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CULTURAL RESOURCES COMMISSION

COUNTY OF MAUI

THURSDAY, NOVEMBER 1, 2007

REGULAR MEETING

Held at the Kalana Pakui Conference Room, First
Floor, 250 South High Street, Wailuku, Maui, Hawaii,
commencing at 9:05 a.m., on Thursday, November 1, 2007.

REPORTED BY: CAMMIE GILLETT, RPR, CSR #438

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1 ATTENDANCE

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4 COMMISSION MEMBERS PRESENT:

5 Samuel Kalalau III, Chairperson

6 Dorothy Pyle, Vice-Chairperson

7 Erik Fredericksen, Commissioner

8 Lon Whelchel, Commissioner

9 Nani Watanabe, Commissioner

10 Veronica Marquez, Commissioner

11 Lee Kalei Moikeha, Commissioner

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14 STAFF PRESENT:

15 Stanley Solamillo, Maui Planning Department

16 Michael Hopper, Deputy Corporation Counsel

17 Suzette Esmeralda, Board Secretary

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1 THURSDAY, NOVEMBER 1, 2007.

2 CHAIRPERSON KALALAU: All right. The November 1st
3 Maui County Cultural Resources Commission, please come to
4 order. We'd just like to welcome everyone in the crowd.
5 Good morning.

6 THE AUDIENCE: Aloha.

7 CHAIRPERSON KALALAU: First of all, on our agenda,
8 we'll have the minutes approval.

9 Commissioners, any questions on the agenda?
10 Corrections? If someone will make a motion.

11 COMMISSIONER WHELCHER: I make a motion that we
12 approve it.

13 VICE-CHAIRPERSON PYLE: Second.

14 CHAIRPERSON KALALAU: It has been moved and second.
15 Any discussion?

16 (No response.)

17 CHAIRPERSON KALALAU: I see that there's no
18 discussion. All in favor say "aye."

19 (Round of ayes.)

20 CHAIRPERSON KALALAU: We will have a slight agenda
21 change. We're going to move -- Stan.

22 MR. SOLAMILLO: Due to time constraints, under
23 presentations, which was under communications towards the
24 end of the agenda on Page 3, Mr. Tom Fairbanks wishes to
25 make a presentation on transient vacation rentals in

1 historic districts.

2 VICE-CHAIRPERSON PYLE: Do we need a motion? I

3 move that we amend the agenda as stated.

4 COMMISSIONER WHELCHER: Second.

5 CHAIRPERSON KALALAU: That being moved and second.

6 All in favor.

7 (Round of ayes.)

8 CHAIRPERSON KALALAU: Motion carried.

9 Stan, do you want to --

10 MR. FAIRBANKS: Aloha. Good morning, everyone.

11 First of all, I want to thank everyone for

12 volunteering your time. It's a worthwhile cause. When I

13 was planning to do this -- and I'll explain a little bit

14 more what we're doing -- but I looked at our old documents

15 when I came before you guys in 1996. And so it's just about

16 11 years to the day that we got your approval to put the

17 Lufkin residence, or home, on the Hawaii Register, State

18 Register of Hawaii. So mahalo to your group.

19 Today I want to share a little bit of what can be

20 done when this type of use is allowed for a historic

21 property. And that's the main focus of my presentation

22 today, is to show you where we started and where we're at

23 now. And then I want to ask for some kokua from you guys to

24 perhaps write a letter or something in support of this type

25 of use in the B&B, TVR side of the business.

1 You can change the slide now.

2 (PowerPoint presentation shown.)

3 MR. FAIRBANKS: So this is the historic Lufkin
4 residence. It was built in 1924. The significance of
5 the -- I guess, the structure. It was one of the first
6 buildings -- or one of the early buildings on Maui, anyway,
7 to have concrete slab, stucco. The lower floor is stucco.
8 It's also representative of the new merchant class that
9 emerged in Wailuku. It was built by Charles Dexter Lufkin,
10 who started the Bank of Maui, and later merged with the Bank
11 of Hawaii. He was an officer for the Bank of Hawaii here on
12 Maui. He ran the Maui branches until the '40s.

13 He built it for his son and daughter-in-law when he
14 got married. He lived next door. The house is still next
15 door. Betty Ota owns it. This house is at 408 High Street.
16 That's the old address. We changed it to 2199 Kahookele
17 Street, because it's like you take your life into your own
18 hands to go pick up your mail. So we moved it to the side
19 street, our mailbox.

20 This is the house in 1994. The Lufkin house.
21 We're the fifth owner. So it's supposed to be good luck in
22 Hawaiian. The owner after the Lufkins was -- it's slipping
23 my mind right now. But they ran the shoe store here in
24 Wailuku. They had the house for 28 years. They were
25 involved in a number of different Maui businesses in

1 Wailuku. Then they sold the house to Mr. Cohen, who passed
2 away back in -- anyway, he was a lawyer.

3 And then the people -- well, the Cohens did a lot
4 of work on the house to keep it going. I guess they were
5 the ones that saved it from the termites. The house at that
6 time, I think -- well, I think between the Cohens and the
7 previous owners, there was a lot of social activity here in
8 Wailuku held there; famous poker games, I believe,
9 downstairs in one of the rooms.

10 And the previous owner -- well, when the Cohens
11 were there, the Maui theater groups were there. So there
12 were always parties there and stuff. So the house is pretty
13 much open a lot to the public. A lot of people from those
14 days, the '70s and '60s and '50s remember it.

15 Then the next owners, they were actually the ones
16 that saved the structure of it, to keep it going. And
17 the -- they're quite old in their life, but the guy -- he
18 still lives there nearby. He did a lot of work on the house
19 to keep it going. It was in pretty bad shape when we got
20 it.

21 This is another look of the house from High Street.
22 This is in '94. At that time, one of the architectural
23 companies here in Wailuku was looking at it. And they
24 actually filed a permit to get a conditional use. But they
25 never followed through with it. So there's a lot of

1 documentation from that time. I didn't take a lot of
2 pictures when I bought the house. Luckily, I have these.

3 The kitchen was upstairs originally when the house
4 was built. And then there's just some of the other
5 architectural features of the home. You can go around the
6 house and see what it's like. This is the garage. And it
7 doesn't look like that now because we converted that. It
8 gives you an idea what the exterior is.

9 These columns were actually on all four corners of
10 the property originally. They still exist on three corners
11 of the property. At that time, I guess, when the Lufkins
12 purchased the property, it was -- I guess a little over a
13 full acre. The Ota's house next door and Nishihara's house
14 behind the Ota's house we're all part of the same parcel.
15 And they had these concrete columns. And they're also part
16 of the conservation or historical register.

17 This is the interior living room in 1994. And then
18 some of the beautiful ohia wood floors that we were able --
19 well, you'll see how they were restored.

20 This is the covered lanai. I believe it was
21 covered later, possibly by the second owners. And there was
22 jalousies and stuff. We made some minor changes to that.

23 This is the original kitchen, which is on the
24 second floor. You saw the higher windows, and a lot of
25 built-ins and stuff. I wanted to show you how we did some

1 of the built-ins to keep them consistent.

2 And then the downstairs, which is where we live
3 now, was all unfinished in the ceiling because they had all
4 the knob and tube wiring. This is all the conversion it.
5 It's a pretty scary room in the back there.

6 This is a -- I think about the back half of the
7 house, almost the entire base on the second floor. The
8 plywood is the -- not the plywood. But the two-by-four base
9 of the frame wall was gone. And probably another maybe ten
10 percent or so of the supporting structures on the second
11 floor were gone.

12 So basically, we thought we were just going to open
13 up walls and put wires in. But we had to open them all up
14 and replace a lot of the interior of the building.

15 This is -- there was a stucco wall that went all
16 the way to the second floor. I guess this was the real
17 dilemma of the termites. Because there was a termite nest
18 in this wall. It was about 14-feet long and about 10 or
19 12-feet high. That was an eight-by-eight beam at one time.
20 That's pretty much how it was when we opened up that wall.
21 That's where the termites were hiding.

22 This is after the restoration -- or rehabilitation,
23 as we call it, because it's not a true restoration. This is
24 the lanai, which you didn't have a look at it before. Some
25 of the details like the floors -- I guess with the lights,

1 we can't see the floors. The floors came out really, really
2 nice. And the termites didn't eat any of the ohia.

3 This is the living room as it looks now. You can
4 look at some of the doors that we saved. This is the
5 covered lanai that we use as a breakfast service area now.

6 And this is the kitchen cabinets that we converted
7 in the bedroom. Well, it was a bedroom, anyway, when we got
8 it. We fixed them up. One of the cabinets we made into a
9 desk. That's the kitchen again, the old kitchen originally.

10 This was the master bedroom. And then this is some
11 of the detail in the original dining room. And I think in
12 the late '20s or late '30s, they moved the kitchen
13 downstairs. So this became a bedroom at that time, as the
14 family grew. That's another detail. This is the same
15 bedroom. That was the dining room originally.

16 This is the one of the original bedrooms. There
17 were only two bedrooms when the house was originally built,
18 finished bedrooms. Like I said, the whole downstairs wasn't
19 finished. Then they slowly finished things. The owners
20 finished things as years went by. This is the second
21 bedroom. Children's bedroom, I guess.

22 And then there was a maid's quarters downstairs. I
23 believe that was there originally because there was a
24 laundry chute just outside the owner's bedroom. This was a
25 maid's quarters and a laundry room that we converted to a

1 bedroom.

2 This is the garage. We converted the garage into
3 two bedrooms here. So these are garden rooms. These are
4 smaller rooms, but really nice. This is the identical twin
5 of that.

6 This is the front of the home. As it looks --
7 well, it looks a little bit different now. This is about
8 ten years ago, so the trees are much bigger.

9 This is the a look from the other end where the
10 garage was before. And now there's two garden rooms with
11 little lanais.

12 And then just all the detail. We saved all the
13 exterior detail. The only change on the exterior was the
14 garage. Here's more things that were saved. Okay.

15 We tried to -- we figured when we were doing this,
16 we wanted to make sure that -- people want to stay here with
17 a special experience. Of course, playing upon the historic
18 home and making it very comfortable and welcoming and
19 warming was very important to the success of the inn
20 operating in this historic structure.

21 The home didn't have a name. We gave it a Hawaiian
22 name. A friend of ours named it, Ulupono. It translates to
23 harmonious inspiration. It also has meanings of growth. So
24 that's why it was given that name. We gave it the name. It
25 never had a name before.

1 And like Christmas is real special. We had the
2 preschoolers from the Union Church in 2002, at this
3 Christmas party. Another Christmas. This is lauhala
4 Christmas with lauhala ornaments. My wife's Christmas and
5 Santa Clause connections.

6 This is an aerial view of the home. Luckily, it
7 was on a 22,000 square foot lot, so we were able to
8 accommodate parking on the property. We use grass create to
9 mark the parking stalls and to reduce the hard surface. We
10 put a wall around it, too, because we knew it would be a
11 concern to the neighbors. We noticed in the original
12 property filings that some of the neighbors spoke up about
13 the office being there. And we didn't want to be walking
14 around the lot. So we put the wall up first before we did
15 anything to help, you know, insulate the neighbors from
16 anything. But there's really not been any interruption or
17 disturbance.

18 This is an accessory building that the previous
19 owner built on the property, which we later converted to a
20 second dwelling. This is a view of down Kahookele Street,
21 which you capture to the right the accessory building.

22 Just to capture the feeling of that era and the
23 experience, we chose to theme the house after Don Blanding's
24 poem. Because it was kind of a hapa haole time, I don't
25 think there were a lot of Hawaiians in the house in the

1 beginning. Later on in life there were, but not in the
2 beginning. So we chose a hapa haole theme. So that's kind
3 of how we carried out our design. Particularly, the
4 landscape design.

5 And then this is the secondary dwelling after
6 renovation was completed in 2003. And these are some of the
7 bedrooms. We used -- Sig Zane helped us with the fabric
8 designs. So we used all of his stuff. As you noticed in
9 the other building, we used Hawaiian quilts.

10 That's the thing we used for our theme. That's
11 just a Hawaiian -- you have all this in your stuff. So if
12 you wanted to put your glasses on, you don't have to look at
13 it now. It's pretty small. I didn't realize it's going to
14 come out so small.

15 Like I said, we had to make it a special experience
16 to make it successful. So we wanted them to experience a
17 lifestyle and hospitality of Maui, when sugar was cane, for
18 the visitors, and support the preservation and adapt the use
19 of a historic house.

20 And then we've been -- well, we have permits and
21 everything. We don't have permits for the last three rooms.
22 But we are in process for that, and that's why I'm asking
23 for your support. We should be going before council. It's
24 a time where there's a lot of convulsion and misinformation
25 and emotion. So it would be important for the council to

1 feel good that you guys support us.

2 I believe that most of the council members are in
3 support of what we're doing. But we do need to have a
4 really broad-based community support for them to feel
5 comfortable in making a favorable decision. Because we do
6 have -- with ten rooms, it's not fitting into any of the
7 present new laws that are going into effect.

8 And then we've had a number of recognitions for our
9 efforts. The Hawaii State Register, thanks to you guys.
10 Hawaii Visitor's Bureau Kahili Award, we received for
11 accommodations. We were the winner in that division. We
12 were lucky. I guess they felt bad for us because we were up
13 against Hualalai. They won everything else, but we got the
14 accommodations.

15 Wailuku Main Street Historic Preservation Awards.
16 And architectural -- Jim Neiss was our architect for us to
17 get it all together. He won an award for it. And we had a
18 preservation award from the Maui Historic Society, as well
19 as a Historic Hawaii Foundation Preservation Award, which
20 was in 2004.

21 We also have special recognition from the travel
22 site, from Travel & Leisure top 10 B&B's in the United
23 States, for drawing inspiration from the locale and managing
24 to get everything right. And then the American Automobile
25 Association gives us a three diamond rating, which is really

1 good. And Frommer's and Fodor's, we're favorites. So forth
2 and so on. So we're very highly respected in the travel
3 community.

4 And then interesting, from our side, only about 50
5 percent of our visitors are outside of Hawaii. We have a
6 lot of people staying with us who are doing business on Maui
7 or they're visiting family or they're visiting the island.
8 We have a lot of people from Hana that stay with us. So we
9 have a really broad base of business.

10 And then I just wanted to make note that of the
11 five or six historic homes on Maui on the register, either
12 on the National or the State or both, two of them are -- as
13 far as I can tell, two of them are museums, two of them are
14 bed and breakfast. And neither of the two, which is the
15 Lufkin residence or the Theresa Gomes -- Frank and Theresa
16 Gomes' residence, which are both bed and breakfast, really
17 conform to the any of the present legislation coming
18 forward.

19 This is the Gomes residence. I think it's in
20 Makawao. I'm not sure exactly. Okay, it's in Makawao. And
21 the owner is right behind me.

22 So that's the living room. And just as a historic
23 bed and breakfast across the United States, that's like one
24 of the ways of preserving these older homes. So it's
25 something important. And I know that the Planning

1 Department would like to do it. I'm not really sure how
2 they want to do it. And it's really difficult to get these
3 cleared without having to open the gate or make special
4 accommodations. And it's a really difficult thing. And
5 right now, the whole process is really difficult. So any
6 help you guys can give them, we'd appreciate it.

7 But basically, it is a way to maintain these homes
8 in a very good condition, as you can see what we've done
9 with our place. And it does help preserve or sense of place
10 of community. And it does -- and contrary to a lot of
11 the -- well, testimonies or whatever we hear out there, I
12 think those are not people running bed and breakfasts,
13 living on property living, right next door. They're not
14 those people.

15 Because in our business, you cannot afford to run a
16 slip shot operation and be successful. Those are not people
17 that are responsible people. And they are probably not even
18 a bed and breakfast. They are probably rentals that nobody
19 oversees or checks on. That's only my opinion.

20 So what we could use from you guys is just support
21 for historic structures and this type of use; TVR, B&B
22 situations. Even the other thought I had too was -- it's
23 good to be supportive. But also, we have to think of the
24 succession, the long-term preservation. I'm not in the
25 beginning of my life either. So we need to be thinking

1 about that as well when we're thinking about preservation
2 and this type of use, to make it a little bit easier for
3 succession for historic homes.

4 You know, it's probably opening a can of worms.
5 Because I see Joe over here. He's trying to bring
6 everything together. But I think it would be good if
7 there's some -- just a little more relaxed applications to
8 historic structures. So if you do have to -- like if my
9 wife and I can't work anymore and we've got to sell it, the
10 other person doesn't have to shut down and go through the
11 process. Maybe they can continue operation during the
12 process.

13 And the only other thing I wanted to make a note
14 of. We don't really have any breaks. Owning this, we knew
15 it, we weren't going to have a breaks. There's no breaks
16 for taxes or anything because we're running a commercial
17 operation. So we need some help somewhere. The two places,
18 process and succession, I think would be a really big help.
19 I think it's fair that we contribute from a tax standpoint,
20 but I think the other place we could use some help -- if you
21 guys can help us with that, I'd really appreciate that.

22 Does anybody have any questions?

23 VICE-CHAIRPERSON PYLE: Maybe it's just -- I should
24 know this, perhaps. You mentioned that you're lacking some
25 of the requirements. Can you just explain that a little

1 bit.

2 MR. FAIRBANKS: Well, just because they're trying
3 to make the laws very clear and concise so that there's
4 no -- we don't have all these different types of things and
5 entities to deal with.

6 So basically, in my situation, we have two
7 buildings that work TVRs. And right now, what they're
8 trying to do is in residential areas, no TVRs in residential
9 areas, only B&Bs. Which means six rooms in a residential
10 house. While we have additional use for a seventh room in a
11 residential house -- so already, we don't fit with that.
12 And then we have a secondary building with three rooms. So
13 we're going before council to ask for a conditional use
14 permit for the three additional rooms.

15 We've had unanimous approval by the Planning
16 Commission already. And so we anticipate we'll be
17 successful, but we're just asking that you guys support us.
18 And then from a standpoint of requesting that legislation be
19 written to be supportive of any historic property that's
20 going to be used.

21 VICE-CHAIRPERSON PYLE: This is an additional
22 comment. You might not remember, maybe you do.

23 MR. FAIRBANKS: Yeah, I do.

24 VICE-CHAIRPERSON PYLE: My son worked for a summer
25 for Jim Neiss as an architectural intern. And he actually

1 did all the as-built drawings for you guys at that point in
2 time. So I crawled around in that house with him before it
3 turned into what it looks like now.

4 MR. FAIRBANKS: I remember your son. Thank you.

5 CHAIRPERSON KALALAU: Any more questions,
6 Commissioners?

7 Okay. Thank you, Tom.

8 Stan, can we have any -- do you guys have any
9 comments on this applicant?

10 MR. SOLAMILLO: We've just seen the presentation,
11 so we don't have any comments at this time.

12 VICE-CHAIRPERSON PYLE: So we're going to revisit
13 this when it comes up on the agenda?

14 MR. SOLAMILLO: Probably we'll review what his
15 presentation includes. And if he wants a letter from us,
16 then we'll have to bring it back for further action.

17 CORPORATION COUNSEL: Mr. Chair, can I make a
18 comment.

19 CHAIRPERSON KALALAU: Yes.

20 CORPORATION COUNSEL: Just when that comes up next
21 time, it might be good to have it agendaed a bit more
22 specifically. Because this is just, "Tom Fairbanks on
23 transient vacation rentals in historic districts." If this
24 is dealing with a specific application or a specific home or
25 a letter of recommendation for that, it might be a good idea

1 to mention that in the agenda.

2 MR. SOLAMILLO: This was just for the presentation
3 today.

4 CORPORATION COUNSEL: Right, okay.

5 MR. SOLAMILLO: Okay. Under historic district
6 applications, Pua Rochlen, on behalf of Surf Line
7 Hawaii/Jams World, has withdrawn their application this
8 morning at 8:00 a.m. --

9 CHAIRPERSON KALALAU: Wait. Excuse me. On this
10 item with the application, so we're going to make a decision
11 when it's a regular item on the agenda? Because right now,
12 it was just for --

13 MR. SOLAMILLO: It's just a communication item
14 today. So we would bring it back on another agenda with a
15 letter of recommendation.

16 CHAIRPERSON KALALAU: Oh, okay.

17 VICE-CHAIRPERSON PYLE: When does this have to go
18 before the council?

19 MR. FAIRBANKS: I don't think before four weeks.

20 VICE-CHAIRPERSON PYLE: So if we had this on our
21 next agenda, it might fulfill the requirements that you
22 have?

23 MR. FAIRBANKS: I think so.

24 CORPORATION COUNSEL: I am working just on a
25 resolution. I don't think council has scheduled it yet. I

1 think it's down there. But there's no requirement for CRC
2 review for this conditional-use permit?

3 VICE-CHAIRPERSON PYLE: No.

4 CORPORATION COUNSEL: Okay.

5 VICE-CHAIRPERSON PYLE: No. I understand that we
6 would perhaps like to have the opportunity to comment that
7 way.

8 CORPORATION COUNSEL: Sure. At this point, it's
9 not on a council agenda, right. Okay.

10 In fact, it would have to go to full council first,
11 and then get referred to the committee. Right?

12 MR. FAIRBANKS: I'm not sure how the process goes.
13 I know I have to go before it twice.

14 MR. ALUETA: If I may, Mr. Chairperson. Since I am
15 the -- I'm the administrative planning officer for the
16 department. And I am drafting the TVR/bed and breakfast
17 ordinances that are currently going through the
18 recommissions.

19 I definitely have some concerns that were raised by
20 the presentation and information that was given. And any
21 type of letter that comes out of the CRC with regards to the
22 B&B/TVR issues, I think you need to have -- if you want to
23 make some broad-ranging comments, you need to have the full
24 story. And at the same time, if you want to make specific
25 comments to what you know of this applicant and for him in

1 particular, I don't have a problem with that. It's just
2 that I think that if you want to make any broad general
3 comments, you should know what the actual bills are before
4 you make any broad type of comments.

5 Because a lot of the issues may already be
6 addressed or will be addressed. But it's not an agendaed
7 item, so I just don't want to get too far into any type of
8 discussion.

9 VICE-CHAIRPERSON PYLE: Thank you, Joe.

10 Can I ask another question?

11 CHAIRPERSON KALALAU: Yes, Dorothy.

12 VICE-CHAIRPERSON PYLE: If these bills are being
13 drafted and they are going to have an impact -- and I don't
14 know. I'm only just throwing it out there. If they are
15 going to have an impact or concern historic buildings and
16 historic sites on Maui County, should perhaps those bills
17 have some comment from the CRC?

18 After all, if they are going to have an impact on
19 our cultural resources, perhaps we should have a way to
20 comment on them.

21 MR. ALUETA: I do not believe they have an adverse
22 impact on cultural resources.

23 VICE-CHAIRPERSON PYLE: That doesn't make any
24 difference. We should be the ones who determine that.

25 MR. ALUETA: I'm trying to figure out your role, I

1 guess, as far as looking at more specific projects.

2 VICE-CHAIRPERSON PYLE: I think our role, if you
3 read the ordinances, is that we are advisors about historic
4 preservation and cultural resources for Maui County.

5 MR. ALUETA: That is correct. I'm just trying to
6 figure out, like in the sense of the legislation, how it
7 impacts historic sites. But if you want to review it -- I
8 just don't want to have -- if you watch Akaku, we pretty
9 much have a circus every time we do it at the commission
10 levels. I'm just trying to avoid having -- I already have
11 three, four -- and I didn't want to make it a five-ring
12 circus at this point.

13 VICE-CHAIRPERSON PYLE: I do understand that. But
14 I also understand that what our role is, is to have some
15 kind of input about the ordinances in this county or the
16 actions in the county that concern historic and cultural
17 sites. And somehow, I would assume, it seems, that if some
18 of the historic buildings that are actually registered sites
19 will be impacted by these proposed ordinances, that perhaps
20 we should see what the ordinances are.

21 MR. ALUETA: I think you should have the
22 opportunity to at least have the information. And you can
23 probably do, if need be, a presentation. I just have, you
24 know, from --

25 VICE-CHAIRPERSON PYLE: I hear you. You don't want

1 to have a six-hour meeting where people come and comment. I
2 understand all that. But we really would like to have some
3 informational presentation so that if we then, as a group,
4 would like to write some comment, we can.

5 MR. ALUETA: Correct. And I don't mind doing a
6 presentation on the bills as an informational that's
7 properly agendaed.

8 VICE-CHAIRPERSON PYLE: It has to be agendaed, I
9 know that.

10 MR. ALUETA: I just have from some considerations
11 with regards to the preservation and active use. I just --
12 you know, my experience -- I mean, my outside experience is
13 I've restored several buildings -- 1944, 1931, 1929. So I
14 have that type of background, which is separate from my
15 legislation background.

16 So I just have a hard time when people are trying
17 to say the only way you can restore or maintain a building
18 is by granting additional land use entitlements above and
19 beyond what is already there, okay. I think they should be
20 encouraged. But I think you also need to weigh not only the
21 cultural aspect of it, but some other social issues.

22 VICE-CHAIRPERSON PYLE: I understand all that. But
23 a lot of that's our call, too. That's all I'm saying, it's
24 our call.

25 MR. ALUETA: Yeah.

1 VICE-CHAIRPERSON PYLE: Thank you.

2 CHAIRPERSON KALALAU: Thank you. Okay, Stan.

3 MR. SOLAMILLO: Thank you, Mr. Chairperson. Going
4 back to our permit review items. Pua Rochlen, on behalf of
5 Surf Line Hawaii/Jams World, that item was withdrawn this
6 morning at 6:42.

7 Proceeding to Page 2, under advisory review.

8 Mr. Kanalei Shun, on behalf of the US Army Corps of
9 Engineers, requesting review and comment on "Oral History
10 Studies for the Determination of Traditional Cultural
11 Properties and Cultural Impact Assessment for the Iao Flood
12 Control Project, Maui Island, Hawaii," located along 7,200
13 lineal feet of Iao Stream between Market Street and Waiehu
14 Beach Road, Wailuku, Maui.

15 The CRC is being asked to review and comment on
16 this preliminary document and make recommendations. And
17 public testimony will be accepted.

18 MR. SHUN: Aloha and good morning. Thank you very
19 much for having us. My name is Kanalei Shun. I'm the
20 archeologist for the Army Corps of Engineers.

21 I am here on behalf of the Corps of Engineers. We
22 are doing a flood control project for Iao Stream at the
23 moment. And I'm here to -- actually, by law, we are
24 required to solicit comments on our project; see if there
25 are any social impacts or cultural resources that may be

1 impacted.

2 And part of the regulation is to write letters and
3 consult with as many people as we can. So we're here -- I
4 am here, anyway. So actually, we've written a letter
5 requesting comments from various agencies. And I'm here to
6 see if you have any questions or anything you want clarified
7 about the projects.

8 CHAIRPERSON KALALAU: Questions, Commissioners?

9 (No response.)

10 CHAIRPERSON KALALAU: I have a question. This
11 project is located in what section of the stream?

12 MR. SHUN: It's on the mauka side of the beach
13 roadway. Waiehu, is it? But let's see. Where is the --
14 it's mauka of the beach road up almost past Market Street.
15 The whole project area itself, some of the areas between
16 that area have been flooded, is subject to flooding zone.
17 We're trying to mitigate it.

18 CHAIRPERSON KALALAU: Is it by the Wailuku
19 industrial area?

20 MR. SHUN: Yeah, it's right by the industrial area.
21 And they have the new residential lots right by the stream.
22 It's across from the --

23 CHAIRPERSON KALALAU: Okay. So the work you guys
24 are doing is dredging or shoring up the banks?

25 MR. SHUN: Right, shoring. Not dredging. We're

1 shoring up the banks. And we're putting some concrete on
2 the base of the --

3 CHAIRPERSON KALALAU: Walls?

4 MR. SHUN: Walls, yeah. Well, making the walls
5 higher, preventing the water from going over the walls.
6 Apparently, sometimes even flood water goes over the wall.
7 And other stuff is putting, what, concrete on the floor of
8 the stream, to slow down the flow. It's a flood control.

9 CHAIRPERSON KALALAU: And so most of the materials
10 are coming from the river?

11 MR. SHUN: No, I don't think so. I'm not the
12 technical expert. We have a technical expert team that came
13 in here a while back.

14 And this project has been going on for several
15 years now. And the designers and technical -- I'm the
16 cultural resources person. But if you have questions on
17 that, we can -- I can go back and ask the people that design
18 this and respond to your question.

19 CHAIRPERSON KALALAU: Okay. Thank you.
20 Dorothy.

21 VICE-CHAIRPERSON PYLE: I think from what you've
22 said and what I've read, I'm kind of confused. When I was
23 reading this. And then I was over here, reading
24 recommendations. It just says, "repair cement cracking
25 along existing wall." And now you're saying that you're

1 adding more things and concreting the base --

2 MR. SHUN: Only in certain portions where there's
3 been erosion. The concrete -- during the flood that has
4 eroded away and is gone. The concrete portions will be --
5 there's some cracks in the wall, too, I believe.

6 VICE-CHAIRPERSON PYLE: So I can't figure out from
7 what you're saying and what it says here what they're
8 actually doing.

9 CHAIRPERSON KALALAU: You guys are doing undermine
10 work because of past flooding? You know, like eroding
11 underneath the existing cement?

12 MR. SHUN: That's what my understanding is.

13 VICE-CHAIRPERSON PYLE: Do we really know?

14 COMMISSIONER FREDERICKSEN: I think it would
15 probably be a good idea to have somebody from the structural
16 engineering side to come in that has -- you know, "these are
17 the specific areas; this is what we've got to fix," so we've
18 got some more specifics about that. You know, the sort of
19 nuts and bolts in it. Because, as he said, they're doing a
20 cultural impact assessment. But we need to also know what
21 is proposed overall.

22 CHAIRPERSON KALALAU: Veronica.

23 COMMISSIONER MARQUEZ: So this document is dated
24 December 5th, 2003. So the mana'o we're looking at is not
25 current, but do we have something? Maybe I missed it in

1 that the packet. A'ole?

2 MR. SHUN: You know, this project has been going on
3 for a long time. And as part of -- from the beginning, for
4 example, the cultural impact statement, we did that one when
5 the project first came on quite a while back.

6 You know, things have changed since then. And I
7 don't know, many people may have come in that no one knew
8 about in the area that we didn't know at the time. That's
9 why we are asking for comments from the neighbors. We say,
10 "Okay, can you consider this," so we're well aware that
11 there's some indication with the data we know now, as
12 opposed to the data we knew then.

13 CHAIRPERSON KALALAU: Do you know if they're mixing
14 cement on-site, or if they're buying it from a concrete
15 company?

16 MR. SHUN: No, I wouldn't know.

17 CHAIRPERSON KALALAU: That's why I asked about the
18 material. Because if they're going to do any -- using any
19 of the material from the streams or from alongside the
20 streams, then we're really going to need a cultural or
21 archeologist report or survey on how these projects are
22 being done.

23 MR. FREDERICKSEN: The nuts and bolts.

24 MR. SHUN: From a cultural resources point, the
25 construction side will be working on the stream itself.

1 That's the parent plan right now. And as far as we can
2 determine, there would be no cultural resources in the
3 stream itself. Everything that was in there is all gone.
4 So that's what it's saying in the document.

5 CHAIRPERSON KALALAU: Because I think this is the
6 area where they found all that old explosives, too, I think
7 from World War II. Anything that was dumped was located
8 alongside the thing, several years ago.

9 MR. SHUN: Now, that's the kind of information --
10 if you know that for sure, that's the kind of valuable
11 information that would be nice to know. So when we do
12 construction, we can take care of that particular problem
13 before we go out. So that's what we're looking for, is
14 information.

15 CHAIRPERSON KALALAU: All right. Do you know if
16 any surveys have been done along that area? Because I know
17 on the mauka side, they have found some decaying bones.

18 MR. FREDERICKSEN: Yeah, we've done a lot of work
19 at Paukukalo. And there are several -- there are four
20 sites, I believe that's what we found, subsurface habitation
21 sites with burials associated with it in that Paukukalo
22 community.

23 I still am confused with the map as well. Is this
24 the proposed area, is mauka of the lower -- of Waiehu Beach
25 Road?

1 MR. SHUN: Right.

2 MR. FREDERICKSEN: Like right adjacent to it, or
3 way far --

4 MR. SHUN: It's the stream channel all the way up
5 to past Imi Kala Street.

6 MR. FREDERICKSEN: So it goes -- you're saying it
7 goes basically from where Waiehu Beach Road crosses Ioa
8 Stream, from there and upslope?

9 MR. SHUN: Right. It should be on the map. I know
10 the -- I should have got a map out of the area.

11 VICE-CHAIRPERSON PYLE: Can you use the microphone,
12 please.

13 MR. SHUN: Sorry. It starts on the Map Number 3.
14 This is the attachment that came with this. You should have
15 gotten the attachment.

16 Oh, I'm sorry. There is also an attachment that's
17 supposed to come with this report, which has mentioned the
18 project itself. And the project itself is another letter
19 here. I thought that was sent, copies to the county.
20 And -- which you don't have, apparently. I'm sorry. I
21 didn't realize you didn't have that.

22 CHAIRPERSON KALALAU: You know what, we're going to
23 call a short recess, because I think he's going to make
24 copies of the report. So let's take a five-minute break.

25 MR. SHUN: That will give me a chance to look at

1 the map, too.

2 (At which time, a recess was taken.)

3 CHAIRPERSON KALALAU: Let us reconvene now. The
4 meeting is back in session.

5 MR. SHUN: Thank you. I apologize for the
6 misunderstanding. But what the project entails is a flood
7 control project that's an area of impact for the flood
8 control that is within the channel itself. And if you look
9 at Figure 4, I -- Figure 3, that's the start of the project
10 area, 00. That's one section. That's the Monsarrat, I
11 believe.

12 Figure 1 has the location of the project area. As
13 part of this project, we were told by law, to conduct a
14 six-month consultation with SHPO, State Historic
15 Preservation Office, Office of Hawaiian Affairs, and any
16 other Native Hawaiian group, or any other group that's
17 interested or may show an interest in this project. So we
18 have written letters to the State Historic Preservation
19 Office, to Office of Hawaiian Affairs, to Maui Civic --
20 members of Maui Civic Club, asking for comments on these
21 projects.

22 MR. FREDERICKSEN: I've got a question. Has State
23 Historic Preservation Division provided comments to you
24 folks yet?

25 MR. SHUN: No, not yet. I just talked to the

1 representative from SHPO, Mr. Rodriguez. He hasn't received
2 any --

3 COMMISSIONER MOIKEHA: Are you the archeologist
4 on-site?

5 MR. SHUN: I'm the archeologist for the Corps of
6 Engineers, not on-site.

7 COMMISSIONER MOIKEHA: So you haven't even gone
8 there?

9 MR. SHUN: I've seen the project.

10 COMMISSIONER MOIKEHA: Have you done any research
11 on that? Have you gone --

12 MR. SHUN: We did. Initially, when the project
13 started -- I've forgotten now. It's quite a while now.
14 Maybe ten years ago. When it started, there were several
15 routes and several alternatives in the project. Part of
16 those alternatives included the flood planes to the -- what
17 is that side? That's the south side of the stream.

18 COMMISSIONER MOIKEHA: North?

19 MR. SHUN: Yes, north side of the stream. Then
20 they eliminated all of the alternatives and decided to
21 stay -- the alternative was to stay within the current
22 channel itself, except for one along Imi Kala Street. The
23 county intends to build a bridge across Imi Kala Street.
24 And in so doing, we have to take into account the footings
25 of the bridge. So we're going to go beyond the current

1 channel in that area by about 30 feet.

2 MR. FREDERICKSEN: So for this project, you're
3 saying maybe -- let's see where we are. 2007. So you're
4 saying in the late '80s, -- or late '90s, was it an
5 inventory survey or reconnaissance?

6 MR. SHUN: No, it was a reconnaissance, actually.

7 MR. FREDERICKSEN: Okay. But there hasn't been an
8 archeological inventory survey carried out in the project
9 area?

10 MR. SHUN: They did a survey of the route at the
11 time, the alternative routes. I believe there were three
12 routes.

13 MR. FREDERICKSEN: Okay. But within the stream
14 area itself -- the reason I'm asking this question is, of
15 course, the proximity of the two heiaus on the Waihee side
16 of the big sand dune that's above Ioa Stream. There's also
17 periodically, cultural deposits, et cetera, that are eroding
18 out of that big dune.

19 There are sites just -- and I don't know mauka,
20 because we haven't looked there. But just makai of Waiehu
21 Beach -- the crossing, that bridge, in the stream bank
22 itself, there's cultural material that's eroding out.

23 MR. SHUN: Right.

24 MR. FREDERICKSEN: But so has there been a formal
25 inventory survey of this new -- this lower area that these

1 flood control improvements are going to be carried out on?
2 Because the original project was done in the '70s. And the
3 level of work back then, of course, was not what it is in,
4 you know, 2000 plus. So are you aware if there was ever an
5 inventory survey done for this area?

6 MR. SHUN: No, I don't know of any right now.

7 MR. FREDERICKSEN: When was SHPD contacted? Is
8 that kind of recently, or is it a little while back?

9 MR. SHUN: We sent a letter in September.

10 Actually, the letter went out.

11 The other thing I might say. This project right
12 now is currently in the design stage. This is just in the
13 design stage.

14 MR. FREDERICKSEN: Which is good.

15 MR. SHUN: So construction will not begin until
16 we're formally done with Section 106, which would include
17 comments from the State Historic Preservation Office, your
18 office, and OHA, and stuff. This is just the design stage.
19 And the design right now that we're sticking with is that
20 construction will be contained within the stream channel
21 itself. And the position we're taking is that the stream
22 channel itself, if there's any archeological site or
23 cultural resources there that's been destroyed.

24 MR. FREDERICKSEN: The concern that I would have
25 just in this area is just because of the proximity of the --

1 you know, where those heiaus are.

2 MR. SHUN: Right.

3 MR. FREDERICKSEN: This is something -- I kind of
4 spoke to some of you folks about it, anyway. I think it's
5 very appropriate to have this come back with the project
6 engineer, say -- I mean, I totally understand where he's
7 coming from. He's not the project engineer. They have a
8 different task, if you will. But I think it would be really
9 important to have the project engineer come in and go,
10 "Look, this is what we're proposing. These are going to be
11 the areas that will be impacted," with maps to show the
12 figures of what is proposed.

13 And the State Historic Preservation Division is
14 going to need to have that information to be able to make a
15 comment, I think.

16 MR. SHUN: Well, I can tell you now in terms of the
17 impact of the project area itself, it's not going to change.
18 The impact, we're saying that the project will be restricted
19 to the channel itself. It's not going to go anywhere
20 outside the channel. And part of the reason we're saying
21 that is because we're aware of the heiau and the potential
22 things that will come out of the heiau.

23 And the engineers are aware of that and are saying
24 we should not go anywhere outside. As long as you stay
25 within the current channel right now, you're okay. That's

1 what they're saying.

2 MR. FREDERICKSEN: And that, of course, would be
3 good. I just always get nervous with the Army Corps of
4 Engineers. I would like to see what's proposed.

5 There is one area that is going to be impacted. I
6 think you said Imi Kala?

7 MR. SHUN: Right, Imi Kala Bridge.

8 MR. FREDERICKSEN: That's where the road right now
9 dead-ends. There's sort of a turn around?

10 MR. SHUN: Exactly.

11 MR. FREDERICKSEN: That plan is to go across there?

12 VICE-CHAIRPERSON PYLE: 500-feet long, 65-feet
13 wide, 9-feet high diversion levy just upstream doesn't seem
14 like it should have no impact.

15 MR. FREDERICKSEN: That's why I'm just saying, I
16 think it's a very good idea to have a project engineer come
17 in so we have a full idea of what's going to be -- what the
18 Government's proposing to do on all of this.

19 Some of the comments I would have about it is if
20 there is a bridge crossing, what's crossing over it?
21 Because there's a dune area on the other side. And what's
22 the proposed impact area, et cetera?

23 MR. SHUN: Yeah. And then you should be concerned,
24 really. But in terms of -- see, we're doing
25 project-by-project. What you're talking about is a

1 cumulative impact on the project.

2 They will -- for this particular project, there is
3 an environmental assessment being prepared right now. And
4 part of the environmental assessment, the report that you're
5 reviewing now, that report is part of the environmental
6 assessment, because it's required under the environmental
7 assessment. So that report is actually part of the
8 environmental assessment. The letter that you have right
9 now is part of the Section 106 consultation that we are
10 required to do with the State Historic Preservation Office,
11 the Native Hawaiian groups, and any other group of interest.

12 So you have actually two actions. You know,
13 there's an EA, environmental assessment that's coming out
14 that you probably need to comment on. And then there is the
15 Section 106 presentation, which we do. And that will be due
16 for regulation for the State Historic Preservation Office,
17 OHA, Maui Civic Club, you're organization.

18 CHAIRPERSON KALALAU: Okay. If there's any more
19 questions. If not, this agenda item is open for the public.
20 Anyone?

21 Kalei, you got a question?

22 COMMISSIONER MOIKEHA: So are you required to do an
23 archeological survey? Is the Army Corps of Engineers asking
24 you to do one, or --

25 MR. SHUN: Well, we have done a survey of potential

1 areas where we thought would be the PI, potential impact.

2 COMMISSIONER MOIKEHA: When did you do it?

3 MR. SHUN: This was probably about five, six years
4 ago, when they had the three or four alternatives. We did a
5 survey of the alternatives, how the project would impact.

6 COMMISSIONER MOIKEHA: And your findings were?

7 MR. SHUN: They did find -- as I remember, they did
8 find a stone structure of stuff somewhere along on the flood
9 planes on the north side. I don't know where exactly. It
10 was down to -- closer to the residential areas on the plane.

11 COMMISSIONER MOIKEHA: So what's the requirement on
12 that? I mean, after you find something, what do you do?
13 Just mark it?

14 MR. SHUN: Because our project is not going to have
15 any impact on that area. They're saying we can't do
16 anything. We pass that information on to the state for
17 their information.

18 For example, later on somebody wants to go out and
19 build a structure, they would have the information.

20 COMMISSIONER MOIKEHA: So you're saying because
21 you're staying within the channel, water has already gone
22 through, and whatever cultural significance has been washed
23 away? Is that what you stated also?

24 MR. SHUN: No. What we're saying is that there's
25 not likely any archeological, significant cultural resources

1 within that channel. That's we are saying. There is
2 potential impact to the heiau. There is potential visual
3 impact. We've looked at that. And that's something that
4 would have -- whether there is a visual impact or not. What
5 we're saying is most likely, there isn't. Because all we're
6 doing is just repairing the current channel.

7 So there's nothing new except for perhaps raising
8 the wall, I think, about a foot more, a portion of the wall.

9 COMMISSIONER WHELCHER: It appears that this
10 project is premature. And we can't give it an intelligent
11 comment or recommendation. It looks like it's strictly a
12 verbal design. And the only part that has to do with this
13 diversion levy is it's a trapezoidal-shaped structure,
14 500-feet long. Just like she said. And I think that we
15 need to come back later.

16 CHAIRPERSON KALALAU: Okay.

17 MR. SOLAMILLO: Excuse me, Commissioners. This is
18 just for clarification. This morning you were sent out in
19 your packet, a document. And up to this point, we haven't
20 even mentioned the document. We're talking about the scope
21 of work. And, yes, you are correct in wanting to have the
22 Corps of Engineers send a design engineer to discuss this
23 project in its entirety, all the areas that it may
24 potentially impact.

25 But right now what I'm concerned about is that

1 we'll leave the room without actually addressing the
2 document that you were sent. And we've got several
3 documents like this that come to us periodically. And as I
4 get them, as I was instructed by this Commission, I'm trying
5 to get you to comment on, in this case, oral histories.

6 So I want just to remind you before all of a
7 sudden, you make an action, then we have no comments at all.
8 So the project will have to come back to you so that you can
9 look at the scope, and the project engineer's going to
10 address your concerns.

11 CHAIRPERSON KALALAU: And we will have more time on
12 the oral historical part of the project. If not -- because
13 this is an agenda item, we need to open a portion up for
14 anyone in the public who wants to testify on this agenda
15 item.

16 The floor is now open for anyone in the public who
17 wants to testify on this agenda item. I see that we have
18 none. The floor is now closed.

19 MR. SHUN: I would just like to point out
20 something, if I may.

21 This document is part of the environmental
22 assessment. It will have to go to the public and have
23 public review. So if you don't get it here, you'll most
24 likely get it from doing the environmental assessments,
25 during the environmental assessment period.

1 CORPORATION COUNSEL: Are there any time limits for
2 comments, Stan, as far as the EA preparation, and things
3 like that, that they have to meet?

4 MR. SOLAMILLO: I have not been given a complete
5 schedule.

6 CORPORATION COUNSEL: Could they defer comments --
7 I'm not saying they would want to or have to. But if they
8 defer comments on the oral history today, would that be
9 their last opportunity to comment on this document?

10 MR. SOLAMILLO: I would have to defer that question
11 to the applicant.

12 MR. SHUN: No. Because this document that comes
13 out is part of the environmental assessment. And we would
14 recommend that you review the environmental assessment.
15 Because the environmental assessment document that covers
16 not only the cultural resources, but every other
17 environmental issue. The cultural resource issues and this
18 particular document would be just one document as the whole
19 environmental--

20 CORPORATION COUNSEL: So when the EA is prepared,
21 the EA will come before the Cultural Resources Commission.
22 And it hasn't been prepared yet, so that's why it's not
23 here. Okay.

24 MR. FREDERICKSEN: I think part of the EA process,
25 it would be appropriate to request having more information;

1 i.e., an engineer saying exactly what it's going to be, this
2 is what the proposal is.

3 And this isn't necessarily having anything to do
4 with what the cultural impact assessment will say.
5 Although, it could. Because this diversion levy that's
6 indicated on here in Figure 7b of that handout that we were
7 just provided with just a little while ago, there are some
8 other -- there's some issues that would be very helpful to
9 have more information on so we can make further comments.

10 MR. SHUN: Currently, I'm not sure what the process
11 is for the environmental assessment. It gets sent out to
12 the libraries. And I think Maui County is actually one the
13 proponents of this project. So I believe the EA will come
14 to the environmental -- I don't know if will come to your
15 office particularly, because I'm not too sure of the
16 relationship between this office and Maui County.

17 MR. FREDERICKSEN: We could request to be -- I'm
18 not sure what the term would be, Stan.

19 MR. SOLAMILLO: Reviewing agency.

20 MR. FREDERICKSEN: Reviewing agency, consultant. I
21 mean, if that's something the Commission --

22 MR. SHUN: And even if you don't get that, you
23 could always request an environmental assessment from our
24 office. Write us a letter saying we'd like to be sent a
25 document of the environmental assessment once it comes out

1 for review. We can send you a copy. As a matter of fact,
2 I'll go back and talk to our project manager and say you
3 folks want a copy of the environmental assessment.

4 I should also add, as part of Section 106, the
5 consultation concurrence by law comes from the State
6 Historic Preservation Office. They call this the SHPD.
7 Concurrence right now from the State Historic Preservation
8 Office, plus OHA; Office of Hawaiian Affairs. And if you do
9 have a comment, I highly recommend you put it in writing.

10 CHAIRPERSON KALALAU: Okay, Commissioners. Like
11 Stan was saying, you know, basically we were supposed to
12 just make recommendations on the oral history study. But
13 because most of you are saying that we do not have enough
14 information or data to make any kind of recommendations, so
15 we need to make some kind of motion, or I guess to address
16 our needs and concerns of this project?

17 MR. SHUN: If I could just add. There's actually
18 two processes. One is the process which is for the
19 environmental assessment. And the other one is the National
20 Historic Preservation Act. So it's two laws that we are to
21 comply with. A letter that was sent out that you got this
22 morning is what we need to comply with. And under Section
23 106 of the National Historic Preservation Act, and then the
24 EA will have to come out under that act. And on both those
25 acts, you are free to comment on.

1 MR. FREDERICKSEN: As a commission member, I feel
2 that would be very useful to have a State Historic
3 Preservation comment on the project before I -- you know,
4 just speaking for myself, I would feel really comfortable
5 giving final comments or input.

6 COMMISSIONER MOIKEHA: I had gone through and read
7 this portion of this packet. If I was just to comment, I
8 guess my question would be -- this is interesting to read
9 about people that live there. And as far as far as trying
10 to grab the oral history as far as what occurred, what's
11 happening now, what happened back then.

12 I guess my only question I would have about this.
13 Is there a requirement as to how many people, how many
14 families should be contacted? Is this enough? You know,
15 just commenting on as far as the oral history portion of it.
16 You know, it was neat. I know many of these people that
17 they talked to. So -- I don't know. Is that enough people
18 to contact, or should they be contacting more?

19 Or this is like, as was stated also, back in 2003.
20 Should we have an updated portion? Should we try and find
21 more people so we can get a better oral history on it? I
22 don't know. That's my comment.

23 MR. SHUN: And that is a comment that the Corps was
24 wrestling with is how many people. Because we issue the
25 contract. How many should issue the contract for that

1 study. So there's always a question how many people under
2 this contract can I contact and -- we can't contact everyone
3 on the island of Maui.

4 CHAIRPERSON KALALAU: Okay, Dorothy.

5 VICE-CHAIRPERSON PYLE: I was just reading through
6 this again. And actually, the comments that are in here
7 that come from Bob Hobdy are really very interesting to me.
8 And actually from his point of view, recording historic
9 information, there are -- it says on Page 11 here and 12, it
10 talks about how Bob Hobdy had identified a total of 26 mo'o
11 along loa Stream. And he has extensive maps.

12 I don't know. Some of you may know Bob and know
13 what he has. Those kinds of pieces of information should be
14 included in this, not just a comment that there are 26 mo'o.
15 Let's have a map of those. He also comments that
16 traditionally, each of these would be serviced by its own
17 particular auwai.

18 Can we gather that kind of information? Because
19 this is all the information that surrounds loa Stream and
20 the valley, the area of lao Valley. And these are the kinds
21 of projects that should be pulling together pieces of
22 information like this. So interviewing Bob Hobdy is
23 wonderful. But let's get some real information from him,
24 not just an interview that asks him a series of questions.
25 Because he has an amazing amount of information.

1 I've been to presentations that he's done
2 concerning the ahupua'a maps and the mo'o and the land uses,
3 and so on. And we can't let that information get lost. So
4 he is a source that I think should be used far more than in
5 the present documents.

6 MR. SHUN: From a personal perspective, I agree
7 with you. But as a governmental agency, we have certain
8 limitations. I feel that what you're talking about should
9 be done by the State Historic Preservation Division.

10 VICE-CHAIRPERSON PYLE: Perhaps you should be
11 working together with them, and perhaps they would be
12 requesting that you help them with this information. I
13 don't know. Erik's comment is a really good one. We need
14 information from him.

15 CHAIRPERSON KALALAU: Kalei.

16 COMMISSIONER MOIKEHA: I have a comment and a
17 recommendation, Mr. Chair, that a great effort be made to
18 interview more people. We can get a better oral history of
19 the area itself.

20 My grandmother grew up in the area. The things
21 that were mentioned in there by Margaret Duarte. She was
22 from the Big Island. But she was raised up in that area, 13
23 children. There's only one left, an uncle. But it does
24 raise a question that perhaps we can -- maybe this is not
25 enough. So that's my recommendation.

1 Back to you folks. We'll fight more.

2 MR. SHUN: Can I make a comment. When we put this
3 contract out -- and I need to just address that. I feel
4 that we are interested in all this. As an archeologist, I
5 am very interested in all the information we can get.

6 Of course, often times, we run into a number of
7 problems. They don't want to be quoted in the document.
8 They say, "Please don't quote me, but you can mention my
9 name, and say I said this." Then like getting concrete data
10 like maps. And we can distribute them to people. If you
11 know this person personally, people who have maps of this,
12 please bring it to our notice, and we'll gladly put it in.

13 Sometimes like getting more people, we went out and
14 asked for -- we interviewed people that are familiar,
15 kahunas of the area over here, and say, "Do you know anybody
16 in this area?" And most of the time, it's by word-of-mouth.
17 They say go here, go there.

18 Like Mr. Moikeha said, some people live on the Big
19 Island. Some people work on Maui. I know I was trying to
20 get a hold of Mr. Lewis (inaudible), and I find out -- I
21 send him here, but he's on the other island. So just
22 getting this kind of information is not as easy as it
23 sounds. What we want in discussions like this is letting
24 you folks know that there are people out there that are
25 looking for this information. And if you know these people,

1 recommend them to us.

2 Now, it may be too late for this particular study.

3 But for another study -- and we have at least two more

4 projects on Maui. The Corps has two more projects on the

5 island of Maui. One project is going to be at Kanaha Point.

6 We're going to restore Kanaha Point to somewhat its former

7 self. And you'll hear from my counterpart over here that

8 Moku'ula. We're going to try to restore that, too. And

9 there will be studies along this line that we've done for

10 these projects.

11 And so if you are aware of people, if you know of

12 people who know people, whatever it is, people who know

13 people, we'll ask our people to strike them down and a let

14 us know where they are.

15 And the other problem we have with this project,

16 particularly this report, it's kind of limited by the time.

17 We can say you have two years to do this report. And if you

18 don't get that information within two years, then it's left

19 out. That's what I said. Perhaps that's when the State

20 Historic Preservation Office can take over by stuff that's

21 witnessed and continue the research.

22 MR. FREDERICKSEN: I just have a comment. And I

23 know it's difficult gathering information. I guess the

24 thing that concerns me is this is such a -- Ioa Stream has

25 been screwed up. It's been heavily altered. This, to me,

1 seems it like it would be one of about the last
2 opportunities to try to gather information on this area.
3 Because it's been -- I mean, it's all developed. Or most of
4 it's developed. And it's an opportunity to try to collect
5 some additional information.

6 VICE-CHAIRPERSON PYLE: Put it on out.

7 MR. FREDERICKSEN: The report, this was done in
8 2003. And this is 2007. And for time constraints and
9 everything, there's been some time that's passed since the
10 report was done.

11 I, again, go back to the my earlier comment, just
12 trying to get -- from an engineering standpoint, what is the
13 overall scope of the project per se? I know the cultural
14 impact assessment is one component the overall process. As
15 to what is being proposed, just to have that information.

16 MR. SHUN: Just one other thing more. Usually, on
17 projects like this, an example for the Ioa Stream, we came
18 out -- before the project started, the county and our office
19 got together and had a public meeting.

20 MR. FREDERICKSEN: Is this a matching, like county
21 does 10 percent, and federal government is 80 percent? One
22 of those kind of things, whatever it is?

23 MR. SHUN: Right. And we did have a public
24 meeting, which was held here in Maui. And we invited people
25 to come in and talk and give their opinion and the mana'o on

1 what's there and on what we need to be looking at.

2 So unfortunately, those public meetings, we do not
3 have the attendance that we require. But I attended the
4 meeting for the loa Stream. I think we had a total -- it
5 was less than ten people. And the people that come, one of
6 the persons that did come out was a person from the -- I
7 believe it was from the state. He was a biologist talking
8 about the fish. Because the flood control project, needed
9 to move the migration of the fish from downstream to
10 upstream. So he was giving his opinion on what we should
11 and shouldn't do, and stuff.

12 It's not like we're trying to do this in times.
13 But people have schedules and they can't be there, a stuff.
14 By all means, if you think that you need to have a civil
15 engineer, our civil engineer come out and talk to you folks.
16 And if that will help you folks, by all means. I can take
17 that bit the information back it our folks and say we have
18 to set up a meeting and we have to set up everything for
19 doing that.

20 CHAIRPERSON KALALAU: Thank you. Any more
21 comments? Any recommendations? We need to have a motion
22 for what we're going to decide on this agenda item.

23 Stan, you got anything else to say?

24 MR. SOLAMILLO: I actually do.

25 Initially, when I got this project, I was a little

1 bit concerned because it's a very sensitive area, and it's a
2 very important area. And in my family, there's a Hawaiian
3 uncle who comes from this area. And it also goes up and
4 impacts a place called Happy Valley, which I've been asking
5 around, how did Happy Valley get its name? And no one can
6 tell me. And finally, I found out a couple weeks ago.

7 But it's like, from our normal history that we have
8 today, which everybody refers to a place as Happy Valley,
9 and there's a pipe that goes across Ioa Stream. And when it
10 rains, it looks like a big shower. And it's all these
11 visual things that are key to this place, as well as family
12 history, as well as of history of usage through time. How
13 did the lo'i cultivation change in this place over time?

14 And there was a historic context, which was my
15 concern, that there wasn't one to flush out the importance
16 of this place and how has it changed through time. How can
17 100 years, all of a sudden -- or 150 or 200 years, just
18 completely be narrowed down to what we have? And for
19 someone like me, who is not as familiar with this place as I
20 should be, I can't put it all together. So that's why it
21 comes to you to help me put it together.

22 So I guess from my standpoint, I really want a
23 historic context of a place. And I think in a lot of the
24 projects that are coming to you, they kind of beg for that.
25 So however this gets -- the county's recommendation is for a

1 historic context. Put everything together and present it,
2 whether it be maps; or whether it be, you know, oral
3 history, information; where did this person live, you know,
4 along this project area? Things like that. I think that
5 was the concern, the biggest concern on my behalf.

6 CHAIRPERSON KALALAU: Dorothy.

7 VICE-CHAIRPERSON PYLE: To go along with what
8 Stan's actually saying, because I understand exactly where
9 he's coming from. There was some information in this report
10 about an outlined history of the area. But when I was
11 trying to read this and put it together, it was, from my
12 perspective, disjointed so that there were not clear
13 reference points.

14 And I guess because I'm just such a visual person,
15 I really need those maps. And I really need to see that
16 we're talking about the oral history of Ioa Stream, Ioa
17 Valley. Let's start at one end and go directly to the other
18 end. And let's reference the points as we go along the way
19 where they overlap with each other.

20 I felt that there was not very much information in
21 here about the impact of the sugar company. The founder of
22 Wailuku Sugar Company was King Kamehameha III. There's a
23 lot of historical reference points about why Wailuku was
24 chosen for these things that are completely missing.

25 So I don't know whether it's a literature search

1 or -- I don't think personal interviews will really do that
2 so much as actual historical research will. But it's very
3 skimpy on the historic resources that are available.

4 CHAIRPERSON KALALAU: Thank you, Dorothy.

5 Any more comments? Okay, Kalei.

6 COMMISSIONER MOIKEHA: I guess as you talk about
7 the oral history itself, I'd like to know the purpose of why
8 we do it. I mean, are you going to interview people and ask
9 them what can or cannot be done? And what is the purpose of
10 it? Just to find the history and just do what you want to
11 do? Or would you follow recommendations and such?

12 I mean, that's what comes to mind. My comments are
13 based on that. If you're going to interview somebody and if
14 you're going to talk to them, some of the recommendations
15 are in here, "don't do this," or "you should be doing these
16 kinds of things." I mean, what is the purpose of doing it?
17 Are they going to go off the recommendations of the people
18 who lived in the area or are presently living in the area?

19 You know, there's an example in here where John
20 Duey says, "Don't change it. Don't channelize it. Just
21 leave it."

22 Are you going to follow some of those
23 recommendations, or just based on -- I don't know. I'd like
24 to know the purpose of it.

25 MR. SHUN: Maybe I could answer that question.

1 Perhaps I could answer your question here somewhat. I don't
2 think completely.

3 The purpose of the CI, the cultural impact study,
4 is to go out to the people; find out if there's any area
5 within this project area or within the area of potential
6 effect that contains significant cultural items or cultural
7 areas; or something that is critical to the Native Hawaiian
8 group or to the Japanese cultural group, not necessarily to
9 the Hawaiians. That is the purpose of this.

10 And then once we identify those areas, then the
11 idea is to figure out -- or at least come to some resolution
12 of the impact of the project in that area, and see how --
13 for example, if it's like a heiau, then one of the impacts
14 to do is if the channel is going straight through the heiau,
15 if we do locate through this process a heiau that no one's
16 ever heard of before. And say, okay, here's a heiau right
17 there, and whether project is going to impact the heiau.
18 Okay, we won't touch it. Let's go around it.

19 That's the whole idea of this study is to see if
20 there are any cultural properties -- or traditional cultural
21 properties, is the term, that would be impacted by this
22 project.

23 CHAIRPERSON KALALAU: Okay, Dorothy.

24 VICE-CHAIRPERSON PYLE: I was going to comment back
25 to Kalei a little bit.

1 I think that's exactly right. They research. They
2 ask questions. They interview people, and so on. But when
3 it comes right down to it, it's a very subjective judgment.
4 Your view of a critical resource and someone else's view of
5 a critical resource can be quite different. So while you
6 may come along, and as John Duey might say, you should not
7 concrete the channel any longer because it then destroys the
8 historical nature of the stream, is quite different from the
9 Corps of Engineers perspective, where they are looking at it
10 from a safety perspective or of some way of controlling the
11 flood waters.

12 And so these processes are all balancing acts. And
13 they gather information. Some pieces of information,
14 seemingly scream out at you, like a heiau might. But
15 someone saying my backyard should have free-flowing water is
16 a little bit different. So it is a balancing act. And it's
17 very, very subjective how these things are carried out.

18 Part of what they're asking us is do we know or can
19 we, as a commission, think that any of these resources are
20 valuable? Are any of these cultural resources that are
21 being identified, do we think that they have value? So that
22 would weigh them more heavily for the Corps of Engineers to
23 consider.

24 Does that kind of answer what's going on?

25 COMMISSIONER MOIKEHA: I got it. Because

1 basically, even if they do find something, like you said,
2 it's very subjective. I mean, to somebody else, it's just a
3 pile of stones. And to the Hawaiian, it's the most sacred
4 temple that there ever has or ever will be. So very
5 subjective. So I just ask a question to sum it up exactly.

6 MR. FREDERICKSEN: I just have another comment. I
7 just read the letter, this one that Stan copied and gave us
8 a little while ago.

9 Bottom paragraph on the first page. "Stream
10 realignment and widening anticipated to be no more than
11 30-foot wide is being proposed between Stations 76+00 and
12 85+30, on the left bank of the stream." And that refers to
13 Figure 6.

14 That's -- let's see 76 to 85. Each one of those is
15 100 feet. So close to 1,000 feet of realignment and/or
16 widening in the stream. So again, I go back to my comment
17 earlier. I would really like to have an engineer in here
18 saying this is what's going to happen here and there.

19 CHAIRPERSON KALALAU: Yeah, because just looking at
20 the numbers here, you're right. That will be impacting
21 areas over 100 feet.

22 MR. FREDERICKSEN: And Station 76, each one of
23 those numbers is 100. So 7600. So 76 to 85, 30 is almost
24 1,000 feet, lineal feet.

25 CHAIRPERSON KALALAU: So are we going to recommend

1 a revisit with the recommendations that Kalei and Dorothy
2 and Erik is asking for, like the engineering department,
3 planning and engineering department, so they can bring some
4 of the proposals of the project? Because it's definitely --
5 you know, it's just an oral --

6 VICE-CHAIRPERSON PYLE: And additional historical
7 research work on the cultural impact.

8 MR. FREDERICKSEN: That's the Planning
9 Department's -- that's a comment you made earlier, right,
10 Stan?

11 MR. SOLAMILLO: Yes.

12 CHAIRPERSON KALALAU: Okay. Did somebody get all
13 that down.

14 MR. FREDERICKSEN: I only talk. Sorry. I didn't
15 write anything down.

16 CHAIRPERSON KALALAU: Kalei.

17 COMMISSIONER MOIKEHA: Are you we going to be in a
18 conflict if we just go through the agenda item, as like Stan
19 was saying? We should probably just make a motion on the
20 agenda item.

21 CHAIRPERSON KALALAU: The oral.

22 COMMISSIONER MOIKEHA: Just the oral. And then do
23 we add on to it?

24 CHAIRPERSON KALALAU: I mean, our comments and
25 recommendations.

1 COMMISSIONER MOIKEHA: So if we come back to what
2 was Stan was saying, requesting review and comment on the
3 oral history, just that document. I mean, is that what
4 we're going to do, or are we going to add on to it?

5 VICE-CHAIRPERSON PYLE: One of our comments can be
6 is that we cannot make complete comments unless we get some
7 more information.

8 COMMISSIONER MOIKEHA: So basically, we're saying
9 that this is no good?

10 VICE-CHAIRPERSON PYLE: It's not adequate.

11 CHAIRPERSON KALALAU: It's not complete.

12 COMMISSIONER MOIKEHA: Why don't we just say that
13 and end that portion and add on?

14 CHAIRPERSON KALALAU: Yeah, we just want to be more
15 specific on what we want to see.

16 COMMISSIONER MOIKEHA: Okay. So we're saying this
17 is inadequate?

18 CORPORATION COUNSEL: I would recommend in the
19 comments that you tell them what's inadequate and why and
20 what other things you could suggest.

21 COMMISSIONER MARQUEZ: Help me understand this. So
22 basically, we're still -- they still want the review comment
23 on this mana'o. So what we're doing is we're going to
24 revisit it and extend this discussion with the additional
25 mana'o coming in from the expert from that field. Is that

1 where we're going with this?

2 COMMISSIONER MOIKEHA: I second that.

3 COMMISSIONER MARQUEZ: You need me to make a
4 motion?

5 COMMISSIONER MOIKEHA: You're making a motion.

6 COMMISSIONER MARQUEZ: I move that we revisit the
7 mana'o on the next agenda; continue the discussion, with the
8 inclusion of the expert from that -- help me out now.

9 MR. FREDERICKSEN: Engineering.

10 COMMISSIONER MARQUEZ: Engineering Department, so
11 we can have a clearer picture. Then, at that point, make
12 more valid comments. Make sense? Second?

13 COMMISSIONER MOIKEHA: Second.

14 CHAIRPERSON KALALAU: Stan.

15 MR. SOLAMILLO: If it please the Commission, it's
16 Halloween in Lahaina at December's meeting. So it would
17 have to be at the January meeting at the earliest.

18 COMMISSIONER MARQUEZ: So be it for the January
19 2008 agenda.

20 CHAIRPERSON KALALAU: Okay. It's been moved and
21 seconded. Any more comments or discussion?

22 MR. SHUN: Can I make a comment.

23 The letter will come back to me, and we will be
24 reviewing the letter. And I can say, for my part, if I get
25 a recommendation from what you're saying right now, is what

1 my first question will be is, well, what is adequate? So if
2 you say inadequate, you have to say what we have to do.
3 Like go interview who or what, or that kind of stuff.

4 You can say that. But that's the question we will
5 be saying, you know, we -- if you want something concrete
6 out of it, you need to be a little more specific like, "I
7 know of a certain person you need to go talk to," and that
8 kind of stuff.

9 In terms of the design itself, right now, there is
10 no design. It's a term in engineering -- conceptual design.
11 Nothing is set in terms of lines. No lines have been drawn.
12 So just getting an engineer in here to tell you, he would
13 probably say the same thing. Right now, we anticipate the
14 widening will occur within those two markers. It won't be
15 the whole area, but it's within.

16 Because right now, the present plan is to build a
17 new bridge across those two center lines. So we anticipate
18 that would be the max, within those lines. But the bridge
19 itself is not going to be 1,000 feet wide. It's going to
20 be, at most, maybe 30-feet or 60-feet wide, allowing
21 traffic. So that's what the impact area or the actual
22 impact area on the channel would be. So I'm just throwing
23 it out for your information.

24 CHAIRPERSON KALALAU: Thank you.

25 Okay, Stan. We have a motion.

1 MR. SOLAMILLO: I guess this is a request as to
2 what am I going to put in the letter?

3 The way that I would address it is you've made a
4 motion that the report you've reviewed is not adequate or
5 provides insufficient information, which requires additional
6 historical research, such as maps, which might be available
7 from Bob Hobdy, showing how wide a mo'o, a historical
8 context, and more information on the specific project design
9 and potential impact.

10 MR. FREDERICKSEN: The impact areas.

11 And I'm glad to hear that the project isn't set in
12 stone. But still, when I see something -- a letter that's
13 written to OHA that says extreme realignment and widening
14 anticipated to be no more than 30 feet that's being proposed
15 between station 76+00 and 85+30, on the northern bank, which
16 is the sand dune side of Ioa Stream.

17 CHAIRPERSON KALALAU: Okay. Any more discussions?
18 Okay. All in favor say "aye."

19 (Round of ayes.)

20 CHAIRPERSON KALALAU: All opposed.

21 (No response.)

22 CHAIRPERSON KALALAU: Motion carried. Okay.

23 MR. SOLAMILLO: The next item on the agenda.

24 Cindy Barger on behalf of the US Army Corps of
25 Engineers requesting review and comment on hazardous, toxic

1 and radioactive waste assessment for the Mokuhinia/Moku'ula
2 ecosystem restoration project, located at TMK (2)4-6007:001,
3 and including 035-038, Lahaina, Maui.

4 This document, as well as the one you have just
5 reviewed, the CRC may review or comment on the document and
6 make recommendations. And public testimony will be
7 accepted.

8 MS. BARGER: Hi. Good morning. I'm Cindy Barger.
9 I am newly assigned as the project manager for the Moku'ula
10 ecosystem restoration project. You may have been interacting
11 with Nani Shimabuku in our office previously. And we've
12 moved workload around a little bit, so I'll be taking over
13 this project.

14 First of all, to make sure everything is nice and
15 clear, this is in the very, very early stages. What we are
16 doing right now is we are collecting baseline inventory
17 information so that we can start developing what potential
18 alternatives are for the restoration of this project. And
19 actually, I don't know if this requires a motion on your
20 part or anything. But Items 2(b) and 2(c) are actually one
21 item. They're both related. So hopefully, that will ease
22 your workload.

23 Before I get into it too much. I just wanted to
24 let you know who I have here supporting me. We have --
25 where did he go? Well, Kawika McKeague. He's with Group

1 70, which is our prime consultant working on the restoration
2 project. We also have Kevin Gooding from Oceanit, who is
3 doing the hydrology analysis. And Tonya Lee-Grieg, who is
4 doing the cultural resources review. So if you have
5 specific questions, you'll probably be posing it to one of
6 them.

7 I guess, first of all, to kind of give you an
8 overall status of where we are. We've done a very
9 preliminary hazardous, toxic and radioactive waste
10 assessment, and an associated archeological monitoring
11 report for that. Kawika will talk about that in a little
12 bit.

13 This assessment was only for purpose of allowing us
14 to identify what -- how extensive do we need to be in doing
15 our full assessment. So it is not conclusive at all. It's
16 merely to frame it so we know how detailed in the next level
17 of testing we need to be. And it was primarily a literature
18 review with some very random sampling to get an idea of
19 potential concerns out there.

20 And as we go forward in the next phase, we will be
21 coordinating with the Department of Health in the sampling
22 plan and the results and the treatment of whatever we end up
23 finding in the area.

24 And then the other action that we are -- we've been
25 working on recently is Tonya has been doing some initial

1 evaluations of cultural and archeological surveys that have
2 been done to date, so that we can see is there any gaps that
3 we need to investigate further before we go into design, and
4 what are some recommendations in moving forward on that.
5 That is also just -- you don't have that report yet. It's
6 just in the drafts stage.

7 And then the third part that we're working on is
8 our hydrology analysis that Kevin's been looking at, to get
9 a better idea how is the water going to be working in the
10 area. That's going to be the main influencing factor in how
11 we design the restoration project.

12 We're anticipating to have preliminary results on
13 that in February. Based on that, we'll be formulating
14 alternatives. We'll probably be coming back to you
15 sometime, I think we'd really like. Because there's such a
16 huge cultural component to this restoration project, we'd
17 really like to have your feedback as we start developing
18 alternatives.

19 The next major milestone after the February
20 completion of baseline information is probably around this
21 time next year, we'll be having more of a define preliminary
22 design and alternatives. One of the things with our
23 ecosystem restoration program, it's not so much of other
24 projects, can you do this or that. We look at what's called
25 incremental cost benefits. So what we'll be looking at is

1 what is the maximum that we can do on-site to essentially
2 get the bang for our buck. How much can we do within the
3 cost constraints and within the objectives of the project to
4 really get full value at this site.

5 And, let's see. I think -- unless you have
6 questions on kind the general overall project, I'm going to
7 turn it over to Kawika, and let him talk about the
8 archeological monitoring report.

9 CHAIRPERSON KALALAU: Question.

10 CORPORATION COUNSEL: I'm sorry. I just wanted
11 clarify the role of the CRC in this case. I see there's a
12 letter to OHA, I believe, under Item C, it says, "The
13 proposed archeological monitoring program -- this is from
14 Todd Barnes, P.E. It says that, "The proposed archeological
15 monitoring program should ensure that Alternative III will
16 result in a, quote, no effect to historic properties
17 determination in compliance with the National Historic
18 Preservation Act of 1966, pursuant to implementing
19 regulations 36 CFR --

20 VICE-CHAIRPERSON PYLE: You're still reading about
21 Ioa Stream.

22 CORPORATION COUNSEL: No, this is involved in the
23 archeological monitoring program.

24 VICE-CHAIRPERSON PYLE: But isn't that the packet
25 of information from the Ioa Stream? We're now talking

1 about --

2 CORPORATION COUNSEL: If it is, did they need a
3 concurrence with the finding, then, that there would be no
4 effect to historic properties? Because that's what this
5 letter means. Because it talked about specifically an
6 archeological monitoring plan, which I see referenced in
7 Item C. I see an archeological monitoring report. Item A
8 is an oral history document. That's the only thing I saw.

9 MS. BARGER: I'm sorry. There's two projects. So
10 if you have another question on that, Kanalei can respond to
11 Ioa Stream. Unfortunately --

12 CORPORATION COUNSEL: So there's an archeological
13 monitoring report that's coming forth to the CRC at some
14 point? That's not the document you have here. That's an
15 oral history document. I just want to clarify that you
16 didn't need --

17 MR. SHUN: What we're saying in that particular
18 letter is there will be no effect. The project of the
19 stream project is going to have no effect on cultural
20 resource. Part of it is mitigation will include an
21 archeological monitoring during construction on the
22 particular area where they do the bridge.

23 CORPORATION COUNSEL: And that's not before the CRC
24 at this point for concurrence?

25 MR. SHUN: No.

1 CORPORATION COUNSEL: Okay. I just wanted to make
2 sure.

3 MR. SHUN: The concurrence we need is from the
4 letter itself. We do need that.

5 CORPORATION COUNSEL: You do need a concurrence,
6 but that's not right now?

7 MR. SHUN: No.

8 CORPORATION COUNSEL: I just wanted to make sure.
9 I saw there was an archeological monitoring.

10 MR. SHUN: The archeological monitoring is during
11 construction. And after that, there will be a report on
12 that.

13 CORPORATION COUNSEL: Okay.

14 MS. BARGER: I guess for the Mokuhinia project, as
15 far as the archeological monitoring report, that is very
16 specific to these field investigations that we're doing to
17 collect baseline information.

18 CHAIRPERSON KALALAU: Okay. And we had a question.

19 COMMISSIONER MARQUEZ: Okay. Mine is for protocol
20 for this Commission. Do we need to make a motion to blend
21 Items B and C? Because she just said these two are --

22 MS. BARGER: Correct.

23 COMMISSIONER MARQUEZ: It's just an important
24 question. Do we need to?

25 CORPORATION COUNSEL: Well, Mr. Chair, you're the

1 authority with respect to the rules. But as a
2 recommendation, it's not 100 percent necessary.

3 I mean, whatever motion you ultimately make, if you
4 wanted to, could include both of these items. But you still
5 have to allow public testimony on both items, and at least
6 three minutes per item, if you do that.

7 CHAIRPERSON KALALAU: And because it's the same
8 applicants on both items, we're going to try to crack two at
9 one time.

10 Okay. I have a question. You know on the
11 hazardous and toxic and radioactive waste assessment, what
12 formulas or procedures are you guys using to do your
13 assessment?

14 MS. BARGER: Well, at this point, the one that was
15 sent was -- it was a literature review.

16 And I don't know. Kevin, do you want to talk --
17 I'll let Kevin Gooding talk more specifically on it.

18 MR. GOODING: Hi. I'm Kevin Gooding. I work for
19 Oceanit, a sub for Group 70, who is working on the Corps
20 project.

21 The HTRW study is basically a reconnaissance level
22 study, where we review the site; do a literature search with
23 the DOH, EPA, and some other avenues. And also, do just
24 brief interviews of some people who have knowledge of the
25 site, just to get an idea if there was any environmental

1 problems, or uses of the land that could cause environmental
2 problem in the past.

3 CHAIRPERSON KALALAU: Okay. So basically, you're
4 using an oral standard? You know, because my concern was
5 the radioactive waste assessment. Because I know the
6 Federal Government has policies and procedures of how they
7 do assessments on wet areas for radioactive waste.

8 MR. GOODING: Well, that's the name of it, using
9 common hazardous materials and how they call the assessment.

10 Another way of looking at it, it's a Phase One of
11 an environmental assessment, which is commonly done in real
12 estate transactions. We're just looking for anything
13 hazardous on-site. It's not likely that it will be found to
14 be radioactive, but that's what it's called.

15 CHAIRPERSON KALALAU: No. But what I'm trying to
16 say, if you don't have the proper equipment to do an
17 assessment test to find out if you do have. I know there's
18 standards to doing those kinds of assessments. You need to
19 have the specific equipment.

20 MS. BARGER: May I. I apologize for the confusion.
21 Once again, the initial report, as Kevin said, it's a
22 reconnaissance level. Based on the reconnaissance level,
23 then we determine how to do the full assessment.

24 Essentially, what that does is when we identify --
25 okay, for example, there's the mill site that might have

1 some contaminants of concern that could be introduced to it.
2 There's the sugar cane operations that might have some
3 contaminants of concern that are introduced into the area.
4 So we can identify what the array of potential concerns are.
5 And then we go through -- there's both guidelines within the
6 State regulations and within the Federal regulations, that
7 based on those contaminants of concern, we'll do a sampling
8 protocol that follows the regulations and guidelines, and
9 follows -- there's clear testing procedures and clear
10 thresholds as far as when the tests come back, at these
11 different thresholds, this is what the level of concern is
12 for human health and for a variety of different uses.

13 So in the next phase, that will be what we will be
14 developing and going through. That sampling will be
15 developed and occur in -- probably around in the spring.

16 Does that answer your question a little more
17 clearly, hopefully?

18 CHAIRPERSON KALALAU: Yes. My concern was because
19 Moku'ula is a landfill, and the sugar cane company -- you
20 know, they filled up all that area with a lot of stuff that
21 might be contaminated to the whole area. That is why I
22 wanted to know if you guys are following a specific
23 procedure or policy of doing that radioactive and the
24 hazardous toxic waste assessments?

25 MS. BARGER: Yes, there will be very specific

1 procedures, specific handling that's called out in these
2 regulations.

3 And probably as far as looking at the initial
4 preliminary report, you know, information that would be
5 useful at this time for us is if you know of activities --
6 it's kind of similar, you know, with Ioa Stream. If you
7 know of activities that have occurred in the area that we
8 haven't captured in this report, that would be really useful
9 for us to know. We think that we've done an exhaustive
10 search, but we can always be missing something. And that
11 would be really useful for us to identify, so that we can we
12 make sure we incorporated it into this big complex analysis
13 portion.

14 CHAIRPERSON KALALAU: Okay. Thank you. Any more
15 questions?

16 MR. FREDERICKSEN: I've got one question. Or a
17 couple questions, actually.

18 So based on -- and I know this came out September,
19 so it's pretty new. How many stages of study are done
20 before mitigation occurs in a situation like this, where
21 you're not completely sure what's there? You know, I like
22 the project and everything. That's all good. But I'm just
23 curious. I mean, before work actually starts, what else is
24 going to be done?

25 MS. BARGER: Okay. Well, Kevin can correct me if

1 I'm wrong. But for the most part, what happens is that
2 after this initial reconnaissance, we'll do a complete
3 analysis of the area.

4 There is -- in state law, there's already
5 identified what different thresholds there are for uses.
6 This is probably because it's going to be utilized for --
7 with public involvement. It's probably going to qualify as
8 a residential area. So once we get the thresholds back,
9 then based on that one test and those results, then how the
10 results come out depends on whether it's categorized as a
11 residential one, a residential two, a residential three
12 areas.

13 Each of those categories, under state law,
14 identifies what the appropriate use and disposal of any fill
15 material would be. So it's really just one major step. And
16 then we'll know how to treat the material, if there's a need
17 to treat it.

18 MR. GOODING: Part of the HTRW study, because we
19 were also aware that the site has fill, we drilled four
20 direct push wells about eight-feet deep and took soil
21 samples out. Well, three soil samples out of each hole, and
22 composite them. That means we lumped them together and did
23 a whole series of analysis on it through a lab called ESN.
24 And a whole sweep of various hazardous materials, including
25 the metals -- which is probably what you heard about -- the

1 heavy metals, and arsenic came out. There was arsine found
2 in the soil.

3 That's just about the only detectable contaminant.

4 And I think that's what people have concerns about, is the
5 arsenic.

6 CHAIRPERSON KALALAU: Your test wells. How deep
7 were they?

8 MR. GOODING: About seven or eight-feet deep.

9 CHAIRPERSON KALALAU: That was about your maximum
10 depth that you tested?

11 MR. GOODING: Well, that was the testing for the
12 soil analysis. I also put in a deeper one for ground water
13 monitoring. That's about 14-feet deep. But we didn't do
14 any soil analysis of that one.

15 CHAIRPERSON KALALAU: Was it active water or, you
16 know, just water at the table? Because that area was known
17 to have some springs.

18 MR. GOODING: Oh, there's definitely ground water
19 down there. We've been monitoring the water level since
20 August. Water levels vary from about 2.8 to 3.8 feet above
21 sea level. It's active. It's tidal influenced.

22 CHAIRPERSON KALALAU: Any more questions?

23 COMMISSIONER MOIKEHA: Actually, he answered it. I
24 was just going to ask what the finding was.

25 And so when the time does come for -- as far as

1 you're going to start excavating things, what do you do with
2 the soil that's contaminated?

3 MR. GOODING: It depends on how contaminated it is,
4 which we don't know. Above certain levels, it would need to
5 be disposed of someplace. Below certainly levels, it can be
6 just stored on-site and someplace where people can't get
7 into it. We don't know at this time.

8 Like I said, we have a composite sample. That's
9 what we had analyzed. So those arsenic levels will be
10 greater and lower in certain horizons in the soil.

11 MS. BARGER: Just kind of one other final thing.
12 The arsenic levels that have been identified, there's
13 arsenic in the soil. The next level will tell us that
14 arsenic is. Is it now in some way where it isn't going to
15 be a threat to humans, or is it going to be a threat? And
16 that's called bioaccessibility. And that's another level of
17 testing.

18 So the next level of testing, what we'll do is
19 we'll, first of all, find out how extensive is that arsenic.
20 Is just in one corner of the site? Is it all over the site?
21 And what is the potential threat, if any, to human health?
22 It could be that the way that the soils are and the arsenic
23 is occurring is that there isn't any concern. It could be
24 that there is a concern.

25 And then, like I said, the state has really --

1 pretty prescriptive guidelines on how the soil is disposed
2 of and treated in order to ensure there isn't any human
3 impacts or terrestrial impacts.

4 CHAIRPERSON KALALAU: I'm familiar with the
5 contaminated soil and stuff, because it depends on what the
6 contamination is. Because certain contaminants, you can
7 just leave it out in open air, and it will break down. And
8 then certain ones, you're going to have to bag and take them
9 someplace else. It really depends what the hazardous
10 material is in the soil.

11 The other question is the ecosystem, the
12 restoration. What period are you basing them on? Now or 30
13 years ago or five years ago?

14 MS. BARGER: I think that's part -- you know, one
15 of the difficulties with ecosystem restoration is trying to
16 define what can we restore to, and making that clear. So as
17 we get information, like the final information on the
18 hydrology, on getting a better concept of where the cultural
19 resources are that we need to protect. And things like the
20 HTRW, then we can define what level can we restore to.

21 At this point, we don't know. Ideally, we would
22 like to restore the whole thing. But we haven't set
23 ourselves as far as a time zone to aim for. So because
24 it's -- since there's been so much development in the area
25 and the site is much smaller than it used to be, there are

1 going to be constraints. So that will be something that
2 will have to be developing as we define the alternatives in
3 the future.

4 COMMISSIONER MOIKEHA: Back to my other comment,
5 too, as far as what was found. In here it says this
6 contamination is most probably most limited to the surface
7 soil as a result of blown dust and eroded material, probably
8 originating from the Old Pioneer Mill waste water ponds
9 above the site.

10 Who is in charge of that site, the waste water?
11 And what's going to happen? Are you going to be able to
12 stop that, that site that Pioneer Mill waste water ponds
13 above the site?

14 MS. BARGER: What we'll be able to do is look at --
15 within the boundary of the Moku'ula project on those 17
16 acres, what can we do to ensure that we don't have any
17 recontamination, if that is indeed the source of it. So it
18 will be limited to the project boundary.

19 But being that we're doing, you know, primarily a
20 wetland restoration, we want to make sure that what we're
21 incorporating isn't going to essentially destroy what we
22 create. So one of the ideas is there's a pond aspect to it.
23 We wouldn't want to have certain nutrient levels in the pond
24 because that can cause algae to grow. But maybe we can
25 locate the wetlands around the pond in order to capture

1 algae and other things and process it naturally so that the
2 pond can still be healthy.

3 Once we get the results, it will take some thinking
4 on what the sources are and what are our capabilities
5 on-site in order to address those.

6 CHAIRPERSON KALALAU: You know, there's some future
7 in the channel. If you're going to open the existing old
8 channel that's there, have you guys done test sites in those
9 areas, too, for future --

10 MS. BARGER: I think we only had four water sites;
11 right?

12 MR. GOODING: We have five monitor wells. And you
13 mean in test sites in terms of --

14 CHAIRPERSON KALALAU: Right. Your monitor wells
15 are just for the water? Or have you taken soil samples in
16 the area where -- I think I looked at the plan one time.
17 There's a channel that opens up into the ocean?

18 MR. GOODING: No, we haven't. We haven't done
19 that.

20 CHAIRPERSON KALALAU: Oh, okay. Can you guys tell
21 us, on their plans, what are they going to construct first?
22 Open the pond or build a building?

23 MS. BARGER: We haven't defined the order of
24 construction. We are still -- like I said, we're still just
25 collecting the baseline information. Based on that, then we

1 can see what can we construct. And then what would be the
2 order in which that construction would occur.

3 Oh, sorry. Shirley has a comment.

4 CHAIRPERSON KALALAU: Hi, Shirley.

5 MS. KAHA'I: Hi, my name is Shirley Kaha'i. And
6 I'm the project assistant with Friends of Moku'ula.

7 In answer to your question, our first phase of
8 project will involve constructing a parking lot. We have an
9 existing parking lot right now. But in order for us to do
10 archeological work, we're -- part of Moku'ula Island is
11 covered by the parking lot. So according to county, we need
12 to build another parking lot. So that's part of Phase One,
13 as well as building a traditionally hale, and also in
14 accordance with fire code laws, and all of that. And the
15 other part is building a service building.

16 So the wetland restoration and the archeological
17 dig, we're still working within that. But it's coming in
18 three phases, yeah.

19 CHAIRPERSON KALALAU: The pond alone, or the whole
20 project?

21 MS. KAHA'I: The wetland restoration.

22 CHAIRPERSON KALALAU: Three phases?

23 MS. KAHA'I: No, our entire project. Okay.

24 Yes.

25 COMMISSIONER MARQUEZ: You mention hale, so would

1 that suffice as a cultural center?

2 MS. KAHA'I: It's going to be like a -- we're kind
3 of basing it like -- what do you call that? Williamsburg, a
4 working area.

5 COMMISSIONER MARQUEZ: Like a living --

6 MS. KAHA'I: Yeah, a Hawaiian living center. Okay.

7 COMMISSIONER MARQUEZ: Mahalo.

8 MS. KAHA'I: You're welcome.

9 MS. O'OKI: Chair.

10 CHAIRPERSON KALALAU: Yes.

11 MS. O'OKI: My name is Kathleen O'oki. And I'm a
12 long-range planner in the long-range division. And I've
13 been assigned this project over the last four years. And I
14 just think it's important for the CRC to understand that
15 there are different scopes to this project.

16 Who you have in front of you today, they are
17 looking at the restoration of the wetlands only. That's
18 their primary function. And then once that's done, which
19 will take a few years because of funding issues, they have
20 scheduled this out over several phases. Because that's the
21 only way we can get it funded through the Federal
22 Government.

23 Then once the construction and everything comes
24 into play, then the county will start putting in some of
25 that funding. But when it comes to the actual restoration

1 of Moku'ula, that's where you're going to have these guys
2 come in with their plan. I'm not sure if you guys
3 understood that, so I just wanted to let you know.

4 CHAIRPERSON KALALAU: Thank you. Any more
5 questions Commissioners? So basically, you guys are Phase
6 One, the wetland project.

7 MR. MCKEAGUE: Hi. Aloha. My name is Kawika
8 McKeague. And I'm an environmental planner with Group 70
9 from Honolulu. And mahalo for allowing me to be here.

10 A lot of you said the things I was going to say.
11 So that kind of helps out. We got the tag-team going on.
12 But yeah, just to reiterate the fact the Friends of
13 Moku'ula, with the cooperation of the county, or
14 collaboration of the county, has its definite overall plan.
15 And the Army Corps kuleana is just of a portion of the
16 wetland.

17 Although, Phase One for friends of Moku'ula
18 includes the redoing of the parking lot to open up the
19 potential -- getting to the actually island and this
20 traditional hale. For us, we're in our own Phase One of
21 this study.

22 And again, really, the idea again for under which
23 we are able to do this project underneath the Federal
24 program is really doing the technical investigations and
25 trying -- as someone put it here -- to gather all that

1 mana'o to make good decisions about what is the scope of
2 work; what are going to be the project alternatives that are
3 the preferred. And some of it is going to be restrained by
4 cost analysis. Although, we want the world. If there's
5 only so much funding, how can we incrementally get to the
6 point of the full picture? And if we can't, that's the
7 reality we have to deal with. So I just wanted to make that
8 clear for everyone.

9 So, you know, the work that Kevin folks are doing
10 from Oceanit, the work that cultural surveys is doing for us
11 is really to assess what information is out there for us to
12 be able to derive some good project alternatives, which will
13 then feed into the next level of our study, and will lead to
14 the EA. And that's where we're heading with this.

15 We have NEPA requirements to meet, where there's
16 federal dollars involved, as well as Chapter 343, because we
17 are using county lands and county funds as well. So
18 contained in all that is compliance eventually with Act 50,
19 cultural impact assessment. So we're definitely coming back
20 to you folks to ask for your mana'o on that.

21 So the point I wanted to share here is we're very
22 early in the process. And part of our scope for this phase,
23 that Group 70 is working on, on behalf of the Corps,
24 including agency coordination and Friends of Moku'ula, in
25 addition with the CRC, were two of our maybe top five or six

1 agencies that we wanted to meet with. So we wanted to
2 basically kuka kuka very early on with you folks.

3 CHAIRPERSON KALALAU: Very good. Questions?

4 COMMISSIONER MOIKEHA: Just real quick. After all
5 is said and done, what's the time -- when does the actual
6 construction of anything start? What's your guess?

7 MR. MCKEAGUE: Excellent question. Of the wetland
8 restoration --

9 COMMISSIONER MOIKEHA: Well, knowing all the
10 permits and all the things you got to go through, will I be
11 60 years old?

12 MR. MCKEAGUE: That's a good question. I'm 37, so
13 I'm hoping in my lifetime.

14 But to be fair, the regulatory processes, you can
15 sometimes define them as constraining. Just the EA alone,
16 the NEPA EA, with the adjoining parts, Section 106, could
17 easy go out over nine months to a year on its own. From
18 there, whatever subsequent additional studies will be
19 required. Other compliance entitlements and mandatory
20 permits to be in place, you're looking at two to three years
21 out, just on that phase alone.

22 I know the Friends of Moku'ula are very interested
23 to basically grab the o'o, and let's go. But the reality
24 is, I mean, I can't really assess that for you. It's a good
25 question, but I don't know.

1 COMMISSIONER MOIKEHA: We should say mahalo for you
2 folks to bring the mana'o at this early stage. Because it
3 is at the stage of collecting baseline tests, mana'o.

4 I repeat what this young lady said. What do they
5 want from us? They want to know if there's any activities
6 in the area. So have we answered any part of that yet?

7 MS. BARGER: I don't think so. But I think that
8 you'll probably have to think about it. It's fine if you
9 need to take a while and get back to us on that.

10 MR. MCKEAGUE: As Kevin suggested, there is
11 protocols in place of how this Phase One recon of the HTRW
12 was conducted, which includes -- we look at all the previous
13 studies that were done, as well as accessing all the
14 databases, which are updated and regulated by the agencies
15 entrusted to do. So like the EPA, Department of Health.

16 And lastly, is oral interviews as well. Talk to
17 all the folks akua aina that work at the plantation and knew
18 the areas well, and say, "What was going on over here that
19 you think today might be a concern?" Because landscapes
20 change. Like people storing in containers. What was in
21 those containers? How close was it? Down slope? You know,
22 all those kinds of questions.

23 Not necessarily always be in the reports. There
24 might be someone out there that has that information. It
25 could be an old plantation foreman, or someone that you

1 folks may know of or you think we should be talking to that

2 is not necessarily listed or addressed in our current study.

3 It would further our efforts to try and do a thorough job.

4 CHAIRPERSON KALALAU: Question, Dorothy?

5 VICE-CHAIRPERSON PYLE: No.

6 CHAIRPERSON KALALAU: Thank you.

7 We're going to open this portion of the agenda item

8 for anyone in the public who wants to come forward and speak

9 on the agenda item. Is there anyone who wants to come up on

10 this item? If not, we see none. The floor is now closed.

11 Stan, do we have any comments from the staff or

12 Planning Department?

13 MR. SOLAMILLO: Since we've combined the two

14 documents, I'll briefly give you some information. And

15 these maps that I'm going to show you, I'm going to share

16 with you guys, I think they're important.

17 Through time, I think, when we began the general

18 plan, we went out on this massive map hunt. And some things

19 that we found, you know, probably this Commission hasn't

20 seen before and possibly, the contractor hasn't seen as

21 well.

22 (PowerPoint presentation shown.)

23 We've actually located some maps from 1916. These

24 were Georgia Brights [phonetic]. And they show the edge of

25 Moku'ula above Fanny Young's house, which is LCA 85192, on

1 the right-hand side of the screen.

2 I'm sorry. I just had to pull what I had. The
3 vacant parcel above there is actually the northern most
4 boundary of the site. But what we've got coverage for, it's
5 going all the way towards the West Maui mountains.

6 Continuing down this series of slides was prepared
7 to look at the shoreline and relationship to Front Street.
8 We show a 1916. And what I'm trying to get at is we've got
9 something in the text that mentioned -- an informant in
10 1914, he recalls that Moku'ula was filled in by Pioneer
11 Mill. So in 1916, in this map, we're still showing a
12 reference to an island, reference to pond.

13 Another book came out on George Freeland and the
14 Pioneer Inn. And that informant recalled that it was 1917
15 that he saw it, that it was filled in. We haven't been able
16 to substantiate. And unfortunately, during this time
17 period, the only photograph that's taken is one the armory.

18 This is an older view, 1914. It's a sanborn map.
19 But remember, they take sanborn maps and update them and cut
20 pieces out and paste on the pieces. That's how they update
21 sanborn maps, which are real estate maps. And sanborn maps
22 are really important. So going into UH's digital sanborn
23 collection -- which you can get there if you go to UH and
24 just go to the catalog section and log on.

25 We're showing around the area of -- the north area,

1 which is above Front Street. This is the area that we were
2 just looking at in the last few slides. And in the revised
3 1950 version, it's showing housing being built there, but
4 nothing really concentrated. And there's still reference to
5 March.

6 So in doing research for Pioneer Mill, I amassed
7 all of the annual reports for Pioneer Mill. And going from
8 1900 to 1917, which I thought I could collapse and get some
9 mention of it, there's no mention of it. Although, they're
10 talking about every reservoir they built and everything that
11 involves use of a portable track, in this case, to break a
12 narrow gauge railroad to dub a factories way or -- into a
13 large area. This should be reported in the annual reports,
14 but it doesn't show up in 1900 to 1917. So it may have
15 actually occurred later.

16 I had mentioned to Nani, and I'll mention it to
17 Cindy, I'll check the Maui News and see during that time
18 period. Because it takes you about two hours to read
19 through it. It's only a weekly per year. But anyway, we'll
20 share this with Cindy and Group 70. And that ought to help
21 them. And hopefully, we can tie down a date.

22 That's all the comments.

23 CHAIRPERSON KALALAU: Commissioners, questions for
24 Stan? Questions for the applicants?

25 Anyone want to make a recommendation?

1 COMMISSIONER MARQUEZ: Thank you so much for giving
2 this mana'o so early in the stage. Because it really helps
3 us help you. So mahalo.

4 VICE-CHAIRPERSON PYLE: And a nice complete
5 archeological literature research, which is very helpful.

6 CHAIRPERSON KALALAU: Any more comments?

7 MS. BARGER: Well, this is just to help you keep
8 you guys informed. Kanalei had mentioned some of the other
9 projects we have upcoming. One of the ones he didn't
10 mention, if it gets funded in our federal budget, we hope to
11 be starting a West Maui restoration investigation.

12 And what our plan is with that -- you know, water
13 shed studies. We've been doing water shed studies on the
14 mainland quite a bit. They're relative to new in Maui.
15 It's a program where we want to start integrating groups
16 really early. Right now, I'm designated to be the project
17 manager for that one, too. If it's gets funded, I'll be
18 coming back to you to see how we can integrate you as early
19 as possible into that process, too.

20 So hopefully, you'll see me early next year about
21 that, funding willing.

22 CHAIRPERSON KALALAU: Okay. Thank you. We just
23 want to thank you and the rest of you. Anyone got anything
24 to say before we go to the next item?

25 MR. FREDERICKSEN: It's just a good project. And

1 hopefully, it can happen sooner.

2 MR. MCKEAGUE: I came out to talk about the next
3 item, too. Okay, so this is inclusive.

4 Well, I guess just to mention in the monitoring
5 plan portion. The fact that, again, recognizing the serious
6 nature of the cultural sanctity of this place, being home to
7 Kihawahine and everything that it stood for in our own
8 mo'olelo and ka'au. And actually, at the recommendation of
9 Tonya here in cultural surveys, to be akahele when we're
10 going down to do these -- to put the pukas in to do well
11 monitoring.

12 And even though we're talking about foreign
13 borings, to lay in two-inch PVC pipe, we thought it
14 warranted, given the cultural essence of that place, to have
15 someone on-site. So we wanted to mention on the A&P
16 portion, which actually was an add-on to cultural surveys
17 work. Their work at this stage again was just to combine
18 existing information and actually put forth recommendations
19 on how to best move forward with vigilance on being careful.

20 And actually, our report had been made available
21 for our own in-house review. And more than likely, we'll be
22 coming back to you folks maybe in January to warrant and
23 discuss that pala pala. So cultural surveys took up that
24 kuleana to watch what was going on when we did the borings.

25 Essentially, what I wanted to share, we did not

1 find anything of substance. So that was a good thing.

2 Mahalo.

3 CHAIRPERSON KALALAU: Thank you. Staff, you have
4 anything to say?

5 MS. BARGER: No.

6 CHAIRPERSON KALALAU: Okay. Thank you. We're
7 going to take a short timeout and get things ready for the
8 next agenda item. So we'll reconvene in about another five
9 minutes.

10 (At which time, a recess was taken.)

11 CHAIRPERSON KALALAU: Okay, Commissioners. We will
12 be losing a member in about six minutes, so let's reconvene
13 and go to the next agenda item.

14 MR. SOLAMILLO: Under advisory review. Mr. Joseph
15 Alueta, representing Mr. Jeffrey S. Hunt, transmitting
16 Council Resolution Number 07-108, referring A Bill for an
17 ordinance to prohibit superstores in Maui County, to the
18 Lanai, Maui and Molokai Planning Commissioners, Maui County
19 Cultural Resources Commission, and the Hana Advisory
20 Committee.

21 The CRC may provides comments on this bill to the
22 Maui County Planning Commission and the Maui County Council.
23 Public testimony will be accepted.

24 MR. ALUETA: Good morning, Board Members. My name
25 is Joe Alueta. I'm the administrative planning officer for

1 the Planning Department. Some of you know me. I've worked
2 with you on a variety of other projects. But my role as an
3 administrative planning officer is to review legislation and
4 draft legislation, as well as Administrative Rules for the
5 various boards and commissions. That's my primary role.

6 You get bills that are enacted. Primarily, Title
7 19, is the main focus for the Planning Department. Bills
8 can come out either by resolution through the County
9 Council, which is this one, in which case, the Department
10 plays a role of damage control, trying to figure out how
11 this fits into the existing structure of the Maui County
12 Code; or it will be generated through the Planning
13 Department, which will generate a bill and draft a bill and
14 bring that through to the three commissions or this board,
15 if it's needed.

16 So today you have a resolution from the County
17 Council initiated by the Chair. And it's basically to
18 prohibit superstores. The methodology in which they are
19 doing that is just to prohibit it. Our concern -- our
20 structure is that we don't have a real position as to the
21 intent to allow or disallow superstores. Our concern is
22 more with the structure of the bill and that implementation
23 of that bill, should it get adopted, and how it's going to
24 fit into it.

25 The current methodology of the County Code is if

1 it's not listed as a permitted use, it's prohibited within
2 that zoning district, okay. So you need to either -- there
3 needs to be some type of caveat within each zoning category
4 in there, where you have grocery stores or allow retail that
5 would say, you know, retail or grocery stores, except for
6 superstores; and then set out the definition of what a
7 superstore is in Title 1904.

8 The methodology in which they have set up the what
9 defines a superstore, we feel, is a little cumbersome in the
10 sense of SKU or UPC code numbers or items numbers. We feel
11 it's more simpler just to go with a square-foot method. The
12 current bill is both square foot of retail, as well as a
13 20,000 square-foot provision from groceries. So we feel we
14 should just stick to a square footage.

15 In some cases, I guess on the island of Kauai, they
16 removed the whole concept of grocery. So they just went
17 with straight square footage. It has gone before the Hana
18 Advisory Committee. And they also did the same thing and
19 just removed all references and said if you build this big
20 of a store, it's considered a superstore, if you do
21 square-footagewise.

22 Just for your information, as far as what would be
23 considered existing, I guess existing superstores would be
24 like Costco, Walmart, as well as Home Depot. Those all
25 exceed or are within the 140,000 square-foot range and

1 150,000 square feet of store area. Just for your
2 information.

3 So our comments and our issues that we would want
4 to recommend as far as comments would be is we would like to
5 keep the bill pretty simple; define what the store is; and
6 use something that's very easily enforceable. Square
7 footage is the easiest methodology for us.

8 So eliminate any reference to SKU or any items
9 numbers to refine superstore, as well as make a
10 recommendation that it should be referenced somewhere in
11 each of the zoning districts to specifically say, yes --
12 because in all of the business districts, you know, retail
13 and groceries or whatever, is allowed. And you should say
14 make an exception for superstores or some retail size of
15 this nature.

16 We also don't -- sometimes we feel that if you're
17 disallowing it, you should create a district where it's
18 allowed. I mean, there's a planning philosophy that you
19 should allow everything and it should be in some districts.
20 It can go to certain extremes on the mainland. But I think
21 that we feel that sometimes these superstores should be
22 allowed in certain districts, maybe only in the urban core
23 of Kahului in the industrial retail areas, and prohibit it
24 outside in other areas, other geographic regions; or create
25 a new zoning category that would allow a superstore in

1 there, like a B4 category districts.

2 Those are my primary comments. It's kind of
3 unusual. This is my first presentation as far as in the two
4 years I've been the APO to come before the CRC. It was very
5 educational, and I enjoyed it very much. But I'm not sure
6 how your role is as far as preservation and protection of
7 the cultural resources in the County of Maui, how that
8 relates with the superstore bill. But they did specifically
9 want it to come before you. So I'm open to any questions.

10 CORPORATION COUNSEL: As your attorney, I think I
11 can give you the same advice that I gave to council, just
12 about the format of the bill.

13 It's not whether or not to prohibit or not
14 prohibit. That's your decision. But as to the format of
15 the bill, this was the form that was transmitted. I think
16 the three counties all got together and -- including the
17 City and Council of Honolulu, and came up with draft bills.
18 And I think this is it, what you have before you. And then
19 you also have an ordinance that Kauai adopted.

20 And from our perspective, as far as a legal
21 drafting perspective, we think the methodology that Kauai
22 used was the best. Because if you're going to prohibit
23 superstores, there's two things you need to do. One is to
24 define what a superstore is. And second is to say it's
25 prohibited and make it pretty clear it's prohibited.

1 Joe's right. The definition of a superstore could
2 be made a lot simpler if you went by square footage only.
3 Right now, it's 90,000 gross square feet. But it also has
4 to have 20,000 gross square feet of grocery sale. So the
5 stores he's talking about, Home Depot, would not be
6 considered a superstore right now because it's doesn't have
7 grocery sales.

8 You also have to have more than 25,000 different
9 stock-keeping units, which are defined. And Joe had stated
10 in the past, that would be very difficult for the Planning
11 Department to monitor. That, and then the grocery square
12 feet. It would be difficult for the Planning Department to
13 monitor that. And they recommend a straight square footage
14 if you're going to prohibit a superstore.

15 The exact square footage is up to you. I think
16 Hana recommended 75,000. But that's up to you. Everything
17 it up to you, obviously. But our recommendation would be to
18 just go with a square footage, as Kauai County did.

19 Also, the way that superstores are prohibited, Joe
20 is right. I think in saying it would be a good idea to go
21 into each zoning district where it could be permitted right
22 now, and say it's not permitted. The only thing it's done
23 in this proposed bill is in the definition section of the
24 Maui County Code, under the definition of food and beverage
25 retail at the very end, an additional sentence was added

1 that says, "The term does not include superstores as defined
2 in this section, as superstores shall not be permitted in
3 any zoning district in the County of Maui."

4 That's in the definition of food and beverage
5 retail. It's no where else right now. So in order to find
6 out that you can't build a superstore in Maui County, you
7 would have to find it in the definition of food and beverage
8 retail. And it's not real obvious. So it would be a good
9 idea to do exactly what Kauai has done and go into each one
10 of the zoning districts where it could be permitted, and say
11 except superstores as you define it, which shall not be
12 permitted. Or to even have a separate section of the code,
13 like which has been done for TVRs and time shares, and say
14 superstores are not permitted in any zoning district, or
15 something like that.

16 But at least, our recommendation is do more than is
17 just stated in the end of the definition of food and
18 beverage retail, which would be hard for someone to find if
19 they were just reading the code, in our opinion.

20 CHAIRPERSON KALALAU: Very good. Thank you.

21 Questions, Commissioners?

22 MR. FREDERICKSEN: Yeah, I've just got a question.

23 CHAIRPERSON KALALAU: Go ahead.

24 MR. FREDERICKSEN: Okay. Let's say if this passes,
25 what happens to the ones that are here already?

1 MR. ALUETA: They would become existing
2 nonconforming uses. So they wouldn't be shut down, but they
3 would be prohibited from expanding. So they couldn't expand
4 them.

5 CHAIRPERSON KALALAU: They cannot go above 150,000
6 square feet. I'm glad you guys brought this before the
7 Cultural Resource Commission. But my feelings about this is
8 I think it should be addressed in the Planning Department as a
9 zoning issue and a permitting issue.

10 Because as far as coming from the Cultural Resource
11 Commission, I think the only time we really would have some
12 kind of leverage on something like this is if the building
13 was going to be built within historical sites or
14 archeological sites, and stuff like that.

15 But, you know, I think this is a good first step
16 that you guys are taking. And I think the entire community
17 needs to look at it as -- like Corporate Counsel has
18 mentioned. You know, how are you going to define or
19 understand the procedure or the bill when it's put into
20 action?

21 CORPORATION COUNSEL: Just as far as background.
22 This came to you because Jo Anne Johnson, in a council
23 discussion, suggested it go to the Cultural Resources
24 Commission and the Hana Advisory Committee. And they were
25 both put in as part of the bill. So normally, it might not

1 come to you. But there was a specific request by Council
2 that you review it in this case.

3 CHAIRPERSON KALALAU: Okay.

4 COMMISSIONER MOIKEHA: Just a question. So, Joe,
5 this came about because somebody in the County Council or
6 somebody doesn't want superstores?

7 MR. ALUETA: My understanding -- Corp Counsel may
8 have more information.

9 But my understanding is it came out of a county
10 meeting -- I don't know if it was the Mayor or the Council
11 Members from the various counties. It came out. And this
12 was one of the items that came up for discussion. And there
13 was an agreement that they would all push forward a bill.
14 And they had a standard bill that they were going to do on
15 all the four counties.

16 And I do have, as you know, if you read the paper,
17 on the Big Island, they -- interestingly enough, it did go
18 through on the Big Island. The Big Island was trying to
19 stop a Walmart there. And they did -- the project -- they
20 rejected the superstore ban. So I found that was
21 interesting. So I think it still has some life. I think
22 they're going to try to rewrite it, or something. But that
23 was one of their attempts at it.

24 COMMISSIONER MOIKEHA: Just basically what happens
25 is a county ordinance comes out, and it becomes law, and

1 that's how it goes? I'm just trying to understand the
2 process.

3 MR. ALUETA: Right now, the way this one comes
4 through, yeah, it would become law. And those that are
5 existing -- depending on how it's defined, it would prohibit
6 them from expanding, or from new entrances, or from them
7 modifying their existing outlets.

8 Like say a 20,000 square foot grocery is part of
9 that provision, right, Walmart could theoretically not
10 expand into the grocery market as much as they have. I
11 mean, they have some groceries, but they don't -- they
12 wouldn't be able to do the 20,000 square feet of groceries
13 like they do at one of those super Walmarts, family
14 Walmarts.

15 Same thing with K-Mart. As you know, if you've
16 been there recently, it has shifted more -- they've kind of
17 gone more in the grocery area also. So it's either way.
18 But I think they would become existing nonconforming uses.

19 COMMISSIONER MOIKEHA: I think -- it's interesting
20 to me. It's an interesting process. It seems kind of
21 simple. And yet, as a planner and things, people come in
22 and, "I want to build this. I want to develop that." But
23 this is -- you just shut them down. That's amazing. That's
24 amazing to me.

25 CHAIRPERSON KALALAU: Okay, counsel.

1 CORPORATION COUNSEL: I was going to say, you can
2 deal with -- how you deal with the existing uses is in a
3 variety of ways. The Code already has a way. That's what
4 Joe was talking about, existing nonconforming. And there's
5 certain restrictions there.

6 You can grandfather them in more. You can say that
7 you can expend or you can modify or do certain things or not
8 do certain things. And that's been done, where you have
9 treatment that's more favorable than is required by law. So
10 that's up to your recommendations. And ultimately, Council
11 may then request that we come up with language to do a
12 certain thing.

13 If you don't feel comfortable making comments on
14 the bill, if you think it's not in your purvey, you don't
15 have to set up comments. But that's up to you.

16 CHAIRPERSON KALALAU: Veronica.

17 COMMISSIONER MARQUEZ: I'm going to piggyback on
18 that mana'o. So help me understand the connection between
19 that ordinance and our role with cultural resources. I need
20 to understand this. How do we address this mana'o from our
21 roles, or do we?

22 MR. ALUETA: I'll take a stab. You know, I'm more
23 of a local culture and the small-time stores. And I think
24 that's part of where they're coming from.

25 I mean, you can look at culture in a variety of

1 different ways. You look primarily at the Hawaiian
2 archeological and the Hawaiian culture. Whereas, I'm more
3 of the local culture, which is a mixture. Okay. And in
4 part of that local culture has been the mom-and-pop stores.
5 Okay. And I think that could be part of what they're
6 looking at. I don't know. They didn't make a specific
7 comment.

8 But I think that most of these superstore bans that
9 have gone on around the nation has been a result of their
10 impacts on the small towns, the local communities, and from
11 that aspect.

12 CHAIRPERSON KALALAU: Okay, Erik.

13 MR. FREDERICKSEN: Yeah, I would just make a
14 comment. I think it is something that is appropriate. It
15 is, like what Joe was saying, it's not super clear-cut. But
16 I think it is appropriate for the Commission to at least
17 discuss it and maybe modify or just suggest some
18 differences.

19 I mean, to me, having all these -- whatever you
20 want to call them -- big-box stores, superstores, it's like
21 a homogenization of everything. It's like, okay, just go it
22 this store. It's the same as wherever, anywhere USA. And
23 it does dislocate --

24 CHAIRPERSON KALALAU: Culture.

25 MR. FREDERICKSEN: Just the -- whatever you want to

1 call it. Island society. Local -- whatever label you want
2 to put on there. To me, it dislocates it. It forces a lot
3 of smaller stores out of business.

4 And, you know, I do sometimes go to some of these
5 big places, but I don't like to. And I try not to do that
6 too much just because it supports something that I think is,
7 in the long-term, it can be harmful to the -- our way of
8 life.

9 CHAIRPERSON KALALAU: I mean, Maui alone, if you
10 look at the old stores, they're all shut down. I mean, they
11 were the big stores at one time when we were growing up.
12 They were the superstores. But they're all gone today.

13 I guess this is why Kauai, they were real adamant
14 about this bill, pushing this thing through, because they've
15 seen a lot of their small business guys going out of
16 business. And that's why they introduced their bill.

17 But as far as, like again, I'm going to say from
18 the Cultural Resource Commission, I would rather see this
19 thing being discussed at the Planning Department, because I
20 feel it's more of a zoning and permitting process. But I'm
21 glad that you guys brought it to us. Because I guess a lot
22 of the people in the rural areas, it was a major concern for
23 them. Because growing up with only two stores or three
24 stores, it's like, you know, if they need to go to Costco,
25 they drive two hours and go to Costco.

1 It's needs to be looked at as a -- whether the
2 economy is a good thing for the area, whether it's going to
3 create major impacts on the area. This is why I feel that
4 it should really be going through the Planning Department as
5 a zoning thing and a permitting thing. That way, we'll give
6 people an opportunity to voice their concerns, too, and
7 their needs.

8 This portion is also open for public testimony.
9 Anyone from the public that wants to testify on this items,
10 please come forward.

11 MS. KEAWE: Good afternoon. Aloha, Council
12 Members. Commissioner Members and Chair Kalalau. My name
13 is Chanda Keawe. And I'm the store manager of the Walmart
14 in Kahului. I first started with Walmart as an assistant
15 manager/trainee in Mililani in 2000. And after several
16 promotions, I was named manager of our Maui store earlier
17 this year.

18 I'm here today to testify against Council
19 Resolution 07-108, that would ban large store that include
20 substantial grocery sections. This is aimed directly at
21 Walmart and Target, the only companies that have large
22 stores that include full discount supermarkets. Another
23 suggestion that we've heard discussed from the county
24 planning office would entirely ban all big-box stores,
25 closing the door to a wide variety of stores greater than

1 \$75,000 square feet. Either way, Maui would be denied the
2 benefits of free competition and consumer choice.

3 One might assume that Walmart would be the only
4 existing business on Maui affected by these types of
5 legislative actions. Unfortunately, that assumption would
6 be wrong. Many local farmers and businesses also would be
7 harmed. Why? While this bill would keep us from expanding
8 our local supplier base with additional farmers and local
9 businesses, something we would logically need to do in order
10 to expand or add a large grocery section.

11 Did you know that about 40 percent of the units
12 sold in our Hawaii stores come from local suppliers? Our
13 Hawaii operation is unlike any other in the state in which
14 Walmart does business. Because of the geographic location
15 of our islands and the logistical requirements for supplying
16 our stores, Walmart operates a Hawaii purchasing office Oahu
17 with about 24 associates. We are the only state to have a
18 separate buying office outside of Bentonville, Arkansas.
19 And that's really important to the local economy.

20 In our fiscal year, we spent approximately \$180
21 million for merchandise and services, with 488 Hawaii-based
22 suppliers and vendors. Approximately 53 of those suppliers
23 are based here on Maui. As a result of Walmart's
24 relationship with these local suppliers, Walmart supports
25 close to 18,000 supplier jobs in the State of Hawaii. We

1 are also very proud to be a part of the Walmart and the Maui
2 community.

3 As one of the islands largest employers, we provide
4 work for more than 470 associates. Full-time hourly
5 associates in Hawaii earn an average of \$12.19 per hour,
6 great benefits and bonuses. Each year, we are able to
7 provide thousands of dollars in grant and donations to
8 various nonprofits across the island. Last year our grants
9 and donations totaled nearly \$50,000 for the Maui community.

10 Walmart stands ready, willing and able to sit down
11 with county leaders to discussion community problems and
12 concerns and to find fair solutions that do not restrict
13 free competition or unnecessarily burden island residents.
14 Our goal at Walmart is to be able to serve our communities
15 with the best service and the best quality and selection.
16 We help our customers save money so they can live better.
17 After all, that's the residence that Maui and Hawaii
18 deserve.

19 And I thank you for the opportunity to testify.
20 Mahalo.

21 CHAIRPERSON KALALAU: Thank you. Any questions?

22 Your guys store right now on Maui is how large?
23 What's the size?

24 MS. KEAWE: It's a little under 145,000 square
25 feet.

1 CHAIRPERSON KALALAU: You guys do sell food and
2 beverages?

3 MS. KEAWE: Very limited.

4 CHAIRPERSON KALALAU: You know -- this is for Joe.
5 What would you consider -- like they have these other
6 companies that are hooked up with them. You know, like the
7 18 -- do they consider that all as one? Would that consider
8 that as one business or an individual business? Or --
9 because it's based under one roof.

10 MR. ALUETA: I'm not sure at this rate. Currently,
11 they are considered individual businesses because they all
12 have a separate lease space from Walmart. And they also --
13 so that's why they were allowed to have a sign outside of
14 the Walmart. They don't have ground signs, but they all
15 have business ID signs because they share a common entrance.

16 Because I did the sign permits for them. That's
17 how they were allowed. Because they were given individual
18 leased spaces. Similar to how American Savings is inside
19 Sack 'N Save, they lease space from that one building.

20 CHAIRPERSON KALALAU: But in your ordinance that
21 you guys are trying to put out, it's just -- whether it's
22 going to be classified under square footage. Is it going to
23 be just -- I mean, can they do the same thing, too? Instead
24 of just one company, now they're going to lease space out to
25 other companies? You know, are you guys trying to put that

1 in the ordinance, in this new ordinance, of how are you
2 going to define the total square footage of that business
3 alone?

4 MR. ALUETA: Because this is the Council's bill,
5 I'm not exactly sure what their intent is. I think that we
6 would be able to do it by the -- because it's under one
7 structure. And the leases, there's not demising walls.
8 Because otherwise, you'd say that a shopping center,
9 technically, any shopping center would be considered a
10 superstore because there's individual businesses, and stuff
11 like that.

12 And I think in this case, for most of these
13 businesses, they all share a common entrance, one entrance.
14 So I don't think it would necessarily be considered a
15 shopping center. And because there's no demising walls
16 between each individual businesses, there's just an open
17 floor plan. So I think that would be one of the key
18 distinctions that would be worked out.

19 I can ask how the Council -- that's a good point.
20 And we can bring it up at Council, how would you consider it
21 if O'oka supermarket went in and leased 20,000 square foot
22 from Walmart and set up an O'oka's inside. Would you
23 consider it Walmart and O'oka's, or would you consider this
24 Walmart with -- yeah, that's a good point that should be
25 brought up.

1 CORPORATION COUNSEL: Yeah, we can look at more
2 specific language depending on the intention of it. And if
3 you have a recommendation along those lines, by all means,
4 make it.

5 CHAIRPERSON KALALAU: The other thing I was
6 thinking about is underneath the Planning Department, what's
7 the difference between a mall and a shopping center? Is
8 there any difference?

9 MR. ALUETA: I believe under 1904, it's a five -- I
10 think five or more different entities. I don't have the
11 code in front of me. But I think -- that code sticks out.

12 Maybe Corporation Counsel has a definition of it.
13 But I think there's a definition of shopping centers. But
14 it comes down to the amount of the retail stores that are
15 tied together in a group.

16 COMMISSIONER MOIKEHA: Mr. Chair, I have a
17 question.

18 CHAIRPERSON KALALAU: Yes.

19 COMMISSIONER MOIKEHA: How does your store rank
20 within the state as far as Maui?

21 MS. KEAWE: As far as?

22 COMMISSIONER MOIKEHA: The other Walmarts. Are you
23 guys number one in the state? Number two?

24 MS. KEAWE: Well, it depends. You can look at it
25 in a lot of different ways. As far as sales?

1 COMMISSIONER MOIKEHA: Sales.

2 MS. KEAWE: As far as sales, the number changes a
3 lot. But I can get you a definite answer. It changes all
4 the time.

5 COMMISSIONER MOIKEHA: So you think you can lease
6 20,000 and open up O'oka's?

7 MS. KEAWE: I can write it down.

8 COMMISSIONER MOIKEHA: I think you have a great
9 store.

10 My comments, I think it's really ironic. To me
11 personally, when you talk about cultural and things like
12 that. When I look down from Ulupalakua and looking down at
13 all the light pollution, come on. How easy you can do an
14 ordinance and stop something like this blows my mind. I get
15 disturbed, you know, that people are allowed to come in -- I
16 bought the land. I can develop it. Do what I want. I can
17 gate 'em. You guys can't come in.

18 This store allows everybody on Maui, in the state,
19 in the world to come to that store. I cannot go to certain
20 places on Maui anymore. That bugs the heck out of me that
21 we can do this and try to stop people from coming in a store
22 that is willing to do things and has helped the community.
23 And yet, they have other things. It bothers my mind.

24 It's really ironic that we try to stop things and
25 get other things. We have no say, it seems like. But it's

1 just an opinion.

2 CHAIRPERSON KALALAU: Lon.

3 COMMISSIONER WHELCHER: Mr. Chairman, the zone
4 ordinance started out trying to cover every conceivable
5 operation. And it appears this is a witch hunt, where
6 somebody is trying to limit the big box. And the big box
7 is -- if that was something that was objectionable, just the
8 size of it, the architectural design, they would make it
9 like a spoke or cross or sunburst and have In-N-Outs, and it
10 would look like many buildings, instead of having just one
11 big box is more efficient.

12 When the ordinance was set up, it didn't include
13 superstores, it didn't include Super Ferry either. The
14 Super Ferry has come in, the same deal. Nobody could
15 believe that a boat could be that big, a ferry. But it is.
16 And there's paperwork coming together now that's possibly
17 going to allow it. And they just have people that are
18 objecting. And this is what we have in this superstore.
19 There's a few people objecting, maybe many.

20 Small store owners -- I see small store owners go
21 in there and buy because they can buy from Walmart or the
22 other ones less than they can buy for themselves. And they
23 still go out of business. So there's no logic there at all.

24 And the superstores help keep our living expenses
25 livable. I go to a superstore every two or three months,

1 and I buy a bunch of stuff. Other times, I go to the little
2 stores and shop for the little stuff. I feel like it's a
3 good thing.

4 And I go along with the idea that the zoning
5 ordinances should be modified or not messed with, not
6 limited. If the county -- not just a few people, if the
7 county or the state wanted to limit the location of these
8 superstores, put it on the map. There's a general map. And
9 put it on there and not limit it. Make room for everything.

10 That's all I have to say about that.

11 CHAIRPERSON KALALAU: Very good. Any more
12 comments? How about Ms. Molokai over there, you want to put
13 a superstore on Molokai?

14 COMMISSIONER WATANABE: Next.

15 CORPORATION COUNSEL: The Maui County Planning
16 Commission will see this. Them and lanai will see it.

17 CHAIRPERSON KALALAU: Okay. We thank you very
18 much.

19 MS. KEAWE: Mahalo.

20 CHAIRPERSON KALALAU: Anyone else from the public
21 who wants to testify on this agenda item? Okay, no one from
22 the public. The floor is closed now.

23 Staff, Joe.

24 MR. ALUETA: We're just here to take your comments
25 and your recommendations. We gave our presentation. We

1 don't have anything specific. So if you guys have your --
2 if there's going to be a motion, like I said, Corporation
3 Counsel, we've made our recommendation as far as what we
4 think should be included in it. At the same time, I've
5 heard your concerns over whether or not you should be
6 reviewing this and you want to leave it just to the Planning
7 Department.

8 CORPORATION COUNSEL: And again, my recommendation
9 was based purely on the bill presented; what it was trying
10 to do; and if you agreed with the philosophy of the bill,
11 how you go about doing it. I have no recommendation as far
12 as whether you should ban them, shouldn't allow them, allow
13 them in certain places. That's up to you. Mine were purely
14 based on the form of the bill.

15 MR. ALUETA: Right. And that's pretty much the
16 Department's comments also, on the form and structure from a
17 zoning standpoint. Implementation on it. So we don't have
18 a pro or con for them or not.

19 I will say, it is ironic that a lot the -- like in
20 the rural community, like when you go to Hana, a lot of the
21 Hana community shops at -- they do their rounds of Costco,
22 Walmart, Longs, and then head back. But they definitely
23 don't want one built at Hana. They like to go visit them,
24 but they don't want it necessarily in their community. I
25 find that ironic.

1 COMMISSIONER WATANABE: I just have a comment. On
2 Lanai, I think I like when people come here and shop. And
3 there's not a Walmart on Lanai, and I don't ever want to see
4 one there, because we are very much a plantation town. I
5 really enjoy seeing everybody lug their stuff on the boat
6 and showing that they're supporting Maui's economy. So keep
7 it on Maui.

8 COMMISSIONER WHELCHER: It's like the superstores
9 will only exist where they can be supported. They cannot go
10 to Molokai, they cannot in Hana. And they will find their
11 niche. And we need to have it set up so you wouldn't put
12 zoning for a superstore in Hana. You wouldn't put it on
13 Molokai and Lanai. You find one in Kahului, where they have
14 an industrial area and where they have big buildings now,
15 just add to it. Zoning is a buffer anyway.

16 MR. FREDERICKSEN: Yeah. I've got a question for
17 Joe. On really large stores like that, I mean, how does the
18 zoning work now in terms of kind of restricting where they
19 are allowed?

20 MR. ALUETA: If you have big enough land area,
21 that's why the lots -- it would be based on the lots.
22 Because building lot coverage and floor-area ratio is one of
23 the primary limiting factors for every building, as well as
24 accommodating all of your infrastructure requirements.

25 You need to have a certain infrastructure for

1 traffic, as well as parking, is one of the keys. You need
2 to be able to meet your parking and landscape requirement
3 and your FAR based on the those things. That's why they're
4 in these large lots, industrial parks right now.

5 MR. FREDERICKSEN: But could something like that --
6 let's just use from the pali going over to towards Lahaina.
7 Could something like that get plopped down in a place like
8 Launiupoko, Olowalu, if there's enough land?

9 MR. ALUETA: If it was zoned appropriately. If it
10 was zoned business or industrial. The only places where the
11 biggest lots are, that I can think of, is the industrial
12 subdivision across from Safeway on the mauka side along
13 Kahoma Stream -- I can't remember. The channelized stream.
14 Theoretically, someone could come in and buy up two or three
15 of these lots and put one on. Because they need to -- could
16 consolidate a couple of the lots, and then build it there to
17 meet their requirement.

18 MR. FREDERICKSEN: So there's no really
19 effective -- or I don't know if that's the right term to
20 use. A mechanism in place to say a large chunk of ag land
21 in some of these big subdivisions that are coming up to get
22 converted somehow to a business?

23 MR. ALUETA: No. For one, I don't think we would
24 ever approve a conditional permit or a state special use
25 permit and urban use. It would have to go through a

1 district boundary amendment, planning amendment, as well as
2 a change in zoning. So I think that would be very highly
3 unlikely. It would have to be within -- the zoning issue
4 would be required. I mean, you need to have that underlying
5 zoning, to start with, to go for that building permit.

6 And again, like I say, sometimes we feel that, from
7 our department's standpoint, if they want to prohibit it in
8 some areas, that may be appropriate. I mean, and then they
9 should allow it in some areas.

10 Right now, the market forces dictate where they're
11 going to go. Right now, given our population centers, it's
12 in Central Maui right now. I mean, that's where they're all
13 congregating because of, one, the land area that's been made
14 available through the zoning. But also it's like
15 population, you know, the community. Everybody comes to
16 Central Maui at some time.

17 CHAIRPERSON KALALAU: Okay. Any more questions?
18 Our recommendation is to --

19 MR. ALUETA: One option is if you can't get a
20 motion or if you have no consensus is just to make no
21 recommendation, but have the Council take -- look at your
22 minutes. Because we will forward your minutes to them for
23 discussions. Because I think everyone -- you brought up all
24 good points, but I'm not sure if you had a consensus that
25 you all agreed with everybody's points.

1 So unless if you want to go for a motion. But like
2 I say, we're just here to get your comments. That was the
3 main reason. And I'll summarize some of your comments,
4 which I want to have it from the Board itself.

5 CHAIRPERSON KALALAU: So we can make that motion,
6 that our minutes be used -- comments in our minutes be used
7 for Council to review, and hopefully will look at our
8 concerns.

9 COMMISSIONER WHELCHER: Is the Council going to
10 review this if we don't make a motion? Wouldn't they review
11 it anyway?

12 CHAIRPERSON KALALAU: Yeah.

13 COMMISSIONER MARQUEZ: So from what I gather from
14 this young man is if we say that the minutes forwarded to
15 that mana'o, they get to look at it. However, it was not a
16 consensus of this body that we all make a recommendation.
17 Is that what you're saying?

18 MR. ALUETA: That is right. I mean, ideally, I'd
19 like you to endorse the Department's concerns or issues, and
20 you reflect that in a motion; that you agree with the
21 Planning Department's issues of the structure of the bill,
22 as well as -- and also, possibly simplifying the bill by
23 limiting it to some type of square footage with no item
24 references.

25 Whether you include groceries or not, that's up to

1 you, and what your issues are, as well as looking at the how
2 the structure of Kauai's bill. I think that's what we're
3 looking at more. That's our comments to you. If you want
4 to incorporate that into your comment and make that a motion
5 of that. That way, that will be fine us with us, too. But
6 we will -- I think the reason it was sent to you is what are
7 your comments? And ideally, we want to have a consensus.

8 If you all agree that, then we'll pass the comments
9 that are going to come out of it. If you don't have a
10 consensus, then all we can do is reference them to your
11 minutes.

12 CORPORATION COUNSEL: Can I make a comment. You
13 guys have made a lot more comments on things. I haven't
14 been here as much. But I know you are commenting on a lot
15 of things. But when I advise the Planning Commission, I
16 usually say until there's actually a motion made and you
17 have a consensus of a majority, you haven't made any
18 comments yet. Because it's not a comment of such and such,
19 it's a comment of the CRC.

20 Now, if your comment is that we could not reach a
21 consensus, but please see the minutes for our discussion,
22 because you believe it's relevant, that's fine. Your
23 comments don't have to be in favor or against, necessarily.
24 They could be that we discussed this, we found there are
25 pros and cons. However, you want it stated in your motion.

1 But typically, under the Sunshine Law, you're
2 required to have a majority vote for there to be any action.
3 And because a comment is considered an action still, because
4 it's a comment of the whole body and not just of one person.
5 You can review minutes to see what people discussed. But
6 until there's actually a motion and a comment, technically,
7 the CRC hasn't made any comments on the proposal. And
8 that's why it was sent to you.

9 So my recommendation would be to make a motion,
10 even if it's to look at the minutes. Your comment can be
11 anything. I would recommend doing it in the form of a
12 motion that you guys can vote on.

13 CHAIRPERSON KALALAU: Kalei.

14 COMMISSIONER MOIKEHA: Actually, I'm grateful that
15 we had an opportunity to discuss it, that it was brought
16 forward to it. I made make a recommendation that we adopt
17 the recommendations of the Planning Department pertaining to
18 this issue.

19 CHAIRPERSON KALALAU: And just adopt, not await
20 some of the comments we had, concerns we had? And that, you
21 know, we would like them to -- because if you're
22 recommendation to support this thing, why are we supporting
23 it? Or we support it under these conditions.

24 CORPORATION COUNSEL: Joe, what exactly was your
25 recommendation again?

1 MR. ALUETA: My recommendation was to modify the
2 structure to be more in line with Kauai's, but to eliminate
3 the SKU or unit number, to keep it simplified down to
4 only -- to limit it by only square footage, without using
5 any kind of product identification, as well as going
6 through -- in the sense of Kauai's zones, go through the
7 various commercial zones. And to state that retail is
8 allowed with the exception of the superstore.

9 CORPORATION COUNSEL: So by endorsing that
10 recommendation, they would be endorsing a ban, but with that
11 changed language?

12 MR. ALUETA: That is correct.

13 CORPORATION COUNSEL: Okay. I just wanted it to be
14 clear.

15 COMMISSIONER MARQUEZ: You need a second on the
16 motion?

17 CHAIRPERSON KALALAU: No, we're still discussing
18 this motion.

19 COMMISSIONER MOIKEHA: Whether we agree or
20 disagree, our Commission, this is a recommendation. Right?
21 We have no say. It's not going to be up to us. I mean, I
22 can jump up and down, whatever, it doesn't matter. It's
23 still going to go back to Council.

24 MR. ALUETA: And to clarify. The Department's
25 position, like I say, we have no position. We're not

1 supporting the bill or opposing the bill. But our position
2 is if you are going to adopt the bill, these are the
3 structural changes.

4 So our comments or recommendations deal more with
5 the structural issue of the ordinance; that if they do adopt
6 one, let's do it -- we're not recommending for or against
7 the bill. But if you're going to pass a bill, at least have
8 it structurally sound so that we can enforce it.

9 CORPORATION COUNSEL: So there would not be a
10 recommendation to approve the ban just to say, if you do,
11 here's how you should do it.

12 MR. ALUETA: Yeah. Basically, if you do ban it,
13 this is how you should do it. If I did it, this is how I
14 would do it.

15 I mean, really from a zoning standpoint, Planning
16 Department, we don't have a position. We're just concerned
17 with how we're going to enforce it. Because it's going to
18 fall in our lap how to enforce it.

19 COMMISSIONER MOIKEHA: I mean, if there was any
20 concern on our part, I mean, you can go to Walmart here,
21 Walmart -- they all look the same. All the big box
22 superstores, they all look the same. I mean, you come to
23 Hawaii to what? If there is a recommendation, Hawaiian
24 architecture on some of these things, whatever.

25 CHAIRPERSON KALALAU: Veronica.

1 COMMISSIONER MARQUEZ: Okay. Question. I
2 understand the mana'o. However, why is it that we need to
3 comment on that mana'o. We're the Cultural Resources
4 Commission. I think I'm trying to ask you, Chair, is how am
5 I to tie in our duties with what he presented? I'm still --
6 I'm at a loss. I'm still -- where are we? Help me
7 understand it.

8 COMMISSIONER MOIKEHA: I think it was Council
9 Member Jo Anne Johnson thought it was appropriate that we
10 could --

11 CHAIRPERSON KALALAU: Comment on it.

12 COMMISSIONER MOIKEHA: Yeah. So it was pretty neat
13 that she thought of us. She could have just bypassed us and
14 not come here. We don't have a say, but we have an opinion
15 and a comment that we can make. And we can actually make a
16 motion back to them. But if she didn't say it, he wouldn't
17 have come here at all.

18 MR. ALUETA: If I may, Mr. Chair. From what I'm
19 hearing just from your discussion and from the members, a
20 motion is basically like maybe you do or do not have a
21 preference on whether or not to ban them or not and the
22 structure of the bill at all, but you're more concerned with
23 what they look like. So if you have a comment or concern,
24 if you are going to allow these or restrict them, it should
25 be more on architectural, and it should have more of a

1 Hawaiian architecture. That's what I got.

2 COMMISSIONER WHELCHER: So it sounds like if we
3 recommend that they add superstores to the zoning, with
4 cultural Hawaiian architectural approval.

5 CHAIRPERSON KALALAU: Island design.

6 COMMISSIONER WHELCHER: Island design, or some
7 design. That would cover it, wouldn't it?

8 COMMISSIONER MOIKEHA: Well, having said that, I
9 understand why you do. Because if you're coming from
10 California, all you got to do is, oh, there is it, there's
11 Walmart. Instant recognition. Am I right? That's why they
12 do that.

13 MS. KEAWE: Well, if I can. We do look at the
14 stores on the mainland. So we do look at the architecture.

15 CHAIRPERSON KALALAU: Okay. I don't know what I
16 was going to say now.

17 You guys have not -- the Council has not decided,
18 or the Planning Department has not decided on the square
19 footage yet?

20 MR. ALUETA: From the Planning Department, our
21 comments to the Council is exactly what we're telling you;
22 is that we feel it needs to be simplified. We're not
23 opposed to or supporting the ban at all. We're just saying
24 from a structural standpoint, these are our comments.
25 Because if you do pass something, we need to implement it

1 and we need to be able to implement what your intent is.

2 That was our comments when it first came up, and that

3 continues to be our comments.

4 My job now is to take it to the various commissions

5 on advisory, as well as you, Cultural Resource Commission,

6 and get your input and comments on this bill.

7 CORPORATION COUNSEL: Hana picked the 75,000 square

8 feet. None of the other commissions have seen it yet. You

9 can recommend larger square feet, smaller square feet, no

10 ban if you don't think it should be banned. Whatever you

11 want. But Hana did pick 75,000 square feet, and said they

12 were okay with the ban.

13 But that's the type of comment that could be made

14 by the Planning Commission later on. They could say we

15 don't think there should be a ban. The idea of Council

16 sending it down to everybody, I guess, was to get a debate

17 and to hear when it comes back up to them with the final

18 decision with things they should consider.

19 COMMISSIONER MOIKEHA: I'll retract my motion and

20 make another one.

21 CHAIRPERSON KALALAU: Okay.

22 COMMISSIONER MOIKEHA: Once again, I recommend that

23 we adopt the recommendations of the Maui County Planning

24 Department, with also a recommendation that if times that a

25 retailer would like to come into Maui, that Hawaiian

1 architecture also be considered in their buildings.

2 MR. FREDERICKSEN: I just said maybe instead of
3 considered, it be utilized.

4 CHAIRPERSON KALALAU: Okay. Anything more? Do I
5 hear a second on that motion?

6 MR. FREDERICKSEN: I'll second it if the "utilize"
7 is okay.

8 CHAIRPERSON KALALAU: Is that okay?

9 COMMISSIONER MOIKEHA: Sure.

10 CHAIRPERSON KALALAU: Okay. It's been moved and
11 second. All in favor say "aye."

12 (Round of ayes.)

13 CHAIRPERSON KALALAU: All opposed.

14 (No response.)

15 CHAIRPERSON KALALAU: Okay, Joe.

16 MR. ALUETA: Thank you.

17 CHAIRPERSON KALALAU: I just want to let the
18 Commissioners know, like Joe was saying, that we just made
19 right here -- you know, it might go to the next department
20 or it might go to the Council. And the Council might decide
21 it's going to change the whole playing field.

22 COMMISSIONER WHELCHER: I hope so.

23 CHAIRPERSON KALALAU: Okay. Thank you, Joe.

24 MR. ALUETA: Thank you.

25 CHAIRPERSON KALALAU: We're going to lose -- you

1 guys want to have lunch now?

2 MR. SOLAMILLO: Lunch is here.

3 CHAIRPERSON KALALAU: We're going to take a lunch
4 break right now. And we might lose another Commissioner.

5 MR. SOLAMILLO: We lose quorum.

6 CHAIRPERSON KALALAU: Yeah. Okay, so we'll break
7 for lunch.

8 (At which time, the lunch recess was taken from
9 12:15 p.m. to 1:15 p.m.)

10 CHAIRPERSON KALALAU: Okay. This meeting will now
11 reconvene. We'll have Stan present the item on this agenda.

12 MR. SOLAMILLO: Okay. We're requesting review and
13 comment on the Lahaina Design Guidelines prepared by Nore
14 Winter, in 2003. Prior to the proposed adoption, there's an
15 ordinance amendment for all parcels located in the Lahaina
16 Historic Districts Numbers One and Two, in Lahaina, Maui.
17 The CRC is being asked to review the draft document and
18 provide comments and recommendations. And public testimony
19 will be accepted.

20 Has anybody read the design guidelines?

21 MR. FREDERICKSEN: I've read them before, but I
22 didn't read them this time.

23 COMMISSIONER MARQUEZ: Was it in the packet?

24 MR. SOLAMILLO: It was in the packet before.

25 Because it got deferred at the last meeting. So I guess

1 there is a painful way and a painless way. But it really
2 depends on whether the Commissioners have read the document.

3 CHAIRPERSON KALALAU: Oh, the Lahaina Design
4 Guidelines?

5 MR. SOLAMILLO: Yes.

6 CHAIRPERSON KALALAU: Okay.

7 MR. FREDERICKSEN: Stan, I've got a question for
8 you. How does the Planning Department view the guidelines
9 at this point? And how does the Planning Department
10 proceed -- or what would the mechanism be if, down the road,
11 things need to be altered to some extent, is there a
12 mechanism for that?

13 MR. SOLAMILLO: What do you mean "altered"?

14 MR. FREDERICKSEN: Within the Design Guidelines.

15 Just let's say, for instance --

16 MR. SOLAMILLO: If I wanted to add in residential
17 construction?

18 MR. FREDERICKSEN: Or materials. Let's say, if at
19 some point --

20 MR. SOLAMILLO: You would have to amend the Design
21 Guidelines. Or you could just do it as a separate
22 publication, and then go through this process again.
23 Because ultimately, it has to go to Planning Commission and
24 then sent to Council.

25 CHAIRPERSON KALALAU: I thought I liked a lot of

1 the guidelines that they have in here. But my concern was,
2 you know, enforcement. Because I think it's written --

3 MR. SOLAMILLO: I think right now, the most
4 important thing is that -- we've got the Lahaina Style
5 Guide, which is a document produced, what, in the '60s, or
6 something like that. That is our only source of reference
7 when somebody comes to us and says, "Well, what do you
8 recommend?" Or in a confrontational situation, where
9 someone says, "Well, where is it required by code or by the
10 county?"

11 And we need to have guidelines in place to at least
12 tell the people this is where it is. This is your bible.
13 And we have not had that ability.

14 CHAIRPERSON KALALAU: You know, if this Commission
15 supports this thing and make recommendations that it should
16 be used by the Planning Department and stuff, in what form
17 does this -- you know, these guidelines would have to go
18 through Council approval?

19 MR. SOLAMILLO: It will have to be adopted.
20 Because, essentially, we're amending is the historic
21 district ordinance. And that's something that I have to
22 talk to you in our director's report today as well.

23 CHAIRPERSON KALALAU: Because, you know, looking at
24 the credits for some of the people, that some of the people
25 they credit it to, the County Council Members. We have some

1 new ones. About three or four new County Council Members.

2 MR. FREDERICKSEN: Yeah, I remember it from before.

3 MR. SOLAMILLO: So I guess -- would you like to go
4 page-by-page, or would you like to make recommendations or
5 make motions? How would you like to do this?

6 MR. FREDERICKSEN: I think it's a good attempt to
7 get everything together for a very complex area. And to
8 get -- to have it as -- it's sort of like a reference. And
9 it's something that the county, the Planning Department can,
10 I think, be able to use in an effective way.

11 I would just go back to say one thing. I know it's
12 a separate issue. But it's the enforcement. That's what we
13 were talking about in 2003, when I was on the Commission the
14 last time. It was still on-going.

15 MR. SOLAMILLO: Enforcement is an on-going problem.
16 And the current staff levels do not provide the personnel to
17 actually do it effectively. And the other thing that is
18 lacking is police powers. I can't give anybody a ticket.

19 You know, most of the stuff that I see occurs on
20 weekends, after-hours. You know, Sunday morning, the saws
21 are going.

22 CHAIRPERSON KALALAU: Friday evening, it's not
23 there, it's going down. On Saturday and Sunday, it's
24 finished.

25 MR. SOLAMILLO: Yeah, exactly. And that's a

1 problem around our whole island, whether it's earth moving,
2 cutting down trees, pulling out windows and doors. All of
3 these happen at odd times so an inspector won't be on the
4 job.

5 But at least it gives us something to begin with
6 that's a little more clear than we have now. There are some
7 grammatical errors that will have to be revised. But
8 outside of that, I think the intent of the document the
9 Planning Department supports, as well as Lahaina Restoration
10 Foundation. They're biting at the bit to get this thing
11 approved by this Commission.

12 MR. FREDERICKSEN: I think it's important to send
13 it on its way, so to speak, with the -- I don't have my copy
14 with me. I had some notes. But there was nothing that
15 was -- you know, that I found that I thought was a big
16 weakness or anything.

17 But my question, I guess, Stan. As it is right
18 now, you said there's grammatical errors --

19 MR. SOLAMILLO: Yeah. There's a couple of
20 pictures, the one they reproduced.

21 This one, for instance, which is kind of a
22 caricature of Wo Hing. You know, we actually have a real
23 old photograph from like 1906, or something, that actually
24 shows the Wo Hing building that's in the Library of
25 Congress. I'd rather use that than a caricature.

1 MR. FREDERICKSEN: Sure. So you've gone --

2 MR. SOLAMILLO: I've gone through it and noted --

3 MR. FREDERICKSEN: The typos, or things that are
4 not clear.

5 MR. SOLAMILLO: I've got a running list, yes. And
6 those would get changed before we send it on to the Planning
7 Commission.

8 CHAIRPERSON KALALAU: I would be in support of
9 moving this thing forward. At least, it's something
10 documented. It's put together by -- I mean, if you look at
11 the table the contents, it's being put together by a lot of
12 people from that area, with a lot of history and good
13 community background people.

14 But then like, what he was saying, too, you know,
15 there's -- what do you call it? Modifications.

16 MR. SOLAMILLO: Just minor changes. I'm not
17 changing the intent of the document. I'm not changing the
18 sections. I'm substituting where we have grammatical --

19 MR. FREDERICKSEN: Errors. And it's editorial, to
20 some extent.

21 MR. SOLAMILLO: Yeah. I mean, I'm not even going
22 through that.

23 MR. FREDERICKSEN: Well, like that is editorial,
24 though, having a photo instead of just a figure.

25 MR. SOLAMILLO: Yeah. But I think the reason to do

1 that is the caricature didn't do the building justice.

2 MR. FREDERICKSEN: Oh, I agree. I know the photo
3 you're talking about. It should be on there.

4 MR. SOLAMILLO: I don't have it on this copy.

5 MR. FREDERICKSEN: But it should be there.

6 MR. SOLAMILLO: Because it's essentially the core
7 of Wo Hing before they added on the balconies.

8 COMMISSIONER WHELCHER: I make a motion that we
9 recommend that they proceed, that they receive them.

10 CHAIRPERSON KALALAU: With the Lahaina Design
11 Guidelines, the October 15, 2003.

12 COMMISSIONER WHELCHER: Be received or --

13 MR. SOLAMILLO: They should approve it with the
14 staff revisions.

15 COMMISSIONER WHELCHER: With your revisions.

16 MR. SOLAMILLO: Yes.

17 COMMISSIONER WHELCHER: I represent that we accept
18 this Lahaina Design Guidelines, October 15th, 2003, with the
19 revisions that the County's going to make.

20 CHAIRPERSON KALALAU: Planning Department.

21 COMMISSIONER WHELCHER: Planning Department.

22 MR. FREDERICKSEN: I'll second.

23 CHAIRPERSON KALALAU: Okay. It's been moved and
24 second. Any more discussion?

25 (No response.)

1 CHAIRPERSON KALALAU: There's no discussion. All
2 in favor say "aye."

3 (Round of ayes.)

4 CHAIRPERSON KALALAU: Motion passed.

5 MR. SOLAMILLO: Thank you. We didn't have to go
6 page-by-page.

7 COMMISSIONER FREDERICKSEN: Do we need to say
8 something about public testimony? Because there's nobody
9 here.

10 CHAIRPERSON KALALAU: Well, we passed it already.
11 Being that we have no one in our audience, that we bypass
12 the public testimony section of this motion.

13 MR. SOLAMILLO: Under demolition permits, there are
14 none being brought to you at this time.

15 Under communications, we had a presentation this
16 morning by Mr. Fairbanks. And any other correspondence,
17 there is none being brought to you at this time.

18 Under unfinished business, there is nothing
19 outstanding.

20 Under new business, there is nothing that was being
21 brought before this Commission.

22 Under sign enforcement in the Lahaina Historic
23 Districts or Banyan Tree Park, there is nothing being
24 brought to you at this time.

25 Under director's report, the next meeting is a

1 review of Halloween in Lahaina. And that is scheduled for
2 December 6th. That occupies your entire agenda for that
3 time. I will not be here at that time. I got married on
4 November 30th, last year. I'm going back to the Philippines
5 to see my wife and our son. So what I will have done in the
6 interim -- and this will be sent out in your next packet.
7 It's a preliminary report, a preliminary assessment on the
8 impact of the event in Lahaina.

9 Okay. So it attempts to address -- we had a real
10 short time frame. And we didn't have an allocation of funds
11 to hire a contractor to go out and actually do a full-blown
12 EIS on Halloween in Lahaina. So in the meantime, you will
13 have something. If there are members of the Commission that
14 feel that it's insufficient at that time and they want more,
15 then they should instruct the Planning Department to give
16 them more. And if they want a full-blown environmental
17 impact statement, then they should do that at that time.

18 So at least this gives you enough background with
19 which to review the event as it currently occurred and a way
20 to view the event as something which is part of the history
21 of Lahaina as a place, and it's the collision of cultures
22 that it has always been.

23 There's been a request from Council Member Jo Anne
24 Johnson to take the existing historic districts, which were
25 established by the county, Historic Districts One and Two,

1 and expand them to be the equivalent and overlapping
2 boundaries of the NHL.

3 CHAIRPERSON KALALAU: Putting them in the same
4 district?

5 MR. SOLAMILLO: Not having been here, I don't know
6 why. Initially, what we had wanted to do, because we're in
7 a resurveying of Maui County next year, was to actually go
8 about it and try and assess what we do have that's historic
9 in Lahaina. When you do a historic district, you have to
10 have 49 percent noncontributing -- is it 51 percent
11 contributing? I don't know if we have those counts right
12 now.

13 I met with the National Park Services
14 representative from San Francisco two months ago. We went
15 and toured the entire district. And she said that we had
16 problems in the district, and that she was not inclined to
17 go for delisting of it. But she said we needed to expand
18 the historic contents for the district and take everything,
19 architectural engineering, all the way up through early
20 modernism, which will be, you know, 1957. But I'll push it
21 probably to 1960, by the time it gets approved through
22 various bodies and sent to Washington.

23 That may help us. But I've been inclined to wait
24 until after the survey has been done and see exactly what we
25 have for buildings counts. For archeology, we're really

1 good because we have a minimum of 64 sites.

2 MR. FREDERICKSEN: Well, what I was going to say on
3 archeology, there are a lot more sites that just haven't
4 been discovered. Because, I mean, there's been a lot of
5 building that occurred from the, you know, '80s and before,
6 that covered a lot of the -- or actually '90s, effectively.
7 From there to now, there's been a lot more archeology that's
8 been carried out.

9 But Lahaina, no matter what, I sometimes -- I
10 understand the need to emphasize. There's so many buildings
11 that are like this and like this. But a lot of the history
12 of Lahaina isn't visible above ground, but it's still there.
13 So that's something that -- so did the park service have
14 anything to say about that? Because it's -- yeah, okay,
15 there's X number of buildings above ground. But what about
16 the cultural resources that are in ground?

17 MR. SOLAMILLO: I mean, their perception is that it
18 needs remain in the NHL, the National Historical Landmark.
19 If we can use the justification of subsurface archeological
20 remains or cultural resources that have yet to be
21 discovered, then actually you could use that recommendation
22 at this time instead of going through the lengthy process of
23 resurveying to actually go for it, and say let's just make
24 the districts arbitrarily what they are.

25 MR. FREDERICKSEN: And here's another kind of an

1 example of Lahaina. Let's take an area that's been heavily
2 altered. This is mauka of Honoapiilani Highway from Kauaula
3 Stream, going towards Lahainaluna Road. All former cane
4 land.

5 We did one inventory survey in early 2000. And
6 there are a lot of Land Commission Awards there. Well,
7 during the survey, we found a precontact burial. And this
8 is old cane field land.

9 MR. SOLAMILLO: That's been bulldozed in '47.

10 MR. FREDERICKSEN: But there's still some
11 subsurface elements of Hawaiian history. And we've also
12 found some sites in this similar area in the cane fields,
13 under the old cane field plow zone. And there are Land
14 Commission Awards all over the place. Same thing in Lahaina
15 town, Land Commission Awards all over the place. Same thing
16 all over in Lahaina. There's a lot of water, et cetera, et
17 cetera.

18 I understand from one side why the parks service
19 looks at, okay, what's above ground. But there also needs
20 to be something -- and I don't know if the park services
21 recognizes that completely.

22 MR. SOLAMILLO: We didn't emphasize that. My
23 discussions with her is what do you see when you go there.
24 And whether we're looking at world heritage sites or whether
25 we're looking at Colonial Williamsburg. I mean, you can go

1 to places across the U.S. mainland that have the landmark
2 designation. And it's a very different thing altogether
3 than when you go to Lahaina. Lahaina is business and
4 commerce. That's it.

5 And, you know, especially even looking at library
6 site. There is so much just on that little peninsula,
7 right, and it's not widely known.

8 MR. FREDERICKSEN: Right. And it's overlaid by the
9 here and now. But that doesn't mean that those resources
10 aren't there.

11 MR. SOLAMILLO: I think based upon that, I may
12 change my recommendation.

13 MR. FREDERICKSEN: I think it might --

14 MR. SOLAMILLO: It will bolster it.

15 MR. FREDERICKSEN: Yeah.

16 MR. SOLAMILLO: Yeah.

17 MR. FREDERICKSEN: And the simple fact that -- I
18 mean, I'll give another example.

19 I went to school at King Kamehameha III Elementary.
20 I never went to kindergarten. But from 1st to 4th grade, I
21 went there. And then we moved upcountry. But that campus
22 is incredibly significant from a cultural perspective.
23 There's just a whole lot of different resources there. I
24 mean, it's all subsurface.

25 MR. SOLAMILLO: I think if we use cultural remains

1 that are subsurface that could be used, too.

2 MR. FREDERICKSEN: And before 2001, literature
3 indicated that there was a good chance that something was
4 going to be there. But until the archeology that we were
5 involved with happened, there wasn't anything to prove it.
6 And I mean, that's how Lahaina is. I mean, that's one
7 example. But it's all over the place there.

8 MR. SOLAMILLO: Lahaina's occupation has been from
9 when to when?

10 MR. FREDERICKSEN: You mean with?

11 MR. SOLAMILLO: Precontact.

12 MR. FREDERICKSEN: I'm not sure. I would think on
13 the order of 1,000 years. I'm sure people were living there
14 before then, because it's great -- you have fresh water and
15 marine sources. It's just nobody has found those early
16 sites because the place has been so developed.

17 MR. SOLAMILLO: Yeah. Okay. Well, I have to draft
18 the correspondence tomorrow to Council Member Johnson. So I
19 will make that recommendation to the Deputy Director. I
20 think that's --

21 MR. FREDERICKSEN: Just the fact that there's
22 another component. It's not only just the postcontact
23 architectural component, there's also precontact and early
24 postcontact architectural components. But also, it's
25 subsurface. It's just simply not -- the complete record is

1 not known.

2 MR. SOLAMILLO: All right. Going back to the
3 December 6 meeting. Suzi reminded me, there's a chance
4 that -- because the last meeting that we had in Lahaina at
5 the Community Center, we had an altercation. And the
6 current date that we've got set for December 6, is a date
7 when they don't have a manager at the Community Center. The
8 only way we can get a room is if there's a manager on-site.

9 So the next date that they have is December 13th.
10 Correct? So we're asking you, can we use that as an option
11 for our next meeting, as well as the 6th?

12 COMMISSIONER MARQUEZ: I would want to move it the
13 13th.

14 MR. FREDERICKSEN: You'll be back?

15 COMMISSIONER MARQUEZ: Yes.

16 MR. FREDERICKSEN: I want to hear about the cruise.
17 So that's fine with me, too.

18 COMMISSIONER MARQUEZ: So I go with the 13th.

19 CHAIRPERSON KALALAU: Well, this is --

20 MR. FREDERICKSEN: I think the 13th is not a
21 problem. I can usually fudge one day.

22 CHAIRPERSON KALALAU: And that is a Thursday?

23 MR. FREDERICKSEN: Yeah, it would be the following
24 Thursday.

25 MR. SOLAMILLO: So everyone here will be able to be

1 there, and we can have at least minimum quorum.

2 Okay. Suzy, you can make note of that.

3 We've got an issue of a potential reorganization
4 for Cultural Resources. There was a letter sent by the
5 Planning Department that went to the Governor's Office.
6 And, in essence, it says that we've got a huge backlog and
7 we don't have sufficient staff. So, in essence, they wanted
8 to transfer -- they requested that there would be a transfer
9 of certain types of permits. And I didn't bring the letter
10 with me, but we'll make sure that you get a copy of the
11 correspondence.

12 Certain types of permits would be transferred to
13 the County for review of SHPD. In doing that, I physically
14 don't have the capacity to do an increase in permits. Even
15 though they're really lightweight kind of manini things,
16 it's nothing really huge, it's still large projects, large
17 developments, untouched land, it's going to SHPD. What
18 we're talking about is things done in subdivisions that have
19 already been graded. That type of stuff. Just to free up
20 the permits within the County, because everything is being
21 pushed back.

22 So in view of our discussions, there is an
23 inclination by the Department to increase staff. I don't
24 know when this is going to happen. I don't know when the
25 transfer of permit review order is going to happened. So I

1 just wanted to make you aware. So there might be new
2 people.

3 MR. FREDERICKSEN: I've got a question on that.
4 And I don't think it's necessarily a bad idea. I guess my
5 question is what's the Governor think about this? If the
6 State Historic Preservation Division isn't getting the job
7 done, what's -- I mean, something is not working. And to --
8 as a county taxpayer -- of course, I'm a state taxpayer.
9 But as a county taxpayer, for the county to try to take on
10 the role that the state is supposed to -- what a function
11 the state is supposed to be providing or doing, or whatever.
12 I just I'm --

13 MR. SOLAMILLO: Well, some things are really
14 extremely redundant. For a typical demolition permit, I get
15 an application. An application goes to DSA. I get a copy
16 of it. So I get the photographs. I get a site plan. And I
17 get an inventory form, a site form.

18 That identical copy is sent off to the State. In
19 essence, I get the thing first. And I make a determination
20 of eligibility, which is typically SHPD's job. I'm the one
21 who recommends whether we're going to have mitigation, what
22 type of mitigation, and at what level. Then I bring it to
23 you guys.

24 We can clear a case in X number of days. But it
25 may be a long time before SHPD does. And usually, what I

1 try and do is something called concurrent letters, which is
2 we get everybody on the same page. And say can we get a
3 letter on this, and then we release them concurrently. And
4 that initially was okay. And for some reason, over the past
5 four or five months, it kind of got bogged down. But
6 that's, in essence, one of those case where we're actually
7 making the determination.

8 If we go back to Pioneer Mill. Pioneer Mill was
9 going to be cleared without any kind of the hatch level,
10 except for photography. It was our office that said no,
11 this is a very important site, we need to have tabs on the
12 documentation and drawings.

13 So that's kind of the questions of -- I think I've
14 been a proponent internally that we really should have a
15 county archeologist. I'm really sorry. I mean, there are
16 certain things that we should have as a county so that we
17 can operate, you know, within the level of -- within a good
18 level of expertise and a good level of efficiency. But also
19 knowing that nothing's going to get shorted. Because often
20 times, that's what happens. You need both.

21 And the other thing is a Hawaiian archeologist
22 versus historic archeologist. And I kind of go, I don't see
23 any difference. To work here, you have to deal with these
24 multiples layers. Yes, you have to crack a box of microfilm
25 at UH and go look at sample maps. And that's just kind of

1 how things are. But I want to make you aware of that just
2 in case we begin getting more discussion about it or more
3 correspondence or if people start showing up.

4 I want to take the Commission on the road next
5 year. We have to. We've got issues on Molokai that need to
6 be dealt with. We will visit Lanai as well. And there are
7 other things that the Commission needs to be very aware of
8 and become vocal in those communities about. So that's the
9 plan for next year. So if we meet here in January, I'm
10 probably going to want to be on the road in February, if
11 that's possible.

12 COMMISSIONER WATANABE: You know what, Stan, that's
13 a good idea. Because people within those communities will
14 understand what our role is. And if they have concerns,
15 then we will be able to address those. There will be more
16 clarity.

17 MR. SOLAMILLO: Demolitions have kind of slowed
18 down. I don't have counts and I won't until the first
19 quarter of next year. They have kind of slowed down in
20 comparison to last year. We're getting people even coming
21 from the mainland wanting to demolish properties. And it's
22 kind of unfortunate. But what I'm trying to do -- I am
23 getting one out of four that wants to save their building
24 for tax credit purposes. And we're getting more of those
25 people coming in now. And I'm trying to actually push those

1 to take a write-off from the state.

2 As far as historic district approvals, I think we
3 really need to look at a lot things in Lahaina. And we
4 still need a Lahaina planner really seriously. We need
5 somebody who focuses on that community. It's a special
6 animal in itself. And I think the real challenge is when
7 you actually look at the cultural impact of an event such as
8 Halloween, what happens when Moku'ula is rebuilt? And are
9 we thinking about what Hawaiian events in Lahaina that will
10 draw 30,000 people. Right?

11 Our population is changing. The two schools with
12 the highest hispanic populations are Kihei and Lahaina, with
13 potential for Cinco de Mayo, Dias de los Padrias. As all of
14 these things that are components of Latino culture that are
15 here. Because Latino culture doesn't assimilate,
16 quote/unquote, what in the long-term are we going to look
17 at?

18 And I think really, if you're looking at the
19 landmark, the National Historic Landmark District, you need
20 to compare it. And I know a lot people don't want to. But
21 we should compare it to a lot of places. Colonial
22 Williamsburg, CW in the trade. Places like that. And
23 everything really is very much geared to promote this idea.

24 And remember that Colonial Williamsburg was
25 actually built from the ground up because it was not

1 standing. It was all based on archeology and architecture
2 research. And everything, even down to what people wear and
3 reenactment, it's very much tailored to conveying an idea or
4 a spirit of this place and being educational. Yes, it's
5 fun. But it's all geared towards this other thing.

6 And, you know, with the rebuilding of Moku'ula,
7 that's a very serious thing that happens in Lahaina. So I
8 will leave that up to all of you.

9 Number 3, which is an archeological inventory
10 survey of the area known as Three Arches located east of the
11 Kalepa Stream, below Piilani Highway in Kalepa and Hana.
12 This is not brought to you as an action item today for the
13 simple reason work is happening. And our input -- there was
14 also some correspondence from the State of Hawaii that
15 arrived today that was given to you by Suzy this morning.
16 And that relates to it.

17 And I'm kind of befuddled. Because frankly, we had
18 an earthquake, and it damaged Honoapiilani Highway. Right?
19 And the pali is a very significant resource. And the pali
20 was netted and grouted, and stakes were put in it. You
21 know, this is over a 100 year old roadway. And there wasn't
22 a peep. And there wasn't any kind of opportunity to comment
23 that we're getting right now on the pali. And if you take
24 your drive to west Maui, you know, you see it.

25 So since the work is under FEMA and everything, and

1 it's all kind of wrapped around this emergency, health and
2 safety issue -- I believe, Sam, you met with them?

3 CHAIRPERSON KALALAU: Right.

4 MR. SOLAMILLO: With regards to it. If you want to
5 report anything on it.

6 CHAIRPERSON KALALAU: Okay. When I met with them,
7 the job they were looking at, it was in Kalepa. But it was
8 an undermined section of Piilani Highway. And what they
9 were supposed to do is redo a retaining wall that would not
10 destroy the existing retaining wall. It was supposed to
11 come off the old rock wall that's already there. And they
12 were supposed to design it and construct it to almost --
13 that looks like the old wall. And the old wall was supposed
14 to remain in there.

15 I haven't gone out there lately. But I know the
16 only thing that they were going to do is do the retaining
17 wall first. I haven't had any information that they were
18 going to put a rock slide fence in or wiring. And I know
19 they were having problems on deciding where they were going
20 to take the materials that comes off the cliff areas, and
21 stuff like that.

22 Because it belongs to -- I think part of the land
23 belongs to the National Park. And according to FEMA, you
24 know, you cannot remove that material any farther than so
25 many -- I guess, within a mile, I think. And that material

1 cannot be dumped into the ocean. It needs to be stored.
2 And they were trying to work a deal out with the National
3 Park where they can store this material. I don't know how
4 far they've gone with that. But I know they're going to
5 start road work over there on the wall real soon.

6 That's all the information I have. And I was
7 talking to Stan --

8 MR. SOLAMILLO: Stan (inaudible). He's in the
9 Mayor's Office.

10 CHAIRPERSON KALALAU: Right.

11 MR. SOLAMILLO: I mean, there's also going to use
12 shotcrete. And the Historical Hawaii Foundation recommend
13 that they tint it. Because the stuff they used on the
14 Honoapiilani Highway, it jumps out at you.

15 CHAIRPERSON KALALAU: Right. One of the meetings
16 that we had in Hana that we recommended was that they tint
17 it, make it look more original. They also recommend that
18 they try to use the materials in the area so that they all
19 look the same.

20 MR. SOLAMILLO: That thing will continue to role on
21 its own pace because of FEMA.

22 CHAIRPERSON KALALAU: Yeah. When they came to the
23 meeting, FEMA was saying they were appropriating the money
24 on that retaining wall project because it's on the road.
25 And as far as the rest of them, they have to have some more

1 meetings to decide what areas they're going to do it; if
2 they're going to do wire; you know, rock slide control and
3 stuff. But I know they're going to work on the wall right
4 now. They just had the ground blessing about a week ago
5 Tuesday.

6 MR. SOLAMILLO: Uh-huh.

7 CHAIRPERSON KALALAU: But the other area, the
8 Hawaiian homesite, that is where they were doing the wire
9 mesh rock slide.

10 MR. SOLAMILLO: I really don't have a problem with
11 the wire mesh so much. It's the shotcrete.

12 CHAIRPERSON KALALAU: Right. It was recommended,
13 though, by the people of the community to make it look --
14 and that the old wall remain in place, and that the new wall
15 comes off of that, and try to make it look as the old walls
16 are.

17 MR. SOLAMILLO: I guess the only other thing is
18 next year, there's a couple of national register nominations
19 that SHPO will complete. One is (inaudible), which is near
20 completion, but won't be released until next year. The
21 historic context enlargement for Lahaina will be worked on.
22 And there's also the opportunity to do Camp Haiku, because
23 it was a place for Japanese internment on the way to Sand
24 Island. So those are the three priorities for the National
25 Register Nominations for next year. And then we need to

1 move to the other islands to do some more activities.

2 I guess that pretty much wraps it up.

3 Commissioner's announcements.

4 COMMISSIONER WHELCHER: Question. On Page 2 and 6

5 of left, is that project area arrow going to the wrong

6 shoreline?

7 MR. FREDERICKSEN: Yeah, it's going to the Kihei

8 side.

9 COMMISSIONER WHELCHER: Okay. I thought it I was

10 missing.

11 COMMISSIONER FREDERICKSEN: Yeah, it should be

12 further around the bend.

13 CHAIRPERSON KALALAU: I have one announcement. We

14 have a letter here from Mayor Charmaine Tavares, who is

15 inviting anyone from this Commission to attend the Green

16 Power/Green Future. I guess it's an Expo. It's at the

17 Grand Wailea Resort Hotel & Spa on November 7th through the

18 9th. There's a registration.

19 Do you know anything? If anybody from this

20 Commission goes, that they're going to do the registration

21 for the member?

22 MR. SOLAMILLO: I have no idea. We'll have to

23 check on that.

24 CHAIRPERSON KALALAU: I won't be here. It's on the

25 7th through the 9th. So if anyone of you are interested in

1 attending the conference, it's November 7th through the 9th,
2 at the Grand Wailea Resort Hotel & Spa.

3 MR. SOLAMILLO: Suzy, do you have time to check on
4 that? Thank you.

5 Okay. Next meeting date December 6th or the 13th.
6 The 13th, we'll just go with that date. December 13th, in
7 Lahaina. It will be your opportunity to review, once more,
8 Halloween in Lahaina.

9 I want to thank all the Commissioners. I want to
10 than Suzy for keeping everything rolling. And in my absence
11 during the holiday season, I wish you all the best and a
12 wonderful new year.

13 MR. FREDERICKSEN: See you next year.

14 CHAIRPERSON KALALAU: If we don't have any more
15 discussions, will someone make a motion to adjourn this
16 meeting.

17 COMMISSIONER MARQUEZ: I move to adjourn the
18 meeting.

19 MR. FREDERICKSEN: Second.

20 MR. SOLAMILLO: All in favor.

21 (Round of ayes.)

22 CHAIRPERSON KALALAU: The meeting is now adjourned.
23 Thank you, everyone.

24 (Meeting concluded at 2:05 p.m.)

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CERTIFICATE

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I, CAMMIE GILLETT, a Certified Shorthand Reporter
in and for the State of Hawaii, do hereby certify that the
foregoing pages comprise a full, true and correct transcript
of the proceedings had in connection with the above-entitled
hearing.

Dated this 3rd day of December 2007.

CAMMIE GILLETT, RPR, CSR No. 438