers, like
19 somebody testified earlier, it is a deterrence. If you're
20 taking a few steps and you can see an officer, one in front
21 of you and one in back of you, it serves as a deterrent.

22 MS. CALENTINE: And I think you answered the next
23 question, which was regarding patrolling the side streets,
24 especially Luakini.

25 MR. HIRATA: Yes, you know, like again, once

1 again, we would like to put together a couple of
2 apprehension units. And that's going to be in the action
3 plan for this year where, you know, I think we're going to
4 take a lower tolerance to under age drinking and drinking in
5 the historical district. You know, we have several options,
6 which I'm not going to discuss at this time.

7 But you know, it's safe to say our enforcement of
8 the illegal drinking will be increased this year.

9 MS. CALENTINE: Thank you. And then the next
10 question was about could the Police Department patrol the
11 private parking lots in Lahaina? There seemed to be some
12 confusion about that when our groups met last Friday.

13 MR. HIRATA: Absolutely, absolutely. Some of
14 these private parking lots, as a matter of fact, are in the
15 historical district, and the historical district regulations
16 state that, you know, as far as like drinking in an
17 historical district, if you don't have the permission of the
18 property owner to be drinking in that historical district,
19 even if it's a private parking lot, it's against the law.

20 MS. CALENTINE: Okay. Thank you. And then we had
21 talked about Luakini being closed to traffic and parking,
22 and we clarified that wouldn't be actually closing to
23 traffic, only closing to parking.

24 MR. HIRATA: If you're going to close off parking
25 on Luakini Street, I think you probably need to get either a

1 private contractor to, you know, set up the cones and
2 whatnot and -- or to get the County to do that, County
3 Public Works to do that. We're kind of stretched thin on
4 Halloween to take care of no parking on Luakini. But I
5 wouldn't suggest closing Luakini off completely, because,
6 you know, several people do need to access the private
7 parking lots or even the municipal parking lot on Luakini.

8 MS. CALENTINE: So as far as enforcing a no
9 parking rule for that night, you would not have the manpower
10 to do that?

11 MR. HIRATA: Not to enforce, but to set up the no
12 parking, which means setting up cones, signs, and advising
13 people that, you know, they can't park on Luakini Street
14 during that day. We do have Officer Hodgins on his Go-Fore.
15 He's got a new Go-Fore, so he's very happy. It's an
16 enforcement vehicle, and he makes sure nobody is
17 double-parked or we don't have sufficient access for
18 emergency vehicles, ambulance or fire.

19 MS. CALENTINE: So if the applicant were willing
20 to take on the role of actually closing off the street, I
21 mean not closing, closing off the parking areas, doing the
22 cones, the Police Department would be able to enforce that,
23 am I understanding you correctly?

24 MR. HIRATA: Well, you know, in past years, I
25 haven't seen a problem with Luakini Street because we do

1 have Tim on Luakini checking the parking situation there.
2 So you know, if there is a concern, people will just call it
3 in. And we'll go over there and cite or tow, whichever is
4 appropriate.

5 MS. CALENTINE: Okay.

6 CHAIR KALALAU: Do you have anymore questions?

7 MS. CALENTINE: Yes, I do. Thank you. We
8 asked -- okay, I'm going to add a question here that you
9 weren't asked before, but we just thought of this question.
10 If the event was split into a keiki parade on Front Street
11 as has been proposed and then move the adult portion of the
12 parade, the costume contest and music and bands and booths
13 and vendors and so forth, if that was moved to another area,
14 would the police have sufficient resources to be able to
15 cover both areas on the same night?

16 MR. HIRATA: I would have to look at the proposal
17 to figure out the logistics. But you know, whatever the
18 event is and whatnot, like I said before, we would have to,
19 you know, prepare and plan and activate the sufficient
20 number of officers for that particular event. But I would
21 need to get more information as far as what those details
22 are.

23 MS. CALENTINE: Okay. And we also asked if the
24 police posts a public notice of road closure before the
25 event; and if so, where?

1 MR. HIRATA: We put out a press release, and every
2 year, I've seen it's been published in the Maui News. I
3 don't check all the newspapers, but we also put up the
4 electric sign board by Puamana that advises people where the
5 road is closed and how long the road is going to be closed
6 for and what areas.

7 MS. CALENTINE: Okay. Thank you. And then we
8 also asked you do you have any objections to holding the
9 keiki contest in Banyan Tree Park instead of in
10 Kamehameha Iki Park?

11 MR. HIRATA: No, I don't have a problem with that.
12 And we do move the road closure in from Shaw to Prison
13 Street after the parade, so you know, if we have the parade
14 terminating at the Banyan Tree Park, we can just keep the
15 road closure at Prison Street instead of moving it in from
16 Shaw Street.

17 MS. CALENTINE: Okay. Thank you. And then we had
18 a question about curfew. Is there a curfew in Lahaina?
19 Some of us thought it was 10 p.m. and wondered why it wasn't
20 enforced, so curfew.

21 MR. HIRATA: Well, there's a curfew for juveniles.

22 MS. CALENTINE: And you said for juveniles, the
23 curfew is midnight, but for 14 and 15-year-olds, it's 10
24 p.m.?

25 MR. HIRATA: Correct.

1 MS. CALENTINE: So no official curfew in general
2 for activities such as these?

3 MR. HIRATA: Not that I'm aware of, unless the
4 Liquor Department has one that I'm not aware of. One of the
5 things I think there's, you know, there's some confusion or
6 some perception that there is a curfew for music and
7 whatnot. But you know, that pertains to disorderly conduct.
8 Where if somebody is having a party next door to you and,
9 you know, we try to be respectful of people, but there's
10 nothing written in stone that says, you know, the party
11 can't go until 11:00. It's just that we're trying to --
12 we're trying to come up with some type of time, 10 p.m. on a
13 weekday, you know, and maybe it's going to be a little later
14 on for a weekend, you know. But that doesn't help the
15 person who, you know, has to work the following morning
16 anyway if he's working on a weekend.

17 So you know, it's one of those difficult things
18 that we sometimes have to mediate for the public.

19 MS. CALENTINE: And can I just ask another
20 question about the curfew for juveniles. Does that mean a
21 juvenile -- could a juvenile be out after that time with an
22 adult or a parent?

23 MR. HIRATA: If they're with a guardian or parent,
24 they can be out as long as they want to. However,
25 unaccompanied minors need to be home by a certain time. And

1 for, you know, the 16 and 17, it's midnight, and they turn
2 into pumpkins.

3 MS. CALENTINE: Okay. That was all the questions
4 that the Planning Department asked of the Police Department.

5 CHAIR KALALAU: Commissioners, you've got a
6 question?

7 COMMISSIONER MOIKEHA: Aloha, Captain. I've read
8 most of the correspondence we received from the department.
9 But would you maybe just for the public and for us, once
10 again, give us the -- your official understanding and/or
11 what the department feels about Halloween in Lahaina.

12 MR. HIRATA: Well, like I said, we're going to
13 respond and plan for any event that we know is coming. I
14 mean every year, we know there's Halloween, so every year,
15 we have to plan for it. And every year we know we have to
16 commit X amount of resources to it. If it -- if nobody
17 showed up, nobody showed up this year, then we would
18 probably have to downscale. But you know, from previous
19 experience, I know I haven't celebrated Halloween with my
20 family in 15 years. I've been out here 15 years. And I
21 doubt if it's going to stop this October, so we've just got
22 to plan for the worst and hope for the best like with
23 anything else.

24 COMMISSIONER MOIKEHA: Thank you.

25 CHAIR KALALAU: I have a question, and I don't

1 know if it's for you, but I think it's for all the
2 department heads to think about it. In case of a major
3 emergency -- example, a tsunami -- do we have an evacuation
4 plan to move 30,000 people out of Lahaina?

5 MR. HIRATA: Yes, head to the hills. That's a
6 simple answer. That's a simple answer, but seriously --

7 CHAIR KALALAU: It's okay head to the hills, but
8 we have road closures now.

9 MR. HIRATA: Seriously, we do have an evacuation
10 plan. And if it's a local tsunami, you know, we only have
11 minutes. But if it's a tsunami occurring in the Aleutians
12 or Japan, we'll have at least 8 hours, 7 or 8 hours. But
13 basically, it's getting the people away from, you know,
14 getting them above the highway is going to be the number one
15 strategy here, so we're going to take those -- we're going
16 to take those 70, 80 officers, and they're going to
17 basically be pushing people above the highway. Their roles
18 can change very quickly, and that's pretty much our job is
19 to adapt to any situation.

20 And if it's an emergency situation like that,
21 we'll move people and get them out and as orderly as
22 possible and save as many lives as we can.

23 CHAIR KALALAU: And it will be your authority to
24 shut the parade down?

25 MR. HIRATA: Any type of emergency, yes, we have

1 the authority.

2 CHAIR KALALAU: My other question was for the
3 crimes or the mishaps that happen during Halloween, is it --
4 is there a percentage difference of whether most of the
5 mishaps that was being done by citizens or visitors?

6 MR. HIRATA: I would have to say most of the
7 people that are violating the rules are probably locals,
8 residents with occasionally you have a few visitors who
9 don't know any better. And they think that because they
10 have their beer bottle in a brown paper bag, it's okay. And
11 that's why I really wanted the liquor establishments to put
12 up some type of notice to say it's not okay to drink in the
13 historical district out in public. You know, I think it's
14 something simple that can be placed right next to the
15 register, cash register, and to let people know it's not
16 okay.

17 Because I've quizzed some of the people we've
18 caught with liquor drinking out in Front Street, and they
19 said that the people said it was okay. I says, no, it's
20 not, so you know, we need to be specifically clear that it
21 is not permissible to drink on Front Street at any time.

22 CHAIR KALALAU: Thank you. Anymore questions for
23 Captain?

24 MS. CALENTINE: No, sir, I do not.

25 CHAIR KALALAU: Okay.

1 COMMISSIONER MOIKEHA: I have a quick question
2 pertaining to drinking. At the Banyan Tree Park, is it
3 legal to drink there?

4 MR. HIRATA: No, it's part of the historical
5 district as well. So even that parking lot, the Friends of
6 Mokuula parking lot, you can't be drinking in there because
7 they've authorized us to enforce any County or public law
8 regarding any violations, so if we find somebody drinking in
9 that parking lot, they can be arrested.

10 COMMISSIONER MOIKEHA: So when you had mentioned
11 as far as illegal drinking this year, that's the portion
12 you're going to be enforcing or age -- what exactly when you
13 say like you mentioned illegal drinking, you're wanting to
14 enforce that more so this year?

15 MR. HIRATA: Everything, under age drinking, dope
16 smoking, whatever, whatever.

17 CHAIR KALALAU: No more questions. Okay. Thank
18 you. Do we have anyone else from the department or from the
19 County?

20 MS. CALENTINE: Not that I'm aware, no.

21 COMMISSIONER PYLE: Can I just ask you a question?
22 Several times it has been mentioned the idea of moving this
23 event out of the historical district, and I would just like
24 to know where you think it would be moved to.

25 MS. CALENTINE: Well, the department's position is

1 mutual on that. We're not recommending that it be moved.

2 COMMISSIONER PYLE: But has anybody come up with
3 an idea?

4 MS. CALENTINE: Yeah, the recreational park behind
5 the Aquatic Center was one location I had mentioned, which I
6 believe is where the Taste of Lahaina has been held for the
7 last several years.

8 COMMISSIONER PYLE: I just was curious. Thanks.

9 COMMISSIONER KAPU: Basically what I want to ask
10 has a lot to do with Pyle's question, too. And this was
11 part of the memorandum that was sent to the department.
12 Departments in the County was questioning this event as to
13 why it was in a cultural place. And this is in just this
14 past year, 2006, so the County is asking why is this event
15 basically in a cultural place. I'm asking the same, too.
16 Why is it in a cultural significant place?

17 MS. CUA: I don't think the County is asking why
18 is it -- I don't think the County is asking that question.
19 I think the reason why we felt it important to ask the
20 Police Department specifically, and you know, we would also
21 be curious to see what the Fire Department would have to
22 say, but I would assume we would have the same answer. They
23 basically respond and prepare. And because during the
24 mediation, and I'm not sure if in previous meetings this
25 also came up, but definitely in the mediation, there was

1 mention of splitting the event, not by the department, but
2 by the individuals at the mediation.

3 They said, well, you know, we don't have any
4 problems with the keiki parade being in the historic
5 district. But what if you removed the remainder of the
6 event outside of the district? And so again, the
7 department, the Planning Department when looking at that
8 question, the first thing that came to mind is, okay, how
9 would we respond to the health and safety of doing that
10 because you have so many people to come to one area, how do
11 you plan for how that same amount of people, that 30,000
12 people, how much will go to the bars? If the street is
13 going to remain open, how many people will be in the
14 restaurants and bars, and how many people would go to
15 another area? How do you even plan for that?

16 And that's why the question we raised was how
17 would that be planned for. And that's why we asked the
18 question specifically to the Police Department, and
19 basically they said that they would just do the best they
20 can to respond to whatever plan was given to them.

21 COMMISSIONER PYLE: I just was curious.

22 COMMISSIONER KAPU: Yeah, I just want to get back
23 to that one question, and that's the handout I got from the
24 County. According to Don Couch, deputy planning director,
25 the County's Planning Department, Department of Planning,

1 there was concerns from Native Hawaiians that the event is
2 too riske. And the department and the County are
3 questioning why this event was in a cultural place, so I'm
4 asking that same question now.

5 You know, I understand that's the old regime from
6 before, but I'm asking the question now based upon, you
7 know, we get this application that basically has to be
8 filled, the special management assessment, which triggered
9 the so-called Chapter 343 HRS, which also triggered an
10 environmental assessment, which there was no environmental
11 assessment because the County exempted it. So the County is
12 asking why this event is in a cultural place. And if the
13 County is questioning why is it in a culturally sensitive
14 place, then why isn't there an EA, environmental assessment?
15 And I would also like to ask if there was a FONSI that was
16 done?

17 MS. CUA: I can respond to that. For Chapter 343
18 compliance, or yeah, compliance with Chapter 343 is done in
19 a number of ways. And first you have to have a trigger, and
20 I believe there's nine triggers. One of which is a use in a
21 historic, a historic district, and the Lahaina Historic
22 District definitely qualifies as a trigger. So whenever the
23 Planning Department reviews an application within the
24 historic district, we have to check for compliance with
25 Chapter 343. So definitely, first off, we know it is a

1 trigger, and secondly, what we look for is is the proposed
2 action an exempt class of action? Can it qualify as an
3 exempt class of action?

4 Halloween is one event of many that is held in the
5 historic district. And a number of these events, as most of
6 you know, when they're a first-time event, they come before
7 the Cultural Resources Commission. But every year if they
8 want to have that same event and they come into the Planning
9 Department, if the event is to the same scale that was
10 reviewed by the Cultural Resources Commission, we review it
11 administratively. And that's what's happened with Halloween
12 for all these years, and that's what happens with other
13 events. We have annual events that occur, and but each
14 event triggers compliance with Chapter 343.

15 And we look through the possible exemptions, and
16 for all of these events, we issue exemptions based on
17 construction or placement of minor structures accessory to
18 existing facilities, and that takes care of all the stages,
19 the port-a-potties, the booths. And so this has been the
20 practice of the department on all of these events. And the
21 reason why there is no FONSI and no draft environmental
22 assessment is because we've issued an exemption for this as
23 well as any other event that has occurred in the historic
24 district.

25 COMMISSIONER KAPU: Okay. So from the first

1 application in 1996, I'm getting by reading the information
2 I got from the County from 1996, this event has been exempt
3 for the past ten years. So what I'm getting to is, okay,
4 ten years ago, you might have had 5,000 people. It's ten
5 years later, 30,000 people. Isn't that enough to trigger an
6 environmental assessment?

7 MS. CUA: The amount of people coming to this
8 event is not the trigger. Again, the triggers are very
9 specific. I don't know -- James, do you happen to have
10 Chapter 343 with you? The triggers are very specific. If
11 you change the County general plan or community plan, that's
12 a trigger. If you have development within the shoreline
13 setback area, that is a trigger. If you establish a use or
14 have an activity in the historic district, that's a trigger.
15 Like I said, there's nine triggers. Something like increase
16 of a number of people in an event is not a trigger.

17 COMMISSIONER KAPU: Let me show you what I got.
18 Exempt classes of action, Chapter 343 HRS states that a list
19 of classes of action shall be drawn up, which because it
20 will probably have minimum or no significant effect on
21 environment, may be declared exempt by the proposing agency
22 or probing agencies from the preparation of an environmental
23 assessment provided that the agency declaring an action
24 exempt under this section shall obtain the advice of other
25 agents, outside agencies or individuals having jurisdiction

1 or expertise to the priority of the exemption.

2 What is that?

3 MS. CUA: I'm sorry, what are you asking?

4 COMMISSIONER KAPU: What is this so-called
5 jurisdiction, the expertise as to the propriety of the
6 exemption? And another thing, who is the one that filled
7 out the permit, the SMA? Is it the County or Lahaina Town
8 Action Committee?

9 MS. CUA: I believe the Applicant filled out the
10 application form.

11 COMMISSIONER KAPU: So isn't the Applicant
12 required for every regulation that is placed in here under
13 the 343 and they checked use of historic district -- use of
14 historic site or district, which triggers, yeah, 343. And
15 the next part on the permit was, if checked, the proposed
16 action is exempt, or if not checked. I'm just trying to get
17 some clarity over here, because we're looking at making a
18 fair decision, but I want to make sure we're in the right
19 for ourselves as well. If checked, does a proposed action
20 qualify for one or more of the following exemption classes?
21 If checked, submit a letter or exemption from the proper
22 authority. If not checked, then the environmental
23 assessment or environmental impact statement is required, so
24 the second portion of the special management assessment was
25 not checked.

1 MS. CUA: I could respond to that, and I
2 understand what you're getting at. And when you look at
3 that application that Commissioner Kapu is referring to, the
4 first part of the special management area permit application
5 talks about Chapter 343 compliance. And it lists -- and it
6 lists the triggers that I was talking about, the use of
7 state or County lands or funds, use of conversation district
8 lands, use of shoreline area, use of historic site or
9 district.

10 In this particular application that is checked,
11 that was checked by the Applicant. Then it goes on to say
12 does the proposed action qualify for one or more of the
13 following exempt classes of action? This applicant did not
14 check any box. And many applicants don't check any boxes
15 because they don't know. They may not be sure as to do they
16 qualify as exempt class of action or not. When the Planning
17 Department receives this application, we confirm that, yes,
18 is there, in fact, a trigger in this particular case? Yes,
19 it is. The Planning Department -- because this is involving
20 use of a historic district or site, the Planning Department
21 is the authority in deciding whether or not an environmental
22 assessment should be done, an exemption or environmental
23 impact statement, and so we look at the possible exemptions.

24 If we find that the proposed activity can qualify
25 as an exemption, we write up the exemption. If you look at

1 pretty much all of the letters, all of the approvals that
2 the Planning Department gives in the historic district or
3 events, for building improvements within the historic
4 district -- even if you want to, if you're a store shop
5 owner and you want to change your windows and doors, then
6 you have to come into the Planning Department to get a
7 historic district administrative approval and a special
8 management area permit.

9 Not only do we give you a historic district
10 approval and an SMA permit, we have to, because you're in
11 the historic district, give you an environmental assessment
12 either exemption or tell you that you trigger compliance
13 with Chapter 343, and you have to prepare an assessment.
14 One proposed type of action that we cannot grant an
15 exemption for is we have instances where people in the
16 historic district want to do a parking lot, a brand-new
17 parking lot on raw land. Well, that is not something that
18 qualifies for an exemption, so all of those parking lots
19 that you see in the historic district that's also within the
20 SMA, they prepared an environmental assessment.

21 But for all of these events, the department has
22 been consistent, whether it's Kamehameha Day, whether it's
23 the Canoe Festival, whether it's Halloween -- I haven't done
24 visits in the historic district for so long, I can't
25 remember all the events. There were many before. I know

1 some of them don't occur anymore, but for every single
2 event, if you look at those approval letters, you will
3 always see a paragraph that deals with the environmental
4 assessment process and an exemption, an exempt class of
5 action for that particular activity. We are consistent
6 about that.

7 COMMISSIONER KAPU: So is the County required to
8 put together a FONSI?

9 MS. CUA: What I just -- the point I made was that
10 when you grant an exemption for any kind of action, you're
11 saying that the proposed activity is exempt from the
12 environmental assessment process, and therefore, an
13 environmental assessment need not be prepared. That's what
14 the exemption means.

15 CHAIR KALALAU: Anymore questions?

16 COMMISSIONER KAPU: No. Before we go on and
17 proceed, we have a few more people here that needs to finish
18 up their public testimonies, we would just like to recognize
19 in our crowd that we have Senator Baker in here. Thank you.
20 And before we continue with our public testimonies, for
21 those of you who testified in our last month's meeting at
22 the Kamehameha III School, your decisions and your words are
23 documented. It's already, you know, record. So if you
24 decide that you want to testify again, and if it's the same
25 information, it's already documented. We'll now open the

1 floor for public testimonies. Our first person is Kirk

2 Kirkpatrick. George Lavenson. Stacie Thorlakson.

3 MS. THORLAKSON: Aloha, Chairman and Members, I'm

4 Stacie Thorlakson, and I'm testifying before you today as a

5 resident of the south side. I have lived on Maui for five

6 years, and I've come up and participated at the Halloween

7 events. And I want to share with you that it's like a mini

8 vacation for me, because I get a hotel room, which is

9 normally required a two-night minimum. And then I'm out

10 dining in the restaurants. I'm utilizing the taxis and the

11 shuttles, and of course, I'm buying memorabilia and I'm

12 visiting the shops on Front Street, so that's recycling my

13 resident money back into our economy, which is so important.

14 And as a former President of the Maui Chamber of

15 Commerce, small business development is huge. And we need

16 to, you know, encourage that. And so then and today, I

17 support small business. And I would also like to commended

18 the Planning Department for doing such a nice job on the

19 Power Point presentation. That was very nice, and to the

20 committees working out the differences. I mean it's nice to

21 see that there can be a win-win situation. And we don't

22 have to focus on the negative all the time. And I would

23 like to also point out that as a volunteer with the Lahaina

24 Bypass Now, we're focusing with Maui County and having the

25 transportation of the Maui buses and more walkable bike and

1 pathways and also utilizing the Kaanapali trollies and this,
2 that and the other. And so I'm sure we can utilize the Maui
3 County buses for the special day of Halloween.

4 And I also know that I've heard on the radio that
5 the Police Department is focusing on the youth, and you
6 know, illegal drugs and alcohol. And that's great, and I
7 hear it on the radio all the time. But it may only be --
8 Halloween may encourage it, but I also disagree with that
9 because kids come home to adults, their parents dealing with
10 drugs or drinking alcohol. And I mean it occurs all the
11 time, and as the Captain even suggested, it's pretty much an
12 even playing field on Monday when he comes in. So again, I
13 don't want us to focus on the negative, and we need to focus
14 on the positive. And lastly, I would just like to also
15 remind you all that if you look at a 10:00 ending time, I
16 think that that will also hurt like the Maalaea ships or the
17 boats that try and carry out passengers to bring them up on
18 the west side to get them -- or up on the south side to
19 bring them to the west side to eliminate the traffic,
20 getting them up here and then going back on the ship at
21 10:00. If that's the end of Halloween, I think that would
22 be a big mistake.

23 So I hope it would still stay until 11. And other
24 than that, I know you'll do the best job. And thank you for
25 listening to my testimony.

1 CHAIR KALALAU: Any other questions? Thank you.
2 The next person is Kim Smith, I think she might have left,
3 too, followed by Becky Lennon and Jerry. Becky. Jerry, you
4 follow her.

5 MS. LENNON: Hello, thank you again for coming
6 having this meeting that deals with Lahaina issues in
7 Lahaina. We appreciate it very much. I'll be brief. I did
8 testify before. I did walk around to the businesses that
9 are in the shopping center where we have our business with a
10 petition that I faxed over. I think you got it you
11 mentioned.

12 MS. CALENTINE: Just today.

13 MS. LENNON: Well, I did bring the original
14 because I know there were issues with the County machines.
15 But these -- I just walked around to people and said, you
16 know, here is a petition, you can look at it, do you support
17 it? Several people said to me, absolutely, it hits me in my
18 pocket book, I'm a server, I work in Whaler's General Store.
19 Other people just said it's fun. If you look at the names,
20 it's Valete, Higashiguchi, Berg, we have the whole mix, so
21 it is important to the people in Maui in Lahaina to their
22 pocket book, not just to businesses.

23 And the other thing that was asked earlier of Sean
24 Corpuel, Cool Cat's across the street from us, was what do
25 you give back, what do you give to Halloween. Well, not

1 only do the businesses support Halloween, which gives them
2 business, but it's also the businesses that made through
3 Lahaina Town Action Committee Festival of Canoes, which is
4 extremely cultural, totally cultural, the business are the
5 ones that support it, they sponsor it, fund it, pay the
6 carvers to come, host them in the hotels, feed them lunch
7 and dinners for two weeks, so it is a community that works
8 together for all the events, cultural and not. Thank you.

9 CHAIR KALALAU: Questions, anyone? Thank you.

10 Jerry was next. Uilani Kapu followed by Donald Schmidt.

11 MS. KAPU: Aloha, Uilani Kapu. I spoke on behalf
12 of the last one, but I feel I need to speak out on this one
13 because this hits home. I blame the County for allowing
14 exemptions in a national historical district. These have
15 been going on for so long. Our history is being abused.
16 Our history, there's so much issues in this. Everybody is
17 saying this is not a cultural event. It's not a cultural
18 event, but it's in a cultural area. It's in a historic
19 district area, and it shouldn't have been allowed in the
20 first place.

21 It's a national historical district. I put a call
22 out to the National Historic Preservations, and I want them
23 involved in it. Because in their guidelines under Section
24 106, if that triggers a problem in the area as sensitive as
25 this, they will step in. And if I have to take it that far,

1 I am. That call is made already. It hurts me to sit here
2 and allow our history being dictated by people that want
3 money, that think of money and think of, oh, yeah, we're all
4 going to party and have fun. Go and do it in another area,
5 not in our historical areas. That's all I'm asking.

6 I'm not telling you guys you don't have to do it.
7 Don't do it in our historical area. I'm sick of it already.
8 I'm sorry. I came in here pono and clear, but listening to
9 everything, listening to the Fire Department, listening to
10 the Police Department, listening to the Liquor Commission --
11 I talk to so much police officers and Fire Department guys.
12 They don't have time for their own families because they
13 have to be in one area to make sure everybody is safe in the
14 County. There's so much issues, and it's so bigger than
15 this. Our historical sites, enough. We have kings and
16 queens that were born in these areas and are still here
17 today that are being trampled on and are being neglected.

18 And you folks sit here with a huge decision to
19 make. You know, my hats are off to you guys, because that's
20 a hard decision. But you know, enough is enough. Cultural
21 Resources Commission, State Burial Council, all of these are
22 to protect our historic sites and iwi kupuna, who were here
23 before us before we started desecrating these areas. And I
24 stand here for my kupuna of the past to say enough is
25 enough. And I will be here and my children will be here,

1 and my grandchildren will be here saying the same thing. We
2 are tired of being dictated by corporate worlds. We are
3 taking back our right and culture. And it's final. I am
4 going by the law.

5 I am taking and I'm teaching my kids that, too,
6 because we used to learn by fists. Now, we don't do that.
7 We do that by palapala, because the white man brought it
8 here. The white man told us to put on the clothes. The
9 white man brought us the Bible. We believe in all of this.
10 We pray to akua every single day. Akua is not just the
11 church. Akua is everything that we touch, everything that
12 we consume, so this is much more than this palapala in front
13 of you. The community has hurt. The community has broken
14 in half. Our kupuna shouldn't even be in here. Our makua
15 should be here speaking for them. How dare we allow our
16 kupuna stand over here and spill their hearts out and that
17 the corporate world sit back there and laugh. Not anymore.

18 COMMISSIONER ARTATES: Three minutes.

19 MS. KAPU: Mahalo.

20 CHAIR KALALAU: Thank you. Questions, anyone?

21 Donald Smith. Donald Smith, not here. Joan
22 McKelvey followed by Rina Sampson.

23 MS. MCKELVEY: I'm Joan McKelvey. I already
24 testified at the first meeting, and I really have nothing
25 more to add other than to say that this event has been

1 happening for the past 20-plus years. It's an event that is
2 enjoyed by all of the community with a few exceptions, and
3 Lahaina Town Action Committee have taken over to operate and
4 handle the event. They've done a wonderful job, as the
5 police and the fire and everybody else has testified, and
6 I'm asking you that you allow them to continue to do this
7 and make it a clean, healthy, fun, enjoyable event with
8 music and activity for everyone. Mahalo.

9 CHAIR KALALAU: Thank you. Rina Sampson followed
10 by Dizon, Albert.

11 MS. SAMPSON: Aloha, thank you for the opportunity
12 to make this testimony on behalf of the owners, the
13 management, tenants, employees and customers of the Wharf
14 Cinema Center. We would like to submit into record a tenant
15 memorandum along with six pages of signatures in support of
16 a continued safe, fun and organized Halloween. We all
17 belong to a center that has been a part of Lahaina Town
18 since 1978 and have always made Aloha and concern for its
19 welfare. We ask that the Cultural Resources Commission
20 grant Lahaina Action Committee its permit as requested,
21 which would ensure that Halloween will continue to be safe
22 and a fun event for all concerned. With much Aloha, it's
23 signed by my general manager Donna Soares, and myself. I'm
24 director of marketing at the Wharf.

25 CHAIR KALALAU: Thank you. Questions,

1 Commissioners. No questions. Thank you. Albert followed
2 by DeAnn Kaina.

3 MR. DIZON: My sir name is Albert (inaudible)

4 Dizon. Let me introduce myself to the public, please.

5 I'm one of the linear descendents of Lahaina. I

6 represent Kupule ohana. My family has been here since

7 Kamehameha. My ohana, I represent my ohana. Kaua'ula is a

8 sacred place. So is Makuula where once the kings used to

9 come. As a linear descendent, it is our way to take care of

10 kupuna, our sacred sites and everything. I am 57 years old.

11 I came back 1971 from Vietnam. And a lot of desecration is

12 still going on. A lot of money is still going on. I've

13 been there, done it, and I still see it. All it is is the

14 kala. But what about us that has to malama aina, malama

15 sacred site, heiaus that our kupuna has put down to us?

16 What about us? All of you who are non-Hawaiians, I'm not

17 putting you guys down, but you are not the hosts, period.

18 We're the hosts. We're the one taking all this inside from

19 generation to generation from me to my moopuna down to -- I

20 got to teach them to protect, because this is the place that

21 was once the royal place.

22 From the library, they desecrate, put bath rooms,

23 the royal taro patch. The banyan tree, that's the biggest

24 pilikia they went put there when it was once the taro patch

25 of the alii. And all that this thing does is get rubbish.

1 So don't tell me and my grandchildren that we are nothing.
2 I stand for my kupuna ihala. I walk the steps of my kupuna.
3 I'm not going to see that. I hate every time you guys talk
4 about money, money, money. We don't have plenty money. But
5 we get our love from our kupuna ihala. And you know, pule.
6 That's the only rich way we have. We no want money. Money
7 doesn't take us anywhere. It doesn't open the gates of
8 heaven. It doesn't.

9 I still a mad kanaka. That's what you see,
10 because my grandchildren and their children from now on
11 going suffer because of this. And I going leave one day to
12 feel, too, I leaving my grandchildren behind to face more of
13 this, more discomfort. Aole! What you see is a man in
14 sorrow, in need of doing things right. This was the
15 capital. How beautiful this place was, Lahaina. Had the
16 biggest taro patches you could ever see from mountain to the
17 sea. Only because the Hawaiians left the plantation, aole
18 now. Everything is gone. No more. There's only a few left
19 up in Kaua'ula. So don't tell me I cannot go back to my
20 children and grandchildren that you're going to take this.
21 What about us, who are not rich in money, but rich in
22 spiritual? And that's what holds us together. You guys
23 don't see the point. We're not here for the money.

24 The money, you cannot take your money with you
25 when you die. Some of you guys go church, huh? They don't

1 teach you that? When dakine, the event, this come, you
2 guys, oh yeah, all about making money. We going home with a
3 couple hundred dollars. Next day, same, back to normal.

4 COMMISSIONER ARTATES: Three minutes.

5 MR. ALBERT: Can't we find another place, another
6 thing to satisfy you guys? Move them if you guys got to
7 move them, but no forget the kanaka. We never forget about
8 all you different personalities out there. We never forget.
9 But we the host, and we the ones that are holding the
10 ground. When things don't work, we got to paa and stand in
11 front of all of you guys looking at me. Mahalo.

12 CHAIR KALALAU: Thank you. Following DeAnn is
13 Vicki McCarty.

14 MS. KAINA: Albert, I think you made the
15 microphone scared. Aloha, my name is DeAnn Kaina, and yes,
16 I did testify at the last meeting. And I'm privileged to be
17 here again to testify on behalf of -- in my opinion, you
18 know, if it's possible, like our chief of police of Lahaina
19 historic district said, you know, keep it in a more
20 controllable environment or place. And if it be possible,
21 to move it, you know, behind the Lahaina Aquatic Center.
22 And you know, we would appreciate that. My questions to you
23 before I begin, keep in mind, what do you know about our
24 national historic district? And by the way, how many of you
25 live here in Lahaina? All of you? Just one, okay.

1 How many of you can truly say through your
2 mookuauhau or geaneology you can trace your lineage back to
3 Lahaina? And before you came here this morning before this
4 meeting, did any of you take the opportunity to go to Waiola
5 Church to pay your respect to our Kupuna Keopuolani as well
6 as Nahienaena alii and all those other even Christian
7 missionaries buried there to pay your respect before coming
8 here? Now, if we have only one person who lives here in
9 Lahaina, how about the rest of you? You know, my family and
10 I when we travel to Hana and before we get to Kaeleku, Uncle
11 Bully Hoopai would take us down to Hulaenu. I don't know if
12 you're familiar with this area. But he would take us down
13 there. Why? Because to go visit Piilani Hale, and the
14 reason why is to give hookupu or offering to pay our
15 respect. Although we, the children, are not from Hana, but
16 our mother is and her ohana, okay. Keep in mind, all right.

17 Our aha kupuna or kupuna conference that we had on
18 Lana'i last year regarding Hawaiian studies for the
19 Department of Education, you know, that first day, we took
20 the time -- you know at the ILWU, Nani, there's that
21 Veteran's cemetery? And then you go up, the other new
22 Veteran's cemetery are Auntie Elaine Kaupuiki and all those
23 wonderful veterans are buried. We took our time to pay our
24 respect there. Okay. Before I move on, keep in mind, these
25 people, Tutu Luciana, Tutu Sam Kalalau, Uncle Malaikini,

1 Tutu Kilinahi, Auntie Lanihau, Uncle Kamalana, Uncle Sam,
2 Uncle Sol Kaupuiki, Auntie Elaine Kaupuiki, Auntie Mamo
3 Fernandez, the Oshimas, Auntie Pua Paoa, Uncle George Paoa,
4 Kaohana Kawenaole. How about Auntie Amy and Uncle Sol
5 Moikeha? How about Uncle Jubilee Moikeha? How about Tutu
6 Lihau Kaaihui and the Waiwaiholes? How about Uncle Sam Kaai
7 and how about Kupuna Poepoe, Kupuna Kaalakea, Kupuna
8 Kaanana? Keep in mind all these people.

9 Now, those of you who are not from Lahaina, you
10 know when you throw a pebble into the water and it ripples,
11 right? There's that trickling effect. Think about it. If
12 this was to come to Lana'i or to Hana, how would all of
13 these people feel? How would you feel? I'm just trying to
14 draw your attention back to your kupuna and the decision
15 that you have to make today.

16 Now, getting back to the chronological history of
17 Lahaina district, this is just to kind of huli your mindset
18 for a moment to draw yourself back to the journey of
19 Lahaina's past in 1778 of what took place, 1786, 1790, 1793,
20 1795 when Kamehameha I was on Maui with a fleet of war
21 canoes. 1802 to 1803, 1802 to 1850. Lahaina was
22 intermittently the resident of the ruling king and during
23 that time served as the capital of Hawai'i. In 1819, of
24 course, we had the whale ships began to arrive in Hawaiian
25 waters. The first of these were called the Mary, Belinda,

1 Duke of Bedford, the Auau Sea or Channel between Lana'i and
2 Lahaina. And how this Auau Channel would allow these fleets
3 to come in or at least to make its way, okay, due to the
4 knowledge of the navigator or the captain of these ships.

5 1820, High Chiefs Kalanimoku and Boki lived here
6 in Lahaina. 1823, the first Christian mission is
7 established. 1823, of course, Keopuolani was the Kapu wife
8 of Kamehameha I and the mother of Kamehameha II and
9 Kamehameha III, died here in Lahaina. 1823, Kamehameha II,
10 wife Kamamalu and party sailed for England. These are
11 historic mana'o or knowledge of our Lahaina itself.

12 The reason why I bring this up, okay, think about
13 the ha ola, the birthing stone, you know, in the front of
14 the Lahaina library. The birthing stone that gave life, the
15 beginnings of our alii, even Piilani all the way back to the
16 16th Century, okay. That is the piko stone of our national
17 historic district, which makes this very, very important,
18 okay. Keawaiki, the Auau Channel, the Peleliu fleet of King
19 Kamehameha I, and there was 800 or even more and then some.
20 The battle at Lahaina. You know, this fleet regarding the
21 Peleliu fleet of Kamehameha I, it extended from Launiupoko
22 all the way to Mala. And it is said that there were so many
23 canoes, could jump from one to the other.

24 I want to bring up the whalers and traders. World
25 War II military vessels, cruise ships, all these provisions

1 come into our town. I want to bring up Luaehu, that brick
2 house, okay. And there was a hale moa, a hale waa, all of
3 these things.

4 COMMISSIONER ARTATES: Three minutes.

5 MS. KAINA: The lo'i Kaua'ula as was mentioned,
6 the Baldwin house. Think about Governor Hoapili, Luakini
7 Street and all the main heiaus that are around within that
8 area. The Royal Tomb, as I mentioned, how many of you took
9 the time to go and visit our kupuna before you came here?
10 Mokuula or mooakua, our family genealogy, our moopuna, our
11 mookuauhau, our moolelo, our kuamoo, all of these things is
12 in connection to what is our national historic district and
13 why it's so very important. Now what does Halloween got to
14 do, and how does it connect? That is my question.

15 You know, the police would have to do whatever the
16 Planning comes up with. And the only thing about it is that
17 they have to make more and more -- they have to come up with
18 provisions of their own in order to control this whole
19 thing. But my concern is like Chief Hirata said, keep it
20 more in control, and maybe move it. Move it. Thank you.

21 CHAIR KALALAU: Questions. No questions. Okay.
22 Thank you. Our next speaker is McCarty, Vicki, followed by
23 Mr. Makekou.

24 MS. McCARTY: Thank you. My name is Vicki
25 McCarty. I want to thank the kupuna for, once again, coming

1 and taking up this fight for all of us. I would like to
2 thank you for coming and hearing this testimony in Lahaina.
3 I must apologize to those of you on this side. If I have my
4 back to you, I'll apologize. Please forgive me.

5 I testified before at the other meeting, the CRC
6 meeting, and at the end of the meeting, I heard the chairman
7 instruct the Lahaina Town Action Committee and the County to
8 make sure that all parties got together, voiced their
9 concerns, discussed all of their issues so there could be
10 some resolution. You've heard a description today by the
11 County on what those meetings were like. I would like to
12 tell you what they did not tell you. There were two
13 meetings. The Lahaina Town Action Committee called the
14 first meeting and only invited selected kupuna.

15 They left out the other -- the other groups and
16 the other people. When I asked them -- I was fortunate
17 enough to be there. I was invited by auntie Patty. When I
18 asked them why they left out the representative from
19 Hui O Waa, I was told they didn't want them there. When I
20 asked them why they left out the representative from Kuleana
21 Kuikahi, I was told they didn't think they needed to be
22 there. When I asked them why they left out
23 Mr. Kamakawiwoole and the Kaaina ohana, I was told they
24 didn't think it was necessary to have them there. So over
25 much objection by myself and the kupuna that were there,

1 they agreed to have another meeting.

2 They limited the number of people that could
3 attend the second meeting. It was Theo Morrison's feeling
4 that if more people than five came on each side, it would
5 cause too much discussion, so she suggested that only five
6 people come, five merchants from the Lahaina Town Action
7 Committee and five people on the other side. I asked her if
8 we could have a fair representation by the merchants, not
9 only merchants that stayed open during Halloween and made
10 money on the event, but also merchants that chose to close
11 their businesses because they found it too disruptive or too
12 damaging to their business, and she assured me that that
13 would happen.

14 When we met for the meeting with the County, two
15 kupuna were turned away. They actually closed the door so
16 that two kupuna outside could not hear what was happening.
17 At one point the day before, they refused to meet if certain
18 members of the community came to voice their opinion. When
19 we got to the meeting, we were told by the County and by the
20 mediator that we were there to resolve the issues, which we
21 agreed to do. However, the County acted as the advocate for
22 the Lahaina Town Action Committee. When we suggested --
23 when we made suggestions such as closing down the band
24 stands early, not only did the Lahaina Town Action Committee
25 refuse, but the County took up their position and told us

1 why they were refusing and why it wasn't going to happen.
2 When we made the suggestion that the two permits be split,
3 that the keiki parade make their own application and that
4 the other party afterwards make an application or perhaps
5 move, we were laughed at. We were scoffed at. We were told
6 that would not happen.

7 When the mediator asked us if we would please
8 agree to letting the bands close down at 10:00 and the rest
9 of the affair at 11, because we had concerns about crowd
10 control, we agreed to that because we were there to mediate.
11 The other side said no. The attitude for the whole meeting
12 and the position that was presented to the kupuna was that
13 their issues didn't matter. This was not spoken, but it was
14 an underlying issue. The underlying attitude from the
15 Lahaina Town Action Committee was this is our town, this is
16 our parade, and none of you have any right to say anything
17 about it.

18 At one point, the planning director in frustration
19 after hearing about how it was their event suggested that
20 they not bring that up again, and he left the room.

21 COMMISSIONER ARTATES: Three minutes.

22 MS. McCARTY: While you're listening to the rest
23 of this testimony, I would like for you with an open mind,
24 as I'm sure you have because you're here today, keep in mind
25 that there are two sides to this, to this issue. You know,

1 one hand is making money and think it's great. They tried
2 to compare it to Sacred Hearts Bazaar. They tried to say
3 that the other events in Lahaina Town are the same. Are
4 there any other events that invite 30,000 people into
5 Lahaina?

6 You know, Captain Hirata mentioned the Dalai Lama.
7 If you went to see the Dalai Lama, there were 11,000 people
8 there, and you had to go through metal detectors, and you
9 weren't allowed to carry anything into the facility because
10 they were afraid and wanted to make sure that crowd control
11 was safe. You can come to Lahaina with 30,000 people in a
12 disguise, and there are no safety issues? In the
13 information from the County, they talk about what the
14 planning requirements are for toilets. We're going to waive
15 that and let 200 people deep stand in front of each toilet.
16 These are sacred sites. They don't want to spend the money
17 on the extra port-a-potties.

18 They want to put these port-a-potties at the site
19 of the king's lo'i. Is that appropriate in a historic
20 district? I would also like to direct you to page 4 of the
21 special management area in the application. The very first
22 question says, "Affects natural or cultural resources," and
23 the Applicant said no, although it's in a historic site.
24 Down the way, it says, "Are there any adverse -- are
25 there secondary impacts such as population changes?"

1 They've said no, although it brings in 30,000 people.

2 They are saying one thing, but they are doing very
3 much another. The last thing I would like to draw your
4 attention to, when the issue came up that this was being
5 advertised as a party -- now, they say that it's a keiki
6 parade, but really it's a party for adults. They agreed not
7 to call it the Mardi Gras of the Pacific. But just this
8 morning I pulled this off of the Lahaina Town Action
9 Committee's website. It's the write-up they have for
10 Halloween in Lahaina. And very briefly, it describes it,
11 and then it says, "Over 20,000 revellers come to Front
12 Street on Halloween night." If you look up, if you just
13 click on your computer, right click it for synonyms and
14 meanings, revel means drink. The synonyms are drink, get
15 drunk, party, raise the roof, go on the town, paint the town
16 red.

17 Now, if they were serious that this was a family
18 event, don't you think they would have changed their
19 website? It is what they want it to be. What they want it
20 to be is not appropriate for a historic district and these
21 cultural sites. Please take that into consideration when
22 you're hearing the rest of the testimony and you're weighing
23 these issues, and please ask the County why they have given
24 an exemption in spite of what the application states. The
25 application is very clear. Anything, public funds, the

1 historic district, secondary impacts triggers an EIS.

2 Mahalo.

3 CHAIR KALALAU: Thank you. Mr. Makekou followed
4 by Palani Wright and Reverend Hoffman.

5 MR. MAKEKOU: I waited so long, I forget what to
6 say. Okay. My name is Charlie Makekou, gentlemen, ladies
7 and gentlemen. I'm looking for my papers. I'm supposed to
8 have it in my pocket. Never mind. My kupunas are concerned
9 what nobody else except for a few have said, the dangers
10 that lurks in the dark of what you call Halloween. With not
11 30,000-plus people, it will be 35,000-plus, because you'll
12 be having a cruise ship inside. Plus you'll have the
13 Superferry. Oh, how grand. And then plus you don't have
14 two airlines anymore. Now you get four, so go. What I'm
15 trying to say is that the danger comes from people that do
16 not value life.

17 In this world today, life to these people is
18 nothing. Easy for them. Load themselves up with bombs and
19 then pull the string, boom. With 30,000 people in an
20 enclosed area with a boom, how many go? Plenty. On top of
21 that, we know that we have our Police Department. We know
22 we have our firemen or Fire Department, and we have other
23 people that is acting as security. But that security is so
24 minimum. They don't realize the danger that lurks in the
25 dark. I only wish that I would have asked Captain Hirata

1 did he touch bases not only the County issues, but with the
2 state authorities. Did he go one more step beyond the state
3 authorities? They call that Homeland Security. Just
4 because we live in the middle of the ocean, you think that
5 we are immune from these kind of people? No, we're not.
6 They're just waiting for an opening like this. And we are
7 giving them maybe this year, but this depends on you.

8 Because when it happens, cross out all you folks'
9 papers. There will be no longer historic Lahaina. They're
10 going to have only ashes remain. Plus with all that
11 disaster, I'm not really blowing this out of proportion, but
12 everything I read in newspaper, watch the TV, the news, it
13 happens. Our medical emergency system, we have no immediate
14 facility to take care of all these people if things like
15 that happen. It's way on the other side of the island.
16 Then we have two ambulance, great. When you have 50 people
17 lying on the ground, what are you going to do? And then if
18 this should ever happen, who should we blame, you people to
19 give them okay? No, I know you won't do that. Or is it
20 Lahaina Town Action Committee? Somebody got to take the
21 blame.

22 And the way I sat down all this morning and now
23 this afternoon, it's all nicey, nicey, let us have it. The
24 Halloween, everybody is going to have fun. Do you think
25 they're going to have only fun? They're going to have more

1 than that. Because I ask you people maybe we can make them
2 cry by saying no because you have not really done your
3 homework. Go back and do your homework, and come back and
4 see us again if it is possible.

5 Ladies and gentlemen, I thank you for this
6 opportunity to tell you these issues because nobody did come
7 up and say these things. They may call me one nut. I tell
8 you who the nut, the guy burning all up on the mountainside.
9 Did they catch him yet? No, they never catch him. And you
10 think he can't start it downtown in Lahaina? Like I said,
11 somebody got to take the blame, and there's the shadow
12 lurking in Halloween night. Mahalo.

13 CHAIR KALALAU: Thank you. Palani Wright followed
14 by Reverend Hoffman. Palani is not here. The Reverend.
15 Okay, Richard McCarty followed by Roz Baker.

16 MR. McCARTY: Good afternoon, I'm Richard McCarty.
17 I spoke at the earlier meeting, but some things have come to
18 mind today. I would like to add to what I've said earlier.
19 I think if you look at what's occurred during this whole
20 proceeding, you're going to understand how important it is
21 to our community that you guys are here. Because a lot of
22 us unfortunately don't know about Hawaiian culture. A lot
23 of us may not care. But what's happening in Lahaina Town is
24 the culture is being pushed back more and more on the shelf
25 all the time, and it's important that you make sure that

1 doesn't happen. Now, some of the people, and I know there
2 hasn't been a lot of input to you about culture in Lahaina,
3 and I think as good business people, you need to have that
4 information to make a good decision about whether or not
5 it's appropriate for this event to occur in a historic
6 district.

7 So some of the testifiers referred to one thing
8 that really comes to mind for me because I remember hearing
9 about it before. King Kamehameha was a great leader, and
10 one reason he was great is because he had great followers.
11 And he had a taro patch, a lo'i at the site of the hospital.
12 Some of the pohaku are still there. And he would go out
13 every morning and work that lo'i. Why? It was a great
14 educational tool for his people. First of all, he reminded
15 them how important their oldest brother was and that they
16 should recognize him as a matter of sustenance. But
17 secondly, he taught them that he wasn't too good to work,
18 and they respected and admired him and followed his patterns
19 and worked themselves.

20 So what are we going to do if this proposal goes
21 through at the very site of that great educational event?
22 This is where we're going to put the toilets. We're going
23 to invite people in to pee in that area. Is that culturally
24 appropriate? No. This second thing that I think you have
25 to understand in looking at this is not only is this

1 appropriate, but has the application process been
2 appropriate. Now, we've heard words today that there's some
3 kind of an exemption floating around. The public hasn't
4 seen that. The public has had no opportunity to comment.
5 It sneaks in at the last minute, so it can kind of be
6 shuffled over here as of no consequence. That's not right.
7 That doesn't invite or maintain the spirit of public comment
8 or communication. I would ask you to look at that
9 exemption. And they said that it says, well, it's okay to
10 put up a tent because it's only going to be up for one day.
11 But does it address the real issues about whether this is
12 culturally appropriate? No.

13 The County has been an advocate in this, and I
14 think that's unfair to you because you don't get objective
15 information. And you're asked to base a decision, important
16 decision on facts that have been skewed in some way to hope
17 that you will allow this to happen. So my position is that
18 it's inappropriate for two reasons for you to agree to this
19 application; one --

20 COMMISSIONER ARTATES: Three minutes.

21 MR. McCARTY: One is there was no exemption
22 attached when it was filed, which the rules clearly require
23 if there is an exemption so that the public could comment
24 about it; and secondly, it just isn't right. If it's going
25 to happen, all those historic areas should be corded off so

1 these inappropriate things don't happen there. And I hope
2 that you agree with me that it's totally inappropriate from
3 a cultural and the human standpoint to ask people to pee
4 where Kamehameha had his lo'i. Thank you.

5 CHAIR KALALAU: Thank you. Questions. Roz Baker.
6 Is there anyone in the public that did not sign up but wants
7 to testify? Okay, he raised his hand first. Please come
8 you and state your name and then you can come up after him.

9 MR. KAMAKAWIWOOLE: Aloha, my name is Francis
10 Kamakawiwoole. I did speak at the last meeting, but I
11 wanted to just add some things. Sometimes the people that
12 lack this feeling of why we're here and why we feel so
13 "uhhmmm" about this, it's like comparing sending all those
14 35,000 people of Halloween to walk around the Vietnam
15 Memorial or to walk around Washington Monument, to walk
16 around on Kealini's grave, to walk around Punchbowl, go walk
17 on all those people, that's how we look at this here. So we
18 come with this eha and try to tell you or express it to you
19 how much this means to us.

20 So what I'm going to do is I'm going to accept
21 your oath of office as a binding and bilateral contract
22 between you and me so that you uphold the promises that all
23 of you made as Commissioners and that you will uphold all my
24 rights to look at that is anything falling short of it is
25 treason. They didn't make Lahaina as a historical place for

1 nothing. It holds the same respect as the haole monuments
2 in Washington, D.C., same as Punchbowl, same as Pearl
3 Harbor, no difference. Halloween at Pearl Harbor, Halloween
4 at Washington Memorial, Halloween at the Vietnam Vet's War.
5 Don't even have to talk. Don't have to listen to all the
6 merchants over here, the Front Street mafia. They run
7 everything down there. I no go Front Street.

8 Before had all you could go to Yamamoto's, Habo,
9 Murikawa's, Sunset Freeze. You could go through all of
10 that. That's where when the locals was down at Front
11 Street. No more now. When our kids -- I have a ministry
12 called the Proud Hawaiian Society. I take care of boys that
13 come out of gangs. I bring them out of the gangs. When
14 they were trying to do good, I had them wear their shirts so
15 the policemen wouldn't hassle them down Front Street.
16 Because the merchants was saying, oh, we get all these youth
17 running around. They're all gangs. They get all the gang
18 paraphernalia and all of that, so the Front Street mafia,
19 they all go grumble send somebody go talk to the Cap, talk
20 to the mayor, now talk to the Cap. Now the policemen
21 picking up all the kids telling them for beat it.

22 It was a blessing that I knew the chief, told him
23 at that time. And I told him this is what I'm doing, and
24 one of the detectives that he went send to me told me, hey,
25 no go turn it into some sovereignty bullshit. I called him.

1 I told him what this Japanese man have to do with this? He
2 don't belong here. Everybody else never come here. My
3 mookuauhau can go to the fifth migration to from Kahiki. I
4 belong here, so anybody say I going be deported. Where? I
5 belong here.

6 I hear others talk, oh, I've been here five years,
7 I've been here four years, I've been here 15 years. So
8 what? I got six generations on my hand that been here
9 longer. Culture. I no think that any other island would
10 like this. They say, oh, we're going move them someplace
11 else. Fine, go move them in the (inaudible). Go move them
12 someplace else, not where our alii was born and raised.
13 Lahaina, maybe the facade of Lahaina is historic. It's only
14 the facade, only the outside of the building. Because
15 inside the building, you get AC, you get running water, you
16 get toilets, you get everything.

17 You we listened to this board today talk about
18 Mike's windows. This is more important than Mike's windows.
19 I hold you to your oath of office to do the right thing and
20 to look it in the comparison of the Washington Monument,
21 Punchbowl, Pearl Harbor. Front Street, it's the same.
22 Leilehua, not Lahaina. We wouldn't want this in Hana,
23 wouldn't want it in Lana'i, Kipahulu, Kaupo. No, because
24 that's not part of it.

25 COMMISSIONER ARTATES: Three minutes.

1 MR. KAMAKAWIWOOLE: And if I said anything that
2 offend anybody, I'm sorry. Mahalo.

3 CHAIR KALALAU: Thank you.

4 MR. ELKIN: Aloha, my name is J.J. Elkin. I'm a
5 member of the Lahaina Action Committee. We're also the
6 holders of 505 Front Street. I would like to state at the
7 very beginning that Halloween is not something that
8 economically is good for our center. It's a poor night for
9 our center. It's not good, so I'm not here to argue on
10 economic grounds. It seems to me there are really two
11 discussions going on here. The first one is the narrow and
12 proper legal discussion, an application has been made for a
13 permit. We all know that Halloween is going to occur
14 whether or not something is done by LAC or is not done by
15 the LAC. And if you look at what the application says, in
16 essence, it's saying we at LAC take on the responsibility on
17 behalf of the community to try to create some type of order
18 rather than disorder in this night, which is going to occur
19 anyway. And it seems to me that the real narrow decision
20 for the CRC is to decide whether or not the mitigating
21 circumstances are correct, if a port-a-pottie should be put
22 over here rather than over there and all the details. But
23 it's going to occur, and the question is what are the
24 mitigating circumstances. That's to me the issue.

25 Now, there is another issue going on, which is not

1 really part of what is before you. But I think it's very
2 important to deal with it. It is this. The people mostly
3 who argue with all these mitigating circumstances trying to
4 put extra restraints on Halloween and the permit, their real
5 objective is to destroy Halloween. The bottom line is,
6 you've heard it from the speakers, they don't want a
7 Halloween. Okay. And you've seen -- they say the
8 following. This is the argument. Lahaina, it's a Hawaiian
9 place. It's a historic place. It's a Hawaiian place, and
10 this is sacrilegious or inappropriate, whatever word you
11 want to use. And that's not really the issue that's before
12 you. But it's been discussed, and I think it's very
13 important to air it.

14 And I would respond in the following way. And I
15 know that some of my friends in the Hawaiian community are
16 not going to be very happy to hear this. But number one,
17 the CRC is not a Hawaiian CRC. It's a Cultural Resource
18 Commission, not any one culture. People talk about the
19 responsibility that you have. You have a responsibility to
20 different cultures, not one culture. Now, we all want to
21 push the Hawaiian culture, do whatever we can to bring back
22 as much as we possibly can, but we do not want to do it at
23 the exclusion of other cultures. For instance, July the
24 4th, is that insulting to somebody who is not very happy
25 about 1893?

1 Is this an insult to have in Lahaina the
2 celebration of United States Independence when Hawaiians
3 lost their independence? That is not the issue. We say
4 this is United States of America. It's a free place. We
5 celebrate that. The Chinese, the Chinese have their new
6 year. There's a celebration. Is there something
7 inappropriate because it's a Hawaiian place? Let us
8 celebrate the Hawaiians. But let us remember it is a
9 celebration of different viewpoints. There are a lot of
10 people who like to come and have a good time in Lahaina.
11 Yes, there are abuses. You know what? Go out tonight and
12 you'll see the abuses that occur every day with drug dealers
13 and other problems. There are always problems.

14 But the point is a lot of people feel great warmth
15 towards Lahaina, want to come here and celebrate for one
16 night. I don't like it personally. That's irrelevant.
17 They have a right. This is the United States of America.
18 So what I say to you on this very important issue, which is
19 not under discussion but has been discussed, is that the
20 Cultural Resource Commission for everybody. Thank you.

21 UNIDENTIFIED SPEAKER: Halloween is not a culture.

22 CHAIR KALALAU: Did we have someone else that
23 wanted to testify today but did not sign up? We're going to
24 call a short recess right now, and we'll get back in five
25 minutes.

1 (Recess taken.)

2 CHAIR KALALAU: We'll now reconvene with the
3 Cultural Resource Commission meeting. We have a speaker.
4 Please state your name.

5 MR. ASHFIELD: My name is Steve Ashfield, and
6 there was a couple of things I just wanted to -- somebody
7 spoke about the permits being together for parks. They're
8 not together. The keiki parade is separate from the permit
9 for Lahaina Town Action Committee. The keiki parade is for
10 the Soroptomists, and the Lahaina Town Action Committee for
11 the later stuff going on under the banyan tree. You have a
12 very easy decision. It's either yes or no. If you say yes,
13 we have somebody to blame if something goes wrong and
14 anything that happens at Halloween. If you say no, then you
15 won't have anybody to blame. I would say why don't we do
16 something cultural and say why can't we get Akaku or
17 somebody else to make a film about all the different places
18 in Lahaina that are very important and cultural and run it
19 at Campbell Park while Halloween is going on at night and
20 say on a loop and just keep running it and running it and
21 running it. And maybe people, maybe like they sit on the
22 plane and almost watch that thing that goes on, can get some
23 culture out of Hawai'i or out of what Lahaina means.

24 Because let's face it, the Hawaiians didn't ask
25 white people like me to come here, but we came. And we

1 liked it, and we stayed. And then we asked other people to
2 come. And that's what's happening on their website, which
3 the lady brought up, they're asking people to come. Well,
4 unfortunately, this year it's almost too late. These people
5 are coming.

6 Now, if we don't have somebody to really take care
7 of it and put up the bathrooms and that stuff, there's more
8 places that unfortunately that are going to get peed on. I
9 know it's going to be hard for you to say no, and it's going
10 to be hard for you to say yes. But you have to make that
11 decision, and the decision seems to be that these people are
12 going to come. Do we want somebody to be in charge that we
13 can yell at and try to get something out of if we can?
14 Because all the other people in town, it's really great,
15 they're going to make a lot of money. Yeah, money again,
16 but if we try to move it, think about moving it.

17 We can move it over to where they have the Taste
18 of Lahaina. But where are those people going to go and get
19 their drinks and go to bars? And where are the bars going
20 to advertise? They're going to advertise in town. So how
21 do you get the people from town over to there and not run
22 them over? Also the Internet is scary. Halloween does have
23 a culture. It started in 5 B.C. and it was to stop the dead
24 from taking the bodies of the living people. And what they
25 did is they ran around like ghouls and shut off the lights

1 and went crazy and got all dressed up so the dead people
2 wouldn't come inside their body because that be would their
3 after-life. So it is a little crazy, and it will be that
4 way. But the Internet scares you, and again, we're asking
5 people to come, not us particularly, but all the bars in
6 town and all the hotels.

7 And they said something about money, about who is
8 paying the police. Well, we have something called a TAT,
9 which is about 7 and three-quarters percent of room rentals.
10 If 30,000 people are here, I'm figuring 15,000 people live
11 here and come here. They're not renting a room, but 15,000
12 people are renting rooms. Okay, a three-person room, that's
13 5,000 rooms. \$300 a room, that's \$1.5 million. Seven
14 percent of that is \$105,000. That might pay for the police
15 I think, about \$20,000 it costs for the police. So there is
16 money to be made by the County, but let's not look at money.
17 Let's look at maybe we can make a cultural thing out of it,
18 run some kind of film or something, have something cultural
19 going on, if you say yes. If you say no, then you'll have
20 to find some way to make it cultural. Thank you.

21 CHAIR KALALAU: Thank you. Questions. Do we have
22 anybody else that signed up? Okay. Anybody that didn't
23 sign up that wants to testify? Okay. Please come forward
24 and state your name.

25 MS. DIZON: My name is Yolanda Dizon from Lahaina.

1 I also testified at the last meeting, but I just wanted to
2 share something a little bit more. It might seem impossible
3 to stop what's going on with Halloween with you guys. I
4 don't know. That's your jobs. All we can do is share
5 mana'o. One word sticks in my head, respect. That's all we
6 ask is respect. There's so much ho'opa'apa'a between our
7 families, between the corporations here, and it shouldn't
8 be. Just respect. Remember that. Mahalo.

9 CHAIR KALALAU: Thank you. Questions anybody? No
10 questions. Anyone else before we close this portion of
11 the --

12 MS. NISHIYAMA: My name is Patricia Nishiyama,
13 Auntie Patty Nishiyama. All I want you folks to do is to
14 make a very good decision about how we will pass on our
15 culture of Lahaina to our children in the right way. I
16 don't want them to grow up and think that Lahaina is all
17 about the Pacific, the Mardi Gras of the Pacific. We -- how
18 we got this was when the kupuna was not very happy about the
19 video that they saw that was run for two years. It was a
20 very, very bad video. And people, our kupuna Kahu Wayne
21 Carroll was very disappointed that they had -- he walked
22 Lahaina town. And he said it was -- this should never had
23 happened here in Lahaina or anywhere else when people just
24 put paint on their body and walk around with nothing on it.
25 What I saw was people walking around holding a false penis

1 in front of children. That is not very maikai. So I don't
2 want our children to even focus or watch this on television.
3 And because my moopuna saw it on television, and they felt
4 this was the crazy people from the mainland running around
5 naked, so I want my children, my moopunas and the future
6 children to know what Lahaina is all about in our rich
7 culture of the aliis, where the first -- the first
8 Constitution that was made in Lahaina.

9 The sacred stone that the women went there when
10 they were pregnant and they sat on it, Mokuula, and many
11 more. You know, I want them to know that part of the
12 culture, not the crazy Mardi Gras of the Pacific. And this
13 is what it's done to our children today. Because they're
14 not trick or treating in Kaua'ula. I take my grandchildren
15 to trick or treat. It was a tradition every year. Children
16 from all around came to trick or treat. We lined up
17 sometimes running out of candies. This time we have lots of
18 package of candies left because we know the children are on
19 Front Street with their parents, and they feel that is trick
20 or treat.

21 So please help us to give back our children what
22 Halloween is all about, and it's for children, so thank you
23 very much. Mahalo.

24 CHAIR KALALAU: Thank you. Seems that we have no
25 one else going to testify. We're going to now close the

1 floor for public testimony. Commissioners. Staff.

2 MS. CALENTINE: I was thinking we should have done
3 this a while back, so I just decided rather than have my
4 back to anyone, I would move the microphone. But based on
5 the department's analysis and trying to look at what is
6 right for the entire County, we recommend that the historic
7 district permit application be approved. And we do have
8 conditions, and some of those conditions you were familiar
9 with in the first report that you had on July 5th, but if
10 you look at your report that you received that's dated July
11 25th, you'll see a list of conditions. And I think it would
12 be appropriate to go ahead and state those today so that
13 everyone knows that's here and interested what is going to
14 be required and agreed to.

15 In addition, there are five new conditions that
16 the department has added to the list that you saw on July
17 5th based upon your gathering of information, so the first
18 condition is that all events, construction, placement of
19 structures and the banner shall be in accordance with the
20 written representations received on June 7th, 2007. That's
21 a very standard condition. The rest of these, I'll tell you
22 when we get to specific ones. That any substantial
23 additions or changes to the scope or intensity of the event
24 or project site shall require an amendment to the permit.
25 Three, that the Applicant shall apply for future permits for

1 proposed events in any Lahaina historic district at least 90
2 days in advance of the proposed event to allow adequate time
3 for processing. Four, that a building permit shall be
4 obtained prior to the initiation of construction or erection
5 of temporary structures. Five, that all food booths and
6 music shall be closed down by 11:30 p.m. Six, that the
7 Applicant shall obtain the approval of the Police Department
8 for the closure of Front Street from Baker Street to Prison
9 Street, including emergency access to Front Street and
10 cooperate with the Police Department regarding the
11 initiation of the reopening of Front Street to occur at
12 approximately 11:30 p.m.

13 Seven, that the applicants shall provide emergency
14 access at both ends of the closed sections of all streets
15 and shall ensure that security, First-Aid and evacuation for
16 the event are provided subject to the approval of the Police
17 Department. Eight, that the Applicant shall obtain approval
18 from the department of Parks and Recreation for the use of
19 Banyan Tree Park prior to the day of the event. Nine, that
20 no more than 12 vendors shall set up in Banyan Tree Park.
21 Ten, the following rules adopted by the Maui County
22 Arborist's Committee for use of Banyan Tree Park shall be
23 enforced by the Applicant. And these -- okay, these are no
24 climbing on the tree, no swinging from the roots of the
25 tree, no motorized vehicles allowed in the park, no stapling

1 or nailing is permitted on the tree, foreign matters shall
2 never be applied to the tree, for example, paint or oil, no
3 pruning or physical injury to the tree, toxic materials
4 shall not be applied under the canopy of the tree without
5 the guidance of the Maui County Arborists, no cooking or
6 fires permitted under the canopy of the tree, no fireworks
7 are permitted under the tree, and no wires shall be attached
8 to the tree.

9 Condition 11, that the applicants shall obtain
10 approval from the Department of Land and Natural Resources
11 for the use of Lahaina Library lawn, the mauka side, prior
12 to initiation of the event. 12, that setup and preparation
13 shall be no earlier than October 29, 2007, and breakdown and
14 removal shall be no later than November 1st, 2007. 13, that
15 the Applicant shall communicate the plans for street closure
16 to all merchants via radio, newspaper and flier not less
17 than one week prior to the event. 14, that the Applicant
18 shall obtain approval from the Department of Health for the
19 sale of food at the event, and that again, no cooking of
20 food shall occur in the tents or under the banyan tree.

21 And condition number 15 we've actually removed at
22 the request the Department of Public Works, which was about
23 requiring approval from the Department of Public Works
24 regarding parking for the event. Public Works did not want
25 this condition in. They did not request this condition. So

1 that's been removed so the new condition number 15 reads
2 that the Applicant shall obtain permission from Waiola
3 Church to use Campbell Park prior to the event, and that was
4 previously condition number 16.

5 16, that the Applicant shall be responsible for
6 cleanup of any litter produced by the event, including any
7 on Front Street and adjacent roads and shall use every
8 precaution to prevent litter or any product or debris from
9 the food concessions from entering the ocean, and shall
10 encourage recycling of event waste. And this was previously
11 condition number 17. So now the new condition 17, that the
12 Applicant, its successors and permit assigns shall exercise
13 reasonable due care as to third-parties with respect to all
14 areas affected by subject historic district permit and shall
15 procure at its own cost and expense and shall maintain
16 during the entire period of this historic district permit a
17 policy or policies of comprehensive insurance of liability
18 insurance in the minimum amount of \$1 million naming the
19 County of Maui as an additional named insured. And I won't
20 read the rest of that. It's a long paragraph. It's made
21 for the lawyers among us I guess.

22 Condition number 18, that compliance with all
23 other applicable governmental requirements shall be
24 rendered. And now condition number 19, a project specific
25 condition, that the Applicant shall provide and maintain 12

1 portable toilets throughout the event at the following
2 locations: eight units on Canal Street next to Banyan Tree
3 Park and four units on Lahaina Library lawn. In addition as
4 represented by the Applicant, 58 toilets shall be provided
5 to the public at the following locations. At the state
6 harbor, 9 units; at the Wharf Cinema Center, 21 units; at
7 505 Front Street, four units; at Lahaina Center, 8 units; at
8 Old Lahaina Center, one unit; at Lahaina Marketplace, 6
9 units; and at Pioneer Inn, 9 units.

10 20, that a traffic control plan illustrating
11 detours shall be submitted to the Department of Public
12 Works. 21, that the Applicant shall promote the event
13 through advertising on the Internet, radio and -- sorry,
14 Internet, newspapers and radio as a safe, fun,
15 family-centered and community event and shall encourage
16 Lahaina business establishments to do likewise. 22, that
17 the Applicant shall adopt and promote through all
18 advertising media, costume guidelines, which emphasize
19 wholesome creativity. And 23, that the Applicant shall
20 coordinate an event review session before November 21st,
21 2007, and shall include the Department of Planning, and the
22 review shall be open to members of the public.

23 In consideration of the foregoing, the Maui
24 Planning Department recommends that the Maui County Cultural
25 Resources Commission adopt this department report and

1 recommendation prepared for the August 2nd meeting as its
2 findings of fact, conclusion of law, decision and order and
3 authorize the planning director to transmit said decision
4 and order to the Applicant. Thank you.

5 CHAIR KALALAU: Commissioners, have any questions
6 on the County's recommendation?

7 COMMISSIONER FREDERICKSEN: I've got a question.

8 CHAIR KALALAU: Erik.

9 COMMISSIONER FREDERICKSEN: I've got a question
10 for staff. I think it was condition 19, the one that had to
11 do with supplying toilets.

12 MS. CALENTINE: Yes.

13 COMMISSIONER FREDERICKSEN: Is that the condition,
14 that's 19?

15 MS. CALENTINE: Yes, it is.

16 COMMISSIONER FREDERICKSEN: Okay, you mentioned
17 four toilets on the library lawn?

18 MS. CALENTINE: Yes.

19 COMMISSIONER FREDERICKSEN: I just got this
20 information pack just a couple of days ago, and I'm back on
21 the Commission new. But that doesn't -- it's not a really
22 culturally -- it's very sensitive in terms of cultural
23 issues there, and I was wondering if there's some other
24 location where those four toilets could be sited like on the
25 access road that's right next to the library?

1 MS. CALENTINE: Yeah, I would like the Applicant
2 to come forward and address that if that's possible.

3 MS. MORRISON: Yes, we would be happy to do that.
4 Well, I have to go look, but we can run it by the Planning
5 Department.

6 COMMISSIONER FREDERICKSEN: Because that's just
7 the whole area is just not culturally appropriate.

8 CHAIR KALALAU: Anymore questions? If not for the
9 Applicant or for staff, I have one for staff I think or
10 maybe, Stan, you can comment on them. In a national
11 historic district, we have the Secretary of Interior
12 guidelines and codes and criterias that we can make
13 decisions based on criterias such as old buildings. Do we
14 have any kind of criterias as to what kind of activities can
15 occur in a national historic area?

16 MR. SOLAMILLO: Unfortunately, I don't have that
17 information at my disposal at the moment. Lahaina is
18 described as having at least 60 Hawaiian sites of cultural
19 importance. But as I said, I don't have that information.

20 CHAIR KALALAU: You know, because just one of the
21 concerns I think Mr. Kamakawiwoole says, that because in
22 other national historical sites, there's functions that can
23 be held and functions that cannot be held.

24 MR. SOLAMILLO: That is correct.

25 CHAIR KALALAU: This is why my concern is do we

1 fall underneath any of the national historical guidelines in
2 making decisions as to what activities occur on national
3 historical sites?

4 MR. SOLAMILLO: Since this event includes the
5 County's Historic Districts 1 and 2, but it also passes
6 outside the County's two districts into the NHL, then
7 ultimately, we're back to the question that we were earlier,
8 which is NBS, because they're the ultimate authority for the
9 NHL.

10 CHAIR KALALAU: Thank you.

11 COMMISSIONER KAPU: Yeah, I've got questions, a
12 lot of them. Maybe I'll take the small ones first. Based
13 upon these 12 tents being under the banyan tree area, what
14 kind of tents are they? What are they going to be selling,
15 or are they going to be selling anything?

16 MS. MORRISON: My name is Theo Morrison. I'm the
17 former executive director of Lahaina Town Action Committee.
18 I didn't actually write that permit, so what type of tents?

19 COMMISSIONER KAPU: Yeah, what are you selling
20 under there?

21 MS. MORRISON: There's food booths run by
22 nonprofits.

23 COMMISSIONER KAPU: And where is the money going
24 to be? Are you guys giving them scrips, or is it cash?

25 MS. MORRISON: No, this event Halloween got

1 approval from the CRC to do cash under the tree.

2 COMMISSIONER KAPU: When was the approval?

3 MS. MORRISON: Quite a while ago.

4 COMMISSIONER KAPU: Ten years ago?

5 MS. MORRISON: Yeah, about 10, 15 years ago.

6 COMMISSIONER KAPU: My question to the County, can

7 you do it? I mean there was an approval from the CRC like

8 many years ago, but there wasn't a review from the CRC now.

9 So basically, we don't know the legalities based upon what

10 can be done under that banyan tree area, and we just had one

11 issue a couple of months ago with Na Kupuna O Maui

12 collecting money under the banyan tree, which was a no-no.

13 So what's going to happen with that?

14 MS. CUA: If I could try to comment as best I

15 could, Commissioner. I don't recall the specific date that

16 the Commission approved that. However, normally what the

17 department does if the Commission gives any kind of

18 approval, and I think I kind of went over this a little bit

19 before, first of all, when you grant permission for an

20 approval to occur, it's based on representations made by an

21 applicant on the event, what is the scope, how many tents

22 are you putting up, what kind of things are you going to be

23 selling. And it's usually pretty specific.

24 And when the Commission approves the permit based

25 on the representations made, when an application for next

1 year's event comes in, if it is similar to what you approved
2 initially, we don't bring it back to you. Same with
3 something like collecting cash underneath the tree. If you
4 approved that action and they continue to just want to do
5 that, we wouldn't keep bringing that back to you. But let's
6 say they wanted to do something else that never went
7 before -- that you never acted on before. That would cause
8 us to bring it back to you. Does that answer your question?

9 COMMISSIONER KAPU: Yes. So when was the last
10 time the Cultural Resources Commission was able to review
11 the full application for Lahaina Town Action Committee
12 roughly about?

13 MS. CUA: Livit, do you have that information, the
14 last time Halloween came before the Cultural Resources
15 Commission, is that what you're asking?

16 COMMISSIONER KAPU: Yes.

17 MS. CALENTINE: I believe that was in 1996 --
18 yeah, yeah, I think that was 1996. And then the question
19 about when did the Cultural Resources Commission approve
20 cash sales for the Halloween event, I don't remember the
21 date. But I do remember reading the letters from corp
22 counsel and also from the CRC approving cash sales for
23 Halloween, and that was done by your Commission, yes,
24 different membership, but still the Commission hasn't
25 rescinded that, so it still stands. And that was I think in

1 the late '80s.

2 MS. MORRISON: No.

3 MS. CALENTINE: Sorry, the '90s.

4 COMMISSIONER KAPU: So I think, if anything, this

5 applicant basically should have been in front of us again,

6 so what I'm getting at is, you know, I'm looking at this

7 special management area, this permit. And I'm having a hard

8 time with it. Because we're talking about things that are

9 old, and there's multiple changes that went happened. And

10 we're just saying that basically what was filed ten years

11 ago goes for whatever that application was ten years back,

12 so you're expecting the Cultural Resources Commission, yeah,

13 -- we're businessmen, you're asking us to do business -- but

14 you're not giving us nothing to rely on.

15 So I'm looking at this. The issue with Na Kupuna,

16 that was one big issue, huge issue that the County denied

17 them selling and receiving money under the banyan tree. The

18 County did, and we had no say, any of us. Now, you're

19 asking us to approve this with that end? Help me

20 understand. I get more questions. All these things in this

21 application that was checked off no, every item on this

22 application was checked no, you want me to read a couple of

23 them? What it might not trigger based on cultural impacts,

24 environmental impacts, possibly ocean impacts. Was there

25 any ocean impact? Cruise ships, did they create any ocean

1 impacts? I'm asking the County this. Because I'm looking
2 at this and you're basically coming to us as business people
3 and not giving us anything to rely on to make a judgment
4 based upon passing this event, okay.

5 Three years ago somebody came from Oahu to one
6 Halloween over here. What did he leave behind, which is
7 still here? That boat that stay sunk out there. As a
8 Cultural Resources Commissioner, I look at every little
9 thing. And now if you're expecting me to enact, to grant a
10 permit on nothing, you're going to get nothing.

11 CHAIR KALALAU: Comments.

12 COMMISSIONER KAPU: So the question based upon
13 selling under the banyan tree, you want us to approve that,
14 or you want to put this agenda item in front of the Cultural
15 Resources Commission, the whole Halloween festivities in
16 front of us all over again just so we can do one adequate
17 fair decision based upon what is right?

18 MS. CUA: I think Commissioner Kapu, you know, the
19 department's position on all of these events because we need
20 to treat all of the events in the same manner, and actually
21 years ago, we got concurrence from the Commission that we
22 would not bring each event to you every single year if the
23 scope of the event was essentially the same. And that's why
24 for the canoe festival and all the different events, you
25 don't see them every year. If you are seeing them on any

1 given year, that is because they are requesting changes to
2 some part of the event that wasn't covered under the
3 umbrella, if you will, that you granted of your approval.

4 So you basically provide the department with
5 guidance. You approve an initial permit, and you say under
6 these parameters based on these representations, we're going
7 to grant this permit. And the understanding that we have
8 with you for years and years has been if this annual event
9 when it comes to the Planning Department each year, if the
10 layout, the description is essentially the same, the
11 department can grant administrative approval on behalf of
12 the Commission. There are times when let's say when an
13 event started, there was never any road closure associated
14 with it. One year they may decide they want to do part of
15 the -- close part of the road. We circulate it for
16 comments. We bring it back to you, because that's pretty
17 significant. That's just kind of been the practice.

18 And unless you -- if you want it otherwise, then
19 you can direct the department to do that, because we can.
20 If that is your wish, we can bring these events to you every
21 single year even if they are exactly the same. But that is
22 not the direction that we have received from this body.

23 COMMISSIONER KAPU: Okay, okay. So basically the
24 reason why this item is in front of us because there were
25 some complaints filed against it. That's the reason it was

1 brought forth.

2 MS. CUA: It's important that we note that. That
3 is the reason why we brought it before you, and pretty much
4 as a courtesy. We felt that -- we were getting all these
5 letters, and so the department looked at this, and we said,
6 you know, it's been a while, it's been a long while since
7 the Commission has taken a look at this, so we want to -- we
8 want to bring it before the Commission. But that's
9 basically the only reason. The scope hasn't changed. In
10 fact, the scope was lessened somewhat because now the road
11 closure is not going to go as far as Shaw Street. Oh,
12 that's one other point that I think needs to be mentioned.
13 I did say that if there's any kind of significant change,
14 that's when we bring it back to you. I need to correct that
15 statement or clarify that statement in that if there's a
16 change to the event that's less intensive rather than more
17 intensive, we probably would not bring it back to you.

18 So let's take this case in point. If they came to
19 us initially and just said instead of having the street
20 closure be at Shaw Street, we want to move it in and have it
21 at Prison Street, just that in and of itself, we probably
22 wouldn't have brought it back to you because it's less of a
23 change. If they wanted to go the other way, if they wanted
24 to extend the street closure further out, we would probably
25 bring that back to you.

1 COMMISSIONER KAPU: Okay. Item H, special
2 management area, the SMA number, what is that H, in contrary
3 to state plan, County general plan, appropriate community
4 plan, zoning and subdivision ordinances. Okay. So help me
5 understand this. The County general plan is like every ten
6 years, right? So if we're going to the County general plan
7 to make revisions in the County general plan, isn't this all
8 kind of moot going off one old permit when we got the County
9 general plan, which might change ordinances in our codes,
10 which may not. But you're asking us, once again, everything
11 that is here that was signed by the Applicant, I not going
12 to accept this. And you're telling me -- you're basically
13 telling me, sitting here telling me that everything that was
14 done in the past was granted by the Cultural Resources
15 Commission, so whoever created the monster back then, we got
16 to be part of that monster, too, yeah. We basically got to
17 be a part of that so-called ordinances and changes and
18 monster that was created.

19 I think that's got to go through one full review,
20 because I see major concerns out there. I see a lot of
21 major concerns out there.

22 MS. CUA: Well, I think the process, Mr. Chair, if
23 you allow me to continue to respond. Two things, let me go
24 back to your first question. Yes, we are going through
25 general plan review, but we are charged to review with the

1 documents that are on the books today, existing zoning,
2 existing community plan. The majority of the properties
3 within the historic district are commercial. We have some
4 that are designated park on the community plan. We have
5 some that are designated public, quasi-public like the
6 churches. That's the community plan designation. Then you
7 have zoning.

8 For the most part, the areas within the historic
9 district are designated -- are zoned Historic District 1 and
10 Historic District 2. That's the existing laws on the books.
11 So even though we have review ongoing right now on the
12 County's general plan, applications that come before the
13 department, we have to review those in the context of laws
14 that are in place today, okay. What was your second
15 question?

16 CHAIR KALALAU: Total review.

17 MS. CUA: Total review, oh, yeah, okay. On this
18 total review, the review that this application has received
19 by this department for something that started off as just
20 being we're going to bring this to you because we have
21 concerns was very extensive in my opinion. We have
22 committed a lot of resources, a lot of department resources
23 to gather information to bring to you so that you can make
24 an educated decision. We've basically dropped our
25 schedules, if you will, to try and deal with this to bring

1 resolution to this issue. We've had additional personnel
2 put on this application.

3 We've involved, you know, Police Department, the
4 Fire Department, the Parks Department in trying to get
5 whatever answers that came up from these meetings that the
6 two groups had. Whatever questions came up, you know, Livit
7 was trying to get answers. She's been working late many
8 nights to be able to give you the documentation that you
9 have before you today so that you can have as much
10 information to make an educated decision. So I somewhat
11 disagree that, you know, this did not get a full-blown
12 review. I think it's gotten pretty significant review, and
13 a lot of resources has been put into this by the Planning
14 Department and the other departments to be able to try and
15 reach some kind of agreement between both sides and impose
16 mitigative measures on this event that would try and will
17 alleviate concerns raised by the community while maintaining
18 public safety for the large amount of people that come to
19 Lahaina at this time.

20 CHAIR KALALAU: Okay. Nani.

21 COMMISSIONER WATANABE: I have a question, Stan.
22 So according to the historic, selling under the banyan tree,
23 exchanging money, what was the answer on that?

24 MR. SOLAMILLO: We don't have an answer on that.
25 The reason is that was done before I was here, and I'm not

1 familiar with it. And what I've heard was that for some
2 special events, it was allowable, and for regular events, it
3 is not such as the Saturday sales underneath the banyan
4 tree. But we have nothing -- we don't have an ordinance at
5 our disposal right now to even check on that. This is all
6 hearsay, and the Applicant could probably address how, you
7 know, it came to be, you know, part of the original permit.
8 But you'll have to address that question to her.

9 MS. CUA: If I could just add.

10 MR. SOLAMILLO: That would be great.

11 MS. CUA: Any kind of action to have cash sales
12 under the banyan tree would not have come from the
13 department itself, because we could not make that kind of
14 decision. That came from the Commission. So based on
15 whatever facts was presented for a particular project that
16 allowed you, and when I say you, I don't mean you that's
17 sitting here, I mean your body, the Cultural Resources
18 Commission, whatever facts surrounded that for that body at
19 that time to make that decision, when that decision was
20 made, it's not a decision that the Planning Department could
21 have made.

22 And I've worked in the historic district a long
23 time ago, but I haven't been throughout, so I cannot give
24 you -- I remember things happening, but I cannot give you
25 the facts on when this happened, why it happened for this

1 one, but I know that the Commission has been dealing with a
2 multiple -- multiple events under the tree where different
3 parameters were involved for each activity. And you know,
4 I'm just not sure about all the specifics.

5 MS. MORRISON: Would you like me to address that?

6 COMMISSIONER WATANABE: Yes.

7 MS. MORRISON: I don't remember when we did this.

8 This was quite awhile ago. It must have been ten-something
9 years ago. It was actually myself for the Lahaina Town
10 Action Committee for the Halloween event and Boy Kanae for
11 Aloha Festivals and Kamehameha Day, if Crystal is here, came
12 later, so these were special requests to do cash sales under
13 the banyan tree just for those special events. And I
14 believe that the ordinance does say that, that you can do
15 cash sales with express permission of Cultural Resources;
16 however, if this is a huge problem, we would be more than
17 happy to go to scrip.

18 COMMISSIONER WATANABE: The only reason I'm saying
19 that, because it seems like that was the Commissioners
20 back -- I mean we are the new Commissioners. And I really
21 believe in trying to comply with the rules, and it should
22 go -- you know, it should go from one event to the next. I
23 think because once you allow one group, then how do you
24 really decide which one gets that priority versus this? I
25 mean, you know, and it becomes a total mess at the end. I

1 mean honestly speaking, I'm so glad I don't have this
2 problem on Lana'i. We only have one park to deal with. You
3 know, and it's more controllable, but I think in -- and I
4 think as I'm the events coordinator there, I had to really
5 clean house and work with the rules and regulations because
6 it was a total mess before.

7 And I think if, you know, to be able to go back to
8 scrips, I mean I like that, because it's a preservation.
9 It's historical, you know.

10 MS. MORRISON: Well, like I said, we would be very
11 happy to do that if that's a sticking point here.

12 MS. CUA: And for the department, if I could,
13 Mr. Chair. You know, if you as a body directs the
14 department in the future for any of these annual events,
15 let's take Aloha Festivals, if they have approval for cash
16 sales from you, if you direct us for any of these events
17 that come in for extensions that you don't want cash sales
18 anymore, we can do that. We can make it so that you treat
19 everybody fairly, we can have everybody go back to scrips if
20 you give us that directive. Because that's how it was
21 before. And then one at a time, people have come before you
22 and again, the Cultural Resources Commission, and some have
23 been granted. Some have not been. So if you direct the
24 department that, you know, henceforth for this event and any
25 other event in the historic district that is under the

1 banyan tree, that there shall be only scrips exchanged, then
2 we can administer that and treat everybody the same.

3 COMMISSIONER WATANABE: And so that means the
4 court house would be the one to manage all of this, right?
5 So that means you folks would be open every event, is that
6 how it works?

7 MS. MORRISON: No, let's just talk about
8 Halloween. We would probably have a scrip booth.

9 CHAIR KALALAU: Is the court house open during
10 Halloween?

11 MS. MORRISON: No, it's not.

12 MS. CALENTINE: So then I ask the people present
13 here where would the scrip booth be?

14 MS. MORRISON: The way -- the way we normally do
15 other events, we would have the scrip booth in Banyan Tree
16 Park. People would purchase the scrip at the scrip booth.
17 They would take the scrip to the food booth, and they would
18 purchase their food with scrips. At the end of the night or
19 maybe the next day in this case, those nonprofits that sold
20 the food would come back to Lahaina Town Action Committee
21 with their scrip inside the building, and we would reimburse
22 them with money. This is the way we do the Festival of
23 Canoes and other events we do on Front Street, the Chinese
24 New Year, et cetera.

25 MS. CUA: The only question I would have on that

1 is would one scrip booth be adequate for that many people?

2 MS. MORRISON: There's not that many people under
3 the banyan tree.

4 MS. CUA: No, but if 30,000 people come to
5 Lahaina, granted not everybody is going to be wanting to go
6 to your food booths, but you know, even if you take a very
7 small percentage of that, that's still a lot of people, a
8 lot more than, you know, another activity in Lahaina would
9 have. My question is is one scrip booth in your opinion
10 adequate?

11 MS. MORRISON: Okay. You are correct, and what I
12 would like to do is have some time to go back, like I said,
13 it's been a couple of years since I've done this event, go
14 back, look at the map. And you are correct, there would
15 need to be additional scrip booths, which we could draw out
16 for you and then get your permission.

17 MS. CUA: And you know, what we could do again
18 with direction from the Commission is, you know, if you're
19 comfortable with, you know, Lahaina Town Action Committee
20 coming back to us and saying -- this is if you decide you
21 want to approve this event today. If you're going to deny
22 the permit, then this would be a moot issue. But if you
23 decide that you want to approve this permit with conditions,
24 however you want to put another condition about having only
25 scrip sales, you know, we could work with the Applicant to

1 determine how many would be best and where they should be
2 placed.

3 COMMISSIONER ARTATES: My turn?

4 CHAIR KALALAU: Yes, go ahead.

5 COMMISSIONER ARTATES: You know, by hearing the
6 various testimonies that came before us, a lot of the
7 earlier testifiers that stood up in the capacity as senior
8 citizens, they spoke of the children's event. That was a
9 children's event their grandchildren, their children enjoyed
10 this. But as we go further into our discussion, it seems
11 like it became -- we forgot the whole focus of what was
12 expressed earlier, which was the children's event. We're
13 now into an adult event. And correct me if I'm wrong, a
14 gentleman came up and here mentioned that there were two
15 separate permits or just one permit?

16 MS. CUA: There's only one permit.

17 MR. ASHFIELD: The children's event is a different
18 permit. It's the Soroptomists.

19 MS. CUA: Depends on what -- with the Planning
20 Department, it is one permit. They may have with the Parks
21 Department two permits, but what is before you is one
22 permit, and that's what we are dealing with.

23 COMMISSIONER ARTATES: So the one permit engages
24 this whole event?

25 MS. CUA: For the Cultural Resources Commission,

1 yes, one historic district application.

2 COMMISSIONER ARTATES: Again, I still get kind of
3 mixed feelings on this because testimonies was especially
4 entertained for children, yeah. And I guess there was some
5 comments made by those that testified before was about
6 moving the event elsewhere, yet then how we're going to
7 determine to separate those two events and have an event for
8 the children and an event for the adults, too, away from
9 this area, or in any way, could that be implied?

10 MS. CUA: Well, I think the Commission needs to
11 look at what is the application before you. If you can
12 support it and approve it, that's one scenario. If you
13 totally cannot support it, then you deny the whole event.
14 If you can only support portions of the event, then you can
15 do that as well. And correct me if I'm wrong, James, from a
16 legal standpoint and then the Applicant and the County would
17 have to figure out based on whatever decision you make, and
18 I think it goes without saying that we know that at least
19 for this year, we're going to have 30,000 people here.

20 Whether, you know, this permit -- let's take
21 different scenarios. If this permit is only limited to the
22 children's parade, then I don't know if you would even need
23 a permit for the children's parade. There's no structures
24 being put up or anything like that. Then I guess the
25 question would become then what would -- you know, the

1 County basically at that point would be faced with how do we
2 deal with the people coming. We would still have to look at
3 security for people coming, rest rooms. So whereas, now the
4 County is paying for the police. I think the County would
5 be -- would have to be responsible to pay for everything
6 else if it's not provided by somebody else.

7 MS. CALENTINE: Just to clarify, I believe the
8 children's parade would still need a permit because it
9 involves closure of the street.

10 MS. CUA: Okay.

11 CHAIR KALALAU: Kalei.

12 COMMISSIONER MOIKEHA: Mr. Chair, I think most of
13 the things I had to say I said already at last month's
14 meeting. The police had already said last month that even
15 if we denied or approved -- well, if we denied, they're
16 still going to close the street. They would still be able
17 to supply 80 to 90 police officers. They would have to.
18 And what we're talking about, and we've got to go back to
19 the issue and discuss it right now amongst ourselves and
20 just go for it. I don't think we want to. Everybody is
21 real hesitant. It's very emotional, but it has to be done.

22 And you know, as we talk about what's appropriate,
23 what's not, what's irresponsible, what's responsible. Who
24 is going to carry the load, and even as they talk about it,
25 is it going to be carried by us? Is it going to be blamed

1 on us if it goes? All of these things. It's a difficult
2 thing. Our cousins way down south, they have a line that's
3 called "hare papu hare maru". That's to move forward
4 cautiously purposely being aware of what we're trying to do,
5 very articulately, move slowly, cautiously, don't just jump
6 into it, and we've been doing these things. I don't think
7 there's anything we can do to stop it this year.

8 And isn't it amazing we can live in a culture or a
9 community where you can -- even if it was against the law,
10 you can't stop it? To me, that's amazing. If we were to
11 decide you can't have it, it will still go. It doesn't
12 matter. You call this a law-abiding community or state that
13 we live in. It's an amazing thing. It will go no matter
14 what we say. And so how do you be responsible to all of
15 these things? I don't know exactly. It's, like I said,
16 it's totally highly emotional even as far as we talk about
17 this within the national historic district. I mean what do
18 we want within our community and what do we want to be noted
19 as? I don't know. I really have no answers at this point.

20 But as I take a look at it and listen to the
21 remarks which have been said this year, it will go no matter
22 what happens. The Lahaina Town Action Committee will put up
23 the money to pay for all the tents, the toilets, everything
24 that's there. If not, the County will have to absorb all
25 those costs whether it goes or not. I don't know, but I

1 don't know if we can make a responsible decision right now
2 for this year. And if nothing else, I think we need to look
3 at this immediately November, discuss it and carry it
4 through and make a decision, a healthier decision for next
5 year.

6 And basically hopefully as everybody that's
7 involved here listens to all the things that are being said,
8 that everybody takes into account everybody's idea,
9 everybody's feelings, everybody's mana'o has to be
10 considered. It's not just I live here, I going do this, or
11 you're not here or who's -- you know, it would be
12 irresponsible to just stop something that's going to bring
13 30,000 people. You know, at this point, you can't do it.
14 You know, and whether or not we can even do it next year, I
15 don't know. But I think all feelings must be considered
16 even as we discuss it right now.

17 CHAIR KALALAU: Thank you. Maybe some of your
18 points can be as a recommendation. Lon.

19 COMMISSIONER WHELCHER: I think this year we
20 should take care of what we have at hand, and that's to
21 approve or disapprove this action. And then next year, they
22 have to start, maybe take the keikis or the adult portion
23 and move it to another location. Lahaina is an adult town,
24 so that would be to me like the keiki would go to something
25 on a smaller scale, but that's just me. My heart goes with

1 the cute kupunas, but my problem-solving brain goes with the
2 Lahaina Town Action Committee. I'm going to vote to approve
3 this, because we're going to get more control and for safety
4 and welfare for all the participants as well as the spooks.

5 COMMISSIONER FREDERICKSEN: Just from what Kalei
6 said, I think it might be a good idea to try to have
7 actually this be on the agenda, maybe not November, that's
8 probably too soon, because it will just be a few days after
9 Halloween, but maybe December or January to actually start
10 discussing, well, what about next year.

11 COMMISSIONER WATANABE: Actually, when you do an
12 event, it's better that you talk about it right after
13 because you're still fresh in mind about what happened
14 because if you wait a couple of months, you tend to forget.
15 I think November is a good time.

16 COMMISSIONER KAPU: Mr. Chair.

17 CHAIR KALALAU: Yes, Keeaumoku.

18 COMMISSIONER KAPU: Before we start getting to the
19 bottom line on all the discussion over here, I think we're
20 missing the whole point. There was one mediation that
21 happened between Na Kupuna and Lahaina Town Action
22 Committee, and we're missing all that, the concerned people.
23 We basically in our last month's meeting had these people
24 mitigate, and what was the recommendations that came out?
25 Did we see anything? One thing I heard was a recommendation

1 was maybe the event should be shut down at 10:00. Was there
2 a compromise in that? A lot of other things that were
3 talked about and so on, let's not jump the gun over here,
4 okay. Because I don't need the kupunas jumping on me once
5 you guys go home Hana.

6 MS. CUA: If I could comment real quickly. I
7 think what Livit tried to do in the department's report is
8 to reflect where there was consensus and where there was not
9 consensus. And definitely the closure of the event, that
10 the time, the duration of the event was something that the
11 group did not reach consensus on. You know, we did have a
12 mediator at that meeting, Glenn Kosaka. He's still here.
13 He's been here all day. We asked him to be here in case you
14 had any questions. He talked to both sides individually.
15 He was part of the whole day. We tried to get everybody's
16 thoughts.

17 You know, we wrote down, like Livit said, how we,
18 the department, saw the problem, but then we asked both
19 sides do you see it this way or do you see it a little
20 different.

21 MS. McCARTY: You excluded people. You slammed
22 the door on two kupuna and wouldn't let them in the room.

23 MS. CUA: I called -- I talked with Auntie Patty
24 that morning. And apparently, both groups had agreement for
25 five people. And that was the department's understanding.

1 We did not set the number to five people. And my
2 understanding, and I talked to Auntie Patty --

3 CHAIR KALALAU: Order.

4 MS. CUA: If I could just continue.

5 MS. McCARTY: We're letting the dirty laundry out,
6 so you guys know.

7 MS. CUA: I almost wish Auntie Patty was here,
8 because, you know, when we talk to one person from the
9 group, we're assuming that person is speaking on behalf of
10 the group. And I was informed that the number five was
11 agreed to. I don't know who proposed it, but for whatever
12 reason, I was told five was the number that the group agreed
13 to. When I talked to Auntie Patty, it was either the day
14 before or -- I think it was the day before the mediation,
15 she explained to me that, oh, they might have one additional
16 person that comes -- that comes to the meeting. And I said,
17 you know, if the groups agreed to five, at this point
18 because the mediation was tomorrow, it's probably best in
19 the spirit of cooperation that we keep to the five. And she
20 told me that's fine, Ann, that's fine.

21 What did occur was, and this is what I was
22 informed, that Auntie Patty had indicated that they were --
23 they were told by the Lahaina Town Action Committee that if
24 they brought an attorney, who Richard McCarty is an
25 attorney, if they brought an attorney as one of the five,

1 the Lahaina Town Action Committee would not show up to the
2 mediation. I called Theo, and I basically told Theo that if
3 five were agreed on, if five people were agreed by both
4 sides, it shouldn't matter who the five are. And I told
5 Theo that herself. And she said, okay, I'll go back to the
6 group, and I will let the group know that.

7 And I indicated to Theo at that time that the
8 County has put a lot of resources into this to try and
9 mediate, and I hope when you go back to your group and say
10 that the County is saying one group shouldn't be deciding
11 which -- who are the five people. And I hope when you go
12 back to your group and say that the County is saying this,
13 and we want to try and get resolution, that your group is
14 going to agree. Well, the mediation took place, and both
15 groups were there. So, you know, the County has tried to be
16 as fair as possible with both sides, and I talked personally
17 to Auntie Patty. And I assumed whatever Auntie Patty told
18 me was representative of the group.

19 I was not aware that I would need to talk to more
20 than one person. I only talked to Theo from Lahaina Town
21 Action Committee. I didn't talk to anybody else, so I
22 assumed when I talked to Theo, whatever she's telling me is
23 based on her group. And when I talked to Auntie Patty and
24 she tells me something, that's based on her group, and
25 that's all we can do. And this happened in like a day.

1 CHAIR KALALAU: Theo, you had something to say?

2 MS. MORRISON: Huh-uh.

3 CHAIR KALALAU: Our corporate counsel needs to
4 depart now.

5 MS. CALENTINE: I just wanted to clarify for the
6 Commissioners, if you are considering a review of this item
7 or larger issues in November and you wanted to include this
8 item, your first meeting is on November 1st. And that
9 wouldn't give us really time to do any kind of a thorough
10 preparation for you.

11 CHAIR KALALAU: Okay. Commissioners.

12 COMMISSIONER MOIKEHA: I've got a question. Just
13 another comment that I have as I think about the whole
14 process that we're going through. Earlier I had brought up
15 and asked a question to one of the merchants as far as what
16 they give back. In reality, that's -- to me, that's a real
17 important thing. As we look at the State of Hawai'i itself,
18 it seems like a lot of things occur when people just come
19 and take, take, take. And so my question in reality was
20 what is truly given back. And perhaps, you know, in some
21 way, form or another, the Lahaina Town Action Committee or
22 whomever might be able to sit and look at some way where
23 culturally as we talk about sensitivity, something can be
24 done with this night, be it a percentage of whatever with
25 the merchants or whatever, to be given back to the whole

1 culture here in Lahaina as far as even marking places that
2 are sacred. And you know, a lot of these things are not.

3 I don't know. I'm just trying to look for a
4 solution here at this point. But some way, form or another,
5 this town has to look towards giving back the feeling that I
6 get from today to the host culture. You cannot just come in
7 here and rape it, and it seems like that is what is
8 occurring, so in some way, form or another, all you heads,
9 you got to go put it together, too, and start thinking about
10 that as far as what you can do to give back to keep Lahaina
11 Lahaina. My grandmother's name is

12 Kaluai Lahaina Keaweiwi Hale O Keawe. She comes from the
13 direct line of chiefs out of the Big Island, but she carries
14 that name.

15 She came down here one day and met with a
16 caretaker here. When given the name, that lady dropped to
17 her knees to my grandmother. The question was asked my tie
18 to Lahaina. That is my tie through my tutu. She carries
19 and bears the name. My name is Moikeha. Kalei, that's a
20 given name, but my name is Moikeha. So even as everyone
21 talks about what were our -- you know, it can really be
22 emotional. And I understand what the kanaka maoli are
23 talking about. And to those of you that don't understand,
24 and you got to understand native people. The people of
25 Polynesia are so different. You can go to Jamaica and the

1 Philippines. Those are islands. They're different.
2 They're different. And maybe what they're talking about is
3 we're fighting for something that we deserve and need to
4 hold onto. It's the people that makes Hawai`i Hawai`i. And
5 so as you listen to all these emotions that come through, I
6 listen to it. And I battle with it because I said it last
7 month. What would -- what establishes an event to be
8 culture? I mean when -- how many years do you have to put
9 down to say, okay, now this is a cultural event? So I
10 battle with all these things as far as what is right.

11 And as was talked about as you represent the whole
12 community and not just the host culture. I understand all
13 these things, but how do you make that responsible decision,
14 you know. And it's a burden I think that we are trying to
15 carry today, right now.

16 CHAIR KALALAU: Thank you.

17 COMMISSIONER KAPU: I would just like to follow up
18 what Moikeha was talking about. You know, when one of the
19 people came up here and talked about our job basically has
20 to deal with recommendations and the whole cultural
21 community. I look at it kind a little bit differently,
22 especially when I get this application in front of me that
23 talks about historic significant sites, cultural integrity.
24 When I get these kind of things in front of me, it gives me
25 a direction based upon what my concern is supposed to be

1 addressed on, especially these permits. And when every
2 year, somebody wants to do something. They go down to the
3 Planning Department, get one of these permits and fill them
4 out.

5 So when every year these applicants went down
6 there and filled it out year after year -- this one was
7 filled out, what, 2007 November? I may be wrong, July,
8 somewhere around there, but it's 2007. They filled this
9 application out. And when they filled it out, I guess what
10 I'm getting at is you get one lady over there saying, okay,
11 this is how you fill these out. Check over here, check over
12 there, and put all your information down. What I'm getting
13 from the County is every time somebody goes in and fills
14 this out, everything is set already. What you got to do is
15 just put the check on the dot, and that's automatic,
16 especially when this doesn't come in front of the so-called
17 body that's supposed to address these kind of concerns every
18 year when somebody comes in and picks up an application.

19 It's automatically exempted. Why? 2008, they
20 going to do the same thing, same application, same
21 information. Automatically exempt? So to address your
22 so-called concerns based upon it's an everybody's cultural
23 thing, culture to me talks about character. Character of
24 what? Where are we? We're not in Nebraska. We're not in
25 anyplace but Hawai'i. So when you tell me I got to be

1 acceptable to other cultures, when people came over here,
2 like I talking about say maybe the contract laborers, they
3 adapted to respect our culture. They adapted to respect our
4 rules. Now, we get new rules. And these rules are telling
5 me that I can go inside and I can make one permit like this,
6 yeah. I can make one permit like this, and I can put one
7 wild stag party in this town, one stag party in this town.
8 And if I don't get it approved, then I can do something else
9 that is worse, but this is worse already, okay.

10 It's risen to the point, ten years went over our
11 head, pass, pass, pass, don't worry about it. Then now
12 we're talking about if nobody takes care of this, who is
13 going to? Who was the one that promoted this to make sure
14 that people got the awareness to come to Lahaina at this
15 time? Whose fault is that? Ours. We don't want to turn
16 this place into Disneyland. And my job, and I speak for
17 myself over here, is based on protecting our culture. It's
18 right on top of here, national historic guidelines, state
19 historic guidelines. I would like to see the definition
20 between the County jurisdiction, state jurisdiction, federal
21 jurisdiction to tell me that I got to look at the United
22 States of America's guidelines based upon cultural heritage.

23 So I still get one problem with this. There's a
24 permit, and this permit is flawed. It's not complete.
25 Unless I just go down, or maybe they can go down tomorrow

1 and pick up another permit. Then it will be all right.

2 Aole.

3 CHAIR KALALAU: Staff, do you have anything else
4 to comment on before we make a motion?

5 COMMISSIONER KAPU: Mr. Chair, before we make a
6 motion, I would like to let the Commission know I will be
7 recusing myself from voting because I think I have a
8 conflict. Mahalo.

9 CHAIR KALALAU: Okay. Thank you, Commissioner.

10 Ann, no more?

11 MS. CUA: No. Well, just one final comment.
12 There's the application that's being held up consistently is
13 a special management area permit application, so I just want
14 to be clear not only is this event happening in the historic
15 district, it's happening in the special management area.
16 Your jurisdiction lies with the historic district
17 application, not the special management area permit
18 application. We don't normally require people to file two
19 applications for this type of event if they -- if they're in
20 the historic district and also in the SMA, they can file a
21 special management permit application. And we also review
22 it based upon the historic district guidelines.

23 So I just want to make that clear. There's the
24 special management area, there's the historic district, and
25 then you have the -- because of the trigger, the

1 environmental assessment criteria that we utilize, so
2 there's several different things that we've talked about
3 today. We kind of group it as one, but it is separate.

4 CHAIR KALALAU: Okay. You know, would the
5 decision be like a snowball effect on all the other
6 activities that happens here in Lahaina?

7 MS. CUA: Well --

8 CHAIR KALALAU: You know, for example, the Canoe
9 Festival, the whole week?

10 MS. CUA: Will this decision affect that?

11 CHAIR KALALAU: Well, some of the recommendations
12 and whatever decision we take today, would it continue on
13 for other applicants coming in to apply for activities,
14 events?

15 MS. CUA: If you direct us to, yes. The
16 conditions that Livit went over, the majority of conditions
17 are standard conditions that came from this body and that
18 have evolved over time. The list started probably a lot
19 smaller many years ago. And as each event takes place and
20 we may find problems that occur with an event, there's
21 usually another condition imposed that would deal with that
22 problem. That gets kind of added to our general list, so
23 yes, it does pass on to the next person. The one thing that
24 I did mention, that something like the cash sales, not every
25 event as far as I know is treated the same way with regard

1 to cash sales.

2 They were all prohibited at one time, but several
3 groups have come before you, and you have granted approval
4 to use cash sales. If as part of this approval you say for
5 this event, you want them to use scrip, but then separately
6 you tell the department, and the department, henceforth, we
7 want you to treat everybody the same, so when people are
8 coming in for renewals, even though they have permission to
9 use cash sales, you know, we want you to impose this new
10 requirement, we will do that. So yes, what you do with this
11 permit can affect other permits in terms of standard
12 conditions and direction that you give to the department.

13 CHAIR KALALAU: Okay. Thank you. My concern is
14 just that, you know, if we do schedule cultural events,
15 whether it's a good idea going with scrip or whether it's a
16 better idea accepting cash, this is why I believe from the
17 last meeting we had last month was that I was hoping that
18 the groups down here in Lahaina could sit down and really
19 look at all those other issues of how, you know, it can be
20 fair for every organization in this community that some can
21 accept cash, others cannot. You know, there was a lot of
22 other concerns about how activities are happening here in
23 Lahaina. And I look at it as, you know, these people versus
24 those people, corporate versus those people.

25 I was thinking that we have people down here with

1 a lot of smarts that could have ironed out all that problems
2 by the time we get to this meeting. It kind of makes us
3 look like we're going to be the bad guys for you guys.

4 We're going to make that decision. Whether you guys are
5 going to like it or not, we got to make a decision.

6 UNIDENTIFIED SPEAKER: Imua. Imua.

7 CHAIR KALALAU: (Inaudible.) You know, DeAnn came
8 up here and talked about the genealogy of the families.

9 She connected Hana all the way out here to west Maui. She
10 went from east Maui all the way to west Maui. It's all

11 connected. This is why I would think that the organizations
12 that were asked to sit down at these meetings could have

13 really tried to iron out some of you guys' concerns, because
14 you know, it's your area. You live here. You know, it's

15 like they ask the questions how many of you Commissioners
16 live in Lahaina. What we know about Lahaina? Well, a lot

17 of our decisions are based on a lot of times all this
18 palapala in the front us. You know, these are the facts.

19 Emotions are really strong and really high, but we
20 got to make a fair decision. You know, we talk about being
21 kanaka maolis. Well, Hawaiians under our system back then,

22 if Kamehameha was here, I think some of us would be being
23 sacrificed, so but we're not there. We're not there. We're

24 here today. And this is an important decision that we make.

25 My concern is it's going to happen anyways. And I

1 would rather see it be in a controlled environment, and I
2 think it's very important that, Uilani, you know, and the
3 other kupuna groups, that we need to address the federal
4 level of this national historical site. You know, it has
5 been put under the jurisdiction of the County of Maui to
6 come down here and kind of please everybody, make things a
7 little bit softer for everybody. But you know, in other
8 historical sites, there's major criterias that people use to
9 schedule special events. In this national historical site
10 as the Cultural Commissioners, we have guidelines based on
11 the historical events that happen here.

12 You know, and they have those federal guidelines.
13 They have state guidelines and you have the County
14 guidelines. Basically they're all the same. What we're
15 doing is we're trying to do is live by those laws. But
16 anyway, we have come to this decision today. And you know,
17 some of us might walk out of here with our heads down. Some
18 of us might jump with joy, but then all of us have to live
19 together in this place on this island. Whatever happens
20 today, we move forward, and it's not the end. You know,
21 this is going to be the beginning to where we can finally
22 work on all the ho'opa'apa'a that's causing the problems
23 down here, people trying to understand each other and trying
24 to respect some of the sacred areas.

25 I'm glad Erik brought up the thing about the

1 toilets to move them out of the sacred areas. I know
2 there's some other sacred areas by the lo'is and other
3 places that maybe we can move the toilets to, you know,
4 other areas. But anyway, Commissioners, it's in our hands
5 right now.

6 COMMISSIONER WATANABE: I just have a comment. I
7 totally agree what our Chair says. And you know, being, you
8 know, this is the host culture. I mean I live on Maui, but
9 I work on Lana'i full-time. And but I'm a native of Lana'i.
10 And when I see things change on the island and I see where
11 there's a disrespect to our culture, it's really important
12 for me to respect the kupuna of that island, because they
13 are the head of the island. But I'm also as an events
14 coordinator there, I mean I took on the role as a volunteer.
15 And I'm going to hear it from all the cultures that live
16 there, but I have to say one of the good things that has
17 happened is to make things pono, to make things right and to
18 work together. Because we are a diverse culture on Lana'i,
19 and what I've instilled in a lot of my events is education
20 about the culture.

21 And the only reason is because when visitors come
22 to Lana'i, I want them to leave knowing the history of our
23 island, not because we have two beautiful resorts or the one
24 land owner on the island, because I want them to know the
25 history of our island and how important it is for us to

1 preserve the history. So I made sure that even within our
2 events, we -- in 2005 when I took over actually the events,
3 that was my first event, and I incorporated a history about
4 Lana'i. And like the one gentleman that came up to talk,
5 you know, he said doing a film. That's exactly what I did.
6 I showed in the park the film of what transpired about our
7 pineapple days and years. And many, many people appreciated
8 that, you know.

9 And so I think to incorporate the history in
10 events is so important, you know, because coming from the
11 historical point, you know, and I do have -- I do run a
12 museum there. And I open the museum at all of our events,
13 and I take people in to talk to them about the history. And
14 it is wonderful, and they appreciate. They appreciate,
15 because this is how we in return on Lana'i educate the
16 people how to come to our island and respect our island, so
17 I mean I just wanted to share that mana'o.

18 COMMISSIONER MOIKEHA: Quick question to staff, to
19 Ann. As far as the EA, the assessment, if no construction
20 is done, it doesn't trigger that; I mean numbers really have
21 nothing to do with the environmental assessment of an MRA?

22 MS. CUA: I don't know if you have that in front
23 of you, but let me look at that. Here, the triggers based
24 on Chapter 343 is not only use in the historic district, but
25 use of state or County lands, which I believe that's even

1 involved with this as well. If you look at all the
2 triggers, I think you guys all have this application.
3 Nowhere does it say, you know, 50 people, 100 people, 30,000
4 people. It's the use.

5 COMMISSIONER MOIKEHA: So who made that?

6 MS. CUA: The list of triggers? This comes from
7 the state.

8 COMMISSIONER MOIKEHA: From the state?

9 MS. CUA: From the state.

10 COMMISSIONER MOIKEHA: I mean it just seems to me
11 that 30,000 does have some great impact, you know, in some
12 way, form or another, you know. It changes the environment,
13 you know. I don't know. Just the first thing that comes to
14 mind. Okay.

15 MS. CUA: The one thing I was asked to mention,
16 that I just again want to clarify so that, you know, the
17 department is not trying to withhold any kind of information
18 from anybody here. We're just giving you information as we
19 were informed, as we experienced and based on the law. And
20 this mediation that happened where there were five
21 representatives from Lahaina Town Action Committee and five
22 of the community group, the Hawaiian community group, I was
23 asked to let the Commission know that there were basically
24 only two Hawaiian groups involved in that five. And when we
25 actually looked back at the minutes of what you guys had

1 mentioned, and the Chair kind of mentioned that now he
2 wanted all the groups involved to meet. The mediation that
3 took place basically only involved two groups, the two that
4 you pretty much see here I believe, and then the Lahaina
5 Town Action Committee.

6 And I don't know if, you know, if we're going to
7 go past this year and go on to more discussion, you know,
8 there could be a community meeting where anybody who wants
9 to come comes. I don't know how that gets managed. You
10 know, obviously the more people that you have that you're
11 trying to get mitigation, the harder it is to manage. But
12 you know, that's something that we can look towards.

13 CHAIR KALALAU: Thank you.

14 COMMISSIONER WHELCHER: I make a motion to approve
15 the request for the annual Halloween in Lahaina event with
16 staff recommendations.

17 CHAIR KALALAU: Okay. Staff has 23
18 recommendations. With the changes of the relocation of the
19 bathrooms?

20 COMMISSIONER WHELCHER: I thought that was a
21 verbal change. It could include the relocation of toilets.
22 Should it include the reinstating of scrip?

23 MS. CUA: That's up to the Commission.

24 COMMISSIONER WHELCHER: I can restate the motion.
25 Motion to approve the request for the annual Halloween in

1 Lahaina event with staff recommendations including
2 reinstating scrip and relocation of the toilets at the
3 banyan tree.

4 MS. CUA: No, it was Lahaina library lawn.

5 COMMISSIONER WHELCHER: Library lawn.

6 MS. CUA: Oh, I believe that would be amending
7 condition number 19, which deals with the port-a-potties
8 and addition of a condition number 24 requiring no cash
9 sales for this event.

10 COMMISSIONER WHELCHER: That is correct.

11 MS. CALENTINE: Commissioners, would it be prudent
12 at this point to, since condition number 19 actually
13 specifies where the port-a-potties are going to be located,
14 for you to determine where they're going to be located at
15 this time since I will have to strike that portion of the
16 condition number 19 regarding the Lahaina library lawn? So
17 what do you want that to read? It's your call.

18 COMMISSIONER WHELCHER: I think Theo agreed to
19 having it by the side street by the court house.

20 MS. CALENTINE: Which side street? There's
21 already eight going to be located on Canal Street, which is
22 one of the streets surrounding the court house.

23 COMMISSIONER FREDERICKSEN: What's the street
24 between the library and Pioneer Inn?

25 MS. CALENTINE: Hotel Street -- Papelekane.

1 COMMISSIONER FREDERICKSEN: Yeah, Hotel Street is
2 right next to the banyan tree.

3 MS. CALENTINE: Right, okay.

4 CHAIR KALALAU: So where are we going to relocate
5 it at, Papelekane?

6 COMMISSIONER FREDERICKSEN: Yeah.

7 MS. CALENTINE: It's up to you, Commissioners.

8 CHAIR KALALAU: Did I hear a 25, 25th
9 recommendation that we can bring them up in discussion?

10 MS. CALENTINE: Twenty-four recommendations.

11 CHAIR KALALAU: But there's a motion. Do I hear a
12 second?

13 COMMISSIONER FREDERICKSEN: I'll second.

14 CHAIR KALALAU: It's moved and seconded. We're
15 open for discussion.

16 COMMISSIONER ARTATES: Mr. Chair, does it include
17 the exchanging of cash to scrips?

18 MS. CALENTINE: That would be a new condition,
19 number 24.

20 CHAIR KALALAU: And this is recommendations.
21 There was another concern to that, if we might put it into a
22 recommendation, is that this issue will be addressed in
23 December of this year to clarify for the next time or for
24 any other event that's going to occur in this area. Because
25 I think by then, we might get some federal guidelines or

1 national guidelines or what are their authority in making
2 the national historical district in compliance.

3 COMMISSIONER FREDERICKSEN: Or at least start the
4 discussion in a month or two down and see what comes back.

5 MS. CUA: So are you asking for -- I'm sorry,
6 you're asking for a condition that this come back to the CRC
7 in December, is that what I was hearing? So do we still
8 need that condition that says the Applicant shall coordinate
9 an event review session before November 21st, 2007, or do
10 you want instead to replace that with the application comes
11 before the Cultural Resources Commission where the public is
12 able to come to that as well in December of 2007? Is that
13 what we're hearing?

14 CHAIR KALALAU: Right.

15 MS. CUA: We can change that.

16 MS. CALENTINE: So the Applicant shall return to
17 the Cultural Resources Commission for an event review on
18 what's the December date?

19 CHAIR KALALAU: Second?

20 MS. CUA: I guess the question is is it an event
21 review or a permit for next year?

22 CHAIR KALALAU: I think it's the event review.

23 MS. CUA: It's event review? It's event review
24 and the permit for next year, okay. All right.

25 MS. CALENTINE: The date is December 6th. So the

1 Applicant shall return to the CRC on December 6th, 2007, for
2 an event review and -- for an event review of the Halloween
3 permit.

4 MS. CUA: I think we should maybe say for event
5 review and 2008 permit, historic district application
6 permit.

7 MS. CALENTINE: Does that seem to catch it for
8 you, Commissioners, that the Applicant shall return to the
9 CRC for an event review and 2008 historic district
10 application, permit application on December 6th, 2007,
11 historic district permit application?

12 CHAIR KALALAU: Would it be enough time, I'm
13 looking at time line, that would it not be in violation of
14 the Sunshine Law?

15 MS. CALENTINE: No, this would be a regular
16 Cultural Resources Commission hearing -- meeting with a
17 public hearing.

18 CHAIR KALALAU: Okay.

19 MS. CALENTINE: One thing I'm not certain, and
20 Stan, we want to check with him as far as what he's
21 calendaring for you for December and see if it's going to be
22 possible. That will give us 20 days to put together an
23 evaluation or some kind of a report for you guys for
24 December because -- well, a little more than 20 days.

25 Is December 6th okay with you to bring this back?

1 MR. SOLAMILLO: Yes.

2 MS. CALENTINE: Okay.

3 MS. CUA: December 6th is fine.

4 CHAIR KALALAU: Okay. A motion has been moved and
5 seconded. We're in discussion. Now we'll call for a vote.

6 All in favor, raise your right hand.

7 (Two hands raised.)

8 CHAIR KALALAU: All opposed, right hand.

9 (One hand raised.)

10 CHAIR KALALAU: Motion passed -- motion didn't
11 pass. Are we going to introduce a new motion? Yeah,
12 because Ke'eaumoku is recused. We need to have five votes
13 to pass or deny. I think that was a fairly well motion.
14 Have you written the motion down?

15 MS. CALENTINE: I believe it was a motion to
16 approve as amended, and we went over the conditions.

17 CHAIR KALALAU: Anyone want to introduce a new
18 motion?

19 COMMISSIONER ARTATES: Gees, looks like we're back
20 to square block one. My question, Mr. Chair, is the votes
21 on the table right now is two to one, is that my
22 understanding?

23 CHAIR KALALAU: Yes.

24 COMMISSIONER ARTATES: And we need how many votes
25 for approval? I make a motion that we deny the request of

1 the Lahaina Town Action Committee requesting historic
2 district approval for the annual Halloween in Lahaina event
3 to take place within the Hawai'i -- the Historic District 1
4 at the Banyan Tree Park, the Library lawn, Baldwin House,
5 Campbell Park, Kamehameha Iki Park and along Front Street
6 from Baker to Shaw at Maui Tax Map keys and so on.

7 CHAIR KALALAU: Do I hear a second? We don't have
8 a second, so the motion is --

9 MS. CUA: You want to take a five-minute recess,
10 Mr. Chair? The court reporter needs a break.

11 (Recess taken.)

12 CHAIR KALALAU: Okay. We're back again,
13 everybody. I just wanted to explain something on one of our
14 Cultural Resource Commission rulings on voting. We had two
15 people that did not vote for or against and sat in silence.
16 Under Provision 12.53.021, silence or refusal to vote shall
17 be recorded as an affirmative vote. That means it's a yes
18 vote, but because as the Chair I didn't ask the
19 Commissioners whether anybody here recused themselves or
20 abstained from voting, we're going to redo the motion again.
21 Right now we have one person who is recusing himself, one
22 Commissioner.

23 And I need to ask any of the Commissioners if they
24 would abstain from this motion, from voting on this motion.
25 If not, we will introduce the motion again. The motion was

1 made by Lon.

2 COMMISSIONER WHELCHER: I make a motion to approve
3 the request for the annual Halloween in Lahaina event with
4 24 staff recommendations, and that includes the relocation
5 of the port-a-potties. I believe that's all.

6 CHAIR KALALAU: And the scrips.

7 COMMISSIONER WHELCHER: And reinstating scrip.

8 MS. CUA: Reinstating scrip, and if we could
9 expand on that a little bit. Well, or can we assume that
10 the reinstating scrip means that the number of scrip booths
11 will be determined by the Lahaina Town Action Committee and
12 the department?

13 COMMISSIONER WHELCHER: Correct.

14 MS. CUA: And the other thing that you did was on
15 condition number 23, you modified it to say that the
16 Applicant shall return to the Cultural Resources Commission
17 on December 6th, 2007, for an event review as well as the
18 2008 historic district permit application.

19 COMMISSIONER WHELCHER: Correct.

20 COMMISSIONER FREDERICKSEN: Second.

21 CHAIR KALALAU: It's been moved and seconded.
22 Open for discussion. Kalei.

23 COMMISSIONER MOIKEHA: I think I would just like
24 to qualify at this point what I decided I will do. And that
25 is I will vote in the affirmative based on the health and

1 safety of all people that will be participating in that
2 event that night. I don't plan to be there, but without a
3 doubt, I'm sure some members of my family will be there, and
4 I would want them to be safe. I don't want it to be out of
5 control. And so based on those things, and I would hope
6 that even as we meet in December, and before that, that the
7 Lahaina Town Action, as they call themselves Lahaina Town
8 Action Committee, can get together and figure out something
9 also as you -- as they partake of that one event of that
10 night, that in some way, form or another, they can get
11 together and decide what they can do to give back.

12 CHAIR KALALAU: Comments. Anymore concerns? The
13 discussions are now closed. Motion on the floor. All in
14 favor, raise your right hand.

15 (Hands raised.)

16 CHAIR KALALAU: I need to speak to Mr. Artates.
17 Are you abstaining from the motion, or are you just --

18 COMMISSIONER ARTATES: I'm not supporting the
19 motion.

20 CHAIR KALALAU: We have four in support of the
21 motion. My concern is from the beginning was safety. I've
22 been at this Halloween parade from when it kind of first
23 started and it was vicious, I mean physical. And it's been
24 24 years that this Halloween parade is going on, and it got
25 more controlled.

1 I have a lot of families come down here to this
2 Halloween parade, too. And part of it whether we deny this
3 thing or pass this thing, it's going to happen. And I see
4 it without some kind of control, it's going to get worse.
5 It's going to get wild. Therefore, as the Chair, I will be
6 supporting this motion and that we will try to make sure
7 that the recommendations -- that the County try to enforce
8 some of the recommendations. And that recommendation, I
9 think number 25, that we do meet with these organizations
10 again in December. And at that time, hopefully we can
11 really get the information and the palapala that we really
12 need to make the right decisions.

13 Right now, it's kind of too late. People are
14 already on their way here, and you're not going to stop them
15 from coming here. I would really like to see some of the
16 comments that people of this community has presented here
17 today about cultural, about safety, about being in a
18 historical district, that we can really address those issues
19 come December, or we'll have enough time in 2008 to address
20 all the concerns and issues. Therefore, the Chair will be
21 voting in support of this motion. Anyone vote against? We
22 have one, and five for. Motion is passed.

23 UNIDENTIFIED SPEAKER: You took oath of office,
24 all of you, to uphold the law, not your personal thing
25 because you think somebody is safe. Uphold the law. Uphold

1 the law. You took an oath office, all of you.

2 CHAIR KALALAU: Stan.

3 MR. SOLAMILLO: Under advisory review, there are
4 no cases being brought before you at this time. Under
5 demolition permits, there are none being brought before this
6 meeting. Under communications, any unfinished business, new
7 business, sign enforcement program in the Lahaina Historic
8 Districts, Banyan Tree Park, director's report, there is no
9 other business being brought before you at this time.

10 The next meeting is scheduled for September 6th,
11 2007. Are there any items the Commissioners want on the
12 agenda?

13 CHAIR KALALAU: Any items that you guys want to on
14 the agenda? Will the next meeting be held in Wailuku?

15 MR. SOLAMILLO: Uh-huh. Under administrative
16 reports, there is nothing being brought to you today except
17 for the correspondence that was included in your packet.
18 The same conditions exist for historic district approvals
19 report. The Maui County policy plan, which is an item that
20 we absolutely must work on, that will be scheduled as an
21 item of importance for the next meeting because our comments
22 need to be forwarded on to the long range planning. The
23 next item is Commissioner's announcements. Are there any
24 Commissioner's announcements?

25 CHAIR KALALAU: I don't have anything. Anybody

1 else?

2 MR. SOLAMILLO: Next meeting date again is
3 September 6, 2007, in Wailuku, planning conference room.

4 CHAIR KALALAU: Will someone make a motion to
5 adjourn?

6 COMMISSIONER ARTATES: Move to adjourn.

7 COMMISSIONER WATANABE: Second.

8 CHAIR KALALAU: Moved and seconded. Our meeting
9 is now adjourned.

10 (The meeting ended at 5:35 p.m.)

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CERTIFICATION

I, RACHELLE PRIMEAUX, Notary Public for the State of

Hawaii, certify:

That the proceedings contained herein were taken by
me in machine shorthand and were thereafter reduced to print
under my supervision by means of computer-aided
transcription; that the foregoing represents, to the best of
my ability, a true and accurate transcript of the
proceedings had in the foregoing matter.

I further certify that I am neither attorney for any
of the parties hereto nor in any way concerned with the
cause.

Dated this _____ day of _____, 2007.

NOTARY PUBLIC, State of Hawaii

My commission expires 6/14/08