

9. APPENDICES

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November 2014 – January 2015
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1. What should a land use system do or provide for Hawaii?	2. What are the State's interests in land use?	3. What are the Counties' interests in land use?	4. What models or best practices do you know of could help us achieve the outcomes desired from an effective land use system?
<p>I take the question to be in terms of a generic land use system, not necessarily specific to Hawaii. It should provide for the following:</p> <ul style="list-style-type: none"> • A predictable, efficient, non-duplicative and cost-effective review process for both the applicant and public agencies • Opportunities for meaningful public involvement • A transparent decision-making process • Decisions that are informed by good data, such as forecasts and needs assessments. • Protection of environmental, natural and cultural resources and important agricultural lands • Facilitation of a resilient and enduring economy • An adequate supply of lands to meet housing, commercial, recreational and other community needs • Consideration of the location and scale of projects with regard to infrastructure planning • Compact and mixed land uses that support the efficient development and operation of infrastructure • Incentives for desirable development. • Possibly disincentives for undesirable development which could include areas that are susceptible to natural hazards or have / significant natural or cultural resources. 	<p>In the context of a non-specific land use system, the State's has a role or interest in:</p> <ul style="list-style-type: none"> • Maintaining a statewide population and economic projections • Having at least some regulatory oversight for lands that have great concentrations of natural resources such as native forests, scenic resources, etc. Our current conservation lands have this emphasis. • Providing for an adequate supply of lands to meet housing, commercial, recreational and other community needs • Having direct input in land use matters which involves State functions or facilities. Funding and maintaining would be facilities such as transportation systems or schools. The State provides direct oversight in areas such as water systems, wastewater, landfills, nearshore water quality, and cultural resources. • The State has an interest in the preservation of agricultural lands • Coordinate infrastructure planning and development (highways, public schools, prisons, airports, etc.) with the County as applied to our current system, the State's role could be changed to delegate the regulation of lands in the Rural District to the Counties; develop a new process whereby county-level changes to general plans will trigger automatic changes in state district boundaries, but where environmental impact and other review is still required in the entitlement process for County zoning or other entitlements; assuming review of petitions continues, the State should consider increasing the minimum size for LUC review from 15 acres to a larger size such as 50 acres; and limit State involvement to determine what classification land should have, and limit conditions to those areas that are of State level importance. 	<p>The Counties' have an interest in all of the items listed above in No. 1.</p> <p>The Counties' role in an effective land use system should include:</p> <ul style="list-style-type: none"> • Prepare, update and implement comprehensive land use plans • Monitor plan implementation • Prepare and update technical studies (socioeconomic, land use, infrastructure and public facility capacity) with help data developed by the state or other sources... • Regulate lands within the urban and rural districts • Joint State/County regulation of lands in the Agricultural District • Have a zoning and environmental regulatory system that suits the particular needs of that county and unique circumstances as required • Enforcement of land use regulations • Assist with infrastructure planning in coordination with the State 	<p>The following three states may be thought of by some for best practice in comprehensive planning. Notable components include: 1. mandatory comprehensive plan elements and criteria; 2. review of County plans for consistency with State planning policy/criteria; Incentive programs; and no zoning at the State level.</p> <ul style="list-style-type: none"> • State of California - http://opr.ca.gov/s_generalplanguidelines.php and http://opr.ca.gov/docs/General_Plan_Guidelines_2003.pdf • State of Washington - http://apps.leg.wa.gov/rcw/default.aspx?cite=36.70A and http://www.commerce.wa.gov/Services/localgovernment/GrowthManagement/Pages/LawsRules.aspx • State of Maryland - http://www.mdp.state.md.us/OurWork/smartgrowth.shtml

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<p>The land use system should provide for an efficient and safe roadway system. Outcomes for an effective system could be the use of thresholds on the operations and safety of roadways and/ or multi-modal transportation.</p>			
<p>That no human action, be it building, city, condominium or park, adversely impact the "living (sustainability) of the land". We need to conform and be in harmony with the ecology of the environment and not compete against it.</p>	<p>Determine and regulate the suitability of a proposed use in terms of topography, geology, vegetation, waterways, wildlife, and other natural and necessary (for sustainability purposes) features and attributes of a site.</p>	<p>To be able to assess the availability and impact of the developments infrastructure to assure that the use of resources (water, power, etc.) will not be detrimental and jeopardize the ecosystem.</p>	<p>Don't know.</p>
<p>With respect to agricultural lands, the outcome of an effective county-level land use system would be to minimize the effect of the "impermanence syndrome" on agricultural lands resulting from landowner anticipation of urbanization or subdivision.</p> <p>Urbanization should only be allowed when it is in full accordance with the phasing and magnitude described in a land use plan. The land use plan should also have a state/county infrastructure component to ensure reasonable coincidence of their availability and sufficient capacity when planned urbanization moves forward.</p> <p>Urban development proposals that are on the plan but seek premature implementation, or not part of the plan and requires an amendment to the land use plan may be considered at a later date under specific and limited circumstances.</p>	<p>Codify in HRS a uniform county land use planning system that has the attributes described in item 1 and that links with the State's planning responsibilities described below.</p> <p>The State role should be maintain its control over existing functions such as natural resources (use and quality of ground and surface waters, management of conservation lands and certain agricultural lands); transportation infrastructure (certain roadways, airports, etc.), other public facilities (certain parks, schools, libraries). State should be required to develop plans and phasing of implementation to match county land use planning and phasing. Policies promoting this already exist.</p>	<p>Counties should have primary role as described in 1.</p>	<p>Other simple economy, resource-limited island states/nations such as Guam (not necessarily to improve ours but what to be wary of...)</p>

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<p>A land use system should provide a fair and open process for determining how communities should be built and laid out for the public's health, safety, and general well-being. The system should allow for orderly changes to meet current and future built and natural environmental challenges, while providing specific, reliable milestones that set short term and long term investment backed expectations.</p>	<p>The State should provide frameworks that ensure that the public's health, safety, and general well-being are accounted for in public and private sector decision-making through a framework that implements my response to Question 1, supra. State decision-making regarding resources under the State's jurisdiction (e.g., its management of public trust resources and the ability to direct development patterns through transportation planning), should be firmly tied to a planning framework. The planning framework should be respected by the legislative, executive, and administrative branches of government with State Constitutional provisions that firmly set the State's planning policies.</p>	<p>As the level of government closest to the community, counties should work within the system described above, to make specific, strategic investments in built and natural infrastructure based on community level planning. The State should establish funding sources and frameworks based on need that support long range CIP investment by counties that are consistent with the state wide planning framework.</p>	<p>A good framework is the State of Washington's Comprehensive Planning and Growth Management framework, which is further described at http://www.mrsc.org/subjects/planning/compplan.aspx. Washington's Growth Management Act (GMA) is similar in many ways to Hawaii's State Planning Act, the important difference being that the Washington GMA has teeth and Hawaii's Planning Act does not.</p>
<p>Protect natural and cultural resources (including views, open space, burial sites, wetlands, coastal water etc. etc.) from both direct AND indirect impacts of development. Protect property from hazards (including from flooding, sea-level rise, boulders falling). Protect the character of our communities. Ensure that tax payers do not wind up subsidizing the development (unless genuine affordable -- not "workforce" -- housing). Protect agriculture, which means growing food. Provide housing and communities for existing residents.</p>	<p>Natural resources. Cultural resources. Infrastructure (including, highways, schools, civil defense, hospitals). Wastewater, solid waste are state interests as well energy.</p>	<p>Same as the state's interests. Remember the old saw: measure twice, cut once.</p>	<p>We have the best land use system in the country.</p>

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<p>The goal of a land use system is to encourage better and informed decision making recognizing that land use is driven by economic factors. Land use patterns reflect the direct and indirect impacts of the physical, cultural, social, and economical environments of the area. In addition, land use patterns incorporate growth of population and impacts on resources. A land use system should have objectives, policies, and cumulative analysis. I particularly like the Hawaii State plans goals and objectives. I personally do not think we need state functional plans. To be informed, one needs data to be collected, which includes environmental and social indicators. The system should have a centralized location for collecting and storing data. Environmental indicators include water pollution, air pollution, noise pollution, net wetland change, net forest change, net farmland change, climate change, ozone depletion, non-renewable resource depletion, personal pollution abatement, and submerged coastal systems loss. Social indicators include age demographics, suicide, crime, drug abuse, school dropout, obesity, and homelessness. We should use these indicators along with economic impacts to aid in our macro and micro decision making. I think a good land use system in Hawaii would clearly recognize what we need in a rural versus urban environment and agricultural versus conservation environment, for example, we have to use our GIS layering data to guide our decision making.</p>	<p>To protect natural resources, to promote the health of the economy, to build great communities balancing work and play, to execute the State Constitution, to grow food, and to assist in the basics which include food, clothing, shelter, and healthcare.</p>	<p>To minimize risks, ensure adequate infrastructure, protect the environment, regulate for health, safety and welfare, improve the economy to balance community desires with impacts of development.</p>	<p>Environmental Impact Statements (E.I.S.). Community Development Plans Baseline data to measure impacts State Building Code Council Flood Zone Mapping Public Participation</p>

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<ul style="list-style-type: none"> • Direct development to appropriate areas : these would be areas that avoid/minimize risk to acknowledged agricultural, natural or cultural resources (including wetlands, reefs, view planes, burial areas and traditional subsistence or ceremonial gathering areas); avoid natural or manmade hazards (floodplains, unstable lands, steep slopes/ ridgelines or areas susceptible to sea level rise); and keep public infrastructure costs manageable. • Offer more certainty in the development process and follow the state laws protecting natural resources: screen out lands that are not appropriate for large scale developments from the Urban boundaries; encourage Counties/Cities to do the same. • Identify and protect agricultural lands; utilize land use classification and public/private farm trusts to protect viable agricultural lands for large and small scale farming, orchard and livestock operations. • Provide genuine opportunities for Hawaii residents to have housing they can afford; utilize and enforce conditions or incentives given to proposed development projects. • Give a second layer of scrutiny to County zoning/land use decisions; County land use decisions often based more on immediate political and financial interests; and realistic evaluation of the public cost, project viability and environmental impacts of the proposed project should be part of the land use review process, just as our legislatures have two bodies to review laws. • Allow public input on land use decisions that affect public trust resources, public and traditional access and publicly funded infrastructure service and maintenance costs. 	<ul style="list-style-type: none"> • Compliance with the State's Constitutional duties to act as a trustee of public trust resources affected by any land use decision (land, water, ocean/coastal and cultural resources.) • Compliance with the State's Constitutional duties to protect native Hawaiian traditional and customary practices as they may be affected by proposed land uses. • Capacity and safety of state funded or state regulated infrastructure and services: schools, roads, hospitals, civil defense, landfills, stormwater, drinking water and wastewater systems • Protection of agricultural lands with the goal of enhancing Hawaii's food/energy security • Sufficient housing that is affordable to Hawaii residents based on actual pay scales, not HUD figures 	<ul style="list-style-type: none"> • Compliance with the State constitution, HRS, HAR and their own County Charters. • Protection of open space, natural and cultural resources while planning for needed housing, infrastructure and economic activity to maintain quality of life. • Implementing the policies found in State and County long-range planning documents. • Making efficient use of existing infrastructure and public services and keeping public expenditures on infrastructure expansion, infrastructure maintenance and expanded public services at sustainable levels. • Planning to protect the character of existing communities. • Planning for complete range of vehicle and non-vehicle transportation systems to minimize local traffic and save on transportation costs. • Planning for resiliency for natural hazard mitigation and climate change impacts. • All the same interests that the state has, as applied to the local terrain. 	<ul style="list-style-type: none"> • Implement and comply with the policies already provided in our land use system • Adopt zoning overlays to actually protect agricultural land as has been done by many counties and states. • Clarify enforcement responsibilities for conditions placed on projects during LUC review for state and county agencies. • Institute a process for a Public Advocate to be part of any LUC DBA proceeding if requested by more than 20 individual residents or organizations in the area. This would be in lieu of a contested case request. The public advocate would be a per diem representative chosen from a qualified pool of applicants similar to the process used by counties for contested case hearings officers. The public advocate would meet with concerned citizens to better present their knowledge of the area being considered for a DBA during the LUC deliberation. The Public Advocate would be allowed to present exhibits; call witnesses and rebut statements of other parties. • Fees for the Public Advocate would be reflected in LUC application fees for that particular Docket. The option of having a Public Advocate could lead to fewer citizen interventions and could also encourage landowner's applying for DBA to meet with concerned community members and work out differences in advance of LUC proceedings, thus improving projects and avoiding protracted LUC proceedings that are contested by local citizens.

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<p>a) Encourages those land use choices that protect and even enhance "The Commons," such as natural and cultural resources (e.g. historic sites, habitat for species, view planes, etc.), stream and ocean water resources, open spaces, and public recreational resources (e.g. parks, trails, etc.), while addressing basic societal needs, such as the need for truly affordable housing for existing residents, adequate agricultural land for food production, and healthy urban design models.b) Prevents land use choices that -- either by direct action or indirect or cumulatively consequences -- destroy "The Commons," undermine environmental protection, and/or perpetuate unsustainable development practices (e.g. urban sprawl, high water consumption, dependence on cars, suburban areas located far from existing infrastructure, town centers, etc.).</p>	<p>The State's interest in implementing a good land use regulatory system is protecting "The Commons" and the public's best interests. In Hawaii's Constitution and jurisprudence back to the Kingdom refers to "The Commons" as "public trust resources." The Commons or public trust resources are those resources and qualities of life in the islands that are not owned by any entity, but upon which we all rely on for basic physical, mental, and spiritual health. Without a well-protected commons or a healthy public trust resources, we lack the basic functioning infrastructure to support a healthy economy of any ilk. Land use decisions -- even when exerted on land that is privately owned -- affect the quality of our public trust resources. The State has an obligation -- a duty -- to ensure that any land use decisions protect public trust resources in the best interests of the public, as a whole. To protect The Commons/public trust resources, the State must ensure that our natural resources are protected (clean air, water, ocean, soil), our historic and cultural resources are safeguarded, and that we have adequate agricultural land for local food production, adequate local energy production, and adequate infrastructure to support all residents. To do this well, the State should direct where development is allowed and where it is discouraged based on the public's best interests. Long-term planning is the key to long-term protection of the public's interest and public trust resources. As such, it is counter to the State's interests to have a land use regulatory system that regularly considers site-specific development proposals on a case-by-case basis.</p>	<p>The Counties should be working towards the same goals as the State -- advancing the public's best interests by ensuring public trust resources are well-protected, but at a more local, specific level. The Counties should be implementing specific development and protections plans for their residents that conform to the State's overall direction on where development is allowed, and where it is discouraged. As the local municipal government, the County is the first line of government -- the government closest to the people, so to speak. As such, it is best positioned to gather and reflect the collective will of the people in terms of how they would like their local communities to be designed.</p>	<p>There is a lot of useful information about the history and philosophy behind the concepts of land use designations, zoning, etc. But in terms of comparative systems, it is hard to identify one or two examples. Massachusetts, in particular, Boston, has a good land use system. A lot of what Hawaii has implemented today is rooted in that history (which actually comes over from England). However, Hawaii has a really unique situation -- as a particularly isolated, island-community with a very complex legal and social history -- so we cannot just compare, contrast, and apply cookie-cutter models. This means we have had (and must continue) to adapt the systems we borrowed from other places to make them relevant and useful to us here. I am not sure if it is relevant to this task force's charge -- improving the designation process -- but I do think there are good lessons we could learn from California. Their use of the Planning Commission concept is really effective.</p>

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<p>We need to start with the enabling legislation, Act 187 enacted in 1961 (Statehood in 1959). It appears to have provided for the following: Strong central government (Gov. Burns era). Unprecedented population and economic growth, Real estate speculation, Urban sprawl without adequate service facilities, Development on limited prime agricultural lands Land Use Law's Declaration of Purpose: "... in order to preserve, protect, and encourage the development of the lands in the State for those uses to which they are best suited, the power to zone should be exercised by the State...." (See L. 1961, c. 187, § 1) In order to have an effective land use system in Hawaii, there needs to be a "balance" struck between the lands we are preserving and protecting and those lands that we are encouraging development on. The debate will revolve around the issues of sustainability and what we need to exist within our island state. We may be able to get agreement that we need to preserve and protect "ecosystems" that we need to survive on each island. Preservation of potable water sources and our near shore waters are critical for our own survival. We should also be able to get agreement on the need to preserve and protect important agricultural lands that are and will continue to be economically viable for agricultural production. In both cases, there will be a need for discussion on the areas or acreage that should be protected. Similarly, we should be identifying areas that may be suitable for urbanization, both now and in the future. This would be based on our ability to preserve and protect ecosystems so there is enough potable water to support the planned urban expansion. The debate will focus on the matrix or criteria used to determine the amount of acreage appropriate for preservation, protection, and development.</p>	<p>The State's interest should be focused on natural resource management and constitutional issues such as preserving potable water (Water Commission and sustainable yields), important agricultural lands, etc. The State's interest should also be stated as the counties go thru the development of their General, Development and Sustainable Community plans.</p>	<p>The county functions should be on planning for future growth areas based on certain population growth rates. It should be a sliding scale of the amount of developable lands made available to support the planned growth, either through increased density in urbanized areas or urbanization of rural, conservation or agricultural lands. The counties role is to insure adequate infrastructure is made available to support the planned growth or density in a certain area. The future expansion or redevelopment area should be identified in advance of its need to allow for more competition in the development of all product types. Allowing for small, medium and large home builders to compete for areas of development/redevelopment will encourage more competition and allow for more housing product types at different price points and thereby increase the overall supply of housing in Hawaii.</p>	<p>Not sure any successful model exists of balancing natural resource management and development. It would appear to be more of an art than a science. Perhaps, rather than looking for models, we should instead focus on insuring the supply of potable water and, provide adequate infrastructure as these two issues will be the limiting factors of growth in Hawaii.</p>

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<p>Hawaii's land use system should implement policies set forth in the Hawaii State Plan and the County General Plans and Development plans. It should protect lands that harbor significant natural resources, provide a sufficient inventory of land for the agricultural industry, and designate lands for urban use, including a reserve to accommodate forecast population growth. The process to redesignate lands should be an open process, based upon rational analysis, and provide fair and predictable outcomes.</p>	<p>The State's role in the land use system should be to establish goals, policies, and regulations for areas of statewide concern, and areas for which the State has regulatory authority. This may include, but is not limited to, economic development, food security, resource conservation, and facilities planning such as highways and schools. Goals and policies should be expressed in the Hawaii State Plan, and the State Plan along with the functional plans should be reviewed periodically. State land use regulations can then be one of the tools used to implement State goals and policies. With respect to the counties, the State should establish requirements for county land use plans, require the county plans to be consistent with State planning goals and policies, and delegate the authority to implement the plans to the counties. In addition, the State's capital improvement program should be used as a tool to implement land use policies. State facilities, such as highways and schools, should be budgeted for in growth areas. Funding for land acquisition and conservation easements should be provided for lands identified for protection.</p>	<p>As existing state law mandates that each county prepare a comprehensive general plan, the County's role in the land use system should be to implement goals and policies set forth in their respective General Plans and Development plans. Since county agencies are best positioned to work with the community and respond to local concerns, they should have the authority to establish growth management strategies, as well as permissible land uses, and development standards. The land use system should recognize the counties expertise in land use planning, their familiarity with local issues, and their ability to address concerns of local residents. Each of the counties expertise in land use planning has advanced substantially since the State land use law was enacted in the 1950's. As opposed to the situation in the 1950's, each county now has prepared, or is preparing, community based general plans and development plans and have planning staff with expertise in comprehensive planning. County agencies and elected officials are more likely to be aware of local issues since members of the public, whether residents, landowners, or businesses, will typically contact county agencies or elected officials about land use concerns. Since county general and development plans are prepared by and approved by county planning departments and councils, respectively, the counties should have the authority to implement their plans.</p>	<p>No specific recommendations at this time.</p>

State Land Use Review Community & Stakeholder Meeting Notes

Community and Stakeholder Comments, Questions, and Perspectives

November 2014 – January 2015



State of Hawaii
Office of Planning

Notes – Stakeholder Meeting No. 1 – Oahu

Thursday, November 20, 2014, 6:00 p.m.

Washington Middle School

1633 South King Street, Honolulu

Community and Stakeholder Comments, Questions, and Perspectives

a. Share Your Experiences

- Make-up of LUC shouldn't be so development-oriented.
- Any consideration of special rights for native Hawaiians in developing land or projects, e.g., for kuleana lands?
- Comments on length of process, streamlining process.
- How do you know that process isn't efficient?
 - Look at data and make it public before moving forward.
 - Slow down process.
 - Everyone needs to be represented.
- Are there criteria for determining what conditions are imposed by LUC?
- Who looks at and enforces conditions for approved boundary amendments and whether they're being met? Which agencies are responsible? Is OP trying to verify the accuracy of how conditions being met?
 - There is no accountability.
 - Read annual reports at face value? There needs to be follow-up.
- Enforcement of conditions – limited by budget constraints, public is told information is on LUC website.
- Pressure from development/unions to support/pass/approve petitions/projects like Hoopili.
- Complaint-driven system, people doing what they want on State land, lax enforcement.
- Concerns: maps may be misleading
 - Strict regulations within zones.
 - Need to consider within all zones.
- No LUC chair indicated on website – need info updated.
- Turtle Bay purchase: process let community down; paid \$40 Million for what the system should have delivered for community.
- Does the State have adequate jurisdiction/power it says it has? Does the State have authority/responsibility or control over land use when there isn't a treaty of annexation to justify State authority, especially if we're talking about planning for Hawaii's future?

- How does OP represent interest of State? What are the interests of State? Are they determined by the Governor?
- Only three to four Land Use districts is monolithic and forces big questions regardless of size of project.
- Landownership pattern and changes over time – this information is essential to understanding how the system is doing.
- Problem with servicing urban uses outside urban designated lands when first boundaries established.
- Percentage of LUC denials of projects seems low. Percentage does not reflect what common person wants. We're ruining the State.
- Lots of State and county laws overlap; don't see a lot of information coming out of the LUC about how the Land Use law and districts are functioning.
- Regarding public participation: Quasi-judicial (QJ) system allows intervenors if they're interested parties. QJ process works / allows public partnership.
- Missing county system here – counties work at zoning/micro-level; here people have to go to both State and county if they want to develop or if they have concerns.
- Process being conducted to turn LUC into quasi-Legislative decision-maker – would be like the county councils (politically-oriented, 3-minute testimony).
 - The strength of current system: allows people to intervene in process – all sharing information and place at the table.
- Concerned that the argument being made that LUC is not needed anymore, and that plantation agriculture is gone, so don't need to protect agriculture anymore.
- Quality of people on LUC – pro-development; bias.
- Transitions from one district to another: trend or pattern?
 - What's most likely?
 - Is there a repository for the information?
- Island-wide housing strategy converting ohana zones:
 - Accessory Dwelling Units (ADUs) – will increase density in areas.
 - Already dense areas that can accommodate increased density aren't ohana-zoned
 - Density will go up in urban areas.

b. An Ideal Land Use System

- What is being valued? Are we valuing what we care about? We could probably find agreement about common values, like mountain views, biota, and Hawaiian culture. These values need to be specified. Right now we have embodied in system "highest and best use", not what we value.
- Land use system that encourages everyone to participate. System dominated by those who can pay to engage, skewed to capital and land-rich.

- 2050 Sustainability Plan: influence on Land use?
 - Living research sites/zones: Communal living, sharing resources important to future/food security. Now, there is nowhere to do that
- Land Use system is laid out in State Plan.
 - Comprehensive and enforceable – identify what agency is responsible.
- Would provide for people of Hawaii – includes housing, since there is a shortage of housing.
- Protection of land suitable for agriculture.
- Sierra Club believes process shouldn't be made longer and more expensive. Should speed up provision of housing in right place, in right way.
- LUC that protects natural/cultural/residential/agricultural land as in Chapter 205
 - Hoopili – in County UGB.
- 2 systems because have 2 separate interests.
 - County: property tax revenue base (increase tax base).
 - State: responsibility to protect land for other values/resource value.
- Other states outline framework for their counties; we have islands, have food baskets that aren't being protected (like Hawaiian fishponds) these places should be honored in codes; we're ignoring this.

c. Ideas for Improvement

- Special rights for Native Hawaiians in developing land/projects.
- Cultural/Historic districts need to be mapped.
- Conservation district should have sub-districts.
- Ahupuaa alert – to alert the public when we're running out of water in a watershed, or traffic and within ahupuaa. Red lights are already flashing.
 - Very vulnerable, so close to something very bad happening (extreme hurricane, tsunami).
- Is there criteria for LUC in terms of geographical composition? Neighbor island representation? Who decides makeup? Should add environmental expertise/geographical expertise.
- Video conference option to testify.
 - Don't waste time or money in being at LUC hearings.
- Use new technology to reach others (video, internet, live feed).
- LUC needs bigger, more comfortable rooms for hearings.
- LUC should be increased to at least 15 members – need more diversity.
- Clarify in Chapter 205 for the Agricultural district: who is responsible for enforcing what?
 - Enforcement of fake farms: counties say "not us"
- Get back to planning system:

- Are the functional plans being reviewed by legislature?
 - Do 5-Year Boundary Reviews.
- A mechanism to identify State-level district boundary amendment system that conserves conservation land more. We need a process that has teeth.
- The Hawaii State Plan Policy Council should be reinstated. State never gets down to community level; there is a disconnect.
- Clarify and bring into State and county processes into one system so it's clear who's responsible, and increase accountability for land use system.
- Don't support that fallow or undeveloped land with urban designation has huge value – need a condition that “entitlement” expires after 20 years so that you lessen the pro-development pressure.
- Break the land use districts into more specific purposes which would then require less/smaller questions – we'll see that need and existing districts may not be applicable.
 - Consider agriculture/conservation/open space lands – as separate uses.
- Problem with quality of people on Land Use Commission: they're pro-development – make them elected.
- Provide data regarding infrastructure costs and land ownership.
- Provide the public with electronic access to annual reports and data/mapping for analysis.
- Need to reclassify unused Agricultural land to create housing; bring down cost of housing.
- Redesign how zoning gives incentives to people especially in terms of housing on agriculture lands. Existing code gives incentives encouraging what we don't want to see.
- Chapter 205 is not land use system. Does county have enforcement powers? Who does? This should be spelled out in Chapter 205.
- Need to see data: What is the staff size of whoever is responsible for managing LU systems? Need to see trends/data to measure effectiveness and efficiency.
- Is there adequate staffing? Is it working? What is the criteria for “streamlining” and determining what is effective and efficient?
- Consider flood maps and seawater rise. There are maps showing flooding to King Street – this is how we need to look at our community.

Miscellaneous Comments about State Land Use Review Process

- Useful summary/information first, as done with prior 5-Year Boundary Reviews.
- Only focusing on Chapter 205, why aren't you taking into consideration Chapter 205A, State Plan, etc.?

- “Stakeholders” need to be broader more public
- Next time around, people like those here should be involved in this project.
Stakeholder list disappointing
- Differentiating between landowner and resident – why is absentee landowner considered a “stakeholder”?
- Why is there no meeting in west Oahu?

Name	Organization
Randy Ching	Sierra Club
Lisa Taber	Oahu Citizen
Tisha Woytenke	UH Manoa – PUBA Student
John Kirkpatrick	Belt Collins Hawaii
Randall Imada	-
Victoria Cannon	-
Dana Gusman	-
John Bond	Kanehili Cultural Hui
Tina Ain	Hawaiian Island Land Trust
Earl Yamamoto	State of Hawaii Department of Agriculture
Paul Oshiro	A&B
Frederic Berg	Berg Enterprises
Dennis Callan	Hawaii Geographic Society
Jonathan Ching	Office of Hawaiian Affairs
Rod Low	Esri
Kathy Sokugawa	City and County of Honolulu – Department of Planning and Permitting
Erik Horn	Self
Angela Kieran-Valt	Hawaii Army National Guard
Dawn Hegger	Hawaii Army National Guard
Donna Wong	Hawaii's Thousand Friends
Pauline MacNeil	Lani-Kailua Outdoor Circle
Rafael Bergstrom	Surfrider Foundation
Sharon Schneider (sp?)	Neighborhood Board #4
Beth McDermott	-
Hunter Heavilin	Asia-Pacific Center for Regenerative Design
Konia Freitas	-
Marti Townsend	Outdoor Circle
Elizabeth Reilly	Livable Hawaii Kai HU
Dr. Kioni Dudley	Friends of Makakilo
Gil Riviere	Senate
Vincent Shigekuni	PBR Hawaii
David Atcheson	Transition Oahu
Guye Lee	Hulikos Trust
Blake McElheny	North Shore resident
Andrea deCosta	Myself
Rendell Bowg (sp?)	Hui O Maui Ola (sp?)
Duane Preble	-

Karen Piltz	-
Les Ihara Jr.	Senate
Michele Matsuo	Public
Allegra Matsuo Mossman	Public
Andrew Yanoviak	ESP & DC
Anthony Aalto	Sierra Club
Michele David	HPU – Sustainability Program

Notes – Stakeholder Meeting No. 2 - Maui

Tuesday, November 25, 2014, 6 p.m.

Maui Planning Commission Conference Room

250 South High Street, Kalana Pakui Bldg, #140, Wailuku

Community and Stakeholder Comments, Questions, and Perspectives

a. Share Your Experiences

- Access: Meeting locations are not conveniently located for public attendance.
- Sequence of events needs to be adjusted – Community Plan, Zoning, Land Use Commission (LUC) or County first?
 - Community Plan first, then LUC, then Zoning
- The LUC proceedings impose numerous conditions, thereby preventing county council members from deciding issues that should be reserved to the county because of home rule and because county councils are closer to the communities.
- LUC proceedings are duplicative with county proceedings
- LUC doesn't always have local perspective
- The LUC notice is insufficient to allow intervention – need more time.
- The LUC ignores input from individuals. But as bad as the outcomes have been, the process allowing for public input is good.
- Wants to keep this process that allows the public to speak
 - Reorder process to provide more protection
 - Home rule good
 - “You can ignore me even though I’m right – that’s bad”
- The EA/EIS are prepared by developers or consultants paid by developers, preventing a neutral and unbiased report. EA process needs to be more non-biased.
 - Who funds the EA/EIS process?
 - How are LUC members chosen?
 - Need to educate LUC members on laws.
- More clarification on role of LUC:
 - What triggers an EA/EIS?
 - Retroactive rights?
 - More public education/involvement!
- The HRS protections of agriculture are outdated because they are based upon a sugar cane or plantation-based agriculture. The statutes and rules must be modernized to promote the new smaller diversified farming economy.
 - Put old rules on a diet – needs to be more pro-Ag
 - Update rules to reflect growing agriculture needs
- The EA/EIS process does not work:
 - The public can't comment on the final EA/EIS

- The LUC accepts without debate the EA/EIS
- The LUC does not require that the mitigation measures within the EA/EIS be complied with and followed
- Any oversight power over areas of particular concern?
 - They're using lands in disagreeable ways
 - Power over water?
- Be more specific about the LUC:
 - The LUC is biased. Attorneys on the LUC are employed by businesses who are engaged in development. Realtors are on the LUC who have an interest in more development. Provide the development interests with an advisory voice, but not a seat on the LUC.
 - LUC commissioners with developer's interests. Should be taken off and be advising. They shouldn't have a vote.
 - Qualified people are not given a chance.
- There is a disconnect between goals and reality. The 2015 Maui Island Strategic Plan proposes to create a "unique sense of place." But a "unique sense of place" is not created by the expansion of cookie-cutter residences and retail outlets or big box stores. Smart growth principles are not applied to create open space, cultural sites, and walkable areas. We need to enforce smart growth principles. Maui County Strategic Plan land use should be more proactive reinforcing smart code/growth.
- Developers hire experts to help the developer. The county does not check the accuracy of the consultant reports.
- This Boundary Review is mandated, but hasn't been done in 22 years? Why are we here?
- The LUC does not conduct a good cultural review process. They are required to do so by the Ka Pa'akai case but they don't.
- Create a wilderness designation in which you can enter at your own risk without any liability to the landowner or obligation for signage. This may overlap with conservation classification. Inform visitors by putting notice on agricultural forms.
- Not all agriculture lands are actually agriculture because of slopes, gulches, etc.
- The County placed BMP requirements on Honokahau to deal with runoff. But the developer graded on a steep slope, and the BMPs couldn't stop muddy water from flowing into the ocean. Not all lands are good for Agriculture.
- Principles that guide the work of the LUC should not be superseded by political concerns.
- "To bring forth a project, petitioner must have the land title" – but the LUC doesn't look at land titles, even though there is a rule requiring proof of ownership. If the LUC does not deal with land titles, it should not require it or consider cases in which there is a dispute over land titles.
- LUC decision-making is ad-hoc, without looking at other projects or the cumulative effects. So, no single project makes a large impact, even though the cumulative

impact of a number of projects may be large. There should be a single comprehensive review once a year. Boundary reviews take place every five years but developers can't keep coming back – should look at all Boundary Review at one time.

- There is no training for LUC members, and no process to correct bad decisions.

b. An Ideal Land Use System

- More local expertise in local planning process.
- How can the public help make better conditions?
- Move to an Ahapuaa-based system where the overriding view is from a larger perspective.
- Protect land for long-term public benefit.
- County and State agency [processes?] should be more integrated – more seamless. There is duplication between county and State processes. The district boundary amendment and zoning processes are essentially the same (same criteria/issues considered at different times).
- Would like to see more meetings per island – just one is not sufficient.
- This review project a “step child”? Needs more funding for better public comment.
- People don't have the power to determine how their counties are developed, e.g., Honolulu Bay. Development should be guided based on what is good for the residents, not the visitors.
- We feel like we don't have the power to develop Maui the way we want to see it developed (i.e. hotels) – people have no power to determine locations or approvals of hotels.
 - Developers should benefit people that live here – not those who come to visit.
- LUC should know law and care about law
 - LUC should be tested to see if they know law
 - System needs to consider what's brought to table
- Will Spence (Maui Planning Director) was asked for his position: Everyone seems to agree that things can be done better. Public participation is a part of that process to make things better. Seven years is very long, and the county would welcome suggestions on how to shorten that time period. Agrees with home rule and the importance of community plans which should perhaps be more than just a factor, but also a primary requirement. Issues of enforcement have also been raised.
- Developers should be prohibited from having their employees arrive early and take all the seats before hearings. If employees testify, they should be required to disclose that they are employees of the developer.
- No one suggested getting rid of the LUC – most comments intended to improve current process. Process has good foundation.
- Need updated county plan maps and zoning maps.

- Nominate Charlotte for LUC.
- Food security is not a reality. We need more protection for agriculture. There needs to be an emphasis on what's best for the islands. What's best is not what is most profitable. We need to be more proactive in promoting agriculture; diversified agriculture.
- Climate change/sea level rise/sea walls are causing a loss of our beaches, but people are still building on the beaches. Concerned that buildings in West Maui falling into ocean.
 - (LUC commissioners should consider): What about setbacks? Coastal expertise?

c. Ideas for Improvement

- The LUC should be filled with knowledgeable people from the public who do not have any financial interest in development. There are regular people who are qualified to serve.
- Provide more public outreach to colleges, and middle and high school students because they will inherit the future which the LUC creates – to make process more understandable to young generation
- Create a wilderness zone (designation?) in which you can enter at your own risk without any liability to the landowner or obligation for signage. This may overlap with conservation classification. Inform visitors by putting notice on agricultural forms.
- There are three phases:
 - 1. Before the case gets to the LUC, there should be the EIS review, public participation, and public comment on the Final EIS
 - 2. The proper sequencing of approvals, with the community plans, then LUC, then zoning
 - 3. Enforcement and implementation. There should be a clearly established entity responsible for ensuring compliance with conditions (OP or County?), and a time limit for initiating the project (the project can expire). Annual reports are not enough.
- All EISs should be monitored and approved by a non-development/non-real estate/unbiased body. The likelihood of incompetent or biased agency decisions is too high.
- Affordable Housing Committee shouldn't accept EIS because they're not trained; needs to be fair. Cross-section of public.
- EIS: most important elements:
 - People hired for EIS need to be neutral/unbiased
- Reduce/compress the 7-year development timeframe – it is a challenge for smaller developers and for affordable housing projects. Approvals should be done in parallel, not sequentially for at least some of these projects.

- Create 3 additional LUC members for each county (or island) who would sit on cases for that county (island)
- Create a Native Hawaiian cultural advisor and archaeology expert on the LUC (staff?)
- Native Hawaiians as cultural advisor and archeologist. Objective: non-biased expertise!
- Create a sunset provision for every project (no expiration date on entitlements has adverse impacts). There is an adverse effect on county planning and circumstances change over time. Impose a sunset provision and enforce it.
- LUC should impose impact fees in entitlement process. The county evaluates all proposals for impacts on sewage, water, etc. The State only imposes an impact fee for schools, and the fees are too low. The LUC should impose impact fees for traffic, sewage, recreational areas, parks, bike lanes, fire, police, etc. People who live here already shouldn't have to pay for the development. County needs bigger stake in process up front to guide process.
 - Be careful before imposing too many impact fees that will have to be paid by the individual purchasing the home. Can't put everything on developers – may detract from affordable housing, for example. Some level of reason is needed.
- Open experimental technology, i.e. GMO test fields, should trigger EIS – current law doesn't take this into account.
 - Genetically Engineering tech – a concern for islands – need to update laws to reflect public safety issues. Genetic experimental technology is not covered by the rules which have not adapted to modern technology.
- Public GIS-based maps should be made available to the public before any district boundary amendment proceeding.
 - Public should be noticed of project 6 months ahead.
 - There should be mailing notices for developers' projects.
- More conservation lands along coastline – maintained by local groups – no more homes along beach.
- Provide adequate funding to the State for planning.
- Clear the LUC of any conflict of interests, and provide more outreach to the public.
- Follow the Aha Moku system. There should be a cultural practitioner on the LUC to bring the Aha Moku principles to the LUC.
- Entitlements shouldn't transfer from one owner to another.
- Entitlements should not be forever. If construction is not completed within a certain time, the landowner should be required to take down any construction and restore the land to its original condition.
- The EIS laws should be revisited and reevaluated based upon modern technology and conditions.
- The money from the developments should not go off-island or out of state, and developers should be required to hire first from the local labor force.

- The LUC should be trained and tested that they know the law, and they should be required to consider what the public brings to the table.

Name	Organization
Capre (sp?)	Ao Makele (sp?)
Michele Lincoln	-
Johanna Kamaunu	Aha Moku o Wailuku
Diana Dahl	-
Megan Powers	-
Mae Nakahata	-
Warren Watanabe	-
Francis Ballard	-
Blanca Lafolette	Pacific Rim Land
Charlotte McLaughlin	-
Abner Nakihei Jr.	-
Dace B. Bonar	-
Tamara Paltin	-
Ellie Raw	-
Kevin Spellman	-
Edmond Bartlett	-
Dick Mayer	-
Trinette Furtado	-
Alice L. Lee	-
Darin "Trail" Delio	-
Frank DeRego Jr.	Maui Economic Development Board
Morgan Gerdel, AIA	Nishikawa Architects
Mark Pigao	-
Sandi Ioakimi	-
Scott Jensen	Council Services
Chancy Hopper	Council Services
Paz Padilla	-
Terez Amato Lindsey	-
Alapake Heanu	Wailuku Kou / (sp?)
Grant Chun	A&B Properties, Inc.
Rory Frampton	Rory Frampton Consulting
Pam P.	-
Nomi Carmona	Babes Against Biotech
John Fitzpatrick	-

Notes – Stakeholder Meeting No. 3 – Hilo, Hawaii

Thursday, December 2, 2014, 5:30 p.m.

Aupuni Center Conference Room

101 Pauahi Street, Suite 1, Hilo

Community and Stakeholder Comments, Questions, and Perspectives

a. Share Your Experiences

- The public wants more information about the State Land Use (SLU) Review task force:
 - What is the composition of task force? How do you become a member of task force?
 - What is the task force doing?
 - Is the review required by law?
 - Is it an open and public process?
 - Is there across the board representation on the task force?
 - Some members of the public are concerned about the balance of the task force (in terms of development versus environmental interests).
 - What are the main themes of discussion during task force meetings?
- The same process is now prescribed regardless of the cost of the property but this should be revised. The “little guy doesn’t stand a chance” because it’s too big of a burden.
- We have been successful in protecting land that would otherwise be developed via the Land Use Commission (LUC).
- There are many Chapter 205 issues.
- The system is broken.
- Your office needs more money/funding to do what you need to do.
- We can’t reasonably preserve everything like nothing has happened, like there has been no development.
- Should DHHL represent indigenous people? Should this be part of the process?
- What about Hawaiian water rights?
- People aren’t using agriculture for agriculture because the lots are too small, so how are the Ag lands being used instead?
- Is Hawaii’s history and politics involved in this [review?] process? The old land use system worked well and there is a lot we can learn from it.
- Regarding managing conservation lands, government agencies are practicing “extreme management” (e.g. re-planting fruit trees).
- What laws does the LUC operate under to make decisions?
- I support contested case hearings.

- Who is involved in the process of re-zoning land? Are they required to show ownership of clear title?
- Sixty to seventy percent of properties have unpermitted structures because the land use process is so onerous – this needs to be looked at. The burden is the same for the big and little guys which is not fair.

b. An Ideal Land Use System

- Public access should be easier.
- The land use process needs to be fair and open to everyone.
- Property owners need better access in the development process.
- Everyone should be able to talk to all departments in government to assist them through the development process of coastal lands. As it is now, there is often no response from government officials. It is frustrating and borderline illegal.
- Avoid re-zoning land to urban; there is already a lot of urban land and there is no need for more.
- There should be more support for local food from agricultural land uses.
- What is the relationship with the ahupuaa system and the current land use system? The ahupuaa system should be incorporated in the existing land use system.
- Some members of the public are concerned about the balance of participation of the LUC regarding financial and development interests. In general, it seems “over weighted” with development interests; there should be a better balance.
- There should be more [stakeholder] meetings in all counties.
- When determining what will happen with future of lands, policymakers need to be more aware [of the varying interests at play] in order to balance political pressure.
- Two issues OP should address:
 - There is currently no balance in the conversion of conservation land into industrial land (e.g. Mauna Kea).
 - Geothermal subzones should be put back in Chapter 205 to give better perspective to lands subject to energy development.
- There needs to be a systematic approach (not arbitrary) that the public can access when buying land so that they are aware of what they’re getting into and so that we can protect our lands.
- Consider the balance between the “concrete jungle and affordable homes.” It is not an impossible task; it can be done.

c. Ideas for Improvement

- There should be a public advocate on the LUC because it is difficult for the public to gather all of the facts.
- We need to look at what works and what needs fixing.

- Shoreline erosion and climate change should be incorporated in the SLU Review analysis.
- Video testimony at LUC so people on neighbor islands can participate.
- All departments should keep stakeholders informed of the land they own and give early notification when development on those lands is to occur.
- The land use law should be revised to support sustainable lifestyles and sustainable communities (i.e. sharing land), making them easier to develop/achieve.

Name	Organization
Cory Harden	-
Nancy Cook Lauer	West Hawaii Today
Amy Miwa	County Council
Dwayne Yoshina	Community Member
Clinton Yamada	Planning (??) – DOT
Cherub Silverstain	Community Member
Susan Lancaster	Lancaster Real Property
Ken Church & Joan Hildal	-
Kerri Marks	Occupy Hilo
Jim McCully	Community Member
Nelson Ho	Sierra Club
La’a Carvalho	Ma’a Radio
Paul Makuakane	-
Deborah Ward	Sierra Club

Notes – Stakeholder Meeting No. 4 – Kona, Hawaii

Wednesday, December 3, 2014, 6:00 p.m.

Natural Energy Lab Hawaii Conference Room at the Gateway Energy Center

73-4485 Kahilihili Street, Kailua Kona

Community and Stakeholder Comments, Questions, and Perspectives

a. Share Your Experiences

- All should voice as to whether there should be telescopes on Mauna Kea.
- Land use districts do not acknowledge ahupuaa land divisions or watershed – don't coincide with rain follows forest.
- Need clarification as to whether wells and watersheds are in the Agricultural District or the Conservation District. Where do the maps show the watersheds?
- Regarding the Bridge Aina Lea ruling:
 - What is the status of the needed infrastructure?
 - What is the hold up?
 - What about enforcement of failed conditions?
 - When is reclassification appropriate?
 - If conditions are not met after many years, is the Supreme Court saying you cannot revert the land?
- In Land Use Commission (LUC) approval, is there an express condition of reversion in the Decision and Order? Would reversion be easier if it was expressly stated?
- A successful example of converting land to the Conservation District is Pohue Bay, which was not suitable for the Agricultural District.
- Agricultural parks are not successful in this state (i.e. Keahole).
- There are high density subdivisions planned in Koa Ridge and Hoopili, on good agricultural land. How do statutes allow for that? How can those lands be urbanized?
 - Koa Ridge: It's about aesthetics – beautiful land for homes that produce millions of dollars. This creates the balance that we need.
- There are thousands of 1-acre lot agricultural subdivisions, although there is no agricultural production there. There should be no 1-acre lot subdivisions for residential use in the Ag District – the economics do not work (think infrastructure improvements, dirt, etc.) and the risks are too high.
 - “I disagree! My family lives on 1-acre land and it is productive land.”
- It is difficult for the public to get involved.

b. An Ideal Land Use System

- Efficiency is not democracy – efficiency should not be the primary goal of land use process. Transparency and inclusion, however, are very important in the land use process. In Ooma, each step served the public well to achieve the end goal – triumph for community vision for protection.
- Need more efficiency in terms of quality of development and money for development. Need to see certainty in terms of time [for processing land use applications?] – the processes need to be parallel process, not linear.
- It is important to be careful and protect places with good soil. Reclassifications need to be for the good of general public – follow the constitution.
- All agencies in government need to work together to solve homelessness and recognize homelessness is a symptom of a problem. We need to make better use of resources (health, education, jobs.) and community involvement. We need land and a place for the homeless.
- The developer is responsible for enhancing the environment.
- There is a lot of land in the Ag District and some of it needs to be moved to the Rural District. There is an appropriate process to reclassify agriculture land to rural land and we can use it. Work with County Planning Departments to do it.

c. Ideas for Improvement

- Align district boundaries with ahupuaa boundaries.
- Designation of Important Agricultural Lands process is good. We should fund counties' IAL designation early in the process; counties need more motivation/funding.
- Expressly state reversion is an allowable condition in LUC Decision and Order.
- Land use categories need to be revised to be more specific for natural resources – there need to be more categories (i.e. lava which is a “thing of beauty”).
 - Need more land use categories in between urban and conservation.
- When land use applications are submitted to reclassify agricultural lands to rural lands, OP should support it.
- Make timeframe shorter for finishing plan [General Plan and Community Development Plans] because things change rapidly.
- There is an expanding market for ornamental agriculture.
 - Increase size/availability of agriculture lots.
 - Large sums of money going into ornamental – look into reclassifications of conservation land to agricultural land.
- Do not allow building on conservation land (protect the shoreline areas from investment). If you want to build there, you must reclassify.

- Developers should not hire their own consultants in the EA/EIS process due to the potential conflict of interest.
 - In California, the EIS goes out for RFP.
- Need to provide the schools and the general public with [land use] education because the process is difficult to understand.
- In order to encourage quality development, land use decisions should be made in less than one year. The current time requirement is too long; it should be reduced to 90 days or 6 months and if not decided within that time, then kick back to the county.
 - Ninety days is not sufficient to make a decision.
- Create a GIS tool which would allow the public to view land use permits that are in process, issued, etc.
- Create an email list to send notifications to the public of any [land use] decisions made, and extend the noticing buffer. The public needs easier access.
- Auto-approval of land use applications should never be given – the 365-day rule to make a decision is not good and it may indicate that the development was very bad.
- Do not overlook aesthetics, and it is ok to slow the process down to look at this – social and economic values increase if the project is “pretty.”
- Utilize federal money to help.
- Incomplete applications sent to the county or state delay the process, so make sure that applications are complete upon submittal.
- Make the application criteria/guidelines clearer or more simplified (and this may address the timing issue).
- State agencies need to take CDPs into consideration when planning and making decisions.
- Surrounding agricultural lands and conservation lands can act as buffers which is very important (i.e. Ooma).

Name	Organization
David Tarnas	MCS International
Jojo Tanimoto	-
Jeff Zimpfer	National Park Service
Kelley K. Ashley	-
Carolyn Lucas-Senk	West Hawaii Today
Aric Arakaki	National Park Service
Dave Bateman	Self
Shannon Rudolph	Self
Liz McCourt	-
Kelly Greenwell	Self
Janet Britt	Hawaiian Island Land Trust
Janice Palma Glennie (sp?)	Self
Ross Wilson Jr.	-
Nancy Pischio	Self
Bobby Command	County Planning Department
Jaime Ortiz Nava	County Real Property Tax Office
Linda Goeth	Self
Nakoa Nelson	Self
Anika Glass	Self
Brian McCourt	-
J.Leina'ala Sleightholm	Self

Notes – Stakeholder Meeting No. 5 - Kauai

Wednesday, December 10, 2014, 6:00 p.m.

Kauai Planning Commission Conference Room

4444 Rice Street, Lihue Civic Center, Moikeha Building, Room 2A-2B, Lihue

Community and Stakeholder Comments, Questions, and Perspectives

a. Share Your Experiences

- Streams are polluted; we don't have water – and the system works?
 - We're not protecting public trust resources.
 - Process doesn't work – one of goals is to develop land, when is enough?
- What's not working is the length of time for district boundary amendments. Will still have development; needs to be done in systematic manner. To do that, we should rely on County plans, state functional plans, and other approvals.
- Timeline of 7+ years doesn't reflect time to get general plan amendments, which is 1+ year.
- Quasi-judicial process adds enormous amount of time to process
 - There's an impact on the cost of housing from length of process.
- We're experiencing pollution coming off of Agriculture lands, due to legacy of plantation pesticide use (i.e. atrazine levels).
- Few watersheds are in the Conservation District – just in the upper watershed – no one considers streams as part of Conservation District.
 - Need to adopt comprehensive storm water protection program.
 - Include rivers and stream corridors in Conservation District.
 - Ahupuaas and watersheds are basically the same.
- Major landowners now participate in the Watershed Alliance and lands are included in Conservation District (upper watershed).
- Important Agricultural Lands (IAL) – garbage in/garbage out:
 - Legislative criteria is not good, for example:
 - 18,000 acres of taro at time of Cook's arrival, but can't designate as IAL now because not currently in agriculture.
 - Removal of water source upstream from taro led to demise of taro.
- Environmental and cultural issues now need to be addressed in EA/EIS before going to Land Use Commission – this takes care of some of these concerns, addresses the concerns about impacts.
- At time of adoption of Land Use Law, big issue/goal was to protect Ag lands. Back then, counties may not have had general plans in place. State called in to manage county land use. Now, all counties have plans and capacity to manage growth.
- All these watershed issues: how do they relate to what you're doing? What you're looking into? What's the relationship to the land use process?

- When LUC acts like Planning Commission and Council, you get overlap in conditions and sometimes different conditions.
 - Too much detail at LUC level
- Reason this room isn't packed is people are disenfranchised from the current process; it's top down.
 - Oregon has found that the number of contested case hearings has dropped since establishing watershed councils.
- Regarding agriculture and agricultural lands:
 - Embarrassing that we're importing so much food into our state.
 - Need to say where best soils are and where is water for Ag.
 - IAL designation not working.

b. Ideas for Improvement

- Re-establish watershed councils.
- Water code doesn't define stream or river channels.
 - Other states (Washington): channels are included in riparian zone.
- Made same recommendations for 20 years and not going anywhere; reefs dying.
 - Have destroyed urban areas on Oahu; cemented watersheds there; that's why native fish are dying.
- Hawaii has top-down process. Oregon has a bottom-up approach for watershed improvement or management. Hawaii had Aha Councils.
- Set limit on development based on impervious surfaces and available resource/capacity.
 - Take watershed-by-watershed approach.
- General plans are way too general – need to be very explicit about what and when they are going to do it.
 - No variance; no after-the-fact permits.
- General Plan has good language for taking ahupuaa approach, but nobody does it.
 - Attorney General should weigh in/rule on stream channel definition.
 - Restore state water code review commission; has not been reviewed for 15 years.
- Maybe State should decide on larger projects, e.g., 500-1,000 acres; counties decide everything smaller.
 - Counties want more home rule; they are better able to do this.
- Sat on State Functional Plan (SFP) committee and spent a lot of time participating in this. Maybe OP could tie SFPs to State land use approval process.
- Water should be driving this process: there is not enough drinking water for all the lands being planned for growth.
 - Need more inclusive process, starting with bottom-up watershed councils.

c. Other Comments and Comments about State Land Use System Review Process

- Can change be done through Administrative Rules?

- Task Force proceedings should be accessible through video-conferencing.
- Can LUC oppose or argue against OP report and findings?

Name	Organization
Terry Abendroth	Private Party
Don Heacock	Hawaii Farmers Union United
Tom Shigemoto	A&B Properties, Inc.

Notes – Stakeholder Meeting, APA Hawaii

December 8, 2014, 11:30 a.m.

PBR Hawaii Conference Room

1001 Bishop Street #650, Honolulu

Stakeholder Comments, Questions, and Perspectives (*Responses in italics*)

1. Has anyone commented on the original intent of the land use law at the public meetings?
At the public meetings, some have expressed that the land use law has effectively protected lands and is less political than the county zoning process.
2. Has anyone asked about the agricultural industry at the public meetings? *No*
3. The biggest problem is the time it takes to obtain permits. The permitting time in Hawaii is long as compared to the mainland. This may deter businesses from coming to Hawaii.
4. Has OP reached out to the new committee chairs at the State House and Senate? *There are legislative representatives on the task force. OP will be reaching out to the new committee chairs.*
5. Is the land use law purpose and intent being looked at in its historical context? The land use law was written when there was a statewide agricultural industry, now it is more island based. Should let counties regulate agricultural lands and decide what to do with non-IAL agricultural lands.
6. There should be a constitutional amendment for stating the importance of agricultural lands.
7. Urban land has not increased at the same rate as population. Urban density has increased because while population has doubled, there has been very little increase in urban lands.
8. Without an affirmation of purpose for the State in the land use system, the LUC reverts to a zoning-type project level review. There is a need for a clear defining role for the LUC. Commissioners need criteria and guidance to focus upon.
9. The public believes that the LUC is a planning commission, which it is not. The LUC does not match projects to land use plans.
10. County planning departments have struggled for many years with appropriate uses for and between the agricultural and rural districts, and the legislative intent of the state land use districts. The 1/2 acre minimum lot size can lead to rural sprawl.
11. The Agricultural district is the "residual" district, but creating a new Open Space District might lead to suits for reimbursement.

12. It is very difficult to do rural development well. In addition to typical zoning regulations, more tools are needed at the county level to discourage rural sprawl. A new concept is needed for the rural district.
13. The Rural district could be effective if it is used properly. Should non-IAL lands be shifted to Rural district? *The Rural district is not well understood. There would need to be very specific criteria on the Rural district for it to work properly and this is hard to do.*
14. Agriculture in Hawaii is a romantic notion. Economically it makes more sense to import many agricultural goods, however, the legislature will continue to support agriculture because it is important to our history.
15. Look at the timing of the trigger for HRS 343 as it relates to the LUC. Due to the time it takes to obtain entitlements, an HRS 343 document can become stale. Perhaps do HRS 343 documentation after LUC action when there is more clarity on the project.
16. As long as the LUC does project-specific reviews, HRS 343 documentation will be required to provide commissioners with the details they desire. Does the State need a project-by-project review to do boundary amendments?
17. The State law should be changed to redefine the "earliest practicable time of decision-making" that HRS 343 documentation should be prepared to ensure that information stays current for projects.
18. In Washington State there is a phased environmental review process. An EA is done up front followed by an EIS as you get further down the line.
19. There is a need for more transparency and public review at the LUC. Also greater commitment to consensus building. Oregon and Washington are states that have demonstrated a commitment to building public consensus.
20. If the report OP is preparing does not contain recommendations, how will a decision be made to move forward? The danger is that OP will issue the report and then proceed with minimal changes. There doesn't seem to be a way to get policy issues to the forefront. *No legislation is being proposed for the 2015 session, but OP may consider it for 2016.*

Name	Organization
Paul Schwind	-
Dean Minakami	-
Lee Sichter	-
Tom Smyth	-
Bill Yuen	Alston Hunt Floyd & Ing
Melissa Uhl	Alston Hunt Floyd & Ing
Elizabeth Chinn	-
Vincent Shigekuni	PBR Hawaii
Kimi Yuen	PBR Hawaii
Ingrid Friedberg	R.M. Towill Corporation
Cal Chipchase	Cades Schutte
Bob Freitas	Department of Hawaiian Home Lands
Jesse Souki	Department of Land and Natural Resources
Tessa Ng	Munekiyo & Hiraga
Bob Crone	-
Kathy Sokugawa	City & County of Honolulu Department of Planning and Permitting
Robert Mills	PBR Hawaii

Notes – Stakeholder Meeting – Real Estate Attorneys

Tuesday, January 6, 2015, 12:00 p.m.
Office of Planning Conference Room
235 S. Beretania Street, Honolulu

Stakeholder Comments, Questions, and Perspectives

1. Assign hearing officer to the case to make the process more efficient.
 - Would use the same contested case process;
 - Continuous hearing days could allow cases to conclude faster without the multiple delays required when only two-day increments are available
 - Public testimony would not be required during the hearing.
 - Public testimony could be given at the time of the assignment and after the matter is returned to the Commission (added post-meeting).
 - This process may be particularly useful when intervenors are involved;
 - This process may be particularly useful for long or complicated hearings.
 - The Land Board often uses hearings officers.
2. Set aside one day for public testimonies, easier for public to plan.
3. Hold public testimony after rather than before hearing, so public has benefit of hearing presentations and discussions. HCDA follows this process.
4. EIS requirements already provide for much of the information discussed and raised at LUC hearings, so you could expedite petition hearings by omitting most consultant study presentations.
5. Identify and focus on important state interests, and eliminate issues that are not state interests that will be covered later at the County;
 - There is an overlap of state and county interests;
 - Identification of important state interests may be difficult to reach agreement on
 - Archaeological and cultural impacts; public trust resource impacts, environmental impacts, state facility impacts may be some of the important state interests that some people want protected at the state level;
 - Items like fire, police, and ambulance services seem to be county interests that do not need to be addressed at the LUC;
 - Are there other issues like drainage, sewer, landfill, etc. that can be eliminated from LUC review?
 - What do you do if a commissioner has an interest in and wants to talk about drainage?

6. The growth in the number of conditions is problematic, redundant with law, creates financing issues, difficulties when trying to release conditions in the future.
7. Enforcement – The Aina Lea Supreme Court decision throws enforcement into question. The LUC cannot just issue an Order to Show Cause, but essentially they need to go through a reverse reclassification process when the petitioner has substantially commenced work on the project.
8. Per Lanai Water and Aina Lea decisions, counties are clearly responsible for enforcement of LUC conditions. Historically, counties have not initiated enforcement actions based solely on LUC conditions.
9. Contested case requirements needed? Contested cases are currently a requirement per the Supreme Court's Town decision. It is unclear if a legislative change would be sufficient to change the contested case requirements for case-by-case reviews. Regional amendments every so many years could be quasi-legislative.
10. Per Kapaakai and Kauai Springs decisions, archaeological and cultural impacts and public trust resources must be considered and conditions imposed as needed to address issues such as cultural and water resource impacts. Are there other ways of protecting these interests other than simply delegating the responsibility to the counties? Can the state just delegate these issues to counties consistent with its constitutional obligations?
11. Public advocate for intervenors seems like a good idea, but where would this advocate come from?
12. A strong chair is often needed and much appreciated when an intervenor is pro se. A hearings officer could also fulfill this function of providing clear direction and parameters to pro se intervenors.
13. The loss of so many experienced commissioners will pose challenges for the new commissioners who will not have the benefit of the experiences of the past commissioners.
14. Governor should set the direction for LUC re growth management. Governor can affect direction by appointments to the LUC.
15. Two 6-vote requirements can be problematic (action vote, then D&O adoption) and should be combined – motion to approve based on findings and conditions. May be easier to get one 6-vote decision, but this requires more upfront work.
 - But the action vote may make it easier to focus on and get consensus on the specifics of the D&O.

16. LUC should circulate proposed D&Os w/conditions to parties in advance to facilitate discussion and approval.
17. Site visits should not be held until after intervenors if any are identified.

Name	Organization
John S. Nuha	HSBA Real Property and Financial Services Section
Jodi Yamamoto	Yamamoto Caliboso
Diane Erickson	Department of Attorney General
Curtis Tabata	Matsubara – Kotake
Wyeth Matsubara	Matsubara - Kotake
Greg Kugle	Damon Key
Jeremy Grad	The Grad Law Firm
Scott Arakaki	Badger Arakaki
Jennifer Lim	Carlsmith Ball
Yuko Funaki	Kobayashi, Sugita
Bryan Yee	Department of Attorney General
Rodney Funakoshi	Office of Planning

State Land Use Review

Compilation of Community & Stakeholder Comments

November 2014 – January 2015

March 2015



**State of Hawaii
Office of Planning**

From November 2014 to January 2015, the State Office of Planning (OP) held seven stakeholder and public meetings to gather input from the broader community on the State land use process.

The meetings were held at the following locations:

- **November 20, 2014:** Washington Middle School, Honolulu, Oahu
- **November 25, 2014:** Maui Planning Commission Conference Room, Wailuku, Maui
- **December 2, 2014:** Aupuni Center Conference Room, Hilo, Hawaii
- **December 3, 2014:** Natural Energy Lab Hawaii Conference Room, Kona, Hawaii
- **December 8, 2014:** APA Hawaii, PBR Hawaii Conference Room, Honolulu, Oahu
- **December 10, 2014:** Kauai Planning Commission Conference Room, Lihue, Kauai
- **January 6, 2015:** Real Estate Attorneys, Office of Planning Conference Room, Honolulu, Oahu

Participants were asked to share their experiences with the land use system and offer ideas for improving the land use system. This document is a compilation of all of the stakeholder comments, questions, and viewpoints heard at the meetings or that were submitted to OP via email or letter. Similar to the *Oral Comments and Post-It Comments from Task Force Members* document, a compilation of all Task Force member comments from the April 3, 2014 Task Force meeting, this document is grouped into common themes:

- Strengths of the Land Use System
- Weaknesses of the Land Use System
- Potential Fixes to the Land Use System
- Desired Outcomes of the Land Use System
- More Information Needed

The comments listed herein are incorporated into the draft State Land Use System Review Report being prepared by OP.

Transcriptions of meeting notes are available on the State Land Use Review project website (<http://planning.hawaii.gov/lud/state-land-use-review/>) and will be included in the appendices of the report.

	Topic	Comment
S.1	Environmental Review	Environmental and cultural issues now need to be addressed in EA/EIS before going to Land Use Commission – this would take care of some of these concerns, address the concerns about impacts.
S.2	Implementation	Changing the land-use law and land designations based on misperceptions would be a major step backward for Hawaii. We must acknowledge the law's relative success in managing economic activity while protecting environmental and cultural resources from urbanization. Hawaii would be better off directing greater public attention and private and public investment to the full and orderly build-out of existing urban areas. This will limit costly controversies and excessive infrastructure expenses. New partnerships in these efforts will sustain Hawaii's economic momentum.
S.3		The process ensures that taxpayers aren't burdened with substantial infrastructure costs.
S.4	Participation	Efficiency is not democracy – efficiency should not be the primary goal of land use process. Transparency and inclusion, however, are very important in the land use process. In Ooma, each step served the public well to achieve the end goal – triumph for community vision for protection.
S.5		County councils allow only brief testimony by citizens, but allow long presentations by developers. Councils don't allow developer claims to be cross-examined through contested case hearings—but LUC does. Council decisions can rarely be overturned—but LUC contested case decisions can be challenged in court.
S.6	Process	At time of adoption, big issue/goal was to protect Ag lands, back then, counties may not have had general plans in place. State called in to manage county land use. Now, all counties have plans and capacity to manage growth.
S.7		Changing the land-use law and land designations based on misperceptions would be a major step backward for Hawaii. We must acknowledge the law's relative success in managing economic activity while protecting environmental and cultural resources from urbanization. Hawaii would be better off directing greater public attention and private and public investment to the full and orderly build-out of existing urban areas. This will limit costly controversies and excessive infrastructure expenses. New partnerships in these efforts will sustain Hawaii's economic momentum.
S.8		For OHA's beneficiaries, the importance of the contested case process, along with other opportunities for community input and participation on the state, county, and local levels, cannot be overstated. The perpetuation of Native Hawaiian culture depends on the access to and the availability of the resources that are integral to traditional and customary practices. For these reasons, we believe the contested case process should be retained in the land use system.
S.9		<p>HRS Chapter 205, the State Land Use Law, has been crucial in protecting our state's natural and cultural resources. Especially critical to its success is that decisions must be made in the context of a contested case hearing which allow better opportunity for public debate and input into major land use decisions.</p> <p>Mahalo for this opportunity to speak in favor of strong and protective state land use planning that includes giving the public meaningful and generous opportunity to take part in decision-making what will affect our future.</p>

Strengths of the Land Use System

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S.10		I support contested case hearings.
S.11		It's a bad idea to eliminate the Land Use Commission (LUC) and have counties make land use decisions because counties can be tempted to urbanize land to increase tax revenues. But LUC isn't responsible for tax revenues.
S.12		It's a bad idea to eliminate the Land Use Commission (LUC) and have counties make land use decisions because developers can give campaign contributions to, and negotiate privately with, county council members. Not so with LUC members.
S.13		Keep LUC quasi-judicial, with contested cases.
S.14		Keep the LUC – we need a state agency to look at land use in a big picture way. The counties have a bias toward development – most of their revenue comes from property taxes. And property taxes are maximized with development in urban (as opposed to Ag) zoning. And keep the contested case hearings as a quasi-judicial process. The public should have a say in opposing or favoring development. And if that means lawyering up, then so be it.
S.15		Layers of government and its checks and balances are key to insuring that democratic process works fairly. In the case of Ooma and many others, the State's due process made the difference between what the People wanted vs what developers' greed would have brought to their communities.
S.16		No one suggested getting rid of the LUC – most comments intended to improve current process. Process has good foundation.
S.17		One of the safeguards currently in place is the contested case process. In a contested case, parties have the opportunity to present their own arguments, experts, evidence, and witnesses, as well as the opportunity to cross-examine the witnesses and experts of other parties. In the past, on land use and resource-related issues, OHA has participated in contested cases by requesting a contested case, intervening in a contested case, and supporting beneficiaries who requested a contested case. ² OHA has found the contested case process to be effective in mitigating adverse impacts to Native Hawaiian traditional and customary rights and to the natural resources essential to these practices.
S.18		Protecting the conservation status of Ooma was a huge triumph of the People over the endless greed of speculators and developers. It wasn't easy. In fact, it was grueling, and some of the most stalwart advocates for protecting Ooma passed from this earth during the decades it took to put an end to those threats. Finally, and only because of the existing state land use process was this community able to overcome a procession of goliaths with an outcome that reflected the community's dreams, goals, and tireless work. Our vision was to preserve Ooma, its coastal waters, and all of the other irreplaceable resources associated with that land now and for our keiki's keiki. That dream, at last, is a reality.
S.19		Quasi-judicial system allows intervenors if they're interested parties. Quasi-judicial process works / allows public partnership.
S.20		The existing reclassification process provides an excellent opportunity to examine proposed land uses.
S.21		The LUC ignores input from individuals. But as bad as the outcomes have been, the process allowing for public input is good.
S.22		Wants to keep this process that allows the public to speak.

S.23		<p>We do not believe that land use planning would benefit from limiting the Office of Planning's (OP)/Land Use Commission's (LUC) role, or by pushing greater responsibility for land use planning and implementation to the counties - because the OP and the LUC are, essentially, nonpolitical bodies while the counties are the opposite; they are subject to significant pressure from land development interests which stand to benefit financially from local land use development decisions.</p> <p>Developers and those tied to the development industry (planners, civil engineers, construction companies, unions, architects, etc.) contribute heavily to mayoral and council seat races to the point that money interests can and do exert undue influence on local land use development decisions. Political donations are, after all, designed in part to gain the ear and favor of local politicians in addition to advancing business interests. This is entirely legal but does not create an environment for good land use planning and development.</p> <p>A case demonstrating how local politics can unduly influence land use practices is illustrated in LUC Action #94-706/Kaonoulou Ranch (Island of Maui). <i>See letter for case details.</i></p> <p>No clearer case for maintenance of the OP's and LUC's functions can be made. The state and counties have good land use policies in place that can lead to sound, sustainable, smart, healthy development of our land. The state's population is growing and pressure to develop will continue to be intense. Our future is at stake. Only through nonpolitical bodies like the Office of Planning and the LUC can a better future be attained.</p>
S.24		We must acknowledge the law's relative success in managing economic activity while protecting environmental and cultural resources from urbanization.
S.25		We need to look at what works and what needs fixing.
S.26		<p>When I moved to Hawaii Island 15 years ago I was surprised by how primitive land use planning at the county level was. On the west side of the island where I live, development had far out-paced infrastructure and there seemed to be no way to correct this through the county planning process. The one bright area where planning seemed to work was the Land Use Commission. The LUC help save us from wholesale conversion of agricultural and conservation lands to urban developments in places such as Keopuka, Ooma, and Pohue.</p> <p>While the County intervened against the public and in support of changing that conservation-protected land to urban designation, the public still had a voice and votes on the Land Use Commission that insured protection of that coastal, conservation land from urbanization and development.</p> <p>HRS Chapter 205, the State Land Use Law, has been crucial in protecting our state's natural and cultural resources.</p>
S.27		Is Hawaii's history and politics involved in this [review?] process? The old land use system worked well and there is a lot we can learn from it.

Strengths of the Land Use System

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S.28		Process being conducted to turn LUC into quasi-Legislative decision-maker – would be like the county councils (politically-oriented, 3-minute testimony). The strength of current system: allows people to intervene in process – all sharing information and place at the table.
S.29		It's a bad idea to eliminate the Land Use Commission (LUC) and have counties make land use decisions because counties don't have archaeologists, biologists, and other experts. But LUC can consult State experts.
S.30		<p>Pursuant to Hawaii's Constitution, various statutes, and judicial decisions, the state has an affirmative duty to preserve and protect Native Hawaiian traditional and customary practices. Unfortunately, the constitutionally recognized rights of Native Hawaiians are not always enforced. Participation in zoning and land use processes is sometimes the only way that Native Hawaiians have been able to meaningfully participate in land use decision-making and enforce their rights. Currently, Hawaii's land use processes provide safeguards that ensure that the state, as trustee of much of Hawaii 'i's unique cultural and environmental resources, upholds its fiduciary obligations to Native Hawaiians and the larger public.</p> <p>The perpetuation of Native Hawaiian culture depends on the access to and the availability of the resources that are integral to traditional and customary practices. For these reasons, we believe the contested case process should be retained in the land use system.</p>
S.31		The LUC was originally set up to stop development sprawl that could drain tax dollars for services to remote agricultural lands. Pressure for development is only intensifying as more people compete for shrinking amounts of untouched land. The LUC process has saved special places like Pohue Bay and Ooma. We need to keep, and strengthen, LUC to protect our land for today, and many tomorrows.
S.32		We have been successful in protecting land that would otherwise be developed via the Land Use Commission (LUC).
S.33	Resource Protection	A successful example of converting land to the Conservation District is Pohue Bay, which was not suitable for the Agricultural District.
S.34		The process allows for safeguards to prevent environmental and cultural damage.
S.35		The State Land Use Commission and HRS 205 are very important element to Hawaii's resource identification, preservation and planning.
S.36		Bad ideas in the works include: Do wholesale re-classification to change huge areas of ag land to rural or urban zoning, without finding out if cultural and natural resources will be lost.
S.37		Designation of Important Agricultural Lands process is good. We should fund counties' IAL designation early in the process; counties need more motivation/funding.
S.38		Major landowners in Watershed Alliance and lands are included in Conservation District (upper watershed).

	Topic	Comment
W.1	Data	Developers hire experts to help the developer. The county does not check the accuracy of the consultant reports.
W.2		Lots of State and county laws overlap; don't see a lot of information coming out of the LUC about how the Land Use law and districts are functioning.
W.3		There is a discrepancy between GIS information used by the County of Hawai'i (and based on data layers obtained from the State Office of Planning) and information provided to the State DLNR - Division of Conservation and Resources Enforcement (DOCARE) by the State DLNR - Office of Conservation and Coastal Lands (OCCL). This discrepancy was key in determining whether a commercial, ocean recreation business needed to have a Conservation District Use Permit to use a historic boat ramp at Kahauloa Bay in South Kona District located in the shoreline. The County of Hawai'i, relying on GIS data obtained from State Office of Planning, deemed the subject land to be in the Conservation District (see map on p. 4) while OCCL staff informed the DOCARE investigator that the area in question was not in the Conservation District.
W.4		Look at the timing of the trigger for HRS 343 as it relates to the LUC. Due to the time it takes to obtain entitlements, an HRS 343 document can become stale. Perhaps do HRS 343 documentation after LUC action when there is more clarity on the project.
W.5		The EA/EIS are prepared by developers or consultants paid by developers, preventing a neutral and unbiased report. EA process needs to be more non-biased.
W.6		The EA/EIS process does not work: <ul style="list-style-type: none"> o The public can't comment on the final EA/EIS o The LUC accepts without debate the EA/EIS o The LUC does not require that the mitigation measures within the EA/EIS be complied with and followed
W.7	Enforcement	Complaint-driven system, people doing what they want on State land, lax enforcement.
W.8		The Aina Lea Supreme Court decision throws enforcement into question. The LUC cannot just issue an Order to Show Cause, but essentially they need to go through a reverse reclassification process when the petitioner has substantially commenced work on the project.
W.9		Enforcement of conditions – limited by budget constraints, public is told: information is on LUC website.
W.10		Per Lanai Water and Aina Lea decisions, counties are clearly responsible for enforcement of LUC conditions. Historically, counties have not initiated enforcement actions based solely on LUC conditions.
W.11		There is no accountability [in the enforcement of LUDBA conditions].
W.12		Enforcement of Land Use Commission conditions of approval should be improved to ensure that development occurs in accordance with the required conditions.

Weaknesses of the Land Use System

Appendix C

W.13		What is the status of the needed infrastructure? What is the hold up? What about enforcement of failed conditions? When is reclassification appropriate? If conditions are not met after many years, is the Supreme Court saying you cannot revert the land?
W.14		Who looks at and enforces conditions for approved boundary amendments and whether they're being met? Which agencies are responsible? Is OP trying to verify the accuracy of how conditions being met? Read annual reports at face value? There needs to be follow-up.
W.15	Implementation	Problem with servicing urban uses outside urban designated lands when first boundaries established.
W.16	Policy	Only three to four Land Use districts is monolithic and forces big questions regardless of size of project.
W.17		Still have embodied in system "highest and best use", not what we value.
W.18	Process	Island-wide housing strategy converting ohana zones: o Accessory Dwelling Units (ADUs) – will increase density in areas. o Already dense areas that can accommodate increased density aren't ohana-zoned o Density will go up in urban areas.
W.19		County and State agency [processes?] should be more integrated – more seamless. There is duplication between county and State processes. The district boundary amendment and zoning processes are essentially the same (same criteria/issues considered at different times).
W.20		How can we streamline the process; 7 years is too long.
W.21		LUC decision-making is ad-hoc, without looking at other projects or the cumulative effects. So, no single project makes a large impact, even though the cumulative impact of a number of projects may be large. There should be a single comprehensive review once a year. Boundary reviews take place every five years but developers can't keep coming back – should look at all Boundary Review at one time.
W.22		LUC doesn't always have local perspective.
W.23		LUC proceedings are duplicative with county proceedings
W.24		Missing county system here – counties work at zoning/micro-level; here people have to go to both State and county if they want to develop or if they have concerns.
W.25		Most claims that more lands need to be opened up to urbanization without a thoughtful process are unreasonable from a planning perspective. These claims are factually, legally and historically incorrect.
W.26		Need more efficiency in terms of quality of development and money for development. Need to see certainty in terms of time [for processing land use applications?] – the processes need to be parallel process, not linear.
W.27		People don't have the power to determine how their counties are developed, e.g., Honolulu Bay.
W.28		Pressure from development/unions to support/pass/approve petitions/projects like Hoopili.

Weaknesses of the Land Use System

Appendix C

W.29		Principles that guide the work of the LUC should not be superseded by political concerns.
W.30		Quasi-judicial process adds enormous amount of time to process. There's an impact on the cost of housing from length of process.
W.31		Reason this room isn't packed is people are disenfranchised from the current process; it's top down. Oregon has found that the number of contested case hearings has dropped since establishing watershed councils.
W.32		Sequence of events needs to be adjusted – Community Plan first, then LUC, then Zoning
W.33		Sixty to seventy percent of properties have unpermitted structures because the land use process is so onerous – this needs to be looked at. The burden is the same for the big and little guys which is not fair.
W.34		The biggest problem is the time it takes to obtain permits. The permitting time in Hawaii is long as compared to the mainland. This may deter businesses from coming to Hawaii.
W.35		The growth in the number of conditions is problematic, redundant with law, creates financing issues, difficulties when trying to release conditions in the future.
W.36		The LUC notice is insufficient to allow intervention – need more time.
W.37		The LUC proceedings impose numerous conditions, thereby preventing county council members from deciding issues that should be reserved to the county because of home rule and because county councils are closer to the communities.
W.38		The system is broken.
W.39		There is a disconnect between goals and reality. The 2015 Maui Island Strategic Plan proposes to create a “unique sense of place.” But a “unique sense of place” is not created by the expansion of cookie-cutter residences and retail outlets or big box stores. Smart growth principles are not applied to create open space, cultural sites, and walkable areas. We need to enforce smart growth principles. Maui County Strategic Plan land use should be more proactive reinforcing smart code/growth.
W.40		Timeline of 7+ years doesn't reflect time to get general plan amendments, which is 1+ year.
W.41		Too much detail at LUC.
W.42		What's not working is the length of time for district boundary amendments. Will still have development; needs to be done in systematic manner. To do that, we should rely on County plans, state functional plans, and other approvals.
W.43		When LUC acts like Planning Commission and Council, you get <u>overlap</u> in conditions and sometimes different conditions.
W.44		It's a bad idea to eliminate the Land Use Commission (LUC) and have counties make land use decisions because counties can be tempted to urbanize land to increase tax revenues. But LUC isn't responsible for tax revenues.
W.45		It's a bad idea to eliminate the Land Use Commission (LUC) and have counties make land use decisions because developers can give campaign contributions to, and negotiate privately with, county council members. Not so with LUC members.

W.46		<p>Keep the LUC – we need a state agency to look at land use in a big picture way. The counties have a bias toward development – most of their revenue comes from property taxes. And property taxes are maximized with development in urban (as opposed to Ag) zoning. And keep the contested case hearings as a quasi-judicial process. The public should have a say in opposing or favoring development. And if that means lawyering up, then so be it.</p>
W.47		<p>We do not believe that land use planning would benefit from limiting the Office of Planning's (OP)/Land Use Commission's (LUC) role, or by pushing greater responsibility for land use planning and implementation to the counties - because the OP and the LUC are, essentially, nonpolitical bodies while the counties are the opposite; they are subject to significant pressure from land development interests which stand to benefit financially from local land use development decisions.</p> <p>Developers and those tied to the development industry (planners, civil engineers, construction companies, unions, architects, etc.) contribute heavily to mayoral and council seat races to the point that money interests can and do exert undue influence on local land use development decisions. Political donations are, after all, designed in part to gain the ear and favor of local politicians in addition to advancing business interests. This is entirely legal but does not create an environment for good land use planning and development.</p> <p>A case demonstrating how local politics can unduly influence land use practices is illustrated in LUC Action #94-706/Kaonoulu Ranch (Island of Maui).</p> <p>No clearer case for maintenance of the OP's and LUC's functions can be made. The state and counties have good land use policies in place that can lead to sound, sustainable, smart, healthy development of our land. The state's population is growing and pressure to develop will continue to be intense. Our future is at stake. Only through nonpolitical bodies like the Office of Planning and the LUC can a better future be attained.</p>
W.48		<p>When I moved to Hawaii Island 15 years ago I was surprised by how primitive land use planning at the county level was. On the west side of the island where I live, development had far out-paced infrastructure and there seemed to be no way to correct this through the county planning process. The one bright area where planning seemed to work was the Land Use Commission. The LUC help save us from wholesale conversion of agricultural and conservation lands to urban developments in places such as Keopuka, Ooma, and Pohue.</p> <p>While the County intervened against the public and in support of changing that conservation-protected land to urban designation, the public still had a voice and votes on the Land Use Commission that insured protection of that coastal, conservation land from urbanization and development.</p> <p>HRS Chapter 205, the State Land Use Law, has been crucial in protecting our state's natural and cultural resources.</p>

Weaknesses of the Land Use System

Appendix C

W.49		“To bring forth a project, petitioner must have the land title” – but the LUC doesn’t look at land titles, even though there is a rule requiring proof of ownership. If the LUC does not deal with land titles, it should not require it or consider cases in which there is a dispute over land titles.
W.50		Avoid re-zoning land to urban; there is already a lot of urban land and there is no need for more.
W.51		Ninety days is not sufficient to make a decision.
W.52		The same process is now prescribed regardless of the cost of the property but this should be revised. The “little guy doesn’t stand a chance” because it’s too big of a burden.
W.53		There are high density subdivisions planned in Koa Ridge and Hoopili, on good agricultural land. How do statutes allow for that? How can those lands be urbanized?
W.54		Percentage of LUC denials of projects seems low. Percentage does not reflect what common person wants. We’re ruining the State.
W.55		With a growing gap between demand and supply of affordable housing (source: DBEDT/READ), Hawaii's land use system needs to play a stronger role in addressing the need for more housing.
W.56		It is difficult for the public to get involved.
W.57		County councils allow only brief testimony by citizens, but allow long presentations by developers. Councils don’t allow developer claims to be cross-examined through contested case hearings—but LUC does. Council decisions can rarely be overturned—but LUC contested case decisions can be challenged in court.
W.58		Access: Meeting locations are not conveniently located for public attendance.
W.59		The LUC ignores input from individuals. But as bad as the outcomes have been, the process allowing for public input is good.
W.60		There is frustration that many times, the general public voices its concerns, only to be ignored by the Commissioners and the parties to the proceeding (unless an intervenor pushes the concern).
W.61		Process being conducted to turn LUC into quasi-Legislative decision-maker – would be like the county councils (politically-oriented, 3-minute testimony). The strength of current system: allows people to intervene in process – all sharing information and place at the table.
W.62		County General Plan has good language for taking ahupuaa approach, but nobody does it.
W.63		County General plans way too general – need to be very explicit about what and when. First round GP was very specific (no zoning); second round made GP more general and reliance on community plans and zoning for specific projects and guidance for development.
W.64		The public believes that the LUC is a planning commission, which it is not. The LUC does not match projects to land use plans.
W.65		There needs to be a more direct relationship between County and State long-term planning. Too often the County and State processes seem to operate independently in dealing with applications for specific parcels. Maybe the initiation of a new Boundary Review process could provide this opportunity.

Weaknesses of the Land Use System

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W.66		With the exception of the City and County of Honolulu, the county is the smallest political subdivision allowed under the State Constitution. This has trapped us into parcel-by-parcel, applicant-by-applicant "permitting", rather than decision-making based within a framework of regional planning. Over the years, I have come to have a greater understanding of the need for good urban planning, not only to improve the urban quality of life, but to shift growth away from "spot zoning" sprawl which is often disconnected to plans for infrastructure and services. Applicant approvals need to be made within a pre-determined framework based upon long-term regional planning. Even within our current Urban Boundaries there exists very poor planning for providing urban infrastructure and services.
W.67		Without an affirmation of purpose for the State in the land use system, the LUC reverts to a zoning-type project level review. There is a need for a clear defining role for the LUC. Commissioners need criteria and guidance to focus upon.
W.68		LUC commissioners with developer's interests. Should be taken off and be advising. They shouldn't have a vote.
W.69		Make-up of LUC shouldn't be so development-oriented.
W.70		Qualified people are not given a chance [for the LUC].
W.71		Quality of people on LUC – pro-development; bias.
W.72		Some members of the public are concerned about the balance of participation of the LUC regarding financial and development interests. In general, it seems "over weighted" with development interests; there should be a better balance.
W.73		The loss of so many experienced commissioners will pose challenges for the new commissioners who will not have the benefit of the experiences of the past commissioners.
W.74		The LUC is biased. Attorneys on the LUC are employed by businesses who are engaged in development. Realtors are on the LUC who have an interest in more development. Provide the development interests with an advisory voice, but not a seat on the LUC.
W.75		There is no training for LUC members, and no process to correct bad decisions.
W.76		It's a bad idea to eliminate the Land Use Commission (LUC) and have counties make land use decisions because counties don't have archaeologists, biologists, and other experts. But LUC can consult State experts.
W.77		The LUC does not conduct a good cultural review process. They are required to do so by the Ka Pa'akai case but they don't.
W.78	Resource Protection	Climate change/sea level rise/sea walls are causing a loss of our beaches, but people are still building on the beaches. Concerned that buildings in West Maui falling into ocean.
W.79		Concerns: maps may be misleading o Stricter regulations within zones. o Need to consider within all zones.
W.80		Few watersheds are in the Conservation District – just in the upper watershed – no one considers streams as part of Conservation District. o Need to adopt comprehensive storm water protection program. o Include rivers and stream corridors in Conservation District. o Ahupuaas and watersheds are basically the same.

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W.81		Have destroyed urban areas on Oahu; cemented watersheds there; that's why native fish are dying.
W.82		Home rule is only as good as its rulers. There were three major development proposals over two decades that asked that 'O'oma be changed from its current Conservation status to Urban classification. In two of those instances, Hawaii'i County pitted itself against the people of this island who had said in all ways loud and clear that they did not want that land to be developed -- not as a rich man's private domain, not as a water park, not as a self-contained city -- not as anything other than what it is today: amazing, untrammled, natural open space with its conservation protections intact. Without the State pre-empting our County's myopic, corporate-driven agenda, 'O'oma would most definitely have been bulldozed into a fake, unrecognizable, urban or resort mess like what exists at next door Kohanaiki due to its not having been in a more protective State Conservation classification when it was similarly threatened by development decades ago.
W.83		Important Agricultural Lands (IAL) – garbage in/garbage out: Legislative criteria is not good. For example, 18,000 acres of taro at time of Cook's arrival, but can't designate as IAL now because not currently in agriculture. Also, the removal of water source upstream from taro led to demise of taro.
W.84		Land use districts do not acknowledge ahupuaa land divisions or watershed – don't coincide with rain follows forest.
W.85		Made same recommendations for 20 years and not going anywhere; reefs dying.
W.86		My biggest concern is in regards to storm water runoff; though considered a non-point source pollutant, storm water is responsible for nearly all of our near-shore water pollution. Given the ocean and its resources coral reefs are our biggest economic draw, we are failing at protecting them.
W.87		Not all agriculture lands are actually agriculture because of slopes, gulches, etc.
W.88		People aren't using agriculture for agriculture because the lots are too small, so how are the Ag lands being used instead?
W.89		Please correct the map. Pelekane and Wai'ula'ula watersheds not identified. This creates a problem when agencies make plans and decisions. (Ex: DLNR watershed report (Rain Follows Forest). No community support for eradication in So. Kohala District but not identified correctly.
W.90		Regarding agriculture and agricultural lands: o Embarrassing that we're importing so much food into our state. o Need to say where best soils are and where is water for Ag. o IAL designation not working.
W.91		Regarding managing conservation lands, government agencies are practicing "extreme management" (e.g. re-planting fruit trees).
W.92		Streams are polluted; we don't have water – and the system works? We're not protecting public trust resources. Process doesn't work – one of goals is to develop land, when is enough?
W.93		The Agricultural district is the "residual" district, but creating a new Open Space District might lead to suits for compensation.

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W.94		The County placed BMP requirements on Honokahau to deal with runoff. But the developer graded on a steep slope, and the BMPs couldn't stop muddy water from flowing into the ocean. Not all lands are good for Agriculture. Not all agriculture lands are actually agriculture because of slopes, gulches, etc.
W.95		The HRS protections of agriculture are outdated because they are based upon a sugar cane or plantation-based agriculture.
W.96		The State does not recognize the Pelekane Watershed as an established watershed but it should be indicated on state maps. I am of the opinion that there needs to be change in Land Use Commission (LUC) recognizing this 14,000 approximate acre error.
W.97		The State is not cleaning up the pollution in some of the State's bays, i.e. Pelekane Bay.
W.98		The State Land Use Conservation District, which follows along much of the coast of Hawaii Island, is absent at many historic sugar plantation landings, such as Honokaa a.k.a. Haina, Paauhau, and Paauilo a.k.a. Koholalele Landings in Hamakua District. These truly unique historic areas and sites have an educational and cultural story that would fascinate residents, visitors, and people of all ages. Unfortunately, their State Land Use Agriculture District designation lacks the additional protection afforded by Conservation District designation. A prime example of an important natural and cultural resource that is at risk because of its lack of protection in the Conservation District is Pa'auhau Landing.
W.99		There are thousands of 1-acre lot agricultural subdivisions, although there is no agricultural production there. There should be no 1-acre lot subdivisions for residential use in the Ag District – the economics do not work (think infrastructure improvements, dirt, etc.) and the risks are too high. “I disagree! My family lives on 1-acre land and it is productive land.”
W.100		Turtle Bay purchase: process let community down; paid \$40 Million for what the system should have delivered for community.
W.101		Water code doesn't define stream or river channels. Other states (Washington): channels are included in riparian zone.
W.102		Water should be driving this process: there is not enough drinking water for all the lands being planned for growth. Need more inclusive process, starting with bottom-up watershed councils.
W.103		We can't reasonably preserve everything like nothing has happened, like there has been no development.
W.104		We're experiencing pollution coming off of Agriculture lands, due to legacy of plantation pesticide use (i.e. atrazine levels).
W.105		My biggest concern is in regards to storm water runoff; though considered a non-point source pollutant, storm water is responsible for nearly all of our near-shore water pollution. Given the ocean and its resources coral reefs are our biggest economic draw, we are failing at protecting them. Conservation of water & runoff control should be mandatory & built into all land designations. There are many low-impact development solutions that have low-cost and can be easily built in to state/county planning amendments that require no runoff on-site and address pollutants entering our water systems.
W.106		Agricultural parks are not successful in this state (e.g. Keahole).

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W.107		Agriculture in Hawaii is a romantic notion. Economically it makes more sense to import many agricultural goods, however, the legislature will continue to support agriculture because it is important to our history.
W.108		County planning departments have struggled for many years with appropriate uses for and between the agricultural and rural districts, and the legislative intent of the state land use districts. The 1/2 acre minimum lot size can lead to rural sprawl.
W.109		Discontinue the opportunity to subdivide land in the Agricultural District to one-acre density. It isn't that one-acre cannot produce agriculture products. Vegetables can be grown on a roof-top! But high density agricultural zoning creates the need for expensive urban services and infrastructure which is detrimental to keeping agricultural regions affordable for farming.
W.110		County General Plan has good language for taking ahupuaa approach, but nobody does it.

	Topic	Comment
F.1	Data	All EISs should be monitored and approved by a non-development/non-real estate/unbiased body. The likelihood of incompetent or biased agency decisions is too high.
F.2		Before the case gets to the LUC, there should be the EIS review, public participation, and public comment on the Final EIS.
F.3		BIAS FREE ENVIRONMENTAL ASSESSMENTS - Entities preparing environmental impact statements should be free from bias. The current system, where an applicant selects and pays the consultant, produces suboptimal and biased environmental assessments that often fail to truly assess environmental impact. Other jurisdictions have addressed this by creating a consultant selection process that binds the consultant to the state as client while the applicant pays for the report. This makes for a more accountable and honest process and yields better results. It also reduces conflict and litigation: reports that are biased are subject to challenge while those honestly prepared are less likely to result in subsequent litigation. Better outcomes produce optimal results and reduce costs.
F.4		Consider flood maps and seawater rise. There are maps showing flooding to King Street – this is how we need to look at our community.
F.5		Look at the timing of the trigger for HRS 343 as it relates to the LUC. Due to the time it takes to obtain entitlements, an HRS 343 document can become stale. Perhaps do HRS 343 documentation after LUC action when there is more clarity on the project.
F.6		Bad ideas in the works include: Move Environmental Impact Statements/ Assessments to the end of the development process instead of the beginning, so proposals pick up speed before citizens can challenge flawed studies.
F.7	Enforcement	Chapter 205 is <u>not</u> land use system. Does county have enforcement powers? Who does? This should be spelled out in Chapter 205.
F.8		Clarify in Chapter 205 for the Agricultural district: who is responsible for enforcing what? Enforcement of fake farms: counties say “not us”.
F.9		CLOSE THE LOOP - Once a boundary amendment decision has been made and an order issued requiring the filing of annual progress reports, a follow-up system should be in place to track compliance. In a recent case before the LUC in which South Maui Citizens for Responsible Growth intervened (A94-706/Kaonoulu Ranch), annual reports were not filed by the Applicant for four critical consecutive years - undetected by the LUC and the County of Maui - during which time the Applicant deviated from what had been represented to the LUC when it first applied for a boundary amendment and land use reclassification. But for intervention by citizens, this would have gone entirely unnoticed.
F.10		Create a sunset provision for every project (no expiration date on entitlements has adverse impacts). There is an adverse effect on county planning and circumstances change over time. Impose a sunset provision and enforce it.
F.11		Enforcement and implementation. There should be a clearly established entity responsible for ensuring compliance with conditions (OP or County?), and a time limit for initiating the project (the project can expire). Annual reports are not enough.

F.12		Enforcement of Land Use Commission conditions of approval should be improved to ensure that development occurs in accordance with the required conditions.
F.13		Expressly state reversion is an allowable condition in LUC Decision and Order.
F.14		REQUIRE TIME LIMITS IN LUC ORDERS - Require inclusion of time limits in boundary line amendment/land use reclassification orders, but give the LUC power and discretion to waive them upon subsequent application for good cause shown. Failure to proceed with a proposed development within a specific timeframe is a clear indication that either the development intent presented to the LUC is no longer present or that market conditions have changed such that the factual basis for order no longer exists.
F.15		Land Use system is laid out in State Plan. Comprehensive and enforceable – identify what agency is responsible.
F.16	Environmental Review	Developers should not hire their own consultants in the EA/EIS process due to the potential conflict of interest. In California, the EIS goes out for RFP.
F.17		EIS: most important elements: o People hired for EIS need to be neutral/unbiased
F.18		Environmental Impact Statements need to be contracted through the State, rather than by the applicant with the cost for the studies included as part of the application process. The outcome would be less likely to be biased by the applicant's desired outcomes.
F.19		Have the state prepare EIS/EAs, with landowners paying.
F.20		In Washington State there is a phased environmental review process. An EA is done up front followed by an EIS as you get further down the line.
F.21		The EIS laws should be revisited and reevaluated based upon modern technology and conditions.
F.22		The State law should be changed to redefine the "earliest practicable time of decision-making" that HRS 343 documentation should be prepared to ensure that information stays current for projects.
F.23	Implementation	Changing the land-use law and land designations based on misperceptions would be a major step backward for Hawaii. We must acknowledge the law's relative success in managing economic activity while protecting environmental and cultural resources from urbanization. Hawaii would be better off directing greater public attention and private and public investment to the full and orderly build-out of existing urban areas. This will limit costly controversies and excessive infrastructure expenses. New partnerships in these efforts will sustain Hawaii's economic momentum.
F.24	Policy	Break the land use districts into more specific purposes which would then require less/smaller questions – we'll see that need and existing districts may not be applicable. Consider agriculture/conservation/open space lands – as separate uses.
F.25		HRS 205 should be updated to include policies serving to recognize Transit Oriented Development principles.
F.26		Land reclassification and zoning should be carried out in a manner that is consistent with state, county, and local level planning.
F.27		Land use categories need to be revised to be more specific for natural resources – there need to be more categories (i.e. lava which is a “thing of beauty”); need more land use categories in between urban and conservation.

F.28		Redesign how zoning gives incentives to people especially in terms of housing on agriculture lands. Existing code gives incentives encouraging what we don't want to see.
F.29		The land use law should be revised to support sustainable lifestyles and sustainable communities (i.e. sharing land), making them easier to develop/achieve.
F.30		When determining what will happen with future of lands, policymakers need to be more aware [of the varying interests at play] in order to balance political pressure.
F.31		Your office (OP) needs more money/funding to do what you need to do.
F.32	Process	"To bring forth a project, petitioner must have the land title" – but the LUC doesn't look at land titles, even though there is a rule requiring proof of ownership. If the LUC does not deal with land titles, it should not require it or consider cases in which there is a dispute over land titles.
F.33		A strong chair is often needed and much appreciated when an intervenor is pro se. A hearings officer could also fulfill this function of providing clear direction and parameters to pro se intervenors.
F.34		County Affordable Housing Committee shouldn't accept EIS because they're not trained; needs to be fair. Cross-section of public.
F.35		All departments should keep stakeholders informed of the land they own and give early notification when development on those lands is to occur.
F.36		Assign hearing officer to the case to make the process more efficient. o Would use the same contested case process; o Continuous hearing days could allow cases to conclude faster without the multiple delays required when only two-day increments are available o Public testimony would not be required during the hearing. o Public testimony could be given at the time of the assignment and after the matter is returned to the Commission (added post-meeting). o This process may be particularly useful when intervenors are involved; o This process may be particularly useful for long or complicated hearings. o The Land Board often uses hearings officers.
F.37		Auto-approval of land use applications should never be given – the 365-day rule to make a decision is not good and it may indicate that the development was very bad.
F.38		Clarify and bring into State and county processes into one system so it's clear who's responsible, and increase accountability for land use system.
F.39		Counties want more home rule; they are better able to do this.
F.40		Create a Native Hawaiian cultural advisor and archaeology expert on the LUC (staff?)
F.41		Don't support that fallow or undeveloped land with urban designation has huge value – need a condition that "entitlement" expires after 20 years so that you lessen the pro-development pressure.
F.42		Entitlements should not be forever. If construction is not completed within a certain time, the landowner should be required to take down any construction and restore the land to its original condition.
F.43		Entitlements shouldn't transfer from one owner to another.

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F.44	I would send a postcard to every household within 5 miles of the proposed development and let the household residents know that they are welcome to attend the LUC meetings. Get a BIG room to hold the hearings. Don't turn people away! If the room fills up, have a live feed from the room to a TV in another room so people can watch. PARTICIPATION!
F.45	Ideally, every community affected by a contested case hearing would have multiple LUC hearings in that community – weekdays, weekends, middle of the day, evenings – so that as many people as possible could participate. Video conference as much as possible.
F.46	If any state land use process is to be changed, the only reason would be to strengthen and further the cause of democracy and government transparency by increasing the opportunity for decision makers to be most sympathetic to, and inclusive of, the public that they're meant to represent.
F.47	Let's just have 1 system either at the State or Local level.
F.48	LUC should impose impact fees in entitlement process. The county evaluates all proposals for impacts on sewage, water, etc. The State only imposes an impact fee for schools, and the fees are too low. The LUC should impose impact fees for traffic, sewage, recreational areas, parks, bike lanes, fire, police, etc. People who live here already shouldn't have to pay for the development. County needs bigger stake in process up front to guide process. Be careful before imposing too many impact fees that will have to be paid by the individual purchasing the home. Can't put everything on developers – may detract from affordable housing, for example. Some level of reason is needed
F.49	Make the application criteria/guidelines clearer or more simplified (and this may address the timing issue).
F.50	Make timeframe shorter for finishing plan [General Plan and Community Development Plans] because things change rapidly.
F.51	Maybe State should decide on larger projects, e.g., 500-1,000 acres; counties decide everything smaller. Counties want more home rule; they are better able to do this.
F.52	More local expertise in local planning process.
F.53	No variance; no after-the-fact permits.
F.54	Provide adequate funding to the State for planning.
F.55	Reduce/compress the 7-year development timeframe – it is a challenge for smaller developers and for affordable housing projects. Approvals should be done in parallel, not sequentially for at least some of these projects.
F.56	Site visits should not be held until after intervenors if any are identified.
F.57	Special rights for Native Hawaiians in developing land/projects.
F.58	The Hawaii State Plan Policy Council should be reinstated. State never gets down to community level; there is a disconnect.
F.59	The money from the developments should not go off-island or out of state, and developers should be required to hire first from the local labor force.
F.60	The proper sequencing of approvals, with the community plans, then LUC, then zoning.
F.61	There needs to be a more direct relationship between County and State long-term planning. Too often the County and State processes seem to operate independently in dealing with applications for specific parcels. Maybe the initiation of a new Boundary Review process could provide this opportunity.
F.62	Utilize federal money to help.

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F.63		When land use applications are submitted to reclassify agricultural lands to rural lands, OP should support it.
F.64		Bad ideas in the works include: Make LUC quasi-legislative instead of quasi-judicial or keep contested case hearings.
F.65		Bad ideas in the works include: Have counties, not LUC, make land use decisions.
F.66		If any state land use process is to be changed, the only reason would be to strengthen and further the cause of democracy and government transparency by increasing the opportunity for decision makers to be most sympathetic to, and inclusive of, the public that they're meant to represent.
F.67		What's not working is the length of time for district boundary amendments. Will still have development; needs to be done in systematic manner. To do that, we should rely on County plans, state functional plans, and other approvals.
F.68		County and State agency [processes?] should be more integrated – more seamless.
F.69		Efficiency is not democracy – efficiency should not be the primary goal of land use process.
F.70		Need more efficiency in terms of quality of development and money for development. Need to see certainty in terms of time [for processing land use applications?] – the processes need to be parallel process, not linear.
F.71		Sierra Club believes process shouldn't be made longer and more expensive. Should speed up provision of housing in right place, in right way.
F.72		Contested case requirements needed? Contested cases are currently a requirement per the Supreme Court's Town decision. It is unclear if a legislative change would be sufficient to change the contested case requirements for case-by-case reviews. Regional amendments every so many years could be quasi-legislative.
F.73		Land Use District Boundaries are overdue for review and need to updated, and the process needs to be done in partnership with County government in order to arrive at a sustainable long-term growth pattern for areas of the Islands. For example, although West Hawaii has a very large area of land designated within an Urban Growth Boundary, much of the land within the Boundary is still zoned by the Counties as agricultural land. HRS 205 should include a process where Counties could initiate the review of their Urban Boundaries, and when undated boundaries have been determined and approved, the County should have the ability to submit a comprehensive Ag to Urban boundary amendment based on updated District Boundaries for land within the Urban Boundaries. The EIS and other studies that are usually part of application reviewed by the LUC would be handed down to subsequent applicants wishing to develop a portion of the land within the Urban Boundary and zoned for urban use. I believe this would require a change in law regarding what triggers the responsibility for conducting certain studies as currently required within the State/County/Applicant process. The purpose of this concept is create what are usually identified as municipalities in other States.

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F.74		LUC decision-making is ad-hoc, without looking at other projects or the cumulative effects. So, no single project makes a large impact, even though the cumulative impact of a number of projects may be large. There should be a single comprehensive review once a year. Boundary reviews take place every five years but developers can't keep coming back – should look at all Boundary Review at one time.
F.75		Hold public testimony after rather than before hearing, so public has benefit of hearing presentations and discussions. HCDA follows this process.
F.76		Incomplete applications sent to the county or state delay the process, so make sure that applications are complete upon submittal.
F.77		Shoreline erosion and climate change should be incorporated in the SLU Review analysis.
F.78		CONDUCT PERIODIC TRAINING - Offer periodic training in land use laws, rules and regulations, opening sessions to county planning department personnel, land use consultants and to the public. While presenting a challenge to a proposed large Maui County retail shopping center development later found to be in violation of a 1995 LUC order (A94-706/Kaonoulu Ranch), I informed Maui County's planning director that the county is charged, by statute, to enforce LUC orders. This obligation was not known to the planning director.
F.79		Need to provide the schools and the general public with [land use] education because the process is difficult to understand.
F.80		EIS requirements already provide for much of the information discussed and raised at LUC hearings, so you could expedite petition hearings by omitting most consultant study presentations.
F.81		Open experimental technology, i.e. GMO test fields, should trigger EIS – current law doesn't take this into account. Genetically Engineering tech – a concern for islands – need to update laws to reflect public safety issues. Genetic experimental technology is not covered by the rules which have not adapted to modern technology.
F.82		Identify and focus on important state interests, and eliminate issues that are not state interests that will be covered later at the County; There is an overlap of state and county interests; Identification of important state interests may be difficult to reach agreement on Archaeological and cultural impacts; public trust resource impacts, environmental impacts, state facility impacts may be some of the important state interests that some people want protected at the state level; Items like fire, police, and ambulance services seem to be county interests that do not need to be addressed at the LUC; Are there other issues like drainage, sewer, landfill, etc. that can be eliminated from LUC review? What do you do if a commissioner has an interest in and wants to talk about drainage?
F.83		LUC should circulate proposed D&Os w/conditions to parties in advance to facilitate discussion and approval.

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F.84		Two 6-vote requirements can be problematic (action vote, then D&O adoption) and should be combined – motion to approve based on findings and conditions. May be easier to get one 6-vote decision, but this requires more upfront work. But the action vote may make it easier to focus on and get consensus on the specifics of the D&O.
F.85		Without an affirmation of purpose for the State in the land use system, the LUC reverts to a zoning-type project level review. There is a need for a clear defining role for the LUC. Commissioners need criteria and guidance to focus upon.
F.86		In Land Use Commission (LUC) approval, is there an express condition of reversion in the Decision and Order? Would reversion be easier if it was expressly stated?
F.87		[More] public participation
F.88		[More] transparency.
F.89		Allow video/ audio testimony at LUC meetings so more voices, including neighbor island voices, are heard.
F.90		Create a GIS tool which would allow the public to view land use permits that are in process, issued, etc.
F.91		Create an email list to send notifications to the public of any [land use] decisions made, and extend the noticing buffer. The public needs easier access.
F.92		Create website of permits at State/County/Federal levels.
F.93		Developers should be prohibited from having their employees arrive early and take all the seats before hearings. If employees testify, they should be required to disclose that they are employees of the developer.
F.94		Everyone should be able to talk to all departments in government to assist them through the development process of coastal lands. As it is now, there is often no response from government officials. It is frustrating and borderline illegal.
F.95		Hire a public advocate who can intervene in LUC cases and raise concerns at hearings.
F.96		LUC needs bigger, more comfortable rooms for hearings.
F.97		More public education/involvement!
F.98		Post signs to alert the public to proposed boundary amendments.
F.99		Provide more outreach to the public.
F.100		Provide the public with electronic access to annual reports and data/mapping for analysis.
F.101		Public access should be easier.
F.102		Public advocate for intervenors seems like a good idea, but where would this advocate come from?
F.103		Public GIS-based maps should be made available to the public before any district boundary amendment proceeding. o Public should be noticed of project 6 months ahead. o There should be mailing notices for developers' projects.
F.104		Right now, it's difficult for many people to attend the LUC hearings downtown on Beretania St. We should look for ways to increase citizen participation because land use affects everyone.
F.105		Set aside one day for public testimonies, easier for public to plan.

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F.106		There needs to be a systematic approach (not arbitrary) that the public can access when buying land so that they are aware of what they're getting into and so that we can protect our lands.
F.107		There should be a public advocate on the LUC because it is difficult for the public to gather all of the facts.
F.108		Use new technology to reach others (video, internet, live feed).
F.109		Video conference option to testify. Don't waste time or money in being at LUC hearings.
F.110		Video testimony at LUC so people on neighbor islands can participate.
F.111		Property owners need better access in the development process.
F.112		The land use process needs to be fair and open to everyone.
F.113		Do 5-Year Boundary Reviews.
F.114		Set limit based on impervious surfaces and available resource/capacity.
F.115		Consider the balance between the "concrete jungle and affordable homes." It is not an impossible task; it can be done.
F.116		I sat on State Functional Plan (SFP) committee and spent a lot of time participating in this. Maybe OP could tie SFPs to State land use approval process.
F.117		Need updated county plan maps and zoning maps.
F.118		Over the years, I have come to have a greater understanding of the need for good urban planning, not only to improve the urban quality of life, but to shift growth away from "spot zoning" sprawl which is often disconnected to plans for infrastructure and services. Applicant approvals need to be made within a pre-determined framework based upon long-term regional planning. Even within our current Urban Boundaries there exists very poor planning for providing urban infrastructure and services.
F.119		Shorten the timeframe for the Counties General Plans
F.120		State agencies need to take CDPs into consideration when planning and making decisions.
F.121		There needs to be a more direct relationship between County and State long-term planning. Too often the County and State processes seem to operate independently in dealing with applications for specific parcels. Maybe the initiation of a new Boundary Review process could provide this opportunity.
F.122		Appoint qualified LUC members representing diverse viewpoints.
F.123		Change the way the 9 LUC commissioners are chosen. a. 3 pro-development persons (developers, construction trade unions, realtors, etc.). b. 1 native cultural practitioner; 1 "environmentalist"; 1 farmer/hydrologist/geologist/ecologist/gardener who is intimately connected to the natural world. c. 3 "regular Joes(Janes)" – people w/o an agenda (neither pro-nor anti-development).
F.124		Clear the LUC of any conflict of interests.
F.125		Create 3 additional LUC members for each county (or island) who would sit on cases for that county (island)

Potential Fixes to the Land Use System

Appendix C

F.126		CREATE IDEAL LUC BOARD MEMBER SELECTION CRITERIA - People selected to serve on the Land Use Commission should be free from bias. In particular, people employed in the construction industry and by unions are problematic because of obvious divided loyalties. Selection of unbiased LUC members would produce better outcomes aligned with the state plan and would inspire greater confidence in government as opposed to cynicism and doubt. Selection criteria should be developed to guide the selection of Land Use Commission board members.
F.127		Follow the Aha Moku system. There should be a cultural practitioner on the LUC to bring the Aha Moku principles to the LUC.
F.128		Governor should set the direction for LUC re growth management. Governor can affect direction by appointments to the LUC.
F.129		LUC should be increased to at least 15 members – need more diversity.
F.130		LUC should be tested to see if they know law.
F.131		Need to educate LUC members on laws.
F.132		Problem with quality of people on Land Use Commission: they're pro-development – make them elected.
F.133		Should add environmental expertise/geographical expertise.
F.134		The Commission should be void of any union or developer-related appointees.
F.135		The LUC should be filled with knowledgeable people from the public who do not have any financial interest in development. There are regular people who are qualified to serve.
F.136		The LUC should be trained and tested that they know the law, and they should be required to consider what the public brings to the table.
F.137		Need more inclusive process, starting with bottom-up watershed councils. Oregon has found that the number of contested case hearings has dropped since establishing watershed councils.
F.138		What is the relationship with the ahupuaa system and the current land use system? The ahupuaa system should be incorporated in the existing land use system.
F.139		Take watershed-by-watershed approach.
F.140		At time of adoption, big issue/goal was to protect Ag lands, back then, counties may not have had general plans in place. State called in to manage county land use. Now, all counties have plans and capacity to manage growth.
F.141		In order to encourage quality development, land use decisions should be made in less than one year. The current time requirement is too long; it should be reduced to 90 days or 6 months and if not decided within that time, then kick back to the county.
F.142	Resource Protection	Bad ideas in the works include: Do wholesale re-classification to change huge areas of ag land to rural or urban zoning, without finding out if cultural and natural resources will be lost.
F.143		A mechanism to identify State-level district boundary amendment system that conserves conservation land more. We need a process that has teeth.
F.144		Ahupuaa alert – to alert the public when we're running out of water in a watershed, or traffic and within ahupuaa. Red lights are already flashing. Very vulnerable, so close to something very bad happening (extreme hurricane, tsunami).
F.145		Ahupuaa and watersheds are basically the same.

Potential Fixes to the Land Use System

Appendix C

F.146		Align district boundaries with ahupuaa boundaries.
F.147		Change zoning from agricultural to conservation for much existing ag land, to protect natural and cultural resources.
F.148		Create a wilderness designation in which you can enter at your own risk without any liability to the landowner or obligation for signage. This may overlap with conservation classification. Inform visitors by putting notice on agricultural forms.
F.149		Cultural/Historic districts need to be mapped.
F.150		Designation of Important Agricultural Lands process is good. We should fund counties' IAL designation early in the process; counties need more motivation/funding.
F.151		Discontinue the opportunity to subdivide land in the Agricultural District to one-acre density. It isn't that one acre cannot produce agriculture products. Vegetables can be grown on a roof-top! But, high density agricultural zoning creates the need for expensive urban services and infrastructure which is detrimental to keeping agricultural regions affordable for farming. If it were up to me, 10 acres would be the smallest parcel size in the Agricultural District. One acre Ag and five acre Ag would be directed to the Rural District.
F.152		Do not allow building on conservation land (protect the shoreline areas from investment). If you want to build there, you must reclassify.
F.153		Do not overlook aesthetics, and it is ok to slow the process down to look at this – social and economic values increase if the project is “pretty.”
F.154		General Plan has good language for taking ahupuaa approach, but nobody does it. o Attorney General should weigh in/rule on stream channel definition. o Restore state water code review commission; has not been reviewed for 15 years.
F.155		Geothermal subzones should be put back in Chapter 205 to give better perspective to lands subject to energy development.
F.156		Should further recognize that approximately 1,000 acres is fenced above Pelekane Bay because of the erosion and water quality problem from this watershed. 1,000 acres or so should be changed to a Conservation designation. Agriculture to Conservation will take some effort; the annual inconvenience of road closures, animal eradication and other impacts to the communities from Kohala to Kawaihae.
F.157		Include rivers and stream corridors in Conservation District.
F.158		Is the land use law purpose and intent being looked at in its historical context? The land use law was written when there was a statewide agricultural industry, now it is more island based. Should let counties regulate agricultural lands and decide what to do with non-IAL agricultural lands.
F.159		Keep LUC jurisdiction over ag and conservation land.
F.160		LUC commissioners should consider: setbacks and coastal expertise.
F.161		More conservation lands along coastline – maintained by local groups – no more homes along beach.
F.162		Move former industrial sugar lands along Hawaii's coastline from the Agricultural District to the Conservation District, e.g. Honoka'a a.k.a. Haina, Paauhau, and Paauilo a.k.a. Koholalele Landings in Hamakua District. Need to better protect Pa'uahau Landing and other historic sugar landings, statewide.

F.163		Move to an ahupuaa-based system where the overriding view is from a larger perspective.
F.164		My biggest concern is in regards to storm water runoff; though considered a non-point source pollutant, storm water is responsible for nearly all of our near-shore water pollution. Given the ocean and its resources coral reefs are our biggest economic draw, we are failing at protecting them. Though conservation land has high ____ base on each island, conservation of water & runoff control should be mandatory & built into all land designations. There are many low-impact development solutions that have low-cost and can be easily built in to state/county planning amendments that require no runoff on-site and address pollutants entering our water systems.
F.165		Need a procedure in place by which the public and public agencies can verify conflicting interpretation of the boundaries of State Land Use Districts when confusion occurs.
F.166		Need to adopt comprehensive storm water protection program.
F.167		Need to reclassify unused Agricultural land to create housing; bring down cost of housing.
F.168		Need to say where best soils are and where is water for Ag.
F.169		Re-establish <u>watershed</u> councils.
F.170		Reorder process to provide more protection.
F.171		Require in-depth studies of ag land before re-classifying it to rural or urban. There's already lots of urban land for development.
F.172		Should plan carrying capacity based on availability of water. Stealing water from Wailua watershed; issue is all about water.
F.173		SLUD urban growth boundary system w/teeth that provides significant protection/preservation for ag and conservation lands; that is akin to the county system, but has the appropriate mechanism for state scale needs.
F.174		Surrounding agricultural lands and conservation lands can act as buffers which is very important (e.g. Ooma).
F.175		The HRS protections of agriculture are outdated because they are based upon a sugar cane or plantation-based agriculture. The statutes and rules must be modernized to promote the new smaller diversified farming economy. o Put old rules on a diet – needs to be more pro-Ag o Update rules to reflect growing agriculture needs
F.176		The Rural district could be effective if it is used properly. Should non-IAL lands be shifted to Rural district?
F.177		The State does not recognize the Pelekane Watershed as an established watershed but it should be indicated on state maps.
F.178		There is a lot of land in the Ag District and some of it needs to be moved to the Rural District. There is an appropriate process to reclassify agriculture land to rural land and we can use it. Work with County Planning Departments to do it.
F.179		There is a need for more transparency and public review at the LUC. Also greater commitment to consensus building. Oregon and Washington are states that have demonstrated a commitment to building public consensus.
F.180		There is an expanding market for ornamental agriculture. Increase size/availability of agriculture lots. Large sums of money going into ornamental – look into reclassifications of conservation land to agricultural land.

F.181		There is currently no balance in the conversion of conservation land into industrial land (e.g. Mauna Kea).
F.182		Per Ka Paakai and Kauai Springs decisions, archaeological and cultural impacts and public trust resources must be considered and conditions imposed as needed to address issues such as cultural and water resource impacts. Are there other ways of protecting these interests other than simply delegating the responsibility to the counties? Can the State just delegate these issues to counties consistent with its constitutional obligations?

Desired Outcomes of the Land Use System

	Topic	Comment
O.1	Built Environment	2050 Sustainability Plan: influence on Land use? Living research sites/zones: Communal living, sharing resources important to future/food security. Now, there is nowhere to do that.
O.2		<p>A land use system that results in more affordable housing.</p> <p>So far, the need for a land use system that results in protection of natural, cultural and agricultural resources is well covered and there appears to be broad consensus on this. The proponents for affordable housing have not been as visible in this process (although they are very engaged with the counties and the Legislature). With a growing gap between demand and supply of affordable housing (source: DBEDT/READ), Hawaii's land use system needs to play a stronger role in addressing the need for more housing. I suggest adding affordable housing as an explicit element in addition to the broader "Built environment/communities that protect natural environments and meet societal needs". The latter is broad enough to cover almost anything except agriculture and open space.</p> <p>Housing is such a critical need for social stability and economic well-being of Hawaii's families that I think it needs equal and explicit attention in this review.</p>
O.3		All agencies in government need to work together to solve homelessness and recognize homelessness is a symptom of a problem. We need to make better use of resources (health, education, jobs.) and community involvement. We need land and a place for the homeless.
O.4		Land use system that encourages everyone to participate. System dominated by those who can pay to engage, skewed to capital and land-rich.
O.5		Over the years, I have come to have a greater understanding of the need for good urban planning, not only to improve the urban quality of life, but to shift growth away from "spot zoning" sprawl which is often disconnected to plans for infrastructure and services.
O.6		People don't have the power to determine how their counties are developed, e.g., Honolua Bay. Development should be guided based on what is good for the residents, not the visitors.
O.7		The developer is responsible for enhancing the environment.
O.8		Would provide for people of Hawaii – includes housing, since there is a shortage of housing.
O.9		Mahalo for this opportunity to speak in favor of strong and protective state land use planning that includes giving the public meaningful and generous opportunity to take part in decision-making what will affect our future.
O.10	Protection of Agriculture	Food security is not a reality. We need more protection for agriculture. There needs to be an emphasis on what's best for the islands. What's best is not what is most profitable. We need to be more proactive in promoting agriculture; diversified agriculture.
O.11		It is important to be careful and protect places with good soil. Reclassifications need to be for the good of general public – follow the constitution.

Desired Outcomes of the Land Use System

Appendix C

O.12		Other states outline framework for their counties; we have islands, have food baskets that aren't being protected (like Hawaiian fishponds) these places should be honored in codes; we're ignoring this.
O.13		There should be more support for local food from agricultural land uses.
O.14		Protection of land suitable for agriculture.
O.15	Protection of Natural Resources	Protect land for long-term public benefit.
O.16		The State to do its best to protect and uphold the public's right to an inclusive land use planning process that protects our state's natural and cultural resources and the rule of law.
O.17		What is being valued? Are we valuing what we care about? We could probably find agreement about common values, like mountain views, biota, Hawaiian culture. These values need to be specified. Right now we have embodied in system "highest and best use", not what we value.
O.18	Protection of Agriculture / Protection of Natural Resources / Built Environment	LUC that protects natural/cultural/residential/agricultural land as in Chapter 205.

	Topic	Comment
I.1	Data	Transitions from one district to another: trend or pattern? o What's most likely? o Is there a repository for the information?
I.2		What is the criteria for "streamlining" and determining what is effective and efficient?
I.3		Need to see data: What is the staff size of whoever is responsible for managing LU systems? Need to see trends/data to measure effectiveness and efficiency.
I.4		Landownership pattern and changes over time – this information is essential to understanding how the system is doing.
I.5		Before any significant changes are proposed, OHA recommends that more comprehensive information is gathered to determine exactly what is and is not working. In this way, we can ensure that discussions relating to any proposed changes are supported by facts. OHA does expect that any changes to Hawai'i's land use law will ensure that the process is transparent, accessible, and consistent.
I.6		How do you know that process isn't efficient? Look at data and make it public before moving forward.
I.7		Provide data regarding infrastructure costs and land ownership.
I.8		Need clarification as to whether wells and watersheds are in the Agricultural District or the Conservation District. Where do the maps show the watersheds?
I.9	Enforcement	What is the status of the needed infrastructure? What is the hold up? What about enforcement of failed conditions? When is reclassification appropriate? If conditions are not met after many years, is the Supreme Court saying you cannot revert the land?
I.10		Who looks at and enforces conditions for approved boundary amendments and whether they're being met? Which agencies are responsible? Is OP trying to verify the accuracy of how conditions being met? Read annual reports at face value? There needs to be follow-up.
I.11	Environmental Review	What triggers an EA/EIS? Retroactive rights?
I.12		Who funds the EA/EIS process?
I.13	Policy	Can change be done through Admin Rules?
I.14		Does the State have adequate jurisdiction/power it says it has? Does the State have authority/responsibility or control over land use when there isn't a treaty of annexation to justify State authority, especially if we're talking about planning for Hawaii's future?
I.15		How does OP represent interest of State? What are the interests of State? Are they determined by the Governor?
I.16		Is the review required by law?
I.17	Process	Any consideration of special rights for native Hawaiians in developing land or projects, e.g., for kuleana lands?

I.18		As long as the LUC does project-specific reviews, HRS 343 documentation will be required to provide commissioners with the details they desire. Does the State need a project-by-project review to do boundary amendments?
I.19		Who is involved in the process of re-zoning land? Are they required to show ownership of clear title?
I.20		Should DHHL represent indigenous people? Should this be part of the process?
I.21		Are there criteria for determining what conditions are imposed by LUC?
I.22		Can LUC oppose/argue against OP report? And findings?
I.23		In Land Use Commission (LUC) approval, is there an express condition of reversion in the Decision and Order? Would reversion be easier if it was expressly stated?
I.24		Percentage of LUC denials of projects seems low. Percentage does not reflect what common person wants. We're ruining the State.
I.25		What laws does the LUC operate under to make decisions?
I.26		How can the public help make better conditions?
I.27		Is it an open and public process?
I.28		Are the functional plans being reviewed by legislature?
I.29		How are LUC members chosen?
I.30		Is there criteria for LUC in terms of <u>geographical composition</u> ? Neighbor island representation? Who decides makeup?
I.31	Resource Protection	All these watershed issues: how do they relate to what you're doing? What you're looking into? What's the relationship to the land use process?
I.32		Any oversight power over areas of particular concern? o They're using lands in disagreeable ways o Power over water?
I.33		People aren't using agriculture for agriculture because the lots are too small, so how are the Ag lands being used instead?
I.34		Per Ka Paakai and Kauai Springs decisions, archaeological and cultural impacts and public trust resources must be considered and conditions imposed as needed to address issues such as cultural and water resource impacts. Are there other ways of protecting these interests other than simply delegating the responsibility to the counties? Can the state just delegate these issues to counties consistent with its constitutional obligations?
I.35		What about Hawaiian water rights?

May 30, 2014

Towards a Desired Land Use System for Hawaii

To prepare for the next step of exploring system improvements or change, we felt it would be important to identify what is desired in an ideal land use system and how it should perform to achieve its desired ends. A model of what constitutes an ideal system provides a means to evaluate proposed and potential changes to our existing system.

Towards this end, four questions were posed to Task Force members:

- 1) What should a land use system do or provide for Hawaii?
- 2) What are the State's interests in land use?
- 3) What are the Counties' interests in land use?
- 4) What models or practices do you know of could help us achieve the outcomes desired from an effective land use system?

Our focus at this time is on Question No. 1 which seeks to identify characteristics of an ideal land use system for Hawaii. In analyzing the responses received, we found that members' input could be categorized into:

- Broad land use outcomes/goals, and
- Desired aspects for how the system should perform

Table 1 presents an initial summary of the elements of a desired land use system. Table 2 provides clarifying details and their attribution. We have generalized the main elements to identify common ground, but have retained the clarifying details to acknowledge their importance to the respondent. A separate compilation of the raw responses will also be made available.

At the June 5th meeting, the Task Force will have the opportunity to review, refine, and add to the summary. Once completed, these goals and clarifying details may then be referenced as the Task Force proposes improvements to the land use system.

Responses submitted by:

Department of Transportation, Highways Division (DOT-H) and Statewide Transportation Planning Office (DOT-STP)
 Department of Agriculture (DOA)
 Department of Land and Natural Resources (DLNR)
 Rep. Cindy Evans (CE)
 Sierra Club (SC1, SC2)
 Outdoor Circle (OC)
 Building Industry Association (BIA)
 American Planning Association Hawaii Chapter (APA)

Table 1

Initial Summary of Elements for Desired Land Use System

Hawaii's desired land use system results in...	
WHAT: land use outcomes	<ul style="list-style-type: none"> • Protection of (significant) natural and cultural resources
	<ul style="list-style-type: none"> • Protection of agricultural / ag resource lands
	<ul style="list-style-type: none"> • Built environment / communities that protect/s natural environment and meet/s societal needs (current and future)
	<ul style="list-style-type: none"> • Resilience to hazards
	<ul style="list-style-type: none"> • Sustainable natural and built ecosystems/environments
...and provides for:	
HOW: system performance	<ul style="list-style-type: none"> • Fair and open process for land use decision making
	<ul style="list-style-type: none"> • Certainty and predictability in the land use decision making and development process
	<ul style="list-style-type: none"> • Sound analysis and informed decision making
	<ul style="list-style-type: none"> • Clear policy and planning framework for land use decision making
	<ul style="list-style-type: none"> • Consistency / conformance with policies and plans
	<ul style="list-style-type: none"> • Plan-based, plan-driven land use decisions/development
	<ul style="list-style-type: none"> • Infrastructure capacity concurrent with planned growth
	<ul style="list-style-type: none"> • Efficient / sustainable use of resources
	<ul style="list-style-type: none"> • Effective enforcement of compliance with policies and plans
	<ul style="list-style-type: none"> • Efficient, cost-effective review/decision making process
	<ul style="list-style-type: none"> • Adaptable to changing needs and conditions

WHAT: LAND USE OUTCOMES

- **Protection of (significant) natural and cultural resources**

(Avoid/minimize risk to)

- Streams & ocean water resources
- Ground and surface waters
- Potable water sources (critical to survival)
- Near shore waters (critical to survival); coastal waters
- Reefs
- Historic & archaeological sites
- Burial sites/areas; traditional, subsistence & ceremonial gathering areas
- Views / view planes
- Open space
- Habitat for species
- Wetlands
- Preserve/protect ecosystems (needed to survive on each island)
- Public recreational resources: parks, trails, etc.

- **Protection of agricultural / ag resource lands**

- Adequate ag lands for food production, agriculture for food
- Important agricultural land economically viable for agricultural production
- Sufficient land for ag industry, food security
- Avoid/minimize risk to agricultural resources
- Minimize impermanence syndrome on agriculture lands from anticipated urbanization
- Protect viable ag lands for large & small farming, orchards, livestock operations
- Differentiates needs in ag vs. conservation environments

- **Built environment / communities that protect/s natural environment and meet/s societal needs (current and future):**

- Land use pattern has areas suitable for urbanization now & in future; land for urban use & reserve for forecasted pop growth
- Balance struck between lands preserving and protecting and lands encouraging development on
- Land use pattern reflects/incorporates impacts on physical, cultural, social, economic environment
- Protect character of communities
 - Housing and communities for existing residents
 - Differentiates needs in rural vs. urban environments
- Great communities balancing work and play
- Communities built and laid out for public's health, safety, general well-being
- Maintain quality of life

WHAT: LAND USE OUTCOMES

- **Affordable housing for residents** (genuine, truly affordable for Hawaii residents)
- Range of housing products at different price points
- **Healthy urban design models**
 - Avoids unsustainable development practices of urban sprawl, suburban areas far from existing infrastructure and town centers, car dependence
- **Adequate infrastructure & facilities**
 - Efficient use of existing infrastructure & services
 - Public infrastructure costs manageable; public infrastructure & services at sustainable levels
 - Transportation
 - Highways / roadways
 - Efficient & safe roadway system
 - Multi-modal transportation system
 - Avoids car dependence
 - Airports
 - Water
 - Avoids unsustainable development practices of high water consumption
 - Ensure supply of potable water
 - Urbanization linked to ability of ecosystem to provide potable water for planned urban use
 - Wastewater
 - Solid waste
 - Energy security, local energy production
 - Schools
 - Libraries
 - Parks
 - Civil defense
 - Hospitals
- **Economic development, economy**
- **Resilience to hazards**
 - Avoids natural or man-made hazards--flood plains, unstable land, steep slopes/ ridgelines, areas susceptible to sea level rise
 - Planning for resiliency for natural hazard mitigation and climate change impacts
- **Sustainable natural and built ecosystems/environments**
 - All development in harmony with ecology of environment; no adverse impact on sustainability of land
 - Balance struck between lands to preserve / protect and lands for development
 - Debate around 'sustainability' and what we need to exist in island state

HOW: SYSTEM PERFORMANCE

- **Fair and open process for land use decision making**
 - Fair and open process for development
 - Open process for redesignation
 - Fair and predictable process to redesignate
 - Gather and reflect collective will of people on how communities to be designed
 - Allowing public input on land use decisions affecting:
 - Public trust resources
 - Public and traditional access
 - Publicly funded infrastructure and services (CIP & O&M)
- **Certainty and predictability in the land use decision making and development process**
 - Fair and predictable process to redesignate
 - Certainty in the development process
 - [TOOL]>Screen out lands not appropriate for development at State & CO level
 - [TOOL]>Specific, reliable milestones that set short- and long-term investment-backed expectations
 - Allowing for orderly changes to meet built and natural environment challenges
- **Sound analysis and informed decision making**
 - Better and informed decision-making, data driven, direct and indirect impacts on physical, cultural, social, economic environment, centralized location for envtl / social indicators
 - Cumulative analysis to aid LU decision-making (micro- and macro-)
 - Accounts for direct and indirect impacts of development
 - Additional scrutiny / realistic evaluation of projects at county level re: public cost, project viability, environmental impacts
 - Process for urban change based on rational analysis
 - System meets current and future environmental and built challenges
 - Long term planning is key to long term protection of public trust resources
- **Clear policy and planning framework for land use decision making**
 - Framework to ensure that public's health, safety, well-being accounted for in public and private decision-making
 - Planning framework respected by legislative/executive/administration
 - Inclusive of constitutional provisions that set state planning policies
 - Provides objectives and policies (likes Hawaii State Plan)
 - Differentiating needs of rural vs. urban environments, agriculture vs. conservation environments

HOW: SYSTEM PERFORMANCE

- **Consistency / conformance with policies and plans**
 - **Internal consistency of policies**
 - Compliance with laws protecting natural resources
 - Avoid impermanence syndrome for ag lands
 - **Consistency between policies & plans**
 - (Plans) implement HI State Plan (state policy), consistency with...
 - State interest stated as counties go through GP, DP, SCP planning
 - Implement plans that conforms to overall state directions regarding where growth is allowed and discouraged
 - Compliance with laws protecting natural resources
 - County CIP investments consistent with statewide planning framework
 - State decision-making re: resources tied to statewide planning framework
 - **Consistency between policies, plans & implementation, including timing of planned growth**
 - County CIP investments consistent with statewide planning framework
 - State decision-making re: resources tied to statewide planning framework
 - Land use choices that protect Commons , don't undermine environmental protection
 - Urbanization linked to ability of ecosystem to provide potable water for planned urban use
 - Compliance with laws protecting natural resources
 - Implement county plans
 - Public doesn't subsidize development unless genuine affordable housing provided
 - Urbanization allowed only in accord with phasing & magnitude of development in county plans
 - To minimize impermanence syndrome/protect ag)
 - Discourage premature urbanization (project needing plan amendment considered later under specific & limited circumstances)
 - (Reasonable) coincidence of infrastructure availability & capacity with planned urbanization (in county system)
 - To minimize impermanence syndrome/protect ag
 - Specific, reliable milestones that set short- and long-term investment-backed expectations
 - Allowing for orderly changes to meet built and natural environment challenges

HOW: SYSTEM PERFORMANCE

- **Plan-based, plan-driven land use decisions/development**

- Identify areas for urbanization now and in future; future expansion area identified in advance to allow competition in delivery of housing types
- Direct development where allowed and discouraged based on public's best interests
- Direct development to appropriate areas and avoid/minimize risk to agricultural, natural, and cultural resources and hazards
- Urbanization allowed only in accord with phasing & magnitude of development in county plans
 - To minimize impermanence syndrome/protect ag
 - Discourage premature urbanization (project needing plan amendment considered later under specific & limited circumstances)
- Implement county plans
- Implement plans that conforms to overall state directions regarding where growth is allowed and discouraged
- Avoids areas located far from infrastructure and town centers
- Case-by-case regulatory system is counter to state's interests

- **Infrastructure capacity concurrent with planned growth**

- (Reasonable) coincidence of infrastructure availability & capacity with planned urbanization (in county system)
 - To minimize impermanence syndrome/protect ag
- Ensure adequate infrastructure to support planned growth or density in urban areas
- Urbanization based on ability of ecosystem to provide potable water for planned urban use
- County CIP investments consistent with statewide planning framework
- State decision-making re: resources tied to statewide planning framework
- Allowing for orderly changes to meet built and natural environment challenges

- **Efficient / sustainable use of resources**

- Sustainability – ability to exist within an island state—focal point of debate
- Managing water consumption and supply
- Urbanization based on ability to protect ecosystems so there is enough potable water for planned urban use
- Public infrastructure costs manageable
- Public doesn't subsidize development unless genuine affordable housing provided

- **Effective enforcement of compliance with policies and plans**

- Compliance with laws protecting natural resources
- Utilize and enforce conditions and incentives for proposed development

CALIFORNIA	
Overview	
In California, State law is the foundation for local planning. The California Government Code directs land uses by local governments including: general plans, specific plans, subdivisions, and zoning. The Governor's Office of Planning and Research (OPR) is the State comprehensive planning agency responsible for working with State agencies and departments, regional planning organizations, and local jurisdictions on land use planning. The State, however, is seldom involved in local land use and development decisions; these responsibilities are delegated to the city councils and boards of supervisors of the individual cities and counties; local decision makers adopt their own sets of land use policies and regulations based upon the state laws.	
Topic	
Enabling Legislation	California Government Code, Title 7, Planning and Land Use California Coastal Act of 1976
State Planning	<ul style="list-style-type: none"> •OPR's planning responsibilities: <ol style="list-style-type: none"> a) formulate long-range goals and policies for land use, population growth and distribution, urban expansion, land development, and resource preservation; b) assist in preparing of functional plans by State agencies relating to protection and enhancement of the State's environment; c) create regional planning districts; d) develop guidelines for the preparation of city and county general plans; and e) provide general planning assistance to local governments. •OPR does not provide funding assistance to local governments for land use planning. •There are legislatively required general plan elements.
State Approval of Local Plans	Plans are reviewed and approved by local governments who determine whether an activity is consistent with the general plan.
Land Use Incentives	Incentives are offered to: <ul style="list-style-type: none"> •encourage projects that are consistent with a regional plan that reduces greenhouse gas emissions; and •facilitate the construction of affordable housing.
Enforcement and Sanctions	Local governments are required to provide annual reports to OPR and the Department of Housing and Community Development on the status of the general plan and its implementation. The State may impose sanctions for failure to have a complete and adequate general plan or for inconsistency of zoning and subdivision actions and public works projects. Sanctions may include: <ul style="list-style-type: none"> •a writ of mandate; or •the issuance of an injunction pending adoption of a complete and adequate general plan.
Appeals	Local trial courts, then California Courts of Appeal
Innovative Features	<ul style="list-style-type: none"> •Sustainable Communities and Climate Protection Act of 2008 - Supports the State's climate action goals to reduce greenhouse gas emissions through coordinated transportation and land use planning with the goal of more sustainable communities. •Strategic Growth Council (2008) - The Council is a cabinet level committee tasked with coordinating the activities of state agencies to improve air and water quality, protect natural resources and agriculture lands, increase the availability of affordable housing, improve transportation, encourage greater infill and compact development, and assist state and local entities in meeting AB 32 goals. •California Coastal Commission (1972) - This Commission was established by voter initiative in 1972 and later made permanent by the California Coastal Act of 1976. In partnership with coastal cities and counties, it plans and regulates the use of land and water in the coastal zone. The Coastal Act states that development activities generally require a coastal permit from either the Coastal Commission or the local government. The twelve-member Commission is an independent, quasi-judicial State agency.
Citations and Links for Additional Information	
http://opr.ca.gov/docs/General_Plan_Guidelines_2003.pdf http://ceres.ca.gov/planning/planning_guide/plan_index.html#anchor147450 http://www.leginfo.ca.gov/cgi-bin/calawquery?codesection=gov http://opr.ca.gov/s_planningresources.php	

MARYLAND	
Overview	
The Maryland Department of Planning (MDP) is the State planning agency responsible for ensuring that all of the State's natural resources, built environment, and public assets are preserved and protected as smart and sustainable growth goals are attained. The power to plan and zone in Maryland is given to local governments: Maryland entrusts local jurisdictions with land use planning authority to guide growth and development through the Land Use Article of the Maryland Annotated Code.	
Topic	
Enabling Legislation	Land Use Article of the Maryland Annotated Code Sustainable Growth and Agricultural Preservation Act of 2012 Sustainable Communities Act of 2010
State Planning	<ul style="list-style-type: none"> •MPD's responsibilities include: <ul style="list-style-type: none"> a) overseeing Maryland's smart growth programs through the State development plan, PlanMaryland; b) providing technical services to support planning at the local level of government; c) providing social, economic, and geographic information; d) financial and other planning assistance to local governments as provided in the State budget. e) legislatively required comprehensive plan elements.
State Approval of Local Plans	Plans are reviewed and approved at the local level; the MPD can only comment on local plan compliance with State goals.
Land Use Incentives	Incentives are offered to: <ul style="list-style-type: none"> •direct growth to Priority Funding Areas (<i>see Innovative Features section below for more information</i>) •limit development on rural lands and natural resource areas; •regulate development in water resource areas; •renovate historic homes; and •implement sustainable transportation/land-use practices.
Enforcement and Sanctions	Local planning commissions are required to submit annual reports to the board of county commissioners or the county council with a copy to MPD. While MPD can only comment on the reports, it may withhold state funding for any projects that are not consistent with State goals or local plans.
Appeals	County Board of Appeals, then Circuit Court for the county, then Court of Special Appeals
Innovative Features	<ul style="list-style-type: none"> •Maryland Sustainable Growth Commission (2010) - Identifies regional growth and development issues for the Governor's Smart Growth Subcabinet; recommends ways to collaborate on planning between State agencies and local governments and coordinate growth and development among jurisdictions; and reviews statewide efforts to implement the state growth plan, PlanMaryland. •Smart Growth Subcabinet (1998) - Helps implement Smart Growth Policy, recommends changes in State law, regulations, and procedures needed to support the Policy. •The Priority Funding Areas Act of 1997 - Directs State funding for growth-related infrastructure to Priority Funding Areas (PFAs), providing a geographic focus for State investment in growth.
Citations and Links for Additional Information	
http://www.mdp.state.md.us/ http://www.mdp.state.md.us/OurWork/2012Legislation.shtml http://www.lexisnexis.com/hottopics/mdcode/	

OREGON	
Overview	
<p>Oregon maintains a strong centralized land use planning system. The State Department of Land Conservation and Development (DLCD) is the State comprehensive planning agency responsible for statewide planning guidelines and ensuring that local comprehensive plans address the land use goals which form the foundation of the State's land use planning system. Once enacted, a comprehensive plan also requires demands the consistency with other local land use ordinances, regulations, and proceedings.</p> <p>Oregon's seven-member Land Conservation and Development Commission (LCDC), assisted by DLCD, adopts State land use goals, assures local plan compliance with the goals, coordinates state and local planning, and manages the coastal zone program.</p> <p>Oregon's planning laws apply not only to local governments but also to special districts and State agencies. The laws strongly emphasize coordination -- keeping plans and programs consistent with each other, with the goals, and with acknowledged local plans.</p>	
Topic	
Enabling Legislation	Senate Bill 100 (1973)
State Planning	<ul style="list-style-type: none"> •Nineteen Statewide Planning Goals express the State's policies on land use and related topics, such as citizen involvement, housing, and natural resources. They serve to bind state and local governments. •Once a plan is approved by the LCDC, the goals "drop out" and are no longer independent standards for review of local land-use decisions, and the plan then becomes the controlling document for land use in the area covered by that plan. •Most statewide goals are accompanied by guidelines, which are suggestions about how a goal may be applied. •The DLCD provides funding and technical assistance to help local governments meet their planning obligations. •Plans and land use regulations are subject to periodic review by the LCDC to determine continued compliance with the goals.
State Approval of Local Plans	The State LCDC has ultimate approval authority over local plans in determining consistency with the statewide planning goals.
Land Use Incentives	<p>Incentives are offered to:</p> <ul style="list-style-type: none"> •encourage downtown mixed-use developments.
Enforcement and Sanctions	<p>Local governments are required to provide annual reports to LCDC on the status of the comprehensive plan. The State may impose sanctions if a local government fails to adopt, amend, or respect its plan. Sanctions may include:</p> <ul style="list-style-type: none"> •loss of eligibility for grants; •LCDC enforcement orders •blocking the distribution of state tax revenues; or •suspending local authority to issue building permits.
Appeals	Land Use Board of Appeals
Innovative Features	<ul style="list-style-type: none"> •State growth management and planning. •Integration of transportation and growth management. •Use of urban growth boundaries to contain sprawl. •Regional Pilot Program (2012) - The DLCD works with several counties to explore the development of region-specific rules for protecting farm and forest land.
Citations and Links for Additional Information	
<p>http://digitalcommons.pace.edu/cgi/viewcontent.cgi?article=1532&context=plr</p> <p>http://housinglandadvocates.org/resources/land-use-and-housing/land-use-planning-in-oregon/</p> <p>http://planning.hawaii.gov/wp-content/uploads/2014/05/Planning_OR-LU-system@40_Feb-2013.pdf</p>	

RHODE ISLAND	
Overview	
Rhode Island maintains a strong centralized land use planning system. The State Department of Administration, Division of Planning is the central planning agency guided by the State Planning Council (Council), comprised of State, local, public representatives, and federal and other advisors.	
The State comprehensive plan, called the State Guide Plan, mandates comprehensive planning at the local level. Consistency with the State and local plans is required in almost every aspect of land use planning. The Council, with help from Division of Planning, creates and updates the State Guide Plan and supervises the comprehensive planning process. The Council also coordinates the different land use policies and programs of State agencies, adopts planning regulations, and reviews and approves local comprehensive plans.	
Topic	
Enabling Legislation	Comprehensive Planning and Land Use Regulation Act of 1988
State Planning	<ul style="list-style-type: none"> •The statewide planning system maintains municipal discretion in land use decision-making but also establishes the lead role of the State Guide Plan. •The land use system creates an incentive for municipalities by obliging the State to conform its programs and actions to municipal plans that were certified as being consistent with State goals and policies. •The State encourages cooperation between municipalities in the design and implementation of their respective plans. •The State requires public input and comment during the comprehensive planning process. •The Division of Planning oversees several grant programs. •Local comprehensive plans must meet certain minimum standards and be updated and re-adopted every ten years.
State Approval of Local Plans	The State reviews and approves local comprehensive plans to ensure consistency with the State Guide Plan.
Land Use Incentives	Funding, tax, or technical assistance incentives are offered to encourage: <ul style="list-style-type: none"> •State agency consistency with adopted local plans; •regional development of major new industrial centers; •redevelopment of vacant and abandoned properties; and •restoration of historic buildings.
Enforcement and Sanctions	The State may impose sanctions for noncompliance which may include: <ul style="list-style-type: none"> •the adoption of a local comprehensive plan by the State Comprehensive Plan Appeals Board if a locality fails to adopt one.
Appeals	State Comprehensive Plan Appeals Board (appointed by Governor, Senate, House)
Innovative Features	<ul style="list-style-type: none"> •Required state and local plan consistency. •Governor's Growth Planning Council (2000) - This initiative promotes growth centers through a State investment strategy that directs State discretionary investments (to include State managed federal funds), technical assistance, and expedited regulatory review to locally designated and State approved growth centers. •The State Planning Council's Technical Committee is a permanent advisory committee that reviews the Statewide Planning Program staff work on major plans and provides other advice as requested by the State Planning Council.
Citations and Links for Additional Information	
http://www.planning.ri.gov/ http://www.planning.ri.gov/documents/121/landuse2025.pdf http://www.planning.ri.gov/statewideplanning/land/growthctrs.php http://gov.uchastings.edu/public-law/docs/smartgrowth.pdf	

WASHINGTON	
Overview	
<p>Washington State allows a high level of comprehensive planning within its political subdivisions, but still provides state oversight and coordination of regional and local planning. The Washington State Department of Commerce (DOC) is the State planning agency responsible for coordinating State agency efforts toward implementing the Growth Management Act (GMA), which is the foundation for State and local planning in Washington.</p> <p>The GMA creates a framework for counties and cities meeting a threshold population size and those experiencing rapid population growth to establish goals, evaluate community assets, write comprehensive plans, and carry out those plans to a future vision through regulations and innovative techniques. The DOC assists local governments in these efforts. Additionally, the comprehensive plan of each county or city must be coordinated and consistent with the comprehensive plans of other counties or cities with common borders or related regional issues.</p>	
Topic	
Enabling Legislation	<p>Growth Management Act of 1990</p> <p>Planning Enabling Act 1959</p>
State Planning	<ul style="list-style-type: none"> •The DOC rules help local governments carry out the GMA by setting minimum guidelines to conserve resource lands and protect critical areas. •Other state agencies also help cities and counties develop their local comprehensive plans and development patterns. •Under the GMA, state agencies are required to comply with adopted countywide planning policies, comprehensive plans and development regulations of cities and counties. •The DOC provides grants and technical assistance to local governments for growth management planning. •There are legislatively required comprehensive plan elements.
State Approval of Local Plans	Plans are reviewed and approved at the local level.
Land Use Incentives	<p>Incentives are offered to:</p> <ul style="list-style-type: none"> •encourage development in high-growth areas; •encourage state agency consistency with local plans; •retrofit existing structures with the electrical outlets capable of charging electric vehicles; and •develop of low-income housing units.
Enforcement and Sanctions	<p>The State may impose sanctions for noncompliance which may include:</p> <ul style="list-style-type: none"> •withholding revenues to which the county or city is entitled; •a notice of noncompliance which temporarily rescinds the county or city's authority to collect the real estate excise tax; or •revising allotments in appropriation levels.
Appeals	The Growth Management Hearings Board (GMHB), then Superior Court
Innovative Features	<ul style="list-style-type: none"> •State growth management •If a party is dissatisfied with the Final Decision and Order of a GMHB, an appeal of that decision may be made to a Superior Court.
Citations and Links for Additional Information	
<p>http://apps.leg.wa.gov/rcw/default.aspx</p> <p>http://www.commerce.wa.gov/Documents/GMS-GMA-RCW-2013Update.pdf</p> <p>http://www.horsleywitten.com/evergreen/images/Module-7-report.pdf</p> <p>http://www.gmh.b.wa.gov/</p> <p>http://www.commerce.wa.gov/Documents/GMA-101-Brochure.pdf</p>	

	CALIFORNIA	MARYLAND	OREGON	RHODE ISLAND	WASHINGTON
Overview	<p>State Planning Agency: Governor's Office of Planning and Research (OPR)</p> <p>State Roles: Formulate long-range goals and policies; assist in preparing functional plans by State agencies; create regional planning districts; develop guidelines for the preparation of city and county general plans; and provide general planning assistance to local governments.</p> <p>Local Roles: Local decision makers adopt their own sets of land use policies and regulations based upon the State laws.</p>	<p>State Planning Agency: Maryland Department of Planning (MDP)</p> <p>State Roles: Oversee Maryland's smart growth programs; provide technical services to support planning at the local level of government; provide economic, and geographic information; offer financial and other planning assistance to local governments as provided in the State budget.</p> <p>Local Roles: Local governments have land use planning authority to guide growth and development based on State laws and policies.</p>	<p>State Planning Agencies: Department of Land Conservation and Development (DLCD), Land Conservation and Development Commission (LCDC)</p> <p>State Roles: Oregon maintains a strong centralized land use planning system. State prepares the statewide planning guidelines, adopts state land use goals, assures local plan compliance with the goals, coordinates state and local planning, manages the coastal zone program, and certifies comprehensive plans in compliance with the guidelines.</p> <p>Local Roles: Local comprehensive plans must address State land use goals.</p>	<p>State Planning Agency: Department of Administration, Division of Planning</p> <p>State Roles: Rhode Island maintains a strong centralized land use planning system. The State supervises the comprehensive planning process, coordinates the different land use policies and programs of State agencies, adopts planning regulations, and reviews and approves local comprehensive plans.</p> <p>Local Roles: Local comprehensive plans must be consistent with the State plan.</p>	<p>State Planning Agency: Washington State Department of Commerce (DOC)</p> <p>State Roles: Coordinate State agency efforts toward implementing the Growth Management Act (GMA), the foundation for State and local planning in Washington.</p> <p>Local Roles: The comprehensive plan of each county or city must be coordinated and consistent with the comprehensive plans of other counties or cities with common borders or related regional issues.</p>
Enabling Legislation	<p>California Government Code, Title 7, Planning and Land Use</p> <p>California Coastal Act of 1976</p>	<p>Land Use Article of the Maryland Annotated Code</p> <p>Sustainable Growth and Agricultural Preservation Act of 2012</p> <p>Sustainable Communities Act of 2010</p>	<p>Senate Bill 100 (1973)</p>	<p>Comprehensive Planning and Land Use Regulation Act of 1988</p>	<p>Growth Management Act of 1990</p> <p>Planning Enabling Act 1959</p>

	CALIFORNIA	MARYLAND	OREGON	RHODE ISLAND	WASHINGTON
State Planning	<ul style="list-style-type: none"> •OPR does not provide funding assistance to local governments for land use planning. •There are legislatively required general plan elements. 	<ul style="list-style-type: none"> •The Department may provide financial assistance to local governments as provided in the State budget. •There are legislatively required comprehensive plan elements. 	<ul style="list-style-type: none"> •LDCD decides whether to approve local plans which serve to bind state and local governments. •Once a plan is approved, the goals "drop out" and are no longer independent standards for review of local land-use decisions, and the plan then becomes the controlling document for land use in the area covered by that plan. •DLCD provides funding and technical assistance to help local governments meet their planning obligations. •Plans and land-use regulations may be subject to periodic review by the LDCD to determine continued compliance with the goals. 	<ul style="list-style-type: none"> •The statewide planning system maintains municipal discretion in land use decision-making but also establishes the lead role of the State Guide Plan. •The land use system creates an incentive for municipalities by obliging the State to conform its programs and actions to municipal plans that were certified as being consistent with State goals and policies. •The State encourages cooperation between municipalities in the design and implementation of their respective plans. •The Division of Planning oversees several grant programs. •Local comprehensive plans must meet certain minimum standards and be updated and re-adopted every ten years. 	<ul style="list-style-type: none"> •The DOC rules help local governments carry out the GMA. •Other state agencies help cities and counties develop their local comprehensive plans and development patterns. •Under the GMA, state agencies are required to comply with adopted countywide planning policies, comprehensive plans and development regulations of cities and counties. •The DOC provides grants and technical assistance to local governments for growth management planning. •There are legislatively required comprehensive plan elements.

Land Use Incentives	Incentives are offered to: •encourage projects that are consistent with a regional plan that reduces greenhouse gas emissions; and •facilitate the construction of affordable housing.	Incentives are offered to: •direct growth to Priority Funding Areas •limit development on rural lands and natural resource areas; •regulate development in water resource areas; •renovate historic homes; and •implement sustainable transportation/land-use practices.	Incentives are offered to: •encourage downtown mixed-use developments.	Incentives are offered to encourage: •State agency consistency with adopted local plans; •regional development of major new industrial centers; •redevelopment of vacant and abandoned properties; and •restoration of historic buildings.	Incentives are offered to: •encourage development in high-growth areas; •encourage state agency consistency with local plans; •retrofit existing structures with the electrical outlets capable of charging electric vehicles; and •develop low-income housing units.
Enforcement and Sanctions	Local governments are required to provide annual reports to OPR and the Department of Housing and Community Development. Sanctions may include: •a writ of mandate; or •the issuance of an injunction pending adoption of a complete and adequate general plan.	Local planning commissions are required to submit annual reports to the board of county commissioners or the county council. Sanctions may include: •withholding state funding for projects that are not consistent with State goals or local plans.	Local governments are required to provide annual reports to LCDC on the status of the comprehensive plan. Sanctions may include: •loss of eligibility for grants; •LCDC enforcement orders •blocking the distribution of state tax revenues; or •suspending local authority to issue building permits.	The State may impose sanctions for noncompliance which may include: •the adoption of a local comprehensive plan by the State Comprehensive Plan Appeals Board if a locality fails to adopt one.	The State may impose sanctions for noncompliance which may include: •withholding revenues to which the county or city is entitled; •a notice of noncompliance which temporarily rescinds the county or city's authority to collect the real estate excise tax; or •revising allotments in appropriation levels.
Appeals	Local trial courts, then California Courts of Appeal	County Board of Appeals, then Circuit Court for the county, then Court of Special Appeals	Land Use Board of Appeals	State Comprehensive Plan Appeals Board (appointed by Governor, Senate, House)	The Growth Management Hearings Board (GMHB), then Superior Court
Innovative Features	•Sustainable Communities and Climate Protection Act of 2008 •Strategic Growth Council (2008) •California Coastal Commission (1972)	•Maryland Sustainable Growth Commission (2010) •Smart Growth Subcabinet (1998) •Priority Funding Areas Act of 1997	•State growth management and planning. •Integration of transportation and growth management. •Use of urban growth boundaries to contain sprawl. •Regional Pilot Program (2012)	•Required state and local plan consistency. •Governor's Growth Planning Council (2000) •State Planning Council's Technical Committee	•State growth management •If a party is dissatisfied with the Final Decision and Order of a GMHB, an appeal of that decision may be made to a Superior Court.

Acres Reclassified by Type of Request by County, 1975 - 2014

Type of Reclassification Requested	City & County of Honolulu		Hawaii		Kauai		Maui		Statewide	
	Acres		Acres		Acres		Acres		Acres	
	#	%	#	%	#	%	#	%	#	%
Agricultural-Urban	18,958.92		13,616.67		5,303.17		9,511.49		47,390.25	
	46	65.71	63	61.17	41	74.55	69	66.99	219	66.16
Conservation-Urban	1,030.80		8,419.16		39.97				9,489.92	
	14	20.00	26	25.24	5	9.09			45	13.60
Rural-Urban					6.45		324.96		331.41	
					1	1.82	8	7.77	9	2.72
Urban-Rural							957.11		957.11	
							2	1.94	2	0.60
Agricultural-Rural			1,226.88		146.13		673.75		2,046.76	
			3	2.91	3	5.45	15	14.56	21	6.34
Conservation-Agricultural	9.06		7,343.12		16.49		86.38		7,455.05	
	3	4.29	5	4.85	1	1.82	4	3.88	13	3.93
Rural-Agricultural							54.33		54.33	
							2	1.94	2	0.60
Urban-Agricultural	25.02				14.34				39.36	
	1	1.43			1	1.82			2	0.60
Agricultural-Conservation	1,780.52		14,398.61		38.17		1,215.89		17,433.18	
	4	5.71	4	3.88	2	3.64	3	2.91	13	3.93
Urban-Conservation	238.64		188.00		29.00				455.64	
	2	2.86	2	1.94	1	1.82			5	1.51
Total	22,110.96		45,293.44		5,647.71		12,926.90		85,979.01	
	70	21.15	103	31.12	55	16.62	103	31.12	331	100

Note: Data extracted from OP docket file records for petitions filed with the LUC from 1975 through 2014. It does not include data on district boundary amendments made by the counties. The acreage data includes only those lands that were redistricted outright by LUC order, and excludes lands approved for incremental redistricting that have yet to be authorized as reclassified by subsequent LUC order. The total petition counts exceed the actual number of petitions filed since a petition may have included more than one reclassification request. The percentages refer to the percent of petitions requesting that type of reclassification.

State Land Use Commission Appeals (Preliminary 4/30/15)

1972 - 2014

Appendix G

No.	Docket	Case Title (Project)	Appeal Filed	Order Filed	ICA Order	SC Case No.	SC Appeal	SC Order	Outcome in favor of
1	A71-294	Michael Town et al v. LUC et al (Yagi petition, Kula, Maui)	3/21/1972			5388		6/19/1974	Appellant
2	BR (Oneula)	Life of the Land v. LUC et al (Oneula and Ewa Campbell reclassifications, Oahu)	5/28/1975	10/31/1975		6167/6168	2/20/1976	5/11/1979	Appellant
3	SP (Kahe Pt.)	Waianae Neighborhood Board No. 24 v. State LUC (Oahu Corp. theme park)	6/21/1977	6/22/1978		7112		1/22/1982	Appellant
4	A76-421	Life of the Land v. West Beach Development Corp, LUC et al (Ko Olina Resort, Ewa)	9/23/1977			6905		7/20/1981	Appellant
5	A76-420	Outdoor Circle, DPED v. Castle Trust Estate v. LUC et al (Kawainui Marsh, Oahu)	4/5/1978	4/17/1979	12/9/1983	8554/9025 [ICA]			Appellee
6		C&C Hon Planning v. LUC et al	12/20/1979	10/28/1989					
7		Environmental Law Ctr et al v. LUC et al	12/21/1979	10/28/1989					
8	A80-477	Pinao Tenants Assn v. LUC et al	10/14/1980	3/29/1988					
9		Na Opio Aloha Aina et al v. LUC et al	7/2/1982	6/28/1991					
10		Blance Wahinekoochai v. LUC	8/2/1985	2/4/1986					
11		Waianae Land Use Etc et al v. LUC et al	10/15/1985	6/16/1987		11523	7/16/1986	1/26/1987	
12	SP88-369	Malama Mahaulepu vs. LUC, Planning Commission et al (Ainako Golf Course, Poipu)	12/1/1988	3/16/1989		13764		4/9/1990	Appellee
13	DR87-12	Donna Ting et al v. LUC et al	6/16/1988	3/3/1989					
14	A84-572	Kilauea Neighborhood Assoc et al v. LUC	7/2/1990	9/27/1991	3/11/1988	15728	11/7/1991	12/17/1996	Appellee
15		Glenn N. Felton, et al v. LUC et al	2/17/1994	9/1/1993					
16	BR94-702	Kealakekua Dev Corp v. LUC et al		11/30/1995					
17	A90-662; A89-649; A89-647	Lanaians for Sensible Growth v. LUC et al	11/23/1994	12/27/1995					
18		Plan to Protect Inc v. LUC	9/25/1995	2/21/1996					
19	A93-701	Ka Paakai o Kaaina v. LUC et al (Kaupulehu Dev.)	9/14/1996	9/30/1997		21124		9/11/2000	Appellant
20	A89-649	Lanai Company Inc. v. LUC et al (Manele Golf Course)	6/7/1996	4/26/1997		22564	7/16/1997	9/17/2004	Appellant
21		County of Maui v. LUC	9/19/1997	6/22/1998					
22	A06-769	Walter J Kelly et al v. 1250 Oceanside Partners et al	10/30/2000	10/21/2002		26813		7/28/2006	Appellee
23	DR00-23	Pacific Star LLC v. The Sierra Club et al	11/22/2000	12/11/2001					
24	A00-734	Sierra Club v. Office of Planning State of Hawaii et al.	7/23/2002	9/23/2003		26174	10/23/2003	1/27/2006	Appellant
25		County of Hawaii v. Ala Loop Homeowners et al	11/14/2003	3/4/2005	9/2/2009	27707	4/22/2009	4/7/2011	
26	A89-635	Aha Hui Malama o Kaniakapupu v. LUC et al	2/12/2004	4/27/2004		26984		7/24/2006	Appellee

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Comments on Existing System in Relation to Desired Attributes of Ideal System

DESIRED OR IDEAL SYSTEM What it produces— Desired land use outcomes:	SUMMARIZED COMMENTS ON EXISTING SYSTEM
■ Protection of (significant) natural and cultural resources	<ul style="list-style-type: none"> ● LUC safeguards protection of environmental and cultural resources ● Resources not comprehensively identified for decision makers ● Conservation & cultural resources on lands in urban, agricultural, rural districts; need protection of conservation district ● No clear protection plan or strategy for decision makers ● Protection of cultural properties is weak in land use decision making
■ Protection of agricultural / agricultural resource lands	<ul style="list-style-type: none"> ● Resources not comprehensively identified for decision makers, particularly good/important agricultural lands (IAL) ● IAL process incomplete; questions about criteria ● Not enough consideration given to agricultural needs in land use decision making; greater scrutiny for agricultural lands ● No clear protection plan or strategy for decision makers ● Don't protect agricultural land just for open space; not all lands in agricultural district are good for agriculture ● Agricultural district standards and permissible uses and codes promote non-agricultural uses and don't promote long term agricultural use ● Rural district standards and permissible uses promote rural sprawl; rural needs to be redefined ● Need to be more proactive in promoting agriculture ● Counties don't have agricultural development expertise; need more agricultural support capacity if they are to have more authority over agricultural lands
■ Built environment / communities that protect/s natural environment and meet/s societal needs (current and future)	<ul style="list-style-type: none"> ● Infrastructure capacity is not available for areas planned for growth ● Regional infrastructure investments are being shifted to developers, increasing project cost and delays ● Affordable housing shortage persists; need stronger role in addressing need for more affordable housing ● Public doesn't want to pay for infrastructure needed for projects that is not planned for ● Designated growth areas don't account for the cost of proposed development; plans are not fiscally constrained
■ Resilience to hazards	<ul style="list-style-type: none"> ● Climate change, sea level rise, seawalls causing loss of beaches, but people still building on beaches
■ Sustainable natural and built ecosystems/environments	<ul style="list-style-type: none"> ● Cumulative and long term impacts are not being addressed well in project reviews and decision making ● Watershed management/water resource management are not integrated into land use planning and decision making ● Climate change, sea level rise, seawalls causing loss of beaches, but people still building on beaches ● Stormwater runoff from impervious surfaces, agricultural activities is polluting nearshore waters, impacting coral reefs

DESIRED OR IDEAL SYSTEM How it performs— Performance goals for system:	SUMMARIZED COMMENTS ON EXISTING SYSTEM
■ Fair and open process for land use decision making	<ul style="list-style-type: none"> ● Contested case allows in-depth review & meaningful participation for interests ● State review offers second level of review & state agency representation ● LUC process gets into too much detail, repetitive with county level ● Public input to decision making is limited at county level ● Counties have bias toward development: greater influence from development interests; pressure to increase revenue base ● Public access in LUC process hindered by difficulty in participating in hearings & quasi-judicial procedures ● Need for more balance in representation on LUC—less developers, more community or environmental perspectives needed ● Potential for intervention/lawsuits at various points in land use review process, causes delays and uncertainty ● Judicial appeals of LUC decisions extend process; create uncertainty in project schedule
■ Certainty and predictability in the land use decision making and development process	<ul style="list-style-type: none"> ● Counties have bias toward development: greater influence from development interests; pressure to increase revenue base ● Potential for intervention/lawsuits at various points in land use review process, causes delays and uncertainty ● LUC orders and conditions provide some certainty regarding project commitments and mitigation, but can be too rigid, not able to accommodate changes over project timeframe ● Plans adopted but not implemented ● Cumulative and long-term impacts are not being addressed well in project reviews and decision making ● Projects approved, but delays in development ● “Spot zoning”—land use approvals not consistent with plans—often disconnected to plans for infrastructure & services ● LUC decision making is ad hoc; single project review is not comprehensive or cumulative ● No expiration date on entitlements; has adverse impacts ● Early notification is needed when development is proposed ● No long range comprehensive planning & coordination between State and county land use & capital improvement program planning ● No fiscal discipline in CIP investment; planning not tied to CIP & no consistency in planning

DESIRED OR IDEAL SYSTEM How it performs— Performance goals for system:	SUMMARIZED COMMENTS ON EXISTING SYSTEM
■ Sound analysis and informed decision making	<ul style="list-style-type: none"> ● Missing, inadequate environmental, socioeconomic information for decision making ● State and counties producing information in silos, difficulty in finding data ● Lack of shared data to inform regional analysis ● Need for baseline data to support long term regional planning, such as data on housing stock ● State and county decision making relies on data and analysis produced by developer ● LUC doesn't always have local perspective ● Cumulative and long-term impacts are not being addressed well in project reviews and decision making ● Lack of accepted thresholds and their use in analysis and decision making, e.g., roadway performance standards, etc. ● Lack of resource identification and resource protection strategy or plan to guide decision making ● Difficulty in analyzing and quantifying regional impact on a project-by-project basis ● Difficulty in incorporating new science and best practices in land use decision making ● Move environmental review to later in land use process, when project is clearer & documents don't get stale
■ Clear policy and planning framework for land use decision making	<ul style="list-style-type: none"> ● Land use districts in Chapter 205 are good umbrellas ● Land use districts are no longer needed ● District standards and uses in Chapter 205 subject to amendment by special interest legislation ● Agricultural district allows high-density zoning, creates need for urban-like infrastructure & services ● Lack of State policy guidance to counties regarding agricultural land use policy, to ensure consistency with State agricultural goals ● Need for clear, defining role for LUC, to guide commissioners ● State has constitutional mandate to be trustee of environmental, cultural, agricultural resources ● Overlap of State & county interests ● State needs to provide leadership to counties, developers, public ● Case-by-case regulatory system is counter to State's interests, reactive to landowner/developer proposals ● LUC decision making is ad hoc; single project review is not comprehensive or cumulative ● State never gets down to community level, there's a disconnect ● LUC process gets into too much detail, duplicative of county process ● Counties want more home rule, more capable now ● Counties closer to community, have broader & more sustained public involvement in county planning processes ● No requirements set out for county plans, very little direction for county plans; other states outline framework for counties ● No coordination between State and county in land use planning and regional infrastructure planning and development

DESIRED OR IDEAL SYSTEM How it performs— Performance goals for system:	SUMMARIZED COMMENTS ON EXISTING SYSTEM
	<ul style="list-style-type: none"> ● State & county processes seem to operate independently, no direct relationship between State & county planning ● Even within planned growth areas, there's poor planning for providing urban infrastructure & services ● No fiscal discipline in CIP investment; planning not tied to CIP & no consistency in planning ● State agencies need to express interests in county plan development process ● State plans not tied to land use approval process ● Lack of enforcement of LUC conditions
■ Consistency / conformance with policies and plans	<ul style="list-style-type: none"> ● Difficulty in appealing county, quasi-legislative land use decisions inconsistent with policies and plans ● LUC decision making is ad hoc; single project review is not comprehensive or cumulative ● Disconnect between county plans & the quality/type of development being built ● No fiscal discipline in CIP investment; planning not tied to CIP & no consistency in planning
■ Plan-based, plan-driven land use decisions/development	<ul style="list-style-type: none"> ● Counties producing good community plans; have capacity to manage growth ● No clear plans to guide State-level decision making on project or regional basis ● State agencies need to express interests in county plan development process ● Case-by-case regulatory system is counter to State's interests; reactive to landowner/developer proposals & not based on long range plans ● LUC decision making is ad hoc; single project review is not comprehensive or cumulative ● LUC process gets into too much detail, duplicative of county process ● County plans need to be used by LUC in more proactive manner ● Need to direct attention & investment to build out of existing urban areas ● Focus on petitions/development consistent with county plans rather than individual petitions trying to maximize own interests ● No coordination between State and county in land use planning and regional infrastructure planning and development ● State & county processes seem to operate independently, no direct relationship between State & county planning
■ Infrastructure capacity concurrent with planned growth	<ul style="list-style-type: none"> ● Infrastructure capacity is not available for areas planned for growth; shortfall in public investment in public infrastructure improvements ● Regional infrastructure improvements are being shifted to developers, increasing project cost and delays ● Financing tools aren't fully utilized ● Public doesn't want to pay for infrastructure needed for projects that is not planned for ● Designated growth areas don't account for the cost of proposed/planned development; plans are not fiscally constrained ● Public agencies can't afford the cost of servicing planned growth ● No coordination of regional infrastructure plans ● State agencies need to express interests in county plan development process ● Even within planned growth areas, there's poor planning for providing urban

DESIRED OR IDEAL SYSTEM How it performs— Performance goals for system:	SUMMARIZED COMMENTS ON EXISTING SYSTEM
	<p>infrastructure & services</p> <ul style="list-style-type: none"> • No fiscal discipline in CIP investment; planning not tied to CIP & no consistency in planning • Need to direct attention & investment to build out of existing urban areas • Difficulty in meeting conditions for regional infrastructure mitigation in zone change, permitting process • No incentives for planned growth & infrastructure development
<ul style="list-style-type: none"> ■ Effective enforcement of compliance with policies and plans 	<ul style="list-style-type: none"> • Role of LUC and counties not clear in enforcing Ch 205 & conditions of approval • LUC has limited enforcement authority & needs more flexibility in enforcement of orders & conditions • Appeals of LUC decisions extend process, create delays & uncertainty • Complaint-driven system; lax enforcement • State agencies need to express interests in county plan development process • Counties typically don't initiate enforcement actions solely on LUC conditions • No accountability in enforcement • People sometimes don't know what they can & can't do when purchasing property; need information so they can do the right thing • No expiration date on entitlements has adverse impacts • Need better monitoring of annual reports & project compliance with LUC decisions & conditions
<ul style="list-style-type: none"> ■ Efficient, cost-effective review/decision making process 	<ul style="list-style-type: none"> • State level review offers second level of review • Duplication of individual project reviews at State and county level; LUC shift from broad review of district classification to individual project review • LUC decision making is ad hoc; single project review is not comprehensive or cumulative • Incomplete applications cause delay • Quasi-judicial process adds time; too much time spent on procedural matters & not content; uncertainty with intervenors • Regional amendment petitions are subject to the same content requirements as individual petitions, e.g., environmental review, metes & bounds, etc. • Move environmental review to later in approval process, when project is more detailed • Due to lengthy entitlement process, environmental review documents done for LUC review get stale • Growth in number of conditions is problematic, not flexible over time • Potential for intervention/lawsuits at various points in land use review process, causes delays and uncertainty • State agencies need to express interests early in county plan development process • No means to ensure State issues/interests are addressed at county level • Need more certainty about processing time; parallel processes, not sequential • Slow processing of ministerial permits

DESIRED OR IDEAL SYSTEM How it performs— Performance goals for system:	SUMMARIZED COMMENTS ON EXISTING SYSTEM
■ Efficient / sustainable use of resources	<ul style="list-style-type: none"> ● Water should be driving land use decisions; not enough water for all lands planned for growth in some areas ● Cumulative and long term impacts are not being addressed well in project reviews and decision making ● Watershed management is not integrated into land use planning and decision making ● Climate change, sea level rise, seawalls causing loss of beaches, but people still building on beaches ● Stormwater runoff from impervious surfaces, agricultural activities is polluting nearshore waters, impacting coral reefs
■ Adaptable to changing needs and conditions	<ul style="list-style-type: none"> ● Old EAs/EISs and entitlements that no longer reflect current conditions or community values ● Inherent lag in incorporating new science and best practices in land use decision making, such as transit oriented development, low impact development, etc. ● LUC orders & conditions provide certainty regarding project commitments and mitigation, but can be too rigid, not able to accommodate changes over project timeframe

System Improvements with Comments and Preferences from the June 27 and July 17, 2014 Sub-Group Meetings

DOTS		Comments about System Improvements	
A.		Participation in LUC/LU process	
2	A.8	Public advocate / lawyers to represent citizens groups in DBA hearings	<ul style="list-style-type: none"> —This would have chilling effect on public participation. —This person should act as a gatekeeper, to advise potential intervenors so they don't go through the process and then struggle when they confront the LUC. —Are counties and OP supposed to represent the public? Why do you need a public advocate if state and county agencies are supposed to protect the health and safety of various state and county interests?
2	A.9	Ombudsman / citizen advocate position in LUC (to demystify process & reduce burden on public to participate)	<ul style="list-style-type: none"> —Much staff time spent walking public participants through the process.
1	A.2	More meaningful avenue for public participation & expertise to be utilized (less time-consuming than intervention)	<ul style="list-style-type: none"> —The supreme court has told us we need to do contested case hearing. —State land use process should lead and county should follow, but realistically that's not what happens. —I differ. Counties have more arch/planners/engineers on staff than the LUC, so while state should probably play a role, counties have a more robust review process and more expertise. —Can state participate in county processes? The State basically covers the same [issues] as the county. —Should ask that state agencies are consulted before LUC as part of EIS process.
1	A.3/A.4.a	Use of technology to allow statewide participation	
1	A.5	Signs with contact info posted at sites of proposed LUC projects	<ul style="list-style-type: none"> —This is a good idea.
1	A.5.a	Signs with contact info posted at sites of proposed LUC projects--see Hawaii County-- provides good model	<ul style="list-style-type: none"> —Need more specificity. Hawaii County has good provisions requiring posting of signage. It is clear as to where the information is provided. This would be good model. —What about defacing? Does it delay the process if a sign is defaced?
1	A.7	Intervention fee of \$1,000	<ul style="list-style-type: none"> —We considered raising the fees, but raising fees would have chilling effect on public participation process.

System Improvements with Comments and Preferences from the June 27 and July 17, 2014 Sub-Group Meetings

DOTS		Comments about System Improvements
	<p data-bbox="500 1745 524 1780">A.1</p> <p data-bbox="500 1331 524 1640">Early, meaningful consultation</p>	<ul style="list-style-type: none"> —The process can't start any earlier. First thing, we tell the petitioner to talk to OP, to the counties, and to the community, so I don't see this as an issue. —This is too vague. What does it mean? —Major projects require an EIS and most major projects are on the county General Plan (have gone through PC, Council, mayor) or sustainable community plans. So major projects have already gone through all of [these approval processes], so this isn't really an issue for —major projects. —We want to look at ways to get state agencies involved earlier in the process. Need other opportunities for OP and other state agencies to sit at the table for development of GP, community plans, and sustainability plans. —Define roles and responsibilities early on. Collectively maximize participation. Everything should be on table at same time (i.e. libraries, schools, highways, etc.) —In the mid-90s, OP did get involved in development of county plans but there was resistance from counties, so now reluctance from state to get involved.
	<p data-bbox="829 1745 854 1780">A.3</p> <p data-bbox="829 1268 854 1640">Live web streaming of LUC hearings</p>	<ul style="list-style-type: none"> —We are required to go to the county in which the land is located. Live streaming of all meetings would require us to double our budget.
	<p data-bbox="943 1745 967 1780">A.4</p> <p data-bbox="927 1247 984 1640">Allow witnesses to testify electronically if elderly or in rural areas</p>	<ul style="list-style-type: none"> —Public testimony not evidence; holds no weight in D&O because no verification as to what they are saying as evidence.
	<p data-bbox="1122 1745 1146 1780">A.6</p> <p data-bbox="1105 1289 1162 1640">Easier ways for interested parties to enter contested case</p>	<ul style="list-style-type: none"> —Intervention process is already pretty simple; would hate to see it even simpler. —We have some guidance from AG or DAGS regarding what our requirements are in terms of Ch. 91, conferencing for meetings. —Process so easy right now -- making it easier would allow too many people to enter as intervenors. —Items A6 and A7 seem contradictory.
	<p data-bbox="1317 1745 1341 1780">A.10</p> <p data-bbox="1268 1268 1390 1640">a) Ch. 343 triggered by LUC petition filing; and b) any filing/project has to be consistent with county plan</p>	<ul style="list-style-type: none"> —Missing from this list it that Ch. 343 should be triggered by the petition for any proposal that comes to LUC and the project should be consistent with the GP. This would ensure better participation.

System Improvements with Comments and Preferences from the June 27 and July 17, 2014 Sub-Group Meetings

DOTS		Comments about System Improvements	
B.	Enforcement		
10	B.5	Greater flexibility for LUC to enforce conditions (other than reversion, e.g., allow amendment of conditions)	<p>—Purpose of the LUC is to have a perspective of consistency with State and local plans. This role is becoming smaller and smaller today, and we need to go back to that. It shouldn't be so much about regulatory control, enforcing of conditions, public trust issues, etc. -- send all this back to the counties who have the ground perspective.</p> <p>—The big issue with enforcement is the only hammer LUC has is reversion which is why we're reluctant to take on enforcement and why we leave it to the counties. LUC doesn't have a problem taking on enforcement, but we need more remedies to do it. Statutory authority for LUC enforcement of LUC conditions.</p>
4	B.2	Write enforceable conditions with clear path for county or state agency enforcement/compliance	<p>—Are the counties in a position to enforce LUC conditions? Counties don't know what is meant by LUC because they weren't there, so it should be a State function, or the conditions should be written in a manner that is clear so that County can enforce them.</p> <p>—Right now, counties are in limbo -- there is no alignment and it's difficult to ascertain who is responsible for enforcing.</p> <p>—The dec. ruling provision allows counties to question things they're unsure about. There are a lot of crossover issues; some of the difficulty is that it's difficult to know who is the enforcing authority and what remedies are available. Right now, e.g., if there's something wrong in Ag., we can't reverse anything or fine the violator, so we send a letter to counties to enforce.</p> <p>—Counties already have statutory authority to fine but who has the authority to enforce Chapter 205? It's not very clear. Suggesting clarification policy issue of who we want to enforce conditions.</p> <p>—These are two different issues -- for consistency, we need to have a series of working meetings to rectify differences between Chapter 205 and county ordinances. Consistency is important.</p> <p>—There needs to be more balance in recognition of what happens in the market place and understanding of what agencies have to do to provide infrastructure. The applicant is responsible for providing a lot of other stuff in the growth area [outside of the project area]. There needs to be a more balanced and flexible approach; if the market isn't there, developers are not going to build. Need certainty for everyone to bring down the cost for the new home buyer. Need certainty with flexibility.</p> <p>—If the sewer is not upgraded, and more homes are added, what happens?</p> <p>—Regarding the Bridge Aina Lea case, the county enforces conditions that affect county issues; same thing for the state and LUC.</p> <p>—Only when a county comes in for zoning, does the county have a say in the process. A lot of the time the county will take LUC conditions and put them into the zoning. When there are issues of noncompliance, there is an issue with both the county and the LUC.</p>

System Improvements with Comments and Preferences from the June 27 and July 17, 2014 Sub-Group Meetings

DOTS		Comments about System Improvements
3	B.4.a	Define clearly in legislation who monitors compliance with & enforces LUC conditions: Tie county authority to fine under Chapter 46 for Chapter 205 use violations.
3	B.1	Better enforcement of conditions
2	B.12	Clarification of Ch. 205: Have in D&O/law exception for delays in public infrastructure or market changes (certainty with flexibility)
1	B.4.b	Enforcement monitored and implemented by county
1	B.6	Better use of annual reports for monitoring & enforcement
1	B.13	Statutory change for citizen enforcement of LUC conditions (appeal or lawsuit)
	B.10	Monitoring county plan implementation
	B.11	Appeal via declaratory ruling for county plan- based regional boundary amendments
		<p>—Clarify statute.</p> <p>—There needs to be statutory change to make facilitated citizen enforcement part of LUC conditions (via appeal or lawsuit).</p> <p>—State or county should be able to enforce conditions, otherwise there would be too much litigation.</p>

System Improvements with Comments and Preferences from the June 27 and July 17, 2014 Sub-Group Meetings

DOTS		Comments about System Improvements
B.2.a	Clarification of Ch. 205: County issues handled at county level; if state issue, then state enforces, except in case where project has not triggered county process (then, state enforces).	
B.2.b	Write enforceable conditions with clear path for county or state agency enforcement/compliance: Consistency between State law and county ordinances, but county has authority to be more restrictive	—Counties should remain more strict than State law, more restrictive. Need to clarify enforcement and responsibility. I do, however, appreciate current process where counties have a say in the D&O. If we think its reasonable for us to enforce, we will enforce. The current process allows flexibility for us to have a say in the enforcement process when we want or need to have a say.
B.3	From intervenors perspective: conditions in subsequent decisions to be consistent with decision or final order	
B.4	Define clearly in legislation who monitors compliance with & enforces LUC conditions	—Need clarity about which conditions warrant certain enforcement. Who is best suited to enforce certain conditions?
B.4.c	Define clearly in legislation who monitors compliance with & enforces LUC conditions: Name enforcing authority in LUC D&O or LUC conditions	
B.7	Define clearly what happens if LUC conditions not met	
B.8	Conditions or hammer at the county level	

System Improvements with Comments and Preferences from the June 27 and July 17, 2014 Sub-Group Meetings

DOTS		Comments about System Improvements
	B.9	Reversion if DBA conditions not met should be common

System Improvements with Comments and Preferences from the June 27 and July 17, 2014 Sub-Group Meetings

DOTS		Comments about System Improvements	
C.	Information for decision-making		
5	C.11 Comprehensive set of environmental, social, economic indications to inform decision- making	<ul style="list-style-type: none"> —Needs clarification. —I didn't author this, but these are just other factors that should affect decision-making (i.e. water quality, lost ag. land, etc.) —For comprehensive plan update, we need a robust statewide housing inventory study, i.e. regarding vacant and underutilized housing (tech study for county plan development). Difficult for counties to do projections, so would be helpful if done at statewide level. This could be valuable for decision-making. 	
4	C.4 Use of thresholds for operations & safety of roadways		
3	C.10.a State does statewide population & economic projections: improve how state and counties update and use population projections for statewide and county land use planning	<ul style="list-style-type: none"> —How does the state work now in terms of projections, in terms of where expansion is going to go? —City and County of Honolulu generates their own. They start with states model as a base and then use their own projections. —DBEDT does future growth projections that are distributed to counties, which the counties then use in their plans. State comes out with those about every five years. —State does economic and population projections every year, county by county. —OP needs to clarify what it is and how its provided to the counties. —That should feed into LUC's decision-making process and it should flow, so that the LUC can consider all of this. —It's the applicant's duty to provide that info to the LUC. —It doesn't matter who provides it but it just needs to be available. 	
1	C.1 More local/regional review & input in process & approvals	<ul style="list-style-type: none"> —Once LUC done, the project goes to county for entitlements, so lots of additional review at county level. This may need to be changed. 	
1	C.5 Require state agencies to do Ka Pa 'akai analysis on all projects	<ul style="list-style-type: none"> —Chapter 343 requires cultural analyses. 	

System Improvements with Comments and Preferences from the June 27 and July 17, 2014 Sub-Group Meetings

DOTS		Comments about System Improvements	
1	C.14	Meaningful analysis of infrastructure planning, development, and environmental impact.	
	C.10	State does statewide population & economic projections	<p>—This suggestion needs clarification.</p> <p>—This is already being done. Perhaps counties and the public don't understand how they're done or where they come from.</p> <p>—We've become too data-driven. The location of homes shouldn't depend on availability of water -- provide water for homes in the core of the city. We should place more weight on insights from own communities when making these decisions.</p> <p>—But we need good baseline data to make these decisions.</p>
	C.10.b	State does statewide population & economic projections: More data on water, schools, transportation for county regional planning	<p>—This is valuable tool as it helps ground decision-making. We really need data for water, transportation, and schools in order to plan on a regional perspective. These are the issues that will drive growth and we would like to see a greater investment in those projections (to fund the studies that need to happen to get the projections).</p> <p>—Counties don't have money to do the analysis that needs to be done (i.e. drilling and measurements).</p> <p>—Need more investment at State level.</p>
	C.12	Centralized location for data, GIS-compatible or GIS-based	

System Improvements with Comments and Preferences from the June 27 and July 17, 2014 Sub-Group Meetings

DOTS		Comments about System Improvements
C.13	Need carrying capacity analysis for state and islands to determine land use needs & guide land use decision-making	<ul style="list-style-type: none"> —Needs clarification. People can differ on carrying capacity. —Each county has different carrying capacity. —Even if you figure out a carrying capacity, what do you do with the information? For example, once you have a capacity for a park, you still can't prohibit people from entering the park. So what does the analysis mean? The policy discussion has evolved to sustainability. —What are we carrying? We can't restrict people from having kids and populating the island. Too theory based. —This shouldn't be part of the discussion. This is "old school" and we should put it aside. —We need to consider how we do things -- we have responsibility to manage our impact on the earth. This is a key concept of planning. —OP asked County of Maui PD for clarification. Maui stated each county may have different thresholds. OP asked if there may be core thresholds for the counties. No response from Maui. —Thresholds are a real problem as they're based on tolerance; 10-20 years from now, we may have a different tolerance but once they're in place, the developer must go through a lengthy process to adjust them.
C.2	Greater emphasis on review of cumulative effects	<ul style="list-style-type: none"> —To what extent? How far does the consideration of cumulative effects go? —We need to reconsider role of LUC and whether they need to consider cumulative effects. Are we asking LUC to take on role of other existing regulatory bodies? We need to look, through planning, at all the impacts, before the regulatory process. If done after, we're just mitigating. We need to decide whether it's regulatory or whether it's planning. —I agree that a lot of these issues need to be done before they get to the LUC. May need clearer laws for development. Some of this discussion is outside of Chapter 205. —Does LUC have to be so specific, or is it working the way it is? That's the big question because government agencies do weigh in on project impacts. We need to look at consistency with plans. —What Evans is describing is part of an environmental review, like an EPA or NEPA, but what I'm saying is that we need a combined process. What is LUC role in terms of looking at cumulative impacts? —LUC can't make quick decisions because the information isn't being provided to do so. —I agree with comments made -- "cumulative" is very vague.
C.3	Early, meaningful consultation	

System Improvements with Comments and Preferences from the June 27 and July 17, 2014 Sub-Group Meetings

DOTS		Comments about System Improvements
	C.4 Use of thresholds for operations & safety of roadways	—Thresholds needs to be more defined, i.e. number of homes or equipment pieces. This makes for a more level playing field for public, counties, and communities.
	C.6 Improve quality of LUC site visits	—Need clarification on what this means. We need to know who authored this and get more information. —This is a matter of practice, not something that needs to be changed in law.
	C.7 Strengthen protection of cultural properties. On-the-ground / site visits of cultural properties	
	C.9 Move environmental review to post-LUC decision making	—I have no idea what that means. —Need clarification on what this means. We need to know who authored this and get more information. Everything done in an EA is germane for the LUC determination process. We need an EA at that stage. —Ch. 343 functions as a trigger, so if there are no plans to use state or county lands, the project is probably not going to trigger Ch. 343.
	C.15 Require at least one land use commissioner to have expertise in land use planning (i.e. at least 5-years of experience preparing or administering comprehensive land use plans.)	

System Improvements with Comments and Preferences from the June 27 and July 17, 2014 Sub-Group Meetings

DOTS		Comments about System Improvements	
D.		Implementation	
9	D.3	Coordinate infrastructure planning & development with county	—Has LUC coordinated infrastructure in growth areas? Growth is dependent on infrastructure being provided.
4	D.17	State participates in County planning process (GPs and DPs)	—The state and LUC should get involved in county planning process (GP, community plans, and sustainable community plan amendments). —LUC relies on OP to provide state context and expertise and relies on counties to provide county context and expertise. LUC not in a position to judge or direct.
4	D.18	Combined (single) county and LUC hearings on individual project (DBA) or DPs/community-level plans	—We should have one combined public hearing with LUC and Council/PC so that all can ask their questions on the projects (DBA, DPs, or community level plans), where no one votes, but it's an opportunity to cross examine and ask questions. Then hold a separate hearing with LUC to make a decision based on criteria in Ch. 205. —To do this, you have to recognize there are very different procedures at play.
4	D.16	Fiscal discipline in CIP investment	—Hawaii is not disciplined so it is difficult to implement CIP -- planning not tied to CIP and there is no consistency in planning. Need fiscal discipline in the system so that developers and public have expectations about what will happen where. LUC not implementing long range plans like they used to, but they're amending land use districts, and there's no plan for this, or predictable investment in infrastructure. We need to bring statewide planning back and tie it to public infrastructure investments. The State of Washington is an example o fiscal discipline: CIP bills required to have fiscal model analysis with priorities in long range plans (can't bring bill to floor unless fiscal analysis); it must be budget neutral; and it must consistent with local and state planning (must indicate why project diverging from State DOT plan, for example).
3	D.1	State review of county plans & activities with respect to impact on areas of state concern	—Do we want checklists or do we want judgment? Do we want quasi-legislative or something else?

System Improvements with Comments and Preferences from the June 27 and July 17, 2014 Sub-Group Meetings

DOTS		Comments about System Improvements
1	D.10 Incentives for desirable development	<ul style="list-style-type: none"> —What does this mean? Who decides desirable and undesirable? —We could create a checklist that identifies what is desirable and undesirable. For example, could look at location of things, infrastructure, avoid hazardous areas, wetlands, floodplains, etc. —It is a little more nuanced. For example, density bonuses for affordable housing, but we don't want tall buildings to block our views. —Desirable is in the eye of the beholder, i.e. the LUC commissioner, so if no checklist then it becomes subjective. —I authored items D.10 and D.11, and was not thinking so much in terms of LUC, but on a local policy level, i.e. infill development, cutting fees, tax incentives, disincentives.
1	D.13 Thresholds for dealing with unplanned or premature projects (not in plan or phasing)	—Many of the GPs have different timeframes than the implementation plans (infrastructure plans), so what does premature mean here? How do you decide that its premature? Which plan is leading?
1	D.15 Public (rather than developer) should pay for infrastructure	—I disagree with this. Public should pay for some, but not all infrastructure. We should be more planful and consider proportionality and nexus.
1	D.2 Direct input in LU matters which involves state functions or facilities	
1	D.5 State CIP to implement LU plans & policies (based on state infrastructure component)	—Regarding items D.5 and D.6, we have to be careful because there is a hard roadblock. State and county funding changes every year or two; disconnect between State and county and funding source. Infrastructure cost fall to developer and that may not be correct. Do we have the correct taxing structure to fund State infrastructure (State CIP), or do we need to change the structure?
	D.11 Disincentives for undesirable development (e.g. in areas of hazards or significant resources)	—What does this mean? Again, who decides desirable and undesirable?

System Improvements with Comments and Preferences from the June 27 and July 17, 2014 Sub-Group Meetings

DOTS		Comments about System Improvements
	D.12	Do we need police powers to enforce or direct growth if we're built out?
	D.14	Public expenditures commensurate with public benefit (public costs manageable, sustainable) —This is an open question that comes up a lot. Public often needs to rescue private infrastructure systems. —There needs to be a mix of investment. The private sector provides for a lot of the beneficial infrastructure.
	D.4	State plans & phasing of implementation to match county LU planning —To me, the focus here is on Ch. 226. The state plan is absent (from a state plan process standpoint, for years its been piecemeal amendments, not comprehensive), and functional plans are absent (they're not being done by individual agencies anymore, they're more targeted toward budget). This should happen at state level and then inform the counties. A lot of these issues listed here are what the state plan was designed to do when the state plan worked well and when it was funded and updated regularly.
	D.6	State funding sources & frameworks that support county CIP investments consistent with statewide framework/priorities
	D.7	County strategic investments in built & natural infrastructure (based on community plan)
	D.8	Address problems in zone change process in meeting transportation mitigation required for projects

System Improvements with Comments and Preferences from the June 27 and July 17, 2014 Sub-Group Meetings

DOTS		Comments about System Improvements	
	D.9	Paying for infrastructure improvements required by agencies (e.g., DOT) as conditions of project approvals	
		Other comments:	<p>—Implementation of what? State plan process? The first three components listed in this section clearly relate to LUC. These are all state plan issues rather than LUC stuff.</p> <p>—Most of these don't deal with Ch. 205. and I don't understand most of them.</p> <p>—These are ok categories, but we have to look at components of the existing system. We need to put these comments within the existing land use process and see how and where they work or don't work; we should put the comments into the context of the existing system.</p>

System Improvements with Comments and Preferences from the June 27 and July 17, 2014 Sub-Group Meetings

DOTS		Comments about System Improvements	
E.		Streamlining/managing permitting	
8	E.3	Consolidate points of legal intervention in land use process to reduce delays & uncertainty	<ul style="list-style-type: none"> —Need a one-stop shop for permitting as in San Diego County where developer meets with everyone at once. —There should be some sort of clear expectation on all sides, such as a handbook or manual for (ministerial?) permit approval. We hesitate to do something like that because we don't know what qualifies and what necessitates a "hard look," which is an extension of Chapter 343. —Regarding a one-stop process, do you mean county one-stop process? Sierra Club clarified county and state process where county and state agencies share knowledge as early in the process as possible. —The question is in the discretionary issues such as archeological resources and zoning. —Regarding streamlining and coordinating, the State asks all agencies to comment on a project and all comments included in record. All comments are reflected in the State's position. —Can we streamline coordination by doing it digitally, and using computers versus not snail mail? —Almost all materials are available digitally. —Shared knowledge -- need clearing house of knowledge. —All projects should be efficient and effective, no special treatment in the review process. —If we're slow because of limited resources, then maybe that's ok, but we can't make it slow because of other reasons. —Where is the line between ministerial and discretionary? This determines whether we're tweaking the system or making major changes to the system. The line is gray. Lots of county applications have some sort of discretionary aspect. —The line is at the county level.
7	E.1	Speed up processing & ministerial permitting by state/county agencies	<ul style="list-style-type: none"> —"Would like to see affordable housing. Chapter 201H is not liked but it gets things done quicker."
2	E.2	More efficient permitting process for key areas, e.g., affordable housing, fishponds)	
1	E.1.a	Speed up processing & ministerial permitting by state/county agencies: Increase threshold for county LUDBAs	

System Improvements with Comments and Preferences from the June 27 and July 17, 2014 Sub-Group Meetings

DOTS		Comments about System Improvements	
1	E.1.b	Speed up processing & ministerial permitting by state/county agencies: Expand use of boundary amendment interpretation flexibility	—Look at administrative boundary amendments to allow minor modifications. Need flexibility in land use boundary amendment interpretation (increase size/area).
	E.1.c	Speed up processing & ministerial permitting by state/county agencies: SUP clarification when using for temporary or permanent use (SUP = Variance)	—Generally the SUP process is good, but clarification regarding when you can use as SUP versus a boundary amendment is needed. Need to streamline and re-evaluate the 15 acre threshold for LUC cases.
	E.4	Clarify when the clock starts running for processing of boundary amendments in section 205-4(g).	

System Improvements with Comments and Preferences from the June 27 and July 17, 2014 Sub-Group Meetings

DOTS		Comments about System Improvements	
F.		Protection of valuable ag lands	
7	F.3.a	Standards for / determine ag land to be protected: "Preservation of Open Space" should not be an ag criteria	<p>—Need to consider protection of ag for open space versus people who really need the land for food. Need to weed out the non-genuine people and only consider the genuine protection of ag land (open space shouldn't be considered a genuine use of ag land).</p> <p>—Consider changing title of district to Open Space. We continue to call it ag with all the associated expectations, and we have to find inventive ways of dealing with that.</p> <p>—IAL process used for truly valuable ag land. The community plans and GPs will determine what is permissible and what is not.</p>
6	F.6	Better standards for Ag District	<p>—Development standards are inadequate in terms of protecting ag. If we're serious about protecting ag land, we need to look at density and minimum lot size in HRS or at county level, which is the more effective place to do it. We need to look at the districts and use the rural district more, or create subcategories/sub-districts within the ag district. We need better dev. standards at State and local level. Current standards creating a lot of confusion.</p> <p>—Lot size alone not a deterrent to protect ag land.</p>
5	F.5	Standards for / determine ag land that can be urbanized; release lands for urbanization	—This should be in next section.
5	F.6.a	Better standards for Ag District: Define in Ch. 205 what bona fide ag. operation is.	
3	F.6.b	Better standards for Ag District: Bona fide ag. is: a) ag. crops/food for sale; and b) no dwellings greater than x square feet, pools, tennis courts, etc.	
2	F.10	County authority to determine permissible uses in Ag District	
2	F.12	Determine ag land to be protected; ag land needed	

System Improvements with Comments and Preferences from the June 27 and July 17, 2014 Sub-Group Meetings

DOTS		Comments about System Improvements
2	F.9	Increase minimum lot size in Ag District to 10 acres
2	F.1	Funding for counties to conduct/complete the IAL process
1	F.2	Greater scrutiny for ag; increased consideration of ag resource concerns in boundary amendment process; higher threshold
1	F.8.a	Create new benchmarks for judging ag lands that updates LSB; Soil scientists/agronomists review LSB to come up with "big letter" and yield information
1	F.6.c	Better standards for Ag District: Permissible uses for IAL need to be stronger than Ch. 205 for ag. district
1	F.4	Create new benchmarks for judging ag lands that updates LSB
1	F.7	Define agriculture as "growing food crops for sale"
	F.16	Disclose impacts to Ag land when statutory changes
	F.17	Change "Ag District" label to "Open Space" District
		<p>—I need to put emphasis on this.</p> <p>—The counties need to take more responsibility with respect to perceived ag. It should go beyond HRS, which isn't very much in terms of guidance. Counties need ag. expertise/ag resource people, to represent ag. interests. There isn't much to speak of in terms of ag resources.</p> <p>—The key to LSB is not so much the overall productivity rating, but the land type which is relatively stable -- it's the soil characteristics. Soil scientists and agronomists need to review productivity ratings (take out pineapple and sugar), and they also need to look at yield information.</p> <p>—Does LSB take into account water use?</p> <p>—LSB needs to be updated.</p> <p>—Scratch this. Rephrase to define in Ch. 205 what bona fide ag. use is. Once you establish what bona fide is, the accessory uses that are added to it (i.e. gentleman's farms) will go away, but Ch. 205 now provides for personal use.</p> <p>—"Bona fide ag." would have to be something people eat.</p> <p>—Require legislature to disclose impacts of proposals for changes in permissible uses in Ag. District</p>

System Improvements with Comments and Preferences from the June 27 and July 17, 2014 Sub-Group Meetings

DOTS		Comments about System Improvements
	F.10	County authority to determine permissible uses in Ag District —Yes, but only if ag. operations are defined statutorily.
	F.11	Joint state/county regulation of lands in Ag District —Joint state county regulation of lands in ag district, is OK for now. Because of the lack of definition and the lack of thresholds, non-ag development in ag. lands will continue, but ag. subdivisions shouldn't be happening. State needs to take more of a role.
	F.12	Determine ag land to be protected; ag land needed —Let's not do Kauai IAL -- we have limited resources. (not sure what he meant by this)
	F.13	Adopt zoning overlays to protect ag land
	F.14	State funding for land acquisition & conservation easements for lands for protection
	F.15	Use public & private farm trusts to protect ag land —There is a problem with enforcement of ag. easements. Farm trusts can be a tool if they are better enforced.
	F.18	Counties need to take more responsibility as to ag. needs of county; need ag. expertise to represent ag. interests and ag. resources —The counties need to take more responsibility with respect to perceived ag. It should go beyond HRS, which isn't very much in terms of guidance. Counties need ag. expertise/ag resource people, to represent ag. interests. There isn't much to speak of in terms of ag resources. The counties need to take more responsibility with respect to perceived ag. It should go beyond HRS, which isn't very much in terms of guidance. Counties need ag expertise/ag resource people, to represent ag. interests. There isn't much to speak of in terms of ag resources.

System Improvements with Comments and Preferences from the June 27 and July 17, 2014 Sub-Group Meetings

DOTS		Comments about System Improvements
	<p data-bbox="542 1745 570 1780">F.3</p> <p data-bbox="526 1255 586 1640">Standards for / determine ag land to be protected</p>	<ul style="list-style-type: none"> —Need a decision-making criteria that mentions ag. —Why special protection for ag lands? Need to take a land use perspective versus a food sustainability perspective. LUC doesn't have the time, money, resources, etc. to look at this. We are dealing in public trust, but also in private property. —It's the cheapest land to develop and it's the moving target. We need to determine what is ag and what is not. —This is a hot topic because so much of the land is in ag. which has been a catch-all for many years, so we want to separate what is important and what is not. —Sierra Club asked Chamber of Commerce why food sustainability shouldn't be addressed if it's explicitly laid out in Chapter 205. Chamber of Commerce stated the discussion needs to have land use perspective; DOA deals with that food sustainability. Purview of LUC is a perspective of land use. —Chapter 205 includes a statute to consider impacts of development on ag producing viable lands. —Policymakers often use buzzwords like climate change and sustainability which are subject to interpretation, whose meanings are sometimes difficult to determine. How does putting these words in statute translate to local decision-makers? We keep changing and adding these new terms. —Ag has been the default district and we need now to look at where land truly does fit.
	<p data-bbox="938 1734 966 1791">F.3.b</p> <p data-bbox="906 1255 1003 1640">Standards for / determine ag land to be protected: Ag District lands should be reclassified to Conservation</p>	<ul style="list-style-type: none"> —LUC is committed to upholding the cultural integrity under the constitution and ag helps inform cultural practices. Some Ag District lands should be reclassified to Conservation District (due to resource value/s). For example, low mountain slopes on Maui should be in Conservation.
	<p data-bbox="1133 1745 1161 1780">F.6</p> <p data-bbox="1133 1325 1161 1640">Better standards for Ag District</p>	<ul style="list-style-type: none"> —The most important problem with Ch. 205 is the proliferation of fake farm subdivisions. There are mechanisms the state can use to solve the problem: 1) food crops must be for sale; 2) whenever a developer applies for subdivision on ag. land, prohibit tennis courts, swimming pools, or houses greater than 1,000 sq. feet. This would make farmland available to "real" farmers; you have to reduce the appeal for people to do non-ag. uses on ag. land. —Subdivision condominiums should not be allowed.
	<p data-bbox="1295 1745 1323 1780">F.8</p> <p data-bbox="1279 1255 1339 1640">Create new benchmarks for judging ag lands that updates LSB</p>	

System Improvements with Comments and Preferences from the June 27 and July 17, 2014 Sub-Group Meetings

DOTS		Comments about System Improvements
	F.19	Consider expanding IAL classification to include LSB "A" and "B" lands or to use the ALISH system.
	F.20	Consider relaxing requirements for nonconforming infrastructure in the Agricultural district, or allowing subject to a State Special Use Permit. This includes, but is not limited to, wind farms, solar farms, and geothermal. Technology is rapidly evolving so the land use law should be updated to ensure it is not overly restrictive.
	Other comments:	—After IAL determination, there is going to be a lot of land outside IAL and still left in ag. What do you do with that? Should we put it into conservation?

System Improvements with Comments and Preferences from the June 27 and July 17, 2014 Sub-Group Meetings

DOTS		Comments about System Improvements	
G.		Rural district	
10	G.6	Delegate to counties regulatory authority over Rural District	<ul style="list-style-type: none"> —Why don't counties use rural more? This is really the counties' jurisdiction but they don't think its useful. —Rural district now encourages sprawl. Should expand uses to include small scale commercial. Don't specify lot size but specify standards and uses, let county determine lot size through zoning. —Definition needs to be rewritten recognizing rural today. —What is the role of the rural district? Do we even want the rural? We need to revisit the purpose of the rural district. —Every county has different issues so it's hard to satisfy all counties' rural issues. Do we want to protect existing or promote new towns? —Rural is now low density residential with a lot of expensive properties that should perhaps go through zoning process. —Subdivisions are causing issues (traffic, etc.) and the county is left having to deal with infrastructure needs, water lines, roads, etc. Call it something else, tax it differently, and make it go through some sort of process; right now they are not going through rural boundary amendments. —Rural district initially proposed as the buffer between Urban and Ag but it's not used that way. —All the current law does not is create sprawl. Doesn't have flexibility to texturize; rural communities in effect are urban.
4	G.3	Revise HRS to use Rural more (broader range of uses)	
3	G.2.a	Better definition of Rural: Need new vision for what rural district is	
2	G.2	Better definition of Rural: more specific language for Rural District	<ul style="list-style-type: none"> —Part of the problem is how rural is defined in HRS. Need broader definition that recognizes modern era and counties can define that in their zoning ordinances. —Need standards for gentleman's estate and to be able to tax them for it.
1	G.6.a	Delegate to counties regulatory authority over Rural District: County needs ability to texturize rural land uses.	

System Improvements with Comments and Preferences from the June 27 and July 17, 2014 Sub-Group Meetings

DOTS			Comments about System Improvements
1	G.1.a	Eliminate Rural District & have higher density ag in the Ag District: Higher density ag in Rural District	<ul style="list-style-type: none"> —Urban/Ag. divide. Higher density ag lots, e.g. 50 acres or more. Allow housing for migrant workers, golf courses, etc. Use rural to create higher density ag or eliminate rural. People aren't pursuing rural so we need to encourage ag by having higher density ag lots. Then what would be the role of LUC? Is this practical or useful? don't know.
	G.1	Eliminate Rural District & have higher density ag in the Ag District	<ul style="list-style-type: none"> —Does this mean smaller lot sizes? I disagree, they're small enough right now. —The idea is that the rural communities do grow, so you either expand the boundaries or increase the density -- you have to do something. —A lot of the reasons this isn't happening is because you have to go through the same process.
	G.4	Increased use of Rural classification, as catch- all/substitute for non-ag uses locating in Ag District	<ul style="list-style-type: none"> —Regarding putting nonproductive ag. lands into rural, these lands are not put into the ag. district for ag. purposes. It's so that urbanization can be phased in time. So, these lands are too early to be developed. People aren't looking at natural resource and cultural resource qualities of these lands. The rural district is a political compromise.
	G.5	Many places currently designated as Ag should be Rural	
	G.2.b	<p>Better definition of Rural; more specific language for Rural District:</p> <p>Change standards for rural districts to encourage better land use planning (i.e. Compact development, clustering development, neighborhood-scale commercial establishments). The two homes per acre limitation encourages rural sprawl.</p>	

System Improvements with Comments and Preferences from the June 27 and July 17, 2014 Sub-Group Meetings

DOTS		Comments about System Improvements	
H.	Scope of LUC		
1	H.12	Boundary amendments based on county plans with appeal via declaratory ruling	
1	H.5	Limit LUC to determining district classification	—You have to confine the role of the LUC or they'll become "zoning wannabes." They talk more and more about the project, and not the land reclassification.
1	H.7	Move environmental review to post-LUC decision-making	
	H.1	Eliminate duplication of LUC and county issues & processes	
	H.10	State- or county-initiated boundary amendments based on §205-18 5-yr boundary reviews	
	H.11	Comprehensive review/reclassification for each island only once every 5 years	
	H.13	Comprehensive boundary amendments based on long-range plans not individual petitions	
	H.14	County- & state-initiated DBAs without EISs & D&Os	
	H.15	LUC urban reclassification with county re-zoning to conform	
	H.16	Allow counties to process boundary amendments if consistent with county plans, similar to amendments less than 15 acres	
	H.17	County regional LUDBAs consistent with county plans	

System Improvements with Comments and Preferences from the June 27 and July 17, 2014 Sub-Group Meetings

DOTS		Comments about System Improvements
	H.18	Automatic changes to LUCB triggered by county plan changes (envtl impacts/other reviews required at county level)
	H.19	Automatic alignment of county GPs with land use designations, e.g., lands within urban growth boundaries
	H.2	Determine state's interest and determine how to express them
	H.20	Delegation of LUCB process to counties
	H.21	State LUC responsibilities strategically reduced; county responsibilities increased
	H.22	Shift LUC from petitions/DBAs to growth management & regional planning
	H.23	Abolish state land use districts (give responsibility to counties)
	H.24	No LUC (functions to counties)
	H.3	Two levels of review & scrutiny to balance decision-making at local level (political)
	H.4	Limit LUC review & conditions to items of state interest (eliminate duplication)

System Improvements with Comments and Preferences from the June 27 and July 17, 2014 Sub-Group Meetings

DOTS		Comments about System Improvements	
	H.6	Change (increase) 15-acre threshold for county LUDBA (e.g., to 50 ac, 100 ac)	
	H.8	Return to quasi-legislative & initial role of LUC (limit to determining district classification only)	—That the process now is so project-oriented is myopic. Quasi-legislative process allows for freer discourse and allows the State and the counties to discuss policy issues.
	H.9	Move environmental review to post-LUC decision-making	
	H.6.a	Change (increase) 15-acre threshold for county LUDBA (e.g., to 50 ac, 100 ac); Increase the threshold for county jurisdiction of district boundary amendments from 15- acres to 100-acres due to the high cost of going through the LUC's quasi-judicial process.	

System Improvements with Comments and Preferences from the June 27 and July 17, 2014 Sub-Group Meetings

DOTS		Comments about System Improvements	
I.		Planning	
7	I.27	Development follows county plans-- focus on development consistent with plans rather than individual petitions	—It's difficult because, for example, on Big Island, you have only nine elected officials governing the entire island, so changing something like building height in Kona is hard to do, and Kona residents don't feel like they have their voices heard because it's such a huge jurisdiction.
5	I.13	County plans guide land use changes-- focus on development consistent with plans rather than individual petitions	
5	I.4	Eliminate duplication with county issues & processes	—When do counties update sustainable communities plan? Every 5 years? It depends. State and counties need to coordinate their updates. As it is now, they overlap, stagger, or fall behind.
4	I.10	State plans & phasing of implementation to match county LU planning	—A lot of this is in Ch. 226 already but it's not happening. Why? For example, the county owns a lot of land in west Oahu and the State is not even at the table to talk about affordable housing, TOD, or other issues.
4	I.6	Codify in HRS uniform county LU planning system that reflects state functions; counties w/ primary role in LU planning/decision making	
3	I.15	Two levels of review & scrutiny to balance decision-making	
3	I.3	Long-term planning to protect public's interest/public trust resources	
2	I.17	Identify what's appropriate/needed to preserve, protect, and develop	

System Improvements with Comments and Preferences from the June 27 and July 17, 2014 Sub-Group Meetings

DOTS		Comments about System Improvements	
2	I.28	Better coordination among state and county	<p>—Do you think it's a reality that you can work together and make the system work better? What needs to be done to make it more smooth coordination?</p> <p>—From a statewide perspective, we know we're lacking in resources but our goal is to bring state agencies up to par. All the agencies have planners now, so its helping them learn how to critically review planning documents. They have latest data and position on what there agency wants to see. OP can then present that info to the LUC . It's about bringing that capacity and making other state agencies realize what is available at the county -- right now they're working in a silo.</p>
2	I.7	State review of county plans & activities with respect to impact on areas of state concern	
1	I.11	State CIP to implement LU plans & policies (based on state infrastructure component)	
1	I.12	State decision making (re: resources & infrastructure) in accord with state planning framework	
1	I.16	Consolidate points of legal intervention in land use process to reduce delays & uncertainty	
1	I.19	State & county infrastructure components included in county LU plan	
1	I.30	Coordinate infrastructure planning & development with county	
1	I.32	Rational change: One comprehensive DBA every five years.	

System Improvements with Comments and Preferences from the June 27 and July 17, 2014 Sub-Group Meetings

DOTS		Comments about System Improvements
1	I.2.a	State interests are inherently statewide —Statewide interests are inherently state interests, and the counties recognize the statewide interests (transportation, schools, etc.) but they are the hard things to deal with. At the county level, it is easier to implement county interests and be effective.
1	I.5	State requirements for county land use plans & require consistency with state policies
1	I.9	Allow for orderly LUD changes, while providing specific & reliable milestones for short- & long-term investment backed expectations
	I.33	Concurrent State and county comprehensive plan review —Make review process more proactive and get State more involved in comprehensive plan updates/county planning. State and county should do boundary review and comprehensive plan review at the same time -- we'd likely agree on most things. This way there is more collaboration built into system. Current system antithesis of home rule. —Good to have State involved in county process but two things need to happen: 1) need more money; 2) there needs to be paradigm shift -- probably need statutory change and need legislative buyoff for more home rule.
	I.1	State leadership for land use
	I.14	Monitoring county plan implementation
	I.18	Public land use planning with mechanisms that support orderly growth
	I.2	Determine state's interest and determine how to express them —Statewide interests are inherently state interests, and the counties recognize the statewide interests (transportation, schools, etc.) but they are the hard things to deal with. At the county level, it is easier to implement county interests and be effective. —We need to determine the state's interest. and we need to recognize it changes over time.
	I.20	State decision making (re: resources & infrastructure) in accord with state planning framework

System Improvements with Comments and Preferences from the June 27 and July 17, 2014 Sub-Group Meetings

DOTS		Comments about System Improvements
I.21	State plans & phasing of implementation to match county LU planning	
I.22	Monitoring county plan implementation	
I.23	County plans have phasing & magnitude in lan use plans (to direct location & timing of growth)	
I.24	State & county infrastructure components included in county LU plan	
I.25	Mechanisms for counties to increase competition among different size developers	
I.26	Monitoring county plan implementation	
I.29	State's interests should be stated as counties develop their plans	
I.34	State plan = state LUD boundaries (recognition of this is missing)	<p>—The list is missing recognition that we already have a state plan -- landowners and developers should simply comply with it.</p> <p>—Ag. was a placeholder, and it was conceived at the beginning that it would change over time -- are you saying you want to put a stop to it?</p> <p>—If you want to change boundaries, that's ok, it just needs to happen once every five years and be done with a planning view and a look at the big picture.</p> <p>—Boundary amendments should be made at any time, just as it is today</p>
I.30	Coordinate infrastructure planning & development with county	

System Improvements with Comments and Preferences from the June 27 and July 17, 2014 Sub-Group Meetings

DOTS		Comments about System Improvements
	I.31	Direct input in LU matters which involves state functions or facilities
	I.8	Direct input in LU matters which involves state functions or facilities
	I.35	Update the Hawaii State Plan and State Functional Plans so that they provide better guidance to the land Use Commission, and address emerging issues such as climate change, and continue to update the plans at least every ten years.
		<p>—Observation, this shows a real lack of understanding of current laws that are on the books. Almost everything listed here is already part of the law. Whether its working optimally or not is open to debate. The TF needs to be educated on what is and isn't in Ch. 205 and Ch. 226, and then we can have a discussion about tweaking or changing the system.</p> <p>—Stated that OP did try to educate the group but everyone focused instead on their different viewpoints.</p>

System Improvements with Comments and Preferences from the June 27 and July 17, 2014 Sub-Group Meetings

DOTS		Comments about System Improvements
J.	Other sub-system issues	
1	<p data-bbox="483 1333 511 1638">J.1</p> <p data-bbox="483 1333 511 1638">Truly affordable housing stock</p>	<p data-bbox="300 1333 324 1638">—Allow for leasehold interest to reduce housing costs.</p> <p data-bbox="332 1333 381 1638">—What is the rational nexus for an affordable housing project? Good policy but not sure if the LUC should be involved in this.</p> <p data-bbox="389 1333 479 1638">—What is the cost of the entitlement process and what does it do to affordable housing (attorneys, staff time, etc.)? Increasing fees? It could give rise to further revisions about what the LUC does or doesn't do, e.g. it may add \$10,000 to the cost of a house.</p> <p data-bbox="487 1333 535 1638">—Perhaps LUC not the right place to deal with affordable housing. It's more of an issue of supply -- we need to provide housing for everyone, and caution label of "affordable" -- i.e. \$700,000 homeowners may be looking for</p> <p data-bbox="544 1333 568 1638">\$400,000 homes instead. Need to be clear of what the LUC role is.</p> <p data-bbox="576 1333 600 1638">—It is important to consider affordable housing as it is not always provided.</p> <p data-bbox="609 1333 698 1638">—Does a marketplace housing project create the need for affordable housing, or do other economic development projects necessitate housing projects? It shouldn't just be triggered by housing projects.</p>
1	<p data-bbox="779 1333 803 1638">J.2.a</p> <p data-bbox="779 1333 803 1638">More frequent boundary reviews</p>	<p data-bbox="747 1333 836 1638">—More frequent boundary review. See if any significant cultural resources exist in the subject Conservation, Ag, or Urban areas. We need to make these things meaningful, and maybe there is a role for OHA to play in providing cultural inventories (Kipuka database?).</p>
1	<p data-bbox="893 1333 917 1638">J.2</p> <p data-bbox="893 1333 1079 1638">Boundary review / amendments to reclassify to Conservation District: 1) significant natural & cultural resources in Ag and Urban Districts 2) undeveloped land within 150 feet of shoreline</p>	<p data-bbox="901 1333 990 1638">—This needs to be clarified. This comment asks OP to do what its statutorily required of them every 5 years and identify important natural, cultural, archeological resources and put them in the conservation district.</p> <p data-bbox="998 1333 1023 1638">—Clarification of 2), "undeveloped URBAN land."</p> <p data-bbox="1031 1333 1055 1638">—There should be a size threshold.</p>
	<p data-bbox="1136 1333 1161 1638">J.2.b</p> <p data-bbox="1136 1333 1274 1638">Boundary review / amendments to reclassify to Conservation District: Similar review for conversation district: General sub-zone -- move out lands with lower cons. Value or developed</p>	<p data-bbox="1169 1333 1234 1638">—You have to look at general subzone and see if there are in fact any resources there that need to be protected.</p>
	<p data-bbox="1347 1333 1372 1638">Other comments:</p>	<p data-bbox="1331 1333 1356 1638">—If OP ever tried to do a statewide comprehensive boundary petition, it couldn't do it.</p> <p data-bbox="1364 1333 1388 1638">—A five year boundary review of regional zone changes would require new legislation.</p>

System Improvements with Comments and Preferences from the June 27 and July 17, 2014 Sub-Group Meetings

Comments on Land Use System Redesign Proposals :
<p>Responses to APA-HI Chapter proposal:</p> <ul style="list-style-type: none"> —Hawaii is a model system for the nation. —LURF supports this model/proposal. —Overall, it's good. We need an overall approach, a comprehensive coordinated effort, and then we need to look at goals and objectives. —It's a theoretical model that has no basis in reality. Ch. 205 is a model for the nation. If you turn authority over to counties, you lose a lot of legal protection. There are so many resources that are not protected right now. —Regarding APA discussion and process, did you ever talk about how this notion would work with sovereign Hawaiian entity that had land? Chester said no. —How does that work with LUC? I agree with Chester that protections are good -- county-level hearing/meeting opportunities would ensure development is not unchecked. There would be more protection if LUC acted as an appellant body. —We need to make sure we're looking island wide. We need to consider all of the islands' needs and make sure the other islands can fund some of their bigger initiatives. Oahu can't take 60% of the yearly funds, for example, every year. —Need to look at the bigger picture, and not just focus on Honolulu for example. —APA's proposal is good because it resembles my thoughts. —Burden of proof on the public under this model, but now the burden of proof is on the developer. —If at county, then looking only at their island. Come state interests need to look statewide. —Makes closer to county/community level.
<p>Response to C&C Honolulu DPP:</p> <ul style="list-style-type: none"> —Currently, project by project planning is done by whoever has money. The state should provide funding to make certain projects happen. There is now no order to development, it is just done by whoever has money.
<p>Response to Hawaii PD proposal:</p> <ul style="list-style-type: none"> —This comes back to education. Does everyone know what they're supposed to know?
<p>Response to Sierra Club of Hawaii proposal:</p> <ul style="list-style-type: none"> —In this system, an island could miss the economic cycle and not have the opportunity to develop for the next five years -- constrains developer ability to respond to market.
<p>Responses to APA-HI Chapter proposal:</p> <ul style="list-style-type: none"> —Who is appointed to the Commission to hear appeals? What sort of qualifications are required? —I like it because it puts recognition on county's ability to plan and do decision-making.
<p>Response to County of Kauai PD proposal:</p> <ul style="list-style-type: none"> —Isn't Chapter 343 supposed to inform us before decision-making? Dahilig says not necessarily -- at the end of the day, zoning is a spatial policy, not necessarily an entitlement.
<p>Response to Sierra Club of Hawaii proposal:</p> <ul style="list-style-type: none"> —I'm a little troubled with prospect of the landowners "buying off" the counties because it's a little "self righteous" and "judges judge" -- they have to make the best of what they have and sometimes that includes working with landowners.

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General Comments:
—We've been discussing a very state-centric view, which shows that people don't trust the counties [to plan]. It's frustrating.
—State needs to offer the land up front and allow developers to come forward with their own proposals -- this would make it more competitive and provide more inventory to the market quickly.
—To what extent does a county agency need to comply with a State appointed commission's request?
—Expressed concern the counties never say no.

PARTICIPANT SUGGESTIONS FOR SYSTEM IMPROVEMENTS

Planning framework

- Planning framework with clear, distinct roles & responsibilities for State & counties
- Planning framework with consistency requirements between policy, plan, land use approvals
- State requirements & guidelines for county plans
- State review &/or approval of county plans
- Reinstate body like former State Plan Policy Council to connect different levels of system & points of view

Process

- Suggestions for LUC process:
 - » Improve notice of LUC petition with site signage, email notification to surrounding community & interest groups
 - » Establish selection criteria for LUC members—more balance, expertise in natural & cultural resources
 - » Cultural advisor, archaeological expert on LUC or LUC staff
 - » Ombudsman or public advocate for LUC process
 - » Make application criteria/guidelines clearer or more simplified
 - » Greater use of hearings officers in LUC process
 - » Streamline process by increasing threshold for county land use district boundary amendments
 - » Limit scope of LUC review to district classification only & areas of State interest
 - » LUC quasi-legislative boundary amendments based on comprehensive five-year boundary review
 - » County plans as basis for boundary amendments, with appeals via declaratory ruling
 - » Automatic alignment of land use district boundaries with county plan boundaries, e.g., urban growth boundaries
 - » Contested case hearing at county permit level, after LUC reclassifies using quasi-legislative process
 - » Shelf life for entitlements
- Alternatives to contested case hearing to better protect & integrate archaeological & cultural resources in land use decision making processes
- No use variances, after-the-fact permits
- State/county coordination & consultation process in county plan development
- Commitment to consensus building, e.g., Oregon & Washington models

Enforcement

- Suggestions for LUC process:
 - » Clarification of enforcement authority; increase enforcement authority & flexibility in enforcement for LUC
 - » Electronic public notification & electronic access to annual reports filed for LUC dockets
 - » Time limits in LUC orders, with discretion to waive with good cause shown
 - » Condition for expiration of entitlement after certain time if no project progress

Administrative & judicial review

- Suggestions for LUC process:
 - » Appeals of quasi-legislative boundary amendments via declaratory ruling
 - LUC as appeals body for county boundary amendments
 - Land use appeals board, similar to other states, with land use, planning, environmental expertise
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Policy & policy guidance

- Strengthen HRS Chapter 205 agricultural district uses & standards; redefine HRS Chapter 205 rural district and standards
- Redistrict non-agricultural lands to rural district
- Shoreline erosion/climate change should be incorporated into land use review analysis
- Comprehensive stormwater management program, incorporate low impact development practices in land use approvals

Implementation tools

- Suggestions for LUC process:
 - » LUC imposition of impact fees for infrastructure & services
- State conservation resources strategy, look to models like Oahu Greenprint
- State agricultural resource/development strategy
- Regional infrastructure investment program/strategy
- Adoption of incentives for desirable development; disincentives for undesirable development, such as in areas susceptible to natural hazards or with significant natural or cultural resources

Data for informed decision making

- Identification of agricultural lands for protection & those non-agricultural lands that can be redistricted for urban, rural, or conservation
 - Identification of conservation resources to be protected & those resource lands in other land use districts that should have conservation district protection
 - Shared State/county database & projections for long range regional planning
 - Use of thresholds, limits for development based on infrastructure &/or resource capacity, e.g., highway thresholds, impervious surface area, water availability
 - Create website & GIS tool to view all land use permits in process/issued at all levels
 - Systematic approach for public access to information on land use laws, rules, regulations & best practices
 - Public education & periodic training for regulators & decision makers on land use laws, rules, regulations & best practices
 - Shelf life for environmental review documents
 - EAs/EISs approved by unbiased body
 - EAs/EISs prepared for public agency by independently-selected consultant, e.g., CA model of public RFP for EISs
 - 2-phase environmental review (WA model): EA early in land use approval process; EIS later in project approval process
 - Shoreline erosion/climate change should be incorporated into land use review analysis
 - Comprehensive stormwater management program, incorporate low impact development practices in land use approvals
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DESIRED OR IDEAL SYSTEM What it produces— Desired land use outcomes:	SUMMARY OF ISSUES WITH EXISTING SYSTEM	AREAS/GAPS FOR SYSTEM IMPROVEMENTS SUGGESTED BY COMMENTS FROM REVIEW
<ul style="list-style-type: none"> ● Protection of (significant) natural and cultural resources 	<ul style="list-style-type: none"> ● LUC safeguards protection of environmental and cultural resources ● Resources not comprehensively identified for decision makers ● Conservation & cultural resources on lands in urban, agricultural, rural districts; need protection of conservation district ● No clear protection plan or strategy for decision makers ● Protection of cultural properties is weak in land use decision making 	<p>policy guidance planning framework</p> <ul style="list-style-type: none"> » Identify conservation resource lands to be protected <p>implementation tools programs</p> <ul style="list-style-type: none"> » State conservation resources strategy, look to models like Oahu Greenprint <p>planning framework & process</p> <ul style="list-style-type: none"> » Alternate ways to protect cultural & public trust resources other than delegating to counties
<ul style="list-style-type: none"> ● Protection of agricultural / ag resource lands 	<ul style="list-style-type: none"> ● Resources not comprehensively identified for decision makers, particularly good/important agricultural lands (IAL) ● IAL process incomplete; questions about criteria ● Not enough consideration given to agricultural needs in land use decision making; greater scrutiny for agricultural lands ● No clear protection plan or strategy for decision makers ● Don't protect agricultural land just for open space; not all lands in agricultural district are good for agriculture ● Agricultural district standards and permissible uses and codes promote non-agricultural uses and don't promote long term agricultural use ● Rural district standards and permissible uses promote rural sprawl; rural needs to be redefined ● Need to be more proactive in promoting agriculture ● Counties don't have agricultural development expertise; need more agricultural support capacity if they are to have more authority over agricultural lands 	<p>policy guidance planning framework</p> <ul style="list-style-type: none"> » Identify agricultural lands to be protected <p>policy guidance</p> <ul style="list-style-type: none"> » Strengthen Ch 205 agricultural district uses & standards; redefine rural district and standards <p>policy guidance planning framework</p> <ul style="list-style-type: none"> » Redistrict non-agricultural lands to rural district <p>implementation tools programs</p> <ul style="list-style-type: none"> » State agricultural resource/development strategy

DESIRED OR IDEAL SYSTEM What it produces— Desired land use outcomes:	SUMMARY OF ISSUES WITH EXISTING SYSTEM	AREAS/GAPS FOR SYSTEM IMPROVEMENTS SUGGESTED BY COMMENTS FROM REVIEW
<ul style="list-style-type: none"> ● Built environment / communities that protect/s natural environment and meet/s societal needs (current and future) 	<ul style="list-style-type: none"> ● Infrastructure capacity is not available for areas planned for growth ● Regional infrastructure investments are being shifted to developers, increasing project cost and delays ● Affordable housing shortage persists; need stronger role in addressing need for more affordable housing ● Public doesn't want to pay for infrastructure needed for projects that is not planned for ● Designated growth areas don't account for the cost of proposed development; plans are not fiscally constrained 	<div> <p>policy guidance planning framework</p> <ul style="list-style-type: none"> » Identify lands for development with adequate reserve for future development </div> <div> <p>implementation tools programs</p> <ul style="list-style-type: none"> » Regional infrastructure investment program/strategy </div> <div> <p>policy guidance planning framework</p> <ul style="list-style-type: none"> » Use of thresholds, limits for development based on infrastructure &/or resource capacity, e.g., highway thresholds, impervious surface area, water availability </div>
<ul style="list-style-type: none"> ● Resilience to hazards 	<ul style="list-style-type: none"> ● Climate change, sea level rise, seawalls causing loss of beaches, but people still building on beaches 	<div> <p>implementation tools incentives</p> <ul style="list-style-type: none"> » Adoption of incentives for desirable development; disincentives for undesirable development, such as in areas susceptible to natural hazards or with significant natural or cultural resources </div>
<ul style="list-style-type: none"> ● Sustainable natural and built ecosystems/environments 	<ul style="list-style-type: none"> ● Cumulative and long term impacts are not being addressed well in project reviews and decision making ● Watershed management/water resource management are not integrated into land use planning and decision making ● Climate change, sea level rise, seawalls causing loss of beaches, but people still building on beaches ● Stormwater runoff from impervious surfaces, agricultural activities is polluting near shore waters, impacting coral reefs 	<div> <p>policy guidance planning framework</p> <ul style="list-style-type: none"> » Shoreline erosion/climate change should be incorporated into land use review analysis </div> <div> <p>policy guidance planning framework</p> <ul style="list-style-type: none"> » Use of thresholds, limits for development based on infrastructure &/or resource capacity, e.g., highway thresholds, impervious surface area, water availability </div> <div> <p>policy guidance planning framework</p> <ul style="list-style-type: none"> » Comprehensive stormwater management program; incorporate low impact development practices in land use approvals </div> <div> <p>implementation tools incentives</p> <ul style="list-style-type: none"> » Adoption of incentives for desirable development; disincentives for undesirable development, such as in areas susceptible to natural hazards or with significant natural or cultural resources </div>

DESIRED OR IDEAL SYSTEM How it performs— Performance criteria:	SUMMARY OF ISSUES WITH EXISTING SYSTEM	AREAS/GAPS FOR SYSTEM IMPROVEMENTS SUGGESTED BY COMMENTS FROM REVIEW
<ul style="list-style-type: none"> ● Fair and open process for land use decision making 	<ul style="list-style-type: none"> ● Contested case allows in-depth review & meaningful participation for interests ● State review offers second level of review & state agency representation ● LUC process gets into too much detail, repetitive with county level ● Public input to decision making is limited at county level ● Counties have bias toward development: greater influence from development interests; pressure to increase revenue base ● Public access in LUC process hindered by difficulty in participating in hearings & quasi-judicial procedures ● Need for more balance in representation on LUC—less developers, more community or environmental perspectives needed ● Potential for intervention/lawsuits at various points in land use review process, causes delays and uncertainty ● Judicial appeals of LUC decisions extend process; create uncertainty in project schedule 	<div> planning framework & process » Contested case hearing at county permit level, after LUC reclassifies using quasi-legislative process </div> <div> planning framework & process » Clear planning framework with consistency requirements between policy, plan, land use approvals </div> <div> policy guidance planning framework & process » Public education & periodic training for regulators & decision makers on land use laws, rules, regulations & best practices </div> <div> planning framework & process » Improve notice of LUC petition with site signage, email notification to surrounding community & interest groups </div> <div> planning framework & process » Ombudsman or public advocate for LUC process </div> <div> planning framework & process » Establish selection criteria for LUC members—more balance, expertise in natural & cultural resources </div> <div> planning framework & process » Cultural advisor, archaeological expert on LUC or LUC staff </div> <div> policy guidance planning framework & process » Create website & GIS tool to view all land use permits in process/issued at all levels </div> <div> implementation tools incentives » Adoption of incentives for desirable development; disincentives for undesirable development, such as in areas susceptible to natural hazards or with significant natural or cultural resources </div>

<ul style="list-style-type: none"> ● Certainty and predictability in the land use decision making & development process 	<ul style="list-style-type: none"> ● Counties have bias toward development: greater influence from development interests; pressure to increase revenue base ● Potential for intervention/lawsuits at various points in land use review process, causes delays and uncertainty ● LUC orders and conditions provide some certainty regarding project commitments and mitigation, but can be too rigid, not able to accommodate changes over project timeframe ● Plans adopted but not implemented ● Cumulative and long-term impacts are not being addressed well in project reviews and decision making ● Projects approved, but delays in development ● “Spot zoning”—land use approvals not consistent with plans—often disconnected to plans for infrastructure & services ● LUC decision making is ad hoc; single project review is not comprehensive or cumulative ● No expiration date on entitlements; has adverse impacts ● Early notification is needed when development is proposed ● No long range comprehensive planning & coordination between State and county land use & capital improvement program planning ● No fiscal discipline in CIP investment; planning not tied to CIP & no consistency in planning 	<p>policy guidance planning framework & process</p> <ul style="list-style-type: none"> » Systematic approach for public access to information, public education & periodic training for regulators & decision makers on land use laws, rules, regulations & best practices <p>implementation tools programs</p> <ul style="list-style-type: none"> » Regional infrastructure investment program/strategy <p>administrative & judicial review</p> <ul style="list-style-type: none"> » Land use appeals board, similar to other states, with land use, planning, environmental expertise <p>administrative & judicial review</p> <ul style="list-style-type: none"> » LUC as appeals body for county boundary amendments <p>planning framework & process</p> <ul style="list-style-type: none"> » Clear planning framework with consistency requirements between policy, plan, land use approvals <p>policy guidance planning framework</p> <ul style="list-style-type: none"> » Use of thresholds, limits for development based on infrastructure &/or resource capacity, e.g., highway thresholds, impervious surface area, water availability <p>planning framework & process</p> <ul style="list-style-type: none"> » State/county coordination & consultation process in county plan development <p>planning framework & process</p> <ul style="list-style-type: none"> » Condition for expiration of entitlement after certain time if no project progress <p>planning framework & process</p> <ul style="list-style-type: none"> » Contested case hearing at county permit level, after LUC reclassifies using quasi-legislative process <p>implementation tools incentives</p> <ul style="list-style-type: none"> » Adoption of incentives for desirable development; disincentives for undesirable development, such as in areas susceptible to natural hazards or with significant natural or cultural resources <p>policy guidance planning framework & process</p>
<ul style="list-style-type: none"> ● Sound analysis and informed decision making 	<ul style="list-style-type: none"> ● Missing, inadequate environmental, socioeconomic information for decision making 	<p>policy guidance planning framework & process</p>

<ul style="list-style-type: none"> ● State and counties producing information in silos, difficulty in finding data ● Lack of shared data to inform regional analysis ● Need for baseline data to support long term regional planning, such as data on housing stock ● State and county decision making relies on data and analysis produced by developer ● LUC doesn't always have local perspective ● Cumulative and long-term impacts are not being addressed well in project reviews and decision making ● Lack of accepted thresholds and their use in analysis and decision making, e.g., roadway performance standards, etc. ● Lack of resource identification and resource protection strategy or plan to guide decision making ● Difficulty in analyzing and quantifying regional impact on a project-by-project basis ● Difficulty in incorporating new science and best practices in land use decision making ● Move environmental review to later in land use process, when project is clearer & documents don't get stale 	<p>» Systematic approach for public access to information, public education & periodic training for regulators & decision makers on land use laws, rules, regulations & best practices</p> <p>policy guidance planning framework & process</p> <p>» Create website & GIS tool to view all land use permits in process/issued at all levels</p> <p>planning framework & process</p> <p>» Contested case hearing at county permit level, after LUC reclassifies using quasi-legislative process</p> <p>policy guidance planning framework</p> <p>» Use of thresholds, limits for development based on infrastructure &/or resource capacity, e.g., highway thresholds, impervious surface area, water availability</p> <p>planning framework & process</p> <p>» State/county coordination & consultation process in county plan development</p> <p>policy guidance planning framework</p> <p>» Shared State/county database & projections for long range regional planning</p> <p>planning framework & process</p> <p>» EAs/EISs approved by unbiased body</p> <p>planning framework & process</p> <p>» EAs/EISs prepared for public agency by independently-selected consultant, e.g., CA model of public RFP for EISs</p> <p>planning framework & process</p> <p>» 2-phase environmental review (WA model): EA early in land use approval process; EIS later in project approval process</p> <p>implementation tools incentives</p> <p>» Adoption of incentives for desirable development; disincentives for undesirable development, such as in areas susceptible to natural hazards or with significant natural or cultural resources</p>
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<ul style="list-style-type: none"> ● Clear policy and planning framework for land use decision making ● Land use districts in Ch 205 are good umbrellas ● Land use districts are no longer needed ● District standards and uses in Ch 205 subject to amendment by special interest legislation ● Agricultural district allows high-density zoning, creates need for urban-like infrastructure & services ● Lack of State policy guidance to counties regarding agricultural land use policy, to ensure consistency with State agricultural goals ● Need for clear, defining role for LUC, to guide commissioners ● State has constitutional mandate to be trustee of environmental, cultural, agricultural resources ● Overlap of State & county interests ● State needs to provide leadership to counties, developers, public ● Case-by-case regulatory system is counter to State's interests, reactive to landowner/developer proposals ● LUC decision making is ad hoc; single project review is not comprehensive or cumulative ● State never gets down to community level, there's a disconnect ● LUC process gets into too much detail, duplicative of county process ● Counties want more home rule, more capable now ● Counties closer to community, have broader & more sustained public involvement in county planning processes ● No requirements set out for county plans, very little direction for county plans; other states outline framework for counties ● No coordination between State and county in land use planning and regional infrastructure planning and development ● State & county processes seem to operate independently, no direct relationship between State & county planning ● Even within planned growth areas, there's poor planning for providing urban infrastructure & services ● No fiscal discipline in CIP investment; planning not tied to CIP & no consistency in planning ● State agencies need to express interests in county plan development process ● State plans not tied to land use approval process ● Lack of enforcement of LUC conditions 	<p>planning framework & process</p> <ul style="list-style-type: none"> » One system at either State or county level <p>planning framework & process</p> <ul style="list-style-type: none"> » Planning framework with clear, distinct roles & responsibilities for State & counties <p>planning framework & process</p> <ul style="list-style-type: none"> » Clear planning framework with consistency requirements between policy, plan, land use approvals <p>planning framework & process</p> <ul style="list-style-type: none"> » State/county coordination & consultation process in county plan development <p>policy guidance planning framework</p> <ul style="list-style-type: none"> » Shared State/county database & projections for long range regional planning & monitoring <p>policy guidance planning framework</p> <ul style="list-style-type: none"> » Use of thresholds, limits for development based on infrastructure &/or resource capacity, e.g., highway thresholds, water availability <p>planning framework & process</p> <ul style="list-style-type: none"> » Condition for expiration of entitlement after certain time if no project progress <p>planning framework & process</p> <ul style="list-style-type: none"> » Contested case hearing at county permit level, after LUC reclassifies using quasi-legislative process <p>planning framework & process</p> <ul style="list-style-type: none"> » Commitment to consensus building, e.g., OR &WA models <p>planning framework & process implementation tools</p> <ul style="list-style-type: none"> » Reinstate body like former State Plan Policy Council to connect different levels of system & points of view <p>implementation tools incentives</p> <ul style="list-style-type: none"> » Adoption of incentives for desirable development; disincentives for undesirable development, such as in areas susceptible to natural hazards or with significant natural or cultural resources
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<ul style="list-style-type: none"> ● Consistency / conformance with policies and plans 	<ul style="list-style-type: none"> ● Difficulty in appealing county, quasi-legislative land use decisions inconsistent with policies and plans ● LUC decision making is ad hoc; single project review is not comprehensive or cumulative ● Disconnect between county plans & the quality/type of development being built ● No fiscal discipline in CIP investment; planning not tied to CIP & no consistency in planning 	<div>planning framework & process</div> <ul style="list-style-type: none"> » Clear planning framework with consistency requirements between policy, plan, land use approvals <div>planning framework & process</div> <ul style="list-style-type: none"> » State/county coordination & consultation process in county plan development <div>policy guidance planning framework & process</div> <ul style="list-style-type: none"> » Systematic approach for public access to information, public education & periodic training for regulators & decision makers on land use laws, rules, regulations & best practices <div>planning framework & process</div> <ul style="list-style-type: none"> » Contested case hearing at county permit level, after LUC reclassifies using quasi-legislative process <div>planning framework & process implementation tools</div> <ul style="list-style-type: none"> » Reinstate body like former State Plan Policy Council to connect different levels of system & points of view <div>implementation tools incentives</div> <ul style="list-style-type: none"> » Adoption of incentives for desirable development; disincentives for undesirable development, such as in areas susceptible to natural hazards or with significant natural or cultural resources <div>administrative & judicial review</div> <ul style="list-style-type: none"> » Land use appeals board, similar to other states, with land use, planning, environmental expertise

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<ul style="list-style-type: none"> ● Plan-based, plan-driven land use decisions/development 	<ul style="list-style-type: none"> ● Counties producing good community plans; have capacity to manage growth ● No clear plans to guide State-level decision making on project or regional basis ● State agencies need to express interests in county plan development process ● Case-by-case regulatory system is counter to State's interests; reactive to landowner/developer proposals & not based on long range plans ● LUC decision making is ad hoc; single project review is not comprehensive or cumulative ● LUC process gets into too much detail, duplicative of county process ● County plans need to be used by LUC in more proactive manner ● Need to direct attention & investment to build out of existing urban areas ● Focus on petitions/development consistent with county plans rather than individual petitions trying to maximize own interests ● No coordination between State and county in land use planning and regional infrastructure planning and development ● State & county processes seem to operate independently, no direct relationship between State & county planning 	<p>planning framework & process</p> <ul style="list-style-type: none"> » Clear planning framework with consistency requirements between policy, plan, land use approvals <p>planning framework & process</p> <ul style="list-style-type: none"> » State requirements & guidelines for county plans <p>planning framework & process</p> <ul style="list-style-type: none"> » State review &/or approval of county plans <p>planning framework & process</p> <ul style="list-style-type: none"> » County plans as basis for boundary amendments, with appeals via declaratory ruling <p>planning framework & process</p> <ul style="list-style-type: none"> » Automatic alignment of land use district boundaries with county plan boundaries, e.g., urban growth boundaries <p>planning framework & process</p> <ul style="list-style-type: none"> » State/county coordination & consultation process in county plan development <p>implementation tools incentives</p> <ul style="list-style-type: none"> » Adoption of incentives for desirable development; disincentives for undesirable development, such as in areas susceptible to natural hazards or with significant natural or cultural resources

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<ul style="list-style-type: none"> ● Infrastructure capacity concurrent with planned growth 	<ul style="list-style-type: none"> ● Infrastructure capacity is not available for areas planned for growth; shortfall in public investment in public infrastructure improvements ● Regional infrastructure improvements are being shifted to developers, increasing project cost and delays ● Financing tools aren't fully utilized ● Public doesn't want to pay for infrastructure needed for projects that is not planned for ● Designated growth areas don't account for the cost of proposed/planned development; plans are not fiscally constrained ● Public agencies can't afford the cost of servicing planned growth ● No coordination of regional infrastructure plans ● State agencies need to express interests in county plan development process ● Even within planned growth areas, there's poor planning for providing urban infrastructure & services ● No fiscal discipline in CIP investment; planning not tied to CIP & no consistency in planning ● Need to direct attention & investment to build out of existing urban areas ● Difficulty in meeting conditions for regional infrastructure mitigation in zone change, permitting process ● No incentives for planned growth & infrastructure development 	<div>planning framework & process</div> <ul style="list-style-type: none"> » Clear planning framework with consistency requirements between policy, plan, land use approvals <div>planning framework & process</div> <ul style="list-style-type: none"> » State/county coordination & consultation process in county plan development <div>policy guidance planning framework</div> <ul style="list-style-type: none"> » Shared State/county database & projections for long range regional planning & monitoring <div>policy guidance planning framework</div> <ul style="list-style-type: none"> » Use of thresholds, limits for development based on infrastructure &/or resource capacity, e.g., highway thresholds, impervious surface area, water availability <div>planning framework & process</div> <ul style="list-style-type: none"> » LUC imposition of impact fees for infrastructure & services <div>implementation tools programs</div> <ul style="list-style-type: none"> » Regional infrastructure investment program/strategy <div>implementation tools incentives</div> <ul style="list-style-type: none"> » Adoption of incentives for desirable development; disincentives for undesirable development, such as in areas susceptible to natural hazards or with significant natural or cultural resources

DESIRED OR IDEAL SYSTEM How it performs— Performance criteria:	SUMMARY OF ISSUES WITH EXISTING SYSTEM	AREAS/GAPS FOR SYSTEM IMPROVEMENTS SUGGESTED BY COMMENTS FROM REVIEW
<ul style="list-style-type: none"> ● Effective enforcement of compliance with policies and plans 	<ul style="list-style-type: none"> ● Role of LUC and counties not clear in enforcing Ch 205 & conditions of approval ● LUC has limited enforcement authority & needs more flexibility in enforcement of orders & conditions ● Appeals of LUC decisions extend process, create delays & uncertainty ● Complaint-driven system; lax enforcement ● State agencies need to express interests in county plan development process ● Counties typically don't initiate enforcement actions solely on LUC conditions ● No accountability in enforcement ● People sometimes don't know what they can & can't do when purchasing property; need information so they can do the right thing ● No expiration date on entitlements has adverse impacts ● Need better monitoring of annual reports & project compliance with LUC decisions & conditions 	<div> planning framework & process <ul style="list-style-type: none"> » Clarification of enforcement authority; increase enforcement authority & flexibility in enforcement for LUC </div> <div> planning framework & process <ul style="list-style-type: none"> » Time limits in LUC orders, with discretion to waive with good cause shown </div> <div> planning framework & process <ul style="list-style-type: none"> » No use variances, after-the-fact permits </div> <div> planning framework & process <ul style="list-style-type: none"> » Electronic public notification & electronic access to annual reports filed for LUC dockets </div> <div> policy guidance planning framework & process <ul style="list-style-type: none"> » Create website & GIS tool to view all land use permits in process/issued at all levels </div> <div> administrative & judicial review <ul style="list-style-type: none"> » Land use appeals board, similar to other states, with land use, planning, environmental expertise </div> <div> implementation tools incentives <ul style="list-style-type: none"> » Adoption of incentives for desirable development; disincentives for undesirable development, such as in areas susceptible to natural hazards or with significant natural or cultural resources </div>

<ul style="list-style-type: none"> ● Efficient, cost-effective review/decision making process 	<ul style="list-style-type: none"> ● State level review offers second level of review ● Duplication of individual project reviews at State and county level; LUC shift from broad review of district classification to individual project review ● LUC decision making is ad hoc; single project review is not comprehensive or cumulative ● Incomplete applications cause delay ● Quasi-judicial process adds time; too much time spent on procedural matters & not content; uncertainty with intervenors ● Regional amendment petitions are subject to the same content requirements as individual petitions, e.g., environmental review, metes & bounds, etc. ● Move environmental review to later in approval process, when project is more detailed ● Due to lengthy entitlement process, environmental review documents done for LUC review get stale ● Growth in number of conditions is problematic, not flexible over time ● Potential for intervention/lawsuits at various points in land use review process, causes delays and uncertainty ● State agencies need to express interests early in county plan development process ● No means to ensure State issues/interests are addressed at county level ● Need more certainty about processing time; parallel processes, not sequential ● Slow processing of ministerial permits 	<p>planning framework & process</p> <ul style="list-style-type: none"> » Make application criteria/guidelines clearer or more simplified <p>planning framework & process</p> <ul style="list-style-type: none"> » Greater use of hearings officers in LUC process <p>planning framework & process</p> <ul style="list-style-type: none"> » Limit scope of LUC review to district classification only & areas of State interest <p>policy guidance planning framework</p> <ul style="list-style-type: none"> » Use of thresholds, limits for development based on infrastructure &/or resource capacity, e.g., highway thresholds, impervious surface area, water availability <p>planning framework & process</p> <ul style="list-style-type: none"> » Streamline process by increasing threshold for county land use district boundary amendments <p>planning framework & process</p> <ul style="list-style-type: none"> » LUC quasi-legislative boundary amendments based on comprehensive five-year boundary review <p>planning framework & process</p> <ul style="list-style-type: none"> » County plans as basis for boundary amendments, with appeals via declaratory ruling <p>planning framework & process</p> <ul style="list-style-type: none"> » Automatic alignment of land use district boundaries with county plan boundaries, e.g., urban growth boundaries <p>planning framework & process</p> <ul style="list-style-type: none"> » Contested case hearing at county permit level, after LUC reclassifies using quasi-legislative process <p>administrative & judicial review</p> <ul style="list-style-type: none"> » Land use appeals board, similar to other states, with land use, planning, environmental expertise, in lieu of intervention in contested case hearing <p>implementation tools programs</p>
<ul style="list-style-type: none"> ● Efficient / sustainable use of resources 	<ul style="list-style-type: none"> ● Water should be driving land use decisions; not enough water for all lands planned for growth in some areas 	

DESIRED OR IDEAL SYSTEM How it performs— Performance criteria:	SUMMARY OF ISSUES WITH EXISTING SYSTEM	AREAS/GAPS FOR SYSTEM IMPROVEMENTS SUGGESTED BY COMMENTS FROM REVIEW
	<ul style="list-style-type: none"> ● Cumulative and long term impacts are not being addressed well in project reviews and decision making ● Watershed management is not integrated into land use planning and decision making ● Climate change, sea level rise, seawalls causing loss of beaches, but people still building on beaches ● Stormwater runoff from impervious surfaces, agricultural activities is polluting near shore waters, impacting coral reefs 	<p>» State agricultural resource/development strategy</p> <p>implementation tools programs</p> <p>» Regional infrastructure investment program/strategy</p> <p>policy guidance planning framework</p> <p>» Shoreline erosion/climate change should be incorporated into land use review analysis</p> <p>policy guidance planning framework</p> <p>» Use of thresholds, limits for development based on infrastructure &/or resource capacity, e.g., highway thresholds, impervious surface area, water availability</p> <p>policy guidance planning framework</p> <p>» Comprehensive stormwater management program; incorporate low impact development practices in land use approvals</p> <p>implementation tools incentives</p> <p>» Adoption of incentives for desirable development; disincentives for undesirable development</p>
<ul style="list-style-type: none"> ● Adaptable to changing needs and conditions 	<ul style="list-style-type: none"> ● Old EAs/EISs and entitlements that no longer reflect current conditions or community values ● Inherent lag in incorporating new science and best practices in land use decision making, such as transit oriented development, low impact development, etc. ● LUC orders & conditions provide certainty regarding project commitments and mitigation, but can be too rigid, not able to accommodate changes over project timeframe 	<p>planning framework & process</p> <p>» Shelf life for entitlements & environmental review documents</p> <p>policy guidance planning framework</p> <p>» Shared State/county database & projections for long range regional planning & monitoring</p> <p>planning framework & process</p> <p>» State/county coordination & consultation process in county plan development</p> <p>implementation tools incentives</p> <p>» Adoption of incentives for desirable development; disincentives for undesirable development, such as in areas susceptible to natural hazards or with significant natural or cultural resources</p>

OPTIONS: FIXES TO EXISTING SYSTEM		
	improvement themes [items w/dots]	specific proposals [items w/dots]
LUC ROLE / PROCESS	Project-specific, quasi-judicial decision making	
	More efficient process: speed up processing by state/county agencies [E.1]	<ul style="list-style-type: none"> • Increase threshold for county LUDBAs [E.1.a] • Single, combined LUC & county fact-finding hearing for project (LUC decision-making later) [D.18] • Limit LUC to determining district classification [H.5] • Streamline/more flexible use of boundary amendment interpretation for minor modifications [E.1.b] • Consolidate points of legal intervention to reduce delays and uncertainty [E.3] Boundary amendments based on county plans with appeal via declaratory ruling [H.12]
PARTICIPATION IN DECISION MAKING / APPEALS	More meaningful avenue for public participation & expertise to be used [A.2]	<ul style="list-style-type: none"> • More local/regional review and input in process and approvals [C.1] • Use of technology to improve access / participation in LUC process [A.3/A.4.a], such as live web streaming of hearings; testimony provided via teleconferencing
	Improved notice through signs with project/contact info at project sites [A.5]	<ul style="list-style-type: none"> • Hawaii County ordinance as model [A.5.a]
	Improved intervention / representation in hearings [A.2]	<ul style="list-style-type: none"> • Public advocate/lawyers to represent citizen intervenors in hearings [A.8] • Ombudsman/citizen advocate position at LUC to reduce burden on public to participate [A.9] • Intervention fee of \$1,000 [A.7]
	Boundary amendments based on county plans with appeal via declaratory ruling [H.12]	
PLAN IMPLEMENTATION		
ENFORCEMENT	Better enforcement of conditions [B.1]	<ul style="list-style-type: none"> • Clarify in statutes LUC & county roles in enforcement, e.g: <ul style="list-style-type: none"> » Greater authority for LUC enforcement of conditions and flexibility in enforcement tools (e.g., flexibility with respect to market change, public infrastructure delays) [B.5] » Tie county authority to fine under Ch 46 for Ch 205 use violations [and conditions?] [B.4.a] » Enforcement monitored and implemented by county [B.4.b]

OPTIONS:**FIXES TO EXISTING SYSTEM****Appendix K**

	improvement themes [items w/dots]	specific proposals [items w/dots]
ENFORCEMENT		<ul style="list-style-type: none"> • Enforceable conditions that provide clear path for state and/or county enforcement [B.2], e.g.: <ul style="list-style-type: none"> » Clarify in Ch 205, D&O to allow for delays in public infrastructure or market changes (certainty with flexibility) [B.12] • Better use of annual reports in monitoring compliance [B.6] • Statutory authority for citizen enforcement of LUC conditions (appeal or lawsuit) [B.13]
INFORMATION & ANALYSIS FOR PLANNING & DECISION MAKING	Use of thresholds for operations & safety of roadways [C.1]	
	Greater scrutiny for ag, increased consideration of ag resource concerns in boundary amendments, higher threshold [F.2]	
	Move environmental review to post-LUC decision making [H.7]	

OPTIONS: State Growth Management [DPP, LUC]		
	redesign elements	specific proposals
LUC ROLE / PROCESS	Unclear re: project-specific decision making & process	
	State interests in land use clearly articulated State vision guides goals and decision making of new LUC State/county relationship clearly articulated Land use approval minimizes redundant processes and steps	
	Areas of overlap covered by process that fosters collaboration and consensus	
	Process links plan and implementation and public/private partnerships	<ul style="list-style-type: none"> Expedited process for planned growth consistent with infrastructure development in designated areas
	Promotes a growth and conservation vision for Hawaii State develops localized/county-based growth and conservation plans	<ul style="list-style-type: none"> Includes conservation of ag and open space, maps/districts, timeline for gradual growth
	State develops statewide strategic plans/documents for major land use/development objectives	<ul style="list-style-type: none"> Create statistically/evidentiary based large scale planning document (baseline data, statewide needs) for current issues/needs (urban density, food sustainability, etc. Required regular review and funding for strategic issues analysis and action plans
COUNTY ROLE / PROCESS		
PARTICIPATION IN DECISION MAKING / APPEALS		
PLAN IMPLEMENTATION	Improved implementation and support of long-range land use plans	<ul style="list-style-type: none"> State and county investment in/development of infrastructure development in designated growth areas Tax/financial incentive structure to discourage speculative growth outside designated areas and/or foster development within designated growth areas
ENFORCEMENT		
INFORMATION & ANALYSIS FOR PLANNING & DECISION MAKING	Ag IAL criteria tied to evolving definition & process that accounts to changes in technology and markets for agriculture	

OPTIONS: County Plan-based Boundary Amendments [DPP, LURF, BIA, COC, MPD]		
	redesign elements	specific proposals
LUC ROLE / PROCESS	Regional quasi-legislative decision making with limited project-specific, quasi-judicial decision making	
	Quasi-legislative boundary amendments based on conformance with county general and/or development plans	<ul style="list-style-type: none"> • Evaluate only consistency with plans • No project conditions • Decision on district classification only with conditions limited to state interest in law; LUC recommend other conditions to county • If consistent with county plan, authority to disapprove or add conditions for mitigation only with demonstration of compelling state interest to deny
	State oversight of plan compliance with state plans and criteria	
	Individual quasi-judicial boundary amendments for proposals not consistent with county plan	
COUNTY ROLE / PROCESS	County general and development plans are primary driver of land use planning and decision making	<ul style="list-style-type: none"> • Implement county general / development plans
PARTICIPATION IN DECISION MAKING / APPEALS		
PLAN IMPLEMENTATION		
ENFORCEMENT		
INFORMATION & ANALYSIS FOR PLANNING & DECISION MAKING		

OPTIONS: County Plan-based Planning Framework [APA, DOA]		
	redesign elements	specific proposals
LUC ROLE / PROCESS	Limited project-specific, quasi-judicial decision making with new functions in policy guidance / plan approvals / appeals	
	LUC → State Planning Commission:	Amend Ch 205 re: role and policies
	<ul style="list-style-type: none"> Statewide LU goals/guidelines for districts Standards/guidelines for county plans 	To include: <ul style="list-style-type: none"> Land use designations Growth management strategies for DBEDT 20-year population projections Protection of IAL Mandatory updates every 10 years
	<ul style="list-style-type: none"> Review/certify county GPs and DPs for compliance with standards Individual boundary amendments 	Limited to: <ul style="list-style-type: none"> Conservation District Lands without certified county plan Changes to IAL designation Proposals not consistent with certified county plans
	State updates State plans and functional plans	
COUNTY ROLE / PROCESS	Quasi-legislative district boundary amendments	
	Counties prepare GPs / DPs that incorporate/meet statewide goals and guidelines and plan content requirements	
	County boundary amendments for urban, agricultural, rural districts to conform to certified county plans; councils are final decision makers	
	APA model plus add: Require that counties legislate, codify & develop agricultural expertise	
PARTICIPATION IN DECISION MAKING / APPEALS	Hear appeals to boundary amendments by counties	May be sustained based on: <ul style="list-style-type: none"> Access to new information Decision based on erroneous finding of material fact Decision made in arbitrary or capricious manner
PLAN IMPLEMENTATION		
ENFORCEMENT		
INFORMATION & ANALYSIS FOR PLANNING & DECISION MAKING	State goals and policies State county plan content requirements DBEDT provides 20-year population projections	
	APA model plus add: Require that counties legislate, codify & develop agricultural expertise	

OPTIONS: 5-Yr Boundary Review Boundary Amendments [SC]	
	redesign elements specific proposals
LUC ROLE / PROCESS	No project-specific decision-making
	Comprehensive boundary amendments only once every five years for each island [quasi-legislative?]
COUNTY ROLE / PROCESS	
PARTICIPATION IN DECISION MAKING / APPEALS	
PLAN IMPLEMENTATION	
ENFORCEMENT	
INFORMATION & ANALYSIS FOR PLANNING & DECISION MAKING	Comprehensive boundary reviews to inform boundary amendments

OPTIONS: Regional Boundary Amendments [KPD]		
	redesign elements	specific proposals
LUC ROLE / PROCESS	No project-specific decision making with new county quasi-judicial process for individual projects Quasi-legislative boundary amendments	
COUNTY ROLE / PROCESS	For projects: Quasi-judicial county permit process to follow county zoning	Process before Planning Commission and [planning?] department w/ State and county agency 360° [? parties]
PARTICIPATION IN DECISION MAKING / APPEALS		
PLAN IMPLEMENTATION		
ENFORCEMENT		
INFORMATION & ANALYSIS FOR PLANNING & DECISION MAKING	For projects: Ch 343 environmental review (if necessary) after county zoning/before county permit processing	

IMPROVEMENTS IMPORTANT TO SYSTEM FIX & RE-DESIGN OPTIONS

	improvement themes [items w/dots]	specific suggestions [items w/dots]
DISTRICT STANDARDS	AGRICULTURAL DISTRICT Better use definitions & standards for Ag District [F.6]	<ul style="list-style-type: none"> Define in Ch 205 what bona fide ag operation is [F.6.a] Permissible uses for IAL need to be stronger than in Ch 205 Ag District [F.6.c] Define bona fide ag as food crops for sale [F.6.a, F.7] Define bona fide ag as not estate dwellings, tennis courts, pools [F.6.a] Increase minimum lot size to 10 acres [F.9]
	County authority to determine permissible uses in Ag District [F.10]	
	Revised standard/criteria for identifying agricultural lands' resource value and lands that can be released for urbanization [F.5]	<ul style="list-style-type: none"> New benchmarks for judging ag lands that updates LSB [F.4, F.8.a] Preservation of open space not criteria for identifying as ag land [F.3.a]
AGRICULTURAL & RURAL PLANNING	RURAL DISTRICT	
	Redefine Ch 205 / new vision for Rural District with broader uses [G.2, G.2.a, G.3]	<ul style="list-style-type: none"> Eliminate Rural & have higher density ag in Ag District OR put higher density ag in Rural [G.1.a]
	Delegate to counties regulatory authority over Rural District [G.6, G.6.a]	<ul style="list-style-type: none"> County ability to texturize rural land uses [G.6.a]
	Identification of lands in Ag District that should be protected for ag & those that are more suited in urban, rural, or conservation district [F.5, F.12]	<ul style="list-style-type: none"> Funding for counties to complete the IAL process [F.1] State plans & phasing of implementation to match/complement county LU planning [I.10] State decision making (re: resources and infrastructure) in accord with state planning framework [I.12]
	Process to reclassify lands in the Ag District identified as suitable in other land use classifications (release non-ag lands) [F.5]	
INFORMATION & ANALYSIS FOR PLANNING & DECISION MAKING	Greater scrutiny for ag, increased consideration of ag resource concerns, higher threshold [F.2]	
	Comprehensive set of shared environmental, social, economic indicators [C.11]	<ul style="list-style-type: none"> State population and economic projections updated/reviewed regularly in consultation with counties [C.10.a] (and other baseline data like housing study) Use of thresholds for operations & safety of roadways [C.4]
	Meaningful analysis of infrastructure planning, development, and environmental impact [C.14]	
	Require state agencies to do Ka Pa'akai analysis on all projects [C.5]	
	Move environmental review to post-LUC decision making [H.7]	

IMPROVEMENTS IMPORTANT TO SYSTEM FIX & RE-DESIGN OPTIONS

PLANNING FRAMEWORK	improvement themes [items w/dots]	specific suggestions [items w/dots]
	<p>Codify in HRS a uniform county land use planning system that reflects state functions, with counties in primary role in LU planning/decision making [I.6], development follows plan [I.13., I.27]</p>	<ul style="list-style-type: none"> • State requirements for county LU plan and consistency required with state policies [I.5] • Requirement for consistency with state policies • State interests inherently statewide [I.2.a] • County plans have phasing and magnitude in land use plans (to direct location and timing of growth) • State and county infrastructure components in county LU plan [I.19] • Better coordination among state and county [I.28] • Coordinate state infrastructure planning and development with county [D.3, I.30] • State participates in county planning process (GPs, DPs) [D.17] • Policies, plans provide specific and reliable milestones for short- and long-term investment backed expectations • State review of county plans with respect to impact on areas of state concern [D.1, I.27]
	<p>Long-term planning to protect public's interest / public trust resources [I.3], e.g., resource management and infrastructure development plans</p>	<ul style="list-style-type: none"> • Identify what's appropriate/needed to preserve, protect, and develop [I.17] • More frequent boundary reviews (to see if significant resources exist in the districts) [I.2.a] • Boundary review / amendments to: (1) reclassify lands with significant resources in other districts to the Conservation District; (2) undeveloped land within 150 ft of shoreline [I.2] • State plans & phasing of implementation to match/complement county LU planning [I.10] • State decision making (re: resources and infrastructure) in accord with state planning framework [I.12]

IMPROVEMENTS IMPORTANT TO SYSTEM FIX & RE-DESIGN OPTIONS

	improvement themes [items w/dots]	specific suggestions [items w/dots]
LAND USE DECISION MAKING & PLAN IMPLEMENTATION	Eliminate duplication with county issues and processes [I.4] Two levels of review and scrutiny to balance decision making [I.15]	<ul style="list-style-type: none"> Combined (single) county/LUC hearings on individual project (DBA, DPs, community level plans) [D.18] Better coordination among state and county [I.28] Allow for orderly land use district changes, while providing specific and reliable milestones for short- and long-term investment backed expectations [I.9]
	Development consistent with plans rather than individual petitions—county plans guide land use changes [I.13, I.27]	<ul style="list-style-type: none"> Allow for orderly land use district changes, while providing specific and reliable milestones for short- and long-term investment backed expectations [I.9] Coordinate state infrastructure planning and development with county [D.3, I.30] Fiscal discipline in CIP investment [D.16] Public (rather than developer) should pay for infrastructure [D.15] Incentives for desired development (e.g., in designated growth areas) [D.10] Thresholds for dealing with unplanned or premature projects (not in plan or phasing) [D.13] State review of county plans and activities with respect to impact on areas of state concern [D.1] Direct input in land use matters that involves state functions or facilities [D.2] Enforcement monitored and implemented by county [B.4.b]
PARTICIPATION IN DECISION MAKING / APPEALS	State decision making (re: resources and infrastructure) in accord with state planning framework [I.12]	<ul style="list-style-type: none"> State CIP to implement LU plans and policies (based on state infrastructure component for county plan) [D.5, I.11]
	Consolidate points of legal intervention in land use process to reduce delays and uncertainty [E.3, I.16]	
STREAMLINING PERMITTING PROCESSES	Speed up processing and ministerial permitting by state/county agencies [E.1]	<ul style="list-style-type: none"> More efficient permitting process for key areas, e.g., affordable housing, fishponds [E.2] Consolidate points of legal intervention in land use process to reduce delays and uncertainty [E.3, I.16]
SUB-SYSTEM ISSUES	Mechanisms for truly affordable housing stock [I.1]	