

DEPARTMENT OF PLANNING

KA'ĀINA HULL, DIRECTOR

JODI A. HIGUCHI SAYEGUSA, DEPUTY DIRECTOR



DEREK S.K. KAWAKAMI, MAYOR
REIKO MATSUYAMA, MANAGING DIRECTOR

September 9, 2024

Public testimony received by the Planning Department as of September 9, 2024, 9:00 am for the September 10, 2024, Planning Commission meeting regarding the following item:

- F.3.a. Proposed Amendments to Chapter 4 of the Rules of Practice and Procedure of the County of Kauai Planning Commission, regarding Petition to Intervene, which details the applicability of intervention for Planning Commission actions, the requirements and contents to file a petition to intervene, multiple petitioners and intervenors, arguments for and against petitions to intervene, and action on petitions for intervention = **COUNTY OF KAUAI, PLANNING COMMISSION.** [Director's Report received and Public Hearing Deferred, July 9, 2024.]

County of Kauai Planning Commission
4444 Rice Street, Suite A473,
Lihue, Hawaii, 96766

planningdepartment@kauai.gov

9/09/2024

Comments Re: 3. Continued Public Hearing

- a. Proposed Amendments to Chapter 4 of the Rules of Practice and Procedure of the County of Kauai Planning Commission, regarding Petition to Intervene, which details the applicability of intervention for Planning Commission actions, the requirements and contents to file a petition to intervene, multiple petitioners and intervenors, arguments for and against petitions to intervene, and action on petitions for intervention = COUNTY OF KAUAI, PLANNING COMMISSION. [Director's Report received and Public Hearing Deferred, July 9, 2024.]

Planning Commission Chair Apisa, Vice-Chair Ako and Commissioners,

1. Changing SHALL to MAY is definitely a step backward. The existing requirement is that a petitioner SHALL be admitted if the petitioner demonstrates that he/she would be "so directly and immediately affected" that the petitioner's "interest in the Proceeding is clearly distinguishable from that of the general public. "The proposed requirement is that a petitioner MAY be admitted if the petitioner demonstrates "an actual or threatened injury that is fairly traceable to the applicant's action, for which the Commission maintains authority to provide redress." Regardless of the change in the standard I don't support the change from SHALL to MAY.
2. Filing Fee: overall, this seems designed to suppress/discourage public participation, increasing the filing fee from \$25 to \$300 (which is 50% higher than Hawaii County's \$200). In addition, under the existing rule, the fee is reimbursed if the petition is denied; but under the proposed rule, the fee would not be reimbursed. This seems prohibitive for regular people. I support a reasonable raise of the fee.
3. Multiple Intervenors: the proposed rule says that if more than one intervenor is admitted, the Hearings Officer "may require intervenors to assign responsibilities between themselves for the examination and cross-examination of witnesses." I can't imagine this being reasonable or workable if the various intervenors have diametrically-opposed interests. "May require" should be changed to "may request."
4. Regarding the deadline to file petitions for interventions, the amendment proposes to clarify that petitions must be filed "no less than seven (7) days **prior to the first public hearing** for which notice to the public has been published pursuant to law" ... seems publication could happen on the county planning website as well since the Garden Island charges to subscribe and many people no longer get the newspaper.

Mahalo,


Caren Diamond

DEPARTMENT OF PLANNING

KA'ĀINA HULL, DIRECTOR

JODI A. HIGUCHI SAYEGUSA, DEPUTY DIRECTOR



DEREK S.K. KAWAKAMI, MAYOR
REIKO MATSUYAMA, MANAGING DIRECTOR

September 9, 2024

Public testimony received by the Planning Department as of September 9, 2024, 9:00 am for the September 10, 2024, Planning Commission meeting regarding the following item:

- H.1. In the matter of a Notice of Violation and Order to Pay Fines, for illegal development within the Shoreline Management Area (SMA) and failure to secure required SMA permit determination, related to the property located at 5-7534 B Kuhio Highway, Haena, Hanalei, Tax Map Key: (4)5-9-002:021 = **HAPPY HOUSE TRUST.**

County of Kauai Planning Commission
4444 Rice Street, Suite A473
Lihue, Hawaii, 96766
planningdepartment@kauai.gov

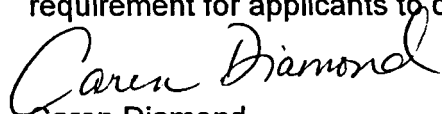
September 9, 2024

Testimony on Planning Commission September 10, 2024 Agenda Item H.1 (Notice of Violation and Order to Pay Fines for illegal development within the SMA and failure to secure required SMA permit determination, TMK (4)5-9-002:021)

Aloha Planning Commission Chair Apisa, Vice-Chair Ako and Commissioners,
Malama Kua'aina strongly supports the Planning Department's Notice of Violation.

1. It is very clear that the rebuilding of a new structure on this parcel requires a Special Management Area (SMA) permit, and as the parcel is located in the Conservation District, a Conservation District Use Permit, both of which require certification of the current location of the shoreline and compliance with current shoreline setback regulations.
2. But the applicant's description of the proposed "improvements" to the (now-demolished) structure mischaracterized and minimized the extent of those "improvements," resulting in an exemption to the SMA rules and a simple Conservation District Site Plan Approval rather than a Conservation District Use Permit.
3. It is also important that the location of this new house be based on the current shoreline location and current shoreline setback regulations as the parcel is located at Kanaha (an important part of the Hā'ena Community-Based Subsistence Fishing Area), where the ocean is extremely dynamic.
4. Finally, on a practical level: how could the value to reconstruct this house possibly be considered to be less than 50% of the current replacement value of the house when the entire house is being replaced?

For all of these reasons, please support the Planning Director's Notice of Violation and requirement for applicants to obtain an SMA permit consistent with HRS 205A-22.



Caren Diamond
Executive Director
Mālama Kua'aina
Post Office Box 536
Hanalei, Hawai'i 96714
(808) 652-0780

Photo 1 dated February 15, 2024 shows the house under reconstruction, with the deck removed and the structure being held up with jacks as the foundation columns were being replaced.



Photo 2 dated June 16, 2024 shows that the entire house was demolished. (The pillars in the photo are entirely new.)

Photo 3 dated July 13, 2024 shows the house gone, minus the new footing columns.



Photo 4 dated January 21, 2021 and taken from the county beach access path that is adjacent to the parcel, shows that the winter waves wash far into the parcel.

DEPARTMENT OF PLANNING

KA'ĀINA HULL, DIRECTOR

JODI A. HIGUCHI SAYEGUSA, DEPUTY DIRECTOR



DEREK S.K. KAWAKAMI, MAYOR
REIKO MATSUYAMA, MANAGING DIRECTOR

September 9, 2024

Public testimony received by the Planning Department as of September 9, 2024, 9:00 am for the September 10, 2024, Planning Commission meeting regarding the following item:

- H.2. Amendment to Class IV Zoning Permit Z-IV-99-46, Use Permit U-99-40, Variance Permit V-99-13, and Special Permit SP-99-15 to allow construction & operation of a thrift store on a parcel situated on the northern side of Kaumuali'i Highway in Kipu, situated approximately ½-mile west of its intersection with Kipu Road, and further identified as 3-1850 Kaumualii Highway, Tax Map Key: 3-4-005:017 and containing a total area of 10 acres = **KAUAI HUMANE SOCIETY**.



September 6, 2024

Planning Commission
c/o County of Kauai Planning Department
4444 Rice Street, Suite 473
Lihue, Hawaii 96766

Subject: Amendment to Class IV Zoning Permit Z-IV-95-46, Use Permit U-95-40,
Variance Permit V-95-13, and Special Permit SP-95-15

Dear Chair Apisa and Members of the Commission,

This letter is submitted **in support** of the Kauai Humane Society's permit to construct a new boarding facility and thrift store.

The Kauai Humane Society obtained a lease from Grove Farm and first applied for permits to operate their animal facility in 1995. After obtaining approval, they successfully constructed their facility, commenced operation, and acquired the fee interest in the property. In operation for over 20 years, they provide a valuable service to the community and proved to be a responsible steward of the property. We believe they will continue to be a good steward and have confidence that they will successfully and responsibly run their new boarding facility and thrift store.

Sincerely,

David Hinazumi
Senior Vice President

DEPARTMENT OF PLANNING

KA'ĀINA HULL, DIRECTOR

JODI A. HIGUCHI SAYEGUSA, DEPUTY DIRECTOR



DEREK S.K. KAWAKAMI, MAYOR
REIKO MATSUYAMA, MANAGING DIRECTOR

September 9, 2024

Public testimony received by the Planning Department as of September 9, 2024, 9:00 am for the September 10, 2024, Planning Commission meeting regarding the following item:

- K.4. Special Management Area Use Permit SMA(U)-2022-1, Class IV Zoning Permit Z-IV-2022-1, and Use Permit U-2022-1 for the Construction of a Farm Dwelling Unit, Guest House, Garage and Associated Site Improvements, within Lot 11-A of the Seacliff Plantation Subdivision in Kīlauea, involving a parcel situated approximately 1,000 feet West of the Pali Moana Place/Makana'ano Place Intersection, further identified as Tax Map Key: (4) 5-2-004: 084 (Unit 1) affecting a Larger Parcel approximately 12.305 acres in size, NĀ KIA'I O NIHOKŪ, Petitioner-Intervenor, vs. PLANNING DEPARTMENT OF THE COUNTY OF KAUA'I, Respondent, and **PHILIP J. GREEN and LINDA M. GREEN**, Trustees of the Philip J. Green, Jr., Trust, dated December 4, 2018, and the Linda M. Green Trust, dated December 4, 2018, Applicants.

FW: Nihoku support

Planning Department <planningdepartment@kauai.gov>

Fri 9/6/2024 3:35 PM

To:Romio Idica <ridica@kauai.gov>;Jodi Higuchi Sayegusa <jhiguchi@kauai.gov>

Cc:Dale Cua <dcua@kauai.gov>

From: Marina Drummer <marinadrummer@icloud.com>

Sent: Friday, September 6, 2024 1:32 PM

To: Planning Department <planningdepartment@kauai.gov>

Subject: Nihoku support

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Mahalo Honorable Kaua'i Planning Commission Members.

I greatly appreciate the County of Kauai's diligence regarding this issue and especially the county planning department for allowing us to express our love for Nihokū. We support the recommendations of the Hearing Officer to protect traditional practices at Nihokū. We also support the recommendation that the house needs to be built lower down the mountain to honor the 1982 building setback line which our community advocated for over forty years ago, as a condition for the original Sea Cliff Plantation Development, to protect the ecological and cultural significance of Nihokū. Mahalo for your time and consideration.

Sincerely,

Marina Drummer
4328 Kilauea Rd.
Kilauea, HI. 96754
(707)486-6806

FW: Nihoku Contested Case Final Recommendations and Next Steps--Testimony Needed by 9/9

Planning Department <planningdepartment@kauai.gov>

Fri 9/6/2024 3:35 PM

To:Romio Idica <ridica@kauai.gov>;Jodi Higuchi Sayegusa <jhiguchi@kauai.gov>

Cc:Dale Cua <dcua@kauai.gov>

From: Nā Kia'i Nihokū <nakiainihoku@gmail.com>

Sent: Friday, September 6, 2024 12:19 PM

To: 369magnetics@gmail.com; aborengasser@outlook.com; afsheenahmad@yahoo.com; ainamomona1893@gmail.com; alexa.belmont88@gmail.com; alohaglow3@gmail.com; alolaa108@gmail.com; amandaniles18@gmail.com; Ann Eu <anneu11@gmail.com>; annaonkauai@gmail.com; anne.torio@k12.hi.us; annmm@juno.com; anuheamiti@yahoo.com; beatingheart1@gmail.com; Beryl Blaich <punab4@gmail.com>; Billy Kinney <billygup@gmail.com>; bob-marion@hawaiiintel.net; bobbiwilli@gmail.com; brittni@brittnibrooks.com; brooke_burrows@fws.gov; brookef@hawaii.edu; browerr001@hawaii.rr.com; brynwebber@gmail.com; chidgeye@yahoo.com; chris.kauai@gmail.com; christaclear@gmail.com; christenereale@yahoo.com; christopher.skabo@k12.hi.us; crystaljones23@gmail.com; cunderc@gmail.com; darciekw@yahoo.com; Daylin-Rose H. Heather <daylinrose.heather@nhlchi.org>; Debbee Grady <gradykauai78@juno.com>; derekgill@hotmail.com; Devin Kamealoha Forrest <dforrest@hawaii.edu>; djanulaitis@yahoo.com; dkanehe@yahoo.com; dominique <liveinthenaau@gmail.com>; donemaurer@gmail.com; edavidperl@gmail.com; edelle.sher@gmail.com; elysse2009@hotmail.com; Emily Cadiz <emilyac@hawaii.edu>; Erin Pickett <erin.p.pickett@gmail.com>; esfhawaii@hotmail.com; evedion@gmail.com; fern@hapahi.org; Gary Smith <Garykali2@yahoo.com>; gregoryscott02@gmail.com; h2okeikis@gmail.com; hanaleiartist@gmail.com; hannahmoriarty@hotmail.com; hawaii808surfer@gmail.com; hayleygiorgio@gmail.com; Heather Tonneson <heather_tonneson@fws.gov>; Hoku Cody <HokuCody@gmail.com>; ikamalie@gmail.com; infojokeeffe@gmail.com; irenabliss@gmail.com; isandrihth@yahoo.com; jadelily@me.com; janellepotter@gmail.com; janicemckeachern@gmail.com; jarraetehani@me.com; jasonmolina1214@gmail.com; jèn >> jennifer_waipaa@fws.gov <jennifer_waipaa@fws.gov>; Jessica Fu <kauifu@gmail.com>; jessntd@gmail.com; jillwlowry@gmail.com; jimbrodie@gmail.com; jkryan808@gmail.com; jlemke2015@yahoo.com; jlkaona@gmail.com; joellmedwards@gmail.com; jonathan.kissida@k12.hi.us; judyhula@icloud.com; Julie.Pavao@vacationclub.com; julie.schuller@msn.com; Ka'ohu Harada <nahewale@gmail.com>; kaaumoana@gmail.com; Kahanu Keawe <kahanu.keawe@kanuikapono.k12.hi.us>; kai.harrison.hawaii@gmail.com; kalaniakana@yahoo.com; kalau.mini@gmail.com; Kaluna Wong <kaluna@leadershipkauai.org>; kananaik@hawaii.edu; Kaninau Villanueva <kaninau.villanueva@hilt.org>; kaninausv@gmail.com; kanoeg66@gmail.com; kaohinani.gardens@gmail.com; KaPali808@hotmail.com; Kapua Chandler <kapua@ucla.edu>; kapua.sproat@gmail.com; Kat Ho <kathokauai@gmail.com>; kauaifloweressences@gmail.com; kauaijessica@gmail.com; keahidaly@gmail.com; Kelvin Ho <kelkauai@gmail.com>; kinikohu@hotmail.com; kinneyw@hawaii.edu; kirkyhoehoe@whidbey.com; Kirsha Durante <kirsha.durante@nhlchi.org>; Kirsha Durante <kirsha.durante@nhlc.org>; kirsha@gmail.com; kmatsushima27@hotmail.com; kris.mersberg@gmail.com; kxjxa@aol.com; kyle@nathanwoodgc.com; kynziecraver@gmail.com; Lahela Correa <lanelac2@yahoo.com>; laurenek@stanford.edu; ldb_22@yahoo.com; leahkamoi@gmail.com; leahthayer808@gmail.com; leimakana@gmail.com; leipuaahi17@gmail.com; lesliehoehoe@gmail.com; L. Brooke <lesliewingate7@gmail.com>; Letani Peltier <letanip@oha.org>; lindamoriarty9@gmail.com; lmerrin@hawaii.edu; lminsalata@gmail.com; Inoelani@me.com; lonokahikini2@gmail.com; lorilani@panna.org; losalioj@hawaii.edu; macob@hawaii.edu; Maile Andrade <andrade@hawaii.edu>; makaladesigns@gmail.com; maliafrye@gmail.com; malialomi@yahoo.com; malibumer.nunn@gmail.com; marinadrummer@icloud.com; Mauiola Cook <mauiola3@gmail.com>; maviconant@msn.com; Mehana Vaughan <mehanav@gmail.com>; meleanaestes@gmail.com; mfsleh@yahoo.com; mia.melamed.researcher@hawaii.gov; michaelhanapono@icloud.com; michellebetz@yahoo.com; mikecoots@hotmail.com; missralston@gmail.com; mkelley323@gmail.com;

moana.mcr@gmail.com; mollymamaril@gmail.com; msmith28@hawaii.edu; naclh2o4me@hotmail.com; nafisseh@yahoo.com; natalie.haneberg@yahoo.com; NAV15@ncl.com; nedtdana@gmail.com; nickilorayn@aol.com; olas@hawaiiantel.net; Olena Molina <olena.molina@gmail.com>; oshea606@gmail.com; paigexgug@gmail.com; pamela@pamelafrierson.com; philipki@hawaii.edu; Planning Department <planningdepartment@kauai.gov>; pnthwest@aol.com; polohinano@gmail.com; puakeamookinioliveira@gmail.com; radkauai@aol.com; recallbherenow@hotmail.com; redahi@hawaii.rr.com; s459-kadence.saenz@k12.hi.us; s459-kyan.young@k12.hi.us; s459-lopaka.chandler@k12.hi.us; s459-piinae.vaughan@k12.hi.us; s459-tucker.constantino@k12.hi.us; sarah.wright15@gmail.com; sarahbarger14@gmail.com; saulrosa.mail@gmail.com; scamp18@adrian.edu; sharon.gottfried515@gmail.com; shastingrace@gmail.com; shelley@kahea.org; sierradew.info@gmail.com; sonrisastepath@yahoo.com; spindlear@gmail.com; Stacy Sproat <s_sproat@hotmail.com>; stephanieroselani@gmail.com; studioHAA.kauai@gmail.com; susan.stayton@gmail.com; Tamra Martin <martintamra@hotmail.com>; thedooleys3@gmail.com; Thomas Daubert <thomas@kilaueapoint.org>; tpassuncion@gmail.com; v.jm19@hotmail.com; WaipaOnline . <waipaonline@gmail.com>; waynet@oha.org; wctanaka@gmail.com; wisevalentine@gmail.com; Yoshito LHote <yoshitol@yahoo.com>; zwknow@gmail.com; Kaija Eastman <kaija@leadershipkauai.org>; LK Executive Director <exdir@leadershipkauai.org>; Kaliko Mokuahi <ammokuah@ksbe.edu>; Peter Vitousek <vitousek@stanford.edu>; Ipo Torio <ipo.kanu@gmail.com>; Kahanu Keawe <kahanukeawe@gmail.com>; Elizabeth Sancho <elizabeth.sancho@kanuikapono.k12.hi.us>; Palala Harada <kalehuamakanoe@hotmail.com>; pakipakiv@gmail.com; L Kehaulani Kekua <kehaulani.kekua@gmail.com>; Lauren Esaki-Kua <laurenek@alumni.stanford.edu>; Kapua Chandler <kapua@g.ucla.edu>; Christine Cook <mauliola3@icloud.com>; sabrakauka@icloud.com; brentlumconst@gmail.com; araine6@hawaii.edu; helen_raine@pacificbirds.org; hob@hawaii.rr.com

Subject: Nihoku Contested Case Final Recommendations and Next Steps--Testimony Needed by 9/9

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

Aloha,

We are writing with much gratitude and aloha for you all - the community that has worked hard to protect Nihokū (Crater Hill), for the County of Kauai who has listened closely to our stories and recommendations for mitigating harm to this special area, and to our amazing legal team—Kirsha Durante and her team at NHLC—who has led us through this process in all weathers with grace, integrity, and fortitude.

So many of you testified in three separate planning commission hearings in 2021 to protect Nihokū from the development of a 20,000-square-foot private home on the steepest and highest lot closest to the refuge. In response to your voices, the planning department recommended that the issue go to a contested case hearing (which is quasi-judicial meaning that in place of a judge, a hearing officer listens to witnesses and arguments from both sides and issues a ruling). After a long three-year process, in early July 2024, the Hearing Officer in our contested case finally issued recommended conditions for the requested building permits. The main points are:

- The traditional and customary practice of kilo – while not happening on Lot 11-A – will nevertheless be impacted by the proposed development and accordingly, various permit conditions to mitigate that impact are necessary;
- The 1982 building setback line applies to Lot 11-A and therefore, all development must occur within that lower building setback line (and moved substantially lower on the mountain).
- Other conditions recommended by the county planning department such as reducing the size of the development by XXX percent, and XXX are reasonable and should be upheld.

NHLC has written an amazing [blog here](#) that describes the case and issues well. The full report and recommendations from the Hearing Officer can be found [here](#).

We need you again!

We were just given word that Nihokū is before the planning commission and we need your voices again! **We ask you all to take some time this weekend and submit testimony by Monday, September 9, 2024.** We have included a [toolkit here](#) that has the brief history of this contested case, info on next steps, sample testimony, and other resources to help you with this. For those who are on Kauai and can make the meeting on Tuesday, we encourage you to come, hold space, give testimony (make sure you register by Monday). \

Please reach out if you have any questions or need any kokua!

Mahalo nui to you all,

Mehana Vaughan, Kau'i Fu, and Hoku Cody for Nā Kiai o Nihokū

FW: Written Testimony for Agenda Item 4 for Monday, September 9th

Jodi Higuchi Sayegusa <jhiguchi@kauai.gov>

Fri 9/6/2024 3:18 PM

To:Shanlee Jimenez <sjimenez@kauai.gov>

Cc:Romio Idica <ridica@kauai.gov>;Dale Cua <dcua@kauai.gov>

Testimony in Romio and Dale's absence today.

Jodi A. Higuchi Sayegusa
Deputy Director of Planning
Planning Department, County of Kaua'i
4444 Rice Street, Suite A473
Līhu'e, Hawai'i 96766
(808)241-4050
jahs@kauai.gov

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From: Planning Department <planningdepartment@kauai.gov>

Sent: Friday, September 6, 2024 2:26 PM

To: Romio Idica <ridica@kauai.gov>; Jodi Higuchi Sayegusa <jhiguchi@kauai.gov>

Cc: Dale Cua <dcua@kauai.gov>

Subject: FW: Written Testimony for Agenda Item 4 for Monday, September 9th

From: Elizabeth Sancho <elizabeth.sancho@kanuikapono.k12.hi.us>

Sent: Friday, September 6, 2024 1:47 PM

To: Planning Department <planningdepartment@kauai.gov>

Subject: Written Testimony for Agenda Item 4 for Monday, September 9th

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Aloha Honorable Kaua'i Planning Commission Members,

I am writing about Agenda Item 4 for Monday, September 9th, 2024. Thank you for continuing on with this long-standing issue.

I am a 4th grade teacher at Kanuikapono Public Charter School in Anahola. My class last year was privileged to take a huaka'i to Nihokū. We saw incredible views, beautiful birds and were in awe of the history of this special place. The fact that this sacred place is in a gated community is another issue, but sad nonetheless. However, we have a chance to make sure that the important 1982 setback is honored. Please support the recommendations of the Hearing Officer to protect traditional and important cultural practices at Nihokū. We should all make sure that this place is protected as much as we can for generations to come. Mahalo for your consideration.

Sincerely,
Elizabeth Sancho
4th Grade Teacher
Kanuikapono Public Charter School
Anahola, Kaua'i

FW: Testimony for County Planning Commission Meeting, Tuesday September 10 2024

Jodi Higuchi Sayegusa <jhiguchi@kauai.gov>

Fri 9/6/2024 3:18 PM

To:Shanlee Jimenez <sjimenez@kauai.gov>

Cc:Dale Cua <dcua@kauai.gov>;Romio Idica <ridica@kauai.gov>

Testimony in Romio and Dale's absence today.

Jodi A. Higuchi Sayegusa
Deputy Director of Planning
Planning Department, County of Kaua'i
4444 Rice Street, Suite A473
Līhu'e, Hawai'i 96766
(808)241-4050
jahs@kauai.gov

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From: Planning Department <planningdepartment@kauai.gov>**Sent:** Friday, September 6, 2024 2:26 PM**To:** Romio Idica <ridica@kauai.gov>; Jodi Higuchi Sayegusa <jhiguchi@kauai.gov>**Cc:** Dale Cua <dcua@kauai.gov>**Subject:** FW: Testimony for County Planning Commission Meeting, Tuesday September 10 2024**From:** Louise Barnfield <ldb_22@yahoo.com>**Sent:** Friday, September 6, 2024 2:02 PM**To:** Planning Department <planningdepartment@kauai.gov>**Subject:** Testimony for County Planning Commission Meeting, Tuesday September 10 2024

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To the Honorable Members of the Kaua'i Planning Commission

County Planning Commission Meeting, Tuesday September 10 2024
Unfinished Business, Agenda Item 4 – Special Management Area Use Permit...Lot 11-A of Seacliff
Plantation Subdivision, Kīlauea

With respect, I write firstly to mahalo the Hearing Officer, for the recommendations made in the Report and Recommendation of Contested Case CC-2022-3.

I submitted written testimony back in 2021, and now reiterate my concerns for the protection of Nihokū, both for its heritage and for the protection of the wildlife. Though not myself born on the island, nor a cultural practitioner, I firmly believe it is vital for the island to protect the traditional

practices that have existed for generations; that those practices, as well as the protection of Nihokū's natural beauty and wildlife for all to enjoy, should unquestionably take precedence over the development that has already spread across that area. Furthermore, Lot 11-A borders the National Wildlife Refuge, and any building in close proximity to the protected Refuge land would inevitably adversely impact the endangered bird population.

Therefore, as a north shore resident, a long time volunteer at the wildlife refuge, and frequent walker through Sea Cliff Plantation, I fully support the recommendations of the Hearing Officer to protect traditional practices at Nihokū. I also strongly support the recommendation that any structure at Lot 11-A should adhere to the original 1982 building setback that was agreed with the community many decades ago as a condition for the original Seacliff Plantation Development, to protect the ecological and cultural significance of Nihokū.

I firmly believe it is time to put this issue to rest, and to adhere to the original conditions that were agreed over forty years ago.

I appreciate the County of Kaua'i and the Planning Department for their diligence and attention to this issue, and trust that you will uphold the recommendations that have been made by the Hearing Officer as a result of a long and carefully conducted process.

Mahalo for your time and consideration.

Sincerely yours,

Louise Diana Barnfield

Romio Idica

From: Planning Department
Sent: Monday, September 09, 2024 7:44 AM
To: Romio Idica; Jodi Higuchi Sayegusa
Cc: Dale Cua
Subject: FW: Nihokū

From: Keith Akana <kalaniakana@yahoo.com>
Sent: Saturday, September 7, 2024 7:59 PM
To: Planning Department <planningdepartment@kauai.gov>
Subject: Nihokū

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Aloha Honorable Kaua'i Planning Commission Members,
Mahalo to the County of Kauai's diligence with this issue and especially to the county planning department for allowing us to express our love for Nihokū. We support the recommendations of the Hearing Officer to protect traditional practices at Nihokū. We also support the recommendation that the house needs to be built lower down the mountain to honor the 1982 building setback line which our community advocated for over forty years ago, as a condition for the original Sea Cliff Plantation Development, to protect the ecological and cultural significance of Nihokū. Mahalo for your time and consideration.

Sincerely,
Kalani Akana, PhD, Kumu Hula

Romio Idica

From: Planning Department
Sent: Monday, September 09, 2024 7:43 AM
To: Romio Idica; Jodi Higuchi Sayegusa
Cc: Dale Cua
Subject: FW: Nihoku ruling

-----Original Message-----

From: Tamra Martin <martintamra@hotmail.com>
Sent: Saturday, September 7, 2024 3:30 PM
To: Planning Department <planningdepartment@kauai.gov>
Subject: Nihoku ruling

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

Aloha commission and thank you for serving our community.
I'm writing to ask that you uphold the hearing officer's decision on setback on Nihoku.

My grandmother worked with others from the community to keep Crater Hill undeveloped and their efforts yielded many opportunities for my generation. I have attended kilo activities there, work days, and cultural guided hikes. As kids we explored and hiked the area where the Green's would like to build. I also remember going up to Crater Hill with my cousins during a storm when we were kids and getting an almost 360 degree view of the wind and rain. We didn't say, "hey let's go kilo up at Nihoku." but without knowing it, that is what we were doing. Cultural practices, weather observations, and related activities don't need announcements, permits, and fanfare to happen and without all of that, they do occur at Nihoku.

The hearing officer's decision was the right choice and we recognize it. Please honor it.

Thank you,
Tamra Moriguchi

Sent from my iPhone



PO Box 1130, Kīlauea, HI 96754
808.828.0384 | info@kilaueapoint.org
www.fkwr.org | Facebook & Instagram @fkwrkauai

Support for Protections of Nihokū

September 7, 2024

Ka'āina Hull
Planning Director
Kaua'i County Planning Department
4444 Rice Street, Ste. A473
Līhu'e, HI 96766

Aloha e Director Hull and Honorable Kaua'i Planning Commission Members –

I am Executive Director of Friends of Kaua'i Wildlife Refuges, the nonprofit "Friends Group" that supports and advocates for the work of the three national wildlife refuges located on the Island of Kaua'i, including Hanalei National Wildlife Refuge (NWR), Hulē'ia NWR and Kīlauea Point NWR. On behalf of the organization and its supporters, I wish to express our support of the continued protection of Nihokū.

Kīlauea Point NWR was established in 1985 to protect migratory seabirds and threatened and endangered species including the nēnē (Hawaiian goose), 'ōpe'ape'a (Hawaiian hoary bat), 'ua'u (Hawaiian petrel), and 'a'o (Newell's shearwater); native coastal strand, and overall biodiversity, as well as to provide wildlife-dependent recreation. In addition, the U.S. Fish & Wildlife Service also works with partners and the local community to preserve and maintain the historic 1913 Kīlauea lighthouse and keepers' homes, and conduct interpretation and environmental education activities.

The 199-acres of land encompassing Kīlauea Point NWR offers some of the island's most critical wildlife habitat, which includes the important and sensitive land encompassed by the summit of Nihokū. This past year, the Refuge built the state's largest predator exclusion fence, featuring 2.1 miles of state-of-the-art predator control technology that now protects 145 acres of the Refuge. However, the wildlife we work tirelessly to protect know no boundaries and cannot be contained by fencing. This is one of the reasons why the community came together to preserve and protect the "contested" area within the Seacliff Plantation Development when it was first developed, to help provide a buffer and extension of critical habitats that support the mission of Kīlauea Point NWR and the native Hawaiian wildlife it was established to preserve and protect.

This year, a record 105 mōlī (Laysan albatross) fledged from the two nesting colonies at Kīlauea Point NWR. Annually, nēnē (Hawaiian geese) nest across the grassy flanks of Nihokū – a species that is thriving on Kaua'i but struggles on every other Hawaiian Island due to introduced predators. This season, the very first 'a'o (Newell's shearwater) chick has hatched within the Nihokū Ecosystem Restoration Project, from a parent that was translocated from the mountains of Kaua'i to protect it from predation from feral cats. The largest colony of 'ā (red-footed boobies) in the state is located on Nihokū. And, several other species of seabirds rely upon this special place to nest, rest and thrive.

We deeply appreciate the County of Kaua'i's diligence with the issue before it, as we come together as a community to help protect Nihokū well into the future. We support the recommendations of the Hearing Officer to protect traditional practices at Nihokū. We also support the recommendation that the house under consideration and all future development must be built lower down the mountain to honor the 1982 building setback line, which our community advocated for over forty years ago as a condition for the original Seacliff Plantation Development – to protect the ecological and cultural significance of Nihokū.

I urge you to help protect Nihokū and deeply appreciate your kind consideration of my testimony provided on behalf of Friends of Kaua'i Wildlife Refuges. I can be reached at 808.828.0384 ext. 1 or thomas@kilaueapoint.org.

With aloha and gratitude,



Thomas Daubert
Executive Director

Romio Idica

From: Planning Department
Sent: Monday, September 09, 2024 7:42 AM
To: Romio Idica; Jodi Higuchi Sayegusa,
Cc: Dale Cua
Subject: FW: Nihokū House Development Testimony

From: Sabrena Camp <scamp18@adrian.edu>
Sent: Saturday, September 7, 2024 8:14 AM
To: Planning Department <planningdepartment@kauai.gov>
Subject: Nihokū House Development Testimony

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

Mahalo Honorable Kaua'i Planning Commission Members,

I appreciate the County of Kauai's diligence and dedication to this issue and the county planning department for allowing us to express our love for Nihokū. We support the recommendations of the Hearing Officer to protect traditional practices at Nihokū. We also support the recommendation that the house needs to honor the 1982 building setback line and be built lower down the mountain as our community advocated for this over forty years ago. This standard should be held. This condition for the original Sea Cliff Plantation Development aims to protect the diverse ecological and cultural significance of Nihokū. The land fosters rich wildlife diversity that is already facing threats from climate change and human development. Let us ensure this housing development is done with the long-term thinking needed to protect our beautiful Kaua'i.

Mahalo for your time and consideration on this important community matter.

Sincerely,
Sabrena Camp
(248) 613-7398

Romio Idica

From: Planning Department
Sent: Monday, September 09, 2024 7:44 AM
To: Romio Idica; Jodi Higuchi Sayegusa
Cc: Dale Cua
Subject: FW: Nihoku and lot 11A/Agenda Item 4

From: Mavi Kaneg <maviconant@msn.com>
Sent: Sunday, September 8, 2024 12:33 PM
To: Planning Department <planningdepartment@kauai.gov>
Subject: Nihoku and lot 11A/Agenda Item 4

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

Aloha Honorable Kaua'i Planning Commission Members,

I appreciate the County of Kauai's diligence with this issue and especially the county planning department for allowing us to express our love and appreciation for Nihokū. As a multigenerational resident of Kilauea and a kanaka maoli, I support the recommendations of the Hearing Officer to protect traditional practices at Nihokū. I also support the recommendation that the house needs to be built lower down the mountain to honor the 1982 building setback line which our community advocated for over forty years ago, as a condition for the original Sea Cliff Plantation Development, to protect the ecological and cultural significance of Nihokū. Mahalo for your time and consideration.

Respectfully,
Mavi Kaneg

Romio Idica

From: Planning Department
Sent: Monday, September 09, 2024 7:45 AM
To: Romio Idica; Jodi Higuchi Sayegusa
Cc: Dale Cua
Subject: FW:

From: zylan pa conant <zpaconant@gmail.com>
Sent: Sunday, September 8, 2024 12:58 PM
To: Planning Department <planningdepartment@kauai.gov>
Subject:

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Dear Honorable Kaua'i Planning Commission Members,

I appreciate the County of Kauai's diligence with this issue and especially the county planning department for allowing us to express our love and care for Nihokū. I support the recommendations of the Hearing Officer to protect traditional practices at Nihokū. I also support the recommendation that the house needs to be built lower down the mountain to honor the 1982 building setback line which our community advocated for over forty years ago, as a condition for the original Sea Cliff Plantation Development, to protect the ecological and cultural significance of Nihokū. Mahalo for your time and consideration.

Sincerely Zylan Pa-Conant

Romio Idica

From: Planning Department
Sent: Monday, September 09, 2024 7:45 AM
To: Romio Idica; Jodi Higuchi Sayegusa
Cc: Dale Cua
Subject: FW: Agenda item 4

From: zylan pa conant <zpaconant@gmail.com>
Sent: Sunday, September 8, 2024 12:59 PM
To: Planning Department <planningdepartment@kauai.gov>
Subject: Agenda item 4

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

Dear Honorable Kaua'i Planning Commission Members,

I appreciate the County of Kauai's diligence with this issue and especially the county planning department for allowing us to express our love and care for Nihokū. I support the recommendations of the Hearing Officer to protect traditional practices at Nihokū. I also support the recommendation that the house needs to be built lower down the mountain to honor the 1982 building setback line which our community advocated for over forty years ago, as a condition for the original Sea Cliff Plantation Development, to protect the ecological and cultural significance of Nihokū. Mahalo for your time and consideration.

Sincerely Zylan Pa-Conant

Romio Idica

From: Planning Department
Sent: Monday, September 09, 2024 7:45 AM
To: Romio Idica; Jodi Higuchi Sayegusa
Cc: Dale Cua
Subject: FW: Agenda Item 4

From: Evelyn Conant <evieconant@gmail.com>
Sent: Sunday, September 8, 2024 1:19 PM
To: Planning Department <planningdepartment@kauai.gov>
Subject: Agenda Item 4

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Dear Honorable Kaua'i Planning Commission Members,
We appreciate the County of Kauai's diligence with this issue and especially the county planning department for allowing us to express our love for Nihokū. We support the recommendations of the Hearing Officer to protect traditional practices at Nihokū. We also support the recommendation that the house needs to be built lower down the mountain to honor the 1982 building setback line which our community advocated for over forty years ago, as a condition for the original Sea Cliff Plantation Development, to protect and respect the ecological and cultural significance of Nihokū. Mahalo for your time and consideration in this matter.

Mahalo Nui Loa,
Shawn and Evelyn Conant
Born and Raised Kilauea Resident

Romio Idica

From: Planning Department
Sent: Monday, September 09, 2024 7:46 AM
To: Romio Idica; Jodi Higuchi Sayegusa
Cc: Dale Cua
Subject: FW: Comments in support of HO recommendations for Nihoku
Attachments: PC comments re Nihoku.pdf

From: c. diamond <kaimanacd22@yahoo.com>
Sent: Sunday, September 8, 2024 3:13 PM
To: Planning Department <planningdepartment@kauai.gov>; Kaaina Hull <khull@kauai.gov>
Subject: Comments in support of HO recommendations for Nihoku

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Aloha, please distribute attached comments in support of the recommendations of the Hearing Office re Nihokū to Planning Commissioners.
Mahalo, Caren Diamond

We strongly support the Planning Departments

Photo 1 June 16, 2024. The entire house was demolished, gone, with entirely new pillars.



Romio Idica

From: Planning Department
Sent: Monday, September 09, 2024 7:46 AM
To: Romio Idica; Jodi Higuchi Sayegusa
Cc: Dale Cua
Subject: FW: Support for Nihokū

From: Mauiola Cook <mauiola3@gmail.com>
Sent: Sunday, September 8, 2024 5:06 PM
To: Planning Department <planningdepartment@kauai.gov>
Subject: Support for Nihokū

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9/8/24

Kilauea

Re: Proposed development for house on Nihokū

Aloha Planning Commission Chair Apisa, Vice-Chair Cox, and Honorable Kaua'i Planning Commissioners

My name is Maui Ola Cook. Nihokū (Crater Hill) is important to me, my 'ohana and community because it is a place of great natural beauty, of historical and mythological significance and a significant site for native birds.

Crater Hill is a needed relocation site for bird populations from the northwest Hawaiian islands whose habitat is shrinking due to sea level rise.

Nihokū is a very special place due to its historical and cultural significance. One of the most important mo'olelo (stories) associated with Nihoku is from the Pele tradition. Pele is a very real and recognized force in our lives here in the islands. For many, Pele is in the realm of that which is sacred. Hundreds of cultural practitioners from across the pae' 'aina (archipelago) dedicate much of their time to learn the mo'olelo, chants and dances that help to perpetuate the cultural knowledge of the Pele tradition and pass it down to the next generation. In order to carry out their practices they need access to the sites identified with Pele. The presence of such a huge structure as this proposed home would

be a significant obstacle for practitioners to be able to make the spiritual and physical connection to place that is an integral part of everything we do.

The Kia'i of Nihokū have spent countless hours researching and documenting all the many, many reasons why this proposed home is not conducive to creating the Kaua'i that so many of us want for ourselves and for our keiki. I am so very grateful that you all have taken the time to seriously consider all the evidence the kia'i are presenting.

I appreciate the County of Kauai's diligence with this issue and especially the county planning department for allowing us to express our love for Nihokū. We support the recommendations of the Hearing Officer to protect traditional practices at Nihokū. We also support the recommendation that the house needs to be built lower down the mountain to honor the 1982 building setback line which our community advocated for over forty years ago, as a condition for the original Sea Cliff Plantation Development, to protect the ecological and cultural significance of Nihokū.

Thank you so much for all you do for our island of Kaua'i.

With much aloha

Mauliola Cook

Mauliola3@gmail.com

8086528173

Romio Idica

From: Planning Department
Sent: Monday, September 09, 2024 7:55 AM
To: Romio Idica; Jodi Higuchi Sayegusa
Cc: Dale Cua
Subject: FW: Nihoku Development at SeaCliff

From: Christa D. McLeod <christaclear@gmail.com>
Sent: Sunday, September 8, 2024 9:54 PM
To: Planning Department <planningdepartment@kauai.gov>
Subject: Nihoku Development at SeaCliff

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Dear Kaua'i Planning Commission,

As a 15 year resident in Kīlauea and member of the conservation community, I support the efforts of Na Kia'i Nihokū and ask that you uphold the latest ruling.
For conservation of native species as well as cultural stewardship, please respect the 1982 set-back line so this location may remain a preserved area for future generations of plant, bird and humans.

Mahalo for your efforts on this matter,
Sincerely,
Christa Deraspe McLeod

Romio Idica

From: Planning Department
Sent: Monday, September 09, 2024 7:55 AM
To: Romio Idica; Jodi Higuchi Sayegusa
Cc: Dale Cua
Subject: FW: 9/10/24 Meeting Written Testimony Agenda Item K.4

From: Carter Beale <carter.beale@gmail.com>
Sent: Sunday, September 8, 2024 9:57 PM
To: Planning Department <planningdepartment@kauai.gov>
Subject: 9/10/24 Meeting Written Testimony Agenda Item K.4

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

9/10/24 Planning Commission Meeting: Written Testimony Agenda Item K regarding the Green's proposed house in Kilauea as contested by Nā Kia'i o Nihokū

I am writing to express support for the Hearing Officer's recommendation to uphold the 1982 setback line, for the formal recognition of the customary and traditional Hawaiian practices that have and continue to take place at Nihokū, and for the recommendations for maximum precautions with regards to minimizing the visual and ecological disturbance of the project. As a former Kilauea resident, I have been very concerned about the proposed house in question. I have witnessed first-hand the immense value that Nā Kia'i o Nihokū extends through their ongoing stewardship and their generous extension of the opportunity to malama 'aina to community members through education and volunteer events. The potential ecological and cultural disturbances the proposed house could produce would be consequential and permanent, and therefore I applaud the efforts by all parties in this case to mitigate those impacts.

As a graduate researcher at UH Manoa, I wrote a paper titled "Looking with Care: An Ecology of Visual Encounters at Nihokū" which argues for the significance of preserving the views of and from Nihoku. As has been shared in numerous testimonies, these views are integral to traditional Hawaiian practices such as the sharing of 'oli, mo'olelo, and are central to the relationships of cultural practitioners with this particular place and beyond. This is in addition to the well understood impacts of visual disturbance on the seabird populations. It is also my understanding that protecting these views also played an important role in the community's original efforts to establish the 1982 setback line. Therefore, in supporting the original 1982 setback line and abiding by the guidelines outlined in the Hearing Officer's recommendations, the planning commission and the property owners honor the legacies of the Kilauea community and the Native Hawaiian community to protect this place of such profound ecological and cultural significance.

Carter Beale

Romio Idica

From: Planning Department
Sent: Monday, September 09, 2024 7:55 AM
To: Romio Idica; Jodi Higuchi Sayegusa
Cc: Dale Cua
Subject: FW: aloha nui - Nihoku agenda item for 9/10 hearing

From: Mehana Vaughan <mehanav@gmail.com>
Sent: Sunday, September 8, 2024 11:04 PM
To: Planning Department <planningdepartment@kauai.gov>; Nā Kia'i Nihokū <nakiainihoku@gmail.com>
Subject: aloha nui - Nihoku agenda item for 9/10 hearing

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Aloha, I would like to submit a request to testify on the agenda item for Nihoku, under continuing business.

Mehana Vaughan

Beryl Blaich

Gary Smith

I wonder what time you think that issue may come up in the day, as people who want to testify are asking. Thank you so much,

Mehana Vaughan


Shanlee Jimenez

From: Hoku Cody <hokucody@gmail.com>
Sent: Monday, September 9, 2024 7:11 AM
To: Planning Department
Subject: Testify planning meeting tomorrow

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

Aloha I would like to testify for Agenda Item with Nihokū at tomorrows county planning meeting.

Mahalo,
Hoku Cody

 Hoku on iPhone

Romio Idica

From: Planning Department
Sent: Monday, September 09, 2024 7:56 AM
To: Romio Idica; Jodi Higuchi Sayegusa
Cc: Dale Cua
Subject: FW: Agenda Item 4 - Nihokū

-----Original Message-----

From: Michal Stover <mfsleh@yahoo.com>
Sent: Monday, September 9, 2024 7:39 AM
To: Planning Department <planningdepartment@kauai.gov>
Subject: Agenda Item 4 - Nihokū

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

Aloha Planning Commission members,

Please adopt the decision of the hearing officer to protect traditional practices at Nihokū and to require that the proposed house be constructed at a lower elevation to honor the 1982 setback line.

Mahalo,

Michal Stover
Kilauea

Romio Idica

From: Planning Department
Sent: Monday, September 09, 2024 8:26 AM
To: Romio Idica; Jodi Higuchi Sayegusa
Cc: Dale Cua
Subject: FW: Nihoku

From: Peter M Vitousek <vitousek@stanford.edu>
Sent: Monday, September 9, 2024 8:09 AM
To: Planning Department <planningdepartment@kauai.gov>
Subject: Nihoku

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Mahalo Honorable Kaua'i Planning Commission Members.,

I hope that you will follow the recommendation of your hearing officer in the Nihoku contested case. I have taken my Stanford University class to Nihoku 4 times, and we have enjoyed the birds and the landscape together with Mehana Vaughan and Hoku Cody very much. Nihoku is a tremendously valuable resource and I agree that its value would be impaired if the petitioners were allowed to build as they originally planned to.

Sincerely,

Peter Vitousek

From: [Mehana Vaughan](#)
To: [Planning Department](#); [Nā Kia'i Nihokū](#); [Hoku Cody](#)
Subject: Testimony
Date: Monday, September 9, 2024 8:38:13 AM

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The Garden

MONDAY, SEPTEMBER 17, 1984

LIHUE, KAUAI, HAWAII

Island

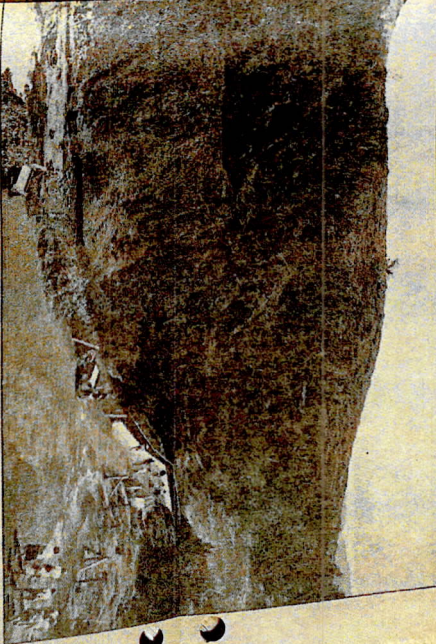
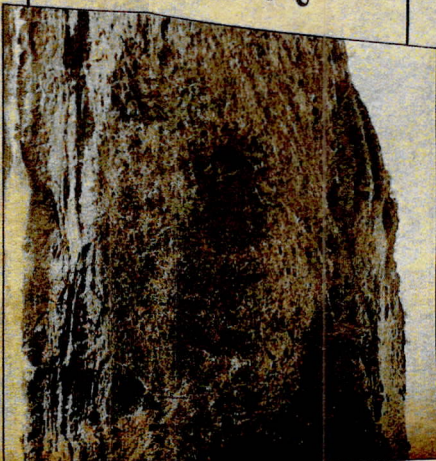
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Comics, Abby, ...	C-4
Country, ...	C-4
Sports, ...	A-7
Business, ...	A-10
Long, ...	Section B
Barting Sands, ...	C-1
Classified, ...	C-2
Bulletin Board, ...	C-3
Older Man, ...	C-4
Pay 'n Save Insert	

Future homesites?

KILAUEA POINT visitors made an aerial tour of Crater Hill. The setback line, designed to protect the refuge and views from Kilauea town, is deleted. Houses would be allowed on the top right section (Photo by Julia Neel)



Group opposes Crater Hill plan changes

by Julia Neel

The Kilauea Neighborhood Association is circulating a petition that opposes changes in development plans for Crater Hill, which includes Kilauea town and the Kilauea Point wildlife refuge.

David Sprout, acting president of the organization, told The Garden that members decided Saturday to oppose deletion of a setback line that was created to help preserve the refuge and views of Crater Hill from Kilauea town. A public hearing on changes in

the plan is set for 7:30 p.m. at the County Council Chambers on Wednesday, Sept. 26.

The 400-acre Crater Hill is owned by Robertson-Larsen Partners, a group of investors based in Albuquerque, N. M., who received county approval for a subdivision in 1982 after promising that no homes would be built above the setback.

The 32-acre Kilauea Point peninsula is adjacent to Crater Hill. It belongs to the federal government and is managed by the U.S. Fish and Wildlife Service for the preservation of nesting

seabirds and to provide recreational and educational opportunities to view native Hawaiian wildlife.

Sprout said much effort by the county Planning Department, the community, the U.S. Fish and Wildlife Service, and the developers themselves went into determining where homes could be built without infringing on views or threatening the birds that nest at the point and on Crater Hill. Last month, however, the developers asked the Planning Commission to delete the setback line.

The setback line cuts across a number of lots the developers have carved out of Crater Hill after roughing in wide roads there. The developers' attorney, Walton Hong, said the setback would prevent homes from being constructed on the best building sites. Last week, he called the setback line "unreasonable" and urged the developers to find out how much it would affect their lot configurations until they cleared the property and graded the roads.

Sprout said that by asking for the setback line deletion, "the developers are admitting they didn't negotiate in good faith when they asked the County for approval of their project."

He said Crater Hill is a significant landmark, "something like Oahu's Diamond Head and Punchbowl." Deleting the setback line would put homes above the rest of the town, disturbing the view from many places on the North Shore, including Kilauea lighthouse and the refuge, he said. Placing homes closer to the wildlife refuge would make birds more susceptible to predation by dogs to disturbance by lights on the residential property and to the noise of human activity, he contended.

The setback line was used by the developers numerous times as a primary reason to justify county approval of the Special Management Area permit. Sprout said. The SMA is designed to preserve coastal lands. Doing away with the setback line should invalidate the original application approval. Sprout argued. Beverly Wolf, a Kilauea property owner, said Crater Hill (Please turn to page 4)



VIEW FROM a site that would be approved for a house on Crater Hill if a setback line is approved. The peninsula is the 32-acre

Kilauea Point wildlife refuge. (Photo by Julia Neal)

should be developed like Diamond Head. She said many historic craters in Hawai'i have been developed with the preservation of the crater as the primary concern of local planners and citizens.

Kilauea resident Kelsey Mad-dox-Bell said county planners need to look at the setback line again to determine whether its deletion would have a visual impact on residents living and traveling between Anahola and the North Shore.

★ Crater Hill ★ (Continued from Page 1)

Ferne Orlik, a Kilauea resident, said her concern is for seabirds: "Have the developers agreed to provide a fence that would keep neighborhood dogs from destroying nests and young birds?"

She also said she wants to find out if house lights in the new development would attract and lead to the death of any of the seabirds that nest in the area.

Nick Bahouth, president of the Hawai'i Hotel Association's Kana'i

chapter and a member of the board of the Kilauea Point Natural History Association, said he hopes Crater Hill will be preserved.

He described Crater Hill and the refuge as two of the leading visitor attractions on the island. He said the visitor industry encourages quality development but discourages development that will diminish the value of visitor attractions.

"Houses in plain view on Crater Hill will negatively impact two of

our best visitor attractions and help destroy some of the beauty that attracts visitors to the island," he said.

A news release from the association said members began circulating the petition over the weekend. The release urged interested citizens, "who want development of Crater Hill to proceed on the plan agreed 1982," to contact the group 1762 and to attend the hearing.

Shanlee Jimenez

From: garykali2@yahoo.com
Sent: Monday, September 9, 2024 8:33 AM
To: Planning Department
Subject: Re: public testimony

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

Sent from my iPhone

County of Kauai Planning Commission

Please add my name, Gary E Smith resident of 4152 Waipua St, Kilauea 96754 to the public testimony list in the matter of:

Agenda Item 4. Unfinished Business (For Action)

4. Special Management Area Use Permit SMA(U)-2022-1, Class IV Zoning Permit Z-IV-2022-1, and Use Permit U-2022-
MAHALO GARY SMITH.

Shanlee Jimenez

From: Sarah Barger <sarahbarger14@gmail.com>
Sent: Monday, September 9, 2024 8:35 AM
To: Planning Department
Subject: Written Testimony: County Planning Commission Agenda Item 4

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

Aloha Honorable Kaua'i Planning Commission Members,

Below is my written testimony regarding County Planning Commission ITEM F. HEARINGS AND PUBLIC COMMENT. Agenda Item 4. Unfinished Business (For Action). 4. Special Management Area Use Permit SMA(U)-2022-1, Class IV Zoning Permit Z-IV-2022-1, and Use Permit U-2022-1 for the Construction of a Farm Dwelling Unit, Guest House, Garage and Associated Site Improvements, within Lot 11-A of the Seacliff Plantation Subdivision in Kilauea, involving a parcel situated approximately 1,000 feet West of the Pali Moana Place/Makana'ano Place Intersection, further identified as Tax Map Key: (4) 5-2-004: 084 (Unit 1) affecting a Larger Parcel approximately 12.305 acres in size, NA KIA 'I O NIHOKU, Petitioner Intervenor, vs. PLANNING DEPARTMENT OF THE COUNTY OF KAUA'I, Respondent, and PHILIP J.GREEN and LINDA M. GREEN, Trustees of the Philip J. Green, Jr., Trust, dated December 4, 2018, and the Linda M. Green Trust, dated December 4, 2018, Applicants.

I want to first thank you for listening to the mana'o and mo'olelo shared by the Kaua'i community about Nihokū and the urgent need to protect this special place. I have followed this case since 2021 and appreciate your diligence in investigating the potential impacts of proposed development on this mountain and all the living beings who care for and depend upon her for protection, sustenance, and spiritual rejuvenation. This case has highlighted the fragility of our ecosystems that face new challenges from climate change and encroachment, the necessity of safeguarding cultural practices that nourish people and place, and the importance of memory and kuleana carried across community, from those who advocated for Nihokū over 40 years ago to today's protectors who are students, teachers, cultural practitioners, scientists, researchers, and community members of all ages. I strongly support the recommendations of the Hearing Officer to protect traditional practices at Nihokū and to honor the 1982 setback line in respect to building lower down the mountain. We appreciate your time and consideration in listening to and honoring the history and environmental and cultural significance of this place that we love, respect, and hope to mālama for generations to come.

Mahalo nui loa,
Sarah Barger

Shanlee Jimenez

From: malia frye <maliafrye@gmail.com>
Sent: Monday, September 9, 2024 8:47 AM
To: Planning Department
Subject: Agenda Item 4: Nihokū Setback

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Mahalo Honorable Kaua'i Planning Commission Members.

I appreciate the County of Kauai's diligence with this issue and especially the county planning department for allowing us to express our love for Nihokū. We support the recommendations of the Hearing Officer to protect traditional practices at Nihokū. We also support the recommendation that the house needs to be built lower down the mountain to honor the 1982 building setback line which our community advocated for over forty years ago, as a condition for the original Sea Cliff Plantation Development, to protect the ecological and cultural significance of Nihokū.

As someone who was born and raised in Kīlauea, preserving this special place and assuring that my keiki and my Keiki's keiki can also enjoy the unobstructed face of Nihokū is very important to me. Mahalo for your time and consideration.

Sincerely,

Shanlee Jimenez

From: Nā Kia'i Nihokū <nakiainihoku@gmail.com>
Sent: Monday, September 9, 2024 8:49 AM
To: Planning Department
Subject: Nihoku Agenda Item 9/10
Attachments: article2.jpg; article1.jpg

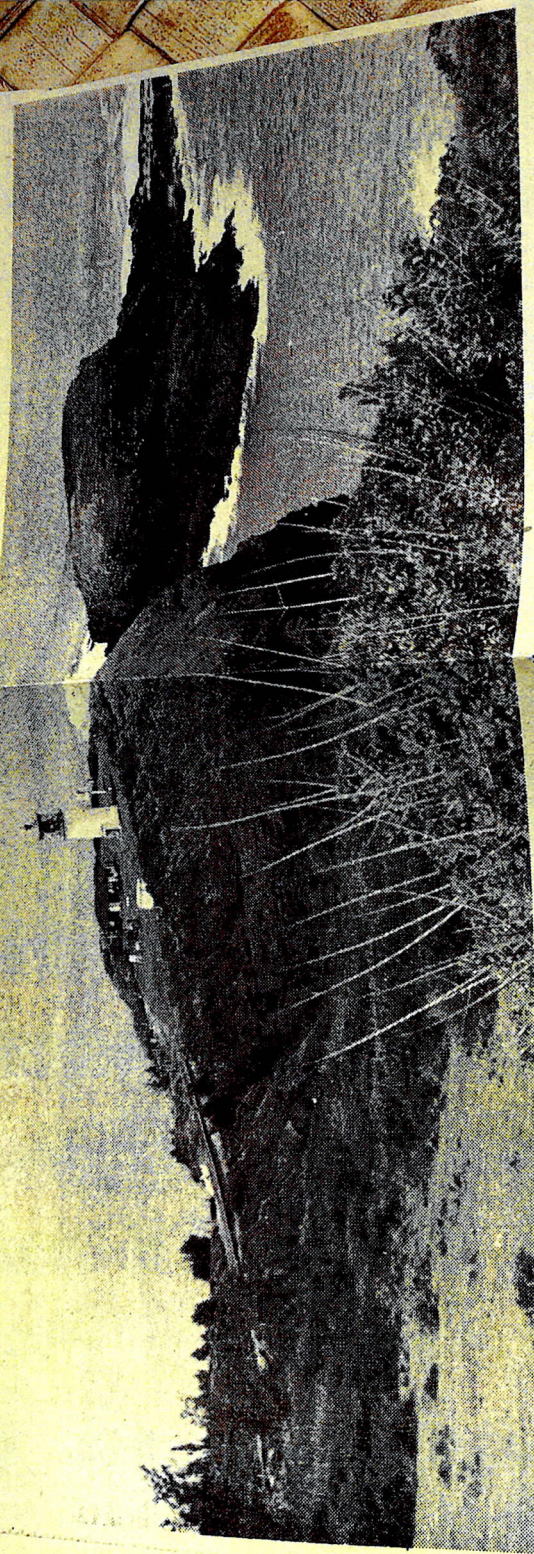
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Aloha,

Please find attached our written testimony for the County Planning meeting tomorrow for Agenda Item 4 regarding Nihoku.

We would also like time to testify in person tomorrow.

Mahalo nui



Kilauea Point wildlife refuge. (Photo by Julia Neal)

VIEW FROM a site that would be approved for a house on Crater Hill if a setback line is approved. The peninsula is the 32-acre

★ Crater Hill ★

(Continued from Page 1)

should be developed like Diamond Head. She said many historic craters in Hawai'i have been developed with the preservation of the crater as the primary concern of local planners and citizens.

Kilauea resident Kelsey Madox-Bell said county planners need to look at the setback line again to determine whether its deletion would have a visual impact on residents living and traveling between Anahola and the North Shore.

Ferne Orlik, a Kilauea resident, said her concern is for seabirds: "Have the developers agreed to provide a fence that would keep neighborhood dogs from destroying nests and young birds?"

She also said she wants to find out if house lights in the new development would attract and lead to the death of any of the seabirds that nest in the area.

Nick Bahouth, president of the Hawai'i Hotel Association's Kaua'i

chapter and a member of the board of the Kilauea Point Natural History Association, said he hopes Crater Hill will be preserved.

He described Crater Hill and the refuge as two of the leading visitor attractions on the island. He said the visitor industry encourages quality development but discourages development that will diminish the value of visitor attractions.

"Houses in plain view on Crater Hill will negatively impact two of

our best visitor attractions and help destroy some of the beauty that attracts visitors to the island," he said.

A news release from the association said members be circulating the petition over the weekend. The release urged interested citizens, "who want development of Crater Hill to proceed on the plan agreed to in 1982," to contact the group by Sept. 17, 1982, and to attend the hearing.

The Garden Island

MONDAY, SEPTEMBER 17, 1984

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Comics, Abby, Crossword A-7
 Sports A-8
 Business A-10
 Longs Section B
 Barking Sands C-1
 Classified C-2
 Bulletin Board C-3
 Olio Mail C-4
 Pay 'n Save Insert

Future homesites?

KILAUEA POINT visitors may get a view of homes on Crater Hill if a setback line, designed to protect the refuge and views from Kilauea town is deleted. Houses would be allowed on the top right section of the hillside in the photo. (Photo by Julia Neal)



Group opposes Crater Hill plan changes

by Julia Neal

The Kilauea Neighborhood Association is circulating a petition that opposes changes in development plans for Crater Hill, which overlooks Kilauea town and the Kilauea Point wildlife refuge.

David Sprout, acting president of the organization, told The Garden Island that members decided Saturday to oppose deletion of a setback line that was created to help preserve the refuge and views of Crater Hill from Moloa'a to Hanalei.

A public hearing on changes in

the plan is set for 1:30 p.m. at the County Council Chambers on Wednesday, Sept. 26.

The 400-acre Crater Hill is owned by Roberson-Larsen Partners, a group of investors based in Albuquerque, N.M., who received county approval for a subdivision in 1982 after promising that no homes would be built above the setback.

The 32-acre Kilauea Point peninsula is adjacent to Crater Hill. It belongs to the federal government and is managed by the U.S. Fish and Wildlife Service for the preservation of nesting

sea birds and to provide recreational and educational opportunities to view native Hawaiian wildlife.

Sprout said much effort by the county Planning Department, the community, the U.S. Fish and Wildlife Service, and the developers themselves went into determining where homes could be built without infringing on views or threatening the birds that nest at the point and on Crater Hill.

Last month, however, the developers asked the Planning Commission to delete the setback line.

The setback line cuts across a number of lots the developers have carved out of Crater Hill after roughing in wide roads there. The developers' attorney, Walton Hong, said the setback would prevent homes from being constructed on the best building sites.

Last week, he called the setback line "unreasonable and unwieldy," saying the developers didn't find out how much it would affect their lot configurations until they cleared the property and graded the roads.

Sprout said that by asking for the setback line deletion, "the

developers are admitting they didn't negotiate in good faith when they asked the County for approval of their project."

He said Crater Hill is a significant landmark, "something like O'ahu's Diamond Head and Punchbowl." Deleting the setback line would put homes above the rest of the town, disturbing the view from many places on the North Shore, including Kilauea lighthouse and the refuge, he said.

Placing homes closer to the wildlife refuge would make birds more susceptible to predation by dogs, to disturbance by lights on

the residential property and to the noise of human activity, he contended.

The setback line was used by the developers numerous times as a primary reason to justify county approval of the Special Management Area permit, Sprout said. The SMA is designed to preserve coastal lands.

Doing away with the setback line should invalidate the original application approval, Sprout argued.

Beverly Wolf, a Kilauea property owner, said Crater Hill (Please turn to page 4)

Shanlee Jimenez

From: Dennis O'Shea <oshea606@gmail.com>
Sent: Monday, September 9, 2024 8:50 AM
To: Planning Department
Subject: Nihokū

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

Mahalo nui loa to the Commission for taking the pono stand on this issue. I support you wholeheartedly. Please adopt the resolution and protect this priceless treasure of Kauai land from greedy, selfish overdevelopment. Sincerely,
Dennis O'Shea
Maui

Shanlee Jimenez

From: Kawika Stewart <hanaleisfinest@gmail.com>
Sent: Monday, September 9, 2024 8:55 AM
To: Planning Department
Subject: Testimony for Nihoku- Agenda item 4
Attachments: Testimony for Nihoku. - Agenda item 4 -pdf.pdf

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Aloha,

This is my testimony regarding Agenda item 4 (Nihoku, Kilauea)

Mahalo, Sarah Martin

Sarah Martin
4149 Kilauea road
Kilauea, HI 96754
E: Lawalawamartin@gmail.com
Ph: 808-977-0196

September 8, 2024

Planning Commission
c/o County of Kauai Planning Department
4444 Rice Street, Suite A473
Lihue, HI 96766

To our esteemed members of the Kaua'i Planning Commission, I want to express my gratitude for the County of Kauai's dedication to this matter, and particularly to the county planning department for giving us the opportunity to voice our affection for Nihokū.

Being a longtime, multigenerational resident of Kilauea and Kanaka 'Ōiwi, I write to you today with a deep love for Nihokū and a strong belief in the importance of preserving our cultural heritage. While I applaud the efforts made by the County of Kauai and do support most of the recommendations put forth by the Hearing Officer, I urge the Kaua'i Planning Commission to consider the broader implications of limiting access to a cultural easement.

Nihokū is not just a place; it is a symbol of our connection to the land and our ancestors. By restricting access to only those with a regulated schedule, we risk alienating members of our community who wish to partake in traditional practices freely. As developers continue to transform our island into a commercial paradise for the wealthy, we must hold fast to the values that make Kaua'i unique. Preserving public access to areas in the mountains is not just about convenience; it is about safeguarding our identity and ensuring that future generations can experience the beauty of our island as it was meant to be.

Furthermore, the importance of honoring the 1982 building setback line cannot be overstated. This boundary was put in place decades ago to protect the ecological and cultural significance of Nihokū, a promise made to our community that must not be forgotten. By building the house lower down the mountain, we pay homage to the voices of those who came before us and advocated for the preservation of this sacred site.

In conclusion, I urge the Kaua'i Planning Commission to consider the long-term impact of their decisions on Nihokū and the surrounding community. By dedicating land for public access by right-of-way or cultural easement for pedestrian travel and upholding the building setback line, we can ensure that the legacy of Nihokū continues to thrive for generations to come.

Mahalo for your time and thoughtful consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Sarah Martin". The signature is fluid and cursive, with a large initial "S" and a long horizontal stroke extending across the name.

Sarah Martin

Shanlee Jimenez

From: Nā Kia'i Nihokū <nakiainihoku@gmail.com>
Sent: Monday, September 9, 2024 8:58 AM
To: Planning Department
Subject: Testimony: David Sproat and David Moore for County Planning Commission Meeting
Agenda Item RE: Nihoku 9/10
Attachments: David Sproat Testimony 9-9-24.docx.pdf; David Moore.pdf

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Aloha,

Submitting written testimony on behalf of David Sproat and David Moore for tomorrow's County Planning Meeting Agenda Item 4 Re: Nihoku.

Mahalo nui

Aloha Planning Commissioners and Staff:

I'm David Sproat, a resident of Kalihiwai, and a member of Nā Ki'ai o Nīhoku. I am addressing Agenda Item 4 (Unfinished Business) regarding SMA Permit at Nihoku. From where I live I can see Nihokū. I am one of the founding members of the Kilauea Neighborhood Association and was its first president. I was also one of the original intervenors in the contested case hearings to establish and uphold the building setback line on the upper slope that you are considering today.

My wife Linda's 'ohana were konohiki of Kalihiwai and held fishing rights in many surrounding areas including one either side of Nihokū. My family continues those traditional and customary Native Hawaiian practices today.

I went multiple times with my father in law and on my own up to Nihokū, using fishing trails, to kilo for fish. Others from Kalihiwai also continue these traditional and customary Native Hawaiian practices in the present.

My wife Linda played an important role in protecting Nihokū in 1981, which resulted in a 1982 setback line that was a condition of the SMA permit, to keep structures low enough that they would not interfere with the community's viewplane of the mountain, which people had literally been looking for generations.

Planning staff floated balloons on the mountain in various places and we went to Pila'a and along the highway to make sure that structures would not be visible. There were so many other concerns, including about the birds that lived there and how development would impact our quality of life in Kilauea, Kalihiwai, and beyond.

After that, the developer repeatedly tried to move the line higher. Dave Boynton, a longtime environmental community educator and Kīlauea resident, and I were intervenors in the contested case for Nihokū that resulted in the 1984 decision and order that denied revisions to the 1982 SMA permit and upheld the 1982 setback line.

In the late 1980s, hundreds of community members signed a petition to “hold the line” supporting the original, agreed-upon setback. The hearings officer ruled that the line still allowed enough room for a buildable house site on each lot and the 1982 setback line was upheld again.

There were other conditions of the original SMA permit for Sea Cliff plantation and the developers kept trying over the last four decades to find ways to go back on them also.

Kīlauea has always been a farming community and the developers agreed to give 90 acres for a community Agricultural Park so that young people in our community could have a place to farm. They stalled on this condition, tried to charge us for the land, and finally, in 2005, we were given 75 acres, instead of the promised 90, with another last minute two-acre parcel subdivided out as a saleable lot at the end.

I never knew of any other setback line but the 1982 line upon which the permit for Sea Cliff was conditioned. When I went to visit the Green’s property I was shocked to see how high up the mountain the house was planned. I told Mr. Green that I could not believe we would have worked so hard to set the line that high.

We didn’t. And Planning Commissioners and Department, you didnt either. The 1982 setback line represents four decades of promises, agreements, and commitments by this planning department, multiple developers, and our community. Yet 40 years later, here I am again, testifying before the Planning Commission with Kilauea’s next generation. My friend Dave Boynton passed away, and my wife Linda has Alzheimer’s, so they cannot be here with me today. But i implore you on behalf of them, myself, and so many others, please do not allow any development above that 1982 line. To do so adds insult to injury to our community and the lives and legacies of so many who dedicated themselves to preserving our quality of life on the North Shore. So much has been lost over the years, i can barely recognize our small community, due to decisions on issues like this one. Please do not grant these permits, stand with us, and hold the line.

Please accept the hearing officer's and planning director's recommendations and honor the decisions of past commissions and the work of our community across generations. Do not allow any development beyond the 1982 setback line on my of the lots in Sea Cliff Plantation.

Mahalo a nui loa for your time and attention.

September 9, 2024

Aloha Honorable Planning Commissioners,

My name is David Moore and I am writing to you about the proposed development in Sea Cliff Plantation on Lot 11-A.

Our family moved here to Kilauea in 1980. We raised our four children in Kilauea and I was an Emergency Room doctor at Wilcox for 10 years. Linda Sproat and I were part of the intervention process to contest the Sea Cliff Plantation development when it was originally proposed. We both knew how much Crater Hill meant to the people in Kilauea. There was little development around the town then and Crater Hill was so important to everyone. Everyone went up Crater Hill to enjoy the natural beauty it afforded. And its being a volcanic crater? That made it even more amazing. When up there, you could see that half of the caldera is gone. And the view of the mountains behind you, the ocean below, the birds soaring? It is one of those special places that fills you with wonderment and peace.

Crater Hill is really an iconic part of Kilauea; like Half Dome is iconic for Yosemite; the sandstone arches are iconic to Utah; Diamond Head is iconic for Oahu; etc. Crater Hill is part of the community, and we felt we didn't want its beauty to be lost when developed. Thankfully, the County and the developer worked with us on two of the aspects we most cared about.

First, were the sightlines

The community and intervenors wanted unblemished sightlines to the top of Crater Hill when coming to Kilauea from the east. We didn't want any houses visible up on Crater Hill as one approached Kilauea. We agreed structures up on the crater would ruin its natural beauty. (Visualize how unsightly structures on Half Dome would be).

By placing people up on Crater Hill, and viewing them from the east, we determined at what elevation one could begin to see any development. We set that elevation as the highest that any structure could

reach. To be clear, this was NOT the elevation at which the foundation of a structure could start, but the highest elevation that any part of any structure could reach.

Once that elevation line was determined (and it ran horizontally across the upper slope) it was accepted by the developer, and agreed to by all parties, including the Planning Commission. That line was then included into the subdivision map, and cited as an accepted part of the development's conditions of approval. And that is why upper Crater Hill remains relatively "empty" from most angles.

Second, was ACCESS

It was also very important to the community and intervenors that the public continue to have access to Crater Hill. And it was agreed by the developer that the public would keep its access when "Sea Cliff" was finished. It was clear to us that you would be able to drive your car on the roads there as we had for years. Unfortunately, when the development was finished, we were NOT given access by car, but by only when walking or cycling. We felt that the developer had violated the spirit of the agreement by constructing a gate across the road, but we felt it was too late to change it. Especially for the kupuna, and anyone with mobility issues, this slight remains a real loss.

When the highest road for the subdivision (Makana 'ano Place) was finished, including the upslope swale, the construction had cut off so much of the buildable land on the higher lots, there was not sufficient room to build homes without violating the agreed-upon elevation line. But that was not the community's fault and it was clear that the set-back line should be honored.

The planning department continued to honor the line too because Linda and I were called once to ask if the line could be moved for one house. We went up and walked the property and the location they wanted to move to was actually lower, and more tucked away into a gully, so we said, "no problem." That was the only time they contacted me about moving the line.

The highest elevation of the house being proposed for Lot 11-A would be far above the sightline elevation that was originally agreed to by the developer to gain approval for the subdivision. This is nothing against any of the owners, but it seems to be the developer's and Planning Commission's responsibility to live up to the original agreement, and to inform purchasers of its constraints. I am so grateful for the Hearing Officer's recommendations to uphold the original setback line and ask that this line be applied to all properties in the subdivision which are located adjoining that line.

I just hope everyone appreciates the Kilauea community's investment in protecting our beloved, iconic, Crater Hill. We've worked during the past 40 years to help the development of it to be a win/win for all. It was approved after the developer, the community, and the intervenors agreed to specific parameters: these should be honored so we may maintain the beauty and iconic aspects of Crater Hill into the future - not just for this particular application, but for any in the future that might violate the original sightline elevation.

Mahalo for your time and attention and for being such an amazing commission,
David Moore, MD

Shanlee Jimenez

From: Olan Leimomi Fisher <olan@kuahawaii.org>
Sent: Monday, September 9, 2024 8:56 AM
To: Planning Department
Cc: Kevin Chang
Subject: 9/10 Public Hearing - Comments on Item K-4 Nihoku
Attachments: KUA Testimony Kauai County Planning Nihoku 09.09.2024.pdf

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Aloha mai,

Please find KUA's comment testimony on Agenda Item K-4 for the 9/10 upcoming hearing.

Mahalo nui,

Olan

Olan Leimomi Fisher (she/her/'oia), Esq.
Kua'āina Advocate
olan@kuahawaii.org
Kua'āina Ulu 'Auamo (KUA)
grassroots growing through shared responsibility
www.kuahawaii.org



September 9, 2024

ATTN: County of Kaua'i Planning Commission
Līhu'e Civic Center, Mō'ikeha Building
Meeting Room 2A-2B
4444 Rice Street
Līhu'e, Hawai'i 96766
Submitted via Email at planningdepartment@kauai.gov

SUBJECT: Comments Regarding Agenda Item K-4 (Nā Kia'i o Nihokū, SMA(U)-2022-1), Urging the Commission to Adopt the Hearing Officer's Report and Recommendations of Contested Case; Public Hearing, 9/10/2024, 9:00 a.m.

Aloha pumehana kākou:

Kua'āina Ulu 'Auamo ([KUA](#)) submits this testimony urging the County of Kaua'i Planning Commission (the Commission) to adopt the Hearing Officer's Report and Recommendations of Contested Case regarding Agenda Item K-4 for permit conditions at Nihokū, Kīlauea, Kaua'i.

"Kua'āina Ulu 'Auamo" stands for "grassroots growing through shared responsibility," and our acronym "KUA" means "backbone." Our mission is to connect and empower communities to improve their quality of life through the collective care for their biocultural (natural and cultural) heritage, serving as a "backbone organization" that supports creative and community-driven solutions to problems stemming from environmental degradation. Hawai'i's biocultural resources continue to be negatively impacted by political, economic, and social changes, and the increasing dangers of climate change make fostering and empowering resilient communities acutely critical.

Currently KUA supports three major networks of: (1) almost 40 mālama 'āina (caring for our 'āina or "that which feeds") community groups collectively referred to as E Alu Pū (moving forward together); (2) over 60 loko i'a (fishpond aquaculture systems unique to Hawai'i) and wai 'ōpae (anchialine pool systems) sites in varying stages of restoration and development, with numerous caretakers, stakeholders, and volunteers known as the Hui Mālama Loko I'a ("caretakers of fishponds"); and (3) the Limu Hui made up of over 50 loea (traditional experts) and practitioners in all things "limu" or locally-grown "seaweed." Our shared vision is to once again experience what our kūpuna (ancestors) referred to as 'ĀINA MOMONA – abundant and healthy ecological systems that sustain our community resilience and well-being.

KUA strongly supports and applauds the years-long efforts of Nā Kia'i o Nihokū (the Kia'i) and their predecessors to protect this beloved wahi pana (sacred place) for generations to come. Some of the Kia'i are active and valued members of our KUA network. Besides being a refuge for treasured seabirds, some of the Native Hawaiian practices conducted at Nihokū include kilo, mele, oli, hula, and 'awa and Makahiki ceremonies. We acknowledge and mahalo the Hearing Officer for properly addressing the valid arguments presented by the Kia'i and applicable Ka Pa'akai analysis to protect the traditional and customary rights of Native Hawaiians in this area.



Based on the evidence presented during the Contested Case process, the Hearing Officer issued permit condition recommendations based on the conclusions that (1) the traditional practice of kilo would be impacted by the proposed development, and (2) the 1982 setback line applies to Lot 11-A and the project must be built in accordance with that lower line. **KUA supports these findings and recommendations of the Hearing Officer, and urges the Commission to adopt them accordingly.**

KUA cannot emphasize enough the amazing impacts that community protectors such as Nā Kia'i o Nihokū have made thus far on their ancestral 'āina. They inspire Hawai'i and the world, and we mahalo them for further expanding our shared movement to reestablish 'āina momona and best mālama and aloha our kō Hawai'i pae 'āina (island home). Please adopt the Hearing Officer's recommendations to protect Nihokū from overdevelopment and ensure Native Hawaiian traditional and customary rights continue in this place now and forever.

'O ke aloha 'āina nō,

Kevin K.J. Chang
Executive Director

Olan Leimomi Fisher
Kua'āina Advocate

County of Kauai Planning Commission
4444 Rice Street, Suite A473,
Lihue, Hawaii, 96766
planningdepartment@kauai.gov
9/09/2024

Comments Re: ITEM F. HEARINGS AND PUBLIC COMMENT.

Agenda Item 4. Unfinished Business (For Action)

4. Special Management Area Use Permit SMA(U)-2022-1, Class IV Zoning Permit Z-IV-2022-1, and Use Permit U-2022-1 for the Construction of a Farm Dwelling Unit, Guest House, Garage and Associated Site Improvements, within Lot 11-A of the Seacliff Plantation Subdivision in Kilauea, involving a parcel situated approximately 1,000 feet West of the Pali Moana Place/Makana'ano Place Intersection, further identified as Tax Map Key: (4) 5-2-004: 084 {Unit 1} affecting a Larger Parcel approximately 12.305 acres in size, NA KIA 'I O NIHOKU, Petitioner Intervenor, vs. PLANNING DEPARTMENT OF THE COUNTY OF KAUA'I, Respondent, and PHILIP J.GREEN and LINDA M. GREEN, Trustees of the Philip J. Green, Jr., Trust, dated December 4, 2018, and the Linda M. Green Trust, dated December 4, 2018, Applicants.

a. Hearing Officer's Report and Recommendation of Contested Case; Certificate of Service. Hearing (Held): Dates: November 14, 15, and 17, 2022, December 12, 13, and 15, 2023, and January 9, 10, and 12, 2023.

b. Intervenor's Exception to Hearing Officer's Report and Recommendation of Contested Case; Memorandum in Support of Exception; Certificate of Service.

c. Applicants Philip J. Green and Linda M. Green's Answer to Intervenor's Exception to Hearing Officer's Report and Recommendation of Contested Case, Dated July 24, 2024; Certificate of Service.

d. Respondent Planning Department of The County of Kaua'i's Support of Hearing Officer's Report and Recommendation of Contested Case; Certificate of Service.

Planning Commission Chair Apisa, Vice-Chair Ako and Commissioners,

I strongly support the recommendations of the Hearing Officer. The recommendations will protect customary and traditional practices at Nihokū as well as the birds. The recommendation for the house to be built lower down the mountain ensures this project is in compliance with the 1982 building setback line, a condition for the original Sea Cliff Plantation Development. Nihokū is an incredibly special place. The ecological and cultural significance of Nihokū must not be sacrificed for development. Please support Hearing Officer Kimura's recommendations including the requirement the development be sited lower and be made smaller to reduce the negative impacts.

Mahalo,

Caren Diamond

