



Hawaii's Thousand Friends

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<http://www.hawaiis1000friends.org>

President's Report Chuck Prentiss



Public opinion is important for many issues. Both politicians and large corporations are very much aware of this and expend considerable resources to sway public opinion to support their bills or their urban developments.

An effective way to sway public opinion that we are all familiar with is to spin your line to put the best possible face on it. The "spinners" are on TV every day. They know they will be more effective if they first frame their message so that it sounds good, like development "creates jobs", or justifying a war by "supporting the troops."

An even more insidious technique is to frame a MYTH and then spin it. One blatant example going around lately is "business friendly." I suppose that individuals can be friendly or nasty when they shop, but can a city or state actually be business friendly or unfriendly? What does it really mean? And by the way, have you ever heard any of these people use other phrases such as "Residential Friendly" or Agricultural Friendly?"

Is it unfriendly to want to protect our environment? Is it unfriendly for a city to require park and school sites, or affordable housing with development? Would it be more friendly to allow precious agricultural land to be lost forever, or permit development without adequate roads? Of course not. The next time you see or hear this myth, ask for a specific list of things they say are unfriendly.

Hawai'i's Unique and Important Land-Use Planning System

Increasing citizen participation in Hawai'i's land use planning system requires greater awareness and knowledge of that system and how to become involved. What are the basic elements of Hawai'i's land use planning framework and how do they work?

Hawai'i's State Land Use Law, Hawai'i Revised Statutes (HRS) 205, was created in 1961 when the State Legislature determined that "a lack of adequate controls had caused the development of Hawai'i's limited and valuable land for short-term gain for the few while resulting in long-term loss to the income and growth potential of our State's economy. Development of scattered subdivisions, creating problems of expensive yet reduced public services, and the conversion of prime agricultural land to residential use, were key reasons for establishing the state-wide land use system" (<https://luc.hawaii.gov/about/history-3/>).

To administer this state-wide zoning law, the Legislature created the Land Use Commission (LUC). "The Commission's primary role is to ensure that areas of state concern are addressed and considered in the land use decision-making process" (<https://luc.hawaii.gov/about/history-3/>).

The LUC's quasi-judicial process is more judicial than legislative, which ensures that the rights of those who are most directly involved or most affected by a decision have due process before an action is taken by the Commission.

The Land Use Law establishes an overall framework of land use management with all lands in the state designated as one of four district classifications: Urban, Rural, Agricultural, or Conservation.

Urban: "The Urban District generally includes lands characterized by 'city-like' concentrations of people, structures and services. This District also includes vacant areas for future development. Jurisdiction of this district lies primarily with the respective counties. Generally, lot sizes and uses permitted in the district area are established by the respective county through ordinances or rules."

Rural: "Rural Districts are composed primarily of small farms intermixed with low-density residential lots with a minimum size of one-half acre. Jurisdiction over Rural Districts is shared by the [Land Use] Commission and county governments. Permitted uses include those relating or compatible to agricultural use and low-density residential lots. Variances can be obtained through the special use permitting process." Oahu does not have any rural district lands.

Agricultural: "The Agricultural District includes lands for the cultivation of crops, aquaculture, raising livestock, wind energy facility, timber cultivation, agriculture-support activities (i.e., mills, employee quarters, etc.) and land with significant potential for agriculture uses." Counties govern agriculture district lands up to 15 acres. The LUC has jurisdiction of agricultural district lands greater than 15 acres.

Conservation: "Conservation lands are comprised primarily of lands in existing forest and water reserve zones and include areas necessary for protecting watersheds and water sources, scenic and historic areas, parks, wilderness, open space, recreational areas, habitats of endemic plants, fish and wildlife, and all submerged

Continued on next page

Land Use Planning System *Continued from pg. 2*

lands seaward of the shoreline. The Conservation District also includes lands subject to flooding and soil erosion. Conservation Districts are administered by the State Board of Land and Natural Resources and uses are governed by rules promulgated by the State Department of Land and Natural Resources." (<https://luc.hawaii.gov/about/state-land-use-districts>) Conservation district boundaries are determined by the Land Use Commission.

No amendment to any land use district boundary nor any other action by the LUC shall be adopted unless amendment or action conforms to the Hawai'i State Plan.

The Hawai'i State Plan HRS 226 was created in 1978 when the Legislature found that there was a need "to improve the planning process in this state, to increase the effectiveness of government and private actions, to improve coordination among different agencies and levels of government, to provide for wise use of Hawai'i's resources and to guide the future development of the state.

The Hawai'i State Plan:

- "Serves as a guide for the future long-range development of the state
- Identifies the goals, objectives, policies, and priorities for the state; provides a basis for determining priorities and allocating limited resources, such as public funds, services, human resources, land, energy, water, and other resources
- Improves coordination of federal, state, and county plans, policies, programs, projects, and regulatory activities
- Establishes a system for plan formulation and program coordination to provide for an integration of all major state and county activities" (<https://planning.hawaii.gov/hawaii-state-planning-act/>)

§226 4 State goals. "In order to ensure, for present and future generations, those elements of choice and mobility that ensure that individuals and groups may approach their desired levels of self-reliance and self-determination, it shall be the goal of the State to achieve:

(1) A strong, viable economy, characterized by stability, diversity, and growth, that enables the fulfillment of the needs and expectations of Hawaii's present and future generations.

(2) A desired physical environment, characterized by beauty, cleanliness, quiet, stable natural systems, and uniqueness, that enhances the mental and physical well-being of the people.

(3) Physical, social, and economic well-being, for individuals and families in Hawaii, that nourishes a sense of community responsibility, of caring, and of participation in community life." (https://www.capitol.hawaii.gov/hrscurrent/Vol04_Ch0201-0257/HRS0226/HRS_0226-0004.htm).

A key component of the State planning process is the thirteen Functional Plans: agriculture (1991), conservation lands (1991), education (1989), employment (1990),

energy (1991), health (1989), higher education (1984), historic preservation (1991), housing ((2017), human services (1989), recreation (1991), tourism (1991) and transportation (1991).

Each functional plan, which is overseen by the appropriate state agency shall define, implement, and be in conformance with the overall theme, goals, objectives, policies, and priority guidelines contained within HRS 226.

Functional Plans can be found at the Office of Planning and Sustainable Development site:
<https://planning.hawaii.gov/hawaii-state-planning-act/>

It is important for everyone to be aware of Hawai'i's land use planning system and to take advantage of every opportunity to participate in its implementation. □

Zero Appeals Upheld by the Honolulu Zoning Board of Appeals

It is unclear if the Honolulu Zoning Board of Appeals (ZBA) has ever overturned an approval by the Department of Planning and Permitting (DPP). The most recent Five-Year Review Report (2022) shows 41 appeals were filed with the ZBA from 2017 to 2022. In this same period, one appeal was denied outright, 26 appeals were withdrawn, 10 were dismissed, and six decisions were appealed to circuit court. Contested case hearings were held over 79 meetings. Zero appeals were upheld.

A 2022 appeal brought by a small community group against a proposed agricultural accessory business in Waialua shows just how hard it is to win an appeal at the ZBA. Hui o Kamananui (Kamananui) challenged a conditional use permit – minor (CUPm) the city granted for NS Holdings, Inc, to operate three new businesses on a 6-acre agricultural Condominium Property Regime (CPR) unit.

One of the businesses would sell coffee and tea, the second would sell pizza and sandwiches, and the third would sell distilled oils. The application stated that more than 50 percent of the property was in active agriculture, no more than 225 customers were expected daily, traffic impacts would be minimal, and that the facility would support processing, aggregation and distribution of value-added products for area farmers.

During the contested case hearing, Kamananui provided expert testimony that the proposed wastewater system and land area were inadequate for the proposed commercial kitchens, and that the site along an active agricultural roadway would adversely impact other agricultural producers. The developer did not hire a consultant to analyze potential traffic impacts; rather, he personally

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Importance of the Commission on Water Resource Management (CWRM)

Hawai'i's geology and hydrology are unique in the world, and Hawaiians transformed a fragile environment into a thriving one by observing a common trust for the people. Western water law imposed by more recently arriving sugar planters violated basic trust principles, serving instead the commercial interests of the planters to the detriment of Hawaiians and to island sustainability. The Water Code and its implementation by the Water Commission and its staff have been critical to returning freshwater management to a public trust for the people. This work is ongoing and requires public understanding and progressive support.

The Constitutional Convention of 1978 resurrected Hawaiian principles drawn forward by Supreme Court Chief Justice William Richardson, embedding the public trust uses of water. A Water Round Table composed of top water stewards and water law attorneys spent ten years examining and instituting these principles through a Water Code. Since 1987, a perpetually scrutinized Commission on Water Resource Management has guided decisions through comprehensive, thoughtful, if inevitably awkward and contentious decision-making. Numerous contested cases have refined our understanding of stewardship of the public trust.

The people of Hawaii have a broad understanding and appreciation for the importance of water to the life of the land and expect decisions to support that understanding. The Water Commission has been instrumental in replacing the inappropriate and deleterious Western water management principles with the unique details of Hawaii's geology and biology. One feature of this effort has been attention to native Hawaiian knowledge. This work is ongoing and will require public support to overcome lingering limitations on the statutory responsibilities of the Water Commission.

Because the topography, geology, and hydrology of each stream is unique, it is critically important to recognize that very specific knowledge is preferred over general cultural knowledge. Local experience evolved over the millennia of wet and dry periods. Unfortunately, much of that locally specific Hawaiian knowledge has been lost with the passing of kupuna who were taught the ancestral knowledge of specific places. Water Commission staff have brought together science and ancestral knowledge of place. Specific local knowledge is slowly being rebuilt, qualifying, quantifying, and normalizing the complexities of stream flow and project impacts for decision makers.

Unique stream characteristics critically impact decisions to divert water or to sustain stream health and community well-being. Hawaii's streams are comparatively short, with flashy discharge from significant rainfall events. The native flora and fauna are adapted to these rather extreme fluctuations and can respond surprisingly well from biological reservoirs when relevant conditions reappear. A review of stream types reveals dramatic differences from one to another, ranging from vitally productive estuaries to productive midstream environments with their water falling over cliffs directly into the ocean. Some streams gain flow throughout their length; others lose flow throughout their reaches, while still others lose in some reaches and gain in others.

The Water Commission has some built-in statutory limitations. Land use prerogatives and inadequate management that are not under the jurisdiction of the Water Commission impose stresses to the aquatic environment. Streams are typically not well maintained and western land use practices impose contaminants and provoke soil loss to streams, estuaries, and bays. Hawaiians once lived all over the landward properties and did the hard work of everyday proper maintenance and land restoration, supporting healthy stream habitats. In this sub-tropical small island environment, rapid vegetation growth and limited land capacities require improving general land use and management practices.

The legacy of colonial sugar planting is embedded in some of these limitations, and a more prosperous and sustainable future depends upon addressing and correcting these issues, providing greater support for the Water Commission's responsibility to protect the public trust. Captured by a global economy, the public fears overdevelopment and cultural colonization.

As fresh water in this salt-water desert becomes more subject to climate change, with generally diminished overall volumes and more concentrated precipitation and drought events, the work of the Water Commission will become increasingly important. Attention also needs to be given to its mission by curtailing the prerogatives of land managers. It will be ever more important for the Water Commission to be comprised of level-headed and experienced members, backed by well-established staff knowledge and expertise, all prepared to do problem-solving and exhibiting Solomon-like wisdom in decisions. □

<https://dlnr.hawaii.gov/cwrw/aboutus/laws/>

"It is recognized that the waters of the State are held for the benefit of the citizens of the State. It is declared that the people of the State are beneficiaries and have a right to have the waters protected for their use."

State Water Code, Hawai'i Revised Statutes §174C-2(a), "Declaration of policy."



The Land Use Ordinance of Honolulu Gets a Major Update

The Land Use Ordinance of Honolulu (LUO) has been completely overhauled after three years of council review, research, public testimony and countless rewrites. Bill 64 represents the second phase of a process to completely update and replace Revised Ordinances of Honolulu Chapter 21, Article 5. This has been no small task, and not without controversy.

The LUO provides the framework for executing the Oahu General Plan and decision making on development, diverse land uses and land preservation. It governs permitted uses of land, density, intensity of use, design and construction standards, and approval processes.

This ambitious rewrite has been methodically driven by Councilmember Esther Kia'aina, Chair of the Committee on Planning and the Economy, who said "Bill 64 would substantially overhaul the City's land use ordinance, the measure is lengthy and complex, and I want to ensure the Councilmembers and members of the public have sufficient time to review and provide mana'o on each land use category. My hope is that by taking up the measure by land use category we will be able to have robust discussion on each category and achieve clarity and much needed transparency for the public."

Although this extended the process over an entire year, it allowed the committee and subject matter constituencies to focus on each land use, one step at a time. The five use categories are Residential, Commercial, Industrial, Public & Civic & Institutional, and Agricultural.

One of the biggest challenges in tracking the proposed amendments and changes was that Bill 64 began as an entirely new draft ordinance. Proposed amendments modified the latest draft LUO rather than the existing LUO. Therefore, it was difficult to compare how each proposed amendment to the working draft would change existing law.

The volume and complexity of changes required an intense dedication that few individuals could sustain from hearing to hearing throughout the year. It is a testament to Kia'aina's determination and the hard work of her staff that Bill 64 plowed forward.

Any change to land use policy can become controversial. Increased housing density in established neighborhoods, new uses on agricultural land, proximity of wind turbines to residential dwellings, where to site new industrial enterprises and many more questions about future planning invite impassioned testimony and discussion.

Hawaii's Thousand Friends regularly engages in the legislative process and provides testimony in support of, or opposition to, good and bad bills, respectively. Sometimes we succeed and good amendments are accepted. Here is one example.

Incredibly, the Department of Planning and Permitting has issued Conditional Use Permits (CUP) for non-agricultural businesses as accessory uses to support agricultural activity, even when no primary agricultural enterprise is in operation.

Vague statutes have resulted in one landowner receiving a CUP to build a gondola ride up the side of Mount Kaala for a promise he will plant koa trees and some vegetable gardens on other parts of his acreage. He claims the gondola, zip lines and mountain biking activity will be accessory to his agriculture activity. He wants a liquor license and permission to hold events at the top gondola station until 11 pm, "to support agricultural education activities."

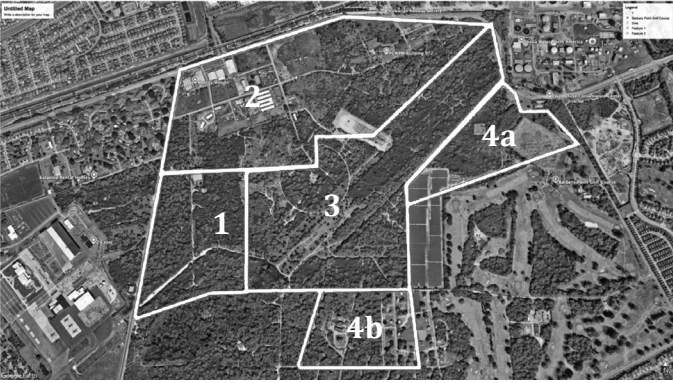
Another landowner received a CUP to open three new businesses on his fallow farmland: a coffee and tea stand, a pizza and sandwich shop, and a small distillery, businesses that belong on commercial or industrial lands. The Zoning Board of Appeals dismissed an appeal of this decision, saying, in part, that it does not matter if no active agriculture exists; it only matters that the owner plant crops before he proceeds with the other businesses.

New language we supported for the LUO will require the onsite agricultural operation to be in existence prior to the issuance of any land use permit or building permit for the accessory use. What might appear to be an obvious condition, was never before required. Hopefully, this amendment will help stop some of the exploitation of agricultural lands for non-agricultural uses.

Countless changes have been incorporated into the new LUO, some that strengthen and some that weaken the statutes. Sometimes, we have to accept that legislation is imperfect, and work for future improvements. Alas, the work is never done, and we must remain engaged.

At the time of this writing, Bill 64 passed out of its final scheduled committee hearing and was recommended for approval by the full Council. Information regarding earlier version of the bill, testimony, proposed amendments and communication are at <https://www.honolulu-citycouncil.org/bill64> □

Ewa Plain Preservation Project 2024



Section 1: South-West area featuring sinkholes, 1825 Malden Trail, and early WWII aircraft revetments

Section 2: North-West area featuring sinkholes, 1825 Malden Trail, Military Air Transport Service building foundations and Quonset huts

Section 3: Central area featuring sinkholes, airship mooring mast and aircraft runways

Sections 4a and 4b: East and Southern areas featuring sinkholes, "clamshell" aircraft revetments, African-American-manned WWII anti-aircraft sites

In 2022 Hawaii's Thousand Friends began our Ewa Plain Preservation Project. The purpose of this Project is to undertake detailed surveys of precontact and post contact historic resources on the Ewa Plain. We have created a database of found archaeological features and shared the information with the Hawaii State Historic Preservation Division (SHPD). Our new information has been given State Inventory of Historic Places (SIHP) numbers, and thereby gains official recognition of discovered sites' importance. Such recognition could then be applied in preservation and land use plans.

The Ewa Plain is a raised coral reef created by an earlier strand of the sea. The terrain is known as "karst" as portions of the coral limestone have been eroded by rain and ground water for millennia, leaving barren, rocky ground devoid of streams, with thousands of sinkholes, subsurface waterways, and caves. These sinkholes have acted as a magnet for flora and fauna where the remains of extinct wildlife can be retrieved and scientifically studied.

Our project location, known to Native Hawaiians as Kanehili, still has ancient trails, burial sites, rare native plants, many ancient agricultural features, sinkholes, caves, opae'ula shrimp habitats and the endangered Oahu Pueo (owl), endemic to the islands and the only owl listed by the State as endangered. The Ewa karst is the largest of several karsts on Oahu, yet one of the least known.

Kanehili was the site of a former Marine Corps Air Station (MCAS) known as Ewa Field, which is listed on the National Register of Historical Places and closed as an airfield in 1952. A Navy Base Realignment and Closure (BRAC) process attempted to disperse surplus Ewa parcels to non-federal entities such as the Hawaii State Airports, Hawaii National Guard, Dept of Hawaiian Homelands

and the City and County of Honolulu through the National Park Service Lands to Parks program. However, a last-minute land deal on Ford Island by the Navy gave significant Kanehili mauka parcels along Roosevelt Avenue to developer Hunt Corp of Texas, which has plans to sell properties to private interests for development.

Knowing that history lies beneath the soil, this project has conducted a series of geophysical surveys using Ground Penetrating Radar (GPR) to locate ground disturbances, magnetometers to find ferrous metals such as aircraft engines and landing gear, and Geographic Information Systems (GIS) equipment to precisely fix the location of resources found. (Please see accompanying map for areas that have been surveyed; more such surveys are proposed on the makai side of the former MCAS). Information gathered is recorded in the ESRI ArcGIS format.

To date this radar process has found sinkholes on the Waianae side of the project area. Some are big and deep; most are shallow, and all are irregular in shape. The radar was used to try to determine what was below the surface and map it, both non-military and military. A major advantage of radar is enabling the user to look beneath the land without disturbing the soil or remains, human or otherwise.

After their arrival and prior to Western contact, Native Hawaiians utilized Ewa sinkholes for a variety of purposes. Dry sinkholes became burial sites. Sinkholes containing brackish or fresh water helped direct the locations of both the around-the-island trail known as the ala loa ("long path") and mauka-makai routes within individual ahupuaa. At Ewa, one such mauka-makai trail, mapped in 1825 by British Royal Navy Lieutenant Malden, had been used to facilitate the gathering of both ocean and mountain resources.

For future studies, it is recommended archeological surveys be conducted on the karst features identified in the lidar data. The karst features are now numbered, and a coordinate provided for each one. This way each feature could be systematically examined. The combined use of EM61 and lidar surveys has successfully revealed the presence of intact remnants of the military revetments and pads. It is likely that an extensive survey, which includes vegetation removal, will uncover a multitude of archaeological resources beyond gunite and pads. To direct archeology surveys, a detailed magnetic and/or electromagnetic survey could be conducted if thick vegetation is removed first.

In summary, Hawaii's Thousand Friends through this project seeks to uncover decades of history buried in the Ewa Plain to better understand where we live and preserve artifacts of antiquity before they are bulldozed and lost forever. We have already added new knowledge and hope to do so more in the future. □



Peter Savio: Mom! Why we go mainland? 60 years of failure. It must stop.

This was the title of a talk given by Peter Savio, a local affordable housing developer born in Hilo and raised on Oahu, Peter was the keynote speaker at Hawaii's Thousand Friends November 2nd Annual Dinner. Below are some

annotated excerpts and highlights from his talk.

Hawaii has a serious housing crisis, and the problem is that our government does not understand what the problem is. They want us to believe it's supply and the solution is to build more homes. We've been building homes for 60 years and our housing crisis has only gotten worse. Over the years we have built probably 400,000 to 500,000 new units. Most of those units were built for under \$100,000. All of them today are in the million-dollar range.

Since the 1980s, the more housing that has been built, the more international demand has increased. Often the land beneath Hawai'i homes is worth much more than the house itself. Thus, tearing down a house and building market rate houses in its place drives up the value and cost of the entire neighborhood

It's obvious that the question is not supply; it is a very strong demand because Hawai'i is an international real estate market where Hawai'i residents must compete with mainland and foreign buyers who can pay more than local buyers.

Offshore buyers and investors have driven up housing prices above what the market would be if based on local wages. Unless we can reduce the outside demand and control pricing local buyers have no chance.

Approximately two-thirds of all residents have considered leaving the state due to the high cost of living, housing insecurity, and lack of financial opportunity. The only people who can feel secure today are those who have been able to acquire their home.

Peter called short-term vacation rentals (STRs) "evil" because of their severe impact on the affordability of housing. STRs have proliferated, as confirmed by Governor Josh Green, who found that there are 89,000 STRs throughout the state with 52% owned by non-residents, with 27% of those non-residents owning 20 units or more.

Another example of what is wrong is proposing to build thousands and thousands of apartment rentals to help solve our affordable housing problems. Building rentals does not create value. It gives away value created to the owner of the building and the tenant becomes the funnel through which our tax dollars go to subsidize mostly out-of-state owners. We need rentals, but they should be community owned, owned by the tenants so that the created wealth stays with the tenants.

On Oahu, the Transit Oriented Development (TOD) high-rise, high-density zoning within a half-mile radius around each of Oahu's 20 rail stations has more than enough land to build probably one million units.

Yet, in passing SB 3202 (Act 39) in 2024 the Legislature is telling

us there's a need to allow three homes on every residential zoned property in the state.

Act 39 requires the counties to permit two additional units, either Ohana or accessory dwelling units (ADUs) on each single-family residential zoned lot in the state. Instead of increasing housing that is affordable, Act 39 will increase the cost of real estate, encourage land speculation, pack in too many structures, overload infrastructure and potentially put whole neighborhoods at greater risk of catastrophic fires.

One action that would help the people of Hawai'i get into home ownership is Section 8, which is a federal rental subsidy program with homeownership possible under the Housing Choice Voucher (HCV) homeownership program. Under Section 8 a state Public Housing Agency (PHA) may choose to administer a homeownership program.

Hawai'i's Public Housing Authority (PHA) and City and County of Honolulu Department of Community Services offer homeownership as an option in the Section 8 Housing Choice Voucher Program.

Peter is trying to fix Hawai'i's housing crisis by changing the current mentality that building more houses will bring prices down and advocates instead for creating a new affordable housing market carved out just for locals that would place a ceiling on home prices connected to local wages and keep sales for only residents. All this with the goal of bringing our people back home and put them into home ownership.

He thinks that constitutional concerns about reserving housing for Hawaii residents are unwarranted and that there needs to be a concerted effort to push the limits to find ways to favor residents. He suggests a new zoning class called Owner-Occupant (or similar name).

Some of Peter's solutions to help end the housing crisis include putting a moratorium on all Short-term Rentals (STRs) in residential and apartment zoning, building housing that is affordable and tied to local wages and for residents only, and increasing government sponsored housing, where government can implement deed restrictions and preferences for local buyers.

Peter reiterated that the problem is not zoning. We have enough zoning. Our problem is our government does everything in such a way that increases the cost of real estate under the guise of making housing affordable. Their lack of action and bad policies will never work because government tries to incentivize developers by throwing huge amounts of money at projects when it is better to direct money to people trying to buy homes.

Peter ended his talk by saying that we don't have a supply problem but a demand problem, and if changes are not made in the next 10-20 years Hawai'i will become one big tourist resort with not enough housing that is affordable for teachers, firefighters, nurses etc. If this happens, our state will have to import people to fill these critical positions, and our islands will no longer be the Hawai'i we know today. □



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Zero Appeals *Continued from pg. 3*

estimated the limited number of vehicular movements, 37 parking spaces and bus parking. He confirmed that all his land was, in fact, fallow when he submitted his application, and that he had no intention of planting anything until he cleared the permitting process.

Kamananui argued that the CUPm should be revoked because the application was inaccurate, incomplete, failed to appropriately address traffic, wastewater, land allocation, impacts on neighbors, and the proposed businesses could not be accessory to no agricultural production on fallow land. The Director's decision was, therefore, based on erroneous findings of material fact.

ZBA dismissed the appeal, finding that even if the application falsely claimed active agriculture and that there is no current agricultural activity, this is not a valid concern because the approval requires agricultural activity before building permits are granted. They were not concerned about the big discrepancy in land required for wastewater treatment or how that might affect the ag land dedication, or the validity of traffic counts and potential impacts. ZBA said the Department of Health would address wastewater and the Department of Transportation would address traffic. They were unconcerned about impacts on surrounding neighbors and agricultural operators.

In the case of Hui o Kamananui vs DPP and its CUPm approval for NS Holdings, Inc., the ZBA kept its perfect record that they do not uphold appeals.