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LAND USE COMMISSION
STATE OF HAWAII

2017 MAY 25 P 1:14

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 WRITTEN
)	TESTIMONY; 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 NISHIDA SOUZA'S WRITTEN TESTIMONY

Intervenor JEAN NISHIDA SOUZA, an individual ("Intervenor Souza"), submits this written testimony on the anticipated filing of 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.

Concerns, Impacts and Mitigating Measures

Buildout

The Petitioner anticipates full buildout "several decades" from now of the proposed Lima Ola project, consisting of approximately 550 residential units.

"Several", as defined by Merriam-Webster is: "more than two but fewer than

many". The significance of the buildout timeframe to be three or more decades is of concern.

The Petitioner has stated the following in its Petition for Declaratory Order (DR16-58) dated December 7, 2016:

- "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)

The Petitioner has submitted Lima Ola Workforce Housing Development Plan (Petitioner Exhibit 13) and Lima Ola Workforce Housing Development, Master Plan Update, dated April 2017 (Petitioner Exhibit 13-B). Petitioner's Exhibit 13 addresses only Phase 1. No other specific information is provided on any other phase. Similarly, the master plan update (Exhibit 13-B) provides no specific updated information on phasing, number of housing units and composition of housing units per phase.

At this point, anything beyond Phase 1 is unknown and a big question mark. Even the total 550 housing units for the Petition Area appears speculative.

Project Impacts--Traffic

The repercussions of this situation to a rational analysis of impacts from this project are significant. For example, it is unclear the extent to which the Traffic Impact Analysis Report (TIAR) findings and impact analysis aligns with the current project configuration and composition. Petitioner's TIAR (Petitioner Exhibit 12) trip generations and analysis of impacts are based on specified phases and numbers and composition of housing units per phase.

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 in a timely manner.

Project Impacts--School

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."

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.

Project Impacts—Inundation from Kapa Reservoir

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 including those from outside of the immediate area. The adequacy of the capacity at the current emergency shelter at Eleele Elementary School, in light of a potential doubling of the Eleele population, is inadequately addressed. The Petitioner has not committed to the Kauai Emergency Management Agency ("KEMA") comment related to the creation of an emergency shelter within the Petition Area and has not addressed its suitability in terms of the Kapa Reservoir inundation potential.

Project Impacts—Recreational Facilities

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. Of particular concern is the adequacy of the existing 5.9 acre Salt Pond Beach Park located in Hanapepe. This beach park is the only public beach park between Poipu to the east and Waimea and Kekaha to the west. Current public use of this beach park and the nearby sandy beach area of Puolo Point are often at capacity, especially on weekends, summer vacation days, and holidays.

Petitioner has not committed to any improvement or expansion of Poipu Beach Park.

Project Impacts—Impact on Agricultural Uses on Adjacent Lands

The soils in the Petition Area have the highest productivity rating. The Petition Area and all of the lands south and east are part of the Kauai Coffee plantation, the largest coffee plantation in the United States.

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.

At a County Planning Commission meeting on May 23, 2017, County Planning Director stated that the development of Lima Ola will make the agricultural lands immediately east of the Petition Area unsuitable for continued agriculture uses --leading to his recommendation to the Planning Commission that the lands adjacent to the Petition Area be put in a new land use category that is a potential pre-cursor to urban development instead of retaining its current "Agriculture" land use designation.

Project Impacts—Public Comment Opportunity

The magnitude of Lima Ola has not been well communicated to the residents of Hanapepe-Eleele impeding an understanding and discussion of the magnitude of the projects impacts--direct and indirect, short-term and cumulative, and offsite.

The Petitioner expresses its buildout as 550 housing units on 75 acres, but any reference to the total expected population at buildout is sparse,

especially in relation to the current residential population in the adjacent neighborhoods.

Recommended Conditions for Approval or Partial Approval

Intervenor Souza recommends that partial approval be considered in the continued absence of sufficient information beyond Phase 1. Or, alternatively, approval of the entire petition area if sufficient information is provided to the LUC. Subject to the following conditions:

1. Affordable housing. Petitioner shall provide affordable housing as represented in the Petition.
2. School Agreement. Petitioner shall enter into an agreement with the State Department of Education to provide a cash contribution for the construction component of a school impact fee prior to submission of any application for subdivision for the residential lots or plan approval for the multifamily units within the Project.
3. Water Resource Allocation. Petitioner shall fund and construct drinking water source, storage, and transmission facilities and improvements as required to accommodate development of the Petition area, to the satisfaction of the County of Kauai Department of Water and appropriate State agencies.
4. Transportation. Petitioner shall implement traffic improvements and mitigation measures as required by the State Department of Transportation (DOT), and commit to the level of funding and participation for Petitioner's pro rata share of regional transportation improvements.

5. Street Lights. Petitioner shall use fully-shielded, downward facing street lights within the Project to avoid impacts to seabirds, other avifauna and other populations. Shielding shall conform to the County's standards for street lights to prevent light diffusion upward into the night sky. During seabird fledging season, best practices recommended by the US Fish and Wildlife Service shall be implemented (such as turning of all outdoor lights not needed for security or safety).

6. Parks. Petitioner shall design and construct a minimum of 3.1 acres of parks within the Petition Area and shall commit to the expansion of Salt Pond Beach Park and facilitate other public coastal recreation spaces within 3 miles of the Petition Area.

7. Drainage. Petitioner shall fund, design, and construct any drainage system improvements required to prevent adverse impact resulting from the development of the Project. Petitioner shall be required to prevent runoff from the Petition Area from adversely affecting State highway facilities, downstream properties, and the ocean. Petitioner shall submit the drainage plans to the DOT and appropriate State and County agencies for review and approval.

8. Storm and Surface Water Runoff Quality. Prior to the occupancy of any residential unit within the Petition Area, Petitioner shall engineer, construct and/or implement and maintain storm and surface-water runoff BMPs, designed to minimize pollution and to prevent violations of State water quality standards as a result of storm-water discharges originating from the Petition Area.

To the extent practicable and consistent with applicable laws, the Petitioner shall design storm and surface runoff PBPs to treat the first-flush runoff volume, to remove pollutants from storm and surface-water runoff, and to prevent pollutants from reaching the water table or coastal waters.

To the extent practicable and consistent with applicable laws, Petition shall implement landscaped areas, such as grassed or vegetated swales, grass filter strips, vegetated open space areas, check dams, and other compatible BMPs engineered to treat the first flush runoff volume including the removal of suspended solids and oils and greases from all streets and parking lots, and debris catch basins to allow the detention and periodic removal of rubbish and sediments deposited by runoff using current industry and engineering standards.

9. Emergency Management. Petitioner shall fund and install outdoor warning sirens serving the Petition Area as determined by the Kauai Emergency Management Agency and the State Department of Defense, Hawaii Emergency Management Agency.

Petitioner shall educate potential residents in the Petition Area of the hazards associated with Kapa Reservoir and shall work with the Kauai Emergency Management Agency and the owner of Kapa Reservoir on an acceptable protocol to ensure residents' safety and minimizing environmental damage from potential flooding attributable to Kapa Reservoir.

11. Best Management Practices. Petitioner shall implement applicable BMPs to minimize infiltration and runoff from construction and vehicle operations, reduce or eliminate the potential for soil erosion and ground water pollution, and

formulate dust control measures to be implemented during and after the development process in accordance with State Department of Health guidelines.

12. Compliance with Representations to the Commission. Petitioner shall develop the Petition Area in substantial compliance with the representations made to the Commission. Failure to develop the Petition Area in accordance with representations may result in reversion of the Reclassification Area to its former classification, or change to a more appropriate classification.

13. 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 Petition area, at any time prior to completion of development of the Reclassification Area. The sale or lease of individual house lots/housing units to individual homeowners/occupants are exempted from this condition.

14. Automatic Order to Show Cause. If Petitioner fails to comply with the conditions and deadlines contained herein, the Commission shall issue and serve upon the Petitioner and Order to Show Cause as required by law and Petitioner shall appear before the Commission to explain why the Petition Area should not revert to its previous State Land Use Agricultural District classification, to be changed to a more appropriate classification.

15. Annual Reports. Petitioner shall timely provide without prior notice, annual reports to the Commission OP, County and Intervenor, and their respective successors, in connection with the status of the development of the Petition Area 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. The annual report shall be due on or before the anniversary date of the Decision and Order for the reclassification of the Petition Area.

16. Release of conditions. The Commission may fully or partially release the conditions provided herein as to all or any portion of the Reclassification Area upon timely motion and upon the provision of adequate assurance of satisfaction of these conditions by Petitioner or its successors and assigns.

Dated: Hanapepe, Hawaii: May 25, 2017

Respectfully submitted,



JEAN NISHIDA SOUZA
Intervenor

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State Land Use Urban District of)	
Approximately 75 acres of Land at)	
Eleele, Kauai, Hawaii, Kauai,)	
Tax Map Key No. (4) 2-1-001:054)	
)	

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing documents have been duly served
upon the following by mailing said copy in a US Post Office ("Mail") or by
hand delivery ("HD") on May 25, 2017:

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DATED: Hanapepe, Hawaii, May 25, 2017


JEAN NISHIDA SOUZA
Intervenor