

DEPARTMENT OF PLANNING
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LAND USE COMMISSION
 STATE OF HAWAII
 2020 AUG 31 P 4:03

BEFORE THE LAND USE COMMISSION
 OF THE STATE OF HAWAII

In the Matter of the Petition of:)	Docket No. A03-745
)	
HANOHANO LLC)	DEPARTMENT OF PLANNING, COUNTY
)	OF MAUI'S POSITION STATEMENT ON
To Amend the State Land Use Agricultural)	HANOHANO LLC'S MOTION TO RELEASE
District to the State Land Use Urban District)	AND MODIFY CONDITIONS; CERTIFICATE
For approximately 28.695 acres of land at)	OF SERVICE
Keahua, Kula, Island and County of Maui,)	
State of Hawaii, bearing Tax Map Key)	
Numbers (2) 2-3-011:001 and 002)	
)	

**THE DEPARTMENT OF PLANNING, COUNTY OF MAUI'S POSITION STATEMENT ON
 HANOHANO LLC'S MOTION TO RELEASE AND MODIFY CONDITIONS**

In accordance with §15-15 of the State Land Use Commission (LUC) Rules, the Maui County Planning Department (Department) is not opposed to most of Hanohano LLC's request for partial release from conditions imposed and to modify certain conditions under the Commission's Findings of Fact, Conclusions of Law and Decision and Order (Order) for a State Land Use District Boundary Amendment for approximately 28.695 acres of land in Keahua, Kula, Maui, Hawaii, identified by Tax Map Keys (2) 2-3-011:001 and 002. The Department acknowledges that the Petitioner is asserting its right to seek the partial release of conditions, as it is explicitly authorized via Condition number 24.

The Department recognizes that the Petitioner has been timely with its submission of annual reports. Since the District Boundary Amendment was granted, the Petitioner has never failed to

submit an annual report. The Department also acknowledges that it has fulfilled most of its obligations, as required per the LUC's Order. Conditions have been fulfilled with respect to the following: affordable housing, parks dedication, unidentified archaeological finds, traffic impact mitigation, hazard mitigation, water service, wastewater, civil defense, drainage improvements, solid waste, energy conservation, air quality monitoring, notice of change to ownership interests, and notice of imposition of conditions. Therefore, Department is not opposed to the release of Condition numbers one, three, five through seven, nine through 13, 16 through 17, 21 through 22, and 25, since these conditions have been fulfilled and are not considered to be perpetual obligations..

Contrary to Petitioner's motion, the Department supports the release of Condition number 2, which restricts each lot to one dwelling unit. While the project's CC&Rs may impose such a restriction, they could be modified in the future to allow ohana units and thus more opportunities for housing.

The Department has no position on some of the conditions as it is unclear to the Department if these were intended to be perpetual or only related to construction and sales, and will defer to the LUC on the following: Condition number eight for property maintenance, Condition number 14 with regard to the use of Best Management Practices during and post-construction, Condition number 15 with regard to water conservation, Condition numbers 18 and 19 referring to the notification of all prospective buyers and/or lessees of nuisances and the Hawaii Right to Farm Act, and Condition number 23 with respect to the timely filing of annual reports with the LUC, State Office of Planning and Department. With respect to Condition number four, the Department recognizes that there is a need for some modification of the verbiage to make this more feasible to fulfill; however, the Department currently has no comment on the proposed changes.

The Department acknowledges the Petitioner's contention that Condition number 20 has been fulfilled in that no access for traditional and customary practices has been requested, and no access has been denied. In addition, there will be appropriate access to the heiau/retention basin lot in perpetuity, as the Homeowner's Association is obligated to maintain it. Despite the Petitioner's

assertion, though, it is the Department's position that access rights should be preserved in perpetuity. Even though no one has requested access to the property thus far for subsistence, cultural and religious practices, it does not mean that no one ever will at any time in the future. Hence, the access right condition should remain.

For the LUC's convenience, here is the Department's position in list form:

Condition 1 - not opposed to its release

Condition 2 - not opposed to its release

Condition 3 - not opposed to its release

Condition 4 - supports modification; no comment on proposed language change

Condition 5 - not opposed to its release, as this requirement exists under state law

Condition 6 - not opposed to its release

Condition 7 - not opposed to its release

Condition 8 - no position; defer to LUC

Condition 9 - not opposed to its release

Condition 10 - not opposed to its release

Condition 11 - not opposed to its release

Condition 12 - not opposed to its release

Condition 13 - not opposed to its release

Condition 14 - no position; defer to LUC

Condition 15 - no position; defer to LUC

Condition 16 - not opposed to its release

Condition 17 - not opposed to its release

Condition 18 - no position; defer to LUC

Condition 19 - no position; defer to LUC

Condition 20 - opposed to its release

Condition 21 - not opposed to its release

Condition 22 - not opposed to its release

Condition 23 - no position; defer to LUC

Condition 24 - not opposed to its release

Conclusion

This Position Statement does not in any way address all concerns the Department may have, and it reserves its right to comment at a later time.

DATED: Wailuku, Hawaii, August 25, 2020.



MICHELE MCLEAN, AICP
Planning Director
Department of Planning

xc: Parties Served on Certificate of Service for A03-745
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Pam Eaton, Planning Program Administrator (PDF)
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Project File

MCM:TKF:xx

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**BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII**

In the Matter of the Petition of:)	Docket No. A03-745
)	
HANOHANO LLC)	CERTIFICATE OF SERVICE
)	
To Amend the State Land Use District)	
Agricultural District to the State Land Use)	
Urban District for approximately 28.695)	
acres of land at Keahua, Kula, Island and)	
County of Maui, State of Hawaii, bearing)	
Tax Map Key Numbers (2) 2-3-011:001)	
and 002)	

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served on the following on the date indicated below:

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DATED: Wailuku, Hawaii, August 26, 2020.



MICHELE MCLEAN, AICP
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Department of Planning