



**CHRIS
HART**
& PARTNERS, INC.

Landscape Architecture
City & Regional Planning

June 13, 2017

Ms. Clare H. Apana
260 Halenani Dr.
Wailuku, HI 96793

Dear Ms. Apana,

RE: Comments on the Environmental Impact Statement Notice (EISPN)
for the Piilani Promenade, located in Kihei, Maui, Hawaii at
TMK's: (2) 3-9-001:016,170-174.

Thank you for your email of October 24, 2013. Your comment letter was not received by the planning consultant during the preparation of the DEIS and will be included in the FEIS. We are pleased to provide the following responses to your comments.

Comment. My name is Clare Apana I am a resident of Wailuku, Maui. I am the president of Ao Makole a native Hawaiian Organization. Some of the activities that Ao Makole sponsors and promotes are limu and ocean resources and Hawaiian Star Classes taught by Kumu Michael K. Lee on the island of Maui since 2011. One of our gathering and class sites is the area of the Whale Sanctuary and Kalepolepo loko'i'a. Please see video footage of 11/2/2012.

As a child, I was in Kihei in this area for summer vacation with my family. We often came drove all the way to Kihei to go to the beach with my older brother, James. The smells of limu were quite characteristic of these years. My mother gathered and prepared great mountains of limu for food consumption. Limu, pipipis, crabs, fish and sometimes lobsters were gathered for our family to eat. My mother still cleaned and prepared lipoa from Kihei in 2002 when she died.

I saved that last bag of limu making it last as long as I could. At the time I had no idea that the limus and their pungent smells would not be a part of the Kihei beach experience. Development of many residential and commercial projects have greatly changed the ocean resources.

In my studies with Kumu Lee I have learned to identify and pick limu for medicinal as well as food consumption purposes. I have been able to augment my healing practices of Hawaii state certified Physical therapist with the medicinal uses of limu and ocean resources. We have gone

specifically to gather certain types of limu at the whale sanctuary/fishpond area. Some of the limu that grow where fresh water flows into the ocean are found here.

I do not see that there is a discussion or plan to show how changing the gulches and the increased drainage with potential toxic components of this large commercial/residential project will be evaluated, reported or mitigated. I request that this be done in the DEIS.

Response: In response to comments regarding drainage and potential flooding, the FEIS Section III. D. 2 (Drainage) has been revised to include the following language.

The post-development peak storm flow of the Project, after mitigation measures are implemented, is the same as the pre-development storm flow, which is equal to or less than 85 cfs. The Project will retain the increase in post development runoff generated by development, consistent with County of Maui regulations.

The Project will comply with the condition of the 1995 Decision and Order, which requires that the Applicant fund the design and construction of its pro-rata share of drainage improvements required as a result of the development of the Project site, including oil water separators and other filters as appropriate, and other BMPs as necessary to minimize non-point source pollution. The Applicant understands that all Project-related water discharges must comply with the State's Water Quality Standards, which are set forth in Chapter 11-54, HAR.

BMPs prepared in accordance with MCC Chapter 20.08 (Soil Erosion and Sedimentation Control) will be submitted to the DPW for review and approval prior to the issuance of grubbing and grading permits. In addition, since Project site work will exceed one acre, a NPDES will be obtained from the DOH's Clean Water Branch for the discharge of storm water associated with construction activities. The Applicant will meet all of the requirements set forth by the DOH's Clean Water Branch.

Low-impact development strategies, including a series of strategically located drainage retention basins and channels, are designed to mitigate downstream impacts to *makai* landowners. A Drainage Master Plan was designed to County standards, and includes measures that mitigate the increase in runoff generated from the development of impervious surfaces. On-site runoff will be collected by catch basins located at appropriate intervals along the interior roadways and landscaped area. Drain lines from the catch basins will convey the runoff to onsite detention basins or underground subsurface drainage systems.

The onsite drainage system will provide storage for the increase in stormwater runoff from a 50 –year, 1 –hour storm. The drainage system will be designed in compliance with Chapter 4 “Rules for the Design of Storm Drainage Facilities in the County of Maui” and Chapter 15-11 “Rules for the Design of Storm Water Treatment Best Management Practices.”

There is surface water and below surface water as there are springs feeding the area. Please see video 2. I suggest that remote sensing equipment that can detect water in rock be used to map the flow of water from the project to the ocean. I suggest mapping of fresh water flow above and below ground in caves, karst, and springs. A baseline measure and ongoing measurements of the quality and flow of water will allow the protection of the flow of fresh water to the ocean which the limu and ocean resources depend upon. Stream flow is protected by article 11-7 of the Hawaii Constitution. My right to gather at the ocean is protected by article 12-7. The transmission of the Hawaiian cultural knowledge of the ocean and especially limu can only be done if these resources are protected.

Ask that the DES identify ocean resources such as limu beds and animals and fresh water flow that will be affected by this project. A baseline and long term plan to measure the effect of increased toxic runoff and change in flow of fresh water is a mitigation that should be considered. The types of businesses that are allowed in a light industrial area can have changing levels of toxic substances introduced into the ground and air.

Response: The drainage master plan was designed to County standards which will mitigate the increase in runoff generated from the development of impervious surfaces. Onsite runoff will be collected by catch basins located at appropriate intervals along the interior roadways and landscaped area. Drain lines from the catch basins will convey the runoff to onsite detention basins or underground subsurface drainage systems.

As mentioned in the FEIS Section III. A. 11 (Groundwater Resources) the Applicant retained Marine Research Consultants, Inc. to prepare a Baseline Assessment of Marine Water Chemistry and Marine Biotic Communities. The purpose of the report was to assess potential impacts to groundwater and the marine environment as a result of the proposed project. In connection with this work, water quality testing was conducted and the underwater biotic composition along the Kihei coastline was analyzed.

The findings of the report indicate that the proposed project will not have any significant negative effect on water quality. (See: Appendix J, “Baseline Assessment of Marine Water Chemistry and Marine Biotic Communities Report”)

In response to comments regarding toxic substances in the ground, the FEIS Section III. A. 4 (Hazardous Substances) has been revised to include the following language:

A Phase I Environmental Site Assessment (ESA) of the Pi'ilani Promenade site was prepared by Malama Environmental, LLC. (MEV) in December 2013 (See: Appendix B, "Environmental Site Assessment"). The investigation and report format follows the guidelines of the American Society of Testing and Materials (ASTM) Publication E1527-05, which is recognized by 40 CFR Part 312 as an acceptable guidance document for satisfying the EPA's final "All Appropriate Inquiries" rule.

The ESA found no evidence of recognized environmental conditions in connection with the property. Additionally MEV does not believe the two (2) potential risk sites would have environmentally and adversely affected the subject property due to their distance from the Pi'ilani Promenade site and the down gradient proximity. However, the Shell Station, which was constructed in 2007 and is located immediately adjacent to the northwestern corner of the project site, is not listed as a UST site. Due to the close proximity and slightly higher elevation of the gas station with respect to the survey area, this facility may pose a negative impact to the environmental condition of the subject property if a leak in the underground storage tanks should occur in the future.

The ESA stated that there was no evidence of historic or current significant misuse of hazardous or regulated substances and or petroleum products on the subject property (See: Appendix B, "Environmental Site Assessment").

The Applicant's planning consultant spoke with the Hazard Evaluation and Emergency Response Office and there we no records of hazardous substances or soil contamination on the Project site. The ESA determined that the Project will not impact soil quality at Project site.

The ~~remaining~~ other potential concerns identified by the ESA such as illegal solid waste dumping are limited in scope and will be mitigated prior to or during project development. No impacts from hazardous substances are anticipated at the site based on the conclusions of the Phase I ESA (See: Appendix B, "Environmental Site Assessment"). There has been no activity on the project site

or change in the land that would impact the ESA since the July 2013 environmental assessment.

Under ASTM standards, a Phase I Environmental Site Assessment may be considered out of date if not conducted within the prior 180 days. As a result the Applicant requested an update of the ESA. A site visit was conducted by MEV on January 13, 2017, and MEV determined that nothing came to their attention that would cause them to change any matter or opinion set forth in the ESA. Accordingly, MEV issued the Environmental Site Assessment update letter. (See: Appendix B-1, "Environmental Site Assessment update letter dated January 18, 2017").

In response to comments regarding toxic substances in the air, the FEIS Section III. A. 6 (Air Quality) has been revised to include the following language.

In the year 2018 with the assumption that the pProject and the adjacent with Honua'ula affordable residential project both are fully developed, the highest worst-case 1-hour concentration was predicted to occur during the weekday morning peak traffic hour at the intersection of Pi'ilani Highway and Kulanihako'i Road and at the intersection of Pi'ilani Highway and Ohukai Street with a value of 1.8 ppm. Compared to the without project scenario, concentrations increased slightly, however all projected worst-case concentrations for this scenario remained well within state and national standards.

For the Year 2018 with the full development of the pProject and the adjacent with Honua'ula affordable residential project, the estimated worst-case 8-hour concentrations were predicted to remain about the same or increase slightly compared to the without project scenario. All predicted concentrations for this scenario remained within the National and State standards.

During worst-case conditions, model results indicated that present 1-hour and 8-hour carbon monoxide concentrations are well within both the state and the national ~~Ambient Air Quality Standards (AAQS)~~.

As part of the preparation of the FEIS, the Applicant retained B. D. Neal & Associates to analyze the years 2025 and 2032 to estimate long range air quality impacts, and to prepare updates to the Air Quality Survey prepared for the DEIS. Air quality studies were conducted on March 11, 2016 and again on February 2,

2017. Based on these studies, and based further on the review of the TIAR update dated December 20, 2016, B. D. Neal & Associates determined that re-analysis of the Project air quality impacts was not necessary, as the conclusions stated in the 2014 Air Quality Survey remain valid. (See: Appendix D-2 "Air Quality Report Update dated February 2, 2017")

We are an island with limited resources that dwindle with the increase of population, number of visitors and the incursion of modern western business. A mega mall and light industrial businesses as well as dense residential units must be scrutinized and measured for all the effects that it will have on my cultural practice at the ocean, my right to gather and use limu for medicine as well the ocean classroom that Ao Makole classes presently utilize. A preceding setting decision can be used to assist this project's EIS and mitigation solutions: Na Pa'akai vs LUC.

Response: The proposed project is subject to conditions related to drainage and water quality as part of the Decision and Order for Docket No. A94-706. Specifically condition 8 states that the "Petitioner shall fund the design and construction of its pro-rata share of drainage improvements required as a result of the development of the property, including oil water separators and other filters as appropriate, and other best management practices as necessary to minimize non-point source pollution into Kulanihako'i Gulch, in coordination with appropriate State and County agencies."

Condition 11 states that the "Petitioner shall contribute its pro-rata share to a nearshore water quality monitoring program as determined by the State Department of Health and the State Division of Aquatic Resources, Department of Land and Natural Resources."

Additionally, Condition 12 states that "Petitioner shall implement effective soil erosion and dust control methods during construction in compliance with the rules and regulations of the State Department of Health and the County of Maui."

In response to comments regarding cultural resources, the FEIS Section III. B. 4 (Cultural Resources) has been revised to include the following language.

4. Cultural Resources

Existing Conditions. Hana Pono LLC. prepared a Cultural Impact Assessment (CIA) for the Pi'ilani Promenade to identify historical and current cultural uses of the project area and to assess the impact of the proposed action on the cultural resources, practices, and beliefs. The CIA included the Honua'ula Affordable Housing development parcel in its analysis. The CIA was conducted in accordance with the State of Hawaii Office of Environmental Quality Control (OEQC) guidelines for Assessing Cultural Impact Assessments. In response to consultation

with the community and various government agencies, the Applicant retained Scientific Consultant Services (SCS) to prepare a supplemental CIA (the "SCIA") to include supplemental consultation and additional interviews with people who may have knowledge of the area. (See: Appendix I-1 "Supplemental Cultural Impact Assessment Report dated March 2017"). It is noted that the SCIA does not include the Honua'ula Affordable Housing development parcel however SCS has prepared a separate CIA for the Honua'ula Affordable Housing development parcel. (See: Appendix I-2 "Cultural Impact Assessment for the proposed Honua'ula offsite workforce housing project dated April 2017").

The project site is located in the Kula Moku and the ~~Waiohuli~~ and Kaonoulu ahupua'a in an area archaeologically known as the "barren zone". Based on a praxis of archaeological studies conducted on the "barren zone" in the region of the Project site, site expectation and site density is low. (See: Appendix I-1 "Supplemental Cultural Impact Assessment Report dated March 2017").

The area of Kihei that includes the project site has been severely disturbed from its original and unaltered state for many decades, by the effects of grazing cattle and the construction of ranch roads, county roads and the construction of Pi'ilani Highway. The CIA indicates that any resources or practices occurring traditionally in the area are ~~no~~ non-existent and would have been obliterated. (See: Appendix I "Cultural Impact Assessment Report dated December 2013, revised March and August 2016").

Interviews with individuals (*kūpuna-kapuna/makua*) knowledgeable about the lands of the Kaonoulu ahupua'a were conducted in 2013 and in 2016 by ~~of~~ Hana Pono LLC- as part of the CIA, and by SCS in 2016 as part of the SCIA. As noted SCS has prepared a separate CIA for the Honua'ula Affordable Housing development parcel that includes interviews with the same individuals as the SCIA. (See: Appendix I-2 "Cultural Impact Assessment for the proposed Honua'ula offsite workforce housing project dated April 2017"). The oral history interviews were conducted in order to collect information on possible pre-historic and historic cultural resources associated with these lands, as well as traditional cultural practices. (See: Appendix I "Cultural Impact Assessment Report dated December 2013, revised March and August 2016"; see also Appendix I-1 "Supplemental Cultural Impact Assessment Report dated March 2017" and Appendix I-2 "Cultural Impact Assessment for the proposed Honua'ula offsite workforce housing project dated April 2017").

A public information and cultural consultation meeting for the proposed project was held on February 25, 2014. Transcripts from this meeting have been included in the DFEIS. The focus of the meeting was to review the previous 1994 AIS and discuss the findings of the current 2014 AIS. In addition to discussing the return of the petroglyph boulder (which removed from the Project site and is preserved under a SHPD-approved preservation plan) and potential impacts to Kulanihakoi Gulch (which is not located on the Project site), some of the participants suggested that the potential archaeological sites could be incorporated into the design of the project or into its landscaping and the previously removed petroglyph stone be returned to the property. The Applicant has discussed the possible return of the petroglyph stone and the former owner (Kaonoulu Ranch) rejected this request given the fact that the relocation and a preservation plan was submitted and approved by SHPD.

As a follow up to the February 25, 2014 meeting, the Project team's archaeologist and cultural consultant participated in a site visit on January 22, 2016. Following the January 22, 2016 site visit, a request was made from the Aha Moku for a further cultural consultation meeting. The meeting was held on April 27, 2016; and a transcript of the April 27, 2016 meeting is available as Appendix A to the Supplemental Cultural Impact Assessment. (See: Appendix I-1 "Supplemental Cultural Impact Assessment dated March 2017"). As part of the SCIA, SCS reached out to 21 persons for consultation, 3 of whom responded and wanted to be interviewed.

Potential Impacts and Mitigation Measures.

In general, concerns expressed by the community in these site visits, meetings, and cultural consultations focused on the potential presence of undocumented archaeological sites within the Project site that may be impacted by development of the Project. As documented in Section III.8 of this FEIS, an Archaeological Inventory Survey undertaken and completed by Xamanek Researches in July 1994 identified a total of 20 archaeological sites within the Petition Area. The Archaeological Inventory Survey prepared for the DEIS identified an additional archaeological site on the Project. (See: Appendix F, "Archaeological Inventory Survey dated March 2014 revised August 26, 2015"). In addition, To monitor these sites, an archaeological monitoring plan was prepared and submitted to SHPD for review and approval, and was approved and referenced for all recent work on the site. The monitoring plan may be found in Appendix H and will be updated once

project construction is initiated. (See: Appendix F, "Archaeological Inventory Survey dated March 2014 revised August 26, 2015").

The concerns expressed by those interviewed for the SCIA did not focus on traditional cultural practices previously or currently conducted within the Project area. However, there is the potential for traditional cultural practices conducted within the greater ahupua'a to be impacted by development of the Project (i.e., naturally occurring flooding and run-off generated by construction activities within the Project area which may negatively affect the adjacent areas, including Kalepolepo Fishpond and the Pacific Ocean). As discussed in Section III.D.2, the Applicant is proposing several measures to mitigation any potential adverse drainage impacts caused by development of the Project, which includes under- and above-ground stormwater detention basins. For more information on the proposed mitigation measures that will be implemented to provide a level of stormwater filtration and pollution control, please review Section III.D.2 of this FEIS.

The CIA reports that the proposed project will have no has no significant effects impact on to cultural resources, beliefs, or practices. Given the culture-historical background presented by the CIA and SCIA, in addition to the summarized results of prior archaeological studies in the project area and in the neighboring areas, the CIA and SCIA determined that there are no specific valued cultural, historical, or natural resources within the project area; nor are there any traditional and customary native Hawaiian rights being exercised within the project area. The long-term use of the project area for grazing and ranching activities also supports this conclusion.

The cultural and historical background presented in the CIA prepared by Hana Pono, LLC and the SCIA prepared by SCS, in addition to the findings of prior archaeological studies in the project area and in the neighboring areas, support the findings of the CIA prepared for the Honua'ula offsite workforce housing project. The findings are that there are no specific valued cultural, historical, or natural resources within the project area. Nor are there any traditional and customary native Hawaiian rights being exercised within the project area. (See: Appendix I-2 "Cultural Impact Assessment for the proposed Honua'ula offsite workforce housing project dated April 2017").

From a cultural practices and beliefs perspective, the subject property bears no apparent signs of cultural practices or gatherings currently taking place. The oral history interviews did not reveal any known gathering places on the subject property or any access concerns as a result of the proposed project. Therefore it can be concluded that development of the site will not impact cultural resources on the property or within its immediate vicinity (See: Appendix I "Cultural Impact Assessment Report dated December 2013, revised March and August 2016").

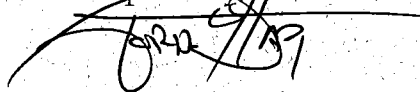
Notwithstanding the absence of valued resources, the Applicant is willing to continue meetings with the Aha Moku members as well as other members of the community during the Data Recovery effort proposed for the archaeological sites. The findings of the Archaeological Monitoring program will be conducted under the guidance and directive of the SHPD.

Because there are no valued cultural, historical, or natural resources in the Project site, and because there are no traditional and customary native Hawaiian rights exercised within the Project site, such resources --including traditional and customary native Hawaiian rights--will not be affected or impaired by the Project. Accordingly, there are no feasible actions needed to reasonably protect native Hawaiian rights. See Ka Pa'akai O Ka' Aina v. Land Use Comm'n, State of Hawai'i, 94 Hawai'i 31, 7 P.3d 1068 (2000).

Thank you for participating in the environmental review process. Please feel free to call me or Mr. Brett Davis at (808) 242-1955 or e-mail Brett at bdavis@chpmaui.com should you have any questions.

I sincerely apologize for not providing this reply at the time of the DEIS publication. It was not intentional and was beyond our control.

Respectfully,

A handwritten signature in black ink, appearing to read "Jordan E. Hart", with a horizontal line drawn through it.

Jordan E. Hart, President