

LAND USE COMMISSION
STATE OF HAWAII
BEFORE THE LAND USE COMMISSION

OF THE STATE OF HAWAII 2017 APR 19 P 2: 36

In the Matter of the Petition of)	DOCKET NO. A16-801
)	
UNIVERSITY OF HAWAII)	PETITIONER'S PROPOSED
COMMUNITY COLLEGE)	FINDINGS OF FACT, CONCLUSIONS
)	OF LAW AND DECISION AND
To Amend the Agricultural Land Use)	ORDER FOR A STATE LAND USE
District Boundary into the Urban District for)	DISTRICT BOUNDARY AMENDMENT
Approximately 148.37 acres at Puhi, Līhu'e,)	
Island of Kaua'i, State of Hawai'i)	
TMK: (4) 3-4-07:01, 02, 03, and 06)	
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**PETITIONER'S PROPOSED FINDINGS OF FACT,
CONCLUSIONS OF LAW, AND DECISION AND ORDER
FOR A STATE LAND USE DISTRICT BOUNDARY AMENDMENT**

AND

CERTIFICATE OF SERVICE

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Comes now, Petitioner UNIVERSITY OF HAWAII, COMMUNITY COLLEGES
("UHCC"), by and through its attorney, LAUREL LOO, and hereby submits Petitioner's
Proposed Findings of Fact, Conclusions of Law, and Decision and Order for a State Land Use
District Boundary Amendment ("Petitioner's Proposed Decision and Order").

Petitioner's Proposed Decision and Order is as follows:

**FINDINGS OF FACT, CONCLUSIONS OF LAW,
AND DECISION AND ORDER FOR A STATE
LAND USE DISTRICT BOUNDARY AMENDMENT**

Petitioner UNIVERSITY OF HAWAII, COMMUNITY COLLEGES ("Petitioner"),
filed a Petition for Land Use District Boundary Amendment on November 4, 2016 (the Petition
as so amended is referred to as "Petition"), pursuant to Hawai'i Revised Statutes ("HRS")
Section 205-4, and Hawai'i Administrative Rules ("HAR") Chapter 15-15 ("LUC Rules"), to
amend the land use district boundary to reclassify approximately 148.37 acres of land, situated at
Puhi, Līhu'e, Island of Kaua'i, State of Hawai'i, Tax Map Key Nos. (4) 3-4-07:01, 02, 03, and 06

("Petition Area"), from the State Land Use Agricultural District to the State Land Use Urban District. The reclassification is desired to allow for the current campus uses and future expansion of the Kaua'i Community College ("KCC").

The Land Use Commission ("Commission"), having heard and examined the testimony, evidence, and argument of counsel presented during the hearing on March 22 and 23, 2017, along with the pleadings filed herein, hereby makes the following Findings of Fact, Conclusions of Law, and Decision and Order.

I. PROCEDURAL MATTERS

1. On November 4, 2016, the Petitioner filed its draft Petition for Land Use District Boundary Amendment ("Petition"), Exhibits "1" through "16" of the Petition, including a Final Environmental Assessment identified as Exhibit "3".
2. On November 4, 2016, the Petitioner filed its Motion for a Declaratory Ruling to waive a requirement for an incremental development plan and map.
3. On November 9, 2016, the Commission received the Petitioner's Affidavit of Service of Petition for Land Use District Boundary Amendment.
4. On November 9, 2016, the Commission received the Petitioner's Affidavit of Sending of Notification of Petition Filing.
5. On November 22, 2016, the Commission heard Petitioner's Motion for A Declaratory Ruling.
6. On November 24, 2016, the Commission issued an Order approving Petitioner's Motion for a Declaratory Ruling.
7. On November 30, 2016, the Commission recorded that the Petition Filing Deemed Complete.

8. On December 29, 2016, the State Office of Planning ("OP") filed the Office of Planning Statement of Position and Certificate of Service.
9. On January 3, 2017, the County of Kaua'i ("County") filed the Position Statement of the Department of Planning and Certificate of Service.
10. On January 13, 2017, the Commission received the Petitioner's Append to SHPD (State Historic Preservation Division") Approval document.
11. On January 13, 2017, the Commission received the Petitioner's Additional correspondence and Certificate of Service for Petitioner's correspondence to incorporate SHPD's 6E approval to the final Archaeological Inventory Survey.
12. On January 27, 2017, the Commission issued the LUC Pre-Hearing Order to the Parties.
13. On February 1, 2017, the Public Comments included the Kaua'i Performing Arts Center (KPAC) Letter.
14. On February 21, 2017, the Commission filed the OP's Witness List and Exhibit List; Exhibits 2, 3, 5, 6, 7 and 8, COS.
15. On February 21, 2017, the Commission received the Petitioner's Notice of Hearing (hearing dated March 22, 2017).
16. On February 21, 2017, the Commission received the Petitioner's List of Witnesses.
17. On February 21, 2017, the Commission received the Petitioner's List of Exhibits.
18. On February 21, 2017, the Commission received the Petitioner's Certificate of Service of Witnesses and List of Exhibits.

19. On February 21, 2017, the Commission received the Petitioner's Written Testimonies (All Expert Witnesses – Exhibits 22-26) and Certificate of Service.
20. On February 23, 2017, the County of Kaua'i filed the A-16-801 County Planning Dept. Witness List and Certificate of Service.
21. On March 3, 2017, the Commission filed the OP's Testimony in Support of Petition with Conditions, OP Exhibits 4 and 7 and Certificate of Service.
22. On March 3, 2017, the County of Kaua'i filed the A16-801 County of Kaua'i Planning Dept.'s Rebuttal Exhibit List, Exhibits 1-2 and Certificate of Service.
23. On March 3, 2017, the Commission received the Petitioner's Affidavits of Publication and Certificate of Service.
24. On March 9, 2017, public comments included A16-800 & A16-801 Letter from DAGS No Comments.
25. On March 14, 2017, public comments included Notice of Withdrawal of Comment Letter from Kaua'i Performing Arts Center.
26. On March 15, 2017, the Commission filed the OP's First Amended Exhibit List; Exhibit 9 and Certificate of Service.
27. On March 22-23, 2017 the Commission held evidentiary hearings on Kaua'i. The evidentiary portion of the hearing was closed on March 23, 2014.

II. FINDINGS OF FACT

A. Description of the Petition Area

28. On November 4, 2016, the Petitioner filed a Petition to amend the Land Use District Boundaries to reclassify approximately 148.37 acres of land from an overall project area of approximately 199 acres of land at Puhi, Līhu'e District, Kaua'i, Hawai'i,

identified as Kaua'i Tax Map Key Nos. (4) 3-4-07:01, 02, 03, and 06 ("Initial Petition Area"), from its current State Land Use Agricultural District to the State Land Use Urban District for the existing KCC ("Project"). These parcels within the Initial Petition Area are comprised of 59 acres, 40 acres, 99 acres, and 1 acre, respectively. [Pet. Ex. 4, page 2]

29. During the hearing before the Commission on March 23, 2017, the record was corrected to clarify that one of the parcels originally included in the Initial Petition Area, namely Tax Map Key (4) 3-4-07:06, is outside of the Initial Petition Area. [E. Matsukawa 3/23/2017 60:20-21]

30. The Initial Petition Area was amended to consist of only Kaua'i Tax Map Key Nos. (4) 3-4-07:01, 02, and 03 and containing a reduced project area of approximately 148.37 acres ("Petition Area"). [Pet. Ex. 4, page 2]

31. The Petition Area of approximately 148.37 acres consists of the current KCC campus core and the areas surrounding Punana Leo o Kaua'i Pre-School and Kawaikini New Century Public Charter School (TMK: 3-4-07:01, 02 and 03). [Pet. Page 4]

32. Petitioner provided a survey map of the Petition Area to be reclassified into the State Land Use Urban District. [Pet. Ex. 5, page 2]

33. In the Petition are deeds to the parcels evidencing ownership of the parcels comprising the Petition Area by the University of Hawai'i. [Pet. Ex. 6, pages 1-21]

34. The existing KCC campus is located in Puhi, approximately two miles west of Līhu'e, on the island of Kaua'i. [Pet. Ex. 1, page 2]

35. The location of the Petition Area and all surrounding properties are depicted in one of Petitioner's exhibits. [Pet. Ex. 7, page 2]

36. The Petitioner intends to develop and construct the Project in accordance with the KCC Long Range Development Plan ("LRDP"), which is now being updated. [Pet. pages 6-7]

37. Petitioner developed the current version of the KCC LRDP in 1999. [E . Matsukawa, 3/23/2017, 6:21-22]

38. In 1999 the LRDP was based on a projected student population of full-time equivalent ("FTE") students of 1,500 students for the short term and 3,000 students for the long-term. [E . Matsukawa, 3/23/2017, 7:11-15]

39. The current student FTE population of KCC is just over 700 students. [E . Matsukawa, 3/23/2017, 9:13-15]

40. The Petition Area is presently classified in the Agricultural District on the State Land Use District boundary map, and the Agriculture District under the County's zoning map. [Pet. Ex. 8, 9]

41. As evidenced by Petitioner's Exhibits 8 and 9 and outlined in a heavy black line, UHCC is proposing to redesignate 148.37 acres of the 199 acres comprising the KCC campus. This Petition seeks to redesignate the 148.37 acres of the KCC campus which would be consistent with the "Urban" land-use designation established in the Kaua'i General Plan. [Pet. page 5]

42. After numerous meetings with the County Planning Department, UHCC proposes to re-designate the Petition Area within the KCC campus property to "Urban" designation, a more appropriate state land use classification that would be aligned and consistent with the Kaua'i County General Plan. [Pet. page 5]

43. Development of the present KCC campus within an existing 99-acre parcel (TMK 3-4-07:03) was permitted through a Special Permit granted by the State Land Use Commission on April 6, 1973. [Pet. page 5]

44. The KCC campus is also comprised of about 100 additional acres in three parcels identified as TMK 3-4-07:01, 02 and 06. [Pet. page 5]

45. Most of the land comprising the KCC campus is undeveloped with a portion adjacent to the KCC campus core (an approximate 40 acres parcel identified as TMK 3-4-07:02) containing two Hawai'i and Language Immersion schools, including the Punana Leo o Kaua'i Pre-School and the Kawaikini New Century Public Charter School. The Punana Leo o Kaua'i Pre-School occupies school facilities that were built before the KCC campus was established. The Kawaikini New Century Public Charter School is a K-12 school that occupies buildings that it brought to and installed within the KCC campus property and was also granted a Special Permit, Use Permit and Class IV Zoning Permit by the County on May 26, 2009 that allowed the construction and installation of its buildings. [Pet. pages 5, 6]

46. The Petitioner submits that the Petition Area and its proposed reclassification conform to the standards contained in Chapter 205, HRS, and §15-15-18 of the LUC Rules. The Petition Area conforms to the Kaua'i County General Plan, which shows the properties as "Urban Center". [Pet. Page 6; Pet. Ex. 10, page 2]

47. The Petition Area is outside of the 100-year floodplain (Zone X) according to the Flood Insurance Rate Map ("FIRM"). The area is also outside of the Special Management Area, as established by the County, and not subject to unstable soil conditions and other adverse environmental effects. [FEA Ex. 3, pages 3-17]

48. Re-designation of the Petition Area from the State Land Use Agricultural District to the Urban District would be more consistent with its existing and planned uses and allow the County to guide uses through its zoning code. [Pet. page 6]
49. The Petitioner is the fee owner of the Petition Area. [Pet. Ex. 6, pages 2-21]
50. The Petition Area will be used and developed in the future in accordance with the KCC LRDP which proposes the development of the existing KCC campus site to accommodate a population of 3,000 full time equivalent ("FTE") students with an interim phase of 1,500 FTE students. [Pet. pages 6, 7]
51. Development of the existing KCC campus was permitted through a Special Permit granted by the State Land Use Commission. However, the County Planning Department informed KCC that future expansion of the KCC campus would not be permitted through another Special Permit as the County prefers a more comprehensive permitting system for the KCC campus. [Pet. page 7]
52. Consistent with the County's position, UHCC proposes to re-designate a portion of the KCC campus from Agricultural to Urban, which reclassification is expected to help expedite any County approvals that may be necessary for future projects. [Pet. page 7]
53. KCC is updating its LRDP and in the process has developed a draft Preferred Site Plan based on a student population of 1,500 FTE (See Exhibit "2"). This plan has yet to be finalized and adopted. [Pet. Ex. 2, pages 2-4]
54. There is no time frame for future development of classrooms and student housing. Construction of those would be tied to an increase in enrollment. [E. Matsukawa, 3/23/2017, 14:7-13]
55. The Petition Area does not include any marketable units or lots. [Pet. page 7]

56. The majority of the existing KCC campus facilities within the Petition Area are centrally located in TMK No. 3-4-07:03 as shown in Exhibits "11" and "11A". The KCC campus consists of approximately 43 buildings, internal roadways, parking, tennis courts, open lawn areas, landscaping, and a pedestrian pathway system that provides access between various areas of the KCC campus. [Pet. pages 7, 8]

57. A ditch along the eastern boundary extends eastward from the area north of the existing roadway into an off-site reservoir located adjacent to Island School. This ditch connects to a reservoir on Grove Farm Company Inc.'s ("Grove Farm") property makai of Kaumuali'i Highway. [Pet. page 8]

58. Access to the KCC campus is provided by two roadways that intersect with Kaumuali'i Highway, the first of which runs along the perimeter of the KCC campus but closer to the KCC campus core, and the second of which runs along and through portions of the adjacent Kilohana Plantation. The KCC campus has two main parking lots, as well as a lawn area to the west of the entrance that is used for overflow parking. There are two bus stops serving the KCC campus. [Pet. page 8]

59. The KCC Diversified Agriculture Program uses approximately 14 acres of land (TMK No. 3-4-07:02) southwest of the existing main KCC campus. The Puhi Reservoir, located along the boundaries of TMK No. 3-4-07:02 and 03, provides irrigation water through an irrigation ditch system for the cultivation of diversified crops, which include taro and a number of lo'i. The ditch system extends mauka in a northwesterly direction through to agricultural lands mauka of the KCC property. [Pet. page 8]

60. Two Hawaiian Language Immersion schools, including the Punana Leo o Kaua'i Pre-School and the Kawaikini New Century Public Charter School are also located within

the parcel designated as TMK No. 3-4-7:02. The Puna Leo o Kaua'i Pre-School occupies school facilities that were built before the KCC campus was established. The Kawaikini New Century Public Charter School is a K-12 school that occupies existing buildings but was also granted a Special Permit, Use Permit and Class IV Zoning Permit by the County on May 26, 2009. Kawaikini New Century Public Charter School has a 25-year lease with Petitioner covering the portion of the KCC property used by Kawaikini New Century Public Charter School. The Puna Leo o Kaua'i Pre-School is occupying KCC property on a month to month basis while the parties work on new long term lease. [Pet. pages 8, 9]

61. TMK descriptions include the following: [Pet. page 9]

- a. TMK No. 3-4-07:01 is heavily vegetated with the northern portion used for sugar cane cultivation. Puhi Stream and a wooded gulch are located along the western boundary.
- b. TMK No. 3-4-07:06 is a university-owned parcel and is used for a water tank.
- c. TMK No. 3-4-07:05 is a parcel containing the Puhi Camp Cemetery owned by Grove Farm and while physically surrounded by the Petition Area is not part of the KCC campus.
- d. TMK No. 3-4-07:07 is a small nearby parcel located within parcel TMK No. 3-4-7:01 and is owned by the County and is not part of the KCC campus.

62. Areas surrounding KCC include: [Pet. page 9]

- a. Located north of the Petition Area are agricultural lands used for sugar cane production. Grove Farm owns these agricultural lands which are located to

the north of the Petition Area as well as lands to the west and southwest. [Pet. Ex. 7, page 2]

b. Located to the north and northeast of the Petition Area is the Kilohana Plantation upon which Gaylord's Restaurant is located, and Island School, which is a 38.4 acre private school with student grades pre-K to 12 and an current enrollment of approximately 370 students. [Pet, page 22, Pet. Ex. 7, page 2]

63. The expanded area from KCC includes: [Pet. pages 9, 10]

a. Located to the south, Kaumuali'i Highway borders the campus and serves as the main access road for the KCC campus. Makai of the Kaumuali'i Highway are lands owned by Grove Farm. These lands include commercial uses, a 3-acre county park, the Klussman Reservoir, some vacant land and residential land uses.

b. Across Kaumuali'i Highway from KCC to the south is the town of Puhi, with retail businesses, residences and light industrial uses. Further east along the highway, opposite one of the access roads to KCC, is the YMCA and adjoining it to the south is Chiefess Kamakahelei Middle School, which fronts Nuhou Street.

c. Further east on the south side of the highway about one-half mile from KCC are a number of commercial properties that comprise the Puhi Regional Shopping Complex, including Kukui Grove Shopping Center, Hokulei Village Shopping Center, Home Depot, Costco, and K-Mart.

d. Located approximately 2 miles to the north-east of the Petition Area is the county seat of Kaua'i and central business district.

e. Wilcox Memorial Hospital and Kaua'i Medical Clinic are located within Līhu'e.

B. Description of the Environmental Impacts

1. Agricultural

64. The proposed future expansion of KCC will extend out from the current KCC main campus core area. Areas along the streams and drainage ways are proposed for diversified agriculture and education. [Pet. page 10]

65. Soils in the Petition Area are classified as follows: [Pet. pages 10-13]

a. According to the U.S. Department of Agriculture Natural Resources Conservation Service, the Petition Area is comprised of soils within the Puhi series and rough broken land. The Puhi series consists of deep, well drained soils found on uplands at elevations of 175 to 500 feet with slopes of 3 to 40 percent. The soils are formed in material weathered from basic igneous rock and have surface layer of brown to very dark brown, friable silty clay loam and silty clay. Puhi soils are used for the production of sugar cane, orchards, and truck crops. The natural vegetation consists of guava, Java plum, pangolagrass, kikuyugrass, elephantopus, joe, yellow foxtail and rhodomyrtus. [Pet. Ex. 12]

b. Rough broken land soils consist of very steep land broken by numerous intermittent drainage channels. These soils occur on mountainsides and in gulches statewide. Elevations range from nearly sea level to about 8,000 feet with slopes of 40 to 70 percent. The local relief is between 25 and 500 feet. The soils are 20 to more than 60 inches deep over soft, weathered rock which are mixed with the soil in many places. The annual rainfall ranges from 25 inches to more than 200 inches. The soils have rapid runoff and active geologic erosion. Rough broken land is primarily used for watershed and wildlife habitat. It is also used for pasture and woodland. [Pet. Ex. 12-13]

c. The Detailed Land Classification – Island of Kaua'i published by the University of Hawai'i Land Study Bureau ("LSB") evaluates the quality or productive capacity of certain lands on the island for selected crops and overall suitability in agricultural use. A five-class productivity rating system was established with "A" representing the class of highest productivity and "E" the lowest. The productivity ratings were based on statewide standards of crop yields and levels of management at the time the classification was made. Majority of the project site is rated "B", with the remaining area rated "C", "E" or not classified. [Pet. Ex. 13]

d. The State Department of Agriculture's Agricultural Lands of Importance in the State of Hawai'i ("ALISH") classify lands into four agricultural types, Prime Lands, Unique Lands, Other Lands, and Unclassified. The majority of the Petition Area is not classified, with the remaining area classified as "Prime Lands" or "Other Lands" . [Pet. Ex. 14]

e. Pursuant to the Act 183 SLH 2005 and Act 233 SLH 2008, the County conducted a study (County of Kaua'i Important Agricultural Lands Study, Second Draft, August 2011) to identify potential Important Agricultural Lands (IALs) on the island of Kaua'i. From August 2009 to September 2011, the County with assistance from the University of Hawai'i at Manoa consulted with the Stakeholder and Technical Advisory Committee ("STAC") and community. The County integrated community input with technical data to map IAL on Kaua'i. Based on criteria definitions and weights, GIS maps of IAL criterion were produced. The final IAL scores of agricultural lands were calculated by combining weights and indices of all eight criteria. A majority of the KCC campus does not have an IAL score since the area is designated as Urban Center in the County General

Plan 2000. The northern portion (TMK No 3-4-07: por. 01) of the KCC campus is designated as Agriculture in the County General Plan with IALs score ranging from 23.60 to 25.73. Surrounding areas are also in Agriculture with IALs score ranging between 24.31 and 25.50. [Pet. Page 12-13]

2. Recreational

66. Park facilities on Kaua'i are operated by the State and the County. The State's Department of Land and Natural Resources Division of State Parks operates nine parks that offer outdoor recreation and heritage resources. The nearest State park to the Petition Area is Ahukini State Park which is located at the end of Ahukini Road in Līhu'e, approximately 4.25 miles northeast of the Petition Area. [Pet. page 13]

67. The County's Department of Parks & Recreation operates 17 parks in the Līhu'e area including 13 neighborhood parks, three beach parks, and one stadium. The County also operates eight neighborhood centers that offer recreational and educational programs for the communities of Kaua'i. The Līhu'e Neighborhood Center is approximately two miles northeast of the Petition Area. [Pet. pages 13, 14]

68. The proposed expansion of the KCC campus is not expected to affect in-migration to the County and the Petition Area and, therefore, is not anticipated to create additional demands on existing recreational facilities. [Pet. page 14]

3. Cultural and Historic

69. Implementation of major projects within the LRDP is not anticipated to have significant individual or cumulative impacts on cultural resources. [Pet. page 14]

70. Pursuant to *Ka Pa'akai O Ka'Aina v. Land Use Commission et al.*, 94 Haw. 31, 7 P.3d 1068, based on work done by Cultural Surveys Hawai'i and reviewed by SHPD,

there are no: (1) valued cultural, historical, or natural resources in the Petition Area, and therefore no traditional and customary native Hawaiian rights being currently exercised in the Petition Area; (2) as a result of the lack of those resources, there are no traditional and customary native Hawai'i rights which will be affected or impaired by the Petition; and, (3) because of the foregoing, there is no action to be taken by this Commission to reasonably protect native Hawaiian rights. The Petition Area has been developed as a campus since 1965 and prior to that had been heavily cultivated for decades by sugar plantations. [Pet. page 14]

71. Cultural Surveys Hawai'i, Inc. ("CSH") conducted a Cultural Impact Assessment ("CIA").

72. The CIA included contact with 32 people, 22 respondents, and eight interviews. [H. Hammatt, 3/23/2017, 36:4-5]

73. In the CIA, CSH found that there were no known traditional or customary Native Hawaiian rights now being exercised in the Petition Area. There was no evidence that any stream within the Petition Area was used by any Native Hawaiians for purposes of lo'i or fishing or gathering. There were no Native Hawaiian plants found in the Petition Area. CSH found no evidence that traditional or customary practices were previously exercised in the Petition Area. [H. Hammatt, 3/23/2017, 36:13; 42: 13-17; 43:2; 45: 7]

74. There are no small Land Commission Awards covering any property within the Petition Area. [H. Hammatt, 3/23/2017, 40:10-11; 46:17]

75. An archaeological literature review and field inspection of the Petition Area was also conducted by CSH in August 2010. The nine historic features which were identified were plantation era features including five irrigation ditches, three reservoirs one of

which is abandoned, an abandoned wooden flume and the Puhi Camp Cemetery. Subsequently, in consultation with SHPD, a campus-wide Archaeological Inventory Survey (AIS) encompassing approximately 199 acres was conducted and approved by SHPD/State Department of Land and Natural Resources ("DLNR") on April 15, 2016. [Pet. Ex. 3 and 16; FEA 3:24-29]

76. The Petitioner has no plans to allow or cause any material impacts to the irrigation system within the Petition Area. [H. Hammatt, 3/23/2017, 33:8-11; 34:23-24]

77. Archaeological trenching was performed at Puhi Camp and the only remnant found was a trash pit that included modern trash. [H. Hammatt, 3/23/2017, 32:12-18]

78. Puhi Cemetery is not within the Petition Area. The boundary of the Puhi Cemetery is visible on the surface, but cemeteries are not always wholly within its physical or defined boundaries. [H. Hammatt, 3/23/2017, 34:5-11]

79. Petitioner has no plans to conduct or engage in any activities that would materially impact the Puhi Cemetery area. [H. Hammatt, 3/23/2017, 35:7]

80. Should a buffer be built or a preservation plan be required for Puhi Cemetery, the appropriate time to address these issues would be during development in the vicinity of Puhi Cemetery. [H. Hammatt, 3/23/2017, 48:1]

4. Scenic

81. The Petition Area is located in Puhi, which is characterized largely by agricultural lands. Scenic resources that are visible from the edges of the Petition Area include Haupū (Hoary Head) Mountain Range to the southwest and Kilohana crater and Mount Waialeale to the north. Because of the relatively flat topography on the existing campus, the most significant views can be experienced along the periphery of the KCC campus

as views from the central portion of the KCC campus are often blocked by existing buildings located outside of the KCC campus property. The limited vegetation along the edge of the KCC campus fronting Kaumuali'i Highway helps to make the KCC campus more visible from the highway. [Pet. page 15]

82. No significant impacts on visual resources in the Petition Area are anticipated. The KCC campus is composed of mostly one-story buildings, except for the performing arts center and the One-Stop Center. In the longer term, implementation of major projects is envisioned to be generally one- or two-story structures. The new buildings will adhere to the Design Guidelines in KCC's LRDP, which addresses the overall design direction, materials, and standards for new building projects. [Pet. Ex. 12, page 2]

83. The future expansion of the KCC campus will minimize the intrusion of buildings on the visual environment through architectural design criteria and extensive landscaping. Proposed parking lots will be screened and beautified with consistent landscaping. [Pet. page 16]

5. Flora and Fauna

84. A Biological Survey was conducted by Rana Biological Consulting, Inc. [Pet. Ex. 3, Appendix A]

a. Flora

85. No significant impacts on flora species are anticipated. The KCC campus and the partly developed and undeveloped surrounding lands lack botanical resources that would merit special concern, with some exceptions. In the undeveloped areas, the species present are common to lowland windward Kaua'i, and are nearly all non-native species (except one or two koa trees), and not requiring or deserving of preservation on or within

the Petition Area. A number of unusual trees (including native species) within the former agriculture station at the southwest corner of the KCC campus have been planted over a long period of time and now constitute a botanical resource worth preserving. [Pet. Ex. 3, pages 1-17]

86. No plant species currently listed as endangered, threatened, or proposed for listing under either federal or the State of Hawai'i endangered species programs were recorded as growing naturally on the KCC property. One listed species was observed as an ornamental in a Hawai'i native plant garden. Therefore, it is not expected that proposed expansion of the KCC campus will result in deleterious impacts to any plant species currently listed as endangered, threatened, or proposed for listing under either Federal or State of Hawai'i endangered species statutes. [Pet. Ex. 3, pages 1-17; Pet. Ex. 23]

87. A significant amount of the Petition Area is landscaped or in use by KCC for a Hawaiian cultural program and agricultural test ideas. [R. David 3/23/2017 52:9-14]

b. Fauna

88. No significant impacts on fauna within the Petition Area are anticipated. UHCC is not proposing any major projects at this time. Any improvements would be considered minor in scope. [Pet. Ex. 3, pages 17-24]

89. In the longer term, in implementing major projects shown in the updated KCC LRDP, UHCC will take reasonable steps to minimize or eliminate any adverse impact affecting any rare, threatened, or endangered species of animal or its habitat. Future construction of facilities may require the removal of some of the existing plant species that provide a small habitat for various bird and mammal species that commonly occur in

sub-tropical environments, however, when landscaping is completed, many of these displaced species are anticipated to return. [Pet. Ex. 3, pages 17-24; Pet. Ex. 26, page 3]

90. There is no federally delineated Critical Habitat present within the Petition Area or adjacent to the KCC campus property. Thus, KCC's further development of the Petition Area is not expected to result in material adverse impacts to federally designated Critical Habitat. [Pet. Ex. 3, pages 17-24; Pet. Ex. 26 page 3]

91. The development of proposed projects contained in KCC's LRDP could adversely affect the nocturnally flying Hawaiian Petrels and Newell Shearwaters (*Puffinus newelli*), including increasing the threat that individual birds will be downed after becoming disoriented by new exterior lighting associated with possible night-time construction activity, and structures that are built within the Petition Area. [Pet. Ex. 3, pages 17-24; Pet. Ex. 26 page 3]

92. The development of proposed projects contained in KCC's LRDP could adversely affect Hawaiian hoary bats is during the clearing and grubbing phases of such development. Hawaiian hoary bats roost in both exotic and native woody vegetation and leave their young unattended in "nursery" trees and shrubs when they forage. [Pet. Ex. 3, pages 17-24; Pet. Ex. 26 page 3]

6. Groundwater

93. The Petition Area is located within the Līhu'e Aquifer Sector Area which is comprised of five Aquifer System Areas identified as Kilauea, Anahola, Wailua, Hanamaulu, and Koloa. The Petition Area is located within the Hanamaulu Aquifer System (2010) area which has a total area of 55 square miles and extends from the

Wailua drainage divide in the north to the Haupū Ridge in the south and from the Hanapepe drainage divide in the west to the coast in the east. [Pet. pages 18, 19]

94. The Hanamaulu Aquifer System yields 36 million gallons per day (“mgd”). The aquifer is predominantly composed of high-level aquifers perched on beds of weathered soil, ash, and dense lavas and constrained at high levels by the relatively low permeability of the aquifer. The aquifer experiences annual rainfall of about 83 inches. The aquifer also consists of basal groundwater contained deep below the surface in Koloa lava formations near the coast. [Pet. page 19]

95. No significant impact to groundwater underlying the Petition Area is anticipated. UHCC is not proposing any major projects at this time. [Pet. page 19]

96. In the longer term, implementation of major projects shown in the updated LRDP could potentially have individual and cumulative impacts due to a cumulatively larger scale of land disturbance. By developing and implementing appropriate mitigation measures in design and through best management practices to control soil runoff, however, potential project specific impacts and cumulative impacts on groundwater are not anticipated to be significant. [Pet. page 19]

7. Air and Noise Quality

97. Air quality in the vicinity of the Petition Area is generally good, with prevalent northeasterly tradewinds during most of the year. Within the nearby vicinity of the Petition Area, air quality is primarily affected by vehicular-related emissions in the form of carbon monoxide (“CO”) generated from traffic traveling along Kaumuali‘i Highway and other nearby roadways. Exhaust emissions from construction vehicles are anticipated to have negligible impact on air quality in the vicinity of the Petition Area as the

emissions would be relatively small and readily dissipated. In the long-term, no significant impacts on ambient air quality are anticipated with the development of the projects contained in KCC's LRDP. The ambient air quality levels would be most affected by vehicular emissions in the form of CO generated by project-related traffic, although the elevated concentrations are anticipated to be nominal and will readily dissipate. [Pet. pages 20, 21]

98. Ambient noise in the vicinity of the Petition Area is predominantly attributed to vehicular traffic along Kaumuali'i Highway. In the long-term, no significant impacts on ambient noise levels are anticipated from the development of the projects contained in KCC's LRDP. Ambient noise levels in the vicinity of the Petition Area will increase slightly as a result of the associated minimal increase in vehicular traffic that is expected to be generated by the development of projects contained in KCC's LRDP. Operation of the proposed projects contained in KCC's LRDP will potentially generate slightly increased noise during school hours due to additional students, faculty, and school and service-related activities. [Pet. pages 21, 22]

C. Availability of Public Services and Facilities

1. Schools

99. The State Department of Education (DOE) operates four public schools in the Līhu'e area. Public school students in grades K to 5 attend King Kaumuali'i Elementary School and Elsie H. Wilcox Elementary School. King Kaumuali'i Elementary School is located at 4380 Hanamaulu Road, approximately 3.5 miles northeast from the project site. Elsie H. Wilcox Elementary School is located at 4319 Hardy Street, approximately 2.15 miles east

from the project site. Public school students in grades 6 to 8 attend Chiefess Kamakahalei Middle School which is located at 4431 Nuhou Street, approximately 0.5 miles southeast from the project site. Public school students in grades 9 to 12 attend Kaua'i High School, which is located at 3577 Lala Road, approximately 2.4 miles southeast of the project site. The public library serving the Līhu'e area is the Līhu'e Public Library and is part of the State of Hawai'i Library System. The Līhu'e Public Library is located at 4344 Hardy Street. [Pet. page 22]

100. The Island School is located mauka and adjacent to KCC. It is Kaua'i's largest private, non-sectarian, independent school accommodating Grades Pre-Kindergarten (Pre-K) through 12, and has a current enrollment of approximately 370 students. [Pet. page 22]

2. Wastewater

101. Existing campus sewer system is connected to an off-site Puhi Wastewater Treatment Plant operated by Grove Farm since April 2001. [Pet. page 23]

3. Solid Waste

102. Solid waste disposal is provided by a private waste disposal company. Solid waste is picked up twice a week and taken to Kekaha Landfill for disposal. A recycling bin is also picked up once a week and taken to Nawiliwili for recycling. [Pet. page 23]

4. Water

103. Water service for the KCC campus is provided by the County Department of Water's system. There are two water tanks with pipelines running

through the KCC campus to Kaumuali'i Highway. A water tank with an overflow elevation of 510 feet and a supply well are located to the northwest of the campus and a second water tank with an overflow elevation of 393 feet, with a pump station is located within the exterior boundary of the project site. KCC uses a three-inch water meter from the County Department of Water to service its facilities. [Pet. page 23]

5. Recreational Facilities

104. Park facilities on Kaua'i are operated by the State and the County. The State's Department of Land and Natural Resources Division of State Parks operates nine parks that offer outdoor recreation and heritage resources. The nearest State park to the project site is Ahukini State Park, which is located at the end of Ahukini Road in Līhu'e, approximately 4.25 miles northeast of the project site. Ahukini State Park includes Ahukini Pier, a concrete pier situated at the mouth of Hanamaulu Stream, which is offers views of Hanamaulu Bay. Ahukini Pier is also an excellent place for pole fishing and netting. The County of Kaua'i's Department of Parks & Recreation operates 17 parks in the Līhu'e area including 13 neighborhood parks, three beach parks and one stadium. The County also operates eight neighborhood centers that offer recreational and educational programs for the communities of Kaua'i. The Līhu'e Neighborhood Center is located 3353 Eono Street, approximately two miles northeast of the project site. [Pet. pages 23, 24]

6. Traffic & Transportation

105. A Traffic Impact Report for the proposed project was conducted by Wilson Okamoto Corporation in December 2010. Because KCC is not proposing any major

projects at this time, the Traffic Impact Report ("TIR") was prepared to identify and assess the traffic impacts based on projected student enrollment. The TIR involved: the evaluation of existing roadway and traffic operations in the vicinity; analysis of future roadway and traffic conditions without the proposed project; analysis and development of trip generation characteristics for the proposed project; superimposing site-generated traffic over future traffic conditions; identification and analysis of traffic impacts resulting from the proposed project; and recommendations of improvements, if appropriate, that would mitigate the traffic impacts resulting from the proposed project. [Pet. page 24]

106. The primary access for KCC is provided via an access road at the intersection of Kaumuali'i Highway and Puhi Road. In the vicinity of the community college, Kaumuali'i Highway is a predominantly two-lane, two-way roadway generally oriented in the east-west direction. At the signalized intersection with Puhi Road, both approaches of Kaumuali'i Highway have exclusive turning lanes and one through lane. Puhi Road is a predominantly two-lane, two-way roadway generally oriented in the north-south direction. At the intersection of Kaumuali'i Highway, the northbound approach of Puhi Road has a shared left-turn and through lane, and an exclusive right-turn lane. The southbound approach of the intersection is comprised of the access road for the community college which has a shared left-turn and through lane, and an exclusive right-turn lane. An additional westbound departure lane is provided along Kaumuali'i Highway at this intersection to allow southbound right-turning vehicles to proceed freely through the intersection. [Pet. pages 24, 25]

107. In 2012, the State of Hawai'i Department of Transportation ("DOT") completed the widening of Kaumuali'i Highway from a two-lane undivided highway to a four-lane divided highway between Anonui Street and the Līhu'e Mill Bridge. At the time that the TIR was prepared, on-going widening of Kaumuali'i Highway from two to four lanes had not been completed. Hence the TIR is based on conditions at the intersections of Kaumuali'i Highway with Nuhou and Puhi Roads and Nani Street at the time it was conducted. The highway now has two travel lanes in each direction with auxiliary lanes provided at the intersections along this segment. [Pet. page 25]

108. The cumulative traffic volumes consist of site-generated traffic superimposed over Year 2020 projected traffic demands. The updated LRDP entails the development of new facilities that will allow the expansion of existing programs at the college. In conjunction with the expansion of these programs, enrollment at KCC is expected to increase. Enrollment projections published by the University of Hawai'i for KCC currently extend only to 2015. However, in coordination with KCC and utilizing standard linear regression techniques, the enrollment projections were extended to the Year 2020 when the full time equivalent course enrollment at KCC is expected to increase from 864 students to 1,038 students. [Pet. page 25]

109. Updates to a traffic report are usually triggered by enrollment increases. A substantial increase in KCC's enrollment should be a trigger for an updated traffic report. An increase of about 400 FTE students should be a trigger for an updated traffic report. [P. Pascua, 3/23/2017 64:8-12; 66: 13-16; 68:23-25; 69:1]

7. Electrical and Communications

110. The existing a primary metered 12.47 KV system is provided by Kaua'i Island Utility Cooperative (KIUC). KIUC serves the campus from overhead utility lines along Kaumuali'i Highway. This service then runs underground to the Electrical Switchgear Building that houses the primary meter. Each building or group of buildings on the campus is linked to the primary meter via an underground conduit system, has its own pad mounted transformer that converts the 12.47 KV service to an appropriate voltage system. Telephone service is provided by Hawai'i and Telecom which is routed along Kaumuali'i Highway. The main communications switchboard for the telephone system is located in the One -Stop Center. [Pet. pages 25, 26]

8. Police.

111. Police protection is provided by the Kaua'i Police Department, which has stations located in Līhu'e, Princeville, Kapa'a, and Waimea. The Kaua'i Police Department is divided into three Patrol Service Bureaus, the Hanalei District in the north, the Līhu'e District in the southeast, and the Waimea District in the southwest. The Līhu'e District provides service for the Kapa'a and Līhu'e communities, including the areas of Puhi, Nawiliwili, Hanamaulu, and Wailua. The Līhu'e District's office is located on the first floor of the Kaua'i Police Department's Headquarters in Līhu'e approximately 2.5 miles east of the project site. [Pet. page 26]

9. Fire

112. Fire protection services are provided by the Kaua'i County Fire Department, which is located in Līhu'e, approximately 1.7 miles east of the project site. The Kaua'i County Fire Department operates eight fire stations throughout the island: located in

Hanalei, Kapa'a, Līhu'e, Koloa, Kaiakea, Kalaheo, Hanapepe, and Waimea. The project site will be serviced by the Līhu'e Fire Station which is located approximately two miles east of the project site. [Pet. page 26]

10. Health Care Services

113. Wilcox Memorial Hospital and Kaua'i Medical Clinic are located in Līhu'e approximately 2.5 miles from the project site. This facility provides comprehensive inpatient, outpatient and same-day services for Kaua'i residents and visitors. Various medical offices are also located in the Līhu'e area to serve the residents of the area. [Pet. page 26]

114. Implementation of larger projects shown in the updated LRDP could individually and cumulatively increase demand for police and fire protection and medical services. It would likely not represent a significant increase relative to the overall regional demand. [Pet. page 27]

115. The proposed expansion of the KCC campus is not expected to affect student enrollment at public school facilities in the area. Therefore, it will not hinder the educational services provided to residents in the area. [Pet. page 27]

D. Location of the Proposed Use or Development in Relation to Adjacent Land Use

Districts

116. The Petition Area is currently surrounded on the west, north and southwest by lands in the State Agricultural District. To the south of the area are lands primarily in the State Urban District. Currently, on the north and northeast sides of the project area is Island School, and to the east is the Kilohana Plantation; both are still in the Agricultural District. [Pet. Ex. 8, page 2]

E. Economic Impacts of the Proposed Reclassification

117. HAR 15-15-50 (c)(13) states *"Economic impacts of the proposed reclassification, use, or development including, without limitation, the provision of any impact on employment opportunities, and the potential impact to agricultural production in the vicinity of the subject property, and in the county and state."* [Pet. pages 27, 28]

118. The proposed project will generally have positive social and economic impacts in the region. [Pet. page 28]

119. In the short-term, the project will confer some positive benefits in the local area. Future projects will add construction jobs in the vicinity, thereby stimulating that sector of the economy. Indirect economic impacts may include benefits to local retail businesses resulting from construction activities. Construction activities associated with the proposed project will create some adverse impacts such as minor disruptions of traffic, potentially affecting motorists, residents and businesses near the project site, and increased noise nuisances in the immediate vicinity of the project site. [Pet. page 28]

120. In the longer term, implementation of the major projects shown in the updated LRDP would individually and cumulatively confer positive benefits in the local areas, as discussed above. Additionally, an increased student and faculty population will further stimulate the housing and retail economy. [Pet. page 28]

F. Assessment of Need for the Reclassification

121. The UHCC KCC campus is presently designated as Agricultural District on the State Land Use District boundary map, and Agricultural District under the County's zoning map. As a result, UHCC proposes to redesignate the campus property to the state Land Use Urban District, a more appropriate land use classification. Development of the

campus within an existing approximately 99-acre parcel (TMK 3-4-07:03) was permitted through a Special Permit granted by the State Land Use Commission on April 6, 1973. The campus is also comprised of an additional approximately 100 acres in three parcels identified as TMK 3-4-07:01, 02, and 06. While most of this land is undeveloped, the approximately 40-acre parcel identified as TMK 3-4-07:02 contains two Hawaiian Language Immersion schools, including the Punana Leo o Kauai Pre-School and the Kawaikini New Century Public Charter School. The Punana Leo o Kauai Pre-School occupies school facilities that were built before the KCC campus was established. The Kawaikini New Century Public Charter School is a K-12 school that occupies existing buildings but was also granted a Special Permit, Use Permit and Class IV Zoning Permit by the County of Kauai on May 26, 2009. [Pet. pages 28, 29]

122. Reclassification of the Petition Area from the State Land Use Agricultural District to the Urban District is consistent with County's General Plan designation of the area as "Urban Center" . [Pet. Ex. 10, page 2]

123. According to the County of Kaua'i General Plan (2000), the Līhu'e Planning District Land Use Map places a "Public Facilities" symbol for a community college at the KCC campus. The proposed project is consistent with the "community college" public facilities symbol. [Pet. page 29]

124. The campus is also designated by the county as Urban Center. The proposed project is consistent with the Urban Center designation, which provides for centers of government, commerce and transportation that serve the entire county or a large region. Uses within the Urban Center include shopping centers, government offices, churches

and other institutions, office complexes and industrial facilities. The petition area follows the County's GP "urban center" designation. [Pet. page 29]

125. The State Land Use Law is intended to preserve, protect, and encourage the development of lands in the State for uses which are best suited to the public health and welfare of Hawai'i's people. The Hawai'i Land Use Law in Chapter 205, Hawai'i Revised Statutes (HRS), classifies all land in the State into four land use districts: Urban, Agricultural, Conservation, and Rural. [Pet. page 30]

126. The project site lies within the State Land Use Agricultural District (See Exhibit "8"). Development is permitted through a Special Permit granted by the State Land Use Commission on April 6, 1973. Further expansion of the campus will require either a Special Permit or an amendment to the State Land use District boundaries from "Agriculture" to "Urban" depending on the size and type of development. [Pet. page 30]

127. The KCC re-designation to Urban District proposes to amend the State Land Use Boundary to re-designate approximately 148.37 acres of the KCC campus from Agricultural District to Urban District. Re-designation of the KCC campus would comply with land-use jurisdiction of the County, which would regulate uses through its zoning code. [Pet. page 30]

G. Assessment of the Conformity to State Planning Policies

128. The Hawai'i State Plan (Chapter 226, Hawai'i Revised Statutes, as amended) provides the overall theme, goals, objectives, policies and priority guidelines for statewide planning. The Hawai'i State Plan also directs the appropriate State agencies to prepare functional plans for their respective program areas. The proposed project supports and is consistent with the following State Plan objectives: [Pet. pages 30, 31]

Section 226-11 Objectives and policies for the physical environment—land-based, shoreline, and marine resources.

(b)(3) Take into account the physical attributes of areas when planning and designing activities and facilities.

(b)(8) Pursue compatible relationships among activities, facilities, and natural resources.

Sec. 226-21 Objectives and policies for socio-cultural advancement – education .

(a) Planning for the State's socio-cultural advancement with regard to education shall be directed towards achievement to the objective of the provision of a variety of educational opportunities to enable individuals to fulfill their needs, responsibilities, and aspirations.

(b)(2) Ensure the provision of adequate and accessible educational services and facilities that are designed to meet individual and community needs;

(b)(5) Provide higher educational opportunities that enable Hawaii's people to adapt to changing employment demands;

(b)(6) Emphasize equality in educational programs in Hawaii's institutions to promote academic excellence; and

(b)(9) Support research programs and activities that enhance the education programs of the State.

129. No significant impacts on geology and topography in the project area are anticipated. UHCC is not proposing any major projects at this time. Any improvements would be minor in scope. Therefore, no short or long-term impacts related to such minor improvements are anticipated. Any land disturbing activities would not result in significant impacts on the geology or topography of the petition area. [Pet. page 31]

130. In the longer term, implementation of major projects shown in the updated LRDP could potentially have individual and cumulative impacts on the topography – particularly in regard to drainage improvements. By developing and implementing appropriate mitigation measures in design, however, individual projects and cumulative impacts on topography are not anticipated to be significant. As more definitive plans for these major projects are developed, they would be subject to Chapter 343, HRS, and preparation of an environmental assessment. At that time, more specific information on appropriate mitigation measures could be provided. [Pet. page 31]

131. Potential impacts on drainage patterns resulting from alteration of the topography within the KCC campus will be addressed through appropriate engineering design to prevent excessive surface flows or ponding. Construction activities would inevitably involve land-disturbing activities that may result in some soil erosion. Various mitigation measures will be incorporated in the project's design to minimize potential short-term erosion impacts during construction activities. [Pet. page 32]

132. The proposed future expansion will extend out from the main campus. Areas along the streams and drainage ways are proposed for diversified agriculture and education. In the event that future development occurs near these sensitive resources, impacts on aquatic habitat and native stream species will be evaluated. Future development of the campus will implement best management practices, where appropriate. [Pet. page 32]

133. A full range of erosion and sediment controls will be instituted during grading and excavation operations of the project, and in compliance with the County's Grading Ordinance and the State Department of Health's (DOH) National Pollutant Discharge Elimination System (NPDES) Permit for Storm Water Associated with Construction Activities. The future development of individual facilities or improvements to existing facilities may or may not involve land disturbances exceeding 1.0 acre. For those that exceed the 1.0 acre threshold, a NPDES Permit for Storm Water Associated with Construction Activities will be required prior to construction. Moreover, if hydrotesting or dewatering is required, applications for separate NPDES permits will be submitted. Mitigation measures will be instituted following site-specific assessments, incorporating structural and non-structural Best Management Practices (BMPs), as deemed appropriate.

All discharges related to the project construction or operation activities will comply with the State's Water Quality Standards. [Pet. pages 32, 33]

Section 226-12 Objectives and policies for the physical environment—scenic, natural beauty, and historic resources.

(b)(3) Promote the preservation of views and vistas to enhance the visual and aesthetic enjoyment of mountains, ocean, scenic landscapes, and other natural features.

(b)(4) Protect those special areas, structures, and elements that are an integral and functional part of Hawai'i's ethnic and cultural heritage.

(b)(5) Encourage the design of developments and activities that complement the natural beauty of the islands.

134. No significant visual or aesthetic impacts are anticipated as a result of the project. Existing public viewpoints of the project include Haupu (Hoary Head) Mountain Range to the southwest and Kilohana Crater and Mount Waialeale to the north. [Pet. page 33]

135. No significant impacts on visual resources in the project area are anticipated. The campus is composed of mostly one-story buildings, except for the performing arts center and one stop center. In the longer term, implementation of major projects shown in the updated LRDP will individually and cumulatively affect the visual characteristics of the campus. The new buildings are envisioned to be generally one- or two-story structures. The new buildings will adhere to the Design Guidelines in KCC's LRDP, which addresses the overall design direction, materials, and standards for new building projects. [Pet. page 33]

136. The future expansion of the campus includes additional parking lots to accommodate student population. The proposed parking lots will be screened and beautified with consistent landscaping. [Pet. page 34]

137. The future expansion of the campus will minimize the intrusion of buildings on the visual environment through architectural design criteria and extensive landscaping. [Pet. page 34]

138. As more definite plans for major projects are developed, they would be subject to Chapter 343, HRS and require preparation of an environmental assessment. At that time, more specific information on appropriate mitigation measures could be provided.

Pursuant to consultation with SHPD/DLNR, a campus wide Archaeological Inventory Survey (AIS) was conducted and approved by SHPD/DLNR (see Exhibit "16"). This AIS investigation fulfills the requirements of HAR §13-276 and was conducted to identify, document, and assess significance of any historic properties. This document is intended to support the proposed project's historic preservation review under Hawai'i Revised Statutes (HRS) §6E-8 and HAR §13-275, as well as the amendment of land use boundaries as discussed in this petition. [Pet. pages 34, 35]

Section 226-21 Objectives and policies for socio-cultural advancement—education.

(b)(2) Ensure the provision of adequate and accessible educational services and facilities that are designed to meet individual and community needs.

(b)(5) Provide higher educational opportunities that enable Hawai'i's people to adapt to changing employment demands.

139. Kaua'i Community College is a post-secondary institution which provides an expansive continuum of opportunities in academic, technical, vocational and cultural programs. KCC provides education/training which contributes to the development of life-long learners who think critically, appreciate diversity, and lead successful, independent, socially responsible, and personally fulfilling lives. Development of the KCC campus will further the College's mission of providing education/training for students going on to further education and into the workforce. [Pet. page 35]

140. With appropriate mitigation, the reclassification of the Petition area to Urban is generally consistent with the goals, objectives and policies of the state plan. [R.

Funakoshi 3/23/2017 118:20-22.

H. Assessment of Conformity to Objectives of the Coastal Zone Management Program,
Chapter 205A, HRS

141. The State's Coastal Zone Management ("CZM") policies and regulations are prescribed under Chapter 205A, Hawai'i Revised Statutes. The coastal zone management area is defined to include all lands of the State and the area extending seaward from the shoreline to the limit of the State's management authority. As a result, the project is within the CZM area and subject to being consistent with the CZM program objectives and policies. The Hawai'i Coastal Zone Management Program focuses on these policy objectives: [Pet. pages 35-40]

1. Recreational Resources. To provide coastal recreational opportunities accessible to the public and protect coastal resources uniquely suited for recreational activities that cannot be provided elsewhere.

The project will not affect access to the shoreline as it is not a shoreline property, nor is it in the vicinity of the island's shoreline. [Pet. page 35]

2. Historic Resources. To protect, preserve, and where desirable, restore those natural and manmade historic and prehistoric resources in the coastal zone management area that are significant in Hawai'i and American history and culture.

UHCC is not proposing any major projects at this time. Therefore, no significant impact on archaeological and historical resources is anticipated as a result of the project. [Pet. Page 36]

In the longer term, implementation of major projects shown in the updated LRDP could individually and cumulatively impact the historic features identified during survey. Specifically, some projects may have an adverse effect on historic features related to plantation era infrastructure. While no additional work appears to be necessary for the majority of features, consultation with SHPD/DLNR is recommended regarding the tentative evaluations of these features and to determine what, if any, mitigation may be

appropriate. Since KCC is not proposing any major projects at this time additional archaeological studies would be conducted at the appropriate time. SHPD/DLNR recommends an archaeological inventory survey specific to the future proposed plans to provide additional documentation of the nine plantation infrastructure features. [Pet. pages 35, 36]

3. *Scenic and Open Space Resources. To protect, preserve, and where desirable, restore or improve the quality of coastal scenic and open space resources.*

The project will be developed to ensure visual compatibility with the surrounding environment. The project is not located along the shoreline and is not anticipated to negatively impact coastal and scenic and open space resources. [Pet. page 36]

4. *Coastal Ecosystems. To protect valuable coastal ecosystems, including reefs, from disruption and to minimize adverse impacts on all coastal ecosystems.*

The project site is not located along the shoreline and will not impact coastal ecosystems. [Pet. page 36]

5. *Economic Uses. To provide public or private facilities and improvements important to the State's economy in suitable locations; and ensure that coastal dependent development such as harbors and ports, energy facilities, and visitor facilities are located, designed, and constructed to minimize adverse impacts in the coastal zone area.*

The project would allow for KCC to expand its facilities while providing appropriate educational opportunities. The project is not a coastal dependent development. [Pet. page 37]

6. *Coastal Hazards. To reduce hazard to life and property from tsunami, storm waves, stream flooding, erosion, subsidence, and pollution.*

The project is not located in a tsunami, erosion or subsidence area. According to the Flood Insurance Rate Map (FIRM) (Community Panel Number 150020307E, Effective Date: September 16, 2005, and Community Panel Number 150020309E, Effective Date: September 16, 2005) prepared by the Federal Emergency Management Agency (FEMA), the project site is located within Zone "X", defined as "Areas determined to be outside the 0.2% annual chance floodplain" as shown in Figure 3-6 Flood Zone Map of the FEA. The project site is located outside the tsunami inundation zone.

According to the UH Multi-Hazard Mitigation Plan (2009), KCC is located in an area where potential flooding is primarily the result of runoff and overland flows and is relatively less prone to extensive flood damage. The three major streams that have recorded floods in the Līhu'e area are Hanamaulu, Nawiliwili, and Huleia Streams.

The nearest coastal water offshore of the project site is Nawiliwili Bay which is located approximately 3.15 miles to the east. The State DOH classifies this coastal water as Class A. The objective of this class is that "their use for recreational purposes and aesthetic enjoyment be protected. These waters shall not act as receiving waters for any discharge which has not received the best degree of treatment or control compatible with the criteria established for this class." (Water Quality Standards, Title 11, Chapter 54, Hawaii Administrative Rules). The natural drainage course for the project site is Puali Stream, which is designated Class 2 Inland.

No significant impacts to surface waters located near or within the project site are anticipated. UHCC is not proposing any major projects at this time. Any improvements would be minor in scope. Therefore, no short or long-term impacts related to such minor improvements are anticipated. Improvements involving land disturbing activities that may impact surface waters will incorporate mitigation measures to minimize potential impact.

In the longer term, implementation of major projects shown in the updated LRDP could potentially have individual and cumulative impacts on surface waters due to a cumulatively larger scale of land disturbance. Construction activities with future larger projects, however, will not alter existing streams. Potential impacts to the quality of surface water in the project area during excavation and grading activities associated with

construction will be regulated by the County grading ordinance and the NPDES permit administered by the DOH. Construction activities would inevitably involve land-disturbing activities that may result in some soil erosion. Various mitigative measures will be incorporated in the project's design to minimize potential short-term erosion impacts during construction activities.

A full range of erosion and sediment controls will be instituted during grading and excavation operations of the project, and in compliance with the County's Grading Ordinance and the State Department of Health's (DOH) National Pollutant Discharge Elimination System (NPDES) Permit for Storm Water Associated with Construction Activities. The future development of individual facilities or improvements to existing facilities may or may not involve land disturbances exceeding 1.0 acre. For those that exceed the 1.0 acre threshold, a NPDES Permit for Storm Water Associated with Construction Activities will be required prior to construction. Moreover, if hydrotesting or dewatering is required, separate NPDES will be submitted. Mitigation measures will be instituted following site-specific assessments, incorporating structural and non-structural Best Management Practices (BMPs), as deemed appropriate. All discharges related to the project construction or operation activities will comply with the State's Water Quality Standards.

UHCC is not proposing any major project near or along Puali Stream. Any improvements would be minor in scope and most likely occur within the campus core. Since the current plan lacks definitive detail required to address concerns such as drainage and impacts to aquatic resources, it is anticipated that subsequent Environmental Assessment (EA) or Environmental Impact Statement (EIS) will need to be prepared

pursuant to Chapter 343, HRS for the development of individual projects when more concrete plans for such projects become available. [Pet. pages, 37, 38, 39]

7. *Managing Development. To improve the development review process, communication, and public participation in the management of coastal resources and hazards.*

Opportunities for public participation in the management of project related coastal resources and hazards are provided through the Environmental Assessment public comment process. [Pet. page 39]

8. *Public Participation. To stimulate public awareness, education, and participation in coastal management; and maintain a public advisory body to identify coastal management problems and provide policy advice and assistance to the CZM program.*

Opportunities for public participation are provided through the Environmental Assessment public comment process. [Pet. page 40]

9. *Beach Protection. To protect beaches for public use and recreation; and locate new structures inland from the shoreline setback to conserve open space and to minimize loss of improvements due to erosion.*

KCC is located approximately 2.5 miles from the ocean at an average elevation of 300 feet above mean sea level (UH Multi Hazard Plan, 2009). [Pet. page 40]

10. *Marine Resources. To implement the State's ocean resources management plan.*

The project is not located on or near the shoreline and is not anticipated to significantly impact marine resources. [Pet. page 40]

142. The Petition generally conforms to the state CZM objectives and policies. [R. Funakoshi 3/23/2017 119: 7-9]

I. Assessment of Conformity to the Reclassification Applicable County Development Plans Policies

143. County of Kaua'i General Plan. Relevant sections of the General Plan and their consistency with the project are as follows: [Pet. pages 40-45]

General Plan Policies: The proposed project is consistent with the following policies:

3.0 *Caring For the Land, Water And Culture*

3.2 Scenic Views

3.2.1 Policy

(a) *In developing public facilities and administering land use regulations, the County shall seek to preserve scenic resources and public views. Public views are those from a public place, such as a park, highway, or along the shoreline.*

(b) *The County shall observe the following general principles in maintaining scenic resources:*

- (1) *Preserve public views that exhibit a high degree of intactness or vividness.*
 - *Intactness" refers to the integrity of visual patterns and the extent to which the landscape is free from structures or other visually encroaching features.*
 - *Vividness" relates to the memorability of a view, caused by contrasting landforms which create striking and distinctive patterns. (Examples are the silhouette of Mt. Haupu against the horizon, views of Nounou Mountain from the valley and the coast, and the view of Hanalei Valley from the overlook.)*
- (2) *Preserve the scenic qualities of mountains, hills and other elevated landforms, qualities such as the silhouette against the horizon and the mass and shape of the landform.*
- (3) *Preserve the scenic qualities of lowland/open spaces features, such as the shoreline, the edge of a coastal bluff, a marsh, a fishpond, or a historic or cultural property. Structures should not impede or intrude upon public views of the feature and should not alter the character of the immediate area around the land feature, historic or cultural property.*

UHCC is not proposing any major projects at this time. Any improvements would be minor in scope. Therefore, no significant visual or aesthetic impacts are anticipated as a result of the project. Existing public viewpoints of the project include Haupu (Hoary Head) Mountain Range to the southwest and Kilohana Crater and Mount Waialeale to the north. The Heritage Resources Map for Līhu'e Planning District designates portions of Kaumuali'i Highway located to the east and west of the project site as a Scenic Roadway Corridor. Scenic Roadway Corridors conserve open space, scenic features, and views within and along Kaua'i's major roadways and lands visible from these roadways to preserve Kaua'i's rural character.

The campus is composed of mostly one-story buildings, except for the performing arts center and One-Stop Center. In the longer term, implementation of major projects shown in the updated LRDP will individually and cumulatively affect the visual characteristic of the campus. New buildings are envisioned to be generally one- or two-story structures. New buildings will adhere to the Design Guidelines in KCC's LRDP, which addresses the overall design direction, materials, and standards for new building projects. [Pet. pages 41, 42]

3.4 Watersheds, Streams and Water Quality

3.4.2 Policy

(a) Site Development. Plan, design and develop sites to:

- (1) Protect areas that provide important water quality benefits – i.e., wetlands;*
- (2) Protect areas that are particularly susceptible to erosion and sediment loss – i.e., stream banks;*

UHCC is not proposing any major projects at this time. Any improvements would be minor in scope. Therefore, no short or long-term impacts related to such minor improvements are anticipated. Any land disturbing activities would not result in significant impacts on geology, topography, and soils of the petition area.

In the longer term, implementation of major projects shown in the updated LRDP could potentially have individual and cumulative impacts on topography – particularly in regard to drainage improvements. By developing and implementing appropriate mitigation measures in design, however, individual projects and cumulative impacts on topography are not anticipated to be significant. The proposed project will result in some alteration of the topography within the project site; however, any impacts on drainage patterns will be addressed through appropriate engineering design to prevent excessive surface flows or ponding.

Construction activities would inevitably involve land-disturbing activities that may result in some soil erosion. Various mitigation measures will be incorporated in the project's design to minimize potential short-term erosion impacts during construction activities.

A full range of erosion and sediment controls will be instituted during grading and excavation operations of the project, and in compliance with the County's Grading Ordinance and the State Department of Health's ("DOH") NPDES Permit for Storm Water Associated with Construction Activities. The future development of individual facilities or improvements to existing may or may not involve land disturbances exceeding 1.0 acre. For those that exceed the 1.0 acre threshold, an NPDES Permit for Storm Water Associated with Construction Activities will be required prior to construction. Moreover, if hydrotesting or dewatering is required, separate NDPEs will be submitted. Mitigation measures will be instituted following site-specific assessments, incorporating structural and non-structural Best Management Practices (BMPs), as deemed appropriate. All discharges related to the project construction or operation activities will comply with the State's Water Quality Standards. [Pet. pages 42, 43, 44]

6.0 Enhancing Towns & Communities and Providing for Growth

6.3 Līhu'e

6.3.4.2 Policies

(a) Regional Growth and Public Facilities

(1) New growth shall be concentrated in the Puhi-Līhu'e-Hanamaulu urban center.

The proposed project is situated within the Puhi-Līhu'e-Hanamaulu urban center. UHCC is not proposing any major projects at this time. Any improvements would be minor in scope, as discussed in Section 2.5 of the FEA (See Exhibit "3"). In the short-term, development of the KCC campus will have positive benefits in the local area by

adding construction jobs in the vicinity, thereby stimulating that sector of the economy. Indirect economic impacts may include benefits to local retail businesses resulting from construction activities. In the long-term, implementation of major projects shown in the updated LRDP would individually and cumulatively confer positive benefits in the local area. KCC will provide academic, technical, vocational and cultural programs to a population of 3,000 FTE students. [Pet. pages 44, 45]

8.0 Improving Houses, Parks and Schools

8.3 Education

8.3.1 Policy

(a) Strive for a strong education system which provides Kaua'i's children, teens, college students, and adults with the knowledge and skills needed to obtain a well-paying job on Kaua'i.

(d) Consider schools as community resources for learning about specialized environmental, cultural, and historic subjects related to Kaua'i and each of its communities. Schools should also assume important community functions such as recreational centers, meeting facilities, and emergency shelters.

KCC is a post-secondary institution providing an expansive continuum of opportunities in academic, technical, vocational and cultural programs. The KCC re-designation to Urban District project proposes to amend the State Land Use Boundary to re-designate a portion of (approximately 148.37 acres) the KCC campus from Agricultural District to Urban District. Re-designation of the KCC campus would convey land-use jurisdiction to the County, which would regulate uses through its zoning code. Development of the KCC campus would generally follow land use allocations recommended by the Ultimate Site Plan presented in the KCC Long Range Development Plan. Additional facilities will further the College's mission of providing education/training for students going on to further education and into the workforce.

In the long-term, implementation of major projects shown in the updated LRDP would individually and cumulatively confer positive benefits in the local area. [Pet. pages 44, 45]

144. General Plan Land-Use Map Designation. The Land-Use Map of the County of Kaua'i General Plan Līhu'e Planning District designates the project site as Urban Center.

The County of Kaua'i policies for Urban Center Designations are as follows:

- (a) Lands included within the Urban Center designation shall be centers of government, commerce and transportation that serve the entire county or a large region. Uses may include shopping centers, government offices, churches and other institutions, office complexes, and industrial facilities. Residential or resort uses may also be located within the Urban Center designation, where compatible.*
- (b) Urban Center areas are typically served by wastewater collection and treatment facilities and major roads. Urban Center lands may be zoned for any type of use, including General Commercial, General Industrial, Resort, and Residential.*

According to the County of Kaua'i General Plan (2000), the Līhu'e Planning District Land Use Map places a "Public Facilities" symbol for a community college at the KCC campus. The proposed project is consistent with the "community college" public facilities symbol. This state land use petition seeks to be consistent with the Kauai General Plan

The campus is also designated Urban Center. The proposed project is consistent with the Urban Center designation, which provides for centers of government, commerce and transportation that serve the entire county or a large region. Uses within the Urban Center include shopping centers, government offices, churches and other institutions, office complexes, and industrial facilities. As mentioned previously, since the publication of the Draft EA, the State Land Use Boundary Amendment Petition Area has been reduced from 199 acres to 148.37 acres. The petition area follows the County's GP "urban center" designation. In the future, if UHCC decides to develop the northern

portion of the campus, another SLUB amendment and a GP amendment would be required. [Pet. pages 45, 46]

145. The Petition area lies entirely within the Urban Edge Boundary, a county regional spatial policy which designates where growth should be directed. [M. Valenciano 3/23/2017 97:16-22; 98:18-19.

146. Līhu'e Development Plan. The County's Līhu'e Development Plan, adopted by County ordinance in 1976, provides physical, social and economic measures which relate specifically to these communities. The Līhu'e Development Plan land use designation for the project site is "Public". A small portion of TMK 3-4-07:03 and the remaining property (TMKs 3-4-07:02, 01 and 06) are designated as "Open" and "Agriculture". The plan recommends revising the present zoning to accommodate the KCC by changing the zoning from an agriculture zone to an R-1 Special Treatment-Public zone. [Pet. pages 46, 47]

147. County Comprehensive Zoning Ordinance. The Kaua'i County Comprehensive Zoning Ordinance ("CZO") sets forth standards for land development and construction of buildings and other structures in the County. The CZO establishes land use districts and delineates the respective types of permitted uses and development that can take place in those districts.

The zoning designations for the project site are "Agricultural District" and "Open District". UHCC may apply for a Zone Change after further consultation with the County Planning Department. [Pet. page 47]

148. Special Management Area. The Coastal Zone Management Act contains the general objectives and policies upon which all counties within the State have structured

specific legislation which created Special Management Areas (SMA). Any development within the Special Management Area boundary requires a SMA Use permit which is administered by the County of Kaua'i. The KCC campus is not located within the County's SMA. [Pet., page 47; M. Valenciano 3/23/2017 99:10]

The proposed Project is in conformity with the County of Kaua'i General Plan, which designates the Petition Area as "Urban Center", and the Līhu'e Development Plan land use designation for the project site is "Public" and therefore consistent with the County of Kaua'i development plans and policies. [Pet. page 47]

J. Assessment of Need for Incremental Reclassification

149. The UHCC is not proposing any major projects at this time. The preferred site plan for KCC's Updated LRDP updates the KCC's preceding 1999 LRDP. The updated plan is not based on a planning process such as that used in preparing the 1999 LRDP, but on the status of projects proposed in the 1999 LRDP. KCC does not envision implementing any major projects such as the recently completed One Stop Center and bookstore within the next 10 years. [Pet. pages 47, 48]

K. Assessment of Impacts on Hawai'i and Customary and Traditional Rights

150. Hawai'i State Constitution: Article XII, TRADITIONAL AND CUSTOMARY RIGHTS,

"Section 7. The State reaffirms and shall protect all rights, customarily and traditionally exercised for subsistence, cultural and religious purposes and possessed by ahupua'a tenants who are descendants of native Hawai'i and who inhabited the Hawai'i Islands prior to 1778, subject to the right of the State to regulate such rights."

As described in the above Section 13 (c), a Cultural Impact Assessment was prepared for the Project to determine potential impacts of the Project on Native Hawai'i

and customary and traditional rights under Article XII, Section 7, of the Hawai'i State Constitution. A copy of the report is included in the FEA.

Petitioner is aware of and sensitive to the existence and practice of native Hawaiian customary and traditional rights. Based on research into the history of the area, there are no known traditional gathering activities or cultural practices affecting the Petition area. [Pet. page 48]

III. RULINGS ON PROPOSED FINDINGS OF FACT

Any of the findings of fact submitted by Petitioner or other parties not already ruled upon by the Commission by adoption herein, or rejected by clearly contrary findings of fact herein, are hereby denied and rejected.

Any conclusion of law herein improperly designated as a finding of fact should be deemed or construed as a conclusion of law; any finding of fact herein improperly designated as a conclusion of law should be deemed or construed as a finding of fact.

IV. CONCLUSIONS OF LAW

1. Pursuant to HRS Chapter 205 and the LUC Rules (see HAR Chapter 15-15), and upon consideration of the Commission decision-making criteria under HRS § 205-17, the Commission finds upon the clear preponderance of the evidence that the reclassification of the Petition Area, consisting of approximately 148.37 acres of land, situated in Puhi, Island of Kauai, State of Hawai'i, Tax Map Key Nos. (4) 3-4-07:01, 02, and 03 to the State Land Use Urban District, and subject to the conditions stated in the Order below, conforms to the standards for establishing the boundaries of the State Land Use Urban District, is reasonable, not violative of HRS § 205-2 and is consistent with the policies and criteria established pursuant to HRS §§ 205-16 and 205-17.

2. Article XII, Section 7, of the Hawai'i State Constitution requires the Commission to protect native Hawaiian traditional and customary rights. The State of Hawai'i reaffirms and shall protect all rights, customarily and traditionally exercised for subsistence, cultural, and religious purposes and possessed by *ahupua'a* tenants who are descendants of native Hawaiians who inhabited the Hawaiian Islands prior to 1778, subject to the right of the State to regulate such rights. The State and its agencies are obligated to protect the reasonable exercise of customarily and traditionally exercised native Hawaiian rights to the extent feasible. *Public Access Shoreline Hawai'i v. Hawai'i County Planning Commission*, 79 Haw. 425, 450, n. 43, *certiorari denied*, 517 U.S. 1163 (1996).

3. The Commission is empowered to preserve and protect customary and traditional rights of native Hawaiians. *Ka Pa'akai O Ka'Aina v. Land Use Commission*, 94 Haw. 31, 7 P.3d 1068 (2000).

4. Article XI, Section 1, of the Hawai'i State Constitution requires the State to conserve and protect Hawai'i's natural beauty and all natural resources, including land, water, air, minerals, and energy sources, and to promote the development and utilization of these resources in a manner consistent with their conservation and in furtherance of the self-sufficiency of the State.

5. Article XI, Section 3, of the Hawai'i State Constitution requires the State to conserve and protect agricultural lands, promote diversified agriculture, increase agricultural self-sufficiency, and assure the availability of agriculturally suitable lands.

6. A majority of the KCC campus does not have an Important Agricultural Land score because the area is designated as Urban Center in the County of Kaua'i General Plan 2000. [Pet., page 13; M. Dahilig, 3/23/2017 103:13-25, 104:1-5]

7. Article XI, Section 7, of the Hawai'i State Constitution states that the State has an obligation to protect, control, and regulate the use of Hawai'i's water resources for the benefit of its people.

8. The Commission concludes it has observed and complied with its duties arising under Article XI, Sections 1 and 3; and Article XII, Sections 3 and 7 of the Hawai'i State Constitution.

V. DECISION AND ORDER

IT IS HEREBY ORDERED that the Petition Area, consisting of approximately 148.37 acres of land, situated in Puhi, Island of Kaua'i, State of Hawai'i, Tax Map Key Nos. (4) 3-4-07:01, 02 and 03 and shown approximately on Exhibit "A," attached hereto and incorporated by reference herein, shall be and is hereby reclassified to the State Land Use Urban District, and the State Land Use District boundaries shall be amended accordingly.

Based upon the findings of fact and conclusions of law stated herein, it is hereby determined that the reclassification of the Petition Area will not significantly affect or impair the preservation or maintenance of natural systems and habitats or the valued cultural, historical, agricultural, and natural resources of the area.

IT IS FURTHER ORDERED that the reclassification of the Petition Area from the State Land Use Agricultural District to the State Land Use Urban District shall be subject to the following conditions:

1. **Water Source.** Water service for the KCC campus is provided by the County Department of Water's system. When development of major projects shown in the KCC LRDP begins, the County Planning Department and County Department of Water will be consulted with regarding the County's Water Use and Development plan. When plans for specific facilities are developed, the Petitioner will provide water demands and calculations to the County and State.
2. **Water Conservation.** When development of major projects shown in the KCC LRDP begins, water efficient fixtures and practices will be implemented and alternative water resources will be considered, wherever practicable. Petitioner will comply with energy efficiency and environmental standards for state facilities. In addition, when development of major projects shown in the KCC LRDP begins, Petitioner shall implement water conservation measures including water efficient plumbing fixtures, high efficiency or drip irrigation systems, and drought tolerant landscaping.
3. **Storm Water Management and Drainage.** When development of major projects shown in the LRDP begins, a full range of erosion and sediment controls will be instituted during grading and excavation operations for such projects, as appropriate, and in compliance with the County's grading ordinance and the state Department of Health's National Pollutant Discharge Elimination System Permit for Storm Water Associated with Construction Activities ("NPDES"). For any major project near or along Puali Stream, a subsequent Environmental Assessment or Environmental Impact Statement will be prepared pursuant to Chapter 343, Hawaii Revised Statutes. Should it be determined that the drainage system for the KCC campus is inadequate, Petitioner will work with the County Department of Public Works for a broader downstream study to determine

appropriate mitigation measures. Petitioner shall maintain existing drainage patterns. To the extent feasible, Petitioner shall implement Best Management Practices and incorporate Low Impact Development practices for onsite stormwater capture and reuse into Petition Area's site design and landscaping to control water quality and mitigate

4. **Noise and Dust Control.** When development of major projects shown in the KCC LRDP begins, potential noise and dust impacts during construction of such projects will be mitigated by complying with the State DOH Administrative Rules, Title 11, Chapter 60, "Air Pollution Control". The construction contractor(s) will be responsible for complying with the State DOH regulations that prohibit visible dust emissions at property boundaries. Compliance with State regulations will require adequate measures to control fugitive dust by methods such as water spraying and sprinkling of loose or exposed soil or ground surface areas and dust-generating equipment during construction.

5. **Highway and Roadway Improvements.** When development of major projects shown in the KCC LRDP begins, Petitioner will update the Traffic Impact Report for KCC that was conducted in December 2010. Such an update shall discuss the Lihue-Hanamaulu Bypass Project – alignment possibilities connecting to Kaumualii Highway, and Kaumualii Highway widening from Anonui Street to the Kipu Road area from two to four lanes. Petitioner shall submit its design and construction plans to the State Department of Transportation ("DOT") for review and comment and will work with DOT to address potential adverse impacts arising from such major projects as shown in the KCC LRDP and implement measures to mitigate any adverse impacts attributable to such major projects shown in the KCC LRD.

6. **Lihue Airport.** Petitioner shall comply with laws, rules directives, memorandum pertaining to the DOT and the Federal Aviation Administration that apply to the development of major projects shown in the KCC LRDP, including all relating to: (a) new construction and installation of equipment, buildings, photovoltaic panels, and other relevant activities, (b) the proximity of such major projects to DOT's Līhu'e Airport, and (c) the protection, handling, and/or removal of any endangered, threatened, and listed wildlife species on or within the Petition Area. Petitioner shall conduct a glint and glare analysis for KCC's proposed photovoltaic facility and submit the analysis to the DOT for review and comment and will work with DOT to address potential adverse impacts arising from such proposed photovoltaic facilities, as shown in the KCC LRDP, and implement measures to mitigate any adverse impacts attributable to such major projects shown in the KCC LRDP. its comment and approval.

7. **Previously Unidentified Burials and Archaeological/Historic Sites.** When development of major projects shown in the KCC LRDP begins, in the event that historic resources, including human skeletal remains, are identified during construction activities, all work shall cease in the immediate vicinity of the find, the find shall be protected from additional disturbance, and SHPD, Kauai Island Section, shall be contacted immediately. The treatment of any remains will be in accordance with procedures approved by the Kaua'i Island Burial Council and SHPD. Without any limitation to any other condition found herein, if any burials or archaeological or historic sites are discovered during the course of construction, all construction activity in the vicinity of the discovery shall stop until the issuance of an archaeological clearance from the SHPD that mitigation measures have been implemented to its satisfaction. When development of major projects shown in

the LRDP begins in the reasonable vicinity of Puhi Cemetery, Petitioner shall consult with SHPD to determine what, if any, mitigation may be appropriate to address the potential adverse impacts upon Puhi Cemetery, and whether a buffer area should be located on Petitioner's land. Petitioner shall allow persons reasonable access through the Petition Area to access family members who may be buried at Puhi Cemetery. Petitioner shall develop a campus design for the irrigation complex still in use, for educational and interpretive purposes, pursuant to its LRDP.

8. **Endangered Species.** When development of major projects shown in the KCCLRDP begins, Petitioner shall develop mitigation measures to address any potential impacts on endangered species in the Petition Area, if any, and shall as necessary consult with the DLNR, the DLNR Division of Fish and Wildlife, and the U.S. Fish and Wildlife Service to develop such mitigation measures, as may be appropriate.

9. **Flora and Fauna.** Petitioner shall ensure that all exterior lighting fixtures are down-shielded, cut-off luminaires or indirect lighting types, or separately circuited to minimize the harmful effects of lighting on endangered avifauna. If construction activities occur during Nēnē nesting season, which typically runs from October through March, the portion of the Petition Area involved or upon which such projects are to be located should be surveyed by a qualified biologist before the onset of the construction, to determine if any active Nēnē nesting activity is occurring within that portion of the Petition Area upon which such projects are to be located.

If active Nēnē nesting occurs while construction activities are ongoing, a Nēnē monitor should be on site to assist in protecting the birds from harm. During construction of such projects, an endangered species awareness program will be developed which includes

general information on the endangered species act and protected species, specific restrictions that will be in force on the portion of the Petition Area upon which such projects will be developed to protect endangered species, and a set of protocols on who, and how construction personnel will respond to any downed or injured endangered species that may occur. All construction personnel will be required to be familiar with the endangered or threatened species program and protocols that will need to be followed.

If heavy vegetation of the periphery of the Petition Area needs to be cleared, that clearing should not occur during the pupping/rearing season for the Hawaiian hoary bat, which generally runs between May 15 and August 31. Woody plants greater than 15 feet tall should not be removed during this period.

10. **Adjacent Agricultural Lands.** For all land in the Petition Area or any portion thereof that is adjacent to land the State Land Use Agricultural District, Petitioner shall comply with the following:

- A. Petitioner and its successors and assigns shall not take any action that would interfere with or restrain farming operations conducted in a manner consistent with generally accepted agricultural and management principles on adjacent or contiguous lands in the State Agricultural District. For the purpose of these conditions, "farming operations" shall have the same meaning as provided in HRS section 165-2; and
- B. Petitioner shall notify all prospective developers or purchasers of land or interest in land in the Petition Area, and provide or require subsequent notice to lessees or tenants of the land, that farming operations and practices on adjacent or contiguous land in the State Agricultural District are protected under HRS chapter 165, the Hawaii Right to Farm Act. The notice shall disclose to all prospective buyers, tenants, or lessees of the Petition Area that potential nuisances from noise, odors, dust, fumes, spray, smoke, or vibration may result from agricultural uses on adjacent lands. The notice shall be included in any disclosure required for the sale or transfer of real property or any interest in real property.

11. **Native Hawaiian Access Rights.** Pursuant to Article XII, Section 7 of the Hawai'i State Constitution, Petitioner shall preserve any established access rights of Native Hawaiians who have customarily and traditionally used the Petition Area to exercise subsistence, cultural, and religious practices, or for access to other areas.
12. **Compliance with Representations.** The Petitioner shall develop the Petition Area in substantial compliance with the representations made to the Commission as reflected in the Findings of Fact, Conclusions of Law, and Decision and Order. Failure to so develop the Petition Area may result in reversion of the Petition Area to its former classification, or change to a more appropriate classification.
13. **Annual Reports.** When development of major projects shown in the KCC LRDP begins Petitioner shall timely provide without any prior notice, annual reports to the Commission, OP, and the County, and their respective successors, in connection with the status of the development of the Petition Area and Petitioner's progress in complying with the conditions imposed herein. The annual report shall be submitted in a form prescribed by the Executive Officer of the Commission.
14. **Release of Conditions.** The Commission may fully or partially release the conditions provided herein as to all or any portion of the Petition Area upon timely motion and upon the provision of adequate assurance of satisfaction of these conditions by Petitioner or its successors and assigns.
15. **Notice of Imposition of Conditions.** Within seven days of issuance of the Commission's Decision and Order for the subject reclassification, Petitioner shall: (a) record with the Bureau of Conveyances of the State of Hawai'i a statement that the Petition Area is subject to the conditions imposed herein by the Commission in the

reclassification of the Petition Area; and (b) file a copy of such recorded statement with the Commission.

16. **Recordation of Conditions.** Petitioner shall record the conditions imposed herein by the Commission with the Bureau of Conveyances pursuant to HAR § 15-15-92.

DATED: Honolulu, Hawai'i, April 19, 2017.

Of Counsel:

SHIRAMIZU LOO & NAKAMURA,
A Limited Liability Law Partnership



LAUREL LOO
Attorney for Petitioner
University of Hawai'i Community Colleges

BEFORE THE LAND USE COMMISSION

OF THE STATE OF HAWAII

In the Matter of the Petition of)	DOCKET NO. A10-787
)	
UNIVERSITY OF HAWAII)	
COMMUNITY COLLEGES)	CERTIFICATE OF SERVICE
)	
To Amend the Land Use District Boundary)	
Of Approximately 148.37 Acres of Land)	
From the Agricultural District into the Urban,)	
District at Puhi, Lihu'e, Island of Kaua'i,)	
State of Hawai'i, Tax Map Key No: (4) 3-4-)	
07: 01, 02, 03, and 06)	
_____)	

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document was duly served upon the following by depositing the same in the AS INDICATED BELOW on April 19,

2017:

LEO R. ASUNCION, DIRECTOR (U.S. Mail)
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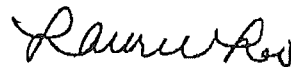
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DATED: Lihu'e, Hawai'i, April 19, 2017.



LAUREL LOO

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