

5. Preserving Kaua‘i’s Rural Character

As stated in the Vision, “rural” describes many aspects of Kaua‘i that people value: lush vegetation; broad expanses of agricultural lands giving wide open vistas; small communities where people know each other; the absence of city noise and lights; not feeling crowded. An essential part of the Vision and one of the driving ideas of the General Plan is to preserve Kaua‘i’s special rural character.

Kaua‘i’s rural character lies not just in those lands classified as “rural” or “agriculture.” Instead, it lies in how the parts of the island fit together – the relationship of urban settlements to open lands, how the built areas relate to the natural features of the landscape, how people get around. Some important elements of Kaua‘i’s physical environment:

- Small towns and communities that have a distinct character and are compact rather than sprawling.
- Wide expanses of open lands – natural areas and lands in active cultivation – that provide separation between the towns and communities. The rhythm of settled areas alternating with open lands is pleasing; and the separation highlights the special identity of each community.
- The relatively small scale and low heights of buildings.
- The relatively small scale of Kaua‘i roads, the presence of natural vegetation along the roads, and the absence of medial concrete barriers.

This chapter discusses the elements of the physical environment that make Kaua‘i a rural place. Section 5.1 sets forth the framework for land use and the general policies to govern development in the next 20 years. Sections 5.2 and 5.3 set forth the policy for the Agriculture and Open designations on the General Plan Land Use Map. Section 5.4 sets forth the policy for the seven urban land use designations on the General Plan Land Use Map. Section 5.5 describes and sets forth policy for Scenic Roadway Corridors, as shown on the Heritage Resources Map.

5.1 POLICY FRAMEWORK FOR LAND USE AND DEVELOPMENT

This section sets forth basic land use policies for maintaining Kaua‘i’s rural character and for growth and development within the context of a rural place.

5.1.1 Basic Policy

The General Plan Land Use Map shows the location of Urban Centers, Resorts, Residential Communities, and other urban land uses in relation to Agriculture and Open lands.

Following are the basic land use policies for preserving Kaua‘i’s rural character.

- (a) Enhance Urban Centers and Towns and maintain their identity by defining the Town Center and the edges of each Town. Concentrate shopping and other commercial uses in

Town Centers. Encourage residential development within Urban and Town Centers and in Residential Communities contiguous to them.

- (b) Promote compact urban settlements in order to limit public service costs and to preserve open space.
- (c) Define and conserve Scenic Roadway Corridors along the roadways that connect Towns, Resort areas, and Residential Communities. These corridors are intended to conserve the open space between towns and to prevent sprawl and commercial strip development.

5.1.2 Policy for Future Growth

Following are policies to provide for growth and development while preserving rural character.

- (a) Allow incremental growth of Towns, contiguous to existing development. Concentrate primary shopping facilities within the Town Center. Support infill development.
- (b) Provide for build-out of existing Residential Communities, to include areas zoned R-1 or higher. Allow small, neighborhood-oriented commercial sites in Residential Communities.
- (c) Support growth of residential and business uses in master-planned developments in the Puhi-Lihu'e-Hanamā'ulu Urban Center and at Po'ipū-Kukui'ula.
- (d) In the outlying West Side and North Shore districts, plan for additional residential use to meet regional demands for housing.
- (e) Expansion contiguous to an existing town or residential community is preferred over a new residential community.
- (f) Allow build-out of properties in existing low-density agricultural communities, including the homestead areas of Wailua, Kapa'a, 'Ōma'o and Kalāheo and existing agricultural subdivisions in other parts of the island, while taking measures to assure the adequacy of County road, drainage, and water supply systems.
- (g) Limit the development and dispersal of new agricultural communities through zoning regulations.

5.2 AGRICULTURAL LANDS

Agricultural lands are designated by color on the GP Land Use Map. The first sub-section below sets forth the policy for the Agriculture land use designation. The second sub-section provides the rationale for the policy. The third sub-section recommends implementing actions, and the fourth discusses implementation options relating to residential development on agricultural lands.

The policy states the purpose of the designation and provides direction for the zoning regulations. The GP Land Use Map will be revised in accordance with the purpose of the

Agriculture designation. It is anticipated that the CZO will also need to be changed – both in terms of mapping and district standards.

5.2.1 Policy

- (a) Lands included within the Agriculture designation shall be predominantly used for or held in reserve to be used in the future for agricultural activities. These activities include the breeding, planting, nourishing and caring for, gathering, and processing of any animal or plant organism, including aquatic animals and plants, for the purpose of producing food or material for non-food products; the commercial growing of flowers or other ornamental plants; the commercial growing of forest products; and the commercial breeding and caring for domestic animals and pets.
- (b) The primary intent of the Agriculture designation is to conserve land and water resources in order to:
 - (1) insure an excellent resource base for existing and potential agricultural uses;
 - (2) assure a sufficient supply of land available for sale or lease at a cost that is economically feasible for agricultural enterprise; and
 - (3) promote and preserve open agricultural lands as a key element of Kaua‘i’s rural character and lifestyle, essential to its image as “The Garden Island” and to the continued viability and development of Kaua‘i’s visitor industry.
- (c) In administering zoning and subdivision regulations, the County shall seek to preserve important agricultural lands. Important agricultural lands include those designated “A” or “B” by the Land Study Bureau evaluation or “Prime” or “Unique” by the Agricultural Lands of Importance State of Hawai‘i evaluation; provided that these ratings shall be superseded at such time as the State of Hawai‘i officially maps and designates Important Agricultural Lands, as mandated in the State Constitution.
- (d) Lands designated Agriculture shall include: important agricultural lands; lands in active agricultural use; lands with potential for agriculture, silviculture or aquaculture; and other lands not suited for urban development because of location, topography, economy of public services, or other purpose related to general health, safety and welfare.
- (e) The secondary intent of the Agriculture designation is to provide an opportunity for Kaua‘i citizens to reside in an agricultural community. An “agricultural community” is an area that has both agricultural uses and residences. Typically, an agricultural community is established through subdivision of land and provision of roads and potable water service. Agricultural communities are generally located in outlying areas, do not have convenient access to County facilities, and may not receive the full range or highest level of County services such as are available to residential communities, towns, and urban centers.
- (f) The primary intent of the Agriculture designation shall take precedence over the secondary intent.

- (g) To implement the Agriculture designation, specific controls on the subdivision and alteration of designated lands shall be formulated to prevent the dissipation of agricultural potential, the loss of rural character, and the dispersal of residential and other urban uses.
- (h) The following principles shall be applied in the development of an agricultural community:
 - (1) maintain irrigation works and easements where feasible and beneficial to existing or potential agricultural uses within the site or downstream; and
 - (2) preserve wetlands and streams and provide a riparian buffer area to prevent land disturbance and to filter runoff.

5.2.2 Rationale for Policy

The policy statement on the Agriculture designation continues Kaua‘i’s longstanding policy of preserving agricultural lands as a valuable resource base. It also recognizes irrigation water systems as a key resource. Related policies supporting agricultural enterprise may be found in Section 4.3.7 of the General Plan. Finally, the primary intent highlights the importance of open agricultural lands in maintaining Kaua‘i’s rural character and its economic viability as a visitor destination.

The policy also states a “secondary intent” for lands in the Agriculture land designation: To provide an opportunity for Kaua‘i citizens to reside in an agricultural community. This explicitly recognizes what is common knowledge – that so-called “agricultural subdivisions” are primarily residential. In fact, at least 90 percent of the dwellings in the Agriculture district on Kaua‘i are primarily used as single-family residences and do not support income-producing agriculture. High prices reflect strong market demand for agricultural house-lots. Typically, an agricultural house-lot, served with a public road and potable water supply, will be priced at \$125,000 to \$150,000. Such prices make lots infeasible for agricultural enterprise (defined as income-producing, profit-driven agriculture).

Kaua‘i, like the other neighbor island counties, has found it impossible to enforce the State requirement that only “farm dwellings” and farm worker housing are allowed within the State Agriculture Land Use District. (In most cases, the State Agriculture District is coterminous with the County’s Agriculture Zoning District.) What is the remedy if a person builds a house intending to farm his property; fails and gives up farming; and instead goes to work at a hotel? By definition, his house is no longer a “farm dwelling” but is now a “single-family residence.” What practical remedy is available to enforce the farm dwelling provision? It would be unreasonable (and infeasible) for the County to force the former farmer to sell his home and find a new house outside of the State Agricultural District.

Over the years, the development of “agricultural subdivisions” has changed parts of Kaua‘i. What was previously an agricultural, rural landscape has been developed into a quasi-suburban landscape dotted with residences on large lots. Areas designated on the General Plan as “Agricultural” but primarily developed with residences include (a) homestead communities in the Kalāheo-Lāwa‘i-‘Ōma‘o region and in Wailua-Kapa‘a; and (b) former plantation lands on the East Side and North Shore, particularly former Kilauea Sugar Company lands.

As sugar plantations have reduced crop acreage or terminated operations, a large amount of fallow land has become available. While some major landowners such as A&B and Grove Farm are retaining agricultural lands, others are selling or dividing their interests. In the late 1990s, Amfac/JMB set about liquidating its Līhu‘e Plantation lands. At the same time, the two Knudsen trusts were undergoing partition, with lands being divided among the trust beneficiaries. New owners seeking a return on their real estate investment may opt for large-lot residential development through subdivision and CPR of agricultural lands.

Following is a brief summary of the issues relating to residential development of agricultural lands:

Consumption of Agricultural Land. Large-lot “agricultural subdivisions” consume at least three times more land per housing unit than residential subdivisions (R-1 and higher). Land primarily used for single-family residences is lost to farm use. Supplied with potable water and County roads and valued at residential house-lot prices, such lots are not feasible for intensive, income-producing farming. In fact, subdivision deeds typically have covenants limiting types of crops, poultry and livestock.

Development of Open Lands. Because Agriculture-designated lands typically adjoin lands planned and/or zoned “Open,” most agricultural subdivisions – especially on the North Shore – are comprised of a mixture of the two zoning districts. Open lands typically include important landforms, wetlands, streams, steep slopes, and other environmentally-sensitive areas. Under the CZO, single-family residences are allowed within the Open District. In addition to allowing construction on sensitive lands, Open zoning increases the allowable number of subdivision lots and house-lots in an agricultural subdivision. The policy on Open lands (Section 5.3 below) calls for eliminating this “density bonus.”

Loss of Agricultural Open Space and Views. When houses spread out across agricultural lands, a wide area appears “developed” – it no longer appears to be open farm land. Open space is decreased rather than conserved. In some instances, houses encroach on natural landforms. For example, Crater Hill is an important coastal landform that frames the landscape around Kīlauea Town. Building high on the slopes of Crater Hill detracts from its appearance and its value as a landmark. The same number of dwellings could be built at lower elevations by allowing smaller lots and/or clustering residences.

Extension of County Services at Increased Cost and Lower Revenue. Agricultural subdivisions have a higher operational cost per unit for County services, such as fire protection, water supply, and refuse collection. Conversely, property tax rates and water rate revenues are lower per acre of area served.

Agricultural subdivisions will also result in higher long-term costs per unit for repair and replacement of roads, water supply, and other County facilities. For example, a small water storage tank serving 30-40 agricultural estates will need repair and replacement as often as a larger tank serving a residential area with 800-1,000 urban house-lots. In effect, agricultural subdivisions extend County liability over a broader area.

Extensions of service happen incrementally. The developer who owns land adjacent to town finds it feasible to extend water service down the highway from town to his site. The owner of the next property away from town can then afford to extend the water line from the first

development to his property. Subsequent extensions follow in a domino effect. The Kīlauea-Kalihiwai-Waipake Water Service Area resulted from such incremental extensions.

Need for Community Facilities. The transition of Kaua‘i’s homestead areas from predominantly agriculture to predominantly residential use and the proliferation of agricultural subdivisions on the North Shore has created a need for community facilities, such as parks, churches and schools. As these agricultural communities grow, they will also create a demand for more shopping facilities and other commercial services. In towns and planned communities, areas are zoned for these more intense uses. In agricultural areas, various uses may be allowed through special permits. Applications for special permits have in fact been growing, particularly around Kīlauea. The special permit process is designed to permit uses that meet certain standards and to mitigate impacts through conditions. The accumulation of such uses over time, however, overburdens roads and other infrastructure. Dispersal of institutions and facilities represents a missed opportunity to create a central gathering place that can serve as the heart of a community.

Addressing the above issues will entail effective community planning as well as revision of the zoning regulations. The term “agricultural community” is intended to explicitly recognize a type of land use that is different from commercial agricultural enterprise. An agricultural community is specifically designed for residences on large lots in a rural setting where agricultural and animal husbandry may also be pursued.

Competition with Planned Urban Development. Both the State and the County have longstanding land use policies promoting compact urban development and the preservation of agricultural lands and open space. Consequently, the conversion of lands from agricultural to urban land use receives detailed government review through a series of land use entitlement processes: General Plan map amendment, State Land Use Boundary Change, and County zone change. Unless generated by the County, a General Plan map amendment also requires a formal environmental assessment under State regulations. As a condition of approval, many of these projects are required to build public facilities, including urban-standard roads, offsite highway improvements, wastewater collection and treatment systems, drainage facilities, and water systems. Typically, they are also required to provide affordable housing and land for parks, schools, and other public facilities.

Whereas government sets high procedural and financial hurdles for urban development, the requirements for residential development on agricultural lands are minimal. On Kaua‘i, a residential project on agriculture-zoned land needs only subdivision approval by the Planning Commission. No public hearing is required. With regard to public facilities and affordable housing, the agricultural subdivision developer is typically required to build internal roads and water systems. A wastewater system is not required, nor is affordable housing. Public facility requirements are typically less than for residential projects on lands zoned for residential use. Contrary to policy, the regulatory playing field is skewed to favor large-lot residential development of agricultural land over residential development in urban areas.

5.2.3 Implementing Actions

- (a) The Planning Department shall prepare amendments to the Comprehensive Zoning Ordinance (CZO) to implement the policies for Agriculture Lands. The amendments shall include site planning standards and criteria for approving an Agricultural

Community. The CZO amendments shall be submitted through the Planning Commission to the County Council for adoption.

- (b) The Planning Department shall take measures to assure long-term effective administration of the limitations on resubdivision of Agriculture-zoned land.
- (c) The State should determine and map Important Agricultural Lands, as mandated by the State Constitution.

5.2.4 Options for Zoning Regulations

During the 1998 and 1999 General Plan Update, the Project Team and the CAC's Rural Lands Task Group not only worked on the policy issues relating to agricultural lands (see 5.2.2 above), but also grappled with practical issues of implementation through the zoning regulations. A number of options were discussed concerning the following subjects: (1) density and site planning for Agricultural Communities (residential development on agricultural land); (2) revisions to administration of the "one-time subdivision" rule; (3) the process for permitting an "agricultural community"; and (4) making land available to farmers. The purpose of this section is to outline the issues and set forth some options for amending the zoning regulations.

5.2.4.1 Density Regulations and Site Planning; Use of CPRs

First adopted in 1972, the CZO's Agriculture District regulations incorporate measures that are designed to carry out the purpose of limiting subdivision of agricultural lands and restricting the number of units that could be built. The regulations, however, are highly complex. They are difficult to understand and difficult to administer. In some respects, the manner in which the regulations have been applied departs from the original intent.

The key regulation is a sliding scale limiting the number of lots that can be created in subdividing a parcel of Agriculture land. The sliding scale is structured to allow some residential development on each existing parcel, but to discourage wholesale development of large acreages. Under the sliding scale, the ratio of residences to land area decreases as the land area increases. This preserves large areas of the larger lots for agricultural use. It favors the subdivision of smaller parcels (30 acres or less) by allowing smaller lot sizes of one to three acres.

The subdivision of a large lot results in the creation of residential lots and a "residual" lot that is reserved for agricultural use. The residual lot would amount to about 58 percent of a 300-acre parcel, scaling upward to 75 percent of a 1,000-acre parcel and 83 percent of a 2,000-acre parcel. The 300-acre parcel would be allowed 12 residential lots, while the larger parcels would be allowed up to 22 lots.

Many jurisdictions throughout the mainland use sliding-scale regulations to limit conversion of agricultural lands. In 1998, Maui County adopted a sliding scale regulation for agricultural lands that is in some ways more limiting than Kaua'i's.

Kaua'i's innovative 1972 agricultural zoning regulation includes two additional limitations. First, contiguous parcels under single ownership as of 1972 are treated as a single lot for subdivision purposes. For example, contiguous parcels of 200 and 300 acres owned by a

single corporation as of 1972 would be treated as one 500-acre parcel when calculating the number and minimum size of lots that could be created through subdivision. Second, an agricultural lot may be subdivided only once. Administration of these provisions demands careful record-keeping that may prove difficult with the passage of time.

The 1972 restrictions on subdivision appear to have served their intended purpose with regard to discouraging subdivision of larger parcels, with the exception of the former Kīlauea Plantation lands. Nevertheless, Planning Department records show that about 2,100 agricultural lots were created through subdivision actions between 1972 and 1996. Several other elements of the zoning regulations have encouraged greater density of housing development (a larger number of houses per lot and per acre) than originally intended. First, the regulations allow up to five (5) dwellings per subdivided lot, depending on the size of the lot. Second, an additional lot is allowed for each five acres of land in “Open” zoning. Because many parcels have lands in both districts, Open zoning has contributed significantly to the density of agricultural subdivisions. Finally, additional dwelling units (ADUs) are allowed in the Agriculture zoning district, which effectively means that every agricultural lot is allowed two dwellings.

Developers report that the complex mathematical calculations drive subdivision design and lead to less than optimal site layouts. If allowed greater flexibility in laying out the lots, the developer could better conserve the physical attributes of the property and better incorporate environmental best practices. In addition, CPR complicates real estate sales. Over the long-term, some CPR owners experience problems in complying with or enforcing compliance with CPR declarations.

The Planning Department also reports problems in administering zoning regulations when lots have multiple CPR owners. For example, the number of houses and other development standards are based on the lot of record. If four of five CPR owners in a single zoning lot have together built the maximum of five houses, then the fifth owner will not be allowed to build. Similarly, if a CPR owner obtains a use permit, the permit conditions could affect other owners within the lot of record.

Most people on Kaua‘i do not understand the rules that govern agricultural subdivisions. Many people, however, express concern about the proliferation of “gentleman estates.” This combination of concern and confusion was voiced by participants in GP Update meetings who blamed the “CPR law” for allowing houses to spread on agricultural land. In actuality, it is the County CZO that allows multiple residences on larger agricultural lots. The State CPR law is simply a means of dividing ownership, in effect allowing each homeowner to obtain a separate home mortgage loan.

The CAC Task Group’s major concern was to eliminate the Open District “bonus” in agricultural subdivisions. There was clear consensus on this subject. Some members stated that it is the only change needed in regulating residential development on agricultural lands. Section 5.3 of this plan recommends changing the Open District so that it includes only the more environmentally-sensitive lands and no longer confers a “density bonus” increasing the number of lots and houses that can be developed.

Following are recommended principles for developing new regulations for subdivision of Agriculture-zoned lands. These are in addition to and build upon the policies for Agriculture lands set forth in Section 5.1.

Apart from eliminating the Open District bonus, there are various options for amending the current regulations to address the problems of density, site planning, and administration in relation to the development of Agricultural Communities. Following is one set of options, which could be implemented in whole or in part.

- (a) Maintain residential densities at approximately the same level.

Residential density is the potential number of single-family residences that can be developed through subdivision of a given parcel of land. It is a combination of the number of lots that can be created and the number of residences that can be built on each lot. The intent of changing the regulations is not to reduce densities under agricultural zoning but to improve site planning and reduce the creation of CPRs.

- (b) Avert the creation of multi-unit CPR properties by modifying CZO density formulas. This entails allowing a greater number of lots but restricting the number residences per lot to no more than one or two.

Most people prefer to own a subdivided lot rather than a CPR unit. The density formula could be modified so that a lot could have no more than one or two residences. This would eliminate the administrative problems of having lots with three, four or five CPR units, while providing a larger number of more desirable lots. Possible formula: Allow one additional lot in exchange for every multiple-unit lot that could have been created under the existing sliding scale.

- (c) Create greater flexibility in site planning in order to afford more efficient subdivision design, preserve natural features of the site, and avoid construction on steep slopes and in potential flood areas.

The purpose here is both to give the developer greater flexibility and to promote “conservation design.” Using a conservation design process, the developer analyzes the natural features and development constraints of the site, then develops a subdivision layout that conserves natural features and avoids constrained areas. The County would specify the type of features and hazards to be analyzed and set forth conservation guidelines.

The Subdivision Ordinance contains “General Environmental Standards” as well as standards for site development and public facilities that are broad and require discretionary review by the agencies and the Planning Commission. The ordinance also gives the Planning Commission the authority to impose conditions on a subdivision approval. Typically, agricultural subdividers have been required to provide setbacks, berms and/or landscape buffers to minimize impacts on highway views; and to set buildings back from streams and other natural features.

The County may also require that house sites be limited to a certain portion of the parcel, so that the greatest area remains in agricultural use or conservation. Typical rural

zoning ordinances require that 80 to 90 percent of the land remain in contiguous open space.

To provide greater flexibility and to encourage the clustering of house sites, the County could allow variation in the size of lots, down to a minimum of one or two acres. A subdivision might then contain a variety of lots. Large lots would have a specified house site, along with 10-20 acres of land for cultivation or pasture use. Small lots might simply consist of a house site. This also allows for greater variation in lot prices.

- (d) Sunset the ordinance that allows additional dwelling units on Agriculture lots.

In the homestead areas, water supply, roads, and drainage infrastructure have not been designed for the increased loads from subdivision and increased residential use. ADUs further increase the burden on infrastructure systems.

The above options could be used as the basis for developing revisions to the CZO. New provisions relating to density and site planning could be adopted as criteria (more strict) or guidelines (less strict) for new Agricultural Communities. Alternatively, the various features could be packaged as an incentive program that may be voluntarily chosen by the developer.

The primary objective of revising the density and site planning regulations is to guide the development of new, freestanding agricultural subdivisions. New requirements, however, could be waived for subdivision of smaller parcels within homestead areas. It is suggested that new requirements be waived or modified for subdivisions of parcels 30 acres or less in size.

5.2.4.2 County Process for Permitting an “Agricultural Community”

Simple subdivision is the only land use approval currently required for an agricultural subdivision. The subdivision process entails only Planning Department and agency review, and decision by the Planning Commission. No public hearing is required, though notice of action on subdivision applications is provided through the Planning Commission agenda. Under the Subdivision Ordinance, the County is obligated to accept dedication of water, road and other facilities that are built to County standards.

In contrast, a landowner seeking to develop an urban residential community must gain (a) the approval of the State Land Use Commission (SLUC) for a State Land Use District boundary amendment; (b) the approval of the Planning Commission and County Council for a General Plan map amendment, if necessary; and the approval of the Planning Commission and County Council for a zone change to Residential. Typically, both the SLUC and the County will impose conditions of approval on urban zoning, ranging from dedication of park space and shoreline access to requirements to provide affordable housing. The current regulatory system imposes high costs on urban development, while requiring comparatively little for residential development of agricultural lands.

Under most local government codes, subdivision is a “ministerial action.” Like a building permit application, the presumption is that a subdivision application will be approved if it meets all lot configuration, road, and public facility standards. In many jurisdictions, the power to approve subdivisions is assigned to the director of planning or the director of public works. The Kaua‘i Subdivision Ordinance, however, is different in two important ways: (a) the Planning Commission decides on subdivision applications; and (b) the Commission

exercises substantial discretion over such matters as subdivision design and viewplanes, often placing specific conditions on subdivision approvals. In summary, Kaua'i's Subdivision Ordinance – as currently written – is more discretionary than ministerial in nature.

Residential development functions like a “floating zone” within Kaua'i's 140,000 acres of Agriculture- and Open-zoned lands. A new subdivision creates a “spot” of residential use within the Agriculture District, and it commits the County to provide services to that spot. It directly affects the Department of Water, the Fire Department, and the Public Works Department (Road Maintenance and Refuse).

In order to formalize and plan for the commitment of County services, some have suggested that a new zoning district be created for agricultural communities. Homestead areas and other lands with existing agricultural subdivisions and adjacent lands would be included in the new zoning district. A new agricultural subdivision outside of the district would require a zone change. The rezoning process entails a public hearing and recommendation by the Planning Commission and public hearing and decision by the County Council.

With the fiscal implications for County services and the potential impacts on rural character, a more formal decision-making process – i.e., zone change or use permit – for approving an “agricultural community” is warranted. In the review of a zoning application or a use permit application, County agencies could make known the cumulative impacts of such development on their ability to provide services and on the County's financial resources. Such a process would answer the needs of the Department of Water (DOW), which is concerned about the ever-increasing extent of its water service obligations and the progressive expansion of service areas in outlying agricultural lands. If the County Council were to adopt a zone change for residential use, then the DOW and other County agencies would have their marching orders. The subdivision process then could be made completely ministerial and could be streamlined to reduce processing time.

In the absence of a County process for deciding the location of future agricultural communities, the DOW is considering the establishment of formal water service area boundaries. Water service areas would encompass existing development and could be extended by formal action of the Water Board. Instituting water service areas would afford the DOW some control over its future service obligations. Some criticize such an approach, however, as usurping the role of the Planning Commission.

Finally, a zone change or a use permit process decided by the Planning Commission would afford the opportunity for a public hearing on future residential development on agricultural lands.

Following is a summary of the alternatives. Note that any process should be accompanied by clear standards for approval and for the imposition of conditions. Actual subdivision of lots would follow as a ministerial process with clear standards and no provision for conditions. Subdivisions would be administered directly by the Planning Department with specified deadlines for review and action.

- (a) Creation of a new Agriculture-2 District, specifically to accommodate “Agricultural Communities.” The initial mapping of the new Agriculture-2 District would include the homestead areas and other existing agricultural subdivisions. All important agricultural lands and other agricultural lands would be placed in an Agriculture-1 District.

Proposed new residential developments would need to apply for a zone change to Ag-2. The process would include public hearing and recommendation by the Planning Commission; public hearing and decision by County Council.

Criteria for rezoning could include adequacy of the regional roadway system, compatibility with existing and potential agricultural use in the area, and the availability and costs of County services. The County Council would be able to impose conditions of approval relating to public facilities, regional drainage and environmental concerns, and community benefits.

- (b) Project Development District OR Class IV Zoning Permit. These are two options for a discretionary permit process that would formalize the decision to allow residential development within the Agriculture zoning district and allow subdivision to become a ministerial action. The process would entail review by the Planning Department, public hearing, decision by Planning Commission.

Decision criteria could be similar to those suggested above for rezoning. With a permit process, however, the County would have less latitude to impose conditions of approval.

- (c) New Project Development District. This is conceived as an optional, incentive-driven program that would afford the developer density and other benefits if the project met certain objectives such as conservation design, provision of affordable farm lots with irrigation water, or affordable housing. The process would entail detailed design review by the Planning Department, public hearing, and decision by the Planning Commission. Recognizing that review and approval criteria would be stricter, the public hearing could be waived.

An optional, incentive program could be used in combination with the existing Agriculture District regulations for residential development, incorporating features outlined above, such as a greater number lots, and a smaller minimum lot size. The developer would have the choice of selecting the incentive program instead of the standard zoning standards.

Specific incentives could be created to make land available for active farming. One model is the Moloa‘a Hui project, in which the developers created farm parcels to be sold at agricultural land prices with irrigation water and dirt roads only; some of the farm parcels had house-lots. Development of the agricultural lots was subsidized by developing a small number of residential view lots, to be sold at much higher residential prices.

5.3 OPEN LANDS

Open lands are designated by color on the GP Land Use Map. The first section below sets forth the policy for the Open land use designation. The second section provides the rationale for the policy and discusses the mapping of the Open designation. The third section recommends implementing actions; and the fourth section discusses options for implementing the policy through the zoning regulations.

5.3.1 Policy

- (a) The intent of the Open designation is to preserve, maintain or improve the natural characteristics of non-urban land and water areas that:
 - (1) are of significant value to the public as scenic or recreation resources;
 - (2) perform essential physical and ecologic functions important to the welfare of surrounding lands, waters, and biological resources;
 - (3) have the potential to create or exacerbate soil erosion or flooding on adjacent lands;
 - (4) are potentially susceptible to natural hazards such as flood, hurricane, tsunami, coastal erosion, landslide or subsidence; or
 - (5) form a cultural, historic or archaeological resource of significant public value.
- (b) Lands designated Open shall include: important landforms such as mountains, coastal bluffs, cinder cones, and stream valleys; native plant and wildlife habitat; areas of predominantly steep slopes (20 percent or greater); beaches and coastal areas susceptible to coastal erosion or hurricane, tsunami, or storm-wave inundation; wetlands and flood plains; important scenic resources; and known natural, historic and archaeological resources. Open shall also include parks, golf courses, and other areas committed to outdoor recreation.
- (c) Lands designated Open shall remain predominantly free of development involving buildings, paving and other construction. With the exception of kuleanas and other small lots of record, any construction that is permitted shall be clearly incidental to the use and open character of the surrounding lands.

5.3.2 Rationale for Policy

The policy differs only slightly from the previous General Plan policy on the Open designation. Key elements have been retained verbatim, including: the main statement of intent, to “preserve, maintain or improve the natural characteristics of non-urban land and water areas” Also from the previous General Plan: Open lands “shall remain predominantly free of development”; and any construction allowed “shall be clearly incidental to the prevalent nature of the surrounding area.” The same statements are also found in the purpose section of the Open zoning regulations.

While the policy remains essentially the same, some material has been added regarding the types of resources to be preserved and the types of lands to be included in the designation. The mapping of the Open designation on the General Plan Land Use Map has been revised, in order to more closely reflect the policy. The mapping is discussed in more detail below.

This discussion of the policy rationale also addresses the implementation of the policy through the Open zoning regulations – particularly the use of Open-zoned lands to increase the number of lots in agricultural subdivisions.

5.3.2.1 Land Use Map

The delineation of Open lands on the General Plan Land Use Map has been revised from the previous General Plan in order to more closely conform to the policy. The policy is very specific and directive: To “preserve” Open lands and to keep them “predominantly free of development.” Since the policy is the most restrictive of all the GP land use designations, Open lands should be mapped to include specifically identifiable features that meet the criteria of the particular types of lands enumerated in the text. Undeveloped lands that do not have the characteristics described have been placed in the Agriculture designation. The few areas previously designated Open that are already predominantly developed have been re-designated to one of the urban classifications. Following is a summary of the basic principles that guided the mapping of the Open land use designation.

Stream Valleys and Drainageways in Urban Areas. In urban areas, the Open designation has been mapped to include stream valleys, drainageways and golf courses that are important for detaining stormwater, receiving wastewater effluent, and providing open space relief. Some, like Nāwiliwili Valley and Hanamā‘ulu Valley, are also important landforms. In intensively developed areas such as Līhu‘e and Princeville, Open lands have been mapped in specific detail that reflects the underlying or planned Open zoning.

Urban and Rural Areas with Existing Residential Development. A few areas mapped Open lie within the State Urban or Rural Land Use Districts and have a long history of residential use. They include portions of Wainiha Valley, the properties along Hanalei Bay, ‘Anini Beach and Niumalu. These areas’ history of residential use is reflected in the pattern and size of the zoning lots. The minimum size for Open-zoned lots in these districts is one acre. These areas remain designated Open on the GP Land Use Map. In reviewing the Open zoning district, however, it is recommended that a new zoning district be established to distinguish these State Urban and Rural residential areas from other Open-zoned lands. Possibly named “Open/Residential,” such a zoning district could accomplish the following: (1) explicitly allow residential use but not the other uses which may be allowed by permit in a Residential district; and (2) maintain a 10 percent lot coverage standard for these areas, recognizing their constraints. The purpose of the Open/Residential zone would be restricted to these historic areas; it should not be used as prospective zoning for a newly-developing area.

Conservation District Areas. The Open designation encompasses lands within the State Conservation District, over which the State Board of Land and Natural Resources has jurisdiction. The BLNR adopts and administers land use regulations for the Conservation District that are stricter than any County zoning regulations. On Kaua‘i, approximately 195,000 acres lie within the Conservation District, amounting to about 55 percent of the island’s total land area.

Agricultural Areas. The Open designation often abuts or interrupts larger areas GP-designated and zoned Agriculture, which also generally lie within the State Agriculture Land Use District. In these areas, the Land Use Map has been revised as follows:

- The Open designation was reserved for those lands having the land characteristics described in the policy. Areas not having those characteristics were re-designated Agriculture.

The previous GP Land Use Map designated as Open some areas that do not conform to the criteria stated in the policy. As an example, the previous Open designation included the plateau east of the Waimea River, which is relatively level and has been under cultivation for many years. This area was re-designated to Agriculture, as were other lands currently or formerly in cultivation.

- Open and Agriculture designations were generalized, in order to graphically show regional land use policy and to avoid small-scale mapping/policy issues more appropriately addressed through text.

The original mapping included nearly all stream courses, which appear on the GP Land Use Map as fingers of land dividing larger Agriculture-designated areas. Through the 1984 GP Update, the maps for agricultural portions of Wailua-Kapa‘a and Kalāheo were changed to eliminate the Open “fingers” and to designate these areas more generally as “Agriculture.”

In practice, the County has generally exercised its zoning and subdivision authority to protect streams and drainage courses where development has been proposed. The question is how to express the policy that all streams and riparian areas should be protected from development – not just the major stream valleys. Instead of mapping every stream course, this General Plan states explicit policy in text. Text policy is preferable because it recognizes that each stream is different, as is its surrounding topography. Streams are shown on both the Land Use Map and the Heritage Resources Map, while the problems of assigning a uniform land designation (or zoning district) around every stream course are avoided. In the 2000 GP Update, major stream valleys are designated Open on the map, and text policy calls for protection and buffering of all streams. Smaller stream gulches have been mapped within the surrounding Agriculture designation.

Coastal Areas. Strips of shoreline land around the island are designated Open. Some also lie within the State Conservation District. The intent is to preserve coastal bluffs, sandy beaches and other natural features. Typically, these strips range from 150 feet to 300 feet wide, but some are substantially wider where warranted by the topography or natural features of the site. The 2000 GP Update Land Use Map maintains the existing shoreline strips and adds others – e.g., between Pt. Allen and Wahiawa Bay and along the Princeville cliffs.

5.3.2.2 Residential “Density Bonus” Provided via the Open Zoning Regulations

The most important conflict between the policy and the administration of the zoning regulations relates to the incorporation of Open-zoned lands in subdivisions of Agriculture land. Subdivision in the Open district is not limited by a sliding scale, as in the Agriculture district. The prevailing practice, which resulted from a court decision against the County, is to add the number of lots that could be created under Open zoning to the number that could be created under Agriculture zoning.

The approved plan for the Waipake subdivision, for example, allowed 20 lots based on 226 acres of Agriculture-zoned land and an additional 15 lots based on 78 acres of Open-zoned land. (The Open-zoned lands at Waipake lie in a stream gulch.) With multiple houses per lot

allowed under Agriculture zoning (ownership subdivided through CPR), the subdivision plan allowed the development of a total of 125 houses. In some cases, Open-zoned lands have increased the total number of new agricultural lots by 100 percent or more.

There is general agreement that this “density bonus” for Open lands contradicts the intent of the Open district and of the Agriculture district development standards. To correct this situation, it is recommended that the CZO be amended so that Open-zoned lands within Agriculture-zoned properties are treated as “Agriculture” for purposes of determining the allowable number of residential lots. Counting all acreage as Agriculture gives the benefit of the additional land to the owner while observing the intent of the Agriculture district’s density limitations.

5.3.2.3 General Review of the Open Zoning Regulations

A general review of the Open zoning district Constraint Districts is needed for the reasons cited below. This effort should also include a general review of the Constraint Districts.

- The zoning maps need to be revised so that they are consistent with the General Plan Land Use Map and follow consistent criteria. The Open District should include lands designated Open on the GP Land Use Map. Because zoning is intended to be more detailed and parcel-specific, the delineation of the Open zoning district on the zoning maps may also include lands in addition to those on the GP Land Use Map. Note that Section 8-8.8 of the CZO calls for review of the Open zoning designations within five years of the effective date of the ordinance. No comprehensive review has been undertaken as of 2000, though the ordinance was adopted in 1972.
- The CZO includes six Constraint Districts, which were part of the original CZO. The regulations for Flood Districts and Tsunami Districts were amended to comply with the federal flood insurance program. The others remain essentially unchanged since the 1970s. Drainage Districts have not been implemented for lack of a study to identify and map drainageways. Administration of the Soils and Slope Districts is complicated, and their purposes and mapping appear to overlap those of the Open zone. The Constraint Districts should be reviewed to eliminate regulations that are no longer relevant, to improve the effectiveness of relevant regulations, and to simplify zoning administration.
- The inclusion of single-family residences as a “generally permitted use” and the provisions for subdividing lands for development of single-family residences should be reexamined in light of (1) the preservation purpose of the Open district; (2) the more refined mapping of the Open designation; (3) the substantial supply of lands specifically zoned for residential development; and (4) worst case environmental consequences of building houses on sites in the Open zone.
- Changes to the maps and regulations are linked in the over-arching question of how broadly – or narrowly – the Open zone should be mapped and regulated. If mapped under more strict criteria, then perhaps more strict use regulations are also warranted. If mapped more broadly (including a wider range of lands),

then the use regulations and development standards will also need to be defined more broadly – i.e., to include a broader range of uses.

5.3.3 Implementing Actions

- (a) The Planning Department shall prepare amendments to the Comprehensive Zoning Ordinance (CZO) to eliminate the use of Open lands to increase residential density in the development of subdivisions. Amendments shall be submitted to the Planning Commission and the County Council for adoption.
- (b) The Planning Department shall conduct a general review of the zoning maps and the CZO provisions relating to the Open District and the Constraint Districts. The Planning Department shall prepare amendments to the CZO and the zoning maps as deemed necessary to implement General Plan policies, clarify the intent of each district, eliminate unnecessary regulations, and ensure consistent administration. Amendments shall be submitted to the Planning Commission and the County Council for adoption.

5.3.4 Options for Zoning Regulations

As stated above, the Citizens Advisory Committee expressed consensus on the need to eliminate the Open district “density bonus” for agricultural subdivisions. There was also agreement on re-mapping the General Plan Open designation and the desirability of a similar review of the mapping of the Open zone. It was acknowledged that changes to the CZO would require a follow-up effort.

There are several options for carrying out Implementing Action 5.3.3 (a), involving amendment of the CZO. Briefly, they include:

- Redrawing the zoning maps to re-designate most or all Open lands to Agriculture.
- Applying the subdivision standards for Agriculture to the combined acreage of Agriculture- and Open-zoned land within the parcel(s) to be subdivided.
- Restricting or eliminating the subdivision of Open lands for residential use.
- Excluding single-family residences as a generally permitted use in the Open district; or reducing the allowable density to one single-family residence for each existing parcel, regardless of parcel size or future subdivision of the parcel.¹

Any action to exclude or reduce the density of single-family residences in the Open district would need to take into consideration property owners’ expectations of future development and the need to provide for reasonable economic use within the zoning district. One option is to allow single-family residences only under a special permit. The CZO could specify criteria for approving or denying a permit – e.g., slope conditions in which residences would be allowed. As stated above, a second option is to allow one residence per lot. A third option is

¹ This would not affect kuleana rights. The right to develop a house on a kuleana house lot is guaranteed under State law, regardless of County zoning.

to replace single-family residences with a similar but less intensive use, such as vacation cabins (limited size; no kitchen) within the zoning district.

5.4 URBAN LAND USES

One of the key policies in the Framework for preserving Kaua'i's rural character is to promote growth and development in compact urban areas. Urban lands comprise only four to five percent of Kaua'i's land area, leaving 55 percent in conservation and 40 percent in agriculture. This section sets policy for the following urban land use designations: Urban Center, Resort, Residential Community, Transportation, Military and Parks. These are designated by color on the General Plan Land Use Map.

5.4.1 Urban Center

5.4.1.1 Policy

- (a) Lands included within the Urban Center designation shall be centers of government, commerce and transportation that serve the entire county or a large region. Uses may include shopping centers, government offices, churches and other institutions, office complexes, and industrial facilities. Residential or resort uses may also be located within the Urban Center designation, where compatible.
- (b) Urban Center areas are typically served by wastewater collection and treatment facilities and major roads. Urban Center lands may be zoned for any type of use, including General Commercial, General Industrial, Resort, and Residential.

5.4.1.2 Rationale

The Urban Center designation replaces the previous "Urban Mixed Use" designation. It applies to Greater Līhu'e (includes portions of Hanamā'ulu and Puakea); the Wailua-Kapa'a commercial corridor; and Port Allen. The mapping of the Puhi-Līhu'e-Hanamā'ulu area has been revised from the previous General Plan Land Use Map. Instead of the whole area being blanketed by the Urban Center designation, the map now distinguishes areas used or planned for Residential Community or Open. The Urban Center designation is intended to accommodate the more intensive urban uses and zoning, such as general commercial and general industrial.

5.4.2 Resort

5.4.2.1 Policy

- (a) Lands included within the Resort designation shall be used predominantly for housing and serving visitors to Kaua'i. In addition to hotels and multi- and single-family dwellings used for transient lodging, the Resort designation shall provide for commercial, recreational and public facilities that serve visitors or support the visitor industry. Lands designated Resort may also be used for residential purposes, including resort employee housing.
- (b) Resort-designated areas shall be served with wastewater treatment plants and shall have the full range of urban services.

- (c) The Resort designation shall be reserved for a limited number of locations.
 - (1) Primary resort destinations intended to accommodate 1,500 visitor units or more include Princeville, Wailua-Kapa‘a, and Po‘ipū-Kukui‘ula.
 - (2) Secondary resort destinations include Nukoli‘i and Līhu‘e.
 - (3) A rural resort destination shall be located in the Kapalawai-Waimea area. It shall be oriented to inn- and residential-style visitor accommodations and shall be limited to ten percent of the island’s total number of visitor units.

5.4.3 Residential Community

5.4.3.1 Policy

- (a) Lands included within the Residential Community designation shall be used predominantly for low- to high-density housing in towns and other residential areas. Density shall be one to 20 units per acre. Residential Community areas may also be used for commercial and industrial businesses, government facilities, and institutions.
- (b) High-density residential use of 10 units per acre or more shall be confined to areas served by wastewater collection and treatment facilities and major roads.
- (c) The location of non-residential uses shall be established through zoning. The intent is to provide convenient shopping and services to improve the livability of the various residential communities.

5.4.3.2 Rationale

This designation is applied to residential areas throughout the island and includes lands previously designated “Urban Residential” and “Rural Residential.” A review of the land use patterns and character of areas previously designated “Rural Residential” and zone R-1 or R-2 found that they had more in common with R-4 residential neighborhoods than they did with agriculturally-zoned residential areas. In fact, R-2 zoning built-out with ADUs becomes equivalent to R-4 zoning. It is more important to distinguish the “Residential Community” from the much lower density of the “agricultural community” described above.

In addition to serving as the primary land use designation for most towns, Residential Community is also used to designate outlying areas such as Wailua Homesteads, ‘Ōma‘o, and Anahola. The intent is to distinguish between Residential and Agricultural Communities.

5.4.4 Transportation

5.4.4.1 Policy

- (a) Lands included within the Transportation designation shall be used predominantly for major shipping and transportation facilities. Uses include commercial harbors and airports managed by the State of Hawai‘i Department of Transportation.
- (b) Transportation uses have industrial characteristics such as high noise levels, and shall be buffered from surrounding urban uses.

5.4.4.2 Rationale

This designation is applied to the commercial harbors at Nāwiliwili and Pt. Allen, as well as to the Līhu‘e Airport.

5.4.5 Military

The Military designation describes lands under the control of the U.S. Armed Forces. Uses within the Military designation include residential, office, and various facilities related to the mission of the installation. The public is typically restricted from access.

This designation includes the Pacific Missile Range Facility at Barking Sands.

5.4.6 Park

5.4.6.1 Policy

The Park designation describes major active public parks and outdoor recreation facilities, located primarily within urban areas. The designation includes regional and district parks, stadiums, beach parks, and golf courses.

5.4.6.2 Rationale

Lands mapped as Park are primarily County facilities, such as Vidinha Stadium, Kōloa District (Ann Knudsen) Park, and Kapa‘a Town Park. Also included is Kukuilono Park, which is owned by a private foundation but dedicated to public use. Uses are limited to recreation and accessory activities. Neighborhood parks and smaller parks are not shown.

5.4.6.3 Implementing Action

The Planning Department shall apply to amend the State Land Use District boundaries to remove Wailua Golf Course and Kukuilono Park from the Conservation District and place them in either the Urban or the Agriculture District. The Conservation District is inappropriate zoning for actively-used recreation facilities that serve urban communities. In addition, the Conservation District Rules prohibit golf courses, which makes it extremely costly and difficult to carry out planned improvements. It is recommended that a strip of land along the Wailua beach be retained in the Conservation District, consistent with other coastal areas through the island.

5.5 SCENIC ROADWAY CORRIDORS

Scenic Roadway Corridors consist of major roadways and the lands visible from those roadways. Affording views of Kaua‘i’s scenic features and open space, they are designated by color on the Heritage Resources Map. The sub-sections below set forth policy for roadway design and for Scenic Roadway Corridors.

5.5.1 Policy

- (a) The purpose of designating Scenic Roadway Corridors is to conserve open space, scenic features, and views within and along Kaua‘i’s most heavily-traveled routes. The policy of conservation recognizes the vital function of these roadways in meeting the public need for transportation. It also recognizes the legitimate desire of private landowners to

make economic use of their lands. The intent of this policy is to establish basic principles for roadway design and land use within these scenic corridors and to provide a basis for County action to establish programs and regulations to implement them.

- (b) Scenic Roadway Corridors are primarily designated in areas between towns where the surrounding lands are primarily designated Agriculture and Open. Where a Scenic Roadway Corridor is designated within a town or adjoins an area planned for urban use, the primary intent is to promote setbacks, landscaping, and views of scenic features. Scenic Roadway Corridors are intended to provide design guidance but not to restrict the principal land uses of urban areas.

5.5.1.1 Policy for Roadway Design

- (a) In planning, designing and constructing highway and road improvements, transportation agencies shall balance conservation of the area's natural, historic and scenic qualities with transportation objectives. In some cases, it will be preferable to accept a lesser design speed or capacity in order to maintain the rural character and appearance of the Garden Island.
- (b) Maintain the small scale of Kaua'i's roadways by limiting roadway width.
 - (1) Build no highways wider than four lanes.
 - (2) Four-lane highways should be limited to the central portion of the island – generally no farther west than Kalāheo and no farther north than Kawaihau Ridge (northern edge of Kapa'a).
 - (3) Use contra-flow and alternate routes to provide roadway capacity for peak periods. To meet long-range traffic demand on the west side, for example, transportation agencies should consider building a new roadway between Po'ipū and Pt. Allen as an alternative to widening the existing highway through Kalāheo and Lāwa'i.
- (c) Maintain the one-lane bridges and historic road dimensions in the Hanalei-to-Hā'ena Scenic Roadway Corridor. Restore the Hanalei Bridge as an important historic feature and the gateway to the district.
- (d) Maintain the unique features of historic bridges, striking a balance between safety needs and preserving historic and scenic character.
- (e) Design new bridges and bridge improvements to afford scenic views.
- (f) Develop and maintain green highways and roads, providing trees and vegetation in rights-of-way as appropriate to the character of the area. For divided highways, provide a landscaped median.

5.5.1.2 Policy for Scenic Roadway Corridors

- (a) Define Scenic Roadway Corridors and manage the development of lands within the corridors to conserve open space and scenic qualities. Scenic Roadway Corridors shall generally include but shall not be limited to those shown on the General Plan Heritage Resources Map.

- (b) Based on an assessment of views from the road and the scenic qualities of lands along Scenic Roadway Corridors, develop appropriate programs and/or land use regulations to conserve those qualities.

5.5.2 Rationale for Policy

As stated in the Planning Framework, the open spaces separating Kaua‘i’s towns and communities are crucial to preserving rural character, maintaining the individuality of each town, and preventing the sense of urban sprawl so prevalent in many communities. Equally important are major roadways through urban centers and towns that can be designed and landscaped to maintain a sense of open space. Kaua‘i’s most heavily-traveled and important roadway segments are designated on the Heritage Resources Map as “Scenic Roadway Corridors.”

How a roadway is designed and what a traveler sees along the road are vitally important to his sense of place. The view from the road is a source of daily appreciation for Kaua‘i residents, as well as a primary source of overseas visitors’ impressions of the island.

In planning roadway improvements, it is important to consider not only transportation objectives, but also the values of rural character. Widening highways through small towns causes not only direct physical effects such as the loss of commercial property and on-street parking, but can also change the scale and character of the town, reducing its attractiveness to pedestrians and affecting the viability of businesses. Understanding this, businesses and residents have argued against plans to widen Kūhiō Highway through Kapa‘a Town, favoring instead a bypass route that, with the addition of connector roads, could improve overall circulation. Similar consideration should be given to alternatives before widening roads through other settled areas such as Kalāheo.

In order to use federal funds to build road improvements, the State and County transportation agencies need to design to established road standards. Previously, federal-aid projects were bound to follow federal and state road standards that were based almost exclusively on speed, capacity and safety considerations. As an alternative to this “one size fits all,” the Federal Department of Transportation has provided an option for “flexible highway design” that recognizes the importance of other factors in highway design. Under this program, a state can develop its own highway design standards providing for conservation of historic and scenic qualities as well as adequate safety and capacity. A number of states have taken advantage of the flexible highway design provisions, and Hawai‘i could do the same.

Many local governments have also adopted various types of programs and land use regulations to conserve the visual quality of key road corridors. Often, these efforts are aimed directly at improving rural communities’ ability to attract tourists. Programs involving acquisition of land, development rights or visual easements are valuable tools, especially for conserving specific high-priority sites. Transfer of development rights is another option, but experience with this tool suggests that it is complicated to administer and works better in larger jurisdictions with a correspondingly larger pool of buyers and sellers of development rights.

Corridor regulations administered as a zoning overlay district are relatively common. Kaua‘i already has some overlay regulations, such as the Kōloa Special Treatment District and the

Kapa‘a Special Planning Area. The intent of these regulations is to guide rather than deny development. Corridor regulations could include design guidelines requiring the clustering of residences or screening development with trees and berms. The appropriateness of various design requirements depends on the topography and visual qualities to be conserved.

5.5.3 Implementing Actions

- (a) The State Department of Transportation should develop flexible highway standards that support State and County scenic and historic preservation objectives. Flexible standards should address scenic conditions in general along state- and federally-aided roadways, as well as provide specific guidelines for identified historic road segments, such as the Hanalei-Hā‘ena highway.
- (b) The Department of Public Works should adopt flexible standards for design of County road improvements with the objective of preserving historic features and enhancing scenic values, consistent with the policy.
- (c) The Planning Department shall prepare a study assessing visual quality along various segments of the Scenic Roadway Corridors. The study should describe the existing visual character and prominent features within the limits of the motorist’s general visual perception. Based on the study, the Department shall develop a management plan and shall propose programs and/or land use regulations to the County Council to implement the plan.

Programs to be considered include private or public purchase of land or development rights and transfer of development rights. Regulations to be considered include design guidelines for development, implemented through an overlay district or through amendment of existing regulations for subdivision and zoning permits.