



*County of Hawai'i*  
*Office of the Legislative Auditor*

**REPORT ON THE COUNTY OF HAWAII GENERAL PLAN  
BILL 163, DRAFT 2**

As requested, Bill No. 163, Draft 2 is transmitted for your consideration. The purpose of this report is (1) to explain the process and rationale utilized to amend Bill No. 163, and (2) to explain significant changes. Both process and rationale were thoughtful, deliberate and meticulous. Transmitted with this report are the following:

- (1) Chart entitled "Proposed General Plan Revisions--Draft 1 to Draft 2-Proposed Modifications & Initiations(Additions)"
- (2) "List of LUPAG and Facilities Maps Revisions (Modifications & Initiations (Additions))"
- (3) Bill No. 163, Draft 2 with Land Use Pattern Allocation (LUPAG) Map(s), Facilities and Other Maps
- (4) Bill No. 163, Draft 2 (Unofficial Ramseyer Version)

**BILL NO. 163, DRAFT 2 AMENDMENT HIGHLIGHTS**

- ❖ In response to requests from the public and Council Members, the General Plan has been reduced to a document that is succinct and understandable. Draft 2 is remarkable and meaningful in that the vision statements, objectives and policies of the General Plan emerge and help to sharpen policy focus.
- ❖ Vision statements for the island and the different geographical districts have been added at the suggestion of the public and Council Members. The vision statements have a 20-year horizon.
- ❖ Draft 2 is consistent with the Hawai'i Revised Statutes and the Hawai'i County Charter. It emphasizes the General Plan's purpose as the Council's policy guidance document. This purpose is asserted in a new purpose section in Draft 2.
- ❖ Draft 2 contains a statement of principles required by the Charter. These principles are value-based.
- ❖ Draft 2 includes the statement of Principles, Vision Statements, a brief description of the County of Hawai'i, the General Plan Program, Seven Elements, and the LUPAG and Facilities Maps.
- ❖ Each of the seven elements include a brief introduction, Goals (Objectives), Policies, and Standards, if applicable
- ❖ The remaining descriptive text will be edited and placed in a document called the *County Profile*, which should be updated by the Planning Department, and may be used to formulate the basis of development plans.

- ❖ Draft 2 retains the Intensive and Extensive Agriculture Designations and deletes the Important Agricultural Lands Designation pursuant to the Constitution of the State of Hawaii that mandates the State Legislature to identify important agricultural lands in the State of Hawaii and to establish standards and criteria to accomplish this identification. The identification and protection of important agricultural lands by the State remains a land use objective with a related comprehensive important agricultural lands policy.
- ❖ Draft 2 changes the Rural Designation to Rural-Agriculture Designation and expands its definition to include future areas that meet criteria and may provide transition between agricultural and urban forms.
- ❖ General Plan amendment procedures have been moved to a new bill amending Chapter 16 (Planning), Hawai'i County Code.
- ❖ Noteworthy LUPAG and Facilities Maps revisions (modifications and initiations) are listed at the end of this report.

## **BACKGROUND**

By letter dated January 22, 2002, Planning Director Chris Yuen transmitted Bill No. 163 relating to the comprehensive General Plan review as required by the General Plan Ordinance No. 89-142, as amended.

The Planning Committee began its review under Planning Committee Chair Bobby Jean Leithead-Todd on February 20, 2002, at a regular meeting in Hilo followed by two workshops, a site visit, eight public hearings throughout the island, two more workshops, two regular meetings, and three workshops. With the resignation of Council Member Leithead-Todd, Council Member Leningrad Elarionoff became the new Planning Chair in October 2003. Another workshop was held on December 18, 2003 to concentrate and renew efforts on the comprehensive review.

As a result of the 19 meetings held on Bill 163, Planning Committee members asked that the Legislative Auditor's Office review and revise Bill No. 163 with the goal of making the General Plan succinct and understandable. Public testimony and Council Members requested a vision statement be added to the General Plan. We have since worked with Planning Committee Chair Elarionoff and interested Council Members to prepare a document that incorporates these and other suggestions into Bill No. 163, Draft 2. Meetings were facilitated between Planning Director Yuen and Council Members to discuss specific changes related to their respective districts. Public communications and Planning Committee meeting minutes were evaluated.

A chart entitled 'Proposed General Plan Revisions--Draft 1 to Draft 2--Modifications & Initiations (Additions)' is attached to assist you in understanding the actions taken on Bill No. 163. The chart explains the action taken on Draft 1 (using Green Ramseyer version) to amend it to Draft 2 by page, paragraph, or bullet. The chart shows whether existing paragraphs, goals, policies and standards in Draft 1 were kept, moved, edited, deleted or added. New element and/or sections are specifically addressed in a chart entitled 'Additions.' Words of caution: Even if the chart shows that an amendment was added, it may actually be a restatement of existing language that was moved from another part of the General Plan. Similarly, the addition of a new element (Infrastructure) is merely a reorganization of the General Plan by combining existing elements or subelements.

A 'List of LUPAG and Facilities Maps—Modifications and Initiations (Additions)' indicate the proposed modifications or initiations from Draft 1 to Draft 2.

Bill 163, Draft 2 attaches both LUPAG and Facilities Maps and other informational maps and tables. Lacking the capability of creating and producing amended, colored LUPAG and Facilities Maps for the workshops, we will be asking the Planning Department to finalize official colored sets. Hopefully, this can be completed in time for the next Planning Committee meeting on the General Plan.

A Ramseyer version of Bill No. 163, Draft 2 (unofficial) accompanies this report to show the changes from the 1989 General Plan, as amended, to Draft 2. The Ramseyer version is prepared because of a 1996 Third Circuit Court ruling on the Zoning Code. It should be pointed out that the Ramseyer rules according to the *Hawaii State Legislative Drafting Manual* and *Office of Corporation Counsel Drafting Guidelines* do not require showing changes when repealing and adopting new section, parts or chapters of law. The Ramseyer changes from the 1989 General Plan to Draft 2 are not instructive because numerous elements and sub-elements were moved and combined in the development of Draft 1.

## FOUNDATION FOR AMENDMENTS

While the thrust of the changes came from a desire by Council Members to make the General Plan succinct and understandable, following the requirements of the state statute and the Hawaii County Charter remained paramount. Chapter 46-4, Hawaii Revised Statutes, and Section 3-15, Hawaii County Charter, are restated as the legal foundation for the General Plan (see GP Chapter I).

"Zoning in all counties shall be accomplished within the framework of a long-range, comprehensive general plan prepared or being prepared to guide the overall future development of the county. Zoning shall be one of the tools available to the county to put the general plan into effect in an orderly manner." (emphasis added)

Section 3-15, Hawai'i County Charter, reads:

"The county council shall adopt by ordinance a general plan which shall set forth the Council's policy for long-range comprehensive physical development of the County. It shall contain a statement of development objectives, standards and principles with respect to the most desirable use of land within the County for residential, recreational, agricultural, commercial, industrial, and other purposes which shall be consistent with proper conservation of natural resources and the preservation of our natural beauty and historical sites; the most desirable density of population in the several parts of the County; a system of principal thoroughfares, highways, streets, public access to the shoreline, and other open spaces; the general locations, relocations and improvement of public buildings; the general location and extent of public utilities and terminals, whether publicly or privately owned, for water, sewers, light, power, transit and other purposes; the extent and location of public housing projects; adequate drainage facilities and control; air pollution; and such other matters as may, in the Council's judgment, be beneficial to the social, economic, and governmental conditions and trends and shall be designed to assure the coordinated development of the County and to promote the general welfare and prosperity of its people.

- (a) The Council shall enact zoning, subdivision, and other such ordinances, which shall contain the necessary provisions to carry out the purpose of the General Plan.
- (b) No public improvement, project, subdivision, or zoning ordinances, shall be initiated or adopted unless the same conforms to and implements the General Plan.
- (c) Amendments to the General Plan may be initiated by the Council or the Planning Director.” (emphasis added)

**GENERAL QUESTIONS**

1. What is the purpose of having a plan? (see Bill No. 163, Draft 2, SECTION 1-Purpose and GP-Chapter II, Part 1)

The General Plan assumes growth—growth in population and growth in the economy. In doing so, it guides growth based on long-term objectives in a manner that promotes the efficient use of land and its resources. By planning for growth, public and private monies for infrastructure can be invested wisely and effectively. Higher density development, infill development and redevelopment result in efficient use of existing infrastructure. New growth areas would be planned as part of the comprehensive plan and capital strategies. The General Plan seeks a balance between growth and, at times, competing values such as natural resource conservation, cultural preservation and other values.

The General Plan provides the framework for medium-range regional, community, and functional planning. These medium-range plans should support the broader needs of the municipality, while articulating the priorities, visions and values important to the community in the planning area.

The General Plan establishes the context for short-range regulatory tools, which implement the General Plan and medium-range plans. The Zoning and Subdivision Codes, an impact fee ordinance, or the establishment of improvement districts are examples of implementation tools.

2. Does the General Plan regulate land use or infrastructure? (see GP-Chapter II, Part 1 )

No. The General Plan guides future development and the provision for infrastructure. This is consistent with the enabling statute-Chapter 46-4, HRS. By focusing on objectives, policies, standards, and vision statements, the General Plan should evolve into a policy guidance document. Draft 2 underscores the role of the General Plan as a policy guide to focus planning efforts on execution.

The General Plan has gradually evolved into another layer of regulation, rather than a long-range planning policy document. Arguably, there are those who support a rigid regulatory framework at the General Plan level for various reasons. Yet this approach has had its shortcomings in the last 34 years, and there is growing public resentment stemming from deficiencies in mid-level infrastructure planning and properly coordinated public funding.

Draft 2 attempts to diminish reliance on the Land Use Pattern Allocation Guide (LUPAG) Map through the articulation of vision statements, objectives, policies, and standards. Rather than painting specific land uses onto a map, the goal is to encourage development planning efforts to provide greater guidance and specificity. When development plans are adopted, the myriad of land use colors on the LUPAG map would be subject to the direction of the development plan. Thus, the LUPAG Map would ultimately show general 'forms' or 'patterns' of settlement, such as the urban form, rather than specific urban designations (e.g., high density, medium density). In 10 years, the comprehensive review should depict the 'urban' forms.

We believe attention will properly focus on the written policies in the General Plan over time.

3. Does the current General Plan have a time horizon? (see GP-Chapter II, Part 1)

No. Although the General Plan mandates a 10-year comprehensive review, it does not establish a contextual framework for this long-range plan. A 20-year horizon for the vision is established consistent with the timeframe used for employment and population projections when preparing for the comprehensive review.

4. What is the role of a vision statement? (see Bill No. 163, Draft 2, SECTION 1-Purpose and GP-Chapter II, Part 1)

At numerous public hearings, the Planning Committee received testimony suggesting the General Plan contain a vision statement. Individual council members voiced a desire to include a vision statement as well.

We understand vision statements to be projections of the most desirable concepts for growth and lifestyles in our community.

We recommend both island wide and geographical district vision statements. The purpose of the island-wide vision statement is to express fundamentals that are important to citizens as applied to the entire island. On the other hand, geographical district vision statements provide a view of those aspects citizens have identified as important to preserve, enhance, support, and encourage within each district. Vision statements capture the character of the district and are vital to understanding community values, its goals, and its interrelationship with other districts. Taken together with the rest of the General Plan, vision statements serve to guide future planning and implementation efforts.

The vision statements in Draft 2 are the product of collaboration with each council member representing the geographical district or, in many cases, portions of several districts. We recognize that vision statements must be the outcome of community participation and must be revisited based upon public input at future meetings of the Planning Committee, Commission or Council.

5. Does the General Plan contain principles required by the Charter? (see GP-Chapter III, Part 2)

While Draft 1 may assert principles, they are not clearly stated.

Draft 2 sets forth the following statement of value principles:

“Our citizens are the heart of our community. Each individual respects the personal rights of others, the family and one’s heritage. There is a commitment to safeguard our island and its non-renewable resources for present and future generations. At the same time, the community’s economic, educational and physical infrastructure must be sound to sustain the quality of life our citizens desire.”

## FORMAT CHANGES

6. Is the separation of goals (now objectives), policies, and standards from the rest of the text a departure from the existing General Plan?

No. The 1989 General Plan basically separated the Goals, Policies and Standards by Elements from the rest of the text.

7. What other formatting changes were made to the Goals (Objectives), Policies and Standards in Draft 2?

When reformatting the document, the following criterion were used:

- a) Eliminated duplicate objectives and policies.
- b) Combined similar objectives or policies.
- c) Grouped related objectives or policies together.
- d) Moved objectives or policies to a more applicable element.
- e) Moved courses of action or standards to the appropriate objective or policy category.
- f) Deleted objectives or policies that referred to council or legislative resolutions. Referring to resolutions in the General Plan ordinance would give resolutions the force and effect of law. If concepts are important policies, they would be established in law or executed in a development plan.
- g) Eliminated specific objectives or policies that have been attained (e.g., CPR on agricultural land).
- h) Eliminated standards that were or should be another agency’s standard, rule or regulation.
- i) Deferred to state, federal or other governmental agencies’ jurisdiction when referring to objectives or policies under their authority. This criteria eliminates potential duplicative and/or conflicting jurisdictional and enforcement issues.
- j) Deleted words or phrases that may confuse the focus of the objective or policy. For example, the act of preserving and enhancing historic sites may be a contradiction of terms.
- k) Revised policies to have programmatic direction where appropriate.

8. Why are district “courses of action” not included in Draft 2?

District “courses of action” are not mandated by state statute or Charter. The present General Plan lists “courses of action” for each district. Many district “courses of action” are expressed in the General Plan objectives or policies (e.g., “Assist in the provision of water in agricultural areas.”), while other “courses of action” are stated in multiple districts (e.g., “Expand/improve facilities as necessary”).

Because the General Plan is implemented at the medium- and short-range levels, the “courses of action” should be used as a springboard for preparing development plans. The descriptive narrative of an area and the basic courses of action exist to make the task much easier. Moreover, a community can immediately direct its attention to developing a meaningful, comprehensive set of “courses of action” in a development plan.

9. What happened to the rest of the descriptive narrative?

The remaining descriptive narrative in the 1989 General Plan-Exhibit C (Support Document) will be edited and placed in a document entitled *County Profile*. The *County Profile* will contain a wealth of historical, factual and commentary information about the island and each geographical district, which is similar to the current and proposed General Plan. The *County Profile* shall be used for information only and could be placed on the County website. Due to the historical nature of the text, it should be updated by the Planning Department when warranted, and may be used as previously mentioned to launch development plans. Since the amount of information contained in the *County Profile* would detract from review of Bill No. 163, Draft 2, the document has not been transmitted.

10. Why have ‘Goals’ changed to ‘Objectives’?

The Charter requires a statement of ‘objectives’. A definition for ‘objective’ that closely describes the General Plan goals is being used: “Indicates a desired long-range goal or direction.”

11. What is a ‘Standard’ in the General Plan?

As stated previously, a ‘standard’ in Draft 2 generally does not reflect an existing or proposed standard, law, rule regulation, or requirement of a County, State or Federal agency. A ‘standard’ may (1) identify desirable levels of service (e.g., police officers per population, EMS response times); (2) define facility requirements (e.g., roadway definitions and construction); or (3) specify land use processing requirements (e.g. “floating zone” or the aspects of zoning request review).

A ‘standard’ is an indicator and is to be applied as a guideline.

12. Why are there 7 elements instead of the original 13 elements?

When we examined the goals, policies and standards of different elements, many were overlapping or duplicative. This led to evaluating whether elements could be combined without losing the integrity of the original element. We concluded that the policy-maker and the general public would better understand the document if the elements were regrouped and reorganized into a logical order that would not harm the structure of the General Plan. The changes are shown in Illustration 1:

# ILLUSTRATION 1

## WHERE DID THE ELEMENTS GO?

Note: Matching bullets show how the elements were combined, condensed and reorganized.

### DRAFT 1

Economic Element

Energy Element

- Environmental Quality Element
- ❖ Flood Control and Drainage Element

Historic Sites Element

- Natural Beauty Element
- Natural Resources and Shoreline Element

Housing Element

- Public Facilities Element
  - Education
  - Protective Services
  - Government Operations
  - Health and Sanitation
    - Hospitals
    - Solid Waste
    - Cemeteries
- Public Utilities Element
  - Water
  - Telecommunications
  - Electricity
  - Gas
  - Sewer

➤ Recreation Element

➤ Transportation Element

Land Use Element

### DRAFT 2

PART 1. Economic Element

PART 2. Historic Sites Element

PART 3. Housing Element

- PART 4. Infrastructure Element
  - Public Facilities:
    - Education
    - Government Operations
    - Health and Sanitation
      - Hospitals
      - Public Cemeteries
      - Solid Waste Management
      - Wastewater
    - Parks and Recreation
    - Protective Services
    - Transportation
  - Utilities & Energy:
    - Electricity
    - Gas
    - Telecommunications
    - Water

PART 5. Land Use Element

- PART 6. Natural Beauty, Natural Resources and Environmental Quality
- ❖ PART 7. Natural Hazards Element

## IMPLEMENTATION AMENDMENTS

### 13. DEVELOPMENT PLANS

Both drafts emphasize the importance of (community) development plans to direct physical development and public improvements within a specific area. Both drafts, directly or indirectly, acknowledge the limited success in adopting development plans whether by ordinance or resolution. Both drafts commit the County's resources towards serious implementation—that is, preparing development plans, prioritizing capital projects, funding those priority projects, and adopting short-term regulatory measures like an impact fee ordinance or new zoning categories.

We wholeheartedly agree that the need for a development plan should be assessed considering various factors and that development plans should not be mandated for every region. The contents of a development plan are laid out in both drafts, albeit with greater specificity in Draft 1.

Draft 2 clarifies or expands the definition of development plans to include functional or public facility plans. The County has prepared numerous functional or public facility plans, a few of which are recommended in the General Plan policies for updating. They include the *Sewerage Study for All Urban and Urbanizing Areas of the County of Hawaii*, the *Water Quality Management Plan*, *County Bikeway Plan*, the *County Recreation Plan*, and the *Drainage Master Plan for the County of Hawaii*. Examples of in-progress regional facility plans include the Kealakehe sewerage system study, the Keahole to Honaunau Regional Circulation Study, and the Puna Alternate Route Plan. It is incumbent upon the Council, administration, and the public to be aware that functional and public facility plans must also be developed in the framework of the General Plan. Thus, development plans will be initiated by the Council, the Planning Director or the responsible County department/agency, with the consent of the Council, by resolution.

Draft 2 does not require every development plan to have a steering committee appointed by the mayor and confirmed by the council. Steering committees may currently be formed without a requirement in the General Plan. Additionally, the planning director should be given flexibility over how to gather information and advice depending upon the nature of a development plan. If a steering committee is necessary and defensible, the initiating resolution could establish the process for a steering committee for a particular development plan.

The precise procedures for adopting a development plan should be set forth in Chapter 16, Hawaii County Code, and have been deleted.

### 14. CAPITAL IMPROVEMENTS PROGRAM

We are pleased to see attention given to the coordination of the capital improvements program in the General Plan. However, the conditions by which a CIP is developed and prioritized should be adopted as a separate section of the County Code rather than the General Plan. Establishing conditions for the preparation of the CIP is a mid- to short-range tool and includes the director of finance. As policy-makers, the Council should be given more time to scrutinize the proposed CIP process on its own merits. A separate bill should be drafted for the Council's review.

Draft 2 eliminates the procedures for adopting and developing the capital improvements budget and program (CIP) listed in Draft 1.

15. ANNUAL REPORT

Draft 1 requires an annual report to monitor progress towards achieving the 400+ goals and policies. Draft 2 now contains 300+ objectives and policies. We are not clear how it would be implemented without a lot of time and effort that could be preferably spent on implementation rather than monitoring. The annual report is or should be part of the Council's annual program and budget review of the Planning Department's program review since the General Plan is part of the Department's program. The capital budget presentation by the Mayor and the Planning Department serves as the reporting mechanism to reconcile and prioritize competing community needs.

Draft 2 eliminates the annual reporting requirement.

16. AMENDMENT PROCEDURES

Draft 2 deletes the amendment procedures and refers to its adoption in Chapter 16. Amendment procedures may need to change from time to time. During the recent interim period, various amendment procedure revisions were transmitted for consideration. One procedural amendment was adopted. Technically and legally, EIS requirements in Chapter 343, HRS, are triggered when a General Plan amendment is initiated (except for comprehensive reviews). We are not aware of any environmental assessment made for the prior amendment procedure bills--nor should a change to the procedure produce such a trigger. To avoid this potential question for future Councils, the General Plan amendment procedures are drafted and transmitted in a different bill.

For convenience, the General Plan may be reprinted with the amendment procedures.

**ELEMENTS**

17. The significance of changes in each element is subjective. Therefore, the Chart entitled 'General Plan Draft 1 to Draft 2-Proposed Modifications & (Amendments)' should be referenced to understand what text was kept, edited, deleted, or added. It also provides the reason for the action. We have attempted to align Draft 2 with the core of Draft 1, except in those areas discussed above.

Developing new landfill sites on the island has not been the policy in recent years. Therefore, this Solid Waste' policy was deleted and replaced with a new policy: "Explore and evaluate waste reduction techniques, processes and facilities to lengthen the life of the landfill(s) with energy conversion being a desirable component.

**LAND USE ELEMENT**

18. FLOATING ZONE (GP-Chapter III, Part 5)

Draft 2 reinstates the "floating zone" as a tool for policy-makers. The "floating zone" has been used infrequently in the past and we do not foresee it being abused. It has served as a valuable planning mechanism in order to respond to unique circumstances.

The existing “floating zone” is available for limited industrial and retreat resort areas. Draft 2 expands the concept to include “limited commercial uses,” but controls the application of the “floating zone” to rural or remote areas in the districts of Puna, North Hilo, Hamakua, North and South Kohala, South Kona and Ka‘u.

Draft 2 sets forth the existing process used to initiate the “floating zone” concept by saying that zoning requests must comply with the change of zone process.

19. MCX INCLUSION IN HIGH AND MEDIUM DENSITY URBAN DESIGNATIONS

Draft 2 adds mixed industrial-commercial uses to the characteristics of High Density Urban and Medium Density Urban Designations. The addition of the mixed industrial-commercial use is qualified by saying that the uses could be appropriate “in areas of transition.” The purpose of this addition is to provide greater planning flexibility in urban areas.

20. RESIDENTIAL DENSITIES

Draft 2 places residential densities for High (up to 87 units per acre), Medium (up to 35 units per acre) and Low Density (up to 6 units per acre) Designations under “Land Use Standards.”

21. RESORT DESIGNATION ACREAGE AND EMPLOYEE HOUSING STANDARDS

Draft 2 removes the minimum amount of resort acreage needed for Major, Intermediate and Retreat Resort areas. This action is consistent with Draft 1, which removed the minimum 35 acres for the Minor Resort category. The scale of a resort should not be determined by its acreage.

Draft 2 removes employee housing standards, which have been appropriately adopted in Chapter 11, Hawaii County Code.

22. RETREAT RESORT UNIT COUNT

Draft 2 retains the Retreat Resort unit count of 100 units. Draft 1 proposes 50 units. The General Plan should be flexible enough to accommodate any future global retreat resort model. Additionally, reducing the number of units may create a non-conforming project.

23. “RURAL” TO “RURAL-AGRICULTURE” DESIGNATION

Draft 2 changes the designation for Rural to Rural-Agriculture. The purpose of the modification is two-fold: (1) To distinguish the designation from the State Land Use Rural classification. The Rural Designation is not intended to be congruous with the State Land Use Rural District just as the General Plan Urban and Agriculture designations are not. (2) To acknowledge the varying intensity of agricultural uses that may occur in this category.

24. EXPANDED CONCEPT OF RURAL-AGRICULTURE DESIGNATION

Draft 1 introduces a proposed Rural Designation that applies only to existing, identified subdivisions having a significant residential component with typical lot sizes of 9,000 square-foot lots to two acres. This is a welcome recognition of the existing situation, especially with the many non-conforming subdivisions in Puna and Ka'u. The description is being applied to areas with conforming subdivisions, such as Sunrise Estates and Keaau Agricultural Lots, Akolea Plantation Subdivision, and Pacific Plantation. Unfortunately, not all conforming subdivisions, such as Maliu Ridge and Hokulia, were identified for the Rural Designation. The new Designation should apply equally to these and other conforming subdivisions.

Subdivisions having up to 4-acre sized lots having a significant residential component could also fall into this category. We understand there are residents in these larger lot subdivisions who object to being placed in the Rural Designation. These subdivisions were not depicted on the LUPAG Map although they may match the Rural description. The General Plan can correctly describe these existing situations without 'mapping' them. Accordingly, Draft 2 proposes to increase the typical lot size of existing subdivisions to 4 acres.

Draft 2 describes the Rural category more explicitly by saying it includes "areas with or proposed for small farms intermixed with residential uses where city-like concentrations of people, structures, streets and urban levels of service are absent."

Draft 2 envisions that there will be Rural-Agricultural areas in the future. These areas may typically provide a transition between agricultural and urban forms. Rural-Agricultural areas help to create a buffer between the large agricultural activities and the denser urban activities. It is not intended that these areas be on the LUPAG map. Instead, Rural-Agriculture policies point to two existing policies of encouraging rural-style residential-agricultural developments in appropriate locations and establishing standards and criteria for these uses. Notably, the proposed LUPAG Map allocation table shows only 47,996 acres (1.9%) in Rural out of a total 2,517,803 acres in the County.

25. RETAIN INTENSIVE AND EXTENSIVE AGRICULTURE DESIGNATIONS. DELETE IMPORTANT AGRICULTURAL LAND DESIGNATION

Article XI, section 3 of the Hawaii State Constitution states that

[t]he State shall conserve and protect agricultural lands, promote diversified agriculture, increase agricultural self-sufficiency and assure the availability of agriculturally suitable lands. The legislature shall provide standards and criteria to accomplish the foregoing.

Lands identified by the State as important agricultural lands needed to fulfill the purposes above shall not be reclassified by the State or rezoned by its political subdivisions without meeting the standards and criteria established by the legislature and approved by a two-thirds vote of the body responsible for the reclassification or rezoning action.

On October 20, 2003, the Hawaii State Supreme Court issued a significant ruling in *Save Sunset Beach Coalition; Life of the Land; Larry McElheny; Benjamin Hopkins; and Peter Cole vs. City and County of Honolulu; Obayashi Corporation; and Obayashi*

*Hawaii Corporation.* A copy of the opinion has been transmitted under separate cover. The Supreme Court opined:

Read as a whole, Article III, Section 3 calls for future action to be taken by the legislature. The first sentence of section 3 sets out a mandate with respect to the preservation of agricultural lands. The text then imposes a duty on the legislature to "provide standards and criteria to accomplish the foregoing [mandate]." The directive to "provide standards and criteria" indicates a duty arising on the effective date of the provision. Indeed, Plaintiffs concede the duty to provide such standards relates to future action. Because the provision calls for future action it negates the inference that any standards then in existence were incorporated by the amendment.

The last sentence of Section 3 confirms that the identification of important lands was to follow the adoption by the legislature of such standards. According to that sentence, such identification was necessary "to fulfill the purposes [described] above[" Plainly this means the "standard and criteria" in the second sentence were to be adopted by the legislature after the amendment became effective.

In other words, the Supreme Court concluded that the State Legislature, not the counties, is responsible for adopting standards and criteria to identify important agricultural lands.

Consequently, it is inappropriate for the General Plan to identify 'important agricultural lands.' It complicates and misleads.

Draft 2 recommends the related Land Use objective and Agriculture policy as follows:

- When identified by the State, protect and encourage the utilization of the County's important agricultural lands.
- Establish and implement a comprehensive important agricultural lands program to address, at the minimum, agricultural water development, rezoning criteria, infrastructure standards, labor housing, government incentives, new approaches to preservation, enforcement and minimizing potential adjacent land use conflicts.

The existing Intensive and Extensive Agricultural Designations on the General Plan Land Use Pattern Allocation Guide (LUPAG) map reflect past and present activities of agriculture using soils, climate, and topography, productivity ratings as a basis. While these designations serve to describe the soil potential for certain agricultural activity, they do not fully describe the serious, hard-working agriculturalist, who does not need a designation to be successful. The complexities of agriculture as an industry, desirable densities or lot sizes are not reflected in the existing or proposed Agricultural LUPAG

designations. The desirable densities of Agricultural lots may be established in future development plans and/or after the State's identification of Important Agricultural Lands.

Additionally, the Economic Element policies have been reorganized and edited making the agricultural policy the first policy.

26. ORCHARD DESIGNATION TO EXTENSIVE AGRICULTURE DESIGNATION

Draft 2 amends the Orchard Designation to Extensive Agriculture, except in areas proposed for Rural-Agriculture and in the Kona coffee belt, which generally runs above the 1,000-foot elevation level.

27. CONSERVATION DESIGNATION

Draft 2 retains the existing definition for the Conservation Designation by deleting a new category of "areas to be kept in a largely natural state, with minimal facilities consistent with open space uses." Expanding the Conservation Designation beyond the State Land Use District classification, water/forest reserves and natural/scientific preserves confuses and duplicates the purpose of the Open Designation.

28. OPEN DESIGNATION

Draft 2 expands the Open Designation to include scenic vistas, viewplanes and potential natural hazard areas.

Draft 2 deletes a proposed policy in Draft 1, which states "Amend the Zoning Code to create a category for lands that should be kept in a largely natural state, but that may not be in the Conservation District, such as certain important viewplanes, buffer areas, and very steep slopes." This regulatory tool should be adopted immediately and is not necessary.

29. LAND USE TABLE (GP 48)

Urban & Rural Centers Modifications/Initiations:

- Add Hakalau
- Retain Ninole
- Add Kapehu
- Add Haina
- Add Halawa
- Add Maliu Ridge
- Add Makalei
- Add Puuanahulu
- Add Keekee-Kalukalu
- Keopuka

Resort Areas Modifications/Initiations:

- Retain Papai (Intermediate)
- Add Puna Makai (Minor)
- Add Hamakua (Retreat)

Add Puako (Minor)  
Retain Honokohau (Minor)  
Retain Volcano (Retreat)

## **LUPAG MAP AMENDMENTS**

LUPAG Map assumes growth and is the graphic depiction of vision statements, objectives and policies. The strengthening of existing Urban areas, the concentration and infilling of urban uses in urban areas, the desire to generate economic opportunities and services for district residents are the basis for the amendments. Changing specific designations established by prior councils must receive serious consideration. Some proposed amendments show urban forms and settlement patterns rather than the actual zoned uses. An example of this is the Low Density Urban Designation for Hilo Heights and Sunrise Estates, which are zoned Agricultural-1 acre. In fact, these areas are part of the Urban form in Hilo.

Aside from those areas affected by the Land Use Element revisions (Important Agricultural Lands and Rural-Agricultural), the following specific, modifications and initiations (new amendments) are proposed in Draft 2:

### **30. PUNA DISTRICT NOTEWORTHY RECOMMENDATIONS**

- A-1 Modify: Retain Resort at Papai/Kings Landing Area
- A-4 Modify: Retain Urban Expansion Area to the west of Keaau Village
- A-7 Comment: Guidance policies would consider expansion of Medium Density Urban in the vicinity of Orchidland Drive.
- A-7a Initiate: Medium Density Urban in the vicinity of Ainaloa Drive and Makuu Drive
- A-7b Initiate: New Urban Expansion Area in the vicinity of Ainaloa Drive
- \*\* Comment: Guidance policies would consider expansion of Medium and Low Density Urban in and around Mt. View

### **31. SOUTH HILO NOTEWORTHY RECOMMENDATIONS**

- B-2 Initiate: Intensive and Extensive Agriculture to Urban Expansion Area instead of proposed Industrial at former Pepeekeo Mill Site
- B-13 Modify: Retain Low Density Urban at Puueo mauka area
- B-15 Initiate: Urban Expansion Area to Low Density Urban instead of proposed Rural at Hilo Heights and Akolea Plantation Subdivisions
- B-18 Initiate: Urban Expansion Area to Low Density Urban instead of proposed Rural at Sunrise Estates and Pacific Plantation subdivisions

### **32. HAMAKUA NOTEWORTHY RECOMMENDATIONS**

- D-2 Initiate: Urban Expansion Area to Intensive Agriculture instead of proposed Important Agricultural Land west of Nienie Gulch and mauka of Honokaa Town

### **33. NORTH KOHALA NOTEWORTHY RECOMMENDATIONS**

- E-3a Initiate: Intensive Agriculture to Rural-Agriculture at Maliu Ridge (A-1a)

34. SOUTH KOHALA NOTEWORTHY RECOMMENDATIONS

- F-6 Initiate: Urban Expansion Area to Intensive Agriculture instead of Important Agricultural Land off the south side of Kawaihae Road
- F-14 Modify: Retain Resort at Puako Beach Apartment and Puako General Store area
- \*\* Comment on F-16: Guidance policies would allow flexibility in White Sands Golf Course layout in the Urban Expansion Area between Puako and Queen Kaahumanu Highway and northeast of Mauna Lani Resort.
- F-21a Initiate: Low Density Urban to Medium Density Urban north of County land in Waikoloa Village (6/4/04 letter from James Leonard)
- \*\* Comment on F-23: Guidance policies would allow flexibility in golf course layout.

35. NORTH KONA NOTEWORTHY RECOMMENDATIONS

- G-9 Modify: Reduce Open area as negotiated at Kohanaiki (6/17/03 Planning Director letter).  
Comment: Revision not needed under guidance policies.
- G-10a Initiate Low and Medium Density Urban and Open to Low Density Urban (6/17/03 Planning Director letter)
- G-10b Initiate Low and Medium Density Urban and Open to Urban Expansion (6/17/03 Planning Director letter)
- G-13a Initiate Extensive Agriculture to Rural-Agriculture at Makalei Estates (A-1a)
- G-16a Initiate: Open to Resort south of Honokohau Harbor by combining existing Resort Areas G-16 and G-17 (6/16/03 DLNR letter)
- G-17 Modify: Retain Resort Area, but combine with G-17 (6/16/03 DLNR letter)
- G-17a Initiate: Open to Urban Expansion Area (6/16/03 DLNR letter)
- Initiate: Open to Urban Expansion (6/16/03 DLNR letter)
- \*\* Comments on G-18, 19, and 29: Guidance policy would allow flexibility in golf course layout.
- G-34 Initiate: Extensive Agriculture to Rural-Agriculture at Hokulia (A-1a)
- G-35 Initiate: Extensive Agriculture and Orchards to Extensive Agriculture below (makai) the 1,000' elevation level generally. Kona coffee belt above the 1,000' elevation level is Intensive Agriculture.

36. SOUTH KONA NOTEWORTHY RECOMMENDATIONS

- H-1 Initiate: Extensive Agriculture to Conservation at Keopuka (8/21/02 Planning Director)
- H-1a Modify: Retain Extensive Agriculture at Keopuka and Kaawaloa (8/21/02 Planning Director, and as further modified at Kaawaloa)
- H-6 Initiate: Low Density Urban and Open to Extensive Agriculture instead of Important Agricultural Land mauka of Puuhonua Road and north of Keala O Keawe Road
- H-7a Initiate: Extensive Agriculture to Rural-Agriculture at Captain Cook Ranch lands makai of Napoopoo Road (RA zoning/SLU Urban)

37. KA'U NOTEWORTHY RECOMMENDATIONS

- I-2a Initiate: Extensive Agriculture to Urban Expansion mauka of Ocean View across from I-2
- I-3 Modify: Retain Resort in the vicinity of Pohue Bay

- I-4 Modify: Retain Industrial midway between Hawaii Belt Road and coastline in Kahuku
- I-5 Modify: Retain Low and Medium Density Urban makai of Hawaii Belt Road in Kahuku
- I-8 Modify: Retain Extensive Agriculture between Honuapo and Punaluu
- I-9 Modify: Retain Urban Expansion Area east of Naalehu
- I-10 Initiate: Low Density to Medium Density Urban, which would allow industrial-commercial uses under Draft 2.

## **FACILITIES AND OTHER MAPS**

Facilities and other Maps have a similar role in Drafts 1 and 2.

Draft 2 clarifies the role of the Facilities and Other Maps by stating “The General Plan Facilities Maps show general locations of public and private facilities and utilities, and existing and proposed transportation networks. Other informational maps and tables include lava hazard zones, government-owned lands, historic sites, natural beauty, and military installations. The General Plan Facilities Maps and other maps and tables are to be used for informational purposes only, may be periodically updated, and are included by reference.”

Draft 1 adopts the Facilities Maps, all of which note under the titles “This map was produced by the County of Hawaii, Planning Department. It is intended for planning purposes only and should not be used for boundary interpretations or other spatial analysis beyond the limitations of the data.”

## **FACILITIES MAP AND OTHER RECOMMENDATIONS**

- 38. Replace Facilities Maps-Roadway Maps A, B, C, D, E, F, G, and Electricity Map transmitted in July 22, 2003 letter from Planning Director Chris Yuen to Council Members.
- 39. Retain the Puna coastal government road on the facility map. Showing the road on the Facilities Maps D and E-Transportation-Road.
- 40. Initiate a table called ‘Areas of Natural Beauty by Ahupua‘a or Region’ to be placed with the other maps. The table lists those areas of natural beauty described in Draft 1 and makes clear that it should be used for planning and program purposes. Treatment measures for mitigation, protection, preservation and/or enhancement are all program goals.

## **CONCLUSION**

The General Plan is the Council’s planning policy guide. Draft 2 shifts the paradigm towards action, implementation and coordination of financing and infrastructure—a meaningful legacy.

Att.