



LATE TESTIMONY

ALBERT "ALAPAKI" NAHALE-A
CHAIRMAN
HAWAIIAN HOMES COMMISSION

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DEPUTY TO THE CHAIRMAN

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EXECUTIVE ASSISTANT

STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS

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ALAPAKI NAHALE-A, CHAIRMAN
HAWAIIAN HOMES COMMISSION
PROVIDING COMMENTS BEFORE THE HOUSE COMMITTEES ON
WATER, LAND & OCEAN RESOURCES AND HAWAIIAN AFFAIRS ON

HB 2398, RELATING TO LAND USE

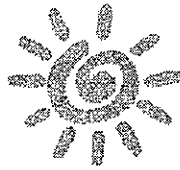
February 6, 2012

Aloha Chair Chang, Chair Hanohano, and Members of the Committees:

The Department of Hawaiian Home Lands (DHHL) provides the following comments on HB 2398 that proposes the establishment of the Honokohau Marina Development District.

DHHL's inventory includes 200 acres at Honokohau that are designated under project district zoning. We have completed an extensive environmental impact statement for our 200 acres, as well as the potential expansion of the marina to accommodate more slips. As one of the major landowners of property at Honokohau, DHHL strongly believes it, along with other landowners like the Department of Land and Natural Resources (DLNR), should be a consulted party listed on page 3, line 17. The success of a harbor and marina facility is contingent upon the close coordination between the to-be-established authority and DHHL and DLNR for the use of those parcels respectively owned by these two departments.

Mahalo for the opportunity to provide comments on this measure.



LIFE OF THE LAND

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COMMITTEE ON WATER, LAND, & OCEAN RESOURCES

Rep. Jerry Chang, Chair

Rep. Sharon Har, Vice Chair

COMMITTEE ON HAWAIIAN AFFAIRS

Rep. Faye Hanohano, Chair

Rep. Chris Lee, Vice Chair

Monday, February 6, 2012

9:15. A.m.

Room 325

STRONG OPPOSITION to HB 2398 – Honokohau Marina Development District

Aloha Chairs Chang and Hanohano, Vice Chairs Har and Lee and Members of the Committees!

My name is Kat Brady and I am the Assistant Executive Director of Life of the Land, Hawai'i's own energy, environmental and community action group advocating for the people and 'aina for over four decades. Our mission is to preserve and protect the life of the land through sound energy and land use policies and to promote open government through research, education, advocacy and, when necessary, litigation.

HB 2398 establishes the Honokohau marina development district on the island of Hawai'i.

Life of the Land is in STRONG OPPOSITION to this measure. One of the basic tenets of our work is a deep and abiding respect for the culture and the people of this land. We have been shoulder to shoulder with the Hawaiians in struggles to protect sacred sites for decades. How can anything be pono if there is no informed consent of the people?

We remember working to restore the fishtrap at Honokohau in 1995. This was before the Pai 'Ohana were evicted from their ancestral lands so this precious place could be designated and 'preserved' as a National Park. The hewa caused by DLNR and law enforcement who came to arrest the family and their supporters was another dark day for the Hawaiian people. The 'ohana gave life to that 'aina as they continued the practices of their ancestors.

In our humble opinion, what outsiders don't seem to understand is that the Hawaiian culture is alive and being practiced every day; it is not something to be 'preserved' in a plaque.

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The harbor abuts the designated Kaloko-Honokohau National Historical Park, which is described as a place *"to provide a center for the preservation, interpretation, and perpetuation of traditional native Hawaiian activities and culture, and to demonstrate historic land use patterns as well as to provide a needed resource to the education, enjoyment, and appreciation of such traditional native Hawaiian activities and culture by local residents and visitors."*

How ironic is that? The very people with ancestral claims to this sacred place who were preserving and perpetuating their culture daily were evicted from their land in order to 'preserve' it for the education and appreciation of local residents and visitors? Something is very wrong here.

This area is the site of ancient settlement known as Honokohau Settlement. It has been on the Register of National Historic Sites since the 1960s.

There are four National Parks, three in west Hawai'i, and this is the only one to include the shore marine environment and resources. This was obviously with the plan for the creation of the harbor, further commercial development of a "world class full service marina".

This land grab by the federal government did not consider or care about

- the impact on the Pai 'Ohana,
- the impact on the Hawaiian people and those of us who love and respect Hawai'i and the impact rich culture that envelops us, and
- the impact on the terrestrial and marine environments

How could a "preservation plan" not consider how it would negatively impact the cultural landscape and resources of the area? This is mind-boggling to us.

Pollution from marina development will degrade the marine environment, the resources such as the marine animals and the coral reef ecosystem, etc. which are within boundaries of the Kaloko-Honokohau National Historic Park.

Further development will degrade ground water and surface water quality and, more importantly will further disrespect the Hawaiian people and their rich culture that they have so kindly shared with the world for centuries.

Life of the Land respectfully asks the committees to hold this bill. You have the opportunity to do the right thing by stopping this bad plan now.

Mahalo for this opportunity to testify.

KUAKINI HAWAIIAN CIVIC CLUB OF KONA
Testimony of President Shane Akoni Palacat-Nelsen
82-6026 Manini Beach Road, Captain Cook, HI 96704

HOUSE BILL 2398 RELATING TO LAND USE

Before the House
COMMITTEE ON WATER, LAND, & OCEAN RESOURCES
Monday February 6, 2012 9:15 a.m. Room 325

Aloha Madame Chair Hanohano of the House Committee on Hawaiian Affairs, and Chairman Chang of the House Committee of Water, Land, & Ocean Resources, and committee members of their respective committees on Hawaiian Affairs and Water, Land, & Ocean Resources. Thank you for the opportunity for me to provide testimony, and due to the unique geographics of the State of Hawaii, I regret I am unable to attend this hearing in person. I am Shane Nelsen a life-long resident in Kona, and President of Kuakini Hawaiian Civic Club of Kona, and here to testify in **OPPOSITION TO HB 2398 RELATING TO LAND USE.**

The Kuakini Hawaiian Civic Club of Kona is a chartered club of the Association of Hawaiian Civic Clubs, serving the community since 2003. We are committed to uphold the long-held legacy, traditions, and philosophies of the Native Hawaiians. We are firm advocates in the community and are concerned about the welfare of the Native Hawaiian community.

The impact of HB 2398 is far more greater than it is presented. This bill opens up development in an area that the Kona Community is unsettled at the County level.

HB 2398 does NOT recognize the already established communication between the County of Hawaii and The National Park Service (NPS), where the NPS has great concern relating to the use of the adjoining boundaries of the Honokohau Marine, and keeping the integrity of the cultural use and ambiance of what the NPS is preserving.

HB 2398 does NOT recognize there were 108 Kona community meetings and 3 Kona general public meetings made it clear this community does NOT want anymore development between the coastline and Queen Ka'ahumanu Highway.

HB2398 does not recognize the potential impact it will have to natural resources. The largest freshwater outflow on the West Hawaii coastline exits from the Honokohau Harbor area, the subject area described in HB 2398.

HB 2398 is described to include lands that are leased out from the Department of Hawaiian Home Lands, and the Department of Land and Natural Resources, to include the development, Kona Kai Ola, by developers Jacoby Development Inc.

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Madame Chair Hanohano and Chairman Chang, although we are faced with an economic crisis, let us still be mindful of how Bills such as this impact rural areas that have great significance to social impacts as well as, neighboring cultural impacts on the Kaloko-Honokohau National Park.

I urge that the committee on Hawaiian Affairs and on Water, Land, & Ocean Resources strongly recommend to vote in opposition to HB 2398, as I would recommend further community studies to include more input on the impact this bill will have in the Kona Community.

Mahalo nui loa for your consideration of our testimony.

For further information please contact Shane Nelsen, President of Kuakini Hawaiian Civic Club of Kona at shane.nelsen@gmail.com.



Kona Hawaiian Civic Club
73-1432 Kahaulani Road
Kailua-Kona HI 96740

February 5, 2012

Testimony by the Kona Hawaiian Civic Club in OPPOSITION to House Bill 2398, Relating to Land Use

Welina mai Madam Chair Hanohano and Chairman Chang and members of the Hawaiian Affairs and Water, Land, and Ocean Resources Committees,

We are providing the following testimony in opposition to House Bill 2398.

We are opposed to this legislation for the following reasons:

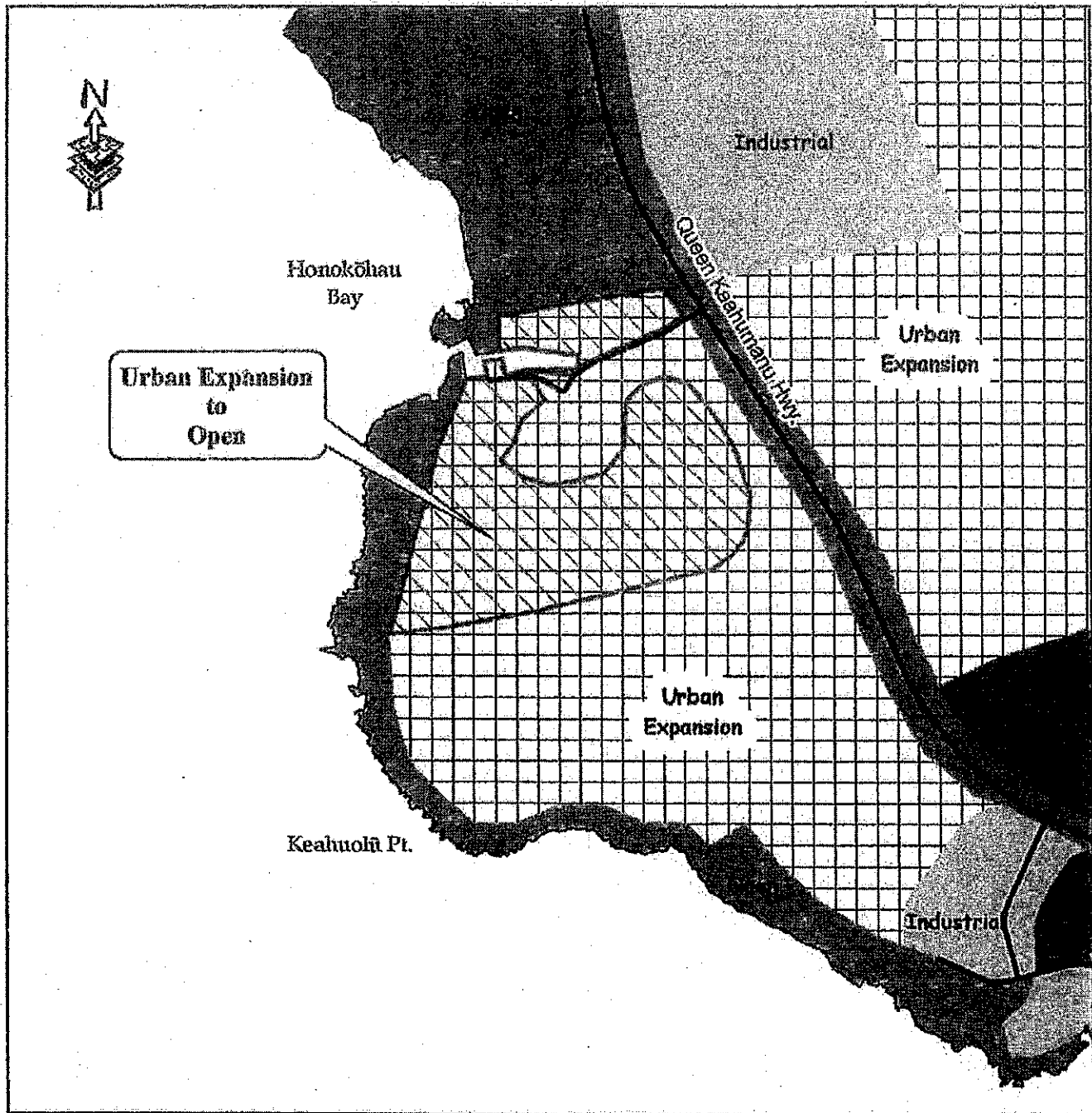
1. The Tax Map Key ("TMK") properties listed in HB 2398 are contiguous with a development, Kona Kai Ola, previously proposed by the Department of Land and Natural Resources, Department of Hawaiian Homelands, and the Jacoby Development, Inc. This proposed development was vigorously opposed by the local community and ultimately rejected by the County of Hawai'i Leeward Planning Commission and the Hawai'i County Council.
2. The proposed Honokohau Marina Development District ("HMDD") includes Department of Hawaiian Homelands ("DHHL") property, yet DHHL is not listed as consulting party or voting member of the HMDD.
3. Kona Marina Development Group LLC, a subsidiary of Jacoby Development, Inc. is inexplicably listed a co-owner of TMK 3-7-008:72 with DHHL in the Hawai'i County Real Estate Tax Assessor's office. How is this possible? Is the proposed HMDD merely a disguise for Kona Kai Ola, Part II?
4. The legislated Kaloko-Honokohau National Historical Park boundary includes parts of TMKs 3-7-008:041 and 3-7-008:071, yet this fact is not acknowledged by HB 2398 and the Park is not included as a voting member of the HMDD.
5. A group of Native Hawaiians filed a lawsuit against the county as a result of the impacts on existing traditional and customary practices that would be caused by development in the area of 'Alula Bay which would be included in the HMDD. The lawsuit was settled by an agreement to have the Hawai'i County General Plan amended to reclassify the area surrounding the present Honokohau Harbor from "Urban Expansion" to "Open". This reclassification was approved by the Hawai'i County Council in 2009. This designation allows for harbors, but its purpose is "to encourage development around it", not within this area.

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6. Existing traditional and customary practices and associated Native Hawaiian individuals and organizations within the proposed HMDD are well-documented, yet HB 2398 does not provide a voting membership to ensure representation of these constitutionally-protected rights.
7. HB 2398 states that "Hawaiian archaeological, historic, and cultural sites" and "Endangered species of flora and fauna"... "shall be preserved and protected to the extent feasible". The largest freshwater outflow on the West Hawai'i coastline exits from the shoreline at Honokohau. Damage to constitutionally-protected cultural and environmental resources constitutes "irreparable harm" which provides the basis for a court injunction against any activity which causes such irreparable harm.
8. HB 2398 states that "all activities shall be undertaken in compliance with federal water quality standards", ignoring the necessity to comply with state water quality standards and the Class AA pristine, "not influenced by humans" nearshore water quality designation offshore the proposed HMDD.

Because of the reasons listed above and, in addition, we are opposed to HB 2398 to create a Honokohau Marina Development Authority because the county's Open General Plan designation trumps any proposed state use which conflicts with the purpose of Open.

Sincerely,
Maurice Kahawahi, President

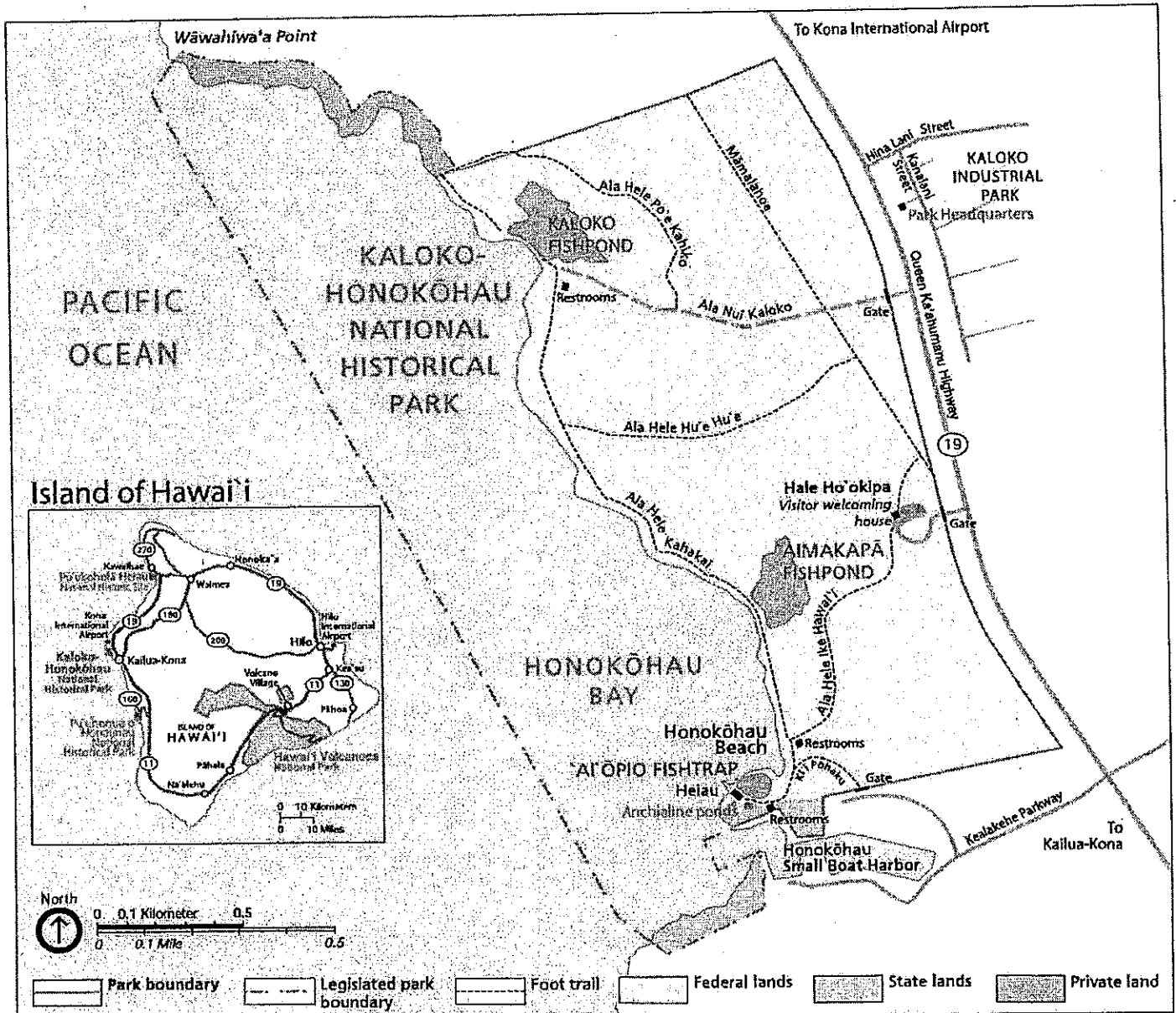


AMENDMENT TO THE GENERAL PLAN

AMENDING MAP 11 OF THE COUNTY OF HAWAII GENERAL PLAN LAND USE PATTERN ALLOCATION GUIDE MAP BY CHANGING THE LAND USE DESIGNATION FROM URBAN EXPANSION TO OPEN AT KEALAKEHE, NORTH KONA, HAWAII

MAP PREPARED BY:
COUNTY OF HAWAII, PLANNING DEPARTMENT

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The Foundation of Kona's economy is its relationship to the ocean—whether it be fishing, ocean research, energy, sport or visitor attraction, the ocean is the essence of the Kona experience.

Honokohau Harbor is where the lands of Kona merge with the ocean of Kona in the most physical way and to suffer the gross inadequacies of that facility is an embarrassment to our common sense and an affront to who we are. Please vote to pass HB 2398 and allow Kona to meet its obligation to itself and the visitors who expect a lot more from us.

Kelly Greenwell
PO Box 1779
Kailua Kona, HI 96745

Monday, February 06, 2012

Chairs Rep. Jerry Chang and Rep. Faye Hanohano

Joint Committees on Water, Land, Ocean Resources and Hawaiian Affairs

HB 2398 Relating to Land Use

Establishes the Honokohau marina development district on the island of Hawaii

OPPOSE

The premise of the bill is that Honokohau harbor is not good enough for some people, and those people want the government to give them control of the harbor and '...adjacent real property...' with \$\$\$, of course. After all, they know best to "showcase Kailua-Kona." As what, i wonder ?? San Diego ? somewhere else in California ? Florida, perhaps ?

in the 1970s, in spite of loud and strong opposition by so many, some of whom came to kona by the busload to protest the development of the now, existing small boat harbor; the harbor was blasted out of a parcel of shoreline and interior at Honokohau, a site on the National Register of Historic Site: the Honokohau Settlement. Thus was added yet another hawaiian place, of very significant archaeological, cultural, historical resources, to the tension of loss. This tension spurred the urgency to protect and preserve as much as possible, which gave impetus and genesis to the Kaloko-Honokohau National Historical Park. To save -- what remains. The original boundary on the north side would probably have included Ooma, and the Park in later years did try to purchase some acreage from the private owner. On the south side, the Park boundaries are on the Kailua side of the harbor.

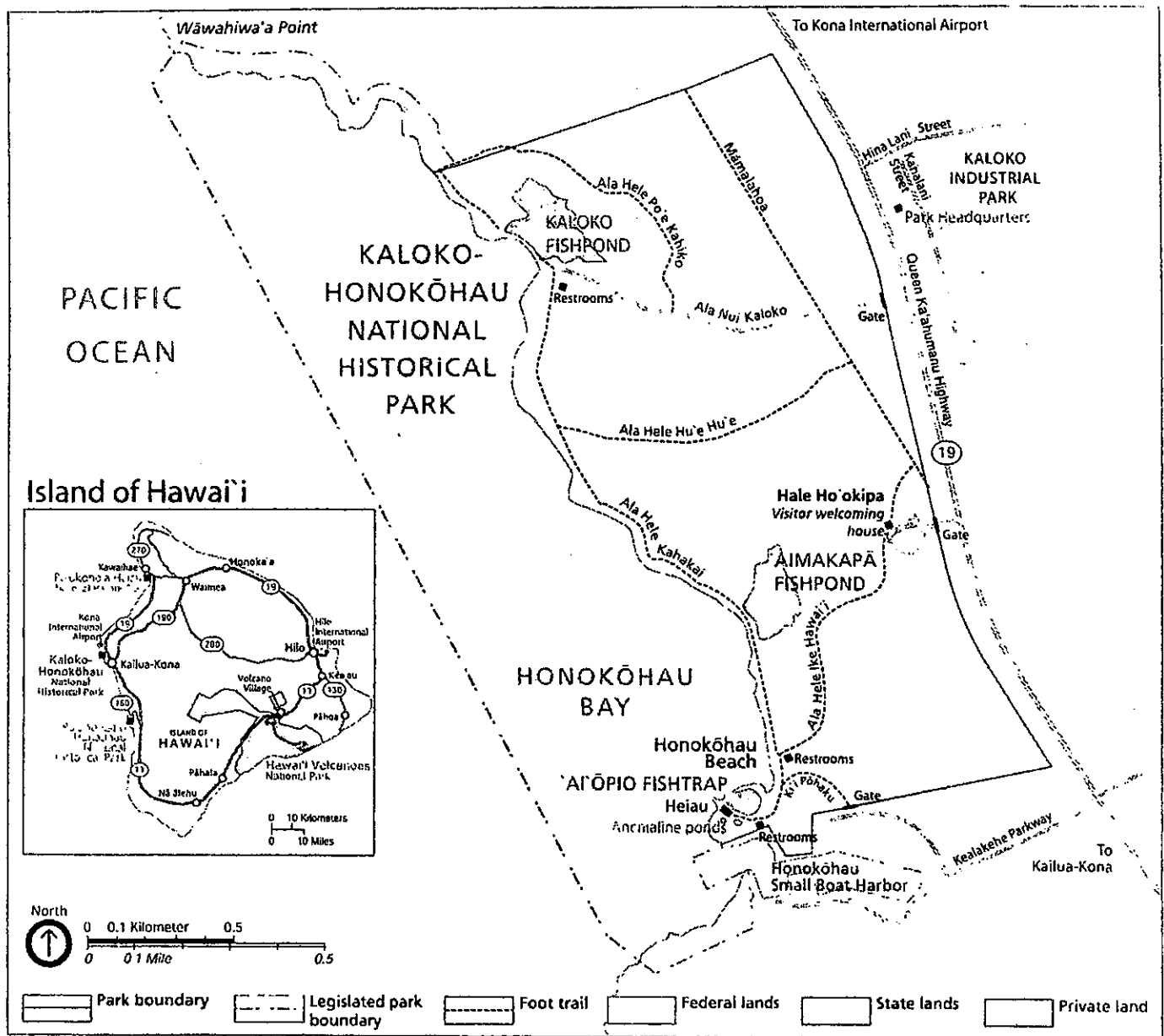
There are four national parks on Hawaii island, three of which are on the west Hawaii coast. The Kaloko-Honokohau NHP is the only one to include approximately 600 acres of marine environment and resources beyond the shoreline. Further development of the harbor will put resources at risk: degrade the coral reef and habitat for marine animals (the green sea turtle, varieties of fish and invertebrates,) contaminate the ground-water and surface-water; bring more threats of invasive plants and algae; assuredly bring

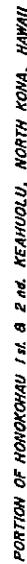
fishing pressure; (and this bill wants to showcase premium sportfishing ? all fishing will undergo pressure.) bring oil releases, debris, illegal dumping, damage to reef resources. On land, there is degradation to the rare ecosystem for dryland forest flora; negative impact to the wetlands rare breeding habitats for endangered stilts and coots; negative impact and degradation to the archaeological, cultural, historical resources and sites of the cultural landscape.

The cultural landscape is the true showcase --- each feature singular, unique; the whole, unique. The great Kaloko Fishpond dates to the 15th century, and has walls like none other. This bill would sacrifice a unique cultural landscape for a marina development.

NO.

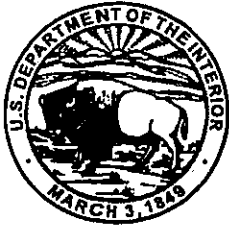
Mahalo,
kaliko chun





**FOR PROPERTY ASSESSMENT PURPOSES
SUBJECT TO CHANGE**

505



United States Department of the Interior
NATIONAL PARK SERVICE
Kaloko Honokohau National Historical Park
73-1486 Kanalani Street, #14
Kailua Kona, Hawaii 96740



IN REPLY REFER TO.

February 06, 2012

To: House Committee on Water, Land & Ocean Resources
Representative Jerry L. Chang, Chair
Representative Sharon E. Har, Vice Chair
Representative Rida T.R. Cabanilla
Representative Derek S.K. Kawakami
Representative Mele Carroll
Representative Mark M. Nakashima
Representative Gil Riviere
Representative Robert N. Herkes
Representative Cynthia Thielen
Representative Ken Ito
Representative Denny Coffman
Representative Cindy Evans

Subject: PROPOSED HONOKOHAU MARINA DEVELOPMENT DISTRICT ON THE
ISLAND OF HAWAII HB2398 RELATING TO LAND USE – Establishes the Honokohau
Marina Development District on the Island of Hawaii

I am providing comments on behalf of the National Park Service regarding HB2398 Proposed Honokohau Marina Development District on the Island of Hawaii. This bill proposes designation of the Honokohau harbor and marina area as a Marina Development District. The boundary of the proposed district includes twenty-five acres of State lands in the Kealakehe *ahupua`a* within Kaloko-Honokohau National Historical Park (National Park) and Honokohau Settlement National Historic Landmark (NHL), and is immediately adjacent to the National Park/NHL's southern boundary.

Any large-scale development project on lands within or adjacent to the National Park/National Historic Landmark will significantly impact its cultural landscape, traditional and customary practices by Native Hawaiians in the Park, and cultural and natural resources. The National Park Service remains supportive of infrastructure and operational improvements to the existing Honokohau Harbor for health and safety reasons, traffic management, and access, but for the reasons set out below, we are highly concerned about the appropriateness of the designation of a Marina Development District. Given the significance of the area and National Historic Landmark designation, the public, Native Hawaiian Organizations, and the local community must be allowed every opportunity to fully participate in environmental and cultural review and analyses of any and all proposed development or "improvement" projects in this area.

Kaloko-Honokohau National Historical Park is part of the National Park System and was established by Congress to protect its nationally significant cultural and natural resources. The National Park Service and the State of Hawaii share a commitment to care for and preserve public trust resources including cultural and natural resources, and associated values, for the people of Hawaii and the United States. Congress has mandated that the National Park Service preserve and protect the resources and values of the National Park in an unimpaired condition in order to perpetuate their inherent integrity for the benefit and inspiration of present and future generations. (16 USC §1 et seq.) Kaloko-Honokohau National Historical Park was created in 1978, through the efforts of the local community to preserve, interpret, and perpetuate traditional Hawaiian activities and culture. In particular, residents of Kona were concerned that this place of great significance to Hawaiians would be lost to urban development.

Congress's decision to create the Park came primarily from the 1974 Hono-kohau Study Advisory Commission Report ("The Spirit of Ka-loko Hono-kohau ") that recommended that the existing Honokohau Settlement National Historical Landmark (designated in 1962) and its adjacent waters be preserved for the benefit of the Hawaiian people and the nation as part of the National Park System. Even at the time of the Spirit Report in the early 1970's, the Advisory Commission was concerned about future land use adjacent to the National Park. They stated:

"Furthermore, since most of the land in the *ahupuaa* of Ke-ala-kehe is owned by the state, its use will have direct impact on Ka-loko, Hono-kohau. Finally, lands that are designated or owned by the state in the area should be given special zoning limiting their uses to activities compatible to a cultural park. The County General Plan and zoning ordinances of the area should limit the uses of the lands immediately surrounding Ka-loko, Hono-ko-hau to compatible activities. Lands further mauka should be restricted in density in order to preserve the integrity of the park and protect its water resources." (p.54)

The Spirit Report and the 1994 General Management Plan for the Park point out that Kaloko-Honokohau is a small and fragile portion of the larger environment that has influenced the history of the entire area and that continues to affect the Kona community today. In creating the National Park, Congress stated that it shall be administered generally in accordance with the guidelines provided in the Spirit Report and that management "shall to the maximum extent feasible utilize the traditional Native Hawaiian *ahupua`a* concept of land and water management." (16 USC § 396d). The Spirit Report reminds us:

"Each *ahupua`a* developed around a recognition that all of its elements were interdependent. What affected the mauka regions, affected the makai. What affected the neighboring *ahupu'a* affected it. What affected the land affected the fishponds and the sea. What affected the water cycle affected the total environment. This is the way it was and is at Ka-loko, Hono-ko-hau." (p. 51)


The urban expansion foreseen by the Advisory Commission in 1974 is now underway. The direct and cumulative impacts of development projects on lands adjacent to the National Park are leading to the long term degradation of the National Park, threaten the integrity of the

Honokohau Settlement NHL, and are further diminishing the rapidly disappearing Hawaiian cultural landscape. Large-scale development adjacent to the National Park will fundamentally alter the water, air, sounds, sights, and traditional and customary practices by native Hawaiians in the National Park and the NHL. Water quality and quantity will be altered forever by fresh and brackish groundwater withdrawals, and non-point source pollution inputs.

As currently drafted, the bill creating the marina development district is inconsistent with the purposes of the National Park and with local land-use decisions. A “world-class, full-service marina,” as well as the type and range of “ancillary amenities” contemplated in the proposed legislation are fundamentally in conflict with reasons for establishing Kaloko-Honokohau National Historical Park’s identified in the Spirit Report and by Congress in the National Park’s enabling legislation. The type of development set out in the proposed bill also seems at odds with other language in the bill that states that development should be “sustainable, culturally appropriate, [and] biologically responsible.” In addition, despite language in the proposed bill, the designation of a district and the contemplated development seems at odds with recent decisions of the local community. In 2009, in response to a previously proposed development on the same lands, the Hawaii County Council unanimously passed an Amendment to the Hawaii County General Plan (Bill 156) changing the Land Use Designation from Urban Expansion to Open for the State-owned lands in the vicinity of and south of Honokohau Harbor. Finally, the proposed membership of the authority does not represent the full range of interests from the local community as there are no stakeholders from cultural, environmental or local planning groups.

As you are well aware, development of coastal lands has irreversible and far-reaching consequences. The National Park Service requests that you carefully review the need for designating this area as a development district. Preservation of coastal open space and cultural landscape will benefit the quality of life in the Kona community, Native Hawaiian values and traditional and customary practices, and nationally significant natural and cultural resources. We appreciate your consideration of protecting these irreplaceable Hawaiian resources. If we can answer any questions or provide information, please contact me at (808) 329-6881, ext. 1201.

Sincerely,


Kathy Billings
Superintendent