

State Land Use Review

Compilation of Community & Stakeholder Comments November 2014 – January 2015

March 2015



State of Hawaii
Office of Planning

State Land Use Review

Community & Stakeholder Comments Compiled

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.

Strengths of the Land Use System

	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		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. 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.

Strengths of the Land Use System

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.

Strengths of the Land Use System

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/Kaonoulu 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		<p>We must acknowledge the law's relative success in managing economic activity while protecting environmental and cultural resources from urbanization.</p>
S.25		<p>We need to look at what works and what needs fixing.</p>
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		<p>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.</p>

Strengths of the Land Use System

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).

Weaknesses of the Land Use System

	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 LUC 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

W.13		<p>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?</p>
W.14		<p>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.</p>
W.15	Implementation	<p>Problem with servicing urban uses outside urban designated lands when first boundaries established.</p>
W.16	Policy	<p>Only three to four Land Use districts is monolithic and forces big questions regardless of size of project.</p>
W.17		<p>Still have embodied in system "highest and best use", not what we value.</p>
W.18	Process	<p>Island-wide housing strategy converting ohana zones:</p> <ul style="list-style-type: none"> 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		<p>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).</p>
W.20		<p>How can we streamline the process; 7 years is too long.</p>
W.21		<p>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.</p>
W.22		<p>LUC doesn't always have local perspective.</p>
W.23		<p>LUC proceedings are duplicative with county proceedings</p>
W.24		<p>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.</p>
W.25		<p>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.</p>
W.26		<p>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.</p>
W.27		<p>People don't have the power to determine how their counties are developed, e.g., Honolulu Bay.</p>
W.28		<p>Pressure from development/unions to support/pass/approve petitions/projects like Hoopili.</p>

Weaknesses of the Land Use System

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.

Weaknesses of the Land Use System

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

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

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 <ul style="list-style-type: none"> 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. <ul style="list-style-type: none"> 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.

Weaknesses of the Land Use System

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, Hawai'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: <ul style="list-style-type: none"> 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.

Weaknesses of the Land Use System

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).

Weaknesses of the Land Use System

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.

Potential Fixes to the Land Use System

	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.

Potential Fixes to the Land Use System

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.

Potential Fixes to the Land Use System

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. <ul style="list-style-type: none"> 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.

Potential Fixes to the Land Use System

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.

Potential Fixes to the Land Use System

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 be 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.

Potential Fixes to the Land Use System

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.

Potential Fixes to the Land Use System

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.

Potential Fixes to the Land Use System

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

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

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. <ul style="list-style-type: none"> 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 Paui lo a.k.a. Koholalele Landings in Hamakua District. Need to better protect Pa'auhau Landing and other historic sugar landings, statewide.

Potential Fixes to the Land Use System

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.

Potential Fixes to the Land Use System

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

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.

More Information Needed

	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 Hawaii'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?

More Information Needed

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?