



PLANNING COMMISSION

KAAINA S. HULL, CLERK OF COMMISSION

DONNA APISA, CHAIR
HELEN COX, VICE CHAIR
MELVIN CHIBA, MEMBER
FRANCIS DEGRACIA, MEMBER
GLENDA NOGAMI-STREUFERT, MEMBER
LORI OTSUKA, MEMBER

MEMORANDUM

DATE: October 25, 2021

TO: Planning Commission

FROM: Clerk of the Commission

SUBJECT: 1st Addition to the 10/25/2021 Planning Commission Agenda

F. HEARINGS AND PUBLIC COMMENT

1. Continued Agency Hearing

a. Phillip J. and Linda M. Green

- iii. Supplement #3 to Planning Director's Report.
- iv. Supplement #4 to Planning Director's Report.

2. New Agency Hearing

a. Kawaiiloa Development LLP.

- i. Supplement # 1 to Planning Director's Report.

DEPARTMENT OF PLANNING

KA'ĀINA HULL, DIRECTOR

JODI A. HIGUCHI SAYEGUSA, DEPUTY DIRECTOR



DEREK S.K. KAWAKAMI, MAYOR
MICHAEL A. DAHLIG, MANAGING DIRECTOR

SUPPLEMENT #3 TO PLANNING DIRECTOR'S REPORT

RE: Class IV Zoning Permit Class IV-2022-1
Use Permit U-2022-1
Special Management Area Use Permit SMA(U)-2022-1

APPLICANT: PHILIP J. GREEN AND LINDA M. GREEN

ADDITIONAL FINDINGS

During the September 14, 2021 Planning Commission agency hearing, a voluminous amount of testimony was received on the subject application. Community members particularly expressed concerns regarding the proposed development's impacts on traditional and customary native Hawaii practices.

Pursuant to the native Hawaiian traditional and customary rights protected under Article XII, Section 7 of the Hawai'i State Constitution, the Planning Department is conducting an updated analysis to the one provided in the application to evaluate written and verbal testimony given at the last Planning Commission hearing and to outreach to these individuals for further input and clarification on their testimony. We anticipate an updated analysis complete within the next two to three weeks. This analysis may inform and update the Department's preliminary recommendation provided to the Commission in the original Director's Report.

RECOMMEDATION

To complete this native Hawaiian traditional and customary rights impact analysis, the Department hereby recommends to defer action on this application to the December 14th, 2021 Planning Commission.

By

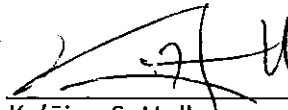
Romio Idica
Staff Planner

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Z-IV-2022-1, U-2022-1, SMA(U)-2022-1
Supplement #1 to Director's Report
Philip J. green and Linda M. green
10.22.21

F.I.A.I.I.I.
OCT 26 2021 (K)

By

A handwritten signature in black ink, appearing to be 'Ka'aina S. Hull', written over a horizontal line.

Ka'aina S. Hull

Director of Planning

Date: 10/22/2021

DEPARTMENT OF PLANNING

KA'ĀINA HULL, DIRECTOR

JODI A. HIGUCHI SAYEGUSA, DEPUTY DIRECTOR



DEREK S.K. KAWAKAMI, MAYOR
MICHAEL A. DAHLIG, MANAGING DIRECTOR

SUPPLEMENT #4 TO PLANNING DIRECTOR'S REPORT

RE: Class IV Zoning Permit Class IV-2022-1
Use Permit U-2022-1
Special Management Area Use Permit SMA(U)-2022-1

APPLICANT: PHILIP J. GREEN AND LINDA M. GREEN

Attached for the Planning Commission's reference is supplemental information as follows:

- a. Letter (10/22/2021) from Susan Stayton.
- b. Letter (10/22/2021) from Lisa Insalata.
- c. Letter (10/22/2021) from Mia B. Melamed.
- d. Letter (10/22/2021) from Dennis O'Shea.
- e. Letter (10/22/2021) from James Brodie.
- f. Letter (10/23/2021) from Maikai Kauai.
- g. Letter (10/23/2021) from Kalani Akana.
- h. Letter (10/24/2021) from Puakea Mo'okini-Olivera
- i. Letter (10/24/2021) from Louise Barnfield.
- j. Letter (10/24/2021) from Debi Javar.
- k. Letter (10/24/2021) from Derek Gill.
- l. Letter (10/24/2021) from Jacqueline OKeefe Gill.
- m. Letter (10/24/2021) from Mehana Vaughan
- n. Letter (10/24/2021) from Makaala Kaaumoana.
- o. Letter (10/24/2021) from Mauiola Cook.
- p. Letter (10/24/2021) from Judy Waite.
- q. Letter (10/24/2021) from Ann Eu.
- r. Letter (10/24/2021) from Malia Makanani
- s. Letter (10/24/2021) from Byrn Webber.
- t. Letter (10/24/2021) from Chris Schumacher.
- u. Letter (10/25/2021) from Piinae Vaughan
- v. Letter (10/25/2021) from Devin C.K. Forrest
- w. Letter (10/25/2021) from Lopaka Chandler.
- x. Letter (10/25/2021) from Julie Schuller.
- y. Letter (10/25/2021) from Anne Torio.
- z. Letter (10/25/2021) from Kadence Saenz.

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Class IV Zoning permit Z-IV-2022-1
Use Permit U-2022-1
Special Management Area Use Permit SMA(U)-2022-1
Supplement #4 to Director's Report
PHILIP J. GREEN AND LINDA M. GREEN

F.I.A.IV.
OCT 26 2021 **(A)**

- aa. Letter (10/25/2021) from Shyla Kainau Villanueva.
- bb. Letter (10/25/2021) from Kyan Young.
- cc. Letter (10/25/2021) from Tucker Constantino.
- dd. Letter (10/25/2021) from Dominique Cordy.
- ee. Letter (10/25/2021) from Anuheia Borengasser.
- ff. Letter (10/25/2021) from Zoli Wall.
- gg. Letter (10/25/2021) from Irena Bliss.
- hh. Letter (10/25/2021) from Lauren Esaki-Kua.
- ii. Letter (10/25/2021) from Letani G. Peltier, Esq.
- jj. Letter (10/25/2021) from Mehana Vaughan.
- kk. Letter (10/25/2021) from Linda Moriarty.
- ll. Letter (10/25/2021) from Ryan McCormack.
- mm. Letter (10/25/2021) from Kapua Chandler.
- nn. Letter (10/25/2021) from Jessica Kauai Fu.
- oo. Letter (10/25/2021) from Hoku Cody.
- pp. Letter (10/25/2021) from Tim Irons.
- qq. Letter (10/25/2021) from William Kinney, Jr.
- rr. Letter (10/25/2021) from Sarah Barger.
- ss. Letter (10/25/2021) from Sabrena Camp.
- tt. Letter (10/25/2021) from Beryl Blaich.
- uu. Letter (10/25/2021) from Laura Kaakua, Hawai'i Land Trust

By



Romio Idica
Staff Planner

Date: 10.25.2021

Kristen Romuar-Cabico

From: susan.stayton@gmail.com
Sent: Friday, October 22, 2021 7:46 AM
To: Planning Department
Subject: RE: Testimony in opposition to the requested Special Management area Use Permit, Use Permit & Class IV Zoning Permit for Sea Cliff Plantation Lot 11-A.

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 Chair Apisa, Vice-Chair Cox, Honorable Kaua'i Planning Commissioners, Director, Deputy Director and Staff:

"I support Nā Kia'i o Nihokū in their petition to intervene and represent the public's interests on this matter."

My name is Susan Stayton, I am testifying in opposition to the requested Special Management area Use Permit, Use Permit & Class IV Zoning Permit for Sea Cliff Plantation Lot 11-A. The land carries multiple protective land use designations and zoning layers designed to protect scenic and ecological resources of unique value for the public. We support the applicant's right to build on the site. However, the proposed house and accompanying development are much too large and improperly situated for the ecological and aesthetic sensitivity of the site. In order to protect against irreversible negative impacts, I ask the planning commissioners to deny the requested permits. Thank you for your time and attention.

I live in Lawai, and stand with Community members who are asking for a respectful and sensitive approach to development in this area. **Decreasing the size** of the proposed house and **moving it substantially lower** would reduce impact on the current landscape.

Mahalo, Susan

Susan Stayton
PO Box 1113
Lawai, HI 96765
808-651-9070

Kristen Romuar-Cabico

From: lisa insalata <lminsalata@gmail.com>
Sent: Friday, October 22, 2021 8:02 AM
To: Planning Department
Subject: PROTECT CRATER HILL

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.

“I support Nā Kia‘i o Nihokū in their petition to intervene and represent the public’s interests on this matter.”



Lisa Insalata Weddings "Eat Drink and Be Married"
Cell-415.755.8302
P.O. Box 839 Hanalei, HI. 96714
Kauai-weddingplanner.com.

Kristen Romuar-Cabico

From: Melamed, Mia <mia.melamed.researcher@hawaii.gov>
Sent: Friday, October 22, 2021 11:37 AM
To: Planning Department
Subject: RE: Agenda Item 2: "I support Nā Kia'i o Nihokū in their petition to intervene and represent the public's interests on this matter."

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 Chair Apisa, Vice-Chair Cox, Honorable Kaua'i Planning Commissioners, Director, Deputy Director and Staff:

My name is Mia Melamed. I was born and raised on the north shore of Kaua'i and have recently returned home after graduating from college. As a steward of the island's natural resources, I am testifying in opposition to the requested Special Management area Use Permit, Use Permit & Class IV Zoning Permit for Sea Cliff Plantation Lot 11-A. The land carries multiple protective land use designations and zoning layers designed to protect scenic and ecological resources of unique value for the public. We support the applicant's right to build on the site. However, the proposed house and accompanying development are much too large and improperly situated for the ecological and aesthetic sensitivity of the site. In order to protect against irreversible negative impacts, I ask the planning commissioners to deny the requested permits.

Mahalo nui for your time and attention.

Sincerely,
Mia

Mia B. Melamed
Habitat & Fish Monitoring Technician II
Division of Aquatic Resources - Kaua'i
State of Hawai'i Department of Land and Natural Resources
3060 'Eiwa St. Rm#306, Lihu'e HI 96766-1875

: : :
>< >< ><

Contacts:

Mobile: +1 (808) 651 2486
Office: +1 (808) 274 3344

Kristen Romuar-Cabico

From: Dennis O'Shea <oshea606@gmail.com>
Sent: Friday, October 22, 2021 9:53 AM
To: Planning Department
Subject: NIHOKU

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.

I support Nā Kia'i o Nihokū in their petition to intervene and represent the public's interests on this matter.

Dennis O'Shea
Hawaiian National

Kristen Romuar-Cabico

From: James Brodie <jjimbrodie@gmail.com>
Sent: Friday, October 22, 2021 11:30 PM
To: Planning Department
Subject: No building on 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.

Dear Sir/Madam,

I support Nā Kia'i o Nihokū in their petition to intervene and represent the public's interest on this matter.

Yours faithfully,

JH Brodie

Sent from my iPhone

Kristen Romuar-Cabico

From: Maikai Kauai <ikamalie@gmail.com>
Sent: Saturday, October 23, 2021 8:59 AM
To: Planning Department
Subject: Nā Kia'i o Nihokū Testimony
Attachments: OLI - Kia'i 'ia Kīlauea e Nihokū .docx

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 to request testimony for Nā Kia'i o Nihokū. This would be an oli offered for Nihokū. Our hope is that it could begin the public testimony period but we are happy with anytime that is appropriate. Here are the words to the oli which we hope might be included in the commissioners packets.

Name: Nā Kia'i o Nihokū

Phone: 652-3608

Email: ikamalie@gmail.com

(Agenda Item Continued Agency Hearing 1a: Special Management area Use Permit, Use Permit & Class IV Zoning Permit for Sea Cliff Plantation Subdivision Lot 11-A).

written testimony attached:

Kia'i 'ia Kīlauea e Nihokū

Kia'i 'ia Kīlauea e Nihokū

Ku i ke kai malino a'o Makapili

Pili nā kaikaina i ka wahine a ka lua

Lua ha'a i ka malu maiā Kekoiki

He 'iniki ka ihona a i Kāhili

Hili hele nā maka o ka pūnua

Nu'a ke 'one i ke 'alo Uhau

Hahau nā nalu po'i mau i Ka'iwa

'Iwa kīkaha, puni ke ao

Ao mai nā koa'e pili i ke 'oni

Oni pa'a Mōkōlea ha'a i ke kai

Kaiāulu ke aloha e.....

A he aloha wale no e...

- 1) Nihokū stands guard over Kīlauea
Rising from the glistening sea of Makapili
- 2) Sisters draw close to face the woman of fire
Calm remains, sheltered from view of Kekoiki
- 3) Piercing and tingling is the descent to Kāhili
Juvenile albatross wander, their eyes searching
- 4) Sand heaps up in the face of strong winds
Waves fling themselves, offerings placed at Ka'iwa
- 5) 'Iwa soar, circling layered up to the heavens
Light shines on the koa'e stirring, watchful together
- 6) Mōkōlea reaches, appearing steady fast in the sea
Surrounding sea causing aloha for this place to grow
- 7) Only aloha.

This oli carries aloha for Nihokū and its surrounding wahi pana. It honors the area's wild, windswept beauty, its connection to Pele, and the kia'i, Nihokū, Makapili, nā pohakū kaikaina, who watch over this place. It honors human guardians as well, and their years of effort to care for this area. The words remind us of the enduring beauty and strength of this area: Kāhili, a place quarried, graded, built up, and flood washed; Mōkōlea where waves continue to crash and pound; and Nihokū sculpted by stiff oncoming winds – both once planned for luxury mansions in what is now a wilderness area. The birds have returned; iwa representing kūpuna, moli young finding their way, koa'e happy to nest at Mōkōlea. Vigilance, enlightenment, and community - connection to this place and each other - continually grows. And there is only aloha.

Kristen Romuar-Cabico

From: Keith Akana <kalaniakana@yahoo.com>
Sent: Saturday, October 23, 2021 9:06 PM
To: Planning Department
Subject: RE: AGENDA ITEM F.2.a SPECIAL MANAGEMENT AREA USE PERMIT
Attachments: Nihokū Testimony.docx

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.

Please receive and forwardth this to he Kaua'i Planning Commission on Monday 25th.

TO: Kaua'i Planning Commission
Donna Apisa, Chairperson
Līhu'e, Kaua'i 96766
FR: Kalani Akana, Kumu Hula, PhD
RE: AGENDA ITEM F.2.a SPECIAL MANAGEMENT AREA USE PERMIT (SMA(U)-2022-1),
CLASS IV ZONING PERMIT (Z-IV-2022-1), and USE PERMIT (U-2022-1)

Testimony not in support of area use permit.

Aloha Madame Chair and members of the Kaua'i Planning Commission. My name is Kalani Akana and my families, the Kaluna, Makanui, Kekaula, Wood and Akana have been living in Anahola since the 1700s and granted a kuleana in the 1860s which was named Konalele. I am testifying in support of Ka 'Ohana o Nihokū's actions to preserve Nihokū and against the massive footprint of a structure I believe will adversely impact the spiritual and cultural well being of that cliff and nesting areas.

Whenever I have an 'ūniki hula (a traditional graduation) we make a pilgrimage to Keahualaka at Ke'ē. Before that we visit Wailua then go to Nihokū to observe and honor the former home of Pele and her, our family and to gaze upon the beautiful flight of 'iwa, koa'e and many more. The lookout inspires us to remember the return of Pele's sister, Hi'iakaikapoliopole, as we gaze at Moanauikalehua, the parrot-fish goddess and we offer a dance there called "No Luna e ka Halekai" about Hi'iaka scaling a cliff to observe the signs of nature created by Moanauikalehua. When we turn ma uka we see majestic Wai'ale'ale and we chant "Kūnihi ka Mauna." When we turn east we chant "Kalalea" which we see clearly and when we turn west we chant "Wailuaiki" and "Wai'oli." Nihokū is a cultural amphitheatre and a hula mound for us Hawaiians to recount our history and connect again to our ancestors. Let's not introduce obstacles into this wahi pana.

There is a wise saying, "Inā 'a'ole 'oe i kū ma Nihokū 'a'ole 'oe i 'ike iā Ko'olau me Halele'a" or "If you have not stood at Nihokū you haven't seen the districts of Ko'olau and Halele'a." In other words, you haven't seen Kaua'i – natural and pristine Kaua'i. I cringe at the idea of standing at Nihokū and staring into a massive structure as is being considered in the permit.

I am also concerned about the adverse affect the structure's lighting will have on nesting birds such as the a'o (Newell's puffin) and 'ua'u kani (wedgetailed shearwater). The habitat of these birds, in particular, at Nihokū are adversely impact by the continuous presence of man and their pets and vermin attracted by the wastes produced.

Please do not grant the permit. Mahalo.

'O wau,

Kalani Akana

Kristen Romuar-Cabico

From: Puakea Mo'okini-Oliveira <puakeamookinioliveira@gmail.com>
Sent: Sunday, October 24, 2021 10:40 PM
To: Planning Department
Subject: Request to Provide Oral 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.

Aloha,

My name is Puakea Mo'okini-Oliveira and I am writing in request to provide oral testimony during the October 26th meeting for Action Item 1a: Special Management Area Use Permit, Class IV Zoning Permit, and Use Permit for Seacliff Plantation Lot 11-A.

mahalo nui,
Puakea

Kristen Romuar-Cabico

From: Louise Barnfield <ldb_22@yahoo.com>
Sent: Sunday, October 24, 2021 8:56 PM
To: Planning Department
Subject: Agenda Item 2 re. Special Permit request for Sea Cliff Plantation Lot 11-A

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.

To the Planning Commission Chair Apisa, Vice-Chair Cox, Honorable Kaua'i Planning Commissioners, Director, Deputy Director and Staff.

Aloha! I would like to take this opportunity to state my opposition to the requested Special Management area Use Permit, Class IV Zoning Permit, and Use Permit for Sea Cliff Plantation Lot 11-A.

I note that this property is situated within a county natural land use designation, open zoning and a Scenic/Ecologic Resources special treatment district area, which requires the Commission to protect such lands. The proposed house and accompanying development covers a huge footprint and is far too large for such a sensitive area. It is also proposed to be built unnecessarily high on the lot which would be a permanent detriment to the entire area, impacting the views of an area of deep cultural significance to the community.

Far from allowing this kind of oversized and ill-placed development, I ask the Commission to do everything possible to preserve the surrounding area of Nihokū that is a vital seabird nesting area for many species, and which is becoming even more vital to endangered species such as the Laysan Albatross as they are losing critical habitat on other islands/atolls due to the effects of sea level rise.

With our entire island under attack from over-development, please do consider rejecting this proposal as it stands, and ensure that this particularly sensitive area is protected for the future benefit of the general community and the wildlife for whom this special place is their home.

Thank you for your consideration.
With aloha,
Louise Barnfield

Kristen Romuar-Cabico

From: Debi Javar <debijavar@gmail.com>
Sent: Sunday, October 24, 2021 8:46 PM
To: Planning Department
Subject: NIHOKŪ DEVELOPMENT

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.

I OPPOSE DEVELOPMENT ON NIHOKŪ. It is a sacred, cultural historical site. Please do NOT allow this development as it will destroy this precious site.

Thank you.

Kristen Romuar-Cabico

From: Derek Gill <derekgill@hotmail.com>
Sent: Sunday, October 24, 2021 7:23 PM
To: Planning Department
Subject: Request to Testify in Person (Zoom)

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,

Please send me the necessary registration information to testify at the 10/26 meeting regarding the permitting application by the Green's for TMK 52004084000 located on Nihokū.

Mahalo,

Derek Gill
Princeville, HI

Kristen Romuar-Cabico

From: Jac O' Keeffe <infojokeeffe@gmail.com>
Sent: Sunday, October 24, 2021 7:20 PM
To: Planning Department
Subject: Hearing Testimony for 10/26 Meeting

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.

RE: Agenda Item 2: I support Nā Kia'i o Nihokū in their petition to intervene and represent the public's interests on this matter.

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

My name is Jacqueline O'Keeffe Gill. I am testifying in opposition to the requested Special Management area Use Permit, Use Permit & Class IV Zoning Permit for Sea Cliff Plantation Lot 11-A. The land carries multiple protective land use designations and zoning layers designed to protect scenic and ecological resources of unique value for the public. These protections are there for a reason, and I urge you to uphold them.

I am concerned that the proposed house would adversely impact the albatross, shearwater, petrel, koa'e, mōlī, ua'u kani, nēnē, pueo, and other seabirds who call the area home. I also feel that it would forever ruin the experience of this vital place for future generations of Kilauea and Kaua'i young people. This place is culturally significant to all of Hawai'i in stories, chants, and hula for Pele as Nihoku is the crater which give Kilauea its name. The proposed excavation into the steep hillside does not honor the land and would be damaging due to the area's sensitive geology and vulnerability to erosion.

To put it bluntly, the proposed house and accompanying development are much too large and improperly situated for the ecological, aesthetic sensitivity, and zoning of the site. Granting this permit also sets the precedent that these protective zoning designations are negotiable, which sets us all on a slippery slope of endless variances and further degradation of the sacred nature of our island.

My understanding is that the Kilauea community has worked to protect the slopes of Nihoku from development for over 40 years. The proposed house would forever impact the views and the feeling of a place that the area ohana love and enjoy together. Let's not sacrifice this for the benefit of an individual.

In order to protect against irreversible negative impact as well as setting a dangerous precedent, I earnestly ask the planning commissioners to deny the requested permits.

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

With Much Aloha,

Jacqueline O'Keeffe Gill
Princeville, HI

Kristen Romuar-Cabico

From: Mehana Vaughan <mehana@hawaii.edu>
Sent: Sunday, October 24, 2021 5:12 PM
To: Planning Department
Subject: Request to testify on agenda item 1A and 1b

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 am writing to ask to testify on continuing agenda item 1a, continuing matter of application for dwelling to be developed on Nihokū, sea cliff plantation lot 11-A. And 1b - request for intervention status and petition to intervene by nā Kia'i o Nihoku.

My name is Mehana Vaughan

My phone number is 652-3608

Mahalo for sending zoom link and for all the hard work of the planning department in advance of this hearing.

Me ke aloha,

Mehana Vaughan

Kristen Romuar-Cabico

From: Makaala Kaaumoana <kaaumoana@gmail.com>
Sent: Sunday, October 24, 2021 2:36 PM
To: Planning Department
Subject: Testimony October 26, 2021

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.

Commission Agenda Item Item 1a: Special Management area Use Permit, Use Permit & Class IV Zoning Permit for Sea Cliff Plantation Subdivision Lot 11-A

Aloha Commissioners,

Mahalo for your efforts to encourage this applicant to work with our community to address critical issues related to this application. I personally was able to communicate openly with the previous attorney and was encouraged that many of the issues we brought forward were being addressed.

It is regrettable that this applicant, who touts his long residency on Kauai, has elected to IGNORE your instructions and instead has retained an off island firm with no experience or history of cooperative community relations. I have long experience with this firm in the Pflueger case.

This property is unique and must be considered carefully and comprehensively. This is not a simple application to build a house. This land holds many characteristics of great importance both culturally and environmentally. The structures are very large and will impact people and wildlife in a very large surrounding area. This applicant has options to reduce these impacts and has chosen to ignore them.

This application deserves the best we can do, not the least.

Therefore, I strongly urge this Commission accept the petition for intervention from Na Kia'i o Nihoku. This Commission is ill prepared to propose appropriate mitigation measures for the impacts this development will have.

In support of this petition I cite the following examples of unique information this petitioner brings to this process:

- 1. Threatened and endangered birds utilize this coastal site and have critical cultural import to the people of Kauai.**
- 2. The property itself is a place of many stories and contains many resources not available in other locations.**
- 3. Seabirds are vulnerable to exterior lights which includes reflected light from hard surfaces as well as swimming pool surfaces. This site is not only critical to the Newell's Shearwater but also the Hawaiian Petrel and native goose, the Nene**
- 4. Na Kia'i o Nihoku members have family connections and long personal histories with this place. They will contribute unique and valuable information to your consideration of this application.**

5. **Experience and expertise on the cultural resources of this property are ONLY available from the people of this place and they are petitioning to be included.**
6. **This property must be proactively managed to reduce predators of the protected species in this place. The petitioner has information and experience with this work. The applicant and Commission does not.**

Mahalo for receiving my testimony on this matter and please accept the petition for intervention by **Na Kia'i o Nihoku. This application fits the EXACT purpose of intervention.**

Me ka pono,
Makaala

--

Makaala Kaaumoana
POB 1205
Kilauea, HI 96754
808-828-1205 home
808-346-5458 cell
808-431-4444 fax

Kristen Romuar-Cabico

From: Mauiola Cook <mauiola3@gmail.com>
Sent: Sunday, October 24, 2021 11:46 AM
To: Planning Department
Cc: Mehana Blaich Vaughan
Subject: Testimony re proposed house on 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.

I support Nā Kia'i o Nihokū in their petition to intervene and represent the public's interests on this matter.

10/24/2021

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.

I am concerned that the proposed house would impact seabirds who call the area home. The lot adjoins vital sea bird nesting areas for albatross, shearwater, petrel, koa'e (tropic birds) and more. Crater Hill is a needed relocation site for bird populations from the northwest Hawaiian islands whose habitat is shrinking due to sea level rise.

I also feel great concern for how the construction of this huge house would impact the experience of this vital place for future generations. The house is much too large and located far too high up the mountain, in a sensitive area that should not be built upon at all. Proposed excavation into the steep hillside would be damaging due to the area's sensitive geology and vulnerability to erosion. The footprint of the house is much too large and located too high for this sensitive site. The Kilauea community has worked to protect the slopes of Nihokū from development for over forty years. I am asking the planning commission to please deny permits to build the proposed house.

As others have pointed out to you all and the land owners Nihoku 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 Nihoku 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 are taking the time to seriously consider all the evidence the Kia'i are presenting.

While the folks who want to build this home most obviously have great wealth we, the people of Kaua'i, are very committed to preserving what we feel is our wealth. And part of the wealth of the people of Kaua'i lies in our ability to enjoy the incredible views of this beloved land, and to be able to freely bring our keiki to enjoy nature and learn the culture of the amazing places we are privileged to call home. There are undoubtedly other places in the world where this enormous structure can be built. There is only this one place on earth that can claim the many distinctions that make Nihokū so very precious to us.

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

With much aloha

Mauliola Cook

Mauliola3@gmail.com

8086528173

Kristen Romuar-Cabico

From: Judy Waite <judyhula@icloud.com>
Sent: Sunday, October 24, 2021 10:52 AM
To: Planning Department
Subject: testimony on Agenda Item 1a & 2

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Re AGENDA ITEM: 2: I support Nā Kia'i o Nihokū in their petition to intervene and represent the public's interests on this matter

AGENDA ITEM: Continued Agency Hearing 1a. 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 portion of a larger parcel approximately 12.305 acres in size = *Phillip J. & Linda M. Green*. [Director's report received, hearing deferred 9/14/2021].

Aloha Planning Commission Chair Apisa, Vice-Chair Cox, Honorable Kaua'i Planning Commissioners, Director, Deputy Director and Staff:

My name is Judy Waite, and I oppose the requested Special Management area Use Permit, Use Permit & Class IV Zoning Permit for Sea Cliff Plantation Lot 11-A. This land carries multiple protective land use designations and zoning layers designed to protect scenic and ecological resources of unique value for the public.

I am a retired teacher who taught 6th grade at Kilauea School for 20 years. I've taken many schoolchildren to the slopes of Nihokū (Crater Hill) to observe the seabirds on the pristine quiet of the slopes. I walk in the area every morning at dawn. This time of year, shearwater fledglings are emerging from their nests for their first flight. There is a pueo who flies in the area directly above the proposed structure, patrolling what is now an open field in search of his breakfast. The proposed house and grounds would cover that entire field in development. Nihokū is so important to our community, and to me, because the life found there is increasingly fragile, and beautiful. These birds have no other home, and are easily disturbed by human activity.

This property is within a county natural land use designation, open zoning and a Scenic Ecologic Resources (ST-R) special treatment district area. This **requires** the Commission to protect land and water areas with unique natural forms, biologic systems, or aesthetic characteristics of significance and value to the general public.

I support the applicant's right to build on the site, but I feel the proposed house would negatively impact the birds who have no other home. The proposed house and surrounding development are much too large, and located way too high up the mountain, for the ecological and aesthetic sensitivity of the site. I feel that it would forever ruin the experience of this vital place for future generations of people, and negatively impact the birds who call this area home.

In order to protect against irreversible negative impacts, I ask the planning commissioners to deny the permits as requested. Thank you for your time and attention.

Sincerely,

Judy Waite
(808) 647-0056
judyhula@mac.com

Kristen Romuar-Cabico

From: Ann Eu <anneu11@gmail.com>
Sent: Sunday, October 24, 2021 7:50 AM
To: Planning Department
Subject: In person Testimony on Tuesday October 26th

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 request to testify in person via Zoom in support of Nā Kia'i o Nihokū in their petition to intervene and represent the public's interests regarding permits to build on Nihokū on Tuesday October 26th.

Mahalo,
Ann Eu
anneu11@gmail.com
(808)651-8933

Sent from my iPhone

Kristen Romuar-Cabico

From: Malia Makanani <h2okeikis@gmail.com>
Sent: Sunday, October 24, 2021 7:17 AM
To: Planning Department
Subject: TESTIMONY: Protect Nihoku (Crater Hill) Stop development

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

I am in full support Nā Kia'i o Nihokū in their petition to intervene and represent the public's interests on this matter!

Nihokū (Crater Hill) is important to my family and I because it remains a sacred cultural site. I value this area so that my children and grandchildren may walk thru, feel, see and hear the same mo'olelo passed on from generations before us. I value this area so we may Malama Aina and always have our Aina undeveloped. I value this area because I am concerned that the proposed house would impact seabirds who call the area home. I value this area because I feel this development will bring in more invasive plants & insects and ruin the current ecosystem by clearing, and building and modern landscaping by the owners personal interests (this will have a massive impact on all life that thrives in and around Nihoku). I value this area because it would forever ruin the experience of this vital place for future generations of Kīlauea and Kaua'i young people and Kaua'i community.

The house is much too large and located far too high up the mountain, in a sensitive area that should not be built upon at all. I am asking the planning commission to please deny permits to build the proposed house.

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

Me ka Ha'aha'a

Malia Makanani
808-634-2020
H2okeikis@gmail.com

Kristen Romuar-Cabico

From: Bryn Webber <brynwebber@gmail.com>
Sent: Sunday, October 24, 2021 7:02 AM
To: Planning Department
Subject: Agenda Item- Continued Agency Hearing 1a: Special Management area Use Permit, Use Permit & Class IV Zoning Permit for Sea Cliff Plantation Subdivision Lot 11-A

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Hello,

I am requesting to testify via Zoom on Tuesday's hearing for the Agenda Item 1a: Special Management area Use Permit, Use Permit & Class IV Zoning Permit for Sea Cliff Plantation Subdivision Lot 11-A.

My name is Bryn Webber
My cell number is 808-855-5569
My email is brynwebber@gmail.com

Please let me know if you need any other information. I look forward to participating! Thank you for allowing the community another hearing on this issue.

Bryn Webber

Kristen Romuar-Cabico

From: Chris Schumacher <chris.kauai@gmail.com>
Sent: Saturday, October 23, 2021 11:20 AM
To: Planning Department
Subject: Sea Cliff Plantation Lot 11-A

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Aloha Planning Commission Chair Apisa, Vice-Chair Cox,
Honorable Kaua'i Planning Commissioners, Director, Deputy
Director and Staff:

My name is Chris Schumacher. I am testifying in opposition to the requested Special Management area Use Permit, Use Permit & Class IV Zoning Permit for Sea Cliff Plantation Lot 11-A. The planned house would create a huge footprint that will remain for our lifetimes. Please consider the amount of gentlemens' estates that have been recently built on the North Shore and the impacts that this type of development has on local families. I support Nā Kia'i o Nihokū in their petition to intervene and represent the public's interests on this matter.

Thank you for serving Kauai through your difficult position on the commission.

Mahalo,

Chris Schumacher

Kristen Romuar-Cabico

From: S459-Piinae Vaughan <s459-piinae.vaughan@k12.hi.us>
Sent: Monday, October 25, 2021 8:39 AM
To: Planning Department
Subject: Nihoku Meeting 10/26

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To whom it may concern:
I would like to testify orally via zoom.
Thank you, Na'e

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Kristen Romuar-Cabico

From: Devin Forrest <dforrest@hawaii.edu>
Sent: Monday, October 25, 2021 8:43 AM
To: Planning Department
Subject: Testimony in Opposition and Request for Contested Case
Attachments: Kaua'i Planning Commission Meeting 9.docx

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.

--
Devin C.K. Forrest
J.D. Candidate, Class of 2022
William S. Richardson School of Law
dforrest@hawaii.edu
'Aiawahie a Lapa ke Ahi
"Take Your Time Toward Mastery"

**Testimony in Opposition to Special Management area Use Permit, Use Permit & Class
IV Zoning Permit for Sea Cliff Plantation Subdivision Lot 11-A; And Support for
Intervenor by Nā Kia'i o Nihokū.**

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

"Aia nō i ke kō a ke au," only when the tide has run its course will the results be known. The tide has run, turned, and switched again since the last commission meeting, with very little to show from that intervening time. The plans for this massive development on a significant cultural site and view plain remain the same, and it is clear that the applicant does not want compromise, they want their plan to the detriment of cultural, natural, and geological resources.

The lack of cultural understanding and research into valued cultural resources is telling by the applicants report. While living in a time where much of the news cycle prior to the COVID pandemic had been inundated with protests to protect Maunakea and similar land forms, the applicants fails to see how grubbing, clearing, and developing at that height would deface a wahi pana (storied site). The applicants instead would sacrifice the unique cultural and natural beauty, as well as wildlife habitat of this place, for an edifice full of extravagant creature comforts. Cultural practitioners have had to fight for years to protect and to gain even a modicum of access and rights to the area, where the applicants wish to simply check boxes to push their agenda along so they can begin development on their schedule.

Had the applicants sought meaningful collaboration to seek a reasonable compromise between the Kia'i and other cultural practitioners the Commission would be looking at a very different plan, with little to no opposition. Instead, we are back to where we started with the tide bringing back the same detritus of the last tide with maybe a few different sticks.

Now, the Commission has a duty to do what is right, there has been some testimony previously submitted along with community provided reports to show that there are valued cultural, historical, and natural resources and their appertaining traditional and customary Native Hawaiian rights and practices exercised within the petition area. The proposed action will have an affect, not only to these practices, but to the natural beauty and wildlife habitat for native and culturally significant species. The only feasible actions to be taken are a denial of the permit, or allowing Nā Kia'i o Nihokū to intervene and hold a contested case hearing.

Na'u nō me ka ha'aha'a

Devin K. Forrest

Kristen Romuar-Cabico

From: S459-Lopaka Chandler <s459-lopaka.chandler@k12.hi.us>
Sent: Monday, October 25, 2021 8:47 AM
To: Planning Department
Subject: Nihoku meeting 10|26

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To whom it may concern:

I would like to testify orally on via zoom.

Thank You,
Lopaka Chandler

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Kristen Romuar-Cabico

From: Julie Schuller <julie.schuller@msn.com>
Sent: Monday, October 25, 2021 8:47 AM
To: Planning Department
Subject: Re: Proposed Special Use Permit

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Good morning All,

As a follow-up to tomorrow's meeting. Please be sensitive to this special area on the island.
Thank you.

Aloha,
Julie Schuller
Kauai Resident

From: Julie Schuller <julie.schuller@msn.com>
Sent: Monday, September 13, 2021 7:20 AM
To: planningdepartment@kauai.gov <planningdepartment@kauai.gov>
Subject: Proposed Special Use Permit

Aloha Planning Commission Chair Apisa, Vice-Chair Cox, Honorable Kaua'i Planning Commissioners, Director, Deputy Director and Staff:
My name is Julie Schuller. I am testifying in opposition to the requested Special Management area Use Permit, Use Permit & Class IV Zoning Permit for Sea Cliff Plantation Lot 11-A. The land carries multiple protective land use designations and zoning layers designed to protect scenic and ecological resources of unique value for the public. We support the applicant's right to build on the site. However, the proposed house and accompanying development are much too large and improperly situated for the ecological and aesthetic sensitivity of the site. In order to protect against irreversible negative impacts, I ask the planning commissioners to deny the requested permits.

Thank you for your time and attention.

Sincerely,
Julie Schuller
Kauai North Shore resident

Kristen Romuar-Cabico

From: Anne Torio <anne.torio@k12.hi.us>
Sent: Monday, October 25, 2021 8:43 AM
To: Planning Department
Subject: Request to Testify

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Aloha,

I am a 4th grade teacher at Kilauea School. I have a group of 4th and 5th graders that would like to share an 'oli as testimony for Agenda Item 1a: Special Management area Use Permit, Use Permit for Sea Cliff Plantation Subdivision Lot 11-A. I am also wondering if there is any way to notify us as out time to testify is close?

Mahalo,
Annie Torio
Kilauea School
anne.torio@k12.hi.us
(808)639-7691

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Kristen Romuar-Cabico

From: S459-Kadence Saenz <s459-kadence.saenz@k12.hi.us>
Sent: Monday, October 25, 2021 8:48 AM
To: Planning Department
Subject: Nihoku Meeting 10/25/2021

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To whom it may concern:
I would like to testify orally via zoom.

Thank you,
Kadence

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Kristen Romuar-Cabico

From: Kaninau Villanueva <kaninausv@gmail.com>
Sent: Monday, October 25, 2021 8:50 AM
To: Planning Department
Subject: Kilauea Farm Dwelling Proposal; SMA(U)-2022-1 Application; TMK 5-2-004:084
Attachments: Testimony-Nihokū2021.pdf

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Aloha hou,

My name is Shyla Villanueva. I am also known as Kaninau Villanueva. I would like to request to testify in person, via zoom, tomorrow Tuesday the 26th. I am in support of Nā Kia'i 'O Nihokū right to intervene.

Mahalo,
Shyla Kaninau Villanueva.

Sunday, September 12, 2021

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

My name is Shyla Kaninauali'i Villanueva, I am born and raised from Kīlauea, and I am testifying in opposition to the requested special management area use permit, use permit and class IV zoning permit for sea cliff plantation Lot 11-A.

The land carries multiple protective land use designations and zoning layers designed to protect scenic and ecological resources of unique value for the public.

Nihokū(Crater Hill) is far beyond unique and very important to the Kīlauea community. With it's rich cultural significance that has inspired mo'olelo(stories), mele(songs), hula(dance), and oli(chants) and still stands as a cultural and ecological resource for both humans and seabirds. Nihoku holds and inspires kanaka 'ōiwi history and traditional practices many that are still practiced today, and I firmly believe it should remain as a landscape for our sea birds & for cultural & environmental restoration.

I remember when I was in 4th grade, we had a field trip up to Nihokū with Fish and Wildlife. We learned about Nihokū, how it was formed, the mo'olelo of Pele, the seabirds that nest there, and the native plants that used to grow there. We planted native plants in an area adjacent to Lot 11-A to provide a comfortable home for our seabirds to nest; The Hala trees I planted stand tall there today.

It was at Nihokū where I had my first collective mālama 'āina experience in my home ahupua'a; It was truly special. This is a story I tell a lot because it changed the trajectory of my life and I know that it is really important for the younger generations of Kīlauea to have these kinds of experiences in their ahupua'a.

Now, as an educator at Kāhili beach preserve, I wonder what kind of an experience would that be for children to learn about, and participate in, environmental restoration work at Nihokū near a mansion with a pool that dominates the landscape after they learn the history and sacredness of the place?

The excavation and ground disturbance of this site that would compromise the structural integrity of Nihokū is of great concern. Lot 11-A is on a steep hillside and the proposed house to be built is quite high on the crater. Please consider the different geology on Nihokū and that developing a 30,000 square foot area has a higher probability of accelerating erosion in surrounding areas, this may include loss of habitat for native plants and sea birds.

Again, Nihokū is maintained as an active cultural and ecological resource. The overall interpretation of this ecology and culturally significant space is a priority within our community. The efforts to develop a house structure this large will compromise this

Sunday, September 12, 2021

interpretation, thus compromising the integrity of Nihokū. Ground disturbance in this area and alterations of the landscape are inevitable and irreversible impacts that occur due to construction.

As a place of important value to the native Hawaiian people, the association of this space with cultural practices, traditional beliefs, timeless ecological resources, and the overall nature of this landscape as a part of our identity as Hawaiians, and the identity of Kīlauea, the requested permits should not be approved. The planning commission has a responsibility to the community and to the protection of cultural landscapes of our 'āina.

Mahalo for your time and consideration.

Mālama,

Shyla Kaninauali'i Villanueva

Kristen Romuar-Cabico

From: S459-Kyan Young <s459-kyan.young@k12.hi.us>
Sent: Monday, October 25, 2021 8:49 AM
To: Planning Department
Subject: Nihoku Meeting 10/26

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To whom it may concern,

I would like to testify orally via zoom.

Thank You,

Kyan Young

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Kristen Romuar-Cabico

From: S459-Tucker Constantino <s459-tucker.constantino@k12.hi.us>
Sent: Monday, October 25, 2021 8:57 AM
To: Planning Department
Subject: Nihoku Meeting 10/26

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To whom it may concern:

I would like to testify orally via zoom.

Thank you,
Tucker Constantino

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Kristen Romuar-Cabico

From: Dominique Cordy <dominique@huliauapaa.org>
Sent: Monday, October 25, 2021 10:01 AM
To: Planning Department
Subject: I support Nā Kia'i o Nihokū in their petition to intervene and represent the public's interests on this matter.

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Aloha e Kauai Planning Commissioners

I do believe that this project potentially impacts a historic property (HAR 6E) as well as Native Hawaiian Cultural practices. Nihoku is a significant intact cultural and historical property and the development of a house high up on its slopes would negatively impact

- 1) this traditional Historic Property as well
- 2) traditional resources (birds, line of site, landscape) that are integral to traditional cultural practices
- 3) traditional and religious cultural practices that are ongoing on Nihoku

My name is Dominique Cordy. Nihokū (Crater Hill) is important to my family and I because we are part of a group who holds a cultural access permit there. We kilo at important dates during the year and our entire family has held Makahiki ceremonies there with other community ohana. I am concerned that the proposed house has not considered cultural and religious practices that are traditional in the area and that are ongoing today. I am worried that as proposed there would be an impact to seabirds who call the area home. I also feel like the permitting process for this proposed residence has not adequately considered Criterion E of Chapter 6E, when assessing potential effects to cultural properties. I feel in fact that the studies done have failed to accurately consider impacts traditional cultural practices and historic properties in the area.

I also feel that it would forever ruin the experience of this vital place for future generations of Kīlauea and Kaua'i young people. The house is much too large and located far too high up the mountain, in a sensitive area that should not be built upon at all. Or if someone would like to pursue its construction an EA should be undertaken to assess the impacts that it would have on the area.

As currently proposed the development appears to have negative impacts on a historic property(s) and traditional customary native Hawaiian cultural practices.

The existing studies conducted for this application are 1) inadequate, no Hawaiians were consulted and due diligence was not done based on the lack of rigor and effort to identify existing properties and practices. 2) No archaeological assessment took into account the impact to the TCP, Traditional Cultural Property, that is Nihoku, one of the last intact cultural landscapes along the Koolau coast. One tied intimately to moololo, with sites, resources, and practicing cultural groups.

I am asking the planning commission to please deny permits to build the proposed house. At the very least until an adequate 1) Cultural Impact Assessment (CIA) is done, one that actually consults with and interviews traditional cultural practitioners, kupuna, and knowledge area ohana; and 2) Archaeological Assessment is done that doesn't ignore Criterion D of the National Historic Preservation Act (NHPA) as applicable in State Law, Chapter 6E. and perhaps 3)

I realize that in most residential permits these surveys and studies can seem like overkill in the permit process, but if they are done and done well, especially for SMA or CDUP, then the community would have been consulted upon and in the know much earlier in this process. Such meaningful consultation allows for a better process for us, the community, you the commissioners, and the potential land developers.

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

Me Ka Haahaa,

Dominique Leu Cordy, MA

[Huliauapaa](#) Standards & Innovations Officer, & WKIP Instructor

[Kaliuokapaakai Collective](#) Aha Kuapapa (Steering Committee) member

Kilauea Community member

Kristen Romuar-Cabico

From: Anuheia Borengasser <aborengasser@outlook.com>
Sent: Monday, October 25, 2021 12:05 PM
To: Planning Department
Subject: Testimony in support of Nā Kia'i o 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.

RE: Agenda Item 2: "I support Nā Kia'i o Nihokū in their petition to intervene and represent the public's interest on this matter.

Aloha to the Kaua'i Planning Department,

My name is Anuheia Borengasser. I was blessed to visit Nihokū in June of this year. I support Nā Kia'i 'o Nihokū because I was able to see in person, that Nihokū is truly a vital sanctuary for our birds. I saw how delicate the baby birds were, yet how safe it was for them (provided we humans were mindful of our noise, presence, and how we moved about).

I live on overpopulated O'ahu and see how there aren't many places for our birds to safely nest and grow. Pueo have lost their home due to recent development near my home. I feel encroaching on their safe space; a vital space for their survival for the sake of our desires is unfair. We have already taken so much from our coinhabitants on this earth that many are gone. If we endanger the survival of the ones we have left, we'll eventually endanger ourselves. When that happens, there is no going back. As we go forward, please let's not do this here or anywhere else.

Mahalo,

Anuheia Borengasser

Kristen Romuar-Cabico

From: Zoli Wall <kaohinani.gardens@gmail.com>
Sent: Monday, October 25, 2021 12:01 PM
To: Planning Department
Subject: Fwd: Testimony to protect Nihokū

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I support Nā Kia'i o Nihokū in their petition to intervene and represent the public's interests on this matter.

Aloha planning commission chair Apisa, vice chair Cox, and honorable Kauai planning commissioners,
My name is Zoli Wall, I am a lifelong resident of Kilauea.
I am testifying in opposition to the requested Special Management area Use Permit,
Use Permit & Class IV Zoning Permit for Sea Cliff Plantation Lot 11-A. The land carries multiple protective land use designations and zoning layers designed to protect scenic and ecological resources of unique value for the public. We respect the applicant's right to build on the site. However, the proposed house and accompanying development are much too large and improperly situated for the ecological and aesthetic sensitivity of the site. In order to protect against irreversible negative impacts, I ask the planning commissioners to deny the requested permits. Thank you for your time and attention. Sincerely,
Zoli Wall

Kristen Romuar-Cabico

From: Irena <irenabliss@gmail.com>
Sent: Monday, October 25, 2021 11:46 AM
To: Planning Department
Subject: I support Nā Kia'i o Nihokū in their petition to intervene and represent the public's interests on this matter.

Importance: High

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

I am writing again in support of Nā Kia'i o Nihokū in their petition to intervene and represent the public's interests on this matter.

Mahalo nui for your consideration of the community concerns, some of which are itemized in earlier email below.

The proposed house is much too large and located far too high up the mountain, in a sensitive area that should not be built upon at all.

Please deny permits to build the proposed house.

Mahalo nui for all you do for beautiful Kaua'i and to protect it for future generations.

With much aloha,
Irena

From: [Irena](#)
Sent: Tuesday, September 14, 2021 8:39 AM
To: planningdepartment@kauai.gov
Subject: Please Protect Nihokū

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

I am writing to ask the planning commission to please deny permits to build the proposed house on Nihokū (Crater Hill).

I am deeply concerned that the proposed house would impact seabirds who call the area home. I also feel that it would forever ruin the experience of this vital place for future generations of Kīlauea and Kaua'i young people. I feel it is important to consider that:

- Nihokū is the crater which gives Kīlauea (meaning "spewing," like the active volcano) its name. It is culturally significant to all of Hawai'i in stories, chants and hula for Pele.

- The lot adjoins vital sea bird nesting areas for albatross, shearwater, petrel, koa'e (tropic birds) and more. Crater Hill is a needed relocation site for bird populations from the northwest Hawaiian islands whose habitat is shrinking due to sea level rise.
- The property is within a county natural land use designation, open zoning and a Scenic/Ecologic Resources (ST-R) special treatment district area. This requires the Commission to protect land and water areas with unique natural forms, biologic systems, and characteristics of significance and value to the general public.
- Proposed excavation into the steep hillside would be damaging due to the area's sensitive geology and vulnerability to erosion. The footprint of the house is much too large and located too high for this sensitive site.
- The Kīlauea community has worked to protect the slopes of Nihokū from development for over forty years. The proposed house would forever impact the views and feeling of a place that area 'ohana love and enjoy together.

The proposed house is much too large and located far too high up the mountain, in a sensitive area that should not be built upon at all.

Please deny permits to build the proposed house.

Mahalo nui for all you do for beautiful Kaua'i.

With much aloha,

Irena

Kristen Romuar-Cabico

From: Lauren Esaki-Kua <laurenek@stanford.edu>
Sent: Monday, October 25, 2021 11:24 AM
To: Planning Department
Subject: FW: Testimony against permits for Green dwelling in Kilauea (Sept 14, 2021 Hearing)

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.

I support Na Kia'i o Nihoku in their petition to intervene and represent the public's interests on this matter.

Forwarding my previous testimony to be considered again.

Mahalo,
Lauren Esaki-Kua
Kapa'a

----- Original message -----

From: Lauren Esaki-Kua <laurenek@stanford.edu>
Date: 9/10/21 11:42 AM (GMT-10:00)
To: planningdepartment@kauai.gov
Subject: Testimony against permits for Green dwelling in Kilauea (Sept 14, 2021 Hearing)

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

My name is Lauren Esaki-Kua. As a former planner and a resident born and raised on Kaua'i, I am testifying against the applications for a SMA Use Permit, Use Permit, and Class IV zoning permit for the proposed dwelling on Nihokū (Crater Hill) in Kilauea.

Not only would this "farm dwelling" development affect native wildlife of the area, it would also ruin the viewshed of Nihokū and set a precedent for other similar mountain top developments within open space and SMA boundaries. O'ahu is littered with such residential developments that have been permitted through similar exemptions; the effects of which are only truly felt once the building is complete and the approval irreversible. The people of Kaua'i have worked hard to keep the island's sense of place so as to not ruin the fine line between wahi pana and future generations' visual and place-based link to the past. This land under State SMA, and County Natural Land Use Designation, Open zoning, and ST-R Special Treatment District Area was designated as such through the foresight of our previous County and State planners with input from our communities to protect our special places. Approving the permits for the proposed home as it is currently designed and sited would render the past work to protect these places meaningless.

Pages 7-8 of the Planning Director's report for this proposed development should also be assessed thoughtfully. I disagree with Director Hull's assessment that the proposed development satisfies the outlined policies of the Kaua'i General Plan. To the contrary, I believe that the current size and siting of the house would only serve to exacerbate

some of the island's problems in the outlined goal and policy areas (Sustainable Island, Unique and Beautiful Place, An Equitable Place, with Opportunity for All; Preserving Rural Character, Reducing Cost of Living, and Protecting Kaua'i's Scenic Beauty.)

The proposed house and accompanying development completely disregard the intent of our land use designations as protective regulatory tools to protect our special areas of the island. The proposed buildings and associated improvements are much too large and improperly situated for the ecological and aesthetic sensitivity of the site. **I am respectfully requesting for you to deny the requested permits.**

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

With much aloha,

Lauren Esaki-Kua

Kristen Romuar-Cabico

From: Beryl Blaich <punab4@gmail.com>
Sent: Monday, October 25, 2021 9:07 AM
To: Planning Department
Subject: Written testimony and Request to testify
Attachments: Planning Com Testimony Crater Hill 10-26-21.docx

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.

Here is written testimony on the SMA, Class IV zoning Permit and Use permit application for the Green's home at Mākaha'ano Pl, Kīlauea.

And may I please register as a testifier.

Thank you,

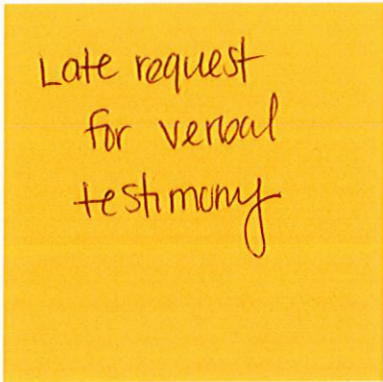
Beryl Blaich

Po Box 1434

Kīlauea

808-346-9589

808-828-1438



Late request
for verbal
testimony

RE: SMA (U) 2022-1, Class IV Soning Permit Z-!V-2022-1, U – 2022 -1
October 25, 2021

Dear Chairman Apisa and Members of the Kaua'i Planning Commission:

Aloha, I am Beryl Blaich, Kīlauea resident for 42 years speaking for myself.

Nīhoku, Crater Hill, has always been deeply important to Kīlaueans, and development of Seacliff Plantation was resisted; If my memory serves me, three Davids – David Sproat, David Boynton and Dr. David Moore - intervenened to stop the development. Approval with extensive conditions resulted including: setting aside 90 acres for a County ag park, requiring earth tone colors for buildings and roofs and establishing a line above which homes could not be build – partly to preserve the traditional natural view of the landmark from the community.

Unfortunately, the survey for the Mākaha'ano Pl. was inaccurate. The road was laid out too high on the hill, and the land between the road and the set back line too narrow to build a home. Lots on the flank of Nīhoku were essentially not saleable. The developer proposed moving the line upward. The community again rallied behind intervenors. I definitely remember my brief testimony: "Hold that line. Hold that line. Please." Buildable lots were renegotiated . Only one has been built upon. One has received SMA approval. The Green's parcels are the most westward of those and the highest of these.

There is so much more history of community action to uphold full compliance with those conditions including eventual establishment of the Kīlauea ag park. But as to houses sold and built since, the Kīlauea Neighborhood Association has repeatedly reviewed home proposals with lot owners erecting story poles to give a sense of visibility from the town. And all the while, people were aware that the the lots which are now the Greens could have the greatest impact on Nīhoku, its natural habitat for birds, on views, on the fundamental sense of Nīhoku as either a natural space and landmark for our entire community or as a hill with high-end single family dwellings.

Meanwhile, there is new knowledge, new consciousness and new dedicated engagement regarding Nīhoku. We have been made aware recently of its profound cultural significance. Its critical importance as a place of refuge foe seabirds affected by sea level change has been identified. I did not realize that the area was designated Natural in the General Plan and has an open Special Treatment Resource District overlay.

Hindsight is 2020 for sure. With hindsight, we residents are reactive. Perhaps the community could have lobbied to establish some special development and design conditions on those makai, hill flank lots: to make buildings more compliant with the

SMA and the other zoning overlays. Such conditions would have called for minimizing and disturbance of grading, for ascertaining view protection with visual analysis, for restrictions on pets. Some kind of special habitat management responsibilities could have applied to these lots which are truly conservation and open lands, not agricultural.

It is left to you, to take the fullest picture of present knowledge, changing times and of the Special Management Area regulations (which are not just for shoreline area but also up rivers and onto headlands) to help fairly ensure long term protection of Nīhoku.

Mahalo for your time and attention and hard work for Kaua'i.

Beryl Blaich
PO box 1434
Kilauea, HI 96754

Kristen Romuar-Cabico

From: Letani Peltier <letanip@oha.org>
Sent: Monday, October 25, 2021 3:28 AM
To: Planning Department
Cc: Olan "Leimomi" Fisher
Subject: Written Testimony and Request to Testify Virtually for Item F1a for the 10/26 Planning Commission Meeting.
Attachments: Testimony - Kauai County Planning Commission Item F1a FINAL.pdf

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,

Please find attached testimony from the Office of Hawaiian Affairs for the Planning Commission's October 26 Meeting, for Agenda Item F1a, relating to a Special Management Area Use Permit, Class IV Zoning Permit, and Use Permit for construction and associated site improvements within Lot 11-A of the Seacliff Plantation Subdivision in Kilauea (re: Nihokū).

Additionally, please also sign up the following individual for virtual testimony. Please note that the name and email of the person who will provide virtual testimony is different from the person who is submitting the written testimony.

Name: Olan Leimomi Fisher
Number: +18082951911
Email: Olanf@oha.org
Agenda Item: F1.a (re: Nihokū)

Mahalo nui!

--

Letani G. Peltier, Esq.
Public Policy Advocate
Office of Hawaiian Affairs



Planning Commission
County of Kaua'i

AGENDA ITEM F.1a

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 portion of a larger parcel approximately 12.305 acres in size = Phillip J. & Linda M. Green.

October 26, 2021

8:30 a.m.

Online Meeting

The Office of Hawaiian Affairs (OHA) offers the following **COMMENTS** on Agenda Item F.1a, which relates to a Special Management Area Use Permit, Class IV Zoning Permit, and Use Permit for construction and associated site improvements within Lot 11-A of the Seacliff Plantation Subdivision in Kilauea.

As an initial matter, OHA notes its appreciation for the Commission's recognition of the County's affirmative duty to preserve and protect Native Hawaiian traditional and customary rights. OHA also acknowledges that in furtherance of this kuleana, the Commission must often balance competing interests and legal rights. This is no small task. However, although the final decision of whether or not to grant the sought-after permits may be difficult, the steps leading up to that decision have been clearly laid out by the Hawai'i Supreme Court in *Ka Pa'akai o ka 'Āina v. Land Use Commission*.¹

The "Ka Pa'akai analysis" requires that government decisionmakers make specific findings and conclusions as to the following, when considering a petition or rendering a decision that may impact Native Hawaiian traditional and customary practices: (1) the identity and scope of valued cultural, historical, or natural resources in the petition area, including the extent to which Native Hawaiian traditional and customary rights are exercised in the petition area; (2) the extent to which those

¹ *Ka Pa'akai O Ka 'Āina v. Land Use Com'n*, 94 Hawai'i 31 (2000).

resources, including Native Hawaiian traditional and customary rights, will be affected or impaired by the proposed action; and (3) the feasible action, if any, to be taken to reasonably protect Native Hawaiian rights if they are found to exist.

OHA understands that Native Hawaiian community members, including the members of Nā Kia'i Nihokū, have identified a range of valued natural and cultural resources and sites that underly Native Hawaiian traditional and customary practices associated with Nihokū, which may be significantly and irreparably impacted by the contemplated development of the crater.² These include nesting habitat for culturally significant native manu, historical viewplanes, and the crater itself. **OHA emphasizes that the County has a constitutional duty, as further described by the Hawai'i Supreme Court, to fully consider these resources, sites, and practices, and to take all necessary action to reasonably protect them in its deliberations and decision making.**

OHA does understand that the applicant has offered several proposals to mitigate some potential impacts, including: installing downward shielded lights, incorporating features in the Agricultural Plan that may create additional habitat for avian species, working with the U.S. Fish and Wildlife Service to establish a viewing location in the Open Space Easement to observe the noted avian species, employing earth tone color schemes to all materials used, and continuing to engage in discussions with cultural practitioners.³ OHA further appreciates that the Planning Department recognizes that "[c]onstruction plans should not be finalized until all issues [identified in Exhibit M of the application] are resolved with Nā Kia'i Nihokū."⁴ **However, OHA does express some concern that insofar as these issues are concerned, the Planning Department's preliminary recommendations only address the use of downward-facing shielded lights and dark earth-tone colors.**⁵

OHA also understands that Nā Kia'i Nihokū have offered a range of additional information and actions that the Commission should consider in fulfilling its constitutional mandate, including reductions in development footprint and the relocation of the proposed development to a less sensitive area; limitations on any excavation work which may significantly undermine the natural and cultural integrity

² See In the Matter of the Application of Philip J. Green and Linda M. Green, Exhibit M; Supplement #1 to Planning Director's Report.

³ See In the Matter of the Application of Philip J. Green and Linda M. Green, 40-43.

⁴ Planning Director's Report, 8.

⁵ Planning Director's Report, 11-13.

of the area; and further protections for the unique geological, biological, and cultural features of this wahi pana.⁶ **Notably, although these proposed actions were received by the County on August 31, 2021, the current agenda packet is devoid of any response or reaction from the applicant or even the Planning Department.**

Finally, OHA notes that Nā Kia'i o Nihokū have filed a petition to be granted status as an intervenor so that they may protect their constitutionally cognizable property interest⁷ in engaging in their traditional Native Hawaiian practices at Nihokū. Nā Kia'i o Nihokū will undoubtedly be directly and immediately affected by the applicant's proposed project, and their interest is clearly distinguishable from that of the general public. The admission of Nā Kia'i o Nihokū as a Party-Intervenor will help bring clarity to the issues as well as potential solutions and paths forward. **In light of what appears to be a lack of a proper Ka Pa'akai analysis, Party-Intervenor status may be an especially appropriate means to protect Nā Kia'i o Nihokū's interests.**

Mahalo for the opportunity to provide testimony on this matter.

⁶ Supplement #1 to Planning Director's Report, 9.

⁷ "The legitimate claims of entitlement that constitute property interests are not created by the due process clause itself. Instead, 'they are created and their dimensions are defined by existing rules or understanding[s] that stem from an independent source such as state law--rules or understanding[s] that secure certain benefits and that support claims of entitlement to those benefits.'" Flores v. BLNR, 143 Hawai'i 114 at 125 (2019) (citing In re Maui Elec. Co., 141 Hawai'i at 260 (2017) (quoting In re 'Iao, 128 Hawai'i at 241 (2012))).

Kristen Romuar-Cabico

From: Mehana Vaughan <mehana@hawaii.edu>
Sent: Monday, October 25, 2021 7:30 AM
To: Planning Department
Subject: Testimony for 10/26, hearing on requested Special Management area Use Permit, Use Permit & Class IV Zoning Permit for Sea Cliff Plantation Lot 11-A on the upper slope of Nihokū Crater
Attachments: Negotiations Progress Timeline2.docx

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.

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

Please find attach follow up testimony from the Sept. 14th hearing on requested Special Management area Use Permit, Use Permit & Class IV Zoning Permit for Sea Cliff Plantation Lot 11-A on the upper slope of Nihokū Crater. At the last meeting, our Hui Nā Kia'i o Nihokū, were asked to work on negotiating conditions with the applicant which would allow them to build a home here while protecting the cultural, ecological, and community significance of this vital wahi pana. In the intervening six weeks, we have worked hard to come to agreement, and our efforts are documented in the timeline below. Inability to reach agreement thus far, and mainly lack of response by the applicant to our efforts, led to our filing for contested case. Nā Kia'i o Nihokū remain committed to reaching an agreed upon solution which protects the cultural, ecological and community significance of Nihokū and is grateful to the Planning Department and Commission for this opportunity and kuleana.

Mahalo for all you each do for Kaua'i,

Mehana Vaughan and Nā Kia'i o Nihokū

10/20/21 update
Negotiations Progress & Timeline
RE: Applications for Special Management area Use Permit, Use Permit & Class IV Zoning
Permit for Sea Cliff Plantation Lot 11-A

September 14, Planning Commission Hearing

September 14, (4 PM) Notified by email from Phil Green that he would be traveling in October and wanted to come to consensus before then.

September 16, Two members of Nā Kia'i o Nihokū, Mehana Vaughan and Kapua Chandler met with applicant, Phil Green, for approximately an hour and a half, walked the layout of the home, and measured 140 ft. set back on lot 1.

September 17, Mehana Vaughan met with Ka'āina Hull, Romio Idica and Jodi Higuchi Sayegusa to touch base on next steps following the hearing, clarify community and planning department roles.

September 22, Two members of Nā Kia'i o Nihokū, Kapua Chandler and Mehana Vaughan, hosted the Applicant, Phil Green, along with Romio Idica, Kaua'i County SMA planner on a visit of Nihokū and visited the subject parcel hosted by Phil Green. 8:00 AM – 11:00 AM

September 26, Hard copy of updated draft conditions submitted to Phil and Linda Green in an effort to reach resolution before their travels.

No response from applicant or applicant's attorney.

October 5, 9:58 AM, Follow up email sent to Phil Green to confirm receipt of draft conditions and ask about readiness to meet. Reminded the applicant of opportunity for providing update to broader community including many Kīlaueans who submitted testimony through KNA meeting update.

October 5, 8:30 PM, Kau'i Fu provided general update for Kīlauea Neighborhood Association (KNA) board and membership on outcome of Sept. 14 planning commission hearing and importance of ongoing negotiation efforts including key asks for home to be situated lower and down sized to minimize impacts.

No response from applicant or applicant's attorney.

October 7, Four members of Nā Kia'i o Nihokū met with Ka'āina Hull, Romio Idica and Jodi Higuchi Sayegusa to provide an update on negotiation efforts.

October 11-14, Members of Nā Kia'i o Nihokū made multiple phone calls and attempts to contact attorney Ian Jung. No answer received until the evening of October 14 saying that he was out of office until Monday, October 18, and stating, "We're working on a revised plan and will be in touch."

This timeline does not include many hours of Nā Kia'i o Nihokū hui meetings and outreach to community members to ensure that this negotiation is a collective process that includes kūpuna wisdom and captures concerns of Kīlaueans, cultural practitioners, ecologists and others for this vital place; as well as consultation with experts in protection of traditional and customary practices across Hawai'i. Over 160 individuals testified in opposition to the dwelling and associated construction as proposed on September 14th.

Collectively, in the month since the hearing, four members of Nā Kia'i o Nihokū have contributed 30 hours per person. One has contributed 70 hours and a fifth, ten hours. These contributions total 200 hours of community volunteer effort towards negotiations. As of October 20, the applicant and their attorney had not provided any response to proposed conditions offered since September 26th.

There is concern whether a substantive response will be shared in time to vet it with the broader community and reach agreement. Nā Kia'i o Nihokū remain committed to reaching an agreed upon solution with the land owner which protects the cultural, ecological and community significance of Nihokū and is grateful to the Planning Department and Commission for this opportunity and kuleana.

Kristen Romuar-Cabico

From: Linda Moriarty <lindamoriarty9@gmail.com>
Sent: Monday, October 25, 2021 7:49 AM
To: Planning Department
Subject: Nihoku Testimony 10/25/21
Attachments: Nihoku Testimony.docx

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.

Kindly find attached my testimony re: Nihoku on today's agenda.

Linda Moriarty

October 24, 2021

To: Planning Commission, County of Kaua'i

From: Linda Moriarty

RE: Nihoku (Crater Hill) Application

Nihoku (Crater Hill) is to Kilauea and the Northshore what Diamond Head is to Honolulu. They are iconic landmarks. From its volcanic origins, as a bunker during WW 11, sugarcane fields, and today a seabird refuge, Nihoku defines the community of Kilauea. Generations of people grew up below and around it. On a compass, it is their "north."

Fortunately for Diamond Head, despite years of development pressure, government and community, with foresight and prudent decision-making, contained development to the lower slopes. Kudos to them. Today, everyone who lives in Honolulu can look out to Diamond Head, secure that they can see a mountain without structures!

We are now facing another critical juncture for Nihoku; the first, nearly 35 years ago when the community, together with the Federal Government, received funding through the late Senator Daniel Inouye to acquire Nihoku from a developer. This established the upper portion of Nihoku to become part of the Kilauea Wildlife Refuge and guaranteed an undeveloped viewplane. I was part of that community effort back then. It's important that the Commission take note of the history of Nihoku and not succumb to "bigger, better and higher."

As a lifelong resident of Kaua'i, and many years in Kilauea, increasingly we have had to accomodate our lifestyle with the growing numbers of visitors. We patiently share roads, trails, beaches and parks. We wait in lines. However, the one thing that everyone can share equally and enjoy are the beautiful natural vistas. Let's not spoil that view of Nihoku!

Kristen Romuar-Cabico

From: Ryan McCormack <polohinano@gmail.com>
Sent: Monday, October 25, 2021 8:01 AM
To: Planning Department
Subject: Testimony re: Proposed development at Nihokū, Kīlauea, Kauaʻi

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.

To whom it may concern,

My name is Ryan McCormack and I am the kumu hula of Māunuunu, a school of traditional Hawaiian dance, in Keaʻau, Hawaiʻi. My ʻūniki rites were conferred in 2014 through Unukupukupu under the tutelage of Dr. Taupōuri Tangarō, who was ordained as a kumu hula in the lineage of Hālau o Kekuhi and the Kanakaʻole family. We are practitioners of the Hula Pele, the ritual dance form of the descendants of the Pele clan. The chants and dances of our lineage record the ongoing relationship between people and the volcanic forces of this archipelago. It is through this work of carrying this tradition that I was first introduced to the landscape of Nihokū.

In 2016, I was asked by Nā Kiaʻi o Nihokū to share stories and perspectives about the many mythological, genealogical, and geological connections between the landscape of Hawaiʻi island and that of Kauaʻi explicated in our traditions. Of the many place names that encompass Nihokū that do, indeed, affirm its status as a wahi pana there are multiple overt references to the Pele family (i.e. Kīlauea, Nā Kaikaina), which underscore the importance of the region in the living myths of Pele and her family, and the practitioners tasked with keeping these rich, didactic narratives alive for generations to come. Nihokū itself provides the ideal location for a pā hula, or designated space for ceremonial dance and chant offerings, and haumāna from our hālau were privileged to share the hula as part of Makahiki ceremonies there in 2017.

As moʻolelo and mele confirm, Nihokū, and its surrounding wahi pana, have been areas of cultural and religious significance for centuries and continue to be so for Kānaka Maoli and practitioners of Hawaiʻi life ways. Any development that would restrict or interfere with the preservation of these lands, wildlife conservation efforts, and access to the area by cultural practitioners and lineal descendants of original inhabitants would be tantamount to an assault upon the culture and traditions of these lands, and would further erode the foundation of traditional knowledge so critical to understanding our collective human relationship to the landscape of Hawaiʻi.

Therefore, I am in opposition to the proposed development upon Nihokū.

ʻO au iho nō me ka ʻoiaʻiʻo,

Ryan McCormack
Kumu Hula, Māunuunu

Kristen Romuar-Cabico

From: Kapua Chandler <kapua@ucla.edu>
Sent: Monday, October 25, 2021 7:58 AM
To: Planning Department
Subject: Request for oral testimony

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Aloha,

Emailing to request to provide oral testimony on Agenda Item Item 1a: Special Management area Use Permit, Use Permit & Class IV Zoning Permit for Sea Cliff Plantation Subdivision Lot 11-A.

My telephone number is 808-6396248. Email is kapua@ucla.edu

Mahalo,
Kapua

Sent from my iPhone

Kristen Romuar-Cabico

From: Jessica Kauai Fu <kauifu@gmail.com>
Sent: Monday, October 25, 2021 7:33 AM
To: Planning Department
Subject: Request for oral testimony

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Ke aloha nui ia kakou,

Emailing to request to provide oral testimony on Agenda Item Item 1a: Special Management area Use Permit, Use Permit & Class IV Zoning Permit for Sea Cliff Plantation Subdivision Lot 11-A.

My telephone number is 808-652-0886. Email is kauifu@gmail.com

mahalo nui,
Jessica Kauai Fu

Kristen Romuar-Cabico


From: Hoku Cody <hokucody@gmail.com>
Sent: Monday, October 25, 2021 7:32 AM
To: Planning Department
Subject: Oral testimony 10/26

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

My name is Hoku Cody, phone number 8088590352, email (this one), and I'd like to register for oral testimony for the permit at seacliff plantation sub division lot 11-A. Mahalo!

--

 -Hoku from the iPhone

Kristen Romuar-Cabico

From: Irons, Tim <tim.iron@dentons.com>
Sent: Monday, October 25, 2021 7:30 AM
To: Planning Department
Subject: October 26, 2021 Planning Commission: Item 1, Continued Agency Hearing: Philip J. Green and Linda M. Green, SMA, Zoning and Use Permit for farm dwelling

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 Planning:

I will be representing the Greens at tomorrow's Planning Commission meeting on their farm dwelling application and would like an opportunity to speak. Please send me the zoom link for the meeting. Thank you.

Sincerely,
Tim Irons



Tim Irons

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tim.iron@dentons.com
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Kristen Romuar-Cabico

From: William Kinney, Jr <kinneyw@hawaii.edu>
Sent: Monday, October 25, 2021 7:20 AM
To: Planning Department
Subject: Request to testify 10/26/2021

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.

I'd like to request to provide oral testimony at the Planning Commission Meeting /Hearing on 10/26/2021 on agenda items 1a and 1aii: the Green's SMA Use Permit, Class 4 Zoning Permit, and Use permit (SMA(U)-2022-1, Z-IV-2022-1, U-2022-1) Applications AND the petition to intervene by Nā Kia'i Nihokū.

Mahalo

Kristen Romuar-Cabico

From: Sarah Barger <sarahbarger14@gmail.com>
Sent: Monday, October 25, 2021 6:53 AM
To: Planning Department
Subject: Agenda Item 1a: Special Management area Use Permit, Use Permit & Class IV Zoning Permit for Sea Cliff Plantation Subdivision Lot 11-A

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

My name is Sarah Barger, and I am writing to express my **strong opposition** to the application for permits to build on Nihokū (Agenda Item 1a: Special Management Area Use Permit, Use Permit & Class IV Zoning Permit for Sea Cliff Plantation Subdivision Lot 11-A).

I am also writing to express my **support for Nā Kia'i o Nihokū** in their petition to intervene and negotiate on a level playing field with the applicant's legal team.

The proposed massive development and excavation into the hillside is wrong on so many levels. It threatens the endangered seabird population who cannot endure such significant habitat loss, light pollution and disruption from construction and excavation. This proposed development is disrespectful to Native Hawaiians and a complete desecration, as it would be built on sacred ground, the burial site of many Kilauea 'ohana, and the home of important stories and traditions in Hawaiian history and culture. In addition, the excavation would be detrimental to the integrity of the hillside (already vulnerable to erosion) and its sensitive geology - which is one of many reasons that this area is classified as a Scenic/Ecologic Resources (ST-R) special treatment district area. This proposed development is too large and located too high up on the sacred mountain. For all of these reasons above, please deny permits to build the proposed house.

You have the unique ability to speak out and protect fragile and sacred spaces on Kaua'i. You can choose to empower Nā Kia'i o Nihokū to continue its faithful stewardship of Nihokū with grace and aloha. You can demonstrate that money **can't** buy everything in a community that prioritizes what is good for the people, the 'āina, the waters, the ancestors and 'ohana of this place, and all of the interconnected ecosystems enveloping this island.

Mahalo for your consideration and for all the work you do for our island of Kaua'i.

With much aloha,

Sarah Barger

Kristen Romuar-Cabico

From: Sabrena Camp <scamp18@adrian.edu>
Sent: Monday, October 25, 2021 6:33 AM
To: Planning Department
Subject: Agenda Item 2: I support Nā Kia'i o Nihokū in their petition to intervene and represent the public's interests on this matter.

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

I am testifying in opposition to the requested Special Management area Use Permit, Use Permit & Class IV Zoning Permit for Sea Cliff Plantation Lot 11-A. The land carries multiple protective land use designations and zoning layers designed to protect scenic and ecological resources of unique value for the public. We support the applicant's right to build on the site. However, the proposed house and accompanying development are much too large and improperly situated for the ecological and aesthetic sensitivity of the site. In order to protect against irreversible negative impacts, I ask the planning commissioners to deny the requested permits. Thank you for your time and attention.

The property is within a county natural land use designation, open zoning and a Scenic/Ecologic Resources (ST-R) special treatment district area. This requires the Commission to protect land and water areas with unique natural forms, biologic systems, or aesthetic characteristics of significance and value to the general public.

I support Nā Kia'i o Nihokū in their petition to intervene and represent the public's interests on this matter.

Having worked diligently through my time as a KUPU AmeriCorps member to protect the seabird and waterfowl species that would clearly be impacted negatively by this development, I am saddened at the thought of more habitat loss and fragmentation. This area is sacred to the native Hawaiian people and the wildlife species (some that are found nowhere else in the world). It is our duty as a community to protect our land and wildlife before we push too far and these species are lost forever. There will be no button in the future to press when we have gone too far, so we must make these decisions now to protect the land. These developments are a gateway and continuation to develop all available land on precious Kaua'i where the native people and species will continue to suffer under the environmental pressures identified. Please allow Nā Kia'i o Nihokū to negotiate appropriate terms for this sacred land.

Mahalo,
Sabrena Camp
(248) 613-7398



Kaua'i Planning Department
Kaua'i Planning Commission
via email to: planningdepartment@kauai.gov

Re: Comments on a Building Permit for a residence on Nihokū (Crater Hill)

October 25, 2021

Aloha Director Hull, Deputy Director Higuchi Sayegusa, and Members of the Planning Commission and Planning Department,

It has come to my attention that in some conversations regarding the pending building permit on Nihokū (Crater Hill) that is before you for hearing tomorrow, October 26, 2021, a conservation easement held by Hawai'i Land Trust has been suggested as one possible option. As a matter of policy and practice, Hawai'i Land Trust does not take positions, either supporting or opposing development proposals. Following this practice, I'm writing to provide information only, and not to support or oppose the requested building permit. I'll provide basic information regarding conservation easements in the hope that it may be helpful to the Planning Commission and Department on the particular Nihokū building permit before you, and in future projects.

As a nonprofit voluntary land conservation organization, Hawai'i Land Trust has two primary tools to assist landowners and communities to voluntarily conserve land: fee simple purchases for conservation, and conservation easements. A conservation easement is a voluntary, legal agreement between a landowner and a qualified conservation land trust or government agency that permanently limits uses of the land in order to protect its conservation values. In any successful voluntary land protection effort, there are five factors or pillars that must be present. Land trusts connect these pillars together:

- 1) Land that is privately-owned, threatened, and with natural and or cultural resources that the land trust seeks to conserve.

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- 2) Willing Seller/Grantor
- 3) Identified Future Owner, Steward, and/or Conservation Easement Holder
- 4) Funding (or Donation)
- 5) Community Support for Conservation

When one of the above pillars is missing, Hawai'i Land Trust does not work on an effort. In the case of the Nihokū property, there is not a Willing Seller/Grantor of a conservation easement or property (#2 on the list above). Therefore, Hawai'i Land Trust is not pursuing a conservation easement on the Nihokū property.

Here is an explanation of voluntary land conservation taken directly from the *Community Guide to Hawai'i Land Conservation*, Hawai'i Land Trust and The Trust for Public Land (2020):

"Voluntary land conservation involves conserving land with the willing participation of the landowner – receiving a land donation, buying land, or restricting land uses on property via a conservation easement. Sometimes, landowners have a love of the land and want to donate land or a conservation easement to a land trust. A conservation easement is a voluntary legal agreement between a landowner and a land trust or government agency that permanently limits uses of the land in order to protect its conservation values. Other landowners are willing to sell land for conservation, or restrict their property from development, for the right price, through selling a conservation easement, or for a combination of cash and tax write-offs. The key to voluntary land conservation is that it is a negotiation and a voluntary process from which the parties (land trust and landowner) can walk away at any time. The landowner is a willing participant in the conservation of the land and is not forced to conserve the land through laws or regulations imposed by the government."

To provide background on Hawai'i Land Trust (HILT), we are Hawai'i's islands-wide land trust that is both a Hawai'i 501(c)(3) nonprofit, and a nationally accredited land trust. We protect and steward the lands that sustain Hawai'i, and teach future generations to do the same. We have protected 21,650 acres across Hawai'i through 7 public preserves owned and stewarded by HILT, 45 conservation easements restricting privately-owned lands, and 5 facilitated projects assisting government agencies to protect special natural places.

Mahalo for the opportunity to share information on voluntary land conservation,



Laura H. E. Kaakua
President and CEO
Hawai'i Land Trust

DEPARTMENT OF PLANNING

KA'ĀINA HULL, DIRECTOR

JODI A. HIGUCHI SAYEGUSA, DEPUTY DIRECTOR



DEREK S.K. KAWAKAMI, MAYOR
MICHAEL A. DAHLIG, MANAGING DIRECTOR

SUPPLEMENT #1 TO PLANNING DIRECTOR'S REPORT

RE: Special Management Area Use Permit SMA(U)-88-10
Class IV Zoning Permit Z-IV-88-39
Use Permit U-88-31
Special Permit SP-88-6

APPLICANT: KAWAIILOA DEVELOPMENT LLP.
(formerly Ainako Resort Associates)
Jonathan J. Chun, Esq., Authorized Agent

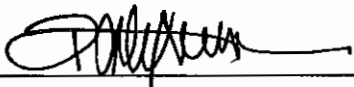
ADDITIONAL FINDINGS

Attached for the Planning Commission's reference is public testimony concerning the proposed development (refer to Exhibit 'A'). They are as follows:

- o Email from Shantell Doree & Kendall Ricklefs (10/23/2021) expressing concerns
- o Email from Alex Stoddards (10/23/2021) opposing project

It is noted that the initial Director's Report was transmitted to the Commission at the last meeting on October 12, 2021.

By


Dale A. Cua
Staff Planner

Kristen Romuar-Cabico

From: Shantell Doree <dore0021@umn.edu>
Sent: Sunday, October 24, 2021 8:12 PM
To: Planning Department
Subject: Written Testimony for Public Hearing on Tues. 10/26/21 for the Application of Kawaihoa Development, LLC Parking Lot on Mauka side of Poipu Road
Attachments: Kawaihoa Development, LLC Parking Lot Permit Hearing Written Testimony.docx

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Hello,

My name is Shantell Doree and I own the property 1661A Keleka Road in Koloa, Kauai, Hawaii. I would like to submit this written testimony to the Kauai County Planning Commission and the Kawaihoa Development, LLC applicant to be reviewed at the public hearing on Tuesday, October 26, 2021 at 9:00 a.m.

I would also like to be able to view and listen to the hearing on zoom. If you could please send me the link to log into the hearing I would greatly appreciate it.

Attached is the written testimony with our concerns about the possible approval of the parking lot and the plans for the parking lot that I received from Mr. Chun at Belles Graham, LLP showing the location of our property.

If you could please submit these items for the hearing that would be greatly appreciated. Please let me know if you have any questions.

Mahalo,

Shantell Doree



Virus-free. www.avg.com

October 23, 2021

To: The Planning Commission of the County of Kauai

Subject: In the matter of the application of Kawailoa Development, LLC for amendment to special management area use permit, class IV zoning permit, use permit, and special permit for real property situated at Koloa, Kauai, Hawaii, identified by Kauai TMK No. (4) 2-9-001:007.

We are the owners of the property 1661A Keleka Road labeled as #37 on the parking lot plan attached that I requested and received from Mr. Chun from Belles Graham, LLP. Our property backs up to the current Grand Hyatt employee parking lot where the solar panels are located on top of the covered parking structure. We have concerns about the possible approval and construction of this proposed new parking lot on the mauka side of Poipu Road. Our concerns consist of noise level/traffic/construction noise, visibility of the parking lot from our home, parking lot lighting and the location of the parking lot affecting our property value.

We would also like to know what the proposed parking lot is going to be used for (example; public parking, Hyatt employee/guest parking, golf course parking, etc.). Also the current proposed amount of time that the construction process would take.

Concern #1 : Noise Level, Traffic Increase and Construction Noise

The noise level of the current employee parking lot is very loud when the employees from the Hyatt come to work early in the morning and leave throughout the day. As well as when guests are coming and going from the Hyatt when there are activities such as the Luau going on. We have installed rubber sound proofing between our fences and have a lot of landscaping to try and drown out the noise. This only helps minimally when on the main level of our home and when on the upper level the noise increases significantly when above the noise proofing and landscaping. Almost all of the bedroom windows in our home face the current employee parking lot and it is very loud when trying to sleep. Our major concern is that this new parking lot will increase the noise level at our home and increased traffic and the noise from that also around our home. Also, how long the construction process would take and the noise that would be created during that time.

Concern #2 : Visibility of the Parking Lot and Parking Lot Lighting

Another concern of ours is the visibility of the parking lot from our home. Even with landscaping and other structures that may be built, you will most likely still be able to see the parking lot. We do not want it to be an eye soar from our property or in general. The other concern is the parking lot lighting. We would like to know what the possible lighting options would be that may be chosen for the parking lot. This is not listed on the current plans that I received from Mr. Chun from Belles Graham, LLP. Our concern is extra lighting coming into our bedroom windows on the upper level of our home in the evening and overnight.

Concern #3 : Property Value

Our other concern is the possibly of this proposed parking lot effecting our property value do to all of the concerns listed above and where it would be located adjacent to our property. Our property is really the only one that this project

would directly effect. The only other property that it may effect would be the one located next to us on Poipu Road Lot #36.

I would like the property applicant Kawailoa Development, LLC and the County of Kauai Planning Commission to please address these concerns and give possible options and remedies to these issues.

Thank you for taking the time to review our concerns about this proposed approval for the Kawailoa Development, LLC parking lot. We greatly appreciate it.

Mahalo,

Shantell Doree and Kendall Ricklefs

Kristen Romuar-Cabico

From: Alex Stoddards <alexkstoddards@gmail.com>
Sent: Saturday, October 23, 2021 11:04 AM
To: Planning Department
Subject: GOLF COURSE - OPPOSE AMENDMENT TO ALLOW ADDTL 90 SPACES

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Aloha Planning Commission,

I and others are concerned about Agenda Item 2 'New Agency Hearing' regarding permitting for 90 additional parking stalls associated with the Hyatt/Poipu Bay Golf Club.

We OPPOSE Amending Special Use Permit SMA(U-88-31), Class IV Zoning Permit (Z-IV-88-39), Use Permit (U-88-31) and Special Permit (SP-88-6).

The report states that the incentive to develop this portion of land into a parking lot was catalyzed by:

- cars parked along Poipu Road across from the Hyatt Employee Parking Area and
- the Community 'requesting' this

We are frequently in that area and there are generally between zero-8 cars parked on that section.

We are thus doubtful that 'the Community' has asked for a parking lot to be constructed on what is now verdant land.

This proposal to construct 90 parking stalls is out of balance with any possible need that actually exists.

What is *does* seem to be in line with however is the Hyatt's apparent interest in purchase/building on additional parcels near the current Hyatt resort area.

Thus - This petition to alter many use permits to allow for NINETY parking stalls appears to be step #1 in gaining Planning Commission approval to construct more hotel rooms/tourist accommodations and/or amenities. This is something the community does NOT want.

As on Oahu and Maui, we were overrun with tourists this Summer.

It was unhealthy.

Of course many of them were located in Poipu/Koloa.

Just like the other islands, we are looking to address the problems that have come as a result.

Approving a proposal that will add cars and more tourists to this already crowded area of the island is entirely out of step with the community's desires.

- The only beneficiaries would be Hyatt/Kawailoa Dev LLP

We OPPOSE this Amendment and ask that the Planning Commission begin to malama the island.

We have already seen what has happened to Maui and Oahu especially, we do not want to knowingly go down this same path.

Mahalo

Alex Stoddards