



BEFORE THE LAND USE COMMISSION  
OF THE STATE OF HAWAI'I

In the Matter of the Petition of )  
UNIVERSITY OF HAWAI'I )  
COMMUNITY COLLEGE )  
To Amend the Agricultural Land Use )  
District Boundary into the Urban District for )  
Approximately 148.37 acres at Puhi, Līhu'e, )  
Island of Kaua'i, State of Hawai'i )  
TMK: (4) 3-4-07:01, 02, and 03 )  
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DOCKET NO. A16-801  
UNIVERSITY OF HAWAI'I  
COMMUNITY COLLEGE

2017 AUG 11 2:20

LAND USE COMMISSION  
STATE OF HAWAII

FINDINGS OF FACT,  
CONCLUSIONS OF LAW, AND DECISION AND ORDER  
AND  
CERTIFICATE OF SERVICE

This is to certify that this is a true and correct copy  
of the document on file in the office of the State  
Land Use Commission, Honolulu Hawai'i

8/11/2017

by

  
Executive Officer

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LAND USE COMMISSION  
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FINDINGS OF FACT,

CONCLUSIONS OF LAW, AND DECISION AND ORDER

UNIVERSITY OF HAWAII, COMMUNITY COLLEGE ("Petitioner"), filed a Petition for Land Use District Boundary Amendment on November 4, 2016 ("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 necessary 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 hearings on March 22 and 23, 2017, along with the pleadings filed herein, and the proposed findings of fact, conclusions of law, and decision and order filed by the Petitioner, no objections from the Department of Planning, County of Kaua‘i (“County”), and with comments and partial stipulation from the State Office of Planning (“OP”), 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, Exhibits “1” through “16”, Affidavit of Service of Petition, Affidavit of Sending of Notification of Petition Filing, 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 and Affidavit of Sending of Notification of Petition.
4. On November 22, 2016, the Commission heard Petitioner’s Petition for A Declaratory Ruling.
5. On November 23, 2016, the Commission issued an Order granting Petitioner’s Petition for a Declaratory Ruling.
6. On November 30, 2016, the Executive Officer of the Commission deemed the Petition a proper filing and accepted it for processing.
7. On December 29, 2016, OP filed the Office of Planning Statement of Position.

8. On January 3, 2017, the County filed the Position Statement of the Department of Planning.
9. On January 9, 2017, the Commission received the Petitioner's Append to SHPD ("State Historic Preservation Division") Approval document to be incorporated to the final Archaeological Inventory Survey.
10. 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.
11. On January 27, 2017, the Commission issued the LUC Pre-Hearing Order to the Parties.
12. On February 1, 2017, the Commission received written public comments from the Kaua'i Performing Arts Center ("KPAC").
13. On February 21, 2017, OP filed the OP's Witness List and Exhibit List; Exhibits 2, 3, 5, 6, 7 and 8.
14. On February 21, 2017, the Commission received the Petitioner's Notice of Hearing.
15. On February 21, 2017, the Commission received the Petitioner's List of Witnesses, and List of Exhibits.
16. On February 21, 2017, the Commission received OP's Witness List, Exhibit List, and Exhibits 2, 3, 5, 6, 7, and 8.
17. On February 23, 2017, the County filed County Planning Department's Witness List.

18. On March 3, 2017, OP filed OP's Testimony in Support of Petition with Conditions, and OP Exhibits 4 and 7.
19. On March 3, 2017, the County filed County of Kaua'i Planning Department's Rebuttal Exhibit List, and Exhibits 1-2.
20. On March 3, 2017, the Commission received the Petitioner's Written Testimonies (All Expert Witnesses – Exhibits 22-26), and Affidavits of Publication.
21. On March 9, 2017, the Commission received a letter from the State Department of Accounting and General Services ("DAGS") stating they had no comments.
22. On March 14, 2017, the Commission received written notice of withdrawal of comment letter from KPAC.
23. On March 14, 2017, the Commission mailed a meeting notice and agenda for the March 22-23, 2017 meeting on Kaua'i to the parties, and to persons listed on the Commission's Statewide and Kaua'i mailing lists.
24. On March 15, 2017, OP filed OP's First Amended Exhibit List and Exhibit 9.
25. The Commission held the evidentiary hearing in this docket on March 22 and 23, 2017 in Lihu'e, Kaua'i, Hawai'i. There was no public testimony. The Commission admitted into the record Petitioner's Exhibits 1 through 26; County's Exhibits 1 and 2; and OP's Exhibits 1 through 9. The following witnesses presented testimony: on behalf of the Petitioner – Earl Matsukawa, Hallett Hammatt, Pete Pascua, and Reginald David; on behalf of the County – Marisa Valenciano, and Michael Dahilig; and, on behalf of OP – Rodney Funakoshi.
26. The evidentiary portion of the hearing was closed on March 23, 2017.

27. On April 17, 2017, Petitioner requested permission to file its Proposed Findings of Fact, Conclusions of Law, and Decision and Order by electronic mail. The Executive Officer allowed the electronic filing by letter to all parties.
28. On April 19, 2017, the Commission received Petitioner's Proposed Findings of Fact, Conclusions of Law, and Decision and Order.
29. On May 4, 2017, OP filed OP's Comments and Objections to Petitioner's Proposed Findings of Fact, Conclusions of Law, and Decision and Order.
30. On May 8, 2017, the County filed County's Statement of No Comment and No Objections to Petitioner's Proposed Findings of Fact, Conclusions of Law, and Decision and Order.
31. On July 10, 2017, OP filed OP's Partial Stipulation of Petitioner's Proposed Findings of Fact, Conclusions of Law, and Decision and Order.
32. On July 18, 2017, the Commission mailed a meeting notice and agenda for the July 26, 2017 meeting on Kaua'i to the parties, and to persons listed on the Commission's Statewide, Maui and Kaua'i mailing lists.
33. On August 1, 2017, the Commission mailed a meeting notice and agenda for the August 10, 2017 meeting on Kaua'i to the parties, and to persons listed on the Commission's Statewide, O'ahu, and Kaua'i mailing lists.
34. On July 26, 2017, the Commission held an action meeting in Līhu'e, Kaua'i, to take action on the Petition. There was no public testimony. The Commission heard closing arguments from each of the parties. Following closing arguments of the parties, which included comments on findings of facts and conditions further agreed to or clarified by the parties in addition to their respective filings, a motion was made and

seconded to approve the Petition subject to conditions. The motion received six (6) ayes, with two (2) excused<sup>1</sup>, and therefore passed.

## **II. FINDINGS OF FACT**

### **A. Description of the Petition Area**

35. 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 the State Land Use Agricultural District to the State Land Use Urban District for the existing and future expansion of Kaua‘i Community College<sup>2</sup> (“Project”). These parcels within the Initial Petition Area are comprised of 59 acres, 40 acres, 99 acres, and 1 acre, respectively.

36. During the hearing before the Commission on March 23, 2017, testimony was provided that one of the parcels originally included in the Petition Area, namely Tax Map Key (4) 3-4-07:06, is outside of the Petition Area.

37. The Petition Area consists of only Tax Map Key Nos. (4) 3-4-07:01, 02, and 03 and a project area of approximately 148.37 acres (“Petition Area”).

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

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<sup>1</sup> Due to a vacancy, there were a total of eight commissioners.

<sup>2</sup> Kaua‘i Community College (“KCC”) refers to both the existing campus and proposed expansion in its Long Range Development Plan (“LRDP”). Throughout this document KCC and Project may be used interchangeably.

39. Petitioner provided a survey map of the Petition Area to be reclassified into the State Land Use Urban District.
40. The Petitioner is the fee owner of the Petition Area. Ownership of the Petition Area is evidenced by deeds to the parcels comprising the Petition Area in favor of the University of Hawai‘i.
41. The existing Project is located in Puhi, approximately two miles west of Līhu‘e, on the island of Kaua‘i.
42. The locations of the Petition Area and all surrounding properties are depicted in Petitioner’s Exhibit 7.
43. The Petitioner intends to develop and construct the Project in accordance with the KCC Long Range Development Plan (“LRDP”), which is now being updated.
44. Petitioner developed the current version of the KCC LRDP in 1999.
45. In 1999 the LRDP was based on a projected student population of 1,500 full time equivalent ("FTE") students for the short term and 3,000 students for the long-term. 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.
46. The current student FTE population of KCC is just over 700 students.
47. 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.



48. As evidenced by Petitioner's Exhibits 8 and 9, Petitioner is proposing to redesignate 148.37 acres of the 199 acres comprising the KCC campus to be consistent with the "Urban" land-use designation established in the Kaua'i General Plan.

49. 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. 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.

50. The KCC campus is also comprised of about 100 additional acres in two parcels identified as TMK 3-4-07:01, 02 and 06.

51. 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 Pūnana Leo o Kaua'i Pre-School and the Kawaikini New Century Public Charter School. The Pūnana 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. 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.

52. The Petition Area and its proposed reclassification conforms 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 Petition Area as "Urban Center".

53. The Petition Area is outside of the 100-year floodplain (Zone X) according to the Flood Insurance Rate Map ("FIRM"). The Petition 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.

54. 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.

55. Consistent with the County's position Petitioner 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.

56. There is no time frame for future development of classrooms and student housing. Construction of those would be tied to an increase in enrollment.

57. The Petition Area and the LRDP does not include any marketable units or lots.

58. 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 existing 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.

59. 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.

60. Access to the Petition Area 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 existing 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.

61. 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 Petition Area.

62. TMK descriptions include the following:

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. Parcel 06 is not included in the Petition Area.

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 or Project.

d. TMK No. 3-4-07:07 is a small parcel located within parcel TMK No. 3-4-7:01 and is owned by the County and is not part of the KCC campus and not included in the Petition Area.

63. Areas directly adjacent to and surrounding the Petition Area include:

a. Located north of the Petition Area are agricultural lands used for sugar cane production. Grove Farm owns these agricultural lands as well as lands to the west and southwest.

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 a current enrollment of approximately 370 students.

64. The region in the vicinity of KCC includes:

a. Located to the south, Kaumuali'i Highway borders the Petition Area 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 the Petition Area 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 the Petition Area, is the YMCA and adjoining it to the south is Chiefess Kamakahalei Middle School, which fronts Nuhou Street.

c. Further east on the south side of the highway about one-half mile from the Petition Area 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**

65. 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.

66. Soils in the Petition Area are classified as follows:

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.

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.

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. The majority of the Project site is rated “B”, with the remainder rated “C”, “E” or not classified.

d. The State Department of Agriculture’s Agricultural Lands of Importance in the State of Hawai‘i (“ALISH”) classifies lands into four agricultural types, Prime Lands, Unique Lands, Other Lands, and Unclassified. The majority of the Petition Area is “Unclassified”, with the remaining areas classified as “Prime Lands” or “Other Lands”.

e. Pursuant to Act 183 SLH 2005 and Act 233 SLH 2008, the County conducted a study (County of Kauaʻi Important Agricultural Lands Study, Second Draft, August 2011) to identify potential Important Agricultural Lands ("IAL") on the island of Kauaʻi. From August 2009 to September 2011, the County, with assistance from the University of Hawaiʻi at Mānoa, consulted with the Stakeholder and Technical Advisory Committee ("STAC") and community. The County integrated community input with technical data to map IAL on Kauaʻi. 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 Petition Area does not have an IAL score since the Petition Area is designated as Urban Center in the County General Plan 2000. The northern portion (TMK No 3-4-07: por. 01) of the Petition Area is designated as Agriculture in the County General Plan with IAL scores ranging from 23.60 to 25.73. Surrounding areas are also in Agriculture with IAL scores ranging between 24.31 and 25.50. [Pet. Page 12-13]

## **2. Recreational**

67. Park facilities on Kauaʻi 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 Līhuʻe, approximately 4.25 miles northeast of the Petition Area.

68. The County's Department of Parks & Recreation operates 17 parks in the Līhuʻe 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 Lihu‘e Neighborhood Center is approximately two miles northeast of the Petition Area.

69. 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.

### **3. Cultural and Historic**

70. Implementation of major projects on the Petition Area as described in the LRDP is not anticipated to have significant individual or cumulative impacts on cultural resources.

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.

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.

74. Pursuant to *Ka Pa‘akai O Ka‘Aina v. Land Use Commission et al.*, 94 Haw. 31, 7 P.3d 1068 (2000), 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 Project; 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 university campus since 1965 and prior to that had been heavily cultivated for decades by sugar plantations.

75. There are no Land Commission Awards covering any property within the Petition Area.

76. 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, an Archaeological Inventory Survey ("AIS") encompassing UHCC lands including the entire Petition Area on approximately 199 acres was conducted and approved by SHPD on April 15, 2016. Four historic sites were found within the Petition Area: a historic trash deposit, irrigation complex still in use, Puhi Camp Cemetery, also still in use, and a Hawai'i Territory Survey marker and transit station.

77. The Petitioner has no plans to allow or cause any material impacts to the irrigation system within the Petition Area.

78. Archaeological trenching was performed at Puhi Camp and the only remnant found was a trash pit that included modern trash.

79. Puhi Cemetery is not within the Petition Area, however, it is recommended for preservation and to be utilized for educational and interpretive purposes related to the

plantation era. The boundary of the Puhi Cemetery is visible on the surface, but burials are not always wholly within a cemetery's physical or defined boundaries.

80. SHPD recommended the following mitigation measures:

- A. Development of an archaeological preservation plan for the Puhi Camp Cemetery (B0006) which meets the requirements of Hawai'i Administrative Rules Section 13-277. The archaeological preservation plan shall include subsurface testing outside of the Puhi Camp Cemetery lot to determine whether any graves are located on lands owned by the Kaua'i Community Colleges/State of Hawai'i, and whether a buffer area should be located on the Petition Area.
- B. Development of a campus design for the portion of Site 2179, and irrigation complex still in use, for educational and interpretive purposes in conjunction with the Long Range Master Plan for the Petition Area or prior to the approval of a building permit or ground disturbances for any new major buildings within the Petition Area, whichever occurs first.

81. Petitioner, in cooperation with the landowner of Puhi Camp Cemetery, has agreed to complete an archaeological preservation plan for the Puhi Camp Cemetery for the review and approval by SHPD. The preservation plan will include subsurface testing outside of Puhi Camp Cemetery to determine if any burials are located on lands owned by Petitioner. Until the preservation plan is prepared and approved by SHPD, Petitioner has agreed to not develop any facilities or allow ground disturbing activities within 100 feet of the perimeter of Tax Map Key (4) 3-4-07:05.

#### **4. Scenic**

82. 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 Hā‘upu (Hoary Head) Mountain Range to the southwest and Kilohana crater and Mount Wai‘ale‘ale to the north. Because of the relatively flat topography on the built portion of the Petition Area, the most significant views can be experienced along the periphery of the Petition Area as views from the central portion of the KCC campus are often blocked by existing buildings located outside of the Petition Area. The limited vegetation along the edge of the Petition Area fronting Kaumuali‘i Highway helps to make the KCC campus more visible from the highway.

83. No significant impacts on visual resources in the Petition Area are anticipated from future KCC campus development. The existing 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 the Project will minimize the intrusion of buildings on the visual environment through architectural design criteria, is envisioned to be generally one- or two-story structures with extensive landscaping. 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. Proposed parking lots will be screened and beautified with consistent landscaping.

#### **5. Flora and Fauna**

84. A Biological Survey was conducted by Rana Biological Consulting, Inc.

**a. Flora**

85. No significant impacts on flora species are anticipated. The existing KCC campus, the Petition Area, and the partly developed and undeveloped surrounding lands lack botanical resources that would merit special concern, with some exceptions. In the undeveloped portions of the Petition Area, 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. A number of unusual trees (including native species) within the former agriculture station at the southwest corner of the Petition Area have been planted over a long period of time and now constitute a botanical resource worth preserving.

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 Petition Area. One listed species was observed as an ornamental in a Hawai'i native plant garden. Therefore, it is not expected that the proposed Project 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.

87. A significant amount of the Petition Area is landscaped or in use by Petitioner for a Hawaiian cultural program and agricultural test ideas.

**b. Fauna**

88. No significant impacts on fauna within the Petition Area are anticipated. Petitioner is not proposing any major projects at this time. Any improvements would be considered minor in scope.

89. In the longer term, in implementing major projects shown in the updated KCC LRDP, Petitioner 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.

90. There is no federally delineated Critical Habitat present within the Petition Area or adjacent to the Petition Area. Thus, Petitioner's further development of the Petition Area is not expected to result in material adverse impacts to federally designated Critical Habitat.

91. The development of the Petition Area as described in the 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.

92. The development of proposed projects contained in KCC's LRDP could adversely affect Hawaiian hoary bats 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.

93. The National Wetlands Inventory Maps identified three wetlands within the Petition Area. Two of the wetlands are forks of Puhi Stream, and one is an abandoned reservoir which is currently used by Petitioner as a detention basin.

94. There are several endangered bird species detected in the Petition Area, and various wetland birds frequent the wetland areas, such as the Hawaiian Nene, Common Moorhen, Pacific Golden Plover, and Black-crowned Night Heron. The Hawaiian Pueo and Nene may forage in the Petition Area. The Hawaiian hoary bat was not observed, however, mitigation measures are outlined within the Final Environmental Assessment ("FEA") for the species. Petitioner indicated represented that it will institute an endangered species awareness program.

95. To minimize potential impacts to the Hawaiian Nene, a qualified biologist should survey the area for nesting activity prior to and during any construction, between October and March. The Hawaiian goose has an extended breeding season between August and April. The U.S. Fish and Wildlife Service (USFWS) recommended that a biologist familiar with the nesting habits of the Hawaiian Nene survey the Project area prior to the initiation of any work. If a nest is discovered, work should cease immediately and USFWS should be contacted for further guidance. Further, if a Hawaiian Nene should appear within 100-feet of ongoing work, all activity should be temporarily suspended until the Hawaiian Nene leaves the area.

96. Petitioner proposes to shield lighting should construction be required at night, to mitigate seabird mortality. USFWS recommended that construction occur only in the daylight, and that all exterior lighting whether during or after completion of construction at the Petition Area be positioned to minimize and mitigate seabird mortality.

## **6. Groundwater**

97. The Petition Area is located within the Līhu‘e Aquifer Sector Area which is comprised of five Aquifer System Areas identified as Kīlauea, Anahola, Wailua, Hanamā‘ulu, and Kōloa. The Petition Area is located within the Hanamā‘ulu Aquifer System which has a total area of 55 square miles and extends from the Wailua drainage divide in the north to the Hā‘upu Ridge in the south and from the Hanapēpē drainage divide in the west to the coast in the east.

98. The Hanamā‘ulu 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 receives annual rainfall of about 83 inches. The aquifer also consists of basal groundwater contained deep below the surface in Kōloa lava formations near the coast.

99. No significant impact to groundwater underlying the Petition Area is anticipated. Petitioner is not proposing any major development at this time.

100. In the longer term, implementation of major projects shown in the updated LRDP could potentially have both individual and cumulative impacts due to a 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.

## **7. Air and Noise Quality**

101. 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 the 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.

102. 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 the LRDP. Ambient noise levels in the vicinity of the Petition Area will increase slightly as a result of the associated increase in vehicular traffic that is expected to be generated by the development of projects contained in the LRDP. Operation of the proposed projects contained in the LRDP will potentially generate slightly increased noise during school hours due to additional students, faculty, and school and service-related activities.



**C. Availability of Public Services and Facilities**

**1. Schools**

103. 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 Hanamā'ulu Road, approximately 3.5 miles northeast from the Petition Area. Elsie H. Wilcox Elementary School is located at 4319 Hardy Street, approximately 2.15 miles east from the Petition Area. Public school students in grades 6 to 8 attend Chiefess Kamakahelei Middle School which is located at 4431 Nuhou Street, approximately 0.5 miles southeast from the Petition Area. 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 Petition Area. 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.

104. The Island School is located mauka and adjacent to the Petition Area. 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.

**2. Wastewater**

105. The existing sewer system on the Petition Area has been connected to the off-site Puhi Wastewater Treatment Plant operated by Grove Farm since April 2001.

### **3. Solid Waste**

106. Solid waste disposal for the Petition Area 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 Nāwiliwili for recycling.

### **4. Water**

107. Water service for the Petition Area is provided by the County of Kaua'i Department of Water's system. There are two water tanks with pipelines running through the Petition Area 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 Petition Area 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. Petitioner uses a three-inch water meter from the County of Kaua'i Department of Water to service its facilities.

### **5. Recreational Facilities**

108. Park facilities on Kaua'i are operated by the State and the County of Kaua'i Department of Parks & Recreation. 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. Ahukini State Park includes Ahukini Pier, a concrete pier situated at the mouth of Hanamā'ulu Stream, which offers views of Hanamā'ulu 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 of Kaua'i Department of Parks & Recreation 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 Petition Area.

## **6. Traffic & Transportation**

109. A Traffic Impact Report ("TIR") for the proposed Project was conducted by Wilson Okamoto Corporation in December 2010. Because Petitioner is not proposing any major construction at this time, the 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.

110. The primary access for the Petition Area is provided via an access road at the intersection of Kaumuali'i Highway and Puhi Road. In the vicinity of the Petition Area, 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 Petition Area 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.

111. 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 when the highway only had one lane in each direction. The highway now has two travel lanes in each direction with auxiliary lanes provided at the intersections along this segment.

112. The cumulative traffic volumes consist of traffic generated at the Petition Area 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 Petition Area. 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 Petitioner and utilizing standard linear regression techniques, the enrollment projections were extended by whom the traffic engineer to the Year 2020 when the full time equivalent enrollment at KCC is expected to increase from 864 students to 1,038 students.

113. A TIR update can be triggered by enrollment increases, a Chapter 343, HRS process, or by the completion of Petitioner's LRDP.

114. The DOT recommends that the TIR should be updated to include the expansion plans of Petitioner's facilities and a discussion of the Hanamā'ulu Bypass Project alignment and the Kūhiō Highway widening from Anonui Street to Kīpū Road area from two lanes to four lanes, including the proposed expansion of Island School facilities.

115. The Petition Area is located approximately two (2) miles from Līhu'e Airport. The Federal Aviation Administration and the DOT require general compliance with their rules and memoranda regarding construction in the vicinity of the airport and its effects on wildlife.

## **7. Electrical and Communications**

116. The existing primary metered 12.47 KV system is provided by Kaua'i Island Utility Cooperative ("KIUC"). KIUC serves the Petition Area from overhead utility lines along Kaumuali'i Highway. This service then runs underground to the Electrical Switchgear Building in the Petition Area that houses the primary meter. Each building or group of buildings on the Petition Area is linked to the primary meter via an underground conduit system, and 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 Telecom and is routed along Kaumuali'i Highway. The main communications switchboard for the telephone system for the Petition Area is located in the One-Stop Center.

**8. Police.**

117. 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, Nāwiliwili, Hanamā'ulu, 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 Petition Area.

**9. Fire**

118. 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 Petition Area. The Kaua'i County Fire Department operates eight fire stations throughout the island: located in Hanalei, Kapa'a, Līhu'e, Kōloa, Kaiakea, Kalāheo, Hanapēpē, and Waimea.

**10. Health Care Services**

119. Wilcox Memorial Hospital and Kaua'i Medical Clinic are located in Līhu'e approximately 2.5 miles from the Petition Area. This combined 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.

120. Implementation of larger projects in the Petitioner's 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.

121. The proposed Project 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.

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

122. The Petition Area is currently surrounded on the west, north and southwest by lands in the State Agricultural District. To the south of the Petition Area are lands primarily in the State Urban District. Currently, on the north and northeast sides of the Petition Area is Island School<sup>3</sup>, and to the east is the Kilohana Plantation; both are still in the Agricultural District.

**E. Economic Impacts of the Proposed Reclassification**

123. *HAR 15-15-50 (c)(14) lists one of the categories of information that must be included in a petition for district boundary amendment: “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.”*

124. The proposed Project will generally have positive social and economic impacts in the region.

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<sup>3</sup> LUC Docket No. A16-800 Island School is currently the subject of a requested boundary reclassification from the State Agricultural to State Urban district.

125. In the mid-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 Petition Area, and increased noise nuisances in the immediate vicinity of the Petition Area.

126. 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 using the Petition Area will further stimulate the housing and retail economy.

**F. Assessment of Need for the Reclassification**

127. The Petition Area 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, Petitioner proposes to redesignate the campus property to the state Land Use Urban District, a more appropriate land use classification. Development of the Petition Area 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 the Petition Area is undeveloped, the approximately 40-acre parcel identified as TMK 3-4-07:02 contains two Hawaiian Language Immersion schools, including the Pūnana Leo o Kaua'i Pre-School and the Kawaikini New Century Public Charter School. The Pūnana 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 of Kaua‘i on May 26, 2009.

128. 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 Petition Area 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.

129. 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 Petition Area. The proposed Project is consistent with the “community college” public facilities symbol.

130. 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, HRS, classifies all land in the State into four land use districts: Urban, Agricultural, Conservation, and Rural.

131. The Petition Area lies within the State Land Use Agricultural District. Development is permitted through a Special Permit granted by the State Land Use Commission on April 6, 1973. Further expansion of the facilities on the Petition Area

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.

132. The Petitioner proposes to amend the State Land Use Boundary to re-designate approximately 148.37 acres of the Petition Area from Agricultural District to Urban District. Re-designation of the Petition Area would comply with the land-use jurisdiction of the County, which would regulate uses through its zoning code.

**G. Assessment of the Conformity to State Planning Policies**

133. The Hawai‘i State Plan (Chapter 226, HRS, 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:

*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 of 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 Hawai‘i’s people to adapt to changing employment demands;*

*(b)(8) Emphasize equality in educational programs in Hawai‘i’s institutions to promote academic excellence; and*

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

134. No significant impacts on geology and topography in the Petition Area are anticipated. The Petitioner 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 in the near term.

135. In the longer term, implementation of major projects shown in the updated LRDP could potentially have individual and cumulative impacts on the topography of the Petition Area – 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 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 will be provided

136. Potential impacts on drainage patterns resulting from alteration of the topography within the Petition Area 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 erosion impacts during construction activities.

137. The proposed future Project 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 Petition Area will implement best management practices, where appropriate.

138. A full range of erosion and sediment controls will be instituted during grading and excavation operations on the Petition Area, 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 on the Petition Area 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.

*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.*

139. No significant visual or aesthetic impacts are anticipated as a result of the Project. Existing public viewpoints of the Petition Area include Hā'upu (Hoary Head) Mountain Range to the southwest and Kilohana Crater and Mount Wai'ale'ale to the north.

140. No significant impacts on visual resources in the Petition 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 Petition Area. The new buildings are envisioned to be generally one- or two-story structures. The new buildings will adhere to the Design Guidelines in the LRDP, which addresses the overall design direction, materials, and standards for new building projects.

141. 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.

142. The future expansion of the campus will minimize the intrusion of buildings on the visual environment through architectural design criteria and extensive landscaping.

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

Pursuant to consultation with SHPD/DLNR, an AIS covering the entire Petitioner's land and Petition Area was conducted and approved by SHPD/DLNR. 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 HRS §6E-8 and HAR §13-275, as well as the amendment of land use boundaries as requested in the Petition.

144. KCC which is a component of the Petitioner, 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 Petition Area will further the Petitioner's mission of providing education/training for students going on to further education and into the workforce.

145. With appropriate mitigation, the reclassification of the Petition Area to Urban is generally consistent with the goals, objectives and policies of the State Plan.

**H. Assessment of Conformity to Objectives of the Coastal Zone Management Program,**

**Chapter 205A, HRS**

146. The State's Coastal Zone Management ("CZM") policies and regulations are prescribed under HRS Chapter 205A. 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 Petition Area 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:

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 the Petition Area is not a shoreline property, nor is it in the vicinity of the island's shoreline.

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.*

The Petitioner 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 at this time.

In the longer term, implementation of major projects shown in the updated LRDP could individually and cumulatively impact the historic features identified during the AIS 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 the Petitioner is not proposing any major projects at this time additional archaeological studies will 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.

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 Petition Area will be developed to ensure visual compatibility with the surrounding environment. The Petition Area is not located along the shoreline and is not anticipated to negatively impact coastal and scenic and open space resources.

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

The Petition Area is not located along the shoreline and will not impact coastal ecosystems.

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 the Petitioner to expand its facilities while providing appropriate educational opportunities. The Project is not a coastal dependent development.

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

The Petition Area 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 Petition Area 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 Petition Area is located outside the tsunami inundation zone.

According to the UH Multi-Hazard Mitigation Plan (2009), the Petition Area 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 Hanamā‘ulu, Nāwiliwili, and Hule‘ia Streams.

The nearest coastal water offshore of the Petition Area is Nāwiliwili 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, HAR). The natural drainage course for the Petition Area is Puali Stream, which is designated Class 2 Inland.

No significant impacts to surface waters located near or within the Petition Area are anticipated. The Petitioner 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 Petition Area during excavation and grading activities associated with construction will be regulated by the County of Kaua‘i 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 mitigation measures will be incorporated in the Project’s designs 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 DOH 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 applications will be submitted. Mitigation measures will be instituted following site-specific assessments, incorporating structural and non-structural BMPs, as deemed appropriate. All discharges related to the Project construction or operation activities will comply with the State's Water Quality Standards.

The Petitioner 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 LRDP lacks definitive detail required to address concerns such as drainage and impacts to aquatic resources, it is anticipated that subsequent EA or EIS will need to be prepared pursuant to HRS Chapter 343, for the development of individual projects when more concrete plans for such projects become available.

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.

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.

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.

The Petition Area 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).

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

The Petition Area is not located on or near the shoreline and is not anticipated to significantly impact marine resources.

147. The Petition generally conforms to the state CZM objectives and policies.

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

148. County of Kaua'i General Plan. Relevant sections of the General Plan and their consistency with the Project are as follows:

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. Hā'upu 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.*

The Petitioner 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 Petition Area include Hā'upu (Hoary Head) Mountain Range to the southwest and Kilohana Crater and Mount Wai'ale'ale 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 Petition Area 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 existing improvements on the Petition Area are 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 Petition Area. New buildings are envisioned to be generally one- or two-story structures. New buildings will adhere to the Design Guidelines in the LRDP, which addresses the overall design direction, materials, and standards for new building projects.

### *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;*

The Petitioner 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 Petition Area; 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 DOH's 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, an NPDES Permit for Storm Water Associated with

Construction Activities will be required prior to construction. Moreover, if hydrotesting or dewatering is required, a separate NDPES application will be submitted. Mitigation measures will be instituted following site-specific assessments, incorporating structural and non-structural BMPs, as deemed appropriate. All discharges related to the Project construction or operation activities will comply with the State's Water Quality Standards.

*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-Hanamā'ulu urban center.*

The proposed Project is situated within the Puhi-Līhu'e-Hanamā'ulu urban center.

The Petitioner is not proposing any major construction 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 Petition Area 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. The Petitioner will provide academic, technical, vocational and cultural programs to a projected population of 3,000 FTE students.

*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. Development of the Petition Area would generally follow land use allocations recommended by the LRDP. Additional facilities will further the Petitioner'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.

149. General Plan Land-Use Map Designation. The Land-Use Map of the County of Kaua'i General Plan Līhu'e Planning District designates the Petition Area 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 Petition Area. The proposed Project is consistent with the "community college" public facilities symbol.

The Petition Area 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. The Petition Area follows the County's GP "urban center" designation.

150. The Petition Area lies entirely within the Urban Edge Boundary, a county regional spatial policy which designates where growth should be directed.

151. 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 Petition Area is "Public". A small portion of TMK 3-4-07:03 and the remaining Petition Area (TMKs 3-4-07:01, 02) are designated as "Open" and "Agriculture". The Līhu'e Development Plan recommends revising the present zoning to accommodate the Petition Area by changing the zoning from an agriculture zone to an R-1 Special Treatment-Public zone.

152. 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 Petition Area are "Agricultural District" and "Open District". The Petitioner may apply for a Zone Change after further consultation with the County Planning Department.

153. 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 SMA boundary requires a SMA Use permit which is



administered by the County of Kaua‘i . The Petition Area is not located within the County's SMA.

154. 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 Petition Area is “Public” and therefore consistent with the County of Kaua‘i development plans and policies.

**J. Assessment of Need for Incremental Reclassification**

155. On November 23, 2016, the LUC granted UHCC’s petition for Declaratory Order to waive the requirement for an incremental development schedule and map, and to allow redistricting the entire Petition Area

156. The UHCC is not proposing any major projects at this time. The preferred site plan for the Petitioner's updated LRDP updates the preceding 1999 LRDP. The updated LRDP 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. The Petitioner does not envision implementing any major projects such as the recently completed One Stop Center and bookstore within the next 10 years.

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

157. 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 Hawaiian Islands prior to 1778, subject to the right of the State to regulate such rights.”*

As described previously, a Cultural Impact Assessment was prepared for the Petition Area to determine potential impacts of the Project on Native Hawaiian 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.

### **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 Kaua'i, 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 (1995), *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 Petition Area does not have an Important Agricultural Land score because it is designated as Urban Center in the County of Kaua'i General Plan 2000.

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 Puhī, Island of Kaua'i, State of Hawai'i, Tax Map Key Nos. (4) 3-4-07:01, 02 and 03 as shown approximately 148.37 acres 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.** When development of major projects shown on Petitioner's LRDP begins, the County Planning Department and County Department of Water shall 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 Department of Water.
2. **Water Conservation.** When development of major projects shown in the KCC LRDP begins, water efficient fixtures and practices shall be implemented and alternative water sources shall be considered, whenever practicable. Petitioner shall comply with energy efficiency and environmental standards and shall implement water conservation measures including water efficient plumbing fixtures, high efficiency or drip irrigation systems, and drought tolerant landscaping for new facilities.
3. **Storm Water Management and Drainage.** When development of major projects shown in the KCC LRDP begins, a full range of erosion and sediment controls shall 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 Association with Construction Activities. For any major project near or along Puali Stream, an Environmental Assessment or Environmental Impact Statement shall be prepared pursuant to Chapter 343, HRS. Should it be determined that the drainage system for the Petition Area is inadequate, Petitioner shall 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 nonpoint sources of pollution.

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 shall be mitigated by complying with the State DOH Administrative Rules, Title 11, Chapter 60, "Air Pollution Control". The construction contractor(s) shall be responsible for complying with the State DOH regulations that prohibit visible dust emissions at property boundaries. Compliance with State regulations shall include adequate measures to control fugitive dust by methods such as: water spraying, sand sprinkling of loose or exposed soil or ground surface areas, and dust-generating equipment during construction.

5. **Highway and Roadway Improvements.** Petitioner shall coordinate with DOT to update the 2010 Traffic Impact Assessment Report prior to the development of a major project triggering an environmental assessment or an Environmental Impact Statement. The update to the Traffic Impact Assessment Report shall include the expansion plans of Petitioner's facilities, and the following projects: Līhu'e-Hanamā'ulu Bypass Project – alignment possibilities connecting to Kaumuali'i Highway, Kaumuali'i Highway widening from Anonui Street to the Kīpū Road area from two to four lanes and the proposed construction and expansion of Island School facilities. Petitioner shall plan, design, and construct all improvements required to mitigate the impacts generated or related transportation impacts by Petitioner's expansion plans, as approved by DOT.

6. **Līhu'e Airport.** Petitioner shall conduct a glint and glare analysis for the proposed solar photovoltaic facility. Petitioner shall submit the analysis to the State DOT

for their comment and approval. If glint and glare from the photovoltaic system is determined to create a hazardous condition, Petitioner shall immediately mitigate the hazard at its expense. Petitioner shall comply with the State DOT and the Federal Aviation Administration's applicable statutes, rules, regulations directives, and memoranda regarding new construction and installation of equipment, buildings, photovoltaic panels, and other relevant activities, including relating to endangered threatened, and listed wildlife species in the Petition Area, relating to its proximity to the Līhu'e Airport.

7. **Previously Unidentified Burials and Archaeological/Historic Sites.** 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, Kaua'i Island Section, shall be contacted immediately. 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 SHPD that mitigation measures have been implemented to its satisfaction.

8. **Archaeological Resources.**

a. Petitioner, in cooperation with the landowner of Puhi Camp Cemetery (B0006), shall complete an archaeological preservation plan for the Puhi Camp Cemetery for review and approval by the SHPD. The archaeological preservation plan shall meet the requirements of HAR §13-277, shall include subsurface testing outside of the Puhi Camp Cemetery lot to determine whether any burials are located on lands owned by the

Petitioner, and determine whether a buffer area should be located on the Petition Area. Until such time that the archaeological preservation plan is prepared and approved by the SHPD, no facility development or ground disturbance activities shall occur within 100 feet of the perimeter of the cemetery parcel defined by Tax Map Key (4) 3-4-07:05.

b. Petitioner shall develop a campus design for the portion of Site 2179, an irrigation complex still in use, for educational and interpretive purposes in conjunction with the KCC LRDP or prior to the approval of a building permit or ground disturbances for any new major buildings within the Petition Area, whichever occurs first.

9. **Endangered Species.** Petitioner shall undertake the following:

a. During the construction phase of the Project, an endangered species awareness program shall be developed which includes general information on the Endangered Species Act and protected species, specific restrictions on the Petition Area to protect endangered species, and protocols on how job site personnel will respond to any downed or injured endangered species that may occur on the Petition Area. All construction personnel shall be required to be familiar with the program, guidelines, restrictions and protocols that will need to be followed.

b. If construction activity is planned to occur during the Nene nesting season of October through March on Kaua'i, the project site should be surveyed by a qualified biologist before the commencement of construction to determine if any active nesting activity is occurring on the site. If active Nene nesting does occur during construction, a biological monitor shall be on-site to ensure that no harm befalls the birds.

c. For any nighttime work required during construction, and for long term operation of the proposed Project, all exterior lighting shall be shielded so as to reduce the potential for interactions of nocturnally flying Hawaiian Petrels and Newell's Shearwaters with external lights and man-made structures.

d. To avoid potential impacts to the Hawaiian hoary bat, the clearing of



dense vegetation, including woody plants greater than 15 feet along the periphery of the Petition Area shall not occur between June 1 to September 15 when bats may be carrying young and potentially could be at risk by such clearing activities.

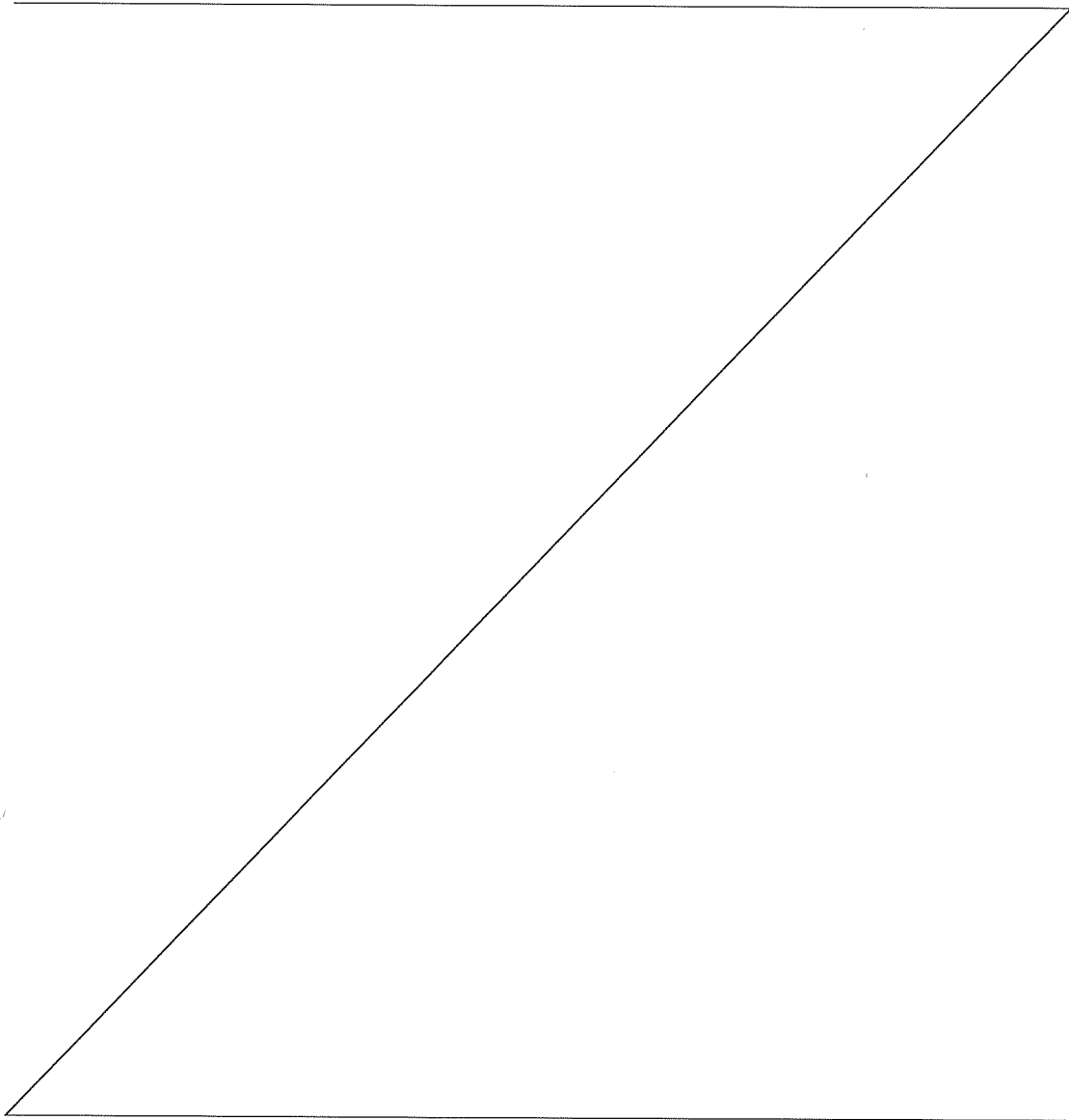
10. **Adjacent Agricultural Lands.** For all land in the Petition Area or any portion thereof that is adjacent to land in the State Land Use Agricultural District, Petitioner shall comply with the following:

- 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 § 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 Hawai‘i 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.** Petitioner shall timely provide without any prior notice, annual reports to the Commission, State Office of Planning, and the Kaua‘i County Planning Department, 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 due on or before the anniversary of the Decision and Order and 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.



ADOPTION OF ORDER

The Chair, being familiar with the record and proceedings, hereby adopt and approve the foregoing ORDER this 11th day of August, 2017. This ORDER shall take effect upon the date this ORDER is certified and filed by this Commission.

This ORDER is appealable pursuant to HRS section 91-14.

Done at Honolulu, Hawai'i, this 11th day of August, 2017, per motion on August 10, 2017.

LAND USE COMMISSION

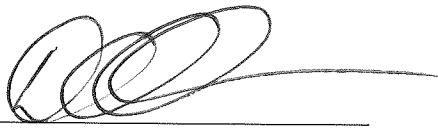
APPROVED AS TO FORM

STATE OF HAWAI'I

  
Deputy Attorney General

By   
JONATHAN L. SCHEUER  
Acting Chairperson and  
Commissioner

FILED AND EFFECTIVE ON: 8/11/, 2017.

Certified by:   
DANIEL E. ORODENKER  
Executive Officer  
State Land Use Commission



BEFORE THE LAND USE COMMISSION

OF THE STATE OF HAWAI'I

In the Matter of the Petition of	)	DOCKET NO. A16-801
	)	
UNIVERSITY OF HAWAI'I	)	
COMMUNITY COLLEGE	)	UNIVERSITY OF HAWAI'I
	)	COMMUNITY COLLEGE
To Amend the Agricultural Land Use	)	
District Boundary into the Urban District for)	)	CERTIFICATE OF SERVICE
Approximately 148.37 acres at Puhi, Līhu'e,	)	
Island of Kaua'i, State of Hawai'i	)	
TMK: (4) 3-4-07:01, 02, and 03	)	
_____	)	

2017 AUG 11 P 2:21  
LAND USE COMMISSION  
STATE OF HAWAII

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 August 11, 2017:

LEO R. ASUNCION, JR., AICP, Director  
Office of Planning, State of Hawai'i  
235 South Beretania Street  
6<sup>th</sup> Floor, Leiopapa A Kamehameha  
Honolulu, Hawai'i 96813

**HAND DELIVERY**

DAWN T. APUNA, ESQ.  
Deputy Attorney General  
Department of the Attorney General  
425 Queen Street  
Honolulu, Hawai'i 96813

**HAND DELIVERY**

MICHAEL DAHILIG, Director  
Planning Department, County of Kaua'i  
4444 Rice Street  
Līhu'e, Kaua'i, Hawai'i 96766

**CERTIFIED MAIL**  
**RETURN RECEIPT**  
**REQUESTED**

MAUNA KEA TRASK, ESQ.  
Deputy Kaua'i County Attorney  
Office of the County Attorney  
4444 Rice Street, Suite 220  
Līhu'e, Kaua'i, Hawai'i 96766

**CERTIFIED MAIL**  
**RETURN RECEIPT**  
**REQUESTED**

KAUA'I COUNTY PLANNING COMMISSION  
c/o Planning Department, County of Kaua'i  
4444 Rice Street  
Līhu'e, Kaua'i, Hawai'i 96766

**CERTIFIED MAIL**  
**RETURN RECEIPT**  
**REQUESTED**

UNIVERSITY OF HAWAII  
COMMUNITY COLLEGE  
2327 Dole Street  
Honolulu, Hawai'i 96822

(U.S. Mail)

LAUREL LOO, ESQ.  
Shiramizu, Loo & Nakamura  
Matsubara, Kotake, & Tabata  
4357 Rice Street, Suite 201  
Līhu'e, Kaua'i, Hawai'i 96766  
Attorney for Petitioner

**CERTIFIED MAIL**  
**RETURN RECEIPT**  
**REQUESTED**

WILSON OKAMOTO CORPORATION  
Earl Matsukawa  
1907 South Beretania Street, Suite 400  
Honolulu, Hawai'i 96826  
Agent for Petitioner

**CERTIFIED MAIL**  
**RETURN RECEIPT**  
**REQUESTED**

DATED: Honolulu, Hawai'i, August 11, 2017.



Executive Officer