



LAND USE COMMISSION  
STATE OF HAWAII

2017 JAN 24 A 11: 36

BEFORE THE LAND USE COMMISSION

OF THE STATE OF HAWAII

In The Matter Of The Petition Of

COUNTY OF KAUA'I HOUSING  
AGENCY

To Amend The Agricultural Land Use  
District Boundaries Into The Urban  
Land Use District For Certain Lands  
Situated At `Ele`ele, Kaua`i, Hawai`i;  
Consisting Of Approximately 75  
Acres, Tax Map Key No. (4) 2-1-001:  
054

DOCKET NO. A17-802

ORDER ACCEPTING ORAL  
STIPULATION TO ADMIT JEAN  
NISHIDA SOUZA AS AN  
INTERVENOR IN THE DISTRICT  
BOUNDARY AMENDMENT  
PROCEEDING; AND CERTIFICATE OF  
SERVICE

ORDER ACCEPTING ORAL STIPULATION TO ADMIT JEAN NISHIDA SOUZA AS  
AN INTERVENOR IN THE DISTRICT BOUNDARY AMENDMENT PROCEEDING

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

1/24/17 by

Executive Officer



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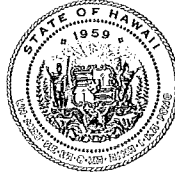
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On December 22, 2016, Jean Nishida Souza filed a timely Petition to Intervene in County of Kaua`i, Housing Agency's Petition for State Land Use District Boundary Amendment ("Petition to Intervene"), pursuant to Hawai`i Administrative Rules ("HAR") §15-15-97.

On December 29, 2016, the County of Kaua`i Housing Agency ("Petitioner") filed a written statement opposing the Petition to Intervene.

On January 6, 2017, the County of Kaua`i Planning Department (“Planning Department”) filed a Joinder to Petitioner’s statement opposing the Petition to Intervene.

On January 11, 2017, the State of Hawai`i Office of Planning (“OP”) filed a statement of no objection to the Petition to Intervene.

On January 12, 2017, Petitioner’s counsel transmitted an e-mail to the State of Hawai`i Land Use Commission (“Commission”) staff requesting that the hearing on Petitioner’s Land Use District Boundary Amendment Petition (“Petition”) scheduled for hearing in February 2017 be moved to an appropriate hearing date in June or July 2017.<sup>1</sup>

The Commission considered the Petition to Intervene on January 19, 2017, in Līhu`e, Kaua`i, Hawai`i. Jean Nishida Souza appeared on behalf of herself. James K. Mee, Esq., appeared on behalf of Petitioner. Dawn Takeuchi-Apuna, Esq., and Rodney Funakoshi appeared on behalf of OP. Sinclair Salas-Ferguson, Esq., and Michael Dahilig appeared on behalf of the Planning Department.<sup>2</sup>

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<sup>1</sup> The Petition is planned to be filed as a Government Sponsored Housing Project under the auspices of Hawai`i Revised Statutes chapter 201H, which provides for an expedited, fast-track approval process. Petitioner had filed a Notice of Intent to File a Land Use District Boundary Amendment Petition with this Commission on December 7, 2016, which specified a filing date of February 6, 2017, for the Petition. The Petition was scheduled to be heard on February 8 and 9, 2017, with hearing notices published in the *Honolulu Star-Advertiser*, *The Garden Island*, *Maui News*, *West Hawai`i Today*, and the *Hawai`i Tribune-Herald* on January 9, 2017.

<sup>2</sup> At the beginning of the meeting, Vice-Chair and Commissioner Jonathan Scheuer disclosed that he has known Ms. Souza for over 20 years from his previous work. There were no objections to Commissioner Scheurer’s participation in the proceeding.

At the meeting, Ms. Souza filed her written responses to the statements of Petitioner, the Planning Department, and OP on her Petition to Intervene.<sup>3</sup> Thereafter, the Commission admitted into the record correspondence from the State of Hawai'i Department of Health, Environmental Planning Office, dated January 12, 2017, regarding Petitioner's proposed Lima Ola Workforce Housing Development and then heard public testimony in support of the Petition to Intervene from Susan Remoaldo and Maka'ala Ka'aumoana. Following the receipt of public testimony, Ms. Souza provided a presentation on her Petition to Intervene. The Commission then heard oral arguments from Petitioner, the Planning Department, and OP on the Petition to Intervene. Thereafter, the Commission entered into executive session to consult with the Commission's attorney regarding the Commission's duties, rights, responsibilities, and obligations with respect to the Petition to Intervene. Upon the completion of the executive session, Petitioner informed the Commission that Petitioner, the Planning Department, OP, and Ms. Souza had entered into an oral stipulation to admit Ms. Souza as an intervenor in the district boundary amendment proceeding in her individual capacity, provided that such intervention be limited in scope to the seven concerns

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<sup>3</sup> Ms. Souza's written responses, among other things, identified the following seven concerns with Petitioner's proposed Lima Ola project: (1) traffic impacts and mitigation measures; (2) impacts and mitigation measures affecting 'Ele'ele Elementary School; (3) drainage and flooding impacts and mitigation measures; (4) impacts and mitigation measures for offsite recreation facilities; (5) impacts and mitigation measures related to emergency shelters; (6) relationship of the Lima Ola project to development plans for adjacent properties; and (7) timely public notice and opportunities to testify and comment on the proposed Lima Ola project.

identified in Ms. Souza's written responses filed on January 19, 2017, with this Commission.

Following discussion, a motion was made and seconded to accept the oral stipulation among Petitioner, the Planning Department, OP, and Ms. Souza to admit Ms. Souza as an intervenor in the district boundary amendment proceeding in her individual capacity, provided that such intervention be limited in scope to the seven concerns identified in Ms. Souza's written responses filed on January 19, 2017, with this Commission.

There being a vote tally of 6 ayes, 1 nay, and 2 excused, the motion carried.

ORDER

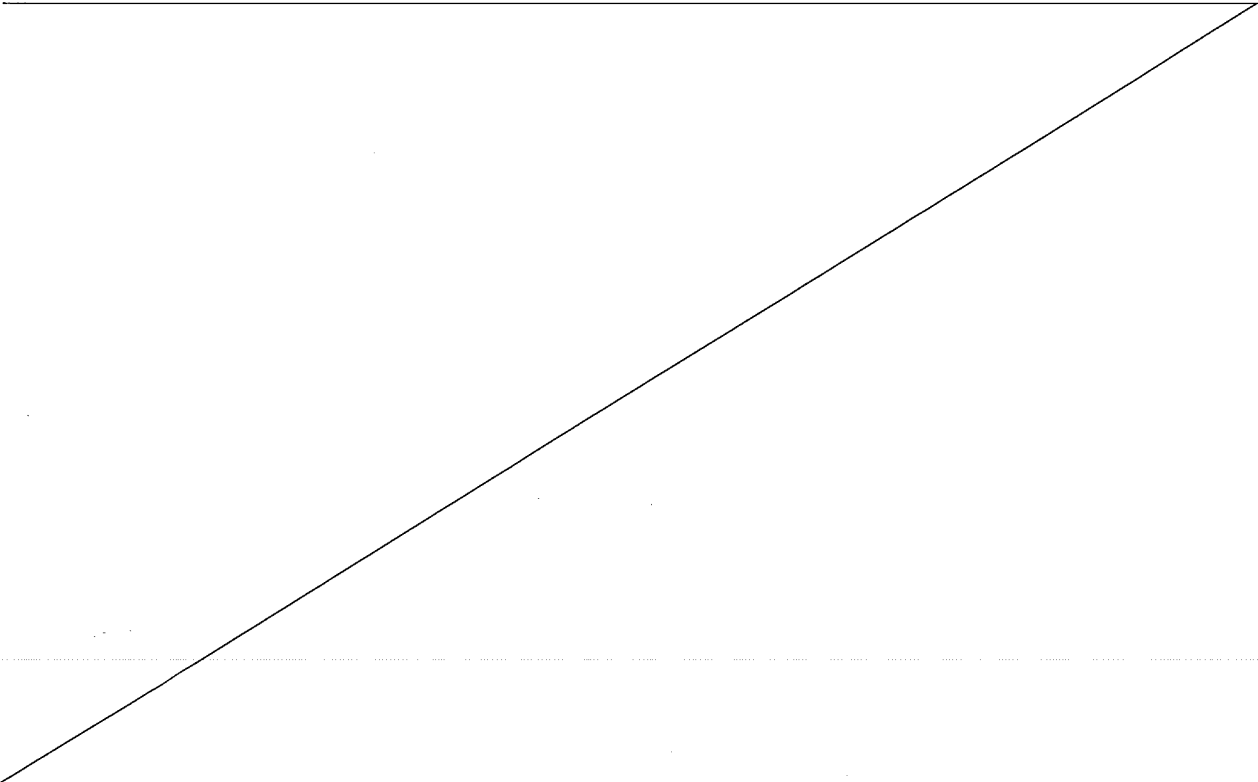
This Commission, having duly considered the Petition to Intervene, the arguments and pleadings presented in this proceeding, and the oral stipulation among Petitioner, the Planning Department, OP, and Ms. Souza, and a motion having been made at a meeting on January 19, 2017, in Līhu'e, Kaua'i, Hawai'i, and the motion having received the affirmative votes required by HAR §15-15-13, and for good cause shown,

IT IS HEREBY ORDERED that the oral stipulation among Petitioner, the Planning Department, OP, and Ms. Souza to admit Ms. Souza as an intervenor in the

district boundary amendment proceeding solely in her individual capacity be  
ACCEPTED.

IT IS FURTHER ORDERED that Ms. Souza's intervention in the proceeding shall be limited in scope to the following areas of concern: (1) traffic impacts and mitigation measures; (2) impacts and mitigation measures affecting 'Ele`ele Elementary School; (3) drainage and flooding impacts and mitigation measures; (4) impacts and mitigation measures for offsite recreation facilities; (5) impacts and mitigation measures related to emergency shelters; (6) relationship of the Lima Ola project to development plans for adjacent properties; and (7) timely public notice and opportunities to testify and comment on the proposed Lima Ola project.

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ADOPTION OF ORDER

This ORDER shall take effect upon the date this ORDER is certified by this Commission.

Done at Honolulu, Hawai'i, this 24th day of January, 2017, per motion on January 19, 2017.

LAND USE COMMISSION

APPROVED AS TO FORM

STATE OF HAWAI'I

  
\_\_\_\_\_  
Deputy Attorney General

By   
\_\_\_\_\_  
ARNOLD WONG  
Vice-Chairperson and Commissioner

Filed and effective on:  
1/24/17

Certified by:

  
\_\_\_\_\_  
DANIEL ORODENKER  
Executive Officer





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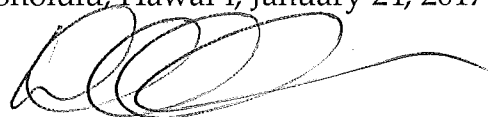
CERTIFICATE OF SERVICE

I hereby certify that a copy of the ORDER ACCEPTING ORAL STIPULATION TO ADMIT JEAN NISHIDA SOUZA AS AN INTERVENOR IN THE DISTRICT BOUNDARY AMENDMENT PROCEEDING in the above referenced-docket was duly served upon the following by either hand delivery or depositing the same in the U.S. Postal Service by regular or certified mail as noted.

	HAND DELIVERED	REGULAR MAIL	CERTIFIED MAIL
LEO ASUNCION, DIRECTOR Office of Planning 235 S. Beretania Street Rm. 600 Honolulu, Hawai`i 96813	X		

	HAND DELIVERED	REGULAR MAIL	CERTIFIED MAIL
DAWN TAKEUCHI-APUNA,ESQ Deputy Attorney General Hale Auhau, Third Floor 425 Queen Street Honolulu, Hawai'i 96813		X	
MICHAEL DAHILIG Director, Department of Planning, County of Kaua'i 4444 Rice Street Lihue, Hawai'i 96766		X	
KAUAI COUNTY PLANNING COMMISSION c/o Planning Department County of Kaua'i 4444 Rice Street Lihue, Hawai'i 96766			X
BENJAMIN A. KUDO, Esq. JAMES K. MEE Esq. Ashford & Wriston LLP 999 Bishop Street, Suite 1400 Honolulu, Hawai'i 96813 Attorneys for Lāna'i Resort Partners			X
JEAN NISHIDA SOUZA PO Box 450 Hanapepe, Hawaii 96716			X

Honolulu, Hawai'i, January 24, 2017




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DANIEL ORODENKER  
Executive Officer