

OFFICE OF PLANNING AND SUSTAINABLE DEVELOPMENT
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Honolulu, Hawaii 96813
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**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)	EXHIBIT 7B; SECOND AMENDED
of Approximately 56.436 Acres of Land)	LIST OF EXHIBITS; CERTIFICATE OF
from the Agricultural District into the Urban)	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.))	
)	

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.


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DATED: Honolulu, Hawaii, this 9th day of November, 2021.



MARY ALICE EVANS
Director
Office of Planning and Sustainable Development

DAVID Y. IGE
GOVERNOR OF HAWAII



OPSD Exhibit 7b



SUZANNE D. CASE
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

ROBERT K. MASUDA
FIRST DEPUTY

M. KALEO MANUEL
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
DIVISION OF FORESTRY AND WILDLIFE
1151 PUNCHBOWL STREET, ROOM 325
HONOLULU, HAWAII 96813

November 3, 2021

MEMORANDUM

Log no. 3351(1)

TO: RUSSELL Y. TSUJI, Administrator
Land Division

FROM: DAVID G. SMITH, Administrator
Division of Forestry and Wildlife

SUBJECT: **Division of Forestry and Wildlife Comments on the Petitioners Response to State Office of Planning and Sustainable Development (OPSD) Petition Statement and Testimony Regarding District Boundary Amendment (DBA) from Agricultural to Urban District (A21-810) for the Proposed Hokuao 201H Affordable Housing Project**

The Department of Land and Natural Resources, Division of Forestry and Wildlife (DOFAW) has reviewed the Petitioner's (Pūlama Lāna'i) responses to the OPSD petition statement and testimony regarding DOFAW consultation pertaining to a DBA from an Agricultural to an Urban District for the proposed Hokuao 201H Affordable Housing Project in Lāna'i City on the island of Lāna'i, Hawai'i; TMKs: (2)4-9-002:061(por.); 4-9-014:001(por.); and 4-9-014:009(por.). Based on the initial comments that DOFAW submitted in a memo (Log No.3351, dated October 14, 2021) to the State Land Division, the OPSD proposed three conditions (6, 7, and 8) to address the potential concerns for impacts of the project to the State listed Hawaiian Hoary Bats or 'Ōpe'ape'a (*Lasiurus cinereus semotus*; Condition 6) and protected seabirds (Condition 7), and the spread of invasive species (Condition 8). While the Petitioner accepted Condition 7, the Petitioner did not agree with Condition 6 and 8 and proposed alternative language for them

Regarding Hawaiian Hoary Bats, Condition 6 in the OPSD petition statement and testimony recommends the following:

"Because of the potential for the State listed Hawaiian Hoary Bat to occur in the vicinity of the project area, the Petitioner shall avoid removing any trees during the bat birthing and pup rearing season (June 1 through September 15). If this cannot be avoided, woody plants greater than 15 feet tall shall not be disturbed, removed, or trimmed without consulting the State DLNR-DOFAW."

The Petitioner objected to this condition on the grounds that the Final Environmental Assessment did not identify Hawaiian Hoary Bats as occurring in the project area and proposed the following revision in bold font:

“Because of the potential for the State listed Hawaiian Hoary Bat to occur in the vicinity of the project area, the Petitioner shall avoid removing any trees during the bat birthing and pup rearing season (June 1 through September 15) **unless surveyed with thermal cameras within 24 hours prior to the removal.**”

DOFAW does not agree with nor accept the reasoning behind this proposed revision to Condition 6. First, the final project Environmental Assessment (EA) states that observations of mammals (e.g., bats) were made incidentally to the avian and vegetation surveys that were the focus of terrestrial flora and fauna assessment at the site. As there is no accepted technical method currently available to determine with certainty the occurrence of Hawaiian Hoary Bats within a given area, simple incidental observations of none being present at the project site will not suffice. Second, the use of thermal imaging (e.g., Forward Looking Infrared or FLIR) to detect roosting bats is currently little studied and has not been proven effective. We therefore concur with and support the original Condition 6 as put for the by the OPSD.

To prevent the spread of invasive species in Hawai‘i, Condition 8 in the OPSD petition statement and testimony recommends the following:

“The Petitioner shall minimize the movement of plant or soil material between worksites, such as in fill, so as to prevent the spread of invasive fungal pathogens and avoid importing soil or other plant material from off-island.”

The Petitioner objected to this condition on the grounds that they already implement stringent quarantine protocols for all imported plants to ensure that no invasive species are introduced to the islands. The Petitioner commits to continue these quarantine practices and proposed the following revisions to Condition 8, in bold font:

“The Petitioner shall minimize the movement of plant or soil material between worksites, such as in fill, so as to prevent the spread of invasive fungal pathogens and **minimize** importing soil or other plant material from off-island.”

In view of the fact that the Petitioner has quarantine protocols in place, which they have committed to implementing for this project, DOFAW accepts their revision to Condition 8.

We appreciate your efforts to work with our office for the conservation of our native species. Should the scope of the project change significantly, or should it become apparent that threatened or endangered species may be impacted, please contact our staff as soon as possible. If you have any questions, please contact Paul Radley, Protected Species Habitat Conservation Planning Coordinator at (808) 295-1123 or paul.m.radley@hawaii.gov.

Sincerely,



DAVID G. SMITH
Administrator



LAND USE COMMISSION

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

SECOND AMENDED LIST OF EXHIBITS

EXHIBIT NUMBER	DESCRIPTION	PARTY: OBJECTIONS	ADMIT
1	Office of Planning and Sustainable Development (OPSD) Written Testimony		
2	State Department of Health-Wastewater Branch Letter, dated September 29, 2021		
2b	State Department of Health-Wastewater Branch Updated Letter, dated October 27, 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		
7b	State Department of Land and Natural Resources Letter-Division of Forestry and Wildlife Updated Memo, dated November 3, 2021		

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

EXHIBIT NUMBER	DESCRIPTION	PARTY: OBJECTIONS	ADMIT
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		
11	State Department of Transportation Memo, dated October 12, 2021		
12	State Department of Education Memo, dated October 18, 2021		