

## PSLU Committee

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**From:** John and Christel Blumer-Buell <blubu@hawaii.rr.com>  
**Sent:** Monday, January 06, 2020 5:35 PM  
**To:** PSLU Committee  
**Subject:** ADDITIONAL PUBLIC TESTIMONY RE (PSLU-32). EXHIBIT 5. "COMMUNITY PLAN AMENDMENT, DISTRICT BOUNDARY AMENDMENT, AND CHANGE IN ZONING FOR THE NAHIKU COMMUNITY CENTER (HANA)". PLEASE CONFIRM RECEIPT.  
**Attachments:** Nahiku Intervention Original.pdf

Aloha PSLU Committee Staff,

Additional public testimony enclosed for 1-8-2020 hearing re PSLU-32.  
Please confirm receipt.

Mahalo,

John

**EXHIBIT 5**

**47 PAGE "PETITION TO INTERVENE", DATED OCTOBER, 2017**

**ORIGINAL**

Contacts for Eleven Petitioners: Terry Kristiansen, Irene Pavao and John Blumer-Buell  
Post Office Box 787, Hana, Maui, Hawaii, 96713.

**PETITION TO INTERVENE**

**BEFORE THE MAUI PLANNING COMMISSION AND THE**

**HANA ADVISORY COMMITTEE TO THE MAUI PLANNING COMMISSION**

**COUNTY OF MAUI, STATE OF HAWAII**

In The Matter of the Applications by the County of Maui and Maui County Planning Department Director William Spence for; a) a “Community Plan Amendment”, b) a “State Land Use Boundary Amendment” and c) a “Change in Zoning” regarding the proposed development of a “Nahiku Community Center” on Tax Map Key (2) 1-2-002:023 Nahiku, Maui, Hawaii.

And, In The Matter of the Application by the County of Maui and County of Maui Parks and Recreation Department Director Kaala Buenconsejo for a “Special Management Area Use Permit (SMA)” regarding the proposed development of a “Nahiku Community Center” on Tax Map Key (2) 1-2-002:023 Nahiku, Maui, Hawaii.

**MEETING NOTICES AND AGENDAS**

\* The Maui County Planning Commission (“Commission”) conducted a “REGULAR MEETING OF THE MAUI PLANNING COMMISSION” on August 8, 2017 at 9 A.M. at the Planning Department Conference Room in Wailuku, Maui, Hawaii. At that meeting the Commission designated the Hana Advisory Committee to the Commission

to conduct the public hearing in Hana and provide their recommendations regarding the subject “Applications”. Please refer to the official Maui Planning Commission Agenda dated August 8, 2017.

\* On September 14, 2017 Maui County Planner Paul Fasi notified by email John Blumer-Buell, Irene Pavao and Terry Kristiansen of the future meeting in Hana on October 26, 2017, 4:00 P.M., Helene Hall, Hana, Maui, Hawaii 96713 and also sent information regarding Sections 12-201-20, 12-201-40, and 12-201-43 of the Rules of Practice and Procedure for the Commission.

\* Some of the “Intervenors” received a “Notice of Public Hearing” from the County of Maui dated September 19, 2017, confirming the October 26 meeting date in Hana.

\* The “Intervenors” were also informed of the Hana meeting by the Maui News Legal Notices dated September 25, 2017, Page A 10.

### INFORMATION AND FACTS SUPPORTING PETITION TO INTERVENE

The proposed intervenors are petitioning as qualified, knowledgeable and unique individuals united as community members. We will work cooperatively to expedite the contested case hearing process. We are mindful on behalf of 100+ “Community Petitioners” and “Concerned Citizens” who have expressed concerns and opinions regarding the proposed development through petitions and public testimony. Their testimony and petitions have been mostly ignored by the applicant, the County of Maui.

**The lack of legal due process and transparency by the County of Maui through an Environmental Impact Statement, as legally required by Hawaii Revised Statute (HRS) 343, are the causes of this “Petition to Intervene”.**

**If the County of Maui will agree to a lawful and honest Environmental Assessment or Environmental Impact Statement process, as legally required by HRS 343, there is no need for a contested case hearing.**

For some reason, the County of Maui refuses to recognize the 2012 “Declaration of Exemption” is NOT applicable to the NEW 2017 applications process (Exhibit1). The 2012 document is included as relevant and applicable on the last page of the lengthy NEW, June, 2017, SMA application. It is not applicable. The County of Maui is attempting to avoid and bypass the HRS 343 process with misleading and false “interpretations” of the facts. The intervenors have tried for years to persuade the County of Maui to follow the law. To prove that point we attach testimony submitted to the Maui County Council EAR Committee on January 25, 2016 (Exhibit 2) .

The current applications prove the County of Maui did not follow the law in 2012 regarding legal due process, required applications, required public participation and required public hearings. In 2012, the county **falsely claimed** the project was valued at only \$450,000 in granting itself an SMA Minor Permit (Exhibit 3). **After that, the county granted a building permit and awarded a contract for a project that legally required, but never received, a “Community Plan Amendment”, a “State Land Use Boundary Amendment”, an “Environmental Assessment” and a “Change in Zoning”**. The contract awarded for the building only was in excess of \$600,000. Now, costs are estimated at around \$2,000,000. This situation calls for an independent and forensic financial audit on behalf of citizens and taxpayers.

On August 15, 2017, the Maui County Planning Department advised us with a letter misdirecting our renewed request for an Environmental Assessment (Exhibit 4). Receipt of our letter was acknowledged but there was no response to the request except silence. The letter was "filed" with County of Maui Corporation Council. The facts are clear;

1. On August 8, 2017, the County of Maui proposed the development for the SECOND time. In 2012, the Special Management Area (SMA) MINOR permit value was represented as \$450,000 (four hundred and fifty thousand dollars) by the county. The 2012 SMA permit expired. Currently, the county is suing the previously contracted, now defaulted, builder. **The 2017 valuation is approximately \$2,000,000 (two million dollars), NOT \$450,000. An EA process and document for the NEW Special Management Area permit proposal is required by law.** Please see a requirement from the current SMA application packet on the county website. **"6. Completed Chapter 343, HRS Checklist (pg 9). If the proposed action triggers Chapter 343, HRS, related to Environmental Impact Statements, submit a completed Environmental Assessment (EA), Environmental Impact Statement (EIS), or a letter of exemption from Chapter 343, HRS, from the proper authority"**.

2. The County of Maui has NOT submitted the required EIS or EA document or an applicable "letter of exemption". In the new June, 2017, SMA permit application the County of Maui is falsely claiming the 2012 "Declaration of Exemption" as the legal "letter of exemption" The 2012 "Declaration of Exemption" is NOT legal or applicable. The now expired 2012 SMA Minor permit was issued by the County of Maui for the County of Maui. There is still the appearance of conflict of interest and lawbreaking in

this matter. We are advocating on behalf of the actual community and for laws that are intended to protect every aspect of the community and its unique life.

**3. The county did NOT previously propose a “Hana Community Plan Amendment”, a “Change of Zoning” and a “State Land Use District Boundary Amendment” as required by law.** Now, the county is attempting to get those approved WITHOUT an Environmental Assessment. An Environmental Assessment is required by law to meet the legal requirements of the NEW proposals. Please see a required filing regarding “Community Plan Amendments” from the county web site. **“REQUIRED SUBMITTALS CHECKLIST” “1. This Community Plan Amendment/Maui Island Plan Amendment application with all pages completed and included with packet. “9. Original and one (1) copy of an environmental assessment or impact statement prepared in accordance with Chapter 343, HRS, and Chapter 11-200, HAR”. The County of Maui has not met the requirement and appears to want to exclude the community from its fundamental right to legal due process.**

Maui County Council Chair Mike White recently commented on the requirement for an Environmental Assessment at the Regular Meeting of the Council of the County of Maui July 28, 2017. Following is an excerpt from page 4 of the official minutes.....

**“We have changed the attitude in the Administration to acknowledge that we're not going to let something go by without the same kind of review that's required of others” (our emphasis).**

**“And from a standpoint of an environmental assessment, it's very clear to me that one was absolutely required. And so, I think the Administration, this Administration and future Administrations have been put on notice that we're not**

going to allow government to use its own power to give itself a pass on things that it holds everyone else, everyone else's feet to the fire on" (our emphasis). "So, I appreciate the Auditor's Report, and I'm pleased that they were as clear and objective as they were".

**Chair White's observations and conclusions are directly applicable to our objections and our support of Hawaii Revised Statute 343.**

An Environmental Assessment or Environmental Impact Statement, public disclosure documents, should legally and honestly answer essential questions regarding the proposed project in Lower Nahiku including;

- \* Actual ownership of the subject parcel. Legal questions of title and ownership were raised in a 2012 Maui News article. The issue is not publicly resolved. Are we spending public funds to benefit private individuals instead of the public?
- \* Legal road access from the Hana Highway in Upper Nahiku to the proposed project site in Lower Nahiku. Legal documents and a certified survey should answer questions regarding the road trespassing on private property. Without question, the one lane road is dangerous. What is the history? Who owns it? Does it meet legal requirements for road access for the newly proposed public development?
- \* Property tax impacts upon land owners.
- \* Noise impacts on the immediate neighborhood.
- \* Are there "exceptional" trees that need protection?
- \* Impacts from increased public use of the road and the proposed center. Nahiku is currently a small and unique place, environment and community. Will increased public use result in the continued spread of "tiny fire ants" from Nahiku?
- \* Numerous health and safety issues.
- \* Long term costs of the proposed development.

- \* The historic Lower Nahiku wooden bridge over Makapipi Stream was closed by the county since the project was first proposed in 2012. The impacts of closure are significant on the community and need careful scrutiny. Who owns the bridge and the historic road easement?
- \* Will the proposal bring street lighting to Lower Nahiku? Lighting has been advocated by one person.
- \* Will the proposal bring in a police sub-station? Advocated by one person.
- \* Analysis of all infrastructure, including water.
- \* History of flooding and related issues on the proposed site.
- \* Impacts upon the nearby Nahiku Congregational Church and the historic Nahiku landing. Both are gathering places for the community.
- \* Community. Who is the actual community? Who represents the actual community? What community has the County of Maui been talking to?
- \* Will daily commercial use or any commercial use be permitted?
- \* Jobs. What jobs? Who gets them?
- \* Cultural impacts.
- \* Environmental impacts.
- \* What are the likely long term cumulative impacts from the granting of each and all of the requested applications?
- \* Forensic audit and accounting of all funds already spent on, reserved or budgeted for project.
- \* Forensic audit and accounting of funds already spent on lawsuit against defaulted builder, including all settlement costs.
- \* “Alternatives”. An Environmental Assessment or Environmental Impact Statement would legally include “Alternatives” to the proposed development. There are numerous alternatives already suggested by the community. Sadly, mostly ignored by the County of Maui. Some people support a center in a different, safer and more appropriate, location.



Some would like a simple community park, pavilion, community garden and half court basketball. Some do not want the proposed project.

**\* There are many, many more questions, answers and suggestions to be considered in a truly democratic, public, legal, ethical, and transparent Environmental Assessment or Environmental Impact Statement process. The community and taxpayers have a right to be fully informed in decision making.**

Our intervention is intended to be in conformity with Sections 12-201-20, 12-201-40, and 12-201-43 of the Rules of Practice and Procedure for the Commission. We look toward a speedy resolution of the important Environmental Impact Statement and Environmental Assessment issue during a mediation prior to any hearings as provided for in rule 12-201-68 titled Mediation, informal settlements and arbitration. **Again, if the County of Maui will agree to a lawful and honest Environmental Assessment or Environmental Impact Statement process, as legally required by HRS 343, there is no need for a contested case hearing.**

#### PROPOSED INTERVENORS

1. **Moke Bergau**, Nahiku lineal descendent and resident. Land owner of TMK 2-1-2-002-033. My property is about 1 mile from the proposed project site and adjoins the road that runs from the Hana Highway to Lower Nahiku. We have lived here many generations. I oppose land boundary changes, and need to review access and many other issues.

Moses Make Bergan 10-8-2017

Signature and Date

2. **John Blumer-Buell**, Hana District resident, community advocate and concerned citizen. Home address: 45935 Hana Highway.

I, John Blumer-Buell, am a forty-three year resident of Mu'olea in the Hana District, served as a member of the Maui General Plan Advisory Committee (GPAC), served three terms on the Hana Advisory Committee to the Maui Planning Commission, served as a community representative in the Nahiku Kuhiwa Well contested case hearing and currently serve as a "consulted party" at the call of Hearing Officer Miike in Water Resource Management Case No. CCH-MA 13-0. My involvement is limited to issues regarding Makapipi and Hanawi Streams in Nahiku. I also served as an elected board member of the Hana Community Association for twenty-five years. As a board, we addressed numerous development proposals and Environment Assessments.

**More importantly, I have been involved in the proposed Nahiku Community Center development issues since 2012 at the request of Nahiku residents. I first made written objections to the County of Maui "Declaration of Exemption" in 2012 and have been active in the issues ever since.**

John Blumer-Buell 10-8-2017

Signature and Date

3. **Ellen Kahookele**, Nahiku lineal descendent and resident.

Nahiku Congregational Church  
1107 Nahiku Road  
TMK 2 1 2 002 015

I, Ellen Kahookele, current President /Moderator of Nahiku Congregational Church,  
address: 1107 Nahiku Road. Tax Map Key: 2-1-2-002-015.

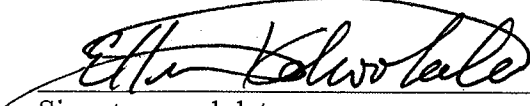
My grandfather, David Kahookele, donated both this Church property to the Nahiku community, as well as the old Nahiku School lot. I am the current generation of lineal descendents of the Kahookele family and the authorized representative of Nahiku Congregational Church as well as a landowner and resident. As such, I and the majority of the Nahiku Church congregation can offer an incomparable perspective of the proposed project and impacts on our community.

As Nahiku Church has received, by certified letter, the notice of public hearing in request for a Special Management Area permit, I am responding. As someone who lives here every day and sees the weather patterns, rain runoff, ponding, flooding, traffic, tourist, large vehicles and narrow road, I implore the need for an HONEST Environmental Assessment.

I am hopeful the County of Maui will agree to this process. We, the residents of Nahiku, are asking for comprehensive and accurate information on which to make decisions.

Thank you for your time.

Ellen Kahookele  
President /Moderator, Nahiku Congregational Church

 10/3/17  
\_\_\_\_\_  
Signature and date

JeanMary Kahookele, lineal descendent, property owner, resident  
1101 Nahiku Road

TMK: 2 1 2 002 016

I, JeanMary Kahookele, represent the current generation of lineal descendents of the Kahookele family. My grandfather, David Kahookele, is the grantor who donated the old Nahiku School lot. I am a life-long resident and property owner in Lower Nahiku. I am now raising the fourth generation of the Kahookele lineage on our ancestral property. We are the current stewards of Nahiku.

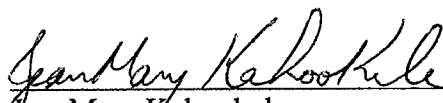
My property is directly across the street from the proposed community center location. Our property is Ag land. In addition to farming flowers and ti-leaves, we also have animals on property: Chickens, Ducks, pigs, Rabbits, goats and seasonally cows. We are farmers; we always have been, as the way of our ancestors.

Our physical location offers a unique perspective of the school lot. My own father was the caller when the old school burned down. We watch the property fill with water when there are heavy rains. My husband has repeatedly pulled people to safety when they drive their vehicles off the embankment fronting the school lot. If two cars meet up anywhere on Nahiku road, someone will have to reverse; this is a one lane road.

I am part of a group of interveners of this project. Each of us has a unique perspective on the impacts on our community and way of life. We will work together in the effort to reduce duplication of testimony.

As a group, we are simply asking for an Environmental Assessment process. Hopefully, the County of Maui will agree to that process in mediation. We simply seek comprehensive and accurate information on which to make decisions.  
Thank you for your time.

JeanMary Kahookele

  
JeanMary Kahookele

10/3/17  
\_\_\_\_\_  
Signature and date

**ORIGINAL**

5. Terry Kristiansen, Upper Nahiku resident, land owner, and farmer.

(TMK1-2-004-011-0000) since 1992. We have farmed our 6.25 acres in flowers, vegetables, and fruit, in a sustainable lifestyle. I feel adamant that the coastal area of Lower Nahiku is sensitive and vulnerable and requires far more research through the EA process before any zoning changes or development take place. I am therefore intervening in this process that the county has regrettably refused to undertake.

Terry O. Kristiansen 10/6/17

Signature and Date

6. Jeffrey Paisner. Nahiku part time resident and land owner.

October 5, 2017

**Jeffrey C. Paisner, Nahiku Land Owner for over 45 years. Tax Map Key RP 2-1-2-001-018. I am also a Pro se litigant & Party in Full Interest to the ongoing Commission of Water Resource Management Hearings in relation to the diversion of East Maui Streams with a focus on protecting the Makapipi Stream for the Lower Nahiku Community.**

**I, Jeffrey C. Paisner am a part time resident and property owner in Lower Nahiku dating back to 1972. My property is situated just down the road from the proposed Nahiku Community Center site. The paved road down to Lower Nahiku starts at the Hana Highway and ends at The Nahiku Landing. It was originally a dirt road when I first moved to Lower Nahiku in the early 1970's. It was soon paved with asphalt and it basically functions with the width of a one lane road. Adding a Community Center would impose additional vehicular traffic on a road that is simply not wide enough to accomodate safe ingress and egress for two way traffic. In times of emergencies this problem would only be compounded. Additionally.....the road also trespasses upon numerous private landowners properties. There is a legitimate question of whether legal access to the proposed site even currently exists without the County of Maui first legalizing an easement.**

**I look forward to working in good faith with the County of Maui and other Community advocates who may desire that Nahiku have a Community Center located at a practical and reasonable location which would not result in perpetuating and creating great disharmony within the Lower Nahiku Community. The "Nahiku Community Association" does not represent the interests or the sentiments of the majority of Lower Nahiku Residents irrespective of the County of Maui's assumptions.**

**I believe that a positive and inclusive Community solution can be achieved so long as the wishes of a majority of the residents can be recognized, respected and provided within the legal due process framework of an Environmental Assessment.**

**Malama Pono Nahiku.**



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*Jeffrey C. Paisner*

**7. Irene Pavao, Nahiku lineal descendent and Hana District resident.**

Irene K.M. Pavao  
PO Box 873  
Hana, HI 96713

Irene K.M. (Mattson) Pavao, Nahiku lineal descendent, home address  
4276 Hana, Hwy. 96713

I represent the third generation and my son Mika'ele is the fourth generation, my father Edward Kaai Mattson Jr and his family has lived in Nahiku for over 150 years. At present my mother and brother live directly across the Nahiku Congregational Church and within 150 feet of the proposed project.

As an active member and former Board President of Nahiku Congregational Church, I have seen firsthand the tremendous stress and disharmony that this project has brought to our tiny isolated community of lower Nahiku, this project that majority of our community does not want has festered many years and is the main cause of our Kahu Cynthia Allencastre's "Massive Heart Attack" at a heated community meeting where she tried in vain to keep the peace that was out of control.

There are many questions of weather legal access to the proposed property even exist, for a long time there has been discussion about a Nahiku Community Center. These have been conversations within our community and also you on our County Council, you, The Power's-That-Be. A majority of us who live along the lower Nahiku road and a majority of us who live between Keanae and Hana all reject this plan, as we have vociferously protested since its inception. **It is repugnant to have foisted on us a project of HUGE expense that will not benefit our community.** Right now the road is the width of a one lane road, and adding a Community Center would greatly impose traffic on a road that simply is not wide enough for two way traffic, this project should have been planned for upper Nahiku on the main Hana Hwy. where it would benefit a larger population of the island instead of a remote community.

Mahalo,

*Irene K.M. Pavao*

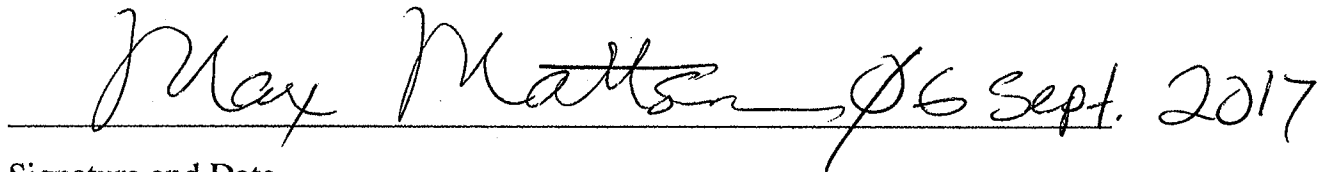
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14

**ORIGINAL**

8. Max Mattson, Nahiku lineal descendent and resident. Address: HC-1 Box 187, Nahiku, 96708.

My father's side of my family have lived in Nahiku for around 150 years. I live within 150 feet of the proposed project. My family owns land on the makai side of the proposed project.

  
Signature and Date

9. James Kahookele III. Nahiku resident and lineal descendent.

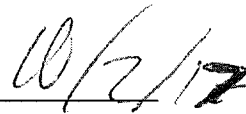


## ORIGINAL

9. James Kahookele III, Nahiku lineal descendent, home address: 1101 Nahiku Road. Home Tax Map Key: 2-1-2-002-016.

I, James Kahookele III, represent the younger generation of lineal descendents of the Kahookele family. As such, I can offer a unique perspective of the proposed project and the impacts it could and would have on the Nahiku environment, my family, the next generation and my home community. My family has been custodians of this property for four generations now. Our property has always been agricultural as the way of our ancestors. We take care of the land for the next generation. That is myself and my future family.

My mother and aunt are also proposed intervenors. If I cannot be present at the proceedings because of my current military service, I will convey my views through my aunt and mother. I feel each of the intervenors has a unique perspective but can work cooperatively together to save time and duplication of testimony in the proceedings. As a group, we are simply asking for an Environmental Assessment process. Hopefully, the County of Maui will agree to that process in mediation. We simply seek comprehensive and accurate information on which to make decisions.



Signature and Date

**ORIGINAL**

10. Teresa Allred. Residing continuously for eleven years at 1451 Lower Nahiku Road.  
Owner of TMK 2-1-2-003-021 and TMK 2-1-2-003-019.

On these properties, I have created an organic tropical fruit farm of over 200 trees.

My position related to the proposed Nahiku community center is that the Environmental Assessment is mandatory for this project. The community and all government factions need to legally and fully understand the hidden constraints, liabilities and disadvantages of this proposed project.

Yours in Aloha,

Teresa Allred

 10-6-17

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Signature and Date

11. Sharon A. Kahookele. Nahiku resident and land owner.

Sharon A. Kahookele, Property owner, resident  
1101 L. Nahiku Road  
TMK 2 1 2 002 016

I, Sharon Kahookele, am the wife of the late James Kahookele Sr, son of David Kahookele, the benefactor of the community donated properties of Lower Nahiku. As a recipient of the notice of public hearing, I am submitting my notice to intervene. I have been a part of the Nahiku community for over 40 years, helping bring back the Nahiku Congregational Church from its dormancy. The church is an integral part of the community; the location itself the hub of Nahiku. This location is adjacent to the proposed subject property and next door to my property.

Over the years we have watched the changes taking place in Nahiku. Not all have been for the good and benefit of the Nahiku community. As I have raised my children and now watch my grandchildren in their ancestral home, it's easy to see these changes. With all the advertisements of "hidden" and "secret" locations, the beauty and tranquility of Nahiku are being eroded. Our one lane road, with no shoulder and steep drop offs, now sees more traffic; cars, people, rubbish, problems; in a day than we used to in a week. This increase has not brought any improvement to the infrastructure. Trees still overhang the road; every time there is heavy rain or winds, trees come down, the road is blocked, power goes out. The properties lining the Nahiku road are majority privately owned so the overhangs are rarely addressed. The water pipes from our small water tank at the top of the road still leak and break regularly. With heavy rains, the road has collapsed and can become impassable; there is a fire hydrant the water department has to check on so often because of rain induced erosion, they even know the neighbors.

The proposed community center will have severe impacts on the community, the environment and our families that have not been thought out or solutions proposed. Lower Nahiku is not an ideal location to allow additional traffic or community facilities; even if you do find someone willing to pay the millions of dollars to upgrade the infrastructure, that still won't change the fact this is a rainforest; when it rains, it pours.

I strongly appose moving forward with any projects in Lower Nahiku without doing an honest Environmental Assessment. As a resident and property owner with unbreakable ties to Nahiku, I strongly ask for the county to follow protocol and do the required assessment. Please do not disregard what the people of Nahiku want and have been asking for.

Sharon A. Kahookele

Sharon A. Kahookele      October 4, 2017  
Signature and date

**Exhibit 1 of "Petition to Intervene"**

ALAN M. ARAKAWA  
Mayor



GLENN T. CORREA  
Director

PATRICK T. MATSUI  
Deputy Director

(808) 270-7230  
FAX (808) 270-7934

**DEPARTMENT OF PARKS & RECREATION**  
700 Hali'a Nako'a Street, Unit 2, Wailuku, Hawaii 96793

**DECLARATION OF EXEMPTION**

From the preparation of an environmental assessment,  
under the authority of Chapter 343, HRS, Chapter 11-200 HAR

Project Name: **NAHIKU COMMUNITY CENTER**  
**TMK: (2) 1-2-002:023**

Job Number: **P11/025**

Project Description: Replacement structure of former Lower Nahiku Grammar School.

Exemption List for the County of Maui

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Exemption Class: 2 Replacement or reconstruction of existing structures and facilities where the new structure will be located generally on the same site and will have substantially the same purpose, capacity, and density, height and dimensions as the structure replaced.

This exemption class includes agency actions intended to meet the agency's goals and objectives by replacement in whole or in part, the following, provided there is little or no increase in capacity.

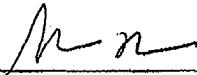
Exempt Item: (6) All Parks and Recreation buildings, structures, athletic fields, athletic courts, botanical gardens, plant nurseries, and skate parks.

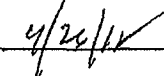
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Date of Agency Exemption List: January 10, 2007

Declaration of Exemption  
Nahiku Community Center  
Page 2

I have considered the potential effects of the above listed project as provided by Chapter 343, HRS and Chapter 11-200 HAR. I declare that this project will probably have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment.

Signature of Director:   
Glenn T. Correa

Date:   
4/26/11

Original: Agency File

Copy: Project File  
Riecke, Sunnland Kono Architects, Ltd.

**Exhibit 2 of "Petition to Intervene"**

**Contact Persons for Community Petitioners**

**Terry Kristiansen P.O. Bo 841, Hana, HI 96713, 808-248-7600**

**<[greentoes@alohaservices.net](mailto:greentoes@alohaservices.net)> Irene Pavao P.O. Box 873, Hana, HI 96713,  
808-248-8584 <[iphana@yahoo.com](mailto:iphana@yahoo.com)> and John Blumer-Buell P.O. Box 787, Hana, HI  
96713, 808-248-8972 <[blubu@hawaii.rr.com](mailto:blubu@hawaii.rr.com)>**

January 25, 2016

Maui County Council Economic Development, Energy, Agriculture and Recreation  
Committee (EAR), Don Guzman, Chair.

200 South High Street, Wailuku, Hawaii 96793

Sent Via Email [ear.committee@mauicounty.us](mailto:ear.committee@mauicounty.us) and U.S. Priority Mail.

Subject: EAR-26 PROPOSED NAHIKU COMMUNITY CENTER.

Aloha Chair Guzman and Committee Members,

We are writing on behalf of the petitioners and concerned community citizens for your help in fully understanding the actual facts, the history and the current status of the proposed community center. Past and recent "stone walling" by Mayor Arakawa and his administration, contradicting information from Council Member Carroll and funding by the State of Hawaii and Maui County Council have been and are potentially counter productive to the best interests of the Nahiku community, the East-Maui community, Maui County taxpayers and taxpayers throughout the State of Hawaii.

In "Remarks" made as part of the attached "Set Aside" document dated June 22, 2007, the State of Hawaii Department of Land and Natural Resources Land Division (DLNR) in Honolulu stated, "Staff has no objections to the County's proposed use because it is for the benefit of the residents of Nahiku". In theory, the stated intent had merit and was worthy of community consideration. However, Mayor Arakawa and his administration

undermined the intent of the “Set Aside” by declaring an “Exemption” from the Chapter 343-Environmental Assessment (EA) process. The “Exemption” has been rebutted in writing and called “fraudulent” by some community members.

The legal intent of DLNR was clearly stated in the referenced BLNR “Set Aside” Document (Exhibit 1), page 2, under “CHAPTER 343-ENVIRONMENTAL

Page 2, January 25, 2016

ASSESSMENT: This action before the Board is merely a transfer of management jurisdiction and does not constitute a use of State lands or funds, and therefore, this action is exempt from the provisions of Chapter 343, HRS, relating to environmental impact statements. In as much as the Chapter 343 environmental requirements apply to Applicant’s use of the lands, the Applicant shall be responsible for compliance with Chapter 343, HRS, as amended”.

Without question, the Proposed Nahiku Community Center (EAR-26) DOES “constitute the use of State land or funds”. In this case, the intent to use both State land and funds is well documented. The use of State land and funds plus the use of County of Maui funds trigger the legally required Environmental Assessment process. If the Chapter 343 requirements are not complied with by the County of Maui, there is the real possibility legal action will be taken to force compliance. The community has continuously asked for legally required due process. The County Council and Mayor took an oath of office to uphold the law.

The proposed center is subject not only to an Environmental Impact Statement (EIS) or Environmental Assessment (EA). Other legal processes the Arakawa Administration has ignored are: 1) A Community Plan Amendment (CPA) See link: Community Plan Amendment Application. 2) A Change in Zoning (CIZ) See link: Change in Zoning Permit. 3) A Special Management Area Permit (SMA) See link: SMA Use Permit . Public participation in these important and legal land use procedures has been, essentially, denied. There has not been legally required “due process” for the community. There has not been meaningful and lawful community input for the proposed community center

now projected to cost nearly two million dollars of taxpayer money. If the CPS, CIZ and SMA requirement are not complied with by the County of Maui, there is the real possibility legal action will be taken to force compliance.

The question moving forward is whether the County of Maui will abandon the proposal altogether as requested by the hundred or so petitioners or move ahead with a new, more expensive plan “approaching two million dollars” (Mayor Arakawa). EAR Committee report No. 15-140 states in part, “The Mayor advised

Page 3, January 25, 2016

your Committee he will request funding for the project in the FY 2017 Budget. He further informed your Committee he is seeking State funding to replace a \$250,000 State grant that lapsed because of the delay in commencement of construction. The Mayor estimated project costs would likely approach \$2 million”.

The Arakawa Administration declaration of an “Exemption” to Chapter 343-Environmental Assessment is clearly NOT THE LEGAL INTENT of the Board of Land and Natural Resources.

The disingenuous and/or illegal “Exemption” is the basic reason the actual Nahiku community and public have been intentionally cut out of an Environmental Assessment-Chapter 343 process that requires full documentation, full disclosure, public participation, question and answer information exchange and consideration of “Alternatives” to the proposal.

In moving toward resolution, we suggest the Economic Development, Energy, Agriculture, and Recreation Committee (EAR) and the Infrastructure and Environmental Management Committee (IEM) publish simultaneous and timely agendas announcing back to back site visits and meetings in Lower Nahiku. This will enable residents to be heard and the committee to conveniently access the Lower Nahiku Bridge (IEM-10 LOWER NAHIKU BRIDGE HEALTH AND SAFETY CONCERNS (NAHIKU) and the proposed community center site. The two issues are closely related. The community will



provide shelter, chairs and refreshments. The nearby Nahiku Congregational Church pavilion is a convenient optional location for meeting if there is heavy weather.

The response to our January 19, 2016, email to Mayor Arakawa (Exhibit 2) was acknowledged only by Executive Assistant Zeke Kalua stating, "To whom it may concern, As this is a matter that is being handled through the Office of the Corporation Counsel of the County of Maui, any and all communications that are received are immediately forwarded to their office. Thank you for your understanding". The community does not understand what has and is going on

Page 4, January 25, 2016

in private, behind closed doors. The decision making process is supposed to be open, transparent, honest and public. Mayor Arakawa states he is for "An Efficient, Effective and Responsive Government". This process has not been "Efficient, Effective or Responsive". Quite the contrary.

Is the community petition going to be acknowledged and acted upon or not? The

petition states, "I SUPPORT REPAIR OR REPLACEMENT OF THE LOWER NAHIKU BRIDGE AND REPAIR OF THE KUHIWA GULCH CULVERT AS THE PRIORITIES FOR THE FY 2017 COUNTY OF MAUI BUDGET FOR LOWER NAHIKU. I DO NOT SUPPORT FUNDING OF THE PROPOSED NAHIKU COMMUNITY CENTER".

The public information and disclosures regarding EAR-26 need to include everything of relevance. That includes, but is not limited to the following:

1) Proof of clear title to subject property: See the Maui News Article dated March 12, 2012 (Exhibit 3). The president of the Nahiku Community Association claims title to the land. She stated in part, "Currently, the state owns the property, although Kaho'okele said it was formerly owned by her family and the land was supposed to be returned to her family after the school closed. She said that she has documents to prove ownership". The land title issue should have already been publicly disclosed and resolved through documentation. The issue would have been cleared up in an Environmental Assessment.

Is this a project to benefit the community or a million dollar gift to private individuals who have legal ownership of the subject property?

If the Kaho'okele family can prove legal ownership, there is no reason to proceed further with the proposed community center. Lineal descendent Raymond Kaho'okele has publicly supported the "proof of ownership" claim.

2) Environmental Assessment: The EA disclosure document should address every concern from citizens including, but not limited to; a. Historic and exceptional trees. b. Dangerous road conditions to the subject site. c. Road survey and assessment of correct road alignment. d. Impacts upon the Nahiku Congregational Church. e. Impacts upon the Lower Nahiku bridge and landing.

Page 5, January 25, 2016

f. Purpose and intent of proposed center. Who is actually going to benefit? How? g. Who would manage the center? The County of Maui? If a private vendor, does the county "three bid rule" apply? h. Yearly costs of management and maintenance. i. Tourist impacts, increased tourist impacts, including sanitation and water issues. j. Health issues. k. Alternatives to the proposal, including a "No Action" alternative. k. Comments from Government Agencies. And, so forth.

3) Comprehensive Financial and Performance Audits: This includes all contracts to date and a timeline of approved funds, contracts and other expenditures. Were contracts approved "unofficially" before funding?

4) Audit of Procurement Officer Performance, including timeline.

5) Documentation of all correspondence including emails sent and received by the Arakawa Administration: All correspondence and email sent and received by the Nahiku Community Association.

6) Structural, Financial and Performance Audits of the Nahiku Community Association.

- 7) Audit of the Arakawa Administration declared “Exemption” to the Environmental Assessment-Chapter 343 Process: The “Exemption” is a misrepresentation of the facts and should be declared as not credible and discarded in any future considerations. Disclosure of the public record including the county and police investigation reports, conclusions and actions regarding former Parks and Recreation Director Glenn T. Correa. It is our understanding former Director Correa was suspended and/or fired by the County of Maui and was under investigation by the police. Was the “Exemption” declared while he was under suspicion or suspended? Was he convicted of any crime?
- 8) Investigation of possible conflicts of interest, ethics violations and nepotism: Ethics complaints were filed against Maui County Mayor Arakawa, Maui County Planning Director Spence, former County of Maui Parks and Recreation Director Glenn T. Correa and County of Maui Zoning Administrator

Page 6, January 25, 2016

and Enforcement Director John Rapacz. The complaints were put on hold when it was disclosed by Maui Corporation Council the existing contract for the proposed Nahiku community center expired and was no longer in effect. Subsequent to the expiration, a complaint was filed in court by the county. That case is the County of Maui v. Maui Kupono Builders LLC, et al., Civil 15-1-0421(1).

We thank you for your careful consideration of these serious matters and questions. The proposed project would certainly have short and long-term impacts affecting Nahiku and its residents.

We look forward to your responses to the enclosed information and suggested meeting in Lower Nahiku. We welcome requests for information. Please email all three of us. Or, call one of us. We will forward your communications to the community and concerned citizens for their information, responses and suggestions.

Sincerely yours,

Terry Kristiansen, Irene Pavao and John Blumer-Buell.

Contact Persons for Community Petitioners and concerned citizens.

\* Please note: Exhibits 1, 2 and 3 are enclosed in the following pages.

STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
Land Division  
Honolulu, Hawaii 96813

June 22, 2007

Board of Land and Natural Resources  
State of Hawaii  
Honolulu, Hawaii

PSF No. 07MA-016

Maui

Set Aside to County of Maui for Community Center Purposes,  
Nahiku Homesteads, Nahiku, Koolau, Tax Map Key: (2) 1-2-  
002:023.

APPLICANT:

County of Maui, Department of Parks and Recreation

LEGAL REFERENCE:

Section 171-11, Hawaii Revised Statutes (HRS), as amended.

LOCATION:

Portion of Government lands situated at Nahiku Homesteads,  
Nahiku, Koolau, Maui, identified by Tax Map Key: (2) 1-2-002:023,  
as shown on the attached map labeled Exhibit A.

AREA:

1.090 acres, more or less.

ZONING:

State Land Use District: Agriculture  
County of Maui CZO: Interim Agriculture

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act

DHHL 104 entitlement lands pursuant to the Hawaii State  
Constitution: YES \_\_\_\_\_ NO X

CURRENT USE STATUS:

The subject parcel is currently unencumbered. The parcel was  
formerly leased to Mr. James Sagawinit for recreational and  
community use, landscaping and maintenance purposes under Revocable  
Permit number S-6161 that was issued on January 1, 1985. On April

D-6

20, 2007 Revocable Permit S-6161 was cancelled.

PURPOSE:

Community Center purposes.

CHAPTER 343 ENVIRONMENTAL ASSESSMENT:

This action before the Board is merely a transfer of management jurisdiction and does not constitute a use of State lands or funds, and therefore, this action is exempt from the provisions of Chapter 343, HRS, relating to environmental impact statements. In as much as the Chapter 343 environmental requirements apply to Applicant's use of the lands, the Applicant shall be responsible for compliance with Chapter 343, HRS, as amended.

APPLICANT REQUIREMENTS:

Applicant shall be required to:

- 1) Provide survey maps and descriptions according to State DAGS standards and at Applicant's own cost.

BACKGROUND:

This parcel is known as the former Nahiku School Lot and was encumbered by Mr. Donald A. Wallace from December 1, 1972 to October 31, 1994 under Revocable Permit No. S-4894. Upon Mr. Wallace's request the permit was cancelled.

The parcel was then encumbered by Mr. James Sagawinit under Revocable Permit No. S-6161 on January 1, 1995, for recreational and community use. On December 13, 2005 the old Nahiku School building located on the parcel burned down, possibly due to arson. To date, there is no record that anyone has been arrested or charged with regards to the arson investigation.

On January 3, 2007, the Department of Land & Natural Resources received a letter from former Mayor Alan Arakawa requesting the old Nahiku School property be transferred to the County of Maui via an executive order. The letter further indicated that the County would then develop the old Nahiku School property and provide a venue for cultural, social and community events for the Nahiku community.

The Nahiku Community Association has requested a right-of-entry permit to do clean-up work on the subject parcel. At the time of the request Mr. Sagawinit denied the requestors access to enter the property. Currently clean-up responsibilities for the parcel is that of Mr. James Sagawinit. Land Division has no objections to allowing the County of Maui to accept the parcel in its current tax delinquent condition. Revocable Permit No. S-6161 to Mr. James Sagawinit was cancelled on April 20, 2007.

REMARKS:

Staff has no objections to the County's proposed use because it is for the benefit of the residents of Nahiku.

Agency or community comments were solicited from the County of Maui, Department of Planning and the Office of Hawaiian Affairs.

RECOMMENDATION:

That the Board, subject to Applicant fulfilling the Applicant Requirements above:

1. Approve of and recommend to the Governor the issuance of an executive order setting aside the subject lands to the County of Maui under the terms and conditions cited above, which are by this reference incorporated herein and subject further to the following:
  - A. The standard terms and conditions of the most current executive order form, as may be amended from time to time;
  - B. Disapproval by the Legislature by two-thirds vote of either the House of Representatives or the Senate or by a majority vote by both in any regular or special session next following the date of the setting aside;
  - C. Review and approval by the Department of the Attorney General; and
  - D. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,

*Cheryl E. London*

for Larry Pacheco  
Land Agent

APPROVED FOR SUBMITTAL:

*Allan A. Smith*  
Allan A. Smith, Interim Chairperson

EXHIBIT "A"

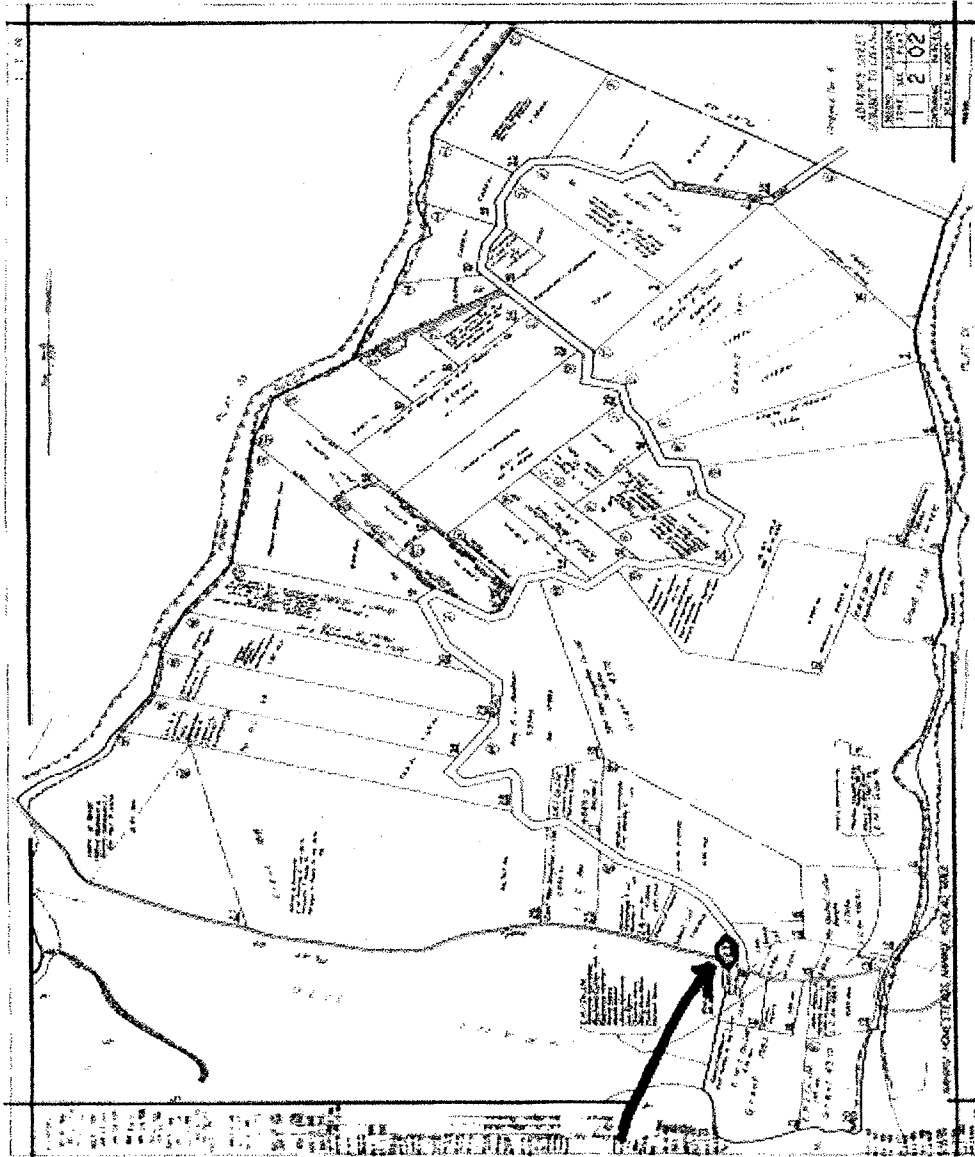




Exhibit 2

Contact Persons for Community Petitioners

**Terry Kristiansen** P.O. Bo 841, Hana, HI 96713, 808-248-7600

[<greentoes@alohaservices.net>](mailto:greentoes@alohaservices.net) **Irene Pavao** P.O. Box 873, Hana, HI 96713,  
808-248-8584 [<iphana@yahoo.com>](mailto:iphana@yahoo.com) and **John Blumer-Buell** P.O. Box 787, Hana, HI  
96713, 808-248-8972 [<blubu@hawaii.rr.com>](mailto:blubu@hawaii.rr.com)

January 19, 2016

Maui Mayor Alan Arakawa

200 South High Street, Wailuku, Hawaii 96713

Sent Via Email to [Mayors.office@mauicounty.gov](mailto:Mayors.office@mauicounty.gov) and U.S. Certified Mail.

Cc: Sen. J. Kalani English [<kalani@kalanienglish.com>](mailto:kalani@kalanienglish.com), [repdecoite@Capitol.hawaii.gov](mailto:repdecoite@Capitol.hawaii.gov),  
Maui\_County\_Council\_mailbox [<county.council@mauicounty.us>](mailto:county.council@mauicounty.us), Robert Carroll  
[<robert.carroll@mauicounty.us>](mailto:robert.carroll@mauicounty.us), [ear.committee@mauicounty.us](mailto:ear.committee@mauicounty.us), IEM Committee  
[<iem.committee@mauicounty.us>](mailto:iem.committee@mauicounty.us), [corpoun@mauicounty.gov](mailto:corpoun@mauicounty.gov), Sandy Baz  
[<Sandy.Baz@co.maui.hi.us>](mailto:Sandy.Baz@co.maui.hi.us), [communications@mauicounty.gov](mailto:communications@mauicounty.gov),  
[Zeke.Kalua@co.maui.hi.us](mailto:Zeke.Kalua@co.maui.hi.us), [parks.dept@mauicounty.gov](mailto:parks.dept@mauicounty.gov), [mice.kahula@co.maui.hi.us](mailto:mice.kahula@co.maui.hi.us)

Mayor Arakawa,

We write to bring your attention to our January 11, 2016, letter (attached). Your failure to respond to the letter and requests from the Community Petitioners is disappointing and offensive. The subject of our letter is; "Request to Remove Sign. Request to Stop Further Funding for the Proposed Community Center". Sadly, no courtesy call and acknowledgement from your administration.

Please acknowledge our letters, remove the sign and stop further funding of the proposed Nahiku Community Center.

Sincerely yours,

*Terry Kristiansen, Irene Pavao and John Blumer-Buell.* Contact Persons for Community Petitioners.

*Contact Persons for Community Petitioners*

*Terry Kristiansen* P.O. Bo 841, Hana, HI 96713, 808-248-7600

<[greentoes@alohaservices.net](mailto:greentoes@alohaservices.net)> *Irene Pavao* P.O. Box 873, Hana, HI 96713, 808-248-8584 <[iphana@yahoo.com](mailto:iphana@yahoo.com)> and *John Blumer-Buell* P.O. Box 787, Hana, HI 96713, 808-248-8972 <[blubu@hawaii.rr.com](mailto:blubu@hawaii.rr.com)>

January 11, 2016

Subject: **REQUEST TO REMOVE SIGN. REQUEST TO STOP FURTHER FUNDING FOR THE PROPOSED NAHIKU COMMUNITY CENTER.**

Aloha Mayor Arakawa,

Members of the Nahiku Community and other concerned community citizens recently submitted an eighteen page letter, testimony and petitions dated November 12, 2015, to you regarding your 2016-2017 Fiscal Year Budget. Budget Director Baz acknowledged the timely submission.

The petition read; **“I SUPPORT REPAIR OR REPLACEMENT OF THE LOWER NAHIKU BRIDGE AND REPAIR OF THE KUHIWA GULCH CULVERT AS THE PRIORITIES FOR THE FY 2017 COUNTY OF MAUI BUDGET FOR LOWER NAHIKU. I DO NOT SUPPORT FUNDING OF THE PROPOSED NAHIKU COMMUNITY CENTER”.**

On behalf of the petitioners, Irene Pavao and Terry Kristiansen asked Council Member Robert Carroll for his response to the petition and community concerns. Council Member Carroll responded with the following email;

“From: Robert Carroll <[Robert.Carroll@mauicounty.us](mailto:Robert.Carroll@mauicounty.us)> Subject: RE: Re: Clarification of Recorded Phone Message Regarding Community Petition To: "Irene Pavao"

<iphana@yahoo.com>

Date: Friday, December 18, 2015, 5:51 PM”

“Afternoon Irene, just to review what we had discussed yesterday. The Lower Nahiku Bridge is on hold at this time because the county would need to acquire the

Page 2, January 11, 2016

surrounding property in order to build the bridge to modern standards. As for the proposed Nahiku Community Center, the funding appropriated by the state and county has lapsed meaning, because the center wasn't built in a specified time, the sums go back to the state and county. If the community wants to renew funding for the center, public meetings will be held in Hana, with at least two weeks' notice given so that the public (Nahiku residents ) will be able to plan their schedules and attend. I will be waiting to receive more information on the Kuhiwa Gulch Culvert, so that the county can assess what needs to be done. Much mahalo for participation regarding these important issues and have a Blessed Christmas and Joyous New Year!”

The petitioners understand the clear and unambiguous sentence from Council Member Carroll stating, **“If the community wants to renew funding for the center, public meetings will be held in Hana, with at least two weeks' notice given so that the public (Nahiku residents ) will be able to plan their schedules and attend”**. The proposed center was represented by Council Member Carroll to be unfunded and going to be the subject of more than one public hearing in Hana **“If the community wants to renew funding.....”**.

Please consider the community does NOT want to renew funding for the proposed center. The first priority for the community is the repair or replacement of the Lower Nahiku Bridge followed by repair of the Kuhiwa Gulch Culvert.

**The email from Council Member Carroll made it clear the proposed project is no longer contractually committed.** It is important to note, the petitioners already understood the previous building contract with Maui Kuponu Builders expired and the

County of Maui is suing Maui Kupono Builders in the Second Circuit Court, Civil No. 15-1-0421(1).

Unfortunately, **on January 8, 2015, the County of Maui Department of Parks and Recreation erected a sign at the site of the proposed Nahiku Community Center. See photo on page 4. The message of the sign clearly contradicts**

Page 3, January 11, 2016

**Council Member Carroll's statement. The sign gives the message the proposed center is already a "done deal". Understandably, the petitioners and community are insulted and upset.**

**In the interests of Peace and Aloha we request you and your administration remove the offensive sign.** The unnecessary aggravation of the Nahiku community has gone on for too long.

The petitioners and community have been requesting legal "due process" from you, your administration and the Maui County Council for years. Community concerns have NOT been addressed through legal due process.

On January 7, 2016, State Senator J. Kalani English was quoted in the Maui News in an article titled "DOT: Hana Pier won't be fixed, it will be removed". The article is regarding the proposed Hana Wharf replacement project. He said, "We put forward our best effort to provide the Hana community with a new and useful pier. Options were presented to residents and after a review of the feedback, this is the overwhelming response from the community, so we will abide by their choice."

We ask you to take a similar point of view regarding the proposed community center.

On behalf of the petitioners and concerned community members, we request you abide by the requests stated in the recent petition regarding the proposed community center, the Lower Nahiku Bridge and the Kuhiwa Gulch Culvert.

We look forward to your earliest possible reply and working together to repair or replace the Lower Nahiku Bridge and repair the Kuhiwa Gulch culvert.

Sincerely yours,

*Terry Kristiansen, Irene Pavao and John Blumer-Buell.* Contact Persons for Community Petitioners.

Page 4, January 11, 2016

Photo taken in Lower Nahiku, January 8, 2016.

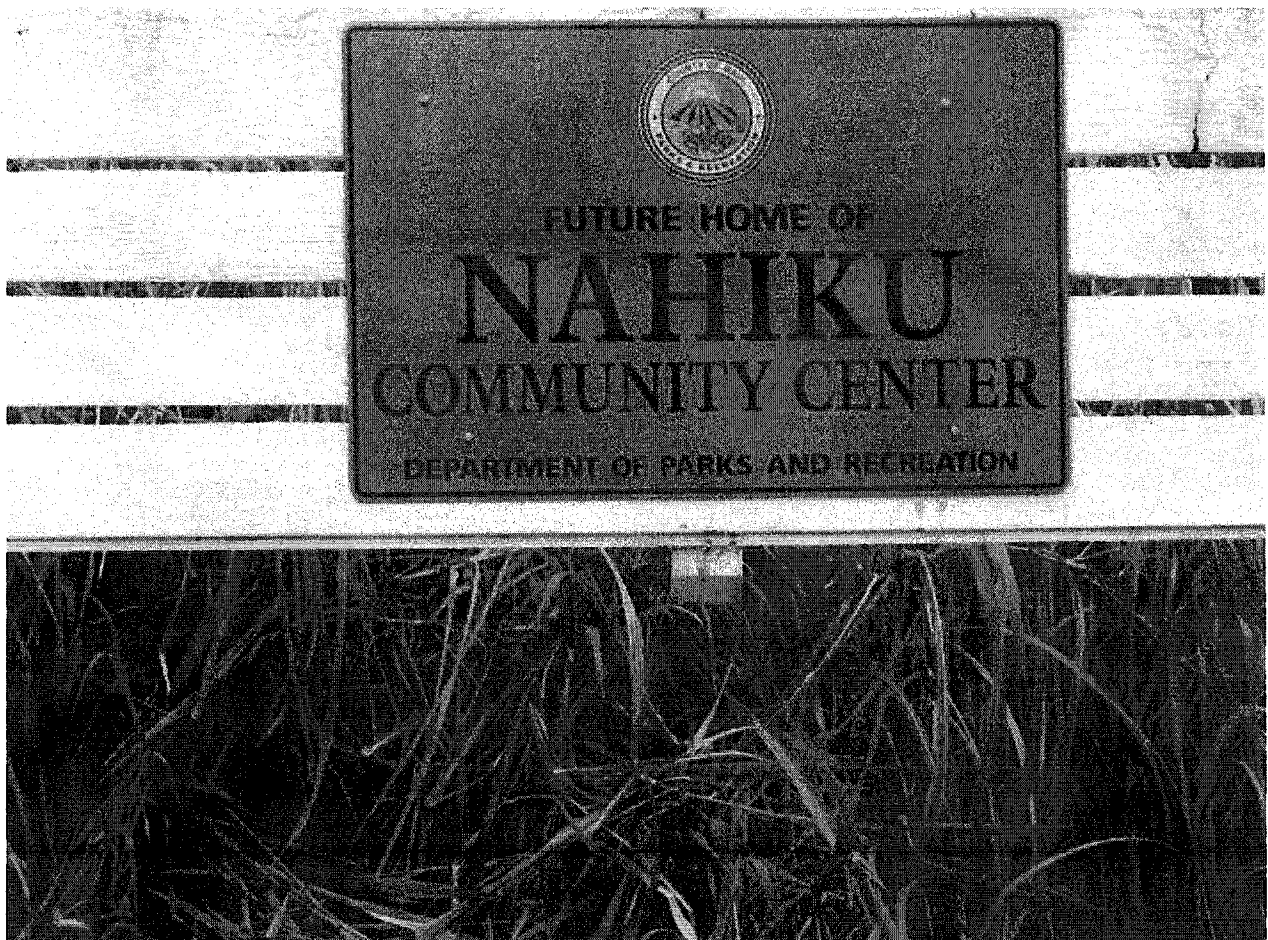


Exhibit 3

Nahiku community center moves closer to reality

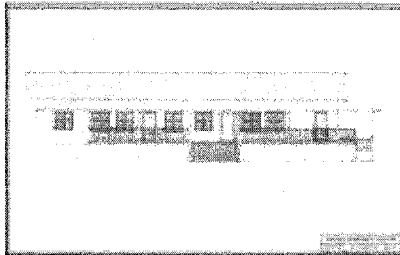
**March 12, 2012**

By MELISSA TANJI - Staff Writer ([mtanji@mauinews.com](mailto:mtanji@mauinews.com)) , The Maui News Save I

The Nahiku community is seeing its long-awaited community center come to fruition as the county and the state move ahead to fund the estimated \$815,000 center that will be built on the grounds of the former Lower Nahiku Grammar School.

Those involved in getting the center built say it could be used for private receptions, public gatherings, as well as a shelter in times of emergencies and as a place for first responders, such as police, fire and paramedics, to stop in to write up their reports.

Nahiku Community Association board President Kumu Kamalu Kaho'okele, the lead organizer for the community center, said that she had a "vision" to see the area formerly occupied by the Lower Nahiku Grammar School she once attended not be privatized.



**Article Photos**

This is a preliminary drawing of what the Nahiku comm... BILL SIDES drawing

She said the school, a victim of arson, was destroyed in the early 2000s. The school had closed in the late 1950s, Kaho'okele said.

"The proper thing is we put something back; replace what was lost unfortunately through foolishness. Just put something back that would be a legacy for Nahiku, a legacy that came with a dream, a dream that came through a vision," she said.

On Friday, the County Council is scheduled to vote on second and final reading on a bill to amend the 2012 fiscal county budget and allow \$250,000 for the project to be carried

over from last year's budget. The \$250,000 is earmarked for the planning, design and construction of the community center, organizers said.

Both the county and the state have indicated that they would each release \$250,000 for the center as long as the other does.

The \$315,000 balance for the project will be in Mayor Alan Arakawa's 2013 fiscal budget, county officials confirmed.

Kaho'okele said plans for the community center will move forward as soon as the initial funds are approved.

The community center will be along Lower Nahiku Road and near the Nahiku Hawaiian Protestant Church, she said.

The building will be a replica of the old Nahiku School but will include modifications, such as a certified kitchen.

Kaho'okele estimates that the building will have a capacity of around 150 people and can serve as a shelter in emergencies when there are landslides along the East Maui roadways or rockfalls and accidents that temporarily strand people in the area.

She added that nearby community facilities in Keanae and Hana fill up quickly and are heavily used. Those living in neighboring communities will be welcome to use the Nahiku community center as well.

Bill Medeiros, executive assistant to Arakawa, said that although plans are not finalized yet, the county probably will have jurisdiction over the center, with it being managed by the Nahiku Community Association.

Currently, the state owns the property, although Kaho'okele said it was formerly owned by her family and the land was supposed to be returned to her family after the school closed. She said that she has documents to prove ownership.

Kaho'okele thanked Medeiros and state Rep. Mele Carroll, who represents the area, for their help as well as the Arakawa administration, East Maui Council Member Bob Carroll and other current council members.

Mele Carroll has worked on the Nahiku community center project for several years, even when she spent time in county government before moving on to become a legislator, where she helped secure funds from the state.

"I'm hopeful that the governor will release these funds . . . This community center is not just your normal community center. It's a center we know that our elders will have a place to gather and share genealogy, our practices and the history of that place, which is dear to all of our hearts," Mele Carroll said.

\* Melissa Tanji can be reached at [mtanji@mauinews.com](mailto:mtanji@mauinews.com). © Copyright 2012 The Maui News. All rights reserved.

**Exhibit 3 of "Petition to Intervene"**



ALAN M. ARAKAWA  
Mayor

WILLIAM R. SPENCE  
Director

MICHELE CHOUTEAU McLEAN  
Deputy Director



COUNTY OF MAUI  
**DEPARTMENT OF PLANNING**

May 23, 2012

Mr. Glenn T. Correa, Director  
County of Maui  
Department of Parks and Recreation  
700 Halia Nakoa, Unit 2  
Wailuku, Hawaii 96793

Dear Mr Correa:

**SUBJECT: SPECIAL MANAGEMENT AREA (SMA) MINOR PERMIT APPROVAL**

**Project Name:** NAHIKU COMMUNITY CENTER  
**Project Description:** Replacement structure at Nahiku Grammer School, 0 Nahiku Road, Hana, Hawaii 96713  
**Tax Map Key:** (2) 1-2-002:023  
**I.D. NOS.:** (SMX 2012/0228) (SM2 2012/0069)

In response to your application received on May 14, 2012, and in accordance with the SMA Rules for the Maui Planning Commission, Sections 12-202-12 and 12-202-14, a determination has been made relative to the above project that:

1. The project is a development;
2. The project has a valuation not in excess of \$500,000.00; (Valuation: \$450,000.00)
3. The project has no significant adverse environmental or ecological effect, taking into account potential cumulative effects; and
4. The project is consistent with the objectives, policies, and SMA guidelines set forth in the Hawaii Revised Statutes (HRS), Chapter 205-A, and is consistent with the County General Plan and Zoning.

**In consideration of the above determination, you are hereby granted a SMA Minor Permit Approval (SM2 2012/0069), subject to the following conditions:**

1. That construction shall be in accordance with the description and plans submitted on May 14, 2012, and representations made to the Department of Planning (Department).

250 SOUTH HIGH STREET, WAILUKU, MAUI, HAWAII 96793  
MAIN LINE (808) 270-7735; FACSIMILE (808) 270-7634  
CURRENT DIVISION (808) 270-8205; LONG RANGE DIVISION (808) 270-7214; ZONING DIVISION (808) 270-7253

2. That Best Management Practices (BMPs) be used in the implementation of the proposed work. Appropriate measures to minimize dirt and water runoff, noise, and dust must be used.
3. That all work shall immediately cease and the Department of Land and Natural Resources-State Historic Preservation Division (DLNR-SHPD) office on Maui be contacted at (808) 243-5169 should any historical or archaeological artifacts be discovered during ground-altering activities.
4. That construction of the improvements shall be initiated by **May 31, 2014**, and shall be completed within two (2) years of said initiation.
5. That full compliance with all other applicable governmental requirements shall be rendered.

Thank you for your cooperation. If additional clarification is required, please contact Staff Planner Paul Fasi at [paul.fasi@mauicounty.gov](mailto:paul.fasi@mauicounty.gov) or at (808) 270-7814.

Sincerely,



CLAYTON I. OSHIDA, AICP  
Planning Program Administrator

for WILLIAM SPENCE  
Planning Director

xc: Aaron H. Shinmoto, PE, Planning Program Administrator (PDF)  
Paul F. Fasi Staff Planner (PDF)  
Development Services Administration  
CZM File (SMX/SM2)  
2012/SM2 Minor Permit File  
General File

WRS:CIY.PFF:rm

K:\WP\_DOCS\PLANNING\SM2\2012\0069\_NahikuCommunityCtr\SM2.doc

**Exhibit 4 of "Petition to Intervene"**

Contact Persons for "Community Petitioners" and "Concerned Citizens"

Terry Kristiansen, P.O. Box 841, Hana, HI 96713, 808-248-7600

<[greentoes@alohaservices.net](mailto:greentoes@alohaservices.net)> Irene Pavao, P.O. Box 873, Hana, HI 96713,  
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September 13, 2017

Kaala Buenconsejo, Director of Maui County Department of Parks and Recreation 700

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Sent Via Email and U.S. Certified Mail with Return Receipt

Cc: Maui County Planning Director Will Spence, Deputy Director Michele McLean and  
Planner Paul Fasi.

Subject: **URGENT AND TIMELY REQUEST FOR AN ENVIRONMENTAL  
ASSESSMENT (EA) FOR THE PROPOSED NAHIKU COMMUNITY CENTER.**

Aloha Director Buenconsejo,

County of Maui Deputy Planning Director Michele McLean recently sent us the following attached email regarding the subject request for an Environmental Assessment (Exhibit 1). She stated in part, "*When a project is exempt, then we defer to the agency that is authorized to issue the exemption. The Parks and Recreation Department could "reconsider and abandon" the prior Director's EA exemption if they felt that was*

*warranted, not the Planning Department*". We appreciated receiving her timely response and clearly stated position.

It is now clear that Maui County Deputy Planning Director McLean, County Planner Fasi and, assumedly, the County Planning Department recognize the 2012 "Declaration of Exemption" by former County Parks and Recreation Director Glenn T. Correa as valid and still in effect. We emphatically do not agree with their "interpretation" and will seek legal remedies if the Maui County Parks and Recreation Department and the Maui County Planning Department deny us our legal right to an Environmental Assessment (EA) as required by law.

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Regardless of the disagreement, we formally seek a peaceful and constructive remedy. We request you and the County of Maui Parks and Recreation Department to "reconsider and abandon" the prior Director's "Declaration of Exemption" for an Environmental Assessment based upon the following documented facts and information. We welcome any questions you may have.

Based upon the facts, we sincerely believe the "reconsider and abandon" action is completely warranted, follows the law and intent of Hawaii Revised Statute Chapter 343, follows the intent of State of Hawaii Land Board and follows the wishes of many in the actual community. The community wants a completely informed, transparent, and just process. Importantly, our request is also moral and pono.

The 2012 "Exemption" declared by former County Parks and Recreation Glenn T. Correa is for a **completely different proposal** as demonstrated by the 2012 County of Maui stated SMA Permit valuation of \$450,000 (four hundred and fifty thousand dollars) (Exhibit 2).

Since 2012, the actual amounts of budgeted taxpayer funds escalated to nearly two million dollars. The County of Maui is currently suing the previously contracted builder, now in default, in court. The previous 2012 SMA Permit is expired and is subject to the

**completely new process** recently introduced before the Maui Planning Commission on August 8, 2017.

At their August 8 meeting, the Maui Planning Commission authorized a public hearing regarding the Agenda items related to the proposed Nahiku Community Center development. The public hearing will be conducted before the Hana Advisory Committee to the Maui Planning Commission in Hana. Therefore, we need a timely response from you....well before the upcoming meeting in Hana.

**Additional Information and Exhibits to Carefully and Comprehensively Consider;**

**1. The new proposal for a Nahiku Community Center was brought to the Maui Planning Commission as an Agenda item on August 8, 2017 (Exhibit 3).**

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2. Included for your information is a 17 (seventeen) page letter and Exhibits dated January 25, 2016 to Maui County Council Economic Development, Energy, Agriculture and Recreation Committee (EAR), Don Guzman, Chair (Exhibit 4).

This important letter demonstrates the efforts by the community to get legal and informed due process. This letter and Exhibits explain a comprehensive range of issues that must be addressed in an Environmental Assessment process. Please read carefully and comprehensively.

3. The **old/previous proposal** “process” did **NOT** include a Community Plan Amendment process, a State Land Use Boundary Amendment process or a Change of Zoning process as required by law. Those legal requirements were recently recognized by the Maui Planning Department and included as part of the August 8, 2017 Planning Commission meeting.

However, the Maui Planning Department has failed to acknowledged the 2012 “Declaration of Exemption” is NOT valid or legal in the new process introduced to the Planning Commission on August 8, 2017. In fact, former Director Correa’s “Declaration of Exemption” was completely misinformed or fraudulent. Please read the objections

raised in 2012 (Exhibits 5 and 6). The issues raised in Exhibits 5 and 6 are still relevant and will need to be addressed in an Environmental Assessment. In fact, conditions in Lower Nahiku have changed drastically since 2012. The new and relevant conditions, including the closure of the historic wooden bridge over Makapipi Stream, the related closure of the historic road access to the Nahiku Landing and the related health and safety issues, must be addressed in an Environmental Assessment.

In seeking community feedback for this letter in draft form we received some interesting feedback we think you should hear.....

\* "ACCEPT NONE OF THE ABOVE!!!!

NOBODY WANTS THESE STUPID CHANGES DOWN HERE IN OUR SPECIAL LITTLE COMMUNITY. WHAT A DISGRACEFUL WASTE OF PUBLIC FUNDS AND ENERGY TO SERVE THE SELFISH IDEAS OF ONE TINY GROUP WHO DO NOT REPRESENT THE DESIRES OR NEEDS OF THIS AREA. AS IN THE MOVIES, "STUPID IS AS STUPID DOES'. PLEASE,JUST DROP THE WHOLE IDEA OF RUINING THIS PLACE.

WHO WOULD?? AND WHY!!".....longtime Nahiku landowner and resident.

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\* "I support a Community Center, but not in the proposed location. The proposed center is in the wrong location and subject to flooding. The center should be mauka of the Hana Highway where it will not become isolated in civil defense emergencies.".....Nahiku landowner and part time resident..

\* "There needs to be a survey of the one lane road to Lower Nahiku. It is unsafe. The county needs to establish and prove they have legal access that does not trespass on private property. Why would or how could the county try to rezone an Agricultural zoned property to Public/Quasi Public if there is no legal public access on the road?".....Nahiku landowner and resident.

\* “There are questions regarding the legality of the so called “county road” starting at the Hana Highway. There are also legal questions regarding the historic access from the historic Nahiku landing to Ulaino.”.....Nahiku land owner, resident and lineal descendant.

These concerns should be addresses in an Environmental Assessment.

For your information, there have been two petitions from the “Petitioners and Concerned Citizens” to date. The number of signatures is approximately 80+ per petition. There are numerous viewpoints regarding the proposed community center and many questions that would be routinely answered as part of the EA process.

In closing, the community has been requesting a legal, fair, just, and transparent process since 2012. The new process demonstrates the community requests **may** be possible after years of being ignored. **However, without an Environmental Assessment (EA) process, a legal, fair, just, and transparent process is NOT possible.** The EA process will allow everyone to fully participate, to be fully heard and be fully responded to in writing before any official decision making meetings.

Therefore, our request to you and the County Parks and Recreation Department to formally "reconsider and abandon" the former director's 2012 “Declaration of Exemption”. Please endorse and support the Environmental Assessment (EA) process for the proposed Nahiku Community Center development.

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We look forward to your timely and positive response. Please confirm receipt of this email upon receipt.

We are willing to meet with you in Nahiku to answer any questions you may have and make a site visit from the Hana Highway to the Nahiku Landing, including the proposed building site.

We look forward to working cooperatively with you and the County of Maui to address the important issues concerning the Nahiku Community.

One of most important statements in the 1994 Hana Community Plan ordinance (page 14, #13) addresses the type of conflict we are addressing in our letter and request. The statement is born from *ALOHA*. The statement, endorsed by the East- Maui Community, the Maui County Council and the Mayor simply states,

***“Encourage community-based dialogue regarding proposed land use changes in order to avoid unwarranted conflict”.***

That is exactly what we are trying to accomplish through our request for an Environmental Assessment (EA) process.

**Malama pono,**

Moke Bergau, Nahiku resident and lineal descendent.

Ellen Kahookele, Nahiku resident and lineal descendent.

Max Mattson, Nahiku resident and lineal descendent.

Irene Pavao, Nahiku lineal descendent and Hana District resident. Terry Kristiansen, Nahiku resident.

John Blumer-Buell, Hana District resident and concerned citizen.

**on behalf of the “Petitioners” and “Concerned Citizens” .**