

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

| | | |
|---|---|---------------------|
| In The Matter Of The Petition Of |) | DOCKET NO. A93-696 |
| |) | |
| KUKUI'ULA DEVELOPMENT |) | FINDINGS OF FACT, |
| COMPANY (HAWAII), LLC |) | CONCLUSIONS OF LAW, |
| |) | AND DECISION AND |
| To Amend The Agricultural Land Use District |) | ORDER |
| Boundary Into The Urban Land Use District |) | |
| For Approximately 783.676 Acres At Lawa'i, |) | |
| Koloa, Kaua'i, Hawai'i, Tax Map Key Nos: |) | |
| 2-6-03: Por. 1, 21, Por. 31, And Por. 32; 2-6-04: |) | |
| Por. 38 And Por. 45; And 2-6-15: Por. 1 |) | |
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FINDINGS OF FACT, CONCLUSIONS OF LAW,
AND DECISION AND ORDER

On March 31, 2003, Kukui'Ula Development Company (Hawaii), LLC ("Petitioner"), a Hawai'i limited liability company, filed a Motion For Order To Amend Findings Of Fact, Conclusions Of Law, And Decision & Order Dated May 18, 1995 And Supplemental And/Or Modified Findings Of Fact, Conclusions Of Law, And Decision & Order Dated June 22, 1998 ("Motion For Order To Amend"), pursuant to sections 15-15-70 and 15-15-94, Hawai'i Administrative Rules ("HAR"). The Land Use Commission ("Commission"), having heard the testimony and examined the evidence presented by the parties during the hearing on the Motion For Order To Amend and having reviewed Petitioner's Proposed Findings of Fact, Conclusions of Law, and Decision and Order as stipulated to by the State Office of Planning ("OP") and the County of Kaua'i

("County"), hereby makes the following findings of fact, conclusions of law, and decision and order:

FINDINGS OF FACT

BACKGROUND

1. On October 29, 1993, a Petition For District Boundary Amendment ("Petition") was filed with the Commission by Kukui`ula Development Company, Inc., a Hawai`i corporation, ("Former Petitioner"). The Petition was subsequently amended pursuant to section 15-15-43, HAR, on December 21, 1993, and January 14, 1994. The Petition was filed pursuant to Chapter 205, Hawai`i Revised Statutes ("HRS"), and Chapter 15-15, HAR, to amend the land use district boundary of certain land at Lawa`i, Koloa, Kaua`i, Hawai`i, Tax Map Key Nos: 2-6-03: por. 1, 21, por. 31, and por. 32; 2-6-04: por. 16, por. 38, por. 39, 40, and por. 45, covering approximately 822.142 acres of land ("Former Petition Area") from the State Land Use Agricultural District to the State Land Use Urban District.

The Former Petition Area and the adjoining 219-acre urban parcel were to be developed as an integrated project to be known as the Kukui`Ula Planned Community ("Former Planned Community"). The Former Planned Community included single-family and multi-family residential uses, a golf course and clubhouse, commercial uses, a marina, a town center, school expansion, a wastewater treatment plant ("WWTP"), the National Tropical Botanical Garden Visitor Center, parks, and open space. The Former Planned Community included development of up to 3,400

units.

2. On May 18, 1995, the Commission's Decision and Order approved (a) reclassification of approximately 537.313 acres of the Former Petition Area identified as Increment I from the Agricultural District to the Urban District and provided that, (b) the remaining approximately 284.829 acres of the Former Petition Area identified as Increment II be incrementally reclassified pursuant to section 15-15-78, HAR. The reclassification was subject to 41 conditions as set forth in the Decision and Order.

3. Subsequent to the Commission's Decision and Order, modifications were made to the development concept for the Former Planned Community, which were necessitated by economic conditions. The significant modifications included the following: (a) elimination of the small boat marina concept; (b) modification of the resort concept to include a 200-unit hotel, two 250-unit timeshare condominiums, a 4-acre commercial site, and a 20-acre lagoon/wetland area within 77 acres of land; and (c) designation of a Visitor Center for the National Tropical Botanical Garden within a 10-acre site.

4. On March 25, 1998, the Former Petitioner filed a Motion For Order To Amend Findings Of Fact, Conclusions Of Law, And Decision & Order Dated May 18, 1995 to (a) transfer approximately 77 acres of land from Increment II to Increment I of the Former Petition Area; (b) amend and delete certain conditions of the Decision and Order; and (c) release and delete a 10-acre portion of land (now known as Tax Map Key No: 2-6-03: 63) of the Former Petition Area previously conveyed to the National Tropical

Botanical Garden from the application of the conditions.

5. On June 22, 1998, the Commission issued a Supplemental Order which (a) approved the transfer of approximately 77 acres of the Former Petition Area from Increment II to Increment I; (b) released and discharged the 10-acre portion of the Former Petition Area previously conveyed to the National Tropical Botanical Garden from the application of conditions imposed by the Decision and Order; and (c) deleted and/or amended 14 conditions imposed by the Decision and Order, resulting in 33 conditions which replaced those in the Decision and Order.

6. By Order dated May 24, 1999, the Commission granted the release and discharge of approximately 28 acres constituting the Koloa Estates residential subdivision (now known as Tax Map Key No: 2-6-14: 1 to 43, inclusive) from the application of the conditions imposed by the Decision and Order and Supplemental Order. This 32-lot residential subdivision was completed in 1999 and all lots have since been sold.

7. The approximately 783.676 acres currently constituting the "Petition Area" represent a reduction in size of about 38.466 acres from the Former Petition Area (which encompassed approximately 822.142 acres). This reduction in acreage is attributed to the development and transfer of Koloa Estates (approximately 27.928 acres), the transfer of the National Tropical Botanical Garden Visitor Center (approximately 10 acres), and other property line adjustments based on a recent field survey of the site undertaken for an American Land Title Association/American

Congress on Surveying & Mapping (ALTA/ACSM) land title survey (which resulted in a further reduction of approximately 0.538 acres).

8. In April 2002, Petitioner, a new joint venture, was formed to undertake the development of the Petition Area and other lands consisting of approximately 1,022 acres ("Property"). Petitioner is composed of two members: KDC, LLC, a Hawai'i limited liability company, and DMB Kukui`Ula, LLC, an Arizona limited liability company. Kukui`ula Development Company, Inc., the Former Petitioner, and other related companies are members of KDC, LLC.

9. The formation of the new joint venture resulted in the re-evaluation of the master plan and the subsequent formulation of a new development plan known as Kukui`Ula ("Project"). The Project proposes 1,500 residential units, including an approximately 64-room resort hotel, an 18-hole golf course, recreational facilities, 14 acres of commercial uses, parks and open space, along with land for 60 additional affordable housing units. A lagoon/wetland is no longer planned for the area mauka of Kukui`ula Bay. In addition, the Project would be developed in its entirety inclusive of Increment II rather than proceeding on an incremental basis as originally approved.

PROCEDURAL MATTERS

10. On March 31, 2003, Petitioner filed the Motion For Order To Amend. Petitioner also filed a Motion For Order Permitting Petitioner To Assign Its Interest In Docket No. A93-696 To Kukui`Ula Development Company (Hawaii), LLC ("Motion For Order Permitting").

11. On May 9, 2003, the Commission took a field trip to view the Property.

12. On May 27, 2003, the County submitted to the Commission its Statement Of Position In Support Of The Motion For Order To Amend.

13. On June 9, 2003, OP submitted to the Commission its Statement Of Position In Support Of The Motion For Order To Amend And Motion For Order Permitting.

14. On June 9, 2003, a prehearing conference was conducted in Conference Room 405 of the Leiopapa A Kamehameha Building, 235 South Beretania Street, 4th Floor, in Honolulu, Hawai'i, with representatives of Petitioner, OP, and the County present, and at which time each party's lists of exhibits and witnesses were exchanged.

15. The Commission considered the Motion For Order To Amend and Motion For Order Permitting at its meeting on July 10, 2003, in Honolulu, Hawai'i. Entering appearances were Benjamin M. Matsubara, Esq., Tom H. Shigemoto, Michael J. Roberts, and Rodney Y. Funakoshi for Petitioner; John W.K. Chang, Deputy Attorney General, Abe Mitsuda, and Lorene Maki for OP; and Laurel Loo, Deputy County Attorney, and Keith Nitta for the County.

16. The following persons submitted written testimony: State Senator Gary L. Hooser, representing the 7th Senatorial District – Kaua'i and Ni'ihau, and Stanley E. Erickson of 4784 Lawa'i Road, Koloa, Kaua'i, whose property was located

immediately makai of the Project.

17. Senator Hooser commented on two issues: (a) housing for local people, and (b) traffic. Senator Hooser expressed concerns that the Project would not provide relief to Kaua'i's housing needs for mid-market homes priced between \$250,000 to \$500,000, and that there were currently no homes for rent at almost any price in the Koloa district, particularly for construction workers. Regarding traffic mitigation, Senator Hooser noted that it was essential that the proposed Koloa Western Bypass Road be included as a basic condition of any approvals with respect to this Project. Petitioner responded to these issues at the Commission hearing of July 10, 2003, upon questioning from the Commissioners, with responses summarized as follows:

- a. The Former Petitioner developed Koloa Estates, a 32-lot market residential development with minimum lots of half-acre, underground utilities and sewer. Average sales price for all 32 lots, including two 2-acre lots, was \$149,000. Sales commenced in 1999, and the project was sold out in mid-2001. Koloa Estates was intended for the local market; however, after the project was opened up to the general public, it turned out that 67 percent of the buyers were from the mainland, with very few buyers that actually lived on Kaua'i.
- b. The Kaua'i General Plan designated the Po'ipu-Kukui'ula area as one of three major resort areas. The Koloa-Po'ipu-Kalaheo Development Plan designated this area as a second-home community. Accordingly, the direction of the Project was geared more towards the second-home community. The Former Planned Community attempted to target on-island buyers but given the poor response, the lots within Koloa Estates were ultimately sold to buyers from the mainland.
- c. Affordable housing requirements have been exceeded by the Project. The original condition was for 10 percent affordable housing – the housing provided amounts to 16.4 percent. The County now has a 15 percent requirement but also uses a credit system based on the types of housing provided. Under the County's credit system criteria, the

Project will be providing 28 percent affordable housing.

- d. Petitioner has committed to providing an additional four acres of land to be dedicated to the County, within which an additional 60 affordable housing units can be built.
- e. Petitioner is aware of the issue of housing for construction workers and will be exploring all opportunities to provide housing for construction workers. Local contractors are being asked for suggestions on providing housing. A cooperative effort among the State, County, and the local public and local business community is needed, including a need to get lands appropriately zoned and entitled inexpensively.
- f. Regarding the timing of completion of the Western Bypass Road, Petitioner is prepared to commit to a timetable regarding the construction of the Western Bypass Road from the Project to Koloa Road. Petitioner has already procured the right-of-way from the Project to Koloa Road. Petitioner intends to establish the timing of this road with the County, possibly to be tied to the issuance of a stipulated number of building permits for the Project.
- g. Additionally, Petitioner is working to facilitate the acquisition of the road right-of-way for the northern leg of the Western Bypass Road, from Koloa Road to Maluhia Road. Petitioner is in discussions with the landowners to facilitate engineering and other technical studies that will ultimately lead to acquisition of the right-of-way in order for the County to proceed with the development of the roadway.

18. Stanley E. Erickson commented on four issues: (a) the lack of information provided by the developer, including copies of plans or studies; (b) concern for the development of timeshare on the Property as they will overload the beaches and road; (c) construction of a new restaurant at Kukui`ula Harbor which would destroy the residential character of Lawa`i Road and create unsafe traffic patterns; and (d) the open storm retention drainage ditch along Lawa`i Road which resulted in standing water.

Petitioner and the County responded to these issues upon questioning from the

Commissioners, with responses summarized as follows:

- a. Regarding the lack of information provided by Petitioner, Petitioner met with Mr. Erickson several times and provided him with the same information provided to others at all the public meetings. Petitioner offered to let Mr. Erickson review all of the Project information and to make limited copies of the documents.
- b. Regarding timeshare development, Petitioner cited the ability under the current entitlements to develop up to 700 timeshare units, in addition to a 200-room hotel. The timeshare units now being proposed have been reduced to about 120 units in the same location as the existing entitlements.
- c. The County indicated that timeshares on Kaua'i had become an important part of the County's economy. Kaua'i County was the only county that had a high proportion of timeshares in comparison to hotel rooms, with approximately 4,000 timeshare units and approximately 3,500 hotel rooms. For many on Kaua'i, timeshares did not have a negative connotation since they contributed a steady flow of visitors to the island and maintained a high level of occupancy. Timeshare projects on Kaua'i were usually well done.
- d. Regarding the proposed restaurant at Kukui'ula Bay and traffic on Lawa'i Road, this referred to the possibility of a restaurant makai of the Petition Area in the area of Kukui'ula Bay. Petitioner believed that it would be an appropriate location for a restaurant and would be a benefit to the Project and the community at large. Petitioner has discussed the planned restaurant with the neighbors along Lawa'i Road and will continue to discuss their concerns and the possibility of a compromise solution.
- e. The County indicated that Lawa'i Road was a unique road on Kaua'i because it was a single-loaded road, with development primarily on one side only. On that basis, the traffic was very limited at this point in relation to the amount of development on the road. Alexander & Baldwin, Inc. ("A&B"), has made improvements to Lawa'i Road with sidewalks and curbing.
- f. Regarding the open drainage ditch along Lawa'i Road, Petitioner has

engaged a contractor to control mosquitoes at the drainage ditch along Lawa`i Road. In an effort to reduce standing water in the current grass-lined drainage channel, Petitioner will investigate the possibility of constructing a low flow lined channel within the ditch to remove standing water from this area.

19. Upon completion of the parties' presentations of their respective cases, a motion was made and seconded to grant Petitioner's Motion For Order To Amend. Following discussion by the Commissioners, a vote was taken on this motion. There being a vote tally of 6 ayes, 0 nays, 1 recused, and 2 absent, the motion carried.¹

DESCRIPTION OF PETITION AREA

20. The Petition Area is located in the Koloa District on the southern coast of the island of Kaua`i and consists of approximately 783.676 acres, identified as Tax Map Key Nos: 2-6-03: por. 1, 21, por. 31, and por. 32; 2-6-04: por. 38 and por. 45; and 2-6-15: por. 1.

21. The Petition Area is bordered on the east by Po`ipu Road, private residences, and Koloa School; on the southeast by a 219-acre parcel in the Urban District; on the southwest by Lawa`i Road and the National Tropical Botanical Garden Visitor Center; on the west by Lawa`i Valley and the National Tropical Botanical Garden; and on the north by agricultural areas.

22. The Petition Area is situated approximately two miles south of Koloa Town and approximately four miles from Po`ipu. The Petition Area is contiguous to the Urban and Agricultural Districts to the east; the Urban, Conservation, and

¹ By the same vote tally, the Commission also granted Petitioner's Motion For Order Permitting.

Agricultural Districts to south; and the Conservation and Agricultural Districts to the west and north, respectively.

23. The Petition Area, previously in sugarcane cultivation or used as pasture lands, is mostly vacant, except for small areas of cultivated lands, a private WWTP within the eastern portion, and a temporary small commercial operation near Kukui`ula Bay. The remainder of the Petition Area is predominantly vegetated with a mix of weedy species, open mixed scrub, and a variety of grasses.

24. The *Soil Survey of Islands of Kaua`i, O`ahu, Maui, Moloka`i, and Lana`i, State of Hawai`i*, conducted by the U.S. Department of Agriculture, Soil Conservation Service, August 1972, determined that there are many different types of soils on the Petition Area. The major portion of the Class A and Prime Agricultural Lands have Lihu`e (LhB, LhC, LhD) and Makaweli (MgB, MgC) soils, with small pockets of Koloa (KvB, KvC), Puhi (PnD, PnE), Iole`au (IoE2, IoD2), and Nonopahu (NnC). The Lihu`e and Makaweli soils consist of well drained soils on gently sloping uplands. Permeability is moderately rapid. Runoff is slow, and the erosion hazard is slight. On Lihu`e soils with 15 to 25 percent slopes, runoff is medium, and the erosion hazard is moderate.

25. On the Koloa side of the Petition Area, the soils are Waikomo (Ws, Wt) series. The Waikomo stony silty clay (Ws) is on low uplands with a surface layer of stony silty clay approximately 14 inches thick. Permeability is moderate, runoff is slow, and the erosion hazard is slight. The Waikomo very rocky silty clay (Wt) has more

rocky outcrops on the surface but is similar in character.

26. The elevation of the Petition Area ranges from approximately 5 feet above mean sea level ("msl") at Kukui`ula Bay to approximately 325 feet above msl at the mauka Property line. Slopes on the Petition Area range from 0 to 6 percent, with a few small areas having slopes of 6 to 25 percent or greater.

27. The Koloa area has a mild semitropical climate that is dominated by the northeast tradewinds, which blow approximately 80 percent of the time. The Koloa area has a median annual rainfall of approximately 44 inches.

28. The average daily temperature of the Koloa-Po`ipu area at the 50-foot elevation ranges from 72 to 79 degrees Fahrenheit. The average temperature drops 3 degrees for each 1,000-foot increase in elevation.

29. Based on the Flood Insurance Rate Map ("FIRM") prepared by the Federal Emergency Management Agency ("FEMA"), the southern portion of the Petition Area near Lawa`i Road is designated Zone "AE," "Special flood hazard areas inundated by 100-year flood with base flood elevations determined." The base flood elevations for the "AE" zone within the Petition Area range from 13 feet to 16 feet msl. A portion of the Petition Area just north of the "AE" zone is designated Zone "X," "Areas of 500-year flood, areas of 100-year flood with average depths of less than 1 foot or with drainage areas less than 1 square mile; and areas protected by levees from 100-year flood."

30. Petitioner, A&B, and McBryde Sugar Company, Limited ("McBryde"), a wholly owned subsidiary of A&B, are the fee simple owners of the

Petition Area.

31. McBryde and A&B have authorized Petitioner to submit the Motion For Order To Amend as set forth in their consent letter dated January 17, 2003.

PROPOSAL FOR RECLASSIFICATION

32. Petitioner proposes to develop the Property (Increments I, II, and the adjoining 219-acre urban parcel) as an integrated development. The land uses proposed for the Project include 1,500 residential units, including an approximately 64-room resort hotel, an 18-hole golf course, clubhouse, 14 acres of commercial uses, recreational facilities, school expansion, parks and open space, along with land for 60 additional affordable housing units. The development plan proposes a significant reduction in Project density of over 50 percent from the Former Planned Community.

33. The Project is envisioned to be one of Hawai'i's premier resort-residential communities. The major Project components are described as follows:

a. Residential: Approximately 1,436 residential units are currently proposed for the Project, which will include a range of both custom lots and built homes, including single-family detached and attached units and multi-family units.

b. Resort Hotel: The resort hotel, currently envisioned at approximately 64 rooms, will be located mauka of Kukui'ula Bay within the Project's resort core. The hotel is expected to complement, rather than compete with, the existing larger hotels and timeshare projects located in the Po'ipu region. Additionally, supplemental hotel accommodations may be available from the approximately 123

nearby residential units adjacent to the hotel. The resort core has been shifted toward the east to take advantage of the southwestern exposure over Kukui`ula Bay, Spouting Horn and the southern coastline.

c. Golf Course: The 18-hole, 207-acre golf course is an integral component of the initial development phase of the Project. Designed by Tom Weiskopf, an in-depth onsite analysis was undertaken of the Property's topographic features, view planes, and climatic conditions. The golf course design will minimize site grading and land disturbance and will offer scenic vistas of the coastal and mountain areas, as well as provide significant open space throughout the Project. The golf course will also serve as an important feature of the Project's storm drainage system.

d. Parks and Recreational Facilities: Unlike the Former Planned Community that provided for smaller parks at various locations, the current plan includes one large approximately 20-acre multi-use community park for use by the general public to accommodate a variety of sporting and recreational activities. An adjacent archaeological/biological preserve of approximately 16.2 acres will provide additional passive open space. A private recreational facility of approximately 7.5 acres located within the southeast portion of the Project will be provided for the Project's residents and guests.

e. Public Trail System: A primary component of the Project will be its comprehensive hiking and biking trail system that will run throughout the Project and be open to the general public. This trail system will not only provide separate non-

vehicular access connectivity throughout the Project but will also provide a public regional connection from Koloa Town and the surrounding Po'ipu area to the shoreline west of Po'ipu Road.

f. Commercial: A commercial area of approximately 14 acres is planned for the area near the intersection of Po'ipu Road/Lawa'i Road and the proposed Western Bypass Road. The ultimate use of the 14 acres, however, will be subject to market conditions as the Project is developed.

34. Petitioner has complied with the affordable housing requirements of the Commission's Docket No. A85-589 and the County affecting the 1,738 residential units originally approved under County zoning for the 219-acre urban parcel. To date, the Project has provided a total of 176 affordable housing units in two projects on Kaua'i. In addition, Petitioner is working with the County to provide additional affordable housing by setting aside approximately 4 acres adjacent to the existing Pa'anau rental project for future dedication to the County, along with provision of sewer hook-up. In October 2002, the County Housing Agency ("Housing Agency") concurred with the affordable housing proposal submitted for the Project and indicated that the Project will have fulfilled all affordable housing requirements pursuant to the current policy. In November 2002, the Housing Agency indicated that the Project has provided, assisted, and will assist in the production of 246 affordable housing units, representing 16.4 percent of the maximum total units proposed for the Project. With the Housing Agency's current policy of recommending that 15 percent of the units

proposed by residential and resort developers be affordable housing, the Agency has indicated that the Project will have fulfilled these current credit system requirements.

35. An accelerated development timetable has been established for the Project. The Project's infrastructure is expected to be substantially completed within a 7- to 8-year timeframe following receipt of final Project approvals. Lot sales and construction of homes are expected to begin in 2006.

36. Construction and marketing of the residential units will proceed in phases, generally from east to west across the Property.

37. The total cost of the Project at full buildout is estimated at \$2 billion (in 2002 dollars) as follows:

| | |
|-------------------------------------|------------------------|
| Professional Services: | \$ 313,000,000 |
| Golf Course, Clubhouse, Recreation: | \$ 72,000,000 |
| Infrastructure: | \$ 108,000,000 |
| Hotel, Residential & Commercial: | \$1,224,000,000 |
| Other: | <u>\$ 288,000,000</u> |
| TOTAL COSTS | <u>\$2,005,000,000</u> |

FINANCIAL CAPACITY TO UNDERTAKE THE PROPOSED DEVELOPMENT

38. DMB Kukui`Ula, LLC, is a subsidiary of DMB Realco II, LLC. The unaudited consolidated financial statements of DMB Realco II, LLC, as of December 31, 2002, reflect total assets of \$277,608,490, total liabilities of \$74,784,351, and members equity of \$187,188,069.

A&B is a member of KDC, LLC. The audited consolidated financial statements of A&B, for the year ended December 31, 2002, reflect total assets of \$1,597,569,000, total current and long-term liabilities of \$873,921,000, and total shareholders equity of \$723,648,000.

39. Petitioner is planning to finance the Project through internally generated funds from its members.

STATE AND COUNTY PLANS AND PROGRAMS

40. Approximately 576 acres of the Petition Area are classified in the State Land Use Urban District, with the remaining approximately 208 acres incrementally reclassified pursuant to section 15-15-78, HAR.

41. Under the State Land Use District Boundary Review conducted in 1992 by OP pursuant to section 205-18, HRS, OP recommended the reclassification of the majority of the Petition Area from the Agricultural District to the Urban District.

42. The County's Kaua'i General Plan designates the Petition Area as "Resort," "Residential Community," and "Open." The remainder of the Property is designated "Resort," "Residential Community," and "Open."

43. The Petition Area is zoned Agriculture District (A), Open District (O), Resort District (RR-20), Residential District (R-4, R-6, R-10, and R-20), General Commercial District (CG), R-1 Special Treatment District – Public Facilities (ST-P), and R-4 Special Treatment District – Public Facilities (ST-P) by the County. A portion of the Petition Area is designated Visitor Destination Area ("VDA") by the County, which

allows timeshare use.

44. A portion of the Property around Kukui`ula Bay, including the areas near the shoreline from Kukui`ula Bay to Lawa`i Bay, are within the Special Management Area ("SMA"), and subject to the County SMA Rules and Regulations.

NEED FOR THE PROPOSED DEVELOPMENT

Residential Market

45. A "Market Assessment" was prepared by Robert Charles Lesser & Co., LLC, in March 2003 for the Project. Recent trends suggest strong demand potential for the Project's proposed residential units. Building upon the sales momentum of high-end resorts across the State, the Project is well poised to capture a significant share of the demand for luxury living on Kaua`i. The relatively recent development of several ultra-luxury resorts along the Kona-Kohala coast on the island of Hawai`i, such as Hualalai, Hokuli`a, and Kuki`o, have established Hawai`i as a prime vacation destination.

46. The State's resort-residential market has boomed in the last decade, fueled by a growing demand for second or vacation homes. Annual sales volume of resort real estate (attached, detached, and custom lots) in the State doubled from approximately 400 units in 1997 to over 800 units in 2002. Sales occurred at resorts along the Kona-Kohala region on the island of Hawai`i, the Wailea, Ka`anapali and Kapalua resorts on Maui, and the Princeville Resort on Kaua`i. During this six-year period, resorts have averaged 725 sales per year.

47. Demographic trends continue to point toward a growing pool of

potential demand from source markets in the western U.S. states. Residential development at the Project will offer unique and high-quality product with designs, features, and amenities not available in the market.

Golf Course Market

48. The proposed 18-hole Tom Weiskopf-designed golf course at the Project will be available for Project residents and guests, in addition to providing kama`aina tee times and rates for local residents.

49. The golf course is seen to be a key amenity to the success of the Project as it will serve to support real estate sales and values, provide open space and view corridors, and offer a recreational amenity.

50. During the past few years, resorts in Hawai`i have begun development of only three golf courses, all of which are private membership-based courses. In the summer of 2002, Hualalai on the island of Hawai`i opened the first nine holes of its Tom Weiskopf-designed golf course (the second course for Hualalai), and Hokuli`a opened all 18 holes of its Jack Nicklaus-designed golf course. Kuki`o's Tom Fazio-designed golf course is scheduled for a 2003 opening.

Commercial Space

51. Uses within the approximately 14-acre site could include retail, restaurants, residential, and other permitted uses allowed under the County zoning. The commercial uses are intended to complement, rather than compete with, the existing commercial establishments in the community. The ultimate use of the 14 acres,

however, will be subject to market conditions as the Project is developed.

Visitor Accommodation Market

52. The planned visitor accommodations at the Project include a resort hotel of approximately 64 rooms. The hotel is expected to complement, rather than compete with, the existing larger hotels and timeshare projects located in the Po'ipu region and will provide its guests with the highest level of service. Additionally, supplemental hotel accommodations may be available from the approximately 123 nearby residential units adjacent to the hotel.

ECONOMIC IMPACTS

53. An "Economic and Fiscal Impact Assessment" study for the Project was prepared by Mikiko Corporation in March 2003. During development, the Project is projected to directly generate as many as 830 full-time equivalent ("FTE") Hawai'i-based jobs in an average year, with most occurring in the 2006 to 2010 period when development could be at its peak. Direct, indirect, and induced employment is expected to average approximately 1,700 FTE development-related jobs per year through 2020 within the State.

54. During the operational phase, the Project is expected to directly support up to 560 long-term permanent jobs, the majority of which will be located onsite. Total direct, indirect, and induced operational employment is anticipated to support up to 970 permanent positions Statewide by 2020.

55. Direct annual visitor expenditures, net of kama`aina expenditures, are expected to generate an estimated \$22.4 million per year by 2010, and increase to about \$35 million per year by 2020 and beyond in 2002 dollars. Including the indirect and induced multiplier applied to these direct expenditures, the Project is estimated to generate nearly \$60 million per year in total Statewide visitor expenditures by 2020 and beyond in 2002 dollars.

56. County government revenues would be primarily from new real property taxes generated by the Project. Additional revenue sources would include fuel, utility, motor vehicle, and other non-grant taxes. Government expenditures include public safety facilities, maintenance of highways, recreational facilities, health and sanitation measures, special cash capital improvements, education, retirement and pension funds, public welfare, and other government functions. The net additional operating revenues to the County could represent approximately \$5.2 million per year by 2020, resulting in approximately 4.4 times the new government operating expenditures required to support the additional population expected to be attracted to Kaua`i by the Project.

57. State revenues would be primarily derived from excise taxes on construction and visitor expenditures, personal income taxes paid by new State residents, and the general excise taxes on sales revenues attributable to visitors of the Project. The net additional State revenues are projected to amount to approximately \$6.7 million per year by 2020. New revenues to the State government could represent

approximately 2.7 times new State government operating expenditures.

SOCIAL IMPACTS

58. The number of residents to be generated by the Project is approximately 3,400 persons at full buildout. However, due to the resort residential nature of the Project, the majority of these homeowners are anticipated to be part-time residents of the Project.

59. The expected average daily visitor population of the Project is approximately 260 visitors by the year 2020.

60. Petitioner has conducted numerous community meetings since July 2002 with various community businesses, organizations, and individuals within the Koloa-Po'ipu area to solicit input on the Project. These included meetings with the Koloa Community Association Board Members, Koloa Community Association General Membership, South Shore Property Owners and Residents of Kaua'i, Lawa'i Beach Road-Po'ipu Road residents, Koloa-Po'ipu area sports organizations, Po'ipu Beach Resort Association, Kaua'i Chamber of Commerce Board of Directors, Kaua'i Visitors Bureau Board Members, Kiwanis, Po'ipu Rotary Club, West Kaua'i Rotary Club, Kaua'i Economic Development Board's Executive Committee, Kaua'i Contractors Association, Kaua'i Board of Realtors, and the Filipino Chamber of Commerce. The current plan incorporates various elements based on feedback obtained through these meetings.

61. The development and operation of the Project will provide

numerous social benefits to the community including economic, recreational, educational, affordable housing, and infrastructure improvements.

IMPACTS UPON RESOURCES OF THE AREA

Agricultural Resources

62. The Agricultural Lands of Importance to the State of Hawai'i system classifies approximately half of the Petition Area as "Prime" agricultural lands. The remaining half of the Petition Area consists of "other" important agricultural lands and lands of no agricultural importance.

63. The Land Study Bureau "Detailed Land Classification for the Island of Kaua'i," 1967, classifies the Petition Area into four categories: A, B, D, and E. The A rated soils, which are considered to have the best conditions for agricultural productivity, cover approximately two-fifths of the Petition Area. The B rated soils cover about two-fifths of the Petition Area and are considered to have good attributes for agricultural productivity. The remaining one-fifth of the Petition Area is rated D and E, which indicate poor potential for productive agricultural uses.

64. McBryde previously cultivated 7,300 acres of sugarcane including approximately 480 acres located within the Petition Area. McBryde ceased doing business as a sugar plantation to concentrate on the business of growing coffee and other diversified crops. The 480 acres were still in sugarcane cultivation when the termination of the sugar plantation operation was announced in 1995. Sugarcane cultivation on the 480 acres ceased in 1996 with McBryde's closure of its sugar

plantation operation.

65. From the initial announcement of the impending closure of sugar operations in 1995 to the eventual closing of the plantation in December 1996, McBryde embarked on a comprehensive program to assist sugar workers who would be displaced from their jobs. All International Longshoremen's and Warehousemen's Union Local 142 benefits, including medical, dental, pension, and retiree medical coverage, were continued until the closure of operations. Housing benefits at Numila Camp were offered to active employees who retired prior to the closing of operations. In addition, supplemental and relocation allowances were provided. A Transition Coordinator's Office was established immediately after the closure announcement to provide job counseling, assist with resume preparation, publicize employment opportunities, and coordinate job training programs and classes. Employees were reimbursed for financial aid for education and training up to \$2,500. As of December 1996, of 190 plantation employees who lost their jobs, 86 displaced workers (45 percent) found or were placed in full-time, part-time or seasonal jobs, while another 48 (25 percent) chose to retire. The 227-acre McBryde Agriculture Park was conceived and developed to provide farming opportunities to displaced sugar workers wherein 14 former employees eventually signed license agreements for the 10-acre plots.

66. On an interim basis, three agricultural tenants lease a total of approximately 50 acres within the Property. Prior to commencing their operations, these tenants were advised of the pending Project and the short-term nature of their

tenancy at the Property. Outside of the Property, these three tenants collectively farm an additional approximately 646 acres of land in other areas of Kaua'i.

Flora

67. A botanical survey was conducted by Char & Associates in December 2001 to inventory and assess the botanical resources on the Property and to update the March 1988 botanical survey conducted for the Former Planned Community. None of the plants found during the survey are listed as threatened and endangered species or species of concern.

68. Sugarcane cultivation on the Property ceased in 1996 and most of the former sugarcane lands now support Guinea grass (*Panicum maximum*). The Property also supports a number of woody shrub species, including koa haole (*Leucaena leucocephala*), Christmas berry (*Schinus terebinthifolius*), castor bean (*Ricinus communis*), kolomona (*Senna surattensis*), and indigo (*Indigofera suffruticosa*). Grasses and herbaceous species are locally abundant in places, including partridge pea (*Chamaecrista nictitans*), swollen fingergrass (*Chloris barbata*), sourgrass (*Digitaria insularis*), Natal redtop (*Melinis repens*), and golden crown-beard (*Verbesina encelioides*).

69. Native species within the Property include 'akulikuli (*Sesuvium portulacastrum*), kipukai (*Heliotropium curassavicum*), koali 'awa (*Ipomoea indica*), naupaka kahakai (*Scaevola sericea*), hau (*Hibiscus tiliaceus*), 'ilima (*Sida fallax*), milo (*Thespesia populnea*), 'ala'ala wai nui (*Peperomia blanda* var. *floribunda*), 'ilie'e (*Plumbago zeylanica*), popolo (*Solanum americanum*), 'uhaloa (*Waltheria indica*), pohuehue (*Ipomoea*

pes-caprae), pa'uohi'iaka (*Jacquemontia ovalifolia* ssp. *Sandwicensis*), and 'akia (*Wikstroemia uva-ursi*). The latter two are endemic and the others are indigenous.

70. At the time of the survey, areas of recently cultivated fields, including papaya trees (*Carica papaya*) and hybrid corn (*Zea mays*), were observed.

71. The scrub pasture lands located within the eastern portion of the Property include an abundance of hedge cactus (*Cereus uruguayanus*). A pond area previously observed during the 1988 survey near the proposed 16.2-acre archaeological/biological preserve within the southeast portion of the Property is now dominated by California grass (*Brachiaria mutica*). The pond, which previously received runoff water from the sugarcane fields, is now dry and overgrown with Guinea grass and other weedy species.

72. The northern portion of the Property consists of mixed grass lands with scattered trees of Java plum (*Syzygium cumini*) and ironwood (*Casuarina equisetifolia*). The coastal scrub vegetation remains much the same as in the 1988 survey, although the pencil plant (*Euphorbia tirucalli*) has increased in numbers.

73. No wetlands or wetland vegetation were found during the survey.

Vertebrate Fauna

74. No part of the Property is identified as a major waterbird habitat by the United States Fish and Wildlife Service ("USFWS") in the 1985 Hawaiian Waterbirds Recovery Plan. There are no "natural" wetlands on the Property for waterbird habitat.

75. An ornithological and terrestrial mammalian survey was conducted

by Rana Productions, Ltd., in January 2002. The survey also updated two previous faunal surveys conducted for the Former Planned Community in March 1988 and November 1998.

76. A total of at least six endangered Hawaiian hoary bats were observed in the immediate vicinity of the Property during the survey. The Hawaiian hoary bat is regularly seen in and around Po'ipu, as well as most of the lowland areas on Kaua'i. Unlike nocturnally flying seabirds, bats are uniquely adapted to avoid collision with obstacles, man-made or natural. They navigate and locate their prey by using ultrasonic echolocation, which is sensitive enough to allow them to locate and capture small volant insects at night.

77. Other mammalian species observed within the Property included cats (*Felis catus*), domestic dog (*Canis f. familiaris*), pig (*Sus scrofa*), and horse (*Equus caballus*).

78. Twenty-six avian species representing 17 separate families were recorded during the survey. Three of the species included the Common Moorhen (*Gallinula chloropus sandvicensis*), Hawaiian Coot (*Fulica alai*), and Hawaiian Stilt (*Himantopus mexicanus knudseni*). These are listed as endangered species or sub-species under the Endangered Species Act of 1973, as amended, and by the State under its endangered species program. Currently, there is no suitable nesting habitat within the Property for any of these three waterbird species.

79. The three endangered waterbird species (the Common Moorhen,

Hawaiian Coot, and Hawaiian Stilt) observed within the Property were seen within the Project's WWTP. In addition, a Hawaiian Stilt was observed foraging within the detention basin located immediately mauka of Kukui'ula Bay. Any additional ponds that may be constructed at the WWTP will increase usable habitat for all three endangered waterbird species. The construction of water features within the Project's golf course will also increase habitat for these species. Currently, there is no suitable nesting habitat within the Property for any of the three waterbird species. Where feasible, water features developed within the Project's golf course will be constructed with islands so as to provide potential waterbird nesting habitat. It is likely that should more ponds be constructed at the Project's WWTP and water features be constructed within the golf course, the presence of the three listed waterbird species within the Property will increase. It is also likely that the additional water features and golf course greens will attract two other endangered endemic waterbird species – the Hawaiian Duck (*Anas wyvilliana*) and Nene (*Branta sandvicensis*).

80. Due to the time of year that the current survey was conducted, the three seabirds known from the general area that would ordinarily be expected between June and October were not detected. During the November 1998 survey conducted for the Former Planned Community, numerous Wedge-tailed Shearwaters (*Puffinus pacificus*) were recorded, in association with an extensive number of nesting burrows along the cliff line south of Lawa'i Road on the southwestern portion of the Property. During the current survey, the burrows were observed, but the birds were absent. Also,

the endangered endemic Hawaiian subspecies of the Dark-rumped Petrel (*Pterodroma phaeopygia sandwichensis*) and the threatened endemic sub-species of the Newell's Shearwater (*Puffinus auricularis newelli*) were not detected overflying the Property. Both species have been well-documented crossing the northern, eastern, and southern coastline of Kaua'i in relatively large numbers during the breeding season. Therefore, it is reasonable to assume that numbers of both species overfly the Property during the breeding season. In addition to the nesting colony of Wedge-tailed Shearwaters along the sea cliffs on the southwestern edge of the Property, there is also the possibility of some birds nesting beneath the rock wall on the north side of Lawai Road, just upslope from the sea cliff colony. There are no known nesting colonies, or appropriate nesting habitat, for either the endangered Dark-rumped Petrel or the threatened Newell's Shearwater on the Property.

81. All of the aforementioned seabird species, especially fledging birds, can become disoriented by exterior lighting on their way to sea in the Fall. The Newell's Shearwater migratory seabirds nest during the spring and summer months in the interior mountains on Kaua'i. Young shearwaters leaving their nests in October and November for the first time fly downslope to the ocean orienting by the moon or stars. If they encounter artificial light associated with urban areas, they become blinded or disoriented and collide with buildings, trees, or utility poles. This can lead directly or indirectly to death by starvation or predation.

82. The primary potential impact that the Project poses to the two listed

seabird species is the increased threat that individual birds will be downed after becoming disoriented by new exterior lighting that will be required in conjunction with the Project. To reduce the possibility that the nocturnally-flying Dark-rumped Petrels, Newell's Shearwaters, and Wedge-tailed Shearwaters may become disoriented by the Project's external lights and man-made structures, all external lighting within the Project will be shielded.

83. Potential impacts to the Wedge-tailed Shearwaters include the increased risk of downing due to disorientation by increased outdoor lighting in the area, but more serious is the potential risk posed by disturbance to the nesting colony either by direct physical encroachment or damage to the burrows and a potential increase in predation by domestic predators such as cats and dogs, which may increase in the area following buildout of the Project. To reduce disturbance and conserve the Wedge-tailed Shearwater breeding colony(ies), the colony will be surveyed and mapped, and access into the colony will be limited. Any landscape modifications planned in proximity to the colony will be avoided during the breeding season, which is typically between March and November, with most of the activity occurring between April and October.

Invertebrate Fauna

84. Two endemic Hawaiian cave arthropods, the Kaua'i cave wolf spider (*Adelocosa anops*) and the Kaua'i cave amphipod (*Spelaeorchestia koloana*), are currently known to live in the lava formations in the Koloa area, including certain lava

tube caves within the eastern portion of the Property.

85. These endemic arthropods are unique, and they are found only on Kaua`i in the particular location of the Koloa area. The Kaua`i cave wolf spider is known to inhabit two localities - two lava tubes, or caves, within the eastern portion of the Property, and two lava tubes, or caves, on the Kiahuna property (off the Property). In addition, the Kaua`i cave amphipod is known to exist in the limestone cave in the Mahaulepu area.

The Kaua`i cave wolf spider is a restricted and isolated population. The species also reproduces young in much fewer numbers than its surface counterpart, the hunting spider, and its young remain in the caves and do not migrate by "ballooning." Thus, if the present Kaua`i cave wolf spider population is reduced, its capacity to expand and recover will be limited.

86. The Kaua`i cave wolf spider has completely lost its eyes in adapting to its underground habitat. The Kaua`i cave amphipod is a natural prey for the Kaua`i cave wolf spider, and they have evolved as a predator/prey system for millions of years.

87. The Project could pose a threat to the Kaua`i cave wolf spider and the Kaua`i cave amphipod if construction and development of the ground above and about their cave habitat significantly impact the underground ecosystem. The underground habitat could be adversely impacted by the movement of heavy construction equipment, which could collapse the lava tubes. Grading the surface could remove the perennial vegetation, trees and shrubs, which would cause the vegetation

roots to die. The roots entering the subterranean cave system provide the nutrient resource for the entire cave ecosystem as the Kaua`i cave amphipod feeds on the vegetation roots and the Kaua`i cave wolf spider feeds on the amphipod.

88. The Kaua`i cave wolf spider and Kaua`i cave amphipod require complete darkness, high moisture, and no air movement to survive. These conditions exist at the far ends of the lava tubes but do not exist at the lava tube entrances.

89. The lava tubes are the primary habitat for the Kaua`i cave wolf spider and the Kaua`i cave amphipod. Both species also can reside in the cracks that irradiate away from the main lava tube, which can be several meters away from the main lava tube.

90. The Kaua`i cave wolf spider and the Kaua`i cave amphipod were listed as endangered species under the Endangered Species Act by the USFWS in January 2000.

91. On September 27, 1995, a Cooperative Agreement between the Former Petitioner and the USFWS, Region 1, was entered into for the purpose of restoring and protecting the subterranean habitats of the Kaua`i cave wolf spider and the Kaua`i cave amphipod. Under the terms of the Cooperative Agreement, the USFWS completed an initial biological survey of the cave system and continues to monitor the caves on a periodic basis. Protective grating to secure the cave entrances has been installed to limit access to the cave system pursuant to the conditions of the Cooperative Agreement.

92. In October 2002, Petitioner commissioned Dr. Francis G. Howarth of the Hawai'i Biological Survey of the Bishop Museum to conduct a biological survey to determine the extent of the habitat of the Kaua'i cave wolf spider and the Kaua'i cave amphipod within the eastern portion of the Property. This resulted in the proposed designation of three biological preserves totaling approximately 34 acres within the Property as follows (the caves are identified by the corresponding State archaeological site numbers):

a. Biological Preserve (Koloa Cave #1, also known as Cave Site #3075A, and Koloa Cave #2, also known as Cave Site #1914, and Cave Sites #3179, #3075B, and #3075C): This approximately 16.2-acre preserve is located within the northeast portion of the Property and was enlarged and reconfigured to provide a minimum 150- to 200-foot buffer from the footprint of Koloa Cave #2. The southern boundary was extended southward to include two additional caves (Cave Sites #3075B and #3075C), with 50-foot buffers beyond their footprints. The proposed community park along the eastern boundary of the Preserve will provide an appropriate buffer.

b. Biological Preserve (Cave Site #1927): Located within the central-eastern portion of the Property, this approximately 1.2-acre Preserve was expanded at the upslope (northern) portion to provide additional habitat and buffer around the footprint of Cave Site #1927C. Specifically, the eastern, northern, and western boundaries near Cave Site #1927C have been extended to near the edge of the relatively undisturbed lava surface. The southern portion of the Preserve will border a golf course

fairway, which will serve as a buffer.

c. Biological Preserve (adjacent to and mauka of the Prince Kuhio Park): Located within the southeast portion of the Property, adjacent to and mauka of the Prince Kuhio Park, this approximately 16.2-acre Preserve represents additional protected critical habitat for the Kaua'i cave wolf spider and the Kaua'i cave amphipod. Although there are no caves known to exist within the Preserve, the Preserve is underlain by the same lava flow that contains the occupied caves. There are also areas of exposed lava on the surface, which indicates the presence of potential habitat.

93. A Biological Management Plan ("Management Plan") was prepared in March 2003 by Dr. Francis G. Howarth. The Management Plan delimits critical habitat for populations of the Kaua'i cave wolf spider and the Kaua'i cave amphipod and provides management recommendations for the protection of the populations of these species by designating the three permanently preserved and managed biological preserves within the Property. Petitioner is also currently working with the USFWS to modify the Cooperative Agreement to permanently protect these preserve areas. The protection of these preserve areas will be accomplished by recording a conservation easement to permanently preclude any future development within the biological preserves and modifying the Cooperative Agreement to permanently protect these preserve areas.

94. The goal of the Management Plan is to reduce threats that affect the Kaua'i cave wolf spider and the Kaua'i cave amphipod, stabilize their populations, and

maintain their ecosystem in the long term. The long-range goal is the recovery of the Kaua'i cave wolf spider and the Kaua'i cave amphipod and the eventual removal of these species from the Endangered Species List.

Since there are few relevant studies on restoration of cave preserves, the proposed Management Plan is adaptive, changing as the results of monitoring and research become available. This "management-by-research" strategy relies on experimentally modifying the surface and cave environments in three caves (Cave Sites #3179, #3075B and #3075C) that do not currently support the Kaua'i cave wolf spider and the Kaua'i cave amphipod. These caves provide the opportunity to experiment with possible protocols in order to find appropriate strategies for managing the biologically important Preserve caves (Koloa Caves #1 and #2 and Cave Site #1927C). The development and implementation of the Management Plan within the Preserve adjacent to and mauka of the Prince Kuhio Park will occur over time as the results of the research program in the other Preserves become available.

95. The USFWS issued its final rule (amending part 17, sub-chapter B of Chapter I, Title 50 of the Code of Federal Regulations, effective May 9, 2003) designating critical habitat for the Kaua'i cave wolf spider and the Kaua'i cave amphipod. The final rule encompasses the three biological preserve areas within the Property. The Pacific Islands Fish and Wildlife Office of the USFWS, in a letter dated May 2, 2003, commented that the Project, including the designation and management of the three biological preserve areas, is consistent with the conservation of the endangered cave species and is

not likely to adversely affect critical habitat.

Archaeological Resources

96. An archaeological inventory survey was performed on portions of the Property and a report was prepared in June 1988, which was reviewed and accepted by the State Department of Land and Natural Resources Historic Preservation Division ("SHPD").

97. The survey identified 58 sites, of which four were found within cultivated land area and the remaining 54 on non-cultivated land area. The sites included heiaus, agricultural complexes, habitation sites, burials in caves, lava tube caves, and historic sites.

98. Additional data recovery and preservation work has been undertaken on various portions of the Property:

a. Archaeological data recovery work for the 219-acre Urban parcel has been completed. The findings are detailed in the report *Archaeological Data Recovery Report for the Kukui`ula Planned Community, Phase I* dated June 1998 and accepted by the SHPD on January 8, 1999.

b. Data recovery work for the "Kukui`ula Bay Planned Community Phase II" (Koloa Estates residential subdivision) has been completed. The findings are detailed in the report *Archaeological Data Recovery Report for Kukui`ula Bay Planned Community, Phase II* dated August 1999 and accepted by the SHPD on May 19, 2000.

c. A Data Recovery Plan which addresses five archaeological sites located within the eastern portion of the Property was accepted by the SHPD on February 8, 2001. Data recovery fieldwork has commenced pursuant to the accepted data recovery plan.

d. Four preservation plans have been prepared and accepted by the SHPD. These plans include: *Preservation Plan for Archaeological Sites 50-30-10-1903 and 50-30-10-1904* dated December 2000 and accepted by the SHPD on January 18, 2001, *Preservation Plan for Six Archaeological Sites 50-30-10-1912 to 50-30-10-1914, 50-30-10-1917, 50-30-10-3075 (A, B, C) and 50-30-10-3179* dated October 2001 and accepted by the SHPD on November 5, 2001, *Preservation and Burial Treatment Plan for Archaeological Site 50-30-10-1927* dated October 2001 and accepted by the Kaua'i/Ni'ihau Islands Burial Council and the SHPD on May 7, 2002, and *A Long-Term Preservation Plan for an Approximately 16-Acre Archaeological Preserve in Kukui`Ula* dated January 2003 and accepted by the SHPD on February 3, 2003. Implementation of these preservation plans will occur prior to any construction activity affecting these sites.

99. Based on the preservation plans, a total of five archaeological preserves consisting of approximately 36 acres will be provided throughout the Project for the preservation of the 16 archaeological sites.

100. A large archaeological/biological preserve consisting of approximately 16.2 acres is located within the southeastern portion of the Project, mauka and adjacent to the Prince Kuhio Park. Seven archaeological sites will be

preserved within this area. The Royal Order of Kamehameha I, Kaumuali'i Chapter 3, has agreed to become kahu (steward and caretaker) of the planned preserve. Public access within the preserve will be provided and appropriately configured to allow viewing of the archaeological sites. Interpretive signs featuring information about the preserve and the archaeological sites will be appropriately located within the preserve.

101. Another large archaeological/biological preserve of approximately 16.2 acres located within the northeastern portion of the Project will include the preservation of six archaeological sites.

102. Two smaller archaeological preserves totaling approximately 2.2 acres located in the northwestern portion of the Project will include two separate archaeological sites (possible heiau). The remaining archaeological/biological preserve of approximately 1.2 acres located in the central portion of the Project will include one archaeological site (including human remains).

103. The two large preserves and the smaller approximately 1.2-acre preserve will also serve as biological preserves for the preservation and protection of the endangered Kaua'i cave wolf spider and Kaua'i cave amphipod.

104. A cultural impact assessment was conducted by Cultural Surveys Hawaii in December 2002 to assess the potential impacts of the Project on native Hawaiian cultural resources, practices, and beliefs. The assessment also included a regional perspective of the Koloa and Lawai ahupua'a of which the Property is a part.

105. By the 18th century, the Property comprised the western extent of an

intricate network of taro lo'i, 'auwai, and associated habitation sites that stretched across the makai floor of the Koloa ahupua'a, known as the Koloa field system.

106. Nineteenth century documents show that remnants of the traditional Hawaiian settlement pattern survived the first seven decades of western contact.

107. By the beginning of the 20th century, western commercial entrepreneurial interests had transformed the landscape of the Property into an expanse of sugarcane fields and cattle pastures and dispersed any remaining native residents.

108. Forest areas miles inland from the Property would have been utilized for a variety of purposes, especially gathering of timber, avian resources, medicinal plants, and famine food resources. Presently, the mauka portions of the Lawa'i and Koloa ahupua'a are in the forest reserve. It is probable that botanical resources traditionally used in Hawaiian culture still exist in these forest areas, which unlike the present Property, were never subject to commercial agriculture.

109. In the makai areas of the Lawa'i and Koloa ahupua'a, fishing and marine resource gathering practices continue to occur along the coastal areas, as have been documented in the past. Public access to coastal areas makai of the Property is from Lawa'i Road. Access to the shoreline will be enhanced via a trail system throughout the Project that will also provide a public regional connection from Koloa Town and the surrounding Po'ipu area to the shoreline west of Po'ipu Road.

110. At present, no contemporary or continuing cultural practices occur

within the Property. Historic sites related to traditional Hawaiian habitation and agriculture and a Hawaiian burial site have been recorded during archaeological investigations of the Property. Additionally, three heiau or possible heiau sites have been identified within the Property. Preservation and burial treatment plans have been prepared that mandate the protection and preservation of the heiau and burial sites and the examples of the habitation and agricultural sites within the Property.

111. In the event that previously unrecorded, significant historic sites are encountered during the course of development activities within the Property, further mitigation measures would be undertaken for the protection of these sites. Also, further procedures are in place to ensure that proper treatment of any burial finds is coordinated with appropriate agencies, including the SHPD and the Kaua'i/Ni'ihau Islands Burial Council.

112. The Project will have minimal impact upon native Hawaiian cultural resources, beliefs, and practices, provided that the preservation and burial treatment plans which have been prepared for the Project are implemented, and there is proper treatment of any previously unrecorded, significant historic sites which may be encountered during development (including consultation with the SHPD and, as may be appropriate, with Kaua'i community cultural organizations). Access to coastal fishing and marine resource gathering areas will continue to be provided with the development of the Project. In addition, a scenic coastal trail will be developed west of Spouting Horn Park as part of the Project's comprehensive trail system.

Groundwater Resources

113. The groundwater underlying the Property exists in two layers. The first layer of water is trapped at the surface above a relatively impervious strata. The first layer is referred to as phreatic groundwater and is not used for drinking.

114. The lower or deeper groundwater, found under the Koloa series rock, is the source of fresh water from the upper mountain range. A well site taps the deep groundwater at a depth of 750 feet.

115. There is little possibility for contamination of the deep groundwater resource primarily because:

- a. the impermeable rock layer which substantially precludes seepage from the upper shallow layer of phreatic groundwater;
- b. the distance (700 feet) to the lower deep groundwater resource; and
- c. the depth of lower groundwater resource beneath sea level.

116. Because of the underlying impermeable rock layer, impact from pesticides or nutrients will be limited to the phreatic groundwater in the upper shallow layer.

117. To minimize impacts of the Project on the well fields and deep groundwater resource, future improvements to the WWTP will include a tertiary level of wastewater treatment to produce R-1 effluent water for irrigation . The initial source of non-potable water will be R-1 quality effluent from the Project's WWTP, which is

estimated to average 624,000 gallons per day (“gpd”) at full buildout. The effluent from the WWTP will be used to irrigate selected Project areas, including open space areas, roadside landscaping, the community park, the golf course driving range, drainage corridors, and portions of the archaeological/biological preserves within the eastern portion of the Property, if approved under the Project’s Biological Management Plan.

118. During most of the last century, the Property has been irrigated with water from Lawa`i Stream, using an irrigation system owned by McBryde. The existing non-potable water system in the vicinity of the Project includes the irrigation system, irrigation wells, and reservoirs located mauka of the Property. The Project’s non-potable water supply system will provide irrigation requirements for the golf course, open space areas, roadside landscaping, WWTP make-up water, and all other non-potable uses within the Project, as well as the National Tropical Botanical Garden Visitor Center. The total average non-potable water demand for the Project at full buildout is projected to be 2.3 million gallons per day (“mgd”). A maximum of 3 mgd from the existing irrigation system, supplemented by irrigation water from the Poele`ele Well and the Kaua`i Pine Well, is proposed.

119. Use of the Project’s wastewater effluent, along with the use of surface water formerly used to irrigate sugarcane fields, will reduce the demand on potable water supplies.

Recreational Resources

120. Coastal resources in the Koloa District include approximately two

miles of sandy beaches, surfing sites, and body surfing areas. Coastal recreational activities include swimming, sunbathing, canoe paddling, boat launching, diving, fishing, surfing, and body surfing.

121. The Prince Kuhio Park and the Spouting Horn Park are adjacent to the Project. The nearest golf course is the Kiahuna Golf Course located to the east of the Project.

122. An impact on the area's recreational facilities is expected from the increase in population generated by the Project. The Project will also add new recreational facilities that will be available for use by the general public, including:

- a. An 18-hole golf course with kama`aina tee times and rates for local golfers;
- b. An approximately 20-acre active community park, including multi-purpose fields (baseball, softball, and soccer), tot lots, comfort stations, and parking. An adjacent approximately 16.2-acre archaeological/biological preserve will also function as additional passive open space;
- c. An enlarged usable beach area at Kukui`ula Bay, including shower facilities, picnic tables, and a restaurant and beach concession;
- d. Repairs and upgrades to the Kukui`ula Small Boat Harbor facilities, including improvements to the pier, boat ramp, and

lighting (as required and as approved by the County and State);

- e. Open space areas;
- f. An extensive network of trails throughout the Property for pedestrians and bicyclists, including a scenic coastal trail to be developed west of Spouting Horn Park;
- g. A public beach parking lot consisting of 20 parking stalls to be developed on the Property in the Boyden's Pond area to increase public accessibility to this area; and
- h. Provision of public access within the approximately 16.2-acre archaeological/biological preserve located mauka of the Prince Kuhio Park, with provision of interpretive signs within the preserve.

Visual Resources

123. Visual characteristics of the Property's current conditions include grassed drainage swales, small areas of cultivated lands, a WWTP within the eastern portion, a temporary small commercial operation near Kukui`ula Bay, and weedy vegetation on areas that have been previously disturbed, with pockets of scrub brush of koa haole and weeds.

124. The makai areas of the eastern portion of the Property will not have dramatic scenic views because of the relatively low elevation and level topography. The

mauka areas and the western portions of the Property gradually rise in elevation and will provide coastline, ocean, and mountain views.

125. Views of the mountains from existing coastal residential areas may be partially blocked when the Project is completed, but views of the ocean will not be affected.

126. The reduced density of the Project will enhance the overall visual quality related to the Project by providing more open space and allowing for more flexibility in siting of the residential units to reduce visual impacts. The hotel concept envisions a main house with separate guestrooms consisting of detached low-rise duplexes and triplexes to minimize view impacts. The architecture for the Project will be complementary to the general ambience of the Koloa region.

127. Petitioner will incorporate landscaping throughout the Project to create a pleasing visual environment. The WWTP has been screened by landscaping material. A 100-foot setback along the mauka side of Lawa'i Road west of the Lawa'i Beach Resort has been reserved for landscaping, pedestrian/bike path, beach parking, and a portion of the golf course.

Coastal/Aquatic Resources

128. A biological reconnaissance survey of Kukui'ula Bay was conducted by AECOS, Inc., in March 2003 to assess the existing marine biota of Kukui'ula Bay and to recommend a plan to monitor the marine biota during construction of the Project. As part of the survey, a review was also undertaken of the

two prior marine monitoring surveys conducted of Kukui`ula Bay in 1992 and 1993 by EcoSpirit Institute for the Former Planned Community.

129. During the survey, seven species of hard coral were observed within Kukui`ula Bay. Five species were observed during the prior surveys, including *Porites compressa* colonies which were not observed during the recent survey. Species of coral observed during the recent survey that were not reported in the prior surveys include three *Montipora* species – *M. capitata*, *M. flabellata*, and *M. patula*; and two other species – *Pocillopora damicornis* and *Cyphastrea ocellina*, which are both common inshore corals, although seldom in abundance.

130. During the survey, the area of greatest live coral coverage (5 to 10 percent) occurred in the southeastern portion of Kukui`ula Bay near the rock ledge and towards the breakwater. The eastern portion of Kukui`ula Bay had less than 1 percent live coral coverage. The live coral appeared to be healthy and adapted to the dynamic wave conditions of Kukui`ula Bay. These findings are consistent with the 1992 survey whereby approximately 5 percent live coral coverage was reported in the eastern part of Kukui`ula Bay during the pre-construction survey, less than 1 percent in the northeastern part of Kukui`ula Bay for the during-construction survey, and less than 2 percent in the eastern part of Kukui`ula Bay during the post-construction survey.

131. Many of the macroinvertebrates observed during the survey were also observed in the prior surveys, with the rock-boring urchin (*Echinometra mathaei*) being the most common species noted. The number of urchins observed was not

unusually high or low.

132. Over 30 species of fish were observed within Kukui`ula Bay during the survey. The fish species observed are fairly typical for such a moderately high-energy nearshore environment. Surgeonfishes (*Acanthuridae*) and wrasses (*Labridae*) were abundant near the limestone bottom of Kukui`ula Bay, and small schools of goatfish (*Mullidae*) were observed in the deeper areas over sand or rubble substrata.

133. Only one green sea turtle (*Chelonia mydas*) was observed during the survey. During the 1993 survey, between 8 and 15 turtles were observed. However, most of these turtles were observed in deeper waters toward or just outside of Kukui`ula Bay as part of the turtle monitoring program.

134. The recent reconnaissance survey revealed no substantive differences between the biological community existing in Kukui`ula Bay and that observed in the prior surveys. Based upon the results of the reconnaissance survey and the sea and weather conditions in the area, the development of an appropriate new monitoring program is recommended.

ENVIRONMENTAL QUALITY

Noise

135. The existing background ambient noise levels along Lawa`i Road are about 48 to 53 dBA.

136. Helicopters flying over the ocean parallel to the shore emit maximum noise levels of 55 dBA. Automobiles traveling 25 to 35 mph typically cause

maximum noise levels of 58 to 67 dBA at a distance of 45 to 50 feet from the center of the road.

137. Noise from motor vehicles on Po'ipu and Lawa'i Roads and on interior roads of the Project will impact activities in the open spaces, as well as those inside the naturally ventilated buildings in the Project.

138. The noise exposure criteria used by the Department of Housing and Urban Development are used to determine the acceptable distance of the housing from the centerline of the right-of-way based on the allowable 65 DNL noise exposure contour for the worst-case condition. The setback distances can be adjusted to allow smaller setbacks with sound attenuation from plantings, walls, and natural topographic features.

139. Based on the reduction in density under the current Project, an estimated 16,800 fewer average daily vehicle trips will be generated by the Project as compared to the Former Planned Community. This should result in a corresponding reduction in traffic noise generated by the Project.

140. With the closure of the sugarcane cultivation and operation of McBryde, the noise relating to sugarcane cultivation and operations otherwise affecting the Project is no longer being generated.

141. Noise from the Project's golf course maintenance facility, resort, and commercial uses will not exceed the maximum permissible sound levels set forth in the DOH's Administrative Rules, Title 11, Chapter 46, "Community Noise Control" noise

regulations.

142. All construction operations will be conducted in compliance with the DOH's Administrative Rules, Title 11, Chapter 46, "Community Noise Control" noise regulations. These Rules require a noise permit if the noise levels from construction activities are expected to exceed the allowable levels stated in the Rules. To the extent possible, construction noise restrictions specified in the Rules will be adhered to and enforced.

Air Quality

143. An air quality study for the Former Planned Community was prepared in November 1988 by Barry D. Root and Barry D. Neal. The study focused mainly on three sources of pollution: industrial, agricultural, and vehicular.

144. McBryde ceased its business of sugarcane cultivation in 1996, and air emissions related to sugarcane cultivation and operation are no longer being generated.

145. A long-term contributor to air pollutants will be the increase in vehicular traffic generated by the Project. Based on the modeling conducted in the November 1988 air quality study, the predicted worst case maximum 8-hour carbon monoxide concentration values in milligrams per cubic meter ("mg/m³") upon completion of the Former Planned Community around the year 2015 at the intersections of (a) Koloa Road and Maluhia Road, (b) Po'ipu Road and Koloa Road, (c) Po'ipu Road and Road B, and (d) Po'ipu Road and Road A/Lawa'i Road were 4.4, 7.5, 7.7, and 6.5,

respectively. All predicted 8-hour maximum carbon monoxide concentrations were within the 10 mg/m³ national Ambient Air Quality Standard ("AAQS"). It is possible that the carbon monoxide concentrations could have exceeded the State 8-hour standard of 5 mg/m³, which is twice as stringent than the national standard.

146. Although the national AAQS allows higher levels of carbon monoxide, the national standards were developed after extensive research with the objective of defining levels of air quality that would protect the public health with an adequate margin of safety.

147. Based on the reduction in density under the current Project, an estimated 16,800 fewer average daily vehicle trips will be generated by the Project as compared to the Former Planned Community. This should result in a corresponding reduction in motor vehicle air pollutant emissions generated by the Project.

148. In conjunction with the Supplemental Order, Condition No. 8 required that Petitioner participate in an air quality monitoring program as specified by the DOH. The DOH has reviewed the November 1988 air quality study and noted that the Former Planned Community was not anticipated to be a major source of air pollutants for which an air quality monitoring program would be required. At the appropriate time, an updated air quality assessment of the Project will be prepared and submitted to the DOH for review.

149. Potential air quality impacts during construction of the Project will be mitigated by complying with Chapter 11-60.1, Air Pollution Control, Title 11, HAR.

Short-term air quality impacts from fugitive dust associated with construction activities are to be mitigated by the use of water wagons, sprinkler systems, and dust fences. To the extent possible, fugitive dust will be controlled with appropriate application of water as a palliative.

Coastal Water Quality

150. A Parametric Environmental Study of Groundwater and Nearshore Oceanographic Impact was conducted by Oceanit Laboratories, Inc., in October 1993 to identify and discuss the potential impacts to the groundwater and nearshore marine environment from the construction and operation of the proposed golf course, residential areas, and the proposed small boat marina for the Former Planned Community.

151. The groundwater underlying the Property exists in two layers: (a) a layer of phreatic groundwater trapped at the surface above a relatively impervious strata of Koloa series lava; and (b) a lower deep groundwater found under the Koloa series rock.

152. The shallow layer of phreatic groundwater is not used for drinking. The impervious layer of Koloa series rock traps the phreatic groundwater at the shallow topsoil layer and keeps it from seeping into the deep groundwater, which is the source of fresh water from the upper mountain range.

153. Very little, if any, of the rainfall onto the Property seeps into the deep groundwater source. Most of the water is absorbed in the shallow phreatic

groundwater layer or directly runs off into the existing swale system constructed on and for the Project.

154. Impacts to the nearshore environment, if any, will mostly result from runoff activities associated with the golf course and residential development within the Project. Runoff impacts are to be minimized through best management practices ("BMPs"), which include management of materials application (e.g., fertilizers), catchment, retainage basins, and monitoring.

155. The Property currently includes a drainage system consisting of detention basins and grass-lined channels, which direct storm runoff to a lower basin just mauka of Kukui`ula Bay. Stormwater quality can be monitored through BMPs to minimize impacts.

156. As part of the approval for the construction of the drainage culvert which outlets into Kukui`ula Bay, monitoring programs for water quality, algae, coral, and green sea turtle were established to ensure that coastal resources are not being adversely impacted. Petitioner intends to continue water quality monitoring throughout the construction period of the Project.

157. An evaluation of the monitoring program was conducted by AECOS, Inc., in March 2003 to determine if there has been a change in the baseline water quality conditions in nearshore coastal waters at and near Kukui`ula Bay since the construction of the drainage culvert in 1993.

158. The initial monitoring program was conducted between July 1991

and November 1994 with monthly water quality samplings at up to six stations. This timeframe coincided with mass grading for Phase I of the Former Planned Community and construction of the culvert, which was initiated in July 1992 and completed in April 1993. Three stations were located at increasing distances seaward of the culvert mouth. The other three stations were located in nearshore open coastal waters west and east of the Kukui`ula Small Boat Harbor. Monitoring continued on a quarterly basis from February 1995 to August 2002. Monthly water quality sampling recommenced at five stations within and outside of Kukui`ula Bay beginning in September 2002 in anticipation of the development of the current Project.

159. Monitoring parameters included temperature, salinity, dissolved oxygen, turbidity, nitrate + nitrite, ammonia, total nitrogen, total phosphorus, and chlorophyll α . The basic comparison made was of the pre-construction and construction period monitoring at Station 2 between 1991 and 1994 and the subsequent 1994 through 2002 post-construction interval.

160. The monitoring evaluation concluded that the only significant change that has occurred in the baseline water quality conditions in the nearshore coastal waters at and near Kukui`ula Bay since 1994 is the small improvement in average ammonia concentration. The nearshore coastal waters at and near Kukui`ula Bay continue to meet State Water Quality Standards (HAR, Title 11, Chapter 54) in nearly all respects. Selected mean criteria exceeded State Water Quality Standards by a small margin at some stations. With most of the parameters, concentration differences

between those stations within and outside of the embayment are not great. Overall, water quality within and outside of Kukui`ula Bay remains good relative to the State Water Quality Standards.

161. A narrower comparison was made between water quality data from samples obtained during the pre-construction period (July 1991 to July 1992) and data from samples collected during the post-construction period (February 1995 to February 2003). The results indicate that particulate levels represented by turbidity and chlorophyll α have not changed at all in Kukui`ula Bay, suggesting that implementation of the detention/culvert system for the Project has maintained water quality at pre-construction levels.

162. Petitioner will continue to monitor baseline water quality conditions of the nearshore coastal waters at and near Kukui`ula Bay and will develop an appropriate construction phase water quality monitoring program prior to construction of the Project.

163. For the construction and operation of the Project's golf course, the Kukui`Ula Golf Course Best Management Practices Plan was prepared by James Connolly Consulting, Ltd., in March 2003 to address the control of pollutants and the protection of surface and groundwater, as well as other environmental and golf management issues. Golf course BMPs will be implemented to protect surface water quality from contamination by the application of fertilizers and pesticides.

164. A full range of erosion and sediment controls will be instituted

during grading and excavation operations and for construction of the Project's golf course, and compliance will be maintained in conjunction with the County's Grading Ordinance and DOH's National Pollutant Discharge Elimination System Permit program. Mitigation measures will be instituted following site-specific assessments, incorporating structural and non-structural BMPs.

ADEQUACY OF PUBLIC SERVICES AND FACILITIES

Transportation Facilities

165. Existing roads in the Koloa area are all two-lane roadways and intersections are stop-controlled.

166. A traffic impact assessment was conducted by Austin, Tsutsumi & Associates, Inc., in March 2003 to evaluate potential traffic impacts resulting from the Project and to recommend improvements to mitigate such impacts.

167. The traffic impact assessment analyzed traffic conditions at the following eight unsignalized intersections in the vicinity of the Project during the weekday AM and PM peak traffic hours:

- Kaumuali'i Highway/Koloa Road/Kua Road
- Kaumuali'i Highway/Maluhia Road
- Maluhia Road/Ala Kinoiki Road (Koloa/Po'ipu Eastern Bypass Road)
- Maluhia Road/Koloa Road
- Po'ipu Road/Koloa Road
- Po'ipu Road/Pa'anau Road (serves Koloa School and nearby homes)

- Po`ipu Road/Lopaka-Paipa Road (serves Koloa Estates)
- Po`ipu Road/Lawa`i Road

168. Level of Service ("LOS"), used to describe the conditions of traffic flow, indicates a range of traffic conditions from LOS A, free-flowing conditions, to LOS F, congested conditions.

169. Base year conditions without and with the Project were projected for Year 2012, the anticipated full buildout date for the Project. A growth rate of 3 percent per year was applied to existing 2002 volumes to project base year traffic volumes.

170. Upon development, the Project is estimated to generate approximately 13,780 average daily trips, including approximately 555 external vehicular trips during the AM peak hour of traffic and approximately 970 external vehicular trips during the PM peak hour of traffic. Access to the Project will be via Po`ipu Road, Lawa`i Road, and Koloa Road.

171. By Year 2012, the following Project roadways and intersections with external roadways will be developed:

- The Po`ipu Road/Lawa`i Road/Western Bypass Road intersection will be developed as a single-lane roundabout.
- The initial Project phase will include construction of a portion of the Western Bypass Road from the Po`ipu/Lawa`i Road intersection to the major Project roadway. The Western Bypass Road will intersect Po`ipu

Road, forming the fourth leg at the Po`ipu Road/Lawa`i Road intersection. During the initial phase, all Project traffic will use this roadway, except for traffic to/from the proposed community park and affordable housing site.

- The initial Project phase will also include a major Project roadway running generally parallel to Lawa`i Road and providing access to the proposed hotel.
- Pa`anau Road will provide access for the proposed affordable housing site.
- Two access driveways to the proposed community park will be located along Po`ipu Road between Lopaka-Paipa Road and Lawa`i Road, forming unsignalized T-intersections with Po`ipu Road.
- The section of the proposed north-south Western Bypass Road between the major Project roadway and Koloa Road is expected to be completed after the development of 750 Project units. The Western Bypass Road will intersect Koloa Road between `Oma`o Road and Po`ipu Road, forming a T-intersection west of the Koloa Road/Po`ipu Road intersection.
- A proposed north-south roadway, referred to as the Lawa`i Connector Road, will link the major Project roadway with Lawa`i Road near Kukui`ula Bay, forming T-intersections at Lawa`i Road and the major

Project roadway.

- Lopaka-Paipa Road will be extended west to intersect with the Western Bypass Road.

172. Of 34 critical intersection movements analyzed, 27 movements are projected to operate at LOS D or better in Year 2012 with the Project, including the following:

- *Po`ipu Road/Lopaka-Paipa Road:* The projected traffic at the Po`ipu Road/Lopaka-Paipa Road and the Po`ipu Road/Community Park Access intersections will operate acceptably, improving when the portion of the Western Bypass Road to Koloa Road is completed by the Project and non-Project traffic diverts from Po`ipu Road to the new route.
- *Koloa Road/Western Bypass Road:* The installation of a traffic signal system at the Koloa Road/Western Bypass Road intersection will be warranted and traffic conditions will operate at acceptable LOS D or better. Installation of a traffic signal system at the Koloa Road/Western Bypass Road intersection is preferable to the installation of traffic signal systems at either the Maluhia Road/Koloa Road intersection and/or the Koloa Road/Po`ipu Road intersection.
- *Po`ipu Road/Lawa`i Road/Western Bypass Road:* Configuring this intersection as a roundabout will result in LOS A operating conditions.

173. Six critical movements are projected to operate at LOS E or F as discussed below:

- *Kaumuali`i Highway/Maluhia Road:* The Maluhia Road northbound left-turn traffic onto Kaumuali`i Highway will remain at LOS F during the AM and PM peak hours of traffic. Installation of a traffic signal is not warranted due to the low northbound left-turn volume at this intersection.
- *Maluhia Road/Ala Kinoiki Road:* The westbound left-turn traffic from Ala Kinoiki Road onto Maluhia Road will experience an increase in delay, deteriorating from LOS D to LOS E during the PM peak hour of traffic. Traffic volumes at this intersection will not warrant installation of a traffic signal system.
- *Maluhia Road/Koloa Road and Koloa Road/Po`ipu Road:* The portion of the Western Bypass Road constructed by the Project will alleviate the north-south demand on Po`ipu Road by providing another north-south route to/from Po`ipu/Kukui`ula. However, operating conditions for the left-turn traffic onto Koloa Road from Po`ipu Road and Maluhia Road will continue to experience LOS F conditions due to the high demand on Koloa Road.

The remainder of the Western Bypass Road from Koloa Road to Maluhia Road, which creates a bypass around Koloa Town, will

ultimately be required to improve conditions on the portion of Koloa Road from Po`ipu Road to Maluhia Road. This improvement will be dependent on the resolution of right-of-way issues with the private landowners in the area. Reconfiguring the Maluhia Road/Koloa Road intersection and/or the Koloa Road/Po`ipu Road intersection as an all-way stop-controlled intersection will not improve operating conditions.

- *Po`ipu Road/Paanau Road:* Operating conditions at the Po`ipu Road/Pa`anau Road intersection will improve from LOS F to LOS E operating conditions as traffic volumes on Po`ipu Road will divert to the Western Bypass Road, thereby not warranting installation of a traffic signal system.
- *Kaumuali`i Highway:* Traffic on the section of Kaumuali`i Highway east of Maluhia Road will continue to operate at LOS E during the AM and PM peak hours of traffic.

174. Recommendations for Future Conditions With Project: The following are traffic improvement recommendations for future conditions with the Project:

- *Po`ipu Road/Lawa`i Road/Western Bypass Road:* Provide a single-lane roundabout to serve the projected traffic demands for the Project.
- *Po`ipu Road/Community Park Access Roads:* Provide separate eastbound left- and right-turn lanes on the Community Park Access roads.

- Western Bypass Road: Construct the section of the Western Bypass Road within the Project to its intersection with Koloa Road.
- Koloa Road/Western Bypass Road Intersection:
 - Signalize the Koloa Road/Western Bypass Road intersection.
 - Provide separate northbound left- and right-turn lanes on the Western Bypass Road.
 - Provide a separate eastbound right-turn lane on Koloa Road at least 275 feet long to accommodate the projected demands.
 - Provide a separate westbound left-turn lane on Koloa Road at least 275 feet long to accommodate the projected demands.
- Transportation Alternatives: Continue to research and develop alternative transportation programs such as on-demand shuttle service and park-and-ride facilities to reduce vehicular traffic demand.

175. The following summarizes the mitigation measures that are part of the Project's efforts to enhance the existing transportation system and to manage the traffic demand projected to be generated by the Project:

- Based on the comparison of the trip generation estimates for the Former Planned Community and the current Project, the Project's substantial reduction in density will result in an approximately 55 percent reduction (16,800 vehicular trips) in average daily trips, including approximately 69 percent (1,260 vehicular trips) less

vehicular trips during the AM peak hour of traffic and approximately 68 percent (2,060 vehicular trips) less vehicular trips during the PM peak hour of traffic.

- The Western Bypass Road constructed by the Project between Po'ipu Road and Koloa Road will alleviate demand on Po'ipu Road by providing an alternative north-south route in the Koloa/Po'ipu area.
- A traffic signal system at the intersection of Koloa Road and the Western Bypass Road will improve operation at this intersection. This mitigation is a commitment of the Project and will be installed when warranted by traffic volumes.
- The Project will contribute its "fair share" towards the planned Department of Transportation ("DOT") improvements of Kaumuali'i Highway.
- The Project is also pursuing transportation demand management measures to lessen vehicular travel by providing the following transportation alternatives:
 - The Project will participate in a County-sponsored park-and-ride program;
 - An on-call Lihu'e Airport shuttle service;
 - An on-demand shuttle service for Project residents and guests to on- and off-site areas; and

- A comprehensive hiking and biking trail system.

176. Currently, the DOT has plans for the widening of Kaumuali'i Highway from two to four lanes from Lihue to Puhi by Year 2008. The timetable for widening the segment from Puhi to Maluhia Road is undetermined at this time.

177. Petitioner has agreed to resolve the following issues with the County:

- a. Contribution to pro rata share of improvements for the widening and realignment of Maluhia Road.
- b. Contribution to pro rata share of improvements to Po'ipu Road from Koloa Town to the Project.
- c. Timing of the construction of the Western Bypass Road.

178. The primary construction traffic impacts in the vicinity of the Project will relate to construction personnel commutes and deliveries of construction materials and supplies. Access to the Property from the east will be from Kaumuali'i Highway and Maluhia Road. Construction vehicles will be routed from Maluhia Road to Ala Kinoiki Road (Eastern Bypass Road), then to a cane haul road, which extends west towards the Property, intersecting with Po'ipu Road at the proposed Community Park site. Construction traffic will enter the Property from this point, with traffic control provided by flagmen, signage, security personnel, or temporary traffic signals, as needed. Construction traffic from the west will traverse Koloa Road to an unimproved gravel road along the alignment of the proposed Western Bypass Road, with traffic

control provided as needed. Therefore, construction vehicular traffic will bypass Koloa Town, resulting in minimal disruption to existing developed areas.

Water Service

179. The County does not have any designated Water Management Areas subject to regulation by the State Commission on Water Resource Management. The Koloa Aquifer System has an estimated sustainable yield of 30 mgd, with withdrawals by municipal, private domestic water systems, and agricultural irrigation totaling 16.9 mgd (*Kaua'i Water Use and Development Plan*, 1992 Review Draft).

180. A potable water system master plan was prepared by Austin, Tsutsumi & Associates, Inc., and R.M. Towill Corporation in March 2003 to evaluate and establish the potable water system requirements for the Project.

181. The existing Po'ipu-Koloa water system operated by the County Department of Water ("DOW") is the closest potable water source to the Property. The system is served by four wells operated by the DOW, consisting of two wells (Koloa Well 16-A and Koloa Well 16-B) located at the Waihonu area mauka of Koloa Town, and two wells (Koloa Well C and Koloa Well D) located on the ridge above Mahaulepu to the east of the Project. A second source of potable water comes from the DOW's Lawa'i-Kalaheo water system via a 12-inch waterline along Kaumuali'i Highway and 'Oma'o Road. Water from the four wells and the DOW's Lawa'i-Kalaheo water system is routed to and stored in five existing storage tanks located in the areas around the Project.

182. The average daily water demand for the Project is estimated to be 1.0 mgd at full buildout. Maximum daily demand is estimated to be 1.5 mgd and the peak hour demand is estimated to be 3.0 mgd. The existing potable water systems are adequate to serve the existing area but will not be able to accommodate the increased demand for water that the Project will generate.

183. To meet the water demands of the Project, the development of two new wells, participation in a DOW well development project, and the construction of three new storage tanks are proposed.

184. The proposed Piwai Well 2 and Piwai Well 3 are projected to supply a maximum 1.73 mgd to the Project. Pump tests undertaken by Petitioner for the recently drilled Piwai Well 2 in May 2003 indicate that the well is capable of producing large quantities of excellent quality water. A third well, identified as Piwai Well 1, may be developed by the DOW, if not required by the Project. The construction of the proposed DOW Koloa Well F will allocate 0.25 mgd to the Project.

185. Three new tanks will be constructed specifically for the purposes of serving the Project. The proposed Koloa School storage tank, to be located west of the Koloa School expansion site at elevation 245 feet msl, will have a capacity of 0.25 mg. The proposed Manuhonuhonu storage tank #1, to be located mauka of the Project at elevation 366 feet msl, will have a capacity of 1.5 million gallons ("mg"). The third proposed storage tank, identified as the Manuhonuhonu storage tank #2, will also be located mauka of the Project at elevation 425 feet msl and will have a capacity of 0.25

mg.

186. The DOW plans to construct a fourth tank, identified as the proposed Piwai Tank in the area of the Piwai wells, to be located at elevation 677 feet msl with a capacity of up to 1.0 mg. The tank will service both the Lawa'i-Kalaheo and Koloa-Po'ipu water systems.

187. A network of transmission and distribution lines will be constructed to convey water to and within the Project.

188. The new well sources will be developed in compliance with the requirements of the DOW and the State Water Code, the State's Potable Water System Regulations, Chapter 20, Title 11, HAR, and will require approval by the DOH prior to use.

189. Petitioner has caused a well to be drilled near 'Oma'o. The well has been tested and is expected to yield 1,050 gallons per minute, or approximately 1.5 mgd.

190. The well near 'Oma'o was drilled very close to existing residences and cesspools. The existing cesspools, which were built prior to the well, are within the area determined by the DOH to be a critical area for the protection of potable groundwater surrounding a potable water well.

191. To address the concerns of the 'Oma'o residents concerning their use of septic tanks near the 'Oma'o wells, the Former Petitioner applied to the DOH for a variance from Chapter 11-62, HAR. The DOH concluded that no variance was required to utilize septic tanks within 1,000 feet of the 'Oma'o wells, and 'Oma'o

residents may continue the use of their septic tanks.

192. Based on the source development plans for the Piwai area, Petitioner does not intend to utilize the `Oma`o well for potable water purposes, thus mitigating any impact to existing nearby residential septic systems. The `Oma`o well will likely be used for backup irrigation purposes only. Petitioner will work with the DOW concerning the ultimate development and use of the `Oma`o well.

Wastewater Treatment and Disposal

193. Wastewater in the Koloa/Po`ipu area is currently disposed of by private cesspools or private sewage treatment plants. In the County's 1988 Facility Plan for Koloa-Po`ipu, a regional sewage treatment plant was planned for the area. As part of the County's requirement for development of the Project, Petitioner has constructed a WWTP within the Project.

194. The WWTP has been designed to meet State and Federal regulations for treatment plants. The WWTP began operation on October 15, 1993, and is designed to treat an average flow of 1.2 mgd, with a peak hour flow capacity of 4.8 mgd. The Pa`anau Affordable Housing Project located near Koloa School was the first project to be connected to this WWTP in October 1993. The WWTP, which also serves the nearby Koloa Estates residential subdivision, presently receives an average wastewater flow of approximately 20,000 gpd.

195. The WWTP includes a preliminary treatment facility, two lagoons, and four buildings. The two existing lagoons each have a working volume of 9 mg.

Each lagoon is approximately 400 feet long, 250 feet wide, and 18 feet deep. The lagoons have been lined to prevent infiltration of the untreated sewage into the ground. A third aerated lagoon will be constructed within the existing WWTP site to provide a redundant backup system. A fourth lagoon, also within the existing WWTP site, will be constructed to store excess effluent prior to disposal.

196. Future improvements to the WWTP will include a tertiary level of wastewater treatment to produce R-1 effluent water for irrigation of selected areas within the Project. Injection wells are available for emergency effluent disposal.

197. There is a small risk that areas that are downwind of the WWTP may be impacted by its odors. An odor control system using an atomizing mist scrubber has been installed at the headworks of the wastewater collection system to eliminate odor problems.

198. The WWTP would serve to eliminate cesspools and have a positive impact on the groundwater of the region.

199. A wastewater system master plan was prepared by Austin, Tsutsumi & Associates, Inc., in March 2003 to formulate the wastewater collection and transmission system for the Project.

200. The existing WWTP's average design capacity of 1.2 mgd and peak hourly flow capacity of 4.8 mgd well exceeds the Project's estimated average design flow of 0.62 mgd and design peak flow of 3.5 mgd. The wastewater transmission system for the Project will include a network of gravity lines and force mains that will be

installed primarily within the Project roadways. A total of seven wastewater pump stations (“WWPS”) will be constructed throughout the Project, with one serving as the centralized WWPS to convey wastewater to the WWTP.

Drainage

201. A drainage system was designed for the Former Planned Community, and has been partially constructed. The drainage system consists of drainage swales, drainage channels, detention basins, and an underground network of drainage pipes and box culverts. The drainage system was designed according to the County’s Drainage Standards and the Drainage Master Plan for the Former Planned Community.

202. A large drainage swale has been constructed mauka of the 219-acre Urban parcel. Mauka flows are now being diverted to the three 7-foot-high by 24-foot-wide culverts at Kukui’ula Bay. Prior to entering the culvert, stormwater runoff is detained in a 10-acre detention basin that filters out the sediments prior to discharging stormwaters through the culverts.

203. Stormwater runoff from approximately 70 acres within the 219-acre Urban parcel flows into a 3-acre detention basin within the proposed archaeological/biological preserve mauka of Prince Kuhio Park. Water from the detention basin then flows through a 100-foot-wide grass-lined channel along the eastern side of the preserve, then into a 100-foot-wide grassed swale along Lawa’i Road to the 10-acre detention basin. The drainage improvements eliminate ponding and flooding of low-

lying areas, as well as overtopping of Lawa`i Road.

204. A drainage system master plan was prepared by Austin, Tsutsumi & Associates, Inc., in March 2003 to establish the overall drainage system for the Project.

205. The drainage system for the Project will include a total of 33 onsite and 6 offsite drainage areas delineated by terrain, major drainageways, and drainage system improvements.

206. The anticipated peak runoff rate for the entire Project is 4,829 cubic feet per second ("cfs") and the total volume of runoff is 1,230 acre-feet ("Af"). This reflects a reduction in the runoff rate through the Property of 261 cfs, with an increase in total runoff volume of 187 Af. The increase in volume is due to an increase in impervious surfaces and the reduction in open land. The reduction in rate of runoff is attributed to the use of detention basins and the improvement of flow paths.

207. A total of 25 detention basins are proposed for the Project, with a combined detention volume of 181 Af. Most of the basins will be located within the golf course, open space areas, and greenways. Basins within the golf course will also serve as sediment basins, allowing pollutants to settle and be filtered by the vegetation. A low-flow channel will also meander through the golf course to handle smaller 2-year, 24-hour storm events. Overflow from the basins is anticipated to occur during the major 100-year, 24-hour storm event. The effectiveness of the existing onsite trapezoidal channels completed as part of the Former Planned Community will be maintained to protect Lawa`i Road and the adjacent residential areas.

Solid Waste Management

208. The debris generated by Hurricane Iniki caused the closure of the County's only landfill at Kekaha. A new landfill adjacent to the Kekaha landfill opened for operation on October 9, 1993, the capital costs of which were funded by FEMA. Currently, the County's Kekaha landfill has a remaining life span until about 2005. The County is currently seeking a vertical expansion permit to extend the landfill for three additional years. Another landfill site is also being sought.

209. The closest transfer stations to the Project are located at Lihue Airport to the northeast and at Hanapepe to the northwest. The transfer stations take small commercial loads up to a maximum of 3/4-ton vehicle loads; larger loads are transported directly to the Kekaha landfill.

210. At full buildout and full occupancy, the Project is expected to generate approximately 15 tons of solid waste per day.

211. Solid waste pick-up for resort developments is provided by private refuse companies.

212. To reduce its impact on solid waste, the Project will incorporate waste diversion and reduction facilities into its design. Composting of greenwaste will be employed for the Project's golf course, community park, and landscaped areas.

213. The large quantities of waste and construction by-products that will be generated by the Project will be stored, handled, and disposed of properly so as to not cause adverse impacts to the surrounding area and the environment. The Project

will develop and implement a trash management and recycling program to maintain clean construction sites, maximize material recycling, and minimize impacts to the local landfill.

Schools

214. Koloa School , Chiefess Kamakahalei Middle School, and Kaua'i High School are the three public schools servicing the Project area. According to student enrollment for the 2002 to 2003 school year, all three schools are currently operating below enrollment capacity.

215. At buildout, the Project could potentially generate approximately 315 elementary school students, 135 middle school students, and 150 high school students based on the State Department of Education's ("DOE") student enrollment criteria. While the total projected enrollment with the Project could exceed the current capacity of Koloa School (470 students), less student enrollment is anticipated due to the resort character of the Project.

216. The Koloa School is located near the northeast corner of the Project.

217. Petitioner and the DOE have executed an educational contribution agreement dated November 23, 1999. Pursuant to this agreement, the Project has set aside a 7-acre parcel adjacent to the existing Koloa School for future expansion. The land will be provided at no cost to the DOE. An additional 12 acres will be provided to the DOE for a second elementary school site within the Project. Petitioner has discussed the possibility of paying an in-lieu fee instead of conveying the 12-acre site for a second

elementary school with the DOE.

218. The Project will provide sewer connections for the 7-acre site and the existing Koloa School to the Project's existing WWTP. Full infrastructure improvements, including water, sewer, drainage, roadway access, electrical, and telecommunications systems, will be provided to the 12-acre site.

Fire Protection

219. The Project is located within the area served by the Koloa Fire Station located at the intersection of Po'ipu Road and Lawa'i Road. The Fire Station is equipped with a 1993 Seagrave fire truck with a 750-gallon tank, a mini pumper truck used for utility purposes, a jet boat, a jet ski, diving equipment, emergency/first aid equipment, and an automatic external defibrillator

220. A total of 15 firefighters currently operate out of the Koloa Fire Station in three 24-hour shifts, with five firefighters per shift. The firefighters also assist in search and rescue operations on land and in the water.

221. Since the Koloa Fire Station is located across the street from the Project, response time to the farthest point of the Project from the Fire Station is estimated at 5 minutes. The Kalaheo Fire Station is the initial backup unit to the Koloa Fire Station. Response time from the Kalaheo Fire Station to the Project is estimated at 10 minutes. The second backup response unit would be from the Lihu'e Fire Station, with a response time to the Project estimated at 15 minutes.

222. The Project will not adversely impact fire protection services.

Additional fire prevention and suppression measures will be provided by installing approved fire suppression sprinkler systems and approved fire alarm systems in all resort, commercial, and recreational buildings and structures within the Project.

Ocean Safety Protection

223. The Ocean Safety Bureau ("Bureau") of the County Fire Department provides ocean safety and lifeguard services for residents and visitors. The Bureau has a total of 27 full-time uniformed ocean safety personnel manning nine lifeguard towers around Kaua'i. The closest lifeguard tower to the Project is at Po'ipu Beach Park and is manned seven days/week from 9:00 a.m. to 5:00 p.m. A pick-up truck is assigned to Po'ipu, and a jet ski is housed at the Koloa Fire Station.

224. The Project will coordinate a specific ocean safety program with the County. In an effort to promote ocean safety awareness within the Project, Petitioner will work with the Bureau to initiate a program that educates residents and visitors about ocean safety.

Police Protection

225. The County's Police Department consists of a total of 122 officers and 48 civilian employees. There are three police stations located approximately 25 miles apart at Hanalei, Waimea, and Lihu'e. Response time to any given point between these three stations is approximately 15 to 20 minutes.

226. A total of ten officers on each shift respond to emergency calls, with two officers on standby as backup. The island is divided into ten sectors and one officer

is assigned to each sector. The Koloa/Po'ipu area currently consists of two sectors.

227. The Project is located within Police Sector 7 of the Waimea District. The Waimea Police Substation is located to the northwest of the Project along Kaumuali'i Highway at the intersection with Menehune Road. Response time to the Project is estimated to be 10 minutes. Initial backup will be provided by Sector 8 of the Waimea District, with a response time estimated to be 10 to 15 minutes. If required, additional backup will be provided by Sector 9 of the Waimea District, with a response time of up to 15 minutes.

228. The Project will not adversely impact police protection services. Private security will serve and protect Project residents, visitors, and employees, and will supplement the protection services provided by the County Police Department.

229. A previous plan by the County for a police substation to be co-located within the Koloa Fire Station is no longer proposed.

Medical Facilities and Services

230. Medical facilities in Koloa consist of a branch of the Garden Island Medical Group and the Koloa office of the Kaua'i Medical Group.

231. The medical facilities in Koloa will be adequate to serve the needs of the Koloa area, including the proposed Project.

232. The closest ambulance service to the Project, which is provided by American Medical Response, a private ambulance service contracted by the County, is located at 2869 Po'ipu Road, across from the Koloa Fire Station and adjacent to the

Project. There are two on-duty personnel per 48-hour shift at the Koloa Station.

Response time from this Station to the farthest point of the Project is estimated at 3 to 5 minutes. If needed, the initial backup ambulance unit will respond from the Lihue Station at an estimated response time of 20 to 30 minutes to the Project. The Waimea Substation will be the second backup responding unit with a response time estimated at 25 minutes to the Project.

233. The existing medical facilities and ambulance service will be adequate to serve the needs of the Project.

Civil Defense

234. Two new civil defense siren systems have been deemed sufficient to provide coverage in high hazard areas within and adjoining the Project, pursuant to a meeting held on August 25, 2000, with the Former Petitioner and representatives of the Hawai'i State Civil Defense and Kaua'i Civil Defense. These requirements were subsequently confirmed by a letter dated August 31, 2000, from Mayor Maryanne W. Kusaka to Tom H. Shigemoto, Vice President, A&B Properties, Inc. The siren systems will be implemented as development occurs within the shoreline area of the Project.

235. Consideration has been given in Petitioner's development planning to address the effects from Hurricane Iniki, which struck the south shore of Kaua'i in September 1992 and caused considerable structural damage to residences in the area.

236. The current FEMA FIRMs (Community Panel Numbers 150002 0191D -194D) are dated September 30, 1995, three years following Hurricane Iniki, and

were revised to incorporate the effects of the Hurricane's storm waves. The inland extent of Hurricane Iniki's inundation generally follows the AE zone boundary, defined in the Flood Maps as "Special Flood Hazard Areas inundated by 100-year flood with base flood elevation determined." The supporting Flood Insurance Study report (*Flood Insurance Study for Kaua'i County, Hawai'i, Volume 1 of 2, October 2002, Section 10.1*) states that the effects of Hurricane Iwa in 1982 were incorporated in the previous 1985 revisions of the Flood Maps, and the tsunami model was improved with the inclusion of Hurricane Iniki data.

237. The AE flood zones are accompanied by specific base flood elevations ranging from 10 to 16 feet along the Lawa'i Road frontage of the Property. The County's Flood Plain Management Ordinance, Chapter 15, Article 1 of the Kaua'i Code ("Flood Ordinance"), requires that all new construction of residential structures shall have the lowest floor elevated to or above the base flood level.

238. Since Hurricane Iniki in 1992, there has been substantial reconstruction makai of the Project and along the coastline makai of Lawa'i Road, including the 165-unit Lawa'i Beach Resort, which was fully renovated and reconstructed. Out of an existing total of 109 single-family dwellings along the coast from Spouting Horn to Waikomo Stream, 45 homes have been built since Hurricane Iniki struck in 1992. In addition, there are 18 home sites that remain vacant.

239. A comparison of units under previously proposed plans for Kukui'Ula illustrate that there has been a considerable reduction in the number of units

proposed within the Hurricane Iniki debris line and flood hazard zone. From the 1988 initial phase proposed to the Former Planned Community in 1995, the number of units has decreased from 407 to 74 units. With the current Project, this number is further reduced to 21 units.

240. Within the Petition Area, only a small area (just mauka of Kukui`ula Bay) lies makai of the Hurricane Iniki debris line. Within this portion of the Petition Area, there are no units proposed for development, either within the Hurricane Iniki debris line or the AE/VE high hazard zones.

241. The development of the proposed residential units that would lie in the AE zone and in other flood fringe areas will comply with the County Flood Ordinance. In particular, the development of residential units within flood hazard areas (AE and VE zones) will require that their lowest habitable floor be elevated from 10 to 16 feet above msl as applicable. Any other structures below this level will need to be either floodproofed or allow for the entry and exit of flood waters.

242. Petitioner has represented that all development within the designated flood zones will be in full compliance with the County's Flood Ordinance and the FEMA FIRMs such that there will be minimal coastal hazard impacts to resort-residential development at the Project. Petitioner has represented that the location of flood hazard areas will be disclosed to future buyers.

Electrical, Telephone and Cable Services

243. An electrical and communications system master plan was

prepared by Ronald N. S. Ho & Associates, Inc., in March 2003 for the Project.

244. Electrical power on Kaua'i is provided by Kaua'i Island Utility Cooperative ("KIUC"). KIUC's available generation capacity is approximately 122 megawatts. The present peak coincident demand for electricity on Kaua'i is approximately 70 megawatts. Power is currently provided to the Property via a 57 kilovolt ("kV") overhead transmission line along an existing cane haul road within the Property, a 12.5 kV overhead distribution line which serves the Project's WWTP, and a second 12.5 kV overhead distribution line that follows an existing cane haul road westward across the Property to Lawa'i Valley. An existing substation is located near Koloa Town.

245. The projected maximum demand for the Project is forecasted to be approximately 11.6 megawatts. Based on the forecasted loading, KIUC requires that a new substation be constructed to serve the Project. A site for the substation has been proposed to the west of the Western Bypass Road alignment mauka of the Property.

246. The Project's onsite electrical system will be an underground facility, except for the switching vaults and service transformers.

247. Telephone service is provided by Verizon Hawaii ("Verizon"), which has a Central Office within Koloa Town. Verizon shares the utility poles with KIUC for aerial cables. The telecommunications system within the Project will be underground, with the exception of the pair gain equipment and cross-connect cabinets.

248. Oceanic Time Warner Cable of Hawaii ("Oceanic") is the local

CATV provider. Oceanic has an agreement with Verizon for use of the wood poles along Po'ipu Road and Lawa'i Road to attach aerial cables to support their facilities in this area. Also, an additional fiber cable sized to service the Project is currently being installed by Oceanic along the Po'ipu Road frontage of the Project to reinforce its facilities in this area. The CATV system within the Project will be an underground facility consisting of a network of ducts, handholes and cables, with the exception of the power supply pedestals.

COMMITMENT OF STATE FUNDS AND RESOURCES

249. The State government's operating revenues attributable to the Project are anticipated to exceed the additional operating expenses incurred by the State throughout the Project's development and operating periods. The Project will include all required onsite and offsite infrastructure improvements to minimize the burden on public systems.

CONFORMANCE TO STATE LAND USE URBAN DISTRICT STANDARDS

250. The Petition Area is located in proximity to Koloa Town and the Po'ipu area, which provide urban levels of services and related land uses, such as residential, resort, commercial, civic, golf course, and parks/recreational facilities.

251. The Project will create a number of short-term and long-term employment opportunities. Short-term employment will consist primarily of construction-related jobs. Long-term employment will include opportunities in management, sales and marketing, human resources, food service, maintenance and

engineering, housekeeping, retail, landscaping, entertainment, and activities through the development of the visitor accommodations, golf course and other recreational activities, and commercial uses.

252. The Petition Area is in proximity to public transportation systems, utilities, and services. Po'ipu Road and Lawa'i Road border the Property to the east and south, respectively, while Koloa Road and Kaumuali'i Highway are located approximately 2.6 and 4.4 miles mauka of the Property, respectively. Two mini police substations are located in the Project vicinity in Po'ipu Kai and Koloa Town, and the Koloa Fire Station is located in proximity near the southeast portion of the Property at the intersection of Po'ipu Road and Lawa'i Road. The closest ambulance service to the Project is located along Po'ipu Road, adjacent to the Project. The nearest school is Koloa School located adjacent to the northeasternmost portion of the Property, and a variety of parks are located in the vicinity of the Project. Petitioner has constructed a WWTP within the northeast portion of the Property to serve the entire Project. Petitioner is working with the DOW to develop needed water system improvements for the Project, including joint venture source development opportunities.

253. The Petition Area has satisfactory topography and drainage, and is reasonably free from the danger of any unstable soil conditions. The lowest floor of all residential structures proposed within designated flood zones will be elevated to or above the base flood level and will be designed and constructed in full compliance with the County Flood Ordinance. The County's current Uniform Building Code contains

provisions to address potential impacts of high winds on the structural frames of single-family dwellings. To provide for adequate tsunami civil defense measures, two new civil defense siren systems will be installed to provide coverage in high hazard areas within and adjoining the Project. The siren systems will be implemented as development occurs within the shoreline area of the Project.

254. The Petition Area lies adjacent to urban lands. The approximately 208 acres of the Petition Area currently designated within the Agricultural District were previously approved by this Commission to be incrementally reclassified to the Urban District pursuant to section 15-15-78, HAR. The majority of the Petition Area has been identified as an area recommended for urban development according to OP's Five-Year Boundary Review (1992), which is made within the context of other existing State and County land use policies for the site and the region as a whole.

255. The Petition Area is consistent with the designation of new urban concentrations and urban growth areas as shown on County land use plans. The County's General Plan designates the Petition Area as Resort, Residential Community, and Open.

256. The Project will include all required onsite and offsite infrastructure improvements to minimize the burden on public systems. The Project is not anticipated to have any significant impacts on public services in the area.

257. The Petition Area has slopes ranging from 0 to 6 percent, with a few small areas having slopes of 6 to 25 percent or greater.

CONFORMANCE WITH THE HAWAII STATE PLAN AND STATE FUNCTIONAL PLANS

258. The reclassification of the Petition Area conforms to the Hawai'i State Plan, Chapter 226, HRS, as amended, including the State Functional Plans, with respect to the following applicable objectives and policies:

a. § 226-5(b)(2): "Encourage an increase in economic activities and employment opportunities on the neighbor islands consistent with community needs and desires."

The Project will provide a number of short- and long-term employment opportunities. During development, the Project is projected to directly generate approximately 830 FTE Hawai'i-based jobs in an average year. During the operations phase, the Project is expected to directly support up to 560 long-term permanent jobs. Indirect and induced effects could add another 410 permanent positions. In total, the Project is anticipated to support up to 970 permanent positions Statewide by 2020.

b. § 226-6(a)(2): "A steadily growing and diversified economic base that is not overly dependent on a few industries..."

Development of the Project will provide a variety of employment opportunities.

c. § 226-8(b)(1): "Support and assist in the promotion of Hawai'i's visitor attractions and facilities."

§ 226-8(b)(4): "Encourage cooperation and coordination between the government and private sectors in developing and maintaining well-designed, adequately serviced visitor industry and related developments which are sensitive to neighboring communities and activities."

Petitioner has conducted numerous community meetings since July 2002 with various community businesses, organizations, and individuals within the Koloa-Po'ipu area to solicit input on the Project. The current plan incorporates various elements based on feedback obtained through these meetings.

Development of the Project's resort component will enhance the visitor industry of Kaua'i by complementing the existing larger hotels and timeshare projects located in the Po'ipu region.

The current Project provides for 1,500 total units, a reduction in density of 1,900 units from the Former Planned Community. This represents a decrease in units of over 50 percent. This lower density translates to fewer impacts to the surrounding community, environment, infrastructure, and public services and facilities.

d. § 226-11(b)(6): "Encourage the protection of rare or endangered plant and animal species and habitats native to Hawai'i."

§ 226-11(b)(9): "Promote increased accessibility and prudent use of inland and shoreline areas for public recreational, educational, and scientific purposes."

§ 226-12(b)(1): "Promote the preservation and restoration of significant natural and historic resources."

§ 226-12(b)(3): "Promote the preservation of views and vistas to enhance the visual and aesthetic enjoyment of mountains, ocean, scenic landscapes, and other natural features."

§ 226-12(b)(5): "Encourage the design of developments and activities that complement the natural beauty of the islands."

§ 226-23(b)(4): "Promote the recreational and educational potential of natural resources having scenic, open space, cultural, historical, geological, or biological values while ensuring that their inherent values are preserved."

A total of five archaeological preserves consisting of approximately 36 acres will be provided throughout the Project for the preservation of 16 significant archaeological sites. An approximately 16.2-acre archaeological/biological preserve located within the southeastern portion of the Project, mauka and adjacent to the Prince Kuhio Park, will include the preservation of seven archaeological sites. Public access within the preserve will be provided and will be appropriately configured to allow viewing of the archaeological sites. Interpretive signs featuring information about the preserve and the archaeological sites will be appropriately located within the preserve. Another large archaeological/biological preserve of approximately 16.2 acres located in the northeastern portion of the Project will include the preservation of six archaeological sites. Two smaller archaeological preserves located in the northwestern portion of the Project totaling approximately 2.2 acres include two separate archaeological sites (possible heiau). The remaining archaeological/biological preserve of approximately 1.2 acres located in the central portion of the Project includes one archaeological site (including human remains). In accordance with the respective preservation plans, appropriate buffer areas will be provided for the preserves.

The two large preserves and the approximately 1.2-acre preserve will also incorporate biological preserves for the preservation and protection of the endangered Kaua'i cave wolf spider and Kaua'i cave amphipod.

The Project will provide various onsite recreational facilities, including an approximately 20-acre active community park for use by the general

public. The park will be developed to include multi-purpose fields (baseball, softball, and soccer), tot lots, comfort stations, and parking. The Project will also provide a comprehensive hiking and biking trail system, which will run throughout the Project and will be open to the general public. This trail system will not only provide separate non-vehicular connectivity throughout the Project, but will also provide a public regional connection from Koloa Town and the surrounding Po'ipu area to the shoreline west of Po'ipu Road. A scenic coastal trail will be developed west of Spouting Horn Park as part of the Project's comprehensive trail system, with viewing areas and interpretive signage provided at selected points.

In the Kukui'ula Bay area, Lawa'i Road is proposed to be realigned slightly mauka onto the Property to enlarge the usable beach area and to increase the coastal area makai of the road. New facilities for the public's use will include shower facilities, picnic tables, and a restaurant and beach concession. In the Boyden's Pond area, a public beach parking lot consisting of 20 parking stalls will be developed on the Property to increase public accessibility to this area.

The reduced density of the Project will enhance the overall visual quality related to the Project by providing more open space and allowing for more flexibility in siting of the residential units to reduce visual impacts. The hotel concept envisions a main house with separate guestrooms consisting of detached low-rise duplexes and triplexes to minimize view impacts. The architecture for the Project will be complementary to the general ambience of the Koloa region.

The design of the Project's approximately 207-acre golf course takes advantage of the natural landform wherever possible, minimizing site grading and land disturbance. The golf course design offers scenic vistas of the coastal and mountain areas while taking advantage of the existing valleys and providing significant open space throughout the Project.

e. § 226-13(b)(3): "Promote effective measures to achieve desired quality in Hawai'i's surface, ground, and coastal waters."

§ 226-13(b)(5): "Reduce the threat to life and property from erosion, flooding, tsunamis, hurricanes, earthquakes, volcanic eruptions, and other natural or man-induced hazards and disasters."

The proposed drainage system improvements for the Project will attenuate and reduce the rate of runoff into the ocean to pre-development levels through the provision of drainage basins, grass-lined channels, and lengthening paths of flow. A coastal water quality monitoring program which was established in 1991 as part of the Former Planned Community to monitor baseline water quality conditions of the nearshore coastal waters at and near Kukui'ula Bay is continuing. Petitioner will continue to monitor baseline water quality conditions of the nearshore coastal waters at and near Kukui'ula Bay, and will develop an appropriate construction phase water quality monitoring program prior to construction of the Project.

BMPs will be implemented to protect surface water quality from contamination by the application of fertilizers and pesticides.

Based on the FIRM prepared by FEMA, the southern portion of the Property near Lawa'i Road is designated Zone "AE," "Special flood hazard areas

inundated by 100-year flood with base flood elevations determined.” The base flood elevations for the “AE” zone within the Property range from 10 feet to 16 feet msl. A portion of the Property just north of the “AE” zone is designated Zone “X,” “Areas of 500-year flood; areas of 100-year flood with average depths of less than 1 foot or with drainage areas less than 1 square mile; and areas protected by levees from 100-year flood.” The inland extent of Hurricane Iniki’s inundation in September 1992 generally follows the “AE” zone boundary. All residential structures located within these designated flood zones will be constructed so that the lowest floor, including basements, are elevated to or above the base flood level. All structures will be designed and constructed in full compliance with the County Flood Ordinance.

In the aftermath of Hurricane Iniki in 1992, the Structural Engineers Association of Hawai‘i provided suggestions to homeowners and the development community for improving the wind resistance of the structural frames of single-family dwellings. The emphasis was on creating a complete load path to resist uplift and horizontal forces caused by high winds. These provisions have gained widespread acceptance and are incorporated in the Uniform Building Code adopted by the County.

To provide for adequate tsunami civil defense measures, two new civil defense siren systems will be installed to provide coverage in high hazard areas within and adjoining the Project. The siren systems will be implemented as development occurs within the shoreline area of the Project.

f. § 226-16(b)(3): “Reclaim and encourage the productive use of runoff water and wastewater discharges.”

The Project plans to reuse 100 percent of the wastewater effluent generated by the Project to irrigate the community park, open space areas, roadside landscaping, the golf course driving range, drainage corridors, and portions of the archaeological/biological preserves within the eastern portion of the Property, if approved under the Project's Biological Management Plan. Additional non-potable irrigation water from the former sugar plantation will be utilized, resulting in less demand on potable sources.

CONFORMANCE TO COASTAL ZONE MANAGEMENT POLICIES AND OBJECTIVES

259. The proposed reclassification of the Petition Area for the development of the Project conforms to the policies and objectives of the Coastal Zone Management Program, Chapter 205A, HRS, as amended, with respect to the following:

- a. Recreational Resources: Conformance as described in findings of fact nos. 122, 162, and 163.
- b. Historic Resources: Conformance as described in findings of fact nos. 96 to 102, inclusive, and 110.
- c. Scenic and Open Space Resources: Conformance as described in findings of fact nos. 33.c. and 126.
- d. Coastal Ecosystems: Conformance as described in findings of fact nos. 162 to 164, inclusive.
- e. Economic Uses: Conformance as described in findings of fact nos. 258.c. (third paragraph following policies) and 258.d. (third and fourth paragraphs following policies).
- f. Coastal Hazards: Conformance as described in findings of fact nos. 234 to 237, inclusive, and 239 to 242, inclusive.

- g. Managing Development: Conformance as described in findings of fact no. 60.

INCREMENTAL DISTRICTING

260. Unlike the Former Planned Community, the Project incorporates an accelerated development timetable. Under this timetable, infrastructure is to be substantially completed within a 7- to 8-year timeframe following receipt of final entitlements. The Project will be developed in its entirety inclusive of Increment II rather than proceeding on an incremental basis as originally approved.

RULING ON PROPOSED FINDINGS OF FACT

Any of the proposed findings of fact submitted by Petitioner or the other parties to this proceeding not already ruled upon by the Commission by adoption herein, or rejected by clearly contrary findings of fact herein, are hereby denied and rejected. The findings of fact contained herein shall supersede the findings of fact set forth in the Findings Of Fact, Conclusions Of Law, And Decision And Order Dated May 18, 1995 and the Supplemental And/Or Modified Findings Of Fact, Conclusions Of Law, And Decision And Order Dated June 22, 1998.

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

CONCLUSIONS OF LAW

Pursuant to chapter 205, HRS, and this Commission's Rules under chapter

15-15, HAR, this Commission finds upon the clear preponderance of the evidence that the reclassification of the Petition Area, consisting of approximately 783.676 acres of land in the State Land Use Agricultural District at Lawa`i, Koloa, Kaua`i, Hawai`i, Tax Map Key Nos: 2-6-03: por. 1, 21, por. 31, and por. 32; 2-6-04: por. 38 and por. 45; and 2-6-15: por. 1 to the State Land Use Urban District, for the development of the Project, and subject to the conditions in the Order below, is reasonable, not violative of section 205-2, HRS, and is consistent with the policies and criteria established pursuant to sections 205-16 and 205-17, HRS.

ORDER

IT IS HEREBY ORDERED that the Petition Area, consisting of approximately 783.676 acres of land in the State Land Use Agricultural District at Lawa`i, Koloa, Kaua`i, Hawai`i, identified as Tax Map Key Nos: 2-6-03: por. 1, 21, por. 31, and por. 32; 2-6-04: por. 38 and por. 45 and 2-6-15: por. 1, as approximately shown on Exhibit "A" attached hereto and incorporated by reference herein, shall be and is hereby reclassified to the State Land Use Urban District and the State land use district boundaries shall be amended accordingly.

IT IS FURTHER ORDERED that the reclassification of the Petition Area from the State Land Use Agricultural District to the State Land Use Urban District shall be subject to the following conditions which shall replace the conditions set forth in the Commission's Supplemental Order:

1. Petitioner shall provide affordable housing opportunities for

residents of the State of Hawai'i in accordance with applicable housing requirements of the County of Kaua'i. The location and distribution of the affordable housing or other provisions for affordable housing shall be under such terms as may be mutually agreeable between Petitioner and the County.

2. Petitioner shall initiate and fund a nearshore water quality monitoring program. The monitoring program shall be approved by the State Department of Health in consultation with the U.S. Fish and Wildlife Service, the National Marine Fisheries Service, and the State Division of Aquatic Resources, Department of Land and Natural Resources. Mitigation measures shall be implemented by Petitioner if the results of the monitoring program warrant them. Mitigation measures shall be approved by the DOH in consultation with the abovementioned agencies, and the County Public Works Department. Petitioner shall coordinate this consultation process with the concurrence of the DOH.

3. Petitioner shall implement effective soil erosion and dust control measures during construction to the satisfaction of the State Department of Health and the County of Kaua'i.

4. Petitioner shall produce a Solid Waste Management Plan in conformance with the Integrated Solid Waste Management Act, Chapter 342G, Hawai'i Revised Statutes. Petitioner's Solid Waste Management Plan shall be approved by the County of Kaua'i. The Plan shall address and encourage an awareness of the need to divert the maximum amount of waste material caused by developments away from the

County's landfills.

5. Petitioner shall fund and construct adequate wastewater treatment, transmission and disposal facilities, as determined by the State Department of Health and the County of Kaua'i Department of Public Works as necessary and appropriate to service the needs of the Project area.

6. Petitioner shall comply with the recommendations of the State Department of Health, dated August 1994 (Version 5), and entitled "Guidelines Applicable to Golf Courses in Hawai'i."

7. Petitioner shall participate in an air quality monitoring program as specified by the State Department of Health.

8. Petitioner shall provide its fair share of costs to fund and construct adequate civil defense measures to service the Property and surrounding area as determined by the State and County of Kaua'i civil defense agencies.

9. Petitioner shall provide a fair-share contribution for school facilities to the satisfaction of the State Department of Education ("DOE"). In the following manner: (a) Petitioner shall donate in fee simple seven (7) acres for the expansion of Koloa Elementary School with all infrastructure provided at no cost to DOE; (b) Petitioner shall donate in fee simple twelve (12) acres of usable land for a second elementary school site within the Property, with all infrastructure provided at no cost to DOE, or an agreed to in-lieu fee; (c) The infrastructure provided shall include a sewer connection for the abovementioned 12-acre site, 7-acre site, and the Koloa Elementary

School from Petitioner's existing Sewage Treatment Plant at no cost to the DOE. The timing of the conveyances of the lands and the location of the 12-acre site shall be determined by mutual agreement between Petitioner and the DOE. Petitioner and the DOE shall submit a written agreement on this matter prior to Petitioner obtaining approval for county zoning.

10. Petitioner shall participate in the pro rata funding and construction of local and regional roadway improvements necessitated by the proposed development in designs and schedules accepted by the State Department of Transportation and the County of Kaua'i.

- (a) Petitioner shall, prior to obtaining County Zoning, revise or supplement the Traffic Impact Assessment Report dated March 2003 for the review and approval of the Department of Transportation which shall include an analysis of the entire master planned development as required by the Department of Transportation.

11. As determined by the County of Kaua'i, Petitioner shall make available recreational facilities which are developed within the Project, including available adequate golf tee times, for public play at rates which shall include kama'aina rates.

12. Petitioner shall fund and construct adequate water source, storage, and transmission facilities and improvements to accommodate the proposed Project.

Water transmission facilities and improvements shall be coordinated and approved by the appropriate State and County agencies.

13. Petitioner shall work with the residents of 'Oma'o and the County of Kaua'i Department of Water Supply to resolve concerns regarding the 'Oma'o wells(s).

14. Petitioner shall complete the following:

- (a) Ten significant historic sites within the Property identified by Petitioner's archaeological consultant not recommended for preservation shall be subject to archaeological data recovery work. An archaeological data recovery plan shall be submitted to the State Historic Preservation Division for approval, the successful execution of which plan shall be verified in writing by the Division prior to the start of land altering activities of those areas which are proximate to the historic sites and could adversely impact upon the historic sites.
- (b) Seven additional significant historic sites within the Property identified by Petitioner's archaeological consultant and recommended for preservation shall be preserved. A preservation plan shall be submitted to the State Historic Preservation Division for approval, prior to the start of land

altering activities of those areas which are proximate to the historic sites and could adversely impact upon the historic sites.

- (c) Petitioner shall comply with all applicable statutory provisions and administrative rules regarding inadvertent burial finds within the Property.

15. Petitioner shall conduct a biological survey for terrestrial invertebrates (Kaua`i cave wolf spider and Kaua`i cave amphipod), and a study to determine the extent of the caves on the surface. The study shall include a buffer area of a minimum of 100 feet around the perimeter of the lava tube caves. The survey and the study shall be completed prior to obtaining zoning approval from the County of Kaua`i. Petitioner shall consult with the U.S. Fish and Wildlife Service ("USFWS") regarding the content and completeness of both studies. Petitioner shall develop with the USFWS a conservation plan establishing specific conditions for the conservation of the cave animals and their habitat. Such conservation plan shall be legally enforceable in a court of law and will run with the land as an encumbrance on title. The plan shall be accepted and approved by the USFWS. The USFWS must also verify in writing to the Commission, the successful execution of the study, and the implementation of the mitigation/conservation plan. Petitioner shall consult with the USFWS prior to any blasting, movement of heavy construction equipment, roadway construction, or grading in areas which may impact terrestrial invertebrates.

16. Petitioner, successors, agents, transferees, or assigns shall comply with any conservation agreement with the U.S. Fish and Wildlife Service related to terrestrial invertebrates (Kaua`i cave wolf spider and Kaua`i cave amphipod).

17. The Project shall be limited to 1,500 units along with the various Project components.

18. As determined by the County of Kaua`i, bike paths and pedestrian walkways shall be provided by Petitioner within the Project .

19. Petitioner shall (a) provide land for, and or access to, a site for the disposal of construction materials from the Project; or (b) contribute a pro rata share in developing a disposal site; or (c) construct a facility in connection with the disposal site.

20. Petitioner shall resolve with the County the Petitioner's

- (a) contribution to pro rata share of improvements to Maluhia Road, including widening and realignments;
- (b) contribution to pro rata share of improvements to Po`ipu Road from Koloa Town to the Project site; and
- (c) timing of the construction of the Western Bypass Road to avoid congestion on Po`ipu Road, particularly through the Koloa Town area.

21. Building setback lines shall be established along the rim of Lawa`i Kai Bay and or Lawa`i Valley at not less than 50 feet from the edge of the rim.

22. Petitioner shall cooperate with the County of Kaua`i in

implementing a program for a shoreline land acquisition for park and or hazard mitigation purposes as may be undertaken by the County.

23. An agreement between Petitioner and the County of Kaua'i shall be formulated that covers the elements which Petitioner will be participating in contributing its pro rata share toward items that are determined to provide regional and or islandwide benefits (excluding items which service the Project) for which Petitioner shall be credited against County requirements affecting the Project.

24. As permitted by law, Petitioner shall provide employment opportunities in the Project to give preference to those persons who have been or will be displaced by the withdrawal of sugarcane lands.

25. Petitioner shall develop the Project in substantial compliance with the representations made before the Land Use Commission. Failure to so develop the Petition Area may result in reversion of the Petition Area to its former land use classification, or change to a more appropriate classification.

26. Petitioner shall give notice to the Land Use Commission of any intent to sell, lease, assign, place in trust, or otherwise voluntarily alter the ownership interests in the Petition Area prior to development of the Petition Area.

27. Petitioner shall timely provide without any prior notice, annual reports to the Commission, the Office of Planning, and the County of Kaua'i Planning Department in connection with the status of the Project and Petitioner's progress in complying with the conditions imposed herein. The annual report shall include written

documentation from each State and County agency responsible, indicating that the terms of the condition(s) are progressing satisfactorily or has been completed to the satisfaction of the agency. The annual report shall be submitted in a form prescribed by the Executive Officer of the Commission.

28. The Land Use Commission may fully or partially release the conditions provided herein as to all or any portion of the Petition Area upon timely motion and upon the provision of adequate assurance of satisfaction of these conditions by Petitioner.

29. Within 7 days of the issuance of the Commission's Decision and Order for the subject reclassification, Petitioner shall (a) record with the Bureau of Conveyances a Statement that the Petition Area is subject to conditions imposed herein by the Land Use Commission in the reclassification of the Petition Area; and (b) file a copy of such recorded statement with the Commission.

30. Petitioner shall record the conditions imposed herein by the Commission with the Bureau of Conveyances pursuant to Section 15-15-92, Hawai'i Administrative Rules.

ADOPTION OF ORDER


The undersigned Commissioners, being familiar with the record and proceedings, hereby adopt and approve the foregoing ORDER this 7th day of August, 2003. The ORDER and its ADOPTION shall take effect upon the date this ORDER is certified and filed by this Commission.

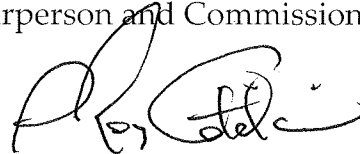
Done at Honolulu, Hawaii, this 8th day of August, 2003,
per motion on August 7, 2003.

APPROVED AS TO FORM


Deputy Attorney General


LAND USE COMMISSION
STATE OF HAWAII


By 
LAWRENCE N.C. ING
Chairperson and Commissioner

By 
P. ROY CATALANI
Vice-Chairperson and Commissioner

By 
BRUCE A. COPPA
Commissioner

By ABSENT
PRAVIN DESAI
Commissioner

By 
ISAAC FIESTA, JR.
Commissioner

By 
STEVEN LEE MONTGOMERY
Commissioner

By RECUSED
RANDALL F. SAKUMOTO
Commissioner

Filed and effective on
August 8, 2003

Certified by:

Anthony J. Kelly
Executive Officer

By ABSENT
RAE MCCORKLE SULTAN
Commissioner

By 
PETER YUKIMURA
Commissioner

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

| | | |
|---|---|------------------------|
| In The Matter Of The Petition Of |) | DOCKET NO. A93-696 |
| |) | |
| KUKUI'ULA DEVELOPMENT |) | CERTIFICATE OF SERVICE |
| COMPANY (HAWAII), LLC |) | |
| |) | |
| To Amend The Agricultural Land Use District |) | |
| Boundary Into The Urban Land Use District |) | |
| For Approximately 783.676 Acres At Lawa'i, |) | |
| Koloa, Kaua'i, Hawai'i, Tax Map Key Nos: |) | |
| 2-6-03: Por. 1, 21, Por. 31, And Por. 32; 2-6-04: |) | |
| Por. 38 And Por. 45; And 2-6-15: Por. 1 |) | |
| _____ |) | |

CERTIFICATE OF SERVICE

I hereby certify that a copy of the Findings of Fact, Conclusions of law, and Decision and Order was served upon the following by either hand delivery or depositing the same in the U. S. Postal Service by regular or certified mail as noted:

| | |
|-------|---|
| DEL. | MARY LOU KOBAYASHI Office of Planning P. O. Box 2359 Honolulu, Hawaii 96804-2359 |
| CERT. | JOHN CHANG, Esq. Deputy Attorney General Hale Auhau, Third Floor 425 Queen Street Honolulu, Hawaii 96813 |
| CERT. | BENJAMIN M. MATSUBARA, Esq. CURTIS T. TABATA, Esq. 888 Mililani Street, 8 th Floor Honolulu, Hawaii 96813 |

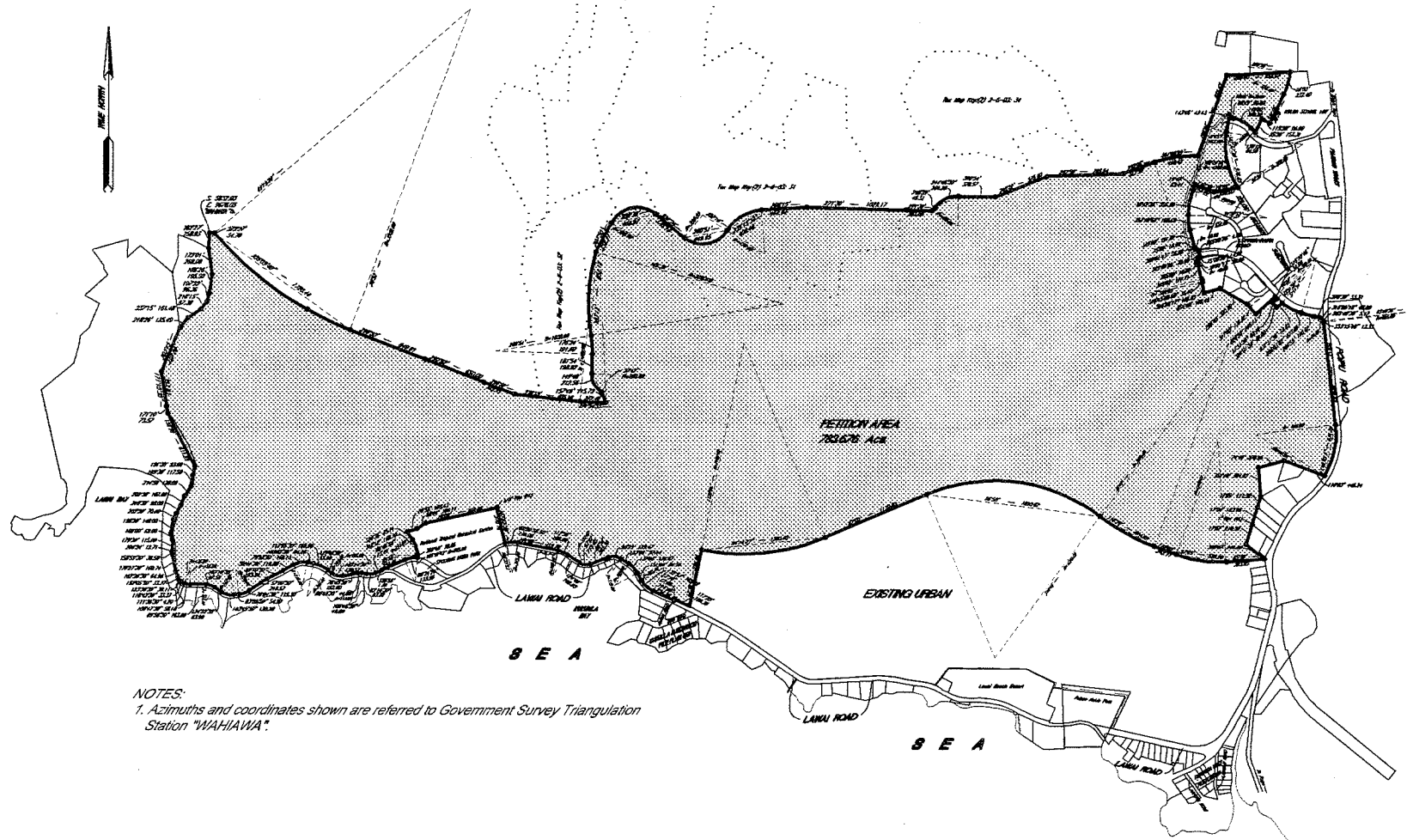
CERT. IAN COSTA, Planning Director
Kauai County Planning Department
Suite 473, Building A
4444 Rice Street
Lihue, Hawaii 96766

CERT. LANI NAKAZAWA, Esq.
County Attorney
Office of the County Attorney
County of Kauai
4444 Rice Street, #220
Lihue, Hawaii 96766

Dated: Honolulu, Hawaii, August 8, 2003.



ANTHONY H. CHING
Executive Officer



A93-696 KUKUT'ULA DEVELOPMENT COMPANY (HAWAII), LLC

LOCATION MAP

Tax Map Key Nos.: 2-6-03: por. 1, 21, por. 31, and por. 32; 2-6-04: por. 38 and por. 45; and 2-6-15: por. 1

Lawa'i, Koloa, Kaua'i, Hawai'i

Scale: 1" = 1600 ft.

EXHIBIT "A"

