Hello everyone and welcome to the webinar opportunities for development and protection. We are going to wait just one to two more minutes to allow some final attendees to join us on the webinar and we will begin in that short time, thank you.

Hello again everyone and welcome to today's installment in the Understanding HUD Environmental Reviews webinar series, sponsored by HUD's Office of Community Planning and Development, or CPD. My name is John McGah, I work for the National Center on Family Homelessness and I will be the moderator for today's webinar. On behalf of CPD and the Office of Environment and Energy, I would like to thank you all for joining us today.

Today's webinar is Historic Preservation and HUD: Opportunities for Development and Protection. Now before we begin I would like to make a few logistical announcements. Today's webinar will last approximately 90 minutes and the webinar is being recorded. You can access a PDF of the slides in handout format through the first link on the web links box at the top of your screen, in case you want to follow along by taking notes next to the slides. The recording and the PowerPoint presentation in full slide format will be posted on HUD's CPD Environment page. You can check the training website also listed in the web links box for updates to this webinar series and for in-person training opportunities. The full series and accompanying materials should be available online by November.

As an attendee of this webinar your microphone will be automatically muted. Please listen to the presentation through your phone for best results. The call-in information has been sent to you and it has also listed in your meeting room screen under Audio Instructions. Another option is to use your computer speakers, this means that you will need to turn on and turn up the speakers on your computer. Now due to the large number of attendees there may be a slight delay in the advancement of the slides. If you experience any other technical difficulties please let us know by using the question and answer box on your screen. You can also submit content related questions using that same box. Feel free to submit questions at any point during the webinar; however, we will wait until the end of the webinar to answer as many content related questions as time allows.

Immediately following the webinar you will be directed to a follow-up survey. Participants are strongly encouraged to respond to the evaluation to improve future webinars, and we greatly appreciate your participation in those. Today's webinar will feature Nancy Boone as the presenter. Nancy is the Federal Preservation Officer for the U.S. Department of Housing and Urban Development. Before coming to that position a year ago, she was Deputy State Historic Preservation Officer for the state of Vermont. And now I would like to pass this over to Nancy to begin the presentation. Nancy.

Thank you very much John, I appreciate it. I'm so glad that so many people were able to join us today. And I'm hoping that we can switch to the next slide.

There we go. We only have an hour to cover a lot of material but there are many links embedded in the presentation and the handout that you can use later to delve deeper into topics that might interest you. We will cover today preservation principles, some tools for development and protection including section 106, and we will see some examples of HUD assisted projects.

I am having trouble advancing slides, my technical folks. Here we go.

Thank you. I would like to start with looking back at HUD’s mission and while the federal government has been providing affordable housing since the 1930s, HUD was created in 1965, and we really have a broad and very important mission which today includes not only housing but support for the broader communities where people live as well, and many of you are local partners in this effort. And you know and probably have used HUD's many programs to support your projects to create or rehabilitate affordable housing, and enhance and revitalize communities.

But what is historic preservation? Let's look into that in more detail. Basically it is preserving the living legacy of previous generations, their achievements, their hopes and aspirations. It's preserving a sense of place, unique places that help people feel rooted and grounded as opposed to the disorienting sense of
any place or no place that anonymous development can sometimes bring. It is about using buildings; in a few instances buildings are set aside for museums or study but overall we are talking about keeping buildings in active use. And preservation is also about protecting irreplaceable resources, for instance archaeological sites that can tell the stories of how people lived for thousands of years before the written word.

In 1966 in response to an increasing loss of historic buildings and places especially through urban renewal and construction of interstate highways, Congress passed the National Historic Preservation Act. The Act begins by laying out some general principles and they are worth taking a look at here. The first one, “the spirit and direction of the nation are founded upon and reflected in its historic heritage” that covers things such as the importance of civil participation in government as shown in the Old Post Office building in the upper right. Shows the --- includes the central importance of religious communities in rural life as exemplified by the church on the lower left and the many neighborhoods of ethnic enclaves as immigrants moved to and through them in pursuit of the American dream.

The Act also states the historical and cultural foundations of the nation should be preserved as a living part of our community life and development in order to give a sense of orientation to the American people. This includes preserving traditional cultural places like ceremonial places pictured here that may still be used by Indian tribes or Native Hawaiians all the way over to hometown downtowns. And finally the Act states that the preservation of this irreplaceable heritage is in the public interest so that its vital legacy of cultural educational, aesthetic, inspirational, economic, and energy benefits will be maintained and enriched for future generations of Americans.

In the lower left here you see some eighth graders who are practicing their graduation ceremony in a New England meeting house, and they are sitting on the same stage where their parents and grandparents and even great grandparents graduated. The legacy of the past has value in the present and informing the future and it’s a public value. So preservation encompasses a broad range of activities. Preservation is community development, enhancing or recovering neighborhoods, downtowns and village centers whether revitalization of an entire district like Pike Place Market in Seattle which is also a successful tourist destination. Or the opening of a new restaurant and gathering place that draws people downtown. Or neighborhood residents getting together as shown here on the bottom to create a cooperative community garden center, because they all garden and they didn’t want to keep driving out to the suburbs to buy plants and supplies.

Preservation is affordable housing and the creation of housing in historic buildings. Historic buildings represent an opportunity to create housing across the income spectrum but especially in walkable transit-oriented city neighborhoods, multi-family rentals in large houses in Victorian-era neighborhoods, modest single family and duplex owner-occupied homes, and non-residential buildings repurposed for housing like the senior housing pictured in the lower right here.

Across the country in towns large and small merchants, government officials, preservationist and civic leaders are working together to enhance main streets as centers of economic activity, local pride and unique historic character. Preservation is main street revitalization. The National Main Street Center, part of the National Trust for Historic Preservation, provides inspiration and training to a network of local partners and the program link is shown here on the screen. One way that preservation is economic development is through heritage tourism. More than 800 communities have become Preserve America communities, inviting heritage tourism and its economic benefits to their towns and cities. About 80% of leisure travelers in recent years have planned their itineraries to include visits to historic places, not just museums but also historic neighborhoods, downtowns, and rural landscapes.

And as shown on the right residential rehabilitation creates 50% more jobs than new construction. That’s because preservation is labor intensive. It creates jobs, well paying, satisfying local jobs. And historic building rehabilitation keeps more of those dollars generated circulating in the local economy.

Preservation is sustainability. On the macro level and on the micro level, preservation advances sustainability. The National Trust for Historic Preservation recently completed the study that you see on
the left and found that building reuse typically offers greater environmental savings than demolition and new construction. The study shows that it can take between 10 and 80 years for a new energy efficient building to offset the negative impacts of its construction through more efficient operations. On the right you see an image in the 1980s the National Trust created this image of a gas can building to illustrate the concept of embodied energy and this is the time of the oil crisis. And the embodied energy represents the energy that it took to manufacture and transport materials and assemble them to create the building, so to demolish that building simply wastes that embodied energy. And as they say the greenest building is the one already built.

Historic buildings often incorporate sustainable designed features before there was electricity, for instance, prismatic glass transcends were used to direct daylight deep into storefront buildings as shown here on the upper left. And historic row houses in city neighborhoods economize the materials and heating demands while putting workers within walking distance of jobs and services. A sustainable principle is still very much a prize today. The National Park Service has issued guidance on sustainability for historic buildings and it starts with recognizing and reusing the historic sustainable features in a building and then recommends how to upgrade the energy performance of historic building stock. You can look at this in detail on the website which is posted through a link here.

Windows is an area in historic buildings that often generates discussion, discussion about whether to repair or replace. Certainly everyone wants energy efficient windows, and many people just assume that, that only means new windows, but historic windows can be made as efficient as new ones often at less cost than a new window of comparable quality. And a number of studies have shown how. We invite you to visit the link shown here to see them.

Preservation is also an opportunity to integrate new renewable energy sources into a project. When the porch on this building was built to replace a missing one, photovoltaic panels were incorporated into the entrance roof. The building serves as the Thoreau Center for Sustainability at the former Presidio Military Instillation in San Francisco. Adaptive use, adaptive reuse is a common theme in preservation. Taking buildings that have outlived their original purpose and giving them a new purpose. Remember again that the idea is to keep buildings in use. So here are a few examples one, a very creative one to start on the top an airplane hangar that was reused as a trampoline center and recreation center, on the lower left a downtown commercial building that became a children’s museum and on the right the upper floor of a historic carriage barn that became a state-of-the-art computer center at a college.

What is historic? I would like to focus primarily on the National Register of Historic Places, which was authorized by the National Historic Preservation Act of 1966, and the National Register is the official list of properties worthy of preservation and it is the threshold for regulatory review under Section 106 and we will talk about that in more detail in a few minutes. So how does a building or site qualify for the National Register? Well age is one factor, a building generally has to be over 50 years old, so that can incorporate something like the old settlers cabin on the top right, or something very, very old, like the site on the lower left, or even something that is not so old, on the lower right you see Hilliard Towers constructed in 1966. And there are exceptions to the 50 year rule; things can qualify for the National Register when they are less than 50 years old, if they are exceptional properties.

A property must meet at least one of the four National Register criteria which are summarized here, historic significance, association with and important person, architectural significance, or the ability to yield important information. And even though it’s called the National Register of Historic Places, properties that are significant at the local and state level are also eligible. I would like to take a closer look at each of the criteria.

First historic significance, historic significance covers events, here we see Lincoln on the Civil War battlefield on the lower left. It includes broader patterns of history represented here by the Tenement Museum on the Lower Eastside in New York which represents the ubiquitous tenements of the late 19th and early 20th centuries that housed succeeding waves of immigrants to this country and where their story is interpreted. It can also include traditional cultural properties, like Big Horn Medicine Wheel shown
here, historic properties of religious and cultural significance to Indian tribes and Native Hawaiian organizations.

Properties can also qualify for the National Register by association with an important person, and on the left we all recognize Elvis, well the 1938 public housing development where Elvis lived is on the National Register, you see the furnished apartment which actually you can rent on a nightly basis if you are so inclined. One of the cliché’s you hear about historic designation is that it is not historic unless George Washington slept there. Well while Mount Vernon may meet that standard, there are hundreds of thousands of buildings on or eligible for the National Register that have nothing to do with George Washington. The National Register is meant to reflect the broad spectrum of American experience.

Criterion C has to do with architectural significance, and here architectural significance also spans a full range from high style to vernacular. On the left you see Frank Lloyd Wright's falling water, and on the right also eligible the Houston Housing Authority building. Both of them share distinctive design characteristics of the period, cantilevered form, flat roofs and continuous band of windows that turn a corner. And here is a good place to point out that the National Register is not simply a beauty contest, it's all about significance.

Criterion D is the ability to yield important information, and this often applies to archeological resources, although it's not limited to archeological resources. But it treats the features and artifacts that may convey the stories of past occupation, past life.

A third component of National Register eligibility is something called integrity, and as you see on the screen here there are different aspects to integrity but basically it has to do with how well a property still conveys its historic significance and appearance. Some change is acceptable but would a person who occupied and used the property historically still recognize it today? Sometimes change is dramatic and absolute, and other times it is incremental and if you look along the gradient of architectural change illustrated here, when does the building reach a point where it has lost its historic character as you proceed from a fully architecturally detailed original structure on the left that slowly loses its components over time; a porch, a door, brackets, siding, windows. If a building has lost its integrity it’s no longer eligible for the National Register.

Most buildings listed on the National Register are part of historic districts, where parts may lack individual distinction but taken together they form a greater whole. And these are often the way that neighborhoods, downtowns and other areas are listed on the National Register rather than nominating them one by one. Within a historic district there are two classifications of properties; contributing, those that contribute to the historic character of the area; and non-contributing. And non-contributing buildings are ones which are too young, they are not 50 years old, or they lack integrity they are older but they've lost their historic features over time. And non-contributing buildings in the district are not considered historic.

I wanted to note one particularly helpful tool for assessing National Register eligibility, something called historic context or multiple property documentation. Basically these are researched documents that look at a given subject by theme, geographic area and time period, and then provide an in-depth analysis of the history and significance of that type of resources and that time period in place, and go on to lay out what the requirements are for resources of that type to qualify for the National Register. The example that you see shown here on the left is a draft context on public housing which may be of particular interest to some of you, it's available online at the link shown. And in your particular geographic region there may be ones also on schools or housing types or government buildings or churches or simply an area or neighborhood itself. And if you have many projects in a given area where there is not an existing National Register Historic District or any listings, you might consider developing a historic context as an effective planning tool to help identify historic properties.

You can find information about historic buildings in a number of places. The National Register data base which is shown here in the link at the top of the screen, allows you to search by place, by type of resource, by multiple property. For historic districts the data base lists streets within it and not individual addresses, so it's more like an index but the National Register Office is currently scanning and posting full
nominations, so that you can then be able to go online and read more detail about individual buildings. The State Historic Preservation Offices, I hope many of you already know and work with SHPOs, every state and territory has one. The SHPO offices process National Register nominations and keep copies on file and these nomination documents describe the significance and history and physical qualities of properties, along with pictures and maps, so they are great basic information that you need to collect if you are working on a building that is historic. Some SHPO offices have data bases online and here is a link that shows those, and below it a more general link where you can find information about state historic preservation offices.

Besides National Register information they have state registers, and inventories with information on additional buildings, buildings that may be eligible and may qualify for the National Register. They have extensive expertise in evaluating properties for the National Register, facilitating tax credit projects and much, much more. Sometimes they even have grant programs.

People often ask about the effects of National Register designation. Are there restrictions that come with designation? I would have to say that the biggest benefit of designation on the National Register of Historic Places is pride and recognition of the historic quality of a building and this can have very tangible benefits, for instance if you are raising funds for a, to galvanize efforts for a restoration of a particular building. And certainly there is some protection associated with National Register designation; however, it’s not the designation itself that triggers a review of building changes, it’s the use of federal funds, permit, or license that triggers that review. Designation alone does not require review of what an owner does with their property, and we will talk some more about the federal review process when we get to the Section 106 section of this presentation.

The National Register designation may also qualify buildings for federal preservation grants, if there is funding, and there hasn’t been any general grant funding since 1980. And qualifies properties for federal and state preservation tax credits, and we will come back in more detail to that. And finally in areas that have coal resources National Register designation brings consideration in a decision to issue a surface mining permit for coal.

I wanted to just also mention another type of designation, local historic districts which are set up under local zoning. Some communities establish a local review process for evaluating and approving proposed changes to a historic building. A local review body judges appropriateness of changes based on locally adopted preservation criteria, and usually as depicted here there is some sort of public notice about hearings that are being held in regard to those projects. So it is a local public process. And in that case building review is not necessarily limited to the use of any government funds, it covers and entire area including private actions.

So just like there are national standards for determining what is historic, there are national standards for how to treat historic properties and the Secretary of the Interior standards for rehabilitation are the most commonly used and I wanted to take just a couple minutes to go over what is included in those standards. The Secretary’s standards allow for change to meet modern needs but they stress keeping historic features and materials in the process.

So here’s sort of an abridged view of the standards, there are ten of them in the original. And the standards begin with a preamble that says that these principles, these standards should be applied taking into account technical and economic feasibility and that’s important to sort of keep in the back of your mind as you are working with the standards. They apply to the exterior of buildings and they apply to significant interior features. But basically the standards convey that you want to find a compatible use for a property if you are changing its use. You want to retain historic materials and features and if you can’t repair them and keep them then its desirable to replace them in kind. So as you look at the image on the lower right you see that the decorative trim along the base of the porch, some of it had rotted beyond repair, so the owner simply ordered replacement pieces made by a local craftsperson and they were inserted here and they show up as the unpainted boards underneath the porch.
The standards also direct that archeological resources be protected in projects that are being reviewed under the standards, and it's okay to add additions to historic buildings. The Secretary Standards for rehabilitation say that if you are adding additions they should be compatible, they should be reversible, they should not destroy the historic features of the building in the process. I wanted to point out something that is sometimes misunderstood; the Secretary Standards for rehabilitation do not require you to replace a missing feature if it is not there. You are not required, you may choose to, but you are not required to replace missing features.

The National Park Service has extensive guidance on the Standards, I encourage you to take a look at this link if you are not familiar with them, it gives excellent advice on how to apply the Standards. And they also publish a series called “Preservation Briefs” which gives information by topic, so that there is a preservation brief, for instance, on energy conservation, one on stained glass, on HVAC, on roofing, etcetera.

I mentioned that one of the benefits of National Register listing is qualification for tax credits, some of you may have already used the 20% federal historic tax credit in a building rehab project. Here lays out very simply the qualifications for that credit, in order to qualify for the credit a building needs to be listed on the National Register of Historic Places, it needs to be income producing, which includes rental rehabilitation properties, commercial properties, retail, et cetera. And it needs to be a substantial rehabilitation, and the IRS which administers the tax credit program from the tax end has set out a formula for determining what is a substantial rehabilitation. And the substantial rehabilitation test is that the rehab investment in the project needs to exceed the adjusted basis of the building, and the adjusted basis of the building is shown in the little calculation here, if you take the purchase price, the purchase price whether you bought it in 1980 or 1920 or 1999, whenever you bought it what was the purchase price, minus the value of the land, minus depreciation you have taken over the years, plus the value of capital improvements you have made over the years, that formula will yield a unique adjusted basis for your situation and your building and the rehab investment needs to exceed that amount or a minimum of $5,000 if you want to qualify for the historic tax credit.

Any work done that wants to claim the tax credit must meet the Secretary of Interior Standards for Rehabilitation. And again the National Park Service has excellent guidance available online here. Up above you see a modern structure from 1966 Hilliard Towers in Chicago, a little bit less than 60 years old, but it recently underwent a project and qualified for the tax credit. One of the things you will find on the National Park Service website is information on combining the 20% historic tax credit with the low income credit. And if you are developing housing with a private partner, this combination of credits can help finance a substantial portion of a project. Statistics show typically 25% and more projects use both credits, the historic credit and the low-income credit and in some years the percentage is as high as 40%. I should note that many states also have state tax credits which you can find out about through the State Historic Preservation Offices and sometimes those projects will stand alone, sometimes they piggy back on the federal credit.

Another financial tool is easement donations. Preservation easements provide legal restrictions to protect a historic property from changes that might harm the historic character, and you can have preservation easements that occur, that treat the exterior of a building, the interior and even in some instances on historically important land. The easement is held by a qualified organization which often charges a stewardship fee so that they have an endowment that allows them to staff future monitoring of the building. And the financial incentive involved here is that an owner after donating an easement may claim the value of that easement as a tax deduction, and the value of the easement is typically the difference between the value of the property before and after the easement donation.

And as some of you may be aware, the IRS recently issued additional guidance on that and now say that they are really looking at the value affected by the level of new restriction imposed by an easement. So if a property exists in an area, for instance a local historic district where there’s already a lot of restriction about what can be done to that building, the value of the easement incrementally might not be that great. Again the National Park Service has great information available online and you can access that by the link below.
So, if you use federal funds in a local project and I imagine many of you have, you are surely familiar with section 106 and I would like to go through the basics of section 106 right now. Section 106 of the National Historic Preservation Act, set out to protect historic properties from adverse effects from federal activities. It is a – there have been implementing regulations that detail the process and those regulations 36 CFR Part 800, are incorporated by reference in HUD regulations in the environmental regulations for Part 50 and Part 58. Basically there are four steps in the Section 106 review process although in practice sometimes the steps merge. It’s a collaborative process where parties share information on each step and we’ll go into each of those steps in detail.

I wanted to refer you to some general guidance that’s available on our website at the ATEC website that stands for Assessment Tools for Environmental Compliance. And the ATEC website is where the Community Planning and Development office lodges all of its guidance on environmental reviews covering a wide range of areas, even beyond historic preservation. So if you haven’t already bookmarked this and you are working with HUD funds at the local level, we certainly encourage you to come here often.

The agency official manages the Section 106 process for the federal agency and as you know under Part 58, that means Responsible Entities, and in this case the agency official is the certifying official for Responsible Entities. If it’s a part 50 program it is the HUD approving official who bears the responsibility for ensuring compliance of Section 106 before the project is approved. The agency official is the final decision making party, with a few exceptions. And a note here that because of the specialized nature of the historic preservation aspect of environmental review it’s certainly recommended that Responsible Entities and HUD officials engage cultural resource professionals as needed. SHPO offices may provide names of such people in your area.

So you start out by initiating consultation, taking stock of the project, identifying who is going to be participating in the consultation. That list of consulting parties may be long, here’s a list of possibilities, certainly the Agency Official, the applicant for the project, the state historic preservation officer, federally recognized Indian tribes and Native Hawaiian organizations and those groups are involved for projects that may have an effect on lands where they currently reside and also on ancestral lands which may be in an entirely different place in the country. Tribal Historic Preservation Officers, local governments, other organizations who demonstrated interest, the general public and the Advisory Council on Historic Preservation. The Council oversees the process at the federal level and provides guidance for consulting parties and sometimes participates directly in a consultation itself.

Consultation is a process, it is not an event, it involves talking to people often more than once, and the expectation is for a good faith effort. We talked about needing to involve tribes and I just wanted to point out the Tribal Directory Assessment Tool, known as TDAT, you see the link here, it is an online data base that allows you to identify contact names and information, addresses, phone numbers, e-mails for tribal leaders and tribal historic preservation officers, and Native Hawaiian organizations. A very quick demonstration of how that works. You access the landing page on the web, you can enter information on the address of your project, and it will return to you the list of tribes that may have an interest in that county. All of the information is taken down to the county level. You can click on a map and get information statewide about what tribes have an interest in your state, and you can narrow that down by county if you like. And the same goes for clicking on a state name here on the list at the bottom, or you can look at contact information by selecting the name of the tribe directly.

Also on this page you will see links to a new notice on the process for tribal consultation in Part 58 projects and if you are an RE and you haven’t seen that yet please do take a look, it gives detail guidance on how to involve tribes in a Section 106 review. And there is also links to information on when to do archeological investigations or surveys in HUD projects.

It is the Agency Official’s job to define the area of potential effect and then look at what properties exist within that APE and identify and evaluate whether they are eligible for the National Register. You see a picture of a map here and it has two lines on it, the purple line showing the boundaries of the physical
impacts, the direct impacts in a project, but it also includes a larger green boundary area and that includes an area of indirect effect, in this case there was going to be a lot of new construction occurring within the purple line but there was a concern for the indirect effect of construction traffic on adjacent historic districts, so the area of potential effect was drawn larger than just the project property itself.

You may gather information on historic properties from the sources mentioned earlier. You perhaps engage a cultural resource professional and then it's necessary to evaluate historic significance of any potential buildings by --- evaluate historic significance by applying the National Register criteria. A couple things to note here, as I said earlier. National Register eligibility or listing is the threshold for further consideration under Section 106. If it is not eligible for the National Register, it is not considered historic under Section 106. And also very importantly for historic properties that may have religious and cultural significance to tribes or Native Hawaiian groups it's acknowledged that those tribes and Native Hawaiian organizations have special expertise in the process of evaluating historic properties for the National Register and they should be consulted.

Next if you have historic properties then the idea is to assess adverse effects. There are criteria of adverse effect that you apply to properties within the APE and let's take a look at a couple of examples of adverse effects. One very obvious one is the damage, destruction or removal of historic properties, those are direct impacts, direct effects. There may be more indirect kinds of effects as well, as there could be a change in the character of use of a setting and this may be particularly applicable to traditional cultural places. Or there may be a change of use that results in physical changes that don't meet the standards, so here on the lower right you see a one-room school house which the town turned into their local fire station at one point in the past, obviously an incompatible use that would not meet the standards and changes that have obliterated the original historic features of the front of the building.

An adverse effect can also be the removal of historic properties from their original location, or the introduction of visual, audible or atmospheric elements that might interfere with historic properties. Here is a mock up, a computer mockup of a wind tower planned for Nantucket Sound which had been identified as a traditional cultural place by a local tribe. The goal is to avoid adverse effects and make a finding of No Historic Properties Affected, which means no historic properties are there or they are not affected. Or No Adverse Effect which means that the project will have an effect but it is not adverse. However, if you have an adverse effect that remains, then consultation considers to – continues to resolve those adverse effects. If there is an adverse effect you have to notify the advisory council and invite their participation providing them with enough background information about the project, that they can understand the issues and the council will respond within 15 days to say whether they are going to participate, and they rely on criteria for participation that are outlined in 36 CFR Part 800 Appendix A. They include things like, issues – the project contains issues that are important to tribes or there may be substantial impacts on important properties or a project may raise questions, important questions about policy interpretation or procedure.

So you continue to consult with the parties to try to first avoid, and if it can't be avoided to minimize adverse effects or mitigate adverse effects. You look at alternatives, you look at how something might be done to balance off unavoidable adverse effects and if you come to agreement through the consultation process there's a Memorandum of Agreement that is signed for HUD projects that Memorandum of Agreement must be executed prior to the decision point for a project, something very important to remember.

Of particular interest in HUD-assisted projects is the Advisory Council on Historic Preservation's policy statement on affordable housing and historic preservation. It includes things like direction to focus on building exteriors in historic districts and not spend too much effort on reviewing interiors. It talks about adhering to the standards where possible and practical, and sometimes neighborhoods where you are working involve challenges beyond the routine that make standard routine responses impractical. Archeological investigations should be avoided, it says, unless – should be avoided for projects involving only rehab or minimal ground disturbance. And overall reviews of affordable housing projects should focus on preservation goals of the community, the broad preservation goals. The policy statement also encourages streamlining through tools like design guidelines where there can be agreement about a
series of locally developed design guidelines that will apply to project reviews in a given area. If there remain adverse effects you can set up measures to offset or compensate for those adverse effects. Mitigation measures may relate to these particular property where the adverse effect is occurring, or to other historic properties in a similar location or of a similar type, and here is just a very quick and incomplete list of some types of mitigation measures that have been used in the past and creativity is certainly encouraged as well as input from consulting parties.

Section 106 provides for streamlining procedures and programmatic agreements, these are agreements that can cover a whole group of projects all at once with a streamlined process they can apply at a city, state or national level, they often include exempt activities that lay out activities that are so unlikely to have an adverse effect that they simply don’t need to be reviewed at all. Some programmatic agreements also contain delegation of review authority, so in that case a qualified professional is authorized to sign off for the state historic preservation officer, of course, with their consent in the original programmatic.

Even with good planning and consultation you may have unanticipated discoveries, so it’s good to plan for that. If historic properties are discovered during construction after you have finished your section 106 process, it’s important to stop, notify the consulting parties right away and re-enter consultation. If discovery includes human remains, special care is needed to respectfully cover over and secure the remains and notify the same parties listed above plus local law enforcement officials. If burials are found, you need to follow the Advisory Council on Historic Preservation’s policy statement regarding treatment of burial sites, human remains and funerary objects and the priority in that policy is to avoid disturbance of burials and build elsewhere on the site.

Many of you are familiar with the Request for Release of Runds form, form 7015.15. And I wanted to, if you haven’t already seen it point out a recent change on the second page of the form, responsible entities are now required to certify compliance with section 106 and consultation with State Historic Preservation officers, tribes and the public. There has always been a general certification that you’ve complied with environmental regulations, now that remains but there is also one that specifically sites section 106 and consultation. And that ties consultation directly to the approval of release of funds.

So I want to spend the last few minutes of the presentation looking at programs and projects that you as local and state governments and authorities and non-profit organizations may be familiar with, certainly they are similar to the many projects that you identify, plan and develop. The Community Development Block Grant program is perhaps one of the best known and certainly one of the most relevant for historic preservation projects because it includes a very wide array of possibilities for funding, building rehabilitation, planning, feasibility studies, surveys of historic properties, nominations to the National Register, that kind of thing, there is a wonderful book that was put together a few years ago, and you see a picture of the cover here that lists in great detail all the creative possibilities, to which you can put CDBG funds in pursuit of preservation at the local level. I encourage you to take a look at that.

Here is one example, from Casper, Wyoming, you see building B on the Life Steps campus, in a most recent grant of CDBG funds, the owners will install windows of historic design to enhance the historic character of the building, the original windows had been lost, the architect through some research was able to find a compatible off-the-shelf product that matched the original historic windows, and those are being reinstalled in the project now. The building is part of a campus that hosts transitional housing for the homeless, a residential substance abuse center, and a health care clinic for the homeless.

The Neighborhood Stabilization Program, as you know, treats foreclosed and abandoned homes in a variety of approaches. Communities can use their NSP funds to demolish buildings, to land bank them, to purchase them, to redevelop them, to rehabilitate them, the choices are local and so here is an opportunity to point a program in the direction of preservation, in the direction of rehabilitation and although the program is ending there is still a lot of program income that can continue funding more of these eligible types of projects.
Here’s one example of a current project, this is a former Sears building in Pontiac, Michigan it was built in 1929 in a key downtown location, and it is being converted into 46 loft apartments. On the first floor it will have the city’s first fitness center and a fresh food market, as well as 31 indoor parking spaces. Here is an example of strategic public investment that helps for further private investment in the surrounding area, and of special note here the project is aiming for LEED platinum design status and will incorporate geothermal heating and cooling and rooftop solar panels.

Another project, the Genesee County Land Bank received $26 million to stabilize targeted neighborhoods in Flint, and in 2008 a Native American burial was discovered in the area that they are covering. The land bank consulted with the State Historic Preservation office, federally and state recognized tribes, city officials and the public, to develop a plan to monitor their work which includes ground disturbing type activities, to monitor for future burials, and to have a plan in place if burials are discovered, or how they should be treated. So they defined where the archeological sensitivity existed in relation to the neighborhoods that they were working with, and have an archeological consultant on board when ground disturbing activities take place, they give prior notice to Indian tribes and they have a very detailed plan on how newly discovered burials will be treated. To date in their implementation of this plan they have not discovered any additional burials.

Public housing funds, here is a project, the Lafitte housing project build in 1941 that was heavily damaged by hurricane Katrina. The neighborhood has been mostly rebuilt with new structures, but a couple of the structures, the Lafitte community center was saved and rehabilitated for new community use, daycare and Head Start center for the complex.

Here is an example of a modern, also historic structure, undergoing some rehabilitation with HUD refinancing. A vestibule was proposed for the – a new vestibule was proposed for the front of the building which included demolition of the original breezeway, shown here on the left, what the original proposal was. Some of the consulting parties objected that there would be harm to the historic character of the building. they held a design charette and were able to come up with a new design concept, which incorporated the breezeway into a new compatible vestibule. So keeping the old by adding on in a compatible way, this project went from being an Adverse Effect under Section 106 to a No Adverse Effect through the section 106 consultation process.

The Office of Healthy Homes and Lead Hazard Control has just issued some revised guidelines on lead-based paint hazard to guide evaluation and control in all federally assisted housing. It distinguishes between control and full abatement, or removal of lead-based paint. It emphasizes removing the hazard and notes the mere presence of lead paint on a building component does not constitute a hazard. As you know, where the paint is chipping and peeling or brading on surface – on friction surfaces it may be available to be ingested and it is a hazard in that case and you need to address that hazard.

Here is an example of two grantees from the Hope VI Main Street Grant Program. It is a very small program with a rather large mission to provide affordable housing in Historic Main Street areas and there was a single grantee in each of the past two years. On the left you see a project in Kansas in which the upper floor of the old opera house and commercial building next door are being converted into 12 units of affordable housing. They are seeking funds currently to rehab the first floor for commercial and retail space but the Main Street grant program is paying for housing on the upper floor. On the right the historic Kineen Hotel in Maysville, South Carolina built in 1911 was once the focal point of the downtown area, and it will now be rehabilitated to include eight affordable housing units, and it will be a focal point of the downtown area again.

Under the Sustainable Communities Regional Planning grant program the Thunder Valley Community Development Corporation in Oglala Lakota Nation are developing the first regional plan that will address housing and economic development needs for the Pine Ridge Reservation in South Dakota. And besides all of the areas that you would expect to find in a regional plan like housing and transportation and land use and environment and public facilities, et cetera, this plan will also include a section on cultural and spirituality.
And finally a quick example of before and after of a rehabilitation for affordable housing in Goshen, Indiana, where the historic appearance of the original building has been greatly enhanced through the rehabilitation.

Again to wrap up I want to direct to you back to the HUD ATEC website for tons of information on the things that we’ve talked about today and the relevant pieces on the other environmental review areas that occur in HUD projects and we hope to be adding some information on best practices in the website – on the website sometime soon to encourage and inspire similar activities. As with any environmental review of a HUD project we encourage you to look to your local HUD environmental officers at the regional and field office level for assistance in the reviews that you’re undertaking and you can find your local HUD environmental officer by clicking on that link at the top. My contact information is listed below and I would just like to end by saying thank you for your attention and if you are already involved with projects that use and preserve historic buildings and places congratulations that’s great. And if you have not incorporated historic buildings into your projects yet, I hope that you may think about it, the next time you are conceptualizing a project to provide affordable housing, or to bolts our economic development in your community.

And now we will take some of your questions, so I hand the mic back to you John.

Great thank you Nancy, that was great. Yes as Nancy said we will be taking some questions and as a reminder you can submit questions by using the Q&A box on your left, left side of your screen. Jim Potter from HUD’s Office of Environment and Energy will be reading the questions. Jim?

Thank you, John. Nancy we have got several questions, and I wanted to remind our participants that you can still send us questions; we are looking forward to hearing from you. And using this time to resolve or clarify whatever you found there about the presentation. We have several questions. I want to start off with a very interesting one. What if you have a structure that is important because of how it changed form over time? For example a government administrative center that becomes a church, then a residential school, then a retirement center, then condominiums.

Yeah and with those changes there may have been physical changes along the way so that the building no longer looks like it did when it was first constructed, and there is a concept embedded in preservation theory that says that a building can evolve over time that those historic changes may become historic in their own right so that you can get a building that tells a story of many chapters and there can be features from each of those chapters which can be preserved and should be preserved now.

Thank you. Next question mentions special consideration for National Register properties when there’s review for a surface coal mining permit request. Is there any similar consideration when reviewing hydraulic fracturing permit applications?

Not that I am aware of, no. I think I could say stronger than that, no.

(Laughter) Thank you. Next question, can you give an example of a missing feature that might be replaced but doesn’t have to?

Well one good example that comes up fairly frequently is missing porches. And you will see people taking one of two routes, either trying to replicate the porch that was there, which may mean, you know, having turned porch posts and brackets, that kind of thing, or doing something that is simple and compatible. Sometimes people will use the reintroduction of a missing porch, for instance, to include a ramp that provides handicap access by sloping the floor, you know, behind the wall of the porch.

There’s a question that relates to the slide you had on calculating historic tax credit, the equation for calculating the adjusted basis for a historic tax credit includes a line for depreciation. What if the property appreciates in value?
Well this, the depreciation refers to the depreciation that you have taken on your tax returns, so the value of the property, I think may be what the questioners getting at. There, you know, it may have appreciated in value, but what matters here is the depreciation that you have claimed on tax returns.

Next question, can you nominate a property to the National Register at the same time as you are applying for a historic tax credit?

Yes you can, and the tax credit application process involves a part one application, where you can lay out the reasoning, the description of the building, the history of the building that would qualify it for the National Register, even before it’s been listed on the National Register and you can get sort of a preliminary approval that the building is eligible for the National Register and then it is up to you as the owner to make sure that you follow through and actually get it listed on the National Register within a certain period of time. But the timeframe is quite generous; I think it is up to 30 months.

Thank you, that is helpful. Next question, are entities that qualify for historic preservation – or historic preservation register, I guess that’s the National Register, are they required to maintain historic integrity for a certain period of time once they receive the funding or the tax deduction?

In the case of a tax credit, there is a five-year recapture period. So if someone sells the property or does something that dramatically, you know, violates the standards, there is a possibility for recapture of a certain percentage of the tax credit depending on how long they held the property. And that goes through the – for five years following the claiming of the tax credit.

Thank you. Next question, under section 106, mitigation and minimization are often used interchangeably; however they are quite different approaches. Can you speak a bit about the differences, and give examples of what each approach entails?

Sure, minimization is really tweaking the design, revising the design, by either leaving more of a historic building in place, so you had an adverse effect for a property, for a building, a historic building where you said oh we are going to tear off the back wing. And so to minimize that adverse effect you consult about how necessary that might be. I mean, can the project accommodate or incorporate that wing in the final design to serve the program needs of the project. If – maybe there is some middle ground where the exterior could be preserved but the interior needs to be changed to the extent that it would still be an adverse effect. So you work with the proposed design under a minimization to see how it might be revised, changed a little bit to decrease the level of adverse effect, to minimize that level of adverse effect.

Whereas mitigation, and the questioner is absolutely right, it’s not the same thing, mitigation are activities that might be undertaken to offset or compensate for adverse effects so they are things beyond what you have done to minimize the adverse effect that somehow try to balance out the fact that you are having that adverse effect. So it might be something where you decide to create an interpretive display about the history of the building to help people understand its value and importance and that helps balance off the fact that you are losing a little bit of that building in the rear wing, that kind of thing. So mitigation can involve education and interpretation kinds of efforts, it can involve a variety of really creative kinds of things, it can involve open houses at a building, it can include contributions to the preservation of other buildings of a similar kind or type since there has to be an adverse effect on the building in your project. Is there something that you can do to help buildings of a similar kind or in a similar location?

Great, thank you. Next question, I am working in two historic districts, is there a way that I can encompass the entire project into one environmental review? How would I go about doing this since I have multiple properties that could be nominated for the National Historic Register?

Hmm, I’m trying to completely understand what they mean by in two historic districts? Umm, you know, in terms of the National Register if a building is listed on the National Register by virtue of inclusion within a historic district, it is historic, it is listed on the National Register and you look at it under Section 106. If –
I’m wondering whether they mean it is listed on the Nation Register and the National Register District and then a local district. I don’t know if we have any---

At the risk of putting words in the questioner’s mouth, I mean, I encourage the participant that asked this question to follow up with a little more detail clarifying information. But, let me take a stab at what I think it says. Let’s say you had a streetscape project where you were enhancing a roadway that crossed two different districts, something like that?

Well, the project is a single project and you look at the historic properties no matter what districts that they are in. So I’m not really sure. If the person asking the question means it’s a National Register district and a local district and how would you address that into a single review, I mean, if there is a local process, it is going to be, you know, a distinctly separate process. However, involving the people who are administering that process with the Section 106 process would make a great deal of sense so, that everybody ends up on the same page in what they are thinking should happen with the historic building in that project. And so many communities have local historic district commissions, and if you are doing a project that involves historic buildings in that local district I would want to be sure to invite that local historic district commission to be a consulting party in the 106 process, so that there is some liaison between the two processes.

Great, thank you. Next question, the new RROF form that includes a section for Section 106 verification, how do you complete, when you do not receive a response from that particular tribe?

Well if you take a look at the details in the notice on the process for tribal consultation in Part 58, projects, take a look at that because it addresses timeframes for response and lack of response and you can move forward providing that you follow the outline in the process, in the notice.

Great. Next question, I was under the impression that I had to consult with one tribe, but according to TDAT they and no other tribes, do not --- Let me start that again, I was under the impression that I had to consult with one tribe, but according to TDAT they do not have any interest in anything in my county, can I assume that TDAT is correct?

We want to be able to assume that TDAT is correct. Over the last year there was a big consultant project to contact all of the tribes and update information, not only their contact information but what counties they were interested in reviewing and I’m sure that it was not a perfect process, that there may be some things that are missing, we want very much to have new information, updated information pointed out to us so that we can incorporate it in TDAT, so that we can, with great confidence, rely on that. In this beginning interim period here, if the person asking the question knows that this tribe has always been interested in what they’ve done, but they don’t show up in TDAT, I’m wondering if we have a bit of missing information there, I think it would be worth a call to the tribe to find out.

Thank you. Next question, is there a “simple” way to determine the APE without consulting with the historic and/or cultural resource agency?

Well, you know, it’s up to the agency official to define that area of potential effect. So, you know, you get into the mindset of where is my project going to have physical effects? What are the limits of the physical effects of my project? And then beyond that is there a possibility that there could be indirect effects that would affect a larger area, in which case you would expand the APE to a larger boundary. So I think that oftentimes the project developer is in a very good place to make that initial determination of what the area of potential effect is.

Thank you. Next question, you mentioned that cultural archeological analysis is not required for shallow excavations. Can you discuss shallow?

I don’t remember say that, actually. Did I say that?

I don’t remember you saying it either, but that is the –
Yeah.

I wanted to pass that on.

But, I can address the idea, behind that question. Um, you know, in different parts of the country you may find archeological resources present at different depths of the ground, so in some areas you may find things virtually right next to the surface, in which case any excavation in that area has the potential to affect archeological resources. In other areas, the depth at which you would expect to find resources may be much deeper, or you may be in the floodplain where there has been, you know, centuries of flood deposits, conversely you may be in an area where there has been great erosion which has taken away some of those higher levels and gotten close to the deposits. So it varies so much that it really isn’t appropriate to set any sort of national standard for what depths of excavation has the potential to affect archeological resources.

That said, I think it’s a very appropriate for people at a more regional and local level to talk about whether there are any guiding principles like that. That could apply in their area, and you could, you know, agree among tribes and the State Historic Preservation Office, and the agency to treat projects of a certain, with a certain depth of ground disturbance in one way or another depending on, you know what you expected to find.

Thank you. Next question, many housing projects and their state involved neighborhoods that are not high style or obviously significant for their architecture. Can you provide some basic tips for agencies that may be starting the identification process as to what other sorts of things, cultural associations or community development that may make a property significant or eligible for the National Register?

Well I mentioned this tool of historic context, multiple property documentation, and basically here’s an instance where it might be very appropriate to look at – to observe and analyze and research a given neighborhood to find out what qualities it possesses that might qualify buildings for the National Register. So, for instance it may be very vernacular architecturally but there may be a standard pattern of vernacular housing that was used again and again in the district and that, that may have architectural significance that would qualify it for the National Register. There may be historical associations, an area may have been built or occupied by an immigrant group, an ethnic group and so the occupancy of buildings within a neighborhood may help illustrate those patterns of historical development under criterion A and qualify things for the National Register.

You know, when I talked a little bit about the idea of historic districts, it’s often the case that each individual component of a historic district is not some outstanding distinctive structure but taken together you can say, you know, here we have an entity that is a very good example of a ethnic neighborhood with very humble housing from the 1890s, whatever it is. And so I think that looking at researching and analyzing the neighborhood from a historical and architectural standpoint will give you some guidance on what could be eligible for the National Register and what could not. And, taking that a step further, if you are anticipating a number of projects on buildings in that area you might also want to think about the idea of doing some sort of local design guidelines about appropriate treatments for those simple historic buildings. What really matters about their physical features? And how can you preserve that while allowing the change that people are seeking to upgrade their housing? And, you know, you can set that within a regulatory framework so that it helps streamline the treatment end, the review end of building projects as well as the evaluation and at the beginning where you are looking at what’s eligible for the National Register.

Thank you. We have a 106 process question. State Historic Preservation officers have 30 days to respond, if we submit Section 106 consultation to the SHPO and receive a response requesting further information. Will there be additional 30 days after we submit the information?

Yes, that’s true. And so you want to be very careful that you are submitting adequate information to begin with. And there’s information on – about how to do that on the HUD ATEC website. Often State Historic
Preservation Offices will have some guidance of how to package information, what they need to look at. Some historic preservation offices hold seminars and little training sessions to help people know what to give them for their review. So the answer is yes, if you are asked for more information, it will extend the timeframe and so it is sort of a heads up to try to provide complete information the first time around to keep the project moving along.

Thank you. We have gotten a couple of questions on how to deal with conflicts among the various criteria. And this is a, I think, very good one. Is an ADA, Americans with Disabilities Act upgrade considered an adverse effect? If yes, are there any regulations regarding ADA upgrades in historic considerations?

ADA access is definitely, definitely not an adverse effect in and of itself. There are many way that accessibility can be successfully integrated into historic buildings. There’s been a lot of work done nationally on this, and a lot of examples that you can look to, so for instance I mentioned when I was talking about replacing missing porches, that sometimes people will slope the floor of that newly built porch so that it becomes an access ramp into the front of a building. Sometimes people will slope an access ramp down to a lower floor to get people into a building and then take them in a lift or elevator up to the upper floors inside. I guess that I would say that I have just seen so many instances where access has been adequately and skillfully provided and incorporated into historic buildings that it, there is so much good guidance out there that it would be unlikely that you would have a problem that couldn’t be overcome in a way that respected the historic character of the building.

Thank you. Next question. Do you have examples of what qualifies as consultation with the public?

Yeah, you know, sometimes there are meetings which are being held anyway for projects. You know, a program area will require that there be a notice about a public hearing, and so, the Section 106 component can piggyback on that and take part in the same meeting. I think that in general, you don’t need to, you know, publish a newspaper notice for Section 106, but you need to think about how to get the word out. And so, there may be ways like, using your city’s website, or planning department website to talk about upcoming projects and just saying that, you know, you are interested in public comment on this building. Sometimes there are newspaper articles, press releases going out about upcoming projects and there can be a reference in there to the fact that there is an opportunity for public comment.

Thank you, next question. We have a historic property that we want to rehabilitate. Would we need to have it done – would we need to have it added to the register before rehabilitation, or could it wait until after the home is rehabbed? I think you have answered something close to this.

If – well they are talking about a home and before my answer had to do with, you know, the tax credit and the fact that you could nominate something after the fact, after you have gotten the tax credit. But the tax credit is limited to income-producing buildings including rental residential. So if this person is asking about a private, owner-occupied home, you know, that when they are interested in having it listed on the National Register, whether it’s before or after a rehab, doesn’t really matter. I mean, you would want to be sure that after the rehab it’s still going to have the qualities that made it eligible for the National Register. But, there is no, no requirement one way or another that a property be listed before or after it’s rehabilitated.

Thank you. I am glad I passed that on. The next one has to do with tribal consultation, I went to TDAT and entered the address of my project, three tribes came up. I contacted each person with my e-mail and after 30 days there was no response. Am I good to proceed?

We are saying yes.

Thank you. A residential building is moved from one location to another. Does this affect the potential historic significance?
Yes it does. And if you think back to that slide where I showed the various areas of integrity, one of the areas is location. So does – a moved property no longer has integrity of its original location. Now some, some properties may have been moved historically and the new location is now a historic location. But it is one consideration that goes into evaluating whether something is eligible for the National Register. And part of that consideration involves, okay it’s moved, is there some compelling reason that it had to be moved? You know, is there a roadway coming through? Or something like that. Is there a – something that would cause it to –oops I am losing my train of thought, sorry.

Another aspect has to do with how it’s relocated in its new location. Is it similar in orientation to the street? Is it in a similar kind of setting? Did you take a downtown building and put it in a farm field? That relocation would have more of a negative impact on historic qualities and eligibilities for the National Register, than if you took a downtown building and moved it down a block in the downtown.

Thank you. This will be the last question Nancy. Under HUD we evaluate buildings for the National Register. How much flexibility do local jurisdictions have to require historic materials, even if the building is not eligible to be on the National Register?

Could you read that one again? I’m not quite sure.

Sure. Under HUD we evaluate buildings for the National Register. How much flexibility do local jurisdictions have to require historic materials, even if the building is not eligible to be on the National Register?

Okay, by historic materials, in the second reading there, I am understanding that they mean historic materials to use in the rehabilitation. Not materials about the history of the building.

I think that’s a fair interpretation.

Yeah, yeah, okay. Sorry I didn’t get that the first time.

So, you know, if a project is being reviewed under Section 106, then the threshold is whether it is eligible for the National Register. And if it’s not eligible for the National Register, then there is no requirement to preserve historic character, as it has already been defined as not historic. Local jurisdictions are different, and they often have broader considerations than just historic quality. So there can be a design component in local zoning districts that apply to historic and non-historic buildings saying, you know, our neighborhood, this village center, whatever the local group defines, this area has a set of traditional building materials, which may often be historic. But this district uses brick and slate and clapboards and whatever. And so under local zoning, it’s possible for a local jurisdiction to require traditional materials on non-historic buildings. And it’s a separate process from what we have been talking about with the National Register and Section 106.

Thank you Nancy. John that is all the time we have for questions, back to you.

Great. Thanks very much Nancy and Jim, that was terrific, and thanks everyone for taking the time to attend today’s webinar. As mentioned the slides and recording of this presentation will be available on the HUDs CPD environment website, and again the links are provided in the web links box at the top of your screen. And you can check the training page for updates. We will send you an e-mail notification once all of these materials become available. Again please fill out the post-webinar survey, and please do join us for the webinar next Wednesday.