



**CHRIS
HART**
& PARTNERS, INC.

Landscape Architecture
City & Regional Planning

June 13, 2017

Mr. Daniel Kanahele
1100 Kupulau Drive
Kihei, HI 96753

Dear Mr. Kanahele,

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

Thank you for your letter of October 7, 2014. Our responses to your comments are provided below.

***Comment 1.** The proposed action described in the DEIS does not comply with numerous provisions of the 1998 Kihei-Makena Community Plan (KMCP); the KMCP has the Force and Effect of law, reflects the stated wishes of the community for the Kihei-Makena Planning Region, and must be amended if the Proposed Action is to Proceed.*

The DEIS does not adequately address the question of conformance with, and enforceability of, the KMCP. The DEIS must include a thorough discussion of the relationship of a proposed action to "applicable land use plans, policies, and controls for the affected area". The DEIS fails to do so.

If the applicant fails to pursue a community plan amendment for this proposed action, then the question must be resolved by the LUC; HRS section 205-16 mandates that all actions by the LUC must conform to the Hawaii state plan. Since community plans are part of the state plan, the LUC cannot approve the Project except by conditioning approval of the Final EIS upon amendment of the KMCP.

I request that the Final Environmental Impact Statement (FEIS) discuss the project submitting a Community Plan Amendment to the County of Maui.

Response 1. In response to comments regarding the Kihei-Makena community plan the FEIS section V. D. (Unresolved Issues) has been revised to include the following language:

2. Compliance with the Kihei-Makena Community Plan

The Pi'ilani Promenade is designated for (LI) Light Industrial uses by the KMCP. The KMCP defines "Light Industrial (LI)" as follows: "This is for warehousing, light assembly, service and craft-type industrial operations." The County of Maui Planning Department has consistently interpreted the KMCP's LI designation consistent with the M-1 Light Industrial zoning classification, as the KMCP specifically states that the goals, objectives and policies of the KMCP are implemented and effectuated through various processes, including zoning. ~~The Applicant expects the Planning Department to provide written comment on this Draft EIS and we expect any concerns to be documented in their comment letter.~~

The subject property is located in North Kihei, south of Ohukai Road, and mauka of Pi'ilani Highway. This area was designated in the KMCP for light industrial use in order to encourage urban expansion in the area mauka of Pi'ilani Highway (goal k). Goal k of the KMCP seeks to "[p]rovide for limited expansion of light industrial services in the area south of Ohukai and mauka of Pi'ilani Highway, These areas should limit retail business or commercial activities to the extent that they are accessory or provide service to the predominate light industrial use." The original conceptual plan of 123 light industrial lots, which fit squarely within that designation, is no longer desirable or economically viable. The KMCP specifically states that it is intended to "reflect current and anticipated conditions in the Kihei-Makena region" and is intended to guide decision making through the year 2010. See KMCP at 3. Since the KMCP was adopted in 1998, the proposed planning for that area has adjusted. Other developments south of Ohukai and mauka of Pi'ilani are predominantly retail, with only some instances of true light industrial uses. The community planning process has evolved since 1998, and the current Maui Island Plan indicates that the Pi'ilani Promenade is located within the Urban Growth Boundary, and is surrounded by areas currently not zoned for urbanization, but designated as "planned growth areas." The Maui Island Plan specifically cites the need for mixed-use neighborhood centers "to provide services and jobs within close proximity to where people live and provide a more efficient land use pattern." Maui Island Plan at 8-27.

~~It is the Applicant's position, which it intends to advocate for on the pending Motion to Amend before the LUC, that the project falls within the Light Industrial designation of the KMCP, as that provision is implemented by the corresponding M-1 zoning designation, and that goal k of the Land Use section on page 18 of the KMCP is substantially met by the proposed project. In the event that the LUC does not agree with the Applicant's position in deciding the Motion to Amend, then, as an alternative, Applicant will seek any necessary amendment to the KMCP.~~

Although the County of Maui has determined that the proposed Project complies with the KMCP, the Applicant recognizes that certain parties have asserted that an amendment to the KMCP is

necessary for development of the Project to proceed. This issue may be resolved by the LUC during its consideration of the Applicant's Motion to Amend.

Comment 2. The proposed action described in the DEIS is Inconsistent with Light Industrial Zoning; a change in zoning is required.

COUNTY ZONING

The DEIS fails to mention and discuss the meaning and significance of Maui County Code section 19.24.010 that defines M-1 light industrial zones, which states, in pertinent part, "The M-1 light industrial district is designed to contain mostly warehousing and distribution types of activity, and permits most compounding, assembly, or treatment of articles or materials with the exception of heavy manufacturing and processing of raw materials." Other uses are permitted within M-1 zones, but the plain meaning of the definition is that light industrial zones are to be comprised mostly of customary light industrial uses.

Here the Pi'ilani Promenade North is mostly retail and commercial with only a token light industrial component, or no light industrial at all for the parcel owned by Pi'ilani Promenade South since it is entirely intended for retail use and therefore should be zoned for business and commercial use.

The proposed development is inconsistent with M-1 zoning requirements. I request that the Final Environmental Impact Statement discuss the project submitting a request for a zoning change to the County of Maui.

Response 2. In response to comments regarding zoning the FEIS section IV. G. (County Zoning) has been revised to include the following language:

The comprehensive zoning provisions for the County of Maui are set forth in Article II of Title 19 of the Maui County Code. The purpose and intent of comprehensive zoning is to regulate the utilization of land in a manner encouraging orderly development in accordance with the land use directives of the Hawaii Revised Statutes, the charter of the County of Maui, and the general plan and community plans of the County, as well as to promote and protect the health, safety, and welfare of the people of the County. The subject property is zoned for "M-1, Light Industrial District" uses by the County of Maui, and land uses that are proposed for the Pi'ilani Promenade are allowable under "M-1, Light Industrial" zoning (See: Figure 6, "Maui County Zoning Map"). The M-1 light industrial zoning district allows, as of right, all of the commercial uses contained in the Maui County business districts, B-1, B-2 and B-3. This specifically includes the light industrial, commercial, and apartment uses proposed for the Promenade Project.

Although the County of Maui has determined that the proposed Project complies with the KMCP, the Applicant recognizes that certain parties have asserted that an amendment to the KMCP is necessary for development of the Project to proceed. This issue may be resolved by the LUC during its consideration of the Applicant's Motion to Amend.

The Planning Department believes that community plans and zoning play complimentary but different roles. Community plan land use designations are intended to depict what types of land uses are envisioned during the duration of the community plan. They are intended to guide decision-making for changes in zoning, subdivisions, budgeting and capital improvements, and developments in the special management area. They do not provide, nor are they intended to be, exclusive or complete lists of land uses allowed. They do not provide specific development standards. Zoning regulates land use; zoning provides exclusive and complete lists of land uses and specific development standards.

Comment 3. The 13-acre 250 unit affordable housing project that is part of the Honua'ula Development and in the original 88 acres of state ag to urban reclassified lands shares all the previous entitlement approvals with the Pi'ilani Promenade Project and is depended on this development for much of its infrastructure needs and will have many similar environmental impacts as the Pi'ilani Promenade, yet has had no environmental review.

Response 3. The parcel owned by Honua'ula Partners LLC, is outside of the Pi'ilani Promenade Project area, and is on a separate subdivided parcel. In response to comments regarding the Honua'ula development, the FEIS Section V. C. (Cumulative and Secondary Impacts) has been revised to include the following language.

Cumulative Impacts of Honua'ula Affordable Housing Development

The Preliminary Engineering Report (PER) was developed to address the engineering issues and impacts associated with the Promenade project in terms of utility service, drainage, access, grading and other aspects of site development. It is important to remember that the final subdivision map creating both the Promenade and Honua'ula Partners LLC (HPL) parcel was required to provide adequate utility service to each lot (water, sewer, electrical, etc.). The subdivision map and associated civil construction plans provide for all of these services for each lot including the HPL parcel. All of the drainage work done to date has been completed to address the on and off site infrastructure development needed to serve all of the parcels including HPL. The Promenade PER specifically addresses the drainage concerns associated with development of that project only while the HPL parcel, when developed, will need to comply with the County of Maui

drainage requirements as a separate project not impacting the assumptions already addressed in the subdivision and Promenade PER documents.

In addition to the above the HPL parcel is owned by a separate entity with development timing subject to both Chapter 343 compliance and processing of a Motion to Amend with the Commission. Therefore, its development timing is uncertain and there are no specific development plans yet developed to provide a basis for PER analysis other than the number of units.

AIS: the AIS includes the Honua'ula affordable housing development parcel in its Survey and no Historical Sites were identified on this project parcel outside of the Pi'ilani Promenade.

CIA: The CIA included the Honua'ula parcel in its Assessment. Drainageway "A" was noted by some interviewees as having cultural importance however the CIA concludes that:

"Given the input received through the consultation process and a review of the archaeological data gathered in the project AIS we cannot conclude the minor drainageway "A" discussed within the project documents or consultation discussions has any relevant cultural significance. As part of the data recovery process proposed for the project area further information may reveal more about this drainage way and possible significance."

In addition 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 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").

PER: The PER does not identify the drainage and electrical impacts of the Honua'ula affordable housing development yet that parcel will be served by all major utility connections already established and shown in the subdivision improvement plans and all infrastructure has been sized to reflect the buildout of both Pi'ilani and Honua'ula affordable housing development. Honua'ula's affordable housing development electrical requirements will be served from the new MECO substation and any drainage by Honua'ula affordable housing development will be required to meet Maui County Standards. The Applicant calculated the estimated Drinking Water Demand for both Pi'ilani and Honua'ula affordable housing development by using Maui County Code Standards.

TIAR: The estimated Traffic generated by Honua'ula affordable housing development were analyzed as part of the TIAR update by SSFM. This traffic along with other background growth was used to understand the impacts of other projects, along with the proposed Pi'ilani project.

ECON: The Study did not measure other projects economic impacts. The Study mentions the Honua'ula Affordable housing project in 2 places related to affordable housing. The statement is made that 125 units of the 250 will be rental with the remainder owner occupied. The positive social impact of the Affordable Housing Development can be identified in the FEIS.

Waimea Water Services Report: The irrigation well is located on Honua'ula Affordable Housing project parcel and will provide the water for construction dust control and temporary irrigation for the both Pi'ilani and Honua'ula affordable housing development. The Waimea water services report has determined that during a test pumping of a well in the same area as the on property well, there was no change in the water level and quality at 3 observation wells. In addition the report noted that three irrigation wells are located downstream of the property, all of which are located at a distance of over 3000 feet from the well and it is the conclusion of the Waimea water services report that it is unlikely the proposed irrigation well will impact downstream irrigation wells.

Air Quality: The Air Quality Study included the Honua'ula affordable housing development, however the affordable project is separated from the Pi'ilani Promenade project. Additionally, the essential data used for the air quality analysis is the data finalized within the TIAR update which includes the impacts of the Honua'ula affordable housing development. As previously mentioned, based on the review of the TIAR Update dated

December 2016 it is the opinion of the air quality consultant that re-analysis of the project air quality impacts due to project traffic would not yield significantly different results and the conclusions stated in the air quality study of August 2014 remain valid. (See: Appendix D-2 "Air Quality Report Update dated February 2, 2017")

Noise Study: Based on the review of the TIAR Update dated December 20, 2016 it is the opinion of the Acoustic Study consultant that any potential adverse noise impacts at the Honua'ula affordable housing project can be compared to the potential noise impacts as follows:

There should be less exposure to noise from the Pi'ilani Promenade project's noise source since on the south side of the Honua'ula affordable housing project will face the Pi'ilani Promenade business/commercial activities;

Pi'ilani Promenade traffic on E. Kaonoulu Street fronting the Honua'ula affordable housing project should be less than Pi'ilani Promenade traffic on E. Kaonoulu Street fronting the Pi'ilani Promenade's 226 residential units. Total predicted traffic noise in 2032 at the Honua'ula affordable housing project should also be less than the 59 to 61 DNL predicted at the Pi'ilani Promenade's 226 residential units. (See: Appendix E-2 "Acoustic Study dated January 23, 2017")

Shared infrastructure Irrigation Well: The irrigation well is intended to serve both the Pi'ilani and HPL parcels and is designed to do so with the irrigation system located for future connection by all parcels. Additionally, this private system has been designed for conversion to reclaimed water when that service is available from the County of Maui consistent with the zoning conditions for the parcel.

Kihei Up-Country Highway: The Pi'ilani Promenade will construct the increment of the Kihei/Upcountry Highway from its intersection with the Pi'ilani Highway through to the eastern boundary of the property serving all four parcels with a fully improved roadway section including major utilities, drainage, off road bicycle and pedestrian paths, roadway and landscaped shoulders and median strips.

Utilities: The improvements proposed by Pi'ilani Promenade will provide full utility service to all parcels in the subdivision including the HPL parcel. Water, sewer, electrical, roadway drainage will all be provided per the subdivision construction plans.

The DEIS fails to acknowledge and discuss unpermitted segmentation that will necessarily arise from separating the Pi'ilani Promenade portion of the 88 acre parcel from the Honua'ula portion of the development. The EIS for Wailea 670/Honua'ula did not address or assess the workforce housing component of that development, that being 250 housing units to be constructed on 13 of the 88 acre parcel in issue here (Honua'ula's parcel). The proposed Honua'ula component of the Project is again omitted from any environmental assessment in the Pi'ilani Promenade DEIS.

Is the DEIS sufficient without inclusion of the Honua'ula parcel?

Is this unpermitted segmentation?

I request that the Final Environmental Impact Statement discuss the impacts of the 13-acre, 250 unit affordable housing project and mitigations for the Honua'ula Affordable Housing Development.

Response 4. The parcel owned by Honua'ula Partners LLC. is outside of the Pi'ilani Promenade Project area, and is on a separate subdivided parcel. In response to comments regarding segmentation the FEIS Section II.C. (Project Background), has been revised to include the following language:

On August 20, 2009, Maui Industrial Partners, LLC sold one parcel of the Petition Area identified by Tax Map Key No. (2)3-9-001:169, comprising approximately 13 acres and located on the northeast corner of the Petition Area, to Honua'ula Partners, LLC (the "Honua'ula Parcel"). Honua'ula Partners, LLC is the current owner of the 13-acre Honua'ula Parcel. Honua'ula Partners, LLC is not related or in any way connected to Applicant, and does not share any common ownership, members, shareholders, or control with Applicant. The 13-acre Honua'ula Parcel is not the subject matter of this Environmental Impact Statement. However, the impact of the proposed development of the Honua'ula Parcel was considered in some of the technical reports, including the TIAR update, the Cultural Impact Assessment, the Archaeological Inventory Survey, the Air Quality Study, and the Acoustical Study in included as necessary background information. The Pi'ilani Promenade and the development of the Honua'ula Parcel are not phases or increments of a larger total undertaking; neither development is a necessary precedent for the other project; neither development represents a commitment to proceed with the other development; and the two developments are not identical to each other. While the development of the Honua'ula Parcel must, by condition, provide a 2-acre park in connection with the 250 affordable housing units provided, and the Pi'ilani Promenade similarly proposes a 2-acre park in connection with the 226 apartment units, these parks are separate and distinct parks that support separate development projects.

It is the Applicant's understanding that HPL is in the process of developing documentation necessary to address the requirements of HRS Chapter 343, and is contracting with the technical consultants needed for the preparation of a full-scope of environmental and technical reports.

Comment 5. The Draft Environmental Impact Statement (DEIS) does not adequately analysis the impacts of the proposed action on regional traffic, safety of students from Kihei High School and other schools walking or biking to and from the Pi'ilani Promenade, the potential this action has for increase flooding downslope and impacts to existing businesses in the region.

The proposed traffic analysis is incomplete. For example, the proposed Kenolio Apartment Project is 186 units, and not 124 units quoted in the DEIS. A complete analysis of the impact of the Honua'ula Affordable Housing Project should be provided in the DEIS. Pi'ilani Promenade is proposed to be a regional mall attracting traffic from all over the island. This is contrary to one of the general goals of the KMCP to reduce traffic on Pi'ilani Highway.

Response 5. In response to comments regarding traffic, the FEIS Section III. D. 1. (Roadways) has been revised to include the following language:

A Traffic Impact Analysis Report was prepared for the DEIS by Phillip Rowell and Associates, Inc. in June 2014 which describes the traffic characteristics of the proposed project and likely impacts to the adjacent roadway network (See: Appendix M, "Traffic Impact Analysis Report dated June 6, 2014"). The Traffic Impact Assessment Report (TIAR) was prepared by Phillip Rowell and Associates in June 2014 for the DEIS. Once the DEIS was published for comment, due to severe medical complications, Mr. Rowell was physically unable to complete his analysis and respond to the comments received on the DEIS and the Applicant elected to engage another consultant with the task of fully updating the TIAR and assisting with the responses to comments. The TIAR was updated in December 2016 by a new transportation consultant, SSFM International, which included revised estimated automobile trips generated by the project utilizing current traffic count data, input from the State DOT, and a further analysis of other proposed projects in south Maui. (See: Appendix M-1, "Traffic Impact Analysis Report Update, dated December 20, 2016").

The Project and the Honua'ula Affordable Housing Project are two separate projects proposed by two different owners. However, the two project sites are both part of the Petition Area, until the LUC approves the Motion to Amend and the 1995 Decision and Order is amended and the Petition Area is bifurcated. Further,

the timing of construction may be somewhat similar. For these reasons, explanation is offered.

This TIAR update treats Honua'ula Affordable Housing Project in the following way:

- Trip generation rates were calculated using trip generation equations for Apartment (125units) and Residential Condominium/Townhouse (125 units) from the *Trip Generation, 8th Edition* (ITE, 2008). The results in Table 10 show that during the AM peak hour, 103outbound trips are generated and 24 inbound for a total of 127 trips. The PM peak hour has slightly more traffic generated, 104 in and 54 out movements for a total of 158 trips. Saturday peak hour has 78 in movements and 71 out for a total of 149 trips.

- Access for the Honua'ula Affordable Housing project is through a new mauka leg East Kaonoulu Street and assigned to that roadway. This roadway extension will be completed as part of Pi'ilani Promenade. The traffic analysis for **With Project** includes both projects using East Kaonoulu Street. See Figures 14 to 16 in the TIAR update for project related trips associated with Pi'ilani Promenade and see Figure 17 in the TIAR update for project related trips associated with Honua'ula Affordable Housing Project. (See: Appendix M-1, "Traffic Impact Analysis Report Update dated December 20, 2016").

In order to isolate the effects of Pi'ilani Promenade, Honua'ula Affordable Housing Project is treated as part of background traffic in the Without Project because East Kaonoulu Street is not assumed to be completed under this condition, traffic associated with Honua'ula Affordable Housing Project is assigned to use a possible temporary driveway access off of Ohukai Road. Ohukai Road temporary access is subsequently closed when East Kaonoulu Street is constructed and opened. See Figures 18 to 20 in the TIAR update.

Kenolio Apartments

The Kenolio Apartments is located between Pi'ilani Highway and Kenolio Road in the southwest quadrant of the intersection of Kaonoulu Street at Pi'ilani Highway. The project is a 186 unit multi-family affordable housing development. It is anticipated that the project will be completed in 2017. Access to and egress from will be via two driveways along the east side of Kenolio Road. The traffic

assignments for the project were obtained from the TIAR for Kenolio Apartments, An Affordable Housing Project (PRA, 2014).

The KMCP states under the heading of *ENHANCEMENT OF NEIGHBORHOODS*:

"Kihei's linear form has been largely defined by two parallel roadways, South Kihei Road and Pi'ilani Highway. This linear pattern of development, combined with near total reliance on South Kihei Road and Pi'ilani Highway, forces residents to travel by car for their shopping, recreation and other basic needs, often resulting in traffic congestion. A general theme of the Plan is to create more independent neighborhoods within Kihei, thus reducing unnecessary vehicular trips to South Kihei Road and Pi'ilani Highway. In addition, a more efficient internal roadway circulation system is proposed. A trail/greenway/bikeway system is also being proposed to provide alternate means of transportation."

The KMCP further states in the Transportation Objectives and Policies section:

"b. Undertake transportation system improvements concurrently with planned growth of the Kihei-Makena region. Require adequate interregional highway capacity, including the widening of Pi'ilani and Mokulele Highways to four lanes, prior to the construction of major projects south of Kilohana Road or mauka of Pi'ilani Highway."

The KCMP also acknowledges:

"C. Interregional Issues

During deliberations over possible amendments to the Kihei-Makena Community Plan, several issues were considered which affect other regions. This section discusses these issues which need interregional, island-wide or County-wide comprehensive policy analyses and formulation.

...

2. Upcountry transportation connection. The need to provide a transportation link to the Upcountry area has been identified for some time. This would result in saving valuable commuter time between the primarily residential area of Upcountry and job centers within the Kihei region. Choosing the optimal route for this link will involve consideration of positive and negative impacts to both regions. The focus should be on improving transportation services for island residents; thus the route should minimize travel times for the maximum number of island residents."

At the drafting of the KMCP the Pi'ilani highway was a two-lane road. The location of the Kihie-Upcountry Highway terminus and the Kihei High School were undetermined. The location for the Kihei-Upcountry Highway has been identified as East Kaonoulu Street, and the Kihei High School is to be located approximately 450 feet south of the Project site. The mix of uses proposed by the Project are appropriately situated for the intersection of the two highways.

While the Project is not a neighborhood service center, it does propose to provide pedestrian and bicycle access surrounding areas. The Project proposes to connect to Ohukai Road in order to provide non-vehicle access to the single family neighborhoods north of Ohukai Road. The intersection of Kaonoulu Street will be improved with pedestrian crossings allowing access to

single family neighborhoods and proposed multifamily communities west of the Pi'ilani Highway. The Project has also offered to assist the State Department of Transportation in the design of a pedestrian access route within the Pi'ilani Highway right-of-way, and outside of the roadway section for pedestrian and bicycle safety described further below.

Comment 6 There is no clear plan discussed in the DEIS for safe walking and biking routes for students of the proposed Kihei High School to and from the Pi'ilani Promenade. There are no site maps provided of walkways and bikeways provided within and without the project area. Pi'ilani is a high speed highway. Crossing the Kulanihakoi bridge between the proposed PP and the Kihei High School is especially dangerous for walkers and bikers.

Response 6. . In response to comments regarding safe routes to schools the FEIS Section II.C. (Project Background) has been revised to include the following language:

The current Project plan includes off-road pedestrian and bicycle routes along both East Kaonoulou Street as well as through an access easement from Ohukai Street to East Kaonoulou Street. Additionally, the Project includes a separate pedestrian/bicycle pathway running parallel to the Pi'ilani right of way within the project property as a preferred and safe route for south Maui residents traveling to and from the project area. With regard to the Kulanihakoi Gulch crossing, the project owner has offered to assist the State DOT in the design of a separate crossing facility located within the right of way and outside the roadway section for pedestrian and bicycle safety. All of the above proposed improvements are intended to facilitate safe walking and bicycling and to reduce the requirement for automobile use in order to access the development.(See: Figures 14 A "Piilani Hwy Existing Street Section" and 14B "Piilani Hwy Proposed Street Section")

Additionally, In response to comments regarding safe routes to schools the FEIS Section III.D.1.(Roadways) has been revised to include the following language:

Without additional connectivity and access, the resulting number of users likely to travel by foot, bike, or transit is relatively small and thus no factor was applied to the resulting volumes. However, improvements are being made to accommodate pedestrian and bicycle travel adjacent to and within the Project. Recognizing that the availability of existing off street pedestrian and bike pathways is limited in south Maui, and that there is a need for projects to offer options to vehicular traffic, a description of the pedestrian and bike pathway system adjacent to and within the project area is included in a figure in Appendix G of the TIAR update and Figure 15 "Conceptual Circulation Plan" of the FEIS. (See: Appendix M-1, "Traffic Impact Analysis Report Update dated December 20, 2016"). The red bike lane shown in the figure is located within the Pi'ilani Highway

right of way. The blue system shown provides for a series of pedestrian and bike pathways with the project area and East Kaonoulu Road allowing for safe off street interconnectivity for the public using the various components of the land plan and providing for future connectivity to the areas north, south and east of the project area.

Comment 7. The proposed action is just upstream from a flood prone area. The proposed action will increase the chances for flooding downstream because converting a natural drainway, Ka'ono'ulu Gulch, into a culvert will increase flooding potential by decrease the amount of water that can be absorbed by the land on its way downhill to the ocean. Also, when you compare the drainage analysis of the proposed action with the older proposed Ka'ono'ulu Market Place drainage study, there is a 3-fold increase in runoff.

Response 7. In response to comments on the existing drainageway, the FEIS Section III.A. 2. (Topography and Soils) has been revised to include the following language:

The Applicant received comments on the DEIS from the Kihei Community Association stating that Drainageway "A" is the Ka'ono'ulu Gulch. The Applicant's planning consultant has provided the attached United States Geological Survey (USGS) maps that show the Ka'ono'ulu Gulch is a tributary that feeds into Kulanihakoi Gulch significantly mauka and south of the project site. (See: Figures 20& 21, "USGS MAP 1923" & "USGS MAP 1983").

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

The change in water flow due to the conversion of approximately 2,500 feet of Drainageway "A" to roughly 2,700 lineal feet of concrete-lined channel and large-diameter pipe culvert (approximately 0.3%) is captured in the on-site drainage impact analysis, which examines the effect of urbanizing the Project site, including the portion of the natural drainage channel which passes through it. Consequently, the flow rate increases resulting from the overall Project improvements due to decreased permeability are compensated for by the proposed onsite peak flow mitigation measures.

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."

Comment 8. The analysis of economic impacts proposed action will have is difficult to make if there are no due to lack on information provided in the DEIS regarding configuration, location and size or proposed retail space. All we have a big bubbles to look at. Also, there is no discussion in the DEIS of impacts of proposed action in an environment where there currently exist a high level of vacant retail space.

Response 8. In response to comments regarding the available commercial area in Kihei, the FEIS Section III. B. 3 (Economy) has been revised to include the following language:

As part of this FEIS, the Hallstrom Group prepared an Economic and Fiscal Impact Assessment for the Project, which includes analysis of the existing commercial properties in Kihei. An inventory of existing occupied and vacant commercial properties was developed and used as part of the economic analysis for the Project. The Economic and Fiscal Impact Assessment was revised to address comments received on the DEIS. Specifically, Table V-4 of the Economic and Fiscal Impact Assessment in the FEIS now includes the accurate County costs and State costs per year.

It is projected that the Project will address sub-regional and regional commercial demand more efficiently than the fragmented commercial space located along South Kihei Road because of its location and visibility and ease of access for residents in west, south and central Maui.

In mid-2014, The Hallstrom Group completed an inventory of the Kihei Retail market and found that about 10 percent of the total floor area in the community was vacant. However, the vacancies were either restaurant spaces (the least stable sector of the market) or in uncompetitive projects or locations (such as along Lipoa Road). All of the quality/competitive spaces along South Kihei

Road or in newer, modern centers were occupied. Over the past year numerous new leases have been signed and the vacancy rate in Kihei has dropped below seven percent (2014).

Comment 9. Cultural Impacts

The DEIS states in multiple places that the proposed action will have no cultural impacts. This is not true. This project will have many cultural impacts.

A. Comments regarding Ka'ono'ulu Gulch

Ka'ono'ulu Gulch is a cultural and environmental resource that must be preserved and not buried. Uncle Les Kulolio'o has said that our gulches are the heart of Maui. Our seasonal waterways provide many important ecological and cultural functions. Left in their natural state they reduce the amount of pollution that reaches the ocean, clean and filter water for recreation and drinking and support the area wildlife and fisheries which Hawaiians have used for a millenium for traditonal gathering practices. Converting a natural gulch to a concrete culvert prevents these natural processes from occurring, increases marine degradation and impacts the customary and traditional gathering places and practices of Hawaiians. Enclosing a natural gulch in a culvert is culturally inappropriate and against our community values of preserving the natural environment as stipulated in the KMCP that give our area its uniqueness and sense of place.

At the February 25, 2014 Pi'ilani Promenade Cultural Consultation Meeting the cultural importance of Ka'ono'ulu Gulch was discussed at length by several of the participants.

We need an EIS that shows alternate plans that include Ka'ono'ulu Gulch as part of the proposed project. It could become an open space greenway with walking paths along it that could incorporate the historic sites of the cultural landscape to retain both a "sense of place" and the integrity of this natural drainageway.

Response 9A: In response to comments regarding Drainageway "A", the FEIS Section III. A. 8 (Historical and Archaeological Resources) has been revised to include the following language.

Drainageway "A" is located in the northern half of the Project site. (See: "Appendix L, "Preliminary Engineering Report Figures 2-3 and 2-4). A portion of Drainageway "A contains one previously identified historic property - Site 50-50-10-3740. Site 3740 was first identified during the 1994 AIS, which surveyed the entire Petition Area (Fredericksen, et al., 1994). At the time, Site 3740 was interpreted as a post-contact ranch-era feature, possibly associated with erosion control. This site consists of segments of a low, discontinuous rock wall that primarily extend along portions of either side of the gully. The SHPD Maui staff

archaeologist at the time visited the Petition Area in 1994 to inspect the various sites that had been identified during the inventory survey, including Site 3740. The SHPD approved the archaeological inventory survey report, concurred with site interpretations, and indicated that no further archaeological work was needed for any of the remaining identified sites, including Site 3740. This recommendation was reaffirmed in a 2011 SHPD comment letter (SHPD DOC NO: 1103MD05).

Xamanek Researches LLC was subsequently hired to carry out an archaeological inventory survey of the Petition Area plus additional lands in 2014-2015. This subsequent survey reexamined sites previously identified in 1994, including Site 3740, in addition to one newly identified site. Pedestrian inspections of all previously identified sites, including Site 3740, were conducted during the Applicant's 2014-2015 fieldwork. The SHPD Maui staff archaeologist at the time carried out two project inspections with Xamanek Researches LLC staff in 2015. The SHPD Maui staff archaeologist was able to view all sites, including Site 3740. The archaeological inventory survey report (Fredericksen, 2015) for the overall Project site was approved in a 2016 SHPD comment letter (SHPDDOC NO: 1601MD08). The SHPD concurred with the interpreted function for Site 3740 and affirmed that no additional work was warranted for this post-contact site.

Xamanek Researches LLC staff members have subsequently revisited the gully area on three separate occasions since the inventory survey was accepted in early 2016. No additional findings have been made in Drainageway "A". However, given concerns raised, the Applicant's has voluntarily agreed to have archaeological data recovery work carried out on Site 3740. This additional and intensive work will include detailed mapping, subsurface and surface investigation of the construction style of sections of the wall segments, including a short wall section that is located within along a portion of Drainageway "A"'s slope. Results of this work will be included in the Project's forthcoming data recovery report. The SHPD will review the results of this future report. (See: Appendix H-1 "Archaeological Consultant memo dated October 28, 2016.)

B. Comments regarding Archaeological Inventory Survey (AIS)

- There are no documented archaeological sites recommended in the AIS for preservation. There are a few recommend for data recovery with the chance that some of those may be recommend for preservation. But, it is highly likely that the vast majority of these sites (if not all) will be destroyed and not preserved. This is unfortunate as this ahupua'a has a lot of history. The proposed action does not seem to support the integration of cultural/historic sites into the project plan. Recommendations to integrate historic sites into the project were made*

at the February 25, 2014 cultural consultation meeting.

- The AIS is inadequate because there is evidence that not all historic properties have been recorded. There are possible undocumented archaeological sites, midden scatters and artifacts.*
- At the February 25, 2014 cultural consultation meeting a request was made by consulting parties that included lineal descendants, cultural practitioners and other knowledgeable parties, to go on a site visit to the project area. We were told by Charlie Jencks, the owners representative, and Eric Fredrickson, the archaeologist, that this was doable. It would seem that the time is at hand to bring the cultural consulting parties and lineal descendants on the land for the following purposes: To help identify historic properties, consult on the cultural uses and significance of those historic/cultural properties.*
- The AIS does not comply with the Kihei-Makena Community Plan that "requires development projects to identify all cultural resources located within or adjacent to the project area, prior to application, as part of the County development review process" (Page 24 KMCP). There are archaeological sites adjacent to the project in Kulanihakoi Gulch that have not been documented in the AIS or the 2008 AIS of lands Mauka and south of the project. The need to include an additional survey of the Kulanihakoi Gulch was brought up at the February 25, 2014 cultural consultation meeting.*
- EIS should show an alternate action where cultural/historic sites are incorporated into the proposed action and not simply destroyed. To develop 75 acres and not include even one Hawaiian archaeological site in the proposed action is a sad commentary on how the developers view our Hawaiian history.*

Response 9B: In response to comments regarding preservation, the FEIS Section III. A. 8 (Historical and Archaeological Resources) has been revised to include the following language.

Xamanek Researches was contracted by a former landowner to conduct the 1994 AIS. That AIS, which identified 20 archaeological sites on the property, was accepted by the State Historic Preservation Division ("SHPD") by letter dated July 12, 1994.

In July 2011, Piilani Promenade engaged Scientific Consultant Services, Inc. to prepare an archaeological monitoring plan for the Piilani Promenade properties. That plan was accepted by the SHPD by letter dated August 10, 2011.

In March 2014, Piilani Promenade engaged Xamanek Researches LLC to update the July 1994 AIS. That updated AIS was accepted by the SHPD in January 2016. The updated survey identified 19 of the original 20 archaeological sites on the property. However, two of the originally identified sites (3734 and 3739) were

determined to have been destroyed/lost by post-1994 land altering activities. The updated AIS report contained the following mitigation recommendations:

- Data recovery was recommended for twelve (12) archaeological sites: 3727, 3728, 3729, 3732, 3735, 3736, 3741, 3742, 3743, 3744, 3745, and 8622. Note: the SHPD review/acceptance letter (Doc No: 1601MD08) contains a typo - it states 13 sites for data recovery (this is a simple addition error).
- No further work was recommended for six (6) archaeological sites: 3730, 3731, 3733, 3737, 3738, and 3740.

In July 2015, Piilani Promenade organized a site visit of its property for any interested members of the community. Following that site visit, two interested community members – Daniel Kanahele and Lucienne DeNaie – recommended to SHPD that the following seven (7) archaeological sites be preserved: 3730, 3731, 3732, 3736, 3740, 3745, and 8622. In addition, Mr. Kanahele and Ms. DeNaie also identified (i) an unmarked stone near archaeological sites 3727 and 3728, and (ii) an unmarked stone on the southwest portion of the Piilani Promenade property, and recommended to SHPD that these stones also be preserved. These seven archaeological sites and two unmarked stones are hereinafter collectively referred to as the “Community Sites”.

Having reviewed the revised 2015 Xamanek Report and considering the above recommendations of Mr. Kanahele and Ms. DeNaie, the SHPD accepted the updated Xamanek Researches LLC report and issued a letter dated January 6, 2016, accepting the specific mitigation recommendations contained in Xamanek’s updated AIS.

Notwithstanding the above, given the concerns expressed by interested community members, Piilani Promenade has agreed – in the spirit of cooperation – to meet with Mr. Kanahele, Ms. DeNaie and Xamanek to authenticate which sites have significance and preserve the appropriate Community Sites at reasonable locations on the Piilani Promenade property. Piilani Promenade will consult with Mr. Kanahele and Ms. DeNaie to determine a reasonable and appropriate means and location of preservation of the Community Sites.

In response to comments regarding a site visit, the FEIS Section III. A. 8 (Historical and Archaeological Resources) has been revised to include the following language.

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. The site visit was attended by:

- Kimokeo Kapahulehua
- Erik Frederickson
- Brett Davis
- Jordan Hart
- Daniel Kanahele
- Michael Lee
- Basil Oshiro
- Brian Naeole
- Florence K. Lani
- Lucienne DeNaie

The Applicant has submitted a data recovery plan as required and is currently under review by SHPD. The Applicant willing to continue meetings with the Aha Moku members as well as other members of the community during the site data recovery process to further understand the cultural and archaeological nature of the Project site and where possible, development of a preservation plan for those sites. In addition, the Project AIS was accepted by SHPD on January 6, 2016. (See: Appendix F-1, "SHPD acceptance letter dated January 6, 2016").

In conclusion, the updated archaeological survey of the Project site was conducted in the summer of 2015, and one new historic property was located. The previously identified sites were registered in the State Inventory of Historic Places (SIHP) as No. 50-50-10-3727 through 3746. Of the original 20 sites, 17 remain and one new site was identified for a new total of 18 sites. Seven of these sites have been impacted to some extent by post-1994 earthmoving activities on the Project site. Of the impacted sites, Site 3734 (a rock pile) and Site 3739 (parallel boulder alignment) have essentially been destroyed. In addition, the Site 3746 petroglyph was removed from the Project site in late 1994 by a previous landowner. As such, a total of 18 sites are present within the Project site. No historic properties were located on the previously disturbed off-site portions of the Project site.

The SHPD issued a letter dated January 6, 2016 that accepts the AIS as final. (See: Appendix F-1, "SHPD acceptance letter dated January 6, 2016"). Data recovery is now the recommended mitigation for twelve (12) sites, including Sites 3727-3729,

3732, 3735, 3736, 3741 through 3745, and newly identified Site 8266 (See: Table No. 2). A data recovery plan has been prepared and submitted to SHPD in June 2016 and is currently under review by SHPD staff. In addition the SHPD issued a letter dated January 6, 2016 that accepts the AIS as final. (See: Appendix F-1, "SHPD acceptance letter dated January 6, 2016").

In response to comments regarding the Kulanihakoi Gulch, the FEIS Section III. A. 8 (Historical and Archaeological Resources) has been revised to include the following language.

During the environmental review consultation process questions were raised as to the presence of historical sites within Kulanihakoi Gulch (which is not located on the Project site) and the need for additional survey work to assess the presence of possible sites. In response to this request, the Applicant contacted Kaonoulou Ranch and received their approval to submit an SHPD accepted AIS (2008) done for the area south of the project boundary including the gulch area adjacent to and mauka of the project area. The 2008 AIS indicates that no resources were found in the area fronting the property on either side of the Kulanihakoi Gulch (See: Appendix G, "Archaeological Inventory Survey of Kulanihakoi Gulch AIS dated 2008").

Comment 10. C. Comments regarding Cultural Impact Assessment (CIA).

In the DEIS the CIA results are summarize as follows:

"The CIA reports that the proposed project has no significant effects to cultural resources, beliefs, or practices. 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."

- *CIA needs to include more interviews to be acceptable. There are more than just the two people selected in the CIA for interviews who can advance our understanding of the history of this land. PP staff and consultants met cultural practitioners, lineal descendants and others at the February 25, 2014 cultural consultation meeting some of whom have a practice on the land and in the ahupua'a and did not chose to interview them for the CIA, therefore, the CIA is incomplete.*
- *CIA needs to recognize that their are other cultural practitioners and lineal descendants of the area and their connection to the land.*
- *CIA states there are no cultural practices currently occurring on the land. That is not correct.*

- *CIA needs to recognize the impacts this project may have on Hawaiian rights customarily and traditionally exercised for subsistence, cultural, and religious purposes on and adjacent to the project area. This would include gathering practices at the Ka'ono'ulu seashore and in the nearshore waters for limu, fishes, etc..*

Response 10: Additional interviews with Michael Lee and yourself were included in the revised Cultural Impact Assessment Report (CIA) prepared by Hana Pono LLC and can be found in Appendix I of the FEIS.

In response to comments regarding cultural impacts, 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 Kaonoulū 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 (Kaonoulū 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).

Comment 11.

D.) Cultural Consultation at February 25, 2014 Meeting with cultural practitioners, lineal descendants and knowledgeable parties ignored or not taken seriously.

Many suggestion and recommendations by cultural consultants were offered at this meeting. But most of them did not receive any consideration in the DEIS or follow up.

- A request was made for a site visit to project area. That has not happened yet.*
- A request was made to survey Kulanihakoi gulch adjacent to project for archaeological sites. That has not happened yet.*
- Importance of natural gulches as drainageways and native cultural resources was emphasized repeatedly as it pertained to recharging ground water and supporting limu and fisheries and the importance of protecting the natural flow of gulches and not tampering with it. Yet, this consultation has not seem to affect the proposed action to bury Ka'ono'ulu gulch.*
- A request was made to include some of the participants at the meeting in the CIA. That has not happened.*
- Some other recommendations from the meeting are discussed in my comments above.*

Response 11: In response to comments regarding a site visit, the FEIS Section III. A. 8 (Historical and Archaeological Resources) has been revised to include the following language.

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. The site visit was attended by:

- Kimokeo Kapahulehua
- Erik Frederickson
- Brett Davis
- Jordan Hart

- Daniel Kanahele
- Michael Lee
- Basil Oshiro
- Brian Naeole
- Florence K. Lani
- Lucienne DeNaie

The Applicant has submitted a data recovery plan as required and is currently under review by SHPD. The Applicant willing to continue meetings with the Aha Moku members as well as other members of the community during the site data recovery process to further understand the cultural and archaeological nature of the Project site and where possible, development of a preservation plan for those sites. In addition, the Project AIS was accepted by SHPD on January 6, 2016. (See: Appendix F-1, "SHPD acceptance letter dated January 6, 2016").

In conclusion, the updated archaeological survey of the Project site was conducted in the summer of 2015, and one new historic property was located. The previously identified sites were registered in the State Inventory of Historic Places (SIHP) as No. 50-50-10-3727 through 3746. Of the original 20 sites, 17 remain and one new site was identified for a new total of 18 sites. Seven of these sites have been impacted to some extent by post-1994 earthmoving activities on the Project site. Of the impacted sites, Site 3734 (a rock pile) and Site 3739 (parallel boulder alignment) have essentially been destroyed. In addition, the Site 3746 petroglyph was removed from the Project site in late 1994 by a previous landowner. As such, a total of 18 sites are present within the Project site. No historic properties were located on the previously disturbed off-site portions of the Project site.

The SHPD issued a letter dated January 6, 2016 that accepts the AIS as **final**. (See: Appendix F-1, "SHPD acceptance letter dated January 6, 2016"). Data recovery is now the recommended mitigation for twelve (12) sites, including Sites 3727-3729, 3732, 3735, 3736, 3741 through 3745, and newly identified Site 8266 (See: Table No. 2). A data recovery plan has been prepared and submitted to SHPD in June 2016 and is currently under review by SHPD staff. In addition the SHPD issued a letter dated January 6, 2016 that accepts the AIS as **final**. (See: Appendix F-1, "SHPD acceptance letter dated January 6, 2016").

In response to comments regarding the Kulanihakoi Gulch, the FEIS Section III. A. 8 (Historical and Archaeological Resources) has been revised to include the following language.

During the environmental review consultation process questions were raised as to the presence of historical sites within Kulanihakoi Gulch (which is not located on the Project site) and the need for additional survey work to assess the presence of possible sites. In response to this request, the Applicant contacted Kaonoulu Ranch and received their approval to submit an SHPD accepted AIS (2008) done for the area south of the project boundary including the gulch area adjacent to and mauka of the project area. The 2008 AIS indicates that no resources were found in the area fronting the property on either side of the Kulanihakoi Gulch (See: Appendix G, "Archaeological Inventory Survey of Kulanihakoi Gulch AIS dated 2008").

In response to comments regarding Drainageway "A", the FEIS Section III. A. 8 (Historical and Archaeological Resources) has been revised to include the following language.

Drainageway "A" is located in the northern half of the Project site. (See: "Appendix L, "Preliminary Engineering Report Figures 2-3 and 2-4). A portion of Drainageway "A contains one previously identified historic property - Site 50-50-10-3740. Site 3740 was first identified during the 1994 AIS, which surveyed the entire Petition Area (Fredericksen, et al., 1994). At the time, Site 3740 was interpreted as a post-contact ranch-era feature, possibly associated with erosion control. This site consists of segments of a low, discontinuous rock wall that primarily extend along portions of either side of the gully. The SHPD Maui staff archaeologist at the time visited the Petition Area in 1994 to inspect the various sites that had been identified during the inventory survey, including Site 3740. The SHPD approved the archaeological inventory survey report, concurred with site interpretations, and indicated that no further archaeological work was needed for any of the remaining identified sites, including Site 3740. This recommendation was reaffirmed in a 2011 SHPD comment letter (SHPD DOC NO: 1103MD05).

Xamanek Researches LLC was subsequently hired to carry out an archaeological inventory survey of the Petition Area plus additional lands in 2014-2015. This subsequent survey reexamined sites previously identified in 1994, including Site 3740, in addition to one newly identified site. Pedestrian inspections of all previously identified sites, including Site 3740, were conducted during the Applicant's 2014-2015 fieldwork. The SHPD Maui staff archaeologist at the time carried out two project inspections with Xamanek Researches LLC staff in 2015. The SHPD Maui staff archaeologist was able to view all sites, including Site 3740.

The archaeological inventory survey report (Fredericksen, 2015) for the overall Project site was approved in a 2016 SHPD comment letter (SHPDDOC NO: 1601MD08). The SHPD concurred with the interpreted function for Site 3740 and affirmed that no additional work was warranted for this post-contact site.

Xamanek Researches LLC staff members have subsequently revisited the gully area on three separate occasions since the inventory survey was accepted in early 2016. No additional findings have been made in Drainageway "A". However, given concerns raised, the Applicant's has voluntarily agreed to have archaeological data recovery work carried out on Site 3740. This additional and intensive work will include detailed mapping, subsurface and surface investigation of the construction style of sections of the wall segments, including a short wall section that is located within along a portion of Drainageway "A"'s slope. Results of this work will be included in the Project's forthcoming data recovery report. The SHPD will review the results of this future report. (See: Appendix H-1 "Archaeological Consultant memo dated October 28, 2016.)

In response to comments regarding CIA interviews. Additional interviews with Michael Lee and yourself were included in the revised Cultural Impact Assessment Report (CIA) prepared by Hana Pono LLC and can be found in Appendix I of the FEIS.

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

Sincerely yours,

A handwritten signature in black ink, appearing to read 'J. Hart', with a long horizontal line extending to the right.

Jordan E. Hart, President

CC: Mr. Charlie Jencks, Ownership Representative
Mr. Daniel E. Orodener, Executive Officer, LUC
Project File 13-029