



STAFF REPORT

HISTORIC PRESERVATION COMMISSION MEETING DATE: 07/22/15

DEPARTMENT: PLANNING

ITEM DESCRIPTION: Report by the Office of Community Services regarding the possible demolition of the former Carpenters Union Hall as part of a project funded in part through U.S. Housing and Urban Development programs, located at 501 N. Lamb Boulevard (APN 140-31-501-201), R-3 (Medium Density Residential) Zone, Ward 3 (Coffin)

BACKGROUND

NO RELATIVE CASE HISTORY

SUMMARY

Project Summary

The city of Las Vegas anticipates receiving Home Funds from the U.S. Housing and Urban Development (HUD) Department and other funds which will then be turned over to the non-profit organization Nevada Hand to develop and construct 240 family apartments located at 501 North Lamb Boulevard. A portion of the redevelopment will include the demolition of the former Carpenters Union Hall, constructed in 1965 in the Formalism style. Because of the federal nexus, the Section 106 process is initiated.

Section 106

Section 106 of the National Historic Preservation Act of 1966 (NHPA) requires Federal agencies to take into account the effects of their undertakings on historic properties, and afford the Advisory Council on Historic Preservation a reasonable opportunity to comment. The historic preservation review process mandated by Section 106 is outlined in regulations issued by ACHP. Revised regulations, "Protection of Historic Properties" (36 CFR Part 800), became effective August 5, 2004.

Consulting/Commenting Parties

Under 36 CFR Part 800, a representative of a local government with jurisdiction over the area in which the effects of an undertaking may occur is entitled to participate as a consulting party. Additionally, certain individuals and organizations with a demonstrated interest in the undertaking may participate as consulting parties due to the nature of their legal or economic relation to the undertaking or affected properties, or their concern with the undertaking's effects on historic properties.

Next Steps

The Historic Preservation Officer will forward any comments to the Office of Community Services as part of the project Environmental Review Record.

STAFF RECOMMENDATION

NO ACTION REQUIRED

BACKUP DOCUMENTS

- Section 106 report prepared by the city of Las Vegas for the State Historic Preservation Office
- Memo from the city of Las Vegas Historic Preservation Officer requesting concurrence with a determination of adverse effect, dated 6/23/15
- Section 106 Regulations Summary

NEVADA STATE HISTORIC PRESERVATION OFFICE
Recommended Coversheet for Section 106 Review

SHPO USE ONLY			
Received Date	__/__/__	Log In Date	__/__/__
Response Date	__/__/__	Log Out Date	__/__/__
Sent Date	__/__/__		

If you find this document helpful in preparing a submission document, please include this with your submission. Please type. Due to limited resources and the requirements of federal regulation, we are unable to accept this application electronically.

I. GENERAL INFORMATION

- ☒ THIS IS A NEW SUBMITTAL
☐ THIS IS MORE INFORMATION RELATING TO UT# N/A

- a. Project Name:
501 N. Lamb Blvd. Family Housing
- b. Project Address and APN (if available):
501 N. Lamb Blvd., Las Vegas, NV 89110
APN: 140-31-501-201
- c. County: Clark
- d. Federal Agency, Contact Name and Mailing Address (*If you do not know the federal agency involved in your project please contact the party requiring you to apply for Section 106 review, not the SHPO, for this information.*)
U.S. Department of Housing and Urban Development
c/o City of Las Vegas
Office of Community Services
495 S. Main Street, Las Vegas, NV 89101
- e. State Agency (if applicable), Contact Name and Mailing Address: N/A
- f. Consultant or Applicant Contact Information (if applicable) *including mailing address.*
Stephanie Brüning, Grants Program Coordinator
City of Las Vegas
Office of Community Services
495 Main Street, Las Vegas, NV 89101
- g. Exact project location map should be submitted. Please see our website for further mapping information: nvshpo.org/review-compliance/guidelines.html.
1. 7.5' USGS Quad Map Name: Las Vegas NE (Las Vegas 100K Quad)
2. Township: 20S Range: 62E Section: 31

II. PROJECT WORK DESCRIPTION AND AREA OF POTENTIAL EFFECTS (APE)

Note: Every project has an APE.

- a. Provide a detailed written description of the project (plans, specifications, Environmental Impact Statements (EIS), Environmental Assessments (EA), etc. can be included with the written description):

Nevada HAND anticipates receiving Home Funds, Low Income Housing Trust Funds, Tax Credits, and private financing to develop and construct family apartments at 501 N. Lamb, a \$27 million affordable multi-family development in East Las Vegas.

Construction of 240 units will consist of three phases. Phase I will consist of asbestos and lead paint abatement and the demolition of an existing 12,576 square foot building, formerly the Carpenters Union Hall c.1965. Phase II will be the construction of 170 units of multi-residential housing consisting of 11 three-story buildings. Amenities will include a community building, community room, exercise room, computer room, library, outdoor recreation areas, covered patios and balconies. Phase III will include the construction of the remaining 70 residential units at a future date with a design consistent with Phase II.

The total project site consists of 12.59 acres of developed and undeveloped land. The property has direct access to Lamb, midway between Bonanza and Stewart, North of Moore Elementary and South of Vera Johnson Apartments. Construction will begin on or before December 31, 2016, unless otherwise specified in writing.

- b. Provide a localized map indicating the location of the project; road names must be included and legible. See attached map.
- c. On the above-mentioned map, identify the APE. Located on attached map per instruction.
- d. Provide a written description of the APE (physical, visual, auditory, and atmospheric), the steps taken to identify the APE, and the justification for the boundaries chosen. Please consider the height of the proposed undertaking when determining this area.
- An APE of 300 feet from the property line was initially drawn for the project, taking roughly the height of a three-story structure and multiplying it by 10 to address visual and physical APE's. This encompasses the entire housing project to the north of the property, the school property to the south, across Lamb on the east and into the union property on the west. To include properties within line-of-sight the boundaries were expanded and squared off to include additional properties to the East, South, and West of the property. Noise levels and atmospheric effects in the APE will only be altered during construction and only in approved hours of operation per the code.

III. GROUND DISTURBING ACTIVITY (INCLUDING EXCAVATION, GRADING, TREE REMOVALS, UTILITY INSTALLATION, CONSTRUCTION, ETC.)

DOES THIS PROJECT INVOLVE GROUND-DISTURBING ACTIVITY?

YES ☒ NO ☐ (If no, proceed to section IV.)

- a. Description of width, length and depth of proposed ground disturbing activity (please include all associated disturbances (access roads, laydown areas, etc):

The ground disturbance consists of grading across the entire site to a depth of approximately four feet. Included with the grading are underground trenches for sewer, water, and dry utility lines. These trenches will also be four feet deep. Other than the proposed buildings, the site will have paved roadways, sidewalks, and landscaping.

- b. Previous land use and disturbances:

Prior to 1965, there is no known development on the site. A union hall was built on the east half of the property with a parking lot c.1965 and two trailers were added c.2003. The north side of the property has a modern block wall (1983) along the property line, a chain link fence on the west and south property lines. The original parcel in 1965 had an additional 12 +/- acres that are now the school site (2000) on the south side of the property separated by a flood control channel (c.1973). The west half of the property has no record of being developed.

- c. Current land use and conditions:

The current site has a c.1965 abandoned union hall, two c.2003 trailers, a block wall on the north property line (1983), and paving that encompasses approximated 75% of the east half of the property. The west half of the property is undeveloped. The zoning for the property was changed in early 2015 from commercial to residential use.

- d. Does the landowner know of any archaeological resources found on the property?

Please describe:

The current landowner, Nevada HAND, is unaware of any archaeological resources on the property.

IV. IDENTIFICATION OF HISTORIC PROPERTIES

- a. List and date all resources (buildings, structures, objects, archaeological sites) 50 years of age or older located in the APE. If the resource is located within a National Register eligible, listed or local district it is only necessary to identify the district:

-The former Carpenter's Union Hall c.1965.

The hall is not located within a National Register eligible, listed or local district.

Per our phone conversation on May 4, 2015, SHPO stated that they will confirm if any known archaeological sites are within the APE.

- b. Describe the steps taken to identify whether or not any resources eligible for the National Register of Historic Places exist in the APE and include the level of effort made to carry out such steps:
Construction Year of Properties in APE

The construction year of properties within the APE was confirmed using the Clark County GISMO site (<http://gisgate.co.clark.nv.us/openweb/>) and the City's Planning Department.

-The apartments north of the property within the APE were built in 1984.

-The buildings (commercial and residential) across Lamb Boulevard and east of the property within the APE were constructed between 1972 and 1992.

-The school building to the south of the property and within the APE was built in 2000.

Apartments south of the school building bordering the APE are over 600 feet away and were built in 1981.

-The union property to the west of the site identifies the site as c.1966 using GISMO. A current photo of the structure shows a newer designed building including the use of recent construction materials at the location. This has either drastically altered the original or replaced it. Additional information from the Planning Department states that no other building on the site was built before 1978.

-The homes west of the adjacent union site bordering the APE are over 300 feet away and were built in 1996.

-The homes located at the southwest corner of the site (across the flood channel) and within the APE were constructed in 1972.

Research

Research was conducted on the c.1966 former union hall located at 501 N. Lamb Boulevard.

Carpenters Union-Las Vegas

-The Carpenters Union had only a few records left on the building. They provided permits and some documents for the trailers and feasibility studies they conducted over the years along with appraisals.

-No photos were located by union staff and no information was available on significant events or other records pertaining to the former hall or union site.

City of Las Vegas permits (Building and Fire Safety)

-Three records were located for the property: a 1977 interior remodel, a 1983 permit to construct the block wall to the north of the property, and a January 1992 permit for a new roof.

City of Las Vegas Planning

-The Planning Department had only a few early records for the property: the original case approval for the site and rezoning from residential to commercial (1963-65), site reviews for

- additional buildings that were never exercised, and the permit for the two trailers in 2003.
- The property was rezoned from commercial to residential in February 2015.
- There are no historic surveys in this area.
- The City of Las Vegas's Historic Preservation Officer, Courtney Mooney, conducted a site visit and felt that the building still had integrity as a 1965 union hall.

Las Vegas Fire and Rescue Records

- Records show two fires on May 1, 1992. The fire damage was estimated at over \$1 million. There was damage to I-beams, a 2nd floor collapse and significant fire damage to the SW corner of the building where the fire was believed to have started. No permits were found for the reconstruction of the building.
- Photographs were located from the original fire, the building and all openings look similar to what is there today. In 1992 the building was painted a uniform cream or white color.

Architect, J. William Simpson Architects

- Staff located Mr. Simpson's son, Wade Simpson, also an architect practicing in Las Vegas.
- According to his son, the architecture firm started in the mid-1960s and closed in 1979 when Bill Simpson suffered a stroke. Mr. Simpson worked on several projects during his career, including the fountains at Caesar's Palace 1966, the original Clark County Library on Flamingo, the original Las Vegas Review Journal Bldg. 1970-71, the 1st McDonald's on Fremont Street, the garden center at Lorenzi Park, a housing authority property, and several homes and commercial businesses.
- No photos or drawings of the Carpenters Union Hall were in Mr. Simpson's portfolio.
- Bill Simpson is listed in an article titled "A Brief History of AIA Las Vegas" by Randy Lavigne on the AIA Las Vegas website. www.aialasvegas.org He was credited, along with others, on the current law which permits licensing as a "Residential Designer".
- An internet research found a reference to Bill Simpson by a former employee who worked for him after graduation from architecture school in 1968. He stated, "We specialized in commercial, large residences, and yes, Hotels and Casinos".

UNLV Special Collections, Las Vegas Architects and Buildings Database

- No listing of the architect or union hall

Newspaper

- An internet search on the newspaper found no information. The night of the fire at the union hall was the same night as the riots on the Westside in Las Vegas in reaction to the Rodney King verdict. According to the paper there were over 300 fires during that time.

Other documents reviewed

- Limited Asbestos Containing Materials Survey (January 29, 2015)
- Environmental Noise Survey & Building Shell Analysis (February 24, 2015)
- Phase I Environmental Site Assessment (November 11, 2014)
- Appraisal (October 24, 2003)
- Phase I Environmental Site Assessment (March 24, 1999)
- Highest and Best Use Analysis (February 2, 1999)

National Register Evaluation

Age: The building meets the age criteria for listing on the National Register. The building was constructed in 1965 and is 50 years old.

Integrity: The building looks representative of a c.1965 commercial building, but there are no records of the original exterior construction, elevations, or photographs. No early photographs could be located either. However, the building does have form and style representative of the American International Style and Formalism popular in the mid-19th century with a flat roof, lack of ornamentation, slender unadorned columns reaching to a shallow overhang extended from the roof and a glass curtain wall on the front façade (facing West). The three remaining sides have no windows and doors blend in with the exterior wall with two external open concrete staircases on the east and west sides of the building. The front façade does not face the road and from the public right-of-way only the slender columns and a solid wall can be viewed.

There is a mix of metal sheet cladding and manufactured fiber board on the exterior of the building. The lower panels under the windows are different materials. The west half, where the 1992 fire was located, is manufactured fiber board and the east half is stucco. Windows are likely replacements. They are insulated glass with a reflective coating. However, they do look similar to the earliest photographs discovered of the building dating to 1992 (27 years after construction).

Significance: The building retains distinctive characteristics of a mid-century commercial building built in the American International and Formalism style popular at the time. This is seen through the minimalist unadorned architecture with a flat roof, lack of ornamentation, slender unadorned columns reaching to a shallow overhang extended from the roof, exterior cladding, and a glass curtain wall on the front façade (facing West).

It is the opinion of Stephanie Brüning*, Grants Program Coordinator with the Office of Community Services, that the building has local architectural significance as a c. 1965 commercial union hall under Criterion C (Design/Construction) of the National Register criteria for evaluation. The building possesses integrity of location, design, setting, materials, workmanship, feeling, and association under Criterion C embodying the distinctive characteristic of a type, period, and method of construction. This opinion is in concurrence with the Courtney Mooney, the City of Las Vegas Historic Preservation Officer.

**Stephanie Brüning meets the Professional Qualifications Standards of the Secretary of the Interior in History and Architectural History.*

c. Based on the information contained in "b", please choose one:

☒ Historic Properties Present in the APE

☐ No Historic Properties Present in the APE

d. Describe the condition, previous disturbance to, and history of any historic properties located in the APE: N/A

V. PHOTOGRAPHS

Note: All photographs should be keyed to a map.

a. Provide photographs of the project area itself.

b. Provide photographs of all resources 50 years of age or older located in the APE. Digital images or clear photocopies are acceptable.

VI. DETERMINATION OF EFFECT
Based on the above information, please choose one.

- ☐ No historic properties affected based on [36 CFR § 800.4(d)(1)], please provide the justification for this determination.
- ☐ No Adverse Effect [36 CFR § 800.5(b)] on historic properties, explain why the criteria of adverse effect, 36 CFR Part 800.5(a)(1), were found not applicable.
- ☒ Adverse Effect [36 CFR § 800.5(d)(2)] on historic properties, explain why the criteria of adverse effect, [36 CFR Part 800.5(a)(1)], were found applicable.
The former union hall is to be demolished as part of the approved plan for the construction of the project at 501 N. Lamb Blvd. Family Housing.

The site development plan and variances for the construction of the current 228-Unit Multi-Family Residential Development was heard and approved before a public hearing of the Planning Commission on May 12, 2015. Two comment cards were received (1 in support and 1 opposed)**. No public comments were made at the hearing. [VAR-58121, VAR-58122, VAR-58123, SDR-58123]

The rezoning and General Plan Amendments were heard and approved before City Council at a public hearing on February 18, 2015, 2014. Two comment cards were received (1 in support and 1 opposed)**. No public comment was made at the hearing. The City Councilman (Bob Coffin) representing the area was in support of the new construction and demolition of the old union hall. [GPA-57254 & ZON-57255]

*** Notices of the project included properties within the APE as shown in the included map.*

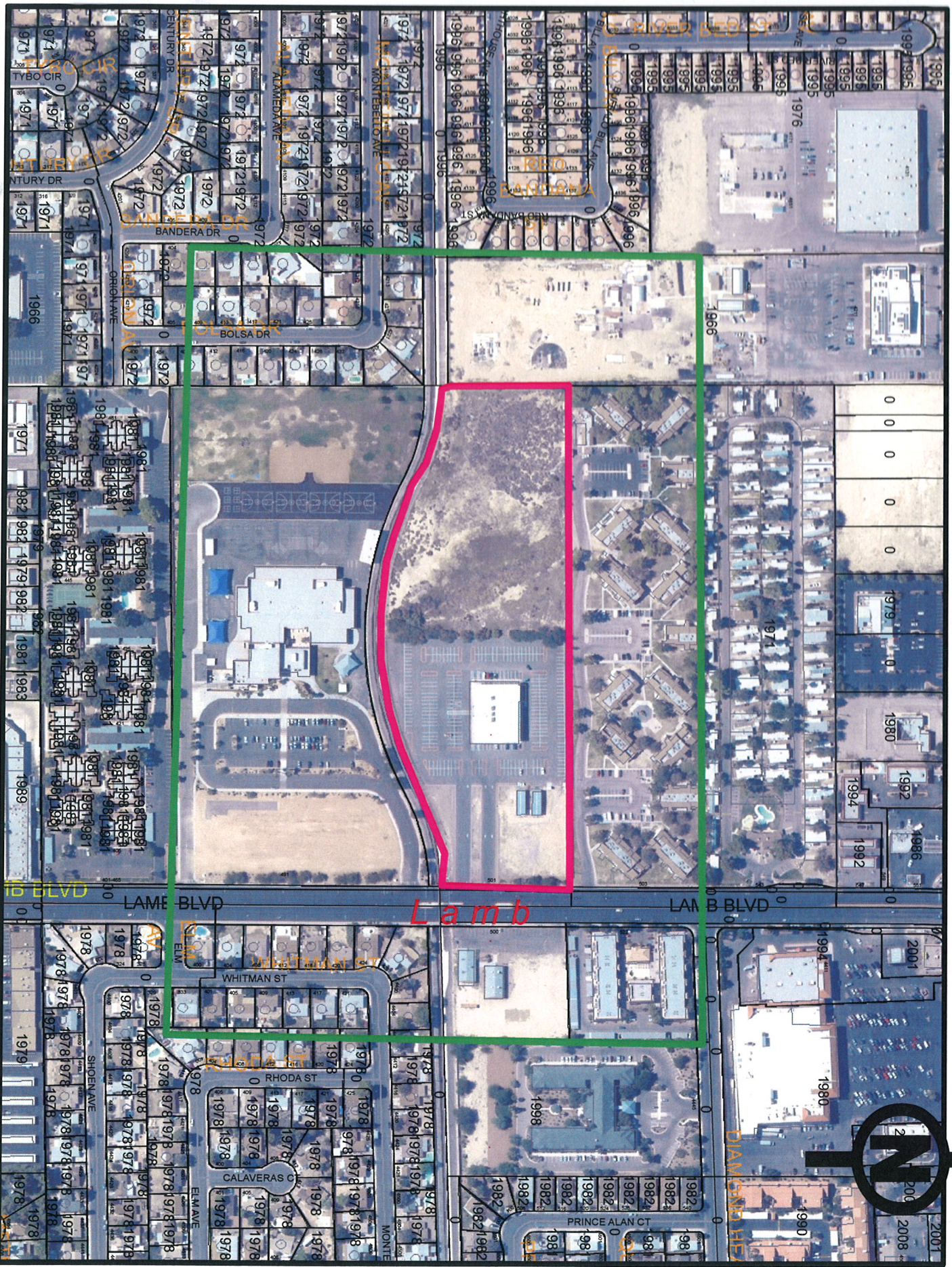
Please print and mail completed form and any additional information to:

*Nevada State Historic Preservation Office
901 S. Stewart Street, Suite 5004
Carson City, Nevada 89701-5248*

501 N. Lamb - NV HAND Affordable Multi-Housing Project 6/1/15

Green is Proposed APE

Pink is Project Boundaries



Project: 501 N. Lamb Blvd. Family Aparments
Address: 501 N. Lamb Blvd., Las Vegas, NV 89110
APN: 140-31-501-021

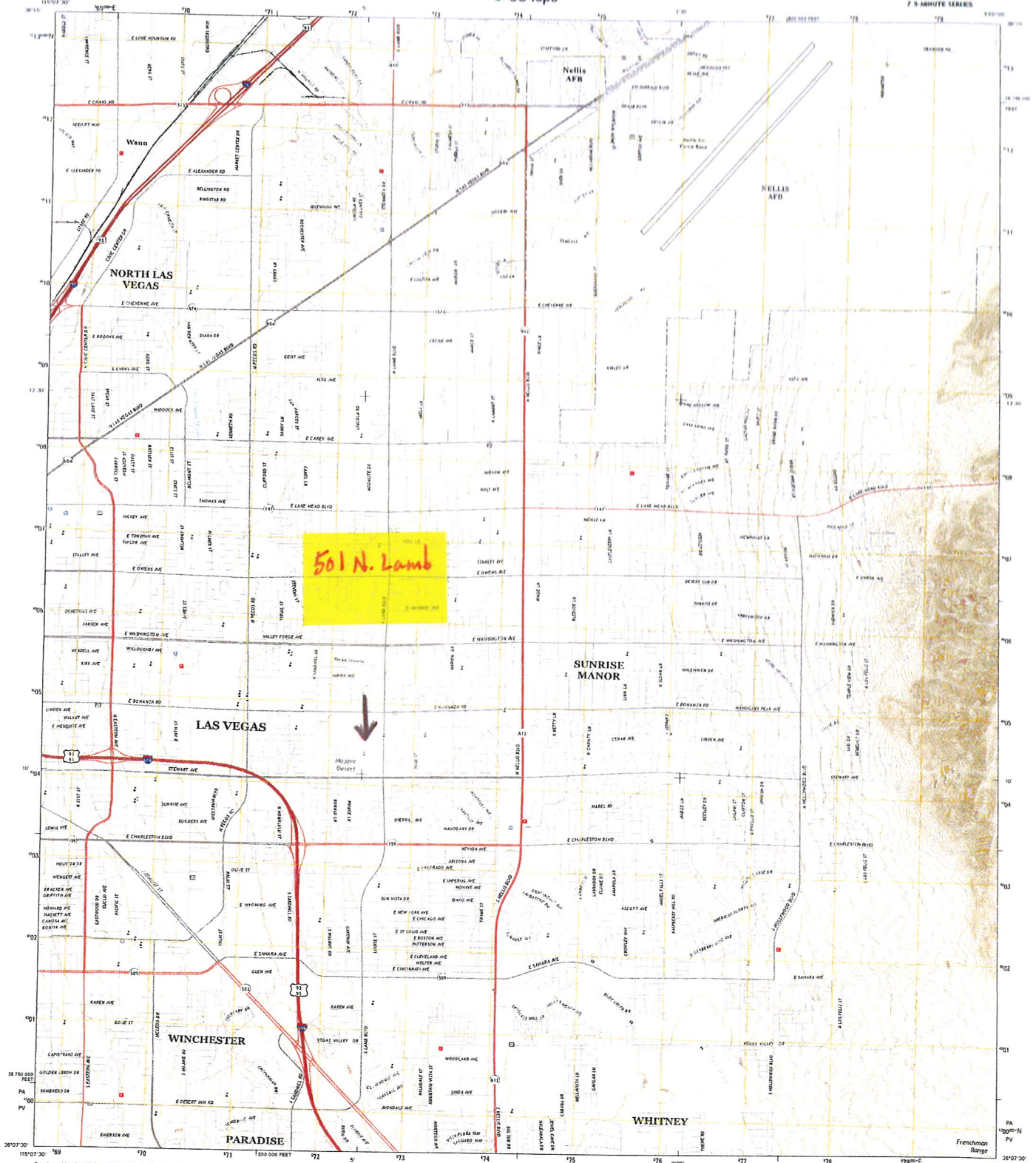
USGS Map



U.S. DEPARTMENT OF THE INTERIOR
U.S. GEOLOGICAL SURVEY

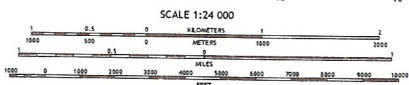
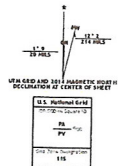


LAS VEGAS NE QUADRANGLE
NEVADA-CLARK CO.
7.5-MINUTE SERIES



Produced by the United States Geological Survey
North American Datum of 1983 (NAD83)
Horizontal datum of 1983 (NAD83)
Vertical datum of 1983 (NAD83)
1:50,000 scale map
1:50,000 scale map
1:50,000 scale map

This map is not a legal document. Boundary lines may be generalized for this map scale. Private lands within government reservations may not be shown. Obtain permission before entering private lands.



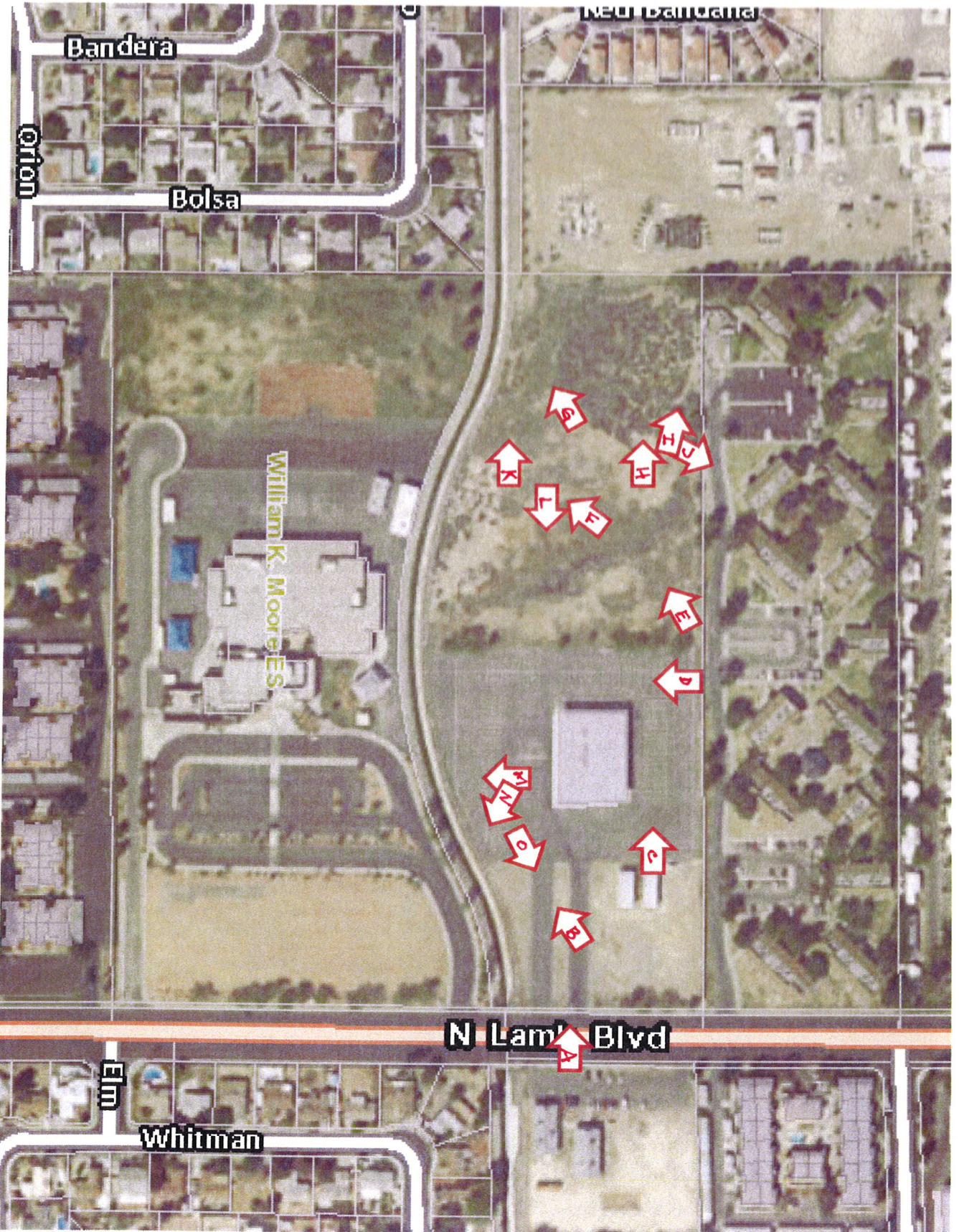
1	2	3	4	5	6	7	8	9	10
1	2	3	4	5	6	7	8	9	10

LAS VEGAS NE, NV
2014

Project: 501 N. Lamb Blvd. Family Aparments
Address: 501 N. Lamb Blvd., Las Vegas, NV 89110
APN: 140-31-501-021

Pictures of Property

Project: 501 N. Lamb Blvd. Family Apartments
Address: 501 N. Lamb Blvd., Las Vegas, NV 89110
APN: 140-31-501-021



Location of Pictures Taken

Project: 501 N. Lamb Blvd. Family Aparments
Address: 501 N. Lamb Blvd., Las Vegas, NV 89110
APN: 140-31-501-021



A. View of site from Lamb Boulevard.

Project: 501 N. Lamb Blvd. Family Aparments
Address: 501 N. Lamb Blvd., Las Vegas, NV 89110
APN: 140-31-501-021



B. View from current entrance showing school South of the property, across from drainage ditch.



C. View of North side of property from current trailer location. Vera Johnson Apartments can be seen on the opposite side of the block wall.

Project: 501 N. Lamb Blvd. Family Aparments
Address: 501 N. Lamb Blvd., Las Vegas, NV 89110
APN: 140-31-501-021



D. End of paved area on West side of building looking South toward the school.



E. View looking SW of school site and neighborhoods.

Project: 501 N. Lamb Blvd. Family Aparments
Address: 501 N. Lamb Blvd., Las Vegas, NV 89110
APN: 140-31-501-021



F. View SSW of school property and adjacent neighborhood (rear of properties).



G. View of SW corner of property and adjacent neighborhood.

Project: 501 N. Lamb Blvd. Family Aparments
Address: 501 N. Lamb Blvd., Las Vegas, NV 89110
APN: 140-31-501-021



H. View looking West from rear of property toward the adjacent Union property on the West side of the property.



I. View of NW corner of property and rear of Vera Johnson Apartments.

Project: 501 N. Lamb Blvd. Family Aparments
Address: 501 N. Lamb Blvd., Las Vegas, NV 89110
APN: 140-31-501-021



J. View looking North of Vera Johnson Apartments.



K. View of drainage ditch and multi-use pathway that runs along the South side of the property.

Project: 501 N. Lamb Blvd. Family Aparments
Address: 501 N. Lamb Blvd., Las Vegas, NV 89110
APN: 140-31-501-021



L. View looking East from undeveloped area on property.



M. View from South side of building to school site.

Project: 501 N. Lamb Blvd. Family Aparments
Address: 501 N. Lamb Blvd., Las Vegas, NV 89110
APN: 140-31-501-021



N. View SE across front of school site.



O. View across lamb looking ENE.

Project: 501 N. Lamb Blvd. Family Aparments
Address: 501 N. Lamb Blvd., Las Vegas, NV 89110
APN: 140-31-501-021

Pictures of Carpenters Untion Hall c.1965

Project: 501 N. Lamb Blvd. Family Aparments
Address: 501 N. Lamb Blvd., Las Vegas, NV 89110
APN: 140-31-501-021



View looking West from Lamb Blvd.



Close up of the picture above. Public view of building from right-of-way.

Project: 501 N. Lamb Blvd. Family Aparments
Address: 501 N. Lamb Blvd., Las Vegas, NV 89110
APN: 140-31-501-021



View looking NW of SW corner of the building.



View of entrance to the building. South façade.

Project: 501 N. Lamb Blvd. Family Aparments
Address: 501 N. Lamb Blvd., Las Vegas, NV 89110
APN: 140-31-501-021



View of SW cornder of building. (The most extensive damage from the 1992 fire occurred here).



View of West façade.

Project: 501 N. Lamb Blvd. Family Aparments
Address: 501 N. Lamb Blvd., Las Vegas, NV 89110
APN: 140-31-501-021



View of South façade.

Project: 501 N. Lamb Blvd. Family Apartments
Address: 501 N. Lamb Blvd., Las Vegas, NV 89110
APN: 140-31-501-021



Missing panel on West façade on South corner.



SW corner of South façade. (Area of extensive fire damage in 1992).

Project: 501 N. Lamb Blvd. Family Apartments
Address: 501 N. Lamb Blvd., Las Vegas, NV 89110
APN: 140-31-501-021



4201 Bonanza Road is the address of the union property to the west of the project site c.1966. A current photo of the structure shows a newer designed building including the use of recent construction materials at the location. This has either drastically altered the original or replaced it. Additional information from the Planning Department states that no other building on the site was built before 1978.

MEMORANDUM

Department of Planning

To: Shawn Bolster, Grant Program Coordinator, Office of Community Services
From: Courtney Mooney, Urban Design Coordinator, Department of Planning
CC: Stephanie Bruning, Office of Community Services
Date: June 23, 2015
Re: Section 106 Review: Carpenters Union Hall, 501 N. Lamb Boulevard

Thank you for the invitation to comment regarding the Nevada Hand project located at 501 N. Lamb Boulevard. This HUD-funded project consists of construction of 240 affordable multi-family apartments on a site currently occupied by the former Carpenters Union Hall constructed in 1965. The project will result in the demolition of the union hall.

I have reviewed the attached documentation submitted by the City of Las Vegas Office of Community Services and concur with the findings that the building has local architectural significance as a c. 1965 union hall under Criterion C of the National Register criteria for evaluation. The exterior of the Carpenters Union Hall retains significant architectural integrity, and is one of the last remaining examples of this architectural style in Las Vegas.

Because of the project will result in physical destruction of or damage to all or part of the property, my office is requesting concurrence with a determination of adverse effect.

Please contact Courtney Mooney at 702-229-5260 with any questions or comments.

Attachments:

Section 106 Report: Carpenters Union Hall, 501 N. Lamb Boulevard, prepared by the Office of Community Services, City of Las Vegas

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Section 106 Regulations Summary

Introduction

Initiate Section 106 process

Identify historic properties

Assess adverse effects

Resolve adverse effects

Implementation

Failure to resolve adverse effects

Tribes, Native Hawaiians, and the public

Introduction

Section 106 of the [National Historic Preservation Act of 1966 \(NHPA\)](#) requires Federal agencies to take into account the effects of their undertakings on historic properties, and afford the [Advisory Council on Historic Preservation](#) a reasonable opportunity to comment. The historic preservation review process mandated by Section 106 is outlined in regulations issued by ACHP. Revised regulations, "[Protection of Historic Properties](#)" (36 CFR Part 800), became effective August 5, 2004, and are summarized below.

Initiate Section 106 process

The responsible Federal agency first determines whether it has an undertaking that is a type of activity that could affect historic properties. Historic properties are properties that are included in the [National Register of Historic Places](#) or that meet the [criteria for the National Register](#). If so, it must identify the appropriate [State Historic Preservation Officer/Tribal Historic Preservation Officer *](#) (SHPO/THPO*) to consult with during the process. It should also plan to involve the public, and identify other potential consulting parties. If it determines that it has no undertaking, or that its undertaking is a type of activity that has no potential to affect historic properties, the agency has no further Section 106 obligations.

Identify historic properties

If the agency's undertaking could affect historic properties, the agency determines the scope of appropriate identification efforts and then proceeds to identify historic properties in the area of potential effects. The agency reviews background

information, consults with the SHPO/THPO* and others, seeks information from knowledgeable parties, and conducts additional studies as necessary. Districts, sites, buildings, structures, and objects listed in the National Register are considered; unlisted properties are evaluated against the National Park Service's published [criteria](#), in consultation with the SHPO/THPO* and any Indian tribe or Native Hawaiian organization that may attach religious or cultural importance to them.

If questions arise about the eligibility of a given property, the agency may seek a formal determination of eligibility from the [National Park Service](#). Section 106 review gives equal consideration to properties that have already been included in the National Register as well as those that have not been so included, but that meet National Register criteria.

If the agency finds that no historic properties are present or affected, it provides documentation to the SHPO/THPO* and, barring any objection in 30 days, proceeds with its undertaking.

If the agency finds that historic properties are present, it proceeds to assess possible adverse effects.

Assess adverse effects

The agency, in consultation with the SHPO/THPO*, makes an assessment of adverse effects on the identified historic properties based on criteria found in ACHP's regulations.

If they agree that there will be **no adverse effect**, the agency proceeds with the undertaking and any agreed-upon conditions.

If a) they find that there is an **adverse effect**, or if the parties cannot agree and ACHP determines within 15 days that there is an adverse effect, the agency begins consultation to seek ways to avoid, minimize, or mitigate the adverse effects.

Resolve adverse effects

The agency consults to resolve adverse effects with the SHPO/THPO* and others, who may include Indian tribes and Native Hawaiian organizations, local governments, permit or license applicants, and members of the public. ACHP may participate in consultation when there are substantial impacts to important historic properties, when a case presents important questions of policy or interpretation, when there is a potential for procedural problems, or when there are issues of concern to Indian tribes or Native Hawaiian organizations.

Consultation usually results in a Memorandum of Agreement (MOA), which outlines agreed-upon measures that the agency will take to avoid, minimize, or mitigate the adverse effects. In some cases, the consulting parties may agree that no such measures are possible, but that the adverse effects must be accepted in the public interest.

Implementation

If an MOA is executed, the agency proceeds with its undertaking under the terms of the MOA.

Failure to resolve adverse effects

If consultation proves unproductive, the agency or the SHPO/THPO*, or ACHP itself, may terminate consultation. If a SHPO terminates consultation, the agency and ACHP may conclude an MOA without SHPO involvement. However, if a THPO* terminates consultation and the undertaking is on or affecting historic properties on tribal lands, ACHP must provide its comments. The agency must submit appropriate documentation to ACHP and request ACHP's written comments. The agency head must take into account ACHP's written comments in deciding how to proceed.

Indian Tribes and Native Hawaiian Organizations

The regulations also place major emphasis on consultation with Indian tribes and Native Hawaiian organizations, in keeping with the 1992 amendments to NHPA. Consultation with an Indian tribe must respect tribal sovereignty and the government-to-government relationship between the Federal Government and Indian tribes. Even if an Indian tribe has not been certified by NPS to have a [Tribal Historic Preservation Officer](#) who can act for the SHPO on its lands, it must be consulted about undertakings on or affecting its lands on the same basis and in addition to the SHPO.

The Public

Public involvement is a key ingredient in successful Section 106 consultation, and the views of the public should be solicited and considered throughout the process.

*** The regulations define the term "THPO" as those tribes that have assumed SHPO responsibilities on their tribal lands and have been certified pursuant to Section 101(d) (2) of the NHPA. Nevertheless, remember that tribes that have not been so certified have the same consultation and concurrence rights as THPOs when the undertaking takes place, or affects historic properties, on their tribal lands. The practical difference is that during such undertakings, THPOs would be consulted *in lieu of* the SHPO, while non-certified tribes would be consulted *in addition to* the SHPO.**

Updated April 18, 2013

[Return to Top](#)