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LAND-USE COMMISSION
STATE OF HAWAII

2017 JUL 17 A 7:20

BEFORE THE LAND USE COMMISSION

STATE OF HAWAII

In the Matter of the Petition of)	DOCKET NO. A17-802
)	
COUNTY OF KAUAI,)	INTERVENOR JEAN NISHIDA
HOUSING AGENCY)	SOUZA'S PROPOSED FINDINGS
)	OF FACT; CERTIFICATE
Filed for Reclassification of)	OF SERVICE
Land in the State Land Use)	
Agriculture District Boundaries to)	
State Land Use Urban District of)	
Approximately 75 acres of Land at)	
Eleele, Kauai, Hawaii,)	
Tax Map Key No. (4) 2-1-001:054)	
_____)		

INTERVENOR JEAN NISHIDA SOUZA'S PROPOSED FINDINGS OF FACT

Intervenor JEAN NISHIDA SOUZA, an individual ("Intervenor Souza"), submits this proposed Findings of Fact with respect to the County of Kauai, Housing Agency's ("Petitioner") petition for reclassification of 75 acres of Agricultural District lands in Eleele, Kauai, to the Urban District.

I. FINDINGS OF FACT

A. Project Description

1. Stand-alone Project

1. Petitioner's witness Gary Mackler indicated that this was a stand-alone project and areas designated as "Future Development (by A&B)" would require a petition

for State Land Use District Boundary Amendment and county land use approvals (Verbal testimony of Gary Mackler, July 7, 2017). In addition, Frank Camacho of Community Planning and Engineering, Inc., in response to the Hanapepe-Eleele Community Association's comments on the draft environmental impact statement, stated on June 27, 2016, "Lima Ola is a standalone project initiated by the County Housing Agency to provide the much needed affordable housing in the region, and is not part of any other proposed development plans in the area." (Petitioner Exhibit 3)

2. Nonetheless, Petitioner's Exhibit 3, Final Environmental Impact Statement, also stated on page 83: "Lima Ola would not be a stand-alone development but one that would create linkages to surrounding existing and future neighborhoods." (Petitioner Exhibit 3, page 83).

3. Petitioner was not able to clarify whether the Petition Area included or excluded "County Major Perimeter Road Mauka" that is designated as a "Future Road" located on the eastern boundary of the Petition area and the adjacent A&B lands indicated as "Future Development (by A&B)" in the Conceptual Master Plan in Petitioner Exhibit 3 (Verbal testimony of Kanani Fu, July 7, 2017).

2. Future County Land Use Approvals/Review

4. County Planning Director Dahilig indicated that it is unknown at this time if there will be further County Planning Department review/approval of the proposed project to impose conditions of approval (Verbal testimony of Michael Dahilig on July 7, 2017).

B. Impacts Upon Resources of the Area

1. Agricultural Resources

5. The coffee plants displaced by the proposed project will be relocated and replanted in vacant spaces with the coffee plantation. (Verbal public testimony of Fred Cowell, General Manager of Kauai Coffee, June 28, 2017)
6. The adjacent and nearby Agricultural District lands have the similar prime agriculture qualities as the Petition Area. (Verbal public testimony of Fred Cowell, General Manager of Kauai Coffee, June 28, 2017)
7. Any proposed urban uses of these Agricultural District lands will require a petition for State Land Use District Boundary Amendment and County land use permits (Verbal testimony of Gary Mackler, July 7, 2017).

2. Cultural Resources

8. Port Allen Cemetery (also known as McBryde Cemetery) lies on the coastline makai of the Petition Area. The cemetery primarily contains old Japanese graves, Portuguese graves, and Hawaiian graves (Verbal testimony of Intervenor Souza on July 7, 2017; Intervenor Exhibits 1B and 10).
9. Salt Pond, located west of the Petition Area, is actively used for the traditional making of salt by families of cultural practitioners. The highly saline water is taken from wells in Salt Pond and placed in mud pans where evaporation leaves salt deposits that are harvested and dried (Verbal testimonies of Thomas Nizo and Kupuna Janet Kahalekomo, June 28, 2017; Intervenor Exhibits 4 and 5).

10. The increased presence of beach sand in the mud used for the mud pans in Salt Pond is adversely affecting the salt making process (Verbal testimony of Thomas Nizo, June 28, 2017).

3. Recreation and Coastal Resources

11. Glass Beach is a popular visitor attraction located along the coast makai of the Petition Area (Verbal testimony of Intervenor Souza on July 7, 2017; Intervenor Exhibits 1B and 9).

12. Residents of the proposed project are expected to use Salt Pond Beach Park, the only public beach park available between Poipu and Kekaha. Salt Pond Beach Park is well used and additional public beach activities, including driving on the beach, has expanded to the adjacent sandy beach fronting Salt Pond and the Hanapepe salt pans (Verbal testimony of Intervenor Souza on July 7, 2017; Intervenor Exhibit 7).

13. Driving vehicles on the beach fronting Salt Pond and the salt pans have resulted in the loss of sand dunes that used to be 20 feet higher and have adversely affected the outer salt beds (aka salt pans) (Verbal testimony of Thomas Nizo, June 28, 2017; Intervenor Exhibit 6).

C. Adequacy of Public Services and Facilities

1. Highway and Roadway Facilities

14. There are traffic hotspots (examples: Hanalei, Kapaa, Wahiawa Gulch to Lawai, Omao to Lihue, Macy's to Kauai Community College) where the County and State have not been successful in solving these traffic hotspots that have

persisted for years (Verbal public testimony of Makaala Kaaumoana on June 28, 2017 and Verbal testimony of Intervenor Souza on July 7, 2017).

15. Higher regional traffic volumes are expected with the proposed project because a County report indicates that there are more jobs in every other district than the West Side (this includes Lihue, Koloa-Poipu-Kalaheo, East Side, and North Shore). For the West Side, there are significantly higher levels of home location (15-20% of the population) than job location (0-5% of the population) (Verbal and written public testimony of Councilmember JoAnn Yukimura on June 28 with Figure 4-2 "Job and Home Location of Kauai Residents in 2011" from the Kauai Resident Travel Survey, 2011, of the Kauai Multimodal Land Transportation Plan, Council Adopted Version; Written testimony of Councilmember JoAnn Yukimura dated June 26, 2017)

16. According to Petitioner's traffic expert, a Traffic Impact Analysis Report (TIAR) addresses local impacts only; not regional impacts that need to consider more factors (Verbal testimony of Travis Braswell, June 28, 2017).

17. Petitioner's traffic expert has not addressed regional traffic impacts of the proposed project (Verbal testimony of Intervenor Souza, July 7, 2017).

18. During the LUC site visit on June 14, 2017, Petitioner stated the signalized intersection at Kaumualii Highway/Laulea (South)-Mahea would be installed with Phase 1 of the project (Verbal statement of Kanani Fu on June 14, 2017).

19. The TIAR assumes that 10% of the trips will be reduced due to anticipated pedestrian/bicycle use (5%) and due to transit use (5%) by project residents. Petitioner's traffic expert stated that the reduced 10% of trip generation will not

have an effect on the outcome of the TIAR recommendations because the traffic levels of service without any improvements are already at LOS F, the most degraded level of traffic congestion (Verbal testimony of Travis Braswell, June 28, 2017; Petitioner Exhibita 13B, Master Plan Update, Sustainability Plan Figure 6, Area Intersection Traffic Ratings, page 12).

20. The project's internal project bikeways and sidewalks are not connected to the surrounding neighborhoods and the destinations that residents would travel to (Petitioner's Exhibit 3; Verbal testimony of Travis Braswell, June 28, 2017; Intervenor Exhibit 2).

21. There is no evidence from the Marketing Study that all or most of the residents in the Petition Area already live in Eleele and Hanapepe (Petitioner Exhibits 30, 31; Verbal testimony of Intervenor Souza on July 7, 2017)

2. Schools

22. The State of Hawaii Department of Education wrote on June 1, 2016, that "Eleele Elementary School is very close to its enrollment capacity." DOE also stated, "It is important for the DOE to go on the record as saying the proposed project would take up all possible excess capacity at Eleele Elementary. As other projects in the area get developed, DOE will have to consider other methods for handling additional enrollment beyond what the school is currently capable of handling. If the anticipated growth is significant, the DOE will consider imposing school impact fees in the area." (Petitioner Exhibit 3)

3. Parks and Beaches

23. For at least 10 years, the residents of Hanapepe-Eleele have advocated the expansion of the County's Salt Pond Beach Park--where recreation use is heavy and resulting in overcrowding--onto state-owned lands mauka and westward of the existing park for expansion of the park and for land banking (Verbal testimony of Intervenor Souza, July 7, 2017).

24. The King Tide event of June 23, 2017, caused waves to wash over the beach fronting Salt Pond, resulting in sand and surface seawater to enter Salt Pond nearly inundating the salt pans (Verbal testimony of Intervenor Souza, July 7, 2017; Intervenor Exhibits 4 and 6).

4. Drainage

25. The proposed project seeks to maximize the developable area of the Petition Area to a greater degree than a typical housing project. This project will seek exemptions to standard codes including minimum lot size, minimum lot width, minimum lot length, and reductions of rear and side yard setbacks. This will result in higher drainage rates than a standard project, nonetheless the Petitioner will be using the County's standard of a two-year storm for planning the project's drainage plan. This may have adverse impacts on nearby State highways, roadways, and adjacent and downstream properties (Petitioner Exhibit 7, Proposed List of Exemptions and Proposed Alternate Standards; Verbal testimony of Intervenor Souza, July 7, 2017).

26. The weather pattern has been described as "The entire island of Kauai is subject to very flashy/unstable weather patterns year round," in letter from Office of Planning to Max Solmssen, dated Jan. 2, 2015 (Petitioner Exhibit 3).

27. Downstream facilities and resources located makai of the Petition Area across Halewili Highway and possibly affected by the drainage from the Petition Area include: KIUC (Kauai Island Utility Co-op) solar farm, the KIUC generation plant, a fuel tank, Glass Beach, and Port Allen Cemetery (Verbal testimony of Intervenor Souza, July 7, 2017; Intervenor Exhibits 1B, 9, and 10).

5. Emergency Management

28. According to the Kauai Civil Defense Agency (now known as the Kauai Emergency Management Agency) in its June 8, 2016, letter to the Petitioner, Kapa Reservoir, located mauka of the Petition area, is an earthen reservoir with a maximum storage capacity of 16.3 million gallons of water, normally storing 8 million gallons, that is managed by Kauai Coffee to provide irrigation water for coffee fields. Kapa Reservoir is deemed "High" in Hazard Potential Classification. The dam has no spillway safety feature. (Petitioner Exhibit 3). Sheltering in place is not normally allowed in potential inundation areas (Intervenor Exhibit 2).

29. Water is obtained from wells in Hanapepe Valley and piped to the reservoir and then distributed to the field irrigation system (Verbal public testimony of Fred Cowell on June 28, 2017).

D. Conformance with County General Plan


30. The Kauai General Plan (2000), Chapter 5 "Preserving Kauai's Rural Character", Section 5.1.2(c) stated: "Support growth of residential and business uses in master-planned developments in the Puhi-Lihue-Hanamaulu Urban Center and at Poipu-Kukuiula." According to the Kauai General Plan, most of the

growth should be located in Lihue or South Kauai (Written and verbal testimony of County Councilmember JoAnn Yukimura, June 26 and June 28, 2017).

31. The draft updated General Plan says the same thing today. This is because the majority of the jobs are there in Lihue and South Kauai, and locating housing close to jobs will reduce traffic congestion around the island substantially (Written and verbal testimony of County Councilmember JoAnn Yukimura, June 26 and June 28, 2017).

Dated: Hanapepe, Hawaii: July 17, 2017

Respectfully submitted,



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Approximately 75 acres of Land at)	
Eleele, Kauai, Hawaii, Kauai,)	
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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing documents have been duly served
upon the following by email on July 17, 2017:

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DATED: Hanapepe, Hawaii, July 17, 2017



JEAN NISHIDA SOUZA
Intervenor