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Dear Sirs and Madam:

Subject: The Villages of 'Āina Le'a, LUC Docket No. A87-617
Draft Environmental Impact Statement
TMK(s) (3) 6-8-001: 025, 036, 037 (por.), 038, 39, and 40 (por.), and
(3) 6-8-002: 019 (por.)
South Kohala, Hawai'i

The Office of Planning (OP) has reviewed the Draft Environmental Impact Statement (DEIS) for the above referenced project for a planned residential golf community and supporting facilities and infrastructure on approximately 1,128 acres of land, of which 1,060 acres was redistricted to the State Urban Land Use District by the State Land Use Commission (LUC) in 1989 (LUC Docket No. A87-617).

OP comments and concerns follow. OP's primary concern is that the DEIS does not adequately assess the cumulative and secondary impacts of the project because it lacks a comprehensive analysis of the additional impacts of development proposed for the adjacent lands still owned by Bridge 'Āina Le'a, LLC (Bridge), that are still part of the larger Project site.

1. **Change in Scope of DEIS.** The original scope as set forth in the November 2007 Environmental Impact Statement Preparation Notice was for the Villages of Aina Lea, covering approximately 3,000 acres of land. The current DEIS covers only a portion of the Villages of Aina Lea, over approximately 1,128 acres. The DEIS states it is not intended to support development of the approximately 863 residential agricultural lots, golf courses, and related infrastructure on the remaining lands of the original 3,000-acre project. However, the two projects are inextricably linked through a Joint Development Agreement between Bridge and DW 'Āina Le'a (Applicant) and there is a reliance on common infrastructure, such as primary roads and access points, potable and non-potable water systems, drainage and stormwater infrastructure, schools, utilities, etc.

The failure to include the proposed Bridge development in assessing the potential impacts and mitigation required for infrastructure and facilities that will serve the entire property renders the DEIS inadequate. Planned development on the adjacent lands is not incorporated in much of the technical studies prepared despite having County entitlements for residential lots and golf courses. For example, the two primary roads and access points proposed for the Applicant's project are also the primary roads and access points for the adjacent Bridge lands, thus, the Traffic Impact Analysis Report (TIAR) should include trips that would be generated on Bridge lands under full build out. The assessment of cumulative and secondary impacts is inadequate without a comprehensive analysis of potential impacts of development of the entire Project site, including the Bridge lands.

Section 11-200-7, Hawaii Administrative Rules provides that “[a] group of actions proposed by an agency or an applicant shall be treated as a single action when: (A) The component actions are phases or increments of a larger total undertaking; [or] (B) An individual project is a necessary precedent for a larger project.”

The Villages of Aina Lea is located over 3,000 acres, not just the 1,128 acres covered by the DEIS. The development of the remaining 1,872 acres is dependent upon the infrastructure described in the DEIS. Accordingly, the DEIS' failure to cover the entire 3,000 acres is a fatal flaw that must be corrected. See e.g., Sierra Club v. Department of Transportation, 115 Hawaii 299, 336-338 (Hawaii 2007). Given the enormity of this failure and the amount of new information that must be added to the FEIS, we believe a new DEIS should be drafted and the entire notification period should start again.

2. **Timetable for Completion of Affordable Housing.** The timeframe given for the completion of the affordable housing units is 2012. OP notes that under Condition 1b of the LUC's A87-617 Decision and Order, 385 affordable units are to be ready for occupancy in November 2010. The DEIS fails to discuss the additional Land Use Commission approval needed to amend the existing Decision and Order, and the social impact of the resulting loss of public confidence in the land use entitlement process, and in government in general. See p. xiii of the DEIS. LUC approval of an amended Decision and Order is not guaranteed. Accordingly, the DEIS also needs to discuss what would be needed, along with any additional possible impacts of accelerated development, in order to comply with the existing November 17, 2010 deadline.
3. **Commercial Village Boundary—Conformance with LUC Conditions, County Plan Designations.** The proposed setback for the commercial village is approximately 500 feet from Queen Ka'ahumanu Highway (pg. 2-11), and the makai boundary does not conform to the General Plan land use designation boundary in Figure 5, *Hawaii County General Plan*. The 500-foot setback does not comply with Condition 3 of the Decision and Order for LUC Docket A87-617, which imposed a 1,200-foot setback from the highway. The FEIS should clarify how this will be resolved and whether a General Plan land use map amendment would be required for the reduced setback. LUC approval of an amended Decision and Order is not guaranteed. Accordingly, the DEIS also needs to discuss what alternatives exist to comply with the existing Decision and Order, and if the amended Decision and Order was issued, what social impacts would result from the loss of public trust in the integrity of the state land use entitlement process. The FEIS should also identify how the buffer area will be preserved in perpetuity as required under Condition 3 of the LUC's Decision and Order.
4. **Development Phasing and Timetable.** The information provided does not provide a clear picture of the timeframe and phases of development. The FEIS should be supplemented with estimated timeframes for each phase and a map showing the proposed phases with respect to the conceptual master plan.
5. **Impact on Queen Ka'ahumanu Highway.** The FEIS should discuss any State Department of Transportation's (DOT) plans to increase capacity along the affected sections of Queen Ka'ahumanu Highway, as well as concerns and recommendations raised by DOT with respect to the proposed project improvements at the Mauna Lani and northern/emergency evacuation road access points. As stated above, the traffic impact analysis should include the full development of the 3,000 acres of the Villages of Aina Lea.

6. **Timeframe for Completion of the Northern/Emergency Evacuation Road.** The timeframe for completion of the proposed mauka-makai road is unclear. Various sections of the DEIS and the TIAR state the road will be built in Phase I; other sections link the completion of the road with financing through the Community Facilities District (CFD) bonds. The FEIS needs to clarify when the mauka-makai road is to be constructed and completed. Timing in relation to project build-out is essential to understand the traffic impacts of the development.
7. **Community Facilities District.** Additional information on the CFD, project components that will use CFD bond financing, and the current status and schedule for CFD bond financing is needed in the FEIS.
8. **Energy and Electrical Demand.** The FEIS must include a more detailed description of the energy conservation and efficiency and renewable technologies that will be incorporated into the project. Commercial energy demand should be included in the FEIS' estimates of electrical energy use. In addition to a discussion of the impacts of increased carbon emissions and continued reliance upon fossil fuels as a primary or secondary result of this project, the FEIS must examine the mitigation alternatives which can reduce fossil fuel use. Section 11-200-17(M), HAR, states:

“M. The draft EIS shall consider mitigation measures proposed to avoid, minimize, rectify, or reduce impact, including provision for compensation for losses of cultural, community, historical, archaeological, fish and wildlife resources, including the acquisition of land, waters, and interests therein. Description of any mitigation measures included in the action plan to reduce significant, unavoidable, adverse impacts to insignificant levels, and the basis for considering these levels acceptable shall be included. Where a particular mitigation measure has been chosen from among several alternatives, the measures shall be discussed and reasons given for the choice made. Included, where possible and appropriate, should be specific reference to the timing of each step proposed to be taken in the mitigation process, what performance bonds, if any, may be posted, and what other provisions are proposed to assure that the mitigation measures will in fact be taken.”

Accordingly, even if the mitigation alternatives are determined to be too expensive or inappropriate for this site, the analysis must be conducted to allow the appropriate decision-makers to make an informed decision. Although the

DEIS generally mentions sustainable guidelines or principles, it does not conduct the analysis to determine how these guidelines or principles are implemented, specifically for this project. So, there is no adequate description of the mitigation measures included in the action plan to reduce impacts to insignificant levels, the basis for considering these levels acceptable, or a discussion on why certain alternatives were chosen over other alternatives.

9. **Invertebrate Survey.** The DEIS does not include information on invertebrate species on or in proximity to the project site or in any lava tubes or caves on the property that may be impacted by project development. The FEIS should provide information on whether any species of concern are present at the property or have been identified as being present in the region, such as the blind cave spider, and propose mitigation efforts if discovered even inadvertently.
10. **Archaeological and Historic Resources.** The FEIS Volume I should include a map that displays the general location and alignment of the historic cattle trail with respect to the project's conceptual master plan, and set forth the process that will be followed if remains are discovered during development.
11. **Drainage and Stormwater Management.** Volume I of the FEIS should include a map that displays and labels the major drainage systems, streams, and gulches referred to in Volume I, including the approximate location of stream or gulch crossings. The FEIS should also clarify whether the on-site drainage facilities will be designed to the 10-year or 50-year storm.

The FEIS should discuss the relationship of both surface and subsurface runoff or stormwater flows from or across the property to the Puakō flood plain, designated Zone A in the Flood Insurance Rate Maps. If runoff from or through the property contributes to discharges to the Puakō flood plain, then it is not clear why stormwater flows and drainage for the project were not evaluated with respect to 100-year flood events.

The FEIS should examine the use of Low Impact Development (LID) techniques to manage the quantity and quality of stormwater and runoff on and offsite. The absence of any analysis renders the DEIS incomplete.

12. **Water.** Please clarify which land use the golf lodge is included in with respect to potable water demand in Table 8. Is the potable water demand for parks/open space for fixtures and drinking water or irrigation or both? Furthermore, the DEIS should include a discussion as to how the additional water use will impact the salinity levels of the water leaking into the coastal waters, and whether there

are any sensitive environmental locations that may be affected, such as anchialine ponds.

13. **Wastewater Treatment and Disposal.** Please clarify whether injection wells will or will not be used in conjunction with the wastewater treatment plant. The FEIS Volume I should identify how the Applicant plans to dispose of wastewater sludge since it can't be disposed of at Kealakehe Wastewater Treatment Plant. Although the re-use of sewage effluent does result in the conservation of water, the DEIS should also include a more in-depth discussion on the impact of the higher nutrient loads leaking into the near shore waters from the Project site, and the possible usefulness of additional monitoring wells.
14. **Solid Waste.** The County's Department of Environmental Management, Solid Waste Division commented that the Puakō transfer station is not sized for the project's residential garbage, and that because of the project's size, the Applicant should institute a garbage collection and recycling program to serve the planned development. This should be reflected in the body of the FEIS. Reference on page 4-26 to individual households taking garbage to the transfer station should be deleted. The DEIS also includes only a passing reference to the preparation of a solid waste management plan review for the Department of Public Works, and the inclusion of an educational component for residents. It fails to include any actual analysis on alternatives to reduce solid waste disposal. The DEIS's focuses upon the availability of landfill space, rather than the potential to reduce the need for landfill space.
15. **Residential Component.** Passing reference is made to marketing of the project to the second home market. Please provide a clearer description of the project's targeted market groups, the types of residential products envisioned for the project, and the expected price ranges for the different product types.

The FEIS should also describe the workforce housing referenced in the DEIS, the nature of the partnerships the Applicant is seeking to provide workforce housing, and how the workforce housing units will be distributed among the different housing types.

16. **School and Community Facilities.** The Applicant proposes to provide sites on Agricultural District lands owned by Bridge for a public school site, regional community center, and an active park. It would be helpful to the user to map the general location of these sites with respect to the project's conceptual master plan.

The FEIS should also note that a district boundary amendment or a State Special Permit would be required for a school or community center that is proposed for

Agricultural District lands. The Department of Education (DOE) should be consulted, and their comments incorporated in the FEIS, as to whether they would accept a school site that is classified Agricultural. It is probable that the project will be subject to DOE's impact fee authority. The body of the FEIS should state DOE's position regarding the impacts and mitigation required for the project. The DEIS also fails to discuss whether additional Land Use Commission approval will be sought to site the school on agricultural land, contrary to the original representations before the LUC and the existing Decision and Order, and also fails to discuss the resulting loss of public confidence in the land uses entitlement processes. See p. xiii of the DEIS. The FEIS should also include an analysis of the school on-site as an alternative proposal in case the LUC does not amend the Decision and Order.

The DEIS also proposes that the ten-acre community park will be enlarged to sixteen acres, but built after Phase I is completed, contrary to existing county requirements. The FEIS should discuss the social and community impacts on the affordable housing units if the construction of the sixteen acre park is delayed.

Comments on Sections 5, 6, and 7

17. **Section 5, Alternatives**, does not provide an alternative conceptual development plan to the original or the proposed project, i.e., an alternative to a residential golf community. The preferred alternative and Alternatives 5.3 and 5.4 represent variants of the original golf community proposal of Alternative 5.2.
18. **Section 6.2** does not include a discussion of the State Functional Plans, Chapter 226, HRS.
19. **Section 6.4** should discuss conformance with the State land use district standards in Chapter 205, HRS.
20. **Section 6.6**, the discussion on page 6-16 following General Policy 5 is not consistent with statements made elsewhere that the long-term impact of planned development on groundwater resources in the mauka-makai corridor is problematic, and will require a coordinated strategy to assure resource protection. The text should be modified to reflect this.
21. **Section 7.1**, Foreclosure of future options. The residential golf community model forecloses the option of a more compact, mixed use village that has a smaller footprint and better integration of different land uses within a community or regional center, such as is contemplated in the transit oriented development (TOD) nodes that are to guide and shape growth in the Kona Community

Development Plan area. The FEIS should include the consideration of a mixed-use village as an alternative.

22. **Section 7.2**, Cumulative and Secondary Impacts. The project as designed continues the region's reliance on the visitor industry to drive economic development and job opportunities.
23. **Section 7.4**, paragraph 1, page 7-5, OP recommends deletion of "minimal" in the sentence discussing the loss of natural open space and the impacts on existing viewsheds. While the profile of the planned development may be low and landscaped, the project will fill a broad swath of land with structures and manmade landscaping, which will be much more evident at night.
24. **Section 7.4**, Project development will also harden the landscape, increasing impermeable area and contributing to urban heat island effects. The DEIS must analyze these impacts, and what types of mitigation efforts can be made.

Other Comments

25. As a precautionary measure, OP recommends the FEIS reflect a stronger commitment to establishing and preserving the 500-foot buffer area for the red 'ilima and the preservation of the identified burial site at the outset of the project. This will ensure that encroachment on these sensitive resource areas is prevented during the field and construction phases of the project and its support facilities.
26. OP notes that the establishment of essentially two commercial/service centers in the conceptual master plan, one within the project and one on the edge of the project near the highway, will result in more dispersed traffic patterns, greater reliance on motorized vehicles to access goods and services, and lower the potential for the mixed use area to really function as the "heart" of the community.
27. The DEIS contemplates several violations of the Land Use Commission's Decision and Order. The DEIS needs to fully and completely list and describe all past and contemplated future violations of the LUC conditions and representations made before the LUC, and must discuss the social impacts of the erosion of public trust in land use regulatory processes, and in government in general, should the LUC allow these violations through either amendments to its Decision and Order or through non-enforcement.
28. Table 1 describes the affordable housing units as being built upon TMK 6-8-001:36. But Figure 4 appears to place the affordable units on a separate TMK

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parcel, possibly TMK 6-8-001:39. The FEIS needs to include a photograph of the area with a TMK overlay to demonstrate upon what parcel the affordable units are being built.

Clarifications/Corrections for FEIS

29. Purchase years for the property appear to be inconsistent. Please correct or add language that clarifies the different years cited (e.g., pp. vii and 1-1).
30. On page 3-19, a much lower figure for potable water use is used. Please clarify.
31. It would aid the user if the viewpoint location and direction were displayed to assist the user in orienting themselves to the simulated views in Figure 15.
32. Please use consistent terms for the Waikoloa Wastewater Treatment Plant.
33. References in the DEIS and Appendix P of the use of State tax revenues generated by project construction and buildout to offset the cost of fire, police, and emergency protective services should be revised, since it is typically County tax revenues that pay for these services.
34. Please replace the definition of the Coastal Zone Management (CZM) area on page 6-4 with the following definition provided in Section 205A-1, Hawai'i Revised Statutes (HRS): "...all lands of the State and the area extending seaward from the shoreline to the limit of the State's police power and management authority, including the United States territorial sea."
35. Tables 8-10 of the TIAR uses 340 units for trip generation for affordable housing for 2012. The number of units should be 385. Please correct the inconsistency or explain why the lower number was used.

The Office of Planning appreciates the opportunity to comment on the DEIS. If you have any questions, please call the Land Use Division at (808) 587-2846.

Sincerely,



Abbey Seth Mayer
Director

c: Mr. Orlando Davidson, LUC