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

In the Matter of the Petition of

HAWAIIAN ISLANDS LAND TRUST to
Amend the Conditions of the Decision and
Order for approximately 885.40 acres at
Kukuau, South Hilo, Tax Map Key No. (3) 2-
4-008; por. 033

Docket No. A99-729

COUNTY OF HAWAI'I PLANNING
DEPARTMENT'S RESPONSE TO
HAWAIIAN ISLANDS LAND TRUST'S
AMENDED MOTION FOR ORDER
AMENDING THE FINDINGS OF FACT,
CONCLUSIONS OF LAW, AND
DECISION AND ORDER FILED
NOVEMBER 16, 2001; AND
INCORPORATING THE OFFICE OF
PLANNING'S RESPONSE TO MOTION
FOR ORDER AMENDING THE FINDINGS
OF FACT, CONCLUSIONS OF LAW, AND
DECISION AND ORDER, DATED
NOVEMBER 15, 2001; EXHIBIT "A";
CERTIFICATE OF SERVICE

**COUNTY OF HAWAI'I PLANNING DEPARTMENT'S RESPONSE TO HAWAIIAN
ISLANDS LAND TRUST'S AMENDED MOTION FOR ORDER AMENDING THE
FINDINGS OF FACT, CONCLUSIONS OF LAW, AND DECISION AND ORDER
FILED NOVEMBER 16, 2001; AND INCORPORATING THE OFFICE OF
PLANNING'S RESPONSE TO MOTION FOR ORDER AMENDING THE FINDINGS
OF FACT, CONCLUSIONS OF LAW, AND DECISIONS AND ORDER,
DATED NOVEMBER 15, 2001**

COMES NOW the County of Hawai'i Planning Department (COH) by and through its

counsel, DIANA M. MELLON-LACEY, and hereby submits its response to HAWAIIAN ISLANDS LAND TRUST'S AMENDED MOTION FOR ORDER AMENDING THE FINDINGS OF FACT, CONCLUSIONS OF LAW, AND DECISION AND ORDER FILED NOVEMBER 16, 2001; AND INCORPORATING THE OFFICE OF PLANNING'S RESPONSE TO MOTION FOR ORDER AMENDING THE FINDINGS OF FACT, CONCLUSIONS OF LAW, AND DECISION AND ORDER, DATED NOVEMBER 15, 2001.

COH reviewed the background regarding the initial motion filed by Hawaiian Islands Land Trust (HILT), and has reviewed HILT's amended motion and the initial response filed by the State Office of Planning (OP). The current response by COH addresses the proposed changes to the Decision and Order (D&O) dated November 15, 2001, by successor petitioner HILT and by OP.

D & O Condition 1: COH concurs with the modification proposed by HILT, with the addition of the following language: **The Petition Area will not be subdivided and the Petitioner shall work cooperatively with the County Planning Department to rezone the Petition Area to a zoning density that would prevent subdivision.** COH also concurs with OP's response, which states that the proposed building referenced by HILT, notably a shelter for community volunteers, Hawaiian cultural practitioners, and school children on educational field trips, would likely not be permitted as a matter of course. Specifically, COH recommends that the OP's final sentence regarding the amended condition be incorporated in the new condition, namely, "The Commission's approval of this Motion should not be considered an approval of any structure on the Petition Area."

D&O Condition 2: COH concurs with the revised Condition as stated by the OP, and it appears that HILT is also in agreement.

D&O Condition 3: COH concurs with the deletion of this condition.

D&O Condition 4: COH concurs with OP's restatement of this condition, which has been affirmed by HILT.

D&O Condition 5: COH concurs with HILT's proposed modifications, but requests the opportunity, along with that of OP, to comment on the adequacy of the Forest Management Plan.

D&O Condition 6: COH concurs with HILT and OP that this condition be retained as originally written.

D&O Condition 7: COH finds the amended modification proposed by OP an acceptable revision of the original condition.

D&O Condition 8: COH agrees with the restatement of this condition by OP.

D&O Condition 9: COH agrees with the restatement of this condition by OP.

D&O Condition 10: COH retains the position it stated in its initial response. The 80-foot right-of-way is on the City of Hilo Zone Map (see Exhibit A), which is part of the zoning code. Absent amendment of the zoning code to delete this future roadway, HILT will be required to reserve and dedicate the 80-foot-right-of-way.

D&O Conditions 11-17: With the addition of COH's proposed language in D&O Condition 1:

The Petition Area will not be subdivided and the Petitioner shall work cooperatively with the County Planning Department to rezone the Petition Area to a zoning density that would prevent subdivision

COH would consent to the deletion of D&O Conditions 11-17, as the requirements regarding wastewater systems, drainage improvements and compliance with COH flood code can be addressed by instilling conditions addressing these concerns in the rezone ordinance.

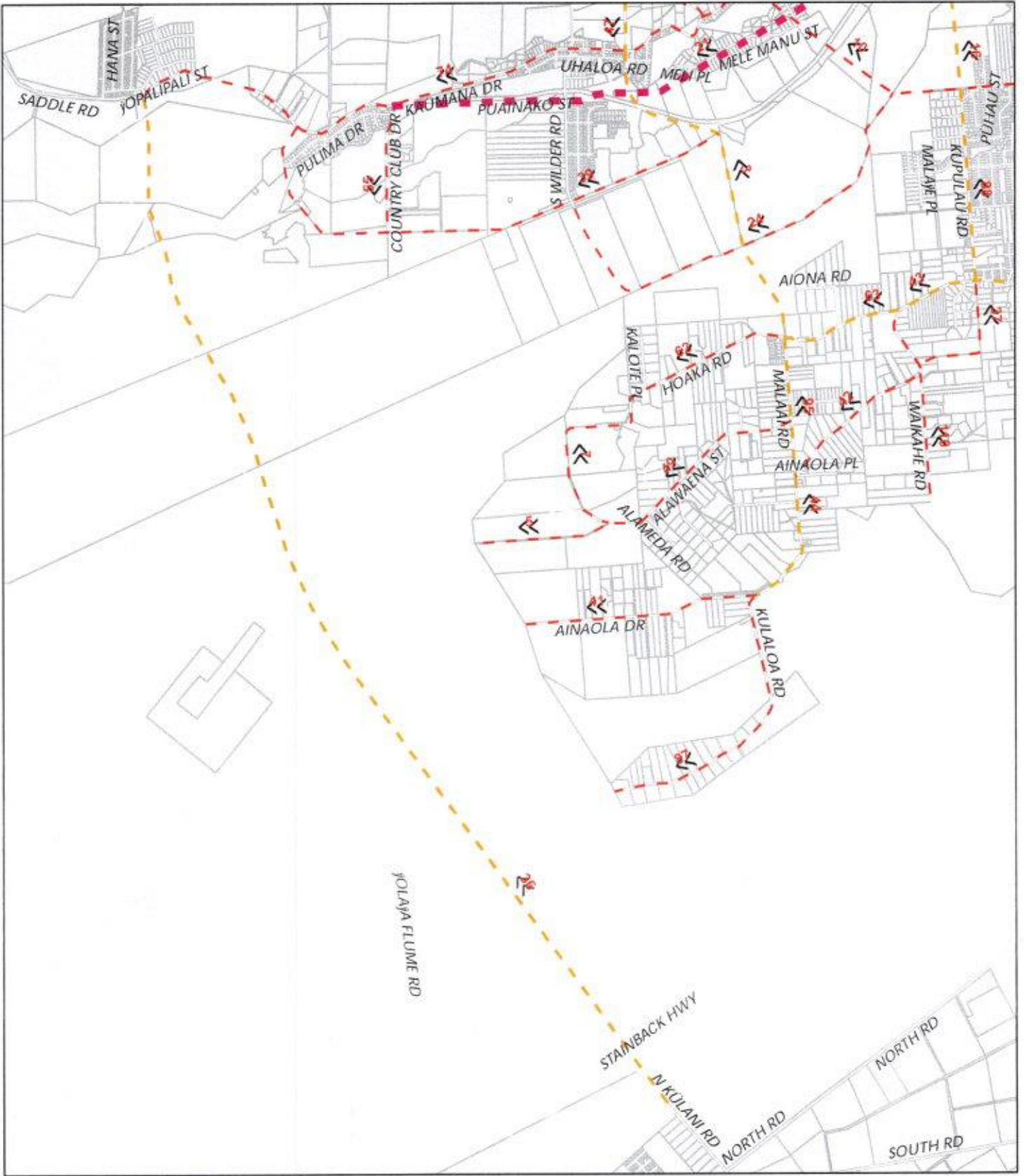
D&O Condition 18 – 23: COH continues to maintain its position that these conditions should be left as written, noting that the OP also supports this recommendation.

In conclusion, COH supports the plan for the subject property as presented by HILT, with the modifications to and retention of the D&O Conditions outlined herein.

DATED: Hilo, Hawai'i, October 30, 2020,

COUNTY OF HAWAI'I PLANNING
DEPARTMENT

By 
DIANA M. MELLON-LACEY
Deputy Corporation Counsel



**#36 Proposed 80' R/W Exten. -
Kaūmana City to Puna Boundary**

Suggest to leave this alignment improvement.

EXHIBIT A

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CERTIFICATE OF SERVICE

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served upon the following by mailing
the same, postage prepaid, on October 16, 2020:

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Dated: Hilo, Hawaii'i, October 20, 2020.

COUNTY OF HAWAII

By 
DIANA MELLON-LACEY
Deputy Corporation Counsel
Its attorney