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2017 MAY 18 A 8:57
LAND USE COMMISSION
STATE OF HAWAII

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 STATEMENT OF
)	POSITION; CERTIFICATE
To Be 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 SOUZA'S STATEMENT OF POSITION

Pursuant to Hawaii Administrative Rules ("HAR") Section 15-15-97, Intervenor JEAN NISHIDA SOUZA, an individual ("Intervenor Souza"), submits this Statement of Position of support for the reclassification of the Petition Area, subject to certain conditions or alternatively of partial approval of the Petition Area, subject to certain conditions. This Statement of Position summarizes Intervenor Souza's position based on information currently available, including the representations of the Count of Kauai, Housing Agency ("Petitioner) and draft documents received. Additional information that becomes available will be reflected in Intervenor Souza's written and verbal testimonies.

DRAFT PETITION OVERVIEW

General Information

The County of Kauai, Housing Agency intends to file its Petition for a Land Use District Boundary Amendment with the Land Use Commission of the State of Hawaii ("LUC") on June 13, 2017, pursuant to Sections 205-4 and 201H-38, Hawaii Revised Statutes, as amended, and Section 15-15-97(b) of HAR, Title 15, Subtitle 3, Chapter 15, Subchapter 13, as amended.

The Petitioner is the fee owner of the parcel, Tax Map Key ("TMK") No. (4)2-1-001:054, being proposed for reclassification under the intended Petition.

LUC Proceedings

On February 8, 2017, the State Land Use Commission filed an Order granting the Petitioner's Petition for Declaratory Order, based on LUC approval at its meeting on December 22, 2016. In Petitioner's Petition for Declaratory Order, received by the LUC on December 7, 2016, the Petitioner sought a waiver of the incremental development schedule and map requirements to redistrict the entire petition area due to its inability to forecast the availability of public funds and community population growth prior to obtaining land use entitlements.

The Declaratory Order does not preclude consideration of partial approval of the reclassification of the petition area, subject to conditions.

Proposed Use of the Petition Area

The Petitioner intends to develop an affordable housing project on the Petition Area. At full buildout "several decades" from now, Lima Ola, as the project is

known, will consist of approximately 550 residential units. All units will be offered for sale or rent to buyers/renters who earn no more than 140% of the Kauai median household income.

KEY ISSUES OF CONCERN TO THE INTERVENOR

1. The Petitioner's draft petition and exhibits are in conflict with each other and with Petitioner's information submitted to the LUC in support of its Petition for Declaratory Order (DR16-58) dated December 7, 2016. These topics of conflict relate to the project's development schedule upon which the Traffic Impact Analysis, and other infrastructure capacities and impacts are based. The Petitioner, in its Petition for Declaratory Order, stated:

- "While the actual development timeline is subject to various factors, at this time Petitioner is anticipating that full buildout may take several decades, depending upon funding availability and housing needs." (Page 3)
- "In this case, Petitioner does not have certainty as to where future phases of the Lima Ola Project will be built out." (Page 8)
- "Petitioner cannot conclusively determine at this time when funding will be obtained to pursue future improvements. Thus, Petitioner would not be able to provide an incremental site plan or a hard time schedule for the future phases of the Lima Ola Project." (Page 10)

Petitioner's proposed Traffic Impact Analysis Report's (Exhibit 12) trip generations and analysis of impacts are based on specified phases and numbers and composition of housing units per phase.

Petitioner's Lima Ola Workforce Housing Development Plan (Exhibit 13) addresses only Phase 1. No other specific information is provided on any other phase. Similarly, the Lima Ola Workforce Housing Development, Master Plan Update, dated 2017 April (Exhibit 13-B), provides no specific updated information on phasing, numbers and composition of housing units per phase. Therefore, it is unclear the extent to which the Traffic Impact Analysis Report's findings aligns with the current project configuration and composition.

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. No evidence has been submitted that such reductions are realistic in the suburbia of Hanapepe-Eleele, and for a project that does not connect its internal project bikeways to the surrounding neighborhoods and the destinations that residents would travel to.

While the Petitioner's Proposed Findings of Fact, Conclusions of Law, and Decision and Order proposes a condition of approval related to traffic improvements, there are no commitments by the Petitioner on the timely completion of improvements and the timely monitoring and effective response to conditions as indicated in the TIAR or as may be required by the Hawaii Dept. of Transportation. In addition, the TIAR does not

sufficiently address regional traffic analysis and how to offset those impacts.

2. The Petitioner appears to minimize the anticipated student population from the project. Petitioner states in the Proposed Findings of Fact, Conclusions of Law and Decision and Order (page 18) that the Dept. of Education (DOE) estimated that for Eleele Elementary School, "Phase 1 of the project may add an estimated 25 additional students; at full build-out, over the several decade lifespan, DOE estimates an additional 77 students may enroll." Estimates were also stated for Waimea Canyon Middle School and Waimea High School.

Petitioner's Exhibit 15-A stated, "Eleele Elementary is very close to its enrollment capacity." The DOE is concerned that the Lima Ola project will eventually, at the Project's mature stage, increase the Eleele enrollment" by that annual rate. Furthermore, DOE stated, "It is important for DOE to go on the record as saying that the proposed project would take up all possible excess capacity and 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."

Current population statistics indicate that Eleele's population for 2016, 2017 is about 2,400. In the age range of 5-9 years, there are approximately 150 children. With an average household size of about 4,

the potential population at Lima Ola with a buildout of 550 housing units is 2,255, or a near doubling of Eleele's population. These figures imply that even the DOE's estimates of student population may be smaller than the current student population for the similar current-day Eleele population.

The Petitioner fails to commit to any mitigating measure other than to "continue to coordinate with DOE throughout the planning and development process to prevent a significant impact to the school." The Petitioner has not identified a condition of approval to mitigate adverse impacts on public schools.

3. The Petitioner has proposed a condition of approval related to drainage.
4. The Petitioner has not adequately identified and addressed the impact of an additional 550 housing units with potentially 2,255 people—nearly doubling Eleele's population—on the nearby and regional recreation facilities and exacerbating the need for more public recreation spaces and facilities.
5. The Petitioner has not identified the inundation threats posed by Kapa Reservoir located upslope of the Petition Area. Sheltering-in-place is not normally considered a best practices option in inundation areas. Emergency shelters are open to anyone, therefore the adequacy of the emergency shelter capacity from a doubling of the Eleele population is inadequately addressed. The Petitioner has not committed to creating an emergency shelter within the Petition Area and has not addressed its suitability in terms of the Kapa Reservoir inundation potential.

6. The Petitioner has not identified the relationship of the proposed Lima Ola project on adjacent the Agricultural District lands owned by A&B Properties and the catalyst-effect that this reclassification may have on the urbanization of those lands. The cumulative impact of the continued urban reclassification of Agricultural District lands in this area have not been addressed.

CONCLUSION

Based on a preliminary assessment of the draft documents submitted for the Project by the Petitioner, and the LUC's approval of the Petitioner's Petition for Declaratory Order, Intervenor Souza supports the proposed boundary amendment with conditions to address the concerns raised herein to be provided in Intervenor Souza's forthcoming testimonies. If the Petitioner will not agree to a more extensive set of conditions that address the suite of impacts attributable to the buildout of the petition area, and its cumulative and offsite impacts, then Intervenor Souza recommends partial approval of the petition area for reclassification. The Petitioner's December Petition for Declaratory Order and the LUC's subsequent approval of that petition precludes the consideration of incremental approval of the anticipated petition area, but does not preclude the consideration of partial approval. Reclassification of land for a project to be "completed in multiple phases over several decades" is contrary to the long-term benefit of the surrounding communities and calls into question the need to reclassify the entire 75 acres at this time under an accelerated approval process, irregardless of its noble intention of providing affordable housing.

Dated: Hanapepe, Hawaii: May 18, 2017

Respectfully submitted,



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Intervenor

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document has been duly served upon the following by mailing said copy in a US Post Office ("Mail") or by hand delivery ("HD") on May 18, 2017:

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DATED: Hanapepe, Hawaii, May 18, 2017


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