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LAND USE COMMISSION
 STATE OF HAWAII

2017 JAN -6 P 2: 05

BEFORE THE LAND USE COMMISSION
 OF THE STATE OF HAWAII

In the Matter of the Petition of)	DOCKET NO. A89-649
)	
LANAI RESORT PARTNERS)	OFFICE OF PLANNING'S RESPONSE
)	TO INTERVENOR LĀNA'IAN FOR
To consider an Order to Show Cause as to)	SENSIBLE GROWTH'S PROPOSED
whether certain land located at Manele,)	FINDINGS OF FACT, CONCLUSIONS
Lana'i, should revert to its former)	OF LAW, AND DECISION AND ORDER;
Agricultural and/or Rural land use)	CERTIFICATE OF SERVICE
classification or be changed to a more)	
appropriate classification due to Petitioner's)	
failure to comply with Condition No. 10 of)	
the Land Use Commission's Findings of)	
Fact, Conclusions of Law, and Decision and)	
Order filed April 16, 1991. Tax Map Key)	
No.: 4-9-02: Por. 49 Formerly Tax Map)	
Key No. 4-9-02: Por. 1)	
)	

**OFFICE OF PLANNING'S RESPONSE TO INTERVENOR
 LĀNA'IAN FOR SENSIBLE GROWTH'S PROPOSED FINDINGS
 OF FACT, CONCLUSIONS OF LAW, AND DECISION AND ORDER**

The Office of Planning ("OP") respectfully disagrees with Intervenor Lāna'ians for Sensible Growth's ("LSG") Proposed Findings of Fact, Conclusions of Law, and Decision and Order (Intervenor's Proposed D&O) for all the reasons set forth in its pleadings, testimony, and argument. OP anticipates that Petitioner Lāna'i Resorts, LLC will address the concerns with the individual findings and conclusions. Rather than repeat those arguments, however, OP will only highlight its most fundamental disagreement with Intervenor's Proposed D&O.

Intervenor completely ignores the term “non-potable” in Condition 10, instead focusing on the term “potable” and EPA Primary Contaminant/Hawaii Safe Drinking Water requirements. Intervenor makes an assertion that the prohibition against using potable water for golf course irrigation is somehow a separate and different mandate than the requirement to use non-potable water for golf course irrigation. See COL 36. But the two provisions were placed within one condition and must be read and understood together. The examples of “non-potable” water are not surplusage, but rather a safe harbor providing two examples of the type of water that can be used for golf course irrigation. Unambiguously, Condition 10 gives Petitioner two clear examples of what it can do to irrigate the Manele Golf Course.

If one accepts that brackish water is an example of non-potable water and that non-potable water can be used to irrigate the Manele Golf Course, all other arguments raised by Intervenor must fail. The evidence is clear and none of the parties including Intervenor LSG disputes that Wells 1 and 9 are brackish. Accordingly, one must conclude that Petitioner is in compliance with Condition 10.

OP has provided a much lengthier rationale with evidentiary citations in its position statement, written testimony, and oral argument, and petitioner has provided 188 findings of fact and 44 pages of a proposed decision. But the Intervenor’s failure to acknowledge and address the term “non-potable” water (e.g., brackish water) in Condition 10 most clearly points to the reason for the fundamental disagreement with Intervenor’s Proposed D&O.

DATED: Honolulu, Hawai‘i, January 6, 2017.

OFFICE OF PLANNING
STATE OF HAWAI‘I



LEO ASUNCION
Director

BEFORE THE LAND USE COMMISSION
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_____)

CERTIFICATE OF SERVICE

I hereby certify that on the date below a true and correct copy of the foregoing **OFFICE OF PLANNING'S RESPONSE TO INTERVENOR LĀNA'IAN'S FOR SENSIBLE GROWTH'S PROPOSED FINDINGS OF FACT, CONCLUSIONS OF LAW, AND DECISION AND ORDER** was duly served on the following parties at their last known addresses via United States mail, postage prepaid:

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DATED: Honolulu, Hawai'i, January 6, 2017.


LEO ASUNCION
Director of the Office of Planning