

State of Hawaii
Department of Hawaiian Home Lands

May 21, 2002

To: Chairman and Members, Hawaiian Homes Commission

From: Darrell Yagodich, Planning Office Administrator

Subject: DHHL Planning System, Authorization to Promulgate
Administrative Rules and Procedures

RECOMMENDED MOTION/ACTION

That the Hawaiian Homes Commission (HHC) authorize the Department of Hawaiian Home Lands (DHHL) to promulgate administrative rules for a planning system to guide the statewide development and use of Hawaiian home lands.

DISCUSSION

Background

In January of 2001, the department began the process of designing a comprehensive planning system for the department. The intent was to develop a planning system that would better integrate the wide range of department research and activities into a system that focused on achieving statewide long-term goals and objectives for the program.

The proposed system includes three "tiers" of plans that are linked to specific program areas and/or activities.

- General Plan,
- Strategic Plans for various program areas,
- Island plans,
- Development plans for new homestead communities,
- Homestead community plans for designated homestead areas, and
- Tools for plan implementation such as land use designations, budgeting, and legislation.

The proposed system underwent several reviews by the HHC, department staff and a technical advisory group consisting of State and County agency representatives, non-profit organizations that service native Hawaiians, representatives of Ali'i trust organizations, and beneficiary lessees and applicants. The

proposed planning system was also subject to a series of general community meetings statewide.

Rule Changes to be Made and Justification for Changes

The department recommends amending Title 10 to include procedures for the implementation of a comprehensive planning system to guide the statewide development and use of Hawaiian home lands.

Rule revisions will include language that describe the purpose and intent of planning system components, as well as procedures for plan development, implementation, review and amendments. See Exhibit A for a summary description of rules for the planning system for DHHL.

An analysis of the department's existing planning activities exposed several programmatic weaknesses that justify the need to establish rules for planning. Weaknesses include:

- Lack of internal coordination between program goals and department activities,
- Minimal external coordination between department plans and other State and County plans,
- Inflexibility in land uses,
- Poor responsiveness to land use changes in and around homestead communities,
- Lack of opportunity for meaningful participation in the planning process,
- Insufficient basic baseline information needed for planning purposes.

Manner in which Proposed Rules will Affect Program Operations

Administrative rules will establish a framework to encourage a continuum of policy and actions. Planning system rules will provide both vertical and horizontal linkages that will facilitate rational decision-making and project implementation from state-wide to community-based initiatives over time. Vertical linkages include internal relationship between planning system components such as General Plan goals and objectives adopted by the Hawaiian Homes Commission in February of 2002 and planning system tools such as land use designations and the capital improvement project funding. Horizontal linkages include coordination with external State and County plans and projects such as the State water use and development plans, County General and Community Plans, and various infrastructure plans.

Projected Outcome of Instituting Proposed Rule Changes

Planning system rules are expected to improve program performance and productivity if given appropriate resources. It will enable the department to perform at a higher level of competency through the systematic collection of data, analysis and implementation of development proposals and evaluation of program objectives. This will lead to more informed and prudent decision-making which lead to more efficient program management and effective program implementation.

Anticipated Program and Financial Impact on the State Pursuant to Proposed Rule Changes

There will be a substantial impact upon the State in regards to resources necessary to effectively implement and maintain a planning system. Additional Personnel requirements include one supervising planner (SR-26). In addition to funding for personnel, resources will be needed for the development of plans and tools necessary for plan implementation, assessments and revisions.

The department has implemented portions of the proposed planing system. In February of 2002, the HHC adopted a 20-year General Plan for the department and we are currently working to complete a land use plan for the island of Hawaii.

The department is budgeted for \$200,000 to develop an island plan for Maui in FY 2002 and \$150,000 for Kauai in FY 2003. The department has also allocated funds for Molokai and two Homestead Community Plans at \$50,000 each.

Additional monies will be needed for an Oahu Island plan and for other future homestead community plans. An estimated additional \$300,000 will be needed over the next 2 to 4 years for plan development.

Long and Short Term Impact on the Public, Economic Growth and Economy of the State

Planning system rules will provide the HHC, DHHL and the community reasonable expectations through a framework and procedures that guide the rational use and development of Hawaiian home lands.

Planning components such as the island plans will designate land uses and establish priority areas for both homestead and non-homestead uses over a given time-frame. This information will help to prepare families, agencies, private developers, business entrepreneurs, and various community group and government agencies

in better preparing for changes that will result from planned uses on Hawaiian home lands.

Linkages established between the department and other governmental plans and activities will encourage consistency and coordination over time. Improved relationships will allow for more opportunities to mitigate common problems such as the need for basic off-site infrastructure.

Rules for the planning system will define opportunities for formal participation in the planning process. Beneficiaries will have access to information and the opportunity to better plan for their families and the communities in which they live. This is part of our community self-government and empowerment initiative.

Plans and policy statements provide a basis for accountability. Adherence to plans, procedures and policies will improve program integrity and ultimately increase trust between the department and its beneficiaries.

Other Alternatives Explored in Attempting to Resolve the Problem or Situation at Hand

The HHC and the department could defer all land use planning and decision-making to existing State and County planning and enforcement systems. However, by deferring land use planning to existing State and County systems, the department would dramatically reduce opportunities for residential homesteading and economic development given the fact that most homestead lands are in the agriculture and conservation districts. A very small percentage of Hawaiian home lands are designated Urban at the State level and Residential or Commercial at the County level thus limiting the implementation of provisions within the HHCA. The planning system enables the HHC, as trustees, to assert its objectives, planning land uses, and programs.

Determination as to Whether the Proposed Rule will Affect Small Business

The proposed rule changes will not directly affect small business.

GENERAL PLAN

PURPOSE

- Establishes GOALS and OBJECTIVES for departmental programs and activities.
- Provides the basis for determining priorities, allocating resources and harmonizing plans - STATEWIDE.

DESCRIPTION

- 20 year timeframe
- Internal Review every 5 years
- Update every 10 years
- HHC adopt and amend via Commission Action pursuant to supporting studies and public participation process
- GP Categories include: Land Use Planning, Residential and Agricultural and Pastoral Uses, Water Resources, Land and Resource Management, Economic Development and Building Healthy Communities.

PARTICIPATION

- Staff and Agency Review
- Statewide Advisory Group
- Statewide General Community Meetings

ISLAND PLANS

PURPOSE

- Provides the basis for determining priorities, allocating resources and harmonizing plans - ISLANDWIDE
- Intended to help coordinate and integrate Hawaiian home land plans into State and County land use, water, transportation, health and education plans for each island. Emphasis on off-site infrastructure.

DESCRIPTION

- Provides Baseline physical and demographic information
- Establishes land use designations to encourage orderly social, physical, and economic development
- Identifies priority areas for homestead development
- 20 year timeframe
- Boundary review every 5 years & Plan update every 10 years

PARTICIPATION

- Island wide Advisory Group with regional representation from beneficiary groups, public and private agencies.
- Island wide Community Meetings and Planning Workshops

STRATEGIC PLANS

PURPOSE

- Provides the basis for determining priorities, allocating resources and harmonizing plans within the DEPARTMENT.
- Intended to provide opportunities to explore innovative programs

DESCRIPTION

- Intended to translate General Plan Goals and Objectives into internal program plans and activities.
- Internal Working Documents
- 4 to 6 year timeframe
- Useful in determining budget allocations

EXAMPLES

- *Land Use Planning*: Establishes criteria and standards for land use planning on Hawaiian home lands, documents land use designations and amendments statewide.
- *Residential Uses*: Phasing plan for development of homesteads statewide in coordination with island wide plans
- *Agricultural and Pastoral Uses*: Identifies critical issues and recommends changes to improve agriculture on Hawaiian home lands
- *Water Resources*: Reserve and Allocate water in coordination with island plan priorities. Recommend strategies to improve management of DHHL water systems.
- *Land and Resource Management*: Identify geographic areas of critical concern and coordinate management of these areas through partnerships and activities.
- *Economic Development*: Identifies properties with the potential for high economic yields.
- *Building Healthy Communities*: Propose strategies for the empowerment of homestead communities.

PARTICIPATION

- Technical Assistance from experts within each program area as needed (e.g. Advisory Group)

- Island wide Community Meetings and Planning Workshops as needed

DEVELOPMENT PLANS

PURPOSE

- Coordinate the development and use of vacant lands within each tract (ahupuaa) of Hawaiian home lands. Emphasizes detailed land use, design, and on-site infrastructure requirements.

DESCRIPTION

- Provides detailed physical and demographic information of a specific tract. Includes phasing and development cost estimates.
- Translates Hawaiian Home Lands land use designations into County zoning districts.
- The scale and complexity of each tract will determine the scope of work for each development plan. Plans may be as simple as a subdivision plan for the development of residential homestead or a plan that phases in homestead development in an area over the next 10 years.
- Development Plans follow priority areas of each island plan
- 10 year timeframe

PARTICIPATION

- Advisory group (may include all stakeholders within an ahupuaa)
- Regional Community Meetings / Planning Workshops

HOMESTEAD COMMUNITY PLANS

PURPOSE

- Plans for the development, use and management of areas designated for community use.

DESCRIPTION

- Initiated by "recognized homestead associations" (Act 302, SLH 2001)
- Provides detailed physical and demographic information of a specific tract.
- Emphasis on existing needs and opportunities within established homestead communities.
- 10 to 20 year timeframe

- Recommends steps to improve the quality of life within a homestead. May include recommendations for social, physical and/or economic development.

PARTICIPATION

- via Recognized homestead associations
- Planning workshops

LAND USE DESIGNATIONS

PURPOSE

- Regulates the use of land through the establishment and application of land use districts within each island plan that encourage the orderly development and use of Hawaiian home lands.
- The intent is to develop land use plans that result in efficient, effective and equitable use of resources and that promote and protect the health, safety and welfare of our people.

DESCRIPTION

Each designation will have its own set of permitted uses and development standards. Uses and standards are defined by one or more County zoning districts.

- *Residential*: Standard residential subdivisions
- *Subsistence Agriculture*: Small lot agriculture / Large lot residential. Intended for home construction and food production for home consumption.
- *Supplemental Agriculture*: Large lot agriculture. Intent is to provide opportunities for agricultural activities to help supplement household income.
- *Pastoral*: Large lot agriculture specifically for pastoral uses
- *General Agriculture*: Commercial level agriculture production
- *Special District*: Areas requiring special attention in land use planning
- *Community Use*: Common areas for community development and use
- *Conservation*: Environmentally sensitive areas. Very limited uses.
- *Commercial*: Retail and business activities
- *Industrial*: Processing manufacturing, etc...

LAND USE AMENDMENTS

PURPOSE

- Provides for changes to designated land uses in island / development plans.

DESCRIPTION

- Approval runs with the land. Long-term change.
- Only HHC can initiate changes to designations on vacant lands
- Individuals may propose changes to areas they have leasehold interest
- Amended uses are to be consistent with general plan goals and objectives and the island plan.
- DHHL shall identify the zoning under which County agencies will administer and enforce.

APPLICATION PROCESS

- Applicant responsible to gather information necessary for more informed decision making by the HHC.
- Application fee will be required.
- 20 working day staff and agency review
- 20 working day period for community review and comment
- 10 working days thereafter for preparation of finding and recommendations for HHC approval

ITEM NO: D-7
SUBJECT: Public Auction Result, Kaei Hana I, Hilo, Hawaii

MOTION/ACTION

None, for information only.

ITEM NO: D-8
SUBJECT: Ratification of Consents and Approvals by the Chairman, Hawaiian
Homes Commission

MOTION/ACTION

Moved by T. Contrades, seconded by H. Kalua. Motion carried unanimously.

ITEM NO: D-9
SUBJECT: Notices of Default and Revocation

MOTION/ACTION

Moved by T. Contrades, seconded by H. Kalua. Motion carried unanimously.

DISCUSSION

The Chairman called a short recess before proceeding to item E-1.

ITEM NO: E-1
SUBJECT: DHHL Planning System, Authorization to Promulgate Administrative
Rules and Procedures

MOTION/ACTION

Moved by H. Cho, seconded by T. Contrades. Motion carried unanimously.

ITEM NO: E-2
SUBJECT: Hawaii Island Plan

MOTION/ACTION

Moved by T. Contrades, seconded by H. Cho.

DISCUSSION

Mr. Darrell Yagodich summarized the Hawaii Island Plan and the community meetings held about this plan. The Chair requested a show of hands for those people wanting to testify on this item.

ITEM NO. E-2 (Discussion Continued)

Ms. Kanani Kapuniai of the Waimea Homestead Association appeared first. She commented that the plan was a good effort. She noted that the accelerated awards were not included in the plan or the survey that was circulated. She stated that all accelerated projects should be completed before implementation of this plan. She added that she did not receive a complete draft. She noted that the beneficiaries would not be able to obtain FHA loans without proper infrastructure, roads, electricity and water. Are we then providing a plan for the homesteaders to prosper? Ms. Blossom Feiteira stated that they just received a copy of the plan and they have not fully reviewed it. Based on their work in the community, they have some concerns. Some communities wanted to know if the plan would be presented to them before final adoption. She requested that the Commission defer action for ninety days to provide time to review the plan and take it to the communities with any recommendations they may have. Mr. Joe Papalimu of the Aged Hawaiians spoke next. He requested a ninety-day deferral as well. He raised a concern about the amount of pasture lands and the size of those lots. He felt the size of the pastoral lots should be specific so that the applicants will know how many lots can be awarded. He also asked where are the 300-acre lots. Ms. Kaipo Kincaid of Hui Kakoo testified next. She expressed concern about the Honokaia area. It is projected to have residential lots and 40-acre pastoral lots. The view plains as you come through the forest should be preserved. She proposed that the residential area along the highway be moved back along the tree line. She also felt more work is needed on the area plan. She asked that the Commission not adopt the plan until more work has been done with the consultants. Former Commissioner Dickie Nelson appeared. He referred to the last page, item 8 of Ms. Melissa Seu's March 11, 2002 letter to Darrell Yagodich. (The letter is made a part of these minutes.) He noted that he was on the Hawaiian Homes Commission in April 1998 on Molokai when the PBR plan was not accepted. It was replaced with a substitute motion to have Oiwi Lokahi o ka Mokupuni o Keawe prepare an alternative land use plan. He described this group's efforts in creating a land use plan for the Big Island. Mr. Nelson asked the Commission to consider deferring action on the plan particularly for the central area of Hawaii island. This would allow time for the Oiwi group to submit their draft plan. Ms. Alona Quatero, Vice President of Kawaihae Puakailima Association testified. She noted that their recommendation was to use the general leased lands now being used for ranching for homesteading. She added that their homestead association is new and they plan to apply for non-profit status.

Ms. Melissa Seu submitted written testimony made a part of these minutes and summarized her testimony for the Commissioners. She stressed that the most important objection she was raising related to a lack of proper planning procedures. She felt that any plans for development on Hawaii island should be beneficiary driven. She added that the survey done by PBR was not specific enough in relation to ranching and there were no clear definitions for the three categories of ranching (subsistence, supplemental or commercial) they asked about. She also spoke about the Aged Hawaiians decision of 1995 in which the department was instructed to provide opportunities for commercial ranching. Ms. Seu noted that if this plan is adopted now without any consideration for commercial ranching there would not

ITEM NO E-2 (Discussion Continued)

be land available for commercial ranching if a plan is put forth later by the department. She also pointed out that her clients (The Aged Hawaiians) are getting older. Ms. Seu added that if the department delays providing commercial ranching opportunities her clients are going to die. Mr. Joe Papalimu added that Parker Ranch is phasing out its cattle business. The Hawaiians are the only ones who can carry on this large-scale ranching. If the department breaks up these choice pastoral lands they will defeat the cause of putting Hawaiians on the land to become commercially viable.

Chairman Soon noted that every day the department makes administrative and fiscal priorities. He asked if Ms. Seu was suggesting that the department should bring all of those decisions to the community prior to making them. Ms. Sue stated that if DHHL is making a priority for any program they need to let the beneficiaries know why and get their input. Her feeling was that a handful of people are saying that ranching is not a viable option. If the department goes to the beneficiaries they will see how many of them can and want to do commercial ranching. The Chair noted, as an example, that in Honokaia the plan calls for 2,300 acres for pastoral award and 300 acres for residential. He did not see that as prioritizing one type of award over another. Ms. Seu responded that the department plans to cut the pastoral lots into small 40-acre lots without consulting the beneficiaries to see what their needs are. In addition, the department would use land that was previously used for ranching to build houses. Ms. Sue continued to make her point about no opportunities for commercial ranching while the Chairman took the position that we would have to set aside the award of numerous residential lots to award one 300-acre commercial ranch lot.

The Chairman noted that the community is asking for a 90-day deferral on this item and he had no problem with that. However, he asked that the Commission act on the plan in 90 days.

MOTION

H. Kalua moved, seconded by H. Cho to defer action on the Hawaii Island Plan for 90 days.

DISCUSSION

Commissioner Kalua inquired when the department would deal with the Aged Hawaiians issue. He felt that if we did not address it the matter would continue to come up at the Commission meetings. He asked that the Commission resolve the matter. The Chair noted that the genesis of the Big Island Plan was to identify the areas for pastoral so that we could address the issue of the Aged Hawaiians and commercial ranching. The Chairman saw the resolution coming after the Big Island Plan is adopted. We would then know where the pastoral lands are and we could come to agreement as to the size of the pastoral lots. He added that the integrity of the award process has to be maintained as we resolve the Aged Hawaiians issue. Ms. Seu stated that the Big Island Plan could incorporate resolution of the Aged Hawaiians case. The Chairman saw the plan as a guide not a "cut in stone" directive. Mr. Yagodich added that the plan calls for 18,000 acres set aside for homestead pastoral and of the general agricultural areas there are 28,000 acres

ITEM NO. E-2 (Discussion Continued)

identified as commercial/pastoral into a general leasing process. He noted that the plan does not identify these lands as homesteading because that would mean the department has to provide water and some access. Mr. Yagodich stated that staff could review those 28,000 acres to determine if there are opportunities to shift some of that acreage into larger lots. Ms. Kanani Kapuniai restated her position of addressing the accelerated pastoral awards first.

ACTION ON MOTION TO DEFER

Motion carried unanimously.

ITEM NO: E-3

SUBJECT: Status of Conveyance of 16,518 Acres of State Land from the
Department of Land and Natural Resources

MOTION/ACTION

None, for information only.