

OFFICE OF PLANNING AND SUSTAINABLE DEVELOPMENT

Leiopapa a Kamehameha, Room 600

235 South Beretania Street

Honolulu, Hawaii 96813

Telephone: (808) 587-2846

Facsimile: (808) 587-2824



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

In the Matter of the Petition of)	DOCKET NO. A21-810
)	
PULAMA LANAI)	OFFICE OF PLANNING AND
)	SUSTAINABLE DEVELOPMENT'S
To Amend the Land Use District Boundary)	STATEMENT OF POSITION; LIST OF
of Approximately 56.436 Acres of Land)	WITNESSES; LIST OF EXHIBITS;
from the Agricultural District into the Urban)	CERTIFICATE OF SERVICE
District at Lanai City, Island of Lanai,)	
County of Maui, State of Hawaii, Tax Map)	
Key Nos.: (2) 4-9-002:061(por.), (2) 4-9-)	
014:001(por.))	
_____)	

**OFFICE OF PLANNING AND SUSTAINABLE DEVELOPMENT'S STATEMENT OF
POSITION**

Pursuant to Hawaii Administrative Rules ("HAR") § 15-15-55, the Office of Planning and Sustainable Development ("OPSD") submits this Statement of Position of support for the reclassification of the Petition Area (defined below), subject to certain conditions. This Statement of Position summarizes OPSD's position and describes the positions of State departments impacted by the proposed boundary amendment, to the extent this information is currently available. OPSD's position is based on the representations of the Petitioner and documents filed in these proceedings, coordination with the Petitioner and affected government agencies, and the statutes and regulations applicable to these proceedings. Additional information may become available in the future and will be reflected in OPSD's written testimony.

PETITION OVERVIEW

General Information

The Petitioner Lanai Resorts LLC dba Pulama Lanai (“Petitioner”) requests that the Land Use Commission (“Commission”) reclassify approximately 56.436 acres of land from the State Agricultural District to the State Urban District at Lanai City, Island of Lanai (“Petition”).

The Petitioner, a Hawaii limited liability company, is the fee owner of the land being proposed for reclassification under this Petition located at Tax Map Key (“TMK”) Nos. (2) 4-9-002:061(por.) and (2) 4-9-014:001(por.) (“Petition Area”).

Proposed Use of the Petition Area

The Petition Area is part of a 76-acre site that Petitioner proposes to develop for the Hokuao Affordable Housing Project. In addition to the Petition Area, the project site includes an approximately 19.56-acre portion of TMK (2) 4-9-014:009, within the State Urban District and part of Lanai City. The Petitioner intends to build 150 single-family homes on 8,000- to 12,000-square foot lots for rent at both affordable and market-rate levels. The project will also include a one-acre park, a 1,500-square foot community center, bicycle and pedestrian pathways, and 60 parking stalls for intermittent use by Hokuao visitors.

Hokuao is an affordable housing project being developed under Hawaii Revised Statutes (“HRS”) § 201H-38, which provides exemptions from State and County land use regulations and an expedited land use entitlement process to promote the development of affordable housing. Seventy-six of the 150 units will be priced at affordable rates for low-moderate and moderate-income households ranging from 80% of the area median income up to no more than 140% of the area media income. The affordable units will remain affordable in perpetuity. The remaining 74 rental units in the project will be priced at market rates. The Petitioner intends to start construction of the affordable units first and add market-rate units at the 51% affordable/49% market ratio. In addition, the Petitioner has committed to renting 39 units in the existing 128-unit Iwiolo Hale rental project at rents affordable to very low- and low-income households with incomes below 80% of the area median income. Iwiolo Hale, owned by the Petitioner, is located outside of the project site.

Petition Area Description

The project site is shown in Petitioner's Exhibit 2, II, Figure 2. The site is near the Lanai Police Station and Dole Park to the northeast and will connect to Lanai City via 9th Street and 12th Street extensions that intersect with Fraser Avenue. Pulama Lanai's Central Offices are located to the southeast of the site and the Lanai Wastewater Reclamation Facility is located to the southwest. West of the Petition Area are vacant agricultural lands owned by the Petitioner. North of the Petition Area are two parcels owned by the County of Maui, one classified as State Urban and the other classified as State Agricultural, and one parcel owned by the State Department of Hawaiian Home Lands also in the State Agricultural District.

The Petition Area, formerly used for pineapple, has lain fallow for decades with no plans for cultivation. The lands in the Area are classified as "unique" on the Agricultural Lands of Importance to State of Hawaii ("ALISH") maps and Petition Area soils are classified as "C" and "D" under the Land Study Bureau's rating system ("LSB"). The Area represents a tiny portion of the available agricultural lands on Lanai, only 0.38 percent of the over 13,000 acres of the previously cultivated pineapple lands.

KEY ISSUES OF CONCERN TO THE STATE

The following summarizes key issues related to areas of State concern in HRS §§ 205-16 and 205-17. OPSD solicited comments from several State agencies and has received comments from the Department of Health, Department of Land and Natural Resources, Hawaii Housing Finance and Development Corporation, and the Department of Hawaiian Home Lands. (OPSD Exhibits 2-9.) We have not yet received comments from the Department of Agriculture, Department of Education, Department of Transportation ("DOT"), the Commission on Water Resource Management ("CWRM") or the State Historic Preservation Division ("SHPD"). In lieu of responses from DOT, CWRM, and SHPD, OPSD will rely on DOT and CWRM comments made on the Draft Environmental Assessment ("DEA") for the project and on SHPD's correspondence with the Petitioner. (Petition Exhibit 2, II.) OPSD's written testimony may recommend appropriate conditions, as necessary, to address any reasonably foreseeable impacts from the proposed project that have not been addressed by commitments made by Petitioner to avoid, minimize, or mitigate these impacts.

Impacts on Areas of State Concern

Natural Systems and Habitats

Flood, Tsunami Hazards and Sea Level Rise

The project site is located within Zone X on the Flood Insurance Rate Map for the County of Maui, an area of minimal flood hazard higher than the elevation of the 0.2% annual chance flood. The project site is approximately 4.3 miles inland from the western shoreline and not within the tsunami inundation zone. The project is outside of the 3.2-foot sea level rise hazard area. (Petition Exhibit 2, II, pg. 16.)

Carbon Footprint

Petitioner anticipates that the project will have a carbon neutral footprint. (Petition, pgs. 31-32.) At the current time, each housing unit is expected to connect to the Maui Electric Company system. To reduce energy demand, project site lighting will be low-energy consumptive, and homes will incorporate Energy Star fixtures, LED lighting, interior fans, and on-demand hot water heaters. Homes will also be designed to increase air flow, and construction will use R-19 insulation, roof ventilators, and reflective roof heat barriers to limit amount of energy needed for cooling.

In addition, homes will also have solar photovoltaic on-site generation with individual home battery energy storage that should satisfy most of the energy needs for each unit. Petitioner provides an estimate of the project's energy demand without the home solar photovoltaic/battery storage system in support of its anticipation of carbon neutrality. However, even if the project does not attain a carbon neutral footprint, its footprint will be significantly reduced by the proposed mitigation measures.

Flora and Fauna

Terrestrial Vegetation and Wildlife Surveys were conducted for the project site. (Petition Exhibit 2, III.C.) No rare or protected native species were found in or near the area. No listed endangered Hawaiian hoary bats were observed. No listed threatened or endangered species of birds were found in the project area. However, the report recommended that outdoor lights should be shielded and directed downwards to minimize impacts to seabirds.

The report also recommended that measures should be taken to prevent the accidental introduction of noxious weeds or other invasive species during construction, that all materials imported to the project site should be free of invasive plants. All imported plants used in landscaping should first be quarantined away from the project site and inspected to ensure that they are free from invasive species such as coqui frogs, little fire ants, and Miconia seedlings. (Petition Exhibit 2, II, pgs. 21-22.)

Drainage

Three retention basins will be built to mitigate the increase in stormwater runoff and flow from the project. Surface drainage improvements will consist of shallow cutoff swales between the new residential area and Fraser Avenue to capture and direct flow around the project or into the new drainage system. Roadway drains will be provided along the new roadways to direct flow to the retention basins. Residential roads will have grassed shoulder swales without curb and gutter to route runoff to the underground drainage system. (Petition Exhibit 2, II, pgs. 68-69.)

Wastewater

The project will be connected to the Lanai municipal wastewater collection system owned and operated by the County. The total capacity of the Lanai Wastewater Reclamation Facility (“WWRF”) is 0.50 million gallons per day (“MGD”). The average actual daily flow is approximately 0.325 MGD. The Hokuao project is expected to produce an average daily flow of 0.050 MGD. The project would increase the total average daily flow to 0.375 MGD, approximately 75% of the total WWRF capacity of 0.50 MGD. (Petition, pg. 19.)

According to the State Department of Health, Wastewater Branch (“DOH-WWB”), the WWRF is currently under an Informal Notice of Violation for effluent exceedances at the facility. A DOH-WWB inspection in 2018 found that the WWRF exceeded the effluent limits for biochemical oxygen demand and suspended solids on numerous occasions, and the Branch’s review of submitted lab reports indicate that the exceedance violations have not been corrected since then. The County of Maui has developed and is implementing a corrective action plan with short-term and long-term solutions. However, the County’s schedule to design, construct, and complete the long-term solution is expected to be completed at the end of 2023. (OPSD Exhibit

2.) According to the Petitioner, Hokuao Phase 1 homes may be ready for occupancy as early as the last quarter of 2022. (Petition, pg. 14.) OPSD recommends that Pulama Lanai coordinate its rental marketing with the County's schedule to complete the short-term and long-term solutions to the WWRF to ensure compliance with DOH-WWB regulations.

In addition, HAR § 11-62-23.1(i) requires a facility plan be initiated when the actual wastewater flow reaches 75% of the design capacity, and the plan would need to be implemented when the actual wastewater flow reaches 90% of the design capacity. (OPSD Exhibit 1.)

Archaeological, Historic, and Cultural Resources

The Petitioner prepared an Archaeological Impact Survey ("AIS") for the project. (Petition Exhibit 2, III.D.) The AIS identified three historic-era artifacts that were transported to the Petition Area for preservation decades before: two wood-frame buildings from the Koele School complex and a pineapple harvester identified as "Machine 1". The two buildings had deteriorated and were found to lack the integrity of condition to be listed in the Hawaii Register of Historic Places; both have been demolished, and a HABS report was completed. Machine 1 was initially expected to be moved offsite but further inspection found it to be seriously dilapidated and unsafe to be moved. It will be disposed of in accordance with applicable laws. The AIS recommended no further historic preservation in the Petition Area. To mitigate any unknown and unanticipated impact on any historic resources, an Archaeological Monitoring Plan ("AMP") has been prepared (Petition Exhibit 2, III.D-2). SHPD accepted the AIS (Petition Exhibit 2, III.D-1.) and has accepted the AMP along with the HABS for the three identified historic artifacts. (Petition Exhibit 13.)

Petitioner also prepared a Cultural Impact Assessment ("CIA"). (Petition Exhibit 2, III.E.) The CIA found there were no identified cultural resources, practices or beliefs connected to the Petition Area. However, the CIA recommended that a kukui nut tree believed to have been harvested by the father of one of the interviewees be preserved if possible. Petitioner will relocate the tree within the Petition Area. Consequently, the project will have no impact on the exercise of native Hawaiian customary or traditional cultural practices in the area. (Petition, pg. 28.)

Natural Resources Relevant to Hawaii's Economy

Water for the project will come from the Lanai Water Company that privately owns the domestic water system on Lanai. (Petition Exhibit 2, II, pgs. 57-63.) The sustainable yield of Lanai's combined aquifers is estimated at 6 MGD. Most of the available water included in this estimate comes from the Central aquifer which is divided into two aquifer systems with an estimated sustainable yield of 3 MGD each.

The estimated increase in the average daily domestic water demand from the project at 150 housing units is approximately 0.0917 MGD. Adding this projected demand to the January 2020 12-month moving average of 1.6 MGD for the entire island results in an estimated total usage of approximately 1.6917 MGD. This is below the 4.3 MGD threshold set by the CWRM that would trigger the designation of Lanai as a groundwater management area. Petitioner will be activating the existing but not regularly used Well No. 7 to provide additional source capacity and reliability, and once completed, it will feed into the Lanai City distribution system.

Petitioner also intends to implement several water-conservation measures. Homes will adhere to County requirements for low-flow fixtures and fittings. Generated gray and black water will be treated to an R-1 level to be used by Pulama Lanai for irrigation purposes. Site design will incorporate low-water and drought tolerant plants to minimize the need for irrigation.

In addition, homes will use post and beam construction to minimize fine grading, maintain soil permeability and enhance aquifer recharge. Petitioner will also incorporate landscaping to help absorb solar radiation and release moisture into the atmosphere. (Petition, pg. 34.)

Commitment of State Funds and Resources

Educational Facilities

The project is located within walking distance of Lanai High and Elementary School ("School"), the only school serving the island. The School has a capacity of 700 students; recent enrollment is approximately 550 to 575 students. There is sufficient capacity for any increased school enrollment the project might generate.

Transportation Facilities

The project site is approximately 8,030 feet from the Lanai Airport. Federal Aviation Administration ("FAA") regulations require submittal of FAA Form 7460-1 Notice of Proposed

Construction prior to construction if the construction is within 20,000 feet of a public use airport. Other State concern's arise from the project's proximity to the airport. Residents may be subject to potential single event noise from aircraft operations. Project landscaping plans should consider the heights of trees to ensure they do not obstruct aircraft approach and departure operations or create a hazardous wildlife attractant. The three stormwater detention basins should be designed to minimize hazardous wildlife attractants due to standing water. Finally, photovoltaic ("PV") systems located in or near the approach path of aircrafts can create hazardous glint and glare conditions for pilots. PV systems may also emit radio frequency interference ("RFI") to aviation radio signals.

Petitioner has agreed to review FAA requirements and obtain the necessary approvals. Residents of the Hokuao project will be informed of potential single-event noise impacts likely through the rental agreement. The landscaping plan for the project will ensure that it does not pose an obstruction to aircraft and will not create a hazardous wildlife attractant. The detention basins will be constructed with guidance from FAA regulations, and if any hazardous wildlife attractant results, these effects will be mitigated upon notification by the DOT or FAA. Finally, if PV systems cause hazardous glint and glare or RFI conditions, the effects will be mitigated upon notification by the DOT or FAA. (Petition Exhibit 2, II.IX.)

Kaunalapau Highway is a State Highway facility (State Route 440) that runs perpendicular to Fraser Avenue on the east border of the project site. Petitioner prepared a Traffic Impact Analysis Report ("TIAR"). (Petition Exhibit 2, III.I.) The TIAR analyzed traffic at six intersections including two with Kaunalapau Highway, Kaunalapau Hwy./Fraser Ave. and Manele St./Kaunalapau Hwy. The study found that all the intersections currently operate at Level-of-Service ("LOS") "B" or better during the AM and PM Peak traffic hour. The study found that all the intersections are forecast to operate at conditions like Base Year 2024 traffic conditions, with manual turning movements operating at LOS "C" or better during the peak hours. Consequently, the TIAR recommended no intersection improvements are needed due to the project.

Based on the trip generation and conclusions of the TIAR, DOT-Highways Division found that the project will not have any significant impacts to Kaunalapau Highway. The Petitioner agreed to mitigate any unexpected traffic issues due to the project to the satisfaction of

the DOT-Highways Division, Maui District Engineer at no cost to the State, and to coordinate with the District Engineer on any further State roadway-related requirements or permits. (Petition Exhibit 2, II.IX.)

Provision for Housing Opportunities

The Project will provide 76 units of privately financed, affordable rental housing for low-moderate and moderate-income households in perpetuity. In addition, the Petitioner has committed to reserving 39 units at the existing Iwiole Hale rental project for rent to very low- and low-income households with incomes below 80% of the area median income in perpetuity. (Petition, pg. 11.)

SUMMARY OF CONFORMITY WITH STATE PLANNING STATUTES, COUNTY PLANS, AND OTHER DECISION-MAKING CRITERIA

Hawaii State Plan and State Functional Plans

The project conforms to the Hawaii State Plan, HRS Chapter 226, especially HRS §§ 226-4, 226-5, 226-6, 226-13, 226-15, 226-16, 226-19, 226-103, 226-104, and 226-106, and to the State Employment, Energy, Housing, and Recreation Functional Plans.

Coastal Zone Management Objectives and Policies, HRS Chapter 205A

The project is not located on the shoreline and is not within the Special Management Area. The project does not conflict with the objectives and policies of the Coastal Zone Management Program.

Hawaii 2050 Sustainability Plan

The project aligns with the *Hawaii 2050 Sustainability Plan: Charting a Course for a Decade of Action (2020-2030)* Focus Areas for the Decade of Action by 2030.

Removal of High-Capacity Agricultural Lands, Lands in Agricultural Use, or Lands Designated as Important Agricultural Lands

The soil quality of the agricultural lands in the Petition Area is poor and there is an abundance of higher quality agricultural lands on Lanai. The reclassification of the Petition Area from the State Agricultural District to the Urban District will not result in a loss of quality lands for agricultural use.

County Plans

The project is consistent with the objectives and policies of the Maui Countywide Policy Plan and the Lanai Community Plan. The Lanai Community Plan Land Use Map designates the project site as “Park”, “Open Space”, and a small portion of “Public/Quasi-Public”, and “Mixed-Use Residential”. The project site is zoned “Interim”, “Open Space”, “Active Open Space”, “Road”, and “Agriculture” under Maui County Zoning. Among the exemptions allowed under HRS § 201H-38, the Petitioner will be seeking exemptions from the Change of Zoning approval process, as well as County requirements, including public infrastructure and design standard elements. This will allow the project to proceed with the “Single Family” and “Park” uses as proposed. (Petition, pgs. 47-50.)

STANDARDS FOR DETERMINING URBAN DISTRICT BOUNDARIES

The Petition conforms to the standards for determining Urban District boundaries as set forth in HAR § 15-15-18.

The project will create a “city-like” concentration of 150 homes, neighborhood homes, and urban level of services. The project is adjacent to Lanai City, with a portion already within the State Urban District, and has proximity to markets, restaurants, banks, medical care, entertainment venues and shops. The project is near the existing Lanai Elementary and High School and will be served by the County wastewater, solid waste disposal, transportation, public utilities, and police and fire protection. Consequently, the Petition is consistent with HAR §§ 15-15-18(1), 15-15-18(2), 15-15-18(4), 15-15-18(5), and 15-15-18(7).

The Petition Area is located within Zone X, an area of minimal flood hazard. The project site is approximately 4.3 miles inland from the western shoreline and not within the tsunami inundation zone. The project is outside of the 3.2-foot sea level rise hazard area. Consequently, the Petition is consistent with HAR § 15-15-18(3).

CONCLUSION

Based on our assessment of the project with respect to the Commission’s decision-making criteria, OPSD supports the proposed boundary amendment with conditions that will address the concerns raised herein. The proposed boundary amendment does not conflict with HRS Chapter 205 and generally meets the Commission’s decision-making criteria contained in

HRS Chapter 205 and HAR Chapter 15-15. OPSD's position is contingent on the Petitioner's commitment to avoid, minimize, or mitigate project impacts identified by the State herein and in this proceeding to the satisfaction of the relevant State agencies prior to the close of the Petitioner's case-in-chief, or by agreed-to conditions of approval.

OPSD distributed the Petition to State agencies for their review and comments; additional information or concerns may be forthcoming. Specific impacts on areas of State concern and recommendations on conditions to mitigate project impacts will be discussed further in OPSD's written testimony.

DATED: Honolulu, Hawaii, this 20th day of October, 2021.

OFFICE OF PLANNING AND
SUSTAINABLE DEVELOPMENT
STATE OF HAWAII



MARY ALICE EVANS
Director

LAND USE COMMISSION

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PARTY: OFFICE OF PLANNING AND SUSTAINABLE DEVELOPMENT (OPSD)

LIST OF WITNESSES

NAME/ORGANIZATION/POSITION (List in Order of Appearance)	TO BE QUALIFIED AS AN EXPERT IN:	SUBJECT MATTER	WRITTEN TESTIMONY (Yes or No)	EXHIBIT NUMBER(S)	LENGTH OF DIRECT
RODNEY FUNAKOSHI Land Use Division Administrator	Land Use and Environmental Planning	State Position	Yes	1	20 min.

LAND USE COMMISSION

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DOCKET NO./PETITIONER: A21-810 PULAMA LANAI**PARTY:** OFFICE OF PLANNING AND SUSTAINABLE DEVELOPMENT (OPSD)**LIST OF EXHIBITS**

EXHIBIT NUMBER	DESCRIPTION	PARTY: OBJECTIONS	ADMIT
1	Office of Planning (OP) Written Testimony		
2	State Department of Health-Wastewater Branch Letter, dated September 29, 2021		
3	State Department of Health-Clean Water Branch Letter, dated September 28, 2021		
4	State Department of Housing Finance and Development Corporation Memo, dated October 5, 2021		
5	State Department of Health-Safe Drinking Water Branch Memo, emailed September 24, 2021		
6	State Department of Health-Solid and Hazardous Waste Branch Comments, emailed October 14, 2021		
7	State Department of Land and Natural Resources Letter-Division of Forestry and Wildlife Memo, dated October 14, 2021		
8	State Department of Land and Natural Resources Letter-Engineering Division Memo, dated October 7, 2021		
9	State Department of Hawaiian Home Lands Memo, dated October 12, 2021		
10	Resume of Rodney Funakoshi		

Docket No. A21-810

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served upon the following by either hand delivery or depositing the same in the U.S. Postal Service by regular mail.

CALVERT G. CHIPCHASE, ESQ.	cchipchase@cades.com
CHRISTOPHER T. GOODIN, ESQ.	cgoodin@cades.com
STACEY F. GRAY, ESQ.	sgray@cades.com
MOLLY A. OLDS, ESQ.	molds@cades.com
Cades Schutte LLP	
1000 Bishop Street, Suite 1200	
Honolulu, Hawaii 96813-4212	

KURT MATSUMOTO	kmatsumoto@pulamalanai.com
Chief Operating Officer	
Pulama Lanai	
733 Bishop Street, Suite 2000	
Honolulu, Hawaii 96813	

MICHELE MCLEAN, AICP	michele.mclean@co.maui.hi.us
Director	
Department of Planning	
County of Maui	
2200 Main Street, Suite 315	
Wailuku, Hawaii 96793	

MICHAEL HOPPER, ESQ.	michael.hopper@co.maui.hi.us
Deputy Corporation Counsel	
Department of the Corporation Counsel	
County of Maui	
200 South High Street, 3 rd Floor	
Wailuku, Hawaii 96793	

DANIEL E. ORODENKER	daniel.e.orodenker@hawaii.gov
Executive Director	
Land Use Commission	
State of Hawaii	
P.O. Box 2359	
Honolulu, Hawaii 96804-2359	

DATED: Honolulu, Hawaii, this 20th day of October, 2021.



MARY ALICE EVANS

Director

Office of Planning and Sustainable Development