

BEFORE THE LAND USE COMMISSION  
OF THE STATE OF HAWAII

In the Matter of the Petition of )  
HASEKO (HAWAII), INC. )  
To Amend the Agricultural Land Use )  
District Boundary into the Urban )  
Land Use District for Approximately )  
403.008 acres at Honouliuli, Ewa, )  
Oahu, Hawaii, Tax Map Key Nos.: )  
9-1-12: 5 (por.), 6 (por.), and )  
23 (por.) )

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Docket No. A89-651  
ORDER GRANTING MOTION  
FOR APPROVAL OF JOB  
CREDITS AND MOTION  
FOR CLARIFICATION  
AND/OR MODIFICATION  
OF CONDITION

This is to certify that this is a true and correct  
copy of the document on file in the office of the  
State Land Use Commission, Honolulu, Hawaii.

FEB 08 1994

Date

by

*Robert L. ...*  
Executive Officer

ORDER GRANTING MOTION FOR APPROVAL OF JOB CREDITS AND  
MOTION FOR CLARIFICATION AND/OR MODIFICATION OF CONDITION

FEB 8 9 05 AM '94  
LAND USE COMMISSION  
STATE OF HAWAII

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ORDER GRANTING MOTION FOR APPROVAL OF JOB CREDITS AND  
MOTION FOR CLARIFICATION AND/OR MODIFICATION OF CONDITION

On September 15, 1993, Haseko (Ewa), Inc., a Hawaii corporation ("Petitioner"), assignee of Haseko (Hawaii), Inc. filed a Motion for Approval of Job Credits ("Motion for Approval") pursuant to Section 15-15-70 and 15-15-94, Hawaii Administrative Rules ("HAR"). Petitioner's Motion for Approval sought a determination from this Commission that the 2.47 job credits currently accrued by Petitioner should be counted as part of the total number of job credits required for satisfaction of subparagraph a and subparagraph c (iii) of Condition No. 1 of the Findings of Fact, Conclusions of Law, and Decision and Order filed on October 17, 1990.

On October 21, 1993, this Commission held an action meeting at Honolulu, Oahu on Petitioner's Motion for Approval. Upon an oral motion by Petitioner, this Commission deferred

action on Petitioner's Motion for Approval pending discussions between Petitioner and the Office of State Planning to clarify the provisions under Condition No. 1.

On January 3, 1994, Petitioner filed a Motion for Clarification and/or Modification of Condition ("Motion for Clarification") that sought a determination from this Commission 1) that the timeframe in which Petitioner must apply to this Commission for approval of job credits should be specified; and, 2) that Petitioner be allowed to accrue and earn job credits resulting from both the labor generated from the construction of a qualifying non-tourism related facility and the amount of floor space created by that same facility, provided Petitioner can only rely upon job credits earned from only one of the two methods at the time Petitioner seeks approval from this Commission that it has satisfied its job generation requirement under Condition No. 1.

On January 13, 1994, this Commission held a continued action meeting at Honolulu, Oahu on Petitioner's Motion for Approval and Motion for Clarification.

This Commission, having duly considered Petitioner's Motion for Approval and Motion for Clarification, and the arguments presented by the parties in the proceeding, at its meetings of October 21, 1993 and January 13, 1994 at Honolulu, Oahu, and good cause existing therefrom,

IT IS HEREBY ORDERED that Condition Number 1 be

amended as follows:

- 1) Petitioner<sup>1</sup> shall generate one (1) non-tourism related job, or the equivalent value thereof, for each hotel or hotel/condominium unit Petitioner is allowed to build. As used herein, "non-tourism related" means not related to hotels or residential condominiums intended for use as transient accommodations, or recreational, entertainment or other facilities and services used primarily by tourists. The "equivalent value" of a non-tourism related job is in the range of \$25,000 to \$50,000.

Satisfaction of this condition shall occur at the time Petitioner obtains a building permit and may be accomplished by the payment of \$25,000 for each hotel or hotel/condominium unit intended for transient accommodation for which a building permit is issued or in the following manner (provided that, with respect to subparagraphs a. and b., below, Petitioner may not apply any credit accrued and earned under both subparagraphs for the same facility to satisfy this condition):

a. Jobs Generated Via Construction.

Development of residential, commercial, industrial, recreational, institutional or other non-tourism related facilities generates construction jobs not related to tourism. Petitioner, therefore, directly or through local affiliates, may receive one job credit for each 25 man-years of labor generated by a qualified project, which may be either within or outside of the Petition Area. (Hereafter, Petitioner and/or its affiliates shall collectively be referred to as "Developer".) One man-year shall equal 1920 hours of work; labor generated by the construction of a project shall include all work performed by the Developer's team (architects, engineers, consultants, contractors and subcontractors) in the development and construction of a non-tourism related project.

Not more than 25% of Petitioner's total job-generation requirement may be satisfied in this manner.

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<sup>1</sup> As used herein, the term "Petitioner" means Haseko (Hawaii), Inc. and its successors and assigns.

b. Jobs Generated Via Development of Non-Tourism Related Projects.

New facilities provide the means and opportunity for the establishment and/or growth of businesses and the generation of new, non-tourism related jobs.

Petitioner, therefore, may receive credit for the development of new non-tourism related projects or facilities, either within or outside of the Petition Area. Credit for jobs created by such new facilities will be calculated on the basis of the degree of integration of the intended use of the facility with the tourist industry. Credit for one (1) non-tourism related job shall be given for the specified amount of floor space in the following types of facilities:

<u>Type of Facility</u>	<u>Floor Space (square feet)</u>	<u>Credit</u>
Office	200	100 %
Warehousing/Storage	1,000	100 %
Manufacturing	300	100 %
Research Facility (e.g. High-Tech)	150	100 %
Recreation and Other Activity Centers	1,000	100 %
Private Schools and Day-Care Centers	300	100 %
Agricultural Facility (e.g. Greenhouses and Processing Plants)	1,000	100 %
Retailing	300	60 %

Credit for other types of facilities will be determined on a case-by-case basis.

c. Start-Up Capital, Business Incentives and Job Training.

Petitioner may receive one (1) job credit for (i) each \$50,000 invested by Petitioner in a start-up of a non-tourism related business (by way of equity or investment into a loan fund for such business), (ii) each \$25,000 in incentives provided to a new, non-tourism related business, and/or (iii) each \$25,000

contributed in training programs for non-tourism related jobs. Petitioner shall consult with OSP to identify investments, incentives and training programs which qualify for credits under this category.

A minimum of 10% of Petitioner's job-generation requirement shall be satisfied in this manner.

d. Earning Job Credits.

Credits for jobs generated under subparagraphs a. through c., above, shall not be eligible for satisfaction of this condition unless, within two years after they accrue, they are reported to the LUC in Petitioner's annual report. Job credits shall be considered to have accrued under subparagraph a. when the Developer pays for the labor; under subparagraph b. when the certificate of occupancy is issued or such earlier date as may be approved by the LUC; and under subparagraph c. when the investment is made, the incentive is given, or the job training program is funded.

Petitioner's annual report to the LUC shall discuss in detail its progress in earning job credits. Additionally, Petitioner shall provide OSP with information concerning the manner in which Petitioner's claim for job credits is calculated as well as written certification by the Developer that all information provided is correct.

Job credits shall be considered earned only upon approval by the LUC. Petitioner may file a motion for approval of job credits with the LUC at such time as may be mutually agreeable between Petitioner and OSP, provided that said motion shall be filed prior to the Petitioner obtaining a building permit for the construction of hotel or hotel/condominium units to which the job credits will be applied.

At the time Petitioner obtains a building permit, Petitioner shall satisfy this condition by depositing cash or posting a bond or a letter of credit, in a form satisfactory to OSP, in an amount equal to the product of \$25,000 multiplied by the number of hotel or hotel/condominium units for which a building permit is issued, less any job credits previously earned. As job credits are earned and applied in satisfaction of this condition, Petitioner may submit a motion to the LUC for the refund of the funds paid to OSP or a reduction of

the bond or letter of credit issued in favor of OSP. Five (5) years after the date the building permit is issued, OSP shall have the right to retain cash or make claim on the bond or letter of credit in an amount equal to the product of \$25,000 multiplied by the number of hotel or hotel/condominium units for which the building permit is issued, less any job credits previously earned.

Prior to the expiration of the five-year period, Petitioner may seek an extension of time to satisfy its job-generation requirement. An extension may be granted upon such additional terms as may be appropriate, provided that Petitioner establishes substantial compliance with this condition and specifies the methods, means and time in which it intends to satisfy this condition.

Except for the limitations regarding subparagraphs a. and b. and the 10% minimum required by subparagraph c., Petitioner shall determine the manner in which the remainder of its job-generation requirement may be allocated.

All funds obtained by OSP under this condition shall be applied to any one or more of the programs specified in subparagraph c., above.

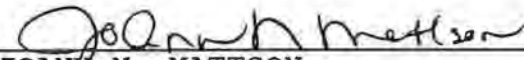
All other conditions to the Decision and Order filed on October 17, 1990, are hereby reaffirmed and shall continue in effect.


IT IS FURTHER ORDERED that Petitioner's 2.47 job credits are hereby approved and that they shall be counted as part of the total number of job credits required of Petitioner for satisfaction of subparagraph a and subparagraph c (iii) of Condition No. 1, as amended by this Order, of the Commission's Decision and Order filed on October 17, 1990.

DOCKET NO. A89-651 - HASEKO (HAWAII), INC.

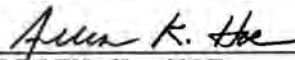
Done at Honolulu, Hawaii, this 8th day of February 1994,  
per motion on January 13, 1994.

LAND USE COMMISSION  
STATE OF HAWAII

By   
JOANN N. MATTSON  
Chairperson and Commissioner

By   
KAREN S. AHN  
Vice Chairperson and Commissioner

By (absent)  
TRUDY K. SENDA  
Vice Chairperson and Commissioner

By   
ALLEN K. HOE  
Commissioner

By   
LLOYD F. KAWAKAMI  
Commissioner

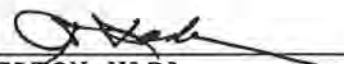
By (absent)  
EUSEBIO LAPENIA, JR.  
Commissioner

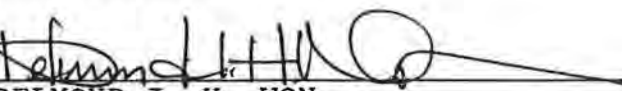
By (absent)  
RENTON L. K. NIP  
Commissioner

Filed and effective on  
February 8, 1994

Certified by:

  
Executive Officer

By   
ELTON WADA  
Commissioner

By   
DELMOND J. H. WON  
Commissioner



BEFORE THE LAND USE COMMISSION  
OF THE STATE OF HAWAII

In the Matter of the Petition of )  
HASEKO (HAWAII), INC. ) Docket No. A89-651  
To Amend the Agricultural Land Use )  
District Boundary into the Urban )  
Land Use District for Approximately )  
403.008 acres at Honouliuli, Ewa, )  
Oahu, Hawaii, Tax Map Key Nos.: )  
9-1-12: 5 (por.), 6 (por.), and )  
23 (por.) )  
\_\_\_\_\_ )

CERTIFICATE OF SERVICE

I hereby certify that a copy of the Order Granting Motion for Approval of Job Credits and Motion for Clarificatoin and/or Modification of Condition was served upon the following by either hand delivery or depositing the same in the U. S. Postal Service by certified mail:


HAROLD S. MASUMOTO, Director  
Office of State Planning  
P. O. Box 3540  
Honolulu, Hawaii 96811-3540

CERT. ROBIN FOSTER, Chief Planning Officer  
Planning Department  
City and County of Honolulu  
650 South King Street  
Honolulu, Hawaii 96813

CERT. ANGELA FONG, ESQ.  
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Oshima Chun Fong & Chung  
400 Davies Pacific Center  
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Honolulu, Hawaii 96813

CERT. REBECCA M.K. HOMMON, ESQ., Attorney for Intervenor  
Office of Counsel  
Pacific Division  
Naval Facilities Engineering Control  
Pearl Harbor, Hawaii 96860

DATED: Honolulu, Hawaii, this 8th day of February 1994.

  
\_\_\_\_\_  
ESTHER UEDA  
Executive Officer



BEFORE THE LAND USE COMMISSION  
OF THE STATE OF HAWAI'I

In the Matter of the Petition of	)	DOCKET NO. A89-651
	)	
HASEKO (HAWAII), INC.	)	HASEKO (EWA), INC.
	)	ORDER GRANTING PETITIONER
To Amend the Agricultural Land Use	)	HASEKO (EWA), INC.'S MOTION
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Land Use District For Approximately	)	CERTIFICATE OF SERVICE
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Oahu, Hawaii, Tax Map Key No.:	)	
9-1-12: 5 (por.), 6 (por.), and	)	
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_____	)	

**ORDER GRANTING PETITIONER HASEKO (EWA), INC.'S  
MOTION FOR APPROVAL OF JOB CREDITS**

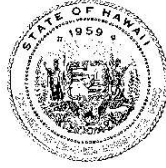
**AND**

**CERTIFICATE OF SERVICE**

This is to certify that this is a true and correct copy of the document on file in the office of the State Land Use Commission, Honolulu, Hawai'i.

December 19, 2022 \_\_\_\_\_ by

\_\_\_\_\_  
Executive Officer



BEFORE THE LAND USE COMMISSION  
OF THE STATE OF HAWAI'I

BEFORE THE LAND USE COMMISSION  
OF THE STATE OF HAWAI'I

In the Matter of the Petition of	)	DOCKET NO. A89-651
	)	
HASEKO (HAWAI'I), INC.	)	HASEKO (EWA), INC.
	)	ORDER GRANTING PETITIONER
To Amend the Agricultural Land Use	)	HASEKO ('EWA), INC.'S MOTION
District Boundary into the Urban	)	FOR APPROVAL OF JOB CREDITS;
Land Use District For Approximately	)	CERTIFICATE OF SERVICE
403.008 acres at Honouliuli, 'Ewa,	)	
O'ahu, Hawai'i, Tax Map Key No.:	)	
9-1-12: 5 (por.), 6 (por.), and	)	
23 (por.)	)	
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**ORDER GRANTING PETITIONER HASEKO ('EWA), INC.'S  
MOTION FOR APPROVAL OF JOB CREDITS**

**AND**

**CERTIFICATE OF SERVICE**

**ORDER GRANTING PETITIONER HASEKO (‘EWA), INC.’S  
MOTION FOR APPROVAL OF JOB CREDITS**

**FINDINGS OF FACT, CONCLUSIONS OF LAW AND DECISION AND  
ORDER REGARDING JOB CREDITS**

HASEKO (‘EWA), INC. (“Petitioner”) filed its Motion for Approval of Job Credits on September 20, 2022 (the motion as so amended is referred to as the “Motion”), pursuant to § 15-15-70(c), Hawai‘i Administrative Rules (HAR) for an order approving 572.75 Job Credits.

The Land Use Commission (“Commission” or “LUC”), having heard and examined the testimony, exhibits, evidence, and argument of counsel and parties presented during the hearing, along with the pleadings and files herein, hereby makes the following Finding of Facts, Conclusions of Law and Decision and Order.

**FINDINGS OF FACT**

**Procedural Matters**

1. On September 20, 2022, the Commission received Petitioner’s Motion for Approval of Job Credits (“Motion”), Declaration of Daniel Lum, Exhibits “1” through “7”, and Certificate of Service.

2. On October 27, 2022, the Commission received Petitioner’s Amended Certificate of Service.

3. On November 18, 2022, the Commission received the State Office of Planning and Sustainable Development’s (“OPSD”) Response to Petitioner Haseko (‘Ewa), Inc.’s Motion for Approval of Job Credits.

4. On November 21, 2022, the Commission mailed and emailed its notice of agenda of its December 7, 2022, meeting to all parties, and the Statewide, O‘ahu and Kaua‘i mailing lists.

5. The Commission also mailed an LUC notice of agenda to past Intervenor Office of General Counsel, Navy Region Hawai'i. 850 Ticonderoga St., Suite 110 JBPHH, HI 96860-5101 Attn: Randall Young, Esq. Attorney for Intervenor, but received no response. The Office of General Counsel did not appear before or establish contact with the Commission during the December 7, 2022, proceedings.

6. On November 30, 2022, the Commission received the Department of Planning and Permitting, City and County of Honolulu's ("DPP") letter of no objection.

7. On December 7, 2022, the Commission held its meeting in Honolulu, O'ahu on the Motion. At the hearing, the following attended: for the Petitioner Haseko ('Ewa) was Curtis Tabata, Esq., Raymond Kanna, (Petitioner's Representative); for the DPP John Dubiel, Esq, Dina Wong (Chief Planner) and for OPSD, Alison Kato, Esq. Lorene Maki (Planner) and Katia Balassiano (Land Use Division Administrator). Oral public testimony was received from Mark Bowman, Fid Limani, and Mary Freeman. Public testimony prior to the start of the hearing was closed during this meeting and the Commission began the evidentiary portion of the hearing.

8. During the evidentiary portion of the hearing, the Commission heard from Petitioner's witnesses Daniel Lum (Project Manager), and Lisa Enanoria (Project Manager). After the close of the evidentiary portion of the hearing on December 7, 2022, a call was made for public testimony, but no members of the public indicated a desire to testify. Public testimony was closed. A motion was made that for good cause, the LUC approve the Motion for Approval of Job Credits, to authorize the Commission staff to make non-substantive changes to conditions, and to authorize the Chairperson to sign the Findings of Fact, Conclusions of Law and

Decision and Order. The motion received 9 affirmative votes, and therefore, the motion passed.

### **Introduction**

9. On October 17, 1990, the Commission issued its Findings of Fact, Conclusions of Law, and Decision and Order in Docket No. A89-651 (“D&O”) for the reclassification of approximately 403.008 acres, situated at Honouliuli, District of ‘Ewa, Island of O‘ahu, State of Hawai‘i, from the Agricultural District to the Urban District (“Petition Area”), for the Phase II of Petitioner’s 1,100 acre project that is now known as Ocean Pointe/Hoakalei (the “Project”).

10. Ocean Pointe/Hoakalei is a 1,100-acre master-planned project located at Honouliuli in the ‘Ewa District of O‘ahu. It lies along the shoreline between Fort Weaver Road and Kalaeloa (the former Naval Air Station Barbers Point), about 20 miles west of Honolulu. The Project includes a manmade recreational lagoon (which was originally planned to be a marina and could still eventually become one in the future) with light industrial, commercial, and retail facilities, future visitor accommodations (e.g., hotels and hotel/condominiums), and up to 4,850 homes. Also included within the Project is a golf course, a 20-acre district park and child-care center, a public elementary school, and a fire station.

11. Construction of Ocean Pointe/Hoakalei began in 1997 with the residential component of the Project. Residential construction continues to this day and is anticipated to continue for about another ten years. Currently, nearly eighty-two percent (82%) of the permitted 4,850 housing units have been built and sold to individual homeowners.

12. Gradual grading of the golf course was initiated in the late 1990s to provide drainage basins for the residential components that were being constructed.

In 2005, Ernie Els was commissioned to design the golf course, which opened for play in January 2009. The clubhouse was completed on April 4, 2019, and opened on July 27, 2019.

13. Excavation of the proposed marina also began in the late 1990s. Excavated material provided fill for other portions of the Project, thus, excavation has been coordinated with the residential and golf course development. On November 6, 2011, Petitioner announced its intention to use the basin as a recreational lagoon to facilitate the completion of the rest of the Project. Although Petitioner no longer plans to complete a marina, the company is not doing anything that would preclude someone else from developing a marina in the distant future once entitlements/permits have been updated/obtained.

#### **Job Credits Calculation**

14. Condition 1 of the D&O requires Petitioner to obtain one job credit for every hotel or hotel/condominium unit Petitioner is allowed to build. Petitioner has not yet built any hotel or hotel/condominium units. As described below, credits are calculated based upon three classes of criteria: a) construction worker hours, b) development of new non-tourism related projects or facilities, and c) monies invested in or contributed to job training programs. Credits are earned when approved by the LUC.

15. On February 8, 1994, the LUC issued its Order Granting Motion for Approval of Job Credits and Motion for Clarification and/or Modification of Condition (“1994 Order”). The 1994 Order amended Condition 1 and approved 2.47 Job Credits for reporting year 1991.

16. Condition 1, as amended, provides the following requirements for earning job credits:

1. *Petitioner<sup>1</sup> shall generate one (1) non-tourism related job, or the equivalent value thereof, for each hotel or hotel/condominium unit Petitioner is allowed to build. As used herein, “non-tourism related” means not related to hotels or residential condominiums intended for use as transient accommodations, or recreational, entertainment or other facilities and services used primarily by tourists. The “equivalent value” of a non-tourism related job is in the range of \$25,000 to \$50,000.*

*Satisfaction of this condition shall occur at the time Petitioner obtains a building permit and may be accomplished by the payment of \$25,000 for each hotel or hotel/condominium unit intended for transient accommodation for which a building permit is issued or in the following manner (provided that, with respect to subparagraphs a. and b., below, Petitioner may not apply any credit accrued and earned under both subparagraphs for the same facility to satisfy this condition):*

a. *Jobs Generated Via Construction.*

*Development of residential, commercial, industrial, recreational, institutional or other non-tourism related facilities generated construction jobs not related to tourism. Petitioner, therefore, directly or through local affiliates, may receive one job credit for each 25 man-years of labor generated by a qualified project, which may be either within or outside of the Petition Area. (Hereafter, Petitioner and/or its affiliates shall collectively be referred to as “Developer”.) One man-year shall equal 1920 hours of work; labor generated by the construction of a project shall include all work performed by the Developer’s team (architects, engineers, consultants, contractors and subcontractors) in the development and construction of a non-tourism related project.*

*Not more than 25% of Petitioner’s total job-generation requirement may be satisfied in this manner.*

b. *Jobs Generated Via Development of Non-Tourism Related Projects.*

*New facilities provide the means and opportunity for the establishment and/or growth of businesses and the generation of new, non-tourism related jobs. Petitioner, therefore, may receive credit for the development of new non-tourism related projects or facilities, either within or outside of the Petition Area. Credit for jobs created by such new facilities will be calculated on the basis of the degree of integration of the intended use of the facility with the tourist industry. Credit for one (1) non-tourism related job shall be given for the specified amount of floor space in the following types of facilities:*

<i>Type of facility</i>	<i>Floor Space</i>	<i>Credit</i>
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<sup>1</sup> As used herein, the term “Petitioner” means Haseko (Hawai‘i), Inc. and its successors and assigns.



	<u>(square feet)</u>	
<i>Office</i>	200	100 %
<i>Warehousing/Storage</i>	1,000	100 %
<i>Manufacturing</i>	300	100 %
<i>Research facility (e.g. High-Tech)</i>	150	100 %
<i>Recreation and Other Activity Centers</i>	1,000	100 %
<i>Private Schools and Day-Care Centers</i>	300	100 %
<i>Agricultural Facility (e.g. Greenhouses and Processing Plants)</i>	1,000	100 %
<i>Retailing</i>	300	60 %

*Credit for other types of facilities will be determined on a case-by-case basis.*

c. *Start-Up Capital, Business Incentives and Job Training.*

*Petitioner may receive one (1) job credit for (i) each \$50,000 invested by Petitioner in a start-up of a non-tourism related business (by way of equity or investment into a loan fund for such business), (ii) each \$25,000 in incentives provided to a new, non-tourism related business, and/or (iii) each \$25,000 contributed in training programs for non-tourism related jobs. Petitioner shall consult with OSP<sup>2</sup> to identify investments, incentives and training programs which qualify for credits under this category.*

*A minimum of 10% of Petitioner's job-generation requirement shall be satisfied in this manner.*

d. *Earning Job Credits.*

*Credits for jobs generated under subparagraphs a. through c., above, shall not be eligible for satisfaction of this condition unless, within two years after they accrue, they are reported to the LUC in Petitioner's annual report. Job credits shall be considered to have accrued under subparagraph a. when the Developer pays for the labor; under*

<sup>2</sup> "OSP" was the "Office of State Planning" which is now "OPSD"

*subparagraph b. when the certificate of occupancy is issued or such earlier date as may be approved by the LUC; and under subparagraph c. when the investment is made, the incentive is given, or the job training program is funded.*

*Petitioner's annual report to the LUC shall discuss in detail its progress in earning job credits. Additionally, Petitioner shall provide OSP with information concerning the manner in which Petitioner's claim for job credits is calculated as well as written certification by the Developer that all information provided is correct.*

*Job credits shall be considered earned only upon approval by the LUC. Petitioner may file a motion for approval of job credits with the LUC at such time as may be mutually agreeable between Petitioner and OSP, provided that said motion shall be filed prior to the Petitioner obtaining a building permit for the construction of hotel or hotel/condominium units to which the job credits will be applied.*

*At the time Petitioner obtains a building permit, Petitioner shall satisfy this condition by depositing cash or posting a bond or a letter of credit, in a form satisfactory to OSP, in an amount equal to the product of \$25,000 multiplied by the number of hotel or hotel/condominium units for which a building permit is issued, less any job credits previously earned. As job credits are earned and applied in satisfaction of this condition, Petitioner may submit a motion to the LUC for the refund of the funds paid to OSP or a reduction of the bond or letter of credit issued in favor of OSP. Five (5) years after the date the building permit is issued, OSP shall have the right to retain cash or make claim on the bond or letter of credit in an amount equal to the product of \$25,000 multiplied by the number of hotel or hotel/condominium units for which the building permit is issued, less any job credits previously earned.*

*Prior to the expiration of the five-year period, Petitioner may seek an extension of time to satisfy its job-generation requirement. An extension may be granted upon such additional terms as may be appropriate, provided that Petitioner establishes substantial compliance with this condition and specifies the methods, means and time in which it intends to satisfy this condition.*

*Except for the limitations regarding subparagraphs a. and b. and the 10% minimum required by subparagraph c., Petitioner shall determine the manner in which the remainder of its job-generation requirement may be allocated.*

*All funds obtained by OSP under this condition shall be applied to any one or more of the programs specified in subparagraph c., above.*

17. A summary of Petitioner’s request for approval of Job Credits is attached to the Motion as Exhibit “4” and provides the following.

**SUMMARY OF PETITIONER'S REQUEST FOR APPROVAL OF JOB CREDITS**

<b>JOB CREDITS SUMMARY</b>	<b>Condition 1</b>			<b>TOTALS</b>
	<b>1.a.</b>	<b>1.b.</b>	<b>1.c.</b>	
<b>Job Credits Reported in Annual Reports:</b>	378.45	229.06	136.76	744.28
<b>Less: Construction Job Credits Max:</b>	(140.95)			(140.95)
<b>Less: Job Credits Previously Approved:</b>	(1.37)		(1.10)	(2.47)
<b>Less: Training Job Credits Withdrawn:</b>			(28.10)	(28.10)
<b>TOTAL JOB CREDITS SUBMITTED FOR APPROVAL:</b>	236.13	229.06	107.56	572.75

18. The total job credits of 744.28 was reported to the LUC. Reductions due to maximum limits, credits previously approved, and credits withdrawn have resulted in the Motion requesting approval of 572.75 total job credits.

19. Petitioner is required to obtain one job credit for each hotel/condominium unit that Petitioner is allowed. Finding of Fact 35 of the D&O provides that the Project will include 500 Hotel units and 600 Condo/Hotels units, for a total of 1100 units pursuant to the D&O. Petitioner, however, is limited to 950 units according to its Unilateral Agreement with the City and County of Honolulu (the “Unilateral Agreement”).

20. The D&O provides three methods for Petitioner to obtain job credits under Condition 1 of the D&O:

- a. Jobs Generated Via Construction (“Construction Job Credits”);
- b. Jobs Generated Via Development of Non-Tourism Related Projects (“Facility Job Credits”); and
- c. Start-up Capital, Business Incentives and Job Training (“Training Job Credits”).

21. Construction Job Credits. Petitioner is requesting approval of 236.13 Construction Job Credits. Construction Job Credits are calculated based on hours worked on residential, commercial, industrial, recreational, institutional, or other non-tourism related facilities that may be located within or outside of the Petition Area and built by Petitioner or one of its affiliates. One Construction Job Credit is awarded for every 25 man-years of labor, and 1920 hours of work equals one man-year.

22. Petitioner has reported the number of paid hours worked and credits calculated in Petitioner's annual reports to the LUC from 1991 to 2020. Petitioner has reported 378.45 Construction Job Credits for years 1991 through 2020.

23. Condition 1.a. of the D&O limits the number of Construction Job Credits to 25% of the total Job Credit requirement. Since the maximum number of hotel or hotel/condominium units allowed for the Project is 950 units under the Unilateral Agreement, Petitioner may not earn more than 237.50 Construction Job Credits ( $950 \times 25\% = 237.50$ ).

24. The 1994 Order approved 2.47 Job Credits, which included 1.37 Construction Job Credits for the year 1991. Petitioner is requesting approval of 236.13 Construction Job Credits, which represents the 237.50 maximum allowed, less the 1.37 credits previously approved in the 1994 Order.

25. Facility Job Credits. Petitioner is requesting approval of 229.06 Facility Job Credits. Facility Job Credits are calculated based on the square footage of non-tourism facilities developed. The number of square feet needed to earn one Facility Job Credit depends on the type of facility developed, as described above in the chart in Condition 1.b. Credit for other types of facilities is to be determined on a

case-by-case basis. Facility Job Credits are accrued when the certificate of occupancy is issued, or such earlier date as approved by the LUC.

26. Petitioner has reported 229.06 Facility Job Credits accrued and reported in years 2004, 2006, 2008 and 2019. The facilities built and occupied include the ‘Ewa Pointe Marketplace, Seagull Schools preschool, the Hoakalei Country Club Golf Course, and the Hoakalei Country Club Clubhouse.

27. The ‘Ewa Pointe Marketplace, Seagull Schools preschool, and Hoakelei Country Club Clubhouse, all of which are complete and operating, are calculated based on square footage and comprise 199.06 credits.

28. The Hoakalei Country Club Golf Course, which is also operating, has created 30 actual new full-time jobs and Petitioner is now seeking 30 Facility Job Credits for those 30 jobs. These 30 jobs were reported for the year 2008 in Petitioner’s annual report dated October 15, 2009.

29. Training Job Credits. Petitioner is requesting approval of 107.56 Training Job Credits. Training Job Credits are calculated based on funds invested in non-tourism start-up businesses, incentives to non-tourism businesses, and/or funds contributed to training programs for non-tourism related jobs.

30. Condition 1.c. allows Petitioner to receive one (1) job credit for each \$25,000 contributed to training programs for non-tourism related jobs.

32. Petitioner has contributed over \$3.4 million towards job training to school organizations, community groups, and scholarship programs. These contributions were reported to the LUC in Petitioner’s annual reports. At \$25,000 per credit, Petitioner has reported 136.76 Training Job Credits for years 1991 through 2020.

33. Petitioner has withdrawn 28.10 Training Job Credits because it has been unable to verify the job training or educational purposes of certain contributions.

34. The 1994 Order approved 2.47 Job Credits, which included 1.10 Training Job Credits. Petitioner is requesting approval of 107.56 Training Job Credits, which represents the 136.76 Training Job Credits reported in Petitioner's annual reports, less the 28.10 withdrawn credits and the 1.10 credits previously approved in the 1994 Order.

36. Condition 1.c. requires that at least 10% of the total Job Credit requirement be satisfied through Training Job Credits. Based on the 950 hotel and hotel/condominium limit under the Unilateral Agreement, Petitioner must provide at least 95 Training Job Credits ( $950 \times 10\% = 95$ ). Petitioner's request for approval of 107.56 Training Job Credits satisfies this requirement.

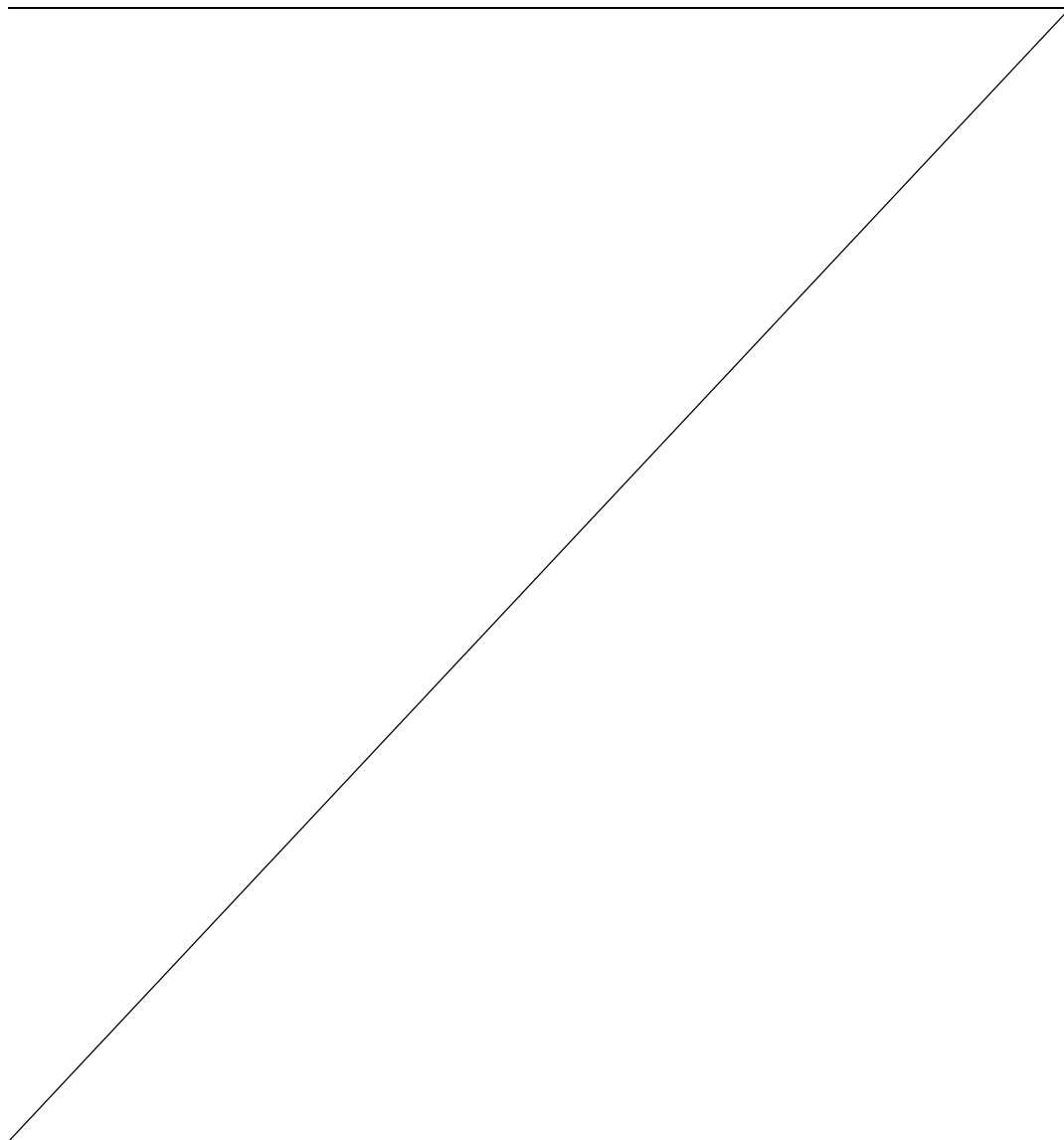
38. Petitioner's Motion requests 572.75 total Job Credits, which consists of 236.13 Construction Job Credits, 229.06 Facility Job Credits and 107.56 Training Job Credits. This request is for credits reported from 1991 through 2020. If this request is approved, Petitioner will be allowed to build up to 575.22 hotel or hotel/condominium units and based on the maximum of 950 hotel or hotel/condominium units, Petitioner may seek approval for 374.78 additional job credits in the future.

## **CONCLUSIONS OF LAW**

Pursuant to HRS Chapter 205 and the Commission Rules under HAR Chapter 15-15, and upon the Commission's decision-making criteria under HAR § 15-15-70(c), the Commission finds under the clear preponderance of the evidence that there exists good cause to grant Petitioner's Motion.

**DECISION AND ORDER**

IT IS HEREBY ORDERED that Petitioner’s Motion for Approval of Job Credits is granted, that Petitioner’s request for 572.75 job credits is approved, and based on the previously approved 2.47 job credits, Petitioner is now allowed to build up to 575.22 hotel or hotel/condominium units and may accrue and request approval from the LUC for up to 374.78 additional job credits under Conditions 1.b. and 1.c. of the D&O in the future.



**ADOPTION OF ORDER**

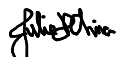
This ORDER shall take effect upon the date this ORDER is certified by this Commission.

Done at Honolulu, Hawai‘i, this 19th day of December, 2022,  
per motion on December 7, 2022.

LAND USE COMMISSION

APPROVED AS TO FORM

STATE OF HAWAI‘I



\_\_\_\_\_  
Deputy Attorney General

*Dan V. Giovanni*

By \_\_\_\_\_  
DAN GIOVANNI  
Chairperson and Commissioner

Filed and effective on:

Dec 19, 2022  
\_\_\_\_\_

Certified by:



\_\_\_\_\_  
DANIEL E. ORODENKER  
Executive Officer





BEFORE THE LAND USE COMMISSION  
OF THE STATE OF HAWAI'I

In the Matter of the Petition of	)	DOCKET NO. A89-651
	)	
HASEKO (HAWAII), INC.	)	CERTIFICATE OF SERVICE
	)	
To Amend the Agricultural Land Use	)	
District Boundary into the Urban	)	
Land Use District For Approximately	)	
403.008 acres at Honouliuli, Ewa,	)	
Oahu, Hawaii, Tax Map Key No.:	)	
9-1-12: 5 (por.), 6 (por.), and	)	
23 (por.)	)	
_____	)	

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the FINDINGS OF FACT, CONCLUSIONS OF LAW, AND DECISION AND ORDER was served upon the following by either hand delivery or depositing the same in the U. S. Postal Service by regular or certified mail as noted:

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JBPHH, HI 96860-5101  
Attn: Randall Young, Esq

Dated December 19, 2022

Honolulu, Hawai'i.



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DANIEL E. ORODENKER  
Executive Office

## SUMMARY OF PETITIONER'S REQUEST FOR APPROVAL OF JOB CREDITS

<b>JOB CREDITS SUMMARY</b>	
	<b>JOB CREDIT</b>
<b>Job Credits Previously Approved: *</b>	575.22
<b>Job Credits Reported in New Annual Reports: **</b>	2,888.28
<b>Adjusted for Max Job Credits Allowed: ***</b>	(2,513.50)
<b>TOTAL JOB CREDITS SUBMITTED FOR APPROVAL:</b>	374.78
<b>TOTAL JOB CREDITS NEEDED:</b>	950.00

\* Previously Approved Job Credits: Total job credits earned is 575.22, which includes 2.47 from the 1994 Job Credit Motion and 572.75 from the 2022 Job Credit Motion; earning job credits are based off the job credits reported for the periods 1991 to 2019.

\*\* Job Credits Reported in Annual Report: Total job credits reported in the 2022 and 2023 Annual Status Reports is 2888.28 job credits.

\*\*\* Maximum Job Credits Allowed: Condition 3 of the Unilateral Agreement to Ordinance No. 93-94 limits the number of Visitor Accommodation Units that can be constructed to 950 units. Therefore, although Petitioner reported 2888.28 Job Credits in its 2022 and 2023 Annual Status Reports, the maximum number it can claim is 374.78 job credits.

## BREAKDOWN OF JOB CREDITS PER REPORTING YEAR

Year	JOB CREDIT
2021	0.42
2022 *	2,887.86
<b>TOTAL JOB CREDITS REPORTED:</b>	<b>2,888.28</b>
<b>ADJUSTED FOR MAX JOB CREDITS ALLOWED</b>	<b>(2,513.50)</b>
<b>TOTAL JOB CREDITS SUBMITTED FOR APPROVAL:</b>	<b>374.78</b>

\* Facility Job Credits - Wai Kai

480,380 SF Recreation, Retail, Office, and Storage space = 515 Facility Job Credits

Investment Job Credits - Wai Kai

Investment of \$118,615,000.00 = 2372.30 Facility Job Credits

## Wai Kai Commercial Center Investment Summary

**Loan Fund Total:** \$118,615,000.00

### **Investment Description**

Wai Kai is a dynamic social and recreational destination in West Oahu, located at Ewa Beach, just 18 miles from Honolulu. This expansive venue, set against the stunning backdrop of the 52-acre Wai Kai Lagoon, offers a diverse range of activities and experiences, making it the perfect gathering spot.

At the heart of Wai Kai is The LineUp, featuring Hawaii's first stationary deep-water surf wave, the Wai Kai Wave, powered by citywave®. This unique attraction caters to all skill levels, with adjustable wave settings and experienced surf coaches available to guide your experience. Overlooking the wave is a vibrant hub of dining, entertainment, and shopping that captures the essence of the island lifestyle.

### **Dining and Social Hubs**

- **The LookOut Food & Drink:** A vibrant social hub on Oahu's west side, The LookOut offers a menu of locally sourced, healthy, and delicious dishes alongside a wide selection of beer, wine, and creative cocktails. Overlooking the Wai Kai Wave and the Wai Kai Lagoon with vast ocean views that stretch to Diamond Head, it's an ideal spot for date nights, family gatherings, and celebrations, complete with live music nightly.
- **The WaveBar:** Situated with a prime view of the Wai Kai Wave, The WaveBar is the perfect place to unwind with a signature drink after a surf session or simply to take in the sunset.
- **Boardwalk Café:** Nestled by the scenic Wai Kai Lagoon, the Boardwalk Café offers a variety of quick bites and refreshing treats. From shaved ice and soft serve ice cream to local favorites like loco moco, it's an ideal spot for a casual meal after a day on the Wai Kai Lagoon. On weekends, guests can enjoy a breakfast menu from 9-11 a.m.
- **Foam Coffee & Bar:** For those in need of a quick pick-me-up, FOAM offers delicious coffee, refreshing drinks, and grab-and-go snacks. It's the perfect stop between adventures, whether you're shredding the wave, paddling the lagoon, or simply soaking up the island vibes.

## **Wai Kai Lagoon and Aquatic Adventures**

The Wai Kai Lagoon is a 52-acre inland water haven, perfect for paddling, kayaking, and a variety of water activities. Home to the Wai Kai AquaVenture, the lagoon offers a unique on-the-water playground with interconnected inflatables, featuring peaks, monkey bars, slides, wiggle bridges, and more. The lagoon's crystal-clear waters are maintained by a natural groundwater flow, ensuring they meet and exceed all water quality standards.

## **Nalo Kai Club Lounge**

The Nalo Kai Club Lounge at Wai Kai offers an exclusive retreat with premium amenities, including a club-style locker room, private showers, and an air-conditioned lounge. Guests who purchase access enjoy concierge services and waterfront lounge chairs on a first-come, first-served basis. Whether for a half-day or full-day, Nalo Kai provides a luxurious escape within the vibrant Wai Kai setting.

## **Shopping at Sessions Lifestyle & Apparel**

Sessions Lifestyle & Apparel shop embodies the modern Hawaii waterman lifestyle, offering a curated collection of sustainable and soulful brands for men and women. Sessions provides the essential gear needed for a day at Wai Kai or unique custom merchandise.

## **Events and Gatherings**

Wai Kai also serves as a premier venue for events, with over 80,000 square feet of event space available for festivals, parties, corporate events, and more. Event Spaces include the Wai Kai Event Lawn, Surfside Lawn, and the Lagoon Boardwalk. Its picturesque setting and versatile facilities make it an unparalleled choice for gatherings on Oahu's west side, whether for intimate celebrations or large-scale events.

From January to August 2024, Wai Kai hosted 84 events, attracting over 40,000 people to the property. With an additional 24 events booked through the end of the year, Wai Kai is expected to draw approximately a total of 94,000 attendees by year's end. Looking ahead to 2025, 22 events are already scheduled, projecting around 6,700 attendees, not including weekly events like the farmers market and yoga classes.

Wai Kai's event calendar features the "Ono Grindz and Makeke at Wai Kai", a vibrant Thursday night farmers market designed for residents on Oahu's west side. This open market concept showcases a lively mix of approximately 40 to 50 food trucks and local vendors offering fresh island produce, unique crafts, art, and gifts. Every Thursday evening, nearly 800 attendees enjoy the wide array of locally-made products and delicious food in a community-driven atmosphere, making it a weekly celebration of the island's rich culture and flavors. Additionally, Wai Kai has recently expanded its yoga

offerings due to growing popularity, now hosting classes twice a month with plans to move to a weekly schedule.

All events at Wai Kai extend the reach of local industries, requiring services such as tenting, catering, sound, lighting, entertainment, security, and more. These events support a wide range of jobs and businesses, making Wai Kai not only a hub for social gatherings but also a significant contributor to the local economy.

Wai Kai offers an immersive blend of adventure, relaxation, and culture, making it a must-visit destination for anyone exploring the island.

### **Vision for Wai Kai**

The vision for Wai Kai is to create a vibrant, experiential waterfront destination that serves as a community gathering spot. This phase of development is designed to offer a wide range of active experiences, along with exceptional food and beverage options, catering to people of all ages. Wai Kai aims to be more than just a recreational area; it is envisioned as a key investment in the future of Hawaii, providing a space where people can socialize and enjoy the beauty of the water's edge.

The Wai Kai Wave is at the heart of this vision, offering an authentic surfing experience unlike any other. Designed with deep-water technology inspired by natural river waves like those at Oahu's Waimea Bay and Munich's Eisbach, the Wai Kai Wave allows surfers to use standard surfboards with fins. This 100-foot-wide wave is Hawaii's first deep-water standing wave in the world and provides a perfect, adjustable wave that caters to surfers of all skill levels. Whether you're a seasoned pro looking to refine aerials and rail techniques or a beginner eager to learn, the Wai Kai Wave offers a controlled environment that accelerates the learning curve and enhances skills.

For experienced surfers, it's a unique training ground that provides consistent, high-quality waves year-round—something ocean conditions in Hawaii can't always guarantee. For newcomers, the Wai Kai Wave eliminates the need for paddling and popping up, allowing for a quicker, more accessible entry into the sport. Beyond the wave itself, Wai Kai is a place where friends and family can gather to watch, cheer, and participate in a variety of other activities, from shopping and dining to year-round events. In this way, Wai Kai is not just a surf destination but a comprehensive social and recreational hub that enriches the community and enhances the overall entertainment experience in Hawaii.

### **Strategy for Wai Kai at Ocean Pointe and Hoakalei**

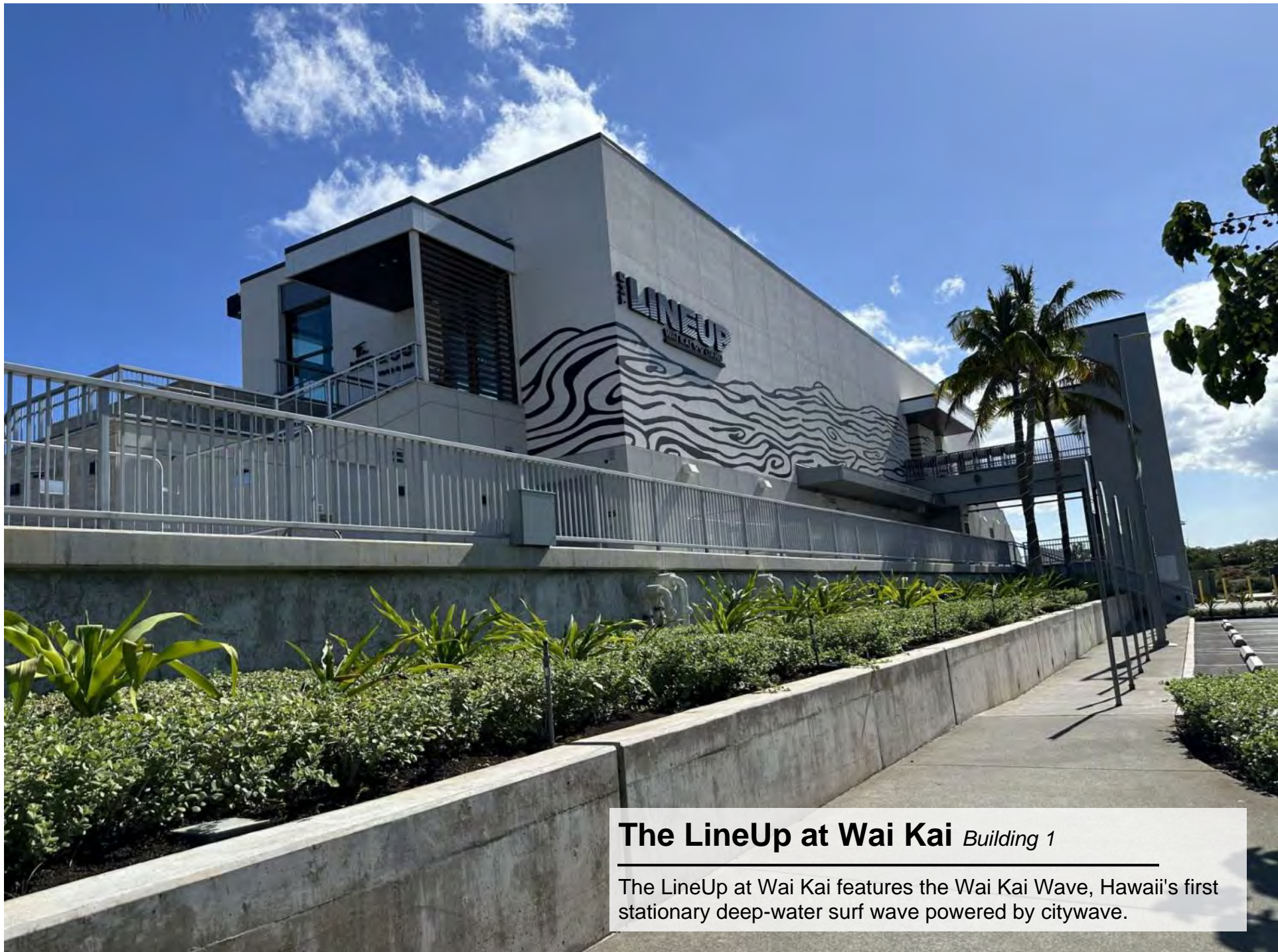
Wai Kai seamlessly aligns with Haseko's vision of creating a vibrant waterfront destination that truly embodies the island lifestyle. Nestled within the Ocean Pointe and Hoakalei communities that include nearly 4,000 completed homes and a championship golf course, Wai Kai adds a dynamic mix of recreational activities, dining, shopping, and community events that enhances the area's appeal and community engagement. It complements the existing offerings, creating a well-rounded community where people can fully enjoy the best of island living right by the water.





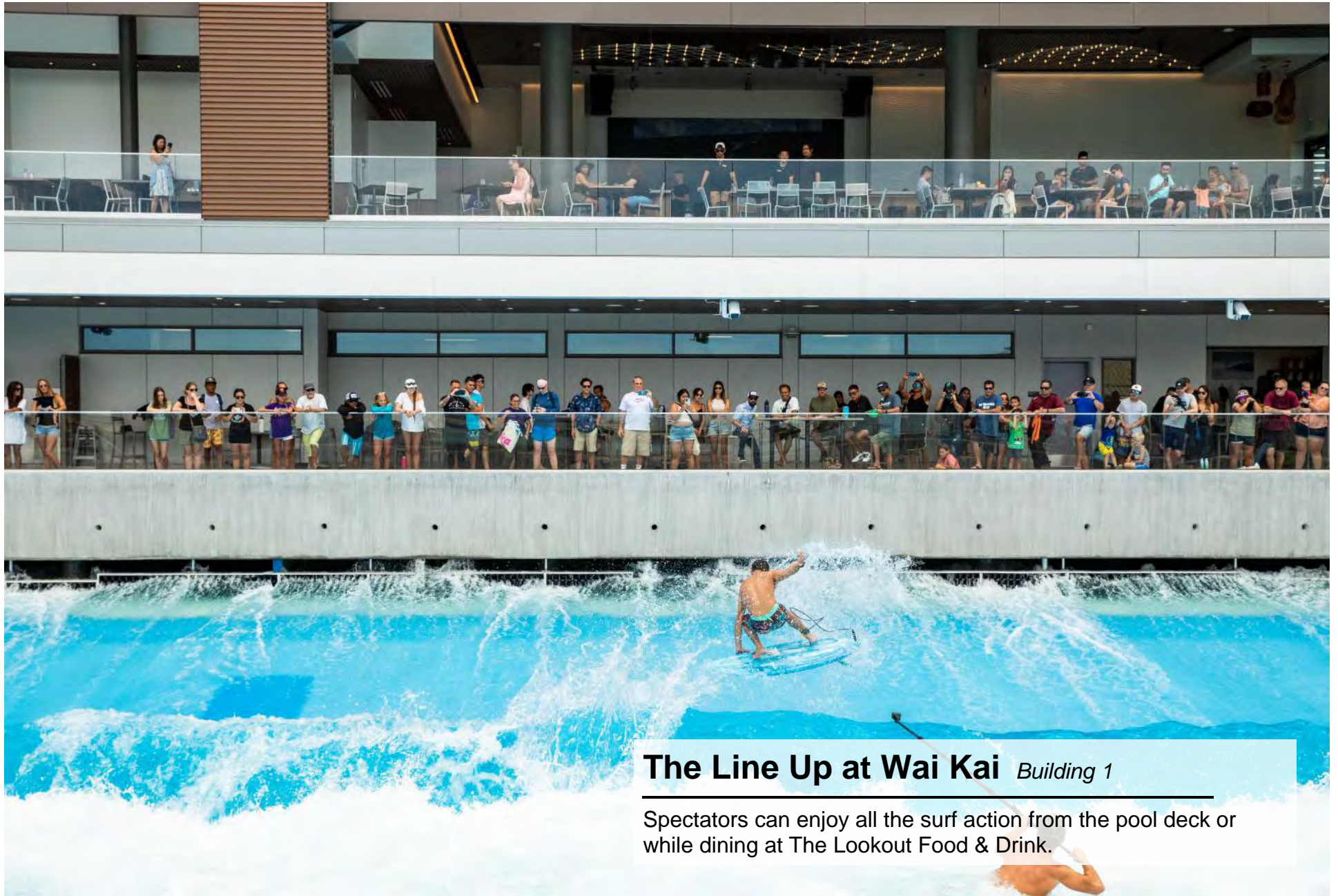
**Wai Kai** *Ewa Beach, Hawaii*

An aerial view of the Wai Kai complex, including the Wai Kai Wave, Wai Kai AquaVenture, various dining options, and more.



## **The LineUp at Wai Kai** *Building 1*

The LineUp at Wai Kai features the Wai Kai Wave, Hawaii's first stationary deep-water surf wave powered by citywave.



## The Line Up at Wai Kai *Building 1*

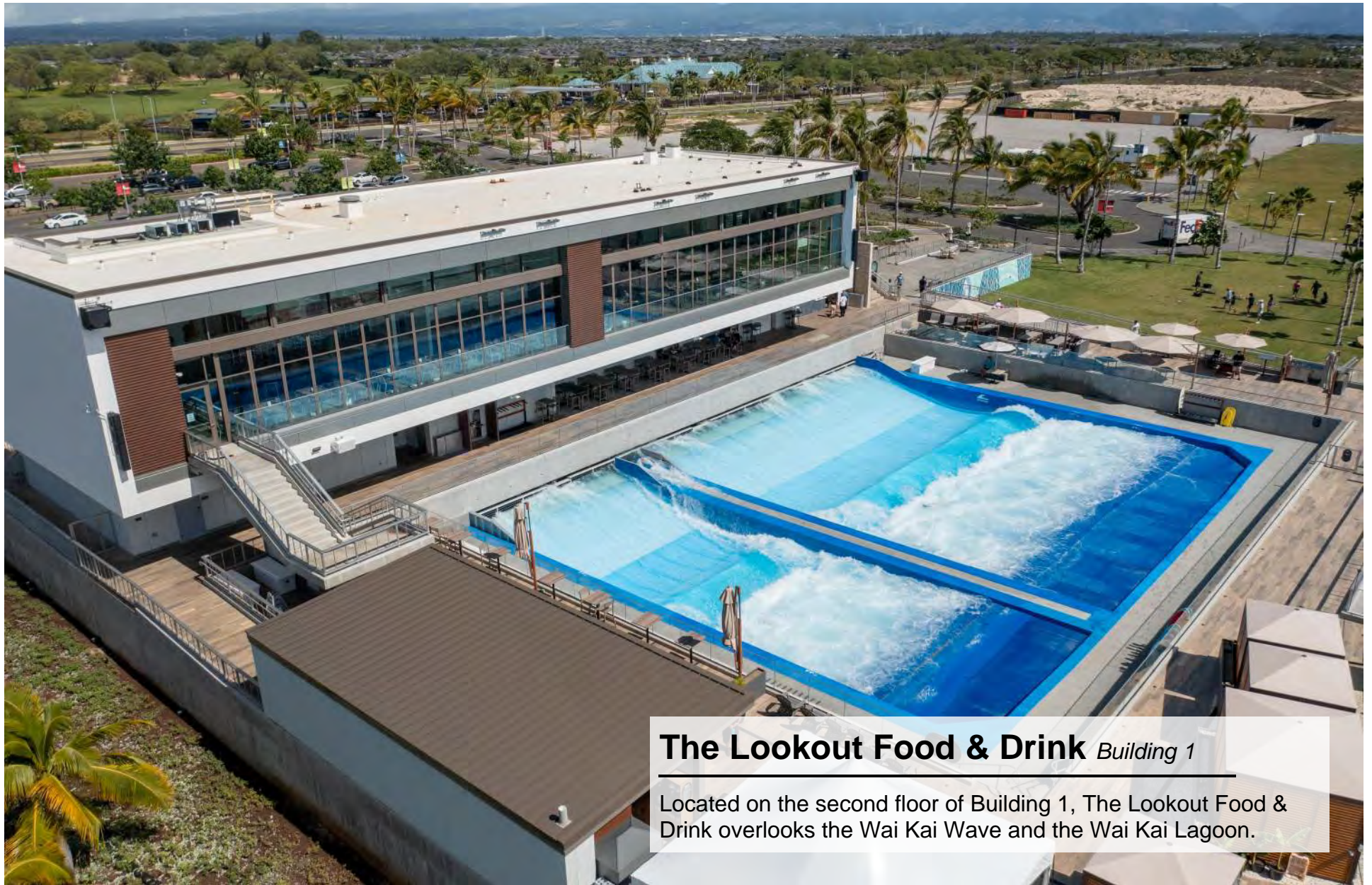
Spectators can enjoy all the surf action from the pool deck or while dining at The Lookout Food & Drink.



**The Line Up at Wai Kai** *Building 1*

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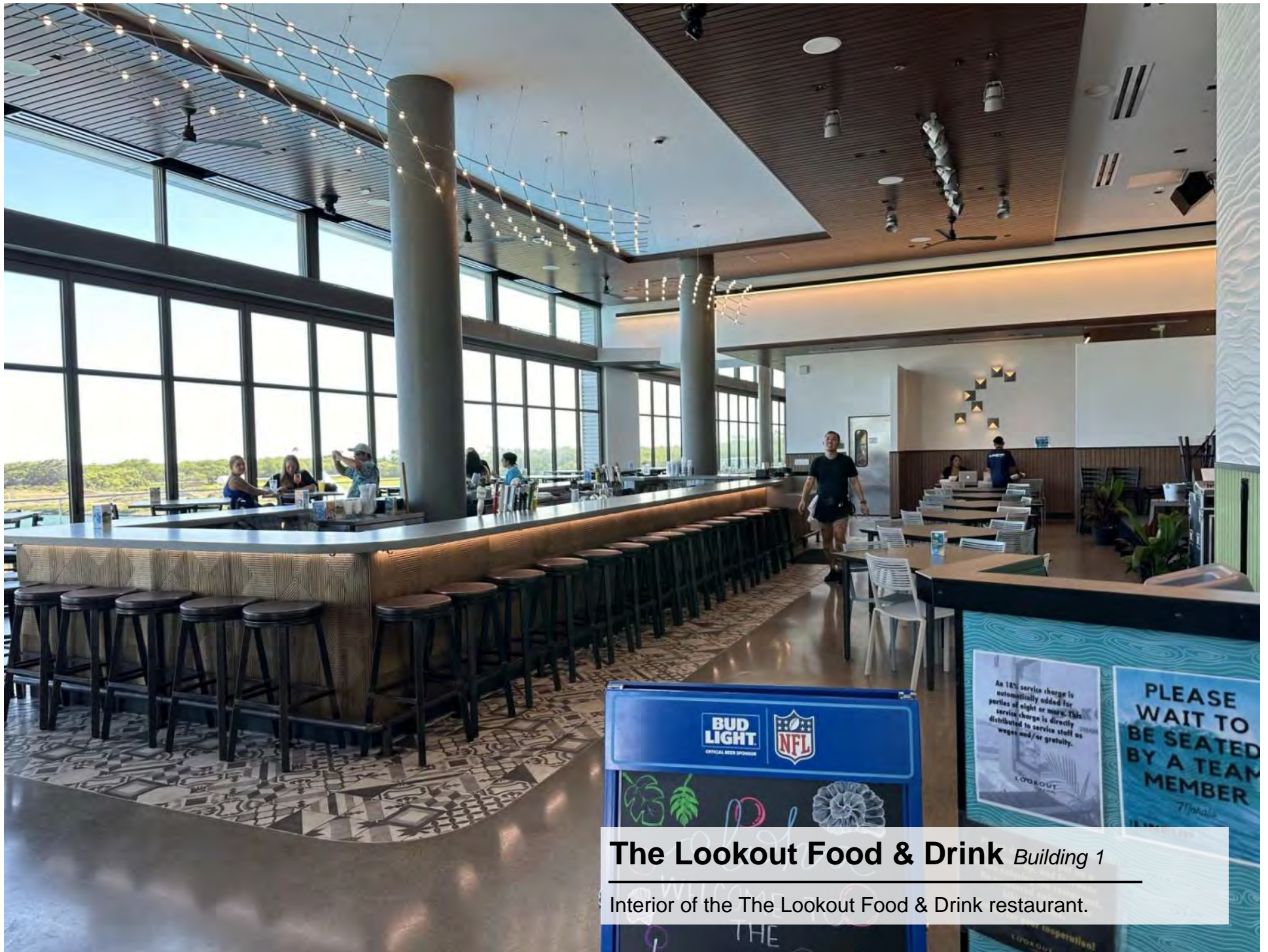
The Wai Kai Wave can be adjusted for various skill levels and operates in three different configurations.



**The Lookout Food & Drink** *Building 1*

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Located on the second floor of Building 1, The Lookout Food & Drink overlooks the Wai Kai Wave and the Wai Kai Lagoon.



## The Lookout Food & Drink *Building 1*

Interior of the The Lookout Food & Drink restaurant.



**The Boardwalk Cafe** *Building 3*

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Located on the ground floor of Building 3 along the Lagoon Boardwalk, The Boardwalk Cafe offers a variety of quick bites and refreshing treats.



## **Foam Coffee & Bar** *Building 2*

Located on the ground floor of Building 2 along the Lagoon Boardwalk, Foam Coffee & Bar offers delicious coffee, refreshing drinks and grab-and-go snacks.

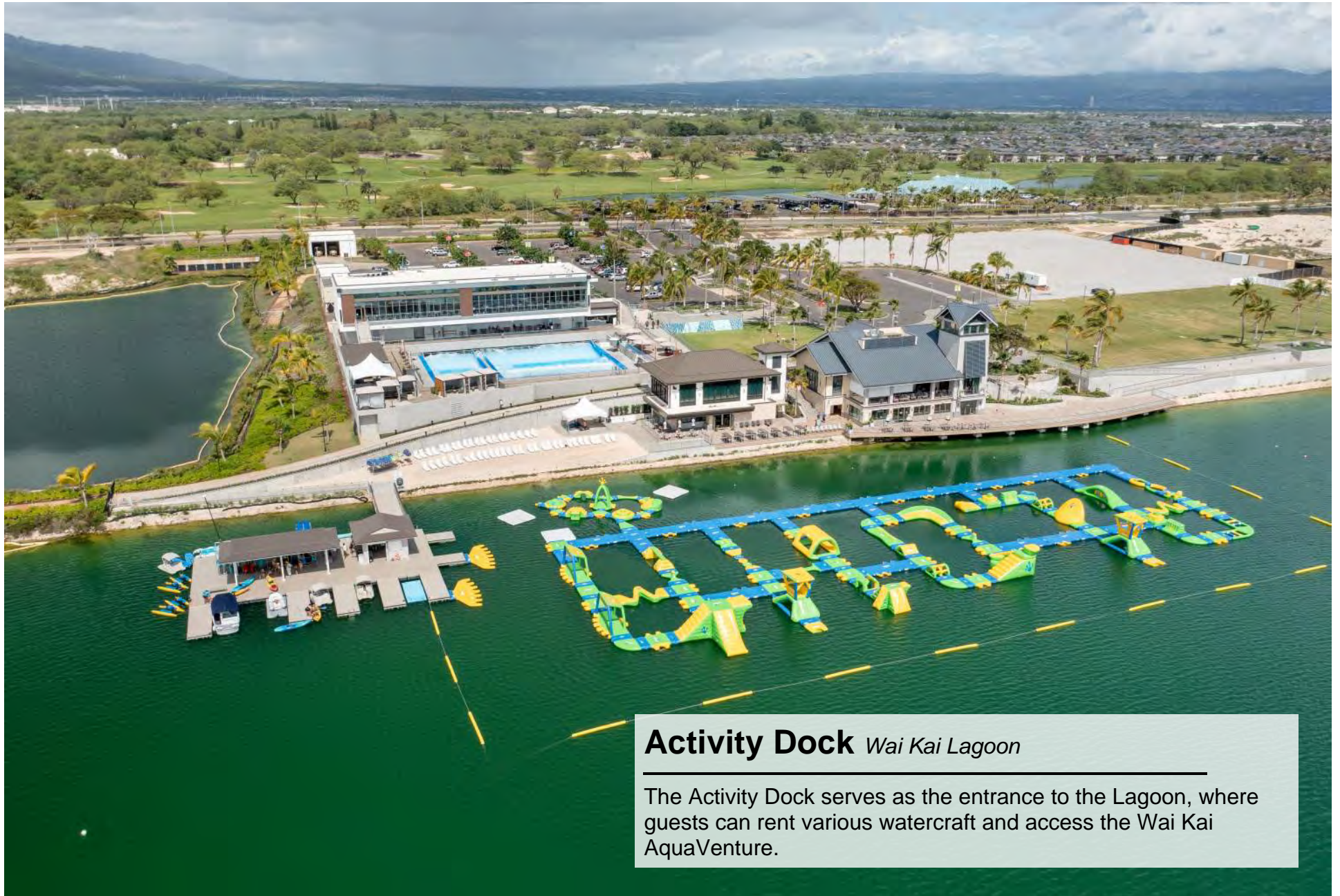




**Wai Kai Lagoon**

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At the center of the project, the Wai Kai Lagoon features 52 acres of inland water, perfect for stand-up paddleboarding, kayaking, and a variety of water activities.



**Activity Dock** *Wai Kai Lagoon*

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The Activity Dock serves as the entrance to the Lagoon, where guests can rent various watercraft and access the Wai Kai AquaVenture.



**Wai Kai AquaVenture** *Wai Kai Lagoon*

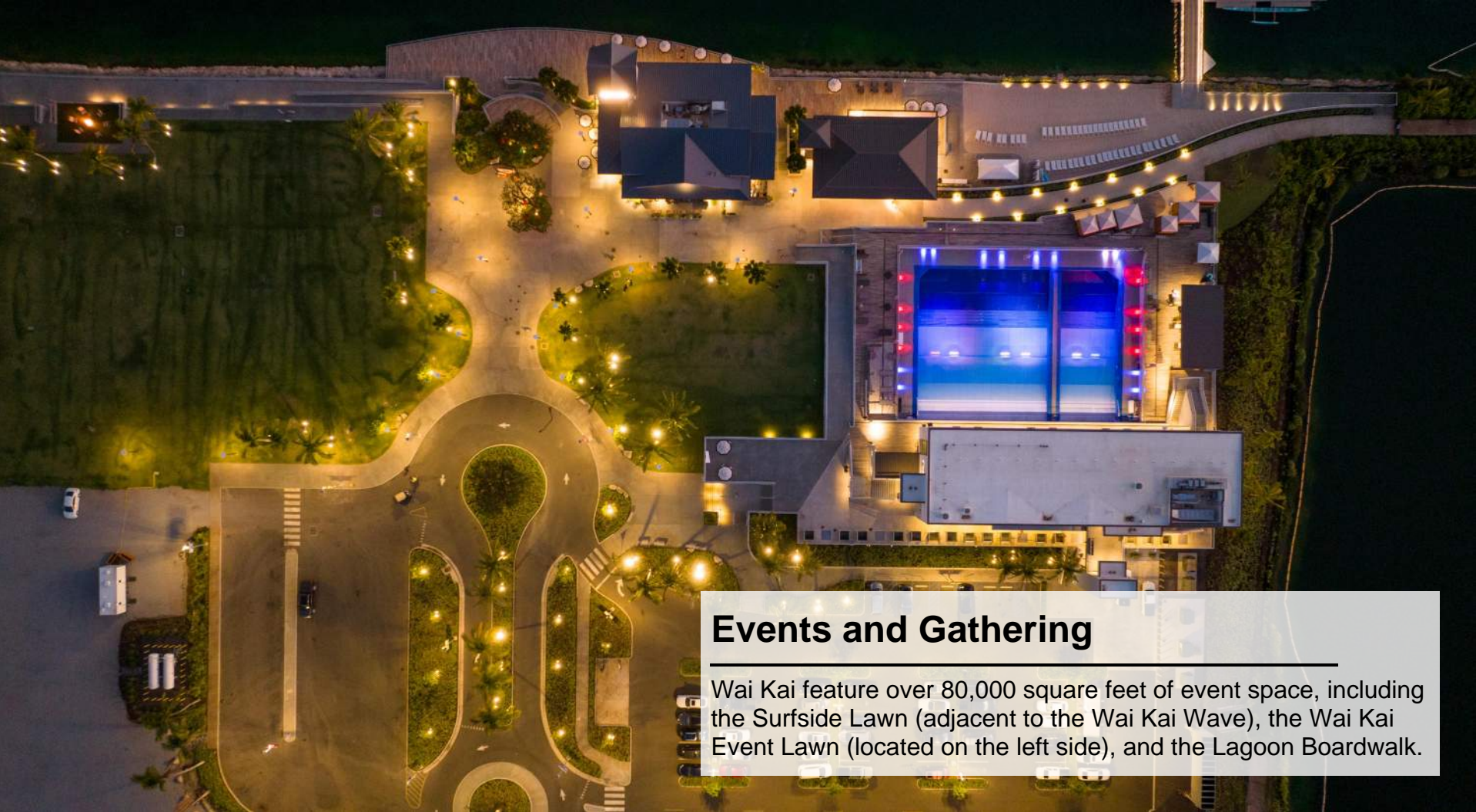
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Fun for all ages, the Wai Kai AquaVenture is a unique on-the-water playground fun for all ages.



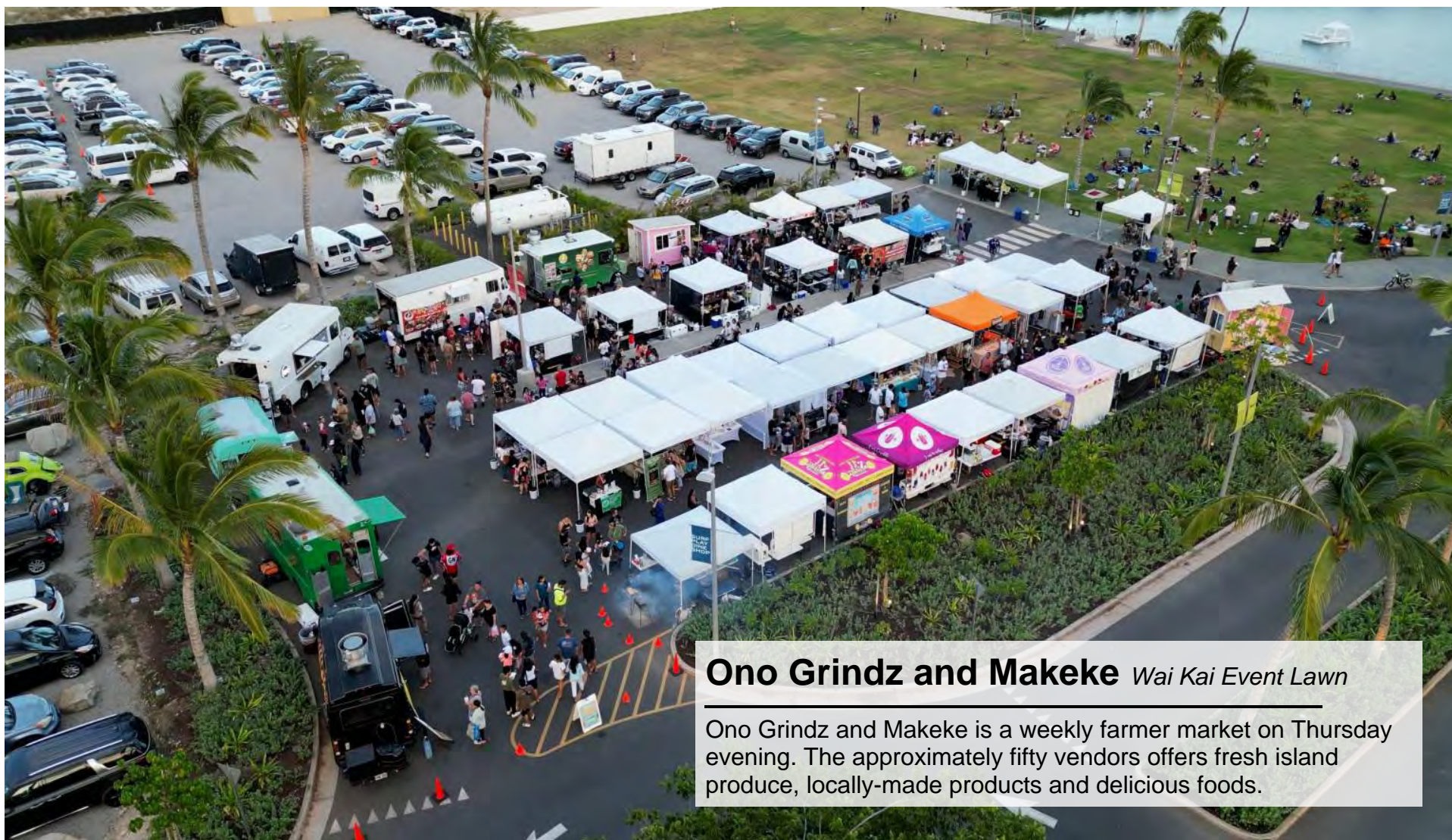
## **Sessions Lifestyle & Apparel** *Building 2*

On the first floor of Building 2, Sessions Lifestyle & Apparel shop embodies the modern Hawaii waterman lifestyle, offering a curated collection of sustainable and soulful brands.



## Events and Gathering

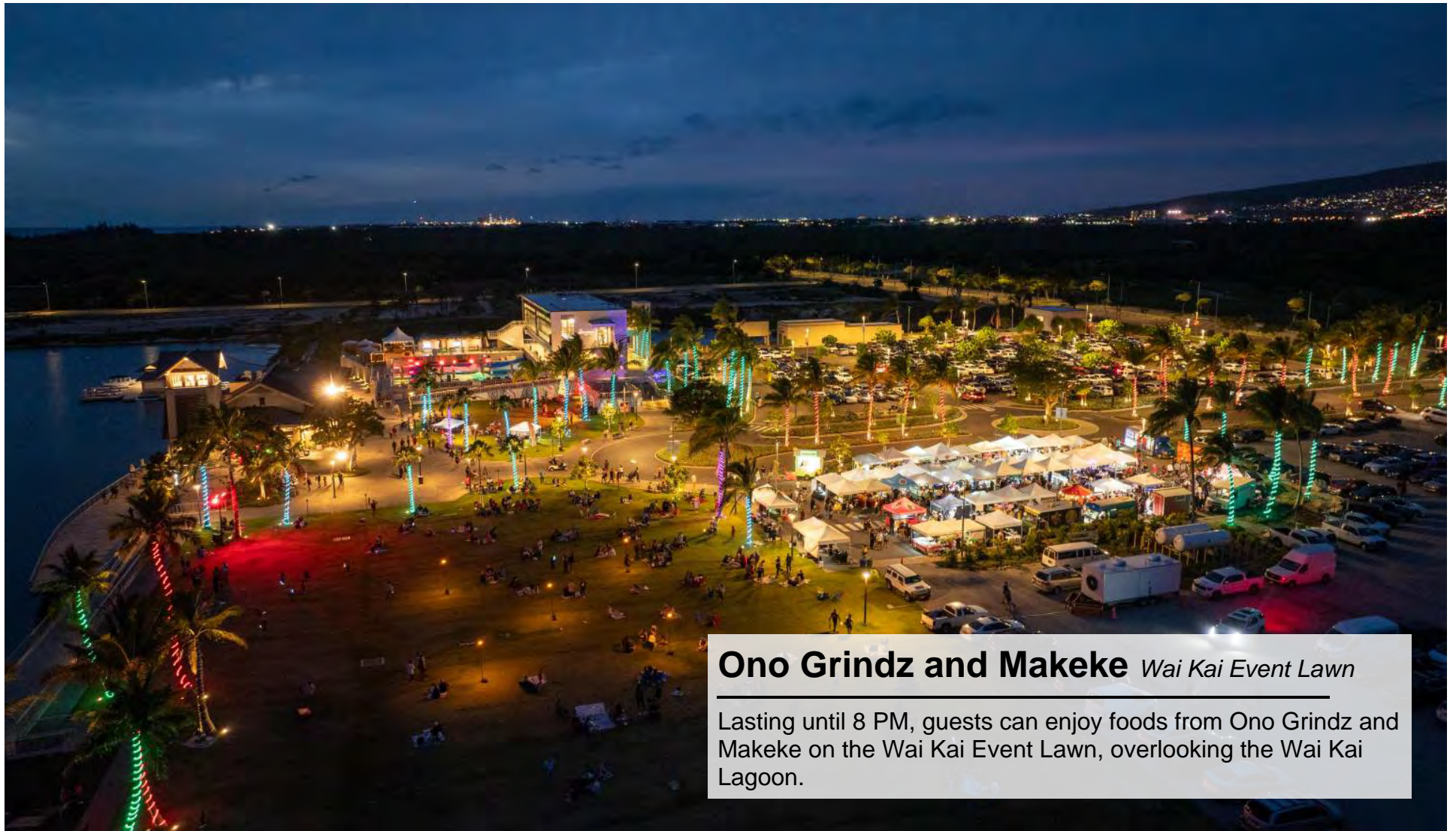
Wai Kai feature over 80,000 square feet of event space, including the Surfside Lawn (adjacent to the Wai Kai Wave), the Wai Kai Event Lawn (located on the left side), and the Lagoon Boardwalk.



**Ono Grindz and Makeke** *Wai Kai Event Lawn*


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Ono Grindz and Makeke is a weekly farmer market on Thursday evening. The approximately fifty vendors offer fresh island produce, locally-made products and delicious foods.



**Ono Grindz and Makeke** *Wai Kai Event Lawn*

Lasting until 8 PM, guests can enjoy foods from Ono Grindz and Makeke on the Wai Kai Event Lawn, overlooking the Wai Kai Lagoon.



**Fire Pit Terrace** *Wai Kai Event Lawn*

Located on the Wai Kai Event Lawn, the Fire Pit Terrace is one of the venue options at Wai Kai to host reception style events.



BEFORE THE LAND USE COMMISSION

OF THE STATE OF HAWAI`I

In the Matter of the Petition of	)	DOCKET NO. A89-651
	)	
HASEKO (HAWAII), INC.	)	HASEKO (EWA), INC.
	)	
To Amend the Agricultural Land Use	)	CERTIFICATE OF SERVICE
District Boundary into the Urban	)	
Land Use District For Approximately	)	
403.008 acres at Honouliuli, Ewa,	)	
Oahu, Hawaii, Tax Map Key No.:	)	
9-1-12: 5 (por.), 6 (por.), and	)	
23 (por.)	)	
_____	)	

CERTIFICATE OF SERVICE

I hereby certify that an e-timestamp copy of the foregoing document was duly served upon the following AS INDICATED BELOW on December 23, 2024.

ALISON S. KATO, ESQ. Deputy Attorney General Department of the Attorney General 425 Queen Street Honolulu, Hawai`i 96813	HAND-DELIVERY
--	---------------

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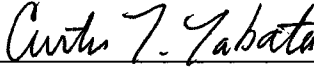
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HAND-DELIVERY

DATED: Honolulu, Hawai`i, December 23, 2024.

Of Counsel:  
MATSUBARA, KOTAKE & TABATA  
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