

975. From the populated areas on Hawai'i Island, the TMT Project will not affect the current natural beauty or open space characteristics of either the Astronomy Precinct or the MKSR.
976. Visitors to the summit using the summit access road will see several other very large telescope structures before they even see the TMT Observatory. From most viewpoints on the summit ridge, if the TMT is visible, other large telescopes are also visible. People seeking a view of Haleakalā without seeing any observatories will still be able to get this view if the TMT Project is built.
977. The TMT Project will not meaningfully reduce the existing open space or natural beauty aspects of either the MKSR or the Astronomy Precinct for visitors to the summit area. The existing open space and natural beauty aspects of this area are the cinder cones and expanses of bare lava, interspersed with large observatories. This basic setting will remain after construction of the TMT Project. The overall visual experience of the visitor will be the same. Like the ATST reviewed by the court in *Kilakila*, because of the existing buildings, the effect on views of the TMT will not be significant. 138 Hawai'i at 403, 382 P.2d at 215.

The TMT dome and attached support building will occupy less than 1.5 acre. Ex. A-3/R-3 at p. 2-15 to p. 2-17. This is less than 0.3% of the Astronomy Precinct and less than .0015% of the MKSR. This further demonstrates that the basic aspects of the land will not be changed.

978. Placed in context with existing observatories and the minimal or nonexistent obstruction of existing views from the summit ridge region, the visual impact of the TMT Observatory will be less than significant. Therefore, when viewed from the perspective of the summit region, which already includes astronomy facilities, the physical and environmental aspects of Mauna Kea will be preserved by the TMT Project, and, in some respects, will be improved upon. WDT White at 7-8, 11-12; Ex. A-3/R-3 at 3-230 – 3-232; HAR § 13-5-30(c)(6).
979. The reliable, probative, substantial, and credible evidence demonstrates that the TMT Project satisfies Criterion Six.
- G. HAR § 13-5-30(C)(7), CRITERION SEVEN: "SUBDIVISION OF LAND WILL NOT BE UTILIZED TO INCREASE THE INTENSITY OF LAND USES IN THE CONSERVATION DISTRICT..."
980. HAR § 13-5-2 defines a "subdivision" as a "division of a parcel of land into more than one parcel." The TMT Project does not utilize a subdivision of land to increase the intensity of land uses in the conservation district.
981. To subdivide land in the conservation district requires an application to subdivide a parcel pursuant to the conservation district rules. HAR § 13-5-22(b)(P-10) applies in the Protective subzone; the same clause is carried forward in the other subzones. HAR §§ 13-5-23(a), -24(a), -25(a).

982. No land will be subdivided to construct and operate the TMT Project. WDT White at 2; (White) Tr. 10/20/16 at 185.
983. As will be discussed in the conclusions of law, *infra*, the Hawai'i County subdivision code does not apply within the conservation district. The County Planning Department, which administers the county subdivision code, Haw. Cty. Code Chap. 23, reviewed the TMT CDUA, confirmed that there was no county zoning for the site, and declared it had "no comments." Ex. A-8, p. 205-206.
984. Petitioners and Opposing Intervenors further contend that the TMT Project does not satisfy HAR § 13-5-30(c)(7) because, in their view, the TIO Sublease constitutes an impermissible "subdivision of land ... utilized to increase the intensity of land uses in the conservation district." *See e.g.*, Petitioners' Collective PHS at 6.
985. Petitioners and Opposing Intervenors argue the University's subleases to observatories constitute a "subdivision" of land simply because they include references to use areas in parcel "metes and bounds descriptions." Ex. B.03a at 1 (asserting that the exhibits to Ms. Townsend's testimony "include maps denoting the metes and bounds of the land area to be demised"). The documents referenced by Petitioners and Opposing Intervenors do not, however, contain metes and bounds descriptions. In any case, whether metes and bounds descriptions are used or not, the subleases are not subdivisions for the reasons discussed in the conclusions of law, *infra*.
986. Designating areas within a parcel for uses by persons does not create a subdivision. The subdivision process in the conservation district requires an application to subdivide pursuant to the above-mentioned conservation district rules.
987. It is undisputed that University has not sought a subdivision of land and none is required by the CDUA or FEIS. No evidence exists that any governmental agency has received a request to subdivide and the prior sublease document does not create or require a subdivision. (White) Tr. 10/20/16 at 222-23.
988. Any increase in the intensity of land use due to the TMT Project is only that allowed by the CDUP. The sublease does not authorize any physical development beyond that already allowed by the CDUP. The CDUP authorizes the construction of the project; the sublease only transfers site control and management. If the University had applied to build and run the TMT Project on its own, no sublease would have been necessary, but the analysis of the environmental, cultural, and other impacts of the project would have been the same. Hence, besides the fact that the sublease is not a subdivision, the sublease is not being used to increase the intensity of land use.
989. Since there is no evidence of the utilization of a subdivision of land to increase the intensity of land use in the conservation district, the TMT Project complies with the Seventh Criterion.