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BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of)	DOCKET NO. A19-809
)	
PULAMA LANAI)	OFFICE OF PLANNING AND
)	SUSTAINABLE DEVELOPMENT'S
To Amend the Land Use District Boundary)	STATEMENT OF POSITION;
of Approximately 200 Acres of Land from)	CERTIFICATE OF SERVICE
the Agricultural District into the Urban)	
District at Lanai City, Island of Lanai,)	
County of Maui, State of Hawaii, Tax Map)	
Key No. (2) 4-9-002:061 (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, subject to certain conditions. This Statement of Position summarizes OPSD's position, identifies certain issues or questions, 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 200 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”) No. (2) 4-9-002:061 (por.) (“Petition Area”).

Proposed Use of the Petition Area

Petitioner proposes to develop the Miki Basin Industrial Park that includes:

- 127 acres for solar energy production (photovoltaic panels and battery storage).
- 12.5 acres for the relocation of an existing asphalt plant.
- 14.5 acres for the relocation of existing concrete batch plant, recycling and rock crushing facility, and storage and stocking of aggregate and construction materials.
- 26 acres for new light and heavy industrial use.
- 20 acres for major common infrastructure (internal roads, electrical and water lines, etc.)

Petition Area Description

The Petition Area is shown in Petitioner’s Exhibit 1. 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 as the land supported mainly unirrigated pineapple production at the time of classification, and Petition Area soils are classified as primarily “D” with a small area “E” under the Land Study Bureau’s rating system (“LSB”).

Adjacent to the Area is the Lanai Airport, the Miki Basin Industrial Condominium, and the Hawaiian Electric Company fossil fuel power plant – all within the State Land Use Urban District. Other lands surrounding the Area are vacant and within the State Agricultural District.

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's written testimony will 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 Petition Area 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 Area is approximately 3.5 miles inland from the 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, IIA.5.)

Flora and Fauna

A terrestrial vegetation and wildlife study was conducted for the Petition Area. (Petition Exhibit 2, Appendix C.) No listed rare, threatened and endangered species or rare native Hawaiian plant species were found in the Area. No listed endangered Hawaiian hoary bats were observed. Two native bird species were recorded, the indigenous and migratory kolea (Pacific golden plover) and the endemic pueo (Hawaiian owl). The study recommended that outdoor lights should be shielded and directed downwards to minimize impacts to seabirds. Petitioner also consulted with the U.S. Fish and Wildlife Service which recommended avoidance and minimization measures related to the endangered Hawaiian petrel, the Hawaiian hoary bat, Blackburn's sphinx moth, and Hawaiian seabirds that may occur or transit through the Petition Area.

Carbon Footprint

The proposed development is not expected to contribute to the emission of greenhouse gases. According to Petitioner's greenhouse gas calculations, both the existing asphalt plant and the concrete crushing facility currently emit greenhouse gases, but the relocation of these facilities to the Petition Area will not change the current overall carbon footprint for the island of

Lanai. The new industrial area will add to the current level of greenhouse gas emissions. However, the emissions generated by this new use, as well as that of the asphalt plant and the concrete crushing operation, will be reduced as the electricity generated from fossil fuels is replaced by electricity from the new renewable energy project. Petitioner anticipates that there will be an overall reduction in emissions per year. (Petition, pgs. 28-35.)

Drainage

There are no surface water bodies or wetlands in the Petition Area, and the Area is 3.5 miles from the shoreline. Surface water runoff generated by the proposed project will be contained within the Miki and Palawai Basins and will have not have any impacts. Further information on any mitigation requirements for the new light and heavy industrial uses, such as requirements to prevent runoff or migration of hazardous chemicals, would be helpful.

Wastewater

There is no existing County or private wastewater system in the vicinity of the Petition Area. Petitioner envisions onsite Individual Wastewater Systems, decentralized Wastewater Treatment Plants, and collection systems. The asphalt and concrete plant will be serviced by Individual Wastewater Systems. The new heavy and light industrial development within the industrial park will be serviced by a decentralized Wastewater Treatment Plant and collection system. It would be helpful to know the timetable for construction of this infrastructure for the new heavy and light industrial uses.

Archaeological, Historic, and Cultural Resources

The Petitioner prepared an Archaeological Impact Survey (“AIS”) for the project. (Petition Exhibit 2, Appendix D.) The AIS recommended a data recovery plan for two sites, and that this plan be implemented prior to construction within the parcel. The State Historic Preservation Division (“SHPD”) accepted the AIS and concurred with the recommended mitigation. Petitioner has prepared an Archeological Data Recovery Plan and Archeological Data Recovery Report and submitted them to SHPD for review and acceptance. SHPD has determined that there are no historic properties affected for the Petition Area as the two sites previously identified are near but outside of the Area. (Petition Exhibit 8.)

Petitioner also prepared a cultural resources assessment. (Petition Exhibit 2, Appendix D-4.) One of those interviewed during the assessment indicated that the Petition Area had been used for gathering of aalii, uhaloa, and laau lapaau. Both aalii and uhaloa are common throughout the Palawai-Miki Region of Lanai and prevalent in surrounding areas. Thus, while the Petition Area has been used for traditional practices, the project will not affect the availability of these cultural resources or the access to these resources in the region. The assessment found that no impact on native Hawaiian traditional and cultural practices is anticipated. (Petition Exhibit 2, II.A.9. and Petition, Section XV.)

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 through its Manele Bay Water System. (Petition pgs. 17 -19.) The sustainable yield of Lanai's combined aquifers is estimated at 6 MGD, and the State Commission on Water Resources Management has established a guideline of 4.3 MGD as the trigger to designate the island as groundwater management area. The total daily demand for Lanai as of August 2021 was 1.517 MGD. At full build-out, the water demand for Miki Basin Industrial Park is estimated at 0.159 MGD. Other proposed or approved projects is estimated to add 0.260 MGD to the total demand. Thus, the total forecasted water demand for Lanai with the project is estimated at 1.936 MGD, below the CWRM 4.3 MGD trigger.

However, Petitioner's Water Master Plan study found that there is insufficient well-pump capacity to meet the needs of the project at full build-out and recommended the development of a new well. Petitioner's New Well Supply Alternatives report evaluated three alternative sites and recommended one to meet the needs of the project. Additional information as to whether there is a commitment to construct a new well and the timetable for development would be helpful.

Petitioner has stated its commitment that water usage for the project will not exceed the maximum daily usage calculations provided in the Water Master Plan.

Commitment of State Funds and Resources

Transportation Facilities

The Petition Area is adjacent to 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 concerns arise from the project's proximity to the airport. Consideration must be given to the placement and heights of buildings to ensure they do not obstruct aircraft approach and departure operations. Any stormwater detention basins provided must 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. Information as to whether there is a commitment to perform the specific mitigation studies (such as a glint and glare study acceptable to the Department of Transportation) and when such approved studies would be completed within the permitting schedule for the solar farm would be helpful.

The main access to the proposed industrial park will be from Miki Road, a two-way privately-owned roadway that intersects with Kaunalapau Highway, a State Highway facility (State Route 440). Petitioner prepared a Traffic Impact Analysis Report ("TIAR"). (Petition Exhibit 2, II.D.1 & Appendix G.) Current level of service at the Kaunalapau Highway/Miki Road intersection is "B", reasonably free-flow traffic conditions. The TIAR recommended widening Miki Road between the project driveways and Kaunalapau Highway to accommodate large vehicles, and the addition of an exclusive left-turn deceleration lane and an exclusive left-turn lane in the northbound direction.

Other Areas of Concern

Development Timetable

HAR § 15-15-50(c) (20) requires that Petitioner represent that development of the Petition Area will be accomplished within ten years after the date of Commission approval. Petitioner's timetable for development of the Petition Area is as follows:

Year 1-2	August 2025 or sooner	Year 11-20
Concrete plant/recycling & rock crushing fac. (14.5 ac)	Solar energy facility (127 ac)	New light and heavy industrial uses (26 ac)
Asphalt plant (12.5 ac)		
Common infrastructure (20 ac)		

Petitioner represents that the project will be substantially completed within ten years after the date of the Commission’s approval (approximately 85% of the Petition Area). In the event that the new industrial uses are not developed in ten years, development of the 26 acres will be completed within the following ten-year period. (Petition, pgs. 9-11.)

Development of the new light and heavy industrial uses does not appear to be closely connected to the development of the solar energy facility, and the new light and heavy industry uses portion of the project will not be substantially completed within ten years. Consequently, further information as to the timetable for development of the backbone infrastructure for the entire project (including the new light and heavy industrial uses) would be helpful in determining whether incremental districting is appropriate or should be waived.

In addition, it would be helpful if more information is provided to provide assurances that the development will occur. For example, PUC approval for the solar energy facility has been given. Because some solar farms have reconsidered moving forward with developments even after PUC approval, additional information, such as the identity of the solar energy facility vendor, contracts with construction companies and suppliers, financing commitments, etc., would be reassuring to have.

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, 226-10, 226-11, 226-13, 226-14, 226-15, 226-16, 226-18, 226-103, 226-104, and 226-108, and to the State Employment, Energy, and Historic Preservation 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. The project furthers Priority Action Area 3, Reduce Reliance on Fossil (carbon-based) Fuels, and Area 5, Develop a More Diverse and Resilient Economy, due to the renewable energy component.

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 Petition Area for existing and future industrial uses. (Petition, Exhibit 11.)

The Petition Area is mainly zoned “Agricultural” with a small portion zoned “Interim” under Maui County Zoning. Petitioner will seek a Change in Zoning from the Maui County

Council for “M-1, Light Industrial” and “M-2, Heavy Industrial” designation consistent with the Lanai Community Plan. (Petition, pg. 47.)

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 industrial uses by adding to the existing Lanai Airport, Miki Industrial Condominium, and HECO fossil fuel power plant. The Petition Area is located in Flood Zone X, not within a tsunamic inundation zone, approximately 4.3 miles from the shoreline, and outside the 3.2-foot sea level rise hazard area. Reclassification of the Petition Area to the Urban District would extend the existing, adjacent urban use. The project is consistent with State and county plans and will not contribute to scattered spot urban development. Most of the Petition Area has slopes of less than 4%, and there are no identified areas with 20% slope. Consequently, the Petition is consistent with HAR §§ 15-15-18(1), 15-15-18(2), 15-15-18(3), 15-15-18(4), 15-15-18(5), 15-15-18(6), 15-15-18(7), and 15-15-18(8).

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 August, 2022.

OFFICE OF PLANNING AND
SUSTAINABLE DEVELOPMENT
STATE OF HAWAII

Mary Alice Evans

MARY ALICE EVANS
DIRECTOR

Docket No. A19-809

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 20th day of August, 2022.

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STATE OF HAWAII

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