

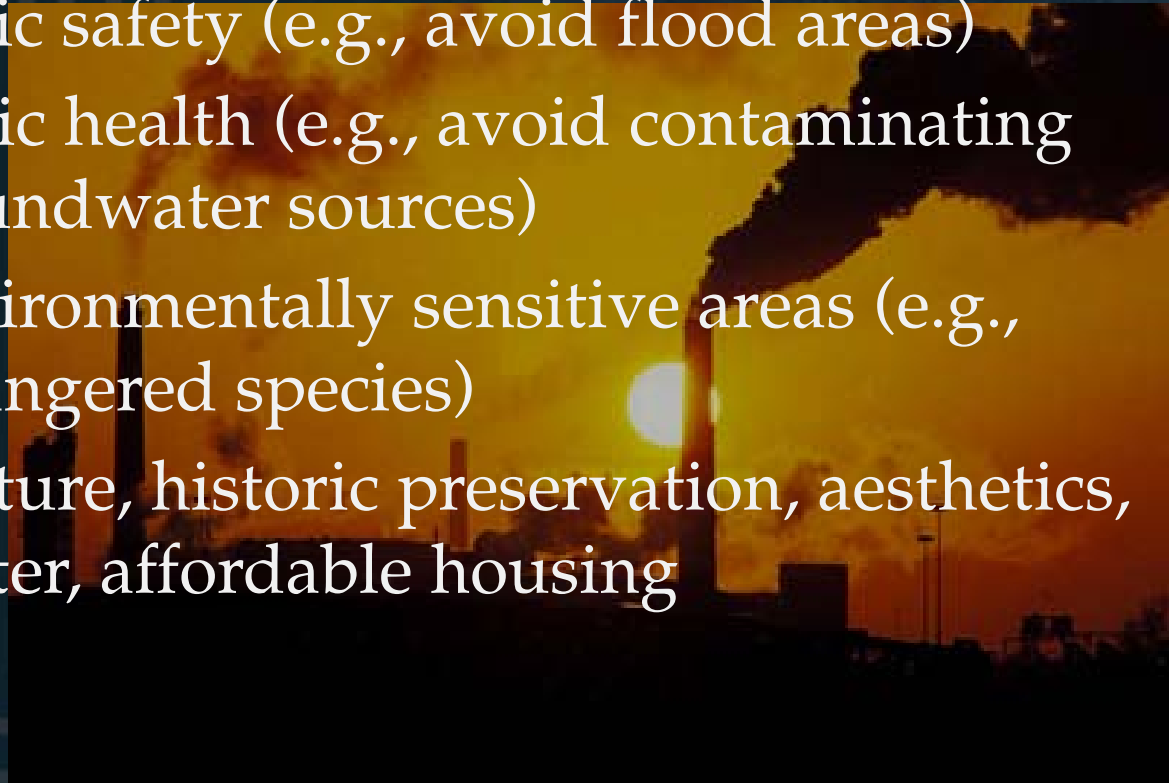
Overview of the Land Use Regulatory System

October 9, 2010

Community Information Gathering Workshop

Why Regulate?

- Control nuisances (e.g., noise, smell, vibrations)
- Ensure public safety (e.g., avoid flood areas)
- Protect public health (e.g., avoid contaminating potable groundwater sources)
- Manage environmentally sensitive areas (e.g., protect endangered species)
- Promote culture, historic preservation, aesthetics, rural character, affordable housing



Basic Constitutional Protection

- U.S. Constitution 5th Amendment: “. . . nor shall private property be taken for public use, without just compensation.”
- A regulation could be a taking if it “goes too far”



Hierarchical System

State Land Use Law

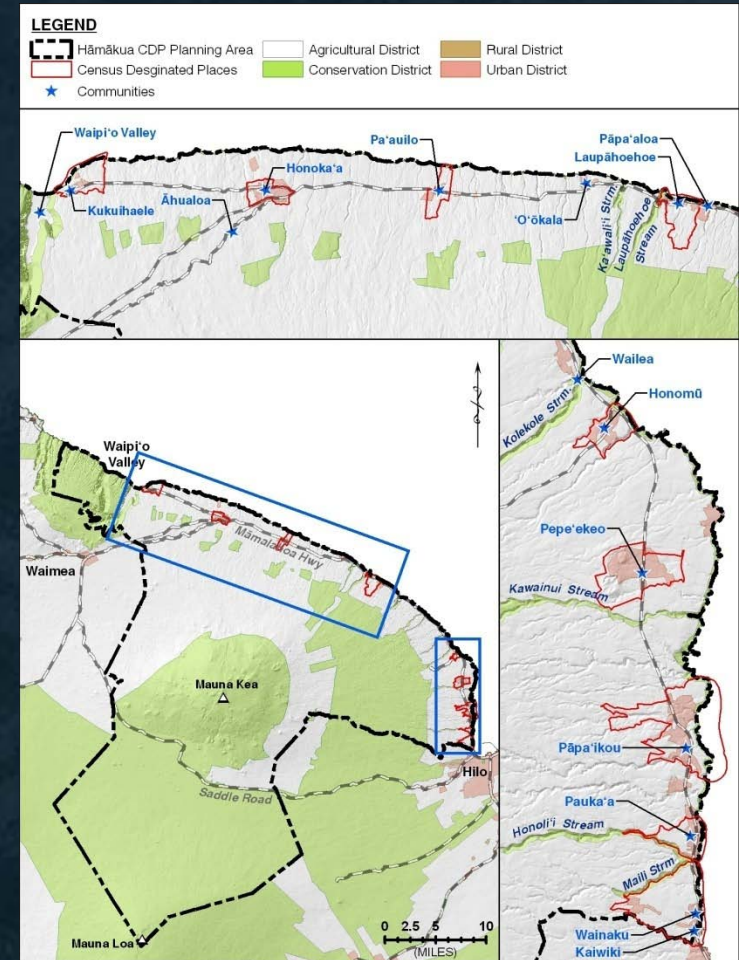
General Plan

Zoning

Subdivision

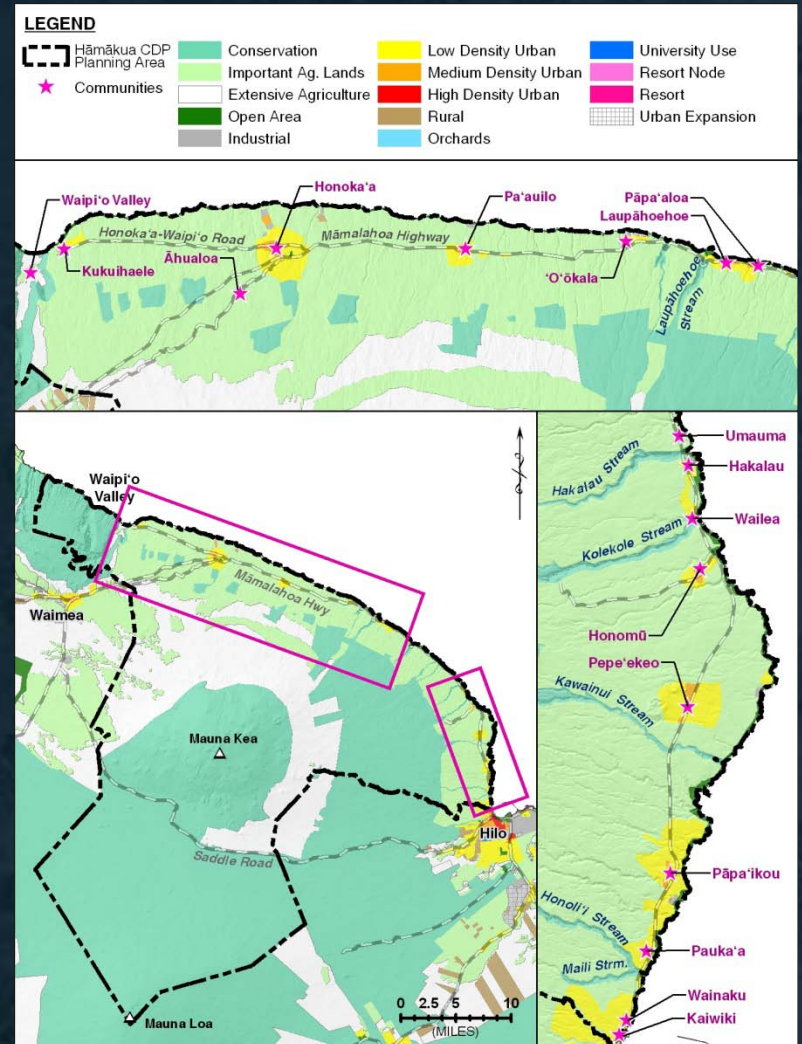
State Land Use Law

- Four districts
 - Urban
 - Agricultural
 - Rural
 - Conservation
- Approvals
 - District reclassifications
 - Special Permits
- Permitted Uses
 - Urban district— county zoning
 - Agricultural and Rural districts— State land use law
 - Conservation district— Board of Land & Natural Resources



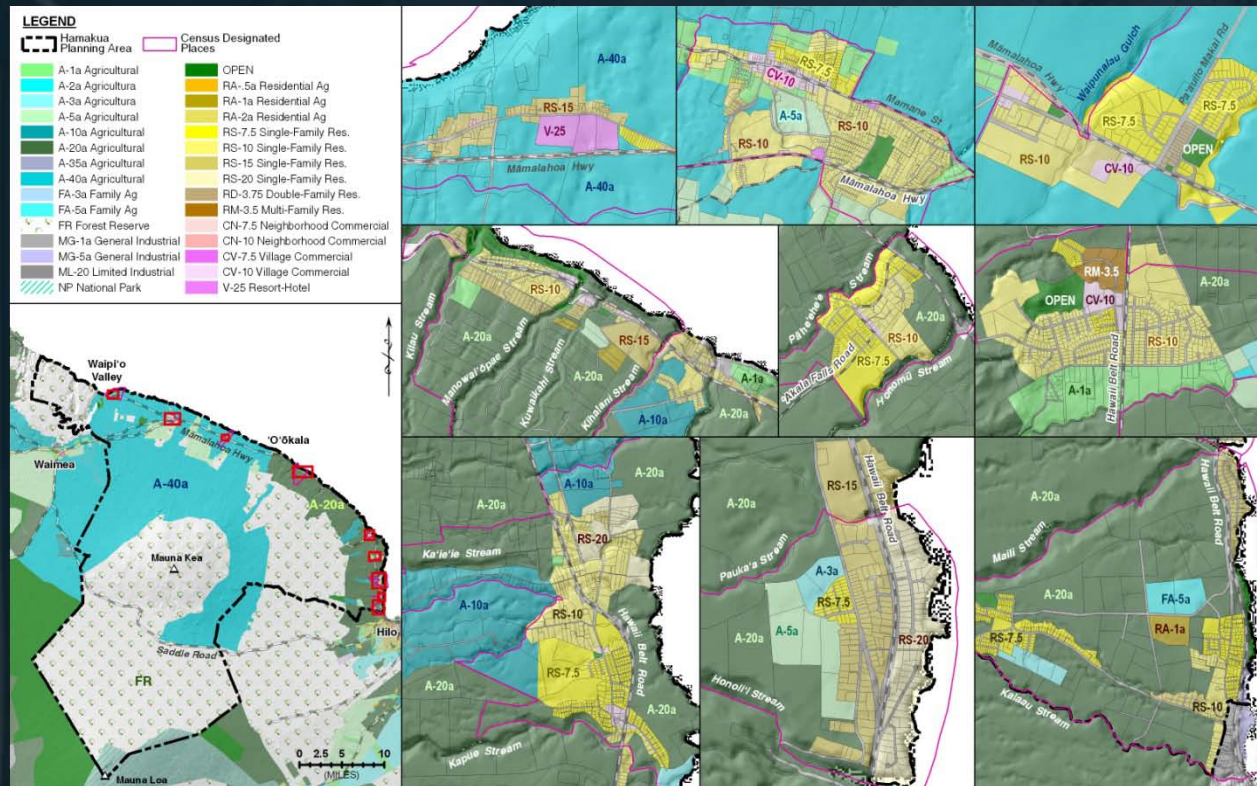
County General Plan

- 13 “Elements”: Economic, Energy, Environmental Quality, Flooding and Other Natural Hazards, Historic Sites, Natural Beauty, Natural Resources and Shoreline, Housing, Public Facilities, Public Utilities, Recreation, Transportation, Land Use
- Map: Land Use Pattern Allocation Guide (LUPAG) Map
 - Urban designations
 - High Density
 - Medium Density
 - Low Density
 - Resort Node
 - Resort Area
 - Industrial
 - Urban Expansion
 - University
 - Rural designation
 - Rural
 - Agricultural designations
 - Important Agricultural Land
 - Extensive Agriculture
 - Orchard
 - Conservation designations
 - Conservation
 - Open
- General Plan Amendments
 - Comprehensive
 - Interim



County Zoning

- Zoning districts—consistency
- w/ State Land Use and LUPAG
- Controls
 - Minimum lot size
 - Permitted uses
 - Building envelope
 - Setbacks
 - Height limits
 - Parking
- Approvals
 - Rezoning
 - Use Permits
 - Plan Approval
 - Variances
 - Other (ohana dwelling, additional farm dwelling, planned unit development, etc.)



Other Regulations

- Special Management Area (SMA)
- Shoreline Setback Variance
- Conservation District Use Permit
- Grading Permit
- Subdivision Approval
- Building Permit

Public Input Opportunities

- Notices of application and hearings
 - Surrounding owners mailing
 - Newspaper legal notice
 - Sign at the site
- Public hearings– oral and/or written testimony
 - Planning Commission
 - County Council
- Environmental Impact Statements
 - Certain actions “trigger” requirement
 - Public comment period



Role of a Community Development Plan

- Instead of REACTING to every permit application, a CDP provides an opportunity to PROACTIVELY guide development
- A CDP can do this by:
 - Identifying sensitive areas to avoid or to “mitigate impacts”
 - Identifying “appropriate” areas for growth, such as:
 - Within or close to existing village center
 - Available infrastructure
 - Encouraging “smart growth” design
 - Mixed use for walking
 - Mixed income housing for diversity and affordability
 - Energy efficient
 - Compact (higher density) village center, cluster options for rural areas
 - Pedestrian-friendly streets