

Meeting Name: SHPD Coordination/Section 106 Effect Determinations/MOA
Date: December 17, 2008 Time: 12:30-3:45
Location: Alii Conference Room
Organizer: Lawrence Spurgeon
Attendees: See attached attendance sheet
Notes prepared by: Malie Espin Approved by:

Meeting Summary:

The following summarizes items discussed:

The project team provided a status of the project and schedule. The Environmental Impact Statement (EIS) comment period is extended to February 6, 2009 and the team hopes to submit an effects report in February 2009. The goal is to execute a Memorandum of Agreement (MOA) around May 2009.

A draft MOA with conceptual ideas for discussion was provided to all attendees and discussed, including the reasoning behind much of the mitigation efforts and the project team's general awareness that the project affects the entire corridor in an additive nature in respect to the effects to individual resources. Proposed mitigation efforts focus on what can be done with the project as a whole to minimize the overall, as well as individual, effects.

Letter dated September 26, 2008, from the State Historic Preservation Division (SHPD) containing suggested mitigation measures was discussed. Completing National Register nomination forms and updating old forms are suggestions that the project can certainly do. While the project could provide any and all information that has been collected and put together in this process, the idea of digitizing the inventory and other data not related to this project would be difficult for the city to commit to because of limitations on using project funds to perform work outside the project corridor. The same principle goes for the Sanborn Maps that were requested – this would be hard to readily connect to the project and justify paying for. Cultural landscape reports may be prepared for areas where impacts and effects are expected.

Letter dated September 15, 2008, from Historic Hawaii Foundation (HHF) also contained suggested mitigation measures and was discussed. Again, completing National Register forms (as long as supported by SHPD) is certainly something that can be done. Also, as said before, anything related to this project and that has been prepared for the project can be made available; however the project team does not have the ability to coordinate with other projects or further contribute anything that extends beyond this project. Irwin Park is a state facility, and not within the jurisdiction of the City. The Main Street Program and others referenced are not within the jurisdiction of the Department of Transportation Services; this does not completely remove it from consideration, but would require an elevated level of coordination between departments. The use of Context Sensitive Solutions has been integrated into the design of the project, and a design book has been created. (Project team provided an example.) A good example of this commitment is that the stations are all being individually designed and there is no 'one size fits all' mentality about any aspect of the project.

Another mitigation measure that could be incorporated into the MOA would be completing Historic American Buildings Survey (HABS) forms for individual buildings that will be affected; for those buildings near the project, but not physically impacted, completing these forms may not provide much in the way of public benefit. The project team would like to incorporate ideas that would have a large-scale benefit to the public, with a broad understanding of the effects and setting of the project. Ideas as to what would be useful to historians or other interested parties are certainly welcome, as it is the desire of the team to make sure that work is not simply filed away on a shelf, but also reaches the public in a meaningful way.

The project, as it is now proposed, and its extents were clarified – from East Kapolei to Ala Moana Center. There were no eligibility forms done for the Ewa area because it is now in a future phase and beyond the timeline of this project. After 2018, roughly, a separate study would be performed for any extension sections; also explained that the Technical Report preliminarily identified effects to properties, with recognition that that may not be the final effect determination.

The Advisory Council on Historic Preservation (ACHP) has been informed and correspondence between the council and the city has taken place. However, at this time the council has not responded to the city as to their involvement in the project. The Federal Transit Administration (FTA) was to contact the council and provide them with an official invitation, beyond what the city is capable of. (It was noted that using the National Environmental Policy Act (NEPA) process for the ACHP to provide Section 106 coordination is not very common.)

The DEIS included a right-of-way (ROW) plan that showed every parcel from which ROW shall be acquired, and whether it is a full or partial take. Appendix B contains the type of use and level of take, but not a specific list of how many buildings or demolitions. However, for all eligible resources, the DEIS provides information regarding demolition or takes in Table 4-32.

Effect determinations were discussed. The project team began by stating that physical effects were not the only aspect considered, and that a far more holistic approach was taken toward the entire corridor and individual resources, that resulted in the determinations as presented in the tables handed out.

The list of no effect resources, of which there are 30, was determined by two basic categories. One considers a resource on a parcel that is not adjacent to the alignment and is separated by one or more structures, thus the Project does not impose on the resource. The second type of resource could be exemplified by the bridges found along the Project. The bridges are eligible due to their engineering history, and the Project simply being present (very high above them) does not interrupt the ability of the public to view, enjoy, or appreciate the resource (again, regarding the criteria that make it eligible to begin with); the lava rock curbs are another example of this type of resource.

Those characteristics and aspects of the resource that make it eligible is (are) what the effect determination is based upon – if uninterrupted and undisturbed, then there is no effect.

Discussion turned to the regulations and in them the statement that the introduction of a visual element may cause an adverse effect. Reply was that the impact is different between a resource eligible with integrity of visual setting and a resource eligible for engineering (or other physical) aspects. HHF stated that simply by passing over the Project would in fact affect the integrity of these resources. The project team questioned as to whether there were any bridges that had setting discussed as an aspect that contributes to or makes them eligible. The project subconsultant stated that the integrity of resources, as well as the criteria were discussed. The project team went on to state that passing over the bridge should do nothing to diminish its integrity; though it is stated that affecting the general environment does change the setting, it may not necessarily be an adverse effect. The project subconsultant clarified that eligibility forms may not have elaborated entirely on integrity or other factors.

Aloha Tower was discussed, and the visualization of the view from the building was shown. SHPD stated that on a national level there have been instances where simply being within the line of sight of a project has raised an effect determination – not necessarily adverse, but an effect. Thus, within the area of potential effects (APE) identified by the Project, if it is possible to see the guideway from the resource there is the possibility of an effect determination. The project team clarified confusion regarding the difference between National Register criteria and the aspects of integrity that are applied separately (setting is an aspect of integrity but not its own criteria).

The subject of ~~subject of~~ reasonably foreseeable future effects such as the introduction of the guideway system that may lead to additional construction projects was raised by the National Trust. The project team replied that such

Comment [e1]: May not be true, but was said... do we want to leave this in here or not?

speculative efforts are really out of the scope of this project entirely and that dealing with future undefined effects may be something that lies outside the abilities of the project team. Reasonably foreseeable effects and development that would result from the project are areas the team can manage. It was stated that even if this aspect led to a finding of adverse effect, it would not stop the project and instead would require mitigation and that it would be preferable to see more inclusive effect determinations made; the regulations make clear what the agency must do and documentation must be prepared accordingly.

Aiea Plantation Cemetery was discussed regarding its setting, which is already compromised by the presence of a highway. The SHPD expressed the opinion that the placement of the guideway adjacent to it would only further diminish this setting, and thus there needs to be a consensus on what "the straw that breaks the camel's back" is defined as for resources such as this. (Sumida Watercress Farm is another example of this.)

The resources that had been identified as "no adverse effect" included resources adjacent to the guideway and that may have a strip take of the parcel, or a visual impact, or other but not to the level that any such impacts would be adverse. The visual intrusion should be relatively limited at these resources, and there are no substantial changes to the nature and setting aside from the guideway being visible from at least one angle. These resources can still be appreciated by the public even with the guideway present.

The Chinatown District was discussed. At the location of the station, part of a parking lot of a contributing building will be taken. HHF was particularly concerned with the historic viewplanes and viewsheds that are specifically recognized. The entire district is listed and the viewshed as a whole is adversely affected by the presence of the guideway. It was questioned whether that held up in light of the fact that much of the area has been built up and replaced with tall modern structures, and also that the effect was being placed on the district as a whole, or on the contributing resource. Reply was that the district is hard to take in pieces, and the effect to the district as a whole is how it should be analyzed. The project team asked whether the effect here, in a district so large, is so great as to be considered adverse, and SHPD replied that it was. Reasoning was that here the project is bisecting the district and runs along an entire "façade" of it and part of the historic character of this area is based on its connection to the harbor and makai views.

At Pearl Harbor, the Aloha Chapel is within the historic district, but not a contributing resource to that district. Also, the entrance for the station here would be on the opposite side of the road, and would not interfere with the chapel.

A few resources were discussed to be moved from the no adverse to the adverse table: Tamura Building and Pu'uhale Market.

The Pang Craftsman Style House is separated from the Project, and even though the houses fronting Dillingham Boulevard will be demolished, a few houses will remain to buffer it from the Project. As such, it is still suggested to be listed as experiencing 'No Adverse Effect'.

SHPD stated that the Makalapa District that is currently only a potential district may be listed in the near future.

It was asked what the project team was trying to achieve, and the answer was that a defensible consistency for our approach to the resources along the corridor was what we would like to leave with.

The link between the project schedule and effect vs. adverse effect determinations was questioned. Basically, Section 4(f) is a large area that is directly tied to this work. Also, in general, the document that is produced needs to be as accurate as possible and serve the public and agencies correctly and rightfully. The project team has attempted to suggest adverse effects to be consistent with work in other areas of the country, and draws on past experiences with the Advisory Council and other parties to create a true and honorable effect determination table. At this moment, comments are being received which in the final document will need to be addressed.

Brian (by request of Betsy) brought up the issue of 800.8c and using NEPA as opposed to 106. Requested that 106 be independent of NEPA, and the 803-806 process should be followed. Reply was that team's approach was 800.8c allowed for use of the NEPA comment period to collect comments on 106, too; attempt by the project team to not duplicate work, not to bypass part of a process.

The following summarizes conclusions/decisions:

Astrid restated that SHPD does not concur that the adverse effects are limited to the six shown; the project team agreed to reconsider approach to evaluating effects. (Note: it was clarified that the letters from SHPD, HHF, and others are included in the DEIS as Appendix D – in the effects table it was duly noted that SHPD did not concur with the findings.) Kate also stated that HHF has problems with the effect determinations as they are.

Updating the nomination form for the Chinatown District seems quite appropriate, though effect or adverse effect remains to be seen.

Astrid stated that SHPD was not in agreement with the determination of no effect to the bridges, and stated that visualizations were needed to be able to discern whether or not there was an adverse effect or effect. This can be done, but a single visualization takes approximately 40 hours to complete and if the effect to a resource can be determined in another way or using another approach it would be the preferred way to do so.

Nuuanu Stream Bridge had a visual simulation already prepared and when shown, Astrid stated that there was an adverse impact to the resource with Kate concurring. Reasoning was that there were impacts to the feeling of integrity, setting, or feeling of the resource.

Mitigation was touched upon, and it was agreed by all that this resource would be one that perhaps would be difficult to individually mitigate, and so the efforts could focus more on the Chinatown District here.

At Aloha Tower, it was agreed that there was a visual impact, but whether or not it is to the extent that it is adverse was not decided. Lawrence restated he understood their position to be that "because you can see the guideway and it is a dominant structure, then we have an effect here". Lawrence agreed with that position, but also stated a concern regarding the broadness of the concept and the vast interpretation that could be associated with it.

Another statement followed that was more broad, that regardless of what criteria make a resource eligible, if the guideway is visible from it, there is an effect. (Setting is not always what makes it eligible – Aloha Tower is a good example as its setting is completely built-up and modern.)

The coral harbor retaining wall was a resource upon which all agreed that there would be no effect.

Dillingham Transportation Building listed as adversely affected by proximity and visual impact because seeing it is unavoidable; all parties were in agreement.

The SHPD stated that Chinatown District would experience an adverse effect due to the Project, but the project team will need to evaluate this requested finding during fieldwork. The project team's finding will be presented to the SHPD for concurrence since the agency, i.e., FTA, makes all determinations.

Tamura Building and Pu'uhale Market were adversely affected, all parties agreed.

Pang Craftsman Style House was said to remain as having no adverse effect determination.

The Ala Moana Building and Hawaii Watercress will be placed into the no adverse table.

The following summarizes action items:

Eligibility forms completed for the the project will be reviewed – any missing forms will be provided to the SHPD.

SHPD is to provide a list of specific visual simulations felt necessary to make an accurate determination.

The project team will prepare a CD of all eligibility forms for which the resource was deemed eligible to be sent to HHF.

The project team will reevaluate the tables as prepared for this meeting – a majority of no effect determinations will move to effect, while some effect determinations may move to adverse.

RTD will follow-up with FTA on official ACHP invitation.

| There will be another meeting to follow-up on these issues: Wednesday, January 14, 2009 at 9 a.m. at Alii [Place](#).