

BEFORE THE LAND USE COMMISSION

OF THE STATE OF HAWAII

In the Matter of the Petition of

DEPARTMENT OF HOUSING AND
HUMAN CONCERNS, COUNTY OF
MAUI

To Amend the Agricultural Land Use
District Boundary into the Urban District for
approximately 73.000 acres at Lāna`i City,
Island of Lāna`i, State of Hawai`i, TMK
(2) 4-9-2: portion of 58

) DOCKET NO. A11-792

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STIPULATED
FINDINGS OF FACT,
CONCLUSIONS OF LAW AND
DECISION AND ORDER AND
CERTIFICATE OF SERVICE AND
LAND USE COMMISSION
ADOPTION OF ORDER

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LAND USE COMMISSION
STATE OF HAWAII

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LAND USE COMMISSION
 STATE OF HAWAII
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**STIPULATED FINDINGS OF FACT,
CONCLUSIONS OF LAW, AND DECISION AND ORDER**

AND

CERTIFICATE OF SERVICE

AND

LAND USE COMMISSION ADOPTION OF ORDER

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 HUMAN CONCERNS, COUNTY OF
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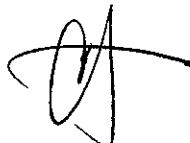
STIPULATED FINDINGS OF FACT,
CONCLUSIONS OF LAW, AND DECISION AND ORDER

The parties hereto have agreed and stipulated to the attached Petitioner's Proposed Findings of Fact, Conclusions of Law, and Decision and Order.


The parties hereto may execute this stipulation by counterpart and said executed counterparts shall constitute a whole and complete stipulation.

Dated: Honolulu, Hawai'i, May 24, 2011.

DEPARTMENT OF HOUSING AND HUMAN
 CONCERNS, COUNTY OF MAUI

By  _____
 Benjamin M. Matsubara
 Curtis T. Tabata
 Its Attorneys

STATE OF HAWAII OFFICE OF PLANNING

By 

Jesse Souki
Its Director

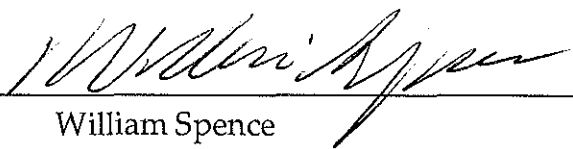
PLANNING DEPARTMENT, COUNTY OF MAUI

By _____
William Spence
Its Director

STATE OF HAWAII OFFICE OF PLANNING

By _____
Jesse Souki
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PLANNING DEPARTMENT, COUNTY OF MAUI

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BEFORE THE LAND USE COMMISSION

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DEPARTMENT OF HOUSING AND)	PETITIONER'S PROPOSED
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PETITIONER'S PROPOSED FINDINGS OF FACT,
CONCLUSIONS OF LAW AND DECISION AND ORDER

Petitioner DEPARTMENT OF HOUSING AND HUMAN CONCERNS, COUNTY OF MAUI ("Petitioner"), filed a Petition for Land Use District Boundary Amendment on May 2, 2011 ("Petition"), pursuant to Hawai'i Revised Statutes ("HRS") sections 205-4 and 201H-38, and Hawai'i Administrative Rules ("HAR") chapter 15-15, to amend the land use district boundary to reclassify approximately 73.000 acres of land, situated in Lanai City, Island of Lanai, Hawai'i, ("Property"), Tax Map Key No. (2) 4-9-2: portion of 58 ("Petition Area"), from the State Land Use Agricultural District to the State Land Use Urban District. The reclassification is necessary to allow for the development of the proposed Lanai Affordable Housing Project ("Project").

The Land Use Commission ("Commission"), having heard and examined the testimony, evidence, and argument of counsel presented during the hearings, along with the pleadings filed herein, hereby makes the following Findings of Fact, Conclusions of Law, and Decision and Order.

I. PROCEDURAL MATTERS

1. On February 28, 2011, the Commission received Petitioner's Notice of Intent to File a Land Use District Boundary Amendment Petition pursuant to HAR section 15-15-97(b), Affidavit Attesting to Service, Exhibits "A" – "B", Affidavit Attesting to Publication and Certificate of Service ("COS").

2. On March 1, 2011, Petitioner filed its Petition for Declaratory Order in Docket No. DR11-44 to request a waiver of the time schedule requirement for incremental plans under HAR section 15-15-50(c)(19) for the future filing of Petitioner's petition for district boundary amendment in Docket No. A11-792.

3. On April 6, 2011, the Commission entered its Order Granting Petitioner's Petition for Declaratory Order in Docket No. DR11-44 and granted the waiver of the time schedule requirement for incremental plans.

4. On May 3, 2011, Petitioner filed its Affidavit re Service, Mailing, Filing with the Lieutenant Governor's Office and Publication of the Notice of Hearing, and COS.

5. On May 2, 2011 the Commission received Petitioner's Petition for Land Use District Boundary Amendment ("Petition"), Exhibits "1" through "13" of the Petition, and COS.

6. On May 2, 2011, the Executive Officer of the Commission deemed the Petition a proper filing and accepted it for processing as of May 2, 2011.

7. On May 16, 2011 a prehearing conference was held at the Commission's conference room no. 405.

8. The Commission held evidentiary hearings in this docket on May 26, 2011 and May 27, 2011 in Lanai, Hawai'i.

II. FINDINGS OF FACT

A. Description of the Petition Area

9. The Petition Area is situated in Lanai City, Island of Lanai, Hawai'i and consists of approximately 73.000 acres of land, is comprised of TMK: (2) 4-9-2: portion of 58, and is owned in fee simple interest by Petitioner. [Pet. Ex. 5]

10. The Petition Area is currently vacant and is surrounded by Lanai High School and Elementary School, a Department of Hawaiian Home Lands subdivision, Olopuia Woods Subdivision and vacant agricultural lands. [Pet. Ex. 5]

11. The Petition Area is within Lanai City. Single and multi-family residential properties surround the town's commercial core located across Dole Park. Project District 2 (Koele) is located north of Lanai City. Other urban areas include Lanai

Airport situated about 3.2 miles to the southwest, Kaunalapau Harbor, the commercial seaport situated about seven (7) miles to the southwest, and Lanai Project District 1 (Manele) situated about 8.0 miles to the south of Lanai City. [Pet. Ex. 5]

12. The Flood Insurance Rate Maps dated September 25, 2009 for the island of Lanai identify the Petition Area in Zone X, an area of minimal flooding. [Pet. Ex. 5]

13. The U.S. Department of Agriculture Natural Resources Conservation Service classifies the soils within the Petition Area as Molokai-Lahaina association of soils. [Pet. Ex. 5]

14. The University of Hawai'i Land Study Bureau (LSB) rates the Petition Area lands as "C". [Pet. Ex. 5]

15. The Agricultural Lands of Importance in the State of Hawai'i (ALISH) map designates the Petition Area as "Prime". [Pet. Ex. 5]

16. The Petition Area is characterized as having a level to gently sloping topography and lies at an elevation of approximately 1,620 feet above mean sea level. [Pet. Ex. 5]

B. Proposal for Reclassification

17. The Project will consist of approximately 425 residential units. According to the Project's conceptual master plan, there will be 208 single-family residences on 6000 square foot minimum lots and 217 multi-family units on approximately 13.29 acres

of land. The project will include two parks and a site for a community center. [Pet. Ex. 5]

18. The Project is anticipated to be developed over five phases and will be completed in approximately 17 years based upon the projected absorption rate. [Pet. Ex. 5]

19. The Incremental Plan for the Project specifies five increments of development, specifying the number of units, improvements and infrastructure that will be completed for each increment prior to commencing the next subsequent increment. The Incremental Plan assures concurrency between the development of necessary infrastructure and the residential units built. The Incremental Plan, however, does not include a timetable for each phase due to the unknown availability of public funding. [Pet. Ex. 6]

20. As a result of Petitioner's inability to provide a time schedule for the incremental plan, Petitioner filed a Petition for Declaratory Order on March 1, 2011 to obtain a waiver of the time schedule requirement for incremental plans for this Petition for District Boundary Amendment. The Petition for Declaratory Order was granted at the Commission meeting on March 23, 2011, and the Commission entered its Order Granting Petitioner Department of Housing and Human Concerns, County of Maui's Petition for Declaratory Order, DR11-44, on April 6, 2011. [Pet. Ex. 7]

21. Petitioner has met with interested community groups to discuss the proposed Project. [Pet. Ex. 5]

22. The Project was approved and certified as a HRS section 201H-38 affordable housing project by way of Resolution 10-12 which was adopted by the Council of the County of Maui on March 5, 2010. [Pet. Ex. 13]

C. Justification for Reclassifying the Entire Project

23. The budgetary context for a project such as the Lanai Affordable Housing Project is set forth by Chapter 2.80B of the Maui County Code, which has a year 2030 planning horizon. As the only affordable housing project sponsored solely by the County of Maui, it is important that the Department of Housing and Human Concerns ensure compliance with the Countywide Policy Plan's objective of increasing and maintaining affordable housing inventory, through prioritization of available infrastructure capacity. In order to meet this objective, there must be certainty that the project will be implemented without the need for future discretionary approvals. [Pet. Ex. 18]

24. Capital improvement funding approved by the County Council will include use of monies to provide future infrastructure capacities (i.e., infrastructure sizing for water, sewer and drainage systems are based on design criteria intended to meet ultimate buildout requirements). The reclassification of the entire Petition Area will remove the need for a second LUC approval, eliminate the risk that further

infrastructure requirements might be imposed, and allow the County Council to rely on the current infrastructure capacity expectations in funding the Project. [Pet. Ex. 18]

D. Petitioner's Financial Capability to Undertake the Project

25. Petitioner is a department of the County of Maui and is exempt from the requirement to provide financial statements pursuant to HAR section 15-15-50(c)(8).

E. Need for the Proposed Development

26. Lanai lacks enough resident housing affordable to the community. The construction of the Lanai Affordable Housing project will enable the Island's residents to purchase or rent housing units and relieve the existing problem of multiple families living in the same unit. [Pet. Ex. 5]

F. Economic Impacts

27. On a short-term basis, the Project will support construction and construction-related employment. Accordingly, the Project will have a beneficial impact on the local economy during the period of construction. [Pet. Ex. 5]

G. Social Impacts

28. The proposed Project is not anticipated to have an adverse impact upon the population. [Pet. Ex. 5]

H. Impacts Upon Resources of the Area

1. Agricultural Resources

29. The Petition Area has remained fallow since the cessation of pineapple cultivation on Lanai in 1992. Of the 46,639 acres of Agricultural District lands on Lanai, the Petition Area's 73 acres represents 0.002 percent of the total. Ongoing agricultural endeavors being undertaken on Lanai consists of approximately 4,200 acres of leased for cattle grazing, approximately 8.5 acres in town used for the Lanai Community Gardens, and 10 acres leased to a commercial farmer for growing fruits and vegetables. Given the small percentage of lands being used for active agriculture on Lanai, the Project is not deemed to have a significant impact on agriculture on the island. [Pet. Ex. 10]

2. Flora and Fauna

30. The vegetation on the Property is dominated by non-native species, and no endangered, threatened or candidate plant species or their habitats were found on the Property. [Pet. Ex. 5]

31. Four mammals were detected which included Axis deer, mouse, cat and horse. No evidence was found of the native Hawaiian hoary bat. Eleven non-native birds were identified on the Property. The Property is not a suitable habitat for Lanai's native forest birds or sea birds. [Pet. Ex. 5]

32. No endangered insects or invertebrates were observed on the Property.

[Pet. Ex. 8]

3. Archaeological and Historical Resources

33. The archaeological inventory survey ("AIS") performed by Cultural Surveys Hawaii, Inc. ("CSH") dated November 2009 identified one historic property on the Project site consisting of a historic era culvert headwall (SIHP 50-40-98-6649).

Because the information relating to this site has been recorded and additional historic preservation mitigation would not add to the body of information, CSH recommends no further historic preservation work specific to the site is necessary. This recommendation was accepted by SHPD. [Pet. Ex. 5]

33A. Two significant sites were identified outside of the Petition Area. The AIS recommends a monitoring plan to ensure that construction work does not inadvertently damage the two historic sites outside of the Petition Area, and precautionary archaeological monitoring during the initial grading and grubbing activities in case unidentified archaeological finds are discovered.

33B. In the event any previously unidentified archaeological sites are found, Petitioner will comply with all applicable statutes and rules of SHPD.

4. Cultural Resources

34. The cultural impact assessment (“CIA”) performed by CSH dated August 2009 found no traditional or cultural practices that will be adversely impacted by the Project. [Pet. Ex. 5]

5. Groundwater Resources

35. Only the Central Aquifer sector on Lanai is believed to contain freshwater. The Petition Area lies above the Kaumalapau Aquifer sector and, therefore, there are no drinking water wells down gradient of the Petition Area. As a result, the Project will not impact any drinkable groundwater. [Pet. Ex. 9]

6. Scenic Resources

36. The Project is not a part of nor does it lie within a scenic view corridor. The Property is located on the outskirts of Lanai City and would not affect views from inland vantage points. The proposed Project will not alter the essential county town ambiance of the city and is consistent and compatible with existing surrounding land uses. [Pet. Ex. 5]

I. Environmental Quality

37. The Project is not anticipated to have any significant air quality or noise impacts. Air quality and noise impacts occurring during construction will be addressed through Best Management Practices (“BMP’s”), monitoring, and compliance with all applicable regulations. [Pet. Ex. 5]

J. Adequacy of Public Services and Facilities

1. Highway and Roadway Facilities

38. Vehicular access to the Petition Area is off of 5th Street, a two-lane, two-way County road. **[Pet. Ex. 5]**

39. Existing roadways in the vicinity of the Project are located northeast of the Project site. 5th Street is a two-lane, east-west, County roadway located on the north side of Lanai City. Fraser Avenue is a two-lane, primary north-south, County roadway located on the west side of Lanai City. Lanai Avenue is a two-lane, primary north-south, County roadway located on the east side of Lanai City.

39A. Based on the Traffic Impact Analysis Report, existing LOS ratings for the AM and PM peak hours for the Fraser St./5th St. and Lanai Ave./5th St. intersections are either LOS A or B. Base year projections for AM and PM peak hours at Fraser St./5th St. and Lanai Ave./5th St. intersections without the Project at year 2017 are LOS B. Base year 2026 projections without the Project for both intersections are either LOS B or C. Future year 2017 projections with the Project continue to yield LOS B for both intersections except an anticipated LOS C rating for the west-bound lanes at the Fraser Ave./5th St. intersection. Future year 2026 projections with the Project continue to yield LOS B ratings for the Lanai Ave./5th St. intersection, but mostly LOS E ratings at the Fraser Ave./5th St. intersection. **[Pet. Ex. 5]**

2. Schools

40. Lanai High and Elementary school provides elementary and secondary educational facilities for Lanai. The State DOE school's 2009 and 2010 enrollment is 542 students. Maui County is in the process of donating 42 acres to the DOE for the expansion of the School, and the Petitioner, the DOE and the DHHL are in discussions relative to the coordination of their master plans and infrastructure needs to their respective projects. **[Pet. Ex. 5]**

3. Parks and Recreational Facilities

41. Maui County's Department of Parks and Recreation administers the Lanai Community Center, the Lanai Gym and Tennis Courts, the Lanai Little League Field, Fraser Avenue Park and Kaumalapau Highway/Fraser Avenue Park. Privately owned parks available for public use include Dole Park, Waialua Park, Hulopoe Beach Park, Olopuia Woods Park, the Lanai Recreation Center, and two 18 hole championship golf courses and a nine hole golf course. The Project will include two parks consisting of 2.83 and 2.08 acres. The 2.83 acre park site will be developed in Phase 1 of the Project. **[Pet. Ex. 5]**

4. Water Service

42. Domestic water service for Lanai is provided by the Lanai Water Company, a private company regulated by the PUC. Service to Lanai City consists of two reservoirs: Koele Reservoir and Lanai City Reservoir. The Project is estimated to

need approximately 0.278 MGD from the LWC. Combined with estimated usage, the water demand is below the 2.75 MG storage capacity of the Koele and Lanai City Reservoirs. [Pet. Ex. 5]

43. The Project is included in the draft Maui County Water Use & Development Plan - Lanai as a discretionary project that has been submitted for review. [Pet. Ex. 20]

5. Solid Waste Disposal

44. The Lanai Landfill as of February 2009 has a remaining capacity of 178,000 cubic yards and an annual capacity usage of 13,400 cubic yards or 5,127 tons per year. [Pet. Ex. 5]

6. Wastewater Disposal

45. Wastewater is treated at the County's Lanai Wastewater Treatment Facility. The WWTF has a design capacity of 0.5 MGD, and current usage is 0.297 MGD. The Project is estimated to produce 0.135 MGD. [Pet. Ex. 5]

7. Drainage

46. Project runoff is estimated for a 50-year, one hour rainfall occurrence will be approximately 137.75 cfs which equates to a one hour volume of 496,000 cubic feet. A 4 acre site has been included in the Petition Area for an on-site retention basin that will be six feet deep with a capacity of 800,000 cf. An overflow pipe will allow any excess runoff to discharge to the natural outflow point. [Pet. Ex. 5]

46A. If properly designed and constructed, the proposed drainage system will not increase offsite runoff, nor cause an adverse impact to adjacent and downstream properties.

8. Police and Fire Protection

47. Police service is provided by the Maui County Police Department. The Lanai police station is located in Lanai City and is staffed by two Commanders, six patrol officers, and a school resource officer. Fire service is provided by the Maui County Department of Fire and Public Safety. The Lanai Fire Station is staffed by three Captains, six drivers and twelve fire fighters. **[Pet. Ex. 5]**

9. Emergency/Medical Services

48. The Lanai Community Hospital is the only major medical facility on Lanai. The 14 bed facility provides acute and long term medical care, as well as 24-hour emergency medical service. Also in Lanai City is the Straub Lanai Family Health Center which provides out-patient medical care for the island's residents including Kaiser Permanente members. In addition, air ambulance service is provided by Mercy Air Hawaii, Inc., while surface ambulance and emergency medical care services are provided by American Medical Response, Inc. **[Pet. Ex. 5]**

10. Electricity and Telephone Service

49. Electrical is provided by Maui Electric Company, telephone service is provided by Hawaiian Telcom, Inc., cable television is provided by Time Warner Cable, Cox and Charter Communications. **[Pet. Ex. 5]**

11. Energy Conservation

50. Petitioner's Sustainability Plan is intended to be a guide that evolves until Project completion. The Sustainability Plan identifies potential strategies and actions in support of goals, including energy conservation. **[Pet. Ex. 19]**

51. Energy management strategies and actions that may be incorporated into the project include: design buildings to take advantage of natural ventilation in order to reduce the need for air conditioning; install solar water heaters in residential units and educate potential home owners of the potential long-term savings; offer photo-voltaic panels as an option and educate potential home owners of the potential long-term savings; equip residences with Energy Star efficient appliances; allow the location and placement of clotheslines on the single-family lots; utilize cost effective energy efficient building materials, wherever possible; and encourage re-cycling by residents. **[Pet. Ex. 19]**

12. Civil Defense

51A. The Petitioner has agreed to fund and install outdoor solar-powered warning sirens serving the Petition Area as determined by the State Department of Defense, Office of Civil Defense.

K. Commitment of State Funds and Resources

52. There is no commitment of State funds or resources for the Project. [Pet. Ex. 18]

L. State Land Use Designation

53. The Petition Area is presently classified in the state Agricultural Land Use District. [Pet. Ex. 5]

M. Conformance With Urban District Standards

54. The Project is in conformity with section 15-15-18 of the Hawai'i Administrative Rules.

(1) The Petition Area includes lands characterized by "city-like" concentrations of people, structures, streets, urban level of services and other related land uses.

(2) The Petition Area is proximately located to centers of trading and employment; has access to basic services such as schools, parks, wastewater systems, solid waste disposal, drainage, water, transportation systems, public utilities, police and fire protection; and there is sufficient reserve areas for foreseeable urban growth.

(3) The Petition Area has satisfactory topography, drainage, and is reasonably free from the danger of any flood, tsunami, unstable soil conditions, and other adverse environmental effects.

(4) The Project is near Urban lands and is consistent with the goals, objectives and policies of the Lanai Community Plan.

(5) The Project will not contribute to scattered spot urban development.

(6) The Project conforms to the applicable goals, objectives and policies of the Hawai'i State Plan and relates to the applicable priority guidelines of the Hawai'i State Plan and adopted functional plans.

(7) The Project conforms to the applicable district standards. [Pet. Ex.

5]

N. Conformance With The Goals, Objectives, and Policies of The Hawai'i

State Plan

55. The Project is consistent with the following applicable goals, objectives, policies, and priority guidelines of the Hawai'i State Plan.

§ 226-5 Objectives and policies for population.

(b)(1) Manage the population growth statewide in a manner that provides increased opportunities for Hawaii's people to pursue their physical, social, and economic aspirations while recognizing the unique needs of each county.

* * *

(b)(7) Plan the development and availability of land and water resources in a coordinated manner so as to provide for the desired levels of growth in each geographic area.

§ 226-19 Objectives and policies for socio-cultural advancement – housing.

(a)(1) *Greater opportunities for Hawaii's people to secure reasonably priced, safe, sanitary, and livable homes, located in suitable environments that satisfactorily accommodate the needs and desires of families and individuals, through collaboration and cooperation between government and nonprofit and for-profit developers to ensure that more affordable housing is made available to very low-, low- and moderate-income segments of Hawaii's population.*

(a)(2) *The orderly development of residential areas sensitive to community needs and other land uses.*

* * *

(b)(3) *Increase homeownership and rental opportunities and choices in terms of quality, location, cost, densities, style, and size of housing.*

* * *

(b)(5) *Promote design and location of housing developments taking into account the physical setting, accessibility to public facilities and services, and other concerns of existing communities and surrounding areas.*

§ 226-104 Population growth and land resources priority guidelines.

(a)(1) *Encourage planning and resource management to insure that population growth rates throughout the State are consistent with available and planned resource capacities and reflect the needs and desires of Hawaii's people.*

(b)(1) *Encourage urban growth primarily to existing urban areas where adequate public facilities are already available or can be provided with reasonable public expenditures, and away from areas where other important benefits are present, such as protection of important agricultural land or preservation of lifestyles.*

(b)(2) *Make available marginal or non-essential agricultural lands for appropriate urban uses while maintaining agricultural lands of importance in the agricultural district.*

* * *

(b)(9) *Direct future urban development away from critical environmental areas or impose mitigating measures so that negative impacts on the environment would be minimized.*

* * *

(b)(12) *Utilize Hawaii's limited land resources wisely, providing adequate land to accommodate projected population and economic growth needs while*

ensuring the protection of the environment and the availability of the shoreline, conservation lands, and other limited resources for future generations.

(b)(13) Protect and enhance Hawaii's shoreline, open spaces, and scenic resources. [Pet. Ex. 5]

O. Relationship With Applicable Priority Guidelines and Functional Plans

56. The Project is consistent with the following objectives, policies and implementing actions of the respective State Functional Plans.

State Housing Functional Plan

Issue Area: Homeownership

***Policy A(2):** Encourage increased private sector participation in the development of affordable for-sale housing units.*

***Policy (A)(3):** Ensure that (1) housing project and (2) projects which impact housing provide a fair share/adequate amount of affordable homeownership opportunities.*

Issue Area: Rental Housing

***Policy B(2):** Encourage increased private sector participation in the development of affordable rental housing. [Pet. Ex. 5]*

P. Conformance With the Coastal Zone Management Program

57. The objectives and policies of the Hawai'i CZM Program encompass broad concerns such as impact on recreational resources, historic and archaeological resources, coastal scenic resources and open space, coastal ecosystems, coastal hazards, and the management of development. The Project is anticipated to not adversely impact the objectives and policies of the CZM Program. [Pet. Ex. 5]

Q. Conformance With the County General Plan

58. Council Resolution No. 10-12 adopted on March 5, 2010 exempts the 201H-38 Lanai Affordable Housing Project from compliance to the General Plan and community plans. Subsequent to the adoption of County Resolution No. 10-12, Ordinance No. 3732 adopting the General Plan Countywide Policy Plan 2030 took effect on March 24, 2010. Although exempt, the Project is consistent with the Countywide Policy Plan 2030 as follows:

With regard to the Countywide Policy Plan, Section 2.80B.030 of the Maui County Code states the following:

The countywide policy plan shall provide broad policies and objectives which portray the desired direction of the County's future. The countywide policy plan shall include:

1. *A vision for the County;*
2. *A Statement of core themes or principles for the county; and*
3. *A list of countywide objectives and policies for population, land use, the environment, the economy, and housing.*

Core principles set forth in the Countywide Policy Plan are listed as follows:

1. Excellence in the stewardship of the natural environment and cultural resources;
2. Compassion for and understanding of others;
3. Respect for diversity;
4. Engagement and empowerment of Maui County residents;
5. Honor for all cultural traditions and histories;

6. Consideration of the contributions of past generations as well as the needs of future generations;
7. Commitment to self-sufficiency;
8. Wisdom and balance in decision making;
9. Thoughtful, island-appropriate innovation; and
10. Nurturance of the health and well-being of our families and our communities.

Congruent with these core principles, the Countywide Policy Plan identifies goals, objectives, policies and implementing actions for pertinent functional planning categories, which are identified as follows:

1. Natural environment
2. Local cultures and traditions
3. Education
4. Social and healthcare services
5. Housing opportunities for residents
6. Local economy
7. Parks and public facilities
8. Transportation options
9. Physical infrastructure
10. Sustainable land use and growth management
11. Good governance

With respect to the 201H-38 Lanai Affordable Housing Project, the following goals, objectives, policies and implementing actions are illustrative of the

project's compliance with the Countywide Policy Plan:

Expand Housing Opportunities for Residents

- Goal:** Quality, island-appropriate housing will be available to all residents.
- Objective:** Reduce the affordable housing deficit for residents.
- Policies:** Ensure that an adequate and permanent supply of affordable housing, both new and existing units, be made available for purchase or rental to our resident and/or workforce population, with special emphasis on providing housing for low- to moderate-income families, and ensure that all affordable housing remains affordable in perpetuity.
- Ensure residents are given priority to obtain affordable housing units developed in their communities, consistent with the applicable regulations.
- Establish pricing for affordable housing that is more reflective of Maui County's workforce than the United States Housing and Urban Development's median-income estimates for Maui County.
- Develop neighborhoods with a mixture of accessible and integrated community facilities and services.
- Objective:** Increase the mix of housing types in towns and neighborhoods to promote sustainable land use planning, expand consumer choice, and protect the County's rural and small-town character.
- Policies:** Design neighborhoods to foster interaction among neighbors.
- Encourage a mix of social, economic, and age groups within neighborhoods.
- Objective:** Increase and maintain the affordable housing inventory.
- Encourage long-term residential use of existing and future housing to meet residential needs.

Develop public-private and nonprofit partnerships that facilitate the construction of quality affordable housing.

Streamline the review process for high-quality, affordable housing developments that implement the goals, objectives, and policies of the General Plan.

Analysis: The 201H-38 Lanai Affordable Housing Project will provide a mix of affordable housing opportunities to the Lanai community. Within the project master plan, various housing types are integrated with public facilities and services within walking and biking distance of residents. The street patterns have been sited for future connectivity to the adjacent Department of Hawaiian Home Lands property which is currently being master planned.

The County of Maui is conducting ongoing discussions with the Department of Education, Department of Hawaiian Home Lands and Castle & Cooke Resorts, LLC to investigate potential public-private partnerships to finance infrastructure improvements in order to provide affordable housing and school expansion facilities. In order to streamline and expedite the entitlement process, the County of Maui has filed the State District Boundary Amendment Petition pursuant to Section 15-15-97 of the Land Use Commission Rules relating to government sponsored housing projects.

Improve Parks and Public Facilities

Goal: A full range of island-appropriate public facilities and recreational opportunities will be provided to improve the quality of life for residents and visitors.

Objective: Expand access to recreational opportunities and community facilities to meet the present and future needs of residents of all ages and physical abilities.

Promote the development and enhancement of community centers, civic spaces, and gathering places throughout our communities.

Policies: Expand and enhance the network of parks, multi-use paths, and bikeways.

Objective: Improve the quality and adequacy of community facilities.

Policies: Provide and maintain community facilities that are appropriately designed to reflect the traditions and customs of local cultures.

Maintain, enhance, expand, and provide new active and passive recreational facilities in ways that preserve the natural beauty of their locations.

Analysis: Parks and public facility sites have been integrated into the project master plan to accommodate the needs of the project's residents. In keeping with the character of Lanai City, plans for any public facility will be in accordance with the Lanai City Community Design Guidelines. Although not required, conceptual designs of the residential and multi-family housing incorporate design elements of the plantation character of Lanai City.

Diversity Transportation Options

Goal: Maui County will have an efficient, economical, and environmentally sensitive means of moving people and goods.

Objective: Provide an effective, affordable, and convenient ground-transportation system that is environmentally sustainable.

Policy: Design new roads and roadway improvements to retain and enhance the existing character and scenic resources of the communities through which they pass.

Objective: Reduce the reliance on the automobile and fossil fuels by encouraging walking, bicycling, and other energy-efficient and safe alternative modes of transportation.

Policies: Make walking and bicycling transportation safe and easy between and within communities.

Require development to be designed with the pedestrian in mind.

Analysis: The roadways have been designed to reflect the existing rural small town character of Lanai City. Council Resolution No. 10-12 granted an exemption from the urban roadway standards identified in Title 18, Maui County Code. Further, within the project master plan, the residential sites are integrated with public facilities and services within walking and biking distance of residents. The development will be designed with the pedestrian in mind, especially safety of school children walking to the nearby school site.

Improve Physical Infrastructure

Goal: Maui County’s physical infrastructure will be maintained in optimum condition and will provide for and effectively serve the needs of the County through clean and sustainable technologies.

Objective: Improve water systems to assure access to sustainable, clean, reliable, and affordable sources of water.

Policies: Ensure that adequate supplies of water are available prior to approval of subdivision or construction documents.

Develop and fund improved water-delivery systems.

Objective: Improve waste-disposal practices and systems to be efficient, safe, and as environmentally sound as possible.

Policy: Pursue improvements and upgrades to existing wastewater and solid-waste systems consistent with current and future plans and the County’s Capital Improvement Program.

Objective: Significantly increase the use of renewable and green technologies to promote energy efficiency and energy self-sufficiency.

Policies: Support green building practices such as the construction of buildings that aim to minimize carbon dioxide production, produce renewable energy, and recycle water.

Analysis: The County of Maui is working cooperatively with the Department of Education, Department of Hawaiian Home Lands and Castle & Cooke Resorts, LLC in order to coordinate infrastructure improvements, such as

water and wastewater system upgrades necessary not only for the 201H-38 Lanai Affordable Housing Project but other projects envisioned for Lanai. In support of green building practices a Sustainability Plan has been included in the State District Boundary Amendment petition for the project.

Promote Sustainable Land Use and Growth Management

Goal: Community character, lifestyles, economies, and natural assets will be preserved by managing growth and using land in a sustainable manner.

Objective: Improve land use management and implement a directed-growth strategy.

Policies: Direct new development in and around communities with existing infrastructure and service capacity, and protect natural, scenic, shoreline, and cultural resources.

Objective: Design all developments to be in harmony with the environment and to protect each community's sense of place.

Policies: Protect and enhance the unique architectural and landscape characteristics of each Community Plan Area, small town, and neighborhood.

Ensure that adequate recreational areas, open spaces, and public-gathering places are provided and maintained in all urban centers and neighborhoods.

Use trees and other forms of landscaping along rights-of-way and within parking lots to provide shade, beauty, urban-heat reduction, and separation of pedestrians from automobile traffic in accordance with community desires.

Analysis: Growth is managed through the various community plans. The subject property is immediately adjacent to existing infrastructure and services and is identified in the Lanai Community Plan for future housing development. The 201H-38 Lanai Affordable Housing Project implements the County's directed-growth strategy

identified in the community plan. Further, to protect the community's sense of place the project incorporates design elements of the Lanai Community Design Guidelines to ensure that the project is compatible with the rural or small town character of Lanai City.

In summary, the 201H-38 Lanai Affordable Housing Project is consistent with the theme and principles of the Countywide Policy Plan. **[Pet. Ex. 21]**

R. Conformance to the Lanai Community Plan

59. The Project site is located in the Lanai Community Plan region, one of the nine Community Plan regions established in the County of Maui. Planning for each region is guided by the respective Community Plans, which are designed to implement the Maui County General Plan. Each Community Plan contains recommendations and standards which guide the sequencing, patterns, and characteristics of future development in the region. The Project is designated as "Single-Family" use on the Lanai Community land use map. Resolution No. 10-12 adopted by the Maui County Council granted an exemption from Chapter 2.80B, Maui County Code (MCC), General Plan and Community Plans for a portion of the Project that is not consistent with the single family designation on the land use plan. **[Pet. Ex. 5]**

S. County Zoning

60. The Petition Area is zoned "Interim" by Maui County zoning. While the current zoning does not allow the proposed Project, the HRS section 201H-38 application approved by the Maui County Council through Resolution No. 10-12

exempts the Project from Title 19, Zoning, MCC, and will allow for the proposed Project. [Pet. Ex. 5]

III. RULINGS ON PROPOSED FINDINGS OF FACT

Any of the findings of fact submitted by Petitioner or other parties not already ruled upon by the Commission by adoption herein, or rejected by clearly contrary findings of fact herein, are hereby denied and rejected.

Any conclusion of law herein improperly designated as a finding of fact should be deemed or construed as a conclusion of law; any finding of fact herein improperly designated as a conclusion of law should be deemed or construed as a finding of fact.

IV. CONCLUSIONS OF LAW

1. Pursuant to HRS chapters 201H and 205 and the Commission Rules under HAR chapter 15-15, and upon consideration of the Commission decision-making criteria under HRS section 205-17, the Commission finds upon the clear preponderance of the evidence that the reclassification of the Petition Area, consisting of approximately 73,000 acres of land, situated in Lanai City, Island of Lanai, Hawai'i, Tax Map Key No. (2) 4-9-2: portion of 58, to the state Land Use Urban District, and subject to the conditions stated in the Order below, conforms to the standards for establishing the boundaries of the state Land Use Urban District, is reasonable, not violative of HRS section 205-2 and is consistent with the policies and criteria established pursuant to HRS sections 205-16, 205-17, and 205A-2.

2. Article XII, Section 7, of the Hawai'i State Constitution requires the Commission to protect native Hawaiian traditional and customary rights. The State of Hawai'i reaffirms and shall protect all rights, customarily and traditionally exercised for subsistence, cultural, and religious purposes and possessed by *ahupua'a* tenants who are descendants of native Hawaiians who inhabited the Hawaiian Islands prior to 1778, subject to the right of the State to regulate such rights. The State and its agencies are obligated to protect the reasonable exercise of customarily and traditionally exercised native Hawaiian rights to the extent feasible. *Public Access Shoreline Hawai'i v. Hawai'i County Planning Commission*, 79 Haw. 425, 450, n. 43, *certiorari denied*, 517 U.S. 1163 (1996).

3. The Commission is empowered to preserve and protect customary and traditional rights of native Hawaiians. *Ka Pa'akai O Ka 'Aina v. Land Use Commission*, 94 Hawai'i 31, 7 P.3d 1068 (2000).

6. Article XI, Section 1, of the Hawai'i State Constitution requires the State to conserve and protect Hawai'i's natural beauty and all natural resources, including land, water, air, minerals, and energy sources, and to promote the development and utilization of these resources in a manner consistent with their conservation and in furtherance of the self-sufficiency of the State.

10. Article XI, Section 3, of the Hawai'i State Constitution requires the State to conserve and protect agricultural lands, promote diversified agriculture, increase agricultural self-sufficiency, and assure the availability of agriculturally suitable lands.

11. The Petition Area is not designated as Important Agricultural Land under Part III of HRS chapter 205.

13. Article XI, Section 7, of the Hawai'i State Constitution states that the State has an obligation to protect, control, and regulate the use of Hawai'i's water resources for the benefit of its people.

13A. Based upon the facts and circumstances of this case and the conditions imposed, the reclassification of the Petition Area to the State Land Use Urban District is consistent with the requirements of Article XI, Sections 1, 3, and 7, and Article XII, Section 7 of the Hawaii State Constitution, and *Ka Pa'akai O Ka 'Aina v. Land Use Commission*, 94 Hawai'i 31, 7 P.3d 1068 (2000).

V. DECISION AND ORDER

IT IS HEREBY ORDERED that the Petition Area, consisting of approximately 73.000 acres of land, situated in Lanai City, Island of Lanai, Hawai'i, Tax Map Key No. (2) 4-9-2: portion of 58, and shown approximately on Exhibit "A," attached hereto and incorporated by reference herein, shall be and is hereby reclassified to the State Land Use Urban District, and the State Land Use District boundaries shall be amended accordingly.

Based upon the findings of fact and conclusions of law stated herein, it is hereby determined that the reclassification of the Petition Area will not significantly affect or impair the preservation or maintenance of natural systems and habitats or the valued cultural, historical, agricultural, and natural resources of the area.

IT IS FURTHER ORDERED that the reclassification of the Petition Area from the State Land Use Agricultural District to the State Land Use Urban District shall be subject to the following conditions:

1. **Education Contribution Agreement.** Prior to occupancy of Phase I, Petitioner shall enter into an agreement with the State Department of Education to provide 42 acres of land for expansion of Lanai High and Elementary School.
2. **Water Resource Allocation.** Petitioner shall obtain a “will serve” letter from the Lanai Water Company prior to issuance of ministerial permits from the county of Maui.
3. **Water Conservation Measures.** Petitioner shall implement water conservation measures and Best Management Practices (BMPs), such as the use of indigenous and drought-tolerant plants and turf, to the extent practicable, and incorporate such measures in the Project’s landscape planting.
4. **Transportation.** Petitioner shall implement traffic improvements and mitigation measures, if any, as required by the State Department of Transportation (“DOT”) and the County Department of Public Works.

5. **Street Lights.** Petitioner shall use fully-shielded, low sodium street lights within the Project to avoid impacts to avifauna and other populations and to prevent light diffusion upward into the night sky.

6. **Affordable Housing.** Petitioner shall provide affordable housing opportunities in accordance with the certification of the Project as an HRS section 201H-38 housing project.

7. **Archaeological Survey and Historic Preservation Mitigation Plan.** Petitioner shall comply with HRS chapter 6E, including where applicable, the preparation and implementation of a monitoring plan as recommended and approved by the Department of Land and Natural Resources State Historic Preservation Division (SHPD) prior to issuance of a permit for site work. If a monitoring plan is required by SHPD, Petitioner shall confirm in writing to the Commission that the SHPD has found Petitioner's mitigation commitments to be acceptable and has determined that any required historic preservation measures have been successfully implemented.

8. **Previously Unidentified Burials and Archaeological /Historic Sites.** In the event that historic resources, including human skeletal remains, are found and identified during construction activities, all work shall cease in the immediate vicinity of the find, the find shall be protected from additional disturbance, and the SHPD, Maui County Section, shall be contacted immediately, as required by HRS chapter 6E and its applicable regulations. Without limitation to any other condition found herein, if any

burials or archaeological or historic sites or artifacts not previously identified in studies referred to herein, are discovered during the course of construction of the Project, all construction activity in the vicinity of the discovery shall stop until the issuance of an archaeological clearance from the SHPD that mitigative measures have been implemented to its satisfaction.

9. **Established Access Rights Protected.** Petitioner shall preserve and protect any established gathering and access rights of native Hawaiians who have customarily and traditionally exercised subsistence, cultural, and religious practices on the Petition area.

10. **Drainage.** Petitioner shall fund, design and construct any drainage system improvements required to prevent adverse impact resulting from the development of the Project. Petitioner shall be required to prevent runoff from the Petition Area from adversely affecting downstream properties. Petitioners shall submit the drainage plan to appropriate State and County agencies for review and approval.

11. **Wastewater Facilities.** Petitioner shall fund, design and construct a pump station and transmission lines and connect to the County of Maui's Lanai Wastewater Treatment Facility to the satisfaction of the County Department of Environmental Management and the State DOH.

12. **Civil Defense.** Petitioner shall fund and install outdoor solar-powered warning sirens serving the Petition Area as determined by the State Department of Defense, Office of Civil Defense.

13. **Best Management Practices.** Petitioner shall implement applicable BMPs for each proposed land use to minimize infiltration and runoff from construction and vehicle operations, reduce or eliminate the potential for soil erosion and ground water pollution, and formulate dust control measures to be implemented during and after the development process in accordance with the State DOH guidelines.

14. **Energy Conservation.** Petitioner shall substantially comply with the Sustainability Plan, Petitioner's Exhibit 19.

15. **Infrastructure Deadlines.** Petitioner shall complete construction of all backbone infrastructure in accordance to the Infrastructure Incremental Plan as described in Petitioner's Exhibit 6.

16. **Compliance with Representations to the Commission.** Petitioner shall develop the Petition Area in substantial compliance with the representations made to the Commission. Failure to develop the Reclassified Area in accordance with representations may result in reversion of the Reclassified Area to its former classification, or change to a more appropriate classification.

17. **Notice of Change of Ownership.** Petitioner shall give notice to the Commission of any intent to sell, lease, assign, place in trust, or otherwise voluntarily

alter the ownership interests in the Petition Area, at any time prior to completion of development of the Petition Area.

18. **Annual Reports.** Petitioner shall timely provide without any prior notice, annual reports to the Commission, OP, and the County, and their respective successors, in connection with the status of the development of the Petition Area and Petitioner's progress in complying with the conditions imposed herein. The annual report shall be submitted in a form prescribed by the Executive Officer of the Commission.

19. **Release of Conditions.** The Commission may fully or partially release the conditions provided herein as to all or any portion of the Petition Area upon timely motion and upon the provision of adequate assurance of satisfaction of these conditions by Petitioner or its successors and assigns.

20. **Notice of Imposition of Conditions.** Within seven days of issuance of the Commission's Decision and Order for the subject reclassification, Petitioner shall: (a) record with the Bureau of Conveyances of the State of Hawaii a statement that the Petition Area is subject to the conditions imposed herein by the Commission in the reclassification of the Petition Area; and (b) file a copy of such recorded statement with the Commission.

21. **Recordation of Conditions.** Petitioner shall record the conditions imposed herein by the Commission with the Bureau of Conveyances pursuant to HAR section 15-15-92.

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of)	DOCKET NO. A11-792
)	
DEPARTMENT OF HOUSING AND)	
HUMAN CONCERNS, COUNTY OF)	
MAUI)	
)	
To Amend the Agricultural Land Use)	
District Boundary into the Urban District for)	
approximately 73.000 acres at Lanai City,)	
Island of Lanai, State of Hawai'i, TMK)	
(2) 4-9-2: portion of 58)	
_____)	

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document was duly served upon the following AS INDICATED BELOW on May 24, 2011:

JESSE SOUKI, Director	(HAND DELIVERY)
Office of Planning, State of Hawai'i	
235 South Beretania Street	
6 th Floor, Leiopapa A Kamehameha	
Honolulu, Hawai'i 96813	

BRYAN C. YEE, ESQ.	(HAND DELIVERY)
Deputy Attorney General	
Department of the Attorney General	
425 Queen Street	
Honolulu, Hawai'i 96813	

PATRICK K. WONG, ESQ.
Corporation Counsel
Department of the Corporation
Counsel
County of Maui, State of Hawai`i
200 South High Street
Wailuku, Maui, Hawai`i 96793

**(CERTIFIED MAIL, RETURN
RECEIPT REQUESTED)**

WILLIAM SPENCE, Director
Maui County Planning Department
County of Maui, State of Hawai`i
250 South High Street
Wailuku, Maui, Hawai`i 96793

**(CERTIFIED MAIL, RETURN
RECEIPT REQUESTED)**

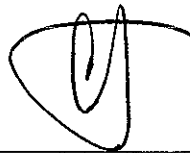
LANAI PLANNING COMMISSION
c/o Maui County Planning Department
County of Maui, State of Hawai`i
250 South High Street
Wailuku, Maui, Hawai`i 96793

**(CERTIFIED MAIL, RETURN
RECEIPT REQUESTED)**

MAUI COUNTY PLANNING
COMMISSION
c/o Maui County Planning Department
County of Maui, State of Hawai`i
250 South High Street
Wailuku, Maui, Hawai`i 96793

**(CERTIFIED MAIL, RETURN
RECEIPT REQUESTED)**

Dated: Honolulu, Hawai`i May 24, 2011.



OF COUNSEL:
MATSUBARA – KOTAKE
A Law Corporation

BENJAMIN M. MATSUBARA
CURTIS T. TABATA
Attorneys for Petitioner
DEPARTMENT OF HOUSING AND HUMAN
CONCERNS, COUNTY OF MAUI

ADOPTION OF ORDER

The undersigned Commissioners, being familiar with the record and proceedings, hereby adopt and approve the foregoing ORDER this 8th day of June, 2011. This ORDER may be executed in counterparts. This ORDER shall take effect upon the date this ORDER is certified by this Commission.

Done at Lāna`i City, Hawai`i, this 8th day of June, 2011, per motion on June 8, 2011.

APPROVED AS TO FORM



Deputy Attorney General

LAND USE COMMISSION

STATE OF HAWAI`I



VLADIMIR P. DEVENS

Chairperson and Commissioner



LISA M. JUDGE

Vice Chair and Commissioner



THOMAS CONTRADES

Vice Chair and Commissioner

Excused

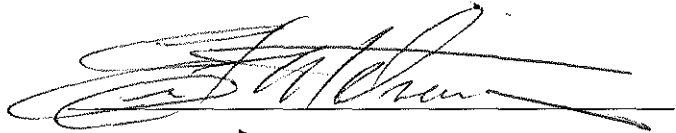
NICHOLAS W. TEVES, JR.

Commissioner

Excused

KYLE J.K. CHOCK

Commissioner



ERNEST MATSUMURA

Commissioner

NORMAND R. LEZY

Commissioner



RONALD HELLER

Commissioner

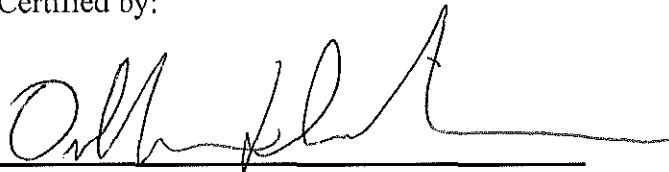


JAYE NAPUA MAKUA

Commissioner

Filed and effective on: June 9, 2011

Certified by:



ORLANDO DAVIDSON

Executive Officer

LAND USE COMMISSION
STATE OF HAWAII

2011 SEP -9 P 2:50

TRUE NORTH
SCALE: 1 IN. = 500 FT.

LANAI CITY: DHHL / MAUI COUNTY BULK SUBDIVISION
FOR COUNTY USE ONLY

SUBDIVISION OF PARCEL "A"
INTO LOTS A-1 AND A-2

BEING LOT 1158 OF LD. CT. APP. 862 (Map 131)
AND LOT 13-A-1-C OF LD. CT. CONS. 170 (Map 15)
LANAI CITY, ISLAND OF LANAI, HAWAII

DATE: NOVEMBER 6, 2008
REVISED: MARCH 13, 2009
REVISED: NOVEMBER 2, 2010

CONTROLPOINT SURVEYING, INC.
1128 Lower Main Street, Suite 102
Wailuku, Hawaii

This work was prepared by me or under my supervision.

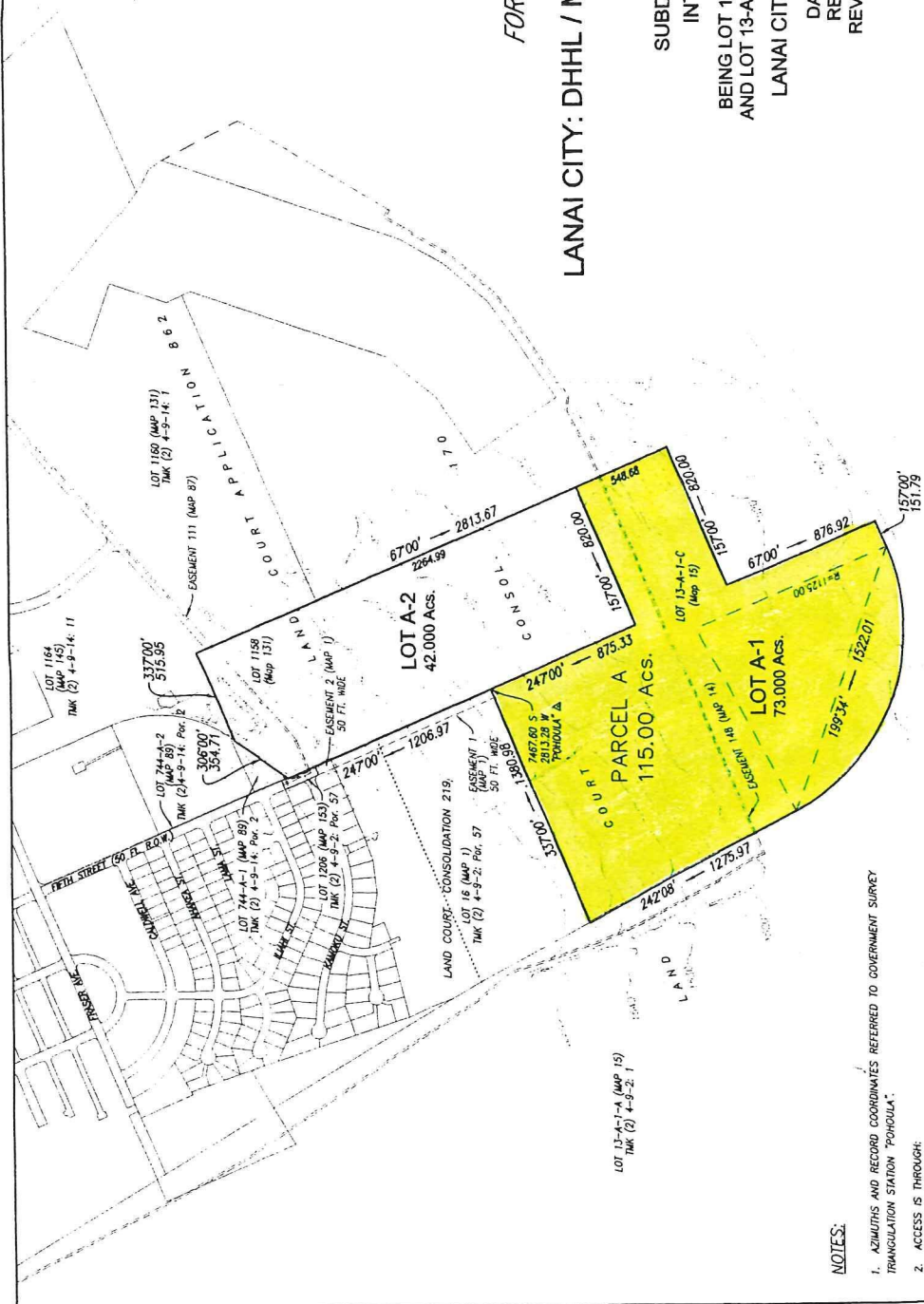
Norman K. Murakami
Norman K. Murakami
Licensed Professional Land Surveyor
Cert. No. LS-5624, Exp. 4/30/12



SUBDIVISION FILE NO. _____

15" x 21"

OWNER:
COUNTY OF MAUI



- NOTES:**
1. AZIMUTHS AND RECORD COORDINATES REFERRED TO GOVERNMENT SURVEY TRIANGULATION STATION "POROHU'A".
 2. ACCESS IS THROUGH:
EASEMENT 1 (50 FT. WIDE) OF LD. CT. CONS. 219 (MAP 1), AND
EASEMENT 2 (50 FT. WIDE) OF LD. CT. CONS. 219 (MAP 1), AND
LOT 1206 (50 FT. WIDE) OF LD. CT. APP. 862 (MAP 153).
 3. PURSUANT TO THE MAUI COUNTY CODE SECTION J-4.4.015(C), THE COUNTY OF MAUI IS NOT RESPONSIBLE FOR ANY PARK, ROADWAY, EASEMENT (INCLUDING BUT NOT LIMITED TO DRAINAGE, SEWER, ACCESS, RECLAIMED WATER, OR AVIGATION EASEMENT), OR ANY OTHER INTEREST IN REAL PROPERTY SHOWN ON THIS MAP OR SHOWN ON THESE PLANS, UNLESS THE MAUI COUNTY COUNCIL HAS ACCEPTED ITS DEDICATION BY A RESOLUTION APPROVED BY A MAJORITY OF COUNCIL'S MEMBERS AT A REGULAR OR SPECIAL MEETING OF THE MAUI COUNTY COUNCIL.
 4. THERE IS NO 100 YEAR FLOOD AREA.

EXISTING EASEMENTS:

EASEMENT:	WIDTH:	AREA:	PURPOSE:	AFFECTED LOT:	IN FAVOR OF:	RECORDED:	DATE:
111 (MAP 87)	10 FT. WIDE	31,525 SQ. FT.	SEWER	A-2	LANAI CO., INC.	DOC. 249793	OCTOBER 27, 1998
148 (MAP 14)	10 FT. WIDE	2,074 ACS.	SEWER, DRAINAGE, FLOWAGE AND WATER FACILITIES	A-1	CASTLE & COOKE, INC.	DOC. 249792	OCTOBER 27, 1998

TMK: (2) 4-9-02: 58

EXHIBIT "A"

BEFORE THE LAND USE COMMISSION

OF THE STATE OF HAWAII

In the Matter of the Petition of) DOCKET NO. A11-792
)
 DEPARTMENT OF HOUSING AND)
 HUMAN CONCERNS, COUNTY OF)
 MAUI)
) CERTIFICATE OF SERVICE
 To Amend the Agricultural Land Use)
 District Boundary into the Urban District for)
 approximately 73.000 acres at Lāna`i City,)
 Island of Lāna`i, State of Hawai`i, TMK)
 (2) 4-9-2: portion of 58)
 _____)

LAND USE COMMISSION
 STATE OF HAWAII
 2011 JUN -9 A 11:52

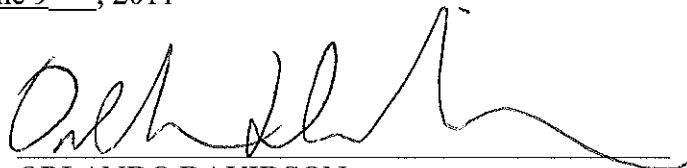
CERTIFICATE OF SERVICE

I hereby certify that a copy of the Stipulated Findings of Fact, Conclusions of Law and Decision and Order, and Certificate of Service, and Land Use Commission Adoption of Order was served upon the following by either hand delivery or depositing the same in the U. S. Postal Service by regular or certified mail as noted:

	HAND DELIVERED	REGULAR MAIL	CERTIFIED MAIL
JESSE SOUKI, Director Office of Planning 235 S. Beretania Street Rm. 600 Honolulu, Hawai`i 96813	X		
BRYAN YEE, ESQ. Deputy Attorney General Hale Auhau, Third Floor 425 Queen Street Honolulu, Hawai`i 96813	X		

	HAND DELIVERED	REGULAR MAIL	CERTIFIED MAIL
BENJAMIN M. MATSUBARA, ESQ. CURTIS T. TABATA, ESQ. Matsubara-Kotake 888 Mililani Street, 8 th Floor Honolulu, Hawai'i 96813			X
JEFF UEOKA, ESQ. Department of the Corporation Counsel County of Maui 200 South High Street Wailuku, Hawai'i 96793			X
WILLIAM SPENCE, Director Maui County Planning Department County of Maui 250 South High Street Wailuku, Hawai'i 96793		X	
COUNTY OF MAUI Department of Housing and Human Concerns 2200 Main Street, Suite 546 Wailuku, Hawai'i 96793		X	

Dated: Honolulu, Hawai'i June 9, 2011



ORLANDO DAVIDSON
Executive Officer