

CADES SCHUTTE
A Limited Liability Law Partnership

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PŪLAMA LĀNAʻI

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of
PŪLAMA LĀNAʻI,
To Amend The Agriculture Land Use
District Boundaries Into the Urban Land
Use District for approximately 56.436
acres of land, consisting of a portion of
Tax Map Key No. (2) 4-9-002:061 (por.)
and (2) 4-9-014:001 (por.) Lānaʻi City,
Island of Lānaʻi, County of Maui, State
of Hawaiʻi.

DOCKET NO. A21-810
INITIAL POSITION STATEMENT
CERTIFICATE OF SERVICE
Hearing:
Date: November 10, 2021
Time: 9:00 a.m.

PETITIONER'S INITIAL POSITION STATEMENT

Petitioner LĀNAʻI RESORTS, LLC dba PŪLAMA LĀNAʻI, a Hawaiʻi limited liability company (“*Pūlama Lānaʻi*” or “*Petitioner*”), respectfully submits this initial position statement regarding its petition to the Land Use Commission of the State of Hawaiʻi (the “*Commission*”) to amend the land use district boundaries of approx-

imately 56.436 acres of land, comprised of a portion of Tax Map Key Nos. (2) 4-9-002:061 (por.) and (2) 4-9-014:001 (por.), situated at Lānaʻi City, County of Maui, State of Hawaiʻi (the “*Petition Area*”). Specifically, Pūlama Lānaʻi petitions the Commission to amend the land use district boundaries of the Petition Area from the State Land Use Agricultural District (“*Agricultural District*”) to the State Land Use Urban District (“*Urban District*”) to allow construction of the Hōkūao 201H Housing Project (“*Project*” or “*Hōkūao*”). The Petition for Land Use District Boundary Amendment was filed with the Commission on October 18, 2021 (“*Petition*”).

I. POSITION

In addition to the reasons stated in the Petition, four points support granting the district boundary amendment.

A. The Petition Area Satisfies the Standards for Reclassification to the Urban District.

Changing land use district classification for the Petition Area from Agricultural to Urban is consistent with the standards set out in Hawaiʻi Administrative Rules (“*HAR*”) § 15-15-18. The rule sets out eight standards to be used to determine whether the subject property may be classified as within the Urban District. The Project meets each standard.

First and second, the Project is immediately adjacent to and has been designed as an extension of Lānaʻi City. Indeed, a portion of land on which the Project will be developed is already within the State Land Use Urban District. *See* HAR § 15-15-18(1) (explaining lands should be characterized by “city-like’ concentrations of people, structures, streets and urban level of services”); *see also id.* at (4) (“Land contiguous with existing urban areas shall be given more consideration than non-contiguous land . . .”).

Third, fourth and fifth, as a result of its proximity to the heart of the island, the Petition Area is sufficiently near the center of employment and all basic services. *Id.* at (2). The rest of the island of Lānaʻi is primarily rural. For these reasons, there are ample reserve areas for foreseeable urban growth, *id.* at (2), the Petition Area is

appropriate for new urban concentrations, *id.* at (5), and granting the Petition will not contribute to scattered spot urban development, *id.* at (7).

Sixth, the lands comprising the Petition Area are adjacent to existing urban development and will represent only a minor portion of the district. However, the Commission need not reach this inquiry because the Petition Area satisfies HAR § 15-15-18(1)-(5), so the provisions of HAR § 15-15-18(6) do not apply. HAR 15-15-18(6) (providing lands that do not conform to paragraphs (1) to (5) may still be within the Urban District if certain standards are met).

Seventh, as is more fully explained in the Petition, the land comprising the Petition Area has satisfactory drainage. Partly as a result of its location toward the center of the island, the Petition Area is reasonably free from the danger posed by floods, tsunamis and other adverse environmental effects. *Id.* at (3) (providing lands shall have “satisfactory topography, drainage, and [be] reasonably free from the danger of any flood, tsunami, unstable soil condition, and other adverse environmental effects”); *see* Pet. at 10, 16, 20, 30-31.

Finally, the overall grade of the lands comprising the Petition Area and slated for development have ranges from a flat to moderately sloping grade. *See id.* at (8) (“It may include lands with a general slope of twenty per cent or more if the commission finds that those lands are desirable and suitable for urban purposes . . .”). The 20% slope area falls outside the portion of the Petition Area to be developed. *See* Pet. at 54.

B. The Project Has Been Approved by the Maui County Council.

Petitioner submitted an application for the affordable housing development with Maui County pursuant to HRS § 201H-38 on July 21, 2021. Subsequently, the Maui County Council (“*Council*”) heard public testimony and vetted the Project. The councilmembers deliberated over the course of three meetings of the Affordable Housing Committee. By Resolution No. 21-136, the Council approved the Project and requested exemptions from County requirements and imposed modifications with certain conditions. *See* Pet. at Exhibit 11.

C. DHHL Withdrew Its Petition to Intervene.

The only putative intervenor withdrew its petition and supports the reclassification. On September 3, 2021, the Department of Hawaiian Homelands (“*DHHL*”) filed a Petition to Intervene with the Commission. On September 20, 2021, DHHL withdrew its Petition to Intervene. DHHL supports the Project and the Petition.

D. The Department Supports the Petition.


The Maui County Department of Planning (“*Department*”) filed its Draft Position Statement Regarding Petitioner’s Request for the State Land Use District Boundary Amendment (“*PD Statement*”) with the Commission on September 30, 2021. In its Statement, the Department noted that it “has consistently supported th[e] Project for the construction of 150 single-family homes consisting of both workforce housing units and market-rate units as fulfilling part of the critical housing shortage for Lanai residents.” PD Statement at 1. The Department went on to summarize the proceedings before the Council, acknowledge comments received in support of the Petition and explain that housing is needed on Lāna‘i. The Department closed by confirming that the Petition Area “conforms to the standards required in the LUC’s Rules for reclassification” and recommending that the Commission grant the Petition as a means of “assist[ing] in the development of critical affordable housing for Lanai residents.” *Id.* at 3.

II. CONCLUSION

For these reasons and the reasons expressed in the Petition, Petitioner respectfully asks the Commission to grant the Petition. In accordance with the support expressed by Maui County and many others and consistent with the law and record, the Petition Area should be reclassified from the Agricultural District to the Urban District.

DATED: Honolulu, Hawai'i, October 20, 2021.

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A handwritten signature in cursive script, appearing to read "Calvert G. Chipchase", is written above a horizontal line.

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CERTIFICATE OF SERVICE

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The undersigned hereby certify that on this date, a copy of the foregoing document was duly served on the following persons at their last known address by depositing a copy in the U.S. mail, postage prepaid:

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