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KAPOLEI PROPERTY DEVELOPMENT, LLC

BEFORE THE LAND USE COMMISSION

OF THE STATE OF HAWAII

In the Matter of the Petition of

KAPOLEI PROPERTY DEVELOPMENT, LLC

To Amend the Agricultural Land Use District
Boundaries into the Urban Land Use District for
Approximately 344.519 Acres in Ewa District,
Island of Oahu, Tax Map Key Nos. (1) 9-1-
014:033 (por.), 034, 035 and (1) 9-1-015:020
(por.)

DOCKET NO. A06-763

**KAPOLEI PROPERTY DEVELOPMENT, LLC'S
WRITTEN DIRECT TESTIMONY OF DAVID W. SHIDELER**

EXHIBIT "28"

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**WRITTEN DIRECT TESTIMONY OF
DAVID W. SHIDELER**

BACKGROUND QUESTIONS

1. *Please state your name and business address for the record.*

David William Shideler
Cultural Surveys Hawai'i, Inc.
41-1537 Kalaniana'ole Highway, Waimānalo, Hawai'i 96795

2. *What is your current profession?*

O'ahu Office Director, Cultural Surveys Hawai'i, Inc.
Lecturer, University of Hawai'i at Mānoa

3. *How long have you been an archaeologist by profession?*

27 years

4. *Do you specialize in a particular area in your field of work?*

Yes, the archaeology of traditional Hawaiian society.

5. *Could you briefly describe your educational background?*

B.S. Zoology, B.A. Anthropology and Religion
M.A. Religion, M.P.H. Environmental Health Management
All but Dissertation (certified ABD) for my PHD in the History of Hawai'i
Have taught History of Hawai'i and History of the Hawaiian Kingdom for the
Department of History at the University of Hawai'i at Mānoa and Polynesian
Religions, Hawaiian Religion and Pele and Kamapua'a Traditions courses for the
Department of Religion at the University of Hawai'i at Mānoa
Certified in Hawaiian Language translation

6. *Do you presently belong to any professional organizations or associations?*

Yes.

7. *Could you please list them for us?*

Member of the Society for Hawaiian Archaeology, the Hawaiian Historical
Society, the Historic Hawai'i Foundation and the Kona Historical Society

1 **8. Did you provide a copy of your curriculum vitae for purposes of this hearing?**

2
3 Yes.

4
5 **9. Is Petitioner's Exhibit "29" a true and correct copy of your curriculum vitae?**

6
7 Yes.

8
9 **10. Could you briefly describe your training and your work experience as an**
10 **archaeologist?**

11
12 Author or co-author of over 200 studies addressing cultural resources on seven (7)
13 of the Hawaiian Islands.

14
15 **11. Where are you currently employed?**

16
17 Cultural Surveys Hawai'i, Inc.
18 41-1537 Kalaniana'ole Highway
19 Waimānalo, Hawai'i 96795

20
21 **12. How long have you been employed at Cultural Surveys Hawai'i, Inc. ("CSH")?**

22
23 Since 1982.

24
25 **13. What is your title or position?**

26
27 O'ahu Office Director, Cultural Surveys Hawai'i, Inc.

28
29 **14. Could you briefly describe what CSH does?**

30
31 Cultural Surveys Hawai'i, Inc. provides Cultural Resource Management services
32 including archaeological studies and Cultural Impact Assessments. The
33 archaeological work includes field check and literature reviews of a due diligence
34 nature, formal Archaeological Inventory Surveys, Data Recovery Programs,
35 Monitoring Programs, Preservation Plans and Burial Treatment work. We
36 produce Cultural Impact Assessments, as are often required, following the
37 guidelines of the Office of Environmental Quality Control as well as less formal
38 evaluations of cultural impacts.

39
40 **15. Could you briefly describe your duties and responsibilities?**

41
42 Proposal writing, supervision of field work, supervision of lab work, background
43 historical and archaeological studies (and supervision of others in such studies),
44 management of cultural impact assessment work, management of burial issues,
45 quality control, management of client relations, management of relations with the
46 State regulatory agency, and office directing.

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16. Could you briefly describe the type of work you currently perform as a professional archaeologist?

I continue to be active in fieldwork -- particularly in the assessment of the potential and significance of historic properties and other cultural resources. I also supervise lab work, conduct and supervise background historical and archaeological studies, manage cultural impact assessment work, manage burial issues, carry out editorial quality control, manage client relations, manage relations with the State regulatory agency, and direct the work of the Cultural Surveys Hawai'i O'ahu office.

17. Could you briefly describe to us the types of projects in which you have performed archeological and historic inventory surveys and cultural impact assessments?

I have carried out over 200 archaeological and cultural impact assessment studies addressing cultural resources on seven of the Hawaiian Islands

18. Do you possess specialized knowledge within the field of archaeology?

Yes.

19. In what areas?

My particular competence is in knowledge of Hawai'i's past which has been fostered by teaching University level courses in Hawai'i's history and in Hawaiian religions. I also am formally trained in faunal analysis. I probably have about as much experience in addressing burial issues on O'ahu Island as anyone.

20. Have you previously been qualified and/or testified as an expert witness in the field of archaeology and historical cultural resources?

Yes.

21. On approximately how many occasions have you qualified to testify as an expert?

I have been qualified as an expert before various agencies and commissions on more than one hundred occasions, including the Island Burial Councils, Historic Preservation Review Commissions, Planning Commissions, and the Land Use Commission.

1 **KAPOLEI HARBORSIDE CENTER PROJECT**

2
3 **22. Are you familiar with the Kapolei area located in the 'Ewa District of Oahu?**

4
5 Yes.

6
7 **23. Are you familiar with the archeological, historic, and cultural resources of the**
8 **Kapolei area located in the 'Ewa District of Oahu?**

9
10 Yes.

11
12 **24. Are you familiar with Kapolei Property Development, LLC's ("Petitioner's")**
13 **Kapolei Harborside Center Project ("Project")?**

14
15 Yes.

16
17 **25. How did you become familiar with the Project?**

18
19 My work within the Project lands goes back to 1980 when I was involved in
20 fieldwork within the present Project area (the Hammatt and Folk 1981 study).
21 Subsequent work I have conducted in the present Project area was written up in
22 the Hammatt and Shideler 1989a & b, 1991, 1994, Hammatt et al. 1994, and
23 McDermott et al. 2000 and Hoffman et al. 2005 studies. Thus, the Archaeological
24 Inventory survey study is my eighth study in the present Project lands spanning a
25 period of 25 years and the seventh on which I have been an author.

26
27
28 **ARCHEOLOGICAL AND HISTORICAL SITES**

29
30 **26. Did you conduct an archaeological inventory survey to identify archaeological**
31 **and historic sites within the Project area?**

32
33 Yes.

34
35 **27. Did you prepare a report about the Project based on your archaeological**
36 **inventory survey?**

37
38 Yes, I and my colleagues prepared a study entitled: *Archaeological Inventory*
39 *Survey for the Proposed 345-Acre Kapolei Harborside Center, Honouliuli*
40 *Ahupua'a, 'Ewa District, O'ahu Island (McDermott et al. 2006).*

41
42 **28. What did the report consist of?**

43
44 This was an Archaeological Inventory Survey prepared in accordance with
45 Hawai'i Administrative Rules ("HAR") Chapter 13-276 governing
46 Archaeological Inventory Surveys and Reports.

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29. Was this report prepared by you or under your supervision?

Yes.

30. Is Petitioner's Exhibit "30" a true and correct copy of your report?

Yes.

31. Could you please summarize the scope of your report?

This investigation was designed to fulfill Hawai'i state requirements for an archaeological inventory survey per HAR Chapter 13-276 and Chapter 13-284. Six historic properties were identified within the Project's Area of Potential Effect.

Three historic properties (SIHP # 50-80-12-6679 drainage channel, SIHP # 50-80-12-2888 Barber's Point Harbor Archaeological District, and SIHP # 50-80-12-9714 O. R. & L. right-of-way) were previously identified. Three historic properties (SIHP #s 50-80-12-6876, 50-80-12-6877, & 50-80-12-6878) were newly recorded as part of the inventory survey investigation.

32. Could you describe the methodology used to prepare your report?

The methodology was designed in conformance with HAR Chapter 13-276 governing Archaeological Inventory Surveys and Reports and the background research, field and laboratory methodology are described in detail in Section 1.4 of the study. The methodology for Archaeological Inventory Survey studies is fairly straight-forward.

33. Is the methodology you employed consistent with accepted industry standards?

Yes.

34. Did you review documentation from other sources that identified archaeological and historic sites in the Project area?

Yes.

35. Based on your review of other documentation, did you conduct fieldwork to assess the condition of those sites?

Yes.

1 **36.***If so, when?*

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The fieldwork specific to the Archaeological Inventory Survey study was conducted in November and December of 2005 and June of 2006.

37.*What was the condition of those sites at the time of your fieldwork assessment?*

Six sites were identified:

SIHP # 50-80-12-6679, historic plantation-era drainage channel. This is actively used and is in fair to good condition but has clearly been repaired repeatedly.

SIHP #s 50-80-12-6876 and 50-80-12-6877 are stacked stone prehistoric or early historic enclosures. Site –6876 was evaluated as in good condition and Site 6877 was evaluated as in fair condition.

SIHP # 50-80-12-6878 the numerous sinkhole features within the Project area’s archaeological/ paleontological preserve area appear to be in good condition.

SIHP # 50-80-12-2888, the Barber’s Point Harbor Archaeological District: the portions of the archaeological preserve within the current Project area appear to have already been completely disturbed by historic and modern land use. It is likely that the previously documented surface archaeological features within this portion of the Project area have been completely removed. Accordingly, the proposed Project is not regarded as having an impact on SIHP # 50-80-12-2888.

SIHP # 50-80-12-9714, the O. R. & L. right-of-way is located immediately adjacent to the Project area. This portion of the railway is actively used by the Hawaiian Railway Society and is in good condition.

Could you briefly describe what a sinkhole is?

Yes, the surface of the Pleistocene limestone outcrop, where not covered by alluvium or stockpiled material, has characteristic dissolution “pit caves”, which are nearly universally, but erroneously, referred to as “sink holes”. These pit caves, or sinkholes, vary widely in areal extent and depth, with some of the more modest features comparable in volume to five-gallon buckets, while some of the larger features, although usually irregularly shaped, are several meters wide and several meters deep. They are formed through a complex geological process involving mass wastage, granularization, coalescence and dissolution.

38.*Are you aware of significant sinkholes within the Project area?*

Yes. An assemblage of sinkholes believed to be particularly rich in the south central portion of the Project area has long been recommended for preservation.

1 **39. Could you describe the steps Petitioner has taken to preserve the sinkhole**
2 **preserve area?**

3
4 Yes. More than sixteen years ago I was an author of a study (*An Archaeological*
5 *Assessment for the Proposed Kapolei Business/Industrial Park, Honouliuli, 'Ewa,*
6 *O'ahu*; Hammatt and Shideler November 1989) of approximately the same lands
7 as the present Project area including the sinkhole preserve area. We specifically
8 addressed the sinkhole area and recommended preservation (Hammatt and
9 Shideler November 1989:33-34). To the best of my recollection, the sinkhole
10 preserve area was fenced shortly there after and has remained fenced and under a
11 recommendation of preservation ever since.

12
13 From that time (on or before November 1989) it is my understanding that it was
14 the position of the Campbell Estate Trustees to commit to at least interim
15 preservation of the sinkhole preserve.

16
17 From the beginning of my involvement with the present Project it has been my
18 understanding that some or all of the presently fenced area would be preserved in
19 perpetuity.

20
21 Our *Archaeological Inventory Survey for the Proposed 345-Acre Kapolei*
22 *Harborside Center, Honouliuli Ahupua'a, 'Ewa District, O'ahu Island*
23 *study*(McDermott et al. 2006:74) relates our understanding that: "project
24 proponents intend to avoid all impact to the sinkhole preserve as part of the
25 current project."

26
27 **40. What preservation steps do you recommend for the Project?**
28

29 In consultation with the State Historic Preservation Division ("SHPD") there are
30 three recommendations:

31 1) Preservation of SIHP #s 50-80-12-6876, 50-80-12-6876, & 50-80-12-
32 6876 (two stacked stone enclosures and the sinkhole preserve,

33 2) It is recommended that a cultural resource preservation plan be
34 prepared for the Project. This should include a preservation plan for SIHP
35 #s 50-80-12-6876, 50-80-12-6876, & 50-80-12-6876 detailing the short
36 and long term preservation measures that will safe-guard these historic
37 properties during Project construction and subsequent use of the Project
38 area. It should also include the mitigation measures for the proposed
39 intersection of the O. R. and L. right-of-way and Hanua Street, and

40 3) It is recommended that an Archaeological Monitoring Program, to
41 consist of an Archaeological Monitoring Plan, a combination of on-site
42 and on-call archaeological monitoring and an Archaeological Monitoring
43 Report will attend construction with on-site monitoring, at a minimum, of
44 clearing activities and any other ground disturbance in the immediate
45 vicinity of the proposed sinkhole preserve [SIHP # 50-80-12-6878].

1
2 **41. I am showing what is marked as Petitioner's Exhibit "32", do you recognize it?**

3
4 It is a letter from SHPD to Cultural Surveys of Hawai'i dated December 27, 2006.

5
6 **42. Did you have an opportunity to review this letter?**

7
8 Yes.

9
10 **43. Could you describe the contents of this letter and its significance?**

11
12 The SHPD letter asserts agreement with our assessments and recommendations.

13
14 **44. If the preservation steps you recommend are followed, will the reclassification and development of the Project area have an adverse impact on the sites you surveyed?**

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16
17
18 No. A project-specific effect recommendation of "effect, with agreed upon mitigation commitments" is warranted under HAR Section 13-284-7.

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21
22 **CULTURAL RESOURCES**

23
24 **45. Did your company, CSH, prepare a cultural impact assessment for the Project area?**

25
26
27 Yes.

28
29 **46. Did CSH prepare a report about the Project based on its cultural impact assessment?**

30
31
32 Yes.

33
34 **47. Were you able to review the report prepared by CSH?**

35
36
37 Yes.

38 **48. What did the report consist of?**

39
40 The cultural impact assessment provides information pertinent to the assessment of the proposed Project's cultural impacts [per Hawai'i Revised Statutes ("HRS") Act 50, Chapter 343 and the Office of Environmental Quality's Guidelines for Assessing Cultural Impacts). This document was prepared to support the Project's environmental review under HRS Chapter 343.

1 **49. *Is Petitioner's Exhibit "31" a true and correct copy of the report?***

2
3 Yes.

4
5 **50. *Could you please summarize the scope of the report?***

6 The scope for the Cultural Impact Assessment is summarized as follows:

- 7
8
- 9 • Examination of historical documents, Land Commission Awards, and
10 historic maps, with the specific purpose of identifying traditional
11 Hawaiian activities including gathering of plant, animal and other
12 resources or agricultural pursuits, as may be indicated in the historic
13 record.
 - 14
 - 15 • A review of the existing archaeological information pertaining to the sites
16 on the property as they may allow us to reconstruct traditional land use
17 activities and identify and describe the cultural resources, practices, and
18 beliefs associated with the parcel and identify present uses, if appropriate.
 - 19
 - 20 • Conduct oral interviews with persons knowledgeable about the historic
21 and traditional practices in the Project area and region. We anticipate both
22 formal and informal interviews.
 - 23
 - 24 • Preparation of a report on items 1-3 summarizing the information gathered
25 related to traditional practices and land use. The report will assess the
26 impact of the proposed action on the cultural practices and features
27 identified.
- 28

29 **51. *Could you describe the methodology used to prepare the report?***

30
31 Hawaiian organizations, government agencies, community members, and cultural
32 and lineal descendants with ties to Honouliuli were contacted to: (1) identify
33 potentially knowledgeable individuals with cultural expertise and knowledge of
34 the Project area and its surroundings, and (2) identify cultural concerns and
35 potential impacts within the Project area. An effort was made to locate
36 informants with ties to Honouliuli and neighboring *ahupua'a* who live or had
37 lived in the region or who, in the past, used the area for traditional and cultural
38 purposes. For this assessment, Arline Eaton, Rubellite Johnson, and Nettie
39 Tiffany and other *kūpuna* and community members such as Kawika McKeaque
40 and Shad Kane were interviewed for this assessment.

41
42 **52. *Is the methodology employed consistent with accepted industry standards?***

43
44 Yes. The cultural impact assessment provides information pertinent to the
45 assessment of the proposed Project's cultural impacts in accordance with 2000

1 Hawaii Laws Act 50, HRS Chapter 343, and the Office of Environmental
2 Quality's Guidelines for Assessing Cultural Impacts.

3
4 **53. Does the report identify any cultural resources within the Project area?**

5
6 No. The people contacted were not aware of any on-going cultural practices,
7 archaeological sites, or trails within the Project area per se. However, the Office
8 of Hawaiian Affairs ("OHA"), Nettie Tiffany and William Aila mentioned that
9 the 'Ewa plains is a well-known place of sinkhole burials. Most of the people
10 contacted mentioned that the Project area was heavily altered by plantation and
11 ranching activities. However, OHA noted "Furthermore, the nature of
12 documented interments in the 'Ewa area (stone pits, sinkholes, crypts, etc.) could
13 lead to the survival of these sites despite intensive agricultural activities on the
14 surface."

15
16 **54. Could you summarize the findings of the report?**

17
18 Based on what was gathered from the consultation process and the evidence of
19 land commission awards and lack of resources, the vast majority of the Project
20 area was utilized less intensively during traditional times. Additionally the years
21 of sugar cane cultivation and ranching left no reason for access. Most of the
22 resources such as salt farming and gathering of marine resources were on the
23 coastal fringe outside of the Project area.

24
25 **55. Does the report make any recommendation for the preservation for cultural
26 resources?**

27
28 Yes.

29
30 **56. Could you explain those recommendations?**

31
32 It was noted that significant cultural resources/historic properties may be affected
33 by the proposed industrial development despite the extensive past disturbance
34 within the Project area. As a precautionary measure, personnel involved in future
35 development should be informed of the possibility of inadvertent cultural finds,
36 and should be made aware of the appropriate notification measures to follow. We
37 also recommended that throughout the construction of the Project that
38 consultation with the Hawaiian community continues, especially those mentioned
39 in this report. We also recommended that the Project should incorporate the
40 traditional place names of the surrounding area into the proposed development to
41 sustain a connection to the past. Additionally, it was recommended that an
42 archaeological inventory survey be carried out, which has since been completed.
43

1 **57. *In your professional opinion, and based on your familiarity with the Project***
2 ***area, will the reclassification and development of the Project area have an***
3 ***adverse impact on cultural resources?***
4

5 It is our conclusion that with the carrying out of the archaeological inventory
6 survey and implementation of the recommended mitigation measures within our
7 Archaeological Inventory Survey in consultation with the State Historic
8 Preservation Division and with continuing consultation with the concerned
9 Hawaiian community that the Project will have minimal or no effect on cultural
10 resources.
11

12
13 **PRACTICE OF TRADITIONAL NATIVE HAWAIIAN RIGHTS**
14

15 **58. *In addition to assessing the impact on cultural or historical resources, did CSH***
16 ***also determine whether any traditional and customary Native Hawaiian rights***
17 ***are currently being exercised in the Project area?***
18

19 The people contacted in the course of our Cultural Impact Assessment were not
20 aware of any on-going cultural practices, and we are not aware of any on-going
21 cultural practices within the Project area.
22

23 **59. *How did CSH evaluate whether traditional and customary Native Hawaiian***
24 ***rights are currently being exercised in the Project area?***
25

26 Primarily through consultation with Hawaiian organizations, government
27 agencies, community members, and cultural and lineal descendants with ties to
28 Honouliuli but also through historical research.
29

30 **60. *Who did CSH interview?***
31

32 The organizations consulted included the Office of Hawaiian Affairs, the O‘ahu
33 Island Burial Council, ‘Ahahui Siwila Hawai‘i O Kapolei Hawaiian Civic Club,
34 and the ‘Ewa Neighborhood Board. Our primary informants were Arline Eaton,
35 Rubellite Kawena Johnson, Shad Kane, and Kawika McKeaque. Other parties
36 consulted include William Aila, Annelle Amaral, Aggie Cope, Martha Makaiwi,
37 Nettie Tiffany, Maeda Timson. Several parties contacted referred us back to the
38 same informants.
39

40 **61. *What connection did the people CSH interviewed have with the Project area?***
41

42 The parties contacted were knowledgeable about the Project vicinity and many of
43 them live in Honouliuli. Some had been involved in traditional cultural practices
44 in neighboring coastal areas. None ever lived within the Project lands. We do not
45 know of anyone alive who lived in the Project lands or whose family lived
46 specifically in the Project lands.

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62. *Based on your training and experience, are the persons CSH interviewed credible sources for determining whether any traditional Native Hawaiian rights are currently being exercised in the Project area?*

Yes, these are generally recognized as the most knowledgeable people about this area of Honouliuli.

63. *Was a good faith effort made to determine whether there are any Native Hawaiian traditional and cultural practices currently being exercised in the Project area?*

Yes.

64. *Based on the cultural impact survey conducted, are there any Native Hawaiian traditional and customary practices currently being exercised in the Project area?*

No. We did not identify any on-going cultural practices within the Project area.

65. *In your professional opinion and based upon your findings, will the reclassification and development of the Project area have any adverse impact on Native Hawaiian traditional and customary practices within the Project area?*

There should be no effect on any on-going cultural practices within the Project area. It was noted that significant cultural resources/historic properties may be affected by the proposed development despite the extensive past disturbance within the Project area.

It is our conclusion that with the carrying out of the archaeological inventory survey and implementation of the recommended mitigation measures within our Archaeological Inventory Survey in consultation with the State Historic Preservation Division and with continuing consultation with the concerned Hawaiian community that the Project will have minimal or no effect on cultural resources.