cc. Brett
project file.
on S drive

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Applicant:
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Pi'ilani Promenade South, LLC
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Accepting Authority:
Land Use Commission
Department of Business &
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Re: DEIS for Pi'ilani Promenade
TKM: (2) 3-9-001: 016,170-174

South Maui Citizens for Responsible Growth ("SMCRG") submits the following comments and objections to the Draft Environmental Impact Statement ("DEIS") filed by Pi'ilani Promenade North and South for the development known as Pi'ilani Promenade ("Project").

The DEIS is not ripe for review since neither it nor Applicant's letter in response to SMCRG's October 14, 2013, letter re the EISPN address many of the central questions raised about the Project and its environmental impact. As a result, the DEIS thwarts the intended environmental review process that is designed to afford interested parties a means to question and assess the true impact a project will have on a community. The comments below are made in the absence of this critical information and are made without waiving this objection to the ripeness of the draft.

PART I. OVERARCHING COMMENTS

I. SCHOOLS AND SAFE ACCESS TO SCHOOL: The DEIS lacks any analysis of the Project's impact on local schools and children.

A. The DEIS does not answer questions posed by SMCRG regarding school impact contained in SMCRG's letter to the Project's proponent dated October 14, 2013. Specifically, see pages 8 and 9 of the October 14, 2013 letter.

B. The DEIS does not address the applicability and impact of the 1998 Kihei Makena Community Plan ("KMCP") insofar as that ordinance speaks to infrastructure and schools.

(1) ""Policy recommendations contained herein express the long-term visions for the Kihei-Makena community. They will be used to formulate and prioritize programs and strategies and will affect the sequence and patterns of growth in the region." (KMCP, p. 15.)

(2) "Upon adoption of this plan, it shall be required that adequate facilities and infrastructure will be built concurrent with future development." (KMCP, p. 15.)

(3) "Upon adoption of this plan, allow no further development unless infrastructure, public facilities, and services needed to service new development are available prior to or concurrent with the impacts of new development." (KMCP, p. 17.)

(4) "In the long term, there is a need for a third elementary school, and a high school, which would serve the Kihei-Makena region." (KMCP, p. 12.)

(5) "Include conditions of approval for new residential developments requiring that adequate school facilities shall be in place before a certificate of occupancy is issued." (KMCP, p. 19.)

(6) See the discussion below about the legal effect of the KMCP.

C. The analysis contains no discussion of safe routes to school (and other locations) for children living in the proposed development (and Honua'ula's 250 units). For orientation, see the photo of Pi'ilani Highway adjacent to and immediately south of the Project attached to SMCRG's letter dated October 14, 2013, included in the DEIS, evidencing a hazardous walkway students would have to use to gain access to the adjacent planned Kihei High School, unless they traversed the intervening gulch overland akin to what children might do in a third world country. Kihei Elementary and Lokelani Middle School are located even further south, with

no safe way for children to walk or bicycle to school, one of the consequences of automobile-centric sprawl.

(1) "Pedestrian safety continues to be a top priority for the Hawaii Department of Transportation. . . . The [Statewide Pedestrian Master] Plan . . . envisions a multi-modal transportation system that provides a safe and well-connected pedestrian network that encourages walking among all ages and abilities." (Introductory comments by Glenn Okimoto, Director, Hawaii Department of Transportation, contained in the Draft Statewide Pedestrian Master Plan, dated August 2011.)

(2) HB 2626, enacted in 2012 by the Hawaii State Legislature, creates a state-wide public policy in favor of safe routes to school for our keiki. How will the residential units in the Project, and in the neighboring Honua'ula project, satisfy the intent of this initiative?

(3) "Many of us remember a time when walking and bicycling to school was a part of everyday life. In 1969, about half of all students walked or bicycled to school. Today, however, the story is very different. Fewer than 15 percent of all school trips are made by walking or bicycling, one-quarter are made on a school bus, and over half of all children arrive at school in private automobiles. This decline in walking and bicycling has had an adverse effect on traffic congestion and air quality around schools, as well as pedestrian and bicycle safety. In addition, a growing body of evidence has shown that children who lead sedentary lifestyles are at risk for a variety of health problems such as obesity, diabetes, and cardiovascular disease. Safety issues are a big concern for parents, who consistently cite traffic danger as a reason why their children are unable to bicycle or walk to school." (U.S. Department of Transportation, see http://safety.fhwa.dot.gov/saferoutes/.)

(4) The American Academy of Pediatrics supports safe routes to school and increased walking and biking as a means of keeping our children health. The AAP notes, however, that walking and biking are reduced when children do not have a safe way to use these modalities to get to school safely, as is the case with the Project.

> "Motor vehicle injuries are the leading cause of death and acquired disability in childhood and adolescence. In addition, concerns with safety cause caregivers and students to choose methods other than walking or biking to school, reducing the amount of physical activity they have throughout the day." (See AAP website.)

(5) In 2009, the U.S. Centers for Disease Control recommend 24 strategies to prevent obesity in the United States, including "17. Enhance infrastructure supporting bicycling," "18. Enhance infrastructure supporting walking," and "19. Support locating schools within easy walking distance of residential areas." Given this, how will locating residential units *mauka* of the Pi'ilani Highway affect the long term health of the children living within the development when the only existing

elementary and middle schools serving the region are *makai* of the highway and miles away?

(6) The World Health Organization likewise supports safe routes to school:

> "Encouraging children to walk to school without providing pavements or safe places to cross the road, or reducing the speed of traffic, could in fact lead to increased injuries." (See WHO website.)

(7) Hawaii's people in general and Maui's adults in particular are increasingly obese and diabetic, partly due to the fact that our communities are poorly designed and built. (See CDC County Level Estimates of Obesity and Diabetes depicting increasing levels of both in Hawaii and Maui County from 2004 to 2009.) How will the isolated Pi'ilani Promenade and Honua'ula housing projects impact public health given the lack of connectivity to the rest of the community, except by means of a high speed highway? What public health burden will this this isolated development impose on current and future generations?

D. The DEIS contains no analysis of the sustainability of locating housing in a place that discourages (and makes it unsafe for) children to walk and bike to school. The Hawaii 2050 Sustainability Plan has bearing here. Where is the discussion? How do you defend a project that will require residents to use an automobile to access basic needs and schooling? What are the social and economic costs?

E. The DEIS makes no mention of the fact that the LUC recently conditioned land reclassification for the Kihei High School on construction of an overpass or an underpass to enable children living *makai* of the Pi'ilani Highway to get to the campus safely, without having to traverse the roadway itself. Given this, what steps need to be taken to enable children living *mauka* of the Highway to walk or bike to school when the only pedestrian/bike access route to the high school is a thin strip of asphalt at the edge of the roadway, pinched inward at the bridge just south of the Project, that fails to meet safe bike lane standards and is, on its face, dangerous, posing a significant and foreseeable risk of serious injury and death to children, with consequent state and county liability for personal injury or wrongful death with the added possibility of punitive damages being awarded upon a finding of "reckless disregard" for the health and safety of others?

A key requirement of the KMCP (and good planning in general) is that development must proceed in concert with adequate infrastructure:

> "Upon adoption of this plan, **it shall be required that adequate facilities and infrastructure will be built concurrent with future development**." (KMCP, p. 15; emphasis added.)

There are no roads, walkways and bike lanes currently in place or that will support safe routes to school (state policy and good sense) from the Project to (a)

the Kihei High School, (b) either of the elementary schools and/or (c) to the middle school serving south Maui. What mitigations are needed to address this health and safety issue? Where is the discussion in the DEIS? There is none.

II. COMPLIANCE WITH THE KIHEI-MAKENA COMMUNITY PLAN.

The DEIS dodges a key question that must be answered by the Land Use Commission (LUC): conformance with, and enforceability of, the KMCP.

The DEIS relegates the question to the status of an unresolved issue, erroneously asserting that the only parties involved in the matter are the Applicant and the County of Maui Department of Planning. In fact, the question must be resolved by the LUC; HRS section 205-16 mandates that all actions by the LUC must conform to the Hawaii state plan. Since community plans are part of the state plan, the LUC cannot approve the Project except by conditioning approval of the ultimate EIS upon amendment of the KMCP.

Additionally, the people have an independent interest in conformance and enforceability of the Project with the community plan because south Maui is, after all, a community of residents, businesses and visitors with hopes and aspirations embodied in the KMCP, a plan that was carefully and diligently developed, debated and enacted into law according to explicit procedures set forth in the Maui County Code.

Here, the developers, acting in concert with the county, have steadfastly refused to seek amendment of the KMCP, preferring instead to pursue economic gain without following the law, thereby denying citizens the right to be heard (a component of the amendment process) and the right to develop the community as planned, and not according to the singular economic interests of an out-of-state developer and owner with little or no stake in the live-ability and long-term quality of life here.

A. The Project violates the KMCP.

It is indisputable that the Project violates the clear language of the KMCP.

(1) The required land use map attached to the KMCP explicitly designates the subject parcel of land "LI," defining LI narrowly as "Light Industrial (LI) This is for warehousing, light assembly, service and craft-type industrial operations." (See Land Use Map and definition of LI at KMCP page 55; note that land use categorization is specifically required of Maui island land according to Maui County Code section 2.80B.070, E., 7 and 8.)

(2) The KMCP specifically speaks to the parcel as follows: "Provide for limited expansion of light industrial services in the area south of Ohukai and *mauka* of Pi'ilani Highway . . . . These areas should limit retail business or commercial

activities to the extent that they are accessory or provide services to the predominate light industrial use. These actions will place industrial use near existing and proposed transportation arteries for the efficient movement of goods." (KMCP, p. 18.)

(3) "Develop commercial services at the following locations to meet community needs: 1) North Kihei, between the existing South Kihei Road, Pi'ilani Highway and Uwapo Road. 2) A central business and commercial center for Kihei clustered about the South Kihei Road/Road "C" intersection. 3) In existing commercially zoned areas along South Kihei Road in the vicinity of Kalama Park. 4) Along South Kihei Road opposite the Kama'ole beach parks." (KMCP, p. 18; note that all these areas are *makai* of Pi'ilani Highway while the Project is *mauka* of the highway.)

(4) "A general theme of the Plan is to create more independent neighborhoods within Kihei, thus reducing unnecessary vehicular trips to South Kihei Road and Pi'ilani Highway. (KMCP, p. 16.)

(5) "Intended Effects of the Kihei-Makena Community Plan. Policy recommendations contained herein express the long-term visions for the Kihei-Makena community. They will be used to formulate and prioritize programs and strategies and will affect the sequence and patterns of growth in the region." (KMCP, p. 15.)

B. The KMCP has the force and effect of law.

(1) The Hawaii Supreme Court and a Hawaii Appellate Court have both held, in cases to which the County of Maui was a party, that the KMCP, both the 1998 plan and its predecessor, have the force and effect of law. (See Gatri v. Blaine, 88 Hawaii 108 (1998) and Leone v. County of Maui, 128 Hawaii 183 (2012). Because the County of Maui was a party in each case, it is barred from asserting that the KMCP does not have the force and effect of law.

(2) Aside from the above, which is dispositive, the legal scheme by which community plans are adopted independently supports the binding legal effect of all community plans, a factor cited in both Gatri and Leone.

(a) The Maui County Charter speaks to the process for creation, adoption and amendment of community plans. (Section 8-8.5 and 8-8.6.)

(b) The Maui County Code also contains explicit directions for creation, adoption and amendment of community plans. (M.C.C section 2.80B.070) It speaks to "enforcement of the community plans" at subsection H, language inconsistent with plans merely being optional at the discretion of the mayor or planning director. Finally, the Code provides a process for amendment of community plans, an unnecessary activity if community plans were merely suggestive.

(c) Other Maui County resources likewise support the enforceability of community plans. For instance, the County's "Capital Budget Guidelines and Policies" speaks to the need to develop CIP budgets in concert with the "General Plan, Island Plan and Community Plans." "The Community Plans will reflect the unique characteristics of each Community Plan area and enable residents and stakeholders within those areas to address location specific challenges." (Guideline, p. 1-8.)

(d) Maui County Code section 2.80B.030 states that "All agencies shall comply with the general plan," noting that community plans are part of the general plan.

(e) The KMCP is county ordinance No. 2641 and is, *ipso facto*, law.

Finally, because none of the above is referenced or discussed in the DEIS, even when the matter was explicitly raised by SMCRG in its October 14, 2013, letter to the Applicant in response to its EISPN, and because a DEIS must include a robust discussion of the relationship of a proposed action to "applicable land use plans, policies, and controls for the affected area," the DEIS is legally deficient on its face, and fails to meet the requirements of Section 11-200-17 of Hawaii's environmental laws.

III. COUNTYWIDE POLICY PLAN

A key driver of Maui's Countywide Policy Plan is the avoidance sprawl and the promotion of "smart growth." Urban sprawl is variously defined. The following definition is cited in Community Planning by Eric Kelly, 2nd ed. 2010, at page 16, culled from research at the University of Wisconsin:

> "We consider sprawl to be any environment characterized by
> (1) a population widely dispersed in low density residential development;
> (2) rigid separation of homes, shops and work places;
> (3) a lack of distinct, thriving activity centers, such as strong downtowns or suburban town centers; and
> (4) a network of roads marked by large block size and poor access from one place to another."

Here we have a Project located away from the existing community, built almost entirely *mauka* of Pi'ilani Highway; disconnected except by one proposed access point that will be a major highway intersection on a high speed highway; that is automobile-centric and not walk-able, even to the proposed high school next door or to the neighboring light industrial development; and that destroys the community plan that is designed to create infill and develop commercial/downtown centers. The Project meets the definition of classic sprawl. To abide by the requirements of section 11-200-17, the DEIS must recognize this reality and discuss

the impact it will have on south Maui's quality of life, on degraded real estate values, diminished real property tax revenue and public health and welfare.

In addition, because the Project initially proceeded in violation of a state Land Use Commission order and is now proposed to proceed in violation of the KMCP and zoning, the negative impact this Project has had and will continue to have on the trust of citizens in government must be assessed.

IV. SEGMENTATION

The DEIS fails to acknowledge and discuss unpermitted segmentation that will necessarily arise from separating the Pi'ilani Promenade portion of the 88 acre parcel from the Honua'ula portion of the development. The proposed Honua'ula component of the Project was wrongfully omitted from the environmental assessment done of the related Wailea 670 project located further south in Wailea. The request to bifurcate the Pi'ilani Promenade Project from the Honua'ula component of the 88 acre parcel may be a thinly veiled attempt to separate the wrongs of the Applicant from the errors and omissions of Honua'ula. (Note: all these projects are represented and coordinated by the identical owners' representative.)

IV. ECONOMIC IMPACT ANALYSIS

Assessment of the economic impact of the Project is inadequate. Essentially, the assessment states that construction jobs will be created and after the construction phase is completed, retail jobs will be created. Unanswered are questions posed by SMCRG in its October 14, 2014, letter to the Applicant in response to the EISPN. (See questions 1 – 14 at pages 11 – 12.) Without answers to these key questions, the economic analysis is incomplete, particularly since the Project will, if allowed, destroy a key component of the KMCP, which is targeted at reining in sprawl by restricting retail and commercial development to four distinct commercial zones *makai* of the Pi'ilani Highway. If the KMCP cannot be realized due to the rogue nature of the Project, what will the consequences be? Are the State and community planning processes simply irrelevant and dead, with developers and county mayors getting to decide who gets to do what, where, and when regardless of the will of the people, expressed in community plans? Will this become a function of who donates the most to political campaigns, or who knows whom in county government?

Additionally, since the DEIS does not disclose the configuration, location and size of proposed retail space, it is impossible to calculate the kind of retail enterprises that will populate the shopping centers. If retail pads are to be occupied by "Big Box" stores that currently do not exist in south Maui, calculation of economic impact will take on a distinctly different analysis in terms of impact on existing retailers in the community, recirculation of income, etc. None of this is provided.

Finally, there is no recognition that Maui County has the highest retail center vacancy rate in the state of Hawaii: 9.2% according to credible data published in CBRE's Q2 2014 "Hawaii Retail Market View." What impact will the Project have on a retail environment that already exhibits a high level of vacant retail space, particularly when coupled with a well-documented trend toward increased on-line shopping?

The analysis also fails to recognize and assess the impact other large commercial projects underway elsewhere on Maui will have on the Project and on the south Maui community, such as the large Target store now under construction in the A&B business park, and the A&B business park itself, both of which are located at the terminus of the Mokulele Highway nearest Kihei in Kahului. Instead, the analysis is presented in a vacuum of information and data.

PART II. SPECIFIC COMMENTS AND OBJECTIONS

SMCRG submits the following specific comments and objections to the text:

HAWAII STATE PLAN

1. Objective and Policies for Population (p. 86)

Items (1) – (4) and (7) should read "N/S" since the Project is sprawl, composed largely of retail uses that will produce low paying, dead-end jobs, and violates state and county planning policies, procedures and governing documents.

2. Objectives and Policies for the Economy – In General (p. 87)

Items (2), (3), (8)-(10), (14), (15), and (17) should read "N/S" since the Project is sprawl, composed largely of retail uses that will produce low paying, dead-end jobs, and violates state and county policies, procedures and governing documents.

3. Objectives and Policies for the Economy-Potential Growth Activities (p. 89)

Items (1), (5), (6), (9) and (11) should read "N/S" because the Project will not promote new, technological or growth industries.

4. Objectives and Policies for the Physical Environment – Land Based, Shoreline and Marine Resources (p. 91)

Items (1) – (9) should read "N/A" since the issues are not applicable to the Project.

5. Objectives and Policies for the Physical Environment – Scenic, Natural Beauty, and Historic Resources (p. 92)

Items (1) – (5) should read "N/A" since the Project will do none of these things. If anything, the Project will document historic cultural sites, then the sites will be obliterated. The land itself will not be enhanced or beautified by addition of a sprawling shopping center with acres of asphalt parking lots and Big Box stores that characterize an increasingly homogenous, soul-less America.

6. Objectives and Policies for the Physical Environment – Land, Air, and Water Quality (p. 93)

Items (1) and (2) under "Objectives" should read "N/S" since cultural sites will be destroyed and the area replaced by a sprawling shopping center that is not walk-able or bike-able and is automobile-centric so that access to the site will have to be by vehicle trips that will burn fossil fuel in direct opposition to sustainability principles that are designed to protect our natural resources, including air and water.

Items (2) – (5), (6) and (7) should read "N/S" since the Project will require more automobile trips in the region, alter the natural landscape by eliminating the Ka'ono'ulu Gulch, redirect runoff into a neighboring gulch, cover the ground with impervious material and heighten the risk of flooding in an area already plagued by flood risk. The Project is not located within commercial zones already existing in Kihei and is therefore not close to existing services and facilities. Its remote location on the fringe of town and on the *mauka* side of the Pi'ilani Highway will work to degrade community quality of life.

7. Objectives and Policies for Facility Systems – Transportation (p. 96)

Items (1) – (3), (5) and (6), and (9) – (13) should read "N/S" since the Project is not multi-modal and is, in fact, automobile-centric. This will in turn result in further reliance on and expenditure of fossil fuels. It will also impede future, quality growth in the community by denying the region the focused commercial growth plan imbedded in the KMCP. So, not only will automobile traffic increase in the area, the ability to generate greater walking and biking in a community will be dashed, creating a "lose/lose" for Kihei and Hawaii.

8. Objectives and Policies for Facilities and Systems – Energy (p. 97)

Items (4), (8) and (9) should read "N/S" since the Project is automobile-centric and will therefore generate greater greenhouse gas, coupled with frustration of the KMCP's plan to create walk-able and bike-able downtowns in designated areas in south Maui. Item (10) should read "N/A" since there is no evidence that the Project will provide priority handling of energy permits, a government function.

9. Objectives and Policies for Socio-cultural Advancement – Housing (p. 99)

Item (2) under "Objectives" should read "N/S" since the Project is the opposite of "orderly development." The Project has previously been found in violation of the LUC's 1995 Order (failure to construct a frontage road; failure to file annual progress reports; and failure to develop the property as represented to the LUC) and it remains in violation of the KMCP and zoning, for which no amendment has been or apparently will be sought by the Applicant. This is *disorderly development.*

Items (5) and (7) should read "N/S" since the Project's proposed housing is not located in existing neighborhoods and will in fact be located in scrub land completely removed from Kihei's core and without any existing infrastructure, with the exception of a water line that runs through the Property and delivers all of south Maui's potable water needs. Items (4) and (8) should read "N/A" because neither apply.

10. Objectives and Policies for Socio-cultural advancement – Health (p. 101)

Items (1) and (2) should read "N/S" because the Project will negatively impact the health of the people living on site and the health of the larger community because it is automobile-centric in contravention of all knowledge about the causes of America's obesity and diabetes epidemics and the effect lack of exercise in daily life plays in the development of these and other debilitating and costly diseases. The Project is not even neutral; it *promotes poor health and disease.*

11. Objectives for Socio-cultural Advancement – Leisure (p. 101)

Items (1) – (7) should read "N/S" and items (6) and (8) – (10) should read "N/A." This is, after all, a shopping center.

12. Objectives for Socio-cultural Advancement – Public Safety (p. 103)

Item (3) should read "N/S" since there is no evidence that the Project will in any way promote a sense of community responsibility for the welfare and safety of Hawaii people other than what already exists.

13. Objectives and Policies for Socio-cultural Advancement – Government (p. 103)

Items (1) and (2) should read "N/S" since the Project has violated the LUC's 1995 Order and the Applicant now proposes to proceed with development despite the light industrial use required by the KMCP and county zoning. The Applicant's and County's actions to date have eroded the people's confidence in government and given rise to speculation that cronyism is at work given the County's refusal to enforce the LUC's 1995 order and its apparent current posture that no amendment of the KMCP is needed, even in the face of a project that bears no resemblance to the

light industrial use carefully and explicitly articulated in the community plan, not to mention (1) holdings by state courts that the KMCP has the force and effect of law, (2) the County Charter, (3) County ordinances and (4) other County resource document holding up community plans as inviolable (in the absence of amendment). That the Applicant's representative is a former Maui County Public Works director with relationships with County officials has not gone unnoticed either, which perhaps would not be worthy of comment except for the County's remarkable lack of enforcement in this case.

14. Economic Priority Guidelines to Stimulate Economic Growth . . . to Encourage a Diversified Economy (p. 104)

Items (1) - (10) should read "N/S" since the Project is mostly retail, generating mostly retail jobs that are neither diversified nor likely to lead to satisfying careers. To say otherwise is fiction, unsupported by fact.

15. Guidelines to Promote Economic Health and Quality of the Visitor Industry (p. 106)

Item (1) should read "N/S" since the Project is automobile-centric and will necessarily increase traffic in the region. The economic analysis, such as it is, estimates that 97% of the sales generated in the Project's retail stores will come from offsite. As boldly claimed in leasing literature published by the previous developer, Eclipse, the planned shopping centers will drawn people from all over Maui at what it bragged would become the busiest intersection in Maui County! How increased local traffic will engender "the Aloha Spirit and minimize inconveniences" claimed by the Applicant is not explained.

Traffic choked, ugly Dairy Road in Kahului is a good example of what sprawl and vehicle load can do to an area. By developing a huge regional shopping center in Kihei, the community's desire to create walk-able/bike-able downtowns will be destroyed. These downtowns, not "Mega Malls" on the highway, are what will engender the Aloha Spirit, minimize inconveniences and create a much needed sense of community in what is already a sprawling Kihei (which is exactly why the KMCP is written as it is).

Items (8) and (9) should read "N/A" since there is no factual basis presented for the claims made and it is illogical that shopping malls will create a safer environment or stimulate advance data techniques any more that they will create world peace.

16. Priority Guidelines for Water Use and Development (p. 107)

Items (3) and (4) should read "N/A" since there are no facts presented that the Project will do either of these things.

17. Priority Guidelines for Energy Use and Development (p.107)

Items (1) – (3) should read "N/A" since there are no facts presented that the Project or its Applicant will do any of these things. Item (4) should read "N/S" because the Project is automobile-centric sprawl that will create more traffic, use more fossil fuel and deny the public a walk-able and bike-able community that would result in energy conservation.

18. Priority Guidelines to Promote the Development of the Information Industry (p.107)

Items (2) – (6) should read "N/A" since the Project is a retail shopping center, not a high technology incubator project. To claim that Big Box and other retail outlets will expand high tech in Hawaii is unsubstantiated, illogical and hyperbolic.

19. Priority Guidelines to Effect Desired Statewide Growth and Distribution (p. 108-9)

Items (1) – (3) should read "N/S" since the Project flies in the face of the existing state Land Use Commission order, the KMCP and zoning. This is not a planned project; it is had been, and continues to be, a rogue project. In 2005 the new owners of the 88-acre parcel changed the planned development from a permitted light industrial park into a proposed huge regional retail shopping center. The Project, if allowed, will swamp south Maui roads, impair existing retailers and retail shopping centers in the area, destroy the KMCP's design and violate the citizens' right to be heard (since the developers seek to pursue an entirely different project from the one approved and imbedded in the KMCP without following the amendment process set forth in the Maui County Charter and Code that afford the people a right to be heard).

Item (4) should likewise read "N/S" because when developers skirt the law (1995 LUC Order, KMCP, zoning, and mandated amendment processes), then bemoan the difficulty of developing in Hawaii, they convey the impression that development here is difficult. In fact, when developers do not follow the law problems can arise if the citizenry is sophisticated enough and has the ability to raise legal objections in administrative and judicial venues, as has been done here.

Item (7) should read "N/A" since the Project will not support the development of high technology parks as claimed.

20. Priority Guidelines for Regional Growth Distribution and Land Resource Utilization (p. 109)

Items (1), (3) – (5), (7) and (12) should read "N/S" since this huge retail complex will be located away from areas designated in the KMCP where water and infrastructure already exist. Additionally, there is little known about the Kamaole

aquifer from which the Project intends to draw some of its water. The aquifer is listed as least known by the state Commission on Water Resources Management. At the same time, many developers *mauka* of Pi'ilani Highway are looking to it to supply water without a global accounting for total draw and calculation of the sustainability of multiple draws upon the resource. It is a high-risk "crap shoot" that threatens the long term integrity of the Kamaole aquifer, bearing in mind that the Project is located in what is essentially a desert that is likely to get even drier with climate change. (State policy embraces an expectation of a drier future for the Hawaiian islands; see, e.g., DLNR proclamations and projections.)

Items (9), (10) and (13) should read "N/A" since they do not apply; no facts support application.

21. Priority Guidelines in the Area of Criminal Justice (p. 111)

Items (1) and (3) should read "N/A" since no facts are presented to support the claims. In terms of safety, greater automobile use caused by the Project will lead to more opportunities for automobile mishaps and accidents that will negatively affect public health and safety. To the extent children living within the Project walk or bike to school from the Project by means of Pi'ilani Highway, the probability of accidents leading to severe injury and/or death are increased. Pi'ilani Highway is not safe for pedestrian traffic.

22. State Functional Plan – Employment (p. 119)

Items (a), (d) and (e) should read "N/S" since there are no facts presented that employment training will be provided, or that quality of life will be enhanced by the development of an unpermitted, sprawling, regional retail shopping center that will offer entry level, dead-end retail jobs.

23. State Functional Plan – Energy (p. 119)

Items (a) and (b) should read "N/S" because the Project is a perfect example of unsustainable development requiring increased automobile traffic due to its location, particularly when the community plan calls for concentration of retail and commercial services in four distinct areas *makai* of the Pi'ilani Highway - where the population resides and elementary schools and the middle school are located. With this Project, every trip will involve a car.

Item (d) should read "N/A" since there are no articulated plans by the shopping center developers to launch into the business of integrated energy development and management.

24. State Functional Plans – Health (p. 120)

Item 1. Should read "N/S" since the project is not walk-able or bike-able and is a perfect example of 1960s urban sprawl that has made America obese, diabetic and sick. Getting to and from the Project will necessarily entail an automobile trip and not walking and biking. This is exactly what credible planners and health professionals rail against. So to claim that somehow the Project will promote health and disease prevention is absurd in the extreme.

25. State Functional Plan – Historic Preservation (p. 121)

The Ka'ono'ulu area is rich in Hawaiian history, none of which will be evident in the Pi'ilani Promenade shopping center and housing Project. Rather, the petroglyph rock has been removed and some historic sites recorded, all in preparation for cultural eradication on site. There are no facts presented that the shopping center and housing will relate this history to residents and visitors. Accordingly, claims of historic preservation are without foundation and items A – G should read "N/S."

26. State Functional Plan – Housing (p. 122)

None of this applies because the targets are pegged to the year 2000.

27. State Functional Plans – Tourism (p. 124)

Item 2a should read "N/S" since the Project will present a cookie-cutter, homogenous retail shopping center to tourists. Big Box stores presumably intended to occupy space in the Project will be the same as those on the Mainland, undercutting Hawaii's brand as a special place/island paradise. Furthermore, to claim that the Project will be sensitive to neighboring communities is an unsupportable fiction since it contravenes the KMCP, zoning and law.

28. State Functional Plans – Transportation (p. 125)

Items 1a, 1f, and 1h should read "N/S" since the Project will increase area traffic, discourage walking and biking, put pedestrians at risk of injury and death on Pi'ilani Highway and make it virtually impossible for people with disabilities to come and go except by car.

29. State Functional Plans – Water Resources Development (p. 126)

Other than building a water tank on a portion of the property, none of the claims made in this section are supportable by the facts presented. The Project is located in a desert and the aquifer below it is uncertain with many other projects looking to it as a source of water. Climate Change is expected to lead to less precipitation in Hawaii, more evaporation, and greater storm events likely to lead to increased risk of flooding. Elimination of a natural gulch on the property, hardening the surface with asphalt and redirecting storm water to a neighboring gulch that has led to

lowland flooding in the past is hardly support for the claims made in this section. Consequently, items a – i should be answered "N/S."

MAUI COUNTYWIDE POLICY PLAN

1. Improve the Opportunity to Experience the Natural Beauty and Preserve Biodiversity (p. 127)

The best that can be said for the Project is that negative impacts to the natural beauty of the island will be mitigated. To claim that the Big Box shopping center will somehow "improve the opportunity to experience the natural beauty and native biodiversity of the islands" is ridiculous. Item (1) should read "N/S" since the Project will interfere with the view plain from the ocean to Haleakala. Obstruction of the view can be mitigated by trees and landscaping - to hide the Project - but views of Haleakala will not be made more lovely. Again, Dairy Road in Kahului is a good place to see how sprawl affects the natural beauty of Maui.

2. Improve the Quality of Environmentally Sensitive Land (p. 127)

Items a – i should read "N/S" since the Project will eliminate a historic gulch, redirect runoff into a neighboring gulch, cover the natural landscape with hardscape and asphalt and increase the risk of flooding in the area.

3. Improve the Stewardship of the Natural Environment (p. 128)

No facts support any of the claims made. Items a – d in section one and item b in section 2 should read "N/S" since the Project will impair the natural environment by creating an automobile-centric sprawling development that will result in greater use of fossil fuel, contravene explicit state and county sustainability goals and lead to greater global warming. Items e and g should read "N/A" since there are no facts presented that the Applicant will take it upon itself to become an evangelist for the "possible effects of global warming," a particularly difficult task when one's pulpit is located atop a Big Box shopping center that violates the community plan that would, if served, achieve fossil fuel use reduction through creation of walk-able, bike-able, and live-able communities in south Maui.

4. Educate Residents and Visitors about Interconnectedness of the Natural Environment and People (p. 130)

Item c should read "N/S" since the Project will increase the use of fossil fuel and impair the environment.

5. Perpetuate the Hawaiian Culture, Lifestyles and Art (p. 131)

All items in these two categories should read "N/S" since the plan is to remove, document and destroy all evidence of Hawaiian existence on the property. Nothing

could be further from the *ahupua'a* concept. No evidence of an earlier Hawaiian culture will remain, unless plastic grass skirts and other trinkets likely made in China are sold on site. Perhaps modern Hawaiian music will resonate throughout the shopping center to create a false sense of place.

6. Improve Education – Develop Safe Walking and Bicycling Programs for School Children (p. 136)

As pointed out before, the Project lacks connective to the greater community and to schools, even the adjacent proposed Kihei High School. Pi'ilani Highway is a high-speed roadway with inadequate and dangerous shoulders that are unsuitable for foot and bike traffic. The location of housing on site makes is impossible for school children to get to school safely except via motor vehicle. No walking or biking program can be successful in this context. The answer to item a. is therefore "N/S."

7. Strengthen the Local Economy – Promote a Diversified Economic Base (p. 138)

The Project is essentially a Big Box shopping center with some housing. Retail sales jobs already exist on island. The Project will not lead to any diversification of the job market and will instead produce more low paying retail sales and stocking jobs. Clearly all jobs can be rewarding in one way or another, but to cast the Project as a champion of diversification, economic vitality, and supportive of entrepreneurship is absurd. This is particularly the case when Big Box stores and other national retailers will export revenue derived from the site to home offices located on the mainland or elsewhere. This economic model actually works to impoverish communities and is a factor in the diminishment of America's middle class.

None of the state's economic goals will be achieved by the addition of this sprawling, mainland owned and developed, 1960s-style shopping complex. All items in this category should read "N/S."

8. Improve Parks and Public Facilities (p. 140)

All items in this section should e answered "N/S" because the Project degrades the community's opportunity to create a walk-able and bike-able means of mobility given its isolation and singular connection to the larger community by way of a high speed highway. This does not promote physical fitness; in fact it works against it just as studies have shown. And, because the project is not a part of the larger Kihei community and can only be accessed safely by automobile, there will be diminished opportunity for social interaction and overall community health. Consequently, all items in this section should read "N/S."

9. Diversify Transportation Options – Environmentally Sustainable Transportation Systems; Reduce Reliance on the Automobile (p. 142)

In this day and age, an environmentally sustainable transportation system is one that is multi-modal. That is why the public policy of this state and the county is to develop "Complete Streets" and communities that are walk-able and bike-able. The Project is at odds with this strategic goal given its location, automobile-centric character and the destructive effect it is likely to have on the community plan that is designed to aggregate commercial activities in four locations *makai* of the highway in and near existing neighborhoods. Consequently, all items in this section should read "N/S."

10. Promote Energy Self-Sufficiency (p.144)

Automobile-centric, sprawling shopping centers increase the use of fossil fuels and there make it more difficult for Hawaii to achieve energy self-sufficiency. Consequently, items (3) a, j, k, and m should read "N/S." Items (3) d, f, h and i should read "N/A."

11. Direct Growth Toward Existing Infrastructure (p. 149)

The Project does just the opposite of this goal, in contravention of the KMCP and good planning principles. Items a – d under Policies and a and b under Implementing Actions should read "N/S."

12. Promote Sustainable Land Use and Growth Management (p. 151)

Because the Project violates the LUC's 1995 order, the KMCP and zoning and because Applicant has failed and refused to pursue amendment of the KMCP and zoning appropriate for the Project, it is a poster child for unmanaged, unsustainable and ineffective land use practices. For this reason, the following items should read "N/S": section (1) b, e, h and l; section (2) e, g, h, and l; (4) a, b, and d – g.

13. Strive for Good Governance (p. 153)

The Project fails the good governance test given the Applicant's violation of the 1995 LUC order, noncompliance with the KMCP and zoning, and Maui County Charter and Code provisions for amendment of community plans, not to mention judicial precedent binding the County with respect to enforceability of the KMCP. The pathway taken by the developers (and the County) here has been outside the bounds of the state planning scheme and good government. The developers' behavior, and that of the County of Maui, has undermined confidence in the integrity and fairness of government, a prime example of cronyism at the expense of the people. Items (1) – (5) should read "N/S."

MAUI ISLAND PLAN

1. Economic Development - Achieve a More Diversified Economy (p. 155)

Retail jobs arising from the Project will not produce a more diversified economy. All items in this section should read "N/S.

2. Economic development – Support Principles of Sustainability (p. 156)

Retail jobs arising from this automobile-centric, disconnected development are the antithesis of sustainability. All items in this section should read "N/S."

3. Economic Development – Emerging Sectors (p. 157)

Nothing in the Project will support high technology, green practices or new industries. Yes, the buildings constituting the physical structure of this automobile-centric, sprawling, unpermitted project may have some alternative energy components, but that is a far cry from the objectives outlined here that are overcome by the negatives posed to the environment and economy by the Project itself. Items 4.4.1.b and 4.4.1c should read "N/S."

4. Urban Land Use Issues – Human Scale and Infill (p. 159)

The Objective seeking a "compact, efficient, human-scale urban development pattern" will not be served by this huge, sprawling, automobile-centric, unpermitted Big Box shopping center that will dwarf human scale, deny infill and undermine the community's desire to concentrate commercial activity in four distinct commercial zones identified in the KMCP. This item should read "N/S."

The Policies seeking infill will likely be defeated by the Project. Items 7.3.1a and 7.3.1c, 7.3.1g, and 7.3.1i should read "N/S." Item 7.3.1g should read "N/A" since the Project has nothing to do with agriculture.

5. Urban Land Use Issues – Self-Sufficient and Sustainable Communities (p. 160)

See the discussion and definition of sprawl in the opening remarks above. The Project is classic urban sprawl. Items 7.3.2 - 7.3.2f should read "N/S."

6. Urban Land Use Issues – Sense of Place (p. 162)

Big Box shopping centers create the opposite of a "sense of place." They are cookie-cutter retail establishments composed of uninspiring, boxy "architecture," and lacking in any connection to Hawaii, or anywhere else for that matter. Item 7.3.3 entitled "Strengthen the island's sense of place" should read "N/S."

7. Urban Land Use Issues – Transparency (p. 163)

The way the Project has been managed to date is the *opposite* of transparency. First, in 2005 new owners began to take development of the 88-acre parcel away from light industrial use and toward what the community accurately dubbed a

"Mega Mall" complex (when it finally found out years later through a front page article in the Maui News) beyond the scale of anything like it in south Maui. The developers hid this fact from the LUC, the County and the public by failing to file four mandatory, successive annual reports. When the next two reports were filed, the owners asserted that the Project would comply with the 1995 order when nothing could be further from the truth, as evidenced by the finding by the LUC that the developers failed to develop the 88-acre parcel as represented, among other violations. Simultaneously, the County of Maui failed and refused to enforce the LUC's 1995 Order as required by law. To call this transparency is akin to calling day night.

Items 7.3.5, and subsections a - d should read "N/S."

KIHEI-MAKENA COMMUNITY PLAN

1. Land Use - Objectives and Policies (p. 165)

Items b, f - i and k should read "N/S" since the Project defies these explicit provisions of the KMCP. Items d, e, l and p should read "N/A" since they have no bearing.

2. Land Use - Implementing Actions (p. 167)

Item b is explicitly violated by this project and should read "N/S" unless the LUC conditions approval of the DEIS upon construction a new elementary school in north Kihei as indicated on page 12 of the KMCP: "[T]here is a need for a third elementary school, and a high school, which would serve the Kihei-Makena region;" and at page 17: "Upon adoption of this plan, allow no further development unless infrastructure, public facilities, and services needed to service new development are available prior to or concurrent with the impacts of new development." The high school is soon to be a reality, but a new elementary school isn't on the horizon, even as multiple housing projects are approved or under development in north Kihei (A&B 650 units; Honua'ula 250; Pi'ilani Promenade 200+, etc.).

Other items in this section are claimed to be supported by the Project when there is, in fact, no nexus, such as items e, f, h, and c. These should read "N/A."

3. Cultural Resources (p. 172)

All items listed under "Goal" and "Objectives and Policies" should read "N/S" since the plan of action is to record and eradicate all evidence of the pre-existence of the Hawaiian culture on site.

Item a under "implementing Actions" should read "N/A" since the Applicant presents no facts to support a claim that it will prepare a Kihei Makena specific cultural resources management plan.

4. Economic Activity (p. 176)

By ignoring the KMCP and proposing to develop a huge regional shopping center complex in scrub land on the *makai* side of the Pi'ilani Highway, the Project defies planned growth and the state planning scheme. Accordingly, items a and f should read "N/S." items b and d should read "N/A" since the Project will not undertake or touch either of these goals.

5. Physical and Social Infrastructure (p. 180)

Items a - d and g should read "N/S" since the Project contravenes the KMCP. Furthermore, the Project is automobile-centric and not suitably accessed by walking or bicycle, and it would not be safe for children living in the shopping center to walk or bike to any of the schools in the region. Items b, f and i should read "N/A" since none of these things, for which the Applicant claims credit, bear any relationship to the Project.

6. Energy and Public Utilities (p. 186)

Item b should read "N/S" since the Project is at odds with the KMCP that calls for co-location of commercial and retail services in close proximity to residential centers.

7. Education (p. 193)

See the discussion of educational facility needs and concerns above. The DEIS gives no consideration to the need for a third elementary school in north Kihei. The existing schools have some incremental capacity, but they are located far away from and *makai* of the 88-acre site.

School needs cannot be assessed in a vacuum. While the DEIS contains an estimate of expected student growth from the Project itself, if does not take into account the cumulative effect of all the housing projects moving forward in north Kihei. For these reasons, item c should read "N/S."

8. Government - Planning Standards (p. 193)

This section is worth quoting because it gets to the core of one of the key issues here: **"All zoning applications and/or proposed land uses and developments shall be consistent with the Land Use Map and Objectives and Policies of the Kihei-Makena Community Plan."** Incredibly, the Applicant asserts that the Project supports this standard. It is the opposite. This item a should read "N/S."

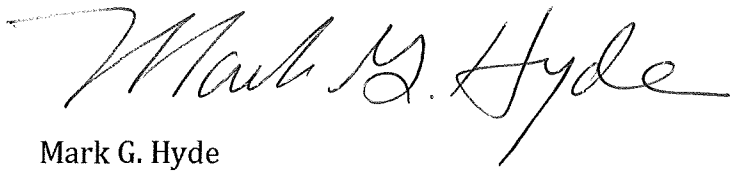
COUNTY ZONING

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

The word "mostly" is commonly defined as "to the greatest extent." Here the Project is mostly retail and commercial and only insignificantly light industrial, if light industrial at all. In a presentation to the Kihei Community Association approximately 1.5 years ago, representatives of the developer indicated the possibility that no light industrial uses may be developed on site, depending on demand, raising the specter that no light industrial uses will be developed on the parcel owned by Pi'ilani Promenade North, while there are *no* contemplated light industrial uses planned for the parcel owned by Pi'ilani Promenade South since it is entirely intended for retail use (and therefore should be zoned for business and commercial use).

The proposed development is inconsistent with M-1 zoning requirements, nomenclature and logic. The concept defeats the purpose of zoning, which is to regulate, direct and control growth. Applicant would have the LUC believe that M-1 zoning is a free pass with little, or even no nexus to light industrial use of land. We have seen the results of this kind of free-for-all development on Maui: Dairy Road in Kahului, is a good example of a thoroughfare that contains many light industrial zoned parcels with little or no light industrial use, filled with various retail uses, and now the subject of a costly bypass road from the airport to Mokulele Highway since Dairy Road is both an eyesore and is commonly snarled with traffic.

Respectfully submitted,



Mark G. Hyde
President,
South Maui Citizens for Responsible Growth

CHRIS HART
& PARTNERS, INC.
Landscape Architecture
City & Regional Planning

June 13, 2017

Mr. Mark Hyde, President
South Maui Citizens for Responsible Growth
4320 E. Waiola Loop
Kihei, HI 96753

Dear Mr. Hyde,

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

Thank you for your letter of October 2, 2014. In responding to your comments on the DEIS, we would like to note the following.

SMCRG COMMENT:
A. The DEIS does not answer questions posed by SMCRG regarding school impact contained in SMCRG's letter to the Project's proponent dated October 14, 2013. Specifically, see pages 8 and 9 of the October 14, 2013 letter.

Response:
In response to comments regarding school impacts the FEIS Section III. B. 3. (Economy) has been revised to include the following language:

The Economic and Fiscal Impact Assessment estimates that the proposed project will generate 60-70 students that will attend public schools (**See:** Appendix K, "Economic and Fiscal Impact Assessment").

The Economic and Fiscal Impact Assessment projected that the Project would generate 60-70 students. This projection is based on population/age modeling, and assumes that the children in an affordable apartment project would attend public school. The Economic and Fiscal Impact Assessment based the student generation rate on census data that between 10% and 11.5% of the population is of school age, which equals about 60 to 70 students based on the projected resident population of 607.

The DOE forecasts public school children for Kihei (which is considered part of Central Maui) at the rate of .22 public school children per multifamily unit and at .49 per single family home.

So, applying the DOE formula the total number of anticipated public school attendees from the 226-proposed subject apartment units would be 49.72, rounded to 50 students (.22 X 226).

In 2007, the Hawaii Legislature enacted Act 245 as Section 302A, HRS, "School Impact Fees". Based upon this legislation, the DOE has enacted impact fees for residential developments that occur within identified school impact districts. The Project is within the boundaries of the Central Maui Impact District and is within the Makawao Cost Area of that district. Projects within the district and cost area pay a construction fee and either a fee-in-lieu of land or a land donation, at the DOE's discretion. The Economic Impact Assessment estimates the projects impact fee is ~~$535,846.00~~ $553,926.00 (**See:** Appendix K, "Economic and Fiscal Impact Assessment"). At the appropriate time, the applicant will contact the DOE to enter into an impact fee agreement.

The Applicant had discussions with the DOE on the Project and is still designing the rental apartment portion of the Project and will enter into a written agreement with the DOE after the EIS and LUC review process has concluded.

SMCRG COMMENT:
B. The DEIS does not address the applicability and impact of the 1998 Kihei/Makena Community Plan ("KMCP") insofar as that ordinance speaks to infrastructure and schools.

(1) "Policy recommendations contained herein express the long-term visions for the Kihei-Makena community. They will be used to formulate and prioritize programs and strategies and will affect the sequence and patterns of growth in the region." (KMCP, p. 15.)

Response:
The DEIS did address, and the FEIS does address the KMCP section pertaining to development with regard to infrastructure and schools, notably Section IV.F. Relationship to Governmental, Plans, Polices, and Controls, Kihei Makena Community Plan. That section has been updated as indicated below:

Implementing Actions:	S	N/S	N/A
b. Include conditions of approval for new residential developments requiring that adequate school facilities shall be in place before a certificate of occupancy is issued.	~~✓~~		✓

At this time it is the Project's understanding that adequate capacity exists for the anticipated school aged children of the Residential component of the Project, therefore the above referenced section is not applicable to the Project. Additionally, the FEIS Section III.C.4, Affected environment, Potential Impacts and Mitigation Measures, Public Services, Schools has been amended as identified below:

4. Schools

Existing Conditions. Maui schools are organized into complexes and complex-areas. A complex consists of a high school and all of the intermediate/middle and elementary schools that flow into it. Groups of two to four complexes form a "complex area" that is under the supervision of a complex area superintendent.

The Pi'ilani Promenade site is located within the State Department of Education's (DOE) Maui Complex, within the Baldwin-Kekaulike-Maui Complex-Area. Currently there is capacity at all public schools for additional students. Current and projected enrollment and capacities for area schools are given in Table No. ~~2~~ 4, "DOE School Enrollment & Capacity" below. ***Note:** the "Capacity" column numbers are based on the results of a classroom space survey conducted by DOE in the 2012-13 school year.

Table No. ~~24~~ DOE School Enrollment & Capacity

Schools	2013-2014 Enrollment	Capacity	2014-2015 Projected Enrollment	2014-2015 Enrollment	2015-2016 Enrollment	2016-2017 Projected Enrollment	2016 Enrollment	2017-2018 Projected Enrollment
Kihei Elementary	947	890	851	864	801	883	786	791
Kamalii Elementary	585	928	584	530	481	542	452	447
Lokelani Intermediate	550	836	525	553	594	593	584	574
Maui High	1908	2035	1967	1931	1906	1861	1941	1977

Source: DOE 2016

Currently, the State DOE is planning to build a new high school for grades 9-12 in Kihei on approximately 77 acres mauka of Pi'ilani Highway between Kulanihakoi and Waipuilani Gulches, south of the Pi'ilani Promenade. ~~Phase I is slated to open in 2017 with a design capacity of 930 students, staff and visitors and Phase II is planned to open in 2025 with a design capacity of 1,941.~~ Based upon consultation with the DOE in April 2016, the high school in Kihei does not have a schedule for opening because the school is still in a pre-design phase. Grading work has started at the site and construction will begin when further funding is available.

Additionally, Kihei Charter School, provides K through 12 education for 546 students and the Kihei Charter School is pursuing building permits to construct a new high school in the MRTP in 2017.

Potential Impacts and Mitigation Measures. The Economic and Fiscal Impact Assessment estimates that the proposed project will generate 60-70 students that will attend public schools (**See:** Appendix K, "Economic and Fiscal Impact Assessment").

The Economic and Fiscal Impact Assessment projected that the Project would generate 60-70 students. This projection is based on population/age modeling, and assumes that the children in an affordable apartment project would attend public school. The Economic

and Fiscal Impact Assessment based the student generation rate on census data that between 10% and 11.5% of the population is of school age, which equals about 60 to 70 students based on the projected resident population of 607.

The DOE forecasts public school children for Kihei (which is considered part of Central Maui) at the rate of .22 public school children per multifamily unit and at .49 per single family home.

So, applying the DOE formula the total number of anticipated public school attendees from the 226-proposed subject apartment units would be 49.72, rounded to 50 students (.22 X 226).

The Project has not been designed to accommodate a public school site. In 2007, the Hawaii Legislature enacted Act 245 as Section 302A, HRS, "School Impact Fees". Based upon this legislation, the DOE has enacted impact fees for residential developments that occur within identified school impact districts. The Project is within the boundaries of the Central Maui Impact District and is within the Makawao Cost Area of that district. Projects within the district and cost area pay a construction fee and either a fee-in-lieu of land or a land donation, at the DOE's discretion. The Economic Impact Assessment estimates the projects impact fee is ~~$535,846.00~~ $553,926.00 (**See:** Appendix K, "Economic and Fiscal Impact Assessment"). At the appropriate time, the Applicant will contact the DOE to enter into an impact fee agreement that will help finance the construction of a school facilities in Kihei.

The Applicant had discussions with the DOE on the Project and is still designing the rental apartment portion of the Project and will enter into a written agreement with the DOE after the EIS and LUC review process has concluded.

To clarify, there was an estimation of the impact fee error in the DEIS and Economic and Fiscal Impact Analysis. The Project site contains land located within the Makawao Cost Area, and the appropriate school impact fee amount will be settled in the written agreement.

SMCRG COMMENT:
(2) "Upon adoption of this plan, it shall be required that adequate facilities and infrastructure will be built concurrent with future development." (KMCP, p. 15.)

Response:
In response to comments regarding facilities and infrastructure, we note that implementation of infrastructure are mentioned in several sections of the FEIS, including Section III. D. Infrastructure,

and Section IV. F. Kihei-Makena Community Plan. All infrastructure required by the State of Hawaii and County of Maui will be constructed as part of the initial phase of construction and completed prior to any occupancy within the project.

SMCRG COMMENT:
(3) "Upon adoption of this plan, allow no further development unless infrastructure, public facilities, and services needed to service new development are available prior to or concurrent with the impacts of new development." (KMCP, p.17.)

Response:
All infrastructure required by the State of Hawaii and County of Maui will be constructed as part of the initial phase of construction current with any impacts created by the project and completed prior to any occupancy within the project.

SMCRG COMMENT:
(4) "In the long term, there is a need for a third elementary school, and a high school, which would serve the Kihei-Makena region." (KMCP, p. 12.)

Response:
In response to comments regarding the need for schools in Kihei the FEIS Section III. C. 4. (Schools) has been revised to include the following language:

The Pi'ilani Promenade site is located within the State Department of Education's (DOE) Maui Complex, within the Baldwin-Kekaulike-Maui Complex-Area. Currently there is capacity at all public schools for additional students. Current and projected enrollment and capacities for area schools are given in Table No. ~~2~~ 4, "DOE School Enrollment & Capacity"

below. ***Note:** the "Capacity" column numbers are based on the results of a classroom space survey conducted by DOE in the 2012-13 school year.

Table No. ~~24~~ 4 DOE School Enrollment & Capacity

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Source: DOE 2016

Currently, the State DOE is planning to build a new high school for grades 9-12 in Kihei on approximately 77 acres mauka of Pi'ilani Highway between Kulanihakoi and Waipuilani Gulches, south of the Pi'ilani Promenade. ~~Phase I is slated to open in 2017 with a design capacity of 930 students, staff and visitors and Phase II is planned to open in 2025 with a design capacity of 1,941.~~ Based upon consultation with the DOE in April 2016, the high school in Kihei does not have a schedule for opening because the school is still in a pre-design phase. Grading work has started at the site and construction will begin when further funding is available.

SMCRG COMMENT:
(5) "Include conditions of approval for new residential developments requiring that adequate school facilities shall be in place before a certificate of occupancy is issued." (KMCP, p. 19.)

Response:
It is the understanding of the Project that adequate capacity exists for the school aged children anticipated from the proposed residential component.

In response to comments regarding the need for schools in Kihei the FEIS Section III. C. 4. (Schools) has been revised to include the following language:

In 2007, the Hawaii Legislature enacted Act 245 as Section 302A, HRS, "School Impact Fees". Based upon this legislation, the DOE has enacted impact fees for residential developments that occur within identified school impact districts. The Project is within the boundaries of the Central Maui Impact District and is within the Makawao Cost Area of that district. Projects within the district and cost area pay a construction fee and either a fee-in-lieu of land or a land donation, at the DOE's discretion. The Economic Impact Assessment estimates the projects impact fee is ~~$535,846.00~~ $553,926.00 (**See:** Appendix K, "Economic and Fiscal Impact Assessment").
At the appropriate time, the applicant will contact the DOE to enter into an impact fee agreement.

The Applicant had discussions with the DOE on the Project and is still designing the rental apartment portion of the Project and will enter into a written agreement with the DOE after the EIS and LUC review process has concluded.

SMCRG COMMENT:
6) See the discussion below about the legal effect of the KMCP.

C. The analysis contains no discussion of safe routes to school (and other locations) for children living in the proposed development (and Honua'ula's 250 units). For orientation, see the photo of Pi'ilani Highway adjacent to and immediately south of the Project attached to SMCRG's letter dated October 14,2013, included in the DEIS, evidencing a hazardous walkway students would have to use to gain access to the adjacent planned Kihei High School, unless they traversed the intervening gulch overland akin to what children might do in a third world country. Kihei Elementary and Lokelani Middle School are located even further south, with no safe way for children to walk or bicycle to school, one of the consequences of automobile-centric sprawl.

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

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

In the context of pedestrian and bicycle routes to school, the owner of approximately 12.7-acres of the *maikai* end of Kulanihakoi gulch has made public his interest in conveying the area to the County of Maui for the purposes of passive recreational open space and native habitat restoration. Because the land is identified as Park and Open Space in the County of Maui's Kihei Makena Community Plan, and is identified as a Secondary Off-road Connection and Gulch/Drainage in the County of Maui's South Maui Region Parks & Open Space Master Plan, the appropriate owner and maintainer of Kulanihakoi gulch is the County of Maui. Kulanihakoi Gulch is a viable opportunity for off-road pedestrian and bicycle access from South Kihei Road to the Kihei High School site.

SMCRG COMMENT:
1) "Pedestrian safety continues to be a top priority for the Hawaii Department of Transportation.... The [Statewide Pedestrian Master] Plan ... envisions a multi- modal transportation system that provides a safe and well-connected pedestrian network that encourages walking among all ages and abilities." (Introductory comments by Glenn Okimoto, Director, Hawaii Department of Transportation, contained in the Draft Statewide Pedestrian Master Plan, dated August 2011.)

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

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

SMCRG COMMENT:
(2) HB 2626, enacted in 2012 by the Hawaii State Legislature, creates a state wide public policy in favor of safe routes to school for our keiki. How will the residential units in the Project, and in the neighboring Honua'ula project, satisfy the intent of this initiative?

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

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

SMCRG COMMENT:
(3) "Many of us remember a time when walking and bicycling to school was a part of everyday life. In 1969, about half of all students walked or bicycled to school. Today, however, the story is very different. Fewer than 15 percent of all school trips are made by walking or bicycling, one-quarter are made on a school bus, and over

half of all children arrive at school in private automobiles. This decline in walking and bicycling has had an adverse effect on traffic congestion and air quality around schools, as well as pedestrian and bicycle safety. In addition, a growing body of evidence has shown that children who lead sedentary lifestyles are at risk for a variety of health problems such as obesity, diabetes, and cardiovascular disease. Safety issues are a big concern for parents, who consistently cite traffic danger as a reason why their children are unable to bicycle or walk to school." (U.S. Department of Transportation, see http://safety.fhwa.dot.gov /saferoutes.I.)

Response: The Applicant agrees with this concern and in response to comments regarding safe routes to schools the FEIS Section II.E. (Proposed Project Description) has been revised to include the following language:

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

SMCRG COMMENT:
(4) The American Academy of Pediatrics supports safe routes to school and increased walking and biking as a means of keeping our children health. The AAP notes, however, that walking and biking are reduced when children do not have a safe way to use these modalities to get to school safely, as is the case with the Project. "Motor vehicle injuries are the leading cause of death and acquired disability in childhood and adolescence. In addition, concerns with safety cause caregivers and students to choose methods other than walking or biking to school, reducing the amount of physical activity they have throughout the day." (See AAP website.)

Response: The Applicant agrees with this concern and in response to comments regarding safe routes to schools the FEIS Section II.E. (Proposed Project Description) has been revised to include the following language:

The current Project plan includes off-road pedestrian and bicycle routes along both East Kaonoulu Street as well as through an access easement from Ohukai Street to East Kaonoulu Street. Additionally, the Project includes a separate pedestrian/bicycle pathway running parallel to the Pi'ilani right of way within the project property as a preferred and safe route for south Maui residents traveling to and from the project area. With regard to the Kulanihakoi Gulch crossing, the project owner has offered to assist the State DOT in the design of a separate crossing

facility located within the right of way and outside the roadway section for pedestrian and bicycle safety. All of the above proposed improvements are intended to facilitate safe walking and bicycling and to reduce the requirement for automobile use in order to access the development.(See: Figures 14 A "Piilani Hwy Existing Street Section" and 14B "Piilani Hwy Proposed Street Section")

SMCRG COMMENT:
5) In 2009, the U.S. Centers for Disease Control recommend 24 strategies to prevent obesity in the United States, including "17. Enhance infrastructure supporting bicycling," "18. Enhance infrastructure supporting walking," and "19. Support locating schools within easy walking distance of residential areas." Given this, how will locating residential units mauka of the Pi'ilani Highway affect the long term health of the children living within the development when the only existing elementary and middle schools serving the region are makai of the highway and miles away?

Response: DOE impact fees are triggered by the development of residential units. The Project proposes 226 residential apartment units and will participate in required DOE impact fees. The siting educational facilities in south Maui is determined by the DOE. Transportation to existing elementary and middle schools in south Maui will be similar to existing neighborhoods located *mauka* of Pi'ilani Highway in north Kihei.

SMCRG COMMENT:
(6) The World Health Organization likewise supports safe routes to school: "Encouraging children to walk to school without providing pavements or safe places to cross the road, or reducing the speed of traffic, could in fact lead to increased injuries." (See WHO website.)

Response: The Applicant supports this statement. The Project proposes to provide pedestrian and bicycle improvements along its roadway frontages as well as an easement connection from East Kaonoulu to Ohukai. The Applicant has also offered to assist the State Department of Transportation in the design of a pedestrian and bicycle crossing of Kulanihakoi Gulch, within the Highway Right of Way, outside of the roadway area.

SMCRG COMMENT:
(7) Hawaii's people in general and Maui's adults in particular are increasingly obese and diabetic, partly due to the fact that our communities are poorly designed and built. (See CDC County Level Estimates of Obesity and Diabetes depicting increasing levels of both in Hawaii and Maui County from 2004 to 2009.) How will the isolated Pi'ilani Promenade and Honua'ula housing projects impact public health given the lack of connectivity to the rest of the community, except by means of a high speed highway? What public health burden will this this isolated development impose on current and future generations?

Response: This mixed-use Project located immediately adjacent to existing urbanized and developed land will include active park space, pedestrian and bicycle connectivity within the site and along the frontage portions of the Kihei Upcountry Highway and Pi'ilani Highway to provide opportunities for walking and biking. In addition the Project will provide an easement for pedestrian and bicycle

connectivity from Ohukai Road to East Kaonoulu Street. This will provide the option for pedestrian and bicycle access from the neighborhoods north of Ohukai to the project site. The intersection of Kaonoulu and Pi'ilani Highway will be improved with signalized pedestrian crossings to facilitate pedestrian access from the existing single-family neighborhoods and approved multifamily development makai of the Project site. The Applicant has offered to assist the State Department of Transportation in the design of a pedestrian and bicycle crossing for Kulanihakoi Gulch, within the highway right of way, outside of the roadway area. The onsite pedestrian oriented improvements will reduce the requirement for the automobile access to the development from existing nearby residential developments, and create a healthier lifestyle for those who live onsite. The offsite easement will expand the regional non-vehicular transportation network for the benefit of all residents in the Project vicinity.

SMCRG COMMENT:
D. The DEIS contains no analysis of the sustainability of locating housing in a place that discourages (and makes it unsafe for) children to walk and bike to school. The Hawaii 2050 Sustainability Plan has bearing here. Where is the discussion? How do you defend a project that will require residents to use an automobile to access basic needs and schooling? What are the social and economic costs?

Response: The Project has not received comment from State or County agencies regarding a minimum permitted distance from an existing public school for the development of residential units. The DOE has not typically developed Pre, Grade, Middle and High Schools all in direct proximity to each other. A residential area which may be within walking distance of one is unlikely to be within walking distance of all three other school levels. The Project is not anticipated to be more or less safe or healthy than other existing and proposed residences throughout the County. Complete towns and portions of towns are outside of the walking distance of one or more of the school facilities in the education cycle of a student. A park next to the residential area is provided for activity and exercise use and a series of improvements are proposed and have been described above which will provide a level of safety equal to current state and county standards for roadways and highways. In response to comments regarding sustainability the FEIS Section IV. C. (Hawaii State Plan) has been revised to include the following language:

Chapter 226-108 Sustainability priority.			
Priority guidelines to promote sustainability:			
Priority Guidelines:	S	N/S	N/A
(1) Encouraging balanced economic, social, community, and environmental priorities;	✓		
(2) Encourage planning that respects and promotes living within the natural resources and limits of the State;	✓		
(3) Promote a diversified and dynamic economy;	✓		

(4) Encouraging respect for the host culture;	✓		
(5) Promoting decisions based on meeting the needs of the present without compromising the needs of future generations;	✓		
(6) Considering the principles of the ahupua'a system; and	✓		
(7) Emphasizing that everyone, including individuals, families, communities, businesses, and government, has the responsibility for achieving a sustainable Hawaii.	✓		

Analysis: The Project will provide greatly needed affordable and market rate rental units in Kihei. Providing Affordable Housing for Maui residents is priority of Maui Island Plan, Kihei –Makena Community Plan and the Department of Housing and Human Concern. The Project also supports Hawaii State Plan Chapter 226, HRS 226-106 "Affordable Housing" which sets priority guidelines for the provision of affordable housing in the State of Hawaii.

The Project is a planned urban infill project that will complement the light industrial development to the north and the proposed Kihei High School to the south, and is an appropriate location for urban development. The Project is approximately 0.5 miles from commercial services located at the Pi'ilani Shopping Center and 0.4 miles from the commercial services located at Ohukai Road. The Project site is approximately 1 mile from the public beach access along South Kihei Road.

The proposed mixed use development will provide light industrial, commercial and rental housing opportunities for workforce residents. The allowable mix of permitted uses on the Project site, including rental opportunities support a dynamic economy by proving additional light industrial, retail, commercial and housing options to Maui's workforce residents and visitors.

The Applicant has prepared a revised Cultural Impact Assessment to study and document cultural practices which may affect the project site. It was determined that the proposed project would not have an adverse impact on any cultural activities or significant historic sites. In addition an Archaeological Inventory was completed in 2015 as part of the Final EIS and the State Department of Land and Natural Resources, State Historic Preservation Division approved the AIS report in January 2016.

The Project can be described as urban infill that will complete an existing neighborhood and provide needed affordable rental units in the near future. The Applicant anticipates acceptance of the FEIS, which will document that the Project will not compromise the needs of future generations.

In the context of the Ahupua'a system, the Project will seek to improve the quality of storm water runoff as it travels towards the ocean through the implementation of the onsite drainage system which will provide storage for the increase in stormwater runoff in compliance with Chapter 4. "Rules for the Design of Storm Drainage Facilities in the County of Maui" and Chapter 15-11 Rules for the Design of Storm Water Treatment Best Management Practices." The *makai* Project site boundary fronts Pi'ilani Highway and is approximately 0.5 miles from the ocean.

The Applicant is providing the Project residents with a 2-acre park space in front of the apartment development to promote recreation opportunities. In addition, sidewalks and bike paths will be incorporated into the site plan to promote no-vehicular circulation on the site.

The Applicant recognizes the importance of sustainability in planning, and in response to comments on the DEIS, the Project incorporates sustainability design elements such as solar photovoltaic panels for common areas and the vegetated detention basins located on site to intercept stormwater runoff closer to the source. The Applicant is exploring other renewable energy technologies and conservation measures to promote sustainability. Solar hot water heaters will be utilized throughout the residential portion of the Project. Occupants of the Pi'ilani Promenade will be encouraged to install photovoltaic energy systems where appropriate and feasible.

SMCRG COMMENT:
4. The DEIS makes no mention of the fact that the LUC recently conditioned land reclassification for the Kihei High School on construction of an overpass or an underpass to enable children living makai of the Pi'ilani Highway to get to the campus safely, without having to traverse the roadway itself. Given this, what steps need to be taken to enable children living mauka of the Highway to walk or bike to school when the only pedestrian/bike access route to the high school is a thin strip of asphalt at the edge of the roadway, pinched inward at the bridge just south of the Project, that fails to meet safe bike lane standards and is, on its face, dangerous, posing a significant and foreseeable risk of serious injury and death to children, with consequent state and county liability for personal injury or wrongful death with the added possibility of punitive damages being awarded upon a finding of "reckless disregard" for the health and safety of others?

Response 4: In response to comments regarding the future Kihei High School overpass or underpass, we note that the condition was acknowledged in the FEIS Section V. D. (Unresolved Issues).

Additionally, in response to comments regarding the future Kihei High School overpass or underpass the FEIS Section V. D. (Unresolved Issues) has been revised to include the following language:

5. Pedestrian Connection to the Kihei High School

The Kulanihakoi Gulch separates the proposed project and future Kihei High School. The Applicant is willing to discuss connectivity opportunities with the SDOT to create pedestrian access between the school and Pi'ilani Promenade. The Kihei High School is required to construct an underpass or overpass across Pi'ilani Highway to provide pedestrian access. The

DOE has not made a decision on which option is the most viable. The construction schedule for the school and appropriate funding sources for the pedestrian access are uncertain at this time. The connectivity issue will be resolved as the Kihei High School plans become finalized.

At the time of publication of this FEIS the issue remains unresolved.

However, the current Project plan includes off road pedestrian and bicycle routes along both East Kaonoulu Street, as well as through an access easement from Ohukai Street to East Kaonoulu Street. Additionally, the Project includes a separate pedestrian/bicycle pathway running parallel to the Pi'ilani right of way within the Project site as a preferred and safe route for south Maui residents traveling to and from the Project site. With regard to the Kulanihakoi Gulch crossing, the Applicant has offered to assist the State DOT in the design of a separate crossing facility located within the right of way and outside the roadway section for pedestrian and bicycle safety. All of the above proposed improvements do more to improve the safety of the walking and bicycling public than any existing improvements located in south Maui.

SMCRG COMMENT:
5. A key requirement of the KMCP (and good planning in general) is that Development must proceed in concert with adequate infrastructure:

"*Upon adoption of this plan, **it shall be required that adequate facilities and infrastructure will be built concurrent with future development.**" (KMCP, p. 15; emphasis added.)*

There are no roads, walkways and bike lanes currently in place or that will support safe routes to school (state policy and good sense) from the Project to (a) the Kihei High School, (b) either of the elementary schools and for (c) to the middle school serving south Maui. What mitigations are needed to address this health and safety issue? Where is the discussion in the DEIS? There is none.

Response 5: In response to comments regarding safe routes to schools the FEIS Section II.E. (Proposed Project Description) has been revised to include the following language:

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

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

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

SMCRG COMMENT:

6 II. COMPLIANCE WITH THE KIHEI-MAKENA COMMUNITY PLAN.

The DEIS dodges a key question that must be answered by the Land Use Commission (LUC): conformance with, and enforceability of, the KMCP.

The DEIS relegates the question to the status of an unresolved issue, erroneously asserting that the only parties involved in the matter are the Applicant and the County of Maui Department of Planning. In fact, the question must be resolved by the LUC; HRS section 205-16 mandates that all actions by the LUC must conform to the Hawaii state plan. Since community plans are part of the state plan, the LUC cannot approve the Project except by conditioning approval of the ultimate EIS upon amendment of the KMCP.

Additionally, the people have an independent interest in conformance and enforceability of the Project with the community plan because south Maui is, after all, a community of residents, businesses and visitors with hopes and aspirations embodied in the KMCP, a plan that was carefully and diligently developed, debated and enacted into law according to explicit procedures set forth in the Maui County Code.

Here, the developers, acting in concert with the county, have steadfastly refused to seek amendment of the KMCP, preferring instead to pursue economic gain without following the law, thereby denying citizens the right to be heard (a component of the amendment process) and the right to develop the community as planned, and not according to the singular economic interests of an out-of-state developer and owner with little or no stake in the live-ability and long-term quality of life here.

A. The Project violates the KMCP.

It is indisputable that the Project violates the clear language of the KMCP.

(1) The required land use map attached to the KMCP explicitly designates the subject parcel of land "LI," defining LI narrowly as "Light Industrial (LI) This is for warehousing, light assembly, service and craft-type industrial operations." (See Land Use Map and definition of LI at KMCP page 55; note that

land use categorization is specifically required of Maui island land according to Maui County Code section 2.80B.070, E., 7 and 8.)

(2) The KMCP specifically speaks to the parcel as follows: "Provide for limited expansion of light industrial services in the area south of Ohukai and mauka of Pi'ilani Highway . . . . These areas should limit retail business or commercial activities to the extent that they are accessory or provide services to the predominate light industrial use. These actions will place industrial use near existing and proposed transportation arteries for the efficient movement of goods." (KMCP, p. 18.)

(3) "Develop commercial services at the following locations to meet community needs: 1) North Kihei, between the existing South Kihei Road, Pi'ilani Highway and Uwapo Road. 2) A central business and commercial center for Kihei clustered about the South Kihei Road/Road "C" intersection. 3) In existing commercially zoned areas along South Kihei Road in the vicinity of Kalama Park. 4) Along South Kihei Road opposite the Kama'ole beach parks." (KMCP, p. 18; note that all these areas are makai of Pi'ilani Highway while the Project is mauka of the highway.)

(4) "A general theme of the Plan is to create more independent neighborhoods within Kihei, thus reducing unnecessary vehicular trips to South Kihei Road and Pi'ilani Highway. (KMCP, p. 16.)

(5) "Intended Effects of the Kihei-Makena Community Plan. Policy recommendations contained herein express the long-term visions for the Kihei Makena community. They will be used to formulate and prioritize programs and strategies and will affect the sequence and patterns of growth in the region." (KMCP, p. 15.)

B. The KMCP has the force and effect of law.

(1) The Hawaii Supreme Court and a Hawaii Appellate Court have both held, in cases to which the County of Maui was a party, that the KMCP, both the 1998 plan and its predecessor, have the force and effect of law. (See Gatri v. Blaine, 88 Hawaii 108 (1998) and Leone v. County of Maui, 128 Hawaii 183 (2012). Because the County of Maui was a party in each case, it is barred from asserting that the KMCP does not have the force and effect of law.

(2) Aside from the above, which is dispositive, the legal scheme by which community plans are adopted independently supports the binding legal effect of all community plans, a factor cited in both Gatri and Leone.

(a) The Maui County Charter speaks to the process for creation, adoption and amendment of community plans. (Section 8-8.5 and 8-8.6.)

(b) The Maui County Code also contains explicit directions for creation, adoption and amendment of community plans. (M.C.C section 2.80B.070) It speaks to "enforcement of the community plans" at subsection H, language inconsistent with plans merely being optional at the discretion of the mayor or planning director. Finally, the Code provides a process for amendment of community plans, an unnecessary activity if community plans were merely suggestive.

(c) Other Maui County resources likewise support the enforceability of community plans. For instance, the County's "Capital Budget Guidelines and Policies" speaks to the need to develop CIP budgets in concert with the "General Plan, Island Plan and Community Plans." "The Community Plans will reflect the

unique characteristics of each Community Plan area and enable residents and stakeholders within those areas to address location specific challenges." (Guideline, p. 1-8.)

(d) Maui County Code section 2.80B.030 states that "All agencies shall comply with the general plan," noting that community plans are part of the general plan.

(e) The KMCP is county ordinance No. 2641and is, ipso facto, law.

Finally, because none of the above is referenced or discussed in the DEIS, even when the matter was explicitly raised by SMCRG in its October 14, 2013, letter to the Applicant in response to its EISPN, and because a DEIS must include a robust discussion of the relationship of a proposed action to "applicable land use plans, policies, and controls for the affected area," the DEIS is legally deficient on its face, and fails to meet the requirements of Section 11-200-17 of Hawaii's environmental laws.

Response 6: Maui County Code section 2.80B.070, E., 7 and 8 will apply to Community Plan Updates processed after the adoption of the 2012 Maui Island Plan where Growth Boundaries were first delineated. The section cited has not been retroactively applied to existing Community Plans to date. In response to comments regarding the compliance with the KMCP, we note that compliance with KMCP is addressed in the FEIS Section IV. F. (Kihei-Makena Community Plan)

The KMCP does propose limitations on the creation of commercial uses in the area south of Ohukai and Mauka of the Pi'ilani Highway. However, Zoning for the property was approved by the Maui County Council in 1999 with no limitations on uses and after full discussion on the KMCP goals, objectives and policies. Based on the timing of the Project's Zoning approval, it is the Applicant's understanding that the Maui County Council Zoned the Project site Light Industrial in 1999 without condition or limitation on Commercial and Multi-Family Uses and therefore with the expectation that the full range of uses permitted by the M-1 Light Industrial District do substantively conform to the intent of the KMCP which was adopted by Council the year prior, in 1998.

Additionally in response to comments regarding the compliance with the KMCP, the FEIS Section V. D. (Kihei-Makena Community Plan) has been revised to include the following language:

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

The subject property is located in North Kihei, south of Ohukai Road, and mauka of Pi'ilani Highway. This area was designated in the KMCP for light industrial use in order to encourage urban expansion in the area mauka of Pi'ilani Highway (goal k). Goal k of the KMCP seeks to "[p]rovide for limited expansion of light industrial services in the area south of Ohukai and mauka of Pi'ilani Highway, ... These areas should limit retail business or commercial activities to the extent that they are accessory

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

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

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

SMCRG COMMENT:
7.III. COUNTYWIDE POLICY PLAN

A key driver of Maui's Countywide Policy Plan is the avoidance sprawl and the promotion of "smart growth." Urban sprawl is variously defined. The following definition is cited in Community Planning by Eric Kelly, 2nd Ed. 2010, at page 16, culled from research at the University of Wisconsin:

'We consider sprawl to be any environment characterized by
(1) A population widely dispersed in low density residential development; (2) rigid separation of homes, shops and work places;
(3) A lack of distinct, thriving activity centers, such as strong downtowns or suburban town centers; and
(4) A network of roads marked by large block size and poor access from one place to another."

Here we have a Project located away from the existing community, built almost entirely mauka of Pi'ilani Highway; disconnected except by one proposed access point that will be a major highway intersection on a high speed highway; that is automobile-centric and not walk-able, even to the proposed high school next door or to the neighboring light industrial development; and that destroys the community plan that is designed to create infill and develop commercial/downtown centers. The Project meets the definition of classic sprawl. To abide by the requirements of section 11-200-17, the DEIS must recognize this reality and discuss the impact it will have on south Maui's quality of life, on degraded real estate values, diminished real property tax revenue and public health and welfare.

In addition, because the Project initially proceeded in violation of a state Land Use Commission order and is now proposed to proceed in violation of the KMCP and zoning, the negative impact this Project has had and will continue to have on the trust of citizens in government must be assessed.

Response 7: The proposed Project will be completely mauka of the Pi'ilani Highway.

Applicant has coordinated with the Planning Department and will continue to refine plans to create a well-designed Project. Following the acceptance of the FEIS and completion of the Motion to Amend process, design guidelines will be presented to the Kihei Community Association Design Review Committee and the Maui County Urban Design Review Board for review and comment prior to submittal to the Planning Department for review and approval.

It is the Applicant's position that the original 123-lot Light Industrial Development, without diversity of uses would more accurately reflect the definition of sprawl provided above.

Information on proposed interconnectivity to existing nearby neighborhoods has been described above.

In response to comments regarding sprawl, the FEIS Section V.C. (Cumulative and Secondary Impacts) has been revised to include the following language:

With regard to the concern relative to sprawl, the proposed project is located immediately adjacent to an extensive and larger light industrial complex which is adjacent to a significant residential area in north Kihei. Immediately to the south of the proposed project is the proposed Kihei High School for which the State of Hawaii has acquired the land and is now in the process of design. The amount of residential or apartment zoned land in south

Maui available for residential and especially apartment development is limited. The project site is County zoned Light Industrial and Apartments are a permitted use. The proposed project has been designated for urban development since 1995 and is located within the Maui Island Plan Urban Growth Boundary, an area determined to be the location of desired future urban development for south Maui. This mixed-use project will include light industrial, business /commercial and residential uses, active park space, pedestrian and bicycle connectivity within the site and along the frontage portions of the Kihei Upcountry Highway and Pi'ilani Highway to promote smart growth and less dependence on the automobile. In addition the project will provide an easement for pedestrian and bicycle connectivity from Ohukai Road to the mauka portion of the project site and the Applicant anticipates that there will be opportunities for future connection along Pi'ilani Highway with the Kihei High School. The onsite pedestrian oriented improvements will reduce the need for the automobile and create a healthier lifestyle for those who live there and the offsite easement will expand the regional non-vehicular transportation network.

SMCRG COMMENT:
IV. SEGMENTATION
The DEIS fails to acknowledge and discuss unpermitted segmentation that will necessarily arise from separating the Pi'ilani Promenade portion of the 88 acre parcel from the Honua'ula portion of the development. The proposed Honua'ula component of the Project was wrongfully omitted from the environmental assessment done of the related Wailea 670 project located further south in Wailea. The request to bifurcate the Pi'ilani Promenade Project from the Honua'ula component of the 88 acre parcel may be a thinly veiled attempt to separate the wrongs of the Applicant from the errors and omissions of Honua'ula. (Note: all these projects are represented and coordinated by the identical owners' representative.)

Response 8: In response to comments regarding segmentation the FEIS Section II.C. (Project Background) has been revised to include the following language:

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

proposes a 2-acre park in connection with the 226 apartment units, these parks are separate and distinct parks that support separate development projects.

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

SMCRG COMMENT:

IV. ECONOMIC IMPACT ANALYSIS

Assessment of the economic impact of the Project is inadequate. Essentially, the assessment states that construction jobs will be created and after the construction phase is completed, retail jobs will be created. Unanswered are questions posed by SMCRG in its October 14, 2014, letter to the Applicant in response to the EISPN. (See questions 1 - 14 at pages 11- 12.) Without answers to these key questions, the economic analysis is incomplete, particularly since the Project will, if allowed, destroy a key component of the KMCP, which is targeted at reining in sprawl by restricting retail and commercial development to four distinct commercial zones makai of the Pi'ilani Highway. If the KMCP cannot be realized due to the rogue nature of the Project, what will the consequences be? Are the State and community planning processes simply irrelevant and dead, with developers and county mayors getting to decide who gets to do what, where, and when regardless of the will of the people, expressed in community plans? Will this become a function of who donates the most to political campaigns, or who knows whom in county government?

Additionally, since the DEIS does not disclose the configuration, location and size of proposed retail space, it is impossible to calculate the kind of retail enterprises that will populate the shopping centers. If retail pads are to be occupied by "Big Box" stores that currently do not exist in south Maui, calculation of economic impact will take on a distinctly different analysis in terms of impact on existing retailers in the community, recirculation of income, etc. None of this is provided.

Finally, there is no recognition that Maui County has the highest retail center vacancy rate in the state of Hawaii: 9.2% according to credible data published in CBRE's Q2 2014 "Hawaii Retail Market View." What impact will the Project have on a retail environment that already exhibits a high level of vacant retail space, particularly when coupled with a well-documented trend toward increased on-line shopping?

The analysis also fails to recognize and assess the impact other large commercial projects underway elsewhere on Maui will have on the Project and on the south Maui community, such as the large Target store now under construction in the A&B business park, and the A&B business park itself, both of which are located at the terminus of the Mokulele Highway nearest Kihei in Kahului. Instead, the analysis is presented in a vacuum of information and data.

Response:

In the context of the existing Zoning for the Project Site and Maui County Code 2.80B.030 - General plan which states, "B. All agencies shall comply with the general plan, and administrative actions by agencies shall conform to the general plan, except for ministerial permits or approvals including, but not limited to, building permits, grading permits, plumbing permits, and electrical permits.", it should be anticipated that retail and commercial development and Uses would substantially occur within the original 123-lot Light Industrial Subdivision, consistent with other Light Industrial subdivisions throughout Maui County.

The proposed Project provides a more diverse configuration of uses which will be better suited to engage the existing residential neighborhoods in the vicinity and the future intersection of the Piilani and Kihei Upcountry Highway. Significant Light Industrial development exists abutting the Project site to the north which includes significant commercial and retail Uses. It is not anticipated that expanding the same pattern of development would contribute to the vibrancy of the existing development to the north and west.

In response to comments regarding the Economic and Fiscal Impact Analysis the FEIS Section III. B. 3. (Economy) has been revised to include the following language:

Over the past 20 years the Maui light industrial sector has evolved and the initial conceptual plan of 123 small lots to would support approximately 900,000 square feet (SF) of business floor area and is no longer valid in today's market. The updated Pi'ilani Promenade project proposes a smaller development at 530,000 square feet of business commercial space, and approximately 58,000 square feet of light industrial space, and the 226 multi-family units. Therefore it is anticipated that this development is more appropriate and will be successful in current and future market conditions.

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

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

In mid-2014, The Hallstrom Group completed an inventory of the Kihei Retail market and found that about 10 percent of the total floor area in the community was vacant. However, the vacancies were either restaurant spaces (the least stable sector of the market) or in uncompetitive projects or locations (such as along Lipoa Road). All of the quality/competitive spaces along South Kihei Road or in newer, modern centers were occupied. Over the past year numerous new leases have been signed and the vacancy rate in Kihei has dropped below seven percent (2014).

The problem is not with demand for competitive spaces in the area, but the lack of quality, modern, well-located inventory. Overall the Kihei retail market is strong, and performed better during the recession and recovery than most neighbor island sectors.

The Project is intended to focus on providing light industrial and commercial uses for local Maui residents as an alternative shopping destination to Kahului. It is not intended to be directly competitive with the majority of stores along South Kihei Road which attract large numbers of visitors as their primary patrons, or otherwise comprise a significant portion of their customer base.

The Applicant anticipates that some visitors will patronize the Project, but will comprise only a minority of shoppers for selected retail stores and restaurants, and not necessarily for the resident-oriented anchor tenant and light industrial businesses.

SMCRG COMMENT:
PART II. SPECIFIC COMMENTS AND OBJECTIONS
SMCRG submits the following specific comments and objections to the text:
HAWAII STATE PLAN

1. Objective and Policies for Population (p. 86)
Items (1) - (4) and (7) should read "N/S" since the Project is sprawl, composed largely of retail uses that will produce low paying, dead-end jobs, and violates state and county planning policies, procedures and governing documents.

Response: In response to comments regarding population the FEIS Section IV. C. (Hawaii State Plan) has been revised to include the following language:

Analysis: The Project supports policy items 1-3 and 7. Policy item 4 is not applicable as the Project does not include public awareness programs or activities to understand concerns of population increase. The proposed project includes a residential component that will help accommodate foreseeable population growth on Maui. The Pi'ilani Promenade incorporates current land use planning themes which encourages mixed use projects and incorporates a variety of compatible uses on the same property. Given the Light Industrial (LI) designation of the property by the Kihei-Makena Community Plan and the placement of the Project site within the Urban Growth Boundary by the Maui Island Plan, the Project site is in an appropriate location for new urban concentration and growth. Both of these plans support an urban use of the Project site, and with existing infrastructure and public facilities in close proximity, balancing employment with housing and services is a central tenet of smart growth.

The Pi'ilani Promenade will strengthen Maui's economy by creating jobs for Maui residents which will in turn have a positive impact on the rest of the Maui economy. The result will be an increase in economic activities and employment opportunities on the neighbor islands consistent with community needs and desires, which will promote increased opportunities for Hawaii.

SMCRG COMMENT:
2. Objectives and Policies for the Economy- In General (p. 87)
Items (2), (3), (8)-(10), (14), (15), and (17) should read "N/S" since the Project is sprawl, composed largely of retail uses that will produce low paying, dead-end jobs, and violates state and county policies, procedures and governing documents.

Response: In response to comments regarding the economy the FEIS Section IV. C. (Hawaii State Plan) has been revised to include the following language:

Analysis: The Project supports policy items 2, 3, 8-10, 14, 15, and 17. Given the Light Industrial (LI) designation of the property by the Kihei-Makena Community Plan and the placement of the Project

site within the Urban Growth Boundary by the Maui Island Plan, the Project site is in an appropriate location for new urban concentration and growth. Both of these plans support an urban use of the Project site, and with existing infrastructure and public facilities in close proximity, balancing employment with housing and services is a central tenet of smart growth.

As discussed in Section III.B.3 (Economy) the construction of the Pi'ilani Promenade is expected to inject approximately $212 million of new capital investment into the local economy and provide an estimated 878 "worker years" of employment as well as $66.5 million in total wages over a 12 to 15 year period. The effect of these expenditures will have positive direct, indirect, and induced beneficial impacts on the economy of the County of Maui. During its operations phase, the Pi'ilani Promenade will increase the level of capital investment in the region which will create employment opportunities and economic stimulus for the region. The proposed project will provide direct employment opportunities for Maui residents and contribute to economic diversification and growth for both Maui and the State. After "stabilization," the Pi'ilani Promenade is envisioned to support 1,210 permanent jobs with an annual payroll of about $ 36.6 million.

SMCRG COMMENT:
3. Objectives and Policies for the Economy-Potential Growth Activities (p. 89)
Items (1), (5), (6), (9) and (11) should read "N/S" because the Project will not promote new, technological or growth industries.

Response: In response to comments regarding the economy-potential growth activities, the FEIS Section IV. C. (Hawaii State Plan) has been revised to include the following language:

Analysis: The Pi'ilani Promenade will encompass a variety of permitted land uses which are expected to attract a broad range of businesses because of this diversity. This mixture of light industrial, residential, commercial, and retail uses will make the Pi'ilani Promenade a more vibrant and attractive environment for businesses to setup shop and to grow their operations. The Pi'ilani Promenade supports policy items 1, 5, 6, 9 and 11 because the Project will facilitate the development of new businesses, including the opportunity for information industry which will provide employment opportunities for Maui residents.

SMCRG COMMENT:
4. Objectives and Policies for the Physical Environment - Land Based, Shoreline and Marine Resources (p. 91)
Items (1) - (9) should read "N/A" since the issues are not applicable to the Project.

Response: In response to comments regarding the Physical Environment, the FEIS Section IV. C. (Hawaii State Plan) has been revised to include the following language:

Analysis: The Applicant has changed polices items 5 and 7 to "N/A" as requested by the South Maui Citizens for Responsible Growth (SMCRG) since the issues are not applicable to the Project. Policy 9 was already marked as N/A. Policies 1-4, 6 and 8 are supportive because the Pi'ilani Promenade does not lie ~~within the Hawaii Coastal Zone Management Area nor is it located~~ within the Special

Management Area for the island of Maui. No listed or endangered species of flora and fauna were identified on the property. During the construction and operational phases of the project, Best Management Practices (BMPs) will be implemented to mitigate non-point source pollution to coastal resources and mitigate the effects of fugitive dust. ~~Through the public review process for the EIS, mitigation measures will be identified to help address any environmental impacts that may arise from the proposed project~~. As documented in Section II.H "potential impacts and mitigation measures" of the FEIS, the Project is not anticipated to result in significant impacts to the environment.

SMCRG COMMENT:
5. Objectives and Policies for the Physical Environment - Scenic, Natural Beauty, and Historic Resources (p. 92)

Items (1) - (5) should read "N/A" since the Project will do none of these things. If anything, the Project will document historic cultural sites, then the sites will be obliterated. The land itself will not be enhanced or beautified by addition of a sprawling shopping center with acres of asphalt parking lots and Big Box stores that characterize an increasingly homogenous, soul-less America.

Response: In response to comments regarding the Physical Environment, the FEIS Section IV. C. (Hawaii State Plan) has been revised to include the following language:

Analysis: Policy items 1- 5 are supported by the Project. The Pi'ilani Promenade will complement the architectural character of South Maui as well as other developed properties in the area. As part of the environmental review process the Maui County Planning Department has requested to be involved in the design of the Project, which the Applicant has agreed to.

As discussed in Section III.A. 8 (Historical and Archaeological Resources) The proposed project will not impact Kulanihakoi Gulch and is not anticipated to significantly impact the physical environment. The project promotes the preservation of historic resources and the Applicant's Archaeologist has submitted a Data Recovery Plan to ~~will work with~~ the State Historic Preservation Division that is currently under review. ~~to prepare a data recovery plan.~~

The archaeological survey of the offsite water storage tank area was conducted on January 8 and 13, 2014. No significant materials or cultural remains were located on this previously disturbed land during the 2014 archaeological survey. (See: Appendix F, "Archaeological Inventory Survey dated March 2014 revised August 26, 2015").

A public information meeting for the proposed project was held on February 25, 2014. Transcripts from this meeting have been included in the ~~D~~FEIS. The focus of the meeting was to review the previous 1994 AIS and discuss the findings of the current 2014 AIS. In addition to discussing potential impacts to Kulanihakoi Gulch and the return of the petroglyph boulder that was previously removed from the project site by a former land owner, some of the participants suggested that the archaeological sites could be incorporated into the design of the project or into its landscaping and that the petroglyph boulder be returned to the property. The Applicant has discussed the possible return of the petroglyph boulder with the former land owner; however, the former owner rejected this request since the relocation plan was approved by State Historic Preservation Division (SHPD). In

addition, the archaeological monitoring plan that was submitted to the SHPD for review has been approved and is referenced for all recent work on the site. The monitoring plan may be found in Appendix H and may be updated once project construction is initiated.

As discussed in Section III.B.4 (Cultural Resources) the cultural impact statement (CIA) which was prepared for the proposed project reported that there were no visible cultural resources, (i.e. medicinal plants, shoreline resources, religious sites, or archeological resources) observed on the property. From a cultural practices and beliefs perspective, the subject property bears no apparent signs of cultural practices or any gatherings currently taking place on the site. The oral history interviews did not reveal any known gathering places on the subject property nor did any access concerns surface as a result of the proposed Project. In light of the foregoing, it can be concluded that development of the site will not impact cultural resources on the property or within its immediate vicinity.

As discussed in Section III.A.9 (Visual Resources) the Pi'ilani Promenade is not anticipated to have significant impacts on views from Pi'ilani Highway toward Haleakala. The property is setback 30 feet from Pi'ilani Highway and building heights are limited to 60 feet. The proposed project will complement the architectural character of South Maui as well as other developed properties in the area.

SMCRG COMMENT:
6. Objectives and Policies for the Physical Environment - Land, Air, and Water Quality (p. 93)

Items (1) and (2) under "Objectives" should read "N/S" since cultural sites will be destroyed and the area replaced by a sprawling shopping center that is not walk able or bike-able and is automobile-centric so that access to the site will have to be by vehicle trips that will burn fossil fuel in direct opposition to sustainability principles that are designed to protect our natural resources, including air and water.

Items (2) - (5), (6) and (7) should read "N/S" since the Project will require more automobile trips in the region, alter the natural landscape by eliminating the Ka'ono'ulu Gulch, redirect runoff into a neighboring gulch, cover the ground with impervious material and heighten the risk of flooding in an area already plagued by flood risk. The Project is not located within commercial zones already existing in Kihei and is therefore not close to existing services and facilities. Its remote location on the fringe of town and on the mauka side of the Pi'ilani Highway will work to degrade community quality of life.

Response: In response to comments regarding the Physical Environment, the FEIS Section IV. C. (Hawaii State Plan) has been revised to include the following language:

Analysis: The Applicant has changed objective items 1 and 2 in the FEIS to read "N/A" as the Piilani Promenade project is not promoting maintenance or greater public awareness and appreciation of Hawaii's environmental resources. Policy items 2-7 remain supportive. The proposed project is zoned for light industrial uses, including commercial and multi-family and is located adjacent to existing urban development and will utilize best management practices to limit impacts to the physical environment.

The Pi'ilani Promenade does not lie ~~with the Hawaii Coastal Zone Management Area nor is it located~~ within the Special Management Area for the island of Maui. No listed or endangered species of flora and fauna were identified on the subject property. During the construction and operational phases of the project, Best Management Practices (BMPs) will be implemented to mitigate non-point source pollution to coastal resources and mitigate the effects of fugitive dust. ~~Through the public review process for the EIS, mitigation measures will be identified to help address any environmental impacts that may arise from the proposed project~~.

From a site planning perspective, the design and layout of the project involved an evaluation of existing topographic conditions in order to create a viable development plan which would minimize potential impacts to the land form. To the extent practicable, the layout and orientation of future buildings will strive to preserve view planes toward the Pacific Ocean.

As discussed in Section III.A.6 (Air Quality), appropriate mitigation measures will be implemented during construction to minimize any temporary impacts on air quality. The proposed project will be developed in accordance with applicable Federal and/or State air quality standards.

As discussed in Section III.A.3 (Natural Hazards), the development of the Pi'ilani Promenade will not increase the possibility of natural hazards such as flooding, tsunami inundation, hurricanes, and earthquakes. The Pi'ilani Promenade will be constructed in compliance with County, State and Federal standards.

The New Urbanism concept is a globally successful design practice which will be utilized for the Pi'ilani Promenade. The design of the project will enhance the physical quality of the property by providing housing, development, and related infrastructure on the same site.

SMCRG COMMENT:
7. Objectives and Policies for Facility Systems- Transportation (p. 96)
Items (1)- (3), (5) and (6), and (9) – (13) should read "N/S" since the Project is not multi-modal and is, in fact, automobile-centric. This will in turn result in further reliance on and expenditure of fossil fuels. It will also impede future, quality growth in the community by denying the region the focused commercial growth plan imbedded in the KMCP. So, not only will automobile traffic increase in the area, the ability to generate greater walking and biking in a community will be dashed, creating a "lose/lose" for Kihei and Hawaii.

Response: The Applicant has changed items 1- 3, 5, 7, and 8 in the FEIS to read "N/A" because the Piilani Promenade is not responsible for planning for the State's facility systems with regard to transportation. The proposed project includes creation of a unified system of pedestrian and bicycle infrastructure which will provide connectivity between the residential and employment areas within the project site.

The Project will also provide a segment of the future KUH. Transportation demand and management strategies for the Project support methods such as bicycle and pedestrian use, ridesharing, and off-peak commuting.

As discussed in Section II.FE.~~3 and 4~~ of the FEIS, the proposed project establishes a settlement pattern that is significantly more compact and mixed-use in character as compared to the previously approved 123-lot light industrial subdivision. This new site plan also reflects the creation of a unified system of pedestrian and bicycle infrastructure which will provide connectivity between the residential and employment areas within the project site.

The proposed project will also provide a segment of the future Kihei Upcountry Highway (KUH). Transportation demand and management strategies for the Pi'ilani Promenade support methods such as ridesharing, bicycle and pedestrian use, off-peak commuting and other measures discussed in the TIAR (See: Appendix M) and TIAR update (See: Appendix M-1).

SMCRG COMMENT:
8. Objectives and Policies for Facilities and Systems -Energy (p. 97)

Items (4), (8) and (9) should read "N/S" since the Project is automobile-centric and will therefore generate greater greenhouse gas, coupled with frustration of the KMCP's plan to create walk-able and bike-able downtowns in designated areas in south Maui. Item (10) should read "N/A" since there is no evidence that the Project will provide priority handling of energy permits, a government function.

Response: In response to comments regarding Facilities and Systems-Energy, the FEIS Section IV. C. (Hawaii State Plan) has been revised to include the following language:

Analysis: Policies 4 and 8 were left as "S" because the Project will reduce greenhouse gas by incorporating renewable energy such as solar water heaters and photovoltaic panels when possible. Landscaping will be incorporated into the Project site that can help filter emissions and improve air quality. Items 9 and 10 were changed to "N/A" as there is no proposed action to reduce gas emissions through agriculture and forestry initiatives and no evidence that the Project will provide priority handling of energy permits, a government function.

As discussed in Section III.D.5 (Electrical) the Pi'ilani Promenade will include conservation measures to encourage the use of energy-efficient technology throughout the project, specifically in areas involving lighting, air-conditioning, and building materials. Solar hot water heaters will be utilized throughout the residential portion of the development. Occupants of the Pi'ilani Promenade will be encouraged to install Photovoltaic Energy Systems where appropriate and feasible.

In addition, the Pi'ilani Promenade is utilizing smart growth planning techniques that will help to reduce automobile trips. The design of the project will help minimize automobile trips by providing employment, goods, services and housing within walking or biking distance of each other. The design and layout of the Pi'ilani Promenade includes a unified pedestrian and bicycle system within the project site, as well as connections to areas of existing and future development. The pedestrian and bicycle system will provide future residents with an alternative to motorized

transport within the Pi'ilani Promenade. In addition, the Applicant will work with the Maui Department of Transportation to provide a location for a Maui Bus stop.

SMCRG COMMENT:
9. Objectives and Policies for Socio-cultural Advancement- Housing (p. 99)

Item (2) under "Objectives" should read "N/S" since the Project is the opposite of "orderly development." The Project has previously been found in violation of the LUC's 1995 Order (failure to construct a frontage road; failure to file annual progress reports; and failure to develop the property as represented to the LUC) and it remains in violation of the KMCP and zoning, for which no amendment has been or apparently will be sought by the Applicant. This is disorderly development

Items (5) and (7) should read "N/S" since the Project's proposed housing is not located in existing neighborhoods and will in fact be located in scrub land completely removed from Kihei's core and without any existing infrastructure, with the exception of a water line that runs through the Property and delivers all of south Maui's potable water needs. Items (4) and (8) should read "N/A" because neither apply.

Response: In response to comments regarding Socio-cultural advancement-Housing, the FEIS Section IV. C. (Hawaii State Plan) has been revised to include the following language:

Analysis: The Project supports objective item 2 by providing residential units onsite as part of an orderly mixed use development. In addition, the Applicant believes that policy items 5 and 7 are "S" supported by the Project because onsite residential units will be constructed with accessibility to facilities and services in the surrounding areas. Item 7 is supported by the Project because the design of the Project will include collaboration with the Maui County Planning Department to ensure the design will foster a variety of Maui residents and their lifestyles. The Project is located within the Urban Growth Boundary of Kihei and is an appropriate location for urban development. The Applicant has changed items 4 and 8 in the FEIS to read "N/A" because the Project does not have existing housing, and will not promote research and development to reduce the cost of housing construction.

As discussed in Section III.B.2 (Housing), the Pi'ilani Promenade will offer multi-family housing to address the diverse housing needs of Maui residents. The multi-family housing will include affordable housing units in compliance with Maui County Code, Chapter 2.96 (Residential Workforce Housing Policy). Workforce homes will be subject to the requirements of Chapter 2.96, MCC to ensure that affordable homes are available for full-time Maui residents.

SMCRG COMMENT:
10. Objectives and Policies for Socio-cultural advancement- Health (p. 101)

Items (1) and (2) should read "N/S" because the Project will negatively impact the health of the people living on site and the health of the larger community because it is automobile-centric in contravention of all knowledge about the causes of America's obesity and diabetes epidemics and the effect lack of exercise

in daily life plays in the development of these and other debilitating and costly diseases. The Project is not even neutral; it promotes poor health and disease.

Response: In response to comments regarding Socio-cultural advancement-Health, the FEIS Section IV. C. (Hawaii State Plan) has been revised to include the following language:

Analysis: The Applicant is supportive of advances in healthcare; however the Pi'ilani Promenade does not involve or require the advancement of a State initiative or program with regard to health. Based on the preceding, these objectives are not applicable. Accordingly, the Applicant has changed objectives 1 and 2 in the FEIS to read "N/A".

SMCRG COMMENT:
11. Objectives for Socio-cultural Advancement - Leisure (p. 101)
Items (1)- (7) should read "N/S" and items (6) and (8) - (10) should read "N/A."
This is, after all, a shopping center.

Response: In response to comments regarding Socio-cultural advancement-Leisure, the FEIS Section IV. C. (Hawaii State Plan) has been revised to include the following language:

Analysis: Policies 1-5, 7 are left as "S" supportive. The Project provides a neighborhood park and open spaces with pedestrian and bicycle pathways. Additionally, the Project is subject to, and will comply with, the provisions of Section 18.16.320, MCC which requires developers to provide land and/or money for park and playground purposes in the in the Kihei-Makena Community Plan region. The Applicant has changed items 6, 8 and 10 in the FEIS to read "N/A" because they are not applicable to the Project. The Applicant has kept policy item 9 as "N/A" because the Project is not developing creative expression in the artistic disciplines to enable all segments of Hawaii's population to participate in the creative arts.

As discussed in Section II.~~D.F.5~~ E, the site plan for the Pi'ilani Promenade provides a neighborhood park and open spaces with pedestrian and bicycle pathways. Additionally, the Pi'ilani Promenade is subject to, and will comply with, the provisions of Section 18.16.320, MCC which requires developers to provide land and/or money for park and playground purposes in the in the Kihei-Makena Community Plan region.

SMCRG COMMENT:
12. Objectives for Socio-cultural Advancement- Public Safety (p. 103)
Item (3) should read "N/S" since there is no evidence that the Project will in any way promote a sense of community responsibility for the welfare and safety of Hawaii people other than what already exists.

Response: In response to comments regarding Socio-cultural advancement-Public Safety, the FEIS Section IV. C. (Hawaii State Plan) has been revised to include the following language:

Analysis: The Applicant has changed item 3 in the FEIS to read "N/A". The proposed project does not require or involve any State initiatives or programs for public safety; therefore, these objectives are not applicable.

SMCRG COMMENT:
13. Objectives and Policies for Socio-cultural Advancement - Government (p.103)
Items (1) and (2) should read "N/S" since the Project has violated the LUC's 1995 Order and the Applicant now proposes to proceed with development despite the light industrial use required by the KMCP and county zoning. The Applicant's and County's actions to date have eroded the people's confidence in government and given rise to speculation that cronyism is at work given the County's refusal to enforce the LUC's 1995 order and its apparent current posture that no amendment of the KMCP is needed, even in the face of a project that bears no resemblance to the light industrial use carefully and explicitly articulated in the community plan, not to mention (1) holdings by state courts that the KMCP has the force and effect of law, (2) the County Charter, (3) County ordinances and (4) other County resource document holding up community plans as inviolable (in the absence of amendment). That the Applicant's representative is a former Maui County Public Works director with relationships with County officials has not gone unnoticed either, which perhaps would not be worthy of comment except for the County's remarkable lack of enforcement in this case.

Response: In response to comments regarding Socio-cultural advancement-Government, the FEIS Section IV. C. (Hawaii State Plan) has been revised to include the following language:

Analysis: The Applicant supports government responsibility and efficiency; however the proposed Project does not involve planning for the State's socio-cultural advancement with regard to government. In light of the foregoing, these objectives are not applicable. Accordingly, the Applicant has changed items 1 and 2 in the FEIS to read "N/A".

Comment: *14. Economic Priority Guidelines to Stimulate Economic Growth ... to Encourage a Diversified Economy (p. 104)*

Items (1) - (10) should read "N/S" since the Project is mostly retail, generating mostly retail jobs that are neither diversified nor likely to lead to satisfying careers. To say otherwise is fiction, unsupported by fact.

Response: In response to comments regarding Economic Priority Guideline A, the FEIS Section IV. C. (Hawaii State Plan) has been revised to include the following language:

Analysis: The ~~purpose of the~~ updated Pi'ilani Promenade supports priority guideline items 1-10 and the Project goal is to provide an opportunity for a mix of uses for greater flexibility to attract a broader range of desirable businesses with a diversified offering. New Urbanism planning techniques and urban design strategies will make the Pi'ilani Promenade a more vibrant and attractive environment for businesses to locate and grow their operations. The Pi'ilani Promenade will expand Maui's employer base and increase employment and management opportunities for residents.

SMCRG COMMENT:
15. Guidelines to Promote Economic Health and Quality of the Visitor Industry (p.106) Item (1) should read "N/S" since the Project is automobile-centric and will necessarily increase traffic in the region. The economic analysis, such as it is, estimates that 97% of the sales generated in the Project's retail stores will come from offsite. As boldly claimed in leasing literature published by

the previous developer, Eclipse, the planned shopping centers will drawn people from all over Maui at what it bragged would become the busiest intersection in Maui County! How increased local traffic will engender "the Aloha Spirit and minimize inconveniences" claimed by the Applicant is not explained. Traffic choked, ugly Dairy Road in Kahului is a good example of what sprawl and vehicle load can do to an area. By developing a huge regional shopping center in Kihei, the community's desire to create walk-able/bike-able downtowns will be destroyed. These downtowns, not "Mega Malls" on the highway, are what will engender the Aloha Spirit, minimize inconveniences and create a much needed sense of community in what is already a sprawling Kihei (which is exactly why the KMCP is written as it is). Items (8) and (9) should read "N/A" since there is no factual basis presented for the claims made and it is illogical that shopping malls will create a safer environment or stimulate advance data techniques any more that they will create world peace.

Response: In response to comments regarding Economic Priority Guideline B, the FEIS Section IV. C. (Hawaii State Plan) has been revised to include the following language:

Analysis: The Applicant has changed priority guideline items 1, 8, and 9 in the FEIS to read "N/A" because the Project is not promoting the visitor industry or activities.

SMCRG COMMENT:
16. Priority Guidelines for Water Use and Development (p. 107)

Items (3) and (4) should read "N/A" since there are no facts presented that the Project will do either of these things.

Response: In response to comments regarding Economic Priority Guideline E, the FEIS Section IV. C. (Hawaii State Plan) has been revised to include the following language:

Analysis: The Applicant has changed items 3 and 4 in the FEIS to read "N/A" because the Project is not involved with researching or developing alternative water sources not is the Project exploring alternative funding sources for water system improvements.

SMCRG COMMENT:
17. Priority Guidelines for Energy Use and Development (p.107)

Items (1) - (3) should read "N/A" since there are no facts presented that the Project or its Applicant will do any of these things. Item (4) should read "N/S" because the Project is automobile-centric sprawl that will create more traffic, use more fossil fuel and deny the public a walk-able and bike-able community that would result in energy conservation.

Response: In response to comments regarding Economic Priority Guideline F, the FEIS Section IV. C. (Hawaii State Plan) has been revised to include the following language:

Analysis: The Applicant has changed items 1-3 in the FEIS to read "N/A". Item 4 is supported by the Project because the Project will include energy-efficient design and conservation measures. Specifically, the Applicant will encourage the use of energy efficient technology throughout the

Project, specifically, in lighting, air-conditioning, and building materials. Solar hot water heaters will be utilized throughout the residential portion of the Project and installation of Photovoltaic Energy Systems will be encouraged in all areas of the Project. The Applicant is open to working with the Maui Bus on a potential bus stop location to encourage public transportation.

SMCRG COMMENT:
Priority Guidelines to Promote the Development of the Information Industry (p 107) Items (2) - (6) should read "N/A" since the Project is a retail shopping center, not a high technology incubator project. To claim that Big Box and other retail outlets will expand high tech in Hawaii is unsubstantiated, illogical and hyperbolic.

Response: In response to comments regarding Economic Priority Guideline G, the FEIS Section IV. C. (Hawaii State Plan) has been revised to include the following language:

Analysis: The Applicant has changed item 6 to "N/A" and kept items 2-5 as "S". The purpose of the Project is to provide an opportunity for a mix of uses for greater flexibility to attract a broader range of desirable businesses with a diversified offering. The Project plan will encourage a tenant like a technology/business incubator. In addition, the Project will facilitate the development of new businesses, including the opportunity for information industry which will provide employment opportunities for Maui residents.

As discussed in Section III.D. ~~65~~ **(Electrical ~~Utilities~~)** the Pi'ilani Promenade will include energy-efficient design and conservation measures. Specifically, the Applicant will encourage the use of energy efficient technology throughout the project, specifically, in lighting, air-conditioning, and building materials. Solar hot water heaters will be utilized throughout the residential portion of the development and installation of Photovoltaic Energy Systems will be encouraged in all areas of the Pi'ilani Promenade.

As discussed in Section III.B.3 (Economy) the construction of the Pi'ilani Promenade is projected to generate approximately $212 million of new capital investment into the Maui economy and will provide an estimated 878 "worker years" of employment and $66.5 million in total wages over a 12-15 year period. This will result in expenditures that will have a positive direct, indirect and induced impact on the County of Maui economy. During the operations phase, the Pi'ilani Promenade will increase the level of capital investment in the region which will create employment opportunities and economic stimulus for the region. The Pi'ilani Promenade will provide direct employment opportunities for Maui residents and contribute to the diversification and growth of the Island's and State's economies. After "stabilization" is estimated that the Promenade will support 1,210 permanent jobs with an annual payroll of about $ 36.6 million.

SMCRG COMMENT:
19. Priority Guidelines to Effect Desired Statewide Growth and Distribution (p.108-9)

Items (1) - (3) should read "N/S" since the Project flies in the face of the existing state Land Use Commission order, the KMCP and zoning. This is not a planned project; it is had been, and continues to be, a rogue project In 2005 the new owners of the 88-acre parcel changed the planned development from a permitted light industrial park into a proposed huge regional retail shopping center. The Project, if

allowed, will swamp south Maui roads, impair existing retailers and retail shopping centers in the area, destroy the KMCP's design and violate the citizens' right to be heard (since the developers seek to pursue an entirely different project from the one approved and imbedded in the KMCP without following the amendment process set forth in the Maui County Charter and Code that afford the people a right to be heard).

Response: In response to comments regarding Population Growth and Land Resources Priority Guideline A, the FEIS Section IV. C. (Hawaii State Plan) has been revised to include the following language:

Analysis: The Applicant has kept items 1-3 as "S" supportive because the Project will provide housing and employment opportunities for the growing population of the Kihei-Makena region. The Project site is located within the Maui Island Plan's Urban Growth Boundary and the Project site is designated for Light Industrial use in the Kihei-Makena Community Plan. Significant urban development and supporting infrastructure adjoin the Project site and existing urban development and future urban growth areas in Kihei are in close proximity.

The Applicant has changed item 4 to "N/A" as the Project is not encouraging major state and federal investments and services to promote economic development and private investment to the neighbor islands, as appropriate.

The Applicant has changed item 7 to "N/A" as the Project is not a technology park.

SMCRG COMMENT:
Item (4) should likewise read "N/S" because when developers skirt the law (1995 LUC Order, KMCP, zoning, and mandated amendment processes), then bemoan the difficulty of developing in Hawaii, they convey the impression that development here is difficult. In fact, when developers do not follow the law problems can arise if the citizenry is sophisticated enough and has the ability to raise legal objections in administrative and judicial venues, as has been done here.

Response: In response to comments regarding Population Growth and Land Resources Priority Guideline A, the FEIS Section IV. C. (Hawaii State Plan) has been revised to include the following language:

The Applicant has changed item 4 to "N/A" as the Project is not encouraging major state and federal investments and services to promote economic development and private investment to the neighbor islands, as appropriate.

SMCRG COMMENT:
Item (7) should read "N/A" since the Project will not support the development of high technology parks as claimed.

Response: In response to comments regarding Population Growth and Land Resources Priority Guideline A, the FEIS Section IV. C. (Hawaii State Plan) has been revised to include the following language:

The Applicant has changed item 7 to "N/A" as the Project is not a technology park.

SMCRG COMMENT:
20. Priority Guidelines for Regional Growth Distribution and Land Resource Utilization(p.10)

Items (1), (3)- (5), (7) and (12) should read "N/S" since this huge retail complex will be located away from areas designated in the KMCP where water and infrastructure already exist. Additionally, there is little known about the Kamaole aquifer from which the Project intends to draw some of its water. The aquifer is listed as least known by the state Commission on Water Resources Management. At the same time, many developers mauka of Pi'ilani Highway are looking to it to supply water without a global accounting for total draw and calculation of the sustainability of multiple draws upon the resource. It is a high-risk "crap shoot" that threatens the long term integrity of the Kamaole aquifer, bearing in mind that the Project is located in what is essentially a desert that is likely to get even drier with climate change. (State policy embraces an expectation of a drier future for the Hawaiian islands; see, e.g., DLNR proclamations and projections.)

SMCRG COMMENT:
Items (9), (10) and (13) should read "N/A" since they do not apply; no facts support application.

Response: In response to comments regarding Population Growth and Land Resources Priority Guideline B, the FEIS Section IV. C. (Hawaii State Plan) has been revised to include the following language:

Analysis: Items 1, 3 and 4 are supported "S" by the Project because significant urban development and supporting infrastructure adjoin the site and existing urban development and future urban growth areas in Kihei are in close proximity.

The Applicant has changed items 5 and 7 to "N/A". Item 12 is supported because the Project will provide housing and employment opportunities for the growing population of the Kihei-Makena region. The Project site is located within the Maui Island Plan's Urban Growth Boundary and the Project site is designated for Light Industrial use in the Kihei-Makena Community Plan.

Item 9 is supported "S" by the Project as the development is not located in a critical environmental area. The LSB and ALISH classification systems indicate that the Project site possesses poor soil and low soil ratings for productive agricultural uses. As such, the utilization of these poorly-rated agricultural lands for urban use and development is deemed appropriate. The Applicant has changed items 10 and 13 to "N/A" because these priority guidelines are not applicable to the Project.

As discussed in Section III.B.1 (Population) the Pi'ilani Promenade will provide housing and employment opportunities for the growing population of the Kihei-Makena region. The subject property is located within the Maui Island Plan's Urban Growth Boundary and the property is designated for Light Industrial use in the Kihei-Makena Community Plan. Significant urban development and supporting infrastructure adjoin the site and existing urban development and future urban growth areas in Kihei are in close proximity.

As discussed in Section III.D (Infrastructure), the Pi'ilani Promenade will be responsible for all required infrastructure improvements including water source and system improvements for drinking water use, onsite drainage improvements, a portion of regional traffic-related improvements attributable to the project, required on- and off-site wastewater system improvements, and utility upgrades as determined by the appropriate governmental agencies and public utility companies.

From a site planning perspective, the design and layout of the project involved an evaluation of existing topographic conditions in order to create a viable development plan which would minimize potential impacts to the land form. To the extent practicable, the layout and orientation of future buildings will strive to preserve view planes toward the Pacific Ocean.

As discussed in Section III.C.4 (Schools), the Pi'ilani Promenade has not been designed to accommodate a public school site. However, the Hawaii Legislature enacted Act 245 in 2007 as Section 302A, HRS, "School Impact Fees". The Pi'ilani Promenade is within the boundaries of the Department of Education's (DOE) Central Maui Impact District and is within the Makawao Cost Area of that district. Projects within the district and cost area are required to pay a construction fee and either a fee-in-lieu of land or a land donation (at the discretion of the DOE). At the appropriate time, the Applicant will contact the DOE to enter into an impact fee agreement.

As discussed in Section III.C.3 (Police and Fire protection services) increased tax revenues generated by the project will provide additional funds to the County for police and fire capital facility improvements and service upgrades. Additionally, the applicant will comply with any impact fee ordinances for police and fire.

As discussed in Section III.A.10 (Agricultural Resources) The LSB and ALISH classification systems indicate that the lands underlying the project site possess poor soil and low soil ratings for productive agricultural uses. As such, the utilization of these poorly-rated agricultural lands for urban use and development is deemed appropriate.

The Pi'ilani Promenade does not lie ~~with the Hawaii Coastal Zone Management Area nor is it located~~ within the Special Management Area for the island of Maui. No listed or endangered species of flora and fauna were identified on the subject property. During the construction and operational phases of the project, Best Management Practices (BMPs) will be implemented to mitigate non-point source pollution to coastal resources and mitigate the effects of fugitive dust. ~~Through the public review process for the EIS, mitigation measures will be identified to help address any environmental impacts that may arise from the proposed project.~~

SMCRG COMMENT:
21. Priority Guidelines in the Area of Criminal Justice (p. 111)

Items (1) and (3) should read "N/A" since no facts are presented to support the claims. In terms of safety, greater automobile use caused by the Project will lead to more opportunities for automobile mishaps and accidents that will negatively affect public health and safety. To the extent children living within the Project walk or bike to school from the Project by means of Pi'ilani Highway, the probability of accidents leading to severe injury and/or death are increased. Pi'ilani Highway is not safe for pedestrian traffic.

Response: In response to comments regarding crime and criminal justice Priority Guidelines, FEIS Section IV. C. (Hawaii State Plan) has been revised to include the following language:

The Applicant has changed items 1 and 3 to "N/A" because the priority guidelines for crime and criminal justice are not applicable to the Pi'ilani Promenade project.

SMCRG COMMENT:
22. State Functional Plan- Employment (p. 119)
Items (a), (d) and (e) should read "N/S" since there are no facts presented that employment training will be provided, or that quality of life will be enhanced by the development of an unpermitted, sprawling, regional retail shopping center that will offer entry level, dead-end retail jobs.

Response: In response to comments regarding Employment, the FEIS Section IV. D. (Hawaii State Functional Plans) has been revised to include the following language:

The Applicant has changed items a and e to "N/A". The Pi'ilani Promenade project supports item d by providing the opportunity to help improve the quality of life for employees and their families by providing affordable rental housing opportunities that are proximate to local services and centers of employment.

The proposed development of the Pi'ilani Promenade is in response to the needs of industrial users and other entrepreneurs, both large and small, who are seeking to open and/or expand businesses on Maui. This can be accomplished by creating greater flexibility in site planning and building design to help reduce operational costs for employers and provide employees with a good working environment.

The Pi'ilani Promenade will help improve the quality of life for employees and their families by providing affordable rental housing opportunities that are proximate to local services and centers of employment.

SMCRG COMMENT:
23. State Functional Plan- Energy (p. 119)
Items (a) and (b) should read "N/S" because the Project is a perfect example of unsustainable development requiring increased automobile traffic due to its location, particularly when the community plan calls for concentration of retail and commercial services in four distinct areas makai of the Pi'ilani Highway - where the population resides and elementary schools and the middle school are located. With this Project, every trip will involve a car.

Item (d) should read "N/A" since there are no articulated plans by the shopping center developers to launch into the business of integrated energy development and management.

Response: In response to comments regarding Energy, the FEIS Section IV. D. (Hawaii State Functional Plans) has been revised to include the following language:

Items a and b are supported by the Piilani Promenade project. The Pi'ilani Promenade will include conservation measures to encourage the use of energy-efficient technology throughout the project, specifically in areas involving lighting, air-conditioning, and building materials. Solar hot water heaters will be utilized throughout the residential portion of the development. Occupants of the Pi'ilani Promenade will be encouraged to install Photovoltaic Energy Systems where appropriate and feasible. The Applicant has changed item d to "N/A" because the Applicant is not proposing to support and develop energy development and management as part of the project.

As discussed in Section III.D.5 "Electrical," the Pi'ilani Promenade will include conservation measures to encourage the use of energy-efficient technology throughout the project, specifically in areas involving lighting, air-conditioning, and building materials. Solar hot water heaters will be utilized throughout the residential portion of the development. Occupants of the Pi'ilani Promenade will be encouraged to install Photovoltaic Energy Systems where appropriate and feasible.

SMCRG COMMENT:
24. State Functional Plans – Health (p. 120)

Item 1. Should read "N/S" since the project is not walk-able or bike-able and is a perfect example of 1960s urban sprawl that has made America obese, diabetic and sick. Getting to and from the Project will necessarily entail an automobile trip and not walking and biking. This is exactly what credible planners and health professionals rail against So to claim that somehow the Project will promote health and disease prevention is absurd in the extreme.

Response: In response to comments regarding Health, the FEIS Section IV. D. (Hawaii State Functional Plans) has been revised to include the following language:

Analysis: As previously mentioned, the Project will include bicycle and pedestrian pathways as illustrated in the circulation plan. (See: Figure 15 Conceptual Circulation Plan). However, because the ~~The~~ Pi'ilani Promenade does not propose the creation of any medical or health programs~~; therefore~~, this Functional Plan is not applicable. The proposed project will provide opportunities for physicians, medical clinics, and other health care practitioners, services, and facilities to locate to the Pi'ilani Promenade and help serve the needs of the community.

SMCRG COMMENT:
25. State Functional Plan- Historic Preservation (p. 121)
The Ka'ono'ulu area is rich in Hawaiian history, none of which will be evident in the Pi'ilani Promenade shopping center and housing Project. Rather, the petroglyph rock has been removed and some historic sites recorded, all in preparation for cultural eradication on site. There are no facts presented that the shopping center and housing will relate this history to residents and visitors. Accordingly, claims of historic preservation are without foundation and items A-G should read "N/S."

Response: In response to comments regarding Historic Preservation, the FEIS Section IV. D. (Hawaii State Functional Plans) has been revised to include the following language:

Analysis: The Project is supportive of objectives a-c, and in support thereof, the Applicant has completed an Archaeological Inventory Survey and a Cultural Impact Assessment report for the Project. Both the Archaeological Inventory Survey and Cultural Impact Assessment identify historic properties. In support of objectives b and c, the Applicant's Archaeologist is preparing a Data Recovery Plan in coordination with the DLNR SHPD recommendations for protection, management, and treatment of historic properties.

The project promotes the preservation of historic resources and the Applicant's Archaeologist submitted a data recovery plan that was received by the SHPD on June 17, 2016 and approval is pending. ~~will work with the State Historic Preservation Division to prepare a data recovery plan.~~

The Applicant has changed items d-g to "N/A" because the Applicant is not proposing to establish programs to document historical records, provide better access to historic information or enhance skills needed to preserve historical resources.

The archaeological survey of the offsite water storage tank area was conducted on January 8 and 13, 2014. No significant materials or cultural remains were located on this previously disturbed land during the 2014 archaeological survey. (See: Appendix F, "Archaeological Inventory Survey dated March 2014, revised August 26, 2015").

A public information meeting for the proposed project was held on February 25, 2014. Transcripts from this meeting have been included in the DEIS. The focus of the meeting was to review the previous 1994 AIS and discuss the findings of the current 2014 AIS. As previously noted, the AIS was updated in 2015 and approved by SHPD in 2016. In addition to discussing potential impacts to Kulanihakoi Gulch and the return of the petroglyph boulder that was previously removed from the project site by a former land owner, some of the participants suggested that the archaeological sites could be incorporated into the design of the project or into its landscaping and that the petroglyph boulder be returned to the property. The Applicant has discussed the possible return of the petroglyph boulder with the former land owner; however, the former owner rejected this request since the relocation plan was approved by State Historic Preservation Division (SHPD). In addition, the archaeological monitoring plan that was submitted to the SHPD for review has been approved and is referenced for all recent work on the site. The monitoring plan may be found in Appendix H and may be updated once project construction is initiated.

In response to comments regarding Historic Preservation, the FEIS Section III. A. 8. (Historical and Archaeological resources) has been revised to include the following language:

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

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

In March 2014, Piilani Promenade engaged Xamanek Researches LLC to update the July 1994 AIS.

That updated AIS was accepted by the SHPD in January 2016. The updated survey identified 19 of the original 20 archaeological sites on the property. However, two of the originally identified sites (3734 and 3739) were determined to have been destroyed/lost by post-1994 land altering activities. The updated AIS report contained the following mitigation recommendations:

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

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

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

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

SMCRG COMMENT:
26. State Functional Plan- Housing (p. 122)
None of this applies because the targets are pegged to the year 2000.

Response: In response to comments regarding Housing, the FEIS Section IV. D. (Hawaii State Functional Plans) has been revised to include the following language:

Analysis: The Applicant notes that the policies are targeting the year 2000 and need to be updated to reflect a more current or future date. Notwithstanding the foregoing, the Project supports the objectives and policies of the State Functional Plan – Housing. The Pi'ilani Promenade will help satisfy

the growing demand for rental housing in Kihei by providing 226 apartment units which include affordable rental units in compliance with the County's Residential Workforce Housing Policy set forth in Chapter 2.96, MCC.

SMCRG COMMENT:
27. State Functional Plans- Tourism (p. 124)

Item 2a should read "N/S" since the Project will present a cookie-cutter, homogenous retail shopping center to tourists. Big Box stores presumably intended to occupy space in the Project will be the same as those on the Mainland, undercutting Hawaii's brand as a special place/island paradise. Furthermore, to claim that the Project will be sensitive to neighboring communities is an unsupportable fiction since it contravenes the KMCP, zoning and law.

Response: The Pi'ilani Promenade is not targeting the visitor industry and there are no hotel uses proposed as part of the project; however, restaurants and retail opportunities within the Pi'ilani Promenade may attract visitors to the site.

SMCRG COMMENT:
28. State Functional Plans- Transportation (p. 125)

Items 1a, 1f, and 1h should read "N/S" since the Project will increase area traffic, discourage walking and biking, put pedestrians at risk of injury and death on Pi'ilani Highway and make it virtually impossible for people with disabilities to come and go except by car.

Response: The Pi'ilani Promenade's non-vehicular transportation strategy includes: 1) compact and mixed-use development patterns, 2) pedestrian oriented streets integrating street trees, sidewalks, and traffic calming, 3) both striped and separated bike lanes in appropriate locations, and 4) supporting connectivity to adjacent developments, such as the Kihei High School and uses *makai* of Pi'ilani Highway.

The transportation demand and management measures proposed for the project include encouraging alternate work schedules and off-peak hours for employment generators and supporting park and ride, ridesharing, carpooling, and van pooling. In addition, the Applicant will also meet with the Maui Department of Transportation to discuss the possibility of establishing bus stops within the project site.

SMCRG COMMENT:
29. State Functional Plans -Water Resources Development (p. 126)

Other than building a water tank on a portion of the property, none of the claims made in this section are supportable by the facts presented. The Project is located in a desert and the aquifer below it is uncertain with many other projects looking to it as a source of water. Climate Change is expected to lead to less precipitation in Hawaii, more evaporation, and greater storm events likely to lead to increased risk of flooding. Elimination of a natural gulch on the property, hardening the surface with asphalt

and redirecting storm water to a neighboring gulch that has led to lowland flooding in the past is hardly support for the claims made in this section.
Consequently, items a – i should be answered "N/S."

Response: In response to comments regarding Water Resources Development, the FEIS Section IV. D. (Hawaii State Functional Plans) has been revised to include the following language:

Analysis: The Applicant has changed items a-i to "N/A" as the Project is not responsible for maintaining or enforcing water resource development.

The proposed project will be served by the County's public water system. The Applicant will dedicate a 1.0 million gallon water tank and associated infrastructure to Maui County to be used by the project and the public.

In developing the property, Best Management Practices will be incorporated to mitigate potential impacts during the construction phase. In compliance with applicable regulatory requirements, a drainage plan has been prepared to capture and retain the incremental increase in stormwater runoff on the project site. As such, no adverse impacts to Hawaii's freshwater and estuarine environment are anticipated.

SMCRG COMMENT:
MAUI COUNTYWIDE POLICY PLAN
1. Improve the Opportunity to Experience the Natural Beauty and Preserve Biodiversity (p. 127)

The best that can be said for the Project is that negative impacts to the natural beauty of the island will be mitigated. To claim that the Big Box shopping center will somehow "improve the opportunity to experience the natural beauty and native biodiversity of the islands" is ridiculous. Item (1) should read "N/S" since the Project will interfere with the view plain from the ocean to Haleakala. Obstruction of the view can be mitigated by trees and landscaping - to hide the Project - but views of Haleakala will not be made lovelier. Again, Dairy Road in Kahului is a good place to see how sprawl affects the natural beauty of Maui.

Response: In response to comments regarding protecting the natural environment, the FEIS Section IV. E.1 (County-wide Policy Plan) has been revised to include the following language:

Analysis: The Applicant has changed item 1 to "N/A" because the Project site is not identified as a distinctive open space. The Pi'ilani Promenade is not located within the State's Special Management Area and no listed or endangered species of flora and fauna were identified on the property. During build-out and during the operation phase best management practices will be implemented to mitigate non-point source pollution to Maui's coastal resources as well as to mitigate fugitive dust impacts. In addition, through the environmental impact statement application process, mitigation measures will be identified to help address any environmental impacts that may arise from the proposed project.

SMCRG COMMENT:
2. Improve the Quality of Environmentally Sensitive Land (p. 127)

Items a – i should read "N/S" since the Project will eliminate a historic gulch, redirect runoff into a neighboring gulch, cover the natural landscape with hardscape and asphalt and increase the risk of flooding in the area.

Response: In response to comments regarding sensitive land, the FEIS Section IV. E.1 (County-wide Policy Plan) has been revised to include the following language:

Analysis: The Applicant has changed items a-i to "N/A" as the Project site is located in an area designated for urban growth and will be developed consistent with all applicable State and County regulations. The Project site is not located on environmentally sensitive land. The Pi'ilani Promenade is not located within the State's Special Management Area and is not expected to impact the shoreline or reef environments. During build-out and during the operation phase best management practices will be implemented to mitigate non-point source pollution to Maui's coastal resources. ~~In addition, through the EIS and entitlement application processes mitigation measures will be identified to help address any environmental impacts that may arise from the project.~~ The site itself is not located within an area of critical habitat and surveys have confirmed that no threatened or endangered species of flora or fauna are on the property.

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

BMPs prepared in accordance with MCC Chapter 20.08 (*Soil Erosion and Sedimentation Control*) will be submitted to the DPW for review and approval prior to the issuance of grubbing and grading permits. In addition, since Project site work will exceed one acre, a NPDES will be obtained from the DOH's Clean Water Branch for the discharge of storm water associated with construction activities. The Applicant will meet all of the requirements set forth by the DOH's Clean Water Branch. (pg. 162 FEIS)

The Applicant has changed items c, d, g, i to "N/A" as the Project is not proposing to incorporate natural features of the land into urban design, does not utilize land conservation tools, and does not regulate the use and maintenance of stormwater treatment systems. The Project site is located in an area designated for urban growth and will be developed consistent with all applicable State and County regulations. The Project site is not located on environmentally sensitive land. The Pi'ilani Promenade is not located within the State's Special Management Area and is not expected to impact the shoreline or reef environments. During build-out and during the operation phase best management practices will be implemented to mitigate non-point source pollution to Maui's coastal resources. ~~In addition, through the EIS and entitlement application processes mitigation measures will be identified to help address any environmental impacts that may arise from the project.~~ The site itself is not located within an area of critical habitat and surveys have confirmed that no threatened or endangered species of flora or fauna are on the property.

SMCRG COMMENT:
3. Improve the Stewardship of the Natural Environment (p. 128)

No facts support any of the claims made. Items a – d in section one and item b in section 2 should read "N/S" since the Project will impair the natural environment by creating an automobile-centric sprawling development that will result in greater use of fossil fuel, contravene explicit state and county sustainability goals and lead to greater global warming. Items e and g should read "N/A" since there are no facts presented that the Applicant will take it upon itself to become an evangelist for the "possible effects of global warming," a particularly difficult task when one's pulpit is located atop a Big Box shopping center that violates the community plan that would, if served, achieve fossil fuel use reduction through creation of walk-able, bike-able, and live-able communities in south Maui.

Response: In response to comments regarding stewardship of the natural environment, the FEIS Section IV. E.1 (County-wide Policy Plan) has been revised to include the following language:

Analysis: The Applicant has changed items a and d to "N/A". Item b is not applicable to the Project, and item c is supported by the various technical studies contained in the FEIS to evaluate short term and long term impacts resulting from the Project. The Applicant has changed item b to "N/A". The implementation of government policies to improve gas emissions is not applicable to the Project. The Applicant has changed items e and g to "N/A" because the Project site does not contain sensitive ecological sites and landscapes such as wetlands or habitats for endangered species.

The Pi'ilani Promenade is not located within the State's Special Management Area and no listed or endangered species of flora and fauna were identified on the property. During build-out and during the operation phase best management practices will be implemented to mitigate non-point source pollution to Maui's coastal resources as well as to mitigate fugitive dust impacts. ~~In addition, through the EIS review process mitigation measures will be identified to help address any environmental impacts that may arise from the project.~~

As discussed in Section III.A.3 (Natural Hazards) the development of the Pi'ilani Promenade will not increase the possibility of natural hazards such as flooding, tsunami inundation, hurricanes and earthquakes. The Pi'ilani Promenade will be constructed in compliance with County, State and Federal standards.

As discussed in Section III.A.6 (Air Quality) the Pi'ilani Promenade may create short term impacts on air quality directly and indirectly during construction, however mitigation measures will be implemented. It is anticipated that the Pi'ilani Promenade does not violate Federal or State air quality standards.

As discussed in Section III.D.~~6~~5 (Electrical ~~Utilities~~) the Pi'ilani Promenade will include energy-efficient design and conservation measures specifically, in lighting, air-conditioning, and building materials. Solar hot water heaters will be utilized throughout the residential portion of the development and installation of Photovoltaic Energy Systems will be encouraged in all areas of the Pi'ilani Promenade.

In addition, the Pi'ilani Promenade is utilizing smart growth planning techniques that will help to reduce automobile trips and associated pollution. The design will help to minimize automobile trips by providing employment, goods, services and housing within walking or biking distance of each other. The Pi'ilani Promenade has a unified pedestrian and bicycle system within the project and will provide opportunities for connections to its existing and future surrounding uses.

SMCRG COMMENT:
4. Educate Residents and Visitors about Interconnectedness of the Natural Environment and People (p. 130)

Item c should read "N/S" since the Project will increase the use of fossil fuel and impair the environment

Response: In response to comments regarding education about the interconnectedness of the natural environment, the FEIS Section IV. E.1 (County-wide Policy Plan) has been revised to include the following language:

Analysis: The Applicant has changed item c to "N/A". The promotion of government programs and incentives to improve environmental stewardship is not applicable to the Project. The Pi'ilani Promenade is not located within the State's Special Management Area and no listed or endangered species of flora and fauna were identified on the property. During build-out and during the operation phase best management practices will be implemented to mitigate non-point source pollution. ~~In addition, through the EIS and entitlement application processes mitigation measures will be identified to help address any environmental impacts that may arise from the project.~~

As discussed in Section II.E.~~3 and 4~~ **(Proposed ~~Action~~ Project Description)** the Pi'ilani Promenade creates a development pattern that by its more compact and mixed-use character is less dependent on motorized transportation. The Pi'ilani Promenade also makes considerable investment into public water and roadway infrastructure. The project will include a unified pedestrian and bicycle system within the Pi'ilani Promenade with connections to its existing and future surroundings.

As discussed in Section III.D.~~6~~ **5(~~Utilities~~ Electrical)** the Pi'ilani Promenade will include energy-efficient design and conservation measures. Specifically, the design guidelines will encourage the use of energy efficient technology throughout the Pi'ilani Promenade, specifically, in lighting, air-conditioning, and building materials. Solar hot water heaters will be utilized throughout the residential portion of the development and installation of Photovoltaic Energy Systems will be encouraged in all areas of the Pi'ilani Promenade.

SMCRG COMMENT:
5. Perpetuate the Hawaiian Culture, Lifestyles and Art (p. 131)

All items in these two categories should read "N/S" since the plan is to remove, document and destroy all evidence of Hawaiian existence on the property. Nothing could be further from the ahupua'a concept. No evidence of an earlier Hawaiian culture will remain, unless plastic grass skirts and

other trinkets likely made in China are sold on site. Perhaps modern Hawaiian music will resonate throughout the shopping center to create a false sense of place.

Response: In response to comments regarding Hawaii culture, lifestyle and art, the FEIS Section IV. E.1 (County-wide Policy Plan) has been revised to include the following language:

Analysis: The Applicant has changed all items to "N/A". As discussed in Section III.A. 8 (Historical and Archaeological Resources) The proposed project will not impact Kulanihakoi Gulch and is not anticipated to significantly impact the physical environment. The project promotes the preservation of historic resources and the Applicant's ~~will work with the State Historic Preservation Division to prepare a data recovery plan.~~ The Project archaeologist submitted a data recovery plan to the SHPD on June 17, 2016, and it is currently under review.

The archaeological survey of the offsite water storage tank area was conducted on January 8 and 13, 2014. No significant materials or cultural remains were located on this previously disturbed land during the 2014 archaeological survey. (See: Appendix F, "Archaeological Inventory Survey").

A public information meeting for the proposed project was held on February 25, 2014. Transcripts from this meeting have been included in the ~~D~~FEIS. The focus of the meeting was to review the previous 1994 AIS and discuss the findings of the current 2014 AIS. In addition to discussing potential impacts to Kulanihakoi Gulch and the return of the petroglyph boulder that was previously removed from the project site by a former land owner, some of the participants suggested that the archaeological sites could be incorporated into the design of the project or into its landscaping and that the petroglyph boulder be returned to the property. The Applicant has discussed the possible return of the petroglyph boulder with the former land owner; however, the former owner rejected this request since the relocation plan was approved by State Historic Preservation Division (SHPD). In addition, the archaeological monitoring plan that was submitted to the SHPD for review has been approved and is referenced for all recent work on the site. The monitoring plan may be found in Appendix H and may be updated once project construction is initiated.

As discussed in Section III.B.4 (Cultural Resources) the cultural impact statement (CIA) which was prepared for the proposed project reported that there were no visible cultural resources, (*i.e.* medicinal plants, shoreline resources, religious sites, or archeological resources) observed on the property. From a cultural practices and beliefs perspective, the subject property bears no apparent signs of cultural practices or any gatherings currently taking place on the site. The oral history interviews did not reveal any known gathering places on the subject property nor did any access concerns surface as a result of the proposed Project. In light of the foregoing, it can be concluded that development of the site will not impact cultural resources on the property or within its immediate vicinity.

SMCRG COMMENT:
6. Improve Education – Develop Safe Walking and Bicycling Programs for School Children (p. 136)

As pointed out before, the Project lacks connective to the greater community and to schools, even the adjacent proposed Kihei High School. Pi'ilani Highway is a high- speed roadway with inadequate and dangerous shoulders that are unsuitable for foot and bike traffic. The location of housing on site

makes is impossible for school children to get to school safely except via motor vehicle. No walking or biking program can be successful in this context. The answer to item a. is therefore "N/S."

Response: In response to comments regarding safe walking and bicycling, the FEIS Section IV. E.1 (County-wide Policy Plan) has been revised to include the following language:

Analysis: As discussed in Section III.C.4 (Schools) the Pi'ilani Promenade proposes residential use on a portion of the property and is adjacent to the proposed Kihei High School. The Project site is being planned to accommodate a future pedestrian connection with the proposed Kihei High School. The Project will include separated bicycle lanes along Kaonoulu Street and Pi'ilani Highway providing a critical component of overall connectivity in Kihei. As surrounding developments are constructed including the Kihei High School, the Project bike paths and sidewalks will become part of a larger non-vehicular network.

SMCRG COMMENT:
7. Strengthen the Local Economy- Promote a Diversified Economic Base (p. 138) The Project is essentially a Big Box shopping center with some housing. Retail sales jobs already exist on island. The Project will not lead to any diversification of the job market and will instead produce more low paying retail sales and stocking jobs. Clearly all jobs can be rewarding in one way or another, but to cast the Project as a champion of diversification, economic vitality, and supportive of entrepreneurship is absurd. This is particularly the case when Big Box stores and other national retailers will export revenue derived from the site to home offices located on the mainland or elsewhere. This economic model actually works to impoverish communities and is a factor in the diminishment of America's middle class.

None of the state's economic goals will be achieved by the addition of this sprawling, mainland owned and developed, 1960s-style shopping complex. All items in this category should read "N/S."

Response: In response to comments regarding promotion of a diversified economic base, the FEIS Section IV. E.1 (County-wide Policy Plan) has been revised to include the following language:

Analysis: The Project could support several industries. The proposed updated Project responds to the most current trends in the development of mixed use industrial and commercial centers. The Pi'ilani Promenade will strengthen Maui's economy by providing a convenient location for a mixed use project with related/supportive businesses. These industries will create a diverse range of jobs for residents, which will benefit the rest of the economy. The result will be an increase in economic activities and employment opportunities consistent with community needs and desires, which will promote increased employment and entrepreneurial opportunities for Maui's residents.

As discussed in Section III.B.3 (Economy) the construction of the Pi'ilani Promenade is expected to inject approximately $212 million of new capital investment into the local economy and provide an estimated 878 "worker years" of employment as well as $66.5 million in total wages over a 12 to 15 year period. The effect of these expenditures will have positive direct, indirect, and induced beneficial impacts on the economy of the County of Maui. During its operations phase, the Pi'ilani Promenade will increase the level of capital investment in the region which will create employment opportunities and economic stimulus for the region. The proposed project will provide direct

employment opportunities for Maui residents and contribute to economic diversification and growth for both Maui and the State. After "stabilization," the Pi'ilani Promenade is envisioned to support 1,210 permanent jobs with an annual payroll of about $ 36.6 million.

SMCRG COMMENT:
8. Improve Parks and Public Facilities (p. 140)

All items in this section should be answered "N/S" because the Project degrades the community's opportunity to create a walk-able and bike-able means of mobility given its isolation and singular connection to the larger community by way of a high speed highway. This does not promote physical fitness; in fact it works against it just as studies have shown. And, because the project is not a part of the larger Kihei community and can only be accessed safely by automobile, there will be diminished opportunity for social interaction and overall community health. Consequently, all items in this section should read "N/S."

Response: In response to comments regarding parks and public facilities, the FEIS Section IV. E.1 (County-wide Policy Plan) has been revised to include the following language:

Analysis: The Applicant has changed item 1a to "N/A" because the Project site is not located along the shoreline and does not provide access to mountain resources.

As discussed in Section II.E. ~~**3 and 4**~~ **(Proposed ~~Action~~ Project Description)** the Pi'ilani Promenade plans to provide a 2-acre neighborhood park and a unified pedestrian and bicycle system within the property and opportunities for connections to its existing and future surroundings. The Pi'ilani Promenade is subject to the Department of Parks and Recreation Parks Assessment that requires the owner, to provide land or money in lieu of, for recreational and leisure space in the Kihei-Makena Community Plan region.

The New Urbanism design technique will provide a complete and vibrant community with employment opportunities, a range of housing types, parks and open spaces, and a bicycle and pedestrian pathways. These elements encourage future residents to interact with each other, rely less on automobiles and enjoy the outdoors.

SMCRG COMMENT:
9. Diversity Transportation Options Environmentally Sustainable Transportation Systems; Reduce Reliance on the Automobile (p. 142)

In this day and age, an environmentally sustainable transportation system is one that is multi-modal. That is why the public policy of this state and the county is to develop "Complete Streets" and communities that are walk-able and bike-able. The Project is at odds with this strategic goal given its location, automobile-centric character and the destructive effect it is likely to have on the community plan that is designed to aggregate commercial activities in four locations makai of the highway in and near existing neighborhoods. Consequently, all items in this section should read "N/S."

Response: In response to comments regarding transportation systems, the FEIS Section IV. E.1 (County-wide Policy Plan) has been revised to include the following language:

Analysis: As discussed in Section III.D (Infrastructure) the Pi'ilani Promenade will provide a variety of traffic-related improvements that will include improving the intersection of Pi'ilani Highway and Kaonoulu Street and constructing a segment of the future Upcountry Highway.

The Applicant has changed policy item 1b to "N/A" because the Project does not involve the relocation of roadways. Item 1.d was changed to "N/A" because the Pi'ilani Promenade is not a transportation project. Item 1.f was changed to "N/A" because the Project does not involve preservation of historic or scenic roadway corridors. Item 1.l was changed to "N/S" because the Project will require widening of Pi'ilani Highway at the intersection with the future Kihei Upcountry Highway to accommodate additional turn lanes and a new signalized intersection.

The Pi'ilani Promenade's non-vehicular transportation strategy includes: 1) compact and mixed-use development patterns, 2) pedestrian oriented streets integrating street trees, sidewalks, and traffic calming, 3) both striped and separated bike lanes in appropriate locations, and 4) supporting connectivity to adjacent developments, such as the Kihei High School and uses *makai* of Pi'ilani Highway.

The Project will include separated bicycle lanes along Kaonoulu Street and Pi'ilani Highway providing a critical component of overall connectivity in Kihei. As surrounding developments are constructed including the Kihei High School the Project bike paths and sidewalks will become part of a larger non-vehicular network.

The transportation demand and management measures proposed for the project include encouraging alternate work schedules and off-peak hours for employment generators and supporting park and ride, ridesharing, carpooling, and van pooling. In addition, the Applicant will also meet with the Maui Department of Transportation to discuss the possibility of establishing bus stops within the project site.

SMCRG COMMENT:
10. Promote Energy Self-Sufficiency (p.144)

Automobile-centric, sprawling shopping centers increase the use of fossil fuels and there make it more difficult for Hawaii to achieve energy self-sufficiency. Consequently, items (3) a, j, k, and m should read "N/S." Items (3) d, f, h and i should read "N/A."

Response: In response to comments regarding energy self-sufficiency, the FEIS Section IV. E.1 (County-wide Policy Plan) has been revised to include the following language:

Analysis: The Applicant has changed item f, to "N/A" because the Project is not proposing to develop public-private partnerships to increase energy efficiency.

As discussed in Section III.D.5 (Electrical) the Pi'ilani Promenade will include conservation measures to encourage the use of energy-efficient technology throughout the project, specifically in areas involving lighting, air-conditioning, and building materials. Solar hot water heaters will be utilized throughout the residential portion of the development. Occupants of the Pi'ilani Promenade will be encouraged to install Photovoltaic Energy Systems where appropriate and feasible.

SMCRG COMMENT:
11. Direct Growth Toward Existing Infrastructure (p. 149)

The Project does just the opposite of this goal, in contravention of the KMCP and good planning principles. Items a – d under Policies and a and b under Implementing Actions should read "N/S."

Response: The Pi'ilani Promenade is utilizing smart growth planning techniques. The design of the project will help minimize automobile trips by providing employment, goods, services and housing within walking or biking distance of each other. The design and layout of the Pi'ilani Promenade includes a pedestrian and bicycle network within the project site, as well as opportunities for future connections to areas of existing and future development. The pedestrian and bicycle system will provide future residents with an alternative to motorized transport within the Pi'ilani Promenade. The project's close proximity to Central Kihei brings residents into easy commuting distance of the region's multitude of public facility systems, including schools, police, fire, and park and recreation facilities. The Project site is also proximate to the regions, public water system, sewer system and existing State and County roadways.

SMCRG COMMENT:
12. Promote Sustainable Land Use and Growth Management (p. 151)

Because the Project violates the LUC's 1995 order, the KMCP and zoning and because Applicant has failed and refused to pursue amendment of the KMCP and zoning appropriate for the Project, it is a poster child for unmanaged, unsustainable and ineffective land use practices. For this reason, the following items should read "N/S": section (1) b, e, h and I; section (2) e, g, h, and I; (4) a, b, and d–g.

Response: In response to comments regarding land use and growth management, the FEIS Section IV. E.1 (County-wide Policy Plan) has been revised to include the following language:

Analysis: As for objective 1, the Applicant has changed policies b and j to "N/A" because it is not the Applicant's responsibility to direct urban and rural growth to designated areas, nor dedicate land for public use.

The proposed development is located entirely within the Maui Island Plan's Urban Growth Boundary. The Project site is located in the Maui County Light Industrial District. The proposed project is in a location that is proximate to infrastructure and public facilities and existing employment. The Project site is not located within an area that is subject to natural hazards and no critical wildlife habitats are on the property.

SMCRG COMMENT:
13. Strive for Good Governance (p. 153)

The Project fails the good governance test given the Applicant's violation of the 1995 LUC order, noncompliance with the KMCP and zoning, and Maui County Charter and Code provisions for amendment of community plans, not to mention judicial precedent binding the County with respect to enforceability of the KMCP. The pathway taken by the developers (and the County) here has been outside the bounds of the state planning scheme and good government. The developers' behavior, and that of the County of Maui, has undermined confidence in the integrity and fairness of government, a prime example of cronyism at the expense of the people. Items (1)-(5) should read "N/S."

Response: In response to comments regarding good governance, the FEIS Section IV. E.1 (County-wide Policy Plan) has been revised to include the following language:

Analysis: The public participation program involved numerous participatory meetings with key stakeholders, community groups, neighboring property owners and governmental agencies at various stages of the planning process. These meetings provided opportunity for the public to ask questions and present concerns about the project prior to the submittal of the EIS and FEIS.

Further review of the proposed project will include review of this FEIS by the State Land Use Commission. These steps provide for agency and public input and comments, as well as opportunities for the public and decision makers to ask for more information to address any additional concerns that may arise.

The Pi'ilani Promenade will not directly improve government administration, programs, or plans; therefore these objectives 1-5 are not applicable "N/A". However, the Pi'ilani Project build out will have a positive impact on the Maui County economy and will contribute to increased County revenues in the form of increased property taxes, general excise taxes, and income taxes, a portion of which could be used to help fund implementation of the General Plan.

~~The Pi'ilani Promenade will not directly improve government policies and practices; therefore this objective and these policies are not applicable. However, the Pi'ilani Project build out will have a significant positive impact on the Maui County economy and will contribute to increased County revenues in the form of increased property taxes, general excise taxes, and income taxes.~~

SMCRG COMMENT:
MAUI ISLAND PLAN
1. Economic Development- Achieve a More Diversified Economy (p. 155)

Retail jobs arising from the Project will not produce a more diversified economy. All items in this section should read "N/S".

Response: The updated Pi'ilani Promenade plan responds to the most current trends in the development of innovation centers nationwide. After build-out the Pi'ilani Promenade will

strengthen Maui's economy and will create a diverse range of jobs for residents. This will in turn benefit the rest of the economy. The result will be an increase in economic activities and employment opportunities consistent with community needs and desires, which will promote increased employment and entrepreneurial opportunities for Maui's residents.

As discussed in Section III.B.3 (Economy) the construction of the Pi'ilani Promenade is expected to inject approximately $212 million of new capital investment into the local economy and provide an estimated 878 "worker years" of employment as well as $66.5 million in total wages over a 12 to 15 year period. The effect of these expenditures will have positive direct, indirect, and induced beneficial impacts on the economy of the County of Maui. During its operations phase, the Pi'ilani Promenade will increase the level of capital investment in the region which will create employment opportunities and economic stimulus for the region. The proposed project will provide direct employment opportunities for Maui residents and contribute to economic diversification and growth for both Maui and the State. After "stabilization," the Pi'ilani Promenade is envisioned to support 1,210 permanent jobs with an annual payroll of about $ 36.6 million.

The project site is located within the Maui Island Plan's Urban Growth Boundary. The Project is being prepared pursuant to smart growth and New Urbanism planning principles, with a distribution of uses that provides housing, jobs, shopping for daily needs, open space and recreation areas in close proximity to each other.

SMCRG COMMENT:
2. Economic development- Support Principles of Sustainability (p. 156)

Retail jobs arising from this automobile-centric, disconnected development are the antithesis of sustainability. All items in this section should read "N/S."

Response: In response to comments regarding sustainability, the FEIS Section IV. E.2 (Maui Island Plan) has been revised to include the following language:

The Pi'ilani Promenade supports the objective and policies to promote sustainability. The Project will strengthen Maui's economy and will create a diverse range of jobs for residents. The Applicant supports encouraging local businesses to locate within the Project, and all businesses within the Project will be encouraged to use energy efficient technology specifically in areas involving lighting, air conditioning and building materials. The result will be an increase in economic activities and employment opportunities consistent with community needs and desires.

As discussed in Section III.D.5 (Electrical,) the Pi'ilani Promenade will include conservation measures to encourage the use of energy-efficient technology throughout the project, specifically in areas involving lighting, air-conditioning, and building materials. Solar hot water heaters will be utilized throughout the residential portion of the development. Occupants of the Pi'ilani Promenade will be encouraged to install Photovoltaic Energy Systems where appropriate and feasible.

SMCRG COMMENT:

3. Economic Development- Emerging Sectors (p. 157)
Nothing in the Project will support high technology, green practices or new industries. Yes, the buildings constituting the physical structure of this automobile- centric, sprawling, unpermitted project may have some alternative energy components, but that is a far cry from the objectives outlined here that are overcome by the negatives posed to the environment and economy by the Project itself. Items 4.4.1.b and 4.4.1c should read "N/S."

Response: In response to comments regarding emerging sectors, the FEIS Section IV. E.2 (Maui Island Plan) has been revised to include the following language:

Analysis: The purpose of the updated Pi'ilani Promenade is to provide an opportunity for a mix of uses for greater flexibility to attract a broader range of desirable businesses with a diversified offering including emerging sectors, therefore the Project would support industries listed in Items 4.4.1.b and 4.4.1.c. It is anticipated that New Urbanism planning techniques and urban design strategies will make the Pi'ilani Promenade a more vibrant and attractive environment for businesses to locate and grow their operations. The Pi'ilani Promenade will expand Maui's employer base and increase employment and management opportunities for residents.

SMCRG COMMENT:
4. Urban Land Use Issues – Human Scale and Infill (p. 159)
The Objective seeking a "compact, efficient, human-scale urban development pattern" will not be served by this huge, sprawling, automobile-centric, unpermitted Big Box shopping center that will dwarf human scale, deny infill and undermine the community's desire to concentrate commercial activity in four distinct commercial zones identified in the KMCP. This item should read "N/S."

Response: In response to comments regarding urban land use issues, the FEIS Section IV. E.2 (Maui Island Plan) has been revised to include the following language:

Analysis: The Pi'ilani Promenade supports Objective 7.3.1 because the Pi'ilani Promenade mixed use design includes residential, commercial and Light Industrial uses within a single development which is expected to facilitate and support a more compact, efficient, human-scale urban development pattern. Pi'ilani Promenade is located on lands adjacent to an existing employment base with urban development and supporting infrastructure in place. The subject property has been community planned for urban development since the 1980's and is within the Maui Island Plan's Urban Growth Boundary. The Pi'ilani Promenade is being prepared pursuant to smart growth and New-Urbanism planning principles with a distribution of uses that provides housing, jobs, shopping for daily needs, open space and recreation areas in close proximity to each other. The residential area will not include gated communities; and design and appearance will be controlled by neighborhood design standards to promote environmentally friendly neighborhoods.

As discussed in this FEIS the Pi'ilani Promenade incorporates New Urbanism planning techniques and urban design strategies which help to create a settlement pattern that by its more compact and mixed-use character is less dependent on motorized transportation. This will facilitate a self-sufficient community and result in shorter commutes by offering multi-modal transportation opportunities. The project also makes considerable investment into infrastructure that supports a unified pedestrian and bicycle system within the project site. The system will connect the residential area, neighborhood park

and employment areas. The result will be a more diverse and dynamic economy with increased employment opportunities for residents. In light of the above information, the Pi'ilani Promenade supports Items 7.3.1a and 7.3.1c, 7.3.1g, and 7.3.1i. Policy item 7.3.1h has been changed to "N/A" since the Pi'ilani Promenade is not an agriculture project.

SMCRG COMMENT:
The Policies seeking infill will likely be defeated by the Project. Items 7.3.1a and 7.3.1c, 7.3.1g, and 7.3.1i should read "N/S." Item 7.3.1h should read "N/A" since the Project has nothing to do with agriculture.

Response: 2012 marked the adoption of Urban Growth Boundaries within the Maui Island Plan. The Project site has been designated for Urban development since 1995. The completion of the Project will represent an incremental realization of the planned urbanization of Kihei to function as an economic engine in support of Maui County.

In response to comments regarding urban land use issues, the FEIS Section IV. E.2 (Maui Island Plan) has been revised to include the following language:

Analysis: The Pi'ilani Promenade is ~~strongly~~ supportive of Objective 7.32 and its ~~subordinate~~ policies. Recognizing the importance of locating jobs near housing, the plan incorporates 226 rental housing units ~~of. While the proposed housing won't create a complete equilibrium of jobs housing, it will significantly alleviate the necessity for vehicular trips to and from the Pi'ilani Promenade.~~ The Pi'ilani Promenade is centrally located close to regional recreation and educational facilities that together with retail and industrial uses will complement the larger Kihei community.

As discussed in Section II.E.~~3 and 4~~ **(Proposed ~~Action~~ Project Description)** the proposed project incorporates New Urbanism planning techniques and urban design strategies which help to create a settlement pattern that by its more compact and mixed-use character is less dependent on motorized transportation. These techniques and strategies will facilitate a self-sufficient community and result in shorter commutes by offering multi-modal transportation opportunities. The Plan also makes considerable investment into infrastructure that supports a unified pedestrian and bicycle system within the project site and will provide opportunities for future connectivity to its existing and future surroundings.

Comment: *5. Urban Land Use Issues- Self-Sufficient and Sustainable Communities (p. 160) See the discussion and definition of sprawl in the opening remarks above. The Project is classic urban sprawl. Items 7.3.2 - 7.3.2f should read "N/S."*

Response: The Pi'ilani Promenade updated plan was prepared with community input. Numerous meetings were conducted and presentation given to community stakeholders, including the Kihei Community Association, neighboring property owners, Urban Design Review Board and State and County agencies.

In order to create a sense of place, the Applicant proposes a diversification of uses within the Park. Creating a "place", a location which people are drawn to, involves a combination of factors. Among others, these factors include diversification of land uses and creation of an attractive and welcoming

public realm. A satisfying and interesting place contains a variety of users and activities, and is friendly to people on foot. In order to create a place, the project proposes the creation of housing, retail, and open spaces to the site will add amenities for business attraction and retention and will create a true neighborhood in place of the vacant land that exists today. The combination of elements will create synergies beyond what all of these land uses would add up to as separated pods, and this added energy will drive development of employment of the Pi'ilani Promenade.

The Pi'ilani Promenade will provide open space that will be landscaped with native plants and shade trees. A core feature of the plan is a 2-acre park space adjacent to the proposed residential component of the project. Pedestrian walkways and bikeways will be landscaped and incorporated throughout the site.

SMCRG COMMENT:
6. Urban Land Use Issues – Sense of Place (p. 162)
Big Box shopping centers create the opposite of a "sense of place." They are cookie-cutter retail establishments composed of uninspiring, boxy "architecture," and lacking in any connection to Hawaii, or anywhere else for that matter. Item 7.3.3 entitled "Strengthen the island's sense of place" should read "N/S."

Response: In order to create a sense of place, the Applicant proposes a diversification of uses within the Park. Creating a "place", a location which people are drawn to, involves a combination of factors. Among others, these factors include diversification of land uses and creation of an attractive and welcoming public realm, A satisfying and interesting place contains a variety of users and activities, and is friendly to people on foot. In order to create a place, the project proposes the creation of housing, retail, and open spaces to the site will add amenities for business attraction and retention and will create a true neighborhood in place of the vacant land that exists today. The combination of elements will create synergies beyond what all of these land uses would add up to as separated pods, and this added energy will drive development of employment of the Pi'ilani Promenade.

The Pi'ilani Promenade will provide open space that will be landscaped with native plants and shade trees. A core feature of the plan is a 2-acre park space adjacent to the proposed residential component of the project. Pedestrian walkways and bikeways will be landscaped and incorporated throughout the site.

SMCRG COMMENT:
7. Urban Land Use Issues- Transparency (p. 163)
The way the Project has been managed to date is the opposite of transparency. First, in 2005 new owners began to take development of the 88-acre parcel away from light industrial use and toward what the community accurately dubbed a "Mega Mall" complex (when it finally found out years later through a front page article in the Maui News) beyond the scale of anything like it in south Maui The developers hid this fact from the LUC, the County and the public by failing to file four mandatory, successive annual reports. When the next two reports were filed, the owners asserted that the Project would comply with the 1995 order when nothing could be further from the truth, as evidenced by the finding by the LUC that the developers failed to develop the 88-acre parcel as

represented, among other violations. Simultaneously, the County of Maui failed and refused to enforce the LUC's 1995 Order as required by law. To call this transparency is akin to calling day night.

Items 7.3.5, and subsections a-d should read "N/S."

Response: As discussed in Section IV. E.2 (Maui Island Plan) The Environmental Review process has and will continue to facilitate a great deal of community involvement in the decision making process for the proposed Pi'ilani Promenade.

SMCRG COMMENT:
KIHEI-MAKENA COMMUNITY PLAN
1. Land Use - Objectives and Policies (p. 165)
Items b, f - i and k should read "N/S" since the Project defies these explicit provisions of the KMCP. Items d, e, I and p should read "N/A" since they have no bearing.

Response: In response to comments regarding urban land use issues, the FEIS Section IV. F. (Kihei-Makena Community Plan) has been revised to include the following language:

Analysis: The Applicant has changed items c, d and f to read "N/A". The remaining items in this section are supported by the Project.

SMCRG COMMENT:
2. Land Use- Implementing Actions (p. 167)
Item b is explicitly violated by this project and should read "N/S" unless the LUC conditions approval of the DEIS upon construction a new elementary school in north Kihei as indicated on page 12 of the KMCP: "[T]here is a need for a third elementary school, and a high school, which would serve the Kihei-Makena region;" and at page 17: "Upon adoption of this plan, allow no further development unless infrastructure, public facilities, and services needed to service new development are available prior to or concurrent with the impacts of new development." The high school is soon to be a reality, but a new elementary school isn't on the horizon, even as multiple housing projects are approved or under development in north Kihei (A&B 650 units; Honua'ula 250; Pi'ilani Promenade 200+, etc.).

Other items in this section are claimed to be supported by the Project when there is, in fact, no nexus, such as items e, f, h, and c. These should read "N/A."

Response: In response to comments regarding urban land use issues, the FEIS Section IV. F. (Kihei-Makena Community Plan) has been revised to include the following language:

Analysis: The Applicant has changed items b, e, and f to read "N/A".

The Pi'ilani Promenade is located in North Kihei, within the Maui Island Plan's Urban Growth Boundary. The proposed project will be developed in accordance with smart growth and New Urbanism planning principles, and will encompass a distribution of land uses that provide housing, jobs, neighborhood shopping, and open space and recreation areas in close proximity to

each other (goals f and g). The project also incorporates rental housing that will provide affordable units for Maui residents.

As discussed in Section II.E. ~~3 and 4~~ **(Proposed ~~Action~~ Project Description)**, the proposed project incorporates New Urbanism planning techniques and urban design strategies which help to create a settlement pattern that is more compact and mixed-use in character. This will facilitate a self-sufficient development and result in shorter commutes by offering multi-modal transportation opportunities. The proposed project will also make a considerable investment in infrastructure which will support a unified pedestrian and bicycle system within the project with opportunities for extending and connecting these systems to existing and future development in surrounding areas (goals b, c, and f).

As discussed in Section III.A.10 (Agricultural Resources), The LSB and ALISH classification systems indicate that the lands underlying the project site possess poor soil and low soil ratings for productive agricultural uses. As such, the utilization of these poorly-rated agricultural lands for urban use and development is deemed appropriate.

The proposed project will comply with the 60-foot maximum building height limit set forth by Chapter 19.24, MCC pertaining to M-1, Light Industrial zoning which will help minimize potential adverse impacts on mauka views toward Haleakala.

The subject property is located in North Kihei, south of Ohukai Road, and mauka of Pi'ilani Highway. This area was designated in the KMCP for light industrial use in order to encourage urban expansion in the area mauka of Pi'ilani Highway (goal k). The original conceptual plan of 123 light industrial lots, which fit squarely within that designation, is no longer desirable or economically viable. Since the KMCP was adopted in 1998, the proposed planning for that area has adjusted. Other developments south of Ohukai and mauka of Pi'ilani are predominantly retail, with only some instances of true light industrial uses. The community planning process has evolved since 1998, and the current Maui Island Plan indicates that the Pi'ilani Promenade is located within the Urban Growth Boundary, and is surrounded by areas currently not zoned for urbanization, but designated as "planned growth areas." The Maui Island Plan specifically cites the need for mixed-use neighborhood centers "to provide services and jobs within close proximity to where people live and provide a more efficient land use pattern." Maui Island Plan at 8-27.

The Pi'ilani Promenade project follows these more recent planning guidelines, providing a mixed use that fits within the existing M-1 zoning, and provides a mix of light industrial, retail, and residential uses. Therefore an updated plan was prepared for this EIS which responds to the most current trends in the development of multi-use retail-living centers nationwide. The proposed project will strengthen Maui's economy by making the Pi'ilani Promenade a more attractive location for the limited light industrial activities envisioned within the KMCP as well as much needed retail businesses. These businesses will create a diverse range of jobs for Maui residents which, in turn, will benefit the local and Statewide economy. The result will be an increase in economic activities and employment opportunities consistent with community needs and desires, which will promote increased employment and entrepreneurial opportunities for Maui's residents. Thus, while the Pi'ilani Promenade project does not strictly support all of goal k in the KMCP, it meets other important competing planning criteria within the KMCP. The

County of Maui has interpreted the Pi'ilani Promenade project as complying with the KMCP, as the KMCP provides that the goals and objectives are guidelines to the ultimate implementation of the plan. This issue, and the possible amendment of the KMCP, is discussed further in section V.D. Unresolved Issues.

SMCRG COMMENT:
3. Cultural Resources (p. 172)
All items listed under "Goal" and "Objectives and Policies" should read "N/S" since the plan of action is to record and eradicate all evidence of the pre-existence of the Hawaiian culture on site.

Item a under "implementing Actions" should read "N/A" since the Applicant presents no facts to support a claim that it will prepare a Kihei Makena specific cultural resources management plan.

Response: In response to comments regarding cultural resources, the FEIS Section IV. F. (Kihei-Makena Community Plan) has been revised to include the following language:

Analysis: the items listed in the Objectives and Policies section are N/A because there are no valued cultural, historical, or natural resources in the Project site, and because there are no traditional and customary native Hawaiian rights exercised within the Project site as documented in the CIA and SCIA prepared for the Project.

In response to comments regarding cultural resources, the FEIS Section IV. F. (Kihei-Makena Community Plan) has been revised to include the following language:

Analysis: The Applicant has changed implementing action item a to read "N/A" because the project is not proposing to prepare a Kihei Makena specific cultural resources management plan.

As discussed in Section III.A. 8 (Historical and Archaeological Resources), the proposed project will not impact Kulanihakoi Gulch and is not anticipated to significantly impact the physical environment. The project promotes the preservation of historic resources and the Applicant's Archaeologist submitted a data recovery plan that was received by the SHPD on June 17, 2016 and approval is pending. ~~will work with the State Historic Preservation Division to prepare a data recovery plan.~~

The archaeological survey of the offsite water storage tank area was conducted on January 8 and 13, 2014. No significant materials or cultural remains were located on this previously disturbed land during the 2014 archaeological survey. (See: Appendix F, "Archaeological Inventory Survey").

A public information meeting for the proposed project was held on February 25, 2014. Transcripts from this meeting have been included in the ~~D~~FEIS. The focus of the meeting was to review the previous 1994 AIS and discuss the findings of the current 2014 AIS. There was discussion about how the known archaeological sites could be incorporated into the design of the project and/or landscaping plan. Due to the location of sites relative to infrastructure site development requirements preservation of sites is not possible; however, data recovery has been proposed for selected sites within the project area. In previous archaeological work done on the site a petroglyph stone was identified. Under the original ranch ownership this stone was relocated to more appropriate location

in the Ahupua'a and a relocation report done, submitted and approved by SHPD for the relocation effort. It was suggested that perhaps the original landowner would be willing to relocate the stone to the property. The landowner was asked about this possibility and declined the request. In addition, the archaeological monitoring plan that was submitted to the SHPD for review has been approved and is referenced for all recent work on the site. The monitoring plan may be found in Appendix H and may be updated once project construction is initiated.

As discussed in Section III.B.4 (Cultural Resources) the cultural impact statement (CIA) and the SCIA which ~~was~~ were prepared for the proposed project reported that there were no visible cultural resources, (*i.e.* medicinal plants, shoreline resources, religious sites, or archeological resources) observed on the property. From a cultural practices and beliefs perspective, the subject property bears no apparent signs of cultural practices or any gatherings currently taking place on the site. The oral history interviews did not reveal any known gathering places on the subject property nor did any access concerns surface as a result of the proposed Project. In light of the foregoing, it can be concluded that development of the site will not impact cultural resources on the property or within its immediate vicinity.

SMCRG COMMENT:
4. Economic Activity (p. 176)
By ignoring the KMCP and proposing to develop a huge regional shopping center complex in scrub land on the makai side of the Pi'ilani Highway, the Project defies planned growth and the state planning scheme. Accordingly, items a and f should read "N/S." items b and d should read "N/A" since the Project will not undertake or touch either of these goals.

Response: In response to comments regarding economic activity, the FEIS Section IV. F. (Kihei-Makena Community Plan) has been revised to include the following language:

Analysis: The Project site is located on the mauka side of Pi'ilani Highway and supports items a and f by creating the opportunity for economic development by permitting a variety of commercial services within close proximity to the existing and proposed residential areas. The Applicant has changed items b and d to read "N/A".

As discussed in Section III.B.3 (Economy), the construction of the Pi'ilani Promenade is expected to inject approximately $212 million of new capital investment into the local economy and provide an estimated 878 "worker years" of employment as well as $66.5 million in total wages over a 12 to 15 year period. The effect of these expenditures will have positive direct, indirect, and induced beneficial impacts on the economy of the County of Maui. During its operations phase, the Pi'ilani Promenade will increase the level of capital investment in the region which will create employment opportunities and economic stimulus for the region. The proposed project will provide direct employment opportunities for Maui residents and contribute to economic diversification and growth for both Maui and the State. After "stabilization," the Pi'ilani Promenade is envisioned to support 1,210 permanent jobs with an annual payroll of about $ 36.6 million.

The proposed project will incorporate New Urbanism principles in a manner that will reduce the Project's environmental impacts while creating a more livable community. The design will enhance

the physical quality of the property by providing housing and a variety of commercial facilities and services which are supported by commensurate infrastructure.

As discussed in Section III.D.~~6~~ 5(~~Utilities~~ Electrical), the Pi'ilani Promenade will include energy-efficient design and energy conservation measures; specifically, in areas such as lighting, air-conditioning, and building materials. Solar hot water heaters will be utilized throughout the residential portion of the development and the installation of Photovoltaic Energy Systems will be encouraged where feasible and appropriate.

SMCRG COMMENT:
5. Physical and Social Infrastructure (p. 180)

Items a - d and g should read "N/S" since the Project contravenes the KMCP. Furthermore, the Project is automobile-centric and not suitably accessed by walking or bicycle, and it would not be safe for children living in the shopping center to walk or bike to any of the schools in the region. Items b, f and i should read "N/A" since none of these things, for which the Applicant claims credit, bear any relationship to the Project.

Response: In response to comments regarding physical and social infrastructure, the FEIS Section IV. F. (Kihei-Makena Community Plan) has been revised to include the following language:

Analysis: The Pi'ilani Promenade supports the Kihei Design Guidelines. The project's non-vehicular transportation strategy includes: 1) compact and mixed-use development patterns, 2) integrating pedestrian-oriented streets, street trees, sidewalks, and traffic calming features, 3) both striped and separated bike lanes in appropriate locations, and 4) supporting connectivity to adjacent developments including Kihei High School and land uses *makai* of Pi'ilani Highway.

The Applicant has changed items f and i to read "N/A" because the Project does not protect and preserve the traditional rural scale and character of existing portions of old Makena Road because the Project is located in Kihei. Item i has been changed to "N/A" because the Project does not involve the planning and design of the Ma'alaea-Kealia bypass highway.

SMCRG COMMENT:
6. Energy and Public Utilities (p. 186)

Item b should read "N/S" since the Project is at odds with the KMCP that calls for co-location of commercial and retail services in close proximity to residential centers.

Response: In response to comments regarding energy and public utilities, the FEIS Section IV. F. (Kihei-Makena Community Plan) has been revised to include the following language:

Analysis: Item b is supported by the Project. The Project site will allow Kihei residents to minimize energy expenditures for transportation by making commercial options available in Kihei, thereby relieving the need to travel to Kahului for such services. The implementation of the project will provide utilities prior to or concurrent with development. As discussed in Section III.D.~~6~~ 5(~~Utilities~~

Electrical), the Pi'ilani Promenade will include energy-efficient design and conservation measures; specifically, in street lighting, air-conditioning, and building materials. Solar hot water heaters will be utilized throughout the residential portion of the development and the installation of Photovoltaic Energy Systems will be encouraged where appropriate and feasible.

SMCRG COMMENT:
7. Education (p. 193)
See the discussion of educational facility needs and concerns above. The DEIS gives no consideration to the need for a third elementary school in north Kihei. The existing schools have some incremental capacity, but they are located far away from and makai of the 88-acre site.

School needs cannot be assessed in a vacuum. While the DEIS contains an estimate of expected student growth from the Project itself, if does not take into account the cumulative effect of all the housing projects moving forward in north Kihei. For these reasons, item c should read "N/S."

Response: In response to comments regarding education, the FEIS Section IV. F. (Kihei-Makena Community Plan) has been revised to include the following language:

Analysis: As discussed in Section III.C.4 (Schools), The Project has not been designed to accommodate a public school site. In 2007, the Hawaii Legislature enacted Act 245 as Section 302A, HRS, "School Impact Fees". Based upon this legislation, the DOE has enacted impact fees for residential developments that occur within identified school impact districts. The Project is within the boundaries of the Central Maui Impact District and is within the Makawao Cost Area of that district. Projects within the district and cost area pay a construction fee and either a fee-in-lieu of land or a land donation, at the DOE's discretion. The Economic Impact Assessment estimates the projects impact fee is ~~$535,846.00~~ $553,926.00 (**See:** Appendix K, "Economic and Fiscal Impact Assessment"). At the appropriate time, the Applicant will contact the DOE to enter into an impact fee agreement that will help finance the construction of a school facilities in Kihei.

The Applicant had discussions with the DOE on the Project and is still designing the rental apartment portion of the Project and will enter into a written agreement with the DOE after the EIS and LUC review process has concluded.

SMCRG COMMENT:
8. Government- Planning Standards (p. 193)

This section is worth quoting because it gets to the core of one of the key issues here: "All zoning applications and/or proposed land uses and developments shall be consistent with the Land Use Map and Objectives and Policies of the Kihei-Makena Community Plan." Incredibly, the Applicant asserts that the Project supports this standard. It is the opposite. This item a should read "N/S."

Response: In response to comments regarding government planning standards, the FEIS Section IV. F. (Kihei-Makena Community Plan) has been revised to include the following language:

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

The subject property is located in North Kihei, south of Ohukai Road, and mauka of Pi'ilani Highway. This area was designated in the KMCP for light industrial use in order to encourage urban expansion in the area mauka of Pi'ilani Highway (goal k). The original conceptual plan of 123 light industrial lots, which fit squarely within that designation, is no longer desirable or economically viable. Since the KMCP was adopted in 1998, the proposed planning for that area as adjusted. Other developments south of Ohukai and mauka of Pi'ilani are predominantly retail, with only some instances of true light industrial uses. The community planning process has evolved since 1998, and the current Maui Island Plan indicates that the Pi'ilani Promenade is located within the Urban Growth Boundary, and is surrounded by areas currently not zoned for urbanization, but designated as "planned growth areas." The Maui Island Plan specifically cites the need for mixed-use neighborhood centers "to provide services and jobs within close proximity to where people live and provide a more efficient land use pattern." Maui Island Plan at 8-27.

The Pi'ilani Promenade project follows these more recent planning guidelines, providing a mixed use that fits within the existing M-1 zoning, and provides a mix of light industrial, retail, and residential uses. Therefore an updated plan was prepared for this FEIS which responds to the most current trends in the development of multi-use retail-living centers nationwide. The proposed project will strengthen Maui's economy by making the Pi'ilani Promenade a more attractive location for the limited light industrial activities envisioned within the KMCP as well as much needed retail businesses. These businesses will create a diverse range of jobs for Maui residents which, in turn, will benefit the local and Statewide economy. The result will be an increase in economic activities and employment opportunities consistent with community needs and desires, which will promote increased employment and entrepreneurial opportunities for Maui's residents. Thus, while the Pi'ilani Promenade project does not strictly support all of goals in the KMCP, it meets other important competing planning criteria within the KMCP. The County of Maui has interpreted the Pi'ilani Promenade project as complying with the KMCP, as the KMCP provides that the goals and objectives are guidelines to the ultimate implementation of the plan. This issue, and the possible amendment of the KMCP, is discussed further in section V.D. Unresolved Issues.

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

The word "mostly" is commonly defined as "to the greatest extent." Here the Project is mostly retail and commercial and only insignificantly light industrial, if light industrial at all. In a

presentation to the Kihei Community Association approximately 1.5 years ago, representatives of the developer indicated the possibility that no light industrial uses may be developed on site, depending on demand, raising the specter that no light industrial uses will be developed on the parcel owned by Pi'ilani Promenade North, while there are no contemplated light industrial uses planned for the parcel owned by Pi'ilani Promenade South since it is entirely intended for retail use (and therefore should be zoned for business and commercial use).

The proposed development is inconsistent with M-1 zoning requirements, nomenclature and logic. The concept defeats the purpose of zoning, which is to regulate, direct and control growth. Applicant would have the LUC believe that M-1 zoning is a free pass with little, or even no nexus to light industrial use of land. We have seen the results of this kind of free-for-all development on Maui: Dairy Road in Kahului, is a good example of a thoroughfare that contains many light industrial zoned parcels with little or no light industrial use, filled with various retail uses, and now the subject of a costly bypass road from the airport to Mokulele Highway since Dairy Road is both an eyesore and is commonly snarled with traffic.

Response: Maui County Code Chapter 19.24 identifies the following Permitted uses, "Any use permitted in a B-1, B-2, or B-3 business district." No specific proportion of quantifiable limitation is included. The following the completion of amendments to the Project's State Land Use Designation, the proposed development will be consisted with the approvals issued by the County of Maui for other similar Light Industrial Zoned developments within the County, consistent with Maui County Code, 2.80B.030 - General plan, which states,

> "B. All agencies shall comply with the general plan, and administrative actions by agencies shall conform to the general plan, except for ministerial permits or approvals including, but not limited to, building permits, grading permits, plumbing permits, and electrical permits. All community plans, zoning ordinances, and subdivision ordinances shall conform to the general plan. Preparation of County budgets and capital improvement programs shall implement the general plan to the extent practicable. The countywide policy plan, Maui island plan, and community plans authorized in this chapter are and shall be the general plan of the County, as provided by section 8-8.5 of the revised charter of the County of Maui (1983), as amended."(emphasis added)

The first iteration of MCC 2.80B.030 was adopted in 2004.

County Council Zoned the Project site in 1999 with no limitations on uses and after full discussion on the KMCP goals, objectives and policies. Based on the timing of the Project's Zoning approval, it is the Applicant's understanding that the Maui County Council Zoned the Project site Light Industrial in 1999 without condition or limitation on Commercial and Multi-Family Uses and therefore with the expectation that the full range of uses permitted by the M-1 Light Industrial District do substantively conform to the intent of the KMCP which was adopted by Council the year prior, in 1998.

In response to comments regarding county zoning, the FEIS Section IV. G. (County Zoning) has been revised to include the following language:
Although the County of Maui has determined that the proposed Project complies with the KMCP, the Applicant recognizes that certain parties have asserted that an amendment to the KMCP is necessary for development of the Project to proceed. This issue may be resolved by the LUC during its consideration of the Applicant's Motion to Amend.

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

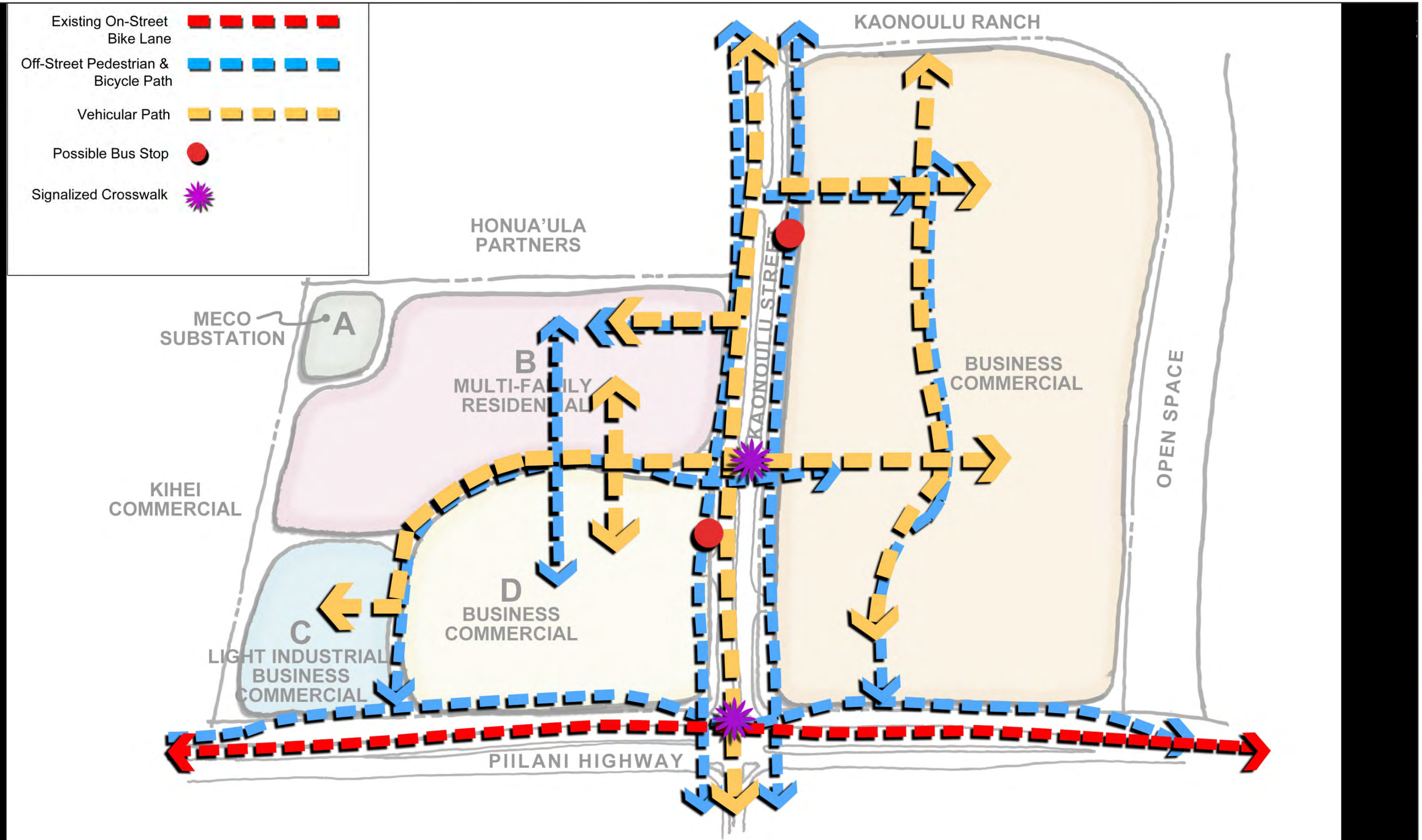
Thank you for participating the in the environmental review process. Please feel free to call me or Mr. Brett Davis at (808) 242-1955 or email at bdavis@chpmaui.com should you have any questions.

Sincerely,

Jordan E. Hart, President

Enclosures (1)
1. Figure No. 15 Conceptual Circulation Plan

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



Piilani Promenade

Maui, Hawaii

FIGURE 15
Conceptual Circulation Plan

Piilani Promenade

Source: Architects Orange

CHRIS HART & PARTNERS, INC.

Brett Davis

From: Jordan Hart
Sent: Wednesday, October 8, 2014 12:01 PM
To: Brett Davis
Subject: Fwd: Piilani Promenade ~ Draft EIS Comments

Jordan E. Hart

Attachments: ()

Chris Hart & Partners, Inc.
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-------- Original message --------
From: Sharon Rose
Date:2014/10/07 12:05 (GMT-10:00)
To: Jordan Hart
Subject: Piilani Promenade ~ Draft EIS Comments

TO HAWAII STATE LAND USE COMMISSION
Mr. Daniel E. Orodenker – LUC Executive Officer
Department of Business, Economic Development & Tourism
235 South Beretania Street, Room 406 PO Box 2359
Honolulu, Hawai`I 96804-2359

RE: Piilani Promenade – Draft-EIS Comments

Greetings LUC Commissioners and Staff

I am a ***very concerned*** resident of the Kaonoulu neighborhood. I read in the Piilani Promenade EIS that the project would have no impacts on surrounding lands. **Who are they kidding? This is absolutely not true!** I hope you will not accept this assumption and I hope you will ask the applicants to do more work on this EIS.

I am concerned the EIS is not adequate because it concludes that there will be no traffic impacts after roadway "mitigations" are built. It looks like their traffic study only looks at a few of the new projects that will be bringing traffic to Piilani Hwy, rather than the big picture. **We already have a lot of traffic and traffic noise now**. Building a big shopping center and a couple hundred apartments across the street is

going to be a **huge** increase in traffic and a **huge** increase in noise. Even the EIS admits the noise on Kaonoulu street will get worse. We residents don't care whether its above or below federal noise levels. **For me and my neighbors, it's way too noisy already.** The EIS should have looked for more ways to lower noise and traffic levels.The EIS should be honest and maybe scale down the size of the project.

I am concerned because there doesn't seem to be any real alternative plans discussed for the site. **The EIS claims there will be no cultural impacts because the land has no cultural value. Again, this is absolutely and categorically untrue!** This area has a lot of history and there are no plans to save any historic sites, even though native Hawaiians have asked that they be protected. **I have walked this land and it is loaded with valuable sacred historic cultural sites. It is a crime against the ancestors and this sacred aina and the Hawaiian people to bulldoze these precious landmarks of cultural history for a mega mall! I am appalled and filled with shame that these sacred cultural sites would be treated in such an inhuman way on this island of aloha. We must ask the developers to honor this land and its people and history and culture by including aloha in their plans, setting aside the historic sites as places for all the generations to come to visit and learn from and do what is pono here. If we don't protect these lands, who will?**

The main gulch through the land is shown as filled in on the maps I have seen. This is a terrible idea. We need an EIS that shows some alternative plans. We need a plan with the gulch as part of a park with a walking path and more open spaces to absorb all the flood waters that come through and flood our streets and pollute the ocean below the Piilani Hwy. We need a plan that has a greenway through the land with historic places preserved along it.

We **already** have big flooding problems below the Piilani highway when it rains heavily in Kihei or upcountry. The EIS says all the storm water will stay on site, but if you look closer, you see that all the water that comes down through the gulch across the land will still come down. Only now it will all be concentrated into pipes that lead to other pipes and then dumped in Kulanihakoi gulch, near our neighborhood. This is a major problem.

This dirty water goes to the ocean where we take our families to swim and residents go to fish and gather seaweed. It heads right out to where the whale sanctuary headquarters is. There has to be a better plan and studies like this should be looking at the options instead of telling us all that they represent smart growth. What's so smart about issuing a report that denies there will be any problems? **Who is holding these out of control developers accountable for their actions?**

Bottom line for this area: new developments need to not only take care of their own runoff, but they need to be part of the solution to the current problem. **Please do not accept this study as complete until it looks at some real alternative plans that are a win-win-win-win-win for the land, the historical sites, the surrounding neighborhood, the Hawaiian community and the developers.**

I thank you in advance for employing justice and right action.

Sincerely,

Sharon Rose

CHRIS HART
& PARTNERS, INC.
Landscape Architecture
City & Regional Planning

April 25, 2017

Ms. Sharon Rose
spirit@usinternet.com
Kihei, HI 96753

Dear Ms. Rose,

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

Thank you for your email received on October 7, 2014. Below are the responses to your comments.

Comment 1. *"I am a very concerned resident of the Kaonoulu neighborhood. I read in the Piilani Promenade EIS that the project would have no impacts on surrounding lands. Who are they kidding? This is absolutely not true! I hope you will not accept this assumption and I hope you will ask the applicants to do more work on this EIS.*

I am concerned the EIS is not adequate because it concludes that there will be no traffic impacts after roadway "mitigations" are built. It looks like their traffic study only looks at a few of the new projects that will be bringing traffic to Piilani Hwy, rather than the big picture. We already have a lot of traffic and traffic noise now. Building a big shopping center and a couple hundred apartments across the street is going to be a huge increase in traffic and a huge increase in noise. Even the EIS admits the noise on Kaonoulu street will get worse. We residents don't care whether its above or below federal noise levels. For me and my neighbors, it's way too noisy already. The EIS should have looked for more ways to lower noise and traffic levels. The EIS should be honest and maybe scale down the size of the project."

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Response 1. The FEIS is a disclosure of anticipated impacts and commitment to mitigation measures. The Applicant and Project team believe that with the implementation of mitigation measures the Project will not result in a significant negative impact to surrounding lands or the greater community. In response to comments regarding surrounding land uses, the FEIS Section III.A.1 (Surrounding Land Uses) has been revised to include the following language:

The Project would provide additional multi-family housing in close proximity to the planned Kihei High School. The Project is also providing land for a MECO substation and the 1.0 MG water storage tank.

As previously mentioned the lands *makai* and across the highway from the project site include Kaonoulu Estates, a mixture of single and multi-family residential development. The Pi`ilani Promenade will help achieve and sustain the County's goal of creating greater economic diversification while ensuring that housing and support services are in close proximity to jobs. The uses proposed for the Pi`ilani Promenade are compatible with other lands uses within the State Urban District.

In response to comments regarding project infrastructure improvements for traffic and who is paying for them, FEIS Section III.D.1 (Roadways) has been revised to include the following language:

The Applicant is responsible for providing the following improvements at the intersection of Piilani Highway and Kaonoulu Street as part of the Project:

- Install traffic signals and striped pedestrian crosswalks across Pi'ilani Highway.
- Southbound approach will have double left turn lanes, two through lanes, and a channelized right turn lane.
- Northbound approach will have a dedicated left turn lane, two through lanes, and a channelized right turn lane.
- Eastbound approach will have a left turn lane, a through lane, and a channelized right turn lane.
- Westbound approach will have dual left turn lanes, a through lane and channelized right turn lane with an acceleration lane.
- The Project also includes the construction of a shared-use pedestrian and bike path along the mauka-side of Pi'ilani Highway, adjacent to the Project and within the Project site, in addition to bike lanes on Pi'ilani Highway.

In response to comments regarding noise, the FEIS Section III.A.7 (Noise Quality) has been revised to include the following language:

The largest total increase (~~1.7~~ 2.9 to ~~2.6~~ 3.6 DNL) in Project related traffic noise level is anticipated to occur along Kaonoulu Street between Pi`ilani Highway and South Kihei Road. Non-Project traffic is expected to add 2.9 to 5.1 DNL of traffic noise to this section of Kaonoulu Street. Adverse traffic noise impacts along Kaonoulu Street are possible towards the west end of Kaonoulu Street where relatively small setback distances could result in future traffic noise levels exceeding the United States Department of Housing & Urban Development ("HUD") standard of 65 DNL by 1 DNL unit at full build out. ~~not expected to occur since existing traffic noise levels are very low, and the addition of both project plus non-project traffic is not expected to cause traffic noise to exceed 65 DNL at existing residences along Kaonoulu Street,~~ **~~therefore~~** The remaining majority of noise sensitive residential buildings along Kaonoulu Street have adequate setback distances such that predicted traffic noise levels at full build out should remain in the "Moderate Exposure, Normally Acceptable" category at these buildings. **For these reasons, traffic noise mitigation measures ~~is~~ should not be required for the existing residences.**

The project site will be designed such that rental residential uses within the project are ~~situated~~ located at adequate setback distances from the future Kihei Upcountry Highway to eliminate the need for traffic noise mitigation measures. The Applicant will inform future residents of the potential for high noise levels due to existing light industrial activities adjacent to the northern corner of the project site.

In response to comments regarding the scale of the project, the FEIS Section II.E. (Proposed Project Description) has been revised to include the following language:

The original Eclipse Development Plan proposed approximately 695,000 SF of retail space with approximately 3,700 parking stalls, with development concentrated in two major commercial development areas with substantial paved parking lots separating them. In contrast to the current plan, the Eclipse Development plan did not include any light industrial uses or a multi-family rental housing, pedestrian and bicycle access and a park component.

The current Pi`ilani Promenade conceptual plan responds to input from the south Maui community, as well as the market and demand for housing in Maui County. The current Pi`ilani Promenade conceptual plan includes the development of a mixed-used project consisting of approximately 530,000 square feet of retail, office, business/commercial development, 58,000 square feet light industrial space, 226 multi-family apartment units, and public/quasi-public (park, MECO substation) uses. The estimated 1,609 required parking stalls required under the current Pi`ilani Promenade conceptual plan is substantially less that the 3,700 stalls proposed by the prior Eclipse Development Plan.

***Comment* 2.** *I am concerned because there doesn't seem to be any real alternative plans discussed for the site. The EIS claims there will be no cultural impacts because the land has no cultural value. Again, this is absolutely and categorically untrue! This area has a lot of history and there are no plans to save any historic sites, even though native Hawaiians have asked that they be protected. I have walked this land and it is loaded with valuable sacred historic cultural sites. It is a crime against the ancestors and this sacred aina and the Hawaiian people to bulldoze these precious landmarks of cultural history for a mega mall! I am appalled and filled with shame that these sacred cultural sites*

would be treated in such an inhuman way on this island of aloha. We must ask the developers to honor this land and its people and history and culture by including aloha in their plans, setting aside the historic sites as places for all the generations to come to visit and learn from and do what is pono here. If we don't protect these lands, who will?

Response 2. A series of Alternatives which meet the Project Objectives are discussed in the document. As noted in Section II.F. (Alternatives) of the FEIS, three (3) alternatives 1) no action, 2) no residential uses, and 3) alternate site were considered.

Under HAR Title 11, DOH, Chapter 200, EIS Rules, ~~Section 11-200-17(F),~~ a ~~Draft~~ Final EIS must contain a section discussing alternatives that could attain the project objectives, regardless of cost, in sufficient detail to explain why the specific alternative was rejected. Alternatives to the preferred Pi`ilani Promenade plan, along with reasons why each alternative was rejected, are described below.

**Pi`ilani Promenade Objectives** – Objectives of the Pi`ilani Promenade project are rooted in the desire to create a vibrant regional and sub-regional shopping experience for local residents and visitors, contribute to the Maui and State economies and ~~by~~ create employment opportunities. The proposed development plan will also foster a small residential community with connectivity to adjacent existing and future neighborhoods while contributing to Maui's economic diversity and social fabric.

The objectives of the project are to:

- Provide much needed residential rental housing in south Maui,
- Provide greater diversity and flexibility of business/commercial space to attract ~~both very~~ small and large-scale employers;
- Provide light industrial space for south Maui business,
- Provide restaurants, shops and other retail services to the local residents and visitors;
- Create jobs;
- Increase tax revenue to State and County;
- Provide housing within walking distance of employment; and
- Reduce the project's energy demand through conservation and energy efficient design.

Three (3) alternatives to the Preferred Alternative (Proposed Plan) were considered. These alternatives are discussed below.

No Action Alternative

Under the no action alternative, existing entitlements would remain and the property could be developed as a 123-lot commercial and light industrial subdivision within the Petition Area. Additionally, according to the Maui Island Plan, residential and commercial land uses are predominately segregated within the Kihei-Makena Community plan region. Mixed-use neighborhoods centers are needed to provide services and jobs within close proximity to where people live and provide a more efficient land use pattern.[1] Under this alternative, the project would not satisfy the Maui Island Plan. The Applicant has determined that, based on current market conditions, the development of a 123-lot commercial and light industrial subdivision would not be economically feasible, and therefore, there exists a significant chance that the land would remain undeveloped under this alternative.

Under the no action alternative, there would be no rental ~~workforce~~ housing, including affordable units, infrastructure improvements, on-site recreational amenities, or opportunity to provide additional commercial ~~and office~~ space ~~in advance of demand~~ for south Maui as follows:

- *Rental housing opportunities.* The project will bring 226 multi-family rental units. Pricing for rental units is expected to be ~~largely~~ affordable for Maui Island residents in a market that is limited in supply of rental units.

- *Opportunity to live within walking/biking distance of jobs, parks, shopping and schools.* At build-out the Project will be located in close proximity to the future Kihei High School. The proposed residential units will be within a short 5-minute walk from on-site commercial uses and employment. The commercial uses will be easily accessible and the site will be designed to incorporate walking and bicycling connection to the existing residential neighborhood surrounding Ohukai Street. The proposed non-vehicular circulation at the proposed project site is in accordance with the goals and objectives of the Maui Island Plan.

- *Parks and open space.* The site plan proposes a 2 acre park and open space will be provided throughout the site between buildings including bicycle and pedestrian pathways. These areas will be accessible to the public in a manner that is not possible in the currently undeveloped condition.

- *Infrastructure Improvements.* Phase 1 of the proposed project will include constructing a portion of the KUH through the project area. The portion provided by the Applicant will included pedestrian and bicycle pathways separated from the roadway. In addition the project proposes constructing a 1.0 MG public water tank and providing land for a future MECO substation that will provide services ~~to provide electricity~~ for the project and future surrounding planned development. The access easement allows for utilities, vehicular and ~~future~~ bicycle and pedestrian connectivity from Ohukai Road to a point located to the

[1] Maui County General Plan 2030, Directed Growth Plan, 8-27.

north of the project site. ~~In addition the project is providing an easement for future vehicular access to Ohukai Road to increase connectivity mauka of Pi`ilani Highway.~~

- The Hallstrom Group completed an Economic Study with inventory of the Kihei Retail market and found that about ten percent of the total floor area in the community was vacant. However, the vacancies were either restaurant spaces (the least stable sector of the market) or in uncompetitive projects or locations (such as along Lipoa Road). All of the quality/competitive spaces along S. Kihei Road or in newer, modern centers were occupied. Over the past year numerous new leases have been signed and the vacancy rate in Kihei has dropped below seven percent. The economic report found that there is a lack of quality, modern, well-located inventory. Overall the Kihei retail market is strong, and performed better during the recession and recovery than most neighbor island sectors.

- The Maui Island Plan calls for the development of thousands of residential dwelling units in Kihei planned growth areas to address future demand for housing. Associated with that growth will be the need for light industrial space for future small businesses, commercial and office space to address this future growth.

The no action alternative would also deprive the State, County and general public of the significant economic benefits associated with the Pi`ilani Promenade, including an estimated:

- $212 million in direct capital investment in the Maui economy during the build-out period;
- 878 "worker years" of direct on-site employment and $66.5 million in total wages over a 12-15 year absorption period;
- 1,210 permanent jobs after build-out with an annual payroll of about $36.6 million.
- $2.3 billion base economic impact during build-out and $348.7 million annually upon stabilization.
- $210.7 million in net tax revenue (profit) during development and $26 million per year to the State of Hawaii on an annualized basis thereafter.
- $25.9 million in net tax revenue (profit) during the build-out period and $2.2 million in annual net tax revenue (profit) to the County of Maui after the build-out period.
- Financing and Construction of a portion of the Kihei Upcountry Highway
- Financing and Construction of a 1.0 MG water tank

Potential benefits of the no action alternative would include: 1) no short-term construction-related impacts (such as construction noise, construction equipment exhaust emissions and fugitive dust); 2) avoidance of additional infrastructure demands (water, wastewater flows, and solid waste disposal); 3) ~~no~~ less increased Pi`ilani Highway traffic impacts as a result of the project and associated infrastructure costs; and 4) less demand upon the region's coastal and inland parks and recreation facilities. The no action alternative would not add to regional

population increases, or require any public services, such as parks and schools, to accommodate an increased population in the area.

For the following reasons, the no action alternative was rejected:

- Does not meet the objectives of the Maui Island Plan
- Would not address the current and future demand for residential, commercial, ~~office~~ and light industrial space needed for the future planned growth of south Maui;
- Would not provide local south Maui jobs, (temporary construction and permanent employees.)
- Would not provide south Maui residents with the opportunity for affordable rental housing.
- The 1.0 MG water tank and park would not be provided.
- Would not provide the first segment of the Kihei Upcountry Highway (KUH) and improvements to the intersection of Pi`ilani Highway and Kaonoulu Street.
- Would deny the entire region of many substantive benefits that would be implemented under the plan; and
- Would not provide the State, County and general public the significant economic benefits (tax revenue) associated with the implementation of the Pi`ilani Promenade.
- Does not meet the objectives of the Pi`ilani Promenade ownership;

In summary, the benefits associated with the no action alternative are far outweighed by the benefits to the community that the Proposed Project (Preferred Alternative) would bring.

No Residential Uses Alternative

An alternative to the proposed project (Preferred Alternative) could be to not allow rental residential uses in the Pi`ilani Promenade. However, this alternative would allow for the development of ~~additional~~ light industrial and business/commercial uses but eliminate ~~and foreclose on~~ the opportunity to develop a true mixed use project providing for housing and employment within close proximity. Under this alternative, business, retail and commercial uses, and support services, would be permitted.

Research of successful employment centers in other locations has shown that businesses and industries are attracted to locations offering a mix of uses, including commercial and residential ~~and workforce housing~~ opportunities. Rental residential development is an important component of the mixed use, complete community concept, and the Pi`ilani Promenade may not be as attractive to ~~future~~ users or investors without the rental units

~~housing options~~ proposed. Under this alternative, no affordable housing will be provided to address a critical demand for rental product on Maui or within walking and biking distance of employment, thus not utilizing "smart growth" and "neo-traditional" planning principles. With no residential component, there would be no proposed park space and there will be less construction ~~phase~~ employment associated with the development of the project ~~Pi`ilani Promenade~~, providing fewer economic benefits to the region and Maui at large. Additionally, there could be less long-term employment should the project ~~Pi`ilani Promenade~~ be less successful than it would otherwise be with the residential component.

Potential benefits of the no residential alternative would include: 1) ~~avoidance~~ reduction of additional infrastructure demands (water, wastewater flows, and solid waste disposal); 2) ~~less~~ minimal demand upon the region's coastal and inland parks and recreation facilities. The no residential alternative would not add to regional population increases, or require public services, such as parks and schools, to accommodate ~~an increased~~ the small increase to population in the area.

For the following reasons, the no residential uses alternative was rejected:

- Would not provide a mixed-use type project.
- Would deny the entire region of many substantive infrastructure benefits including a park that would be implemented under the preferred alternative; and
- Would not provide Maui residents with the opportunity for affordable rental housing.
- Does not meet the objectives of the ownership ~~Pi`ilani Promenade~~ and Maui Island Plan;

In summary, the benefits associated with the no residential component alternative are far outweighed by the benefits to the community that the Proposed Project (Preferred Alternative) would bring.

Alternative Site

The final alternative considered is the Alternative Site option. This option would require that the owner/applicant find and develop another entitled property of a comparable size and location.

The positive impacts of the alternative site option are that in the short term ~~the existing project site would remain vacant and open and~~ the impacts of development will be felt in another location on Maui.

Potential benefits of the alternative site outside of Kihei including Wailea and Makena would include: 1) avoidance of additional infrastructure demands (water, wastewater flows, and solid waste disposal in Kihei); 2) slight reduction of future Kihei Upcountry Highway traffic impacts; and 3) less demand upon ~~the region's~~ Kihei' s coastal and inland parks and recreation facilities. Depending upon location outside of south Maui, the alternative site option would not add to ~~regional~~ Kihei population increases, or require public services, such as parks and schools.

In the last few decades Kihei has become a significant urban center on the island of Maui; however a majority of businesses and retail services are located approximately 8 miles away in Kahului. Growth is planned for the Kihei area including a new high school and substantial residential development that will create need for jobs, services and retail/dining options for local residents and visitors, which the Pi`ilani Promenade could provide. The proposed project is located centrally within Kihei to provide jobs, services and housing to the existing and future residents and visitors of Kihei. If the project was relocated the residents of Kihei would not benefit from the opportunity to stay within Kihei rather than driving to Kahului.

For the following reasons, the alternative site option was rejected:

- Demand for police, fire, electrical and water services and roadway infrastructure would not change.
- Would not provide local south Maui jobs, (temporary construction and permanent employees.)
- Would not provide south Maui residents with the opportunity for affordable rental housing or local commercial and dining options.
- The 1.0 MG water tank, park and MECO substation would not be provided.
- Would not provide the first segment of the Kihei Upcountry Highway (KUH) and improvements to the intersection of Pi`ilani Highway and Kaonoulu Street.
- Does not meet the objectives of the ownership ~~Pi`ilani Promenade~~ and Maui Island Plan;

In summary, the benefits associated with the alternative site option are far outweighed by the benefits to the community that the Proposed Project (Preferred Alternative) would bring.

As requested by the Land Use Commission and the Office of Planning the table below provides an estimated timeline for Entitlements and other permit approvals in order to construct the proposed project.

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

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

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

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

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

Comment 3. *The main gulch through the land is shown as filled in on the maps I have seen. This is a terrible idea. We need an EIS that shows some alternative plans. We need a plan with the gulch as part of a park with a walking path and more open spaces to absorb all the flood waters that come through and flood our streets and pollute the ocean below the Piilani Hwy. We need a plan that has a greenway through the land with historic places preserved along it.*

We already have big flooding problems below the Piilani highway when it rains heavily in Kihei or upcountry. The EIS says all the storm water will stay on site, but if you look closer, you see that all the water that comes down through the gulch across the land will still come down. Only now it will all be concentrated into pipes that lead to other pipes and then dumped in Kulanihakoi gulch, near our neighborhood. This is a major problem.

This dirty water goes to the ocean where we take our families to swim and residents go to fish and gather seaweed. It heads right out to where the whale sanctuary headquarters is. There has to be a better plan and studies like this should be looking at the options instead of telling us all that they represent smart growth. What's so smart about issuing a report that denies there will be any problems? Who is holding these out of control developers accountable for their actions? "Bottom line for this area: new developments need to not only take care of their own runoff, but they need to be part of the solution to the current problem. Please do not accept this study as complete until it looks at some real alternative plans that are a win-win-win-win-win for the land, the historical sites, the surrounding neighborhood, the Hawaiian community and the developers."

Response 3. The Applicant is conscious of flooding in the Kihei region and proposes to meet all existing requirements for floodwater mitigation. Regarding pedestrian access, the gulch running northeast to southwest through the project site (unnamed on US Geological Survey Maps, identified as Drainage Way "A" by the Draft EIS) is an inappropriate location for a greenway walking path because it does not provide adequate crossing under the highway. The drainageway is further proposed to go underground at the already approved Kenolio Apartments makai of the highway, and is currently underground at the southwest corner of the Kenolio Apartments site.

Kulanihakoi gulch is privately owned. The owner of approximately 12.7-acres of the *maikai* end of Kulanihakoi gulch has made public his interest in conveying the area to the County of Maui for the purposes of passive recreational open space and native habitat restoration. Because the land is identified as Park and Open Space in the County of Maui's Kihei Makena Community Plan, and is identified as a Secondary Off-road Connection and Gulch/Drainage in the County of Maui's South Maui Region Parks & Open Space Master Plan, the appropriate owner and maintainer of Kulanihakoi gulch is the County of Maui. The Kulanihakoi gulch is a viable location to provide a pedestrian greenway access from South Kihei Road to the Kihei High School Site.

Response: In response to comments regarding impacts to pedestrian and bicycle paths, the FEIS Section II. E. (Project Description) has been revised to include the following language:

The current Project plan includes off-road pedestrian and bicycle routes along both East Kaonoulu Street as well as through an access easement from Ohukai Street to East Kaonoulu Street. Additionally, the Project includes a separate pedestrian/bicycle pathway running parallel to the Pi'ilani right of way within the project property as a preferred and safe route for south Maui residents traveling to and from the project area. With regard to the Kulanihakoi Gulch crossing, the project owner has offered to assist the State DOT in the design of a separate crossing facility located within the right of way and outside the roadway section for pedestrian and bicycle safety. All of the above proposed improvements are intended to facilitate safe walking and bicycling and to reduce the

requirement for automobile use in order to access the development.(**See:** Figures 14 A "Piilani Hwy Existing Street Section" and 14B "Piilani Hwy Proposed Street Section")

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

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

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

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

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

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

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

Sincerely,

Jordan E. Hart, President

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