

July 21, 2019

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State of Hawai'i Land Use Commission
Department of Business, Economic Development & Tourism
P.O. Box 2359
Honolulu, Hawai'i 96804-2359

STATE OF HAWAII
LAND USE COMMISSION

Aloha State Land Use Commissioners,

We are land owners and occupants of Keālia, adjacent to the proposed "Keālia Mauka Homesites" development. We believe that our concerns have not been addressed sufficiently (if at all) in the July 2019 Final EIS. Therefore, we respectfully request you reject the Final EIS for the petition to amend the Land Use District Boundary from the Agricultural District into Urban District for the 53.4-acre Keālia Mauka Homesites project.

Although we support affordable housing for Kaua'i residents, the project as proposed does not fulfill the need for affordable housing. At this time we request intervenor status in this process.

Thank you for your consideration and your work and service to our community.

Sincerely,

The Residents of Keālia

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LAND USE COMMISSION

Residents of Kealia Supporting Statement on Page 1 of this letter.

<u>Name</u>	<u>Address</u>
Randi Keippa (land owner) Randi Keippa	4627 Kaao Rd. 44 Lihay St. Kapaa, HI 96746 4627 Kaao Rd.
Troy Keipper (landowner) Troy Keipper Jerome Fritz JROME	44 Lihay St, KAPAA, HI 96746 4630 FAA RD Keneloa
Joel Agno Aitha Arinaga Josephine Hodo	P.O. Box 510237 Kealia HI 2516 Kealia Rd 4627 Kaao Rd. 4620 Kaao Rd.
Kenneth Johnson Kenneth Johnson	4544 Kaao rd.
Rosa TABARES m m 2	4544 Kaao rd.
Shawn Conkel Shawn Conkel Rebecca Swank	4554 Kaao rd. 4554 Kaao Rd
Amanda Johnson Amanda	4544 Kaao rd.

Residents of Kealia Supporting Statement on Page 1 of this letter.

Name

Address:

Malia Rogers

KEALIA

Tracy Kanhela

Kahli Rogn

Mark Baldonado

Karen Gibbons

2382 Kamole Rd Kealia
(NOT ADJACENT)

Mark Henry Mark Haly 4572 Kaao Road.

~~PACIFIC REPUBLIC~~ 1 1 1
Kealani H Sanchez

2399 Kamde Rd, Kealia

Herman Chong

2407 Kamole Rd, Kealia

Shelton

2414 Kamole Rd Kealia

Joan Silva

2432 Kamole Rd

SHARLA KALANAN

2442 KAMOLE RD

John & Penny Skinner

2466 Kamole Rd

Lynette Pabro

4516 Kaao Rd Kealia

Karla Rogn

4616 Kaao Rd. Kealia

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STATE OF HAWAII
LAND USE COMMISSION


Residents of Kealia Supporting Statement on Page 1 of this letter.

Name

Address

Mark Baldonado

4545 Kaa Rd.


Dawn Gates

4538 KAAO Rd


Arvin Pinos

4524 Kaa Rd.

ROSEMARIE Campos


4619 Kaa Rd.


CLAYTON K. ARINAGA

4627 KAAO RD.

KRISTI KARINAGA

4627 KAAO RD

Colene E. Schaefer

P. O. Box 510029 Kealia

Colene P. Schaefer

Kaunoi HI 96751



Alfred ALESNA

4646 KAAO Rd Kealia

Bree Alesna

4646 Kaa Rd Kealia



Kaipo Choy

4646 Kaa rd Kealia


Lianne Kobayashi

4626 Kaa Rd Kealia

change.org

Recipient: Kauai Families

Letter: Greetings,

Addressing the Local Housing Shortfall: Kealia Mauka

You can support this important project by signing this petition, which will be submitted to the State Land Use Commission and later to the County of Kauai Planning Department to show that local residents want and need this project to happen. Together let's address the housing shortfall for Kauai's people!

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LAND USE COMMISSION

Signatures

Name	Location	Date
Leah Ragsac	US	2019-07-16
Jenny Fujita	Lihue, US	2019-07-16
Joy Koerte	Lihue, US	2019-07-16
JOY KUKINO	LIHUE, US	2019-07-16
Jordan Kukino	Lihue, US	2019-07-16
Sara Miura	Kapaa, US	2019-07-16
Moana Kinimaka Palama	Koloa, US	2019-07-17
Daniel craig Pahulehua	Makaweli, US	2019-07-17
Linda Baldwin	Koloa, US	2019-07-17
Michael Rivera	Koloa, US	2019-07-17
Linda Antiala	Koloa, US	2019-07-17
Kathy Noelani Palama	Hanapepe, US	2019-07-17
Kristin Hoshino	Koloa, US	2019-07-17
Remedios Dela Cruz	Lihue, US	2019-07-17
Stacie Nishimura	Lihue, US	2019-07-17
Miguel Chrisman	Kapaa, US	2019-07-17
Rolina Faagai	Kaneohe, US	2019-07-17
Ashley Carvalho	Kapaa, US	2019-07-17
Joan Ludington	Kauai, US	2019-07-17
Kellyn Tanaka	Lihue, US	2019-07-17

Name	Location	Date
Greg Batalucco	Waimea, US	2019-07-17
Christine Larson	Gardnerville, US	2019-07-17
Charlene Andrade	Beaverton, US	2019-07-17
Lance Tanaka	Seattle, US	2019-07-17
Tyler Carvalho	Lihue, US	2019-07-17
Melissa E Andrade	Koloa, US	2019-07-17
Holly Gandia	Waimea, US	2019-07-17
Leilani Alquiza	koloa, US	2019-07-17
Brad Seymour	Kapaa, US	2019-07-17
Leivyn Kamakele	Waimea, US	2019-07-18
Michael Seymour	Kailua, US	2019-07-18
Tyler Line	San Jose, US	2019-07-19
Alex Nieto	Chino hills, US	2019-07-19
Malia Canepa	San Mateo, US	2019-07-19
Amanda Arakaki	Lihue, US	2019-07-23
Susan Miura	Lihue, US	2019-07-23
Bernard Carvalho Jr	Kapaa, US	2019-07-25
Moanikeala Furuta	Līhu'e, HI	2019-07-25
Lianne Taniguchi	Kapaa, US	2019-07-25
Naomi Muraoka	Lihue, US	2019-07-25
Kiana Carvalho	US	2019-07-25
Nathan Carvalho	Kapaa, US	2019-07-25

Name	Location	Date
Amy Campbell	Kapaa, HI	2019-07-25
Jona Ahuna	Kapaau, US	2019-07-25
Jo Ann Tanaka	Lihue, US	2019-07-25
Kimberly Inouye	Lihue, US	2019-07-25
Alice Visitacion	Līhu'e, HI	2019-07-25
Malia Carvalho	Lihue, US	2019-07-25
Roy Yamashita	Lihue, US	2019-07-25
Chuck Lasker	Kalaheo, HI	2019-07-25

July 24, 2019

State of Hawai'i Land Use Commission
Department of Business, Economic Development & Tourism P.O. Box 2359
Honolulu, Hawai'i 96804-2359

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Aloha State Land Use Commissioners,

For the record, my name is Kenneth Johnson and I am speaking on behalf of my family who reside at 4544 Kaa Rd in Kealia.

I am requesting the Land Use Commissioners to reject the FEIS to petition for Land Use District Boundary Amendment to amend the Agricultural Land Use District Boundary into the Urban Land Use District for approximately 53.4 acres of land at Kealia.

In the short time we had to review the FEIS, many concerns have come to our attention that have not been thoroughly addressed.

1) Any housing development needs to have its own separate entrance to a main highway. This proposed plan will be using Kealia road as the only traffic route to Kuhio Highway. The expected increase in vehicles will add to the already congested Kapaa traffic commute times.

2) The proposed plan says that there will be a 4.32 acre parcel dedicated to a park/green space/detention basin which is located behind our home 4544 Kaa Rd. Who will be responsible for the maintenance, security and resources to take on the added upkeep of this area? With the runoff ditch next to my home, will it be able to handle all the excess storm water?

3) How is the proposed plan offering a real solution to the housing shortfall when the end product of this "housing opportunity" is not an actual home but an empty lot? How would a workforce resident of Kauai get a loan to purchase a lot and then get an additional loan to build a home?

4) It's stated that 36 workforce housing lots will be allocated. Who will be building these homes on the 36 workforce housing lots? Will habitat for humanity be involved?

5) With the upgrade to the Kealia Post Office, will the current leasee be able to afford the rent? If the current leasee can't afford the increase rent, this will subsequently close the Kealia Post Office and impact the residents that rely on this current location for their mail. This will add more traffic on Kuhio Hwy for retrieving mail at a different location.

With these raised concerns, my family and I strongly reject the FEIS petition to amend the 53.4 acre of land adjacent to my home from agricultural to urban use.

Thank you or your time and consideration.

Kenneth Johnson



27 June, 2019

STATE LAND USE COMMISSION
P.O. Box 2359
Honolulu, Hawai'i 96804

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STATE OF HAWAII
LAND USE COMMISSION

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FAX: (808) 587-3827

RE: Kealia Properties LLC's Petitions

I am writing to you asking for your support for Kealia Properties LLC's petitions for:

1. Motion to Accept FEIS; and,
2. Boundary Amendment Petition Docket No. A17-803 to amend the agricultural Land Use Boundary Into the Urban Land Use District of Approximately 53.361 Acres of Land at Kealia, Kauai, Hawaii (Tax Map Key: 4th 4-7-004).

As a realtor with Kauai Realty, Inc. since July, 1977, I am aware of the benefits of homeownership in that it creates more stable, secured and vibrant communities. It also creates a sense of pride and security for the owners. Kealia Properties LLC's will provide housing opportunities for our residents in our current severe housing crisis and shortage.

I have reviewed the EIS documents and am satisfied that the required criteria have been met for a positive action for both petitions.

It is prayed that you support the petitions so that Kealia Properties LLC can help to address Kauai's dire housing pent-up demand for housing.

Should you have any questions, please contact me at 808-639-0367 or Mark@MarkTanaka.com. My web page is www.MarkTanaka.com.

Mahalo,

Mark K. Tanaka

MARK K. TANAKA RB CRS CRB GRI SRS
Executive Vice President

Kealia Properties LLC

We, the undersigned Realtors, do support Mark K. Tanaka's letter, dates 27 June, 2019 and Kealia Properties' petitions to accept the EIS and Boundary Reclassification To Urban.

Name	Address	Cellular	Email
Leah Ragsac	3394 Urahe St. Lihue	212-4086 639-1490	leah@leahragzac. leahragzac.com
Clifton Kukino	2480 Kanio St, Lihue	HI 96766	clukukino@gmail.com
Ashley M Carvalho	2403 Ulu Maika St.	639-9307	Ashley@AshleyCarvalho.com
Eric Yama	2470 Kanio St. Lihue	639-3414	eric@ericyama.com
TAD T. MIURA	2449 APAPANE ST. LIHUE	HI 96766 652-5698 635-3674	TadMiura@gmail.com
Joy Kukino	2480 Kanio St Lihue		jkukino@hotmail.com
Shay Kai Muraishi	4029 Opuka St Lihue	652-3006	Shay@KauaiRealty.net
Jesse F. Koshihima	P.O. Box 292 Kapaa	492-0325	Jesse@KauaiRealty.net
Maya Tomizawa	P.O. Box 1125 Waihee	634-8765	mtomizawa@KauaiRealty.net
Craig Hudson	P.O. Box 1125 Waihee	634-8715	craig@KauaiRealty.net
Glenn Lojima	P.O. Box 676 Kapaa	HI 651-5850	glenn@KauaiRealty.net
Carol Cummings	4040 Alala Pl Lihue, HI 96766	651-4766	KauaiRealty@gmail.com
June Araki	6431 Kaahulu St. Kapaa	HI 96746 482-1855	JuneAraki@gmail.com
Kevin Horth	2403 Ulu Maika St. Lihue		Khorth@KauaiRealty.net
Jordan Kukino	2851 Kanani St Lihue	(808) 378-8462	JordanKukino@KauaiRealty.net
Emma Ladendele	381 Koholalele Rd Kapaa	HI 96746	alabandale@gmail.com

Kealia Properties LLC

We, the undersigned Realtors, do support Mark K. Tanaka's letter, dates 27 June, 2019 and Kealia Properties' petitions to accept the EIS and Boundary Reclassification To Urban.

Name

Address

Cellular

Email

Melinda Yome P.O. Box 147 Lanai melinda.yome@gmail.com
Lana Anderson P.O. Box 1651 Lihue lanaanderson808@gmail.com

JESSE FUKUSHIMA
P.O. Box 225
Lihue, HI 96766

July 24, 2019

Re: Al 7-803 Kealia Properties LLC-(Kauai)

Aloha, Honorable Members of the State of Hawaii Land Use Commission.

Kealia was once a thriving plantation community with residential properties located close to the proposed project site and across Kealia beach. In addition to having a post office, there was a also a theatre, plantation store and a medical facility.

It is time to revisit the opportunities that Kealia once provided and be the so call bridge between the ever busy Kapaa Town and the calm of Anahola and Moloaa. These are lands that can be made available for many to enjoy be either in agriculture or residential zoned parcels.

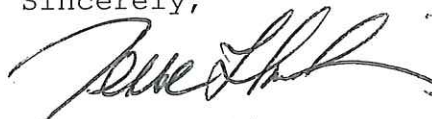
Ideally it does make sense to pursue housing within the proposed area that is surrounded with the majestic views of Kalea and Makalea mountain ranges and in close proximity to the sandy beaches of Kealia, It is also very close to Kapaa High School, several churches and within the Kapaa to Wailua corridor which contains the State library, Kapaa Neighborhood Center, numerous eateries, shopping centers and other facilities.

Serving as a County of Kauai Council member from 1980 to 1996, providing housing for our island residents has always been one of my primary objectives. Developing housing has always been most challenging and that challenge continues today. Kauai does have a critical shortage of housing. Housing does provide for stable and healthy communities.

Kealia Mauka is a private sector housing project of which the developer is willing to risk a tremendous amount of funds to provide market housing and an affordable, workforce component. The benefit that the county will receive would be improvements to some of the road infrastructure and an increase of real property tax revenues.

I ask for your support and approval of this project and for acceptance of the EIS.

Sincerely,



Jesse Fukushima

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Dear Commissioners

Mahalo for the opportunity to testify on the Kealia development. You've heard or soon will hear a litany of objections to this project and they all have validity.

1. Traffic...Kealia will create a mess of traffic in an already growing mess. The backup of cars entering Kapa'a is getting worse and more frequent every day and the Kealia Beach is congested with cars trying to enter and exit the area.
2. General Plan...It defies the spirit of the Kaua'i General PlanIt in which we have committed to develop urban areas in favor of rural.
3. Affordable housing...It pays lip service to our affordable housing needs. The most glaring shortage on Kaua'i is the need for affordable housing. The Kealia development will not help.
4. Quality of life...It would be a terrible place to live because of the ever increasing highway noise and congestion.
5. Agricultural lands...Kealia development robs Kaua'i of yet one more piece of agricultural land. We are already far too dependent on shipments of food from remote places and many individuals and organizations are working hard to increase our farm production. As global changes reduce our tourist flow and our access to outside goods, as it surely will, we will need to be far more independent in the department of food production.
6. The developers say that this project was on the previous General Plan, so it should still be OK. But times change. How can we frame this situation in the present moment? The events surrounding Mauna Kea come to mind because, as we speak, the protesters across the islands and on the mountain are reminding us that this land is sacred and that we have too often mistreated the host culture and one another for the sake of financial gain. It is time to change our ways and return to the old ways of malama aina and and Aloha for one another. Developers have had their way toward creating ill-advised projects on Kaua'i for many years. Few have been denied and many have been built to the detriment of our island. It is time to reverse this trend. Think of the effects on the residents, whether they be in cars or in need

of an affordable place to live and please steer those developers to places that make sense to build. Kealia does not.

Aloha

David Dinner

Kilauea

**THE KEĀLIA MAUKA HOMESITES PROJECT IS ON THE WRONG SIDE
OF THE KAPA'A/WAILUA TRAFFIC PINCH POINT**
A17-803 KEALIA PROPERTIES, LLC

Dan Freund
5609A Honua Rd.
Kapa'a, HI 96746

danfreund@hotmail.com



The Commission should deny the Kealia Properties amendment petition because the proposed development would stuff substantially more traffic into the already congested Kapa'a/Wailua traffic corridor.

1. Keālia Mauka Homesites residents would use an already congested corridor.

Keālia Mauka Homesites residents will predominantly travel south through Kapa'a and Wailua for work and shopping. The mostly two-lane Kapa'a/Wailua corridor is already congested throughout the business day. This makes it **difficult to navigate for emergency vehicles, unpleasant for residents and visitors, and a source of CO2 emissions from idling engines.** Kūhiō Highway widens to three lanes further south, where it leads into the Lihue central government, commercial, and industrial district.

2. Even without Keālia Mauka Homesites traffic, corridor congestion will increase 18% or more.

"... by future base year 2027, even without the project, traffic along Kūhiō Highway will increase by 18% to 24% during morning and afternoon peak hours, respectively. At full build out, Keālia Mauka will generate a total of 172 and 231 net external trips during the morning and afternoon peak hour, respectively." - FEIS Summary

3. The make-believe "Kapa'a Bypass Extension" isn't proposed and won't solve the problem.

According to the FEIS Summary, "... proposed roadway projects such as the Kapa'a Bypass Extension will provide some mitigation." The FEIS capitalizes "Kapa'a Bypass Extension," so the Extension must be a thing, right? Well, no.

The attached Google search printouts for "Kapa'a Bypass Extension" and "Kapaa Bypass Extension" show a total of only two unique hits: one for a bypass built a decade ago and one for this project's FEIS. In short, the only proponent of a new "Kapa'a Bypass Extension" is the developer's own EIS firm.

4. Without the mythical Bypass Extension expect "longer delays over existing conditions."

"Future Year 2027 Without Kapa'a Bypass Extension. Similar to Base Year 2027, queuing along Kūhiō Highway within and south of the Project area is expected to remain until congestion relief projects are completed in Kapa'a and Wailua. ... all movements are expected to experience longer delays over existing conditions." - FEIS 4.11.12

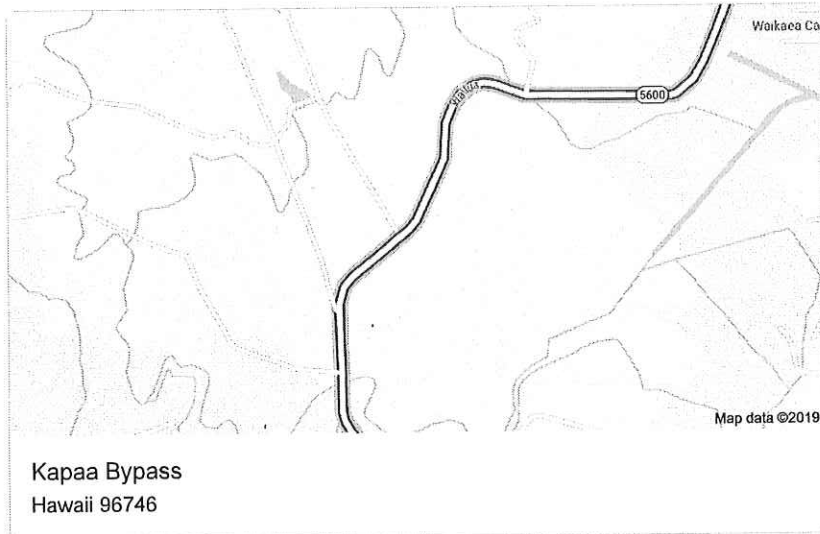
5. CONCLUSION:

The Commission should reject the amendment petition because the Keālia Mauka Homesites project is on the north side of the already congested Kapa'a/Wailua corridor. For smart growth, a project of this size should be located south of the pinch point.

Q All Maps Shopping Images News More Settings Tools

About 2 results (0.39 seconds)

Did you mean: "**Kapaa** Bypass Extension"



Kapa'a bypass extension work starts today - The Garden Island

<https://www.thegardenisland.com/2005/01/.../kapaa-bypass-extension-work-starts-toda...> ▼

Jan 18, 2005 - State officials said recently that construction on an northerly extension to the Temporary Kapa'a Bypass Road will begin today. Drivers may ...

[PDF] Section 4 - Land Use Commission - Hawaii.gov

<https://luc.hawaii.gov/wp-content/uploads/2018/04/A17-803-DEIS-Section-4.pdf> ▼

Future Year 2027 Without Kapa'a Bypass Extension. Similar to Base Year 2027, queuing along. Kūhiō Highway within and south of the Project area is expected ...

In order to show you the most relevant results, we have omitted some entries very similar to the 3 already displayed.

If you like, you can repeat the search with the omitted results included.

Kapa'a, Hawaii - Based on your past activity - Use precise location - Learn more

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Google

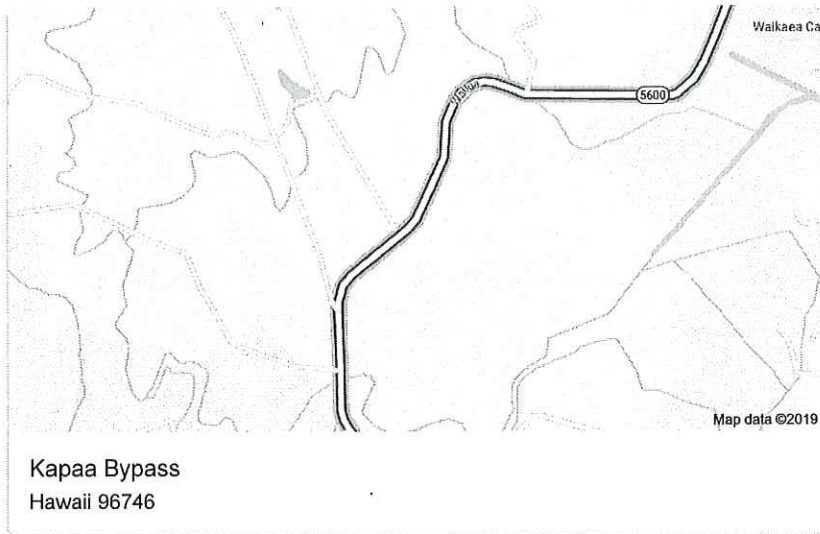
"Kapaa Bypass Extension"



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About 1 results (0.25 seconds)

**Kapa'a bypass extension work starts today - The Garden Island**<https://www.thegardenisland.com/2005/01/.../kapaa-bypass-extension-work-starts-toda...> ▼

Jan 18, 2005 - State officials said recently that construction on an northerly extension to the Temporary Kapa'a Bypass Road will begin today. Drivers may ...

Kapa'a, Hawaii - Based on your past activity - Use precise location - [Learn more](#)[Help](#) [Send feedback](#) [Privacy](#) [Terms](#)

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July 24, 2019

Re: A17-803 Kealia Properties LLC-(Kauai)

Aloha, Honorable Members of the State of Hawaii Land Use Commission

Kealia was once a thriving plantation community with residential properties located close to the proposed project sight and across Kealia beach. Aside from a post office, there was a theatre, and a medical facility.

It is time to revisit the opportunities that Kealia once provided and be the so call bridge between the ever busy Kapaa Town and the calm of Anahola and Moloaa.

These are lands that are available for many to enjoy be either in commercial, agriculture or residential zoned parcels..

Ideally it does make sense to pursue housing within the proposed area that is surrounded with the majestic views of Kalea and Makalea mountain ranges and a glimpse of the sandy beaches of Kealia. It will be in close proximity to Kapaa High School and within the Kapaa to Wailua corridor, numerous eateries, shopping centers.

For many decades, the island is in need of affordable housing projects for our working folks. Why should they pay someone else's mortgage. Given the opportunity of choice, I am sure these folks would rather invest in themselves by paying a mortgage for a home they can call their own.

This is a private sector housing project of which the developer is willing to risk a tremendous amount of dollars to provide an affordable housing project. The benefit that the county will receive would be improvement to some of the road infrastructure and a tidy sum of real property tax revenues.

I ask for your support and approval of this project.

Sincerely,



Jesse Fukushima

Former councilmember to the Kauai County Council 1980 to 1996.

TO: Land Use Commission Re Hearing on Kauai July 25, 2019

From : Gabriela Taylor, Kauai resident

Re: Kealia Mauka subdivision up zone



How Kealia Mauka Subdivision up zone to Urban Would Create Major Problems

1. Kealia Mauka Subdivision = Serious Traffic Impacts

The developer stresses that this Kealia Mauka site was designated for residential community development going back to the 1984 General Plan Update (GPU). “ Any assertions that the 2018 GPU required earmarking this area as a change from previous drafts are unfounded, as the potential for development was confirmed as the county spatial policy for close to 35 years”. Wake up developer, it’s 2019, a different ball game altogether!

Kapaa traffic is totally over the top and adding another 300 cars will likely create even more crippling gridlock than we have now. Kuhio Highway would have either a stoplight or roundabout at the corner of Kealia Road, across from the main entrance to Kealia Beach. There is only one entrance/exit to the proposed subdivision. With traffic traveling fast down hill on Kuhio Highway, this is an unlikely and potentially dangerous spot for either of these proposals. Please remember that there already is an approved roundabout slated for Kuhio Highway at Mailehuna Rd., a short distance from the one proposed for Kealia Mauka.

The recent General Plan Update has emphasized the need to restrict development to Kauai’s Urban Center (Lihue) as a measure to decrease traffic (and sprawl) in other areas. Kealia Mauka Subdivision, if approved, would significantly increase the bumper to bumper traffic we are experiencing now, plus that traffic generated from 2 already approved resorts slated to be built in the Wailua corridor. The proposed highway widening promised by the state, from the Bypass to the traffic light at Kuamoo Rd., would not even solve the congestion we have now.

2. Affordable? Far From It!

According to the FEIS, out of the total 235 lots for sale, only 36 would fall into the county “affordable” category. The other 199 lots would be sold at prevailing market prices. Furthermore, according to the developer, “a block of lots could be sold to a single purchaser who would construct the finished homes for sale.” That

means a developer could scoop up a block of lots to build houses priced at Market Value, thus inviting Mainlanders who could afford high prices.

3. Stressing Our Overloaded and Aging Infrastructure

Kealia Mauka subdivision would have a waste water pump station near Kuhio Highway. This has not yet been approved by the County Dept. of Public Works. In addition, the sewer main would need to cross Kapaa Stream (sewage pipe would be mounted to the side of Kapaa Stream bridge) before connecting to an existing sewer manhole in front of the Kaiakea Fire Station, just north of Kapaa Town. Judging by the putrid odor and recent sewage spill at the Wailua River mouth, do we want to risk polluting Kealia Beach or add more sewage to the existing plant?

In closing, I ask the LUC commissioners not to up zone this property for the subdivision Kealia Kai. Please leave it in Ag. zoning.

Sincerely, Gabriela Taylor
1010B Kealoha Rd, Kapaa Hi. 96746
gabrielataylor40@gmail.com

A handwritten signature in cursive script, appearing to read 'Gabriela Taylor', written in dark ink.

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State of Hawai'i Land Use Commission (LUC)
Department of Business, Economic Development & Tourism
P.O. Box 2359
Honolulu, HI 96804-2359

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LAND USE COMMISSION

Regarding Final Environmental Impact Statement for Kealia Mauka Homesites

Aloha Commissioners:

My name is Kamu. Right now I live in Anahola in a house with about 15 other people. I am lucky now because before I spent much of my life living in a car.

I haven't really read the whole EIS stuff because its too big for me, but I went to a meeting the other night and learned a lot.

What I learned is, that this is not too much different than Hawaiian Homes. The State system that is supposed to provide housing for me, has failed me. And this private land system is now gonna fail me. When I hear these numbers, I am pretty sure that I will never have a house of my own here on Kauai.

But that's ok. I am a survivor. And my King never promised me a free house anyway. What he did promise me is that I could survive from the land. And you guys are part of the system that is supposed to make sure that promise is kept.

I need to be able to hunt, fish and farm. So we need open land and farm land to do that. I understand that these people want to sell houses and make money. That's ok. I would like to make that money too.

But maybe before we sell houses to people we don't know, we should make sure the promises are kept to the people we do know. And I know those promises are not addressed in the EIS.

Kamuela leialiki ke kea laulii
maka kea le le tui lua Pa

State of Hawai'i Land Use Commission (LUC)
Department of Business, Economic Development & Tourism
P.O. Box 2359
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Page 1 of 3

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LAND USE COMMISSION

Aloha Everyone,

My name is Lokelani Mahuiki and I will be speaking on behalf of myself and my Co-worker Torilyn Kaulana Farias-Asai, who couldn't be here with us this morning. After we carefully read through the EIS and did some research on our own it wasn't long before we found an issue in regards to the land title for The Petitioned Area. We have provided you all with an attached time-line of all the known land owners and title exchanges, as well as other information that we felt was important from 1848 through 1933 when Makee Plantation was completely taken over by Lihu'e Plantation. Page 1-1, paragraph 3 of the EIS only addresses as far back at Lihu'e Plantation having the title/deeds to this land. However, if you start at the beginning of our timeline you will see Miriam Kekauonohi was granted the land for the Kealia Ahupua'a in 1848, she passed away in 1851. Her husband Levi Haalelea gets married to Andaderia in 1858 which extinguishes any interest in Kekauonohi land. On or about 1876-1877 there is a reference to Ernest Krull "purchasing" land at Kealia for \$200 from Kalakaua, however it is unknown how or when Kalakaua obtained the land and from who. If there is no clear exchange of land titles/deeds is this land really Kealia LLC's to sell/develop. Now a days everyone just goes as far back as the Plantation and forgets to analyze everything that comes before that because no one wants to do the work. We feel that this is something that needs to be looked into more and included in this EIS because there are missing pieces in the story of this place. With that being said we ask that you do not approve this Final Environmental Impact Statement until this has been cleared

State of Hawai'i Land Use Commission (LUC)
Department of Business, Economic Development & Tourism
P.O. Box 2359
Honolulu, HI 96804-2359

Page 2 of 3

up, after all we are the future of Hawai'i so it will affect us in making a decision to make purchases or not.

1848- Kekauonohi granted LCA Award 11216 for Kealia Ahupua'a

1851- Kekauonohi dies

1858- Levi Haalelea (husband of Kekauonohi) Marries Anaderia Amoe, extinguishing interest in Kekauonohi land

1864- Haalelea dies

1869- Krull was post master at Anahola

1876- Krull acquires Kumukumu Ahupua'a in August as land grant from Kalakaua

1876-1877?- References to Krull selling land in Kealia to Makee Sugar in April for \$30,000.

1877- Makee Sugar deeds Kealia lands to Spalding in December

1879- Makee dies

1881- Spalding buys out Kalakaua's shares of Makee Plantation

1886- Spalding buys out remaining shares of Makee Sugar interests

1921- Spalding sold off all property and went to California to live with his sons

1933- Makee Plantation is completely taken over by Lihu'e Plantation.

Dear State Use Land Commission,

I do wish I could appear in person to testify, but work on the North Shore and a tedious drive in to Lihue prevents my being in the room.

Please reconsider the land use for the Keala Mauka proposed subdivision. What seemed like a plausible idea in the early 80's does not translate to a positive solution some 35 years later. Our highways are now overloaded and our residents are underserved with affordable housing.

Please consider the people that live here full time and work hard to make ends meet.

Please deny this subdivision.

Thank you for your consideration.

Regards,



Pamela Burrell

Kalihiwai

7-24-19

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7/25/2019

Sharla & William Kalauawa

P.O. Box 510117, 2442 Kamole Rd.

Kealia, HI 96751



State Land Use Commission

P. O. Box 2359

Honolulu, HI 96804

Aloha State Land Use Commision,

We are residents of Kealia and after reviewing the Final EIS draft being submitted by Kealia Mauka Homesites, still feel that all of our concerns have not been sufficiently addressed.

First and foremost is the widening of Kealia Road – as you go up the road leading to Kaao Rd. intersection, there are already retaining walls – with an expansion, they will have to tear down those walls and still dig into the hillside to make room – are they going into peoples' properties to do that and then replace the retaining walls?

Secondly, this subdivision is being sold as vacant lots only (and they're so small!) – extremely hard to get a loan from a bank for purchasing land only unless you have substantial finances, which most residents of Kauai that would apply do not have! This still does not represent "affordable housing" which we do need on this Island.

Third, the Kealia Post Office is a contract based station, operated by Laurie Macadamia. They have not met with her about any expansion and what impacts it will have on her rent, extra P. O. boxes, hence the need for more help to sort and box the mail and parcels. She will not be able to afford a rent increase, the Postal Service (talking to the Anahola & Kapaa Postmasters is not sufficient for changes to the system) will not pay for a rent increase, being left with no choice, she may have to give up the contract, leaving Kealia without a post office and the Kealia residents losing their Kealia identity.

Thank you for listening to my comments and concerns. I also Thank you and applaud you for your service and time to our communities.

Mahalo,

Sharla & William Kalauawa



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My thoughts on the proposed subdivision @ Kealia Kai from Elaine Valois

EV

Elaine Valois

Wed 7/24/2019 11:00 AM

dbedt.luc.web@hawaii.gov

↩ ↪ → ...

ORIGINAL

To the State Land Commission:

I fully agree that our present infrastructure and roads cannot handle such a massive development of housing that does not answer the desperate needs of our local population.

Your focus is in the wrong direction, i.e. the short term gains of added revenue instead of the long-term gains of perpetuating the health, wealth and beauty of one of the ten most spectacular places on earth,

and perpetuating the health, wealth and happiness of those who call Kauai HOME.

Is it not so that the State Land Commission was established to PROTECT THE LAND AND IT'S PEOPLE from over-use, abuse, pollution and degradation of all kinds?

What is it that you see, neat, little (and big) over-priced housing, green grass, decorative trees, concrete sidewalks and children riding their tricycles on asphalt driveways?

What you may not be seeing is the massive amount of human feces that will be piped out into the ocean every day.

We have not yet solved the problem of biodegrading human effluent in a way that is beneficial to most plants and animals. It can be done and has been done, but it is not being done here.

What you are also not perceiving is the delicate nature of climate on a small tropical Island in the middle of a vast Ocean. When an area is scraped clean of it's natural habitat and suffocated with buildings, asphalt, concrete and poisoned grass, it can no longer serve the bio-dynamics of weather patterns. The rains will be less the more we deforest. The more we plant indigenous trees the more the rain comes back.

Large projects that developers love are not good for the environmental health of this Island. Smaller projects such as Habitat for Humanity are.

I remember hearing someone say "There's tons of open land on the Island." Yes, and we need every bit of it to sustain healthy weather patterns for the life of all living things on this fragile miracle called KAUAI.

INTELLIGENT ANSWERS TO ALL OUR CURRENT PROBLEMS; HOUSING, TRAFFIC, AIR POLLUTION, DRUG ABUSE, DEGRADATION OF OUR OCEANS ETC. ARE OUT THERE!! LET'S START USING THEM.!

We are not solving any of our problems with the usual profit and loss-based model. Kauai is not the winner, just the developers and they don't live here.

Respectfully Submitted,
Elaine Valois, Prof. Emeritus

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NEIGHBORHOOD HOUSING

Community Development Corporation

A 501(c)(3) Non-profit corporation dba

PERMANENTLY AFFORDABLE LIVING – KAUAI – PAL



RE: A17-803 Keālia Properties LLC. (Kaua`i)
To Consider Acceptance of the Final Environmental Impact Statement (EIS)
July 25, 2019

Aloha, To Whom it May Concern:

We are pleased to provide you with a letter of support for your acceptance of the final EIS to the petition submitted by Kealia Properties, LLC. We have been in communication with the developer's representatives and we believe that their goals and intent are to provide as many truly affordable homes as possible for the residents of Kaua'i. Kauai needs approximately 5,000 new affordable homes over the next 5 years to address the crisis of severe lack of affordable housing.

Accepting this EIS would be a significant step towards being part of the solution to Kauai's affordable housing crisis.

As a 501(c)(3) nonprofit, the mission of Neighborhood Housing Community Development Corporation (dba Permanently Affordable Living (PAL-Kaua'i) is *"To provide homes and sustainable living solutions, within reach, restoring hope for the people of Kaua'i."* Our local people are being driven off the island, as we speak. They are simply no longer able to hold on to their island family home, because the cost of housing is going through the roof (pun intended).

We know that some people will not support new housing because they are generally opposed to development. We encourage them to let us share the tragedy that we have learned is really happening to our little island community. Our careful analysis has proven that it is essential to provide more housing opportunities to address this crisis, immediately. Our understanding is that community concerns regarding Kealia will also be addressed through the discretionary approval process moving forward, which we also support. A first step in finding the necessary solutions is for the Land Use Commission to approve this request for a land use change that will allow desperately needed housing.

Kealia is already home to agricultural uses and a vibrant community of local farmers. We must be able to provide housing for our farmers – and for the farmers' customers and ag-support service workers – and bring down the cost of food for our local people by supporting local production and reducing reliance on imported food. This subdivision, complemented by farm worker housing, can create the synergy to catalyze a bigger vision and implementation of comprehensive community development, including essential Agricultural-based housing.

The proposed Kealia Properties, LLC development, and future action by the LUC to allow adjacent agricultural lands to be used for an ag-based communities – that are affordable to farm workers and related ag-support businesses, workers, and families – can be a much-needed new model of how to plan and rapidly implement new developments to meet the urgent need for thousands of units of truly affordable housing.

Therefore, we are pleased to provide our support for the acceptance of the final EIS component of the Kealia Properties, LLC (KPL) subdivision application. Please approve not only the current request of KPL, but please look to go beyond that for a bigger vision that includes more Ag-related housing and

comprehensive community development for the people who live and work on those Ag lands. You can make a vital difference in creating a sustainable and thriving future.

Mahalo for your attention, careful consideration, and commitment to Kaua'i.



Larry Graff
Executive Director
LGraff@NHCCDC-Hi.org
(808) 738-6706



Jim Edmonds
President
JimEdmonds@NHCCDC-Hi.org
(808) 443-8868

State Land Use Commission
235 Beretania St., #406
Honolulu, HI 96813

July 25, 2019

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STATE OF HAWAII
LAND USE COMMISSION

Aloha and Welcome to Kauai,

My comments are in regards to Kealia Mauka Homesites Final Environmental Impact Statement – Petition for District Boundary Amendment for 53.4 acres from Agriculture District to Urban District. I will be briefly covering just four areas of concern in regards to the FEIS.

1) KAUAI'S 2018 GENERAL PLAN DID NOT SET THE STAGE FOR KEALIA MAUKA HOMESITES

I am someone who closely followed the Kauai General Plan Update process for a 2.5-year period, including attending every public meeting, Council meeting and Planning Commission meeting (County). I can honestly say that I don't remember any mention of Kealia Mauka, nor the intention to re-zone and develop this area. I have attached to my testimony two pieces of evidence from the General Plan to substantiate this claim: 1) *Table 2.2 Major Designation Changes by Planning District*, and 2) the *Vision and Priorities for East Kauai*, which provides a more detailed description of future land uses. Neither of these components of the General Plan even mentions the possibility. It is extremely disingenuous for the former Planning Director to refer to the 1984 General Plan as a place holder for the up-zoning of this area, particularly when that place holder was not carried over into the 2018 General Plan. Additionally, what was stated in 1984, 2000 or any other time in the past, is not just by association necessarily relevant in 2019. Please do not use this as a justification for moving forward with the proposed boundary amendment as it has been misrepresented.

2) DETERMINING THE PROFILE OF POTENTIAL RESIDENTS OF KEALIA MAUKA

- a) The FEIS states that "The majority of future Kealia Mauka residents are expected to be current residents, and therefore there will be a negligible increase in County population." Additionally, it is stated "An estimated 700 persons are expected to reside in Kealia Mauka subdivision after full build out and occupancy. Of these, it is estimated that about 658 are currently living on Kauai, and about 42 will be non-resident, second home buyers." This is a pretty bold statement without any clear rationale for the numbers. Even if that is the desired situation, how do you put controls on who can purchase land and who can't? Also keep in mind that the current residential

sales trend (as stated in our 2018 General Plan) is that 41% of residential sales on this island are either to mainlanders or foreigners. This sales pattern has also lead to a very high vacancy rate, meaning a house is largely unoccupied for a good portion of the year (as in second home or investment property), only further contributing to our affordable housing crisis.

- b) Also concerning future residents, the Kealia Mauka Homesites developer wants to develop 234 residential lots, with 36 lots priced as "workforce housing". This would then satisfy requirements of Ordinance 860. As stated in the FEIS "The final requirement will identify the number of lots and the price levels for the workforce housing requirement, and will be included in the final subdivision or zoning conditions. Lot prices will depend on federally established income levels at the time." There are many variables that apply to this equation, and they could very well change over the 7-year build-out time frame. This includes homebuyer's income (often based on multiple jobs which is not accounted for by the feds), interest rates, cost of living rates and the amount of a down payment. But more so than that, because these are lots that are being sold, how do you then maintain controls on the final cost of a move-in ready house when the project changes hands from the land developer, to the home developer, to the real estate agent. How then do you calculate the percentage of move-in ready homes that will actually qualify as "workforce housing", and how do you maintain that workforce housing inventory over the long term? This was never adequately explained in the FEIS.

3) MITIGATION OF TRAFFIC CONCERNS

Let's focus on the Wailua-Kapa'a corridor, undoubtedly considered by residents island-wide to be the most congested area on the island, and that is as it stands today. However, the issue of traffic is not just about adding 234 new residential homes to the area, it is also about the yet to be built but entitled projects which include:

- a) Pi'ilani Mai Ke Kai (181 single family lots)
- b) Kulana Subdivision (172 single family homes)
- c) Coconut Plantation (192 resort units)
- d) Coconut Beach Resort (330 condo units)
- e) Coco Palms (350 resort units)

Additionally, Hokua Place, behind Kapa'a's middle school, is seeking the up-zoning of 97 acres of agriculture land to accommodate the building of 769 new residential units. So what then will be the net effect of all of this development on our infrastructure, especially when you add Kealia Mauka 234 new homes to

the mix, which now becomes a total of 2,228 combined new units (residential plus resort) in the Wailua-Kapa'a corridor?

The FEIS does identify 7 major intersections with Kuhio Highway that are expected to "continue operating at or worsen to LOS E/F during base year 2027 conditions". Do you really expect the building of a roundabout at Kuhio Highway (which happens to be under the State's jurisdiction) and Kealia Road to address this cumulative increased volume of traffic generated by a total of 1,356 single family homes and 872 resort units? The FEIS certainly underplayed the impacts to traffic in their analysis, primarily because you can't make this calculation with any level of accuracy without considering all the new development taking place in the Wailua-Kapa'a corridor, along with that of the Kealia Mauka development.

4) IMPACTS ON WASTE WATER INFRASTRUCTURE

As indicated in the discussion above on the increasing pressures on the east side of Kauai from pipeline and proposed new development projects, imagine what the impacts will be to an already aging and at times failing wastewater treatment system. As discussed in our General Plan, we have an wastewater treatment plant at Lydgate that was built sometime "before 1980" and although sufficient enough to address the levels of wastewater generated in 2015, with projected growth will need to be expanded and moved out of the flood and sea level rise zone. Although the FEIS indicates the project will include off-site wastewater improvements, such as a wastewater pump station, these "improvements" will only serve the Kealia Mauka development, while putting increasing pressure on our wastewater treatment system. The analysis focused on a new pump station instead of analyzing the impacts on the treatment plant.

Major components of the Kealia Mauka Final Environmental Impact Statement (FEIS) analysis has been generalized and do not provide sufficient justification to warrant the up-zoning of 53 acres of agricultural lands to residential. Please ask the consultant to complete the analysis in the areas identified above before making a decision on the most suitable alternative.

Thank you for taking the time to listen.

Respectfully,

Anne Walton

Table 2-2 Major Designation Changes by Planning District

District	Action
Waimea-Kekaha	<ul style="list-style-type: none"> Two areas west of Waimea changed from Residential Community to Agriculture. Resort designation changed to "Provisional Resort" to allow for a community planning process to determine the appropriateness, scale, and extent for resort development in Waimea.
Hanapēpē-'Ele'ele	<ul style="list-style-type: none"> Neighborhood Center and General designations added to both Port Allen and Hanapēpē Town to be consistent with Department of Hawaiian Home Lands (DHHL) plans and to connect Lima Ola to Port Allen. Agriculture designation changed to "Provisional" to allow for a community planning process. 75 acres for planned Lima Ola affordable housing development changed from Agriculture to Residential Community. New Neighborhood Center and Neighborhood General added to Port Allen. Approximately 19 acres in Makaweli on existing mill site from agriculture to industrial.
South Kaua'i	<ul style="list-style-type: none"> Neighborhood Center and General designation applied to Kōloa, Kalāheo, and Po'ipū Roundabout Area. Small Town designation at Numila and Lāwa'i Cannery Large Town designation at Po'ipū Mixed Use Gateway. Residential Community removed from 60 acres above Weliweli Tract.
Līhu'e	<ul style="list-style-type: none"> Neighborhood Center applied to Līhu'e Town Core, Puhi Mauka, Isenberg Mauka, Hanamā'ulu Town, and area in Hanamā'ulu fronting Highway adjacent to Triangle (west of bluff) formerly owned by EWM Realty International. Portion of Nukoli'i redesignated from Resort to Agriculture. Addition of the Urban Edge Boundary. New University Zone applied to Kaua'i Community College and the surrounding schools. Residential Community removed from areas along Kīpū Road. New Residential Community added on mauka side of DHHL Wailua Lands (for consistency with DHHL's <i>Kaua'i Island Plan 2004</i>). New Neighborhood Center added on the mauka and makai side of DHHL Wailua Lands (for consistency with DHHL's <i>Kaua'i Island Plan 2004</i>).
East Kaua'i	<ul style="list-style-type: none"> Neighborhood Center/General applied to previous Urban Center in Kapa'a Town and added to a portion of Olohena Road near Kapa'a Town. Neighborhood General applied to previous Urban Center designation around Kapa'a Middle School. Portion of area behind Coco Palms in the Flood Zone changed from Resort to Natural. New Neighborhood Center at Kapahi, Anahola Post Office, and Anahola Town Center (to match DHHL's Anahola Town Center Plan).
North Shore	<ul style="list-style-type: none"> Neighborhood Center and General designation applied to Hanalei and Kīlauea. Kīlauea town center expanded to accommodate growth. Residential Community at Princeville Airport changed to Transportation. Residential Community mauka of Princeville Airport removed and changed to Agriculture. Resort designation makai of highway removed and changed to Agriculture.

2.4.5 EAST KAUA'I

The East Kaua'i district extends from the Wailua River north to Moloa'a, including the Kapa'a-Wailua basin, Keālia, and Anahola. The Kapa'a-Wailua basin is home to a large portion of Kaua'i's population. An urban corridor extends along Kūhiō Highway from Haleilio Road in Wailua to Kawaihau Road, at the northern edge of Kapa'a Town.

East Kaua'i has extensive mauka residential areas, including Kapahi and Wailua Homesteads.

Preliminary Vision & Priorities for East Kaua'i

The vision and priorities are preliminary as they have not been examined through an in-depth community planning effort. They provide guidance for specific areas and will inform future community planning efforts.

By 2035, We Envision an East Kaua'i Where:

Residents enjoy a high quality of life in a rural setting.

Natural resources are protected and open spaces and public access are preserved

Agricultural lands are farmed, productive, and protected. Affordable housing opportunities exist for local residents.

Archaeological, historic, and cultural places in our community are honored, preserved, and maintained.

New recreational facilities provide safe and healthy opportunities for youth and adults.

Historic Kapa'a Town maintains its western plantation character, is livable and walkable, with mixed uses, pedestrian-friendly streets, bike paths, new parking, and public transit.

A range of visitor accommodation types are in place and new attractions have opened.

Deferred infrastructure needs have been addressed.

Public transit service has increased and is integrated into new developments.

EAST KAUA'I

Place Type:

Wailua: Village

Kapahi: Village

Kapa'a: Large Town

Anahola: Rural Crossroads (near Post Office);

Future Village (at Anahola Marketplace)

Degree of Change:

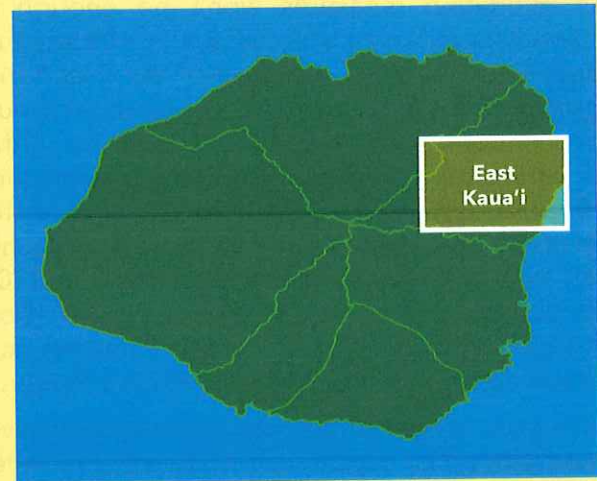
Wailua: Incremental

Kapahi: Incremental

Kapa'a: Transformational

Anahola: Incremental at Anahola Post Office;

Transformational at Anahola Marketplace



Wailua

Wailua is designated as a village place type. Community input indicated that the area along the Kūhiō Highway bounded roughly by Haleilio Road, Lanikai Street, and Papaloa Road provides a good opportunity for a Neighborhood Center in proximity to residential neighborhoods in Wailua and resort areas along the coast. Portions of Wailua within 1/2 mile of this center can accommodate additional residential uses on underutilized and vacant parcels.

Kapahi

Community support is indicated for a future Village place type at Kapahi. A Neighborhood Center was

identified along Kawaihau Road, roughly between Kuahale Street and Pu'uka'a Street. This area in the future can accommodate a mix of medium-intensity residential uses, along with additional commercial and service uses, in a configuration that is supportive of transit.

Kapa'a Town

Kapa'a Town's future growth pattern depends largely upon the intensity of implementation related to a key community policy regarding traffic north of the Wailua bridge. The 2000 General Plan does earmark large residential growth at the Hokua Place property near Kapa'a Middle School. The area is designated as Urban Center. However, community opinion remains divided, with strong concerns about the perceived impacts of the proposed development on traffic. Supporters cite the great need for housing and the consistency of the Hokua Place proposal with smart growth principles. Others feel that the proposed traffic mitigation measures won't be enough to counteract negative impacts, that sewer infrastructure is constrained, and that because of the East Kaua'i congestion, affordable housing development should be concentrated in Lihu'e. Another concern is that much of Kapa'a Town is within tsunami evacuation and flood zones. Sea level rise projections show that much of the area could be inundated if SLR reaches 3 feet, as is currently anticipated by the year 2100. These considerations raise further questions about how much growth should be encouraged and accommodated within the Kapa'a-Wailua corridor.

In the public consultation process, two map alternatives were developed for Kapa'a Town's future that reflected this dual input. In the first alternative, Kapa'a transforms from a Small Town to a Large Town place type. The existing Town Center boundary is extended mauka along Olohena road with the idea that the Main Street environment at Olohena and Kūhiō could extend mauka to the roundabout and the northeast corner of the Hokua property. Hokua Place would organize medium-intensity residential neighborhoods on the makai side of the property and lower-intensity neighborhoods to the west. In this alternative, residential growth would be absorbed on the Hokua site as well as on opportunity sites in and around central Kapa'a. In particular, sites around the Baptiste sports complex may need infrastructure investment (such as flood control) to make medium-intensity development feasible.

In the second alternative, Kapa'a would maintain a Small Town place type, concentrating growth in and



Kapa'a Town

around three nodes of existing development along the Kūhiō Highway rather than at Hokua Place. In this alternative, residential growth would be absorbed on opportunity sites in and around central Kapa'a. This alternative would require more intense development patterns in order to accommodate a similar amount of growth as the first alternative.

The Future Land Use Map moves forward the 2000 General Plan's higher-intensity designation for the area, but also updates and refines the designation based on the first alternative map scenario and new population projections. The previous Urban Center designation is changed to Neighborhood General, which will require a mix of residential building types and a walkable, compact form where connectivity to the school and Kapa'a Town is emphasized. The size of the future Urban District boundary amendment should consider walkshed boundaries and accommodate future housing projections.

Anahola

Much of the land in Anahola is owned and managed by the State Department of Hawaiian Homelands (DHHL). According to the *Kaua'i Island Plan*, Anahola is DHHL's largest residential homestead area on Kaua'i and is their priority development area. DHHL's *Anahola Regional Plan (2012)* calls for future development of residential homesteads and agricultural uses in the area, as well as the establishment of a new Town Center along Kūhiō Highway. The *Anahola Town Center Plan (2012)* describes the proposed Town Center. While a portion of site designation for the Town Center has since been replaced by a solar farm, the East Kaua'i Community Workshop held as part of this General Plan confirmed that the community still supports the Town Center, and this General Plan identifies it as a Village place type. In addition, the community was largely supportive of the preservation of an existing

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LAND USE COMMISSION

State of Hawai'i Land Use Commission (LUC)
Department of Business, Economic Development & Tourism
P.O. Box 2359
Honolulu, HI 96804-2359

Regarding Final Environmental Impact Statement for Kealia Mauka Homesites

1. We are native Hawaiian tenants of Kealia and adjoining ahupua'a.
2. We hunt pig with dog and knife to feed our families and friends. We hunt in the open undeveloped lands from Kapaa to Anahola. We cause no harm in the exercise of this traditional and customary gathering right.
3. The area we hunt in includes the undeveloped 50 acres which the project is proposed.

As such, we have a constitutionally protected right to continue to access this area for this purpose. According to the courts, it is undeniable that the proposed development would extinguish this right forever.

In both the Cultural Impact Assessment and the larger EIS, the applicants have failed to even identify, much less mitigate for, the loss of our right to access this area.

All applicants to this project have a requirement under the law to protect these access rights.

For the landowner, our rights to this area are clearly stated on the title to the property as "ua koe ke kuleana o na kanaka"

For the State and County, they have an affirmative duty to protect our right in this process under the Public Trust doctrine. As does this Commission.

For these reasons, we ask the Commission to NOT accept the Final EIS for this project today but require the applicants to work with us to incorporate this impact on our rights. We believe the impact on our rights can be mitigated, but to assure this we ask to be accepted as intervenors in this process.

Attached to this letter are the names, contacts and signatures of the native Hawaiians hunters who are asking to be intervenors. We have also attached some documents that support our position and request,

Mahalo

Nai'a Nicole Blagg-Noblisse
Sean asavith

Native Hawaiians exercising customary and traditional gathering rights on the land proposed for development asking to be intervenors in the LUC boundary change EIS process for Kealia Mauka Homesites.

Jonah E.

Josh Pelekane

Marika Bandmann

Jordan Raposo

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JUL 25 2015

STATE OF HAWAII
LAND USE COMMISSION

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CAAP-12-0000434
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NO. CAAP-12-0000434

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAII

STATE OF HAWAII, Plaintiff-Appellant,
v.
KUI PALAMA, Defendant-Appellee.

APPEAL FROM THE CIRCUIT COURT OF THE FIFTH CIRCUIT
(CR. NO. 11-1-0116)

MEMORANDUM OPINION

(By: Foley, Presiding Judge, Fujise and Ginoza, JJ.)

Plaintiff-Appellant State of Hawaii (State) appeals from the "Findings of Fact, Conclusions of Law, and Order Granting Defendant's Motion to Dismiss" entered on April 26, 2012 by the Circuit Court of the Fifth Circuit (circuit court),¹ which dismissed this case against Defendant-Appellee Kui Palama (Palama) for (1) simple trespass in violation of Hawaii Revised Statutes (HRS) § 708-815 (2014)² and (2) prohibited hunting on

¹ The Honorable Kathleen N.A. Watanabe presided.

² HRS § 708-815 provides:

§708-815 Simple trespass. (1) A person commits the offense of simple trespass if the person knowingly enters or remains unlawfully in or upon premises.

(2) Simple trespass is a violation.

private lands in violation of HRS § 183D-26 (2011).³ The circuit court granted Palama's Motion to Dismiss on the grounds that his pig hunting in this case was an exercise of native Hawaiian rights that deserved protection under the Hawai'i Constitution.

For the reasons discussed below, and due to the particular circumstances and the record in this case, we affirm the circuit court's dismissal of the charges against Palama.

I. Background

On January 17, 2011, Palama entered Kupo Ridge, situated at the upland, or mauka, portion of Hanapēpē Valley on the Island of Kaua'i to hunt for pig. The record reflects that the area in which Palama hunted is privately owned and is referred to generally by the parties as Robinson Family property or Gay & Robinson property (the subject property). Palama contends that he maintains taro patches on his kuleana land⁴ located at the lower end of the Hanapēpē ahupua'a⁵ and that he

³ HRS § 183D-26 provides:

§183D-26 Hunting on private lands prohibited. (a) No person shall enter upon any land or premises belonging to, held, or occupied by another, for the purpose of hunting or to take any kind of wildlife including game without first having obtained permission from the owner or a duly appointed agent, if the owner is the occupier or holder, or if the owner has let another occupy or hold the same, without having first obtained the permission of the occupier or holder thereof, or the duly appointed agent of the occupier or holder.

(b) No prosecution shall be brought under this section, except upon the sworn complaint of the owner, occupier, or holder of the land or premises, or a duly appointed agent, or if the owner, occupier, or holder is either a corporation or a partnership, then the complaint shall be sworn to by an officer of the corporation or by one of the members of the partnership.

⁴ The word "kuleana" is defined as, *inter alia*, "[r]ight, privilege, concern, responsibility, ... [or] small piece of property, as within an ahupua'a[.]" M.K. Pukui & S.H. Elbert, *Hawaiian Dictionary* 179 (1986).

⁵ An "ahupua'a" is a land division usually extending from the mountains to the sea along rational lines, such as ridges or other natural characteristics. *In re Boundaries of Pulehunui*, 4 Haw. 239, 241 (Haw. Kingdom 1879) (acknowledging that these "rational" lines may also be based on tradition, culture, or other factors); Pukui & Elbert, *supra*, 9 (defining "ahupua'a" as a "[l]and division usually extending from the uplands to the sea, so called because the boundary was marked by a heap (ahu) of stones surmounted by an image of a pig (pua'a), or because a pig or other tribute was

enters the subject property for a variety of activities, including to hunt pig and to inspect the river's water flow and quality for his taro patches.

According to Palama, on the day in question, he drove to his kuleana land, parked, and then entered the subject property by foot at 7:00 a.m. accompanied by a mule and hunting dogs to hunt pig. Palama asserts the subject property did not have any fences or signs indicating that it was private property. Palama had a hunting license at the time but did not ask for permission from anyone before entering the subject property. He used a knife to kill two wild pigs while on the subject property. On his way out of the subject property, but before reaching his truck, Palama was confronted by two Robinson employees.

On March 2, 2011, the State filed a complaint against Palama for (1) simple trespass; and (2) prohibited hunting on private lands. On February 9, 2012, Palama filed the Motion to Dismiss, asserting the constitutional defense of privilege under State v. Hanapi, 89 Hawai'i 177, 185-87, 970 P.2d 485, 493-95 (1998). Palama brought his Motion to Dismiss based on article XII, section 7 of the Hawai'i Constitution, HRS § 7-1 (2009) and HRS § 1-1 (2009), claiming that his conduct was a traditional and customary native Hawaiian practice and therefore protected.⁶ The

laid on the altar as tax to the chief.").

⁶ Article XII, section 7 of the Hawai'i Constitution provides:

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

HRS § 1-1 provides:

The common law of England, as ascertained by English and American decisions, is declared to be the common law of the State of Hawaii in all cases, except as otherwise expressly provided by the Constitution or laws of the United States, or by the laws of the State, or fixed by Hawaiian judicial precedent, or established by Hawaiian usage; provided that no person shall be subject to criminal proceedings except as provided by the written laws of the United States or of the State.

HRS § 7-1 provides:

State filed its Memorandum in Opposition on March 12, 2012, arguing, *inter alia*, that killing game mammals is not an enumerated right and that hunting is subject to State regulation.

The circuit court held evidentiary hearings on Palama's Motion to Dismiss. The circuit court heard testimony from: expert witness Jonathan Kamakawiwo'ole Osorio, Ph.D. (Dr. Osorio),⁷ a professor at the University of Hawai'i Center for Hawaiian Studies; kama'āina witnesses⁸ Lavern Silva (Silva), Elvin Kaiakapu (Kaiakapu) and Herbert Kauahi (Kauahi); and Palama.

The State did not put on any evidence.

On April 26, 2012, the circuit court dismissed the charges with prejudice, ruling that Palama's conduct was constitutionally protected. As discussed more fully below, the circuit court concluded that Palama brought forward sufficient evidence to demonstrate that: (1) he is a native Hawaiian; (2) his claimed right was an established native Hawaiian custom or tradition practiced prior to 1892 and his family's pig hunting has been customarily and traditionally exercised on the subject property; (3) the subject property is not developed; and (4) his pig hunting on the subject property merited constitutional

Where the landlords have obtained, or may hereafter obtain, allodial titles to their lands, the people on each of their lands shall not be deprived of the right to take firewood, house-timber, aho cord, thatch, or ki leaf, from the land on which they live, for their own private use, but they shall not have a right to take such articles to sell for profit. The people shall also have a right to drinking water, and running water, and the right of way. The springs of water, running water, and roads shall be free to all, on all lands granted in fee simple; provided that this shall not be applicable to wells and watercourses, which individuals have made for their own use.

⁷ Over the State's objection, the circuit court recognized Dr. Osorio as an expert in Hawaiian studies, particularly in native Hawaiian practices. On appeal, the State does not challenge the circuit court's designation of Dr. Osorio as an expert.

⁸ The circuit court uses the term kama'āina witness in its Findings of Fact, Conclusions of Law, and Order. A kama'āina witness is a person "familiar from childhood with any locality." In Re Boundaries of Pulehunui, 4 at 245. This would also include "persons [who] were specially taught and made repositories of this knowledge[.]" Id. at 241. "In this jurisdiction, we have accepted kama'āina testimony as proof of ancient Hawaiian tradition, custom, and usage." Hanapi, 89 Hawai'i at 187 n.12, 970 P.2d at 495 n.12.

protection.

The State timely filed this appeal.

II. Standards of Review

Palama asserts a defense based on a constitutional right. "We answer questions of constitutional law by exercising our own independent constitutional judgment based on the facts of the case. Thus, we review questions of constitutional law under the right/wrong standard." Hanapi, 89 Hawai'i at 182, 970 P.2d and 490 (quoting State v. Mallan, 86 Hawai'i 440, 443, 950 P.2d 178, 181 (1998) (internal quotation marks omitted)).

We review a circuit court's findings of fact (FOF) and conclusions of law (COL) in a pretrial ruling according to the following standard:

Appellate review of factual determinations made by the trial court deciding pretrial motions in a criminal case is governed by the clearly erroneous standard. A finding of fact is clearly erroneous when (1) the record lacks substantial evidence to support the finding, or (2) despite substantial evidence in support of the finding, the appellate court is nonetheless left with a definite and firm conviction that a mistake has been made. The circuit court's conclusions of law are reviewed under the right/wrong standard.

State v. Locquiao, 100 Hawai'i 195, -203, 58 P.3d 1242, 1250 (2002) (citations and quotation marks omitted).

III. Points of Error

The points of error asserted in the State's opening brief are summarized as follows:⁹

(1) the circuit court erred when it concluded that Palama met his burden under Hanapi to prove that he is a native Hawaiian and that his pig hunting is a constitutionally protected traditional and customary practice;

⁹ We disregard some of the State's points of error. First, the State provides no argument about its assertion that the "circuit court erred in concluding the property where Palama was hunting is an actual *ahupuaa*." Second, we decline to address the following point of error because the State appears to be challenging semantics, not substance:

D. The circuit court erred in finding that the State has "attempt[ed] to regulate Defendant's conduct"; an accurate finding and conclusion is that the State has successfully and completely regulated Palama's pig hunting on private and/or public property. All FOF and COL.

(2) the circuit court erred when it found that Palama was a lawful occupant of an ahupua'a;

(3) the circuit court erred in concluding that the State's regulation of Palama's pig hunting on private property is a "blanket prohibition or extinguishment" of Palama's pig hunting; and

(4) the circuit court erred in concluding that Palama's pig hunting requires constitutional protection and may be upheld as long as no actual harm is done.

The State contends that it challenges all FOF and COL issued by the circuit court.

IV. Discussion

A. Judicial Notice and Amicus Curiae

As an initial matter, we address issues that have arisen in this appeal regarding the court's discretion to consider evidence not presented below and the proper role of amicus curiae. We emphasize that our primary task is to decide this case based on the record.

On April 1, 2015, the State filed a Motion for Judicial Notice, requesting that we take judicial notice of the following: (1) the records and files in an unrelated case pending before this court, Pele Defense Fund, et al. v. Department of Land and Natural Resources, et al., No. CAAP-14-0001033; (2) three sources referenced and relied upon by the Department of Land & Natural Resources (DLNR) in the above case; and (3) the State of Hawai'i DLNR Game Mammal Hunting Regulations, Hawai'i Administrative Rules (HAR) Title 13, Chapter 123, specifically, for the Island of Kaua'i. We denied the motion "except that this court may take judicial notice of [HAR] Title 13, Chapter 123 and a chart and maps describing the regulations specific to Kaua'i." The State requested judicial notice of HAR Title 13, Chapter 123, because "[t]hese hunting regulations help this court to understand . . . that there are public hunting grounds throughout the island where pig hunting is permitted." We note, however, that the State did not argue below that Palama's defense was somehow affected by the availability of public hunting grounds on Kaua'i, and thus any such contention is waived. See State v.

Moses, 102 Hawai'i 449, 456, 77 P.3d 940, 947 (2003) ("As a general rule, if a party does not raise an argument at trial, that argument will be deemed to have been waived on appeal.").

We were also asked to consider evidence or facts not presented to the circuit court by way of amicus curiae briefs that were filed in this appeal by the Attorney General of the State of Hawai'i (Attorney General) and the Robinson Family Partners and Gay & Robinson, Inc. (Robinson Family).¹⁰ In its amicus brief, the Attorney General asserts that in balancing the competing interests of Palama and the State, the circuit court failed to adequately consider the State's interest in public safety, in particular that hunting is a dangerous activity that the State regulates. The Attorney General notes that this court could take judicial notice of the fact that hunting is a potentially dangerous activity. In turn, the Robinson Family asserts in its amicus brief that Palama's hunting on private land without landowner permission was not a customary or traditional native Hawaiian practice, and that permitting Palama to assert such a defense promotes lawlessness. The Robinson Family requested that this court consider an article entitled, "Pua'a (pigs) In Hawai'i, from Traditional to Modern," two declarations by members of the Robinson Family, and two Kingdom of Hawai'i statutes.

It is well-recognized that "[i]n general, an amicus curiae must accept the case before the reviewing court as it stands on appeal, with the issues as framed by the parties. Accordingly, an amicus curiae generally cannot raise issues that have not been preserved by the parties." 4 Am. Jur. 2d Amicus Curiae § 7 (2007). Moreover, "an amicus curiae will not be permitted to present additional evidence on appeal which was not before the trial court[.]" 4 Am. Jur. 2d Amicus Curiae § 8.

With this in mind, we consider the evidentiary issues raised by amicus curiae in this case. In regard to the Attorney General's request that we take judicial notice of the dangers

¹⁰ The Attorney General was granted leave to participate in the oral argument in this case, over Palama's objection. The Robinson Family did not participate in oral argument.

posed by hunting, the State did not argue in the circuit court that its interest in public safety should trump Palama's rights. The State also failed to present any evidence to the circuit court regarding the dangers posed by pig hunting generally, let alone the manner in which Palama hunted. We recognize the significance of the public safety issue, but we must also be mindful that this is a criminal case against Palama. The State cannot raise arguments on appeal that simply were not preserved below or assert generalized facts where no evidence was presented to the trial court to counter Palama's evidence.

In regard to the Robinson Family's amicus curiae brief and submissions, we entered an order granting Palama's motion to strike the declarations and exhibits submitted by the Robinson Family, "except to the extent that this court may take judicial notice of relevant Kingdom of Hawai'i laws." We conclude that, although we may take judicial notice of the existence of the two Kingdom laws identified by the Robinson Family in its amicus curiae brief, the significance of these laws related to the issues in this case is unclear because further factual development is needed to shed light on whether and how these laws may show, or not show, that pig hunting on private land was, or was not, a customary or traditional native Hawaiian practice. First, the Robinson Family requests judicial notice be taken of the 1892 Laws of Her Majesty Lili'uokalani, Chapter LXXVII, Section 1 (1892), entitled "To Prevent Hunting and Shooting on Private Grounds."¹¹ Not only does this particular statute potentially fall outside the applicable time frame,¹² we also believe further factual development is necessary to determine the

¹¹ The 1892 Laws of Her Majesty Lili'uokalani, Chapter LXXVII, Section 1 provided:

It shall not be lawful for any person or persons to enter upon any land belonging to or occupied by another, for the purpose of hunting with dogs, or to shoot, kill, take or destroy any kind of game without first having obtained permission from the owner or occupier of such land.

¹² Queen Lili'uokalani approved Chapter LXXVII, Section 1 on December 28, 1892, approximately one month after November 25, 1892, "the date by which ancient Hawaiian usage must have been established in practice." State by Kobayashi v. Zimring, 58 Haw. 106, 115 n.11, 566 P.2d 725, 732 n.11 (1977).

true impact of this law in demonstrating what was, or was not, the customary and traditional native Hawaiian practice prior to the adoption of this law.

Second, the Robinson Family requests judicial notice of the 1874 Laws of His Majesty Kalākaua, Chapter XXVII, Section 1 (1874).¹³ Interpretation of this law, as applicable to the issues in this case, also involves factual issues that simply have not been developed in this case.

B. The Circuit Court Did Not Err in Concluding that Palama Satisfied the Hanapi Test

The State contends that the circuit court erred in concluding that Palama met his burden under Hanapi to prove that he is a native Hawaiian and that his pig hunting on the subject property is a constitutionally protected traditional and customary practice.

In Hanapi, the Hawai'i Supreme Court identified a three-part test that a criminal defendant must meet, at minimum, to establish that his or her conduct is constitutionally protected as a native Hawaiian right. 89 Hawai'i at 185-86, 970 P.2d at 493-94. First, the defendant "must qualify as a 'native Hawaiian' within the guidelines set out in [Public Access Shoreline Hawaii v. Hawai'i County Planning Commission (PASH), 79 Hawai'i 425, 903 P.2d 1246 (1995)]." 89 Hawai'i at 186, 970 P.2d at 494. Second, the native Hawaiian defendant "must then establish that his or her claimed right is constitutionally protected as a customary or traditional native Hawaiian practice." Id. Third, the defendant "must also prove that the

¹³ The 1874 Laws of His Majesty Kalākaua, Chapter XXVII, Section 1 provided:

All cattle, horses, mules, donkeys; sheep, goats and swine, over twelve months of age, not marked or branded according to law, and which may have been running wild and at large for six months or over, upon any of the lands of this Kingdom shall belong to, and be the property of the owners or lessees of the lands on which the said animals may be found running.

exercise of the right occurred on undeveloped or 'less than fully developed property.'" Id.

The circuit court determined that Palama "satisfied his burden through evidence and testimony" and established his constitutional defense. The State does not contest that Palama satisfied the third part of the Hanapi test. On appeal, the State argues that Palama failed to provide evidence establishing his status as a native Hawaiian or that pig hunting anywhere, let alone on Kaua'i, was a customary or traditional native Hawaiian practice.

1. Substantial evidence Palama is native Hawaiian

The first prong of Hanapi requires a defendant to prove that he is a descendant of "native Hawaiians who inhabited the islands prior to 1778" regardless of blood quantum. Hanapi, 89 Hawai'i at 186, 970 P.2d at 494 (quoting PASH, 79 Hawai'i at 449, 903 P.2d at 1270) (quotation marks omitted). The circuit court determined that Palama met this definition and made the following FOFs on the matter:

4. The State offered no evidence to controvert that Defendant is native Hawaiian.
-
7. Defendant is native Hawaiian, as testimony and exhibits collectively demonstrated that Defendant is a descendant of native Hawaiians who inhabited Kauai prior to 1778, regardless of Defendant's specific blood quantum. See Article XII, section 7 of the Hawaii Constitution; see also [PASH].

There is substantial evidence in the record supporting the circuit court's findings. The circuit court heard testimony from witnesses Silva,¹⁴ Kaiakapu, and Kauahi regarding Palama's genealogy and received two exhibits into evidence, exhibits D-1

¹⁴ Silva testified that she is considered a family history consultant for the island and for her church, the Latter-Day Saints church; that she has volunteered for over twenty years at the family history center at her church; and that she teaches genealogy and has taken classes in genealogy at her church. Silva also testified that it is her regular practice to update the genealogy records for the Palama family and that she gathers information from various sources including family members, public records, church records and government records.

and D-2.¹⁵ Based on her personal knowledge of her own genealogy, and being of blood relation to Palama, Silva testified that Palama is native Hawaiian, with his great-grandfather and previous ancestors being pure Hawaiian. The State did not object to Kaiakapu's testimony that Palama is native Hawaiian and that they belong to the same family. The State also did not object to Kauahi's testimony that Palama is native Hawaiian.

Based on the evidence in the record, we conclude that the circuit court's FOFs 4 and 7 are not clearly erroneous.

2. Customary or traditional native Hawaiian practice

The Hawai'i Supreme Court articulated the second Hanapi factor as follows:

[O]nce a defendant qualifies as a native Hawaiian, he or she must then establish that his or her claimed right is constitutionally protected as a customary or traditional native Hawaiian practice. Some customary and traditional native Hawaiian rights are codified either in art. XII, section 7 of the Hawai'i Constitution or in HRS §§ 1-1 and 7-1 (1993). The fact that the claimed right is not specifically enumerated in the Constitution or statutes, does not preclude further inquiry concerning other traditional and customary practices that have existed.

Hanapi, 89 Hawai'i at 186, 970 P.2d at 494 (footnote omitted).

In this case, the circuit court concluded that Palama's pig hunting deserved constitutional protection and made several FOFs and COLs on the issue, including:

5. The State offered no evidence to controvert that Defendant's pig hunting is constitutionally protected as a customary or traditional native Hawaiian practice.
- ...
8. Defendant established, through kama'aina and expert testimony, that his hunting pig on the subject property is constitutionally protected as a customary or traditional native Hawaiian practice.

¹⁵ In its opening brief, the State notes that it objected to exhibits D-1 and D-2 and the testimony of Silva, which the circuit court overruled. Exhibit D-1 is described as a pedigree chart personally prepared by Silva that illustrates Palama's bloodline. Exhibit D-2 is described in the record as four-generation genealogical charts stored by the church. In a footnote, the State asserts that "[n]either Ex.s [sic] D1 & D2 . . . are [Hawai'i Rules of Evidence (HRE)] 803 or HRE 804 exceptions to the hearsay rule." However, the State does not assert as a point of error that the circuit court erred in overruling its objections, nor does the State present any substantive argument on the issue, and thus the State has waived any challenge to the admissibility of the exhibits or Silva's testimony. Hawai'i Rules of Appellate Procedure (HRAP) Rule 28(b)(4) & (7).

10. Based on Dr. Jonathan Osorio's expert testimony, as well as the testimony of kama'aina witnesses, the Court finds that Defendant's pig hunting on the subject property constitutes an established native Hawaiian custom or tradition practiced prior to 1892. See generally State v. Pratt (Pratt I), 243 P.3d 289, 311 (Haw.Ct.App 2010) . . . cert. granted, SCWC-27897, 2011 WL 1523485 (Haw. Apr. 21, 2011).

13. Defendant and his ohana hunt pig for food and [subsistence]; the pig meat is shared with members of the ohana.
14. Defendant and his ohana hunt pig for cultural reasons.
15. Defendant and his ohana hunt pig to preserve ohana tradition.
16. Defendant and his ohana hunt pig to keep the wild pig population down.

CONCLUSIONS OF LAW

3. The "Hawaiian usage" clause may establish certain customary Hawaiian rights beyond those found in HRS § 7-1[.]
4. In the case at bar, pig hunting, while not specifically enumerated in HRS § 7-1, qualifies as a traditional and customary native Hawaiian practice deserving Constitutional protection, as Defendant brought forward evidence that hunting pig was an established native Hawaiian custom or tradition practiced prior to 1892. See generally Pratt I.
5. Native Hawaiian rights protected by article XII, § 7 may extend beyond the ahupua'a in which a native Hawaiian resides where such rights have been customarily and traditionally exercised in this manner. Pele Defense Fund v. Paty, 73 Haw. 578, 619, 837 P.2d 1247 (1992). In the instant matter, Defendant's Ohana's pig hunting has been customarily and traditionally exercised on the subject property.

The State contends the circuit court erred because pig hunting is not enumerated in HRS § 7-1, and it cannot be a traditional or customary practice. However, Hanapi clearly states that "[t]he fact that the claimed right is not specifically enumerated in the Constitution or statutes, does not preclude further inquiry concerning other traditional and customary practices that have existed." Hanapi, 89 Hawai'i at 186, 970 P.2d at 494; see also Pele Defense Fund v. Paty, 73 Haw.

578, 619, 837 P.2d 1247, 1271 (1992) ("In [Kalipi v. Hawaiian Trust Co., 66 Haw. 1, 656 P.2d 745 (1982)] we foresaw that the precise nature and scope of the rights retained by § 1-1 would, of course, depend upon the particular circumstances of each case." (citation, internal quotation marks and brackets omitted)). Thus, COL 3 is right.

Pig hunting may qualify as a traditional and customary practice if there is "an adequate foundation in the record connecting the claimed right to a firmly rooted traditional or customary native Hawaiian practice." Hanapi, 89 Hawai'i at 187, 970 P.2d at 495 (footnote omitted).

A defendant may lay an adequate foundation by putting forth specialized knowledge that the claimed right is a traditional or customary native Hawaiian practice. This specialized knowledge may come from expert testimony, pursuant to [Rule 702 of the Hawai'i Rules of Evidence]. . . .

In this jurisdiction, we have also accepted kama'aina witness testimony as proof of ancient Hawaiian tradition, custom, and usage.

Id. at 187 n.12, 970 P.2d at 495 n.12.

At the hearing on Palama's motion to dismiss, several witnesses testified that pig hunting has been traditionally practiced in the area. Dr. Osorio testified that based on his training, experience, and understanding of the facts, Palama's pig hunting is an established native Hawaiian custom or tradition. Dr. Osorio testified that, including the period prior to 1892, pigs played an important role in subsistence living in ancient Hawaiian society, and Hawaiians also hunted pigs to control wild pig populations. Given this historical background, Dr. Osorio said he believed Palama was hunting "in order to supplement the diet of his family, and that he was doing this in the same way that his father before him and ancestors before him had done." Kauahi testified that "[e]ven supposedly the Robinsons owned [the subject property], people were still hunting and gathering up there." Kauahi also testified that the practice of hunting pig has been passed down from generation to generation and has always been an important subsistence activity for his family, as it has been in Palama's family. Similarly, Kalakapu

testified that Palama is hunting as part of the native Hawaiian lifestyle. Finally, Palama testified that he has been hunting pig in Hanapēpē Valley since he was a little kid and that he was taught by his family, who in turn were taught by their family. Palama further testified that he uses the pig meat for various types of food and that he shares it with his family.

As noted, the State did not present any evidence to counter the evidence produced by Palama.

The circuit court's COL 4 that Palama "brought forward evidence that hunting pig was an established native Hawaiian custom or tradition practiced prior to 1892" was based on FOF 5, 8, and 10, which are supported by substantial evidence and are not clearly erroneous. Therefore, COL 4 is not wrong. See State v. Rippe, 119 Hawai'i 15, 21, 193 P.3d 1215, 1221 (App. 2008) ("A conclusion of law that is supported by the trial court's findings of fact and that reflects an application of the correct rule of law will not be overturned." (Citation and quotation marks omitted)).

The State also contends that the circuit court erred in granting Palama's motion to dismiss because article XII, section 7 of the Hawai'i Constitution only protects "rights, customarily and traditionally exercised for subsistence, cultural and religious purposes and *possessed by ahupua'a tenants*," and Palama did not prove he is a tenant of an ahupua'a, let alone the Hanapēpē ahupua'a at the time of the alleged offense. The State has waived this contention for failure to raise the argument before the circuit court. Nevertheless, COL 5 -- recognizing that native Hawaiian rights may extend beyond the ahupua'a in which a native Hawaiian resides, if such rights have been customarily and traditionally exercised in the manner in question -- reflects an accurate statement of the law and is supported by the FOFs.¹⁶

¹⁶ During oral arguments, the State argued, for the first time, that the circuit court issued a vague order that appeared to expand the scope of protected customary or traditional practices previously recognized in Hawai'i, by making the right "incident to kuleana lot ownership," and not residency in an ahupua'a. In COL 2, the circuit court concluded that:

We acknowledge that to date, there have been no Hawai'i appellate cases directly addressing whether pig hunting is a constitutionally protected traditional and customary practice, and for this reason, we reiterate that our decision here is confined to the narrow circumstances and the particular record in this case.¹⁷ Based on the uncontroverted kama'aina testimony of Palama's witnesses and the expert testimony of Dr. Osorio, the circuit court did not err in concluding that Palama's pig hunting on the subject property constitutes a traditional and customary

2. Lawful native Hawaiian occupants of an ahupua'a may--for the purpose of practicing native Hawaiian customs and traditions--enter undeveloped lands within the ahupua'a to gather specifically enumerated items. Kalipi v. Hawaiian Trust Co., Ltd. 66 Haw. 1, 3-4, 656 P.2d 745 (1982). Defendant and his ohana are lawful occupants of the subject ahupua'a.

The State argued that the circuit court erred because the Hawai'i Supreme Court in Kalipi expressly rejected that customary or traditional practices could be exercised by an individual who was not a lawful occupant, i.e. resident, of the ahupua'a in which the practices were being conducted, and instead merely owned a lot in the ahupua'a. Although the circuit court incorrectly relied on Kalipi in COL 2, cases subsequent to Kalipi have recognized that "native Hawaiian rights protected by article XII, section 7 may extend beyond the ahupua'a in which a native Hawaiian resides where such rights have been customarily and traditionally exercised in this manner." Pele Defense Fund, 73 Haw. at 620, 837 P.2d at 1272; see also State v. Pratt (Pratt II), 127 Hawaii 206, 215, 277 P.3d 300, 309 (2012); PASH, 79 Hawaii at 439-40, 903 P.2d at 1260-61. This development in the law is reflected in the circuit court's COL 5, which is not wrong.

¹⁷ The State also appears to contend, without any supporting legal authority, that because pig hunting is dangerous in nature, it cannot receive constitutional protection. The State also contends that hunting is not similar to the enumerated rights provided in HRS § 7-1 thus cannot be a protected right. We disagree. We have already rejected the State's contention that the native Hawaiian rights that receive constitutional protection are limited to those included in HRS § 7-1.

Further, a Standing Committee Report discussing article XII, section 7 of the Hawaii Constitution suggests that hunting may be entitled to protection:

Your Committee found that besides fishing rights, other rights for sustenance, cultural and religious purposes exist. Hunting, gathering, access and water rights, while not provided for in the State Constitution, were nevertheless an integral part of the ancient Hawaiian civilization and are retained by its descendants.

Stand. Comm. Rep. No. 57, reprinted in 1 PROCEEDINGS OF THE CONSTITUTIONAL CONVENTION OF HAWAII OF 1978, at 640 (emphasis added). The Committee on Hawaiian Affairs noted that ho'a'aina, or tenants of an ahupua'a, "had rights to make use of house lots, cultivate personal taro patches and engage in subsistence gathering and hunting activities that consumed but did not deplete the natural resources, wild animals and birds of the ahupua'a." Id. at 640 (emphasis added).

practice.¹⁸ Accordingly, given the record in this case, the circuit court did not err in concluding that Palama met his burden under Hanapi.

C. The Circuit Court Did Not Err in Concluding that Palama's Actions Were Protected

"[O]nce a criminal defendant satisfies the three-prong showing required by Hanapi, there remains a balancing test before the defendant's assertion of the native Hawaiian privilege negates any possible criminal conviction." State v. Pratt (Pratt II), 127 Hawai'i 206, 216, 277 P.3d 300, 310 (2012). In performing the balancing test, a court must look to the totality of the circumstances and balance the State's interest in regulating the activity against the defendant's interests in conducting the traditional or customary practice. Id. at 216-18, 277 P.3d at 310-12.¹⁹

In its articulation of the balancing test, the circuit court made the following FOFs and COLs:

18. There was nothing unreasonable about the way Defendant hunted pig.

19. The State's attempt to regulate Defendant's conduct . . . amounts to a blanket prohibition or extinguishment of Defendant's protected practice of hunting pig on the subject property. . . .

CONCLUSIONS OF LAW

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7. Constitutionally protected native Hawaiian rights, reasonably exercised, qualify as a privilege for purposes of enforcing criminal trespass statutes. State v. Hanapi. The reasonable exercise of ancient Hawaiian usage is entitled to protection under article XII, section 7. Id. Here, Defendant's exercise of his ancient Hawaiian usage was reasonable.

¹⁸ The Robinson Family claims that pig hunting cannot be a customary or traditional native Hawaiian practice because hunting game without the permission of the landowner constituted a violation of Kingdom law. As discussed previously, the Kingdom laws submitted by the Robinson Family are not dispositive in this appeal because determining their applicability to the issues would require additional facts outside of the record before us.

¹⁹ In PASH the Hawai'i Supreme Court explained that prior case law informs that "[t]he balance of interest and harms clearly favors a right of exclusion for private property owners as against persons pursuing non-traditional practices or exercising otherwise valid customary rights in an unreasonable manner." 79 Hawai'i at 442, 903 P.2d at 1263.

8. Because Defendant satisfied his burden through evidence and testimony, the Court reconciled the competing interests and upheld Defendant's privilege because it was reasonably exercised to the extent feasible.

9. The regulatory power provided in article XII, section 7 does not justify summary extinguishment of such rights by the State merely because they are deemed inconsistent with generally understood elements of the western doctrine of "property." PASH at 442. Extinguishing traditional rights based simply upon the possible inconsistency of purported native rights with our system of land tenure must fail; the Court's obligation to preserve and enforce such traditional rights is part of the Hawaii State Constitution. . . . Here, the State's attempt to regulate[] Defenant's [sic] traditional right, through criminal prosecution, amounts to a blanket prohibition or extinguishment of Defendant's protected practice of hunting pig on the subject property.

10. The government must protect the privilege of Defendant to enter the subject property to practice continuously exercised access and gathering rights necessary for subsistence and cultural purposes because no actual harm was done by Defendant. . . .

11. For the above reasons, Mr. Palama's activities are established native Hawaiian customs or traditions that require this Court's constitutional protection.

(Emphasis added.)

As an initial matter, the circuit court utilized an "actual harm" test which was subsequently rejected by the Hawai'i Supreme Court in Pratt II, issued after the circuit court dismissed this case. Although the State appears to take issue with the circuit court's balancing analysis, it does not provide any argument regarding the circuit court's use of the "actual harm" test.²⁰ We conclude that even under the totality of the circumstances test articulated in Pratt II, the circuit court did not err in dismissing this case given the record.

As covered above, the circuit court did not err, based on this record, in concluding that Palama's pig hunting on the subject property was a customary or traditional practice. If Palama's conduct was unreasonable, however, the State's interest in regulation would prevail. Pratt II, 127 Hawai'i at 217, 277 P.3d at 311. The circuit court found and concluded that Palama reasonably exercised his privilege. There is substantial

²⁰ The circuit court dismissed this case on April 26, 2012. Pratt II was issued several weeks later, on May 11, 2012. The briefs on appeal in this case were filed after Pratt II was issued.

evidence in the record supporting the circuit court's determination that Palama hunted in a reasonable manner.

Palama entered the subject property on foot at 7 a.m. in the morning and did not carry any guns. According to Palama, there were no fence lines and nothing to indicate that the property is privately owned by the Robinson Family. There is no evidence that there were other people in the area that Palama hunted. The State stipulated that pigs are a nuisance to Kaua'i's landscape and agriculture. According to Dr. Osorio, in addition to being a subsistence activity, pig hunting was a traditional resource management technique used to keep the pig population down and prevent further destruction of taro and sweet potato patches. Palama was pig hunting in an area around his taro patch.

On this record, the circuit court did not err in finding that there was nothing unreasonable about the way Palama hunted pig in this case.

The circuit court also concluded in COL 8 that competing interests were "reconciled." The State, the Attorney General, and the Robinson Family all appear to stress that the State's preeminent interest is to maintain public safety. In its opening brief on appeal, the State makes only vague reference to public safety as a reason for enforcing hunting regulations. The Attorney General urges this court to consider public safety in its analysis, and the Robinson Family contends that the circuit court's ruling promotes lawlessness.²¹

The difficulty in this case is that the State failed to provide any evidence to the circuit court of potential dangers, harms or concerns that the relevant statutes seek to address.

²¹ Both the Robinson Family and the Attorney General argue that this court's affirmation of the circuit court's decision would amount to an unprecedented expansion of the traditional and customary practices doctrine, endanger the public, and promote lawlessness. For example, the Attorney General argues that the safety risk becomes much greater if the native Hawaiian custom or tradition were "more broadly defined to include pig hunting with firearms" and warns that regulating hunting on public land would be in jeopardy if we affirm. We decline to address circumstances not in the record in this case. We reiterate that Palama used dogs and a knife, not a gun, that there is no evidence in the record that he hunted in an unsafe manner, and that our task is to determine whether the circuit court erred on the record before it.

For example, this case is unlike Pratt II, where a representative from the DLNR testified for the prosecution about the purpose of the park regulations involved in that case. In this case, based on the evidence and arguments before it, the circuit court was left to balance Palama's rights against "the western doctrine of 'property'" and "our modern system of land tenure" and not any specific regulatory purpose.²² See COL 9. Although we agree that hunting can be a dangerous activity and the State certainly has a valid interest in protecting public safety, we cannot decide this case based on an argument that the State waived and for which the record is devoid of evidence. See Moses, 102 Hawai'i at 456, 77 P.3d at 947 (stating the general rule that if a party fails to raise an argument at trial, that argument will be deemed to be waived on appeal).

Pratt II and State v. Armitage, 132 Hawai'i 36, 319 P.3d 1044 (2014), both cases involving defendants who argued the Hanapi defense to violations of administrative regulations, are instructive for our purposes here.²³ In both cases, the State presented evidence regarding the purpose of the applicable

²² "[T]he regulatory power provided in article XII, section 7 does not justify summary extinguishment of such rights by the State merely because they are deemed inconsistent with generally understood elements of the western doctrine of 'property.'" PASH, 79 Hawai'i at 442, 903 P.2d at 1263.

²³ In Pratt II, the defendant was cited for visiting a closed area of the Kalalau Valley in the Nā Pali Coast State Wilderness Park on Kaua'i. Pratt II, 127 Hawai'i at 207-08, 277 P.3d at 301-02. Pratt claimed that he was not illegally camping but was taking care of the heiau in the park as his ancestors had done. Id. at 208-09, 277 P.3d at 302-03. The State argued that its right to regulate in order to "protect the health and safety of the public" and "preserve the natural environment" should prevail, and the trial court concluded that the balancing analysis weighed in favor of the State. Id. at 210, 277 P.3d at 304. On appeal, the Hawai'i Supreme Court held that Pratt's interest in conducting his activities without a permit did not outweigh the State's interest in limiting the number of visitors to Kalalau Valley, thus, Pratt's activities did not fall under constitutional protection. Id. at 218, 277 P.3d at 312.

Most recently in Armitage, three defendants were charged with unlawfully entering the Kaho'olawe Island Reserve in violation of HAR § 13-261-10, which prohibits entrance absent specific authorization from the Kaho'olawe Island Reserve Commission. 132 Hawai'i at 40-41, 319 P.3d at 1048-49. On appeal, the Hawai'i Supreme Court, having assumed that the defendants satisfied the three-part Hanapi test, concluded that the State's interests in public safety prevailed because the regulation is "intended to limit the exposure of individuals to potential safety hazards in the Reserve[,] and the defendants made no attempt to obtain lawful entry into the Reserve." Id. at 54-55, 319 P.3d at 1062-63.

regulations, the harms they intended to prevent, and the State's interests in enforcement, and the trial court in both cases concluded that the State's interests prevailed over those of the defendants. Pratt II, 127 Hawai'i at 209, 277 P.3d at 303; Armitage, 132 Hawai'i at 44-45, 319 P.3d at 1052-53. On appeal in these cases, the Hawai'i Supreme Court held that the State's interest in regulating the activity conducted by the defendants outweighed the defendants' interest in performing the activities, especially where an avenue existed to perform the activity within the applicable regulations, and the defendants made no effort to comply with those procedures. Pratt II, 127 Hawai'i at 218, 277 P.3d at 312; Armitage, 132 Hawai'i at 54-55, 319 P.3d at 1062-63. These cases stand in stark contrast to the present appeal, where the State has failed to present any evidence whatsoever regarding the statutory purpose or the concerns addressed by HRS § 183D-26.

Finally, we address the State's challenge to the circuit court's FOF 19 and COL 9, in which the circuit court determined that the State's regulation of Palama's conduct amounts to a blanket prohibition or extinguishment of his protected practice on the subject property.

On appeal, the State argues that FOF 19 is clearly erroneous and COL 9 is wrong because "[a]ll Palama has to do is ask the landowner, or get a hunting license and hunt in the proper place." In the alternative, the State argues that even if the private landowner denies access, there is no blanket prohibition or summary extinguishment of Palama's rights because he can easily hunt in nearby State-regulated hunting areas. The Attorney General and the Robinson Family reiterate this argument in their amicus briefs. Palama responds that under HRS § 183D-26 "private property owners would then be delegated the absolute power to grant or deny Native Hawaiians their constitutional privileges."

The circuit court carefully tailored FOF 19 and COL 9 to address only Palama's right to hunt pig on the subject property. Our analysis focuses on whether the State's enforcement of HRS § 183D-26 and § 708-815 in this case operates

as a prohibition on Palama's pig hunting on the subject property, not hunting in general on private or public property..

Our review of the relevant case law and legislative history leads us to the conclusion that the circuit court was correct in concluding, on the record in this case, that the State's efforts to regulate Palama's pig hunting on the subject property (by requiring permission from the private land owner) in effect operates as a summary extinguishment of Palama's constitutionally protected right to hunt pig on the subject property.

In PASH, the Hawai'i Supreme Court declared that the reasonable exercise of ancient Hawaiian usage is entitled to protection under article XII, section 7. See Pele, 73 Haw. at 618-21, 837 P.2d at 1269-72 (holding that rights primarily associated with residence in a particular ahupua'a under HRS § 7-1 might have extended beyond those bounds through ancient Hawaiian custom preserved in HRS § 1-1); id. at 620, 837 P.2d at 1272 (holding that article XII, section 7 reaffirmed "all such rights"). Traditional and customary rights are properly examined against the law of property as it has developed in this state. Thus, the regulatory power provided in article XII, section 7 does not justify summary extinguishment of such rights by the State merely because they are deemed inconsistent with generally understood elements of the western doctrine of "property."

79 Hawai'i at 442, 903 P.2d at 1263" (emphasis added). The court in PASH later noted that "[o]ur examination of the relevant legal developments in Hawaiian history leads us to the conclusion that the western concept of exclusivity is not universally applicable in Hawai'i." Id. at 447, 903 P.2d at 1268 (citations omitted).

Further, review of the history surrounding the enactment of article XII, section 7 supports a conclusion that a landowner's right to exclude may not in itself prevent the exercise of customary and traditional practices.

The Committee decided to add this new section to the Constitution in order to reaffirm, for descendants of native Hawaiians, rights customarily and traditionally exercised for subsistence, cultural and religious purposes. Aware and concerned about past and present actions by private landowners, large corporations, ranches, large estates, hotels, and government entities which preclude native Hawaiians from following subsistence practices traditionally used by their ancestors, your Committee proposed this new section to provide the State with the power to protect these rights and to prevent any interference with the exercise of these rights. Moreover, your Committee decided to provide language which gives the State the power to regulate these rights. Your Committee did not intend these rights to be

indiscriminate or abusive to others. While your Committee recognizes that, historically and presently, native Hawaiians have a deep love and respect for the land, called aloha aina, reasonable regulation is necessary to prevent possible abuse as well as interference with these rights.

Stand. Comm. Rep. No. 57, reprinted in 1 PROCEEDINGS OF THE CONSTITUTIONAL CONVENTION OF HAWAII OF 1978, at 639 (emphases added). Delegates expressed that the amendment was important "since the large landowners, who basically are 10 to 12 corporations and estates and who own almost 90 percent of all private lands, have intruded upon, interfered with and refused to recognized such rights." Comm. Whole Rep. No. 12, *id.* at 1016. This history informs our analysis of Palama's claimed right in this case.

Here, the language of HRS § 183D-26 gives the Robinson Family, not the state, all of the power to grant or deny access to Palama. Without permission, Palama, who possessed a valid hunting permit, apparently could not avail himself of any regulatory process to seek to engage in his customary and traditional practice of pig hunting mauka of his taro patch on the subject property.²⁴ To say that Palama must obtain permission from the landowner or else hunt on public land frustrates the protections afforded by HRS §§ 1-1 and 7-1 and article XII, section 7, which, in part, were adopted to protect native Hawaiian rights to continue traditional and customary practices in the areas they had been practiced. Thus, we conclude that FOF 19 is not clearly erroneous and that COL 9 is not wrong based on the record in this case.

Our review of Palama's interests, as established by evidence and testimony, and the State's interests, of which there is no evidence in the record, leads us to the conclusion that, in view of the totality of the circumstances established in this

²⁴ In contrast, in both Pratt II and Armitage, the Hawai'i Supreme Court took into account that the defendants could practice their traditional and customary rights within the bounds of law by applying for and obtaining the relevant permits. See Pratt II, 127 Hawai'i at 218, 277 P.3d at 312 (considering that the defendant could obtain a camping permit or apply for a curatorship to work with the DLNR); Armitage, 132 Hawai'i at 55, 319 P.3d at 1063 (highlighting that defendants could apply for authorization to enter the Reserve).

case, the circuit court did not err in balancing the respective interests of Palama and the State. Absent any evidence of the State's public safety interest, the circuit court did not err in concluding that Palama's interests prevailed over the State's interest.

V. Conclusion

Accordingly, for the reasons set forth in this opinion, we affirm the circuit court's dismissal of the criminal charges against Palama in this case.

DATED: Honolulu, Hawai'i, December 11, 2015.

Tracy Murakami,
Deputy Prosecuting Attorney,
(John H. Murphy,
Deputy Prosecuting Attorney,
on the briefs) for
Plaintiff-Appellant.

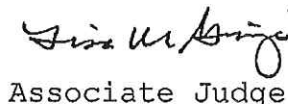
Daniel G. Hempey,
(Hempey & Meyers),
(Timothy J. Tobin,
Court-appointed Attorney
on the answering brief),
for Defendant-Appellee.

Robert T. Nakatsuji,
Deputy Solicitor General,
Department of the Attorney General,
for amicus curiae Attorney General
of the State of Hawai'i.

Eric A. James,
Tim Lui-Kwan,
Arsima A. Muller,
on the amicus curiae brief for Movants,
Robinson Family Partners and Gay & Robinson, Inc.


Presiding Judge


Associate Judge


Associate Judge

Julie Black Caspillo
6798 Kawaihau Road, Kapa'a, HI 96746 (31 years at this residence)
43 years Kauai Island resident.



Principal Broker /Owner of Kauai Dreams Realty for 22years. Hawaii (on Kauai) real estate licensee since 1984.

I am representing myself and not any Boards or Commissions that I have been or currently am a member of.

Position: I am **opposed** to the Up zoning of the approximately 53.4 acres of Agricultural land to Urban Land Use/Zoning. *Kealia Mauka*

Testimony:

<https://www.kauai.gov/Council/GeneralPlanUpdate> I am unable to print 10 copies of the Kauai general Plan & Plan Update, but by submitting the web address I would like to submit the plan and any updates along with my oral testimony. A few pages of the plan are being submitted as hard copies.

Why am I opposed:

1. Against the Updated General Plan. I went to one of the general Plan Updates located at All Saints Gym in Kapa'a. (photos attached) on 11/15/16. There was nothing mentioned about a Kealia upzoning. There was a lot of hard work and thought put into the updating of the Kauai General Plan. I do not think that a developer should be able to alter the plan for their financial purposes. I'm asking the Land Use Commission to not change the hard work, long hours, time and talent of all those involved in Updating the Kauai General Plan.
2. TRAFFIC! See page 86 (VII. Goal address Traffic congestion) of Kauai County General Plan. Traffic in Kapa'a is horrendous. Especially around school time when the north shore as well as east side residents are driving their children to school. There is no public middle or high school on the north shore. North shore residents drive their children to Kapa'a schools. The traffic is already congested and backed up coming into Kapaa from the north during the morning school/work commute. Adding another 235 home sites, approximately 705 more vehicles on our 2 lane highway is ludicrous. It's contrary to finding traffic solutions.
3. Kealia is a rural area. Besides the beach & Beach Park the town has a post office. That's pretty much it. There is a farmers market on Kealia Road 2 to 3 times a week. There aren't any stores. Residents need to travel to Kapaa town or another place for any services. Kealia should remain rural. It is not designed to services hundreds of new residents.
4. Water quality. Current Kealia water quality is good. See attachment. Sewage treatments plants are bound to have accidents, contaminating our water and

beaches. As a bodyboarder I have a personal stake in trying to keep the water clean.



Thanks for letting me testify. In summary this project is not in alignment with the Kauai General Plan goals. Kealia is a rural area and should remain rural. Traffic & water qualities are big concerns. Our communities should not be an "investment strategy" for those looking to make money off of our aina.

Aloha Julie

Julie A. Black

Principal Broker, Realtor
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




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Kauai Dreams Realty



Legend

Land Use Designation

 Urban Center	 Transportation
 Resort	 Military
 Residential Community	 Town Centers
 Agriculture	 Major Roads
 Open	 Minor Roads
 Park	 Planned Roads*

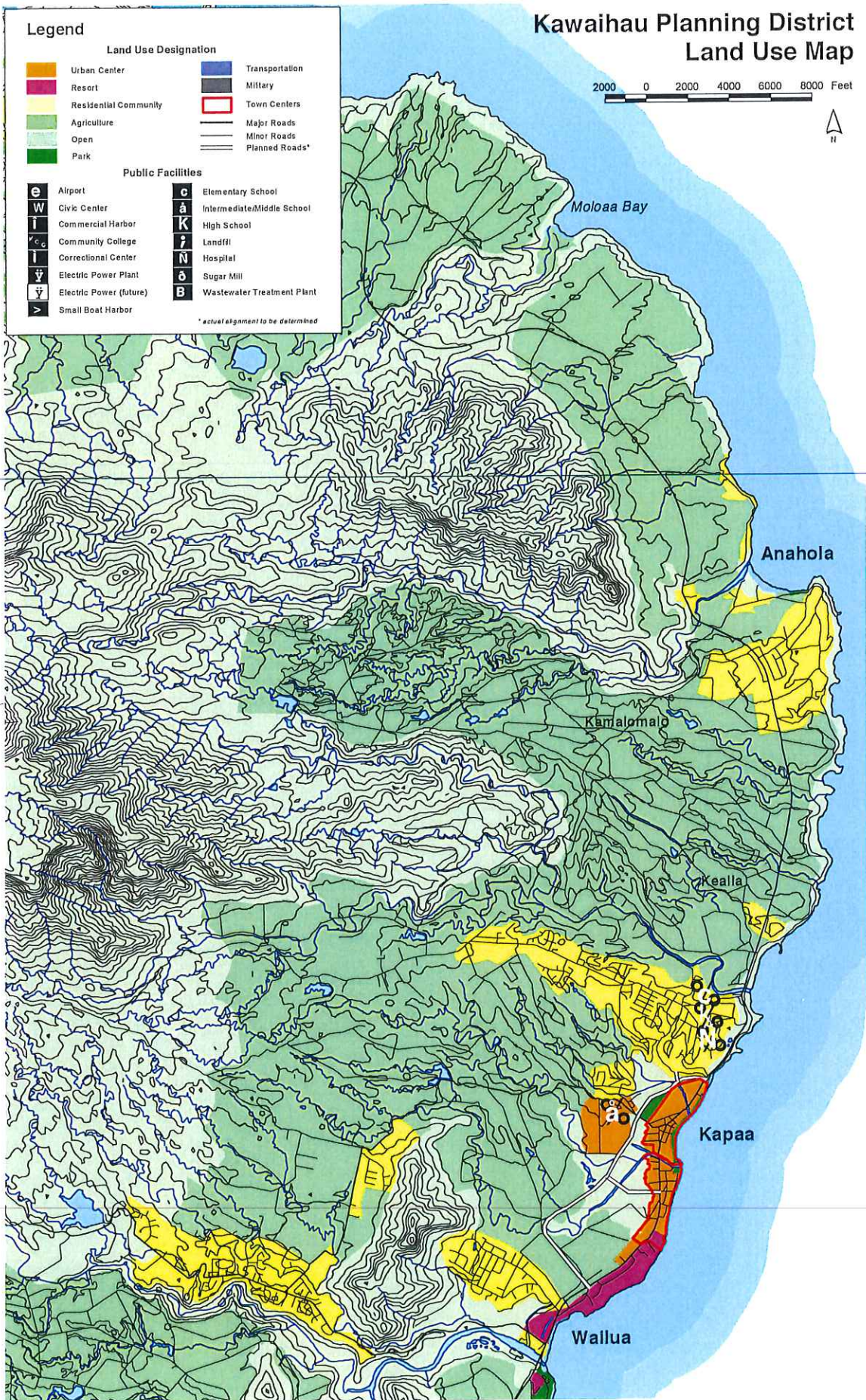
Public Facilities

 Airport	 Elementary School
 Civic Center	 Intermediate/Middle School
 Commercial Harbor	 High School
 Community College	 Landfill
 Correctional Center	 Hospital
 Electric Power Plant	 Sugar Mill
 Electric Power (future)	 Wastewater Treatment Plant
 Small Boat Harbor	

* actual alignment to be determined

Kawaihau Planning District Land Use Map

2000 0 2000 4000 6000 8000 Feet



2.4.5 EAST KAUA'I

The East Kaua'i district extends from the Wailua River north to Moloa'a, including the Kapa'a-Wailua basin, Keālia, and Anahola. The Kapa'a-Wailua basin is home to a large portion of Kaua'i's population. An urban corridor extends along Kūhiō Highway from Haleililo Road in Wailua to Kawaihau Road, at the northern edge of Kapa'a Town.

East Kaua'i has extensive mauka residential areas, including Kapahi and Wailua Homesteads.

Preliminary Vision & Priorities for East Kaua'i

The vision and priorities are preliminary as they have not been examined through an in-depth community planning effort. They provide guidance for specific areas and will inform future community planning efforts.

By 2035, We Envision an East Kaua'i Where:

Residents enjoy a high quality of life in a rural setting.

Natural resources are protected and open spaces and public access are preserved

Agricultural lands are farmed, productive, and protected. Affordable housing opportunities exist for local residents.

Archaeological, historic, and cultural places in our community are honored, preserved, and maintained.

New recreational facilities provide safe and healthy opportunities for youth and adults.

Historic Kapa'a Town maintains its western plantation character, is livable and walkable, with mixed uses, pedestrian-friendly streets, bike paths, new parking, and public transit.

A range of visitor accommodation types are in place and new attractions have opened.

Deferred infrastructure needs have been addressed.

Public transit service has increased and is integrated into new developments.

EAST KAUA'I

Place Type:

Wailua: Village

Kapahi: Village

Kapa'a: Large Town

Anahola: Rural Crossroads (near Post Office);

Future Village (at Anahola Marketplace)

Degree of Change:

Wailua: Incremental

Kapahi: Incremental

Kapa'a: Transformational

Anahola: Incremental at Anahola Post Office;

Transformational at Anahola Marketplace



Wailua

Wailua is designated as a village place type. Community input indicated that the area along the Kūhiō Highway bounded roughly by Haleililo Road, Lanikai Street, and Papaloa Road provides a good opportunity for a Neighborhood Center in proximity to residential neighborhoods in Wailua and resort areas along the coast. Portions of Wailua within 1/2 mile of this center can accommodate additional residential uses on underutilized and vacant parcels.

Kapahi

Community support is indicated for a future Village place type at Kapahi. A Neighborhood Center was

identified along Kawaihau Road, roughly between Kuahale Street and Pu'uka'a Street. This area in the future can accommodate a mix of medium-intensity residential uses, along with additional commercial and service uses, in a configuration that is supportive of transit.

Kapa'a Town

Kapa'a Town's future growth pattern depends largely upon the intensity of implementation related to a key community policy regarding traffic north of the Wailua bridge. The 2000 General Plan does earmark large residential growth at the Hokua Place property near Kapa'a Middle School. The area is designated as Urban Center. However, community opinion remains divided, with strong concerns about the perceived impacts of the proposed development on traffic. Supporters cite the great need for housing and the consistency of the Hokua Place proposal with smart growth principles. Others feel that the proposed traffic mitigation measures won't be enough to counteract negative impacts, that sewer infrastructure is constrained, and that because of the East Kaua'i congestion, affordable housing development should be concentrated in Lihu'e. Another concern is that much of Kapa'a Town is within tsunami evacuation and flood zones. Sea level rise projections show that much of the area could be inundated if SLR reaches 3 feet, as is currently anticipated by the year 2100. These considerations raise further questions about how much growth should be encouraged and accommodated within the Kapa'a-Wailua corridor.

In the public consultation process, two map alternatives were developed for Kapa'a Town's future that reflected this dual input. In the first alternative, Kapa'a transforms from a Small Town to a Large Town place type. The existing Town Center boundary is extended mauka along Olohena road with the idea that the Main Street environment at Olohena and Kūhiō could extend mauka to the roundabout and the northeast corner of the Hokua property. Hokua Place would organize medium-intensity residential neighborhoods on the makai side of the property and lower-intensity neighborhoods to the west. In this alternative, residential growth would be absorbed on the Hokua site as well as on opportunity sites in and around central Kapa'a. In particular, sites around the Baptiste sports complex may need infrastructure investment (such as flood control) to make medium-intensity development feasible.

In the second alternative, Kapa'a would maintain a Small Town place type, concentrating growth in and



Kapa'a Town

around three nodes of existing development along the Kūhiō Highway rather than at Hokua Place. In this alternative, residential growth would be absorbed on opportunity sites in and around central Kapa'a. This alternative would require more intense development patterns in order to accommodate a similar amount of growth as the first alternative.

The Future Land Use Map moves forward the 2000 General Plan's higher-intensity designation for the area, but also updates and refines the designation based on the first alternative map scenario and new population projections. The previous Urban Center designation is changed to Neighborhood General, which will require a mix of residential building types and a walkable, compact form where connectivity to the school and Kapa'a Town is emphasized. The size of the future Urban District boundary amendment should consider watershed boundaries and accommodate future housing projections.

Anahola

Much of the land in Anahola is owned and managed by the State Department of Hawaiian Homelands (DHHL). According to the *Kaua'i Island Plan*, Anahola is DHHL's largest residential homestead area on Kaua'i and is their priority development area. DHHL's *Anahola Regional Plan (2012)* calls for future development of residential homesteads and agricultural uses in the area, as well as the establishment of a new Town Center along Kūhiō Highway. The *Anahola Town Center Plan (2012)* describes the proposed Town Center. While a portion of site designation for the Town Center has since been replaced by a solar farm, the East Kaua'i Community Workshop held as part of this General Plan confirmed that the community still supports the Town Center, and this General Plan identifies it as a Village place type. In addition, the community was largely supportive of the preservation of an existing

small center at the Anahola Post Office, which has been designated as a Crossroads place type.

Land Use Map Changes for East Kaua'i

The East Kaua'i Land Use Map is shown on Figure 5-6. Updates to Land Use Designations since the 2000 General Plan version are described below.

Urban Center

The previous Urban Center designation on and surrounding the Kapa'a Middle School has been updated to Neighborhood General.

Neighborhood Centers and Walksheds

This General Plan Land Use Map includes new Neighborhood Centers at Wailua and Kapahi, based on community input. The Neighborhood General designation replaces residential designations within 1/4-mile of Neighborhood Centers. In Kapa'a Town, Neighborhood Centers are shown in three locations.

A new Neighborhood Center is designated at the location of the planned Anahola Town Center, with Neighborhood General designation replacing residential designations within 1/4-mile of the Neighborhood Center. A smaller Center and Neighborhood General area is established at the post office. Due to hazard vulnerability in this area, the extent of the Center and General areas at this location are limited.

Other Land Use Map Changes

No additional changes to the land use map for East Kaua'i are made.

Natural Hazards and Climate Change Resilience in East Kaua'i

The East Kaua'i district is vulnerable to natural hazards, including marine and terrestrial flooding, wave inundation, erosion, storms, and tsunamis. All of these hazards are expected to be exacerbated by climate change and sea level rise, threatening residential, commercial, and agricultural activities. This calls for a need to employ resiliency strategies in community siting, design, and relocation. The coastal area between Wailua and Kapa'a is particularly vulnerable due to development density. Smaller rural communities of Anahola and Moloa'a are also vulnerable to flooding due to their low-lying nature adjacent to stream mouths.

The Kaua'i Climate Change and Coastal Hazards Assessment conducted a preliminary Sea Level Rise (SLR) Inundation Assessment and Needs for these areas (Needs Assessment) utilizing "bathtub" still water flood modeling from the National Oceanic and Atmospheric Administration (NOAA) SLR viewer. The inundation maps for the 1-foot, 3-foot, and 6-foot SLR scenarios can be found in Appendix D. In advance of or in conjunction with the Community Plan Update, it is recommended that a hazard, risk, and vulnerability assessment for coastal hazards with climate change and SLR be conducted with particular focus on critical infrastructure, residential, commercial, and visitor areas along the Kapa'a-Wailua corridor including but not limited to areas around Moikeha and Waiakeha Canals, mauka residential areas where freshwater wetlands are

expected to emerge due to rising water table, and areas around the Wailua River.

The NOAA SLR flooding data shows little flooding or coastal change along the shoreline and this underestimates SLR related hazards because the model does not account for increased coastal erosion and wave induced flooding with increasing sea level rise. The hazard, risk, and vulnerability assessment should incorporate planning information depicting the



Mountain views from Anahola

above information, which is currently being developed at researchers at University of Hawai'i and others for the State sea level rise adaptation report.

Historical shoreline change studies indicate a long-term trend of shoreline erosion for most of the Wailua-Kapa'a shoreline, which is expected to increase with accelerated SLR. Kapa'a Beach Park is particularly vulnerable and erosion of the beach threatens the bike path, resorts, and homes, especially in proximity to the Pono Kai seawall. Flanking erosion is particularly pronounced at the northern end of the wall, which is a common issue with sea walls.

The Needs Assessment also recommends a coastal and beach management plan for Wailua/Kapa'a including regional sand management and beach conservation and restoration as alternatives to increased coastal armoring in residential areas.

For Anahola and Moloa'a, given the high degree of exposure to flooding hazards around the stream and backshore areas as well as chronic beach erosion issues, community-scale risk and vulnerability assessments are also advised by the needs assessment. 'Aliomanu Road at the north end of Anahola Bay has recently been threatened by coastal erosion. A vulnerability assessment for the road and long term plans for its protection or relocation need to be considered.

The Needs Assessment also notes that the flood areas as shown on the the Federal Emergency Management Agency (FEMA) Flood Insurance Rate Maps (FIRM) are likely to expand as the frequency and severity of flooding events increase with SLR. The County may adopt requirements for flood hazard mitigation/adaptation that account for SLR hazards and are above and beyond the FIRM flood zones and base flood elevations (BFEs). Chapter 3, Section IX Actions point to the need to update the County flood program.

Guidance for Community Planning for East Kaua'i

The following goals and actions are preliminary and will inform future community planning processes.

I. GOAL: Accommodate East Kaua'i's projected housing needs.

- 1. Allow the buildout of communities based on existing zoning with the exception of areas impacted by future sea level rise and other hazards.

- 2. In new communities, ensure the majority of units are "missing middle housing" and affordable by design.
- 3. Design new communities to be walkable, compact, and connected to Kapa'a Town.
- 4. The build-out phasing of new communities should be coordinated with the implementation of priority projects in the Kapa'a Transportation Solutions Plan.

II. GOAL: Ensure that East Kaua'i is resilient to Climate Change and coastal hazards.

- 1. Conduct detailed hazard, risk, and vulnerability assessment for coastal hazards with climate change and sea level rise in East Kaua'i when updated sea level rise, erosion rates, and wave inundation planning information is available. Assessment should include Wailua-Kapa'a shoreline and low-lying areas around the town, canals and rivers, critical infrastructure, residential, and commercial facilities. Additional assessments should be conducted in vulnerable areas of Anahola and Moloa'a. Assessments should identify priority planning areas where resources and planning efforts need to be focused and identify how and where to use adaptation strategies such as accommodation, retreat, and protection, and should encourage relocation to safer areas.
- 2. Seek partnerships with State, UH, County, and private entities to develop a coastal and beach management plan for Wailua/Kapa'a including regional sand management and beach conservation and restoration as alternatives to increased coastal armoring in residential areas.

III. GOAL: Celebrate Wailua's rich and cultural heritage.

A. PROTECT SCENIC CORRIDORS AND SITES OF CULTURAL SIGNIFICANCE.

- 1. Update inventory of cultural sites.
- 2. Coordinate Work with Open Space Commission and Kaua'i Historic Preservation Commission.
- 3. Discourage development away from scenic corridors and areas of cultural significance.

B. SHARE AND EDUCATE VISITORS AND THE COMMUNITY ABOUT WAILUA'S HISTORY.

1. Develop signage with historical information.
2. Establish a Wailua Cultural Center and/or Visitor information center.

IV. GOAL: Increase connectivity within the Wailua corridor to better connect residential, resort, commercial, and recreational uses.

1. Clear and maintain vegetation along Kuamo'o and Olohena Road for pedestrian and bicyclists safety and comfort.
2. Provide alternative routes for pedestrian and bicyclists from Wailua Houselots to Kuamo'o Road.
3. Add bicycle lanes on Kuamo'o Road and Olohena Road.
4. Increase frequency of Wailua shuttle.
5. Establish more park and ride sites in Wailua Homesteads and Wailua Houselots.

V. GOAL: Enhance historic Kapa'a Town.

A. ENCOURAGE INFILL DEVELOPMENT AND MIXED-USE WITHIN THE TOWN CORE.

1. Educate community members and landowners about special planning areas.
2. Provide incentives to property owners of vacant parcels in Historic Kapa'a Town to develop buildings for mixed-use.
3. Update East Kaua'i Community Plan and incorporate Form-Based Code for Historic Kapa'a Town.
4. Provide a range of affordable housing types.
5. Develop a parking audit for Kapa'a Town.

B. PRESERVE THE HISTORIC CHARACTER OF KAPA'A TOWN.

1. Update East Kaua'i Community Plan and incorporate Form-Based Code for Historic Kapa'a Town.
2. Improve design guidelines for buildings and streetscapes.
3. Educate property owners on incentives for historic preservation.

VI. GOAL: Increase connectivity from the town to recreation and residential areas along Kukui/Olohena Road.

A. IMPROVE PEDESTRIAN, BICYCLE, AND TRANSIT CONNECTIVITY.

1. Add sidewalks along Olohena Road from the Kapa'a Middle School to the town.
2. Ensure safe pedestrian and bicycle paths that connect the beach parks to the town and to residential areas.
3. Ensure new communities support the County's mode shift goals and improve vehicular and pedestrian connectivity to parks, schools, and Kapa'a Town.

VII. GOAL: Address traffic congestion.

A. IMPROVE CAPACITY WITHIN THE WAILUA-KAPA'A CORRIDOR.

1. Implement the Kapa'a Transportation Solutions projects.
2. Continue to work with HDOT.

VIII. GOAL: Support DHHL's Island General Plan and Anahola Plan.

A. IMPROVE COLLABORATION BETWEEN THE COUNTY, DHHL, AND OTHER STAKEHOLDERS.

1. Work with the DHHL to ensure the Anahola Plan is compatible with the area's Community Plan.

2.4.6 NORTH SHORE

The North Shore Planning District extends from Moloa'a Bay on the east to Puanaiea Point on the west, which is eight miles west along the Nā Pali Coast from Hā'ena. The North Shore includes the communities of Hā'ena, Wainiha, Hanalei, 'Anini, Kalihiwai, Kīlauea, and Princeville. The main population centers on the North Shore are the communities of Hanalei, Princeville, and Kīlauea.

Residents of these communities value the rural, isolated character of the North Shore and its inherent natural beauty, and the strong sense of community central to each place. While each community differs somewhat in its approach to growth and change, North Shore communities generally express greater concerns regarding the impacts of new development as well as the negative effects of tourism. The North Shore attractions from Kē'e Beach to the Hanalei Pier are must-see sights for nearly all visitors to Kaua'i. There is a sentiment among local residents that the North Shore is more burdened by tourist impacts than other areas of the island, as popular sites are overrun and residents must compete with tourists for parking.

Preliminary Vision & Priorities for the North Shore

The vision and priorities are preliminary as they have not been examined through an in-depth community planning effort. They provide guidance for specific areas and will inform future community planning efforts.

Hanalei

A minimal degree of change is anticipated for Hanalei, which is designated as a Village place type. The community's focus is on maintaining its historic character and restoring it where it has been damaged. The pleasant, informal, pedestrian-scaled existing center can be maintained through modest flexibility in site frontages of new infill, allowing buildings to set back at varying intervals to provide civic space or pedestrian amenities like outdoor seating. Despite allowing frontage flexibility, new off-street parking lots are located behind buildings, and existing lots are screened by landscaping, to support a better pedestrian environment at the street.

"Complete streets" that balance pedestrian, bicycle, transit, and private vehicle activity are a goal for residents, with context-sensitive elements that act to calm traffic on the highway, and provide safe

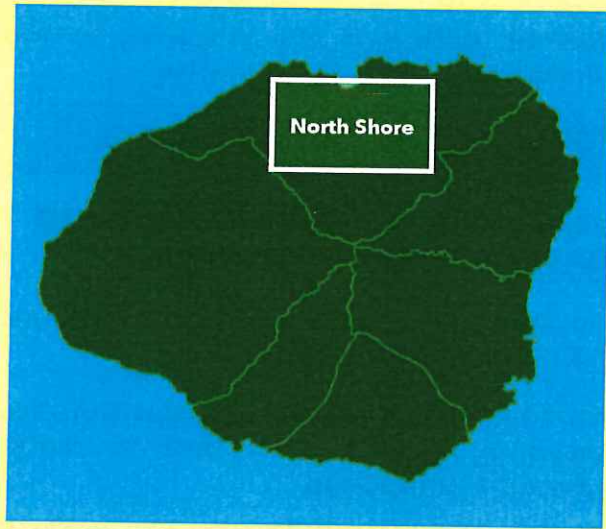
HANALEI, KĪLAUEA, & PRINCEVILLE

Place Types:
Hanalei: Village
Kīlauea: Small Town
Princeville: Undetermined
(Village, or no place type to be applied)

Character/Key Values:

- Rural/Isolated
- Resilient/Protective/Healthy
- Natural Beauty/Verdant
- Challenged/Threatened

Degree of Change:
Hanalei: Minimal
Kīlauea: Incremental
Princeville: Incremental



crossings for pedestrians, but with an emphasis on street designs that are consistent with Hanalei's rural character. On the east side of town, a path or informal sidewalk along Kūhiō Highway is desired to connect existing businesses which otherwise lack a safe, established route. There is also support for a possible parallel, shared use path makai of Kūhiō Highway, which could connect community civic uses between the single row of existing buildings and existing agricultural lands.

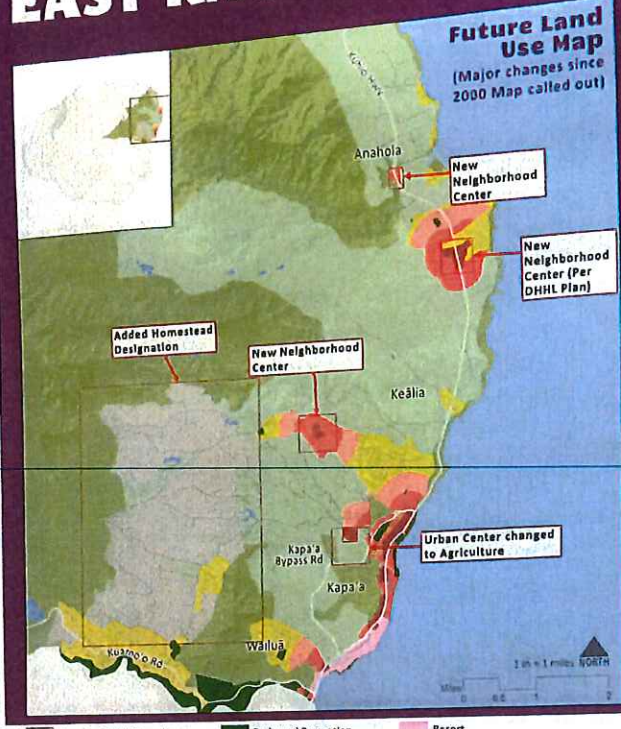
Traffic congestion on the highway into town is a

Table 2-2 Major Designation Changes by Planning District

District	Action
Waimea-Kekaha	<ul style="list-style-type: none"> Two areas west of Waimea changed from Residential Community to Agriculture. Resort designation changed to "Provisional Resort" to allow for a community planning process to determine the appropriateness, scale, and extent for resort development in Waimea.
Hanapēpē-'Ele'ele	<ul style="list-style-type: none"> Neighborhood Center and General designations added to both Port Allen and Hanapēpē Town to be consistent with Department of Hawaiian Home Lands (DHHL) plans and to connect Lima Ola to Port Allen. Agriculture designation changed to "Provisional" to allow for a community planning process. 75 acres for planned Lima Ola affordable housing development changed from Agriculture to Residential Community. New Neighborhood Center and Neighborhood General added to Port Allen. Approximately 19 acres in Makaweli on existing mill site from agriculture to industrial.
South Kaua'i	<ul style="list-style-type: none"> Neighborhood Center and General designation applied to Kōloa, Kalāheo, and Po'ipū Roundabout Area. Small Town designation at Numila and Lāwa'i Cannery Large Town designation at Po'ipū Mixed Use Gateway. Residential Community removed from 60 acres above Weliweli Tract.
Līhu'e	<ul style="list-style-type: none"> Neighborhood Center applied to Līhu'e Town Core, Puhi Mauka, Isenberg Mauka, Hanamā'ulu Town, and area in Hanamā'ulu fronting Highway adjacent to Triangle (west of bluff) formerly owned by EWM Realty International. Portion of Nukoli'i redesignated from Resort to Agriculture. Addition of the Urban Edge Boundary. New University Zone applied to Kaua'i Community College and the surrounding schools. Residential Community removed from areas along Kīpū Road. New Residential Community added on mauka side of DHHL Wailua Lands (for consistency with DHHL's <i>Kaua'i Island Plan 2004</i>). New Neighborhood Center added on the mauka and makai side of DHHL Wailua Lands (for consistency with DHHL's <i>Kaua'i Island Plan 2004</i>).
East Kaua'i	<ul style="list-style-type: none"> Neighborhood Center/General applied to previous Urban Center in Kapa'a Town and added to a portion of Olohena Road near Kapa'a Town. Neighborhood General applied to previous Urban Center designation around Kapa'a Middle School. Portion of area behind Coco Palms in the Flood Zone changed from Resort to Natural. New Neighborhood Center at Kapahi, Anahola Post Office, and Anahola Town Center (to match DHHL's Anahola Town Center Plan).
North Shore	<ul style="list-style-type: none"> Neighborhood Center and General designation applied to Hanalei and Kīlauea. Kīlauea town center expanded to accommodate growth. Residential Community at Princeville Airport changed to Transportation. Residential Community mauka of Princeville Airport removed and changed to Agriculture. Resort designation makai of highway removed and changed to Agriculture.

11/15/16

EAST KAUAI



Place Types:

- Wailua: Village
- Kapahi: Village
- Kapa'a: Small Town or Large Town
- Anahola: Rural Crossroads (near Post Office); Future Village (at Anahola Marketplace)

Degree of Change:

- Wailua: Incremental
- Kapahi: Incremental
- Kapa'a: Incremental/Transformational
- Anahola: Incremental at Anahola Post Office; Transformational at Anahola Marketplace

The previous East Kauai Community Planning process developed a working

Vision for East Kauai in 2035:

- "By 2035, We Envision an East Kauai where:
- Residents enjoy a high quality of life in a rural setting
 - Natural resources are protected and open spaces and public access are preserved
 - Agricultural lands are farmed, productive, and protected
 - Affordable housing opportunities exist for local residents
 - Archaeological, historic, and cultural places in our community are honored, preserved, and maintained
 - New recreational facilities provide safe and healthy opportunities for youth and adults
 - Historic Kapa'a Town maintains its western plantation character, is livable and walkable, with mixed uses, pedestrian-friendly streets, bike paths, new parking, and public transit
 - A range of visitor accommodation types are in place, and new attractions have opened
 - Deferred infrastructure needs have been addressed
 - Public transit service has increased and is integrated into new developments"

How will East Kauai change?

Wailua is designated as a Village place type. Community input indicated that the area along the Kuhiō Highway bounded roughly by Haleiilo Road, Lanikai Street, and Papaloa Road provides a good opportunity for a Neighborhood Center in proximity to residential neighborhoods in Wailua and resort areas along the coast. Portions of Wailua within 1/4 mile of this center can accommodate additional residential uses on underutilized and vacant parcels.

The community supports a future Village place type at **Kapahi**. A Neighborhood Center along Kawaihau Road could support a mix of medium-intensity residential uses, along with additional commercial and service uses.

Kapa'a Town's future growth has been the topic of much discussion and debate. Traffic congestion north of the Wailua bridge is a primary concern in determining how much future growth should be planned for. Community input led to a conservative approach, where Urban Center designation adjacent to Kapa'a Middle School (the proposed Hokua Place development) has been removed from the land use map, and Kapa'a remains a Small Town place type.

Much of the land in **Anahola** is owned and managed by the State Department of Hawaiian Homelands (DHHL). DHHL's Anahola Regional Plan (2012) calls for future development of residential homesteads and agricultural uses in the area, as well as the establishment of a new Town Center along Kuhiō Highway.



Photos from the East Kauai Community Workshop (April 2016)



July 14 at 7:34 PM · 🌐

KAUAI SURFRIDER JULY 13, 2019 WATER QUALITY RESULTS TESTED BY DR. JOHN ALDRETE, COLLECTED BY VOLUNTEERS.

14 out of the 30 sites tested for July were below the Statistical Threshold Value (STV) of 130 counts/100 mls, while 16 out of the 30 sites were above the STV. All of the streams/river mouths tested were above the STV. As always, sites where the geometric mean are in the thousands are badly polluted with fecal indicating bacteria. It is recommended that sites consistently above the STV should be posted with caution signs.

IF YOU DO NOT SEE 'YOUR SPOT' IT MAY BE HERE ON THE HAWAII`I

DOH TEST SITES:

<http://cwb.doh.hawaii.gov/Cle.../WaterQualityData/default.aspx>

AS ALWAYS USE CAUTION AND SHOWER AFTER SWIMMING.

Surfrider Kauai: Blue Water Task Force

July 13, 2019

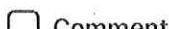
Enterococcus bacterial concentration per 100 mls

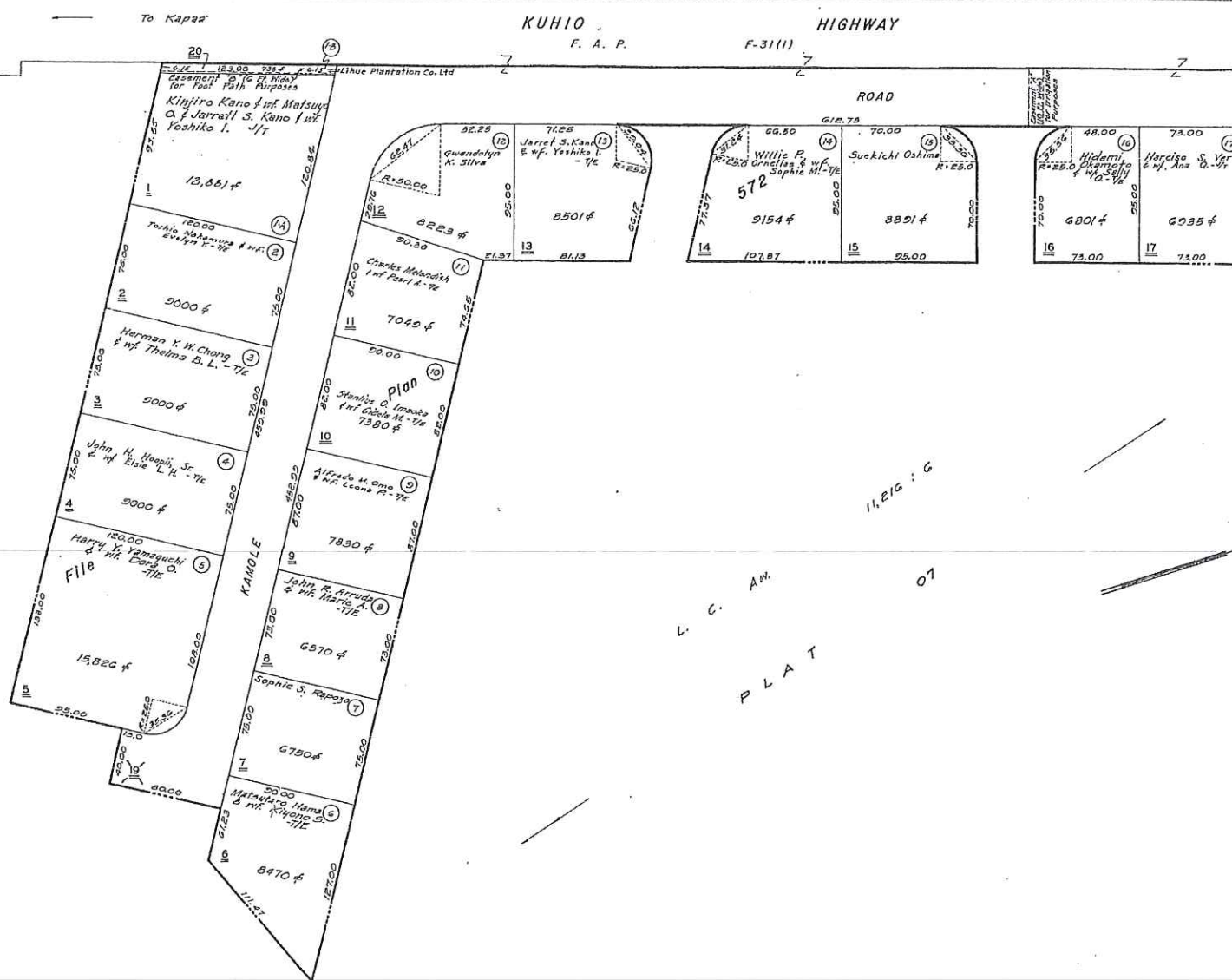
Testing Site	Single-day results**	This year's geomean***
The Bowl, Surf, Hanalei	<10	29.3
Kalihiwai Surf	<10	35.1
Anahola Bay Surf	<10	12.4
Kealia Surf	<10	5.5
Kalapaki Bay Surf	<10	32.7
PK's Surf, Poipu	<10	58.1
Salt Pond Surf	<10	4.7
Major's Bay	<10	6.8
Pinetrees Surf, Hanalei	10	13.3
Waiohai Surf, Poipu	20	14.3
Waikoko	31	16.7
Uhelekawawa Canal, Kapa'a	31	15.2
Wailua Beach Park	75	71.7
Rock Quarry Surf, Kilauea	86	179.5
Middles Surf, Hanalei	146	24.4
Kalihiwai Stream Mouth	169	287.3
Gillinxs Beach, Mahaulepu	211	173.2
Hanalei River @ Weke Rd.	228	449.9
Wailua River Mouth	323	243.7
Niumalu Beach Park, Boat Ramp	350	1,148.7
Waikomo Stream, Koloa Landing	417	639.4
Nawiliwili Stream	474	1,342.6
Anahola Stream	521	981.7
Anini Stream	594 a	n/a
Kilauea Stream Mouth	657	712.3
McArthur Ditch	767	920.7
Waimea River Mouth	780	699.4
Hanamaulu Stream	849	2,407.8

Kealia is
cooling!
good!

👍👎👤 28

17 Comments 21 Shares



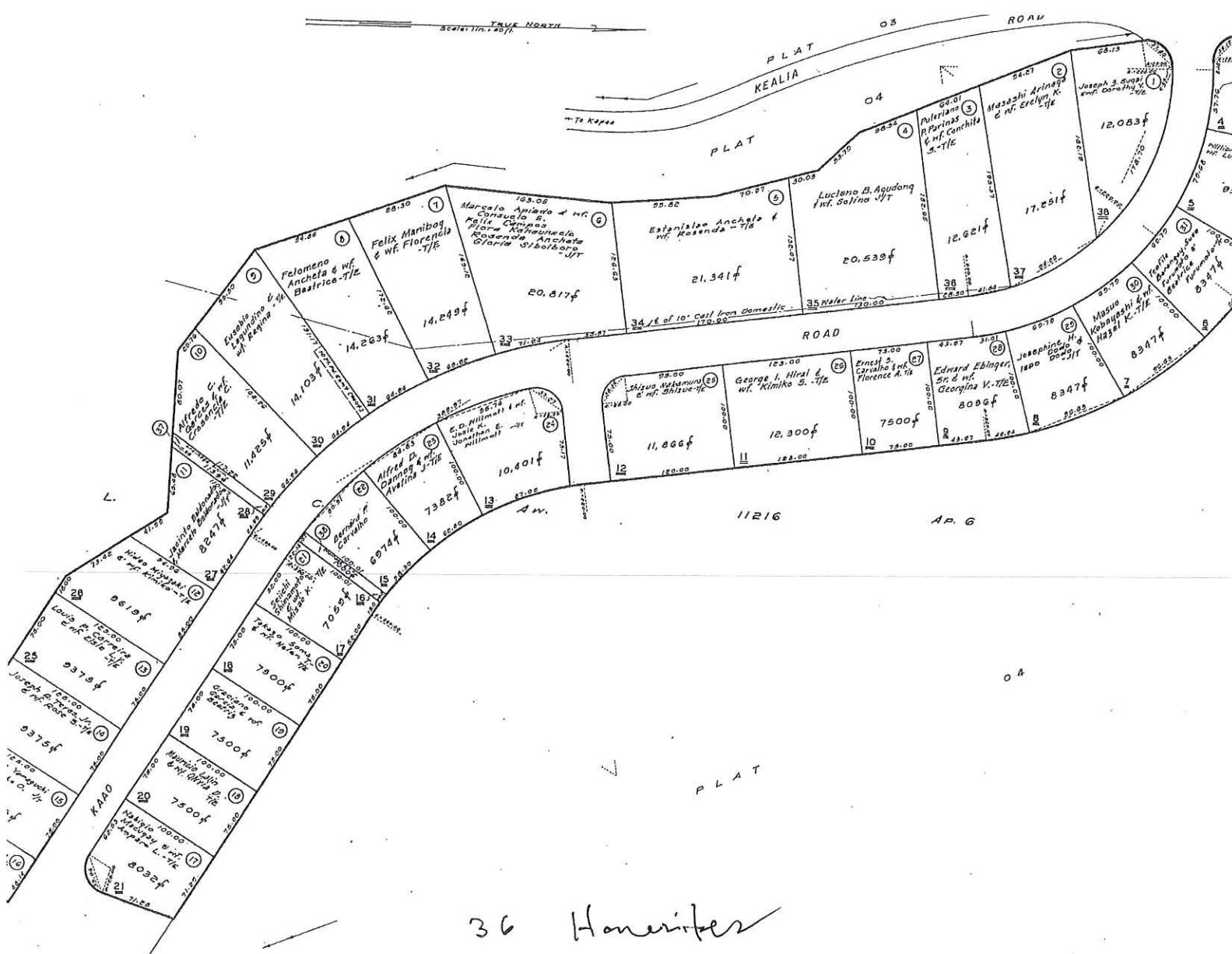


18 Homesites

KEALIA OCEAN VIEW TRACT, KEALIA, KAUAI, T. H.

SUB.

Current residential
Density of Kealia Tract



BLOCK "A",
KEALIA TOWN TRACT, FILE PLAN 505, KAWAIHAU, KAUAI.

Parcels 16, 28 owned by Lihue Plantation Co., Ltd.

SUBJECT TO CHANGE

current residential Density of Kealia Tc

