

BEFORE THE LAND USE COMMISSION

OF THE STATE OF HAWAII

In the Matter of the Petition of) DOCKET NO. A99-728
)
HOUSING AND COMMUNITY)
DEVELOPMENT CORPORATION OF)
HAWAII, STATE OF HAWAII)
)
To Amend the Agricultural Land Use)
District Boundary into the Urban Land Use)
District of Approximately 1,300 Acres of)
Land at Honouliuli, `Ewa, O`ahu, Hawai`i,)
TMK Nos. 9-1-16:8, 109; 0-1-17: 71,)
86; and 9-1-18: 3, 5.)
_____)

**MOTION FOR ORDER AMENDING THE FINDINGS OF FACT, CONCLUSIONS OF
LAW, AND DECISION AND ORDER DATED SEPTEMBER 8, 1999**

VERIFICATION

AFFIDAVIT OF CRAIG Y. IHA

EXHIBITS "1" THROUGH "4"

and

CERTIFICATE OF SERVICE

**MOTION FOR ORDER AMENDING THE FINDINGS OF FACT, CONCLUSIONS
OF LAW, AND DECISION AND ORDER DATED SEPTEMBER 8, 1999**

TO THE HONORABLE LAND USE COMMISSION OF THE STATE OF HAWAII:

Petitioner STATE OF HAWAII, DEPARTMENT OF HAWAIIAN HOME LANDS ("DHHL"), respectfully moves the Land Use Commission of the State of Hawai'i ("Commission") pursuant to §15-15-70 and §15-15-94 of the Commission's Rules for an Order Amending the Findings of Fact, Conclusions of Law, and Decision and Order dated September 8, 1999 ("1999 Decision and Order"): (1) recognizing DHHL's standing to seek and obtain the relief requested herein; (2) re-designating a new docket covering that portion of the Petition Area identified as Tax Map Key No. (1) 9-1-016:142, comprising approximately 67.184 acres of land ("Petition Area C" or the "Subject Property"), separate and apart from the remaining 715 acres reclassified under Docket No. A99-728; (3) releasing the Subject Property from the conditions of the 1999 Decision and Order; and (4) issuing a new findings of fact, conclusions of law, and decision and order for the Subject Property.

In support of this Motion, DHHL alleges as follows:

I. BACKGROUND

On March 5, 1999, the Housing and Community Development Corporation of Hawai'i ("HCDCH" or "Former Petitioner"), an agency of the State of Hawai'i, filed a Petition for Land Use District Boundary Amendment ("Petition") in this Docket No. A99-728 to reclassify approximately 1,300 acres of land owned by the State, located in Kapolei, Oahu, City and County of Honolulu, Hawai'i, identified as Tax Map Key Nos. (1) 9-1-016: 8, 108, 109; (1) 9-1-017: 071, 086l and (1) 9-1-018: 003, 005, ("Petition Area") from the State Land Use Agricultural District to the State Land Use Urban District for a master planned community referred to as the East Kapolei Master Plan Development Project ("East Kapolei"). See Findings of Fact,

Conclusions of Law, and Decision and Order dated August 13, 2007, Docket No. A99-728(a), Finding of Fact 1 ("A99-728(a) Decision and Order, FOF 1").

HCDCH intended to be the master developer of East Kapolei. As the master developer, HCDCH provided the backbone infrastructure, including major roadways and expansion of the electrical and communications systems, a sports complex, water and wastewater system master plans, and development of open space recreation areas. HCDCH proposed to sell large lot parcels to individual developers for construction of proposed land uses. See id. at FOF 2 and 3.

Components of East Kapolei included the following:

<u>Use</u>	<u>Units</u>	<u>Acreage</u>
Single-Family Residential	4,300-5,800	722
Multi-Family Residential	2,100-2,600	211
Commercial		18
Parks		
Neighborhood (6)		21
District (1)		15
Sports Complex		64
Schools		
Elementary (3)		36
Intermediate (1)		20
Major Roads		74
Other Open Space/Public Facilities		<u>119</u>
TOTAL		1,300

Id. at FOF 4.

The proposed sports complex was planned on substantially the same location as Petition Area C. It was designated with a 4,000-seat stadium expandable to 8,000 seats. A grass berm seating area could also be used to accommodate an additional 2,000 seats. Also included are a multi-purpose building, six practice fields to permit use by two teams, batting cages, bleachers, pitcher mounds, maintenance sheds and storage, and miscellaneous accessory uses such as lighting, restrooms, and drinking fountains. See 1999 Decision and Order at FOF 27.

On September 8, 1999, the Commission issued the 1999 Decision and Order. See A99-728(a) Decision and Order at FOF 10.

By Deed dated November 8, 2002, recorded at the Bureau of Conveyances as Document No. 2860229 on November 13, 2002, the State of Hawai`i conveyed approximately 500 acres of the Petition Area to the University of Hawaii.

By Quitclaim Deed dated October 27, 2006, recorded at the Office of the Assistant Registrar of the Land Court, State of Hawaii, as Document No. 3505385 on October 27, 2006, the State of Hawai`i conveyed approximately 800 acres of the Petition Area to DHHL. See Deed dated October 27, 2006, attached as Exhibit 1.

On March 9, 2007, the University of Hawaii filed its Motion to Amend the 1999 Decision and Order to, *inter alia*, modify certain conditions in the 1999 Decision and Order to be specific only to the 500 acres conveyed to the University of Hawaii. The University of Hawaii's Motion to Amend was substantially based on the conveyance of the project for the development of the UH West Oahu Campus, thus significantly changing the concept of East Kapolei as described in the 1999 Decision and Order. The University of Hawaii's project includes the relocation of the UH West O`ahu campus from a formerly proposed location mauka of the H-1 Freeway adjacent to Makakiko to makai of the H-1 Freeway, residential uses, mixed uses, student housing or campus expansion, an elementary school site, roads, detention basins, and electrical substations. Under East Kapolei as described in the 1999 Decision and Order, the 500 acres had been proposed to be sold as large lot parcels to private developers to fund the development of the UH West O`ahu campus. See A99-728(a) Decision and Order, at FOF 21 and 22.

A new docket number was issued specifically for the 500 acres owned by the University of Hawaii, Docket No. A99-728(a), and the Findings of Fact, Conclusions of Law, and Decision

and Order in Docket No. A99-728(a) was filed on August 13, 2007, substantially amending the conditions in the 1999 Decision and Order to address the significant changes to the concept of East Kapolei as a result of the University of Hawaii's new UH West O`ahu campus project. See A99-728(a) Decision and Order at FOF 31.

On January 12, 2009, The Salvation Army ("TSA") acquired 15 acres in fee simple from the State of Hawaii for the purpose of constructing and operating a regional community service center to be known as the Kroc Center. See A99-728(b) Decision and Order at FOF 17. The 15 acres acquired by TSA is located in East Kapolei and was a part of the remaining 800 acres of petition area under A99-728. Id. at FOF 30.

On April 28, 2009, TSA filed a Motion to Amend the 1999 Decision and Order requesting that the Commission: (1) recognize TSA as the successor in interest to the 15 acres, which was a part of the 1,300 acre petition area reclassified in the 1999 Decision and Order; (2) re-designate a new docket for the 15 acres, separate and apart from the remaining 785 acres; (3) releasing the 15 acres from the conditions of the 1999 Decision and Order; and (4) the issuance of a new findings of fact, conclusions of law, and decision and order for the 15 acres for the purpose of proceeding with TSA's Kroc Community Center project. See A99-728(b) Decision and Order at FOF 18.

The Kroc Community Center project was comprised of approximately 120,000 square feet under roof and an estimated 450 parking stalls and included a theater, worship center, administrative office space, learning center, conference center, commercial kitchen, aquatics center, athletic center and sports fields. See A99-728(b) Decision and Order at FOF 31.

On November 13, 2009, the Commission approved TSA's Motion to Amend the 1999 Decision and Order. See A99-728(b) Decision and Order.

DHHL has filed this motion to amend certain conditions in the 1999 Decision and Order specific to the 67.184 acres owned by DHHL to achieve consistency between said conditions and the proposed regional commercial center to be known as Ka Makana Ali`i. The Project is being developed by Hawaii DeBartolo, LLC, a Delaware limited liability company whose principal place of business is Tampa, Florida, under a 65-year ground lease from DHHL. Consistency between the conditions of the 1999 Decision and Order and the proposed Project is necessary for DeBartolo to proceed with development. Debartolo is requiring modification of the LUC conditions of the 1999 Decision and Order and the Proposed Project as a condition of leasing the property from DHHL and proceeding with the Project.

Ka Makana Ali`i is envisioned to be a mixed use Lifestyle Center, meaning that it will contain a variety of commercial land uses such as retail, restaurant and entertainment space, business traveler oriented hotels, office space, open space amenities, and a variety of transportation related linkages. The Project will represent the largest revenue generator for DHHL which will contribute significantly to achieving financial self-sufficiency and provide greater financial support towards fulfilling its mission. See, generally, Final Environmental Assessment dated November 2011, attached as Exhibit 2.

II. CONFORMANCE WITH STATE LAND USE STANDARDS

Although Petitioner is not seeking the reclassification of State Land Use District Boundaries, Petitioner is proposing a different use of Petition Area C. As a result, Petitioner discusses the following applicable requirements set forth by §15-15-50(c), *Hawai`i Administrative Rules* ("HAR") to support this motion.

A. PETITIONER AND REPRESENTATIVE

Petitioner DHHL is the agency of the State of Hawai`i charged with carrying out the purposes of the Hawaiian Homes Commission Act (“HHCA”). See HHCA at § 202. DHHL’s location and principle place of business is Hale Kalaniana`ole, 91-5420 Kapolei Parkway Kapolei, HI 96707. DHHL is represented herein by the Attorney General of the State of Hawaii pursuant to HRS §§ 28-1 and 28-8.3. Correspondence and communications in connection with this motion are to be addressed to DHHL’s attorney, Deputy Attorney General Craig Y. Iha at 425 Queen Street, Honolulu, Hawai`i, 96813.

B. DESCRIPTION OF THE SUBJECT PROPERTY

The Subject Property is located at the southern end of the area known as East Kapolei in the Ewa District of the City and County of Honolulu on the island of Oahu. It is generally situated between the residential areas known as Kapolei Village 8 (to the west) and Varona Village (to the east). It is bounded on the north by the extension of Kapolei Parkway and on the south by the Oahu Railway and Land Company (OR&L) railway corridor. The western property boundary abuts an unlined drainage channel owned by the Hawaii Housing Finance and Development Corporation (“HHFDC”) and generally known as the Kapolei Lower Drainage Channel. The eastern property boundary abuts a 75-foot wide utility easement owned by the Hawaiian Electric Company (“HECO”) within which 138kv transmission lines supported by 100-foot poles are located. See Exhibit 2 at pp. 1-6.

The Subject Property is identified as Tax Map Key No. (1) 9-1-016: 142, comprising approximately 67.184 acres of land. Id. at pp. 1-3 (copies of location and tax maps identifying Subject Property).

C. PRESENT USE OF THE SUBJECT PROPERTY AND CONFORMITY TO URBAN DISTRICT STANDARDS

The Subject Property was formally planted with sugar cane but has been vacant since the Ewa Mill closed in the 1970s. However, it contains several man-made features including a borrow pit, an excavated foundation, and a large dirt stockpile. The Property is currently vacant.

D. PETITIONER'S PROPERTY INTEREST IN THE SUBJECT PROPERTY

DHHL is the owner of the Subject Property pursuant to the Quitclaim Deed dated October 27, 2006, recorded at the Office of the Assistant Registrar of the Land Court, State of Hawaii, as Document No. 3505385 on October 27, 2006. See Exhibit 1.

E. DESCRIPTION OF THE USE OR DEVELOPMENT BEING PROPOSED

The Project is composed of three distinct but related components: its Anchor Tenants, a Village Square, and a Neighborhood Convenience Center. The layout of the project responds to the physical demands of the site. One level of below-grade parking will be oriented in the general location of the borrow pit and will provide approximately 1,826 parking stalls. The project's remaining 2,671 parking stalls will be located at grade. See Exhibit 2 at p. 1.

The Village Square area, located in the central and northern portion of the Subject Property is envisioned as a pedestrian oriented activity center consisting of 10 separate buildings surrounding a plaza area. The hotels and office space will be situated in mid-rise structures (60 - 120 feet in height) in the Village Square with specialty retail and restaurants on the ground floor. Indoor and outdoor cafes will open out to the pedestrian plaza. As the streetscape within Village Square focuses on pedestrian traffic, only a limited number of parking spaces will be provided.

As presented in the Conceptual Master Plan, the Neighborhood Convenience Center will be located along the northwestern boundary of the Subject Property. It is intended to include a specialty market, drug store, and convenience shopping and service. The Neighborhood

Convenience Center is oriented to the daily shopping needs of the community and is designed to allow customers direct access from the adjacent parking lot to the stores at a minimal distance.

As presented in the Conceptual Master Plan, vehicles will access the Project from two major entrances: one off of Kapolei Parkway between the Village Square and the Neighborhood Convenience Center, and the other off the proposed access from Kualaka`i Parkway. Additional roadway accesses will link the major parking area between the Anchor Tenants to Roosevelt Avenue. Service and delivery vehicles will utilize Roosevelt Avenue for access to the Project. See id. at p. 26.

1. TOTAL LEASABLE AREA

As presented in the Conceptual Master Plan, approximately 1,400,000 square feet of leasable area, used for commercial office space, retail, cinema, gym, hotels, restaurants, and other eating facilities, and entertainment facilities. See id. at p. 1.

2. BUSINESS-ORIENTED HOTELS

As presented in the Conceptual Master Plan, the proposed Village Square will include two business travel-oriented hotels, each with approximately 250 rooms. Each of the hotels will be built over specialty retail on the ground floor, at opposite ends of the Village Square, with each fronting its own pedestrian plaza. As the hotels are not intended to be visitor destinations, their amenities will be limited to those services required by the business traveler. The Petitioner believes that the hotels will complement the growing commercial character of Kapolei without competing with the Ko Olina Resort. See id.

3. OFFICE

As presented in the Conceptual Master Plan, approximately 217,000 square feet of office space, provided in a separate building, is proposed within the Village Center. See id.

4. ENTERTAINMENT

As presented in the Conceptual Master Plan, the Project will include several community oriented entertainment centers including a cinema complex, a fitness center, and a bowling alley. See id.

5. INFRASTRUCTURE

As presented in the Conceptual Master Plan, the infrastructure provided by the Project will include a wastewater collection system; a water transmission system; storm water drainage; regional roadway connections, new intersections at Kapolei Parkway Kualaka`i Parkway, and Roosevelt Avenue, and internal roadways, pedestrian routes, and parking lots; and subterranean electrical and telecommunication utilities. These various systems will all be designed to the City's standards for dedication and will be linked to existing regional infrastructure.

F. A STATEMENT OF PROJECTED NUMBER OF LOTS, LOT SIZE, NUMBER OF UNITS, DENSITIES, SELLING PRICE, INTENDED MARKET, AND DEVELOPMENT TIMETABLES

The Project is intended to break ground in 2012 subject to development approvals, with its first phase opening in 2014. As presented in the Conceptual Master Plan, phase 1 consists of approximately 19.72 acres located along the western portion of the project site. It will include a total of 200,681 sf of building area enclosed in 7 different building structures. Phase 1 is projected to take approximately 15 months from start of site work to opening of the Center for business. Phase 2 would follow in 2015. The entire development will operate under a 65-year ground lease from DHHL to DeBartolo.¹ The Project's tenants will sublease their space from DeBartolo. See Exhibit 2 at pp. 16-24.

¹ Act 187, Session Laws of Hawaii 2010, allows DHHL to extend the term of the ground lease by an additional 20 years, provided certain conditions are met.

The site will be graded to best balance the on-site cut and fill. The proposed building footprints are largely set at a single elevation, with grade variation occurring between units. Building pad elevations are expected to vary to accommodate the change in grade across the property.

The initial site work will involve clearing the Phase 1 property of all surface vegetation and stockpiling the topsoil for future use in landscaping. The three large existing stockpiles contain suitable soils that will be compacted to fill approximately one third of the existing open excavation onsite today (the old stadium footprint and the borrow pit). No additional importation of fill will be required during Phase 1.

The offsite scope of work for Phase 1 consists of the completion of the current three-way intersection on Kapolei Parkway at Kinoiki Street to a full, four-way signalized intersection along with a right-in, right-out connection west of the signalized intersection near the site boundary. In addition, there will be a non-signalized service road in the southwest corner of the project that must cross the existing OR&L railroad tracks and intersect with Roosevelt Avenue. The offsite work should take approximately 6 months to complete.

The buildings will be constructed using several different structural systems from concrete tilt wall and steel to ICF foam filled masonry to wood construction. The buildings will take approximately 9-10 months to complete in their entirety.

Phase 2 site work is anticipated to commence prior to the completion and opening of Phase 1. Phase 2 consists of approximately 47.5 acres with a total of 1,145,221sf of building area enclosed in 15 different building structures. The total projected construction duration of Phase 2 is 31 months.

Site work for Phase 2 will consist of completion of the filling of the old stadium foundation and the borrow pit by using approximately 220,000cy of suitable fill in conjunction with the excavation of the subterranean parking structure. The structure will take approximately 10 months to complete and will accommodate over 1,800 parking spaces when finished. The offsite scope of work for Phase 2 consists of extending Kualaka`i Parkway to the project entrance on the east property line as well as traffic signal readjustments at the Kapolei Parkway intersection. A second access to Roosevelt Avenue will be added at about the center point on the southern side of the subject property that will also need to cross the historic railroad tracks.

The buildings will be constructed using several different structural systems from concrete tilt wall and steel to structural frame with metal stud construction. The buildings will take approximately 24 months to complete in their entirety. The Hotel structure may be completed slightly later than the rest of the Center.

G. FINANCIAL STATEMENTS AND FINANCING

This requirement is waived for State agencies such as DHHL. See HAR § 15-15-50(c)(8).

H. DESCRIPTION OF THE SUBJECT PROPERTY AND SURROUNDING AREAS

The Subject Property is relatively flat land with a slope of one to two percent. It is sparsely vegetated owing to the presence of the borrow pit, foundation area, and stockpile, and the numerous equipment roads that have been graded across the property. The Subject Property is located between the Villages of Kapolei and Varona Village. The DHHL East Kapolei property lies north of the Subject Property and Kalaeloa (the former Barbers Point Naval Air Station) lies to the south. See Exhibit 2 at p. 4.

1. USE OF THE PROPERTY OVER THE PAST TWO YEARS

The majority of the Subject Property has been used for the past two years as a borrow pit, a stockpile area, and graded for numerous construction vehicle roads. The Subject Property also includes an area excavated for the formerly-proposed Sports Complex. See id.

2. PRESENT USE OF THE PROPERTY

The Subject Property is currently vacant.

3. SOIL CLASSIFICATION

The soils on the Subject Property were generally divided between two soil classifications: Honouliuli series (HxA) and Mamala series (MnC). The HxA soils constitute the northern half of the site while the MnC soils constituted the southern half. Honouliuli soils are well-drained soils on coastal plains. They are nearly level. Permeability is moderately slow and the erosion hazard is considered to be slight. The Mamala soils are stony silty clay loam with 0-12 percent slopes and their erosion hazard is slight to moderate. See Exhibit 2 at pp. 87-88.

The presence of the borrow pit renders the soil classification in its area moot. The borrow pit was excavated by DHHL so that the subsurface coral material could be utilized as fill material at the neighboring Village 8 residential project. It is presumed that the existing stockpile contains, at least in part, the topsoil that was removed when the borrow pit was excavated. See id.

4. AGRICULTURAL LANDS OF IMPORTANCE TO THE STATE OF HAWAII (ALISH)

The lands generally occupied by the existing borrow pit and stockpile were formerly identified as Prime Agricultural land. The remainder of the subject property is identified as Other. See id. at p. 88.

5. PRODUCTIVITY RATING

The Land Study Bureau classified the Subject Property as Allu and B16j. The Bureau's five-class productivity rating uses the letters A through E, with A representing the class of highest productivity and E the lowest. The A lands generally corresponded to the location of the borrow pit and stockpile, with the B lands on the remainder of the site. See id.

6. FLOOD AND DRAINAGE CONDITIONS

The majority of the Subject Property is classified as Flood Zone X by the Federal Emergency Management Agency's Flood Insurance Rate Map (FIRM). A relatively narrow strip of the Subject Property along its southern boundary is designated as Flood Zone D. Land in Flood Zone X is subject to inundation by the 500-year flood. A designation of Flood Zone D means that the potential for flooding is undetermined. See Exhibit 2 at pp. 95-96

The East Kapolei area, including the Property, is impacted by regional storm runoff from a portion of the Kaloi Gulch drainage basin and the Hunehune Gulch drainage basin. The two gulches converge within the 500-acre UH West Oahu project site. Construction of Kanehili Street and Kualaka`i Parkway resulted in the diversion of flow from Kaloi Gulch to a new channel below Farrington Highway. Flow from Hunehune Gulch and sheet flow from the UHWO property is diverted under Kualaka`i Parkway to detention basins. See id.

Storm runoff from the subject property that does not flow into and collect in the borrow pit flows into the Lower Kapolei Channel along the western boundary and subsequently into the Coral Pit in Kalaeloa. See id.

7. TOPOGRAPHY OF THE SUBJECT PROPERTY

The Subject Property is relatively flat with a slope of less than two percent. There are no natural variations in the topography. The existing borrow pit is approximately 30 feet deep, extending over an area of approximately 13.763 acres. The existing stockpile, extending over an

area of about 5.767 acres, is about 12 feet high in some places. The area excavated for the formerly-proposed sports stadium is about 8 feet deep and covers an area of approximately 4.417 acres. See id. at p. 84.

I. ASSESSMENT OF IMPACT OF THE PROPOSED USE OR DEVELOPMENT

A Final Environmental Impact Statement (“FEIS”) for East Kapolei was completed in 1998, which encompasses all of East Kapolei, including the Subject Property. Selected pages from the 1998 East Kapolei FEIS are attached as Exhibit 3. In addition, DHHL commissioned an Environmental Assessment for the Project pursuant to HRS chapter 343. On December 12, 2011, DHHL’s governing body, the Hawaiian Homes Commission, accepted the Final Environmental Assessment (“FEA”) and issued a Finding of No Significant Impact for the Project (“FONSI”). The FONSI was published by the State Office of Environmental Quality Control on January 23, 2012. A copy of the FONSI is attached as Exhibit 4.

1. ENVIRONMENT

The FEA incorporates the 1998 East Kapolei FEIS finding that “all environmental impacts will occur primarily during the construction period from noise, soil erosion, increased construction machinery exhaust emissions, and temporary disruption of traffic. After project development and implementation of appropriate mitigation measures, no significant impacts affecting water quality will occur, surface drainage will be significantly improved, the diversity of plant and animal species will increase, and archaeological resources will not be impacted.”

See Exhibit 3, 1998 East Kapolei FEIS at p. 2.

2. AGRICULTURE

As agricultural activity on the property was discontinued approximately 30 years ago and the Subject Property has remained fallow since then, the Project will have no significant adverse

impact upon agricultural activity. Reclassification of the East Kapolei property to the State Urban district in 1998, including the Subject Property, effectively removed it from the inventory of agricultural lands.

3. RECREATIONAL

Development of the Subject Property as a regional commercial center will have no significant impact on recreational resources in the region. The Subject Property was originally proposed as a regional sports complex in the 1998 East Kapolei FEIS. However, the subsequent relocation of the proposed UH West O`ahu campus to the northern end of the East Kapolei property has diminished the desire for developing a sports complex on the Subject Property. Many of the facilities originally proposed for the Subject Property are now proposed to be included on the West O'ahu campus. See Exhibit 2 at pp. 105-106.

4. CULTURAL

A Cultural Impact Assessment (CIA) was conducted for the project by Pacific Legacy and was incorporated into the FEA as Appendix I. Pacific Legacy conducted archival research and consulted with community members to identify cultural practices, cultural resources, and beliefs associated with the area. Cultural practices are typically customs relating to subsistence, commerce, residency, agriculture, recreation, religion, spirituality, and collection of cultural resources, which may be carried out by Hawaiian practitioners or practitioners from other ethnic groups.

Ethnographical evidence supports the possibility that cultural practices occurred on the property prior to the large-scale cultivation of sugar cane. Sinkholes in the general area were utilized as natural planters for kalo (taro, dry-land variety), temporary shelters, storage features, and sources of water. However, no sinkholes were found onsite during the archaeological

inventory survey. According to one interviewee, some portions of the project area were used by Hawaiians for a variety of activities. For example, the lands may have been planted in 'ulu (breadfruit), liliko'i (passion fruit), niu (coconut), and two types of mai'a (banana). See Exhibit 2 at pp. 96-100.

Additionally, birds were trapped for feathers in or near to the project area, including the ae'o (*Himantopus mexicanus knudseni*), i'iwi (*Vestiaria coccinea*), 'apapane (*Himatione sanguine*), and the mamō (*Drepanis pacifica*). The interviewee also recalled the existence of at least one ahu (shrine) in the general area, which was dedicated to agriculture. This ahu 'aina was made of stacked waterworn basalt boulders and cobbles, likely collected from a nearby stream bed, that stood up to five feet tall and possibly as wide as it was tall with a circular plan view. On these ahu, devotees, including the interviewee, would leave offerings to show appreciation for these natural resources and respect for the divine. However, the ahu 'aina was destroyed many years ago, sometime during the initial preparation of the land for sugarcane cultivation. See id.

It has not been demonstrated that any cultural practices have been ongoing from the pre-Contact era or Historic era to the present. As the majority of the project area has been heavily disturbed by agricultural and construction activities prior to the CIA, contemporary cultural practices taking place in the project area were limited to the gathering of 'uha loa (*Waltheria indica*) for traditional Hawaiian medicine and 'alae (red clay) for coloring salt, medicine, dye, and spiritual purification. A total of three cultural practitioners were documented as gatherers of these cultural resources: an interviewee and his two lā'au lapa'au students. Although these resources exist in localities outside of this project area, the location is desired for its easy access,

abundance of the resources, and the lack of pesticide sprays in its interior. The proposed development will impact these activities. See id.

Additionally, three of the four interviewees state that the general area of central Ewa Plains is the land of the “Wandering Spirits” and “Night Marchers.” One interviewee claims that these restless spirits become a problem for many recent developments in the area and has performed many “clearings” to rid public buildings, businesses, and residences of unwanted spirits. See id.

Two Native Hawaiian cultural resources have been identified as being potentially impacted by the proposed project: ‘uha loa (*Waltheria indica*) for traditional Hawaiian medicine and ‘alae (red clay) for coloring salt, medicine, dye, and spiritual purification. An interviewee and his two lā‘au lapa‘au students were the only cultural practitioners to be currently collecting these resources from the area. The Project and cultural resources, such as ‘uha loa and ‘alae, will not likely be able to occupy the same space at the same time. However, these resources are not endangered and can be found in other, albeit less convenient, locations. ‘Uha loa is readily-available commercially and therefore can easily be incorporated into landscaping at the project. See id.

Cultural informants also raised concern regarding the lack of fresh water in the general area. This is a growing concern for the entire ahupua‘a of Honouliuli with the rapid escalation of new homes and businesses. One interviewee suggests that the new development use native, drought-tolerant plants in its landscaping to ensure that local agriculture and aquaculture projects aimed at increasing our independence from outside commodities will be successful. The Project will include a mix of drought tolerant plants and exotic. See id.

There is also concern about unsettled spirits that remain in the area causing unwanted paranormal activities to plague the Project or, conversely, surrounding localities being haunted by the displaced spirits. Some informants fear that archaeological sites and burials, also cultural resources, possibly contained in sinkholes and concealed by plantation era soils may be damaged or lost during ground disturbing activities related to the project's construction. It is a common belief that the disturbance of archaeological sites and burials can also upset spirits or cause bad fortune to befall those who have caused the disturbance. To address this, cultural informants recommend that efforts should be made to bless the groundbreaking at the Project formally as well as at the grand opening of the mixed-use complex. See id.

If archaeological sites are encountered during the construction of the Project, interpretive cultural displays will incorporate artifacts (to the extent possible), archival photos, artistic renderings, and traditional accounts to educate its patrons of 'Ewa Plain's past. See id.

Other cultural informants, specifically those currently living in nearby Varona Village, fear that the new development may be further cause to displace them from their plantation era homes. Those informants associated with the Hawaiian Railway Society have similar fears of proposed roadways conflicting with existing tracks and switching yard, ultimately displacing them from their current location. Communications with these groups will help dispel misconceptions and begin a healthy discourse regarding the proposed project.

5. HISTORIC

Archival research revealed that, in general, the Ewa Plain has a long and interesting history. However, no previous archaeological research has been conducted on the project area. Oral traditions and historical references to the specific area do not exist prior to its use as cane

field, when it is shown on a 1939 Ewa Plantation Map as Field No. 46. See Exhibit 2 at pp. 98-100.

It is possible, that a major feature of pre-Contact and early Contact Honouliuli, the Kualaka'i Trail, cut across or passed near to the project area according to the Malden (1825) map featuring the south coast of O'ahu. This prominent trail once connected Honouliuli Village to the coastal settlements of Oneula and Kualaka'i, and would have been crucial to life on the 'Ewa Plain and its coast. It is likely that the probability of encountering subsurface archaeological deposits increases with proximity to where ancient trail was located. However, no evidence that the trail crossed the Subject Property has been found.

Furthermore, the project area borders the historic OR&L Railroad to the north. This historic railway, in operation from 1889 to 1947, was placed in the National Register of Historic Places in 1975. The project area borders the historic narrow gauge OR&L right-of-way to the north. After 1947, the railway was sold to the US Navy, which used the stretch of track from Lualualei Ammunition Depot to the West Loch Ammunition Depot until the end of 1968. The Navy did not use the tracks daily, but maintained them to industry standards. The Hawaiian Railway Society, founded in 1971, began the process, with the help of Hawai'i's congressional delegation, to have the remaining stretch of track place on the National Historic Register. At that time, there were four public roadway crossings: Ft. Weaver Road, Renton Road extension (formerly the entrance to the Ewa Marine Corps Airbase), Fort Barrette Road, and Kalaeloa Boulevard. These roads became part of the historic fabric of the right-of-way at that point. See id.

Archaeological investigations have shown that much of the area's cultural resources have been disturbed by sugar plantation activities. However, the most common features in this area

are agricultural features and sinkholes containing archaeological and paleontological resources. Due to historic sugar cane and sisal cultivation, as well as plantation-related infrastructure development, features such as these have likely been covered with sediment, encapsulating them and obscuring their locations. Both surface and subsurface studies were conducted, and indicated that no sinkholes are present in the project area. The area's more recent past is also significant in understanding the region's economic evolution as well as local cultural dynamics and identities. See id. at pp. 96-97.

The surface survey yielded no archaeological sites. Rather, the project area exhibited signs of continuous disturbances in the form of construction excavations, bulldozing, and dumping. Further, there appeared to be a significant amount of modifications to the land in the form of jumps, tracks, roads, and berms, to help facilitate modern off-roading for off-road vehicles (ORV) and all-terrain bicycles, which are likely non-authorized activities. See id.

Given the lack of finding any archaeological resources or even finding evidence of sinkholes within the project area, the consulting archaeologists conclude that no further archaeological work is necessary within this area. However, in the event that limestone bedrock (karst) is encountered during construction activities, DHHL acknowledges that work in this area should halt and a qualified archaeologist should be summoned to the site to monitor excavations in the limestone areas. If any filled and buried sinkholes are encountered during these construction excavations, they will be archaeologically investigated to determine if they contain potentially significant archaeological deposits, including human burials. If at any time during construction potentially significant archaeological remains are encountered, work in the immediate vicinity will halt and the State Historic Preservation Division will be contacted. See id.

5. SCENIC

As discussed in the FEA, no scenic resources are located on the Subject Property. Its distance from the shoreline precludes any views of the shoreline, the horizon, or coastal features along the south shore of O`ahu. The predominant vista associated with the property is a view of the southern portion of the Waianae mountain range, including Pu`u Makakilo. See Exhibit 2 at p. 84.

In addition, as discussed in the 1998 East Kapolei FEIS, the visual appearance of the subject property will change from vacant scrub vegetation to a built urban environment. Approximately half of the Subject Property continues to be disturbed by grading and stockpiling activities related to the excavation of the borrow pit and the stockpiling of excavated material. In addition, a large portion of the remaining property was used for storage of construction materials and construction vehicle access related to the extension of the Kapolei Parkway by DHHL immediately north of the subject property. Given these existing conditions, the visual appearance of the property will greatly improve with its eventual development. See id.

The proposed development will consist of several structures ranging in height from 25 to 120 feet. The proposed development will be visible from abutting roadways including Kapolei Parkway, Roosevelt Avenue, and the extension of Kualaka`i Parkway (if implemented by the City and/or the State) that would access the site along its eastern boundary. It will also be visible from other portions of the East Kapolei development project, Village 8 to the west, and Varona Village to the east. The taller structures on the project site will likely be visible from Farrington Highway, and the entire development will be visible from the eastbound lanes of the H-1 Freeway. See id.

6. FLORA

A 1996 botanical survey of the entire East Kapolei property, including the subject property, noted that the property was classified by Ripperton and Hosaka (1942) as one of lowland shrub with a coastal fringe of kiawe trees. A survey conducted by Nagata (1996) found that the vegetation on the property was entirely secondary and determined by its previous history of cultivation (or disturbance) on each individual parcel of land. Eight plant communities were recognized, each community existing as a continuum with one blending into another. Species composition and vegetative cover will differ somewhat during the rainy season. See Exhibit 2 at pp. 85-86.

Within the eight plant communities identified, 99 different plant species were recorded with two indigenous ('ilima and pa'uohi'iaka), two probably indigenous ('uhaloa and hoary abutilon) and one endemic (ko'oloa'ula, *Abutilon menziesii*). Except for the ko'oloa'ula, all the native species on site are common lowland species in Hawai'i. While a total of 88 individuals of the ko'oloa'ula were found on the East Kapolei property, none were located on the subject property. The ko'oloa'ula is now a federally listed endangered species that was once endemic to Lana'i, Maui, O'ahu, and Hawai'i. The individuals were generally found within the central portion of the East Kapolei property roughly under some existing electrical transmission lines. According to the botanist, unknown individual plants likely existed within uncultivated portions of the property during the many years of sugar cultivation. After the property became fallow, seeds from the remaining individuals were able to establish themselves within the previously cultivated area. As part of the East Kapolei project, a Habitat Conservation Plan (HCP) for *Abutilon menziesii* was subsequently prepared and implemented. See id. The HCP does not place any restrictions on the use of the Subject Property.

A botanical inventory of the subject property was conducted in 2007 and updated in 2011. This study concluded that there are two types of vegetation at the project site: 'Managed Land Vegetation' and 'Buffel Guinea Grass Grassland'. Both of these are classified as 'disturbed vegetation'. See id.

Managed Land Vegetation is associated with the southern portions of the property occupied by the barrow pit, the dirt stockpiles, as well as the various dirt roads that crisscross the property. The native (or possibly native) ma`o (*Abutilon incanum*) was found growing on the stockpiles. See id.

Buffel Guinea Grass Grassland includes a heterogeneous assemblage of plant types united by a dominance of Buffel Grass (*Cenchrus ciliaris*) as the ground cover. On the northern portion of the property, pluchea (*Pluchea carolinensis*) is the dominant shrub. Mixed with it are scattered individuals of koa haole (*Leucaena leucocephala*), kiawe (*Prosopis pallida*), and `opiuma (*Pithecellobium dulce*), all three of which are members of the pea family Fabaceae and are characteristic of dry areas of Hawai`i. In addition to the matrix of Buffel Grass, `ilima (*Sida fallax*), `uhaloa (*Waltheria indica*), creeping indigo (*Indigofera spicata*), vergata mimosa (*Desmanthus pernambucanus*), Australian saltbush (*Atriplex semibaccata*), and several other species are present. The `uhaloa and `ilima are indigenous species, the others are all alien species. See id.

The central portion of the subject property occupied by the former stadium excavation is also covered with non-native vegetation. See id.

A total of fifty-eight plant species were recorded at the study site. Only four of the 58 are native, three of them indigenous and one endemic. Indigenous plants are species native to a region or place, but are also found elsewhere. Endemic plants are species restricted to a single

region or area, i.e., in the case of Hawai`i, they are found only in Hawai`i. The majority of the 58 species encountered during the survey are naturalized or weedy “alien” plants that were accidentally or intentionally introduced to Hawai`i, but which now have become established in the islands and can spread on their own. Two of the indigenous species, `ilima (*Sida fallax*) and `uhaloa (*Waltheria indica*), are widespread species common in disturbed habitats. The other possible indigenous species, ma`o (*Abutilon incanum*) is less common. The endemic species, ko`oloa`ula (*Abutilon mensiesii*), is a federally listed endangered species found in East Kapolei, but not on the subject property. See id.

Development of the Project will result in the replacement of existing scrub vegetation with a landscaped urban environment including buildings and extensive parking lots. Landscape materials will include lawn areas, ornamental shrubs, and trees. Drought resistant plants will be incorporated into the landscaping palette wherever practicable. The consulting botanist concludes “...there are no botanical reasons why development of the parcel cannot take place...all of the proposed development is on very disturbed land.” See id.

7. FAUNA

An Avian and Terrestrial Fauna Survey was conducted on the property in June 2011 and is included in the FEA as Appendix E. See Exhibit 2 at pp. 86-88.

There is no federally delineated Critical Habitat present on or adjacent to the property. Thus the development and operation of proposed development will not result in impacts to federally designated Critical Habitat. There is no equivalent statute under State law. See id.

A total of 346 individual birds of 17 species, representing 12 separate families, were recording during station counts on the subject property. All species detected are considered to be alien to the Hawaiian Islands. No other avian species were detected during the survey. No avian

species detected during the course of the survey are protected or proposed for protection under either the federal or State of Hawai`i endangered species statutes. Avian diversity and densities were in keeping with the highly disturbed nature of the habitat present on site, and the site's location in East Kapolei. See id.

Three terrestrial mammalian species were detected on site during the course of the survey. Tracks, scat and signs of dog (*Canis f. familiaris*), small Indian mongoose (*Herpestes a. auropunctatus*) and cat (*Felis catus*) were encountered at numerous locations within the site. Mammalian species currently protected or proposed for protection under either the federal or State of Hawai`i endangered species programs were not detected during the course of the survey, nor were any expected. See id.

The findings of the survey are consistent with the results of several other faunal surveys conducted in the `Ewa Plains over the past several years. Although not detected during the survey, it is probable that two migratory shorebird species use loafing and foraging resources on this site during the fall and winter months. The two, Pacific Golden-Plover (*Pluvialis fulva*) and Ruddy Turnstone (*Arenaria interpres*) are indigenous migratory shorebird species that nest in the high Arctic during the late spring and summer months, returning to Hawai`i and the Tropical Pacific to spend the fall and winter months each year. They usually leave Hawai`i for their trip back to the Arctic in late April or very early in May. There are no known nesting colonies of any of the resident seabird species on O`ahu on, or in close proximity, of the project site. See id.

Although no rodents were detected during the survey, it is likely that the four established alien muridae found on O`ahu, roof rat (*Rattus r. rattus*), Norway rat (*Rattus norvegicus*), European house mouse (*Mus musculus domesticus*), and possibly Polynesian rats (*Rattus exulans hawaiiensis*) use various resources found within the general project area on a seasonal

basis. All of these introduced rodents are deleterious to native ecosystems and the native faunal species dependent upon them. See id.

No Hawaiian hoary bats were detected during the course of the survey. Given the paucity of documented records of this species on O`ahu and the complete lack of suitable roosting vegetation on the site, the chance that any use resources on the subject property is extremely low. See id.

The principal potential impact that construction and operation of the proposed development poses to protected seabirds is the increased threat that the birds will be downed after becoming disoriented by lights associated with the project during the nesting season. The two main areas of outdoor lighting could pose a threat to these nocturnally flying seabirds are: 1) during construction if it is deemed expedient or necessary to conduct nighttime construction activities; or 2) following build-out, when the potential use of streetlights or other exterior lighting becomes disorienting during the seabird nesting season. These impacts will be mitigated to some extent through shielding construction, street, and exterior lighting. Development of the project will displace fauna and avifauna temporarily. However, this is not considered to constitute a significant adverse impact as no endangered or threatened species have been identified on site. The eventual landscaping of the project site will likely improve the diversity of avifauna on the property because a greater variety of habitat will be created. See id.

8. GROUNDWATER

The FEA found that the project will not result in a significant adverse impact on the region's groundwater resources. The `Ewa region of O`ahu overlies the southern O`ahu basal aquifer (SOBA), a designated sole source aquifer. The gently sloping topography of the `Ewa Plain is comprised of terrestrial alluvium which is made up of clay and mud eroded from

volcanic rock and is inter-layered with coral lime stone deposited during periods when the area was covered with ocean. The geological feature is commonly referred to as 'caprock' and is estimated to be approximately 1,000 feet thick near the shoreline and extends inland under the subject property. Water in the caprock is too saline to be potable. See Exhibit 2 at pp. 88-90.

The project will be connected to the City's sanitary wastewater collection and treatment system. Storm water from the project site will drain into the lower channel of the existing East Kapolei drainage channel along the western boundary of the property, in compliance with the East Kapolei I Drainage Master Plan that was accepted by the City and County of Honolulu in 2006. See id.

J. AVAILABILITY OR ADEQUACY OF PUBLIC SERVICES AND FACILITIES

1. SCHOOLS

As a commercial project, the Project will not generate a school population.

2. PARKS AND RECREATION

As a commercial project, the Project will not add to recreational demand in the region.

3. WASTEWATER SYSTEMS

The City and County of Honolulu ("County") sewerage system serves the Project area. A 42-inch diameter City trunk sewer is located along the western side of the 75-foot wide HECO easement on the Project site's eastern boundary. The trunk sewer conveys wastewater to the Honouliuli Wastewater Treatment Plant (WWTP) for processing and reuse as RI water. See Exhibit 2 at p. 127.

The trunk sewer was designed and constructed to serve developments within the East Kapolei region. Construction was financed by the County, Hawaii Housing Finance and

Development Corporation, and affiliates of the Estate of James Campbell, with each contributor provided a wastewater flow allocation in the main. Under the Kapolei Interceptor Sewer Allocation and Usage Agreement, HHFDC has a peak flow allocation of 11.346 million gallons per day (MGD), which needs to be further allocated to their originally owned lands in the region, including the project site. At this time HHFDC has not provided an official wastewater flow allocation associated with the formerly HHFDC-owned lands to the County. DHHL is coordinating with HHFDC to provide the assignment of flow allocations, including the allocation for the project site, to the County. See id.

An 18-inch diameter stub-out from the trunk sewer into the project site was provided as part of the original construction. The stub-out was installed to serve the sports complex originally planned for the site. See id.

The Project has a projected design peak wastewater flow of 0.93 MGD. Based on the Board of Water Supply's estimated potable water meter requirement for the Project, a total of 87 equivalent single-family dwelling units (ESDUs) will be used by the Project. The final ESDU requirement will be based on the installed meter size. See id.

The County has indicated that a sewer allocation will be made available to the project. Issuance of a formal notice is pending HHFDC assigning an allocation to the site. The remaining allocation will be provided by the County, which would be assigned to the project for a period of 2-years. If construction for a building is not started within the 2-year period, it would be necessary to reapply to the County for an allocation. Depending on the regional development over the 2-year period, there is a possibility that the request could be denied. For this reason, the County has suggested that the project participate in the Makakilo Interceptor upgrade project.

Connection of the Project to the 42-inch diameter truck sewer will be through the existing 18-inch diameter stub-out. The 18-inch diameter sewer has adequate capacity and is at an elevation to serve most, if not all the site, by gravity. If pumping of wastewater is necessary, it is likely that the on-site pumping station would be located within the underground parking garage. Such a pumping station would be privately owned and privately maintained by the shopping center tenants. See id.

4. **SOLID WASTE DISPOSAL**

The County Department of Environmental Services (ENV) Refuse Collection and Disposal Division manages solid waste disposal facilities for the island of Oahu. There are two County solid waste disposal facilities: the 657,000 tons-per-year H-POWER refuse to energy plant at Campbell Industrial Park, and Waimanalo Gulch Landfill. Expansion of the Waimanalo Gulch Landfill is being pursued by the County, along with alternatives such as shipping wastes to the Mainland.

PVT Land Company operates a privately owned and operated, licensed, solid waste facility for recovery of recyclable materials and disposal of construction and demolition materials. The PVT Landfill accepts wastes on a pre-arranged basis from haulers and contractors registered with them. Waste loads are screened with recyclable materials removed for sale/reuse and the remaining wastes land filled. The capacity of the PVT Landfill as currently licensed is about 20 years, with expansion areas available.

The wastes generated by the Project will be collected on site and managed by the center's operations. Private haulers will be contracted for waste and recyclable material removal from the site for disposal or reuse/recovery.

5. **DRAINAGE**

The existing Project site is bound by the proposed Kapolei Parkway extension to the north, the Kapolei Lower Channel to the west, Renton Road to the south, and the future Keoneula Street to the east. The site is undeveloped with scattered scrub brush, but was being used for construction staging, stockpiling and quarrying by DHHL. The original site topography was relatively flat, with a slight slope in the southeasterly direction. The quarry/borrow pit is located along the southeast end of the site, parallel to Roosevelt Avenue. The pit is approximately 1,200 by 550 feet with elevations in the range of 54.0 to 12.0 above mean sea level (MSL). There is another excavation near the center of the site which was the beginning of foundation excavations for a stadium originally planned for the site. Numerous stockpiles are located in between the borrow pit and stadium excavation, the largest of which totals about 150,000 cubic yards at the time of this report preparation. See Exhibit 2 at pp. 128-130.

Runoff generated within the Project site generally flows in a southeasterly direction into the existing pits and depressions or into the Kapolei Lower Channel. Runoff contained in the sumps percolates or evaporates. Runoff generated in the north/northeast portion of the site sheet flows offsite into the adjacent property. A berm along the southeast boundary directs runoff to the southern most corner of the Subject Property, which discharges to the Lower Channel through a 24-inch diameter culvert. See id.

The 100-year water surface elevation in the Lower Channel at Kapolei Parkway is 52.30 feet above MSL. This elevation is referenced in the *Drainage Master Plan for East Kapolei I Development*, November 2006, prepared by Community Planning and Engineering, and conditionally accepted by the County in a letter dated November 20, 2006 and as established in the *Kapolei Parkway Bridge & 18" Relief Sewer - Kama'aha Avenue* project. See id.

The approved *Drainage Master Plan* concludes that the downstream drainage facilities, consisting of the Barbers Point Naval Air Station Coral Pit and the Kapolei Lower Channel, have adequate capacity to accommodate the net increase in storm water runoff from the developed commercial property. See id.

In accordance with the *Drainage Master Plan*, the Project will drain to the Kapolei Lower Channel. Four piped drain systems generally aligned in the east-west direction are proposed to collect surface runoff and discharge it directly to the Kapolei Lower Channel. The proposed discharge pipes range in size from 72-inches to 24-inches in diameter constructed with outlet headwalls. The estimated total discharge from the Project site under the 10-year 1-hour rainfall event is about 282 cubic feet per second. See id.

The proposed Project drainage system will have no adverse impacts to existing neighboring properties. Hydraulic analysis of the planned drain system indicates the anticipated runoff generated from the project can be discharged to the Lower Channel in compliance with the County Storm Drainage Standards. See id.

Off-site runoff is planned to be either diverted away from the Project site or routed through the on-site drainage system. The proposed Kapolei Parkway Extension along the mauka boundary will intercept and convey runoff to the Kapolei Lower Channel. Runoff from a portion of the proposed North-South Road/Kualaka`i Parkway/Kapolei Parkway intersection and the DOT's proposed Keaneula Street/Kualaka`i Parkway extension will be routed through the on-site drain system and also discharge to the Lower Channel. See id.

The Makakilo Gulch/Kaloi Gulch water shed boundary will be adjusted to include the North-South Road/Kualaka`i Parkway / Kapolei Parkway intersection and the DOT's proposed Keaneula Street/Kualaka`i Parkway extension. The Drainage Master Plan computed a net

volume increase of 17.49 acre-feet (ac-ft) in stormwater runoff. The water shed boundary adjustment under the Project will add 8 acres to the Makakilo Gulch water shed resulting in a net volume increase of 18.33 ac-ft. See id.

The regional downstream drainage facilities have adequate capacity to accommodate stormwater runoff from the Project as proposed. The Project is consistent with the land use identified in the *Drainage Master Plan*. Computations show the total volume of runoff to the Coral Pit is 1,245.27 ac-ft, well under the 1,675 ac-ft/day capacity identified in Appendix B of the *Drainage Master Plan*. See id.

6. WATER

The County Board of Water Supply (BWS) has non-potable water lines within the Project site. Two lines are located in easements along the eastern side, within the 75-foot wide HECO easement. The BWS lines are a 20-inch diameter R1 line extending from Honouliuli WWTP to Westlock Golf Course, and a 16-inch diameter recycled water main serving the Villages of Kapolei. See Exhibit 2 at p. 125.

The HHFDC and DHHL have made regional potable water system improvements for source and storage within East Kapolei that have been dedicated to the BWS. While BWS has no potable water lines in the immediate Project area at present, a 12-inch diameter potable water main has been installed by DHHL as part of the Kapolei Parkway extension fronting the site. This main will be part of the BWS 215-foot service zone. Based on the BWS Water System Standards, the Project has an average daily potable water demand of 201,600 gallons per day. Considering the planned use of non-potable for the Project, the estimated potable demand is about 20-percent less, or 161,280 gallons per day.

Using an estimate of plumbing fixtures within the Project, a 6-inch domestic water meter would be needed. However, since fire flows will also need to be met from the potable water system, a 2-inch by 8-inch FM (Factory Mutual) water meter is proposed for the Project. A connection to the 12-inch diameter main being installed within Kapolei Parkway fronting the site is being coordinated with DHHL.

The off-site fire demand for the project is 4,000 gallons per minute (gpm), considering it as a large shopping center under the BWS Standards. The BWS has confirmed the 4,000 gpm flow can be met with 20 pounds per square inch residual pressure at the closest fire hydrant in accordance with their Standards.

A 3-inch turbine meter is proposed for installation to supply non-potable water to the Project for irrigation to the Project. The meter would be connected to an existing 12-inch diameter stub-out on the 20-inch diameter RI water main that was provided to serve the sports complex originally planned for the site.

The BWS indicated that both potable and non-potable water will be available for the Project, with payment of the current water system facilities charges. Due to the storage system improvements made by DHHL, the Project will need to pay only the portion of the facilities charges associated with resource development and transmission.

7. TRANSPORTATION SYSTEMS

a. Summary

The FEA incorporated a December 2008 Traffic Evaluation (“TE”) and its June 2011 update as Appendices A and B, respectively. The TE in Appendix B concluded that the adjacent roadway network will accommodate traffic generated by the Project. Some delays that occur along Kapolei Parkway may increase, but the intersections are projected to operate at an

acceptable level during the AM and PM commuter peak hours. Construction activities may generate short-term traffic impacts to the motoring public, bicyclists, and pedestrians in the immediate vicinity of the construction site. The construction site has long frontage to a large open space and has many unobstructed points of entry. As such, mitigation measures will be implemented to minimize the impacts of construction-related traffic. When appropriate, construction personnel or off-duty police will be required to direct and facilitate traffic during construction activities. See Exhibit 2 at pp. 25-28.

b. Existing Roads

Kapolei Parkway is a six-lane, divided major arterial roadway under the jurisdiction of the City and County of Honolulu east of Kualaka`i Parkway. Ultimately, Kapolei Parkway will provide significant east-west mobility between Kapolei and Ewa. The posted speed limit on Kapolei Parkway is 30 miles per hour. See id. at p. 26.

Kualaka`i Parkway (formerly North-South Road) is a four-lane, divided major arterial roadway under the jurisdiction of the State Department of Transportation (DOT). While currently striped for four lanes, it will ultimately be six lanes. Kualaka`i Parkway connects Kapolei Parkway with H-1 Freeway at a diamond interchange. Its intersection with Farrington Highway is a major signalized intersection. Kualaka`i Parkway forms a signalized, tee-intersection at Kapolei Parkway. The speed limit on Kualaka`i Parkway is 35 miles per hour. See id.

Roosevelt Avenue is a collector roadway under the jurisdiction of the State DOT providing east-west circulation within Kalaeloa (former Barbers Point Naval Air Station). With Geiger Road, it provides a link between the Ewa Beach area and the City of Kapolei. Roosevelt Avenue is a rural, two-lane undivided roadway with exclusive left-turn lanes at some

intersections. The posted speed limit on Roosevelt Avenue is 35 miles per hour in the project vicinity. The Bus Route 41 serving Ewa Beach and East Kapolei uses Roosevelt Avenue. See id.

Kamaaha Avenue is a four-lane, divided neighborhood collector roadway under the jurisdiction of the City and County of Honolulu that provides access to the Villages of Kapolei development along with Kapolei Middle School. The speed limit on Kamaaha Avenue is 25 miles per hour. See id.

Kinoiki Street is a collector roadway under the jurisdiction of the City and County of Honolulu providing access to the East Kapolei I. While currently terminating within East Kapolei I, Kinoiki Street will eventually continue north, connecting with the future east-west collector road. The speed limit on Kinoiki Street is 25 miles per hour. See id.

Renton Road is a four-lane, divided collector roadway under the jurisdiction of the City and County of Honolulu (with a short segment extending between the OR&L railroad tracks and Roosevelt Avenue owned by the Hawaiian Railway Society) providing east-west circulation and access within Ewa. Its western terminus is at a stop-controlled intersection with Roosevelt Avenue. Between Kapolei Parkway and Roosevelt Avenue, it is a rural undivided two-lane road. See id. at pp. 26-28.

c. Vehicular Access to Project

Vehicular access to Phase 1 of the Project would be via: (1) Kapolei Parkway at Kinoiki Street, which will have dedicated turn lanes into the site from Kapolei Parkway; and (2) Roosevelt Avenue. The TE indicates that the extension of Kualaka`i Parkway is not necessary for the development of Phase 1. The internal vehicular circulation system within the subject property is essentially a network of driveways. They will be paved, with curbs, gutters and landscaped medians, and will remain privately owned. See Exhibit 2 at pp. 28-35.

As part of Phase 2 of the Project, a fourth leg would be constructed at the intersection of Kapolei Parkway and Kualaka`i Parkway that would access the site. This would be the Project's new main access, deemphasizing the access at Kinoiki Street. This new leg would terminate at Center's driveway. The access to Roosevelt Avenue from Phase 1 would remain but would be deemphasized in favor of an additional eastern Roosevelt Avenue access constructed during Phase 2. See id.

Additional right-in/right-out service accesses are also planned to be added in Phase 2. One is planned to be located on Kapolei Parkway midway between Kinoiki Street and Kualaka`i Parkway. The other is planned to be located on Kualaka`i Parkway just south of Kapolei Parkway. While the additional accesses are primarily intended to be service accesses, they would also provide an additional driveway to alleviate pressure on other accesses. See id.

8. PUBLIC UTILITIES

Public utilities will be provided to the Project by the Gas Company, HECO, and Sandwich Island Communications (telephone, cable television, and broadband). See Exhibit 2 at pp. 127-128.

9. POLICE PROTECTION

District 8 of the City and County of Honolulu Police Department covers most of the *`Ewa Development Plan* area and all of the Wai'anae Coast. (Part of `Ewa near Waipahu is included in District 3). A district station was opened in Kapolei in 2000. A substation is located in Wai'anae. See id. at pp. 106-107.

District 8 communities had 31 citizens patrol programs involving about 600 members in 2006, and Neighborhood Security Watch programs covering nearly 8,900 members. See id.

The Kalaeloa Redevelopment area is patrolled in part by US Navy security. The Honolulu Police Department responds to calls from that area. See id.

As a regional commercial center, The Project will have on-site security patrols to assure customers' safety. Also, by developing a site near the Kalaeloa Redevelopment Area and providing a new road access to that area, the project will improve accessibility and hence security for the region. See id.

10. FIRE PROTECTION

The Honolulu Fire Department's Battalion 4 covers Waipahu, `Ewa, and the Wai'anae Coast. Its headquarters, in Kapolei, has both an engine and a ladder truck. The station in `Ewa Beach has a single engine. These stations are supported by stations in Waipahu, Waikele, Makakilo, Nanakuli, and Wai'anae. See Exhibit 2 at p. 107.

The Project will be built to current fire control standards, with access to structures via roadways large enough to meet Fire Department standards. See id.

11. IMPACT OF DEVELOPMENT ON OTHER PUBLIC AGENCIES

As no residential units are proposed, the project will not result in a direct impact upon the region's population, and will therefore not have a primary impact upon public agencies such as schools or hospitals. The proposed hotel units will result in a potential secondary impact upon the need for additional hospital services for any guests that may require them during their stay. See id. at p. 108.

K. LOCATION OF THE PROPOSED USE OR DEVELOPMENT IN RELATION TO ADJACENT LAND USE DISTRICTS AND ANY CENTERS OF TRADING AND EMPLOYMENT

The Subject Property is located within the State Urban district. The properties abutting its northern and western boundaries are also Urban. The property abutting its eastern boundary

is classified as Agricultural. A narrow strip of property between the Project area's southern property boundary and Roosevelt Avenue is also classified as Agricultural. This strip includes the 50-foot wide OR&L railway corridor and the remaining property situated between the OR&L corridor and Roosevelt Avenue.

The Subject Property is situated approximately 2.6 miles east of the town center of Kapolei, and approximately 5 miles west of Waipahu. Other major areas of trading and employment include Mililani, 10 miles to the northeast, and Pearlridge Center, 10 miles to the east.

L. ECONOMIC IMPACTS OF THE PROPOSED DEVELOPMENT

The Project is a regional shopping center serving Leeward Oahu, especially the Ewa Plain. It responds to the needs of a growing community. Located at the heart of Ewa, it will be convenient to residents of Ewa Beach, Ewa Villages, and the Gentry subdivisions, as well as to the Kapolei area. See Exhibit 2 at pp. 108-113.

1. EMPLOYMENT

Construction of Phase 1 would generate about 190 direct person-years of work; construction of Phase 2 would involve approximately 1,470 person-years. The total employment impact of Phase 1 construction is approximately 550 person-years, while the total impact of Phase 2 construction is nearly 4,280 person-years of work. See id. at p. 114.

Direct construction jobs include on-site work and work in contractors' yards and offices. The actual number of workers at a job site varies from day to day, depending on the type of work to be done. Indirect jobs are located at suppliers' places of business, while induced jobs are found throughout the island, wherever workers spend their wages. See id.

Once completed, the Project will offer permanent jobs in retail, eating and drinking establishments, and hotels. Office space will house a range of businesses. Project management, maintenance and security work will be needed as well. More than 3,900 direct jobs will eventually be located at The Project. More than 2,500 indirect and induced jobs will be created by the Project as well. The total projected, annual wage base resulting from direct, indirect, and induced jobs is more than \$235 million. See id. at p. 115.

2. POTENTIAL IMPACT TO AGRICULTURAL PRODUCTION IN THE VICINITY OF THE SUBJECT PROPERTY, AND IN THE COUNTY AND STATE

The Project will have little or no adverse impact on agricultural production. The site is within the State Urban district. Nearby lands have been developed for urban uses as housing and schools. At least a mile or more to the northeast, land reaching to Farrington Highway is now being farmed on short-term lease.

M. IF A RESIDENTIAL DEVELOPMENT IS PROPOSED, A DESCRIPTION OF THE MANNER IN WHICH THE PETITIONER ADDRESSED THE HOUSING NEEDS OF LOW INCOME, LOW-MODERATE INCOME, AND GAP GROUPS

The proposed project does not include a residential component.

N. NEED FOR THE PROPOSED DEVELOPMENT

The Project responds to need from the immediate area and from the larger region for retail, office and hotel facilities. It will contribute to the integration of `Ewa as a region, by helping to make the Kualaka`i Parkway the axis for important public facilities. Kualaka`i Parkway and its H-1 interchange will serve the key educational center for Leeward Oahu, a regional recreation center, and a regional commercial center. This combination of land uses will help to limit traffic growth on local roadways that are now highly congested. See Exhibit 2 at pp. 9-11.

The Project will serve both as a regional commercial center and as a neighborhood retail area for its immediate area. The regional population has been growing at high rates in recent years, and is projected to continue to grow by more than 3% annually through 2030. The East Kapolei area is expected to have more than 26,000 residents by 2030. For the combined area of Kapolei Villages, East Kapolei and `Ewa Villages, annual growth is expected to average over 5% through 2030, reaching a total of more than 56,000. Recent studies for other developments in the area have identified both existing and likely future demand for new retail and office facilities in `Ewa.

O. AN ASSESSMENT OF CONFORMITY OF THE PROPOSED USE TO APPLICABLE GOALS, OBJECTIVES, AND POLICIES OF THE HAWAII STATE PLAN, CHAPTER 226, HRS, AND APPLICABLE PRIORITY GUIDELINES AND FUNCTIONAL PLAN POLICIES

The Project is consistent with the goals, objectives and policies of the Hawaii State Planning Act, HRS Chapter 226 (“HSP”) and applicable priority guidelines and functional plans. The three themes underlying the HSP are: (1) individual and family self-sufficiency; (2) social and economic mobility; and (3) community or social well-being. See HRS § 226-3. The HSP also provides numerous State goals, and specific objectives and policies to achieve those goals. The State’s goals include a strong, viable, stable and diverse economy, the development of physical environments that are beautiful, clean and unique, and enhance the mental and physical well-being of the residents, and the physical, social, and economic well-being for the people of Hawaii that nourishes a sense of community responsibility and participation. See HRS § 226-4. A point by point analysis of the Project’s conformance with the numerous objectives, policies, priority guidelines and functional plans of the HSP is provided in Chapter 3 of the FEA. A summary of the Project’s conformance is provided below.

1. HRS § 226-5 (Population)

Development of the regional commercial center directly addresses the needs of the Kapolei and greater Ewa community. Over the past 20 years, State and City policies have fostered an extraordinary increase in the number of homes in the area. Although Kapolei is intended as the employment center for the surrounding communities, new businesses and jobs have lagged behind the residential growth. Thus, Ewa residents must commute outside the district for work, shopping, entertainment, and recreation, leading to significant traffic congestion. The Project is intended to have a positive impact upon the community by bringing thousands of new jobs closer to home.

2. HRS § 226-6 (Economy in General)

The Project will provide a wide diversity of employment opportunities for the Ewa region.

3. HRS § 226-7 (Economy, Agriculture)

Not applicable.

4. HRS § 226-8 (Economy, Visitor Industry)

The Project is not oriented exclusively to the visitor industry. It is intended to meet the needs of the surrounding residential community and the future demand generated by the City of Kapolei. However, given its size, the diversity of its shopping opportunities, and its location, it will function as an attraction for the Ko `Olina visitor destination area, and therefore, will have a positive impact upon Ko `Olina.

5. HRS § 226-9 (Economy, Federal Expenditures)

Not generally applicable.

6. HRS § 226-10 (Economy, Potential Growth)

Due to the diverse character of the retail envisioned at the center, some of the businesses may be offering products generated by new growth industries in Hawai'i.

7. HRS § 226-10.5 (Economy, Information Industry)

Not generally applicable.

8. HRS § 226-11 (Physical Environment, Land-Based, Shoreline, and Marine Resources)

The Subject Property was reclassified to the Urban district 22 years ago. Although originally planned for a regional sports complex, surrounding land uses have evolved to the point where a sports complex on the site would duplicate the facilities planned at the nearby proposed UH West Oahu campus. The demand for new employment in the Ewa region suggests that the prudent use of the property would be oriented to the provision of new jobs to support the growing residential population in Ewa.

9. HRS § 226-12 (Physical Environment, Scenic, Natural Beauty, and Historic Resources)

No significant archaeological or cultural resources have been identified on the Subject Property. The architectural design of the project will not detract from views of the mountains, as there are no existing residential or commercial developments in the area makai of the project. Due to the flat topography, the ocean and horizon are not visible from the Subject Property or the neighboring properties.

10. HRS § 226-13 (Physical Environment, Land, Air, and Water Quality)

The Project will be constructed in compliance with all relevant codes and standards. The Project will include a public outreach component in the form of changing exhibits that will educate the public on a variety of contemporary issues, including the environment.

11. HRS § 226-14 (Facility Systems in General)

The Project will be constructed in careful coordination with the region-serving facility systems, including wastewater treatment, water supply, and storm water drainage.

12. HRS § 226-15 (Facility Systems, Waste)

The Project will be constructed in compliance with all applicable provisions related to the disposal of liquid and solid waste.

13. HRS § 226-16 (Facility Systems, Water)

The Project will coordinate its water consumption with resource availability. Based on the estimated plumbing fixture units for the Center, the estimated potable supply demand will be on the order of 680 gpm, which is equivalent to approximately 34 single-family homes with typical 5/8-inch water meters.

14. HRS § 226-17 (Facility Systems, Transportation)

By the very nature of the development, transportation is integral to the project's success. As a region-serving commercial center, accessibility to the center is a paramount consideration. The proposed project incorporates a multi-modal transportation philosophy that includes private vehicles, pedestrian movement, mass transit, and bikeways. The central Village Square portion of the development focuses upon pedestrian connections between its various buildings, accentuated with numerous pedestrian plazas. The outer ring of the project focuses on accessibility to the private vehicle. To meet the needs of the regional community, Hawaii DeBartolo LLC and DHHL will coordinate with HART to provide an integrated connection to the City's planned rapid transit extension if/when the rail is extended beyond the Kroc Center. The project will also incorporate space along its southern property boundary to link the subject property to the `Ewa regional bikeway system.

14. HRS § 226-18 (Facility Systems, Energy)

The proposed project will incorporate energy efficient technologies into its design and operations. It will explore direct electrical generation opportunities with HECO. The project's inclusion of a bikeway connection and future transit station connections is supportive of improving fuel efficiency through multi-modal transportation planning.

15. HRS § 226-18.5 (Facility Systems, Telecommunications)

The project's conformity with the telecommunications objectives and policies is generally limited to the technologies it provides in the proposed hotels.

16. HRS § 226-19 (Socio-Cultural Advancement, Housing)

The project does not include a residential component. However, revenue from the Project will enable the Department of Hawaiian Home Lands to further develop homesteads for Native Hawaiians under the Hawaiian Homes Commission Act. Further, as an employment center, the project is intended to provide jobs for existing residents of the area and to support the new housing opportunities already planned for the `Ewa region.

17. HRS § 226-20 (Socio-Cultural Advancement, Health)

Other than ensuring that the proposed project provides a healthful environment for its employees, customers, and guests, the State's objectives and policies are generally not applicable to the project.

18. HRS § 226-21, 22 (Socio-Cultural Advancement, Education and Social Services)

Generally not applicable.

19. HRS § 226-23 (Socio-Cultural Advancement, Leisure)

As a gathering place, the proposed project will offer extensive opportunities for social, artistic and cultural advancement, primarily through the show casing of community group, artistic and cultural endeavors, in much the same manner as the Center Stage at Ala Moana.

20. HRS § 226-24 (Socio-Cultural Advancement, Individual Rights and Personal Well Being)

The Project will generate revenue for the Department of Hawaiian Home Lands in furtherance of its mission under the Hawaiian Homes Commission Act, which includes promoting self-sufficiency, community-based development, and maintaining the traditions, culture, and quality of life of native Hawaiians.

21. HRS § 226-25 (Socio-Cultural Advancement, Culture)

The project will include a permanent exhibit documenting the cultural history of the area.

22. HRS § 226-26 (Socio-Cultural Advancement, Public Safety)

Generally not applicable.

23. HRS § 226-27 (Socio-Cultural Advancement, Government)

The Project will provide significant revenue to the Department of Hawaiian Home Lands for the purpose of performing the State's obligations under the Hawaiian Homes Commission Act and the Hawaii State Constitution.

24. HRS § 226-102 Conformity with Priority Guidelines

a. HRS § 226-103 (Economic Priority Guidelines)

As discussed above, the Project will generate over 4,800 person-years of work during construction, and 6,400 direct, indirect, and induced jobs during operation. The total projected, annual wage base resulting from direct, indirect, and induced jobs during operation is more than \$235 million.

b. HRS § 226-104 (Population Growth and Land Resources Priority Guidelines)

Generally not applicable.

c. HRS § 226-105 (Crime and Criminal Justice Priority Guidelines)

Generally not applicable.

d. HRS § 226-106 (Affordable Housing Priority Guidelines)

Though the Project does not contain a residential component, it will generate revenue for the Department of Hawaiian Home Lands to develop affordable housing opportunities for Native Hawaiians under the Hawaiian Homes Commission Act.

e. HRS § 226-105 (Quality Education Priority Guidelines)

Generally not applicable.

f. Act 181, Session Laws of Hawaii 2011 (Sustainability)

The Project is intended to comply with the new sustainability guidelines. Development of a mixed-use regional center on land previously reclassified to the Urban District for the purpose of a regional sports complex greatly increases the usefulness of the land in addressing the long-term needs of the surrounding community. By providing a wide variety of commercial retail, office, hospitality jobs, the project contributes to the fulfillment of the vision for Kapolei to function as O`ahu's second city. The mixed-use character of the proposed development will contribute to the strengthening of the regional economy by diversifying the employment base. Utilizing design themes to honor the host culture establishes the foundation for the implementation of programs and functions to perpetuate cultural awareness. Given the presence of the existing borrow pit and overall quality of the existing land, the proposed development represents a significant improvement to the character of the property and will provide a long-term benefit to the economic and social well being of future generations.

25. Conformity with Hawaii State Functional Plans

a. Employment

At full build out, the proposed development will a principal source of new employment opportunities for the entire Ewa region. To that end, it is supportive of the Employment Functional Plan.

b. Housing

Although it does not include a residential component, the Project will provide revenue for the Department of Hawaiian Home Lands to carry out its mission of providing Native Hawaiians homesteads under the Hawaiian Homes Commission Act.

c. Historic Preservation

The development of the Project will comply with all applicable rules pertaining to historic preservation. To that end, the Project supports the Historic Preservation Functional Plan.

d. Recreation

To the extent the Project includes tenants that provide recreational amenities, such as bowling alleys or fitness centers, and the extensive pedestrian walkways provided within the development will encourage pedestrian movement (a passive recreational activity), the project is supportive of the State Recreational Functional Plan.

e. Tourism

The Project will be a regional commercial center for use by residents and visitors alike, and will compliment the Ko `Olina visitor destination area. The proposed hotels may be attractive to visitors but are intended to serve primarily business travelers and the local community's needs.

e. Transportation

Three significant transportation improvements planned for the East Kapolei area will have a direct impact on the Project. The recently-completed Kapolei Parkway abuts the northern property boundary and provides direct access to the proposed regional commercial center.

The State also recently completed construction of the Kualaka'i Parkway linking Kapolei Parkway to the H-1 Freeway. That project included a new freeway interchange.

The Project supports the State Transportation Functional Plan by providing a driveway connection to DOT's planned Kualaka'i Parkway extension from Kapolei Parkway south Roosevelt Avenue. This access will benefit both the proposed development and the surrounding region because it will enable freeway traffic to directly access the subject property.

f. Energy

The Project will utilize advanced best management practices (BMP) for green building to incorporate sustainable principals from conceptual design through the end of construction. These BMP's address aspects of site, water efficiency and reuse, energy consumption, day-lighting, recycling and construction waste management, materials (local, recycled), fixtures, indoor environmental quality, low-emitting materials, and natural resources.

The Project will minimize its impact on the environment through the appropriate selection of energy efficient systems, and considering sustainable material choices to achieve an environmentally-responsible design.

P. AN ASSESSMENT OF THE CONFORMITY OF THE PROPOSED USE TO OBJECTIVES AND POLICIES OF THE COASTAL ZONE MANAGEMENT PROGRAM, CHAPTER 205A, HRS

The Project complies with all applicable objectives of the Coastal Zone Management Program as follows:

1. Provide coastal recreation opportunities accessible to the public.

Not applicable, as the Project is approximately 1.7 miles from the coastline.

2. Protect, preserve, and where desirable, restore those natural and manmade historic and prehistoric resources in the coastal zone management area that are significant in Hawaiian and American history and culture.

No historic, prehistoric or cultural resources have been identified on the Subject Property.

However, to ensure that potential subsurface resources are not disturbed during construction, subsurface archaeological testing has been conducted throughout undisturbed areas on the subject property.

3. Protect, preserve, and, where desirable, restore, or improve the quality of coastal scenic and open space resources.

Not applicable, as the proposed project is located about 1.7 miles from the shoreline.

4. Protect valuable coastal ecosystems, including reefs, from disruption and minimize adverse impacts on all coastal ecosystems.

The proposed project will not have a significant adverse impact on the coastal ecosystem.

According to the drainage master plan for the East Kapolei I development, drainage from the Kaloi and Hunehune gulches will be directed to a piped drainage system and subsequently to detention basins. Storm runoff from the proposed project will discharge to the Kapolei Lower Channel and Coral Pit with Kalaeloa.

5. Provide public or private facilities and improvements important to the State's economy in suitable locations.

The Subject Property is classified as Urban land and is situated in the center of Kapolei's residential community. The provision of a regional mixed use center will greatly benefit the surrounding community, both in terms of new employment opportunities and in terms of reducing traffic congestion on the H-1 by helping to reverse traffic flow.

6. Reduce hazard to life and property from tsunami, storm waves, stream flooding, erosion, subsidence, and pollution.

The Subject Property is situated about 1.7 miles from the coastline, well outside of the identified tsunami inundation zone and the effects of storm waves. There are no streams in the vicinity of the project. The buildings and pavements within the proposed project will create hardstand areas that are not subject to erosion. Landscaped areas will have ground cover and will be maintained to mitigate erosion from storm water runoff. The property is not subject to subsidence. Finally, the proposed uses are not anticipated to generate air or noise pollution.

7. Improve the development review process, communication, and public participation in the management of coastal resources and hazards.

The FEA and these LUC proceedings help to ensure that the Project's potential impacts are fully disclosed.

8. Stimulate public awareness, education, and participation in coastal management.

As this project is not situated near the coastline, this objective is not applicable.

9. Protect beaches for public use and recreation.

As this project is not situated near the coastline, this objective is not applicable.

10. Promote the protection, use and development of marine and coastal resources to assure their sustainability.

As discussed above, the Project will have no significant negative impact upon the coastal resources of Ewa. Therefore, it is consistent with the intent of this objective.

Q. AN ASSESSMENT OF CONFORMITY OF THE RECLASSIFICATION TO THE APPLICABLE COUNTY GENERAL PLANS, DEVELOPMENT OR COMMUNITY PLANS, ZONING DESIGNATIONS AND POLICIES, AND PROPOSED AMENDMENTS REQUIRED

The Subject Property is located in the State's Urban District. The 1997 *Ewa Development Plan* designated the property for Low and Moderate Residential Development and

assigned the property to the first development phase (1997-2005). The Subject Property is zoned Ag-1 (Agriculture). It is not situated within the SMA.

1. Oahu General Plan

The Project conforms with the Oahu General Plan as set forth in subparagraphs 1(a) through 1(i) below :

a. Population Policies

Although the project provides no residential components, it is located within the area identified in the Ewa DP as the Ewa urban-fringe area.

b. Economic Activities

The Project will be a regional mixed-use center in East Kapolei that will provide new opportunities for local commercial retail growth. New restaurants and specialty markets with the project will directly support local farms in the provision of agricultural products. As a regional mixed use center, the Project will also include office, commercial and hotel uses.

c. Natural Environment

The Subject Property has remained vacant since the demise of the Oahu Sugar company and has been used for the extraction of coral fill and the stockpiling of top soil. Development of the Project will return the property to economic usefulness. Further, the Project does not impact any identified view plane or vista.

e. Transportation and Utilities

The Project will be located at the intersection of two principal arterial roadways in the Ewa district, which will enable local residents to access the regional mixed use center. The new employment opportunities provided by the project will, in turn, help to improve traffic flow and reverse the traditional pattern of commuting to Honolulu for work.

f. Energy

The Project will incorporate energy-efficient architectural design.

g. Physical Development and Urban Design

All of the necessary infrastructure is in place to support the Project. The establishment of a regional mixed use center in East Kapolei will bring new jobs to a large residential community, which will, in turn, help to reduce traffic congestion and commuting times, and improve quality of life for area residents.

The Project will also provide valued commercial and retail services to the surrounding community. The Project will preserve and enhance the viability of the abutting OR&L historic railway line by increasing the potential for new riders and visitors to the Hawaiian Railway Society's planned museum. In addition, the majority of the Subject Property will be retained in open space.

h. Public Safety

The safety and security provided by the tenants of the Project will provide a safe environment and destination for residents and visitors alike.

i. Culture and Recreation

The Project is planned to include adequate space for cultural exhibitions and performances.

2. Ewa Development Plan

The Project relates to the 1997 Ewa Development Plan as follows. See, generally, Exhibit 2 at pp. 73-78.

a. Vision

As the result of initiatives by the University of Hawaii, the Hawaii Community Development Authority (HCDA) and the DHHL, the existing and planned development of East Kapolei and Kalaeloa has departed to a certain extent from the vision of the Ewa DP. The Ewa DP envisioned the University's West O`ahu campus on the hillside mauka of the H-1 freeway, but it is now being constructed on a portion of the East Kapolei property that was reclassified as Urban District in 1999.

The original plan for the project site to be developed as a Regional Sports Complex were dropped because of the relocation of the West O`ahu campus to East Kapolei. Instead, DHHL determined that the best use of the Sports Complex property would be a regional mixed use center. Shortly after the adoption of the Ewa DP, the HCDA initiated a process that eventually replaced the Local Reuse Master Plan anticipated in the Ewa DP with the Kalaeloa Master Plan that altered the anticipated development pattern at Kalaeloa.

Collectively, these three changes will likely transform the East Kapolei/Kalaeloa area to a more dynamic employment center than what was originally envisioned in the Ewa DP. And yet, these changes are collectively supportive of the DP's vision for the Ewa region to become a secondary urban center on O`ahu.

The principal difference between the East Kapolei/Kalaeloa vision and the Ewa DP is the role of the City of Kapolei as a major employment center for the region. The Ka Makana Ali`i project, together with the light industrial and mixed use development proposed at Kalaeloa will likely extend the employment center of Kapolei City further east than what was envisioned nearly 15 years ago. However, this evolution in the land use pattern is not anticipated to result in significant adverse impacts. Rather, the integration of a mixed use regional center into East Kapolei will improve regional traffic flow and pedestrian travel patterns. By creating a job

center at the intersection of Kapolei Parkway and Kualaka`i Parkway, Ka Makana Ali`i will provide the resident student body at the West O`ahu campus with an opportunity for jobs in close proximity to the campus.

As discussed in the DHHL's Kapolei Regional Plan (2010):

“East Kapolei represents DHHL’s master planning community development efforts to provide a thriving community where people can live, work, play and learn. The Headquarters for the DHHL is now located in East Kapolei and land is reserved for park use, community commercial use and fire support use. In addition, a Heritage Center and spaces for Hawaiian organizational services are in development stages. Of the 403 housing units that are planned for East Kapolei 210 homes are occupied and renamed as Kanehili. Approximately 1,457 new homes are planned for East Kapolei II.

The East Kapolei parcels are further surrounded and supported by other work, live, play and learn opportunities. The University of Hawaii West Oahu campus will be located mauka adjacent to the Kanehili parcel providing learning opportunities. Recreational opportunities are provided at proposed parks and the Kroc Center, which is situated within walking distance from residential units. A 1.5 million square foot super mall is planned across from the parcel.

The East Kapolei developments also seek to bring benefits to the region beyond the DHHL parcels. Aside from on site infrastructure improvements such as roads, drainage, sewer, water and electrical, regional infrastructure investments have been committed which include a 4 million gallon water reservoir; extension of Kapolei regional parkway road; connection to the North South Road and improvements to drainage.” (page 12)

b. Visual Impacts

The Ewa DP calls for retention of visual landmarks and significant vistas, including:

- distant vistas of the shoreline from the H-1 Freeway above the `Ewa Plain;
- views of the ocean from Farrington Highway between Kahe Point and the boundary of the Waianae Development Plan Area;
- views of the Wai`anae Range from H-1 Freeway between Kunia Road and Kaloi Gulch and from Kunia Road;
- views of na pu`u at Kapolei, Palailai, and Makakilo;
- mauka and makai views; and
- views of central Honolulu and Diamond Head.

This project is consistent with the relevant sections of the plan, as it retains mauka views from the project site.

The OR&L historic rail line is not presently visible from Kapolei Parkway, the nearest public roadway adjacent to the Subject Property, due to the presence of numerous stockpiles of dirt and overgrown vegetation on the subject property and to its distance nearly a half mile from Kapolei Parkway. While development of the Property will result in the placement of numerous structures between Kapolei Parkway and the historic rail line, there will be no substantive change to existing conditions: the rail line will continue to be blocked from view and generally too far away to be seen. As viewed from the rail line, the proposed development will present an aesthetically pleasing architectural vista. Views of the Wai`anae mountain range will likely be blocked by some buildings within the proposed development.

c. Other Impacts on Rail Line

The only direct physical impact upon the rail line resulting from the proposed project will be the need to cross the railroad tracks with one or two driveways proposed to link the project site to Roosevelt Avenue. These crossings will not adversely affect the operations of the railway as they will be gated in accordance with requisite railway crossing safety standards. Due to the train's limited number of rail cars, the occasional passing of the train will pose only a temporary inconvenience to drivers and pedestrians who will be required to wait for the train to pass and the gates to raise again.

The presence of the proposed regional mixed use center adjacent to the rail line will likely be beneficial to the preservation and operation of the train because it will introduce more prospective riders and rail museum attendees, which will, in turn, increase revenue for the rail operation.

The proposed project will have no impact upon the OR&L's base yard operations because the project does not require the extension of Kualaka'i Parkway beyond its eastern project entrance.

d. Impacts on Existing and Planned Residential Areas

The proposed project will have no direct physical impact upon its three closest existing residential neighbors; Varona Village to the east, Village 8 to the west, and Kanehili to the north. Ka Makana Ali'i is separated from Village 8 by the Kapolei Lower Drainage Channel which is approximately three hundred feet wide. Varona Village lies approximately 800 feet east of the proposed project's eastern property boundary. The new residential community of Kanehili lies on the north side of Kapolei Parkway about 600 feet north of the subject property.

There neither is nor will be any pedestrian or vehicular connection between Village 8 and the project. Village 8 is bordered on its eastern boundary by a six-foot high continuous wall and there are no pedestrian accesses or roadways between the houses that form the eastern end of the property within the wall.

Renton Road presently provides pedestrian and vehicular access to the subject property from Varona Village. Vehicular access is blocked on Renton Road by a gate just west of the village. No access from this unpaved portion of Renton Road to the subject property is proposed.

The intersection of Kanehili Street and Kapolei Parkway will serve as a principal access route to the proposed development. Therefore, the residents of the Kanehili community will enjoy direct vehicular and pedestrian access to the project.

Future residential communities are planned within Kalaeloa. The properties directly south of the subject property (across Roosevelt Avenue) are slated for Light Industrial and

Moderate Density Mixed Use development. The Kalaeloa Master Plan defines the latter as storefront uses on the ground floor with residential uses on upper floors (2nd, 3rd and 4th floors). Impacts to surrounding residential communities will be generally limited to short-term construction-related impacts discussed elsewhere in this environmental assessment.

The City's proposed transit corridor is presently planned to terminate at the Kroc Center, approximately a half-mile north east of the subject property.

e. Regional Commercial Center

The Ewa DP does not provide for Regional Commercial Centers outside the City of Kapolei.

3. Relationship to the City Land Use Ordinance

DHHL intends the Project to substantially comply with the zoning standards for Business Mixed Use (BMX-3 and BMX-4) as presented in the LUO. Internal roadways will be paved, with curbs, gutters and medians, and landscaping will be implemented in general compliance with LUO standards. See Exhibit 2 at p. 78.

a. Proposed Density

The Project is expected to utilize the entire 67-acre property. As presented in the Project's Conceptual Master Plan, Phase 1 will comprise approximately 200,681 square feet and Phase 2 will comprise approximately 1,145,221 sf. The maximum allowable density (Floor Area Ratio: FAR) is 2.5 for BMX-3 and 4.0 for BMX-4. The anticipated density for the BMX-3 portion of the development is 0.40 (FAR) with a likely maximum density of 2.7 FAR for the BMX-4 area. See id.

b. Building Area (Lot Coverage)

As presented in the Project's Conceptual Master Plan, building coverage of the subject property will be approximately 32.5 percent, resulting in the remainder of the property (67.5 percent) being retained in open space. Within the open space, approximately 88 percent will consist of impervious surface with approximately 12 percent consisting of landscaped area. See id.

c. Building Height

The maximum building height for the project area will be 120 feet. See id.

d. Yard Setbacks

Front yard setbacks for BMX-3 and BMX-4 are 5 feet for uses other than dwellings. There are no side or rear yard setback requirements for uses other than dwellings in BMX-3 and BMX-4. See id. at p. 79.

4. Consistency With the 2001 Pearl Harbor Historical Trail Master Plan

The planned Pearl Harbor Historic Trail (PHHT) extends from the East Loch of Pearl Harbor to Nanakuli along the makai side of the OR&L historic railway Right-of-Way. In the vicinity of the subject property, the OR&L easement abuts the southern property boundary. The Project complies with the Master Plan as follows. See Exhibit 2 at pp. 79-80.

- a. PHHT Goal #1: Provide a shared use path for outdoor recreation, physical fitness, and transportation that: 1) is continuous from `Aiea to Nanakuli; 2) is accessible to the community; 3) links important community activity centers and attractions; 4) is fun to use because of its many recreation amenities and opportunities; and 5) is well maintained, safe and secure.
-

As the Project abuts the PHHT, it is supportive and complimentary to this goal, particularly #3 which calls for the trail linking important community activity centers and attractions. The Project will be an important community activity center for the entire Ewa district and its proximity to the trail will facilitate access by pedestrians and bikers. However,

because the PHHT is situated on the makai side of the historic railroad tracks, and because the PHHT also envisions the active use of the tracks by the train, there may be a potential conflict between operation of the train and use of the abutting pedestrian trail and bike path. To access the Ka Makana Ali`i site in fulfillment of Goal 1, pedestrians and bicyclists will have to cross the railroad tracks. The Project proposes the construction of two driveways crossing the tracks and connecting the regional mixed use center to Roosevelt Avenue. These crossings will include gates and signals. The provision of these driveways will mitigate the potential conflict between the train and pedestrians by providing safe crossings.

- b. Goal #2: Preserve the former ORL railway alignment as an important historic resource that: 1) expands the HRS' train operations from `Aiea to Nanakuli; 2) Teaches about OR&L's history and elements related to railway history and its link to the community's cultural past; 3) is accessible to both residents and visitors; 4) Preserves and exhibits the area's history and culture; and 5) provides amenities such as railroad stations that enhance the user experience.
-

The Project supports this goal. The provision of the crossings will facilitate additional pedestrian access to the trail. The proposed driveways crossing the railroad tracks will be gated and signalized to ensure that train operations are not disrupted. The crossings will be designed in a manner that does not undermine or conflict with the historic character of the railroad.

- c. Goal 3: The Pearl Harbor Historic Trail will create economic opportunities that: 1. Provide economic support for the Pearl Harbor Historic Trail projects; 2. Link important activity centers and visitor attractions; and 3. Bring visitors into Leeward communities.
-

The Project supports this goal by providing a significant activity center along its route.

- d. Goal 4: The Pearl Harbor Historic Trail will enhance environmental preservation efforts by: 1. Encouraging habitat protection, restoration of wetlands and streams, and development of natural resources interpretive facilities along the Trail; 2. Providing a green corridor extending beyond the Trail boundaries

that is enhanced with a unified landscape featuring indigenous and endemic plant species, where appropriate; 3. Restoring areas around ancient Hawaiian fishponds as educational and cultural resources; 4. Preserving, restoring, and protecting natural and environmentally sensitive areas along the Trial; and 5. selectively clearing mangrove and other invasive species to open shoreline vistas and public access to Pearl Harbor.

The Project compliments this goal to the extent that it will comply with the requisite 50-foot building setback and thereby preserve the green corridor along the PHHT. Crossing of the ORL tracks will be several hundred feet further west of the railroad base yard and also provides an additional crossing at about the southwest corner of its southern property boundary.

R. A STATEMENT ADDRESSING HAWAIIAN CUSTOMARY AND TRADITIONAL RIGHTS UNDER ARTICLE XII, SECTION 7 OF THE HAWAII STATE CONSTITUTION

DHHL is aware of and sensitive to the existence and practice of native Hawaiian customary and traditional rights that are protected by Article XII, Section 7 of the Hawai'i State Constitution. Based on research into the history of the area, there are no known traditional gathering activities or cultural practices affecting the Property.

S. WRITTEN COMMENTS RECEIVED

Written comments received by DHHL in connection with the preparation of the environmental assessment for the Project were included in Chapter 16 of the FEA.

III. RELIEF REQUESTED

DHHL seeks an Order: (1) recognizing DHHL's standing to seek and obtain the relief requested herein; (2) re-designating a new docket covering that portion of the Petition Area identified as Tax Map Key No. (1) 9-1-016:142, comprising approximately 67.184 acres of land ("Petition Area C" or the "Subject Property"), separate and apart from the remaining 715 acres reclassified under Docket No. A99-728; (3) releasing the Subject Property from the conditions of the 1999 Decision and Order; and (4) issuing a new findings of fact, conclusions of law, and decision and order for the Subject Property. The purpose of this motion is to establish appropriate conditions that are specifically applicable to DHHL's proposed Project.

A. STANDING

DHHL requests that the Commission recognize DHHL, as the fee simple landowner, as having the requisite standing to seek and obtain the relief requested herein.

B. NEW SUB-DOCKET NUMBER

DHHL requests that the Commission create a new sub-docket number, DOCKET NO. A99-728(c), that applies solely to the Subject Property. DHHL further requests that the Subject Property be referred to in Docket No. A99-728(c) as "Petition Area C."

C. REQUESTED MODIFICATION OR DELETION OF CONDITIONS

DHHL requests that an order be issued setting forth: 1) conditions that will be specifically applicable to only Petition Area C; and 2) that the conditions in the 1999 Decision and Order shall not be applicable to Petition Area C and are, therefore, released. The intent of this request is to establish a separate set of conditions that will apply specifically to Petition Area C, where the drafting of these conditions will start with the existing conditions in the 1999 Decision and Order and thereafter modify or delete certain conditions to reflect the changed

project description specific to Petition Area C and to isolate Petition Area C from the remaining Petition Area under the 1999 Decision and Order.

The following discussion relating to those conditions that should apply only to Petition Area C will first quote all of the conditions in the 1999 Decision and Order, and each condition will be followed by the request for modification or deletion, if any, together with the support for the request.

Condition 1 from 1999 Decision and Order: "Petitioner, its successors, and assigns shall provide affordable housing opportunities for residents of the State of Hawai`i in accordance with applicable affordable housing requirements of the City and County of Honolulu. The location and distribution of the affordable housing or other provisions for affordable housing shall be under such terms as may be mutually agreeable between Petitioner, its successors, and assigns, and the City and County of Honolulu."

Request for Modification or Deletion: DHHL requests that the term "If applicable" be added to the beginning of this condition, because the Project does not include any residential components. Further, DHHL is already constructing affordable homes through its homestead development efforts within other areas of East Kapolei.

Condition 2 from 1999 Decision and Order: "Petitioner, its successors, and assigns shall coordinate and/or participate in the funding and construction of adequate water source, storage, and transmission facilities and improvements to accommodate the proposed Project. Water transmission facilities and improvements shall be coordinated and approved by appropriate State and County agencies."

Request for Modification or Deletion: DHHL does not seek any modification or deletion of Condition 2.

Condition 3 from 1999 Decision and Order: "Petitioner shall contribute to the development, funding, and/or construction of public schools as determined by, and to the satisfaction of, the State Department of Education (DOE). Any contribution by the Petitioner for the development, funding, and/or construction of University of Hawai`i facilities shall be made in accordance with section 6 of Act 277, 1996 Session Laws of Hawai`i, and the University of Hawai`i-West O`ahu special fund set forth in section 304-1.5, Hawaii Revised Statutes, as such laws may be amended. The Petitioner and DOE shall enter into written agreements on this matter prior to Petitioner obtaining approval for City and County of Honolulu zoning. In the event the University of Hawai`i is a party to any agreement between the Petitioner and DOE or is

a party to any separate agreement with the Petitioner, such agreement particular to the University of Hawai'i shall be consistent with the requirements of section 6 of Act 277, 1996 Session Laws of Hawai'i, and section 304-1.5, Hawai'i Revised Statutes, as such laws may be amended."

Request for Modification or Deletion: DHHL requests that Condition 3 be deleted. The proposed Project is a commercial center that will not have a residential component and will not increase the population of school age children in the region therefore there is no nexus between the DOE component of the condition and the effect of the Project. Also, §304A-2166, Hawai'i Revised Statutes ("HRS"), which is the successor statute to HRS § 304-1.5, does not apply to Petition Area C.

Condition 4 from the 1999 Decision and Order: "Petitioner, its successors, and assigns shall coordinate and/or fund and construct adequate wastewater transmission and disposal facilities, as determined by the City and County of Honolulu and the State Department of Health, to include the planning design, construction, and scheduling of the proposed Kapolei Interceptor Sewer."

Request for Modification or Deletion: DHHL does not seek any modification or deletion of Condition 4.

Condition 5 from 1999 Decision and Order: "Petitioner, its successors, and assigns shall grant to the State of Hawai'i an avigation (right of flight) and noise easement in a form prescribed by the State Department of Transportation on any portion of the Property subject to noise levels exceeding 55 Ldn."

Request for Modification or Deletion: DHHL requests that the term "If applicable" be added to the beginning of this condition to mirror the relief granted to the University of Hawaii. DHHL also requests that the grant of easement be subject to approval by the Hawaiian Homes Commission, as required under the Hawaiian Homes Commission Act of 1920 ("HHCA"). DHHL is willing to discuss the matter with the State Department of Transportation and if applicable, grant such an easement if requested, provided the grant of easement complies with the HHCA and any other applicable federal and/or state law.

Condition 6 from 1999 Decision and Order: "Petitioner, its successors, and assigns shall not construct residential components within areas exposed to noise levels of 60 Ldn or greater."

Request for Modification or Deletion: DHHL request that the term "If applicable" be added to the beginning of this condition to mirror the relief granted to the University of Hawaii. The proposed Project does not include a residential component.

Condition 7 from 1999 Decision and Order: "Petitioner, its successors and assigns shall be responsible for implementing sound attenuation measures to bring noise levels from sporting events, vehicular and air traffic in and within the Property down to levels acceptable to the State Department of Health."

Request for Modification or Deletion: DHHL does not seek any modification or deletion of Condition 7.

Condition 8 from 1999 Decision and Order: "Petitioner shall attenuate the noise sensitive areas within commercial components of the Property that are exposed to exterior noise levels of 60 Ldn (day-night average sound level) by a minimum of 25 decibels."

Request for Modification or Deletion: DHHL requests that this condition be deleted consistent with the relief granted to the University of Hawaii. The proposed Project is envisioned to be a commercial center and open air shopping center that will incorporate open air dining and other open air establishments. The application of this condition would conflict with the concept of the Project and needlessly increase the costs of construction.

Condition 9 from 1999 Decision and Order: "Petitioner, its successors, and assigns shall participate in the pro-rata funding and construction of local and regional transportation improvements and programs necessitated by the proposed development in designs and schedules accepted and determined by the State Department of Transportation and the City and County of Honolulu. Petitioner and/or the State Department of Transportation shall submit the construction plans as they relate to drainage issues for the North-South Road to the City for review and approval."

Request for Modification or Deletion: DHHL does not seek any modification or deletion of Condition 9.

Condition 10 from 1999 Decision and Order: "Petitioner, its successors, and assigns of the affected properties shall fund and construct adequate civil defense measures as determined by the City and County of Honolulu and State Civil Defense agencies."

Request for Modification or Deletion: DHHL requests that the term "the affected properties" be deleted and replaced with "Petition Area C" to specify DHHL's Project area.

Condition 11 from 1999 Decision and Order: "Should any previously unidentified burials, archaeological or historic sites such as artifacts, marine shell concentrations, charcoal deposits, or stone platforms, pavings or walls be found, Petitioner, its successors, and assigns of the affected properties shall stop work in the immediate vicinity and the State Historic Preservation Division of the Department of Land and Natural Resources (SHPD) shall be notified immediately. Subsequent work shall proceed upon an archaeological clearance from the SHPD when it finds that mitigative measures have been implemented to their satisfaction."

Request for Modification or Deletion: DHHL requests that the term "the affected properties" be deleted and replaced with "Petition Area C" to specify DHHL's Project area.

Condition 12 from 1999 Decision and Order: "Petitioner, its successors, and assigns shall coordinate the design and construction of drainage improvements required as a result of the development of the Property to the satisfaction of Federal, State and County agencies with the goal of executing an agreement on the interim and ultimate regional drainage plan as soon as possible. Petitioner, its successors, and assigns shall participate in the planning and coordination of off-site improvements with the Estate of James Campbell, the Barbers Point Naval Air Station, adjoining landowners and developers, the intervener, and other Federal, State, and County agencies. Funding for these improvements may be obtained from a combination of State, Federal, and/or private sources to be determined by Petitioner, its successors, and assigns."

Request for Modification or Deletion: DHHL requests that the condition be modified as follows to reflect similar language granted to the University of Hawaii with changes made to specify Petition Area C:

Petitioner, its successors, and assigns shall coordinate the design and construction of drainage improvements on Petition Area C required as a result of the development of Petition Area C to the satisfaction of Federal, State, and City and County agencies with the goal of executing an agreement on the interim and ultimate regional drainage plan as soon as possible. Petitioner, its successors, and assigns shall participate in the planning and coordination of offsite improvements with all landowners and developers in the Kalo`i drainage basin, the intervenor, and other Federal, State and City and County agencies.

Petitioner's request is based upon the changed entities in the region and the inapplicability of the funding language that was applicable to the prior petitioner.

Condition 13 from 1999 Decision and Order: "Petitioner, its successors, and assigns, agrees to work with the city to implement interim and long-range regional drainage solutions as follows:

- a. Petitioner shall submit a drainage master plan for the Property to the City for its review and approval prior to any subdivision approvals other than for minor matters, such as easements.
- b. Drainage solutions for the Property shall be compatible with the `Ewa Villages Drainage Master Plan and drainage designs for other developments in the Kalo`i Gulch drainage basin.
- c. Drainage improvements for the Property shall be consistent with the policies and principles in the `Ewa Development Plan.
- d. Petitioner shall be responsible for implementing interim drainage improvements that will limit channelized runoff to 2,500 cubic feet per second (cfs) at the Property's southern boundary (specifically at the `Ewa Villages Golf Course's Kalo`i Gulch Inlet Structure) for events up to a 100-year storm. Petitioner shall also take reasonable measures to minimize non-channelized flows from the Property by construction of berms, detention basins, or other appropriate methods. All flows and drainage patterns that cross the southern boundary of the Property shall remain as conceptually described in the `Ewa Villages Drainage Master Plan. These requirements shall remain in force until long-range regional drainage improvements are in place in accordance with the approved drainage master plan for the Project.
- e. Should Petitioner sell various residential or commercial components prior to the completion of the construction of the master infrastructure, any such sale shall be conditioned upon the completion of the appropriate master infrastructure improvements for that portion of the residential or commercial component."

Request for Modification or Deletion: DHHL requests that all references to "the Property" be deleted and replaced with "Petition Area C" to specify DHHL's Project.

Condition 14 from 1999 Decision and Order: "Petitioner shall apply for City zoning approval after the State Land Use Commission reclassifies the Project site from Agricultural to the Urban District. Said zone change application shall be accompanied by a conceptual master plan with land use information sufficient to satisfy county zoning and development plan requirements."

Request for Modification or Deletion: DHHL requests that the language, "If applicable," be added to the beginning of the condition. Petition Area C is currently owned in fee simple by DHHL and is not subject to County zoning.

Condition 15 from 1999 Decision and Order: "Petitioner shall comply with County zoning requirements. This condition is not intended to delay the construction of public uses or infrastructure to service the Property."

Request for Modification or Deletion: DHHL requests that the language, "If applicable," be added to the beginning of the condition. Petition Area C is currently owned in fee simple by DHHL and is not subject to County zoning. However, DHHL does recognize the importance of the County's land planning standards and will seek to incorporate those standards in the development of the Project.

Condition 16 from 1999 Decision and Order: "Prior to construction of any residential or commercial uses within the Petition Area, Petitioner, or its successors and assigns, shall submit a Regional Park, open space and Pedestrian/Bikeway Master Plan to the City for its review and approval."

Request for Modification or Deletion: DHHL requests that the term "Petition Area" be deleted and replaced with "Petition Area C" to specify DHHL's Project. Also, DHHL requests that the term " Regional Park " be deleted to be consistent with DHHL's vision to have the Project encompass the entire Petition Area C, making the inclusion of a park impossible. Also, DHHL requests that the language, "If applicable" be added to the beginning of the condition. So long as DHHL continues to be the fee simple landowner, the development of the Project is not subject to the City's master plan requirement. In the event DHHL or another State agency is not the fee simple landowner, the Project would be subject to the City requirement.

Condition 17 from 1999 Decision and Order: "Prior to construction of any residential or commercial uses within the Petition Area, Petitioner, or its successors and assigns, shall submit a conceptual Urban Design Plan to the City for its review and approval. The Urban Design Plan shall depict the overall design theme and architectural character of streetscapes, residential

neighborhoods and town centers. The Plan shall also include a conceptual landscape plan showing treatment of Project entries, major roadways, and common areas."

Request for Modification or Deletion: DHHL requests that the term "Petition Area" be deleted and replaced with "Petition Area C" to specify DHHL's Project. Also, DHHL requests that the language, "If applicable" be added to the beginning of the condition. So long as DHHL continues to be the fee simple landowner, the development of the Project is not subject to the City's Urban Design Plan requirement. In the event DHHL or another State agency is not the fee simple landowner, the Project would be subject to the City requirement.

Condition 18 from 1999 Decision and Order: "Petitioner, its successors, and assigns, where feasible, shall use indigenous and water conserving plants and turf and incorporate the same into common area landscape planting."

Request for Modification or Deletion: DHHL does not seek any modification or deletion of Condition 18.

Condition 19 from 1999 Decision and Order: "Petitioner, its successors, and assigns shall facilitate an air quality monitoring program as specified by the State Department of Health. Petitioner, its successors, and assigns shall notify all prospective buyers of property, and buyers of individual lots or homes of the potential odor, noise and dust pollution resulting from surrounding agricultural and other uses, said notification to include a reference to potential odors emanating from the Honouliuli Wastewater Treatment Plant."

Request for Modification or Deletion: DHHL does not seek any modification or deletion of Condition 19.

Condition 20 from 1999 Decision and Order: "Petitioner shall fund an approved Habitat Conservation Plan to facilitate the propagation of the *abutilon mensiesii* in accordance with Department of Land and Natural Resources and U.S. Fish and Wildlife requirements."

Request for Modification or Deletion: DHHL does not seek any modification or deletion of Condition 20.

Condition 21 from 1999 Decision and Order: "Residential and commercial components of the project will not be developed and major site work for those areas shall not be undertaken until master drainage and infrastructure improvements for those components are completed."

Request for Modification or Deletion: DHHL requests modifications similar to those granted to the University of Hawaii, including the inclusion of the term "Vertical" at the beginning of the condition and the deletion of the term "major". DHHL believes that it is acceptable to proceed with subterranean improvements during the interim.

Condition 22 from 1999 Decision and Order: "Petitioner or landowners shall develop the Petition Area in substantial compliance with the representations made to the Commission. Failure to do so may result in reversion of the Petition Area to its former classification, or a change to a more appropriate classification."

Request for Modification or Deletion: DHHL requests that the term "Petition Area" be deleted and replaced with "Petition Area C" to specify DHHL's Project.

Condition 23 from 1999 Decision and Order: "Petitioner shall give notice to the Commission of any intent to sell, lease, assign, place in trust, or otherwise voluntarily alter the ownership interests in the Petition Area, prior to the development of the Petition Area."

Request for Modification or Deletion: DHHL requests that the term "Petition Area" be deleted and replaced with "Petition Area C" to specify DHHL's Project.

Condition 24 from 1999 Decision and Order: "Petitioner shall timely provide without any prior notice, annual reports to the Commission, the State Office of Planning, and the City and County of Honolulu Department of Planning and Permitting in connection with the status of the subject Project and Petitioner's progress in complying with the conditions imposed herein. The annual report shall be submitted in a form prescribed by the Executive Officer of the Commission."

Request for Modification or Deletion: DHHL does not seek any modification or deletion of Condition 24.

Condition 25 from 1999 Decision and Order: "The Commission may fully or partially release the conditions provided herein as to all or any portion of the Petition Area upon timely

motion and upon the provision of adequate assurance of satisfaction of these conditions by Petitioner."

Request for Modification or Deletion: DHHL requests that term "Petition Area" be deleted and replaced with "Petition Area C" to specify DHHL's Project.

Condition 26 from 1999 Decision and Order: "Within 7 days of the issuance of the Commission's Decision and Order for the subject classification, Petitioner shall (a) record with the Bureau of Conveyances a statement that the Petition Area is subject to conditions imposed herein by the Land Use Commission in the reclassification of the Petition Area, and (b) shall file a copy of such recorded statement with the Commission."

Request for Modification or Deletion: DHHL requests that the term "Decision and Order for the subject classification" be deleted and replaced with "Order Amending Findings of Fact, Conclusions of Order, and Decision and Order" to reflect the proper pleading being referenced.

Condition 27 from 1999 Decision and Order: "Petitioner or landowners shall record the conditions imposed herein by the Commission with the Bureau of Conveyances pursuant to Section 15-15-92, Hawai'i Administrative Rules."

Request for Modification or Deletion: DHHL does not seek any modification or deletion of Condition 27.

IV. CONCLUSION

Based upon the foregoing, DHHL respectfully requests that the Commission grant this motion after a hearing which DHHL hereby requests pursuant to HAR §15-15-70(i).

DATED: Honolulu, Hawaii, March 23, 2012.

DAVID M. LOUIE
Attorney General
State of Hawaii



DIANE K. TAIRA
CRAIG Y. IHA
Attorneys for Petitioner
Department of Hawaiian Home Lands,
State of Hawaii

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of)	DOCKET NO. A99-728
)	
HOUSING AND COMMUNITY)	
DEVELOPMENT CORPORATION OF)	
HAWAII, STATE OF HAWAII)	
)	
To Amend the Agricultural Land Use)	
District Boundary into the Urban Land Use)	
District of Approximately 1,300 Acres of)	
Land at Honouliuli, `Ewa, O`ahu, Hawai`i,)	
TMK Nos. 9-1-16:8, 109; 0-1-17: 71,)	
86; and 9-1-18: 3, 5.)	
_____)	

VERIFICATION

STATE OF HAWAII)	
)	SS.:
CITY AND COUNTY OF HONOLULU)	

ALBERT "ALAPAKI" NAHALE-A, being first duly sworn, on oath, deposes and says that:

1. I am the Chairman of the Hawaiian Homes Commission and Director of the Department of Hawaiian Home Lands, State of Hawaii.
2. I have read the Motion for Order Amending the Findings of Fact, Conclusions of Law, and Decision and Order dated September 8, 1999, know the contents thereof, and that the contents therein contained are true to the best of my knowledge, information and belief;

Further Affiant sayeth naught.

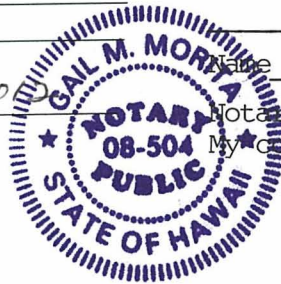
DATED: Honolulu, Hawaii, March 20, 2012.

ALBERT "ALAPAKI" NAHALE-A
Chairman
Department of Hawaiian Homelands

Subscribed and sworn to me
this 20 day of March 2012

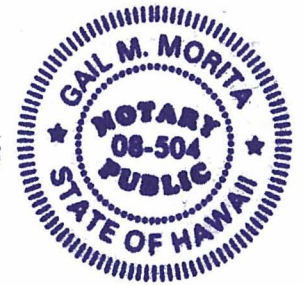
Subscribed and sworn to me
this 20th day of March, 2012

Name _____
Notary Public, State of Hawai'i
My commission expires: 10-26-2012



GAIL M. MORITA
Notary Public, State of Hawaii
My commission expires 10-26-2012

Doc. Date: 3-20-2012 # Pages: 2
Notary Name: Gail M. Morita First Circuit
Doc. Description: VERIFICATION



Notary Signature 3-20-12
Date

My commission expires: 10-26-2012

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of)	DOCKET NO. A99-728
)	
HOUSING AND COMMUNITY)	
DEVELOPMENT CORPORATION OF)	
HAWAII, STATE OF HAWAII)	
)	
To Amend the Agricultural Land Use)	
District Boundary into the Urban Land Use)	
District of Approximately 1,300 Acres of)	
Land at Honouliuli, 'Ewa, O'ahu, Hawai'i,)	
TMK Nos. 9-1-16:8, 109; 0-1-17: 71,)	
86; and 9-1-18: 3, 5.)	
_____)	

AFFIDAVIT OF CRAIG Y. IHA

STATE OF HAWAII)	
)	SS.:
CITY AND COUNTY OF HONOLULU)	

CRAIG Y. IHA, being first duly sworn, on oath, deposes and says that:

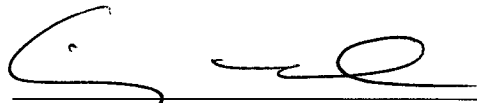
1. I am one of the attorneys representing the Department of Hawaiian Home Lands, State of Hawaii in this matter.
2. I have personal knowledge of the matters set forth herein and am qualified and competent to make this affidavit.
3. Attached hereto as Exhibit 1 is a true and correct copy of a Quitclaim Deed dated October 27, 2006, recorded at the Office of the Assistant Registrar of the Land Court, State of Hawaii, as Document No. 3505385.
4. Attached hereto as Exhibit 2 is a true and correct copy of the Final Environmental Assessment for Ka Makana Ali'i, dated November 2011.

5. Attached hereto as Exhibit 3 are true and correct copies of selected pages from the Final Environmental Impact Statement for East Kapolei on file with the State of Hawaii Office of Environmental Quality Control.

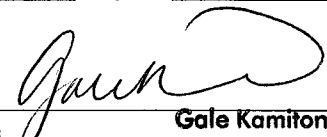
6. Attached hereto as Exhibit 4 is a true and correct copy of the Finding of No Significant Impact (FONSI) for Ka Makana Ali`I Conceptual Master Plan, East Kapolei, island of Oahu dated December 12, 2011 and completed OEQC Publication Form on file with the State of Hawaii, Office of Environmental Quality Control.

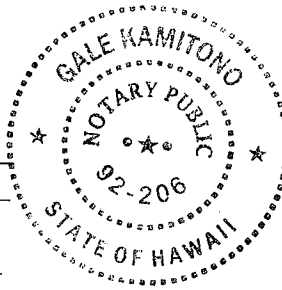
Further Affiant sayeth naught.

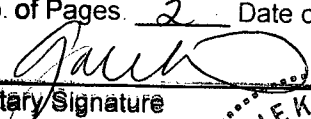
DATED: Honolulu, Hawaii, March 22, 2012.

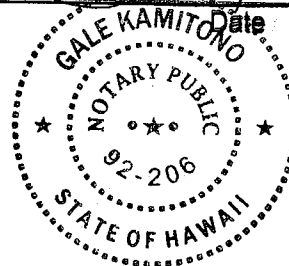

CRAIG Y. IHA

Subscribed and sworn to me
this 22nd day of March 2012


Name Gale Kamitono
Notary Public, State of Hawai'i
My commission expires: 3/29/2016



NOTARY PUBLIC CERTIFICATION
Gale Kamitono First Judicial Circuit
Doc. Description Affidavit of
Craig Y Iha
No. of Pages 2 Date of Doc. 3/22/12
 3/22/12
Notary Signature Date



BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of)	DOCKET NO. A99-728
)	
HOUSING AND COMMUNITY)	
DEVELOPMENT CORPORATION OF)	
HAWAII, STATE OF HAWAII)	
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To Amend the Agricultural Land Use)	
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Land at Honouliuli, `Ewa, O`ahu, Hawai`i,)	
TMK Nos. 9-1-16:8, 109; 0-1-17: 71,)	
86; and 9-1-18: 3, 5.)	
_____)	

CERTIFICATE OF SERVICE

I hereby certify that on March 23, 2012, due service of a copy of the within document was made by depositing the same with the U.S. Mail, certified, postage paid, or hand-delivery, as follows:

Certified Mail: State of Hawaii
 Hawaii Housing Finance and Development Corporation
 677 Queen Street
 Honolulu, HI 96813

City and County of Honolulu
Department of Planning and Permitting
650 South King Street, 7th Floor
Honolulu, HI 96813

Don S. Kitaoka, Esq.
Deputy Corporation Counsel
Department of the Corporation Counsel
530 South King Street
Room 110, Honolulu Hale
Honolulu, HI 96813

Haseko (Ewa) Inc.,
c/o Yvonne Y. Izu, Esq.
Dana O. Viola, Esq.
Morihara Lau & Fong LLP
841 Bishop Street

Suite 400, Davies Pacific Center
Honolulu, HI 96813

Hand Delivery:

State of Hawaii
Office of Planning
State Office Tower, 6th Floor
235 South Beretania Street
Honolulu, HI 96813

Bryan C. Yee, Esq.
Deputy Attorney General
Department of the Attorney General
425 Queen Street, Hale Auhau
Honolulu, Hi 96813

Sandra A. Ching, Esq.
Deputy Attorney General
Department of the Attorney General
425 Queen Street, Hale Auhau
Honolulu, Hi 96813

DATED: Honolulu, Hawaii, March 23, 2012.



CRAIG Y. IHA
Attorney for Petitioner
Department of Hawaiian Home Lands,
State of Hawaii