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Ref. No. P-13425

October 7, 2011

Mr. Orlando Davidson, Executive Officer
State Land Use Commission
Department of Business, Economic Development and Tourism
P.O. Box 2359
Honolulu, Hawai'i 96804

Dear Mr. Davidson:

Subject: Draft Environmental Impact Statement
Land Use Commission Docket No. A07-778, Kaloko Makai
Tax Map Key Nos. (3) 7-3-009: 017, 025, 026, and 028
Kaloko and Kohanaiki, North Kona, Hawai'i

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LAND USE COMMISSION
STATE OF HAWAII

The Office of Planning (OP) has reviewed the Draft Environmental Impact Statement (DEIS) prepared for the above referenced project. Petitioner, SCD-TSA Kaloko Makai, LLC, proposes to reclassify a total of approximately 952.165 acres of land from the State Agricultural and Conservation Districts to the State Urban District, for the development of the Kaloko Makai project, a mixed-use urban center planned for approximately 1,142.165 acres within the designated Kona Urban Area of the County of Hawai'i's Kona Community Development Plan.

The Office represents the State as a mandatory party in proceedings before the Land Use Commission (LUC) for amendments to district boundaries involving land areas greater than fifteen acres, pursuant to Section 205-4(e), Hawai'i Revised Statutes (HRS). The Office evaluates proposed projects and petitions with respect to the LUC decision-making criteria in Section 205-17, HRS, and Chapter 15-15, Hawai'i Administrative Rules (HAR). In addition, the Office strongly encourages petitioners to review their proposals with respect to the Administration's priorities in implementing the goals of the Hawai'i State Plan, Chapter 226, HRS. These priorities are set out in the Administration's New Day Comprehensive Plan, which is available at <http://hawaii.gov/gov/about/a-new-day>.

The Office offers the following comments on the subject DEIS. These comments are intended to ensure that the Final Environmental Impact Statement (FEIS) provides a more complete and accurate discussion of project impacts pertinent to LUC decision-making criteria.

1. **Act 181, Session Laws of Hawai‘i 2011, Priority guidelines for sustainability.** Act 181, signed into law on July 5, 2011, sets forth in Part III of Chapter 226, HRS, new priority guidelines to promote sustainability in Hawai‘i. The new priority guidelines should be included in FEIS Section 5.1.4, and the FEIS should discuss how the project addresses the priority guidelines for sustainability.

2. **Sustainable development and resource use.** OP reviews proposed projects with respect to their demonstrated commitment to incorporating and implementing sustainable design and development practices that align with State energy initiatives and the Administration’s priorities to move toward clean energy, energy independence, and a green economy. The DEIS discusses a variety of green building practices that will be “considered” in project design and development. OP recommends that the FEIS identify those measures that are proposed to be or will be incorporated in project design and construction to reduce resource use and energy demand, maximize energy efficiency and resource reuse and recycling, promote use of alternative, renewable energy sources.

OP also recommends that petitioners consider preparing a sustainability plan that outlines guidelines, actions, and performance standards to be implemented in the design, development, and operation of projects to minimize and mitigate the long-term energy and resource impacts of proposed projects. Castle and Cooke Homes Hawai‘i (Koa Ridge) and DR Horton-Schuler Homes (Ho‘opili) have prepared sustainability plans for their respective projects; these documents are available for review at the LUC website.

3. **Groundwater and coastal water quality.** The section on groundwater resources would be improved by including a brief description of the project’s estimated potable and non-potable water demand, potential recharge or infiltration due to wastewater effluent disposal, irrigation, and stormwater runoff, and preferred water source, to provide a context for evaluating reasonably foreseeable impacts. On page 3-27, the statement regarding no anticipated impacts to groundwater sources should be qualified to read that with appropriate mitigation there are no anticipated impacts.

Given comments received from the State Department of Land and Natural Resources’ Division of Aquatic Resources and the U.S. National Park Service (NPS), that the evidence to date is inconclusive as to the potential impacts—adverse or otherwise—that may result from development of the project and other projects in the region on the Class AA and Class A coastal receiving waters and the water quality of the anchialine ponds and other coastal resources found at the Kaloko-Honokōhau National Historical Park (NHP) and Monument makai of the proposed project. The NPS is concerned about the quality of groundwater and

surface runoff entering the NHP. To strengthen the evaluation of the reasonably foreseeable impacts, the FEIS should include the following:

- a. All studies referenced in the groundwater section should be fully cited in the References section, e.g., Dollar 2002 is not listed in the References.
 - b. As recommended by the NPS, the FEIS should include an analysis of preventative measures such as restricted use of termiticides, pesticides, and herbicides and the incorporation of water quality treatment features, like filtration devices, that can be incorporated in drainage improvements to remove potential contaminants like petrochemicals before disposal in drywells or infiltration into groundwater underlying the project site.
 - c. The project proposes to adopt mitigation measures including a pollution prevention plan and groundwater monitoring plan, similar to plans worked out between the NPS and other developers in area. The FEIS should provide an update on consultations with the NPS and whether there is substantive agreement about the scope and content of the plans. The FEIS should also identify what entity will be responsible for preparing and implementing these plans.
 - d. The DEIS states that the groundwater monitoring plan will be implemented for a two-year period. Given the questions and concerns as to the long-term, cumulative impacts of urban development of this and other projects on coastal waters, it is more reasonable for the groundwater monitoring plan to be long-term, to enable an assessment of conditions with full buildout of the project.
4. **Proposed dryland forest preserve.** The FEIS should discuss potential impacts and possible mitigation measures related to increased accessibility due to urban development and the trail restoration proposed in the remnant forest. The FEIS should also clarify and/or discuss, in the appropriate section, preservation and management of the dryland forest with respect to the following:
- a. Habitat conservation plan. The FEIS should clarify whether the habitat conservation plan is of similar or narrower scope than the management plan the U.S. Fish and Wildlife Service recommended be prepared and implemented for the preserve in its October 29, 2010 letter.
 - b. Implementation of habitat conservation plan or management plan. The FEIS should clarify who will be responsible for managing the preserve? How will management activities be funded over the long-term?
 - c. Phasing of implementation. Figure 2-12 includes the dryland forest in Phase 1 of the project. Table 2-6 lists the dryland forest in Phase 3. Given the sensitivity of the forest ecosystem and protected plant species within, it would be preferable for the dryland forest preserve to be established and

management measures in place in Phase 1, early in the project prior to major construction activity.

- d. Consistency with County Plan land use designation and variant for Alternatives section. The County General Plan Land Use Allocation Pattern Guide Map designates much of the dryland forest area as 'Conservation'. The FEIS should discuss consideration of reclassification of the lands underlying the proposed preserve to the State Conservation District as a reasonable alternative to reclassification to the Urban District.

5. **Archaeological and cultural resources.** The northeastern portion of the project property features numerous archaeological and cultural resources, such as burials in lava tubes, which are proposed for preservation. Low-density residential uses are proposed for development in Phase 3 of the project; the residential units are proposed to be interspersed among the preservation clusters. As a reasonable alternative, the final EIS should consider avoiding development in this area, reallocating planned units to other residential and mixed use areas within the project property, and creating a much larger cultural preserve to ensure that residential development and future residents do not encroach on these resources and to provide an open space buffer for the proposed mixed-use urban center.

OP recommends that the State Na Ala Hele Program be consulted to determine whether Program staff concurs with the DEIS finding that the Road to Honokōhau trail does not traverse the project property.

6. **Highways and roads.** The FEIS should identify which of the recommended planned roadway improvements, if not all, the project developer will undertake as mitigation of project impacts.
7. **Water source and system improvements.** The FEIS should clarify in the discussion of the preferred alternative for an off-site well field whether a long-term agreement for use of the land for this purpose will be required. It should also clarify whether pumping will be required to distribute water produced by the desalination plant, should one be needed for the project.
8. **Agricultural lands.** The FEIS should identify and describe any existing or planned agricultural activities on lands in the State Agricultural District adjoining or in proximity to the proposed project, and discuss what impact, if any, the project will have on agricultural use and viability on these lands.
9. **Biota.** The FEIS should describe precautionary measures that may be required during development and after buildout to avoid adverse impacts on Hawaiian hoary bat populations that may forage or transit the project property.

10. **Development timetable, Section 2.4.** The DEIS states that “major infrastructure” will be developed by 2025, although elsewhere in the section associated infrastructure will also be included in each of the project’s proposed phases. The FEIS should clarify what will constitute “major infrastructure.”
11. **Approvals and permits.** The FEIS should include in the list of approvals and permits those required for the development of a private water system, including those for a desalination system.
12. **Miscellaneous Comments, Clarifications, and Corrections.**
 - a. The FEIS should correct the non-substantive typographic and spelling errors found in Volume 1 of the DEIS.
 - b. The FEIS preparer should carefully review the comment letters to ensure that the FEIS is responsive to substantive concerns and comments in the comment letters. In particular, OP reviews the FEIS for evidence of ongoing consultation with impacted State agencies and responsiveness to State agency concerns.
 - c. Conventional strategies for noise mitigation and maintenance of traffic flow and safety along the proposed Ane Keohokālole Highway may conflict with the creation of a pedestrian-friendly, vibrant mixed-use center and the successful integration and use of the mauka-makai Kohanaiki Trail, which will cross the new highway. The FEIS may want to note that special attention, perhaps the use of complete streets strategies, will be needed to create a successful streetscape for all modes of transportation and promote community livability in alignment with the Kona Community Development Plan.
 - d. Page 1-8, Section 1.7.1. The FEIS should provide a brief explanation of the need for a boundary interpretation for the amount of acreage being proposed for reclassification from the Agricultural to the Urban District.
 - e. Page 1-14, State Functional Plans. The correct number of State functional plans is thirteen.
 - f. Page 1-17, Rationale for Proceeding. This section could include the preservation and restoration of the Kohanaiki Trail as well as preservation of archaeological and cultural sites, including burials.
 - g. Figure 2-11, Land Use Plan. Consideration should be given to revising this figure to provide a graphic treatment of Kohanaiki Trail like that in Figure 2-1 of the Environmental Impact Statement Preparation Notice (EISPN), which illustrates the trail alignment with its open space buffer and better reflects the archaeological, cultural, recreational, and place-making significance of restoration and preservation of this trail.
 - h. Page 2-30, Table 2-5, footnote for interchange. We recommend that “taking” be replaced with “land acquisition” or a more neutral term.

- i. Figures 2-12 through 2-14 and related phasing table/discussion on page 2-59. It might be helpful if one or more of the phasing maps were revised to display the approximate location of the planned Queen Ka'ahumanu Highway interchange, and to identify, if possible, in the phasing table the appropriate timeframe for interchange improvements. It would provide a clearer picture if the extent of the general neighborhoods described in Section 2.4 were delineated on the phasing maps.
- j. Page 3-1, Climate. The FEIS should acknowledge that the project will help offset the loss of vegetation, but will result in a significant change in land cover, replacing vegetation with heat-absorbing materials and impervious surfaces.
- k. Page 3-2, National Pollutant Discharge Elimination System permit. The FEIS should replace "stormwater construction activities" with "stormwater discharges associated with construction activities."
- l. Page 3-4, Offsite well field. Soils of the potable well field include rKED soils.
- m. Figure 3-2 might read better if the rating class was symbolized using a color ramp with consistently lighter gradations from 'A' to 'E'.
- n. Page 3-8, Section 3.4, Hazards. The FEIS should reference any concerns and planned actions contained in the County Hazard Mitigation Plan that are relevant for development in the proposed project area and region.
- o. Page 3-8, Sections 3.4 and 3.4.1. The introduction states the project site is susceptible to hazards including flooding; the section goes on to state the project is not anticipated to result in flooding of the project site or lands downslope of the project. The FEIS should clarify the flood risk posed by the proposed development. The FEIS should also clarify whether a stormwater management program and guidelines will be adopted for the proposed project, or whether the narrative in Section 3.4.1 is simply reporting the Kona Community Development Plan Policy for urban stormwater management.
- p. Page 3-10, Section 3.4.3. The FEIS should clarify whether the "Prescriptive Details for Hurricane-Resistant Construction" is part of the County's adopted Uniform Building Code or is a set of higher standards yet to be adopted.
- q. Figure 4-3, Archaeological Sites. It might be helpful to display the parcel boundaries and label with their tax map key numbers, since the sites are discussed by parcel.
- r. Page 4-81, Aircraft noise. The DEIS notes that there are occasional aircraft overflights of the project property. The FEIS should reflect the recommendations of the State Department of Transportation, Airports Division regarding disclosure of aircraft noise.
- s. Page 4-82, Table 4-16. The notes for the table are missing.

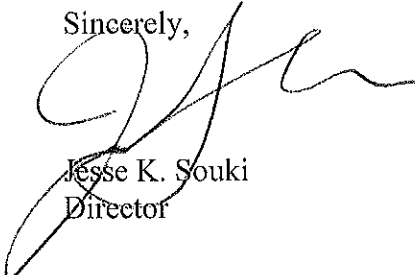
- t. Page 4-87, Fire protection. The text notes a 30-mile radius for fire protection service for the Kailua-Kona Fire Station. This seems rather large for an urban or urbanizing area.
- u. Page 4-89, Schools. This section should note that the project is within the West Hawai'i School Impact Fee District, and provide an update on consultations with the State Department of Education. The capacity of Kealakehe High School should be provided.
- v. Pages 4-89 through 4-102. There are some discrepancies in the numbers used in the text and those in Tables 4-21 and 4-23, which should be resolved or explained.
- w. Page 4-9.2.1.2, Fiscal impacts. The FEIS should clarify whether the fiscal analysis assumed dedication of infrastructure to the County or not.
- x. Page 4-105, Second paragraph. Your conclusions should be supported by findings and facts.
- y. Table 4-24. It would be helpful if the table showed water demand by potable vs. non-potable water. There are redundant school footnotes.
- z. Page 4-123, Section 4.10.2, Wastewater system and Figure 4-20. The colors in the legend and map shown in Figure 4-20 are confusing and make this map difficult to read with respect to the narrative. We recommend the map and text be reviewed to see how the figure and legend might be improved, for example, in distinguishing between the petition area and the County's financing district, etc.
- aa. Page 4-126, Wastewater treatment alternatives. This section could be improved by stating at the outset that the preferred alternative for the project is to develop a private wastewater treatment plant.
- bb. Pages 4-124 through 4-132. The FEIS should be consistent in the numbers used for average wastewater flow, average dry weather flow, and design peak flow and the number of acres that can be irrigated with recycled water flow.
- cc. Page 4-132, Section 4.10.3, Drainage. This section should include estimates of potential stormwater runoff at buildout and the volume of runoff at buildout that will be required to be retained onsite under County drainage standards.
- dd. Page 5-8, Comment for Section 5.1.3, Chapter 205A, HRS, Scenic and Open Space Resources. The comment should be revised to discuss the project's impact on open space resources as well as views mauka-makai in the coastal viewshed. The comment should also acknowledge that the project is not coastal dependent and is located inland.
- ee. Page 5-9, Economic Uses. The policy emphasis here is on the appropriate siting of coastal dependent facilities and improvements. Since the project is not coastal dependent, no comment is really necessary here.

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- ff. Page 8-2, Section 8.2, Cumulative impacts. With the exception of traffic, the impacts on the identified issue areas are not discussed in a cumulative context.
- gg. Page 8-6, Section 8.4. This section should include the irretrievable and irreversible commitment of State and County funds to operate and maintain induced public facility growth and services, such as schools, public libraries, highways and roads dedicated to the State or County, potential residential refuse collection, etc.
- hh. Page 8-7, Section 8.5, Environmental effects that cannot be avoided. This section should include the taking of endangered species and the potential threat to other protected plant species, potential threats and alteration to archaeological and cultural sites, and the contribution of vehicular emissions and emissions from power generation to air quality.

The Office appreciates the opportunity to comment on the DEIS. We look forward to receiving the FEIS. If you have any questions, please call Ruby Edwards, Land Use Division, at 587-2817.

Sincerely,



Jesse K. Souki
Director

- c: Mr. Peter Phillips, SCD-TSA Kaloko Makai, LLC
Mr. Earl Matsukawa, Wilson Okamoto Corporation
Ms. Bobbie Jean Leithead Todd, County of Hawai'i Planning Department