

Appendix C

**Documentation related to Section 106 Consultations,
National Historic Preservation Act**

MEMORANDUM OF AGREEMENT

Submitted to the

ADVISORY COUNCIL ON HISTORIC PRESERVATION

Pursuant to 36 CFR §800.6(a)

Among the

**U.S. DEPARTMENT OF TRANSPORTATION, FEDERAL HIGHWAY
ADMINISTRATION**

And the

HAWAII STATE HISTORIC PRESERVATION OFFICER

And the

COUNTY OF KAUAI, DEPARTMENT OF PUBLIC WORKS

Regarding the

LYDGATE PARK TO KAPA'A BIKE AND PEDESTRIAN PATH PROJECT

Kaua'i, Hawai'i

WHEREAS, the Federal Highway Administration (FHWA) has determined that the Lydgate Park to Kapa'a Bike and Pedestrian Path Project (Project) will have an effect upon historic properties eligible for inclusion in the National Register of Historic Places, and has consulted with the Hawaii State Historic Preservation Officer (SHPO) pursuant to 36 CFR Part 800, regulations implementing Section 106 of the National Historic Preservation Act (16 U.S.C. 470(f)); and

WHEREAS, this Project, being proposed by the County of Kauai (County), Department of Public Works (DPW), is a Federal "Undertaking"; and

WHEREAS, this Project involves developing a typically 10 to 12-foot-wide multi-use recreational path for bicyclist, pedestrians, and other users along an approximately 2 mile stretch of coastline from Lydgate Park, Wailua to Kapa'a Town on the island of Kaua'i; and

WHEREAS, this Project has an "area of potential effects" consisting of lands that are either owned or under the jurisdiction of the County within project corridors generally located between Lydgate Park at Wailua north up to Kapa'a Town, and situated from the shoreline inland up to Kūhiō Highway or other privately-owned properties as shown on Exhibit A; and

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HAWAII DIVISION

WHEREAS, FHWA and County DPW have consulted with the SHPO and native Hawaiian organizations, which included the Kaua'i/Ni'ihau Islands Burial Council, Office of Hawaiian Affairs, Kaua'i Historic Preservation Review Commission, and Hui Malama I Nā Kupuna 'O Hawaii Nei under this Section 106 process which was incorporated under the environmental review process conducted under the Federal National Environmental Policy Act and State of Hawaii Chapter 343, Hawaii Revised Statutes; and

WHEREAS, FHWA will require the County DPW to carry out the agreed to stipulations identified under this Memorandum of Agreement (MOA) which are based upon the SHPD accepted *Archaeological Assessment of Alternative Routes Proposed for the Lydgate to Kapa'a Bike Pedestrian Pathway Project* final report, dated April 2004; and

NOW, THEREFORE, FHWA and the Hawaii SHPO agree that the Undertaking shall be implemented in accordance with the following stipulations in order to take into account the effect of the Undertaking on historic properties shown on Exhibit A included with this document.

STIPULATIONS

The FHWA shall ensure that the following measures are carried out:

A. Archaeological Monitoring Plan

1. Develop an archaeological monitoring plan for path improvements and amenities with provisions for addressing burial treatment that are to be implemented during construction activities.
2. The monitoring plan will be developed and implemented by a qualified archaeologist, meeting the Secretary of the Interior's Professional Qualifications Standards for Archeology (Federal Register, Vol. 48, No. 190, page 44738-9).
3. The archaeological monitoring plan will include the following major elements:
 - a. Archaeological monitoring provisions and procedures to be implemented during the course of the Undertaking's implementation; and
 - b. Specific levels of archaeological monitoring determined to be appropriate for each path section, and
 - c. A follow-up monitoring report for the Undertaking shall be submitted to State Historic Preservation Division (SHPD). The monitoring report, containing the location and description of any human burial remain discovered during the course of the Undertaking shall remain confidential and the precise location data may be provided in a separate confidential index.
4. The archaeological monitoring plan shall be submitted by the County DPW, through FHWA, to the SHPD for a 30-day review. Unless the SHPD objects within 30 days

after receipt of such Plan, the County DPW shall ensure that its provisions are implemented.

B. Mitigation Documentation for the Seaward Wailua River Bridge and Vicinity

1. Consultation will be conducted by the County DPW with the SHPD, with prior consultation with the Kauai Historic Preservation Review Commission, regarding design plans developed for improvements to the seaward Wailua River Bridge (also known as the Plantation or cane haul bridge).
2. The County DPW will consult with the architectural branch staff of SHPD prior to starting any construction activities if design plans would alter the seaward Wailua River bridge.
3. Historic American Engineering Record (HAER) documentation shall be conducted for the seaward Wailua River bridge if deemed appropriate by the architectural branch staff of SHPD
4. To avoid any possible adverse impacts to the Wailua petroglyph site (known as Ka Pae Ki'i Mahu o Wailua and designated as site 50-0-08-105A) plans will be shared with Hawai'i State Parks and the State Historic Preservation Division archaeology branch to determine the possible need for a program of subsurface testing to further evaluate the prospect of impacting any buried portion of this petroglyph site or other significant cultural properties.

C. Burial Treatment Plan

1. A burial treatment plan will be prepared when appropriate to address the preservation of any burials or other human remains encountered in the course of this project.
2. This burial treatment plan shall be prepared and presented to the Kaua'i/Ni'ihau Islands Burial Council (KNIBC) for review, consultation, and approval in accordance with Title 13, Subtitle 13, Chapter 300 of the Hawaii Administrative Rules.
3. The pertinent provisions of the KNIBC approved burial treatment plan shall be executed prior to the completion of the undertaking

D. Preservation/Interpretive Plan

1. Prepare a Preservation Plan addressing interpretive signage to be provided along the multi-use path that is reviewed and approved by the SHPD if deemed appropriate by the SHPD.
2. Consult with the SHPD, Kauai Historic Preservation Review Commission, and Kauai Health and Heritage Coastal Trails Committee in developing the interpretive signage associated with this Undertaking. Interpretive signage will be developed under the following conditions.
 - a. The timeframe for development of interpretive signage under the Preservation Plan will be limited to one (1) year from execution of this MOA.

- b. The SHPD will have 60 days from receipt of the submitted Preservation Plan to review, revise, and approve this Preservation Plan.
- c. Development and implementation of interpretive signage improvements can proceed concurrently or after construction of improvements under this Undertaking.

E. Amendments to this Memorandum of Agreement

1. Any party to this MOA may request that any term or stipulation of the MOA be amended; whereupon the parties to the MOA shall consult with each other in accordance with 36 CFR Part 800 to consider such amendment.
2. Should any party to this MOA object to the mitigative plans prepared pursuant to these stipulations within 30 days from receipt, the FHWA shall consult with the objecting party to resolve the objection. If the FHWA determines that the objection cannot be resolved, the FHWA shall forward all documentation relevant to the dispute to the Advisory Council on Historic Preservation (Council). Within 30 days after receipt of all pertinent documentation, the Council will either:
 - a. Provide the FHWA with recommendations, which the FHWA will take into account in reaching a final decision regarding the dispute; or
 - b. Notify the FHWA that it will comment pursuant to 36 CFR 800.6(b), and proceed to comment. Any Council comment provided in response to such a request will be taken into account by the FHWA in accordance with 36 CFR 800.6(c)(2) with reference to the subject of the dispute.
3. Any recommendation or comment provided by the Council to address such objections will be understood to pertain to the subject of the dispute. The FHWA's responsibility to carry out all actions under this MOA that are not the subject of the dispute will remain unchanged.

F. Termination of the MOA

1. If necessary and appropriate, SHPO may request, at any time, a review of the stipulations. This MOA shall be effective upon being signed and considered in full force and effect until replaced by future agreement, or until the Undertaking is fully implemented.
2. Interim archaeological monitoring reports for phases implemented shall be submitted to SHPD no later than 90 days from the completion of any discrete phase of the Project. Once the Undertaking has been completed, and the monitoring plan submitted and approved, this MOA shall terminate by its own course without the necessity of further action by any of the other signatories to this MOA.

G. Timeframe for Undertaking Initiation

Should the undertaking not take place within 5 years of the executed MOA, the parties shall consult in accordance with 36 CFR Section 800 to determine whether amendment should be considered.

H. Counterpart Signatures

This MOA may be executed in counterparts. Each signature page shall be incorporated into the MOA and considered a part of this MOA.

Execution of this Memorandum of Agreement by FHWA and the Hawaii SHPO, its subsequent acceptance by the Council, and the implementation of its terms, evidence that the FHWA has afforded the Council an opportunity to comment on the Lydgate Park, Wailua to Kapa'a Bike and Pedestrian Path Project and its effects on historic properties, and that FHWA has taken into account the effects of the Undertaking, on historic properties.

FEDERAL HIGHWAY ADMINISTRATION

By: Abraham Wong
Abraham Wong, Division Administrator

DATE: 4/28/06

HAWAII STATE HISTORIC PRESERVATION OFFICER

By: Peter T. Young
Peter T. Young, State Historic Preservation Officer

DATE: 6-9-2006

Concurred By:

COUNTY OF KAUAI, DEPARTMENT OF PUBLIC WORKS

By: Donald Fujimoto
Donald Fujimoto, County Engineer

DATE: 6-21-06

Concurred By:

STATE OF HAWAII, OFFICE OF HAWAIIAN AFFAIRS

By: _____
Trustee Haunani Apoliona, Chairperson of the Board of Trustees

DATE: _____

PHONE (808) 594-1888



FAX (808) 594-1865

STATE OF HAWAII
OFFICE OF HAWAIIAN AFFAIRS
711 KAPI'OLANI BOULEVARD, SUITE 500
HONOLULU, HAWAII 96813

PP _____
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AUG 4 2006

HAWAII DIVISION

HRD06/2591

July 31, 2006

Pat V. Phung
U.S. Department of Transportation
Federal Highway Administration, Highways Division
300 Ala Moana Blvd., Room 3-306
Honolulu, HI 96850

**RE: Kapa'a Bike and Pedestrian Path [Federal-Aid Project No. STP-0700-(49)]
Memorandum of Agreement (MOA), Kapa'a, Kaua'i.**

Dear Pat V. Phung,

The Office of Hawaiian Affairs (OHA) is in receipt of your July 14, 2006 submission and offers the following comments:

As is suggested in the above-listed submission, our staff feels that it is not in OHA's interest to be a concurring party to the Kapa'a Bike and Pedestrian Path Memorandum of Agreement (MOA) at this time. Thank you for the opportunity and for your continued correspondence.

Thank you for the opportunity to comment. If you have further questions or concerns, please contact Jesse Yorck, Native Rights Policy Advocate, at (808) 594-0239 or jessey@oha.org.

Aloha,

A handwritten signature in black ink, appearing to read "Clyde W. Nāmu'o".

Clyde W. Nāmu'o
Administrator

OHA Community Affairs Coordinator (Kaua'i)
3-3100 Kuhio Hwy., Suite C4
Lihue, HI 96766-1153



PP

Preserving America's Heritage

December 1, 2004

Pat V. Phung
Federal Highway Administration
Box 50206
300 Ala Moana Boulevard, Room 3-308
Honolulu, HI 96850

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DEC 13 2004
HAWAII DIVISION

REF: *Bike and Pedestrian Path, Lydgate Park to Kapa'a, STP-0700(049).*

We received your notification and supporting documentation regarding the adverse effects of the referenced project on a property or properties eligible for inclusion in the National Register of Historic Places. Based upon the information you provided, we do not believe that our participation in consultation to resolve adverse effects is needed. However, should circumstances change, please notify us so we can re-evaluate if our participation is required. Pursuant to 36 CFR 800.6(b)(iv), you will need to file the Agreement, and related documentation at the conclusion of the consultation process. The filing of this Agreement with the ACHP is necessary to complete the requirements of Section 106 of the National Historic Preservation Act.

Thank you for providing us with your notification of adverse effect. If you have any questions, please contact Carol Legard at 969-5110 or via eMail at clegard@achp.gov.

Sincerely,

Nancy Kochan
Office Administrator/Technician
Western Office of Federal
Agency Programs

ADVISORY COUNCIL ON HISTORIC PRESERVATION

12136 West Bayaud Avenue, Suite 330 • Lakewood, Colorado 80228

The National Environmental Policy Act (NEPA) environmental assessment is currently being developed and should be completed early next year.

If you have any questions or require additional information, please do not hesitate to call me at 541-2700 (extension 305).

Sincerely yours,

Pat V. Phung, P.E.
Transportation Engineer

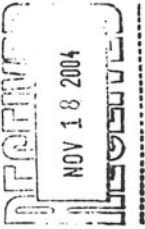
Encs: Summary of Section 106 Consultations
Draft MOA

cc w/encs: Mr. Douglas Haigh, County of Kauai
Ms. Sara Collins, State Historic Preservation Division
Ms. Nancy McMahon, State Historic Preservation Division-Kauai
/ Mr. Glenn Kimura, Kimura International, Inc.

Hawaii Division
Box 50206
300 Ala Moana Boulevard, Room 3-306
Honolulu, HI 96850

In Reply Refer To:
HEC-HI

November 16, 2004



Ms. Jane Crisler
Historic Preservation Specialist
Advisory Council on Historic Preservation
Western Office of Federal Agency Programs
12136 West Bayaud Avenue, Suite 330
Lakewood, CO 80228

Dear Ms. Crisler:

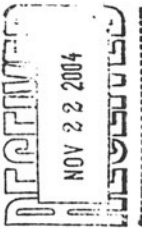
Subject: Notification of Adverse Effect
Kapa'a Bike & Pedestrian Path
Federal-aid Project No. STP-0700(049)
Kapa'a, Kauai

In accordance with Section 106 of the National Historic Preservation Act, we are notifying the Advisory Council on Historic Preservation (Council) that the Federal Highway Administration (FHWA), in cooperation with the Hawaii Department of Transportation (HDOT) and the County of Kauai, are proposing the construction of the Kapa'a Bike and Pedestrian Path project. The proposed project will have an adverse effect on the Kukui Heiau and the Wailua River Plantation Bridge. The project is also located along coastal areas that may contain previously undiscovered human remains and cultural artifacts.

The undertaking is a project to develop a multi-use path for bicyclists, pedestrians, and other users along the coastline from Lydgate Park to Kapa'a on the island of Kauai. The distance is approximately 2 miles. The path will be 10 to 12 feet wide and allow movement in both directions.

The FHWA is enclosing a report that summarizes the Section 106 consultation process to date and discusses the finding of adverse effect. The draft Memorandum of Agreement (MOA) is also enclosed for the Council's review and comment. The draft MOA outlines the steps to be taken to mitigate the adverse effect. We welcome any comments that the Council may have on the format or content of the MOA.





Hawaii Division
Box 50206
300 Ala Moana Boulevard, Room 3-306
Honolulu, HI 96850

November 19, 2004

In Reply Refer To:
HEC-HI

Mr. Peter T. Young, Director
Department of Land and Natural Resources
State Historic Preservation Division
Kākuhihewa Building, Room 555
601 Kamokila Boulevard
Kapolei, HI 96707

Attention: Ms. Sara Collins

Dear Mr. Young:

Subject: Notification of Adverse Effect
Kapa'a Bike & Pedestrian Path
Federal-aid Project No. STP-0700(049)
Kapa'a, Kauai

The Federal Highway Administration (FHWA) and the County of Kauai, Department of Public Works (DPW), in partnership with the Hawaii Department of Transportation (HDOT), have completed the initial round of consultations under Section 106 of the National Historic Preservation Act. Based on our findings, we propose that the undertaking will have an adverse effect on the following properties:

- Kukui Heiau.
- Wailua River Plantation Bridge.
- Coastal areas that may contain previously undiscovered human remains and cultural artifacts.

Pursuant to 36 CFR 800.6, we are continuing the consultation to resolve the adverse effects. Accordingly, the FHWA is transmitting a report that summarizes the Section 106 consultation process to date, and discusses the finding of adverse effect. Additionally, attached is a draft Memorandum of Agreement (MOA) that stipulates the terms under which the undertaking will be implemented in order to take into account its effects on historic properties. A draft HRS 343 environmental assessment was previously sent to the State Historic Preservation Division (SHPD). A National Environmental Policy Act (NEPA) environmental assessment will be available at a later date.



Please review the enclosures and provide the FHWA with comments pertaining to the Section 106 summary and the draft MOA.

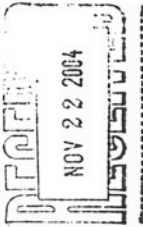
If you have any questions or require additional information, please do not hesitate to call me at 541-2700 (extension 305). We appreciate the SHPD's input and assistance.

Sincerely yours,

Pat V. Phung, P.E.
Transportation Engineer

Encs: Summary of Section 106 consultations
Draft MOA

cc w/o encs: Mr. Douglas Haigh, County of Kauai
Ms. Nancy McMahon, SHPD-Kauai
✓Mr. Glenn Kimura, Kimura International, Inc.
Ms. Christine Yamasaki, HDOT, HWY-DD



Hawaii Division
Box 50286
300 Ala Moana Boulevard, Room 3-306
Honolulu, HI 96850

November 19, 2004

Please review the enclosures and provide the FHWA with comments pertaining to the Section 106 summary and the draft MOA.

If you have any questions or require additional information, please do not hesitate to call me at 541-2700 (extension 305). We appreciate the OHA's input and assistance.

Sincerely yours,

Pat V. Phung

Pat V. Phung, P.E.
Transportation Engineer

Mr. Clyde Namu'o, Administrator
Office of Hawaiian Affairs
711 Kapiolani Boulevard, Suite 500
Honolulu, HI 96813-5249

Attention: Ms. Heidi Kai Guth

Dear Mr. Namu'o:

Subject: Notification of Adverse Effect
Kapa'a Bike & Pedestrian Path
Federal-aid Project No. STP-0700(049)
Kapa'a, Kauai

The Federal Highway Administration (FHWA) and the County of Kauai, Department of Public Works (DPW), in partnership with the Hawaii Department of Transportation (HDOT), have completed the initial round of consultations under Section 106 of the National Historic Preservation Act. Based on our findings, we propose that the undertaking will have an adverse effect on the following properties:

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Encs: Summary of Section 106 consultations
Draft MOA

cc w/o encs: Mr. Douglas Haigh, County of Kauai
Ms. Sara Collins, State Historic Preservation Division
Ms. Nancy McMahon, State Historic Preservation Division-Kauai
/ Mr. Glenn Kimura, Kimura International, Inc.
Ms. Christine Yamasaki, HDOT, HWY-DD



Section 106 of the National Historic Preservation Act

The National Historic Preservation Act (NHPA) sets forth government policy and procedures regarding "historic properties" – that is, districts, sites, buildings, structures, and objects included in or eligible for the National Register of Historic Places. Section 106 of the NHPA requires that federal agencies consider the effects of their actions on such properties. The purpose of this document is to review the Section 106 consultation process and to summarize and synthesize comments received from the State Historic Preservation Division (SHPD) and other consulted parties.

Summary of Section 106 Consultations And Finding of Adverse Effect National Historic Preservation Act

For the

Lydgate Park-Kapa'a Bike/Pedestrian Path
CMQ-0700(49)

Proposed Undertaking

The FHWA and the County of Kaua'i Department of Public Works are proposing to construct a shared use path for pedestrians, bicyclists, and other users from Lydgate Park to Waika'ea Canal in Kapa'a, a distance of approximately two miles. In addition to the north-south alignment, the project includes two mauka-makai segments: (1) in Wailua House Lots from the coastal bike/pedestrian route to the Wailua House Lots Community Park and the Nounou Mountain Trailhead and (2) in Kawaihau from the coastal bike/pedestrian route to the vicinity of Gore Park. Following the completion of the environmental planning and permitting phase, the County intends to construct the project as a design-build project.

The bike/pedestrian path will be 10 to 12 feet wide and allow movement in both directions. It is intended to accommodate a wide variety of users; however, motorized vehicles will not be allowed with the exception of motorized wheelchairs, emergency vehicles, and maintenance vehicles. The path will be constructed from concrete with graded shoulders. Under some environmental conditions, the path may be designed as a boardwalk. In other areas, existing development may preclude a full, 10-foot wide path, thereby requiring consideration of other options, such as improved, widened sidewalks.

County of Kaua'i, Department of Public Works
Federal Highway Administration

The County of Kaua'i will construct, own, and operate the facility. The project will be funded, in part, by the U.S. Department of Transportation, Federal Highway Administration.

Preferred Alignment. Three alternatives were evaluated in the Draft Environmental Assessment (see Figure 1). Based on a comparative assessment of environmental impacts, agency and community feedback received during the public review period, and more detailed examination of engineering and land acquisition issues, the County of Kauai selected a preferred alignment. The alignment, shown in Figure 2 represents a mix of the three alternatives considered in the DEA.

September 23, 2004

An important compromise was the decision to reduce the scale of path between the Seashell Restaurant and Kukui Heiau. In this section, the path will be restricted to foot traffic only; bicycles will not be allowed. The footpath will have a width of only 5 feet, rather than the 10- to 12-foot width in the shared use sections.

Lydgate Park - Kapa'a Bike/Pedestrian Path
 Draft Environmental Assessment

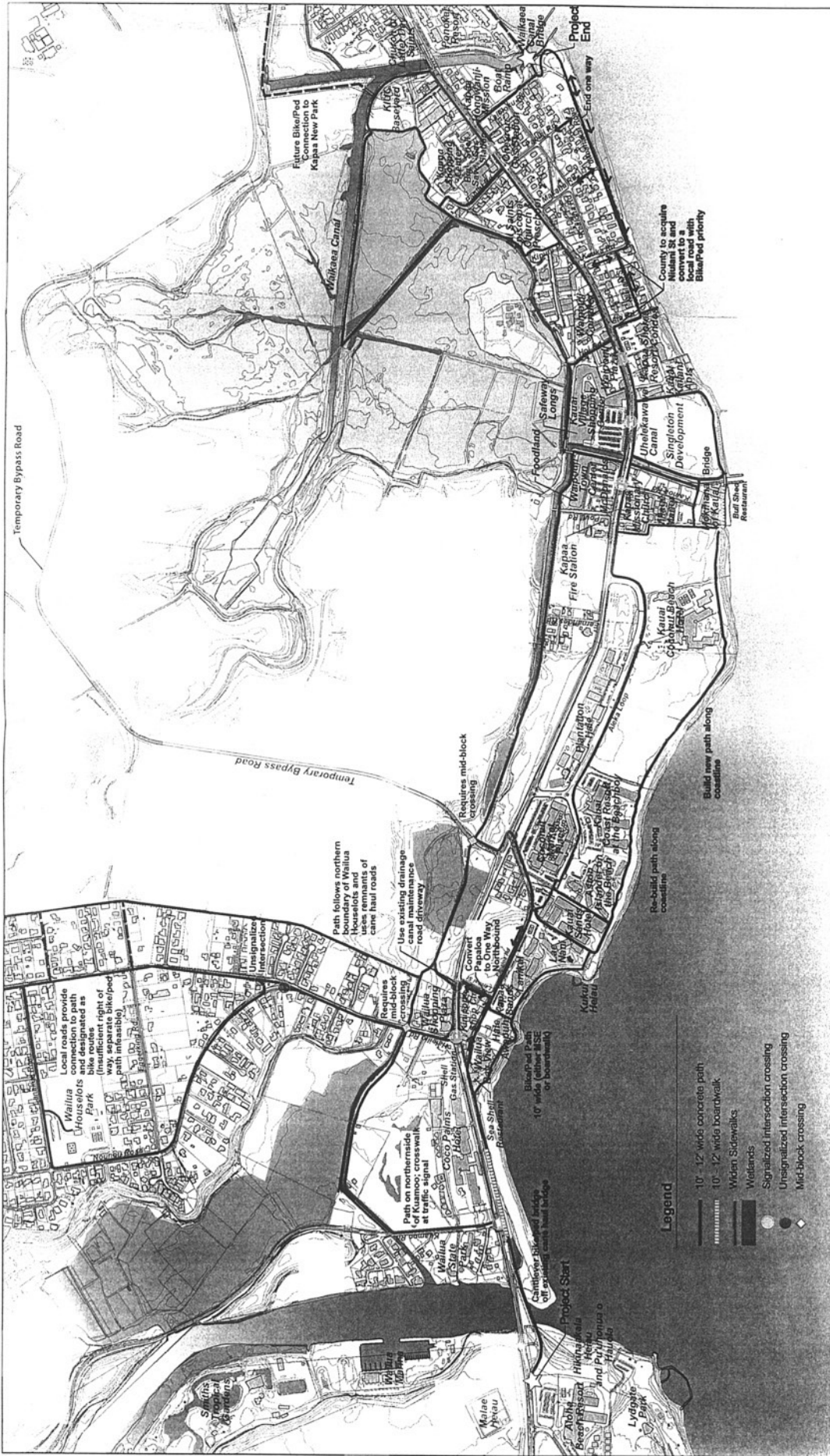


Figure 1
 Lydgate Park-Kapa'a Composite Map of Alternatives 1-3
 Lydgate Park to Waikaea Canal

Source: GIS/Kaui County Tax Assessor Data 2001, HI State GIS



May 2004

1 Mile

Lydgate Park - Kapaa Bike/Pedestrian Path

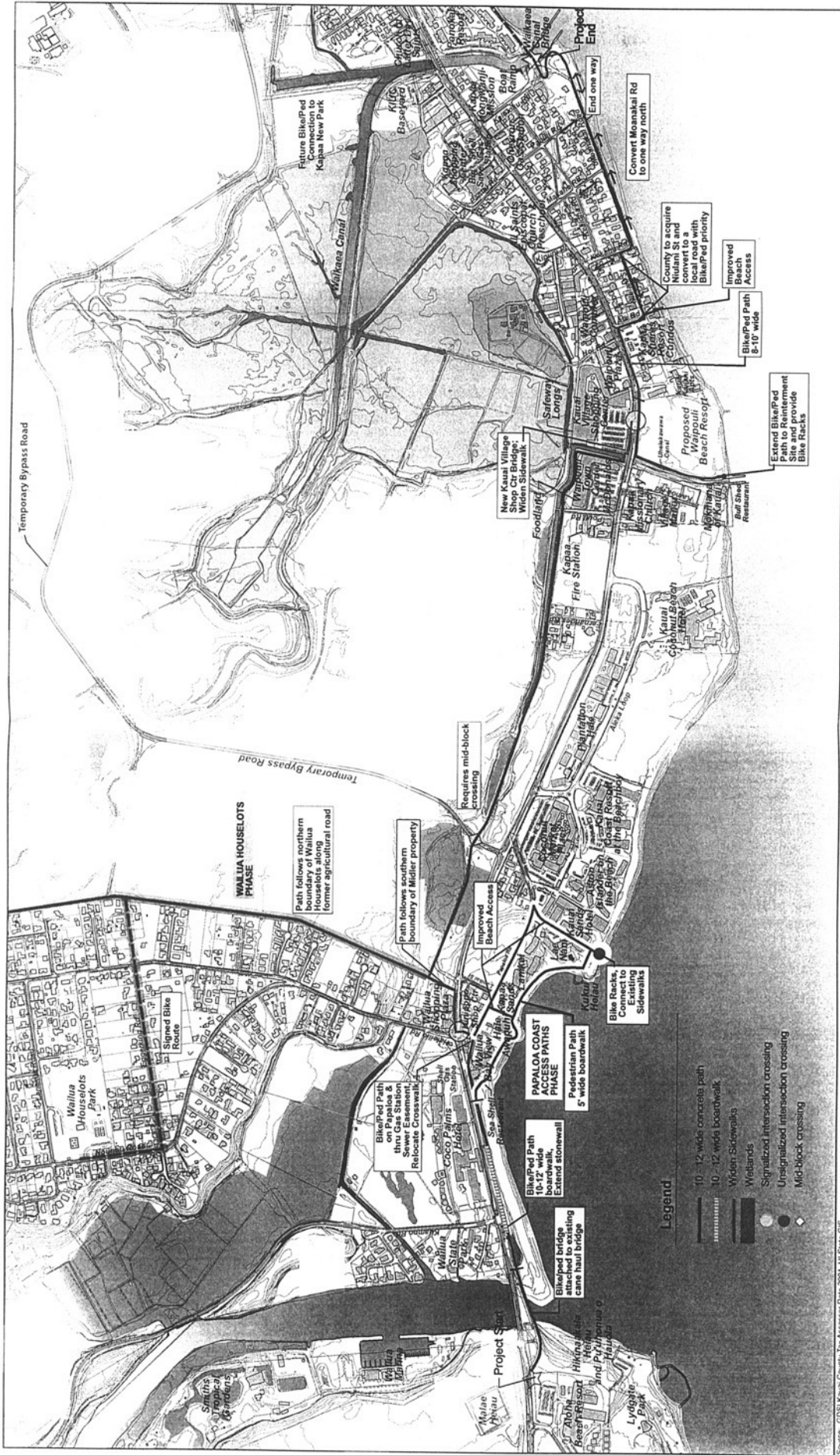


Figure 2
Lydgate Park-Kapaa Preferred Alignment
Lydgate Park to Waikae'a Canal



SOURCE: CDOT Kauai County, Fair Accession Data 2001, HI State GIS
0 200 400 800 Feet

July 2004

1 Mile

Background Studies

Three studies provided data to help identify historic properties and the ways in which the proposed action could affect them:

- Archaeological assessment
- Cultural impact assessment
- Historic resources survey

Archaeological Assessment. A study titled *Archaeological Assessment of Alternative Routes Proposed for the Lydgate to Kapa'a Bike and Pedestrian Pathway Project within the Ahupua'a of Waitua, South Oloheua, North Oloheua, Waipouli, and Kapa'a, Island of Kaua'i* was conducted by Cultural Surveys Hawai'i, Inc. (April 2004; reviewed and accepted by SHPD in June 2004). The archaeological assessment built on two previous studies by Cultural Surveys Hawai'i that covered the same general area, entitled:

- (1) *Archaeological Inventory Survey for the Kāhiō Highway Widening and Bypass Options within the Ahupua'a of Waitua, South Oloheua, North Oloheua and Waipouli and Kap'aa, Island of Kaua'i* (Hammatt et al. 1997; reviewed and accepted by the SHPD in 1998), and
- (2) *Archaeological Study in Support of Proposed Kāhiō Highway Improvements, Kapa'a By-Pass, Hanamā'ulu to Kapa'a* (Hammatt and Shideler 2003; reviewed and accepted by the SHPD in 2004).

The data developed in these prior studies were adapted to the configuration of alternative alignments for the proposed Lydgate Park-Kapa'a Bike/Pedestrian Path. Additional research conducted at the SHPD to update and incorporate the results of other recent studies. Fieldwork consisted of a pedestrian survey that focused on the coastal alternatives—in the area presenting the greatest concern for archaeological resources. The researchers also consulted with the SHPD and State Parks regarding historic sites and archaeological concerns.

Cultural Impact Assessment. The cultural impact assessment is not required under National Environmental Policy Act (NEPA), but is prescribed under Chapter 343, Hawai'i Revised Statutes. The purpose of the cultural impact assessment is to consider the effects that proposed development may have on native Hawaiians or any other concerned ethnic group in terms of their culture and their right to practice traditional customs. Because there is a geography of customs and traditions, this study also helped to locate cultural resources and what they mean to people's lives and lifestyle.

The cultural impact assessment was conducted by Cultural Surveys Hawai'i and published in two volumes (*Cultural Impact Assessment for the Kapa'a Relief Route; Kapa'a, Waipouli, Oloheua, Waitua, and Hanamā'ulu, Island of Kaua'i, May 2004*; and *Volume II: Interviews, May 2004*). Although the assessment was prepared for the Kapa'a Relief Route project, the findings are considered relevant to the bike/pedestrian path project as well. When contacted, informants were asked about cultural practices within

an area extending from Hanamā'ulu to Kapa'a, and from Kālepa Ridge/Nounou Mountain to the ocean. The boundaries of the Kapa'a Relief Route fully encompass the project area for the Lydgate-Kapa'a bike/pedestrian path.

Historic Resources Survey. An historic resources survey was conducted for the Kapa'a Relief Route project by Mason Architects. The purpose of this study, titled *Historic Resources Survey, Evaluation and Impact Assessment of Kapa'a Relief Route, Kāhiō Highway Corridor Improvements Project, Hanamā'ulu to Kapa'a*, December 2003 (reviewed and accepted by SHPD in 2004), was to survey potentially eligible historic buildings and structures along the "build" alternatives, assess project-related impacts to resources evaluated as eligible for the National Register, and recommend possible mitigation measures. Although the Mason Architect study was prepared for a different project, the data and findings are relevant to the proposed bike/pedestrian path because of the geographical overlap between the two project areas and similarity in project type—both involving linear transportation routes.

In terms of historic buildings, impacts from the bike/pedestrian path are largely limited to the public right-of-way abutting or near historic properties, except in the case of the Waitua plantation bridge, where it is proposed that a bike/footbridge be cantilevered off the historic structure.

History of Consultation (Time Line)

Scoping. Prior to the start of formal Section 106 consultations, project planners held scoping meetings and informal consultations with several agencies and individuals to discuss cultural resources in the project area. These meetings included the following:

November 18, 2003 Sara Collins, State Historic Preservation Division
January 29, 2004 LaFrance Kapaka-Arboleda, Office of Hawaiian Affairs-Kaua'i
L. Kēhaulani Kekua, Kaua'i Heritage Center
Pohaku Nishimitsu and members of Halau Kanikapahuolohi'au
June 25, 2004 Heidi Kai Guth and Matthew Myers, Office of Hawaiian Affairs-Honolulu

Initiation of Section 106 Process. To initiate formal consultation under Section 106, the FHWA sent letters to the following agencies on July 9, 2004. An example of this letter is provided in Appendix A.

- P. Holly McEldowney, State Historic Preservation Division
- Clyde Namu'o, Office of Hawaiian Affairs

Letters to other stakeholders were sent by Kimura International on July 15, 2004.

- Ian Costa, County of Kauai Planning Department
- LaFrance Kapaka-Arboleda, Kauai'i/Ni'ihau Island Burial Council
- Sabra Kauka, Na Kahu Hikinaakala
- Kunani Nihipali, Hui Malama I Ka Kupuna o Hawaii'i Nei
- Sharon Ortiz, Friends of Lydgate Park
- Daniel Quinn, Division of State Parks
- Mary Requilman, Kauai Historical Society
- David Scott, Historic Hawaii'i Foundation
- Rick Tsuchiya, Kauai Historic Preservation Review Commission

Based on the recommendation of the SHPD, letters were sent to two additional organizations on July 26, 2004.

- Pohaku Nishimitsu, Halau Kanikapahuolohi'au
- L. Kēhaulani Kekua, Kauai Heritage Center

Feedback from Consulted Parties

As of September 3, 2004, comments were obtained from six agencies, organizations, or individuals. Key points and issues of concern are summarized below.

State Historic Preservation Division
Letter dated July 12, 2004 (see Appendix B)

- Concurrence with the Area of Potential Effect (APE) as described.
- Several historic properties on or eligible for the National Register are situated along the proposed shoreline path, including the Wailua Complex of Heiau, Kukui Heiau, cultural deposits, and inadvertent burial sites.
- Prefer a more mauka route that would avoid most of the historic sites.
- Recognition that members of the public have favored the makai route.
- Given the probable adverse effects, a Memorandum of Agreement will be needed to provide for mitigation measures, including archaeological monitoring.
- Primary concern is adverse effects of close proximity to Kukui Heiau and Wailua Complex of Heiau.
- Path would need to be routed off the heiau with a sizeable buffer zone.
- Increased vegetation or landscaping buffer and signage might also help mitigate adverse effect of bicycle and pedestrian traffic.

Division of State Parks
Letter dated July 21, 2004 (see Appendix C)

- Concern about potential effects at the Lydgate end on Hikinaakala Heiau.
- Importance of maintaining historical setting and cultural landscape, including open space buffers.
- Previous archaeological testing alongside cane haul bridge did not identify any cultural deposits.
- Request for guardrails or vegetation hedges on the makai side of the path to buffer it from Hikinaakala Heiau.
- Signs are needed to increase user awareness about the heiau and keep them on the designated path.
- The petroglyph boulders are approximately 250 feet from the cane haul bridge, and no adverse impact is expected unless a new bridge is constructed makai of the cane haul bridge, in which case mitigations are needed to insure the preservation of the site.

Kauai Historic Preservation Review Commission (KHPRC)
Memoranda dated July 12, and August 9, 2004 (see Appendix D)

The KHPRC sent two memos referencing its July 1 meeting, during which the Commission discussed and passed a motion on the proposed action. The first memo (dated July 12) stated that the KHPRC concurred with the SHPD's letter dated May 4. However, the second memo (dated August 9) stated that the KHPRC concurred with the SHPD's letter of June 21. The KHPRC actually concurred with the May 4 letter by unanimous verbal acclamation.

The wording of the two SHPD letters is different, especially with regard to potential development in the vicinity of Kukui Heiau. While the actual meaning of the texts do not appear contradictory, and the SHPD has not ruled out a path mauka of Kukui Heiau, there is a change in the tone and emphasis between the two letters. The KHPRC's revised endorsement suggests that the restrictive tone of the June 21 letter is more in line with their own perspective.

May 4 letter addressed to Glenn Kimura, Kimura International, from the SHPD (responding to a request for early consultation on the DEA)

As presented in the pre-assessment consultation, our main concern is Kukui Heiau. As currently shown, the path either goes through or very close by the heiau. The path would need to be routed away from the heiau, and realistically, the only safe route is behind the heiau. Although we would prefer at least a 200-foot buffer around such a sacred site, we acknowledge that this is difficult to do at

Kukui Heiau since the privately owned Lae Nani Condominium pool itself is fairly close to the site. So, in this case, routing people of and away from the site is a better plan than current conditions at the site. The County of Kauai Public Works Department is aware of our concerns, and concurs with them.

June 21 letter addressed to David Shideler, Cultural Surveys, Hawai'i from the SHPD (providing review comments on the archaeological assessment for the project)

The coastal trail has the most potential to have an "adverse effect" on historic sites listed on or eligible for listing on the National Register of Historic Places. To the extent possible, we would recommend complete avoidance of these sites. It is also possible that, in some locations, an adverse effect may be mitigated through archaeological monitoring of ground-disturbing activities associated with the proposed path that may adversely affect cultural deposits and inadvertent burials, where subsurface construction would take place in sandy subsoils. In any case, we strongly recommend that the pathways need to be around heiau sites with substantial buffer zones established – ideally 200 feet on all sides of these sacred sites...

Kaua'i/Ni'ihau Island Burial Council (KNIBC)
Meeting with Chair, LaFrance Kapaka-Arboleda on July 2, 2004
Presentation to the Council on July 7, 2004

- Heiau needs to be taken out of private ownership. The divided interest means a sense of division within the Hawaiian community. The ownership issue needs to be resolved for the next generation.
- It might not be realistic to expect people not to go into the heiau, but it's still preferable to try to navigate most people around it.
- If there's an inadvertent discovery of iwi (human remains), KNIBC's role is advisory to the SHPD. If the burial is known, then KNIBC has jurisdiction. There's a gray area is you find a new burial within a designated burial area.
- The availability of reburial sites within the project corridor is not a problem.

Office of Hawaiian Affairs

Informal briefing held on June 25, 2004 with Heidi Kai Guth and Matthew Myers, OHA

OHA staff had met with cultural practitioners and conducted a site visit of the project area. Heidi relayed comments that were raised during those discussions.

- Good that the option of skirting the Hikinaakala Heiau had been scratched. However, to further prevent people from going through the heiau, she suggested, additional signage indicating how users can get to the path mauka of Aloha Beach Resort,

clearer wording on signs that the heiau is a sacred site, and demolishing the pavement that extends from the parking lot toward the hotel.

- At Kukui Heiau, the cultural practitioners felt it would be desirable to have a land swap with Lae Nani to put a path around the heiau. The public access between the Lae Nani and Kawai Sands was originally put in to provide access to the heiau. However, the access generates a lot of traffic from people who use it for other purposes, such as going to the keiki pool, weddings, etc. The situation is compounded by the lack of signs for the heiau on that (south) side; the only sign is on the north side.
- In terms of a buffer, what would be objectionable is fencing that would disrupt the cultural landscape. It would be preferable to plant naupaka or other native vegetation (for example, to screen the Lae Nani pool and lawn from the path). The cultural practitioners recognize that people need to go past the heiau, the issue is how they can do this with sensitivity to surrounding users (Lae Nani).
- The cultural practitioners see the shared use path as an opportunity to (1) protect cultural sites and (2) provide confirmed lateral beach access (the loss of which is perceived to be a problem on Kauai).
- They favor the shoreline alternative over the inland roads alternative because the latter includes provisions to improve the mauka-makai beach accesses, which they see as "dumping more people on the coast" without necessarily educating them about the significance of cultural resources on the coast.
- In the Wailua House Lots area, the cultural practitioners favor the northern route (W1) so that ground disturbances would occur as far away as possible from Coco Palms, where bones are likely to be found. For this reason, the path along the drainage canal mauka of Coco Palms would also be of concern.
- OHA would like to be a signatory to the MOA. OHA and the cultural practitioners would also want to be involved in developing interpretive signs.

Kēhaulani Kekua

Comments offered at a public meeting held on July 1, 2004.

- I'm concerned about the perpetuation and protection of our cultural practices. The island is growing fast. When I was a kid, roads were safe. Now it's crazy. Kids need a safe place to play, so I support the path. But I'm concerned about Kukui Heiau, which is not well taken care of. If people claim to own it, then respect it; not desecrate it. Now, the Lae Nani security guards confront people who pass by this area. I don't support a path near Kukui because of impacts on spiritual/cultural practices. But we need to have access. Route must benefit everyone (residents and visitors) in a way that doesn't take away from Kaua'i, take path away from cultural sites. Start to malamā now. The condo used to maintain the heiau site before. The community needs to participate. I like the Papaloa Road idea.

Finding: Probable Adverse Effects on Historic Sites

The project sponsors are in agreement with the SHPD that the proposed undertaking will have probable adverse effects on significant historic sites.

Hikinaakalā Heiau and Pu'uhonua o Hauola. These two sites are part of the Wailua Complex of Heiau, a National Historic Landmark. Although there are no alternatives that impact directly on Hikinaakalā or Pu'uhonua o Hauola, the Division of State Parks and OHA feel that there are unresolved issues related to the existing path in Lydgate Park and, now, the connection with the proposed Lydgate-Kapa segment. Both agencies are concerned that the north end of the path in Lydgate Park is inadequately signed to prevent people from going through the heiau. Other visual cues, such as remnant paving, appear to suggest that it's okay for people to pass through the area. Clearer design strategies are needed both at the interface of Lydgate Park and the heiau, and between the Aloha Beach Resort cul-de-sac and the bridge to deter pedestrian and bicycle traffic.

Pohaku (boulders) with petroglyphs. According to some scholars, the petroglyph pohaku are extensions of Hikinaakalā and Pu'uhonua o Hauola, which would make them equally important artifacts. However, because the boulders are an estimated 250 feet away from the cane haul bridge, the Division of State Parks feels that the proposal to attach a cantilevered bike/footbridge to the existing bridge would not affect the boulders. The State Department of Transportation is also considering a proposal to add one travel lane to the makai side of the cane haul bridge, thereby extending the structure closer to the boulders. Any endangerment to the boulders still remains unlikely, but will require further study.

Kukui Heiau. Kukui Heiau is not part of the Wailua Complex of Heiau, but for all intents and purposes, is accorded the same level of respect by the Hawaiian community. All of the stakeholders consulted have expressed concern about its current status, namely, partial ownership by a private entity and disruptions to the sacredness of the site by commercial activity (weddings), inappropriate behavior (happy hours, picnicking and littering), and people walking through the site to cross the beach. There is a spectrum of opinions on whether the proposed bike/pedestrian path should play a role in resolving the problems at Kukui Heiau.

OHA and the cultural practitioners it consulted favor the establishment of a dedicated path around the heiau with appropriate signage and landscaped separations. SHPD has repeatedly called for a "sizeable buffer" with the suggestion of 200 feet, although site conditions do not allow this much separation. SHPD has also suggested landscaping and signage, which may compensate for some of the distance desired. KHPRC is in concurrence with SHPD. Pohaku Nishimitsu, who heads a halau that is interested in being caretakers of Kukui Heiau, has stated that he favors a path around the heiau.

Other cultural practitioners, including Kēhaulani Kekua and James Alalem, are opposed to any path near the heiau or improvements to the mauka-makai access that would increase the number of people coming into the heiau site.

Burials (known sites and inadvertent discoveries). Because the path is likely to include sections that pass through sandy subsoils (for example, the Wailua Beach section), there is a high probability that the path will unearth burials or cultural artifacts. These encounters are adverse effects, but mitigation measures (such as archaeological monitoring, possible subsurface testing, and a reburial plan) are straightforward and readily addressed in the MOA.

Wailua River Plantation (or Cane Haul) Bridge. An historic resources survey, *Historic Resources Survey, Evaluation and Impact Assessment of Kapa'a Relief Route, Kāhiō Highway Corridor Improvements Project, Hanamā'ulu to Kapa'a*, (Mason Architects, December 2003) concluded that the plantation bridge meets the National Register of Historic Places, Criteria A (contributing to the broad patterns of local history) and C (distinctive type of construction). The new bike/pedestrian path includes a proposal either to attach a cantilevered structure to the existing plantation bridge or construct a free-standing bridge on the makai side of the plantation bridge. Although the bridge has been modified in the post-World War II era, the Mason Architects study noted that "the bridge retains enough original physical features to convey the feeling and association of its historic character and use as a railroad bridge." Which ever bridge option is implemented, there would be an effect on the bridge's design and appearance.

The study recommended Historic American Engineering Record (HAER) documentation of the bridge, with the appropriate level of document to be determined by SHPD and/or installation of a historic marker near the site describing the history of the bridge, including historic photo(s) of it.

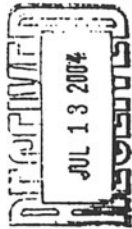
Coco Palms. OHA expressed concerns about the possibility of encountering burials in the Coco Palms area. The route along the drainage canal, mauka of Coco Palms, was dropped from the preferred alignment.

Resolution of Adverse Effects

The County and FHWA have indicated that they will prepare a Memorandum of Agreement (MOA) that specifies the measures to be taken to avoid, minimize, and/or mitigate adverse effects. A draft of the MOA accompanies this summary document. Consultation with the SHPD, and other signatory agencies are ongoing to finalize the MOA. The completed MOA will be included in the Final Environmental Assessment.

Attachments

- A. Example of letter requesting comments under the Section 106
- B. State Historic Preservation Division, letter dated July 12, 2004
- C. Division of State Parks, letter dated July 21, 2004
- D. Kauai Historic Preservation Division, memoranda dated July 12, 2004 and August 9, 2004



ATTACHMENT A

Hawaii Division
Box 50206
300 Ala Moana Boulevard, Room 3-306
Honolulu, HI 96850

July 9, 2004

In Reply Refer To:
HEC-HI

Ms. P. Holly McElDowney, Administrator
State Historic Preservation Division
Kākuhihewa Building, Room 555
601 Kamohila Boulevard
Kapolei, HI 96707

Attention: Ms. Sara Collins

Dear Ms. McElDowney:

Subject: Section 106, National Historic Preservation Act Consultation
Lydgate Park to Kapa'a Bike and Pedestrian Path,
Project No. CMAQ-0700(49)

Pursuant to Section 106 of the National Historic Preservation Act and the Advisory Council on Historic Preservation's regulations for Protection of Historic Properties (36 CFR Part 800), the Federal Highway Administration (FHWA) is notifying you of a proposed federal undertaking that would have an adverse effect on historic properties listed in or eligible for the National Register of Historic Places.

This letter is also intended to initiate consultation under the State of Hawai'i's Chapter 6E-8 Historic Preservation review/consultation. Additionally, this is a follow-up to the letter that was sent to the State Historic Preservation Division (SHPD) on June 21, 2004.

A project-specific archaeological study prepared by Cultural Surveys Hawai'i was submitted to your agency for review on June 2, 2004. In addition, a Draft Environmental Assessment (EA), in accordance with HRS 343, has been completed and also submitted to your agency for review. The deadline for comments on the latter was July 8. Please note that the National Environmental Policy Act (NEPA) environmental assessment will be issued at a later date. At this stage, project sponsors are considering several alternative Bike and Pedestrian Path alignments. The preferred alignment will be selected following receipt of comments on the Draft EA and prior to completing the Final EA.

Project Description

The FHWA and the County of Kaua'i Department of Public Works are proposing to construct a shared use path for pedestrians, bicyclists, and other users from Lydgate Park to Waikā'ea Canal in Kapa'a, a distance of approximately two miles. In addition to the north-south alignment, the

project includes two mauka-makai segments: (1) in Wailua House Lots from the coastal bike/pedestrian route to the Wailua House Lots Community Park and the Nounou Mountain Trailhead, and (2) in Kawaihau from the coastal bike/pedestrian route to the vicinity of Gore Park. Following the completion of the environmental planning and permitting phase, the County intends to construct the project as a design-build project.

Figures 1, 2, and 3 show the locations of all alternatives being considered for the proposed shared use path. The bike/pedestrian path will be 10 to 12 feet wide and allow movement in both directions. It is intended to accommodate a wide variety of users; however, motorized vehicles will not be allowed with the exception of motorized wheelchairs, emergency vehicles, and maintenance vehicles. The path will be constructed from concrete with graded shoulders. Under some environmental conditions, the path may be designed as a boardwalk. In other areas, existing development may preclude a full, 10-foot wide path, thereby requiring consideration of other options, such as improved, widened sidewalks.

The County of Kaua'i will construct, own, and operate the facility. The project will be funded, in part, by the U.S. Department of Transportation, Federal Highway Administration.

Proposed Area of Potential Effect (APE)

On June 10, 2004, a telephone call was held between Sara Collins of your staff and consultant Glenn Kimura. During this conversation, a preliminary APE for this undertaking was defined as the extent of the construction zone for the final alignment. This would include the path, shoulders, cut and fill areas, and other areas required for construction. At Dr. Collins's suggestion, the APE will also include the view plane of the entire Wailua Complex of Heiau National Historic Landmark (NHL).

Historic Properties within the APE

The following is a brief summary of historic properties within each segment that may be affected by the undertaking. The study by Cultural Surveys Hawai'i provides more detailed discussions of the sites. (See Figure 4.)

The Wailua River, its estuary and bluffs, Coco Palms Resort, Wailua River State Park, and the Wailua Complex of Heiau NHL are all located within the study area.

The greatest potential impact to historic resources would be associated with construction within Wailua Beach, on the makai side of Kūhiō Highway fronting the Coco Palms Hotel property, and along the shoreline extending north to the Kukui Heiau. Furthermore, alternative alignments continue further north along the shoreline fronting a number of condominium developments and vacant undeveloped shoreline property. In addition, construction may occur around the Coco Palms property. The impacts to historic properties would be associated with the significant number of known burials, sensitive archaeological sites, and concerns regarding impacts to view planes within the Wailua Complex of Heiau NHL.

Proposed Mitigation of Adverse Effects Through Implementation of the Memorandum of Agreement (MOA)

Regardless of which alternative is selected, there is a high probability that the project will have an adverse effect on some historic properties, such as subsurface cultural layers and possible burial sites.

Procedures to minimize and mitigate adverse effects of the preferred alternative will be developed in a MOA between the County of Kauai, the FHWA, the SHPD, the Advisory Council on Historic Preservation, and other possible parties.

Consulted Parties

A preliminary list of consulted parties is listed below, and we are open to others.

- DLNR State Parks Division
- Kauai County Planning Department
- Kauai Historic Preservation Review Commission
- Na Kahu Hikimaakala (citizen caretaker group)
- Office of Hawaiian Affairs
- Iiui Malama I Na Kupuna O Hawaii Nei
- Kauai Ni'ihau Island Burial Council
- Friends of Lydgate Park
- Kauai Historical Society
- Historic Hawaii Foundation
- Advisory Council on Historic Preservation

Request for Comments

Your comments on the APE, consulted parties, or potential project impacts are welcome. Please transmit any comments that your organization may have to the FHWA within 30 days upon receipt of this letter. If you have any questions, or would like further information, please contact me at (808) 541-2700, extension 305.

Sincerely yours,

Pat V. Phung

Pat V. Phung, P.E.
Transportation Engineer

Enclosure

By Certified Mail

cc: Doug Haigh, County of Kauai
/ Glenn Kimura, Kimura International
Christine Yamasaki, HDOT, HIWY-DD

ATTACHMENT B

PETER T. EDWARDS
CHIEF OF BUREAU OF HISTORICAL RESOURCES
COMMISSION ON HISTORICAL RESOURCES MANAGEMENT
1505 KALANANAKU AVENUE, SUITE 200
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STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

HISTORIC PRESERVATION DIVISION
KAOHAKAHEWA BUILDING, ROOM 855
1515 KALANANAKU BOULEVARD
HONOLULU, HAWAII 96813



July 12, 2004

Mr. Pat Phung, P.E., Project Engineer
US Department of Transportation
Federal Highways Administration
Hawaii Division
P O. Box 50206
Honolulu, Hawaii 96850

LOG NO: 2004.2116
DOC NO: 0407NNM07

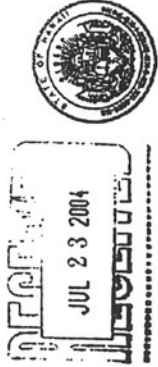
Dear Mr. Phung:

SUBJECT: National Historic Preservation Act, Section 106 Compliance - Historic Preservation Review of a Preliminary Scoping Letter for the Lydgate Park - Kapa'a Bike & Pedestrian Path
Lihue and Kawaihau Districts, Kaua'i Island
TMK: (4) 3 & 4

Thank you for the opportunity to comment on the proposed Lydgate Park-Kapa'a Bike & Pedestrian Path, we received the subject letter on June 22, 2004 and provide the following comments for your consideration and action.

We concur with the Area of Potential Effect (APE) as described; at least several historic properties placed on or eligible for placement on the National Register of Historic Places are situated along the proposed shoreline path. These properties include the Waihua Complex of Heiau, Kukui Heiau, cultural deposits and inadvertent burial sites. In general, given the potential adverse effect the shoreline path may have on these significant historic properties, we would prefer a more meandering route that would avoid most of the historic sites, although members of the public have favored the meandering route.

Given the probable adverse effects of the proposed undertaking on these significant historic sites, a Memorandum of Agreement will be needed that provides for mitigation measures. For example, monitoring may be appropriate in areas where subsurface construction would take place in sandy soils with probable cultural deposits and inadvertent burials; this can be addressed in the Memorandum of Agreement. Our primary concern is adverse effects the close proximity of the bike and pedestrian path will have on Kukui Heiau and Waihua Complex of Heiau. The path would need to be routed off the heiau, with sizeable buffer zones established as well. Increased vegetation or landscape barriers and the installation of appropriate signage might also help mitigate the adverse effect that bicycle and pedestrian traffic would have on these sensitive sites.



LINDA L. HIGGINS
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
DIVISION OF STATE PARKS
POST OFFICE BOX 621
HONOLULU, HAWAII 96809

PETER T. YOUNG
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON HISTORIC PRESERVATION
DAY DAVIDSON
DEPUTY DIRECTOR - LAND

YVONNE Y. LU
DEPUTY DIRECTOR - WATER
ADULTIC RESOURCES
BUREAU OF CONSERVATION
COMMISSION ON HISTORIC PRESERVATION
COMMISSION ON NATURAL RESOURCES MANAGEMENT
COMMISSION ON WATER RESOURCES MANAGEMENT
COMMISSION ON WILDLIFE AND RESOURCES MANAGEMENT
HONOLULU ISLANDS LAND
HISTORIC PRESERVATION
STATE PARKS

Finally we recommend consulting with a few more parties, such as the several *kaikai*'s who wanted to be caretakers of Kukui Heiau. In particular, Pohaku Nishimitsu and Kechau Kekua should be included in any future consultation efforts. We believe the Office of Hawaiian Affairs on Kauai has their contact numbers and could provide them to you or your consultants

We hope this letter addresses your concerns. If you have any questions about archaeological matters, please call Nancy McMahon 742-7033. If you have any questions about burial or cultural matters, please contact Nathan Napoka, Branch Chief, History and Culture Branch, at 587-0192

Sincerely,

Nancy McMahon

Ms. Nancy McMahon
Peter T. Young, Chairperson and
State Historic Preservation Officer

NM: sky

C: Ian Costa, Planning Department, County of Kauai
Chair, Kauai/Niihau Islands Burial Council
Chair, Kauai Historic Preservation Review Commission
Nathan Napoka, Branch Chief, History and Culture Branch

July 21, 2004

Mr. Glenn Kimura
Kimura International
1600 Kapi'olani Blvd., Suite 1610
Honolulu, Hawaii 96814

Dear Mr. Kimura:

SUBJECT: Section 106 Consultation for Lydgate Park to Kapa'a Bike and Pedestrian Path, Kauai

Thank you for the opportunity to comment on the proposed bike and pedestrian path segment that runs from Lydgate Park to Kapa'a. The path at the Lydgate end may potentially impact the Hikinaakala Heiau Area of Wailua River State Park. Hikinaakala Heiau is one of the four *heiau* that comprise the Wailua Complex of Heiau, a National Historic Landmark established in 1962. It is important that the historical setting and cultural landscape of the site be maintained, including open space buffers around the *heiau* and mitigating potential impacts of increased visitor traffic at the site from the construction of this path. Previous archaeological testing alongside the canehaul bridge did not identify any cultural deposits that might be impacted by the construction of the path.

In regards to the path along Kuhiō Highway and *mauka* of Hikinaakala Heiau, we have requested that guardrails or vegetation hedges be installed along the *maka* side of the path as a mitigating measure. We would like to recommend the installation of interpretive signs at the cul-de-sac to heighten visitor awareness and keep users on the designated path. In our comments on the Draft Environmental Assessment to the County of Kauai, we expressed concern about how the existing path in Lydgate Park currently ends across the roadway from Hikinaakala Heiau with no indication of the route from this point. It is imperative that this matter be addressed with signage and/or designation of a path that will not direct bikers and walkers into the *heiau* area.

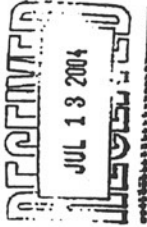
The archaeological site map (Fig. 4) with the alternative routes for the path suggests a close proximity to the petroglyph boulders along the southern bank of the Wailua River. The distance between the boulders and the bridge is estimated to be 250 feet which should be adequate to avoid any adverse impacts. However, if a new bridge is constructed over the river, mitigating measures should be designed to insure the preservation of this site.

Very truly yours,

DANIEL S. QUINN
State Parks Administrator

cc: Na Kahu Hikina A Ka La
Wayne Souza, Kauai District State Parks
Nancy McMahon, Historic Preservation Division

ATTACHMENT D-1



COUNTY OF KAUAI
PLANNING DEPARTMENT
4444 RICE STREET, SUITE A473
LIHUE, KAUAI, HAWAII 96766-1326

MEMORANDUM

DATE: July 12, 2004
TO: Kimura International, Inc.
FROM: Kauai Historic Preservation Review Commission
SUBJECT: Lydgate To Kapua Bike & Pedestrian Path

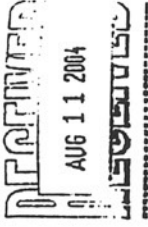
This is to inform you that the Kauai Historic Preservation Review Commission (KHPRC) met on July 1, 2004 to review your request for input on the above referenced project as part of the Section 106 pre-consultation process. It is the KHPRC's understanding that a draft environmental assessment that identifies the historic resources in the project area is also in the process of being finalized.

In light of this information, the KHPRC concurred with the State Historic Preservation Division's letter dated May 4, 2004.

Thank you for attending the meeting and providing an informative presentation regarding this project.

cc: State Historic Preservation Division - Susan
Planning Dept.
County Department of Public Works - Doug Haigh

ATTACHMENT D-2



COUNTY OF KAUAI
PLANNING DEPARTMENT
4444 RICE STREET, SUITE A473
LIHUE, KAUAI, HAWAII 96766-1326

MEMORANDUM

DATE: August 9, 2004
TO: Kimura International, Inc.
FROM: Kauai Historic Preservation Review Commission
SUBJECT: Lydgate To Kapua Bike & Pedestrian Path, Section 106 Review

This is to inform you that the Kauai Historic Preservation Review Commission (KHPRC) met on August 5, 2004 to review your request for input on the above referenced project as part of the Section 106 consultation process. It is the KHPRC's understanding that a draft environmental assessment that identifies the historic resources in the project area is also in the process of being finalized.

In light of this information, the KHPRC concurred with the letter from SHPD dated June 21, 2004. The KHPRC also stressed the historic value of the sites and strongly recommend that the pathways need to be located around heiau sites with substantial buffer zones established 200 feet on all sides around sacred sites.

Thank you for the opportunity to comment on this matter. The KHPRC looks forward to further consultation in the development of the MOA and as this project progresses.

cc: State Historic Preservation Division - Nancy
County Department of Public Works - Doug Haigh

