

From: ptanok12@gmail.com on behalf of [Moku Loa Hawaii Island Sierra Club](#)
To: [LPCtestimony](#)
Subject: Written testimony on draft GP2045
Date: Thursday, January 16, 2025 11:05:58 AM
Attachments: [LPC GP2045 01-16-25 testimony.docx](#)
[Pu"u Ohau Cultural Preserve - Excerpts from LUC Docket A06-769.pdf](#)
[Pu"u Ohau Cultural Preserve - Excerpts from SEISPN, Dec. 2007.pdf](#)
[Pu"u Ohau desecration flyer.pdf](#)
[Hilo WWTP proposed permit renewal, 01-12-25 comments FINAL.docx](#)

Aloha,
Please see attached testimony and supporting documents.
Mahalo,
Chuck Flaherty, Chairperson

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Moku Loa (Hawaii Island) Group, Sierra Club

We work hard to advance Sierra Club's mission to explore, enjoy, and protect the wild places of the earth; to practice and promote the responsible use of the earth's ecosystems and resources; to educate and enlist humanity to protect and restore the quality of the natural and human environment; and to use all lawful means to carry out these objectives.



SIERRA CLUB

HAWAI'I ISLAND GROUP

January 16, 2025

Leeward Planning Commission
101 Pauahi St, Ste 103
Hilo HI 96720

Re: Final draft General Plan 2045

Aloha Mr. Chair and members of the Leeward Planning Commission,

The Sierra Club of Hawai'i, Hawai'i Island Group would like to request the Commission consider the following recommended amendments to the draft General Plan 2045 (GP2045).

Standards

HIG would like to correct a statement made by the Planning Department during the Commission's December 19, 2025 meeting in response to public testimony that GP2045 lacked sufficient standards. A statement was made that GP2045 contains 115 Standards. That is not correct.

Section 3-15 of the county Charter states, in part, "The general plan shall contain a statement of development objectives, standards and principles with respect to the most desirable use of land within the county..."

The current General Plan (cGP) complies with the Charter by stating specific Standards for each of the 13 Elements of the cGP.

However, GP2045 does not.

A key word search for "standard" in the online version of GP2045 reveals the only Standards are listed in 5 Tables, "Public Access Spacing Standards" (p.112), "Mass Transit Level of Service Standards" (p. 114), "Water System Domestic Consumption Standards" (p.120), "Protective Services Level of Service Standards" (p. 134), and "Park Standards" (p. 160). The only other Standards in GP2045 "Roadway Standards" (p. 120, "Street Standards" (p. 120) and the "County Street Design Manual referred to as a Standard on page 118.

All other results for the key word search for "standard" are contained in sentences as follows: "develop standards", "meet standards", "create standards", "establish standards", "set standards", "maintain standards", "adopt standards". "identify standards", and "prepare

standards”. These are not statements of standards, nor do any of the sentences reference specific standards.

This analysis proves that GP2045 does not fully comply with the county Charter’s requirement for statements of standards, especially when compared to the Standards currently contained within cGP.

In order to comply with the county Charter, HIG recommends the Commission and the Planning Department work to develop recommended amendments to provide comprehensive standards using the existing Standards in the cGP as a basis.

GP2045, Section 2. Collaborative Biocultural Stewardship Goal, Objectives, Policies, and Actions

HIG urges the Commission to compare the excerpts, as related to public access and trails, provided at the end of this testimony from the draft General Plan 2040 (GP2040) released in 2019 and the language contained in the draft GP2045.

As you will see in the excerpts, the extensive and substantive language supporting trails and public access in the draft GP2040 was effectively stripped from the draft GP2045.

GP2040 contained 15 Policies and 18 Actions under “Public Access and Trails”.

However, in GP2045, a key word search must be performed for the words “public access” and “trails” in order to find the Policies or Actions related to these two topics. After doing so, there are only 11 Policies and only 3 actions that contain those words...a shocking and inexplicable result as compared to GP2045.

HIG urges the Commission to recommend amendments to include the Policies and Actions from the GP2040 which present both an organized and clear path forward for public access, trails, and recreation in the coming decades.

Pu’u Ohau

In 1999, the Hawai’i Island Burial Council designated the entirety of Pu’u Ohau from its base to its summit as a burial site and royal mausoleum as a result of the significance of the burials present on this pu’u within 1250 Oceanside Partners’ Hokuli’a project (Hokuli’a).

Attached to this testimony, the Commission will find excerpts from the 1250 Oceanside Partners’ Petition to the state Land Use Commission (Docket A06-179) and a Supplemental Environmental Statement Public Notice, which requested moving two Cultural Preserves comprising 12 acres on and around Pu’u Ohau into the state land use Conservation district.

Docket A06-179 contains the following statements:

“Petitioner is establishing two Cultural Practice and Preservation Areas (Cultural Preserves'), comprising a total of approximately 12 acres, where lineal and cultural descendants may engage in traditional cultural practices.” (p. 18)

" Another significant protective measure concerns the burial site of Kamaeo'kalani, near the summit of Pu'u Ohau, which is a significant historic and cultural site. This site is located within the Conservation District and outside the Petition Area. In order to provide an additional buffer around this site, Petitioner has agreed to abandon the development of five previously subdivided lots presently within the Agricultural District along the current Conservation District boundary. The area included in such lots is part of the area for which the instant Petition seeks reclassification to the Conservation District. Petitioner will also construct a gated wall or other buffer to restrict access to, and to protect and preserve, the burial site of Kamaeo'kalani and other cultural resources within the buffered area.”

“These mitigation measures will ensure that traditional and customary native Hawaiian rights, customs and practices will be preserved and protected in a feasible manner [*emphasis added*].” (see attached, p. 33)

This language reflects the legal elements contained in both the state constitution and state Supreme Court rulings intended to protect kanaka maoli traditional and customary practices and other legal rights. They are explicit statements that these areas contain constitutionally-protected cultural and historic resources and rights.

Past protests and vigils in support of Pu'u Ohau and the Hawai'i Island Burial Council (see attached flyer) clearly show there has been extensive community support for a recommended amendment that moves the two Cultural Preserve areas in Conservation as shown in the maps contained within Docket A06-179 and the SEISPN attached to this testimony.

HIG urges the Commission avoid a repeat of the pain and suffering that would be caused to the kanaka maoli community and their rights and traditional and customary rights as occurred in the early 2000s.

Please recommend an amendment to the GP land use map to protect and preserve these areas in perpetuity.

Wastewater Treatment

HIG is developing testimony to recommend an amendment to provide timely and orderly funding for and implementation of the three Administrative Orders on Consent that require the county to undertake repairs, retrofitting, upgrades, expansion of both facilities and service areas throughout the county.

Meanwhile, please see the attached letter HIG providing comments on the renewal of the Hilo wastewater treatment plant which presents many issues not yet addressed in GP2045.

Mahalo for this opportunity to testify.

Excerpts from draft General Plan 2040 (released in 2019)

PROMOTING ACTIVE LIVING THROUGH RECREATION , TRAILS , & PUBLIC ACCESS

Public Access & Trails

SUSTAINABILITY OBJECTIVE

Number of public access sites created through acquisition or easement or enhanced with assistance from CZM funding or staff.

POLICY

404. The County of Hawai‘i shall establish: public access to and along the shoreline to significant historic sites, public transit along the top of cliff, streams and other natural water courses, mauka trails, facilities, and access to sites for gathering, hunting, and other recreational purposes and in accordance with Hawai‘i County Code Chapter 34. [Rationale: Based on existing County Code 34, General Plan Policy 12.3 (l, m), Ka‘ū CDP Policy 81, and Hāmākua CDP Policy 48]

405. Subdividers of six or more lots, parcels, units, or interests shall be required to dedicate land for public access for pedestrian travel from a public highway or street to the land below the high-water mark on any coastal shoreline or to areas in the mountains where there are existing facilities for hiking, hunting, fruit-picking, ti leaf sliding, and other recreational purposes, and where there are existing mountain trails.

[Rationale: Based on existing HRS 46-6.5 and HCC 34-4(c).]

406. Prior to disposing of, leasing, or transferring public lands, including public roads or trails, public access potentials shall be assessed, documented and protected if public access use is in the public’s interest.

[Rationale: Based on existing HRS Section 46-1.5, Hāmākua CDP Policy 50, and General Plan 12.3 (n).]

407. Ensure that publicly owned historic trails and roads are properly identified, and consultation occurs to protect the public’s interests.

[Rationale: Based on the Highways Act of 1892, Hāmākua CDP Policy 50, and the General Plan 12.3 (n).]

408. Alignment of coastal trails shall consider flexibility for realignment for sea level rise and other dynamic shoreline changes. [Climate Change]

[Rationale: Based on current status of some impacted coastal areas and research relating to projected sea level rise impacts on coastal assets. See also California Coastal Commission Sea Level Rise Policy Guidance.]

409. Determine the location and ownership of historic trails and roads as early as possible in the land use application process.

[Rationale: Based on identified challenges with ownership of historic trails and roads and the subsequent legal implications. See also General Plan Policy 13.2.3 (q)]

410. Where a subdivision is traversed by a natural water course, drainage way, channel, or stream, the Planning Director should require a pedestrian, equestrian, and/or bicycle path when the opportunity exists to connect to existing or future drainage or trail corridors.

411. Trails may also be used as emergency access routes, where appropriate.

412. Support the development of a Rails to Trails type program to facilitate the conversion of old railway segments to a public trail network.

413. Seek private-public partnerships to manage and maintain public access to the shoreline, public trails, hunting areas, scenic places and vistas, and significant historic sites, buildings, and objects of public interest. [Public Access]

414. Explore options and collaborate with community groups to increase access to former sugar cane roads to be used as non-motorized trails where feasible and appropriate.

ACTION

4.49 Amend code to require bicycle and walking path easements be developed in urban areas to increase walkability and multimodal transportation options. [Code]

4.50 Work with the State and adjacent landowners in establishing old railroad right-of-ways as pedestrian and bicycle trails.

4.51 Identify by GPS coordinates all existing historic trail alignments that (a) have been recommended for preservation by SHPD, (b) appear on historic maps and/or are known by oral tradition, and incorporate these into the County GIS database.

4.52 Actively implement the Ala Kahakai National Historic Trail Memorandum of Understanding.

4.53 Appropriate, finance, allot, and encumber Capital Improvement Projects in support of trail development as part of a regional trail system.

4.54 Add public access requirements as listed in Hawai'i County Code Chapter 34 Public Access to apply to Chapter 23 Subdivision Code, SMA review, zoning code, special permits, etc. [Code]

4.55 Develop and implement a public-private program to establish and manage specific access points and trails.

SUSTAINABILITY OBJECTIVE

Develop and maintain a public access program that integrates recreation, subsistence, and cultural access priorities.

POLICY

415. Integrate Public Access into County department priorities in the following ways:

a) Incorporate public access and development into a program overseen by the Planning Department as per Chapter 34.

b) Integrate PONC property management and maintenance into the Parks and Recreation code in Chapter 2: Article 11 and Chapter 15: Parks and Recreation.

c) Develop adequate staff to carry out the provisions of Chapter 2 Article 42, relating to the PONC maintenance fund (as per: Section 2-214.2 (b). Pursuant to section 10-16(c) of the Charter, the maintenance fund shall be administered and managed by the department of parks and recreation. Adequate staff to carry out the provisions of this article and section 10-16 of the Charter shall be provided in the department of parks and recreation.

[Rationale: Based on identified gaps in addressing or applying public access regulations and procedures consistently between the various County Departments. The County lacks capacity to fulfill its existing public access objectives without increasing staff

capacity, maintenance capacity, and without having clearer directives between the various departments to implement a cohesive public access program.]

416. Integrate County public access priorities in all aspects of land use decisions and permit reviews.

417. Consistently integrate public access development and maintenance into Parks and Recreation department priorities.

418. Support facility development for access management at access points and along trail corridors.

ACTION

4.56 Establish a County of Hawai'i Public Access and Trail Program with sufficient staff and resources. Staff will be required to consult/consider recommendations of this program in all permit reviews. Elements of this program may include:

- a) A comprehensive access inventory;
- b) A public access rating system to help with prioritization;
- c) Comprehensive reviews of projects (on public or private lands) that will affect public accesses and trails;
- d) Inventory of ancient trails, cart roads, and old government roads in coordination with appropriate State agencies.
- e) Public outreach and coordination element.
- f) Identify agencies/groups to develop, administer, and maintain public accesses, including developing County capacity for this purpose;
- g) Identify funding sources to purchase and manage public access easement to priority areas;
- h) When public access goals will involve several landowners, acquire the public access incrementally as opportunities arise to do so;
- i) Public accesses that cross private land will be acquired and held until appropriate management of the accesses is in place;
- j) Collaborate with State and Federal agencies on public accesses that require multi-agency involvement;
- k) Develop a standardized template to promote consistency and comprehensiveness in the public access plans required by landowners;
- l) Partner with community organizations capable of assisting with public access management;
- m) Work with State agencies (particularly with DOFAW) to coordinate, survey, develop, and manage public trails and roads leading to forest reserves;
- n) In co-sponsorship with the State when possible, acquire land for public access to historic sites and objects and to the shoreline where safe transit does not already exist;
- o) Reinstitute a Public Access Wayfinding program managed by the Planning Department to assist interested community groups in maintaining appropriate signage at public access points;
- p) Provide cultural and safety information at trailheads;
- q) Provide for substantive community input to the County Planning Department and the County Council in order to finalize and accept priority access. Include community input in program policy.

r) Whenever the County assumes the responsibility for posting and maintaining signage and maintaining public accesses and other public infrastructure, a specific County agency will be identified and assigned the aforementioned responsibilities. [Code, Public Access]

4.57 Amend the subdivision code to better address public access issues in the following ways:

- a) Revise/Develop enforcement protocols for public access violations, including fines for noncompliance and mechanisms to remove private obstructions from public accesses;
- b) Review Hawai'i County Code Chapter 34 requirements for public access standards, including design that fits into surrounding community, environment, and conditions. Establish parameters for requiring appropriate right-of-way, parking, and comfort stations for various types of public accesses/trails and incorporate these into Chapter 34;
- c) Amend Hawai'i County Code Chapter 34 to develop a clear methodology to modify public access routes in order to adapt to sea level rise, landslides and erosion, and other impacts related to environmental impacts and climate change;
- d) Amend Hawai'i County Code Chapter 34, Rule 21, Chapter 23, and Chapter 25 CA 1.1.1 to ensure access and trail rights-of-way during subdivision. [Code]

4.58 Complete an inventory and database of significant natural resource areas with recreational and trail connectivity value.

4.59 Adopt an on-going program of identification, designation, and acquisition of areas with existing or potential recreational resources, such as land with sandy beaches and other prime areas for shoreline recreation in cooperation with appropriate governmental agencies.

4.60 Develop procedural rules and templates for public access agreements and Grant of Easement (GOE) to facilitate consistency and to provide mechanisms for tracking, follow-through, and geographic information system (GIS) identification in County of Hawai'i systems, etc.

4.61 Develop procedural guidelines for renegotiating access agreements.

4.62 Renegotiate public accesses that were developed prior to Chapter 34 to be consistent with Chapter 34.

4.63 Evaluate and initiate Charter & code amendments related to Public Access, Open Space and Natural Resource Preservation (PONC). These may include:

- a) Clearly distinguish categories of PONC property, such as active or passive use, conservation, restoration, natural buffer areas, access uses, etc. (for AGENCY ACTION). instance, lands acquired to provide access versus lands acquired to preserve from development that may not be appropriate for public access).
- b) Amend Charter Section 10-5 c & f to allow PONC funds to be used for the planning, design, development of new buildings, facilities, (including comfort stations) or infrastructure such as roads, paths, bridges, culverts, ramps, or drainage features if such improvements are necessary to meet the objectives of public safety and to meet the purposes outlined in Hawai'i County Code 2-214.1. [Code]

- c) Interpret or amend Charter Section 10-15 (c) 3 and County Code Section 2-214.1 c) 3 referring to natural resource buffer zones to include buffer zones for natural hazard areas, such as properties facing sea level rise, lava inundation, steep slopes, or identified priority viewsheds. [Code]
- d) Include assessments of tax revenue implications for lands nominated for PONC consideration.
- e) Amend Charter section 10-15 (c) and County Code Section 2-214.1 (c) to be consistent with each other. For example, the County Code allows PONC funds to be used for “significant habitat or ecosystems” but the Charter does not include those terms. [Code]
- 4.64 Amend Chapter 15 to include PONC and trail development as part of the Parks and Recreation Department’s priorities to be consistent with Chapter 34 in partnership with the Planning Department.[Code]
- 4.65 Conduct a performance review of the PONC Maintenance Fund and Stewardship Grant program to identify and implement ways to improve PONC management system.
- 4.66 Amend Hawai‘i County Code Section 2-218 Prioritized list of qualifying lands worthy of preservation to establish a means to evaluate the socio-environmental equity of the lands nominated by district. Such as:
 - a) When there are multiple lands under consideration at any one time, priority shall be given to coastal lands and lands where matching funding is available to leverage the County contribution;
 - b) Consideration should be given to lands within districts under-represented by PONC preservation program. [Code]
- 4.67 Coordinate with State agencies to improve access and access/trail management resources (including policies, conditions, identification, cataloguing, enforcement, maintenance, etc.).
- 4.68 Consider establishing a working group with surrounding land owners and the user-community to educate users and manage ATV use to ensure that non-pedestrian allowances are not permitted within sections of modern trails that overlap, are congruent, or correspond to ancient or historic trails and its associated features.
- 4.69 Coordinate with hunting associations and other land stewards, to establish clear hunting policies and disseminate education regarding these policies.
- 4.70 To facilitate greater public access to and along the shoreline and elsewhere, amend Hawai‘i Revised Statutes 520, Hawai‘i’s Recreational Use Statute (RUS), to make it less ambiguous and to discourage frivolous lawsuits.

Excerpts from draft General Plan 2045 (released in 2023)

2. Collaborative Biocultural Stewardship Goal, Objectives, Policies, and Actions

Objective 2

Preserve and enhance the health and function of watersheds to promote water recharge, improve water quality, and reduce runoff.

Policy 2.5 Watershed management planning should recognize the ecosystem service value of watersheds and open space to protect scenic vistas and aesthetic values; water recharge; carbon sequestration; oxygen production; habitat enhancement and preservation; fire suppression and fuel load management; soil conservation; preservation of cultural values; and the potential for additional public access and recreational opportunities.

Objective 4

The historical integrity, character, scenic assets, and open spaces of our communities are protected, restored, and treated as unique assets with significant social and economic value and managed in perpetuity.

Policy 4.2 Increase public access opportunities to scenic places and vistas.

Policy 4.3 Public access to significant historic sites and objects should be acquired, where appropriate.

4. Land Use, 1.4 Urban Growth Areas

Objective 13

Increase the use of Smart Growth principles to focus development within designated urban centers.

Policy 13.6 The establishment of urban types of zoning may include additional acreages to account for acreages utilized for public benefits, such as historic sites, public access, parks, and open space.

Policy 13.43 Coastal resort developments shall provide public access to and public parking for beach and shoreline areas.

Policy 13.44 The development or designation of new resort areas should complement the character of the area; protect the environment and natural beauty; respect existing lifestyles, cultural practices, and cultural resources; and provide shoreline public access.

4.2.3 Active Living Corridors and Public Access

Objective 17

Increase transportation connect

Policy 17.5 Ensure that existing active living corridors that are publicly owned or available by easement are properly identified and that their access elements are secured and documented.

a) Primary examples include but are not limited to historic trails and roads, roads-in-limbo, 'paper roads', former sugar cane roads, train infrastructure remnants (Rails to Trails), and pedestrian and bicycling paths.

b) "Acceptance" by the County of the responsibilities detailed in the grant of easements should require County Council action and a dedicated funding source.

Policy 17.6 Provide public pedestrian access opportunities to scenic places and vistas.

Policy 17.7 Establish public access to historic and modern active living corridors and facilities that provide an island-wide route and connect to major destinations.

Action 17.a Develop and adopt a program to establish public access to historic and modern active living corridors and facilities that provide an island-wide route and connect to major destinations.

4. Public Facilities and Services 4.6 Recreation

Objective 35

Park facilities are located within a 10-minute walk in urban areas and a 10-minute drive in rural communities.

Policy 35.19 Prioritize park acquisition and improvements that involve under-represented open recreation and healthy living activities (outside the scope of organized sports), such as:

a) Walking and biking trails

Action 35.d Partner with government, private and nonprofit agencies, and other stakeholders to initiate joint agreements for funding, management, and maintenance for recreation, shared use spaces, hardened shelters, and public access priorities.

Action 35.cc Expand active open recreational opportunities at the Pana‘ewa Rainforest Zoo and Equestrian Center properties such as bike/walking trails, horse trails, dog-friendly trails, and other outdoor recreation that would complement the Pana‘ewa complex.

5.0 Thriving, Diverse, and Regenerative Economy, 4.1 Visitor Industry Goal, Objectives, Policies, and Actions

Objective 48

Support the visitor industry investment in its connection with communities, the ‘āina, and our historic and multicultural heritage.

Policy 48.6 Support the coordination, collaboration, and improvement of public access to natural and cultural resources with State agencies and landowners while balancing the need for protection of these areas.

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Attorneys for Petitioner

In the matter of the Petition) DOCKET NO. A06-769
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 of)
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 1250 OCEANSIDE PARTNERS)
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 To Amend the Land Use District Boundary)
 of Certain Lands situate at)
 North and South Kona, Island of Hawai'i,)
 State of Hawai'i; consisting of)
 approximately 1,434.755 acres from the)
 Agricultural District to the Rural District)
 and the Conservation District)
)

PETITIONER'S EXHIBITS 1 - 10;

BEFORE THE LAND USE COMMISSION

OF THE STATE OF HAWAII

In the matter of the Petition	)	DOCKET NO. A06-769
	)	
of	)	
	)	
1250 OCEANSIDE PARTNERS	)	
	)	
To Amend the Land Use District Boundary	)	
of Certain Lands situate at	)	
North and South Kona, Island of Hawai'i,	)	
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approximately 1,434.755 acres from the	)	
Agricultural District to the Rural District	)	
and the Conservation District.	)	

PETITION FOR LAND USE DISTRICT BOUNDARY AMENDMENT

Petitioner, 1250 OCEANSIDE PARTNERS (hereinafter referred to as "Petitioner"), hereby petitions the Land Use Commission (hereinafter "LUC") to amend the land use district classification of certain lands situate at Honuaino 3 and 4, Hokukano 1 and 2, Kanaeue 1 and 2, Haleki'i, Ke'eke'e, 'Ilikahi, Kanakau, Kalukalu, and Onouli 1, North and South Kona Districts, Island of Hawai'i, consisting of approximately 1,434.755 acres, as depicted in Petitioner's Exhibit 1 attached hereto and incorporated herein ("Petition Area"), as follows:

- (1) 1,418.739 acres of land from the State land use agricultural district ("Agricultural District") to the State land use rural district ("Rural District"); and
- (2) 16.016 acres of land from the Agricultural District to the State land use conservation district ("Conservation District").

Among the historic sites and cultural resources identified in the AIS were remnants of a historic trail, referred to as the “Stepping Stone Trail,” which runs north-south through the makai portion of the Petition Area.⁹ Petitioner has entered into an agreement with DLNR and others, pursuant to which (i) Petitioner will execute a quitclaim deed conveying its interest in the trail to the State of Hawai‘i; (ii) DLNR will designate the trail as a preservation site on terms permitting only pedestrian use (other than roadway, cart path and underground crossings related to the Project); (iii) Petitioner will restore and reconstruct the southern section of the trail; (iv) Petitioner will establish a protective buffer zone on both sides of the trail; and (v) Petitioner will establish and maintain in perpetuity two interpretive sites alongside the trail.

The Petitioner has also agreed to take additional steps for the protection of historic and cultural resources. These steps include the creation of a non-profit “Park and Cultural Sites Entity” (“PCSE”). The PCSE will be responsible for the maintenance of the shoreline park and the preserved cultural and historical sites therein, as well as all other cultural and historic sites to be preserved in perpetuity throughout the Project. The PCSE will also be responsible for the preservation of the Stepping Stone Trail, the Old Government Road and the Old Cart Road. The PCSE will develop educational materials and programs designed to encourage understanding and appreciation of these resources and will develop standards for the proper maintenance and care of the resources. The PCSE will establish an advisory board whose purpose will be to provide advice and guidance to the PCSE regarding the preservation, operation and maintenance of the shoreline park and cultural and historic sites within Hokuli‘a. The advisory board will have approximately 20 members and will be comprised of representatives designated by Petitioner, Hokuli‘a lot owners, Protect Keopuka Ohana, other

⁹ The Stepping Stone Trail, as well as sections of a trail referred to as the “Old Cart Road,” and a trail referred to as the “Old Government Road,” are excluded from the Petition Area and district reclassification for the area comprising these trails is not being requested under this Petition.

descendants of the lands at Hokuli'a, Hawai'i County, kuleana owners and other appropriate groups. The PCSE will also take possession of and store all native Hawaiian artifacts and relics discovered by Petitioner or its agents on the Hokuli'a site or in connection with the Project. Funding for the PCSE will be in part by way of a ¼% transfer fee upon all future sales and resales of lots and homes within the Project.

In addition, Petitioner is establishing two Cultural Practice and Preservation Areas ("Cultural Preserves"), comprising a total of approximately 12 acres, where lineal and cultural descendants may engage in traditional cultural practices.

(4) Visual Resources

The development is not expected to significantly impact visual resources in the area. Views of portions of the Petition Area are presently available from portions of the existing residential neighborhoods that are directly mauka of the Petition Area, primarily the Kona Scenic Subdivision. The Petition Area is also visible to those approaching the property along the coast. Additional views of the coastline will be available from the Bypass Highway upon its completion. Any potential visual impacts will be mitigated through appropriate landscaping buffers, architectural design standards and the low-density nature of the Project. The shoreline park in the Conservation District makai of the Petition Area and the golf course will provide a significant measure of open space throughout and around the Petition Area.

(5) Flora and Fauna

No significant impact on floral or faunal resources is anticipated. No threatened, endangered or candidate species as listed by the U.S. Fish and Wildlife Service appear to be present within the Petition Area, nor are there unique or valuable wildlife habitats. No existing or proposed federally designated critical habitat is present within the Petition Area.

community. Hokuli'a is consistent with the goals, policies and standards set forth in the General Plan.¹⁴ The Petition Area is being served with existing infrastructure and will be served in the future with planned infrastructure and is in balance with the natural, cultural and social environment of the County.

The County zoning designation for the Petition Area is Agricultural-1 acre (A-1a), which allows a minimum lot size of one acre. The Agricultural zone provides for agricultural and very low density agriculturally-based residential use, encompassing rural areas of good to marginal agricultural and grazing land, forest land, game habitats, and areas where urbanization is not found to be appropriate. Permitted uses within this zoning district include single-family dwellings, farm dwellings, agricultural parks, crop production, parks and other similar open area recreational facilities, and golf courses and related golf course uses (with a Use Permit). The Hokuli'a development is consistent with the purpose and applicability of this zoning designation.

20. HAWAIIAN CUSTOMARY AND TRADITIONAL RIGHTS

§15-15-50(c)(20): A statement addressing Hawaiian customary and traditional rights under Article XII, section 7 of the Hawai'i State Constitution.

Traditional and customary native Hawaiian rights within or in proximity to the Petition Area include a right of pedestrian access over the Stepping Stone Trail and other recognized trails traversing the property, worshipping at burial sites within the property, and subsistence and cultural activities, including fishing and ocean resource gathering, along the shoreline. The preservation and protection of these resources is being effected through archaeological and burial preservation plans, the establishment of the shoreline park which will provide public access to the shoreline area and traditional and cultural resources within the area, the establishment of two

¹⁴ A detailed discussion of the conformity of Hokuli'a with the General Plan's goals, policies and standards is set forth in the 1993 FEIS, Section 5.2.

Cultural Preserves within the Petition Area that total approximately 12 acres where lineal and cultural descendants may engage in traditional and cultural practices, and the establishment of three Agricultural Preserves to facilitate traditional and customary native Hawaiian agricultural practices.

Petitioner is also forming the PCSE for the purpose of preservation, operation and maintenance of the shoreline park and specified cultural and historical sites within the Petition Area. Petitioner, in coordination with DLNR and the certified lineal and cultural descendants of Hokuli'a, will continue to implement measures to protect, and to provide access to, burial sites, including (i) providing information to lineal and cultural descendants on burial sites within the Petition Area; (ii) implementation of both short-term and long-term protection measures for burial sites; and (iii) providing access for lineal and cultural descendants to such burial sites.

Petitioner is also preserving and protecting the Old Government Road and the Stepping Stone Trail. Petitioner will restore portions of the Stepping Stone Trail to create a continuous trail segment varying in width from three to five feet, and will create a five-foot buffer on each side of the trail centerline. Petitioner will maintain and preserve the Old Government Road and the Stepping Stone Trail in coordination with DLNR.

Petitioner will also establish and maintain two interpretive areas connecting the existing remnant trail sections to the shoreline park, which interpretive areas will then be available for public access from the shoreline park, and will install warning signs on the golf course advising of the trail and its significance.

Petitioner will also work with DLNR to maintain and preserve what is referred to as the "Old Cart Road" situated primarily within the shoreline park in the Conservation District as a

public pedestrian access trail, and will grant an easement between the Old Cart Road and the Old Government Road for pedestrian trail access purposes in the vicinity of Pu'u Ohau.

Another significant protective measure concerns the burial site of Kamaeo`kalani, near the summit of Pu'u Ohau, which is a significant historic and cultural site. This site is located within the Conservation District and outside the Petition Area. In order to provide an additional buffer around this site, Petitioner has agreed to abandon the development of five previously subdivided lots presently within the Agricultural District along the current Conservation District boundary. The area included in such lots is part of the area for which the instant Petition seeks reclassification to the Conservation District. Petitioner will also construct a gated wall or other buffer to restrict access to, and to protect and preserve, the burial site of Kamaeo`kalani and other cultural resources within the buffered area.

These mitigation measures will ensure that traditional and customary native Hawaiian rights, customs and practices will be preserved and protected in a feasible manner.

21. WRITTEN COMMENTS

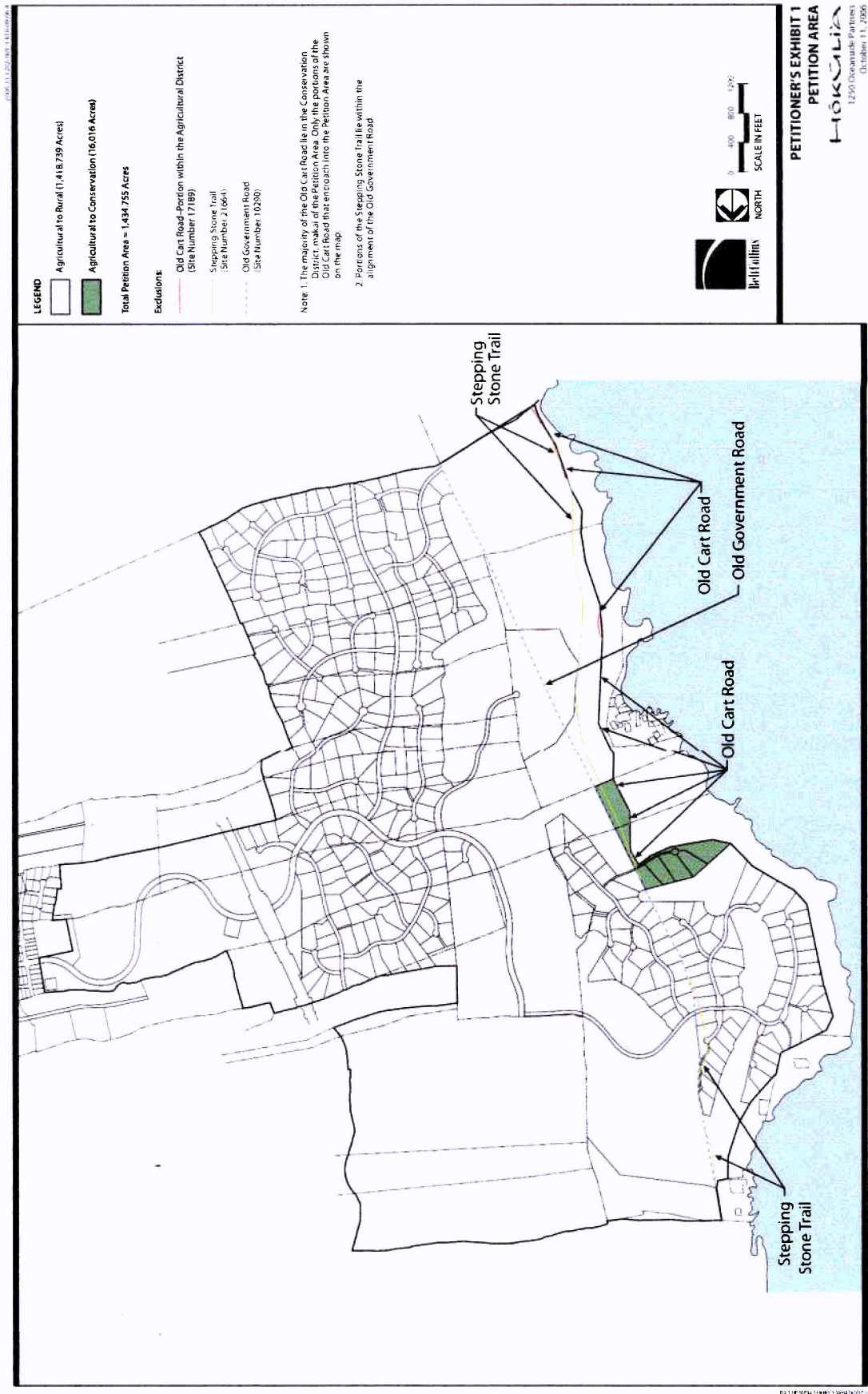
§15-15-5(c)(21): Any written comments received by the petitioner from governmental, non-governmental agencies, organizations, or individuals in regards to the proposed reclassification.

Petitioner has not received any written comments from governmental or non-governmental agencies, organizations or individuals concerning the proposed reclassification. Any written comments received in the future shall be submitted for inclusion into the record of this docket.

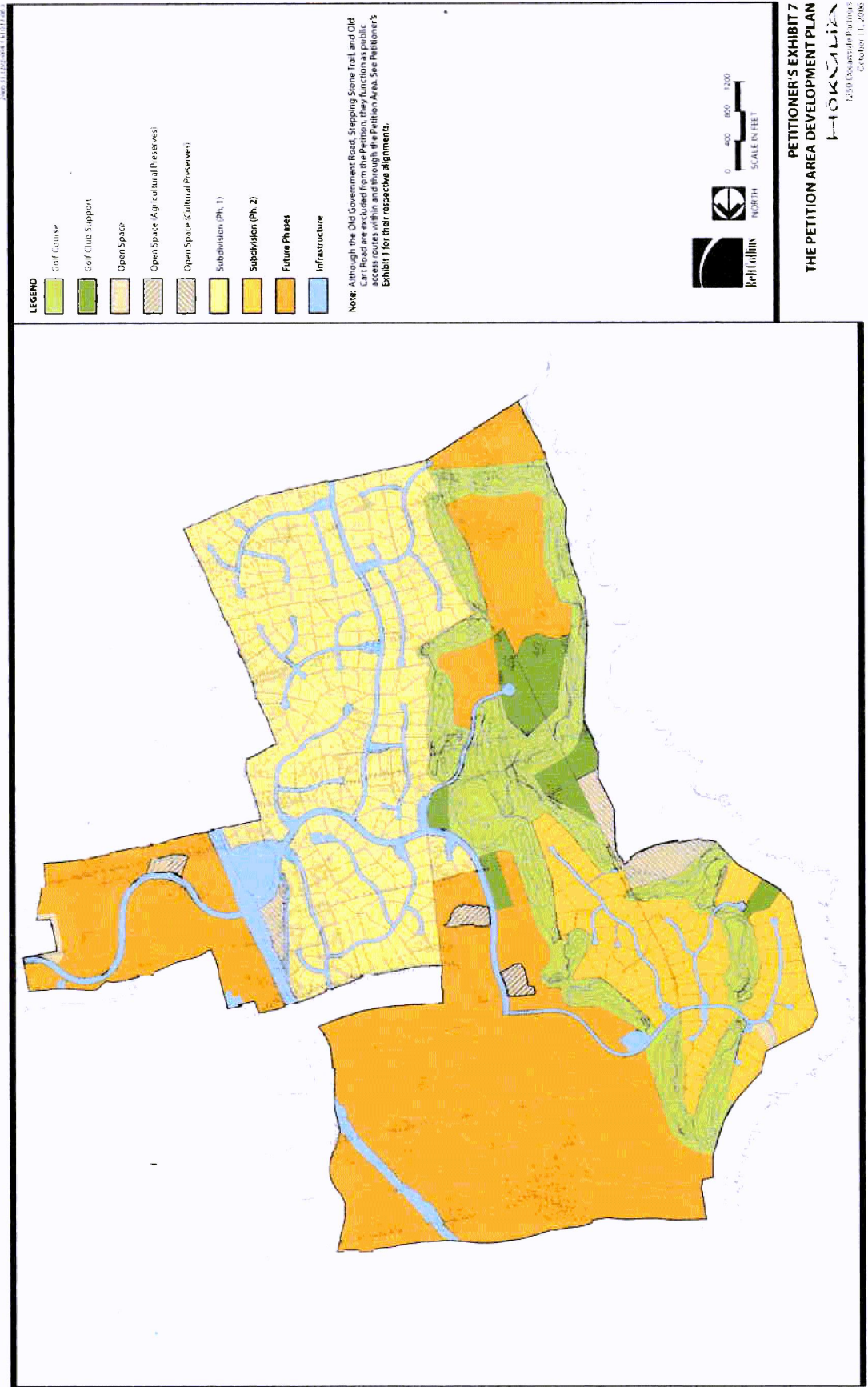
22. NOTIFICATION OF PETITION FILING

A copy of the *Notification of Petition Filing* to be sent pursuant to §15-15-50(d), LUC Administrative Rules, is attached hereto as Petitioner's Exhibit 10.

PETITIONER'S EXHIBIT 1



PETITIONER'S EXHIBIT 7



**SUPPLEMENTAL
ENVIRONMENTAL IMPACT STATEMENT
PREPARATION NOTICE**

Hokuli`a

**North Kona and South Kona,
Island of Hawai'i**

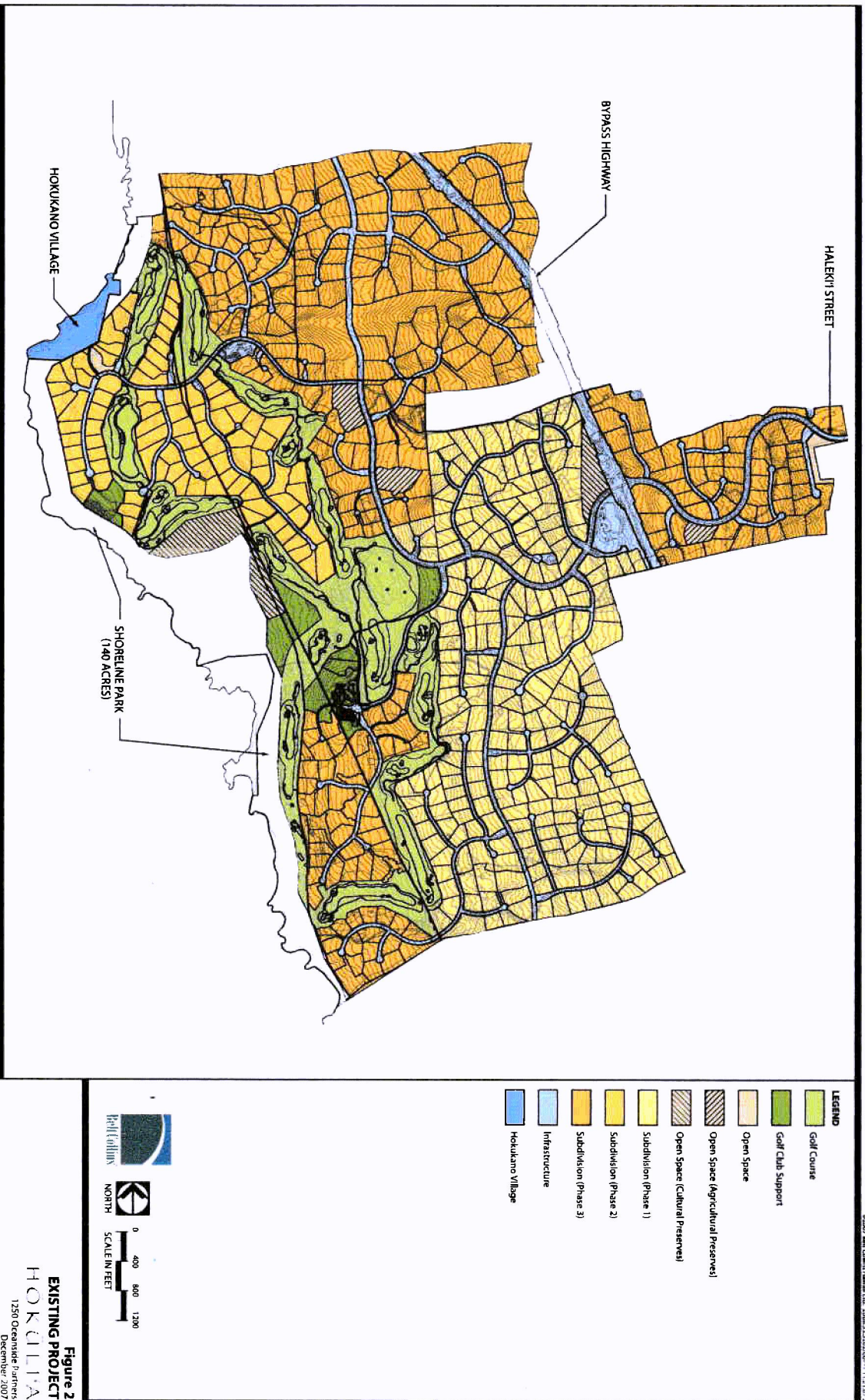
**Accepting Agency: State of Hawai'i Land Use Commission
Applicant: 1250 Oceanside Partners
Agent: Belt Collins Hawaii Ltd.**

December 2007

entity, the Hokuli'a Park and Cultural Sites Association, Inc. (the "PCSA"), which will be responsible for the maintenance of the 140-acre public shoreline park makai of the Petition Area and the preserved cultural and historical sites therein, as well as all other cultural and historic sites to be preserved in perpetuity throughout the Petition Area. The PCSA is also seeking permission from DLNR to undertake the long-term maintenance of the Stepping Stone Trail, the Old Government Road and the Old Cart Road, under supervision by DLNR. In addition, the PCSA will develop educational materials and programs designed to encourage understanding and appreciation of these resources and will develop standards for the proper maintenance and care of the resources. The PCSA has established a community and culturally based advisory board whose purpose is to provide advice and guidance to the PCSA regarding the preservation, operation and maintenance of the shoreline park and cultural and historic sites within Hokuli'a. Today the advisory board has 19 members, including representatives of Protect Keopuka Ohana, descendants of the lands at Hokuli'a, owners of kuleana close to the Petition Area, cultural practitioners and other individuals and groups willing to give generously of their time and expertise to this important work. The PCSA will also take possession of and store all native Hawaiian artifacts and relics discovered by Applicant or its agents within the Petition Area.

The Lot Owners are the members of the PCSA, which has the authority to assess the Lot Owners to raise funds as needed by the PCSA. In addition, Applicant has agreed to contribute to the PCSA ¼% of all proceeds received by Applicant from the sale of lots within Hokuli'a. In addition, all Lot Owners who acquire lots within Hokuli'a are required, upon the resale of those lots, to contribute ¼% of the sales proceeds to the PCSA.

In addition, Applicant is establishing two Cultural Practice and Preservation Areas, comprising a total of approximately 12 acres, where lineal and cultural descendants may engage in traditional cultural practices.



DESECRATION IN KONA

1250 Oceanside is a 1,550 acre golf-course and luxury home development in Kealahou:

- The developer polluted Kona's pristine waters and reefs with muddy, chemical-laden runoff in violation of clean water laws. The court imposed a permanent injunction on any further water pollution.
- The developer destroyed portions of the 1000-year old Ala Loa trail.
- 1250 Oceanside destroyed and desecrated thousands of graves. The developers illegally placed our ancestors in ziploc bags and improper storage containers.
- The desecrations were so bad that major investor Japan Airlines pulled out of the project.

Pu'u Ohau: Sacred Burial Ground of Our Ancestors

- Pu'u Ohau is a very significant burial site for ali'i. Kamaeokalani, the grandmother of King Kalākaua and Queen Lili'uokalani is buried there.
- In 1999, the Hawai'i Island Burial Council determined that the entire pu'u is the burial site and recommended building a 6 foot protective rock wall around the base of the Pu'u. The state and the developer agreed. But four years later, there is no wall.
- In January 2003, Peter Young, then acting director of the Department of Land and Natural Resources, reneged on the previous agreement and allowed the developer to build up to the 120-foot elevation of the Pu'u.
- 1250 Oceanside has already desecrated the flank of the Pu'u with its golf course, and now plans to build multimillion dollar homes on the hill itself.

Erecting Okūahu'ula on Pu'u Ohau.



The Vigil for Pu'u Ohau

- On August 29 - 31, 2003, 'ohana from all over the Hawaiian islands gathered to pay homage to Pu'u Ohau. A 24-hour peaceful cultural protocol was held, with prayers given every hour.
- **A Lei of Protection:** Red ti plants were planted around the base and a guardian ki'i named Okūahu'ula was erected and consecrated on the Pu'u. Cultural access and religious practices are protected by the law.

Desecration and Harassment

- **Ki'i Stolen:** On September 2, Queen Lili'uokalani's birthday, 1250 Oceanside committed deliberate and criminal desecration of the Pu'u. They tore out ti plants, removed the Hawaiian flag and stole Okūahu'ula. Desecrations of cemeteries and places of worship, like the vandalism of Punchbowl Cemetery in 1997 and the recent arson of First Christian Church, are serious criminal offenses.
- Throughout the vigil, 1250 Oceanside harassed and spied upon vigil participants. At one point family members confronted a 1250 Oceanside staff and an armed police officer because of their threatening surveillance activities which interfered with religious practices.

Kū'ē! Take a Stand to Defend our 'Āina and Restore Ea!

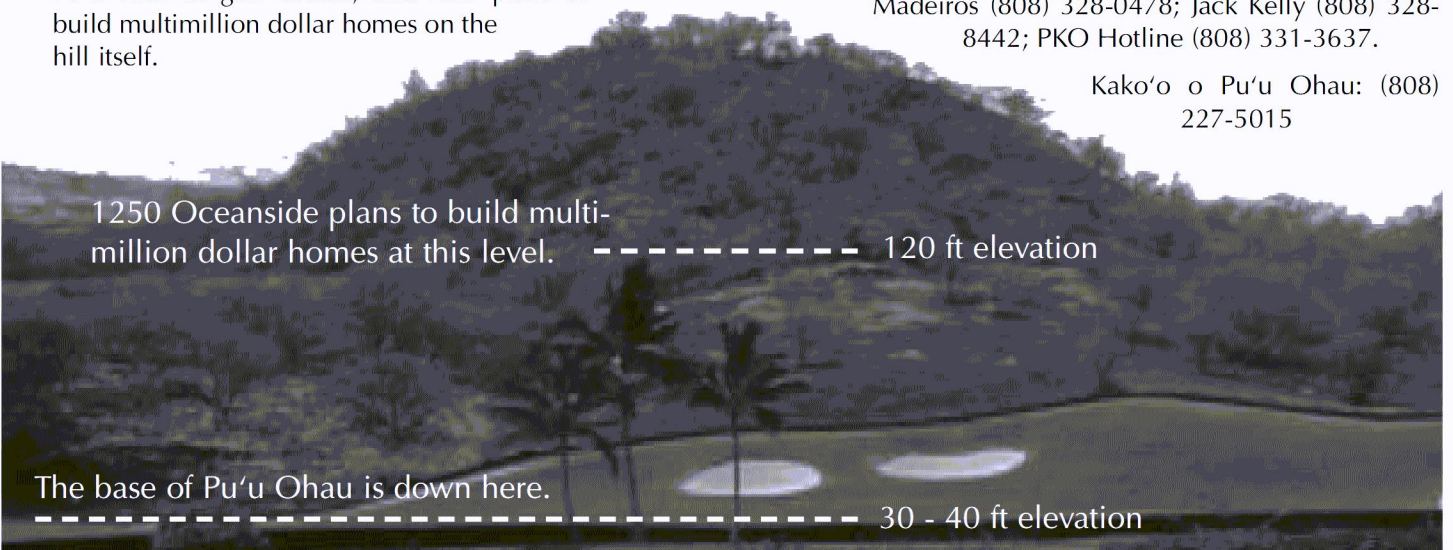
- Call DLNR Chair Peter Young at (808) 587-0400 and demand that he reinstate an immediate cease and desist order on 1250 Oceanside Partners from accessing the Pu'u and seek aggressive prosecution of these violations.
- Call Governor Lingle at (808) 586-0034 and urge her to revoke all permits for 1250 Oceanside due to their criminal conduct in collusion with state and county offices.
- Other direct actions are being planned.

For More Information contact Protect Keopuka 'Ohana: Jim Madeiros (808) 328-0478; Jack Kelly (808) 328-8442; PKO Hotline (808) 331-3637.

Kako'o o Pu'u Ohau: (808) 227-5015

1250 Oceanside plans to build multi-million dollar homes at this level. ----- 120 ft elevation

The base of Pu'u Ohau is down here. ----- 30 - 40 ft elevation



Aia i hea i ke ki'i Okūahu'ula?





SIERRA CLUB

HAWAII ISLAND GROUP

January 13, 2025

Ms. Joanna Seto P.E.
Hawaii Department of Health
Environmental Management Division
cleanwaterbranch@hdoh.hawaii.gov

Peter Kozelka
EPA Region 9
Water Division
kozelka.peter@epa.gov

Chris Sparber
County of Hawaii Wastewater Chief
chris.sparber@hawaii.county.gov

Re: Proposed renewal, Hilo Wastewater Treatment Plant NPDES Permit # 9021377

Aloha,

The Hilo Wastewater Plant has been described as a trainwreck and is now subject of an EPA Administrative Order on Consent. The County of Hawaii is required to replace it and that process is proceeding so the plant is unlikely going to be able to maintain minimum standards for secondary under the Clean Water Act and has already had a history of failures that have badly impacted nearshore coastal water quality. These waters are listed as Class A under HAR section 11-54- for recreational purposes with numerous popular beaches nearby and year round public uses including swimming, kayaking, snorkeling, surfing, and canoe paddling. These uses inherently put users at significant health risk if standards are not consistently met. There are also tide pools and reef ecosystems nearby that are already under climate induced stress. Scientists at UH Hilo like Dr. Steven Colbert and Dr. Tracy Wiegner have done studies and found high levels of pollutants. The current outfall is in relatively shallow waters and the effluent plume rises quickly to the surface where the predominant trade winds bring the discharge plume back towards shore. Merely adding chlorine to wastewater after an event at the plant will not properly kill pathogens and introduces toxic chlorine byproducts to what goes out the outfall. UV is far more effective at killing pathogens and that should be required in the permit going forward. EPA Region 9 has recently added this requirement for the Kailua WWTP under an AOC after a bio tower failure.

Hawaii County could bring in leased containerized MBR units with UV disinfection to bring treatment up to standards while the replacement work is completed and the new equipment has gone through testing. That should be required and is well within the authority of EPA and HDOH.

In addition to work at the Hilo WWTP that will occur during the 5 year extension period, other impacts need to be addressed. The plant receives septic loads and doesn't have the specialized handling equipment needed. It has septic receiving equipment, but not what is needed to address this highly concentrated waste that can upset the biological treatment process. With the cesspool closure deadline for new homes, areas that are under active development will be sending flows to Hilo. The County is under a separate EPA AOC for Pretreatment and is not currently in compliance, so septic loads from haulers are not being properly tested to prevent chemical contamination from impacting the biological treatment process. The proposed permit does not address this. It mandates a Pretreatment Program, but doesn't address the lack of specialized septic handling equipment. The City & County of Honolulu, for example, has such equipment at several treatment plants.

Currently, large amounts of saltwater infiltration enters the collection system. Again, this is required to be addressed under the Countywide AOC, but during the 5 year period of this permit, infiltration will also impede the biological treatment process. The proposed permit should prioritize actions by the County to do emergency repairs in areas of high saltwater intrusion. Even freshwater intrusion is a significant problem given the high rainfall in Hilo and cracked and broken lines going back to the 60's. It is harder to remove solids with high volumes of infiltration as it impacts removal efficiency. The permit needs to recognize the Countywide AOC requirements to address infiltration and its impacts on the biological process at the plant. Currently, hundreds of thousands of gallons enter the collection system daily and constitute a sizable portion of the average daily flows.

The receiving waters need to see increased monitoring under the proposed permit. Not just testing as the outfall enters Puhi Bay, but testing along the shore and just outside the ZOM where recreational uses are high. This testing should be done by independent studies using UH scientists who know these waters well. Typical culture testing takes 2 days for results to come back and the public can be informed of sewage pollution. More modern testing like PCR give rapid results and can identify viral pathogens that are the primary cause water borne disease. Fecal bacteria like enterococcus are well known to go into VBNC or viable but non-culturable forms that elude detection. The public is not properly protected by testing that is decades out of date. Testing protocols need to recognize the surface micro layer effect. Pathogens associated with wastewater attach themselves to solids that float at the surface, so testing where samples are grabbed at greater depth miss this. Both EPA and HDOH rely on testing methods mandated in this permit that are scientifically out of date for these reasons.

This permit raises significant environmental justice concerns as much of Keaukaha where the outfall is located is native Hawaiian. For decades, the County has failed to maintain the treatment plant and the outfall pipe. While the impacted areas are used by tourists and locals, it is native Hawaiians that have been impacted the most. Leasing of containerized units with UV disinfection should be a requirement given these environmental justice concerns. The County should adopt a public outreach program for this impacted community including social networking options to inform them more quickly of noncompliance events.

Mahalo for this opportunity to comment