



BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAI'I

In the Matter of the Petition of

ISLAND SCHOOL

To Amend the Agricultural Land Use
District Boundary into the Urban District for
Approximately 38.448 acres at Puhi, Lihu'e,
Island of Kaua'i, State of Hawai'i,
TMK: (4) 3-8-002: 016

DOCKET NO. A16-800

ISLAND SCHOOL

2017 AUG 11 P 2:14

LAND USE COMMISSION
STATE OF HAWAII

FINDINGS OF FACT,
CONCLUSIONS OF LAW, AND DECISION AND ORDER
AND
CERTIFICATE OF SERVICE

This is to certify that this is a true and correct
copy of the document on file in the office of the
State Land Use Commission, Honolulu Hawai'i

8/11/2017

by



Executive Officer

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FINDINGS OF FACT,
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ISLAND SCHOOL (“Petitioner”), filed a Petition for a land use district boundary amendment on December 2, 2016 (“Petition”), pursuant to Hawai‘i Revised Statutes (“HRS”) Section 205-4, and Hawai‘i Administrative Rules (“HAR”) Chapter 15-15, to amend the land use district boundary to reclassify approximately 38.448 acres of land, situated in Puhi, Līhu‘e, Island of Kaua‘i, State of Hawai‘i, Tax Map Key No. (4) 3-8-0902: 016 (“Petition Area” or “Property”), from the State Land Use Agricultural District to the State Land Use Urban District. The reclassification is necessary to allow for implementation of the Island School Updated Master Plan (“Project”).

The Land Use Commission of the State of Hawai‘i (“Commission”), having heard and examined the testimony, evidence, and argument of counsel presented during the hearings, along with the pleadings filed herein, and the proposed findings of fact, conclusions of law, and decision and order filed by the Petitioner, joined in by the Department of Planning, County of Kaua‘i (“County”), and with comments from the State Office of Planning (“OP”), hereby makes the following Findings of Fact, Conclusions of Law, and Decision and Order:

I. PROCEDURAL MATTERS

1. On December 2, 2016, the Commission received Petitioner's draft Petition, Exhibits "1" through "8", Affidavit of Service of the Petition, and Affidavit of Sending of Petition Filing.¹

2. On December 12, 2016, the Commission mailed a meeting notice and agenda for the December 22, 2016 meeting on Kaua'i to the parties, and to persons listed on the Commission's Statewide, O'ahu, and Kaua'i mailing lists.

3. On December 19, 2016, the Executive Officer of the Commission deemed the Petition a proper filing and accepted it for processing as of December 16, 2016.

4. On January 17, 2017, the Commission received the County of Kaua'i's ("County") Position Statement.

5. On January 19, 2017, the Commission received the State Office of Planning's ("OP") Statement of Position.

6. On January 27, 2017, the Commission issued its Prehearing Order.

7. On February 16, 2017, the Notice of Hearing was filed, mailed and published in the Honolulu Star-Advertiser, Hawai'i Tribune-Herald, West Maui Today, The Maui News and Kaua'i Publishing Company dba The Garden Island in compliance with HAR § 15-15-51.

8. On February 21, 2017, the Commission received OP's List of Witnesses, List of Exhibits, and Exhibits 2 through 8.

¹ In Petitioner's List of Exhibits filed on February 22, 2017, Petitioner identified and designated: Affidavit of Service as Exhibit 9; Affidavit of Sending Notification of Petition Filing as Petitioner's Exhibit 10; and the Petition as Petitioner's Exhibit 11.

9. On February 22, 2017, the Commission received Petitioner's List of Witnesses, and Exhibits 18 and 19.
10. On February 23, 2017, the Commission received the County's List of Witnesses.
11. On March 2, 2017, the Commission received Petitioner's Affidavit of Service Regarding Notice of Hearing², and Exhibits A through D.
12. On March 3, 2017, the Commission received Petitioner's Amended Affidavit of Certificate of Service Regarding Notice of Hearing, and Exhibits A through D.
13. On March 3, 2017, the Commission received Petitioner's First Amended List of Witnesses, List of Exhibits, and Exhibits 13 through 19.
14. On March 3, 2017, the Commission received County's Rebuttal Exhibit List, and Exhibits 1-2.
15. On March 3, 2017, the Commission received OP's Testimony in Support of Petition with Conditions.
16. On March 9, 2017, the Commission received correspondence from the State Department of Accounting and General Services indicating no facilities would be affected by the proposed action and no comments.
17. On March 14, 2017, the Commission mailed a meeting notice and agenda for the July 26, 2017 meeting on Kaua'i to the parties, and to the Commission's Statewide and Kaua'i mailing lists.
18. The Commission held the evidentiary hearing in this docket on March 22, 2017 in Līhu'e, Kaua'i, Hawai'i. The Commission received oral and/or written testimony from the following individuals: Leah Edwards; Milo Spindt; and Ferdinand Pascua. The Commission

admitted into the record Petitioner's Exhibits 1 through 19; County's Exhibits 1 and 2; and OP's Exhibits 1 through 8. The following witnesses presented testimony: on behalf of the Petitioner – David Pratt, Sean Magoun, Earl Matsukawa, Hallett Hammat, Pete Pascua, and Reginald David; on behalf of the County – Leanora Kai'okamalie, and Michael Dahilig; and, on behalf of OP – Rodney Funakoshi.

19. On March 22, 2017, the Commission took official notice of a letter dated March 3, 2017, from the State Department of Transportation identified as OP Exhibit 4 related to docket no. A16-801, University of Hawai'i Community College, and included it as Exhibit 9 in this docket.

20. On March 22, 2017, the Commission closed the evidentiary portion of the proceeding subject to receipt of OP's Exhibit No. 9.

21. On April 6, 2017, the Commission received OP's Exhibit No. 9, as noted and allowed into the record, previously submitted as OP Exhibit No. 4 in docket A16-801.

22. On April 20, 2017, the Commission received Petitioner's Proposed Findings of Fact, Conclusions of Law, and Decision and Order.

23. On May 4, 2017, the Commission received OP's Comments on Petitioner's Proposed Findings of Fact, Conclusions of Law, and Decision and Order.

24. On May 8, 2017, the Commission received County's Statement of No Comment and No Objections to Petitioner's Proposed Findings of Fact, Conclusions of Law, and Decision and Order.

² In Petitioner's List of Exhibits filed on February 22, 2017, Petitioner identified and designated: Affidavit of Service of Notice of Hearing; identified as Petitioner's Exhibit 12.

25. On July 18, 2017, the Commission mailed a meeting notice and agenda for the July 26, 2017 meeting on Kaua‘i to the parties, and to the Commission's Statewide, Maui, and Kaua‘i mailing lists.

26. On July 26, 2017, the Commission held an action meeting in Līhu‘e, Kaua‘i, to take action on the Petition. There was no public testimony. The Commission heard final oral arguments from each of the parties. Following closing arguments of the parties, which included comments on findings of facts and conditions further agreed to or clarified by the parties in addition to their respective filings, a motion was made and seconded to approve the Petition subject to conditions. The motion received six (6) ayes, with two (2) excused³, and therefore passed.

II. FINDINGS OF FACT

A. Description of the Petition Area

27. The Petition Area is located adjacent to and north/northeast of the University of Hawai‘i’s Kaua‘i Community College campus and approximately two miles west of Līhu‘e town in Puhi, Līhu‘e District, Island of Kaua‘i.

28. Elevations across the Project range from approximately 350 feet above mean sea level (“msl”) at the eastern portion of the Petition Area to approximately 400 feet msl at the northwestern portion of the Petition Area. The average slope is approximately 3%.

29. The Petition Area is comprised of TMK (4) 3-8-002: 016, and is owned in fee simple by Petitioner.

³ Due to a vacancy, there were a total of eight commissioners.

30. The Petition Area was previously in sugar cane cultivation by the Līhu‘e Plantation Company, Ltd. until the late 1980's. Since the 1990's, the majority of the Petition Area of approximately 30 acres, encompassing the western and central portions of the Property, has been developed as the Island School campus, consisting of classroom, administration and various other facility buildings; athletic/recreational fields; open space; school parking; and road access. The remaining 8.448 acres, comprising the north-central and eastern portions of the Petition Area, are currently undeveloped and vegetated with forest, shrub land, and grassland areas.

31. Land uses bordering the Petition Area include the University of Hawai‘i’s Kaua‘i Community College campus to the southwest/south; a reservoir to the south; undeveloped, vegetated lands owned by Grove Farm Company, Inc. to the north; and an agro-tourism venture operated by Kaua‘i Kilohana Partners, dba Kilohana Plantation, to the east on property owned by Grove Farm Company, Inc.

32. Other surrounding land uses in the nearby vicinity include Kilohana Plantation to the southeast; Kaumuali‘i Highway to the south; two Hawaiian Language Immersion schools, including Punana Leo o Kaua‘i Preschool and Kawaikini New Century Public Charter School, located to the south within the Kaua‘i Community College property; a water storage tank located to the southwest; and, undeveloped, vegetated lands owned by Grove Farm Company, Inc. to the west, north and east.

33. Across Kaumuali‘i Highway from Kaua‘i Community College to the south is the town of Puhi, with retail businesses, residences and light industrial uses. Further east along the highway, opposite the access road to Kaua‘i Community College and Island School, is Chiefess Kamakahalei Middle School and the YMCA at the intersection with Nuhou Street. About a half-

mile further east along the highway, on the south side, are Kukui Grove Shopping Center, Home Depot, Costco and K-Mart. Līhu'e is about another half-mile further east along the highway.

34. The Petition Area is within the State Agricultural Land Use District. The southern border of the Petition Area is adjacent to Kaua'i Community College which is currently seeking reclassification to the State Urban Land Use District.

35. According to the Flood Insurance Rate Map ("FIRM") prepared by the Federal Emergency Management Agency ("FEMA"), most of the property is designated Zone X, which denotes areas outside of flood plains.

B. Proposal for Reclassification

36. The proposed Project includes new, renovated and expanded classroom buildings; expanded administration facility and visual arts facility; new facilities, including science building, campus center, dining facility, auditorium and stage, arts education building, dormitory, faculty and employee housing, back-of-house building and courtyard, robotics shed, outdoor science area, maintenance facility, and informal gathering areas; playground and sports facilities, including physical education (P.E.) facilities, track and football field, soccer field, baseball field, softball field, and outdoor swimming pool; internal loop road with bus parking spaces; school and community drop-off areas; and additional parking spaces.

C. Development Timetable

37. Development of the Property will be substantially completed within ten (10) years after the date of the Commission's approval.

D. HRS Chapter 343

38. The Final Environmental Assessment/Finding of No Significant Impact for the Project was approved by County of Kaua'i Planning Department on January 28, 2013, and published in The Environmental Notice on February 8, 2013.

E. Petitioner's Financial Capability to Undertake the Project

39. The financial statements of Petitioner as of December 31, 2012, reflect total assets of \$13,679,578 total liabilities of \$4,525,547, and total net assets of \$9,154,031.

F. Need for the Proposed Development

40. Petitioner's updated Island School master plan is to accommodate additional campus facilities for future increase in its student enrollment, currently at approximately 400 students, to approximately 500 students projected over a ten-year period. Petitioner believes that the additional 100 students increase is sufficient to meet the projected future need. Future enrollment could exceed 500, depending on donations and funding to pay for improvements, but the initial goal is to reach 500.

G. Social and Economic Impacts

41. In the short term, the proposed Project will bring about positive benefits to the local economy. The benefits would include increased expenditures for construction, construction-related jobs and tax revenue. Direct economic benefits will result from construction expenditures both through the purchase of materials from local suppliers and through the employment of local labor, thereby stimulating that sector of the economy. Indirect economic benefits may include benefits to local retail businesses resulting from construction activities.

42. In the long-term, the Project will contribute toward positive economic benefits through the employment of labor associated with the increased faculty and staff associated with

the updated master plan improvements. An addition of approximately 22 FTE (“full time equivalent”) faculty and staff, to the current 62 FTE members, for a total of 84 FTE members, will be required for the projected future increase in the student enrollment to approximately 500 students.

H. Impacts Upon Resources of the Area

1. Agricultural Resources

43. The U.S. Department of Agriculture Natural Resources Conservation Service classifies the soils within the Petition Area as the Puhi series and rough broken land.

44. The predominant soil type within the Petition Area is classified as Puhi silty clay loam, 3 to 8 percent slopes (PnB), with a sliver along the southwestern boundary classified as Puhi silty clay loam, 8 to 15 percent slopes (PnC). This soil type is well-drained, developed in material derived from basic igneous rock, and occurs on broad interfluves on the uplands. The representative profile of the surface layer is brown silty clay loam, about 12 inches thick. The subsoil, about 48 inches thick, is reddish-brown and dark reddish brown silty clay loam and silty clay that has subangular blocky structure. The substratum is silty clay. Runoff is slow and erosion hazard is slight.

45. A sliver within the northeastern portion of the Petition Area is classified as rough broken land (rRR). This soil type consists of very steep land broken by numerous intermittent drainage channels. It occurs in gulches and on mountainsides, and in most places it is not stony. These soils are variable, and are 20 to more than 60 inches deep over soft, weathered rock. In most places, some weathered rock fragments are mixed with the soil material. Small areas of rock outcrop, stones, and soil slips are common. Runoff is rapid, and geologic erosion is active.

46. The *Detailed Land Classification – Island of Kaua‘i* published by the University of Hawai‘i Land Study Bureau ("LSB") evaluates the quality or productive capacity of certain lands on the Island for selected crops and overall suitability for agricultural use. A five-class productivity rating system was established, with "A" representing the class of highest productivity and "E" the lowest. The Petition Area is classified as "B" rated soils, which are considered to have good attributes for agricultural productivity.

47. The State Department of Agriculture's *Agricultural Lands of Importance in the State of Hawai‘i* ("ALISH") established a classification system for identification of agriculturally important lands. Three classes of lands were established for the State, primarily, but not exclusively, on the basis of soil characteristics. The three classes of ALISH lands are Prime Agricultural Land, Unique Agricultural Land, and Other Important Agricultural Land. Lands not included under this system are "unclassified". The majority of the Petition Area is classified as Prime Agricultural Land, except for slivers of land within the northeast and southern portions, which are unclassified.

48. The proposed Project will not have a significant impact on the conversion of agricultural-designated land within the Petition Area. The Petition Area is rendered unsuitable for intensive agricultural uses given its use as a school since 1990. Further, no intensive agricultural activities presently occur within the Petition Area.

49. The Project will not have a significant impact on adjoining or nearby agricultural lands as the proposed updated master plan improvements will occur entirely within the Petition Area, of which the majority is currently developed as the Island School campus.

50. The Petition Area has not been designated as Important Agricultural Lands pursuant to HRS chapter 205, and the Petition Area does not qualify as Important Agricultural Lands because it is within the County's urban growth designation.

2. Fauna and Flora

51. Flora. A botanical survey of the Petition Area was conducted by AECOS Consultants in September 2010. The botanical survey report is included as Appendix A of Petitioner's Exhibit "6". The vegetation within the undeveloped areas of the Petition Area consists of mixed areas of moderately open to closed forest, shrubland, and grassland. Forest tends to predominate, with mostly mature macaranga (*Macaranga tanarius*) and albizia (*Falcataria moluccana*) trees. Other species include Christmas berry (*Schinus terebinthifolius*), octopus plant (*Schefflera actinophylla*), and Java plum (*Syzygium cumini*). Groundcover and understory shrubs and vines varied considerably from area to area. No plant species currently listed as endangered, threatened, or proposed for listing under either the Federal or State of Hawai'i endangered species programs were recorded as growing naturally within the Petition Area. Several listed species observed were ornamentals in a Hawaiian native plant garden.

52. Fauna. A fauna survey of the Petition Area was conducted by Rana Biological Consulting, Inc. in September 2010. A total of 221 individual birds of 22 species, representing 16 separate families, were recorded during the survey. Three of the species recorded, the Hawaiian Goose or Nēnē (*Branta sandvicensis*), Common Moorhen (*Gallinula chloropus sandvicensis*), and Hawaiian Coot (*Fulica alai*) are all native and listed as endangered species under both Federal and State of Hawai'i endangered species statutes. The Nēnē population on Kaua'i is increasing at a fairly rapid pace, and it is likely that if this increase continues, human interactions with Nēnē will continue to rise over time on the Island. The Common Moorhen and

Hawaiian Coot are relatively abundant and widespread on the Island. One other species recorded, the Pacific Golden-Plover (*Pluvialis fulva*), is an indigenous migratory shorebird species that nests in the high Arctic during the late spring and summer months, returning to Hawai'i and the tropical Pacific to spend the fall and winter months each year. Another species, the Black-crowned Night-Heron (*Nycticorax nycticorax hoactli*), is an indigenous resident breeding species. The remaining 17 species recorded are all considered to be alien to the Hawaiian Islands. Avian diversity and densities were in keeping with the highly manicured nature of the majority of the Petition Area, and its location in the lowlands of Kaua'i. Three species, the Chestnut Munia (*Lonchura atricapilla*), Zebra Dove (*Geopelia striata*), and Common Myna (*Acridotheris tristis*), accounted for slightly less than 52 percent of all birds recorded during the station counts. The most commonly recorded species was the Chestnut Munia, which accounted for slightly more than 21 percent of the total number of individual birds recorded. Although not detected during the survey, it is probable that the Hawaiian endemic sub-species of the Short-eared Owl, or Pueo (*Asio flammeus sandwichensis*) use resources in the general Project area, as they are regularly seen foraging over open fields in the low- to mid-elevation areas on the Island. Two other species not detected during the survey, the endangered Hawaiian Petrel (*Pterodroma sandwichensis*) and the threatened endemic sub-species of the Newell's Shearwater (*Puffinus auricularis newelli*) have been recorded flying over the Petition Area between April and the end of November each year. Additionally, the Save Our Shearwaters Program has recovered both species from the general Petition Area on an annual basis over the past three decades. There are no nesting colonies or appropriate nesting habitat for either of these listed seabird species within or close to the Petition Area. By letter dated September 14, 2012, in response to the pre-assessment consultation conducted for the draft

environmental assessment, the United States Fish and Wildlife Service ("USFWS") stated that the Band-rumped Storm Petrel (*Oceanodroma castro*), a candidate for listing, may fly over the Petition Area. In addition, the USFWS stated the federally endangered Hawaiian stilt (*Himantopus mexicanus*) and endangered Hawaiian duck (*Anas wyvilliana*) may also be present in the vicinity of the Petition Area.

53. Mammalian species detected during the survey included a dead cat (*Felis c. catus*), and tracks and sign of both dog (*Canis f. familiaris*) and pig (*Sus s. scrofa*). The endangered Hawaiian hoary bat (*Lasiurus cinereus semotus*), or 'ōpe'ape`a as it is known locally, was not detected during the survey, although bats have been recorded within the general Petition Area on a regular basis. Hawaiian hoary bats are widely distributed in the lowland areas on Kaua'i, and have been documented in and around almost all areas that still have some dense vegetation. Although no rodents were detected during the survey, it is likely that the four established alien muridae ("rodents") found on Kaua'i, the Roof rat (*Rattus r. rattus*), Norway rat (*Rattus norvegicus*), European house mouse (*Mus musculus domesticus*), and possibly Polynesian rat (*Rattus exulans Hawaiiensis*), use various resources found within the Petition Area. All of these introduced rodents are deleterious to native ecosystems and the native faunal species dependent on them. No mammalian species protected or proposed for protection under either the Federal or State of Hawai'i endangered species programs were detected within the Petition Area during the survey.

54. No significant impacts on fauna within the Petition Area are anticipated from the construction and operation of the proposed Project. No listed, candidate, or proposed threatened or endangered avian or mammalian species under either the Federal or State endangered species statutes will be disturbed or adversely impacted as a result of the proposed Project.

55. The principal potential impact that the proposed Project improvement poses to Hawaiian Petrels, Newell's Shearwaters, and Band-rumped Storm Petrels is the increased threat that birds will be downed after becoming disoriented by outdoor lighting associated with possible nighttime construction activity, and following build-out, by exterior lighting associated with the structures and appurtenances that are built within the Petition Area. If nighttime work is required in conjunction with the Project construction, and during operation of the proposed Project, all exterior lighting will be shielded to reduce the potential for interactions of nocturnally flying Hawaiian Petrels, Newell's Shearwaters, and Band-rumped Storm Petrels with external lights and man-made structures. The principal potential impacts that the proposed Project improvements pose to Nēnē are during construction, and, following build-out, the increased student enrollment and associated school activities.

56. If construction activity is planned to occur within the Petition Area during the Nēnē nesting season, which typically runs from October through March on Kaua'i, the Petition Area should be surveyed by a qualified biologist prior to the start of construction, to determine if any active Nēnē nesting activity is occurring on the Petition Area. If such nesting does occur during construction, it is recommended that a Nēnē monitor be on site during such activity to ensure that no harm occurs to the birds. Due to the likelihood that the endangered Nēnē will utilize resources within the Petition Area, and the Hawaiian Petrels, Newell's Shearwaters, and Band-rumped Storm Petrels could potentially fall onto the Petition Area during the construction phase of the Project, it is recommended that an endangered species awareness program be developed to include general information on the endangered species act and protected species; specific restrictions that will be in force on the Project site to protect endangered species; and protocol on who, and how Project site personnel will respond to any downed or injured

endangered species that may occur on the Property. All construction personnel should be required to be familiar with the program, and its guidelines, restrictions and protocols to be followed.

57. The principal potential impact that the proposed Project improvements pose to Hawaiian hoary bats is during the clearing and grubbing phases of the Project. Areas of dense vegetation are likely used to some degree by roosting bats. The principal threat that clearing potential roosting habitat poses to this species is between June and September when female bats may be carrying pups and potentially may not be able to flee vegetation clearing activities quickly enough to avoid harm. Following build-out of the Project, lighting associated with the school facilities and landscaping vegetation will likely attract volant insects to the site, which in turn will provide bats with additional foraging opportunities. To avoid potential impacts to the Hawaiian hoary bat, the clearing of dense vegetation, including woody plants greater than 15 feet, along the periphery of the Petition Area should not occur between June 1 to September 15 when bats may be carrying young and potentially could be at risk by such clearing activities.

58. As there is no federal delineated Critical Habitat present within or adjacent to the Petition Area, development of the proposed Project will not result in impacts to any Critical Habitat.

3. Archaeological and Historical Resources

59. An Archaeological Inventory Survey ("AIS") was prepared by Cultural Surveys Hawai'i, Inc. in May of 2013. The scope of work for the AIS included historic and archaeological background research, ground survey and subsurface testing.

60. One historic property was identified: SIHP # 50-30-11-2179, Features A through D. Feature A is a reservoir, Feature B is an earthen ditch, Feature C is an earthen ditch with running water, and Feature D is an earthen ditch.

61. SIHP # 50-30-11-2179 (historic agricultural infrastructure) is part of a large historic agricultural district that was once extant throughout much of Nāwiliwili. Portions of the historic agricultural district are still farmed today, but the agricultural infrastructure has lost its integrity through repeated modification, disuse and ground disturbance and cannot convey its historic functional significance as part of this larger district.

62. SIHP # 50-30-11-2179, Features C and D will be adversely affected by the proposed Project. An archaeological monitoring program for features C and D in accordance with HAR Chapter 13-279 is recommended to mitigate the impacts of the Project.

63. The AIS was accepted by the State Historic Preservation Division, Department of Land and Natural Resources ("SHPD") by letter dated March 31, 2014.

4. Cultural Resources

64. A cultural impact assessment ("CIA") was undertaken by Cultural Surveys Hawai'i, Inc. in April 2014. The Area of Potential Effect and Survey Acreage for the CIA was defined as the 38.448 acre Petition Area and also included the two ahupua'a of Nāwiliwili and Niumalu.

65. In *Ka Pa'akai v. Land Use Commission*, 94 Hawai'i 31, 74, 7 P.3d 1068, 1084 (2000), the Court held that the following analysis be conducted:

(1) The identity and scope of valued cultural, historical, or natural resources in the petition area, including the extent to which traditional and customary native Hawaiian rights are exercised in the petition area;

(2) The extent to which those resources – including traditional and customary native Hawaiian rights – will be affected or impaired by the proposed action; and

(3) The feasible action, if any, to be taken by the LUC to reasonably protect native Hawaiian rights if they are found to exist.

66. The CIA found that there are no known traditional and customary native Hawaiian rights exercised in the Petition Area.

67. Should cultural or burial sites be identified during future ground disturbance in the Petition Area, all work will immediately cease and the appropriate agencies will be notified pursuant to applicable law.

5. Groundwater and Surface Water Resources

68. The Petition Area is located within the Līhu‘e Aquifer Sector Area. The Līhu‘e Aquifer Sector Area is comprised of five Aquifer System Areas identified as the Kīlauea, Anahola, Wailua, Hanamaulu, and Kōloa Aquifer System Areas. The Petition Area is located within the Hanamaulu Aquifer System Area. The State Department of Land and Natural Resources ("DLNR"), Commission on Water Resource Management ("CWRM") has adopted a sustainable yield of 36 million gallons per day ("mgd") for this aquifer sector area. The Petition Area is not within a Ground Water Management Area as designated by DLNR CWRM. No significant impacts on ground water are anticipated as a result of the construction and development of the proposed Project. Construction and operational activities associated with the proposed Project are not likely to introduce to, nor release from the soil, any materials which could adversely affect ground water sources.

69. There are no streams within the Petition Area. Nāwiliwili Stream is the nearest perennial stream, located approximately 300 feet north of the Petition Area at its closest point.

Nāwiliwili Stream generally flows in a northwesterly to easterly direction in the vicinity of the Petition Area, and continues in a southeasterly direction to Nāwiliwili Bay. Puhi Stream flows in a southerly direction approximately 0.2 mile west of the Petition Area at its closest point. Puhi Stream converges with Ho‘inakaunalehu Stream south of the Petition Area, forming Papakōlea Stream. Further south, Papakōlea Stream flows through the Hulē‘ia National Wildlife Area before discharging into Hulē‘ia Stream, which flows east to Nāwiliwili Bay.

6. Visual Resources

70. The Petition Area is not visible from public vantage points due to its inland location and distance from Kaumuali‘i Highway, the nearest public roadway. The Petition Area is located approximately 0.4-mile mauka of Kaumuali‘i Highway at its closest point, and is visually buffered by vegetation and the adjacent Kaua‘i Community College campus located between the southern boundary of the Petition Area and the Highway. The visual environment of the remaining areas surrounding the Petition Area is of expansive undeveloped, vegetated lands, and agricultural cultivation. No significant visual or aesthetic impacts are anticipated as a result of the proposed Project.

I. Environmental Quality

1. Air Quality

71. Air quality in the vicinity of the Petition Area is generally good, with prevalent northeasterly tradewinds during most of the year. Within the nearby vicinity of the Petition Area, air quality is primarily affected by vehicular-related emissions in the form of carbon monoxide (CO) generated from traffic traveling along Kaumuali‘i Highway and other nearby roadways. In the short-term, there will be air quality impacts related to construction activities, including fugitive dust generated by soil disturbance, and emissions from construction vehicles

and equipment and commuting construction workers. Potential air quality impacts during construction of the proposed Project will be mitigated by complying with the State Department of Health ("DOH") Administrative Rules, Title 11, Chapter 60, "Air Pollution Control". The construction contractor(s) will be responsible for complying with the State DOH regulations that prohibit visible dust emissions at property boundaries. Compliance with State regulations will require adequate measures to control fugitive dust by methods such as water spraying and sprinkling of loose or exposed soil or ground surface areas and dust-generating equipment during construction. Exhaust emissions from construction vehicles are anticipated to have negligible impact on air quality in the vicinity of the Petition Area as the emissions would be relatively small and readily dissipated. In the long-term, no significant impacts on ambient air quality are anticipated with the development of the proposed Project. The ambient air quality levels would be most affected by vehicular emissions in the form of CO generated by project-related traffic, although the elevated concentrations are anticipated to be nominal and dissipate.

2. Noise

72. Ambient noise in the vicinity of the Petition Area is predominantly attributed to vehicular traffic along Kaumuali'i Highway. Unavoidable short-term construction noise impacts will be mitigated to some degree by complying with the provisions of the State DOH Administrative Rules, Title 11, Chapter 46, "Community Noise Control" regulations which require a noise permit if the noise levels from construction activities are expected to exceed the allowable noise levels stated in the Rules. It shall be the contractor's responsibility to minimize noise by properly maintaining noise mufflers and other noise-attenuating equipment, and to maintain noise levels within regulatory limits. Also, the guidelines for the hours of heavy equipment operation and noise curfew times as set forth by the State DOH noise control

regulations must be adhered to. In the long-term, no significant impacts on ambient noise levels are anticipated from the development of the proposed Project. Ambient noise levels in the vicinity of the Petition Area will increase slightly as a result of the associated minimal increase in vehicular traffic generated by the proposed Project. Operation of the proposed Project will potentially generate slightly increased noise during school hours due to additional students, faculty, and school and service-related activities.

73. The DOH recommends that any redevelopment of former sugar cane lands include a Phase I Environmental Site Assessment and site investigation. If the investigation shows that a release of petroleum, hazardous substance, pollutants or contaminants may have occurred on the site, the site should be properly characterized through an approved DOH Hazard Evaluation and Emergency Response Office soil and/or groundwater sampling plan.

J. Adequacy of Public Services and Facilities

1. Highway and Roadway Facilities

74. A Traffic Impact Report ("TIR") for the proposed Project was prepared by Wilson Okamoto Corporation in December 2010. The purpose of the TIR is to assess the traffic impacts resulting from the implementation of the Project, and to identify recommendations of improvements, if appropriate, that would mitigate the traffic impacts.

75. Existing roadways within the vicinity of the Petition Area include Kaumuali'i Highway, Puhi Road, Nani Street, and Nuhou Street. At the time that the TIR was prepared, the ongoing widening of Kaumuali'i Highway from two to four lanes had not reached the segment fronting the Petition Area. Hence, the TIR is based on conditions at the intersections of Kaumuali'i Highway with Nuhou and Puhi Roads and Nani Street at the time it was conducted.

76. Traffic operations in the vicinity were evaluated in three scenarios: 1) existing; 2) year 2020 without Project; and 3) year 2020 with Project. Traffic operations in the vicinity in year 2020 without Project are expected to improve in comparison to the existing conditions, and the traffic operations in the vicinity in year 2020 with Project are expected to be substantially the same as year 2020 without Project.

77. The widening of Kaumuali'i Highway from two to four lanes has been completed since the TIR was prepared, and today Kaumuali'i Highway operates at only seventy (70) percent capacity, and the highway can probably handle an additional thirty (30) percent increase in growth in the area.

78. Given the excess capacity of Kaumuali'i Highway at only seventy (70) percent capacity, there are no additional mitigation measures that would need to be implemented if the Project is implemented even ten (10) years beyond year 2020.

79. Based on the analysis of the traffic data, the following are the recommendations of the TIR with respect to the proposed Project:

1. Maintain sufficient sight distance for motorists to safely enter and exit all Project roadways.
2. Maintain adequate on-site loading and off-loading service areas and prohibit off-site loading operations.
3. Maintain adequate turn-around area for service, delivery, and refuse collection vehicles to maneuver on-site to avoid vehicle-reversing maneuvers onto public roadways.
4. Maintain sufficient turning radii at all Project roadways to avoid or minimize vehicle encroachments to oncoming traffic lanes.
5. If the implementation of Island School's updated master plan is not completed by the Year 2020, prepare an updated Traffic Impact Report that incorporates a revised Project completion year.

80. Petitioner will comply with the recommendations of the TIR.

81. To reduce the use of automobiles, ongoing sustainable transportation options by Island School include providing bus transportation between home and school for students residing within the North Shore and eastern areas of the Island; implementing car-pooling for students and staff; and, encouraging bicycling and walking by students residing near the campus by way of the sidewalks/pedestrian pathways along the existing loop road providing access to the school.

2. Līhu‘e Airport

82. The Petition Area is located about three miles from Līhu‘e Airport and outside of the noise contours of the Lihue Airport 5-Year Noise Exposure Map. There are no flight tracks over the Petition Area and there should be no significant noise impacts from airport operations?

83. Photovoltaic ("PV") systems, if located in or near the approach path of aircraft into an airport, can create a hazardous condition for a pilot due to possible glint and glare reflected from the PV array. The State Department of Transportation ("DOT") recommends that the highest rated non-glare materials be used in the PV system to mitigate potential hazardous conditions for pilots. If glint and glare from the PV system creates a hazardous condition, the owner of the PV system must be prepared to immediately mitigate the hazard upon notification by DOT Airports Division or the Federal Aviation Administration ("FAA").

84. The FAA requires a minimum distance of five (5) statute miles between the farthest edge of the air operations area and the hazardous wildlife attractant if the attractant could cause hazardous wildlife to fly into or across the approach or departure space. This includes using appropriate landscaping that deters bird nesting and foraging.

85. Petitioners should be aware of the duties of State and County agencies to implement the Technical Advisory Memo related to this project and all projects within five (5)

miles of an airport: <http://files.Hawaii.gov/dbedt/op/docs/TAM-FAA-DOT-Airports_08-01-2016.pdf>

3. Schools

86. The Project does not include a market/commercial or residential component and therefore will not require educational facilities.

4. Parks and Recreational Facilities

87. The Project does not include a market/commercial residential component and will not require recreational facilities.

5. Water Service

88. Potable water service for the Island School campus is provided by the County Department of Water's ("DOW") Puhi 510-foot water system. A booster pump station located at the DOW's Puhi 393-foot water reservoir site provides source from the 393-foot water system to the 510-foot system. The Island School campus is currently served by a two-inch water meter, which has a maximum flow of 9,600 gallons per hour.

89. Island School currently has an agreement to utilize irrigation water from Grove Farm Company, Inc.'s irrigation ditch system which traverses within the Petition Area. Since rainfall is mostly sufficient for irrigation of landscaping within the campus, Island School has generally not utilized much irrigation water, except for a minimal amount for landscaping adjacent to the buildings over the past 20 years.

90. The projected average daily water demand for the proposed Project is approximately 4,700 gpd ("gallons per day"). The Petitioner will consult with the County DOW on the adequacy of the existing water system to accommodate the proposed Project improvements.

91. Petitioner will continue to have use of irrigation water from Grove Farm Company, Inc.'s irrigation ditch system, as needed. The projected average demand for irrigation water for the Island School campus with the Project improvements is approximately 65,000 gpd. As the average flow of the irrigation ditch within the Petition Area is approximately 1.0 mgd, the irrigation water system will be adequate to meet the irrigation demands of the proposed Project.

6. Solid Waste Disposal

92. The County Department of Public Works ("DPW") maintains an Island-wide solid waste collection and disposal system. The existing Kekaha Landfill, located 1.3 miles northwest of the town of Kekaha on the southwest side of the Island, is the primary disposal site for solid waste on the Island. The County is currently seeking a lateral and/or vertical expansion of the Kekaha Landfill which could extend its capacity by about 12 years. The County is also seeking another landfill site as part of its long-term planning objectives.

93. Currently, refuse generated at the Island School campus is collected by a private refuse collection company and transported to the Kekaha Landfill for disposal.

94. During construction of the Project, a trash management and recycling program will be developed and implemented to minimize solid waste disposal at the County's Kekaha Landfill.

95. Refuse generated by the Project will continue to be collected by a private refuse collection company and transported to the County Landfill (currently Kekaha Landfill) for disposal. During operation of the Project, it is estimated that approximately 0.75 tons of solid waste will be generated per week for disposal at the County's landfill.

7. Wastewater Disposal

96. Wastewater service for the Island School campus is provided by Grove Farm Company, Inc.'s Puhi Wastewater Treatment Plant ("WWTP") located southeast of the Petition Area and makai of Kaumuali'i Highway. The privately-owned and operated WWTP currently has a design capacity of 1.0 million gallons per day (mgd), and is expandable to 3.0 mgd. The WWTP currently operates at R-1 effluent quality standards, the highest level of effluent quality regulated by the State. The WWTP currently treats approximately 400,000 gpd of wastewater. The treated effluent is used to irrigate the nearby Puakea Golf Course. The existing wastewater transmission system for the Petition Area includes a network of sewer lines varying in diameter from eight to 27 inches between the WWTP and Kaua'i Community College campus, from six to eight inches within the Kaua'i Community College campus, and six inches with the Island School campus.

97. The projected average wastewater flow for the proposed Project is approximately 13,900 gpd, with a peak flow of approximately 88,400 gpd. The Puhi WWTP has sufficient capacity to serve the proposed Project.

8. Drainage

98. Currently, storm runoff from the Petition Area sheetflows to three existing plantation-era irrigation ditches located within the Petition Area, and one existing plantation-era irrigation ditch located adjacent to and south of the Petition Area, and is then directed to an existing adjacent reservoir. The ditches and reservoir are part of Grove Farm Company, Inc.'s (formerly Līhu'e Plantation Company, Ltd.'s) irrigation system. The ditch identified as CSH 2, located along the western and southwestern boundaries of the Petition Area, collects storm runoff from the western portion of the Petition Area. The ditch identified as CSH 3, located within the

eastern portion of the Petition Area, is an active irrigation ditch that enters the Petition Area from the north and feeds into the reservoir adjacent to the south-central boundary of the Petition Area. The ditch identified as CSH 4, located along the southeastern boundary of the Petition Area, is fed by the adjacent reservoir. The irrigation ditch located south of the Petition Area flows out of the adjacent reservoir, and also collects storm runoff from the Petition Area.

99. Potential impacts to the quality of nearby surface waters during construction of the proposed Project improvements will be mitigated by adherence to State and County water quality regulations governing grading, excavation, and stockpiling. A NPDES General Permit for Storm Water Associated with Construction Activity, administered by the State DOH, will be required to control storm water discharges. Mitigation measures will be instituted in accordance with site-specific assessments, incorporating appropriate structural and non-structural BMPs, such as minimizing time of exposure between construction and re-vegetation, and implementing erosion control measures such as silt fences and sediment basins. No construction activities in conjunction with the proposed Project will occur within the adjacent reservoir.

100. Following construction, the proposed Project improvements will increase impervious surface areas within the Petition Area. This will not, however, result in adverse effects from storm runoff to adjacent and downstream areas. New drainage improvements, which may include drain lines, grass swales, and culverts, will be provided in conjunction with the proposed Project.

9. Police and Fire Protection

101. Police protection service for the Petition Area is provided by the County Police Department's Līhu'e Headquarters, Sectors 4 to 6, located approximately 2.7 miles east of the Petition Area at 3990 Kā'ana Street.

102. Fire protection service for the Petition Area is provided by the County's Līhu'e Fire Station located at 4223 Rice Street, approximately 2.1 miles east of the Petition Area.

10. Emergency/Medical Services

103. Emergency medical service is provided by American Medical Response, a private ambulance service contracted by the County to provide ambulance and paramedic services, located at 3277 Palai Street, approximately 2.3 miles northeast of the Petition Area.

104. Health care services are available at the Wilcox Memorial Hospital located at 3420 Kūhiō Highway, approximately 2.2 miles northeast of the Petition Area. Wilcox Memorial Hospital consists of the main clinic and hospital that provides men's, women's, and children's health care services, specialty services, elderly care, family support, a long-term care unit, and education and prevention services.

11. Electricity and Utilities

105. Electrical service to the Petition Area is provided by Kaua'i Island Utility Cooperative (KIUC) via an underground duct system to a pad-mounted transformer. In addition, a 200 kW solar photovoltaic facility has been constructed, and is currently operational, on an approximately one-acre site within the northeast portion of the Petition Area. The solar photovoltaic facility includes more than 1,200 solar panels that generates clean, renewable solar energy and meets twenty-five percent of the current daytime needs of the Petition Area.

106. Data/telephone service to the Petition Area is provided by Hawaiian Telcom via an underground duct system to distribution equipment located within an electrical room. Fifty (50) pairs are provided to the distribution equipment, with thirteen (13) pairs currently in use.

107. Cable television (CATV) to the Petition Area is provided by Oceanic Time Warner Cable via an underground duct system to distribution equipment located within an electrical room.

12. Sustainability

108. The Petitioner proposes to incorporate Leadership in Energy and Environmental Design ("LEED") standards and strategies into the Project, to the extent deemed economically feasible, to achieve sustainable site, utilities and building development.

109. In addition to these green principles and strategies, Petitioner will continue the following programs and activities toward achieving sustainability education, both within the Petition Area and in the broader community.

- Kaua'i BOTS is an Island School robotics program that allows participation by students from Kaua'i's three public high schools. Approximately 40 percent of the participants in this cooperative program are public school students, thereby promoting efficient use of resources.
- Approximately 35 organizations currently utilize facilities at the Petition Area, 27 of which do so on a recurring basis. This sharing of facilities reduces the demand for construction of new facilities to serve these organizations.
- Petitioner has a cooperative program with neighboring Kaua'i Community College. In addition to receiving committee advisory assistance, the advanced students at Island School have the opportunity to take college level courses at the college. Such sharing of resources promotes sustainability.
- Petitioner is helping to establish a community garden within the Petition Area through a private grant. The plan is to allow members of the Puhi community to participate in food production and share their gardening knowledge with Island School students.

K. Commitment of State Funds and Resources

110. State funds and resources are not needed for the Project.

L. State Land Use Designation

111. The Petition Area is presently classified in the State Agricultural Land Use District.

M. Conformance with Urban District Standards

112. The proposed reclassification of the Petition Area is in general conformance to HAR § 15-15-18, standards for determining “U” Urban District Boundaries as follows:

(1) It shall include lands characterized by “city-like” concentrations of people, structures, streets, urban level of services and other related land uses;

The proposed reclassification of the Petition Area from the State Agricultural District to the Urban District is more consistent with its current urban character as a school campus, as well as with the existing urban lands and developments in the vicinity makai of Kaumuali‘i Highway. The Petition Area is located in close proximity to the Līhu‘e and Puhi areas, which provide urban levels of services and related land uses, including schools, Kaua‘i Community College, civic, retail/commercial, residential, light industrial, golf courses, and parks/recreational facilities.

(2) It shall take into consideration the following specific factors: (A) Proximity to centers of trading and employment except where the development would generate new centers of trading and employment; (B) Availability of basic services such as schools, parks, wastewater systems, solid waste disposal, drainage, water, transportation systems, public utilities, and police and fire protection; and (C) Sufficient reserve areas for foreseeable urban growth;

The Petition Area is located within Puhi and in close proximity to Līhu‘e, areas of trading and employment. Līhu‘e is the government center of Kaua‘i with areas of trading and employment, including Līhu‘e Airport, Nāwiliwili Harbor, Kalapaki commercial area, Līhu‘e

Industrial Park, U.S. Post Office, judiciary complex, Kaua‘i Lagoons Resort, and Kaua‘i Marriott Resort and Beach Club. Areas of trading and employment within Puhi include the adjacent Kaua‘i Community College, Chiefess Kamakahelei Middle School, Punana Leo o Kaua‘i Preschool, Kawaikini New Century Public Charter School, Kukui Grove Center, Kukui Grove Village West commercial area, Puhi Industrial Park, and various retail and commercial establishments.

The County’s Department of Parks and Recreation operates 17 parks and recreational facilities in the Līhu‘e/Puhi region, including 13 neighborhood parks, 3 beach parks, and Vidinha Memorial Stadium located to the east of the Petition Area near Līhu‘e Airport, which is used as a venue for public sporting events. State parks and recreational facilities in the Līhu‘e/Puhi region include Ahukini Recreation Pier State Park at Ahukini Landing located to the northeast of the Petition Area, and Nāwiliwili Small Boat Harbor located to the southeast of the Petition Area in Niumalu. Kalapakī Beach and Running Waters Beach are located to the southeast of the Petition Area, adjacent to the Kaua‘i Marriott Resort and Beach Club and Kaua‘i Lagoons Resort, respectively. The Petition Area is in close proximity to public transportation systems, utilities and services. Vehicular access to the Petition Area is via a paved loop road from Kaumuali‘i Highway, a State road located approximately 0.4-mile to the south. Other public roads intersecting Kaumuali‘i Highway on its makai side include Puhi Road, Nani Street, and Nuhou Street. Traffic operations in the vicinity of the Petition Area with the implementation of the Project are expected, in general, to operate at levels of service similar to Year 2020 without Project conditions despite the addition of site-generated traffic to the surrounding roadways.

The County Police Department's Līhu'e Headquarters is located approximately 2.7 miles east of the Petition Area on Kā'ana Street, and the County's Līhu'e Fire Station is located approximately 2.1 miles to the east on Rice Street.

The existing Kekaha Landfill, located 1.3 miles northwest of the town of Kekaha on the southwest side of the Island, is the primary disposal site for solid waste on the Island. The County DPW is seeking a lateral expansion of the Kekaha Landfill which could extend its capacity by about 12 years, and is also seeking another landfill site as part of its long-term planning objectives. During construction of the proposed Project, a trash management and recycling program will be developed and implemented to minimize solid waste disposal at the Kekaha Landfill. In an effort to reduce the amount of solid waste to be generated upon full development of the Project, Petitioner will continue with implementation of its on-campus recycling program, and food waste generated by the Petitioner's food services will continue to be provided to pig farmers. Composting of greenwaste will be employed for the Petitioner Area's landscaped areas.

Potable water service for the Petition Area is provided by the County DOW's Puhi 510-foot water system. The projected average daily water demand for the Petition Area with the proposed Project is approximately 4,700 gpd. The Petitioner will consult with the County DOW on the adequacy of the existing water system to accommodate the proposed Project. Petitioner will continue to have use of irrigation water from Grove Farm Company, Inc.'s irrigation ditch system, as needed. The projected average demand for irrigation water for the Petition Area with the updated master plan improvements provided by the Project is approximately 65,000 gpd. As the average flow of the irrigation ditch within the Petition Area is approximately 1.0 mgd, the

irrigation water system would be adequate to meet the irrigation demands of the proposed Project.

Wastewater service for the Petition Area is provided by Grove Farm Company, Inc.'s Puhi WWTP. The projected average wastewater flow for the proposed Project is approximately 13,900 gpd, with a peak flow of approximately 88,400 gpd. The privately-owned and operated Puhi WWTP, which has a design capacity of 1.0 mgd and is expandable to 3.0 mgd, has sufficient capacity to serve the Petition Area with the updated master plan improvements provided by the proposed Project.

New drainage improvements, which may include drain lines, grass swales, and culverts, will be provided in conjunction with the proposed Project.

The Petition Area is presently contiguous with existing urban areas.

(3) It shall include lands with satisfactory topography, drainage, and reasonably free from the danger of any flood, tsunami, unstable soil conditions, and other adverse environmental effects;

The existing topography of the Petition Area is gently sloping at approximately 3 percent, ranging in elevation from approximately 400 feet above msl at the northwestern portion to about 350 feet above msl at the eastern portion.

Currently, storm runoff from the Petition Area sheetflows to three existing plantation-era irrigation ditches located within the Petition Area, and one existing plantation-era irrigation ditch located adjacent to and south of the Petition Area, and is then directed to an existing adjacent reservoir. Following construction, the proposed Project improvements will increase impervious surface areas within the Petition Area. This will not, however, result in adverse effects from storm runoff to adjacent and downstream areas. New drainage improvements, which may

include drain lines, grass swales, and culverts, will be provided in conjunction with the proposed Project.

According to the FIRM prepared by FEMA, the Petition Area is designated Zone “X”, “Areas determined to be outside the 0.2% annual chance floodplain”. The Petition Area is not within a tsunami inundation area as it is located approximately 2.7 miles inland (northwest) from the shoreline, and at elevations ranging from approximately 350 to 400 feet above msl.

(4) Land contiguous with existing urban areas shall be given more consideration than non-contiguous land, and particularly when indicated for future urban use on state or county general plans;

The Petition Area is presently contiguous with existing urban areas.

(5) It shall include lands in appropriate locations for new urban concentrations and shall give consideration to areas of urban growth as shown on the state and county general plans;

The Petition Area is an appropriate location for new urban concentration and growth given its locality within Puhi and close proximity to Līhu‘e, and is consistent with the County of Kaua‘i General Plan and the County of Kaua‘i Līhu‘e Development Plan.

(6) It may include lands which do not conform to the standards in paragraphs (1) to (5): (A) When surrounded by or adjacent to existing urban development; and (B) Only when those lands represent a minor portion of this district;

The Petition Area conforms to the referenced paragraphs (1) to (5) as described above.

(7) It shall not include lands, the urbanization of which will contribute toward scattered spot urban development, necessitating unreasonable investment in public infrastructure or support services; and

The Petition Area is presently contiguous with existing urban areas, and will not contribute toward scattered or spot urban development.

The proposed Project will include all required on- and off-site infrastructure improvements to minimize the burden on public systems. The Project is not anticipated to have any significant impacts on public services in the area as discussed in paragraph 112(2) above.

(8) It may include lands with a general slope of twenty per cent or more if the commission finds that those lands are desirable and suitable for urban purposes and that the design and construction of controls, as adopted by any federal, state, or county agency, are adequate to protect the public health, welfare and safety, and the public's interests in the aesthetic quality of the landscape.

The existing topography of the Petition Area is gently sloping at approximately 3 percent, ranging in elevation from approximately 400 feet above msl at the northwestern portion to about 350 feet above msl at the eastern portion.

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

113. The proposed Project is consistent with the following Hawai'i State Plan objectives and policies:

Section 226-11 Objectives and policies for the physical environment – land-based, shoreline, and marine resources.

(b)(6) Encourage the protection of rare or endangered plant and animal species and habitats native to Hawai'i.

The principal potential impact that the proposed Project improvements poses to Hawaiian Petrels, Newell's Shearwaters, and Band-rumped Storm Petrels is the increased threat that birds will be downed after becoming disoriented by outdoor lighting associated with possible nighttime construction activity, and, following build-out, with exterior lighting associated with

the structures and appurtenances that are built within the Petition Area. Should nighttime work be required in conjunction with the Project construction, and during operation of the proposed Project, all exterior lighting will be shielded to reduce the potential for interactions of nocturnally-flying Hawaiian Petrels, Newell's Shearwaters, and Band-rumped Storm Petrels with external lights and man-made structures.

The principal potential impacts that the proposed Project improvements pose to Nēnē are during construction, and following build-out, with the increased student enrollment and associated school activities. If construction activity is planned to occur within the Petition Area during the Nēnē nesting season, which typically runs from October through March on Kaua'i, the Petition Area should be surveyed by a qualified biologist prior to the start of construction, to determine if any active Nēnē nesting activity is occurring on the Petition Area. If such nesting does occur during construction, it is recommended that a Nēnē monitor be on site during such activity to ensure that no harm occurs to the birds.

Due to the likelihood that the endangered Nēnē will utilize resources within the Petition Area, and the Hawaiian Petrels, Newell's Shearwaters, and Band-rumped Storm Petrels could potentially fall onto the Petition Area during the construction phase of the Project, it is recommended that an endangered species awareness program be developed to include general information on the endangered species act and protected species; specific restrictions that will be in force on the Petition Area to protect endangered species; and protocol on who, and how Project site personnel will respond to any downed or injured endangered species that may occur on the Petition Area. All construction personnel should be required to be familiar with the program, and its guidelines, restrictions and protocols to be followed.

The principal potential impact that the proposed Project improvements pose to Hawaiian hoary bats is during the clearing and grubbing phases of the Project. Areas of dense vegetation are likely used to some degree by roosting bats. To avoid potential impacts to the Hawaiian hoary bat, the clearing of dense vegetation, including woody plants greater than 15 feet, along the periphery of the Petition Area should not occur between June 1 to September 15, when bats may be carrying young and potentially could be at risk by such clearing activities.

*Section 226-12 Objectives and policies for the physical environment—
scenic, natural beauty, and historic resources.*

*(b)(4) Protect those special areas, structures, and elements that are an
integral and functional part of Hawai‘i’s ethnic and cultural heritage.*

During the field inspection survey conducted in conjunction with the archaeological literature review for the Petition Area, a total of four historic surface features related to the Līhu‘e Plantation Company, Ltd.’s plantation-era infrastructure were observed. The surface features consist of a reservoir located on a separate parcel adjacent to the south-central portion of the Petition Area (CSH 1), and three irrigation ditches (CSH 2, CSH 3, and CSH 4), two of which are associated with the adjacent reservoir. All of the surface features are currently in use. Based on an evaluation for significance according to the criteria established for the Hawai‘i Register of Historic Places, no additional work appears to be necessary for the four features.

The proposed Project improvements are not anticipated to have an adverse effect on the historic features related to plantation-era infrastructure. While no additional work appears to be necessary, consultation with the SHPD is being conducted to determine mitigation, if any, which may be appropriate for the plantation infrastructure features that have been recommended for no further work.

Should any previously unidentified burial, archaeological or historic sites be found during the course of construction of the proposed Project, the Petitioner will stop work in the immediate

vicinity and the SHPD will be immediately notified. The significance of these finds will then be determined and appropriate mitigation measures will be approved by the SHPD and the Kaua'i/Ni'ihau Islands Burial Council, as appropriate. Subsequent work will proceed after SHPD authorization has been received and mitigative measures have been implemented.

Aside from the four historic surface features related to the Lihū'e Plantation Company, Ltd.'s plantation-era infrastructure, no traditional Hawaiian sites or ancient trail systems were found within the Petition Area during the field inspection survey. Based on the literature review and field inspection survey, no burials are anticipated to be found within the Petition Area. Based on these findings, development of the proposed Project will have minimal or no impact upon native Hawaiian cultural resources, beliefs and practices.

Section 226-13 Objectives and policies for the physical environment – land, air, and water quality.

(b)(3) Promote effective measures to achieve desired quality in Hawai'i's surface, ground, and coastal waters.

(b)(7) Encourage urban developments in close proximity to existing services and facilities.

Potential impacts to the quality of nearby surface and near shore coastal waters during construction of the proposed Project improvements will be mitigated by adherence to State and County water quality regulations governing grading, excavation, and stockpiling. A NPDES General Permit for Storm Water Associated with Construction Activity, administered by the State DOH, will be required to control storm water discharges. Mitigation measures will be instituted in accordance with site-specific assessments, incorporating appropriate structural and/or non-structural BMPs, such as minimizing time of exposure between construction and re-vegetation, and implementing erosion control measures such as silt fences and sediment basins. No construction activities in conjunction with the proposed Project will occur within the adjacent reservoir.

Following construction, the proposed Project improvements will increase impervious surface areas within the Petition Area. This will not, however, result in adverse effects from storm runoff to adjacent and downstream areas. New drainage improvements, which may include drain lines, grass swales, and culverts, will be provided in conjunction with the proposed Project.

The Petition Area is located within Puhi and in close proximity to Līhu‘e, areas which provide existing urban levels of services and facilities, such as civic, schools, Kaua‘i Community College, retail/commercial, light industrial, resort, and parks/recreational facilities.

Section 226-21 Objectives and policies for socio-cultural advancement—education.

(b)(1) Support educational programs and activities that enhance personal development, physical fitness, recreation, and cultural pursuits of all groups.

(b)(2) Ensure the provision of adequate and accessible educational services and facilities that are designed to meet individual and community needs.

Petitioner is Kaua‘i’s largest private, non-sectarian, independent school accommodating Grades Pre-K through 12, and has a current enrollment of approximately 400 students. Petitioner's mission is to prepare its students to live productive, fulfilling lives as confident, responsible life-long learners and contributing members of society; to express fully the talents of its faculty and administration through a challenging curriculum that prepares students for successful higher education; and, to provide a safe, nurturing environment that fosters creativity, critical thinking, initiative, and respect for self and others.

The proposed Project will accommodate additional campus facilities for future increase in its student enrollment, currently at approximately 400 students, to approximately 500 students. An addition of approximately 22 FTE faculty and staff, to the current 62 FTE members, for a total of 84 FTE members, will be required for the future increase in student enrollment. The proposed Project includes new, renovated and expanded classroom buildings; expanded

administration facility and visual arts facility; new facilities, including science building, campus center, dining facility, auditorium and stage, arts education building, back-of-house building and courtyard, robotics shed, outdoor science area, maintenance facility, and informal gathering areas; playground and sports facilities, including physical education (P.E.) facilities, track and football field, soccer field, baseball field, softball field, and outdoor swimming pool; internal loop road with bus parking spaces; school and community drop-off areas; and, additional parking spaces.

O. Relationship with Applicable Priority Guidelines and Functional Plans

114. The purpose of establishing priority guidelines is to address areas of Statewide concern. The proposed Project is consistent with the following priority guidelines:

Section 226-108 Sustainability. Priority guidelines and principles to promote sustainability shall include:

(1) Encouraging balanced economic, social, community, and environmental priorities.

(5) Promoting decisions based on meeting the needs of the present without compromising the needs of future generations.

(7) Emphasizing that everyone, including individuals, families, communities, businesses, and government, has the responsibility for achieving a sustainable Hawai'i.

The Petitioner proposes to incorporate Leadership in Energy and Environmental Design (LEED) standards and strategies in the Project, to the extent deemed economically feasible, to achieve sustainable site, utilities and building development. Green principles and strategies that are ongoing, or may be created for the proposed Project, include those associated with sustainable sites, energy and water efficiency, building design, sustainable transport, and waste stream diversion as further discussed in Petitioner's Exhibit 6.

In addition to these green principles and strategies, Petitioner will continue the following programs and activities toward achieving sustainability education, both within the campus and in the broader community.

- Kaua'i BOTS is an Island School robotics program that allows participation by students from Kaua'i's three public high schools. Approximately 40 percent of the participants in this cooperative program are public school students, thereby promoting efficient use of resources.
- Approximately 35 organizations currently utilize facilities at Island School, 27 of which do so on a recurring basis. This sharing of facilities reduces the demand for construction of new facilities to serve these organizations.
- Petitioner has a cooperative program with its neighboring Kaua'i Community College. In addition to receiving committee advisory assistance, the advanced students at Island School have the opportunity to take college level courses at the college. Such sharing of resources promotes sustainability.
- Petitioner is helping to establish a community garden within its campus through a private grant. The plan is to allow members of the Puhi community to participate in food production and share their gardening knowledge with Island School students.

P. Conformance With the Coastal Zone Management Program

115. The National Coastal Zone Management (CZM) Program was created through passage of the Coastal Zone Management Act of 1972. Hawai'i's CZM Program, adopted as Chapter 205A, HRS, provides a basis for protecting, restoring and responsibly developing coastal communities and resources. The coastal zone management area is defined as all lands of the State and the area extending seaward from the shoreline to the limit of the State's police power and management authority, including the United States territorial sea (§ 205A-1, HRS).

Q. County of Kaua‘i General Plan

116. The County of Kaua‘i General Plan (2000) provides broad policy statements to guide land use regulations, new developments and facilities, and planning for County facilities and services.

On or about November 2, 2012, Petitioner filed its Petition for County General Plan Amendment to amend the County General Plan Land Use Map for the Petition Area from the Agriculture designation to the Urban Center designation.

The Council of the County of Kaua‘i approved the petition and passed Ordinance No. PM-2013-404 on March 13, 2013 and changed the Petition Area from “Agriculture” to “Urban Center”.

The amendment to the Urban Center designation is consistent with the existing Urban Center designation of the adjacent Kaua‘i Community College campus, as well as lands to the south, makai of Kaumuali‘i Highway. Further, the amendment does not have a significant impact on adjoining or nearby agricultural lands as the proposed updated master plan improvements will occur entirely within the Petition Area, of which the majority of the site is currently developed as the Island School campus.

R. County of Kaua‘i Lihu‘e Development Plan

117. The County’s Lihu‘e Development Plan, adopted by County ordinance in 1976, provides physical, social and economic measures which relate specifically to these communities. The Lihu‘e Development Plan was amended on June 3, 2015 and Petition Area is designated for urban use.

S. County of Kaua'i Comprehensive Zoning Ordinance

118. The County's Comprehensive Zoning Ordinance (CZO) establishes procedures for the division of the County into land use districts, and creates regulations for the types, size, placement, and control of structures within various zoning district classifications. The CZO also delineates the respective types of permitted uses and the development that can take place in those zoning districts.

The zoning designations for the Petition Area are Agriculture District (A) and Open District (O). A Use Permit will be required since the proposed Project improvements are not generally permitted within the Agriculture District (A) and Open District (O). A Class IV Zoning Permit will be required because a Use Permit is being sought. The application for Use Permit and Class IV Zoning Permit is processed by the County Planning Department and approved by the County Planning Commission.

T. County of Kaua'i Special Management Area

119. The Hawai'i Coastal Zone Management (CZM) Act (Chapter 205A, HRS) is the basis of the Hawai'i CZM Program as discussed in Section 4.3 of Petitioner's Exhibit "6". The Act establishes objectives, policies and guidelines upon which all counties within the State have structured specific legislation which designated Special Management Areas (SMA). Any development located within the SMA requires a County-issued SMA permit, which on Kaua'i is administered by the County Planning Department. The Petition Area is located outside of the SMA boundaries and, therefore, does not require a SMA Use Permit.

U. Incremental Districting

120. Development of the Property will be substantially completed within ten (10) years after the date of the Commission's approval and, therefore, incremental districting does not apply.

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 Chapter 205 and the Commission Rules under HAR Chapter 15-15, and upon consideration of the Commission decision-making criteria under HRS § 205-17, the Commission finds upon the clear preponderance of the evidence that the reclassification of the Petition Area, consisting of approximately 38.448 acres of land, situated in Puhi, Līhu'e, Island of Kaua'i, State of Hawai'i, Tax Map Key No. (4) 3-8-002: 016 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 § 205-2 and Part III of HRS chapter 205, and is consistent with the policies and criteria established pursuant to HRS §§ 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).

4. 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.

5. 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.

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

7. 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.

8. Article XI, Section 1, of the Hawai‘i State Constitution states that all public natural resources are held in trust by the State for the public benefit, and the State should make appropriate assessments and require reasonable measures to protect public natural resources, while applying a higher level of scrutiny where public natural resources are used for economic gain. *Kaua‘i Springs v. Planning Comm. of the County of Kaua‘i*, 133 Hawai‘i 141, 324 P.3d 951 (2014)

9. The Commission concludes that it has observed and complied with its duties arising from Article XI, Section 1; Article XI, Section 3; Article XI, Section 7; and Article XII, Section 7 of the Hawai‘i State Constitution.

V. DECISION AND ORDER

IT IS HEREBY ORDERED that the Petition Area, consisting of approximately 38.448 acres of land, situated in Puhi, Lihu‘e, Island of Kaua‘i, State of Hawai‘i, Tax Map Key No. (4) 3-8-002: 016, 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. **Stormwater Management and Drainage Improvements.** The Petitioner shall maintain existing drainage patterns. To the extent feasible, Petitioner shall implement Best Management Practices and incorporate Low Impact Development (“LID”) practices for onsite stormwater capture and reuse into Petition Area’s site design and landscaping to control water quality and mitigate nonpoint sources of pollution.
2. **Lihue Airport.** Petitioner shall conduct a glint and glare analysis for the PV facility. Petitioner shall submit the analysis to the State Department of Transportation for its comment and approval. If glint and glare from the PV system is determined to create a hazardous condition, the Petitioner shall immediately mitigate the hazard at Petitioner's expense.
3. **Archaeological and Historic Preservation.** The Petitioner shall prepare and implement an archaeological monitoring plan approved by SHPD. A report of monitoring activities shall be submitted to SHPD upon completion of fieldwork.
4. **Previously Unidentified Burials and Archaeological/Historic Sites.** In the event that historic resources, including human skeletal remains, are 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, Kaua’i Island Section, and the Kaua’i/Ni’ihau Islands Burial Council, shall be contacted immediately. Without any limitation to any other condition found herein, if any burials or archaeological or historic sites 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 mitigation measures have been implemented to its satisfaction.

5. **Endangered Species.** Petitioner shall complete the following:
- A. During the construction phase of the Project, an endangered species awareness program shall be developed which includes general information on the endangered species act and protected species, specific restrictions on the Project site to protect endangered species, and protocols on how Project site personnel will respond to any downed or injured endangered species that may occur on the Petition Area. All construction personnel shall be required to be familiar with the program, guidelines, restrictions and protocols that will need to be followed.
 - B. If construction activity is planned to occur during the Nēnē nesting season, from October through March on Kauaʻi, the Project site should be surveyed by a qualified biologist before the commencement of construction to determine if any active nesting activity is occurring on the Petition Area. If active Nēnē nesting does occur during construction, a biological monitor shall be on-site to ensure that no harm befalls the birds.
 - C. For any nighttime work required during construction, and for long term operation of the proposed Project, all exterior lighting shall be shielded so as to reduce the potential for interactions of nocturnally flying Hawaiian Petrels and Newell's Shearwaters with external lights and man-made structures.
 - D. To avoid potential impacts to the Hawaiian hoary bat, the clearing of dense vegetation, including woody plants greater than 15 feet, along the periphery of the Petition Area shall not occur between June 1 to September 15 when bats may be carrying young and potentially could be at risk by such clearing activities.

6. **Hazardous Substances.** Petitioner shall conduct a phase I Environmental Site Assessment and site investigation Project site to the review and approval of the State Department of Health.

7. **Compliance with Representations.** The Petitioner shall develop the Petition Area in substantial compliance with the representations made to the Commission as reflected in the Findings of Fact, Conclusions of Law, and Decision and Order. Failure to so develop the Petition Area may result in reversion of the Petition Area to its former classification, or change to a more appropriate classification.

8. **Notice to Commission.** 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 Property, prior to development of the Property.

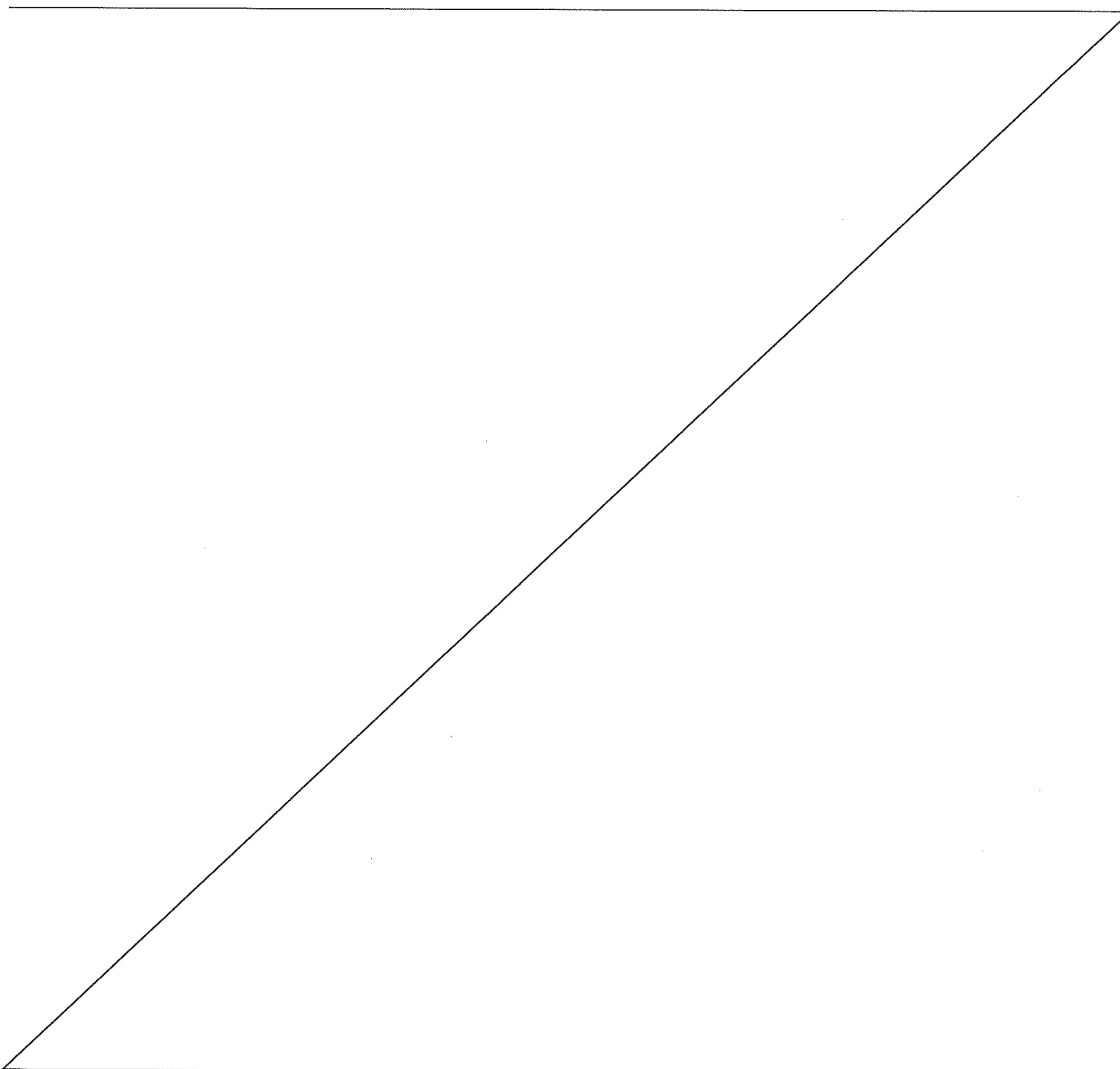
9. **Annual Reports.** Petitioner shall timely provide without any prior notice, annual reports to the Commission, the Office of Planning, and the County of Kaua'i Planning Department in connection with the status of the subject Project and Petitioner's progress in complying with the conditions imposed herein. The annual report shall be submitted in a form prescribed by the Executive Officer of the Commission.

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

11. **Notice of Imposition of Conditions.** Within seven (7) days of the issuance of the Commission's Decision and Order for the subject reclassification, Petitioner shall: (a) record with the Bureau of Conveyances a statement that the Petition Area is subject to conditions

imposed herein by the Land Use Commission in the reclassification of the Petition Area; and (b) shall file a copy of such recorded statement with the Commission.

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



ADOPTION OF ORDER

The Chair, being familiar with the record and proceedings, hereby adopt and approve the foregoing ORDER this 11th day of August, 2017. This ORDER shall take effect upon the date this ORDER is certified and filed by this Commission.


This ORDER is appealable pursuant to HRS section 91-14.

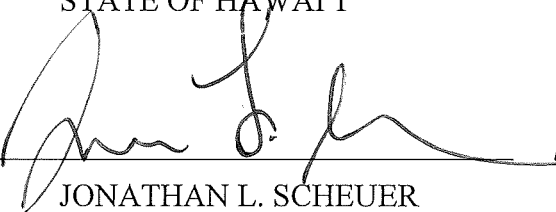
Done at Honolulu, Hawai'i, this 11th, day of August, 2017, per motion on August 10, 2017.

LAND USE COMMISSION

APPROVED AS TO FORM

STATE OF HAWAII


Deputy Attorney General

By 
JONATHAN L. SCHEUER
Acting Chairperson and
Commissioner

FILED AND EFFECTIVE ON: 8/11/, 2017.

Certified by: 
DANIEL E. ORODENKER
Executive Officer
State Land Use Commission

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAI'I

LAND USE COMMISSION
STATE OF HAWAII
2017 AUG 11 P 2:14

In the Matter of the Petition of)	DOCKET NO. A16-800
)	
ISLAND SCHOOL)	ISLAND SCHOOL
)	
To Amend the Agricultural Land Use)	CERTIFICATE OF SERVICE
District Boundary into the Urban District for)	
Approximately 38.448 acres at Puhi, Līhu'e,)	
Island of Kaua'i, State of Hawai'i,)	
TMK: (4) 3-8-002: 016)	
_____)	

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document was duly served upon the
following by depositing the same in the AS INDICATED BELOW on August 11, 2017:

LEO R. ASUNCION, JR., AICP, Acting Director
Office of Planning, State of Hawai'i
235 South Beretania Street
6th Floor, Leiopapa A Kamehameha
Honolulu, Hawai'i 96813

HAND DELIVERY

DAWN T. APUNA, ESQ.
Deputy Attorney General
Department of the Attorney General
425 Queen Street
Honolulu, Hawai'i 96813

HAND DELIVERY

MICHAEL DAHILIG, Director
Planning Department, County of Kaua'i
4444 Rice Street
Līhu'e, Kaua'i, Hawai'i 96766

CERTIFIED MAIL
RETURN RECEIPT
REQUESTED

JODI HIGUCHI, ESQ.
Deputy Kaua'i County Attorney
Office of the County Attorney
4444 Rice Street, Suite 220
Līhu'e, Kaua'i, Hawai'i 96766

CERTIFIED MAIL
RETURN RECEIPT
REQUESTED


KAUA'I COUNTY PLANNING COMMISSION
c/o Planning Department, County of Kaua'i
4444 Rice Street
Līhu'e, Kaua'i, Hawai'i 96766

CERTIFIED MAIL
RETURN RECEIPT
REQUESTED

BENJAMIN M. MATSUBARA, ESQ.
CURTIS T. TABATA, ESQ.
Matsubara, Kotake, & Tabata
888 Mililani Street, Suite 308
Honolulu, Hawai'i 96813
Attorney for Petitioner

CERTIFIED MAIL
RETURN RECEIPT
REQUESTED

DATED: Honolulu, Hawai'i, August 11, 2017.

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke at the end, positioned above a solid horizontal line.

Executive Officer