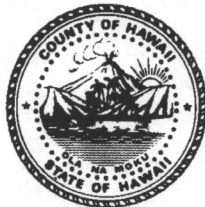


Mitchell D. Roth
Mayor

Deanna S. Sako
Managing Director

Robert H. Command
Deputy Managing Director



Susan K. Kunz
Housing Administrator

Harry M. Yada
Assistant Housing Administrator

County of Hawai'i
Office of Housing and Community Development

1990 Kino'ole Street, Suite 102 • Hilo, Hawai'i 96720 • (808) 961-8379 • Fax (808) 961-8685
Existing Housing: (808) 959-4642 • Fax (808) 959-9308
Kona: (808) 323-4300 • Fax (808) 323-4301

September 30, 2024

MEMORANDUM:

TO: Susan K. Kunz, Housing Administrator, OHCD
Harry Yada, Deputy Housing Administrator, OHCD
Mary Alice Evans, Director, State Office of Planning & Sustainable
Development, Environmental Review Program
Makani Maeva, Ahe Group

FROM: Cristina Pineda, Housing Specialist, OHCD

**SUBJECT: Exemption Declaration for the Proposed Kuakini Heights Affordable
Housing Facility at TMK (3) 7-5-003:007, Kailua Kona, Hawai'i**

AGENCY OR APPLICANT ACTION

Check applicable box

- This exempted action is an agency action as defined by Section 343-5(b), Hawai'i Revised Statutes (HRS), and Section 11-200.1-8, Hawai'i Administrative Rules (HAR),
- This exempted action is an applicant action as defined by Section 343-5(e), HRS, and Section 11-200.1-9, HAR

EXEMPTION TYPE

- As applicable, the exemption for the action described below is also supported by the Exemption List for the [name of agency], reviewed and concurred to by the Environmental Council on [date of concurrence].
 - Exemption List Class ____.
 - Item Number ____.

Applicable language from the exemption list: [Click here to enter text.](#)

- The Exemption Notice for the action described below is based on the general types enumerated in Section 11-200.1-15(c), Hawai'i Administrative Rules (HAR), Exemption Type 10 .:

§11-200.1-15 (c)(10):

New construction of affordable housing, where affordable housing is defined by the controlling law applicable for the state or county proposing agency or approving agency, that meets the following:

(A) Has the use of state or county lands or funds or is within Waikiki as the sole triggers for compliance with chapter 343, HRS;

(B) As proposed conforms with the existing state urban land use classification;

(C) As proposed is consistent with the existing county zoning classification that allows housing; and

(D) As proposed does not require variances for shoreline setbacks or siting in an environmentally sensitive area, as stated in section 11-200.1- 13(b)(11).

DESCRIPTION OF ACTION

Proposing Agency or Applicant: Ahe Group (Applicant)

Project Name & Address/Location: Kailua Kona, Hawai'i /

Anticipated Start Date: Contingent on funding

Anticipated End Date: Contingent on funding

Island and District: Hawai'i North Kona

Tax Map Key(s) and other geolocation means: TMK: (3)7-5-003:007

All Necessary Permits and Approvals: Permits approved, 201H Res- Approved

NARRATIVE

The proposed action is the construction of the Kuakini Heights affordable housing project. The 100 proposed rental units (a mix of 28 1-bedrooms, 60 2-bedroom, and 12 3-bedroom apartments), all serve households earning between 30 – 60% of the area median income (AMI). The facility also includes a community lanai, a manager's office, on site-parking, and open space.

The developer has applied, and been approved for Low Income Housing Tax Credits (LIHTC). This potential use of state funds is the project's sole trigger in terms of compliance with Chapter 343, HRS.

In addition, as proposed, the project will:

- Conform with the existing state urban land use classification.
- Be consistent with the existing county zoning classification that allow housing.
- Not require variances for shoreline setbacks or siting in an environmentally sensitive area.

RECEIVING ENVIRONMENT

Describe the site, including any impacts on the receiving environment: The project will be located on 10.829 acres of land in Kailua Kona within the State Land Use Urban area. There are no anticipated adverse impacts to the area as there are no tenants or other uses of the property. There are no unique natural habitats containing threatened or endangered species on the project site. There are no water resources or wetland. The proposed facility site is not located in a floodplain. A variance for the shoreline setbacks or siting in an environmentally sensitive area will not be required.

ENVIRONMENTAL ANALYSIS

I have considered the potential effects of the proposed project and all related activities against the criteria checked below:

	Not Applicable
<input checked="" type="checkbox"/> Land Use and Zoning Conformance	<input type="checkbox"/>
<input checked="" type="checkbox"/> Traffic (Vehicles, Bicycles, Pedestrian)	<input type="checkbox"/>
<input checked="" type="checkbox"/> Infrastructure (Roads, Buildings, Utilities)	<input type="checkbox"/>
<input checked="" type="checkbox"/> Air Quality Pollutant Emissions	<input type="checkbox"/>
<input checked="" type="checkbox"/> Noise Emissions	<input type="checkbox"/>
<input checked="" type="checkbox"/> Solid, Hazardous, and Liquid Waste Management	<input type="checkbox"/>
<input checked="" type="checkbox"/> Social	<input type="checkbox"/>
<input checked="" type="checkbox"/> Economic	<input type="checkbox"/>
<input checked="" type="checkbox"/> Health and Safety	<input type="checkbox"/>
<input checked="" type="checkbox"/> Recreation	<input type="checkbox"/>
<input checked="" type="checkbox"/> Public Beach Access	<input type="checkbox"/>
<input checked="" type="checkbox"/> Cultural Resources and Practices	<input type="checkbox"/>
<input checked="" type="checkbox"/> Visual/Aesthetic	<input type="checkbox"/>
<input checked="" type="checkbox"/> Environmental Justice	<input type="checkbox"/>
<input checked="" type="checkbox"/> Rare, Threatened, and/or Endangered Species	<input type="checkbox"/>
<input checked="" type="checkbox"/> Surface and Ground Water Resources	<input type="checkbox"/>
<input checked="" type="checkbox"/> Wetlands	<input type="checkbox"/>
<input checked="" type="checkbox"/> Floodplains	<input type="checkbox"/>
<input checked="" type="checkbox"/> Riparian/Coastal Resources	<input type="checkbox"/>
<input checked="" type="checkbox"/> Other	<input type="checkbox"/>

Comments/summary of impact analysis: It is determined that there is no substantial impact to the surrounding environment.

MITIGATION

The developer will comply with any measures described within any Preservation Plans, which included the project site as part of the overall 126 acres of the archaeological inventory survey area.

RESEARCH AND CONSULTATION

Exhibit 1: State Land Use District Map

Exhibit 2: County of Hawai‘i Existing Zoning Map

Exhibit 3: Critical Habitat Map

Exhibit 4: Flood Zone Map

Exhibit 5: Special Management Area Map

Additionally, this project applied to the County of Hawai‘i for exemptions in accordance with §201H-38 HRS. On November 22, 2023, the application and project information were submitted to various state and county departments for review and comment. There were no objections to the project. The following departments letters serve as a follow-up:

Exhibit 6: Department of Public Works Letter

Exhibit 7: Planning Department – Letter of Support

<i>Research Document</i>	<i>Author</i>	<i>Date</i>
<i>HEROS Environmental Review Record Report</i>	<i>Partner</i>	<i>12/1/2023</i>
<i>Traffic Impact Analysis Report for the Proposed Kuakini Heights and Lanipu‘u</i>	<i>The Traffic Management Consultant</i>	<i>4/30/2024</i>
<i>Phase 1 Environmental Site Assessment Report</i>	<i>Partner</i>	<i>12/1/2023</i>
<i>A Preservation Plan for Sites 50-10-37-5058, 7276, and 19039. Lanihau 2 Ahupua‘a, Kailua-Kona, Island of Hawaii</i>	<i>Robert L. Spear, PH.D.</i>	<i>January 1999</i>
<i>Addendum To: An Archeological Survey Report for 126 Acres in the Ahupua‘a of Lanihau 2, Moeauoa 1 and Moeauoa 2, Kailua Kona, Island of Hawaii – Testing of Possible Burial Features</i>	<i>Mike T. Carson</i>	<i>June 1998</i>
<i>Data Recovery Plan - For 126 Acres Including Portions of the Ahupua‘a of Lanihau 2, Moeauoa 1 and Moeauoa 2, Kailua Kona,</i>	<i>Mike T. Carson</i>	<i>August 1997</i>

<i>Island of Hawaii</i>		
<i>Burial Treatment Plan for a Portion of the 126 Acres Including a Portion of a 126 Acre Property Located In the Ahupua'a of Lanihau 2, Moeauoa 1 and Moeauoa 2, Kailua Kona, Island of Hawaii</i>	<i>Robert L. Spear, PH.D.</i>	<i>July 1999</i>
<i>An Archeological Inventory Survey of 126 Acres in the Ahupua'a of Lanihau 2, Moeauoa 1 and Moeauoa 2, Kailua Kona, Island of Hawaii</i>	<i>Robert L. Spear, PH.D.</i>	<i>September 1996</i>
<i>Data Recovery Report, Phase 1 for 126 Acres, Including Portions of the Ahupua'a of Lanihau 2nd, Moeauoa 1st and Moeauoa 2nd, Kailua Kona, Island of Hawaii</i>	<i>Robert L. Spear, PH.D. and Amy E. Dunn</i>	<i>1998</i>
<i>An Archaeological Preservation Plan for State Site 50-10-37-19056 Kailua-Kona, Moeauoa 2 Ahupua'a, Kona District, Hawai'i Island, Hawaii</i>	<i>Jon Wilson and Randy L. Spear, PH.D.</i>	<i>June 2008</i>
<i>An Archaeological Preservation Plan for State Site 50-10-37-19056 Kailua-Kona, Moeauoa 2 Ahupua'a, Kona District, Hawai'i Island, Hawaii</i>	<i>Jon Wilson and Randy L. Spear, PH.D.</i>	<i>May 2007</i>
<i>Archaeological Data Report, Phase 2, For 126 Acres Including Portions of the Ahupua'a of Lanihau 2nd, Moeauoa 1st and 2nd, North Kona District, Island of Hawai'i</i>	<i>Jon Wison, Donna Shefcheck and Randy L. Spear, PH.D.</i>	<i>October 2009</i>
<i>Market Study of Kuakini Heights</i>	<i>Kinetic Valuation Group</i>	<i>February 13, 2024</i>

DISCUSSION

State and County funds have been tentatively committed to the development of this project. The project site is within the State urban district and is zoned RM-3.5 Residential. The proposed project is consistent with these land use designations and a state land use boundary amendment or zoning amendment will not be required. Access to the project will be provided via a new roadway to be constructed from Maluluani Road. Wastewater, water, and drainage systems are available to support the proposed project. Frequent watering of the project during site grading will reduce the release of fugitive dust. The proposed project does not involve the development


of any noise generating uses such as an industrial facility or power plant. Short term increases in noise associated with the construction of the project is anticipated. A community Noise Control permit will be obtained and will specify hours allowed for construction. There is no known existing deposit of hazardous waste. Solid waste generated by project residents will be collected on site and disposed of by a commercial disposal service. The proposed project will have the beneficial social impacts of providing much needed permanent affordable housing in Kailua Kona as well as short term employment during the operation of the project. The proposed project is similar in scale and general appearance with other multifamily residential properties in the greater Kailua Kona area. The proposed project is not located nor will have any adverse impacts in a predominately low income or minority neighborhood.

EXEMPTION ASSESSMENT

The project is deemed to be exempt from the preparation of an environmental assessment under Chapter 343, HRS, in accordance with Section §11-200.1-15 (c)(10) HAR. Further, the developer has conducted various studies onsite including a Phase I Environmental Assessment Report, Traffic Impact Analysis Report, and various archaeological surveys.

EXEMPT DECLARATION

The direct, cumulative, and potential impacts of the action described above have been considered pursuant to Chapter 343, Hawai‘i Revised Statutes and Chapter 11-200.1, Hawai‘i Administrative Rules. I declare that the action described above will have minimal or no significant impact on the environment and is therefore exempt from the requirement to prepare an environmental assessment.



Susan K. Kunz
Housing Administrator

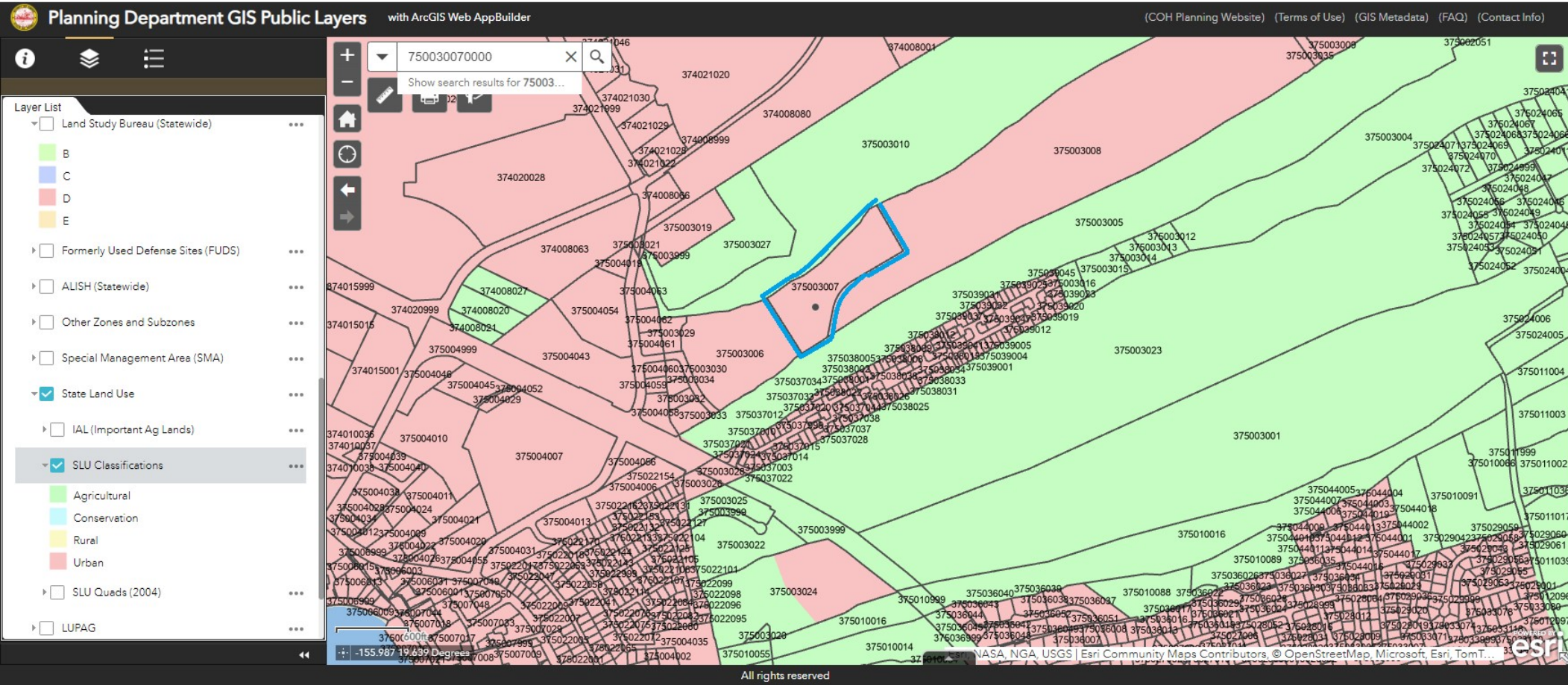
10/4/27

Date

This document is to be kept on file in the agency’s records and made available for public review

- Please check here if this document is being submitted to the Office of Planning and Sustainable Development for voluntary publication in *The Environmental Notice*

EXHIBIT 1 - State Land Use District Map



State Land Use Classification Key

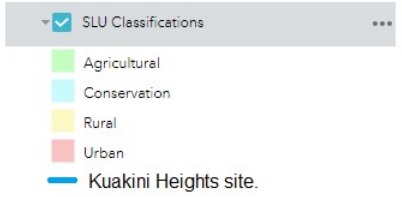
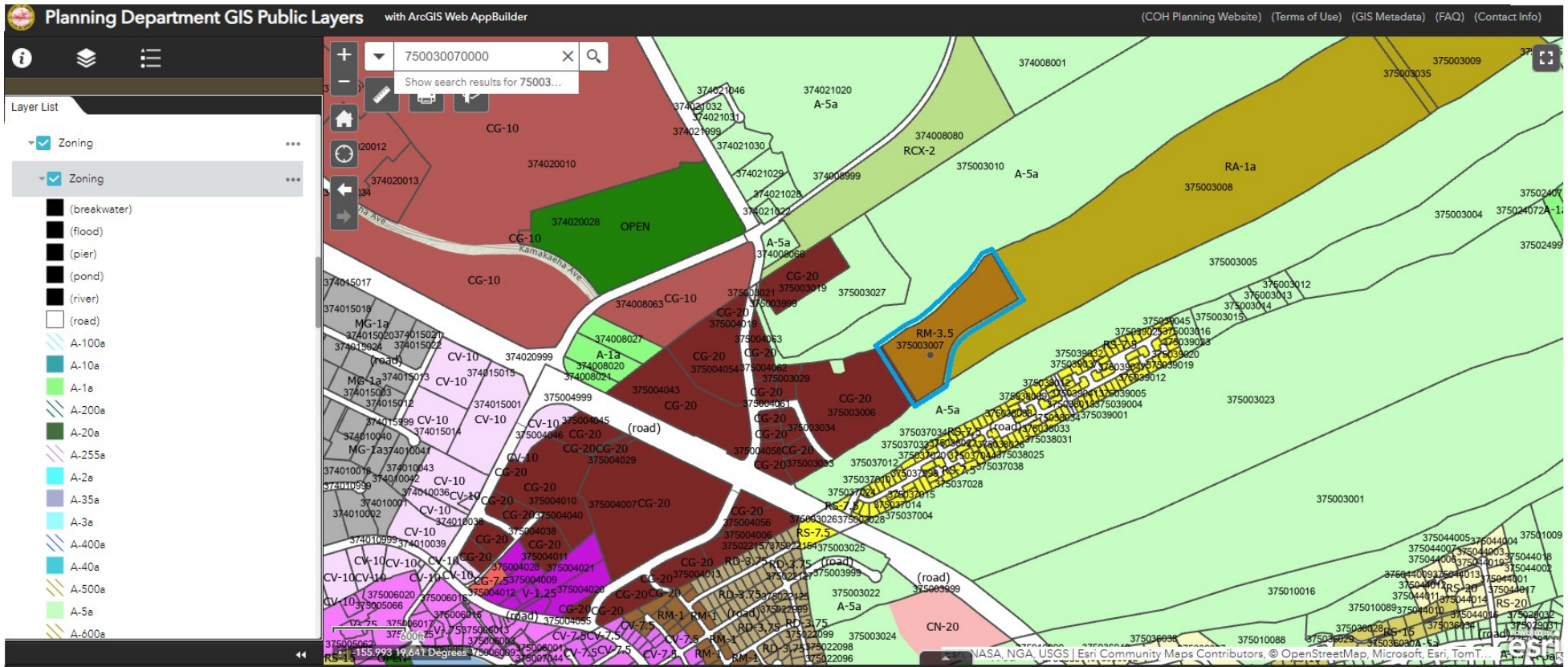


Exhibit 2 - County of Hawai'i Existing Zoning Map



Hawaii County Zoning Key

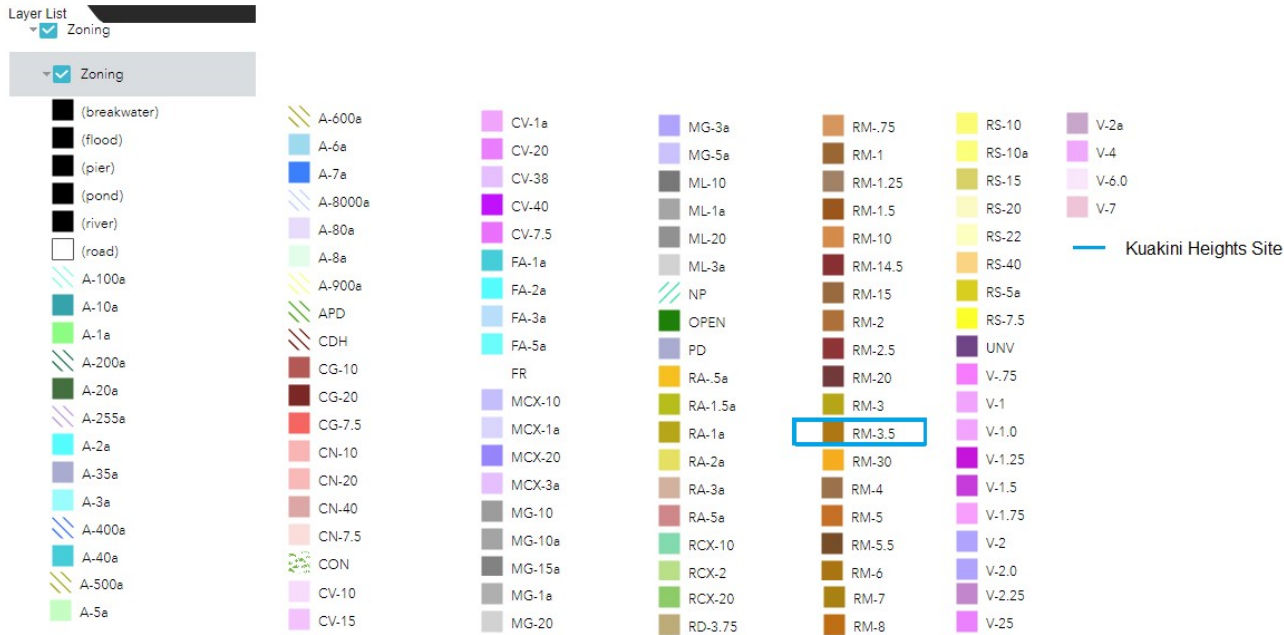


Exhibit 3 - Critical Habitat Areas (near Kuakini Heights site)

Areas of Critical Habitat (Consolidated)

Hawaii Statewide GIS Program
Hawaii Statewide GIS Program

Summary
Areas of Critical Habitat, consolidated

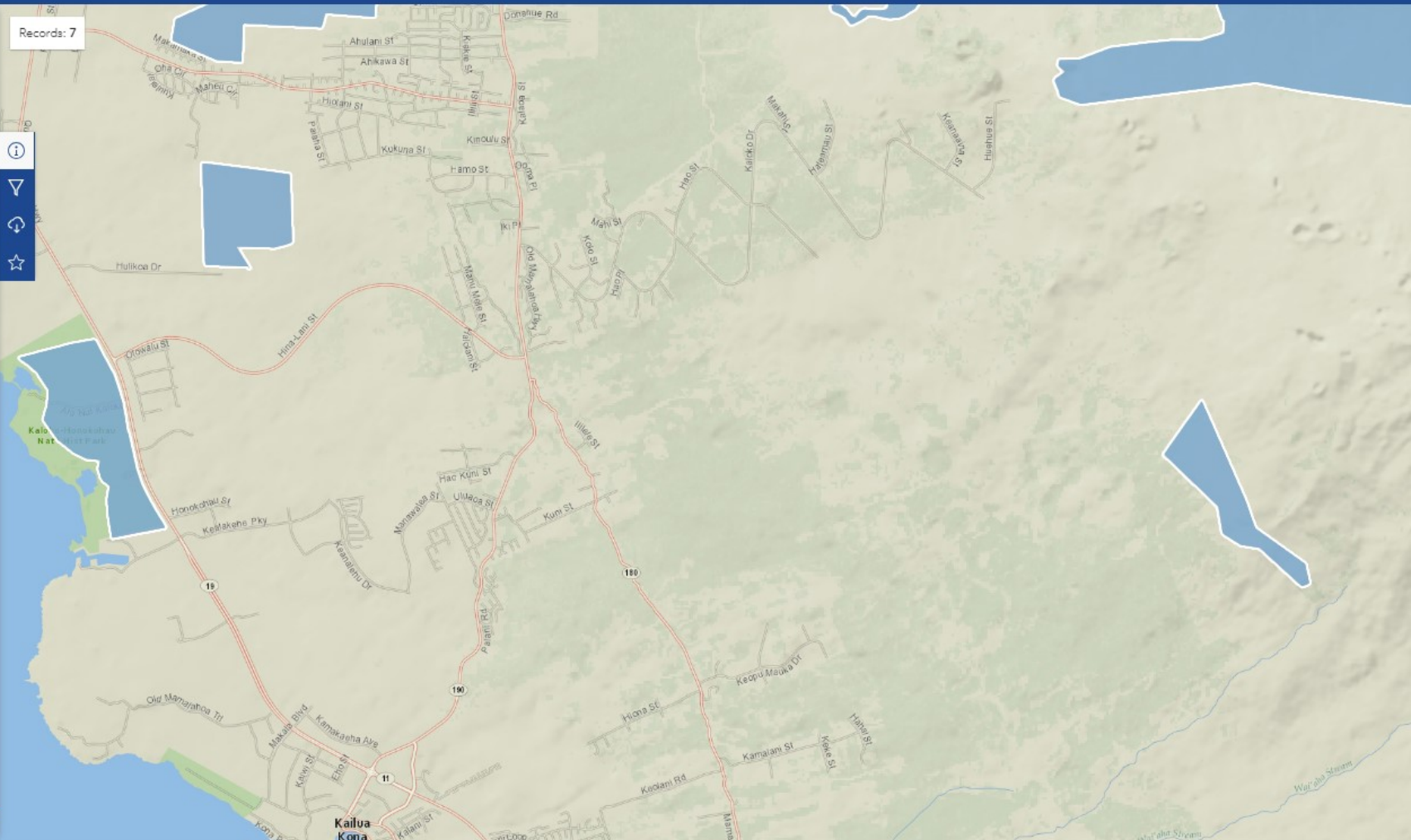
[View Full Details](#)

[Download](#)

Details

- Dataset**
Feature Layer
- October 31, 2020**
Info Updated
- April 26, 2024**
Data Updated
- September 8, 2016**
Published Date
- Records: 7**
[View data table](#)
- Public**
Anyone can see this content
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I want to use this >



Critical Habitat Key

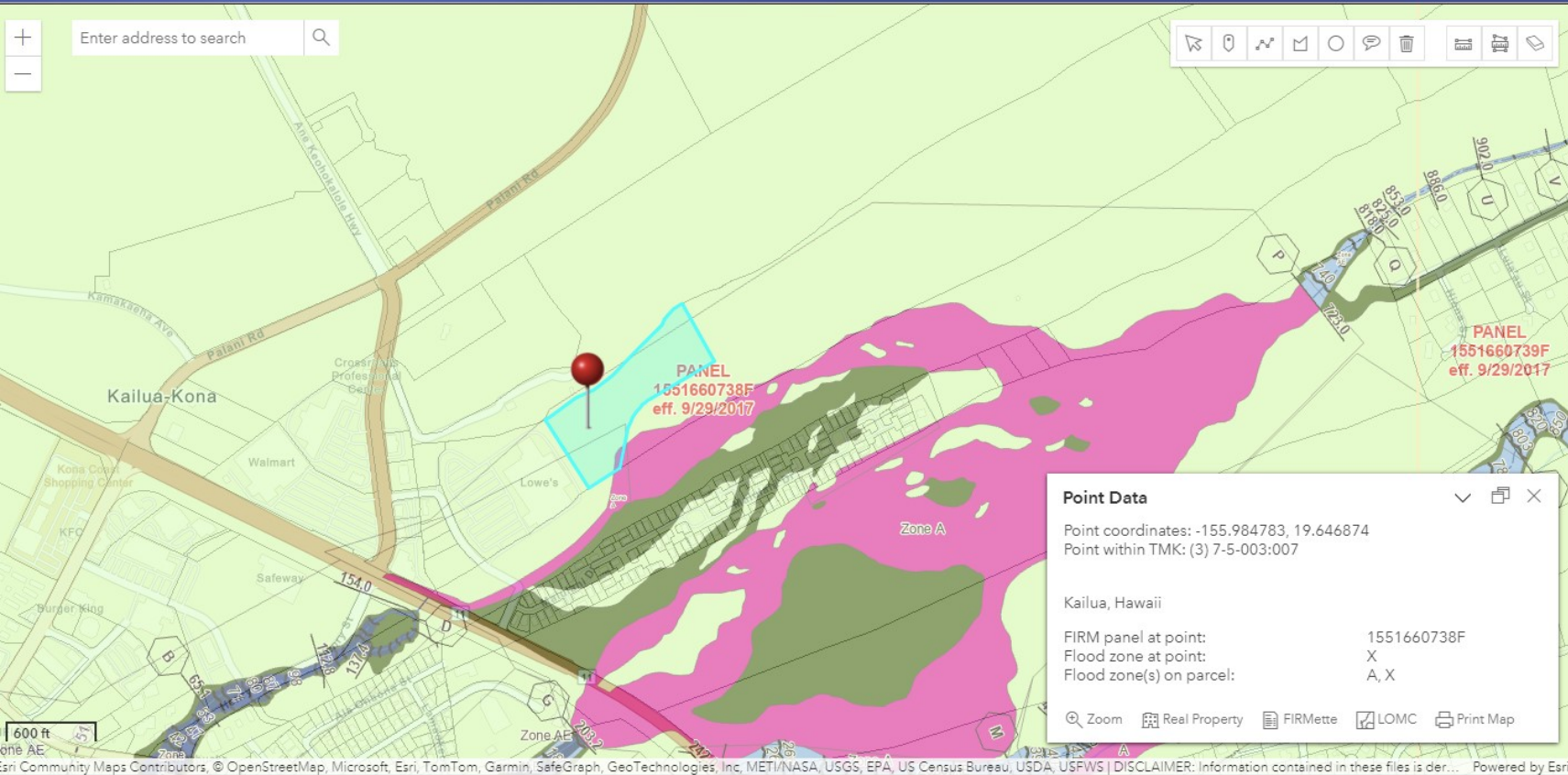
Legend

Areas of Critical Habitat (Consolidated)

Exhibit 4 - Flood Zone Map

State of Hawaii, Department of Land and Natural Resources
Flood Hazard Assessment Tool

[Home](#)



- Cross-Sections
- Profile Baselines
- Water Lines
- Flood Hazard Zones
 - Zone A
 - Zone AE
 - Zone AEF (Floodway)
 - Zone AH
 - Zone AO
 - Zone D
 - Zone VE
 - Zone VE
 - Zone X
 - Zone XS (X shaded)
 - Zone X Protected by Levee

Statewide Parcels

- Parcels

Exhibit 5 - Special Management Area (SMA)

Hawaii SMA Locator 375003007

Search result

375003007

Details

This SMA Locator map is for visualization and information purposes only and is not an authoritative map.

Note:

1. The shoreline divides the jurisdiction of the County SMAs and State submerged lands.
2. The SMA boundary should be confirmed by the respective County Planning Departments.

Map Instructions:
Use the Search Box to find your location by TMK or Address. The areas shaded in **RED** are within the Special Management Area (SMA). Selected TMK Parcels are colored in **Orange** and outlined in **Blue**.

Hint:

0 0.15 0.3mi

esri | Counties of Hawaii, Honolulu, Kauai and Maui; Hawaii Statewide GIS Program | County of Hawaii, City and County of Honolulu, Count...



Mitchell D. Roth
Mayor

Stephen M. Pause, P.E.
Director

Lee E. Lord
Managing Director

Malia A. Kekai
Deputy Director

County of Hawai'i
DEPARTMENT OF PUBLIC WORKS
Aupuni Center
101 Pauahi Street, Suite 7 · Hilo, Hawai'i 96720-4224
(808) 961-8321 · Fax (808) 961-8630
public_works@hawaiicounty.gov

December 21, 2023

VIA EMAIL ONLY

Cristina.Pineda@hawaiicounty.gov

Susan Kunz
Office of Housing and Community Development
West Hawai'i Civic Center, Building B, 2nd Floor
74-50444 Ane Keohokalole Highway
Kailua Koha, Hawaii 96740

Subject: HRS 201H-38 Evaluation of Exemption Requests
Kuakini Heights
TMK (3) 7-5-003:007

Dear Ms. Kunz:

We have reviewed the 201H-38 submission package dated November 2023 for the Kuakini Heights project that consists of 197-units of which 100 units are affordable and 97 units are market rate in Kailua-Kona.

One of the exemptions requested is an exemption from building permit fees pursuant to section 5-7-3, HCC, Permit Fees. The Department of Public works recommends that the Council only waive building permit fees for the 100 affordable units. Also attached are comments from DPW engineering division.

Very truly yours,

A handwritten signature in black ink, appearing to read "Stephen M. Pause".

☞ **Stephen M. Pause, P.E.**
Director

**DEPARTMENT OF PUBLIC WORKS
COUNTY OF HAWAII
HILO, HAWAII**

DATE: December 18, 2023

Memorandum

TO: Susan K. Kunz, Housing Administrator

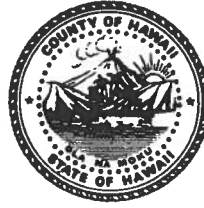
FROM: Department of Public Works, Engineering Division

SUBJECT: KUAKINI HEIGHTS AFFORDABLE HOUSING
TMK: 7-5-003:007, 008, and 009

We have reviewed your submittal and offer the following comments:

1. All activities shall comply with the requirements of Hawaii County Code (HCC), Chapter 10, Erosion and Sedimentary Control.
2. All development-generated runoff shall be disposed of on site and not directed toward any adjacent properties. A drainage study shall be prepared and the recommended drainage system shall be constructed meeting the approval of the Department of Public Works, Engineering Division.
3. The subject parcels are in areas designated as Flood Zone X and A on the Flood Insurance Rate Map (FIRM) by the Federal Emergency Management Agency (FEMA).
 - a) Zone X is an area determined to be outside the 500-year floodplain.
 - b) Zone A is the special flood hazard area that corresponds to the one hundred-year floodplains that are determined in the Flood Insurance Study by approximate methods. Because detailed hydraulic analyses are not performed for such areas, base flood elevations or depths have not been determined within this zone.
4. There is currently no connection to Hale Kapili Street from these properties. All connections and construction with Hale Kapili Street shall conform to Chapter 22, County Streets, of the Hawaii County Code and include the provision of adequate sight distances that shall meet with the approval of the Department of Public Works, Engineering Division.
5. Request to be exempt from Ch. 10 permit fees is not uncommon from other affordable housing projects.
6. We believe the minimum road improvement requirements codified within Chapter 23 of the Hawaii County Code provide public welfare and safety and therefore we reject the request to be exempt from sidewalks on both sides of the street which is standard for the number of lots accessing it and the size of the lots.

Questions may be referred to Robyn Matsumoto at 961-8924.



Lee E. Lord
Managing Director

Robert H. Command
Deputy Managing Director

Susan K. Kunz
Housing Administrator

Harry M. Yada
Assistant Housing Administrator

County of Hawai'i
Office of Housing and Community Development
1990 Kino'ole Street, Suite 102 • Hilo, Hawai'i 96720 • (808) 961-8379 • Fax (808) 961-8685
Existing Housing: (808) 959-4642 • Fax (808) 959-9308
Kona: (808) 323-4300 • Fax (808) 323-4301

RESPONSE FORM: HRS §201H-38 Evaluation of Exemption Requests

This form may be returned to the Office of Housing and Community Development in response to the request for review and evaluation.

TO: Hawai'i County Office of Housing & Community Development
West Hawai'i Civic Center, Building B, 2nd Floor
74-5044 Ane Keohokalole Highway
Kailua Kona, HI 96740

SUBJECT: Response to review of HRS §201H-38 application and list of exemptions

PROJECT: Kuakini Heights

TMK: (3) 7-5-003:007

DEVELOPER: Kuakini Heights Housing Partners LP

Note: All exemption requests are listed within Exhibit 24 of the application.

Please check the box to confirm your evaluation:

The application and exemption requests have been reviewed and there are **no objections**.

The application and exemption requests have been reviewed. Changes or special conditions are requested. (Please attach your comments on agency/department letterhead)

REVIEWED BY: County of Hawaii Planning Department

Agency/Department

Jeffrey W. Darrow

Dec 22, 2023 01:12 PM

Deputy Planning Director

Name

Title

Your response is requested by December 21, 2023

Please return this form and any attached comments (if applicable) to the OHCD at the address listed above or by email to Cristina Pineda or Kaloa Robinson at OHCDDev@hawaiicounty.gov



Mitchell D. Roth
Mayor

Lee E. Lord
Managing Director

West Hawai'i Office
74-5044 Ane Keohokālole Hwy
Kailua-Kona, Hawai'i 96740
Phone (808) 323-4770
Fax (808) 327-3563



County of Hawai'i
PLANNING DEPARTMENT

Zendo Kern
Director

Jeffrey W. Darrow
Deputy Director

East Hawai'i Office
101 Pauahi Street, Suite 3
Hilo, Hawai'i 96720
Phone (808) 961-8288
Fax (808) 961-8742

December 22, 2023

Susan K. Kunz, Housing Administrator
Office of Housing and Community Development
1990 Kino'ole Street, Suite 102
Hilo, HI 96720-5293

Dear Ms. Kunz:

**SUBJECT: Exemption Request, Kuakini Heights 201H
Kuakini Heights Housing Partners LP
Tax Map Keys: (3) 7-5-003:007, North Kona, Hawai'i**

This is to acknowledge receipt of your request for comments dated November 22, 2023, for the above referenced 201H application.

We understand that Kuakini Heights Housing Partners LP is proposing to construct 100 multiple-family dwelling units on 10.829 acres of land within the North Kona District, as a 100% affordable housing project.

The subject property totals 10.829 acres in size and is zoned Multiple-Family Residential-3,500 square feet (RM-3.5) by the County and Urban by the State Land Use Commission. The General Plan Land Use Allocation Guide (LUPAG) map designates the subject property as Urban Expansion and it is not situated within the Special Management Area (SMA).

On page 231 of the 201H application, the applicant lists six requested exemptions from the conditions of Ordinance 06-152, approved on December 13, 2006 to rezone the subject property from Agricultural 5-acres (A-5a) to Residential and Agricultural 1-acre (RA-1a) and Multiple-Family Residential 3,500-square feet (RM-3.5). The property covered by Ordinance 06-152 was approved for a subdivision and consolidation on April 25, 2023 which established the 10.829-acre, RM-3.5 zoned, subject property. The Planning Department finds that the requested exemptions and modifications to existing conditions of Ordinance 06-152 are reasonable as they would allow the project to be more affordable and feasible. However, the applicant remains responsible for complying with conditions of the Findings of Fact, Conclusions of Law and Decision and Order issued on June 22, 1998, Land Use Commission Docket No. A94-705

EXHIBIT 7: Planning Department Letter of Support

Ms. Susan K. Kunz, Housing Administrator
Office of Housing and Community Development
December 22, 2023
Page 2

(D&O), as the subject property was included in this LUC boundary amendment (see attached D&O).

Additionally, the applicant is requesting three exemptions from Chapter 25, Hawai'i County Zoning Code. The Planning Department finds these exemptions to be reasonable as they would allow construction of the affordable housing project. However, it should be noted that one requested exemption, from Section 25-5-157, does not appear to apply to the subject property as it was intended to apply to parcels zoned General Industrial (MG).

Given the extreme need for affordable rental housing stock in the North Kona area, we support the project and have no objection to the applicant's proposed exemptions.

We appreciate the opportunity to provide comments. If you have any questions, please feel free to contact Jessica Andrews of this department at (808) 961-8155.

Sincerely,

Jeffrey W. Darrow

December 22, 2023, 01:12 PM

for ZENDO KERN
Planning Director

JMA:mads

\\coh01\planning\public\wpwin60\Jessica\Letters\LKunzKuakiniHeights201H_12.22.23.doc

Attached: Land Use Commission Docket No. A94-705

EXHIBIT 7: Planning Department Letter of Support

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of)
)
COUNTY OF HAWAII)
PLANNING DEPARTMENT)
)
To Amend the Agricultural Land Use)
District Boundary into the Urban)
Land Use District for Approximately)
955.78 Acres at Keahuolu through)
Keauhou, North Kona, Island of)
Hawaii, State of Hawaii, Tax Map)
Key No.: 7-4-08: por. 1; 7-5-03: 6,)
7, 23; 7-5-10: 5; 7-5-17: 1, 19;)
7-6-13: 9; 7-7-04: por. 2, 56;)
7-7-07: 41; 7-7-08: por. 27, 99,)
105; 7-8-10: por. 29, and por. 30.)

DOCKET NO. A94-705
FINDINGS OF FACT,
CONCLUSIONS OF LAW, AND
DECISION AND ORDER

This is to certify that this is a true and correct copy of the Decision and Order on file in the office of the State Land Use Commission, Honolulu Hawaii.

JUN 22 1998 by [Signature]
Date Executive Officer

FINDINGS OF FACT,
CONCLUSIONS OF LAW, AND DECISION AND ORDER

JUN 22 1 07 PM '98
LAND USE COMMISSION
STATE OF HAWAII

EXHIBIT 7: Planning Department Letter of Support

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAI'I

In the Matter of the Petition of)	DOCKET NO. A94-705
COUNTY OF HAWAII)	FINDINGS OF FACT,
PLANNING DEPARTMENT)	CONCLUSIONS OF LAW, AND
To Amend the Agricultural Land Use)	DECISION AND ORDER
District Boundary into the Urban)	
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Hawaii, State of Hawaii, Tax Map)	
Key No.: 7-4-08: por. 1; 7-5-03: 6,)	
7, 23; 7-5-10: 5; 7-5-17: 1, 19;)	
7-6-13: 9; 7-7-04: por. 2, 56;)	
7-7-07: 41; 7-7-08: por. 27, 99,)	
105; 7-8-10: por. 29, and por. 30.)	

FINDINGS OF FACT,
CONCLUSIONS OF LAW, AND DECISION AND ORDER

The COUNTY OF HAWAII PLANNING DEPARTMENT ("Petitioner") filed a Petition for Land Use District Boundary Amendment ("Petition") on June 28, 1994, pursuant to Hawai'i Revised Statutes ("HRS") Section 205-4, as amended, and Hawai'i Administrative Rules ("HAR") Chapter 15-15, as amended, to amend the State land use district boundaries by reclassifying various parcels of land totalling approximately 2,940.39 acres owned by various landowners, identified as Tax Map Key Nos.: 7-2-05: portion of 1; 7-3-07: 38, 39, 40; 7-3-09: 7, portion of 13; 7-3-10: 31, portion of 33, 35; 7-4-08: portion of 1, 5, portion of 13; 7-5-03: 6, 7, 23; 7-5-10: 1, 16; 7-5-17: 1, 19; 7-7-04: 2, 11; 7-7-07: 41; 7-7-08: 27, 99; 7-8-10: portion of 29, and portion of 30, from the State Land Use Agricultural District to

EXHIBIT 7: Planning Department Letter of Support

the State Land Use Urban District to allow uses for the area consistent with adopted State and County policies.

Petitioner subsequently amended the Petition on August 30, 1994, October 26, 1994, November 22, 1994, January 12, 1995, May 5, 1995, and November 24, 1995, ultimately resulting in a request to reclassify approximately 955.78 acres of land, identified as Tax Map Key Nos.: 7-4-08: portion of 1; 7-5-03: 6, 7, 23; 7-5-10: 5; 7-5-17: 1, 19; 7-6-13: 9; 7-7-04: portion of 2, 56; 7-7-07: 41; 7-7-08: portion of 27, 99, 105; 7-8-10: portion of 29, and portion of 30 (collectively referred to as the "Petition Area" or "Property").

The Land Use Commission of the State of Hawai'i ("Commission"), having heard and examined the testimony, evidence, and argument of the parties, both written and oral; and having considered the Proposed Findings of Fact, Conclusions of Law, and Decision and Order filed by Petitioner; the Proposed Findings of Fact, Conclusions of Law, Decision and Order For Docket No. A94-705 filed by Intervenor Liliuokalani Trust; Intervenor E Mau Na Ala Hele's Proposed Findings of Fact, Conclusions of Law, and Decision and Order; Intervenor Kamehameha Investment Corporation's Joinder in Petitioner County of Hawaii's Proposed Findings of Fact, Conclusions of Law, and Decision and Order; E Mau Na Ala Hele's Response to the Proposed Findings of Fact, Conclusions of Law, and Decision and Order Submitted by the Parties; Office of Planning's Response to Petitioner's Proposed Findings of Fact, Conclusions of Law, and Decision and Order; Petitioner's Objections to E Mau Na Ala Hele's Proposed Findings

of Facts, Conclusions of Law, and Decision and Order; and the entire record of this docket, hereby makes the following findings of fact, conclusions of law, and proposed decision and order:

FINDINGS OF FACT

PROCEDURAL MATTERS

1. Petitioner is a department of the County of Hawaii whose business and mailing address is 25 Aupuni Street, Hilo, Hawaii 96720.

2. On June 28, 1994, Petitioner filed a Petition for Land Use District Boundary Amendment ("Petition") with the Commission. The Petition requested reclassification of approximately 2,940.39 acres of land within the land divisions of Kau to Keauhou, North Kona District, Island and County of Hawaii, State of Hawaii from the Agricultural District to the Urban District.

3. On July 18, 1994, the Executive Officer of the Commission determined that the Petition was defective since a metes and bounds description and map of the initial Petition Area and written authorization from a number of the affected landowners were not obtained.

4. On August 30, 1994, Petitioner filed its Amended Petition with the Commission. The Amended Petition requested reclassification of approximately 3,017 acres of land from the Agricultural to the Urban District within the land divisions of Kau to Keauhou, North Kona District, Island and County of Hawaii, State of Hawaii. The increase in acreage was due to the addition of parcels identified as TMK: 7-5-10: 5, and 7-7-04: 56.

5. On August 30, 1994, Petitioner filed its Motion to Waive Requirement for Metes and Bounds Description.

6. On September 6, 1994, the Executive Officer accepted the Petition as a complete filing.

7. On October 26, 1994, Petitioner filed its Second Amended Petition For Land Use District Amendment ("Second Amended Petition"). The Second Amended Petition increased the Petition Area from approximately 3,017 acres to approximately 3,717 acres by adding five additional parcels identified as TMK: 7-3-09: portion of 25, 26, 28; 7-6-13: 9, and 7-7-08: 105, and deleting one parcel identified as TMK: 7-3-10: 31.

8. On November 22, 1994, Petitioner filed its Third Amendment to Petition for Land Use District Boundary Amendment ("Third Amended Petition"). The Third Amended Petition increased the Petition Area from approximately 3,717 acres to approximately 3,784 acres by adding the previously deleted parcel identified as TMK: 7-3-10: 31.

9. On November 22, 1994, Petitioner filed its Motion to Waive Requirement for Landowner's Written Authorization.

10. On December 1, 1994, a meeting was held by the Commission to consider Petitioner's Motion To Waive Requirements For Metes and Bounds Description. The motion was granted by the Commission subject to the condition that at any time in the future when a more accurate metes and bounds description of a portion of the property is needed, at the request of the Commission, Petitioner will provide a metes and bounds description and map. Action on Petitioner's Motion To Waive

Requirements For Landowners' Written Authorization To File
Petition was deferred at the request of Petitioner's attorney.

11. On December 13, 1994, Liliuokalani Trust, the fee simple owner of TMK: 7-4-08: portion of 1, filed its Petition for Intervention

12. On December 19, 1994, landowner Nansay Hawaii, Inc., the fee simple owner of TMK: 7-2-05: portion of 1, filed its Petition for Intervention.

13. On December 27, 1994, Hawaiian Development Corporation, the fee simple owner of TMKs: 7-5-03: 6, and 7, filed its Petition for Intervention.

14. On December 28, 1994, Tokyo Green Hawaii, Inc., the fee simple owner of TMKs: 7-3-09: portion of 25, 26, and 28, filed its Petition to Intervene.

15. On December 28, 1994, Lanihau Partners, L.P., and Palani Ranch Company, fee simple owners of TMKs: 7-4-08: 5, and portion of 13, filed its Petition to Intervene in District Boundary Amendment Proceeding.

16. On December 28, 1994, John Tommy Rosas, Jr. filed a Petition to Intervene.

17. On December 28, 1994, Life of the Land filed its Petition for Intervention.

18. On December 28, 1994, E Mau Na Ala Hele filed its Petition for Intervention.

19. On December 29, 1994, Kamehameha Investment Corporation, the fee simple owner of TMKs: 7-8-10: portion of 29, and portion of 30, filed its Petition for Intervention.

20. On December 29, 1994, Kona Scenic Land, Inc., one of the fee simple owners of an approximately 49.03 percent interest in TMK: 7-3-10: 31, filed its Petition for Intervention.

21. On December 29, 1994, James M. Rath filed a Request for Intervenor Status.

22. On December 30, 1994, the Commission issued its Order Granting Petitioner's Motion to Waive Requirement for Metes and Bounds Description.

23. On January 12, 1995, Petitioner filed its Motion for Permission to Amend Petition by Reducing the Total Acreage of the Petition Area ("Fourth Amended Petition") to reduce the acreage of the Petition Area from approximately 3,784 acres to approximately 3,728 acres, due to the subdivision of a parcel identified as TMK: 7-4-08: 5.

24. On February 2, 1995, the Commission conducted a hearing on the Petition, as amended, pursuant to notice published on December 14, 1994, in the West Hawaii Today, Hawaii Tribune-Herald, and the Honolulu Advertiser.

25. On February 2, 1995, Lunakanawai Hauanio orally requested intervenor status.

26. On February 2, 1995, the Office of Hawaiian Affairs orally requested intervenor status.

27. On February 2, 1995, the Commission heard arguments on the petitions and requests for intervention. The Commission took the testimony provided under advisement, and continued action on the various petitions and requests for intervention.

EXHIBIT 7: Planning Department Letter of Support

28. On February 21, 1995, the Office of Planning ("OP") (formerly known as Office of State Planning), filed its Motion to Declare Petition Defective.

29. On February 23, 1995, the Commission conducted a continued action meeting on the various requests for intervention. Due to the filing of the OP's Motion to Declare Petition Defective on February 21, 1995, the Commission continued action on the requests for intervention.

30. On March 23, 1995, the Commission conducted a continued action meeting on the various requests for intervention. Action was deferred by the Commission due to the filing of a Stipulation to Continue Motions on Office of State Planning's Motion to Declare Petition Defective; Petitions for Intervention; Petitioner's Motion to Waive Requirement for Landowner's Written Authorization; and Petitioner's Motion to Amend Petition, filed by Petitioner and OP.

31. On May 15, 1995, Petitioner filed its Amended Motion for Permission to Amend Petition by Further Reducing the Total Acreage of the Petition Area ("Fifth Amended Petition"). The Fifth Amended Petition reduced the Petition Area from approximately 3,728 acres to approximately 970.80 acres by deleting the northern portion of the initial Petition Area from Kailua-Kona to Keahole from the Petition.

32. On May 25, 1995, the Commission conducted a meeting to continue action on OP's Motion to Declare Petition Defective, and to take action on Petitioner's Fifth Amended Petition. Upon review of written and oral arguments from the

parties, the Commission granted Petitioner's Fifth Amended Petition, and deferred action on OP's Motion to Declare Petition Defective.

33. On June 5, 1995, Kona Scenic Land, Inc. withdrew its Petition for Intervention.

34. On June 7, 1995, Tokyo Green Hawaii, Inc. filed its Notice of Withdrawal of Petition to Intervene.

35. On June 15, 1995, Palani Ranch, Lanikai Partners L.P., and Nansay Hawaii, Inc. withdrew their respective Petitions for Intervention.

36. On June 15, 1995, the Commission issued its Order Granting Petitioner's Amended Motion for Permission to Amend Petition by Further Reducing the Total Acreage of the Petition Area.

37. On June 19, 1995, Life of the Land withdrew its Petition for Intervention.

38. On July 20, 1995, the Office of Hawaiian Affairs withdrew its request for intervention.

39. On August 10, 1995, the Commission conducted a continued action meeting on OP's Motion to Declare Petition Defective. OP orally amended its motion to declare the amended petition defective. Upon review of written and oral arguments from the parties, the Commission granted OP's Motion to Declare Amended Petition Defective, in part.

40. On September 18, 1995, the Commission issued its Order Granting Motion to Declare Amended Petition Defective.

41. On November 24, 1995, Petitioner filed its Motion to File Additional Information to Cure the Defects Presented in State Land Use Commission's Order Granting Motion to Declare Amended Petition Defective. In addition to filing additional information, Petitioner requested a further reduction of the Petition Area acreage from approximately 970.80 acres to approximately 955.78 acres by the deletion of parcel identified as TMK: 7-5-10: 1.

42. On December 14, 1995, the Commission conducted an action meeting on Petitioner's Motion to File Additional Information to Cure the Defects Presented in State Land Use Commission's Order Granting Motion to Declare Amended Petition Defective. Upon review of written and oral arguments presented by the parties, the Commission granted said motion, and also granted Petitioner's request to further reduce the total acreage of the Petition Area to approximately 955.78 acres.

43. On January 5, 1996, the Commission issued its Order Granting Motion to File Additional Information to Cure the Defects Presented in State Land Use Commission's Order Granting Motion to Declare Amended Petition Defective.

44. On February 2, 1996, Amelia Kuulei Gora filed a Petition for Intervention.

45. On February 15, 1996, the Commission conducted an action meeting on the petitions and requests for intervention. Upon review of both written and oral arguments presented by Petitioner and OP, the Commission granted intervention status to Lunakanawai Hauanio ("Intervenor Hauanio"), E Mau Na Ala Hele

EXHIBIT 7: Planning Department Letter of Support

("Intervenor E Mau"), Hawaiian Development Corporation ("Intervenor HDC"), Liliuokalani Trust ("Intervenor LT"), and Kamehameha Investment Company ("Intervenor KIC"). The petitions and requests for intervention by James M. Rath, John Tommy Rosas, Jr., and Amelia Kuulei Gora were denied.

46. On March 8, 1996, a prehearing conference was conducted in Diamond Head Conference Room A, #1 Capitol District Building, 250 South Hotel Street, 4th Floor, Honolulu, Oahu, with representatives of Petitioner, OP, Intervenor E Mau, Intervenor LT, Intervenor HDC, and Intervenor KIC present.

47. On March 11, 1996, Intervenor Hauanio filed a Demand Ex Parte Communication ("Demand"). The Demand requested that the Commission: (1) provide an equal opportunity in its adjudication process; (2) provide equal power to individuals defending Intervenor Hauanio's beliefs, liberties, properties, and sovereignties; (3) provide resources; and (4) provide the right to petition the government for redress of grievances.

48. On March 27, 1996, the Commission conducted a hearing on the Petition, as amended, pursuant to notice published on January 18, 1996, in the Hawaii Tribune-Herald, West Hawaii Today, and the Honolulu Advertiser.

49. At the March 27, 1996 hearing, the Commission struck Intervenor Hauanio's request for intervention for nonpayment of filing fees. The Commission subsequently continued the hearing on the Amended Petition.

50. On March 27, 1996, Intervenor E Mau filed its Motion to Require Compliance With HRS 6E. The motion argued that

EXHIBIT 7: Planning Department Letter of Support

the petition filed by Petitioner would, pursuant to HRS Chapter 6E, require written concurrence of the Department of Land and Natural Resources (DLNR), State Historic Preservation Division, before further action on the matter can properly continue.

51. On April 11, 1996, the Commission conducted a continued hearing on the Petition, as amended. At this meeting, the Commission heard arguments from the parties in regards to Intervenor E Mau's Motion to Require Compliance With HRS 6E. Upon consideration of the oral and written arguments on the motion, the Commission granted Intervenor E Mau's Motion to Require Compliance With HRS 6E.

52. On May 9, 1996, the Commission issued the following orders: (a) Order Granting in Part and Denying in Part Petitions For Intervention; (b) Order Dismissing Demand Ex Parte Communication Filed by Lunakanawai Hauanio; and (c) Order Granting Motion to Require Compliance With HRS 6E.

53. On May 30, 1996, the Commission conducted a continued hearing on the Petition, as amended.

54. On July 9, 1996, Intervenor E Mau Filed its Motion to Declare the Petition Still Defective; or in the Alternative, Portions Still Defective. On August 13, 1996, Intervenor E Mau filed a Supplemental Memorandum In Support of E Mau Na Ala Hele's Motion to Declare the Petition Still Defective.

55. On August 22, 1996, the Commission conducted a hearing to consider Intervenor E Mau's Motion to Declare Petition Still Defective; or in the Alternative, Portions Still Defective. Upon receiving oral arguments from the parties, the Commission

EXHIBIT 7: Planning Department Letter of Support

deferred action on the motion due to Petitioner's appeal to the State Historic Preservation Board pursuant to HRS 6E.

56. On November 7, 1997, a second prehearing conference was conducted in Conference Room 405, Leiopapa A Kamehameha Building, 235 South Beretania Street, Honolulu, Oahu, with representatives of Petitioner, Office of Planning, Intervenor E Mau, Intervenor LT, Intervenor HDC, and Intervenor KIC present.

57. On December 2, 1997, the Commission conducted a continued hearing on the Petition, as amended, and considered Intervenor E Mau's Motion to Declare Petition Still Defective; or in the Alternative, Portions Still Defective. Upon consideration of the written and oral arguments provided by the parties, the Commission denied Intervenor E Mau's Motion to Declare Petition Still Defective on in the Alternative, Portions Still Defective. The Commission continued the hearing until such time that clarification could be obtained from SHPD regarding DLNR concurrence pursuant to HRS 6E.

58. On January 26, 1998, the Commission issued its Order Denying Intervenor E Mau Na Ala Hele's Motion to Declare the Petition Still Defective; or in the Alternative, Portions Still Defective.

59. The Commission conducted continued hearings on the Petition, as amended on the following dates: February 12, 1998; March 19, 1998; and April 30, 1998.

60. Written and/or oral testimonies were received from the following: William Lazenby - Hawaii Carpenters Union; Lin

EXHIBIT 7: Planning Department Letter of Support

McIntosh - Kona Kohala Chamber of Commerce; Robert Bethea - Japanese Chamber of Commerce and Industry of Hawaii; Robert Burgess - KIAA; F.L. Smothers; James Trask; Lee Taylor - Mauna Kea Resort; Mark Richards - Maryl Development, Inc.; H. Pete L'Orange - Hawaii Leeward Planning Conference and Kona Soil and Water Conservation District; Jana Mugford - Kona Board of Realtors; Glenn Santos - Hawaii Island Chamber of Commerce; Jay Sasan - Hawaii Island Portuguese Chamber of Commerce; Charles Hosley; Philip Hoffman; Susie Green; Mr. & Mrs. Kim Sherman; Joseph Castelli; Representative David Tarnas; Duane Erway; Daniel and Ann Roudebush; Dr. Terry Hunt; Jack Davis - Hawaii County Green Party; L. Bunge; Francis Kuailani, Sr. - U.S. Department of the Interior, National Park Service; Toni Withington; Tim Newstrom; Thomas Langenstein; Sachi Noma - Japanese Chamber of Commerce and Industry of Hawaii; Sherri Ching; Elane Snavelly; Nancy Pisicchio; Clarence Medeiros, Jr.; Sandra Scarr; Lily Kong; Curtis Tyler; Harry Fergerstrom; Laura Kamoku Na'o Pio o Kahaluu; Hannah Reeves; Betty Jean Kamoku; Kalani Hamm; Josephine Kamoku, and Isbella Medeiros.

DESCRIPTION OF THE PROPERTY

61. The Petition Area extends from Kailua-Kona to Keauhou 2nd, North Kona, Island and County of Hawaii, State of Hawaii. The affected parcels are interspersed among existing Urban-designated lands within this area of Kona.

62. The sixteen lots involved in the petition are owned by various landowners who have authorized Petitioner to submit the Petition, as amended, and include their properties for

EXHIBIT 7: Planning Department Letter of Support

reclassification into the Urban District. Petitioner does not own any of the properties affected by the Petition, as amended.

63. The properties herein identified are owned by the following firms/individuals and consists of the following acreage:

- a. 7-4-08: por. 1: Liliuokalani Trust Estate (60 acres)
- b. 7-5-03: 6: Hawaiian Development Corporation (93.41 acres)
- c. 7-5-03: 7: Hawaiian Development Corporation (44.50 acres)
- d. 7-5-03: 23: Capt. Cook Investment Co., Inc., et al (129.32 acres)
- e. 7-5-10: 5: Kamehameha Schools/Bishop Estate (54.70 acres)
- f. 7-5-17: 1: Pualani Estates, Inc. (22.67 acres)
- g. 7-5-17: 19 Pualani Estates, Inc. (31.68 acres)
- h. 7-6-13: 9: Arthur Nearon Family Trust (16.07 acres)
- i. 7-7-04: por 2: Nohona Partners, Inc. (133.48 acres)
- j. 7-7-04: por 27: Nohona Partners, Inc. (39.09 acres)
- k. 7-7-04: 56: American Lutheran Church (22.86 acres)
- l. 7-7-07: 41: ADN Corporation (26.16 acres)
- m. 7-7-08: 99: F.L. Smothers (31.50 acres)
- n. 7-7-08: 105: IVY & Associates (15.34 acres)
- o. 7-8-10: por 29: Kamehameha Investment Corporation (29 acres)
- p. 7-8-10: por 30: Kamehameha Investment Corporation (206 acres)

64. The Petition Area is located on the lower slopes of Mt. Hualalai, an 8,271 feet high dormant volcano.

EXHIBIT 7: Planning Department Letter of Support

65. Elevation of the Petition Area ranges from about 10 feet above mean sea level (msl) at Alii Drive to about 950 feet above msl at the mauka boundaries. The topography is characterized as being moderate sloping with the majority of the Petition Area having gradients of less than 10 percent.

66. The climate in this section of Kona is generally warm and semi-tropical. Seasonal changes are mild and fairly uniform, except for certain times during the winter months. The average annual temperature is 75 degrees Fahrenheit, with an average high of 83 degrees Fahrenheit and an average low of 67 degrees Fahrenheit.

67. The annual rainfall ranges from 25 to 30 inches on the lower (makai) section to 50 inches on the upper section (mauka). The wetter periods of the year usually occur during the months of May to September.

68. The Kona coast is largely sheltered from the predominant trade wind system by the land masses of Hualalai, Mauna Kea and Mauna Loa. The prevailing pattern is on-shore winds in the morning and early afternoon, then becoming off-shore breezes in the late afternoon and evening. Relative humidity is generally stable with the daily average ranging from 71 to 77 percent.

69. The Petition Area lies within Zone 4 of the hazard zone for lava flows as identified by the United States Geological Survey.

EXHIBIT 7: Planning Department Letter of Support

70. The entire coastline of North Kona is subject to inundation by tsunami. The Petition Area, however, is not within the tsunami inundation area.

71. The Land Study Bureau's Detailed Land Classification - Island of Hawaii overall master productivity ratings for the Petition Area are Classes E (Very Poor), D (Poor) and C (Fair).

72. The United States Department of Agriculture, Soil Conservation Service's Soil Survey of the Island of Hawaii, State of Hawaii (1973) has identified five soil types on the Property: Lava Flows, A'a (rLV) and Pahoehoe (rLW), Punaluu (rPYD), Waiaha (WHC), Kainaliu (KEC), and Kaimu (rKED).

73. A very small portion of the Property is classified as "Other Important Agricultural Lands" under the State Department of Agriculture's Agricultural Lands of Importance to the State of Hawaii (ALISH) system. The remaining area of the Property is not classified under the ALISH system.

74. The majority of the Petition Area is designated Zone X (Areas determined to be outside of the 500-year flood plain) on the Flood Insurance Rate Map ("FIRM") prepared by the Federal Emergency Management Agency. However, portions of TMK: 7-5-03: 6 and 7 (Keopu drainageway overflow) are within a floodway as designated on the FIRM. These FIRM designations are presently undergoing revisions which will change the delineation of the subject floodway. Portions of TMK: 7-5-03: 29 (Keopu drainageway) and 7-7-04: portions of 2 (Kaumalumalu drainageway) are also situated within a floodway as designated on the FIRM.

EXHIBIT 7: Planning Department Letter of Support

PROPOSAL FOR RECLASSIFICATION

75. The purpose of the Petition is to allocate sufficient land for future urban growth and also to direct urban growth in appropriate areas designated on the County General Plan.

76. The Petition Area has been designated for urban growth by the County of Hawaii General Plan since 1971. Within the area surrounding the Petition Area, there are approximately 3,900 acres of existing State Land Use Urban-designated lands.

77. Specific urban uses have not been determined at this time. Petitioner has represented that the Petition Area will mainly include residential uses at varying densities ranging from 4 to 10 units per acre with some limited commercial uses. The Land Use Concept for the Petition Area and surrounding lands will be further refined during the subsequent county land use and permit process. These refinements will include the identification of more specific land use patterns and densities, infrastructure requirements, and required facilities, such as schools and parks.

78. The development of the Petition Area will likely take place over a period of 10 to 20 years.

79. Petitioner, along with the landowners, will be working closely with the State and County agencies in providing the necessary infrastructure and services to support any proposed development within the Petition Area. Improvements to existing infrastructure will also be made simultaneously with development of the properties.

EXHIBIT 7: Planning Department Letter of Support

STATE AND COUNTY PLANS AND PROGRAMS

80. The Petition Area, as amended, is within the State Land Use Agricultural District as shown on the Land Use District Boundary Maps (USGS Quads) H-7 (Kailua), and H-8 (Kealahou).

81. The Petition Area is designated within a "Resort Destination Node" in the West Hawaii Regional Plan ("WHRP") prepared by the Office of Planning. Kailua-Kona is a major resort destination area and also serves as the regional and commercial center for West Hawaii. The Palani Road - Queen Kaahumanu Highway intersection in Kailua-Kona is being developed as a major commercial core. The other major resort destination area and commercial area is at Keauhou.

82. The Hawaii County General Plan Land Use Pattern Allocation Guide Map designates the Petition Area for Low, Medium and High Density Urban developments and as an Urban Expansion Area. The Low Density Urban designation allows single family, ancillary community and public uses, and convenience-type commercial uses. The Medium Density Urban designation may allow villages and neighborhood commercial and residential and related uses. The High Density Urban designation allows for much higher density commercial, multiple residential and related services. The Urban Expansion Area allows for a mix of high, medium and low density uses, industrial and/or open designations. The reclassification of the Petition Area will be consistent with the General Plan's land use goal of containing Urban development within certain sections of the North Kona District. The

EXHIBIT 7: Planning Department Letter of Support

reclassification of the Petition Area would also conform to other stated goals, policies, and standards of the General Plan.

83. The Petition, as amended, is also consistent with the Kona Regional Plan ("KRP") adopted by the Hawaii County Planning Commission as Resolution No. 1 84. The KRP is intended to be used as a guide to help shape the nature of future land use actions for the Kona area. The KRP's Land Use Concept Map designates the Petition Area as CG (general commercial), CV (village commercial), and RES - 4, 6, and 10 (residential - 4, 6 and 10 units per acre).

84. The Petition Area is either zoned Agricultural 3-acre (A-3a), Agricultural 1-acre (A-1a) or Unplanned (U) on the County's zoning map. Changes to the appropriate County urban zoning district may be initiated by Petitioner.

85. Lands within the Petition Area situated makai of Kuakini Highway are within the County's Special Management Area ("SMA"). Any development contemplated within the SMA would require a SMA Use Permit from the Planning Commission.

86. Petitioner has applied to the State to reduce the SMA in the region. If the application is granted, none of the properties within the Petition Area situated makai of Kuakini Highway will be within the SMA.

NEED FOR PROPOSED DEVELOPMENT

87. It is anticipated that the Petition Area will be mainly used for the development of residential units at varying densities, thereby providing for a full range of residential opportunities for this section of the North Kona District. As a

EXHIBIT 7: Planning Department Letter of Support

result of these anticipated residential developments, some limited commercial activities are also needed in this section of the Kona area.

88. Despite the previous growth of housing construction in the North Kona and South Kohala areas, there still exists a need for additional housing units in West Hawaii. The inadequate supply of housing is attributed to high land costs, the presence of many resort and high-priced market units, pent-up demand for affordable housing, and high infrastructure costs. High prices and a lack of affordable units help to explain why there appears to be widespread overcrowding and house sharing in West Hawaii. Residents in West Hawaii are particularly concerned about the supply of housing that working families can afford. The shortage is connected to both the inventory of housing available to residents and the price of housing in relation to resident income. Based on the projected population increase in Kona over the next few years, it is anticipated that the demand will exceed the supply of affordable and market housing in West Hawaii. West Hawaii's housing supply will be positively impacted by future developments of the Petition Area.

ECONOMIC/SOCIAL IMPACTS

89. The resident population of North Kona was estimated at 4,832 and 13,748 in 1970 and 1980, respectively. This amounted to an increase in population of 184.5 percent or an average annual rate of 18.5 percent per year. Between 1980 and 1990, the population of North Kona further grew to 22,284

EXHIBIT 7: Planning Department Letter of Support

persons. This amounted to an average increase of 6.2 percent per year or 62.1 percent over the 10-year period from 1980 to 1990 as compared to about 2.4 percent per year for the entire island.

90. The Hawaii County General Plan resident population for the North Kona District to the year 2005 ranges from a low of 43,250 (Series A) to a high of 64,500 (Series C). Series A is the most conservative projection, which assumes the demise of the sugar industry and a growth rate of 2 percent per annum. Series C projection is an optimistic projection, which assumes an average annual growth rate of 4.7 percent. In comparison with North Kona, the General Plan's population projection for the entire island in the year 2005 ranges from 173,000 (Series A) to 258,000 (Series C). At a conservative estimate of 4 units per acre, the Petition Area could provide approximately 3,800 dwelling units. Based on a calculation of 2.86 persons per household (1990 Census figures), the Petition Area alone could result in a population increase of about 11,000 persons.

91. The urbanization of the Petition Area will provide jobs and housing for the residents of Kona and the West Hawaii region and for others who desire to migrate to the island. Within the context of population projections contained in the County of Hawaii General Plan, the provision of housing and jobs will serve to support projected population increases, including in-migration.

92. The urbanization and development of the Petition Area and surrounding properties will generate short-term employment during the construction period. Long-term employment

EXHIBIT 7: Planning Department Letter of Support

opportunities will also be available with the development and establishment of certain commercial activities. Employment associated with future developments within the Petition Area includes construction jobs and indirect and induced jobs created as the Petition Area is developed.

93. The development of the Petition Area is estimated to generate an additional \$2.6 million in real property tax revenues. These monies will be deposited in the County's general fund which would then be used to provide services to the public, including capital improvement projects.

IMPACTS UPON RESOURCES OF THE AREA

Agricultural Resources

94. The majority of the Petition Area is not being used for agricultural purposes. There are a few lots which are used for limited grazing. A very small portion of the Petition Area is designated "Other Important Agricultural Lands" by the State Department of Agriculture's ALISH system. None of the Petition Area is designated by the Land Study Bureau as Class A or B soils. The Petition area is designated either Class VII or VIII by the United States Department of Agriculture, Soil Conservation Service. Both soil types have very severe limitations that make the Petition Area unsuited to cultivation. Based on the soil classifications and from an agricultural resource perspective, there will be no adverse impact to existing and proposed agricultural operations should the Petition Area be reclassified into the Urban District.

EXHIBIT 7: Planning Department Letter of Support

Flora and Fauna

95. There are stretches of undeveloped land characterized by barren lava and lowland vegetation consisting of kiawe, lantana, koa haole, and pasture grasses within the Petition Area. Previous flora studies conducted on adjacent lands south of Palani Road revealed that there are no endangered plant species in these sections of the Petition Area.

96. A preliminary botanical study was conducted by Intervenor HDC of its properties identified by TMK: 7-5-03: 6 & 7. Of the approximately 70 species of plants recorded, only six were native. None of the plants are considered rare, endangered or threatened.

97. At Petitioner's request, the U.S. Department of Interior, Fish and Wildlife Service, conducted surveys of several parcels (TMK: 7-5-03: 23; 7-5-17: 1 & 19; 7-6-13: 9; 7-7-04: 2; 7-7-08: 27, 99 & 105) within the Petition Area. The surveyed parcels were dominated by alien plant species and contained only a few indigenous plant species. No threatened or endangered plant species or any plant species of concern were found on the properties surveyed. The Fish and Wildlife Service had no objections to the redistricting of the properties with respect to impacts on these species.

98. Previous fauna studies conducted on adjacent lands revealed that there are no rare or endemic ecosystems in the area. All of the animal life (i.e., mongoose, rats) are introduced species.

EXHIBIT 7: Planning Department Letter of Support

99. A survey of avifauna and feral mammals was conducted for Intervenor HDC properties identified by TMK: 7-5-03: 6 & 7. The survey revealed that there are no endemic species except that the short-eared owl (Pueo) and the endangered Hawaiian Hawk ('Io) may occur at times. No special or unique bird or mammal habitat was discovered.

Archaeological/Historical Resources

100. The Petition, as amended, states that archaeological inventory and/or reconnaissance surveys were conducted for the following Tax Map Keys: 7-5-03: 6 & 7 (HDC); 7-7-08: 105 (IVY & Associates); 7-8-10: pars. 29 & 30 (KIC); 7-5-17: 1 & 19 (Pualani Development Company); 7-4-01: par. 1 (LT); 7-7-04: 2 & 7-7-08: 27 (Matsuzato Hawaii, Inc./Nohona Partners). However, only surveys conducted for Intervenor HDC, Intervenor KIC, and Intervenor LT have been submitted into the record for the subject docket. The Commission has not received surveys for parcels owned by IVY & Associates; Pualani Development Company; Matsuzato Hawaii, Inc./Nohona Partners; Capt. Cook Investment Co., Inc; Kamehameha Schools/Bishop Estate; Arthur Nearon Family Trust; American Lutheran Church; ADN Corporation; and F.L. Smothers.

101. Petitioner submitted an archaeological reconnaissance report of seven parcels within the Petition Area: 7-4-08: par. 1 (LT); 7-5-03: 23 (Captain Cook Investment, et al); 7-5-10: 5 (Kamehameha School/Bishop Estate); 7-6-13: 9 (Arthur Nearon Family Trust); 7-7-04: 56 (American Lutheran Church); 7-7-07: 41 (ADN Corporation); and 7-7-08: 99 (F.L. Smothers).

EXHIBIT 7: Planning Department Letter of Support

The report concluded that archaeological or historical remains were found on each of the parcels and each will require an intensive archaeological survey. The report was not intended to indicate the total number of sites on the parcels or provide any significance evaluation of the sites within the seven parcels.

102. At Petitioner's request, the Department of Land and Natural Resources, State Historic Preservation Division ("SHPD"), did an overview of a report entitled Central Kona Archaeological Settlement Patterns. Petitioner had requested SHPD to do a regional perspective of the Petition Area with respect to what the archaeological and cultural resources were in the area. The study would then provide the context in which Petitioner could assess other archaeological survey reports in terms of uniqueness of features that are found in the area and whether they fit this overall pattern. This paper briefly summarized the archaeological site patterns for Central Kona and only sites dating to pre-European contact (pre-A.D. 1779) times and the early 1800s were considered.

103. Intervenor HDC's report entitled An Archaeological Inventory Survey of 126 acres in the Ahupua'a of Lanihau 2, Moeauoa 1, and Moeauoa 2, Kailua-Kona, Island of Hawaii (Spear 1996) reported twenty-five significant historic sites were found on Intervenor HDC's properties. Seventeen sites were significant solely for their information content and eight were significant for multiple criteria. SHPD approved the archaeological inventory survey. A Data Recovery Plan was also

EXHIBIT 7: Planning Department Letter of Support

done for the Intervenor HDC's properties and submitted into the record for the subject docket.

104. Intervenor KIC's report entitled Population and Land-use on the Keauhou Coast. The Mauka Land Inventory Survey, Keauhou, North Kona, Hawai'i Island, Part I: Narrative was approved by SHPD. SHPD agreed with the mitigation proposals in the report which states that 12 sites undergo preservation or partial preservation and 55 sites undergo archaeological data recovery. With these commitments, SHPD believed that development of the KIC properties will have "no adverse effect" on the significant sites.

105. Intervenor LT's Interim Report Archaeological Inventory Survey 60-Acre Agricultural Zoned OLT Parcel revealed a total of 67 sites. These included agricultural, habitation, and wall sites. The features include terraces, mounds, enclosures, platforms, C-shapes, caves, modified outcrops, and possible burials, modified trail, and historic dump. One of the wall sites is the Kuakini Wall. The interim report has been submitted to SHPD, and a final report is being completed.

106. The Petition was reviewed by SHPD for compliance with the requirements of Section 6E-8, HRS. The Petition received concurrence from SHPD in May 1996, however, the concurrence was subsequently rescinded in July 1996 when SHPD learned that the Commission had not decided to defer archaeological surveys to the County level. SHPD re-issued its written concurrence in August 1997, based on SHPD's understanding