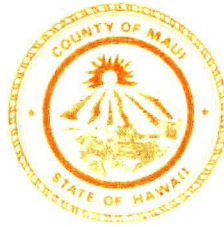


**RICHARD T. BISSEN, JR.**  
Mayor

**KATE L.K. BLYSTONE**  
Acting Director

**GARRETT E. SMITH**  
Deputy Director



RECEIVED  
2024 JAN 31 PM 3:47  
OFFICE OF THE  
COUNTY CLERK

**DEPARTMENT OF PLANNING**  
COUNTY OF MAUI  
ONE MAIN PLAZA  
2200 MAIN STREET, SUITE 315  
WAILUKU, MAUI, HAWAII 96793

January 29, 2024

Honorable Richard T. Bissen Jr.  
Mayor, County of Maui  
200 South High Street  
Wailuku, Hawaii 96793

APPROVED FOR TRANSMITTAL

*Garrett E. Smith* 1-31-24  
Mayor Date

For Transmittal to:

Honorable Alice L. Lee, Chair  
and Members of the Maui County Council  
200 South High Street  
Wailuku, Hawaii 96793

Dear Chair Lee and Members:

**SUBJECT: APPLICATION FOR A CHANGE OF ZONING FOR THE MIKI  
BASIN INDUSTRIAL PARK LOCATED ON LĀNA'I, ON 200  
ACRES OF LAND IDENTIFIED BY MAUI TAX MAP KEY:  
(2)4-9-002:061(POR.) (ZPA2022-00005)**

The Department of Planning (Department) is transmitting for your review and action the Change of Zoning (CIZ) (Conditional) for the Miki Basin Industrial Park located on the Island of Lāna'i. The subject property is located on approximately 200 acres of land adjacent to the Hawaiian Electric generating plant and Lāna'i airport. The Change of Zoning will change the Zoning District from "Agricultural" to "M-1, Light Industrial" on 100 acres, and from "Agricultural" and "Interim" to "M-2, Heavy Industrial" on 100 acres.

The proposed project will consist of 20 acres for infrastructure purposes (10 percent of the project area, which will be used for roads, common areas, and other related uses); 127 acres for renewable energy projects (e.g., photovoltaic plus battery energy storage); 14.5 acres for the relocation of an existing concrete recycling and rock crushing operation (and for the storage and stockpiling of aggregate and construction materials); 12.5 acres for the relocation of an existing asphalt plant; and 26 acres for new industrial uses. Additionally, a County Special Use Permit (CSUP) was prepared and submitted for the asphalt plant and rock crushing facilities which are identified special uses within the proposed "M-2, Heavy Industrial" zoning district. The Lāna'i Planning Commission is the authority on CSUP and approved the CSUP with 12 conditions on August 16, 2023, contingent upon passage of the Change of Zoning.

Honorable Richard T. Bissen Jr., Mayor  
 For Transmittal to:  
 Honorable Alice L. Lee, Chair  
 January 29, 2024  
 Page 2

A summary of the application is as follows:

APPLICATION SUMMARY																					
Application - CIZ	<p>The Change of Zoning Amendment (Conditional Zoning) along with updated maps reflecting changes, additions, and deletions by individual TMK is outlined in <b>Table A</b> below.</p> <p><b>Table A.</b> Summary of maps associated with proposed changes by TMK for the Maui County Zoning Designation.</p> <table> <tr> <th rowspan="2">TMK</th><th colspan="2">Maui County Zoning</th><th rowspan="2">MAP #</th></tr> <tr> <th>Existing</th><th>Proposed</th></tr> <tr> <td>(2) 4-9-002:061(portion)</td><td>Agricultural</td><td>M-2, Heavy Industrial</td><td>L-2634</td></tr> <tr> <td>(2) 4-9-002:061(portion)</td><td>Interim</td><td>M-2, Heavy Industrial</td><td>L-2635</td></tr> <tr> <td>(2) 4-9-002:061(portion)</td><td>Agricultural</td><td>M-1, Light Industrial</td><td>L-2636</td></tr> </table>			TMK	Maui County Zoning		MAP #	Existing	Proposed	(2) 4-9-002:061(portion)	Agricultural	M-2, Heavy Industrial	L-2634	(2) 4-9-002:061(portion)	Interim	M-2, Heavy Industrial	L-2635	(2) 4-9-002:061(portion)	Agricultural	M-1, Light Industrial	L-2636
TMK	Maui County Zoning		MAP #																		
	Existing	Proposed																			
(2) 4-9-002:061(portion)	Agricultural	M-2, Heavy Industrial	L-2634																		
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(2) 4-9-002:061(portion)	Agricultural	M-1, Light Industrial	L-2636																		
Applicant	Lānaʻi Resorts, LLC doing as Pūlama Lānaʻi																				
Owner	Lānaʻi Resorts, LLC doing as Pūlama Lānaʻi																				
Tax Map Key	(2)4-9-002:061(portion)																				
Address	Miki Road, Lānaʻi, Hawaiʻi																				
Area	The project area is 200 acres.																				
Land Use Designations	<p>State Land Use District - Urban</p> <p>Lanai Community Plan - Light Industrial and Heavy Industrial</p> <p>Maui County Zoning - Proposed M-1, Light Industrial and M-2 Heavy Industrial to match Lānaʻi Community Plan</p>																				
Brief Description	The Applicant is requesting a Change of Zoning on 100 acres to M-1, Light Industrial and 100 acres to M-2, Heavy Industrial to match the Lanai Community Plan																				
Public Hearing	Held by Lānaʻi Planning Commission (LPC) on August 16, 2023, via BlueJeans Video conferencing platform.																				
Testimony	Time for verbal testimony was offered during the hearing.																				
Recommendation	<p>The LPC recommended approval of the proposed application for a CIZ by a vote of six ayes with two Commissioners excused.</p> <p>The LPC approved the CSUP with 12 conditions contingent upon passage of the CIZ by the Council.</p>																				

The LPC conducted a public hearing on the subject application at its August 16, 2023, meeting, recommending approval to the Council subject to five conditions stated as follows:

1. That the permitted uses in the “M-1, Light Industrial” District shall be limited to those outlined in the following table:



Honorable Richard T. Bissen Jr., Mayor  
 For Transmittal to:  
 Honorable Alice L. Lee, Chair  
 January 29, 2024  
 Page 3

<b>M-1 Light Industrial</b>
Any use permitted in a B-1, B-2, or B-3 business district except single-family dwellings, duplexes, bungalow courts, short-term rental homes, and transient vacation rentals
Dwelling units located in the same building as any non-dwelling permitted use
Assembly of electrical appliances, radios and phonographs including the manufacture of small parts such as coils, condensers crystal holders and the like
Carpet cleaning plants
Cold storage plants
Commercial laundries
Craft cabinet and furniture manufacturing
Education, specialized
Farm implement sales and service
General food, fruit and vegetable processing and manufacturing plants
Ice cream and milk producing, manufacturing and storage
Laboratories – experimental, photo or motion picture, film or testing
Light and heavy equipment and product display rooms, storage and service
Machine shop or other metal working shop
Manufacture, compounding or treatment of articles or merchandise from the following previously prepared materials: aluminum, bone, cellophane, canvas, cloth, cork, feathers, felt, fiber, fur, glass, hair, horn, leather, plastics, precious or semi-precious metals or stones, shell, tobacco and wood
Manufacture, compounding, processing, packing or treatment of such products as candy, cosmetics, drugs, perfumes, pharmaceutical, toiletries, and food products. (except the rendering or refining of fats and oils)
Manufacture, dyeing and printing of cloth fabrics and wearing apparel
Manufacture of musical instruments, toys, novelties and rubber and metal stamps
Manufacture of pottery and figurines or other similar ceramic products
Milk bottling or central distribution stations
Plumbing shops
Production facility, multimedia
Radio transmitting and television stations; provided, that towers are of the self-sustaining type without guys
Replating shop
Retail lumberyard including mill and sash work (Mill and sash work shall be conducted within a completely enclosed building)
Small boat building
Soda water and soft drink bottling and distribution plants
Solar energy facilities
Tire repair operation including recapping and retreading
Utility facilities, minor, and substations up to, and including 69 kv transmission
Warehouse, storage and loft buildings

Honorable Richard T. Bissen Jr., Mayor  
 For Transmittal to:  
 Honorable Alice L. Lee, Chair  
 January 29, 2024  
 Page 4

Wearing apparel manufacturing
Wholesale business, storage buildings, nonexplosive goods and warehouses

2. That the permitted uses and special uses in the “M-2, Heavy Industrial” District shall be limited to those outlined in the following table.

<b>M-2 Heavy Industrial</b>
Any use permitted in a B-1, B-2, and B-3 business district and M-1 light industrial district except single-family dwellings, duplexes, bungalow courts, short-term rental homes, and transient vacation rentals and apartments (Except for living quarters used by security/watchmen or custodians of an industrially used property)
Automobile wrecking, if conducted within a building
Boiler and steel works
Concrete or cement products manufacture
Factories
Junk establishment used for storing depositing, or keeping junk or similar goods for business purposes (Such establishment shall not be nearer than 8 feet from any other property line for the storage of the junk or similar goods except in buildings entirely enclosed with walls)
Lumber yard
Machine shops
Material recycling and recovery facilities
Oil storage plants
Petroleum products manufacture or wholesale storage of petroleum
Planing mill
Utility facilities, major
In general those uses which may be obnoxious or offensive by reason of emission of odor, dust, smoke, gas, noise, vibration and the like and not allowed in any other district. Provided, however, that any use not specified in this section shall not be permitted unless approved by the Planning Director as conforming to the intent of this title
<b>M-2 Heavy Industrial Special Uses</b>
Asphalt manufacture of refueling and asphaltic concrete plant
Rock, sand, gravel, or earth excavation, crushing or distribution

3. That the conditions associated with Decision & Order for Docket No. A19-809 approved by the State of Hawaii Land Use Commission shall be applicable to the project area.
4. The Applicant shall provide the Commission and Department with an Annual Report regarding occupancy of the Miki 200 Industrial Park. Information shall include number of inquiries and number of executed leases. Without disclosing

Honorable Richard T. Bissen Jr., Mayor  
For Transmittal to:  
Honorable Alice L. Lee, Chair  
January 29, 2024  
Page 5

private and proprietary information, the Applicant should include whether the inquiry was made or executed lease is held by a resident of Lānaʻi. Reports shall be provided as long as the Commission deems necessary.

5. The Applicant shall provide the Commission and Department with Semi-Annual Water Usage Reports for each category of water (i.e., drinking, brackish, R-1, etc.) for the Miki 200 Industrial Park for as long as the Commission deems necessary.

Inasmuch as Council approval is required for the Change of Zoning, the Department transmits the subject application to the Council for consideration. Accordingly, attached for your review are the following documents:

1. Proposed bill entitled, "A BILL FOR AN ORDINANCE TO CHANGE ZONING FROM AGRICULTURAL AND INTERIM TO M-1, LIGHT INDUSTRIAL AND M-2 HEAVY INDUSTRIAL FOR PROPERTY SITUATED AT LĀNAʻI, HAWAII TAX MAP KEY (2) 4-9-002:061,
2. Letter from Kathleen Ross Aoki, Planning Director to Dr. Keiki-Pua S. Dancil, Senior Vice President, Pulama Lanai, dated August 29, 2023, with the Lanai Planning Commission's recommendation for Council approval of the Change of Zoning with conditions, and approval of the County Special Use Permit with conditions contingent upon passage of the Change of Zoning by the Council.
3. Department's Staff Report and Recommendation to the LPC, dated August 16, 2023;
4. LPC minutes of the August 16, 2023, meeting;
5. Applications for the Change of Zoning and County Special Use Permit; and
6. Final Environmental Assessment dated February 2022.

Thank you for your attention to this matter. Should you have any questions, please transmit them to the Department of Planning via transmittal through the Office of the Mayor.

Sincerely,



KATE L. K. BLYSTONE  
Acting Planning Director

Honorable Richard T. Bissen Jr., Mayor  
For Transmittal to:  
Honorable Alice L. Lee, Chair  
January 29, 2024  
Page 6

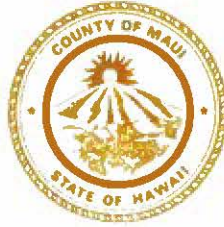
Attachments: Proposed Bill  
Lanai Planning Commission Recommendation Letter dated August 29, 2023  
Department Staff Report and Recommendation  
Lanai Planning Commission Minutes dated August 16, 2023  
Change of Zoning and county Special Use Permit Applications  
Final Environmental Assessment dated February 2022  
xc: Jordan E. Hart, Planning Program Administrator (PDF)  
Danny A. Dias, Planning Program Administrator (PDF)  
Kurt F. Wollenhaupt, Staff Planner (PDF)  
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**RICHARD T. BISSEN JR.**  
Mayor

**KATHLEEN ROSS AOKI**  
Planning Director

**GARRETT E. SMITH**  
Deputy Director



**DEPARTMENT OF PLANNING  
COUNTY OF MAUI  
ONE MAIN PLAZA  
2200 MAIN STREET, SUITE 315  
WAILUKU, MAUI, HAWAII 96793**

August 29, 2023

Dr. Keiki-Pua S. Dancil  
Senior Vice President of  
Government Affairs & Strategic Planning  
Pulama Lanai  
733 Bishop Street, Suite 1500  
Honolulu, Hawaii 96813

Dear Dr. Dancil:

**SUBJECT: LANAI PLANNING COMMISSION RECOMMENDATION OF APPROVAL FOR A CHANGE OF ZONING AND APPROVAL OF A COUNTY SPECIAL USE PERMIT FOR THE MIKI BASIN INDUSTRIAL PARK, LOCATED ON 200 ACRES OF LAND IDENTIFIED BY MAUI TAX MAP KEY: (2)4-9-002:061(POR.) (ZPA2022-00005) (CSUP2023-00002)**

At a regular meeting on August 16, 2023, the Lanai Planning Commission (Commission) reviewed the above applications, received public testimony, and after due deliberation, recommended the Maui County Council's (Council) approval of the Change of Zoning (CIZ) with conditions, and approved the County Special Use Permit (CSUP) for the asphalt plant and rock crushing facilities contingent upon the County Council passage of the associated CIZ. The CIZ will be forwarded to the County Council for review and decision-making.

**CHANGE OF ZONING**

The Commission recommended approval of the Change of Zoning along with updated maps reflecting changes by Tax Map Key (TMK) shown in the maps of **Exhibit 1**.

The Change of Zoning will change the Zoning District from "Agricultural" to "M-1, Light Industrial" on 100 acres and from "Agricultural" and "Interim" to "M-2, Heavy Industrial" on 100 acres, and is subject to approval by the Council with the following recommended conditions:

1. That the permitted uses in the "M-1, Light Industrial" District shall be limited to those outlined in the following table:

<b>M-1 Light Industrial</b>	
Any use permitted in a B-1, B-2, or B-3 business district except single-family dwellings, duplexes, bungalow courts, short-term rental homes, and transient vacation rentals	
Dwelling units located in the same building as any non-dwelling permitted use	
Assembly of electrical appliances, radios and phonographs including the manufacture of small parts such as coils, condensers crystal holders and the like	
Carpet cleaning plants	
Cold storage plants	
Commercial laundries	
Craft cabinet and furniture manufacturing	
Education, specialized	
Farm implement sales and service	
General food, fruit and vegetable processing and manufacturing plants	
Ice cream and milk producing, manufacturing and storage	
Laboratories – experimental, photo or motion picture, film or testing	
Light and heavy equipment and product display rooms, storage and service	
Machine shop or other metal working shop	
Manufacture, compounding or treatment of articles or merchandise from the following previously prepared materials: aluminum, bone, cellophane, canvas, cloth, cork, feathers, felt, fiber, fur, glass, hair, horn, leather, plastics, precious or semi-precious metals or stones, shell, tobacco and wood	
Manufacture, compounding, processing, packing or treatment of such products as candy, cosmetics, drugs, perfumes, pharmaceutical, toiletries, and food products. (except the rendering or refining of fats and oils)	
Manufacture, dyeing and printing of cloth fabrics and wearing apparel	
Manufacture of musical instruments, toys, novelties and rubber and metal stamps	
Manufacture of pottery and figurines or other similar ceramic products	
Milk bottling or central distribution stations	
Plumbing shops	
Production facility, multimedia	
Radio transmitting and television stations; provided, that towers are of the self-sustaining type without guys	
Replating shop	
Retail lumberyard including mill and sash work (Mill and sash work shall be conducted within a completely enclosed building)	
Small boat building	
Soda water and soft drink bottling and distribution plants	
Solar energy facilities	
Tire repair operation including recapping and retreading	
Utility facilities, minor, and substations up to, and including 69 kv transmission	
Warehouse, storage and loft buildings	
Wearing apparel manufacturing	
Wholesale business, storage buildings, nonexplosive goods and warehouses	

2. That the permitted uses and special uses in the “M-2, Heavy Industrial” District shall be limited to those outlined in the following table.

<b>M-2 Heavy Industrial</b>
Any use permitted in a B-1, B-2, and B-3 business district and M-1 light industrial district except single-family dwellings, duplexes, bungalow courts, short-term rental homes, and transient vacation rentals and apartments (Except for living quarters used by security/watchmen or custodians of an industrially used property)
Automobile wrecking, if conducted within a building
Boiler and steel works
Concrete or cement products manufacture
Factories
Junk establishment used for storing depositing, or keeping junk or similar goods for business purposes (Such establishment shall not be nearer than 8 feet from any other property line for the storage of the junk or similar goods except in buildings entirely enclosed with walls)
Lumber yard
Machine shops
Material recycling and recovery facilities
Oil storage plants
Petroleum products manufacture or wholesale storage of petroleum
Planing mill
Utility facilities, major
In general those uses which may be obnoxious or offensive by reason of emission of odor, dust, smoke, gas, noise, vibration and the like and not allowed in any other district. Provided, however, that any use not specified in this section shall not be permitted unless approved by the Planning Director as conforming to the intent of this title
<b>M-2 Heavy Industrial Special Uses</b>
Asphalt manufacture of refueling and asphaltic concrete plant
Rock, sand, gravel, or earth excavation, crushing or distribution

3. That the conditions associated with Decision & Order for Docket No. A19-809 approved by the State of Hawaii Land Use Commission (LUC) shall be applicable to the project area.
4. The Applicant shall provide the Commission and Planning Department (Department) with an annual report regarding occupancy of the Miki 200 Industrial Park. Information shall include number of inquiries and number of executed leases. Without disclosing private and proprietary information, the Applicant should include whether the inquiry was made or executed lease is held by a resident of Lanai. Reports shall be provided as long as the Commission deems necessary.
5. The Applicant shall provide the Commission and Department with semi-annual water usage reports for each category of water (i.e., drinking, brackish, R-1, etc.) for the Miki 200 Industrial Park for as long as the Commission deems necessary.

### **COUNTY SPECIAL USE PERMIT**

The Lanai Planning Commission voted to approve the County Special Use Permit (CSUP) subject to the following:

The CSUP shall allow: 1) asphalt manufacture of refueling and asphaltic concrete plant, and 2) rock, sand, gravel or earth excavation, crushing or distribution subject to the following conditions:

1. That the CSUP shall be valid until **August 31, 2033**, subject to extension by the Lanai Planning Commission upon a timely request for extension filed at least 90 days prior to its expiration.
2. That the CSUP shall not be transferred without the prior written approval of the Lanai Planning Commission.
3. That the Applicant, its successors and permitted assigns shall exercise reasonable due care as to third parties with respect to all areas affected by subject CSUP and shall procure at its own cost and expense, and shall maintain during the entire period of this CSUP, a policy or policies of comprehensive liability insurance in the minimum amount \$1,000,000.00 naming the County of Maui (County) as an additional insured, insuring and defending the applicant and County against any and all claims or demands for property damage, personal injury and/or death arising out of this permit, including but not limited to: (1) claims from any accident in connection with the permitted use, or occasioned by any act or nuisance made or suffered in connection with the permitted use in the exercise by the Applicant of said rights; and (2) all actions, suits, damages and claims by whomsoever brought or made by reason of the non-observance or non-performance of any of the terms and conditions of this permit. Proof of a policy naming County as an additional insured shall be submitted to the Department within 90 calendar days from the date of transmittal of the decision and order.
4. That full compliance with all applicable governmental requirements shall be rendered by the Applicant.
5. That the Applicant shall submit to the Department a digital copy of a detailed initial and final report addressing its compliance with the conditions established with the subject CSUP. A preliminary report shall be reviewed and approved by the Department prior to issuance of a building permit. Additionally, a Final Compliance Report shall be submitted to the Department for review and approval prior to issuance of a Certificate of Occupancy.
6. That the Applicant shall develop the property in substantial compliance with the representations made to the Commission in obtaining the CSUP. Failure to so develop the property may result in the revocation of the permit.
7. That all exterior illumination shall consist of fully shielded downward lighting throughout the project.



8. That no quarrying operations shall be permitted on the subject site, without express written approval of the Commission.
9. That upon termination of the rock crushing facility and asphalt plant, all equipment and materials for rock crushing operations shall be removed and the site shall be restored in a manner to prevent erosion from wind and rain and in a manner that would not adversely affect natural drainage patterns.
10. That appropriate measures, as governed by the Department of Health, shall be taken during the operation of the rock crushing facility and asphalt plant to mitigate impacts relative to dust and soil erosion by wind and water and increased ambient noise levels.
11. That the hours of operations of the rock crushing facility and asphalt plant shall be limited to the period beginning at 7:00 a.m. and ending at 3:30 p.m. Monday thru Saturday.
12. That the Applicant shall monitor haulers to and from the rock crushing facility and asphalt plant for potential leakage of materials from their loads and maintain the driveway to the plant, removing loose aggregate and other debris associated with their operation

Thank you for your cooperation. If additional clarification is required, please contact Staff Planner Kurt Wollenhaupt at [kurt.wollenhaupt@mauicounty.gov](mailto:kurt.wollenhaupt@mauicounty.gov) or at (808) 280-1789.

Sincerely,



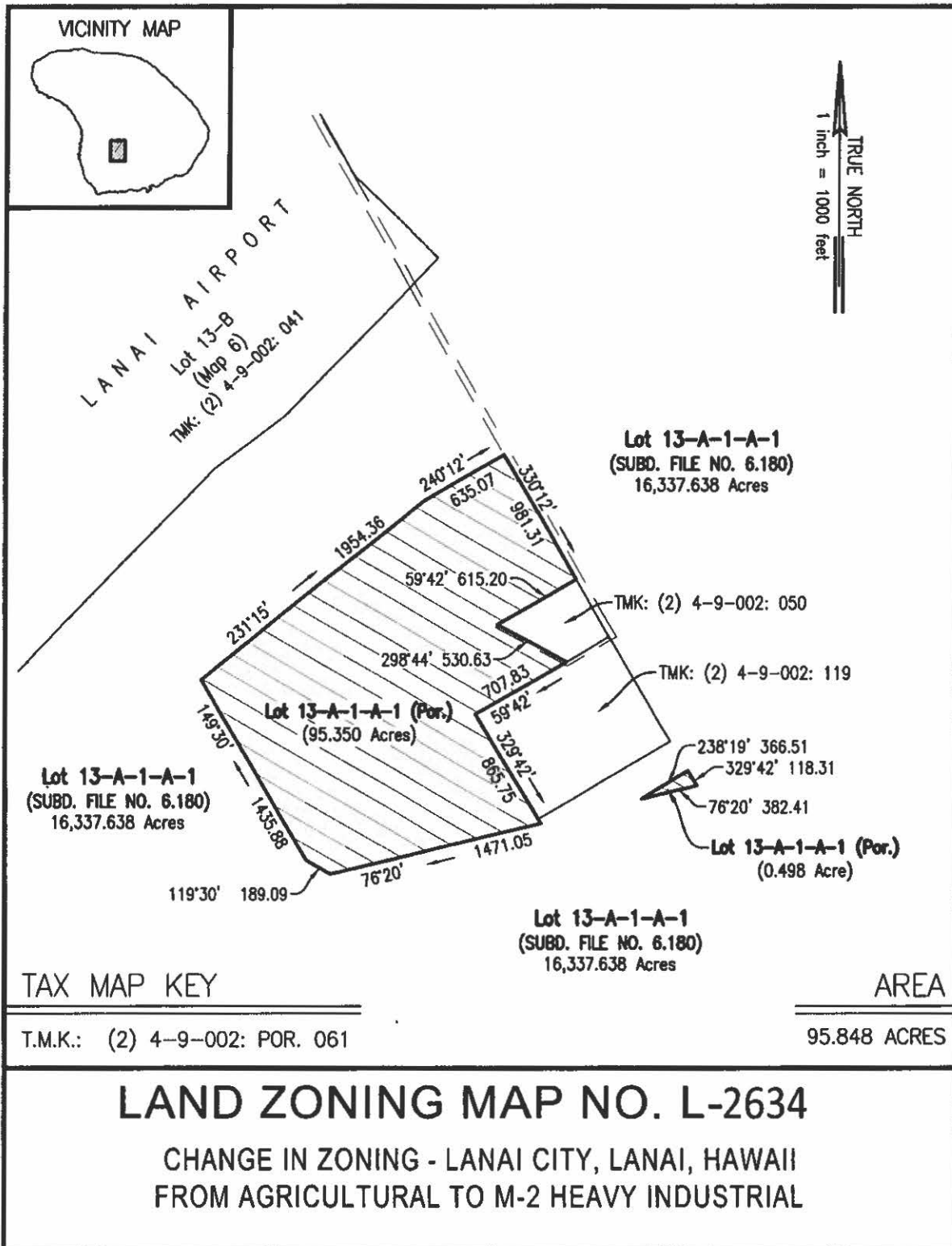
KATHLEEN ROSS AOKI  
Planning Director

Attachment: Exhibit 1 – Land Zoning Maps

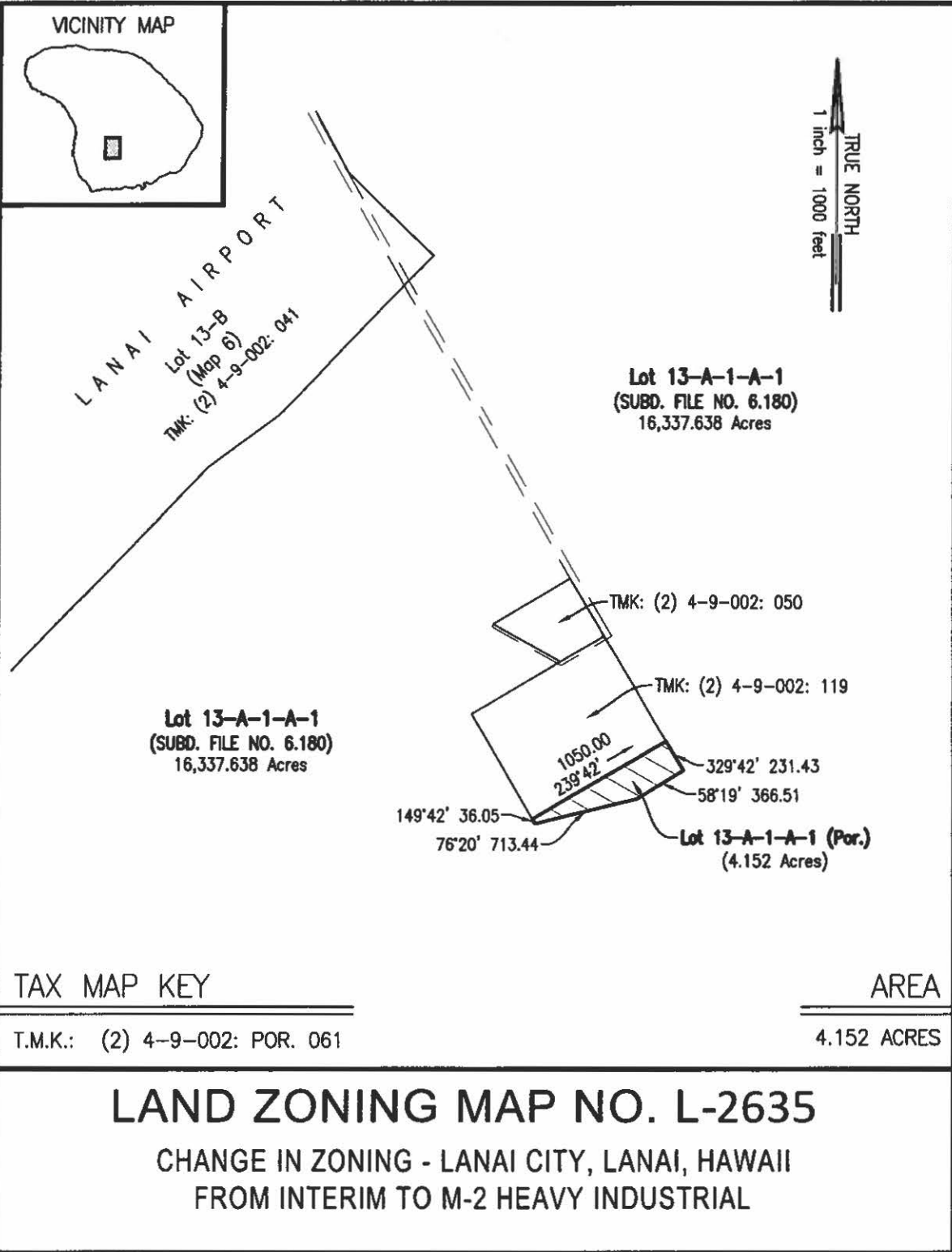
xc: Ann T. Cua, Planning Program Administrator (PDF)  
Jordan E. Hart, Planning Program Administrator (PDF)  
Kurt F. Wollenhaupt, Staff Planner (PDF)  
Tessa Munekiyo Ng, Consultant, Munekiyo Hiraga (PDF)  
Keiki-Pua S. Dancil, PhD, Applicant, Pulama Lanai (PDF)

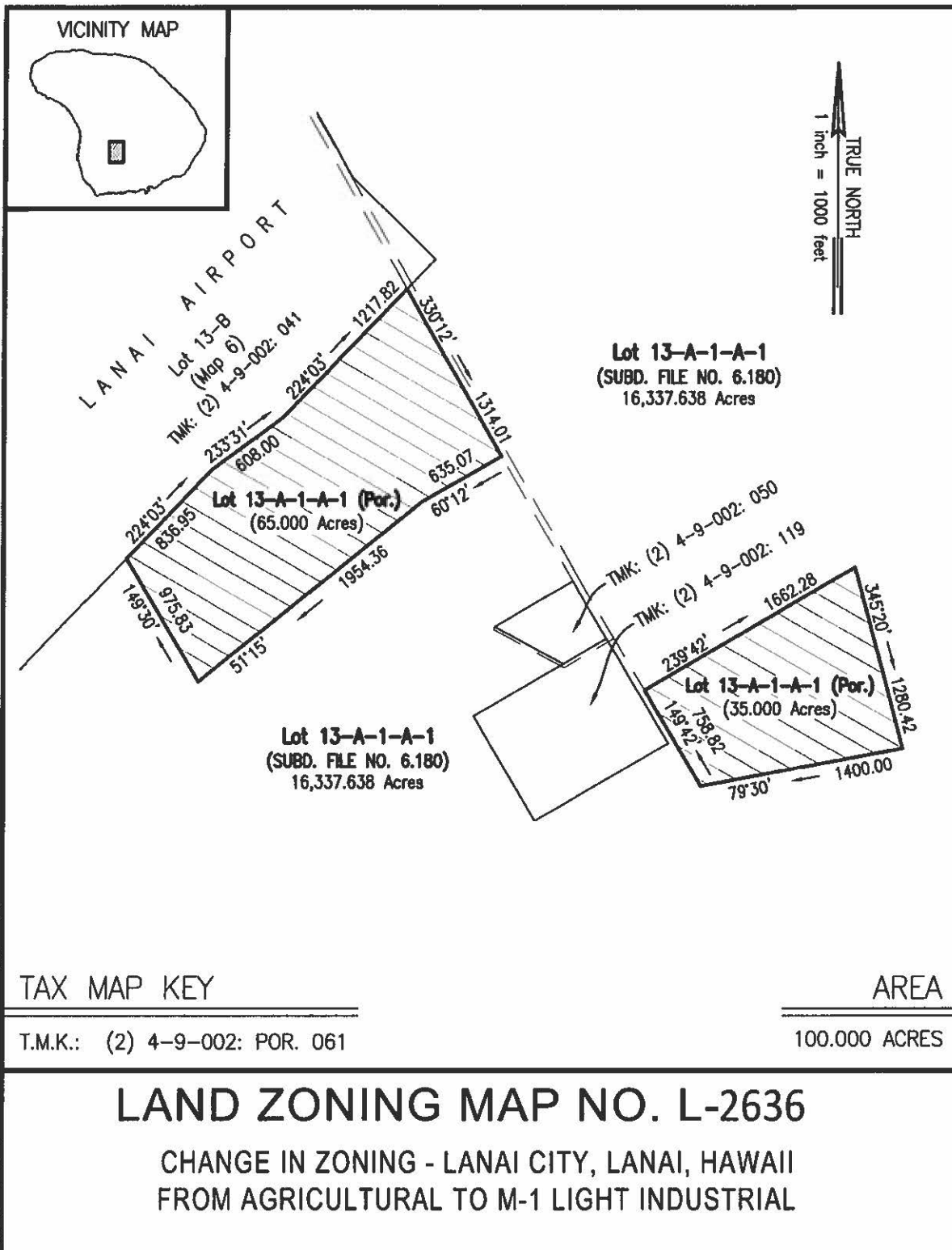
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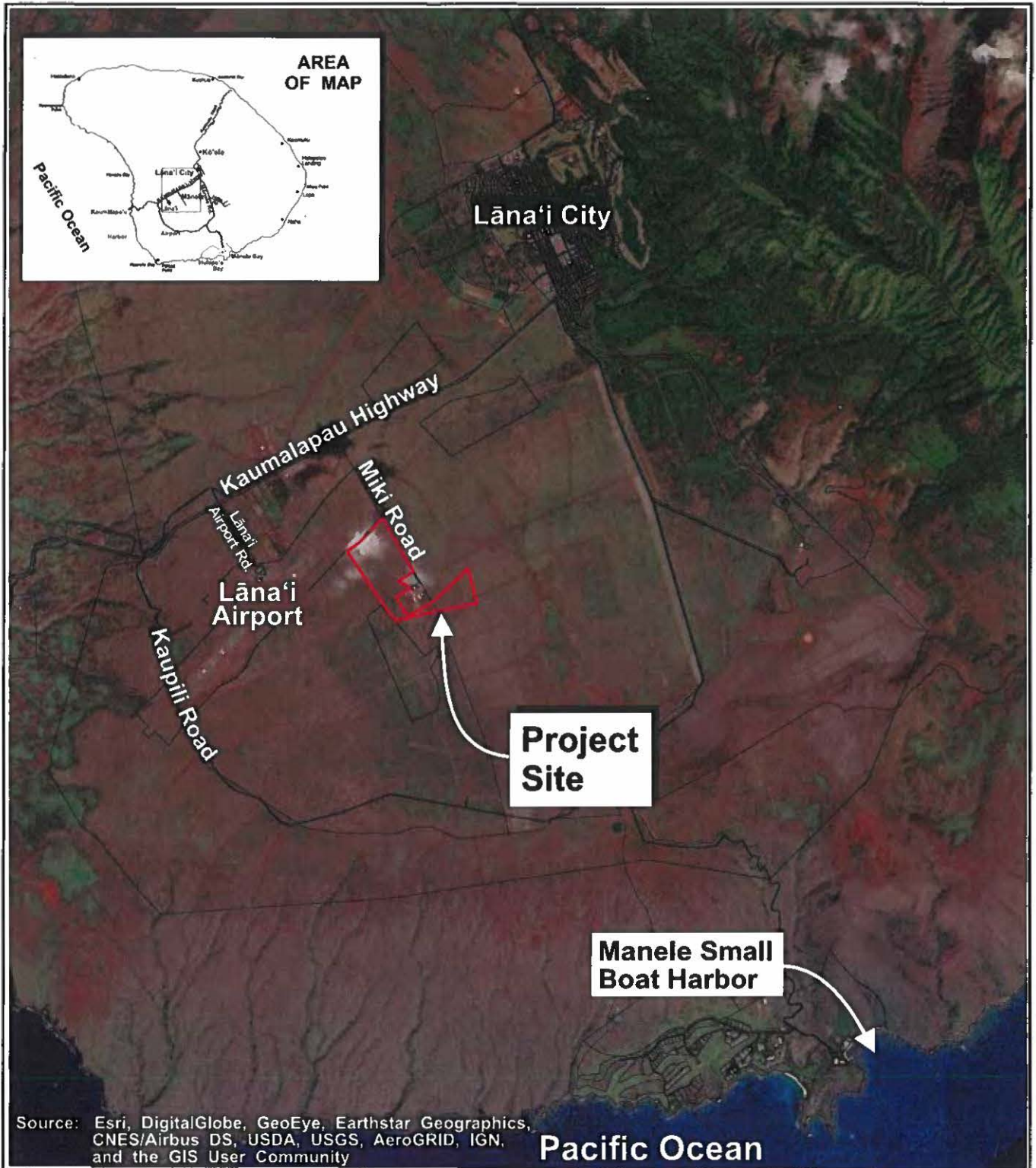


**EXHIBIT**









## Miki Basin Industrial Park Regional Location Map

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Feet



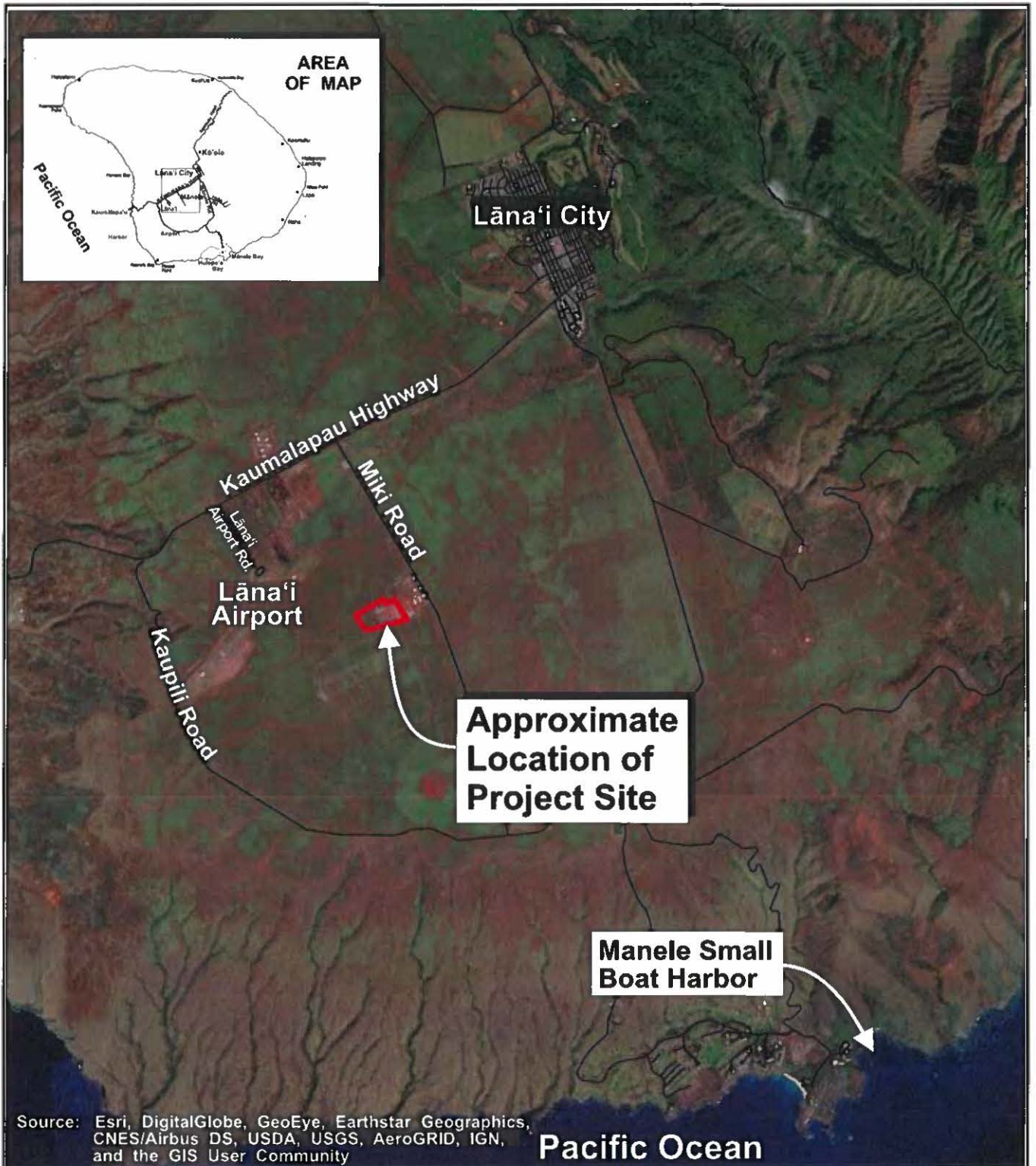
Prepared for: Lanai Resorts LLC, a Hawaii Limited Liability  
Company doing business as Pūlama Lānaʻi

 MUNEKIYO HIRAGA

Pulama Lanai\MikiBasinExp 1769\Applications\Figures\Reg Location.NOA.BW

**EXHIBIT /**





## Asphalt Plant and Rock Crushing Facilities at Miki Basin Industrial Park

### Regional Location Map

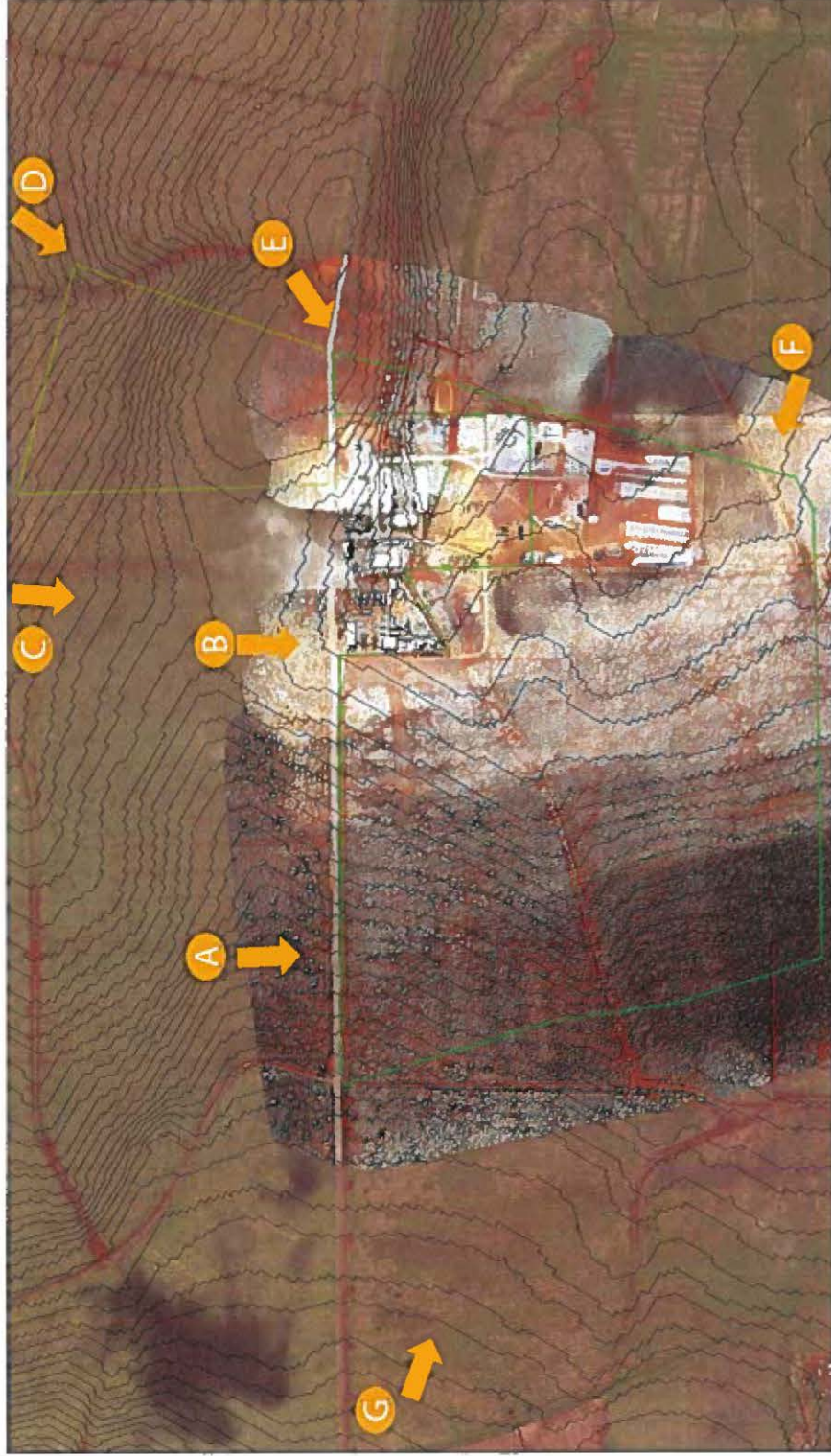


Prepared for: Lanai Resorts LLC, a Hawaii Limited Liability Company doing business as Pūlama Lānaʻi

 MUNEKIYO HIRAGA



**MIKI 200 AERIAL WITH INDICATIVE ARROW VIEW AND IDENTIFIERS FOR PROJECT PHOTOGRAPHS**



**EXHIBIT 2**

## VIEW FROM A

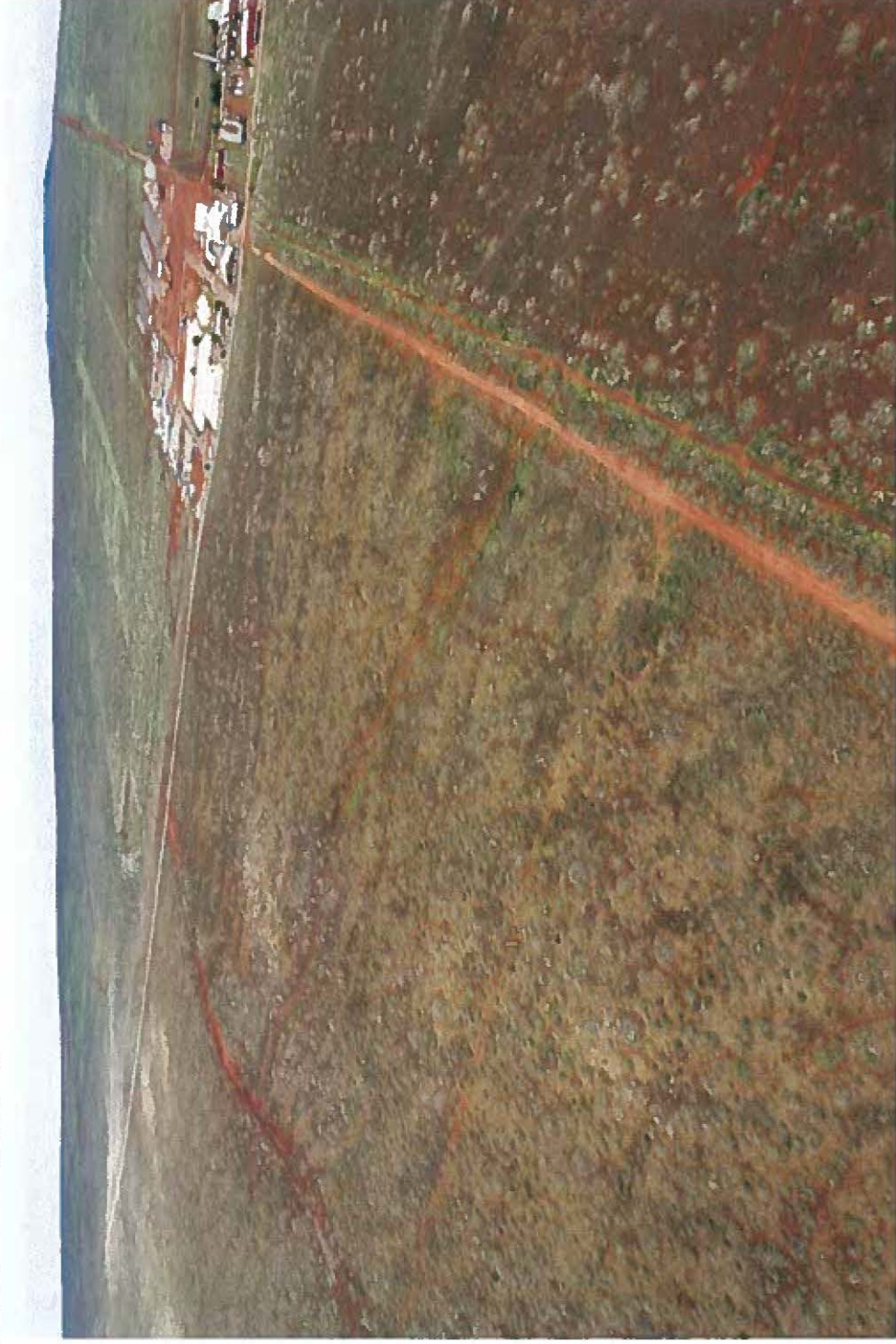




## VIEW FROM B



## VIEW FROM C

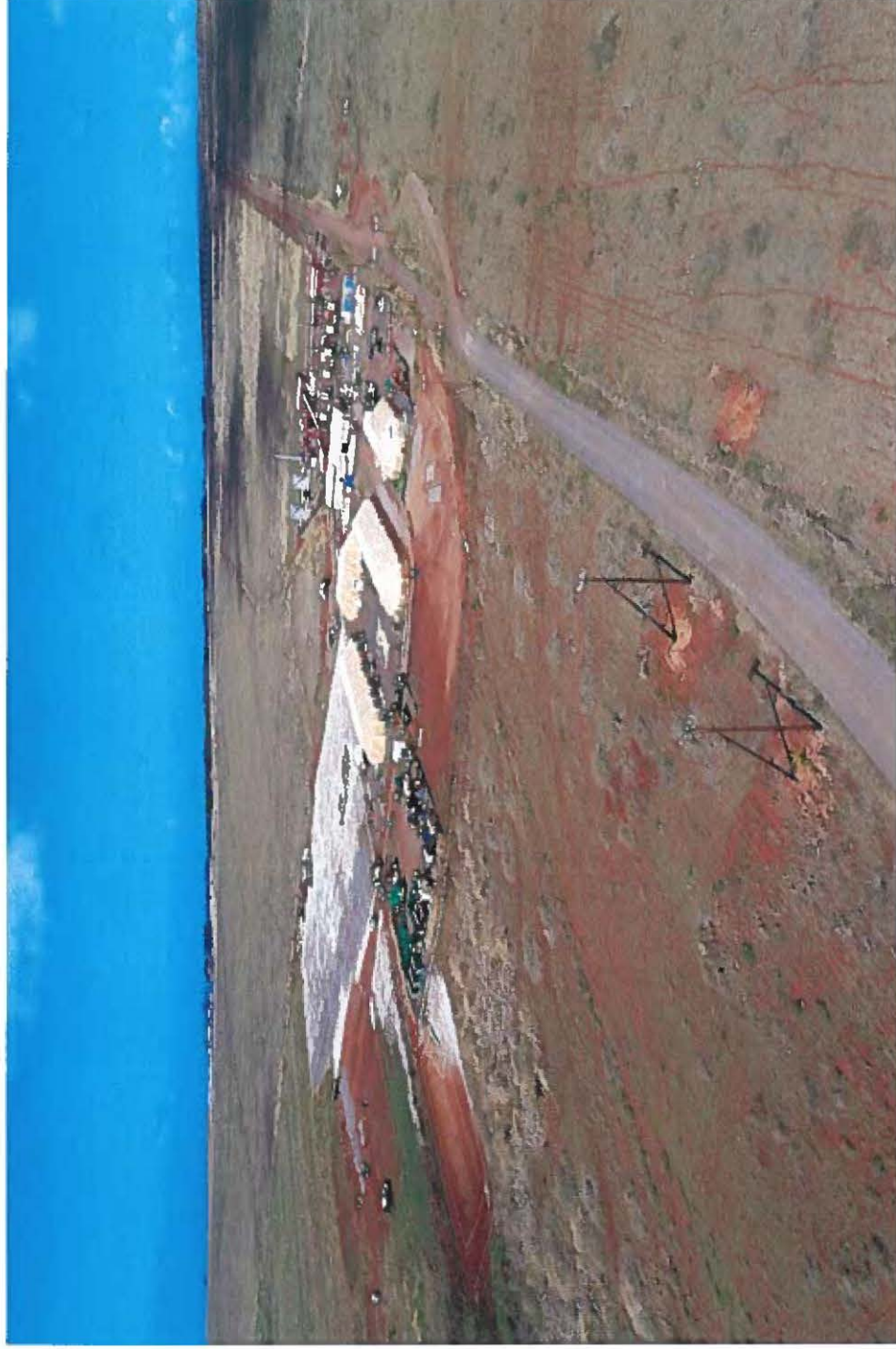




## VIEW FROM D



## VIEW FROM E





## VIEW FROM F

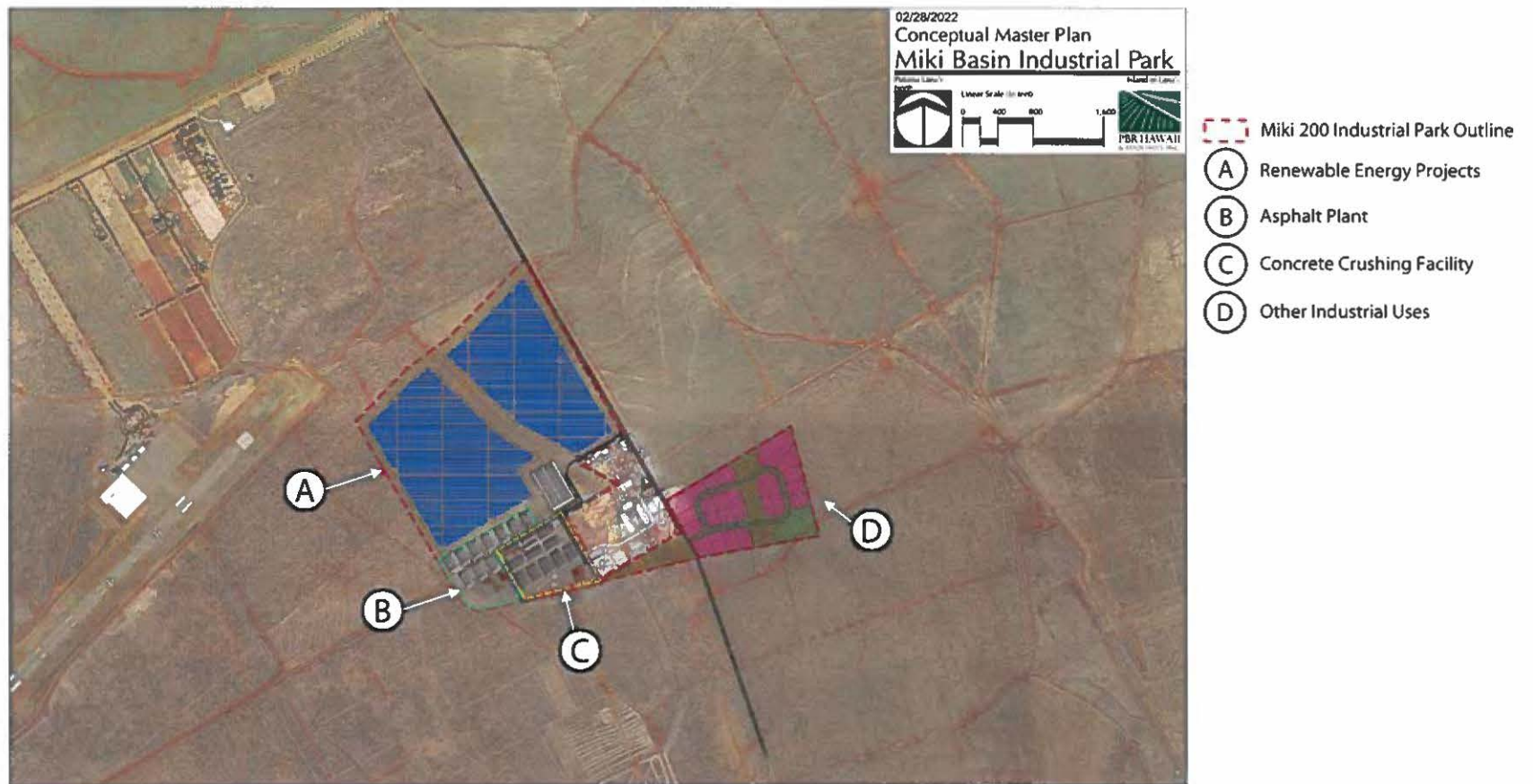


## VIEW FROM G

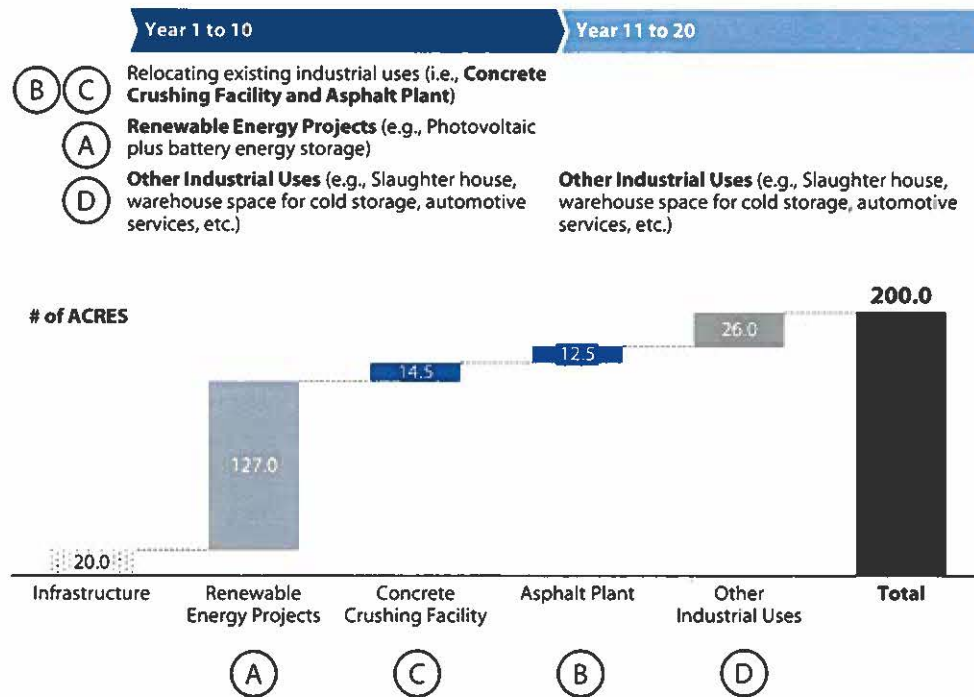




# CONCEPTUAL MASTER PLAN FOR MIKI 200 BASIN INDUSTRIAL PARK



# TIMELINE, ACREAGE, AND CONCEPTUAL SITE RENDERING FOR MIKI 200 INDUSTRIAL PARK



The conceptual master plan for Miki 200 Basin Industrial Park is illustrated in Figure 1. It should be noted that the site plan at this point for the project area is conceptual and the information provided below describing the size of structures, hours of operation, number of employees, etc. could change depending on a multitude of factors including economic conditions, technological advancements, etc.

## CONCEPTUAL MASTER PLAN FOR MIKI 200 BASIN INDUSTRIAL PARK

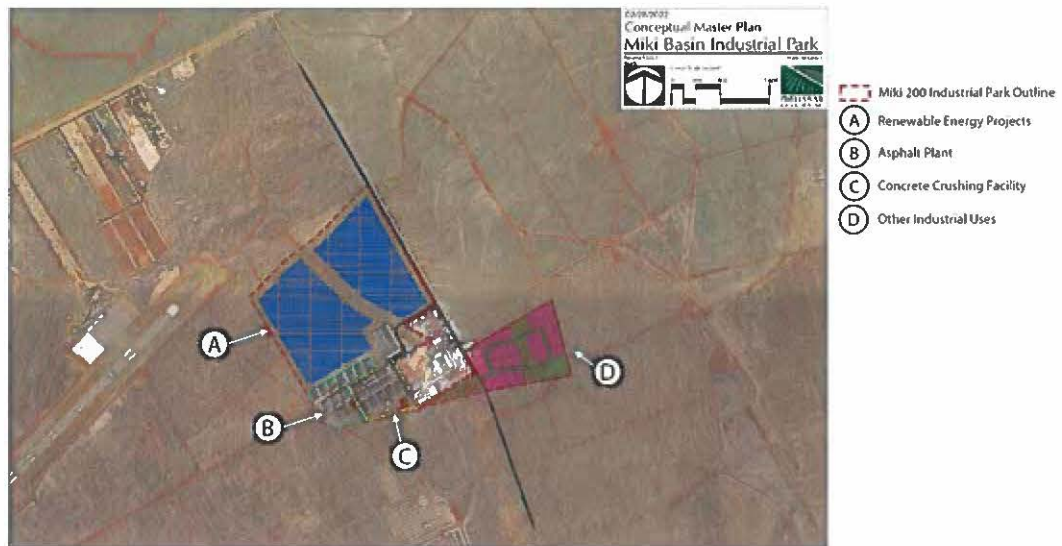


Figure 1: Conceptual site plan.

### **Descriptions of areas identified in Figure 1**

#### **A: Renewable Energy Projects**

The Renewable Energy Project site will include 127 acres for renewable energy projects, including photovoltaic equipment and battery energy storage. Its location is adjacent to the Hawaiian Electric Company's (HECO) fossil fuel power plant. Future renewable energy projects that will be constructed here will significantly reduce the connection costs associated with bringing the renewable energy project online, due to its close proximity to the HECO substation. The electricity generated by the renewable energy project will provide clean energy for 95 percent of the energy demand for the island of Lānaʻi. By replacing the use of fossil fuels with renewable energy, Lānaʻi will increase its resiliency and minimize the impacts of price fluctuations based on the price of oil.

The renewable energy projects may be constructed by a third party. The State has a goal to reach 100 percent renewable energy by 2045. Facilities and equipment at the Applicant's site may include but is not limited to photovoltaic panels, battery energy storage systems, substation structures, control equipment enclosure cabinets, circuit breakers, transformers, relays, switches, arresters, telecommunication equipment and security equipment.





Figure 2: Aerial image of Kaua'i Island Utility Cooperative (KIUC) Photovoltaic and Battery Energy Storage Project. Provided here as a visual representation of what will be located in the future.

#### B: Asphalt Plant

The Asphalt Plant area will be 12.5 acres. The table below summarizes the structures that are contemplated to be located at the Asphalt Plant; however, as noted above these are estimates based on the current structures in another location and could be altered. In general, the equipment is similar. Further, approximately 90 percent of the area is aggregate stockpiled material.

Equipment or Structure Name	Description (Providing specific equipment description; however, we reserve the right to switch equipment vendors. The functionality will remain similar.)	Size of structure (sqft)
Asphalt Plant	110 ton per hour Asphalt Drum Mixers, Inc. hot mix asphaltic concrete batching plant, which includes: <ul style="list-style-type: none"> <li>- Rotary drum dryer model SPL110</li> <li>- Hot oil tank/heater</li> <li>- Venturi wet scrubber with sediment collection pond</li> <li>- Hot mix silo</li> <li>- Aggregate bins</li> <li>- Conveyor belt assemblies</li> </ul>	79,000
Aggregate Stockpiles	Rock and sand material stockpiles required to support asphalt batching operations	
Portable Restrooms	1 portable restroom unit	10
Office Trailer	Mobile office trailer	220

- Hours of operation: 7:00 am – 3:30 pm

- Estimated number of employees: The crushing operation will require 6 to 8 employees, the concrete batching operation will require up to 9 employees and the asphalt batching operation will require up to 8 employees anticipating a moderate amount of growth.
  - It should be noted that there are shared resources of employees at the asphalt plant and concrete crushing operation.
- Estimated relocation of equipment: Relocation to commence within a year of approval of all entitlements, subject to availability of island operations and other projects.
- Landscaping: No landscaping improvements are contemplated in the industrial area.
- Construction cost estimate: No new construction of structures are estimated at this time. Either relocation of existing structures or pre-fabricated structures will be installed.



*Figure 3: Aerial image of existing Asphalt Plant on Lānaʻi. This is provided as a visual representation of what the area will look like in the future.*

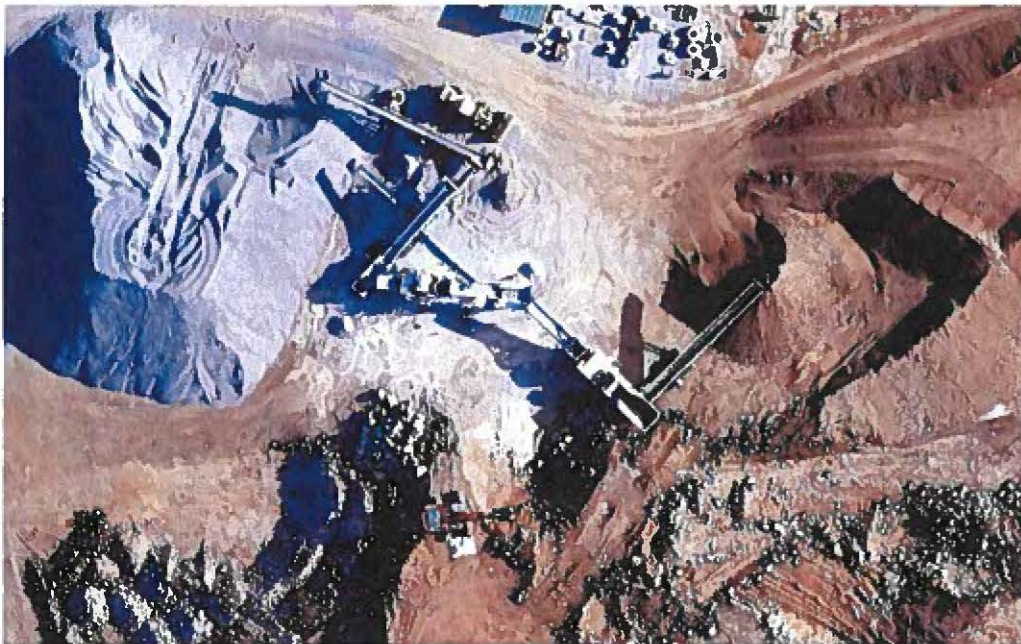
### **C: Concrete Crushing Facility**

The Concrete Crushing Facility area will be 14.5 acres and will include two separate operations; a natural rock material and demolished concrete crushing operation and a concrete batching operation. It should be noted that approximately 90 percent of the area is aggregate stockpiled material. The table below summarizes the structures that are contemplated to be located at the Concrete Crushing Facility; however, as noted above these are estimates based on the current structures in another location and could be altered. In general the equipment is similar.

<b>Equipment or Structure Name</b>	<b>Description</b> (Providing specific equipment description; however, we reserve the right to switch equipment vendors. The functionality will remain similar.)	<b>Size of structure (sqft)</b>
Scale house	100,000 pound certified weigh scale for all aggregate and vehicle measurements	700 (platform with office container)
Concrete Batch Plant	200 cubic yards per hour Con-E-Co Lopro327 portable dry batch concrete plant, which includes: <ul style="list-style-type: none"> <li>• Aggregate bins</li> <li>• Weigh scales</li> <li>• Air compressors</li> <li>• Hoppers</li> <li>• Belt and screw conveyor assemblies</li> </ul>	25,000
Cement Silo Storage	<ul style="list-style-type: none"> <li>• Two 60 ton vertical cement silos,</li> <li>• 150 ton vertical cement silo</li> <li>• 125 ton horizontal cement trailer</li> </ul>	
Aggregate Stockpiles	Rock and sand material stockpiles required to support concrete batching operations	
Concrete Washout Pit	Lined excavation pit that facilitates cleaning cement mixer trucks. Contents are dried and then safely disposed.	
Crushing Equipment	460 ton per hour mobile crushing plant and associated conveyor belts	16,400
Office Trailer	Williams Scotsman mobile office trailer	360
Portable Restrooms	1 portable restroom unit	10
Water tank	10,000 gallon water tank	150

- Hours of operation: 7:00 am – 3:30 pm
- Estimated number of employees: The crushing operation will require 6 to 8 employees, the concrete batching operation will require up to 9 employees and the asphalt batching operation will require up to 8 employees anticipating a moderate amount of growth.
  - It should be noted that there are shared resources of employees at the asphalt plant and concrete crushing operation.
- Estimated relocation of equipment: Relocation to commence within a year of approval of all entitlements, subject to availability of island operations and other projects.
- Landscaping: No landscaping improvements are contemplated in the industrial area.
- Construction cost estimate: No new construction of structures are estimated at this time. Either relocation of existing structures or pre-fabricated structures will be installed.



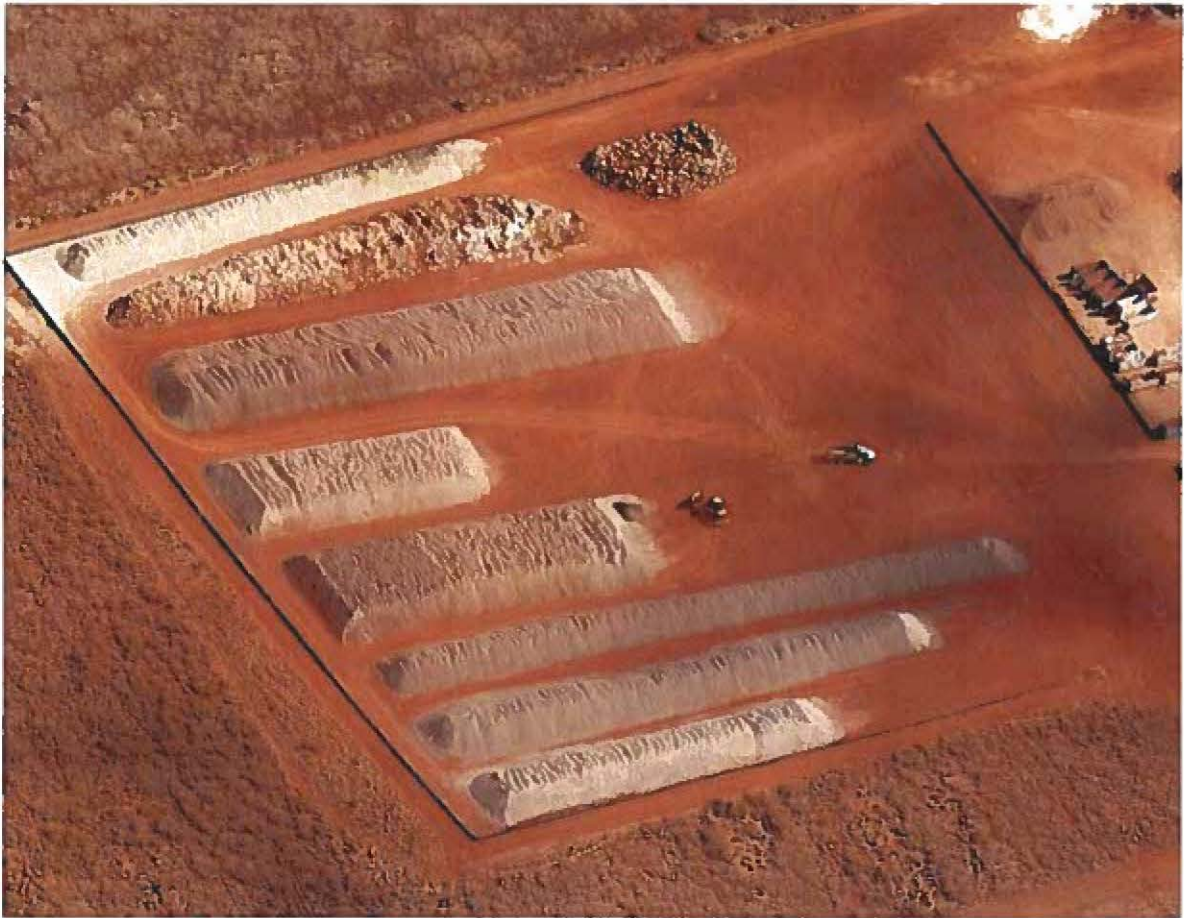


*Figure 4: Concrete Crushing Operation site on Lānaʻi, providing as a visual representation of similar equipment that will be located in the future.*



*Figure 5: Aerial image of existing Concrete Batch Plant on Lānaʻi. This is provided as a visual representation of what the area will look like in the future*





*Figure 6: Aerial image of aggregate stockpiles currently in the area.*

#### **D: Other Industrial Uses**

The other industrial uses will be 26 acres and will consist of uses allowed under Maui County Code "M-1, Light Industrial" and "M-2, Heavy Industrial" zoning. While the specific uses have not been identified at this time, possible new future industrial uses may include a slaughterhouse, warehouse space for cold storage, animal hospital or other uses.

There are no buildings or site plan contemplated, at this time. The area includes potential developable areas in purple, a detention basin in green, a steep slope bank in army green (not developable), and an on-site loop road.



'23 MAR 28 P4:59

BEFORE THE LAND USE COMMISSION  
OF THE STATE OF HAWAII

In the Matter of the Petition of	)	DOCKET NO. A19-809
PŪLAMA LĀNA'I,	)	
	)	
To Amend the Agriculture Land Use District	)	FINDINGS OF FACT, CONCLUSIONS OF
Boundaries into the Urban Land Use District	)	LAW, DECISION AND ORDER, AND
for approximately 200 acres of land, consist-	)	CERTIFICATE OF SERVICE TO AMEND
ing of a portion of Tax Map Key No. (2) 4-9-	)	THE LAND USE DISTRICT BOUNDARIES
002:061 (por.) at Lāna'i City, Island of	)	
Lāna'i, County of Maui, State of Hawai'i.	)	
_____	)	

**FINDINGS OF FACT.**  
**CONCLUSIONS OF LAW, DECISION AND ORDER,**  
**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.

Mar 28, 2023

A handwritten signature in black ink, appearing to read "Daniel E. Orodenger".

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



LAND USE COMMISSION  
STATE OF HAWAII

'23 MAR 28 P4:59

BEFORE THE LAND USE COMMISSION

OF THE STATE OF HAWAII

In the Matter of the Petition of	)	DOCKET NO. A19-809
	)	
PŪLAMA LĀNA'I,	)	
	)	
To Amend the Agriculture Land Use District	)	FINDINGS OF FACT, CONCLUSIONS OF
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002:061 (por.) at Lāna'i City, Island of	)	
Lāna'i, County of Maui, State of Hawai'i.	)	
	)	

**FINDINGS OF FACT,**  
**CONCLUSIONS OF LAW, DECISION AND ORDER,**  
**AND**  
**CERTIFICATE OF SERVICE**



LAND USE COMMISSION  
STATE OF HAWAII

'23 MAR 28 P4:59

BEFORE THE LAND USE COMMISSION  
OF THE STATE OF HAWAII

In the Matter of the Petition of	)	DOCKET NO. A19-809
PŪLAMA LĀNA'I,	)	
	)	
	)	
	)	
To Amend the Agriculture Land Use District	)	FINDINGS OF FACT, CONCLUSIONS OF
Boundaries into the Urban Land Use District	)	LAW, DECISION AND ORDER, AND
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002:061 (por.) at Lāna'i City, Island of	)	
Lāna'i, County of Maui, State of Hawai'i.	)	

**FINDINGS OF FACT.**  
**CONCLUSIONS OF LAW, DECISION AND ORDER.**

Petitioner Lāna'i Resorts, LLC, dba Pūlama Lāna'i, a Hawai'i limited liability company ("Pūlama Lāna'i" or "Petitioner") filed a Petition for Land Use District Boundary Amendment on June 7, 2022 ("Petition") with the Land Use Commission of the State of Hawai'i ("Commission") pursuant to Hawai'i Revised Statutes ("HRS") §205-4 and Hawai'i Administrative Rules ("HAR") chapter 15-15 to amend the land use district boundary to reclassify approximately 200 acres of land, comprised of a portion of Tax Map Key No. (2) 4-9-002:061 situated at Lāna'i City, Island of Lāna'i, County of Maui, State of Hawai'i ("Petition Area"). Specifically, Pūlama Lāna'i petitioned 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 for the development of the Miki Basin Industrial Park (“Project” or “Miki Basin”).

The Commission, having heard and examined the testimony, evidence and argument of counsel presented during the hearing, along with the pleadings filed herein, makes the following Findings of Fact, Conclusions of Law and Decision and Order. To the extent these Findings of Fact contain Conclusions of Law, they shall be so considered and construed. To the extent these Conclusions of Law contain Findings of Fact, they shall be so considered and construed.

## **FINDING OF FACT**

### **Procedural History**

1. On December 13, 2019, the Commission agreed to be the accepting authority pursuant to HRS Chapter 343 and determined that the Commission anticipates a Finding of No Significant Impact (“AFONSI”) for the Project.

2. On November 17, 2021, Petitioner submitted a Second Draft Environmental Assessment (“SDEA”) to the Commission, the 2<sup>nd</sup> Draft Environmental Assessment/Final Environmental Assessment is identified as Petitioners Exhibit 2”. The Commission was the accepting agency for the SDEA.

3. On February 4, 2022, Petitioner filed a Motion to Issue a Notice of a FONSI. [11/16/22 Tr. at 12:21-23].

4. On February 16, 2022, after the requisite review and comment period, the Commission held a hearing on the SDEA and, based on its analysis of the significance criteria set forth in HAR § 11-200.1-13 and public comments received, voted to find that the Project will not have any



significant impacts on the environment and determined that a FONSI was warranted for the Project.

5. On February 28, 2022, the Commission transmitted the Final Environmental Assessment and Finding of No Significant Impact (“FEA-FONSI”) to the Office of Planning and Sustainable Developments Environmental Review Program (“ERP”), with a request to publish the FEA-FONSI in the next edition of The Environmental Notice. Pet. Ex. 2 at 1-2.

6. On June 7, 2022, Petitioner filed the Petition with the Commission. Pet. at 1.

7. Copies of the Petition were served on the Maui County Planning Department (“Planning Department” or “County”), Office of Planning and Sustainable Development (“OPSD”), the Maui Planning Commission, the Lāna‘i Planning Commission, and all persons that appeared to have a property interest in the Tax Map Key parcel, a portion of which comprises the Petition Area, as recorded in the County’s real property tax records at the time the Petition was filed pursuant to HAR § 15-15-48.

8. A copy of the Notification of Petition Filing was sent to all persons on the Commission’s State and County mailing lists, pursuant to HAR § 15-15-50(d).

9. On June 21, 2022, the Executive Officer of the Commission deemed the Petition a proper filing and accepted it for processing.

10. On July 20, 2022, Petitioner filed an updated map to support the Petition.

11. On August 18, 2022, OPSD filed its Position Statement in support of the reclassification of the Petition area and Certificate of Service.

12. On August 30, 2022, the County filed its Response to Petitioner’s Motion to Issue Notice of a Finding of No Significant Impact stating it has no objection to the Petition.

13. On September 2, 2022, the County filed its Revised Position Statement and Certificate of Service, in support of the reclassification of the Petition area.

14. On October 3, 2022, OPSD filed its witness list and exhibit list.

15. On October 13, 2022, the Commission received the Department of Land and Natural Resources Chapter 6E-42 Historic Preservation Review of the draft archaeological data recovery plan titled, Archaeological Data Recovery Plan.

16. On October 15, 2022, Petitioner caused the Notice of Hearing for the Miki Basin Industrial Park Land Use District Boundary Amendment Petition ("Notice of Hearing") to be published in the Maui News, a newspaper of general circulation in the County of Maui where the subject property is located pursuant to HAR §15-15-51(c).

17. On October 17, 2022, Petitioner caused the Notice of Hearing to be published in the Honolulu Star Advertiser, a newspaper of general circulation in the State of Hawai'i pursuant to HAR § 15-15-51(c).

18. On October 19, 2022, OPSD filed its Testimony in Support of the reclassification with Conditions 1-11, Exhibits, and Certificate of Service. Identified as OPSD testimony and Exhibits 1 through 8.

19. On October 21, 2022, the Petitioners Notice of Hearing and Certificate of Service was received by the Commission.

20. On October 21, 2022, The Notice of Hearing was served on the Planning Department, OPSD, the Maui Planning Commission, the Lāna'i Planning Commission, and all persons that appeared to have a property interest in the Tax Map Key parcel, a portion of which comprises the Petition Area, as recorded in the County's real property tax records at the time the Petition was filed pursuant to HAR § 15-15-51(b).

21. The Notice of Hearing was also sent to all persons on the Commission's state and County mailing lists of persons who have made a timely written request for advance notice of boundary amendment proceedings, pursuant to HAR § 15-15-50(c).

22. On October 24, 2022, the Commission received Petitioner's Exhibit List, Witness List, and Exhibits 13 through 19.

23. On October 31, 2022, the County filed its Witness List and refiled its Position Statement in support of the Petition.

24. On November 1, 2022, the Notice of Hearing was filed with the Lieutenant Governor's Office in accordance with HAR § 15-15-51(b).

25. On November 3, 2022, the County filed its Corrected Version of Recipient List.

26. On November 4, 2022, the Commission sent out the agenda for the November 16, 2022, meeting to the County and statewide mailing lists.

27. On November 7, 2022, Petitioner filed the Affidavit of Publication and Mailing of the Notice of Hearing.

28. On November 16, 2022, The Commission received and formally stamped Petitioner's Amended Exhibit List and Exhibit 20.

29. On November 16, 2022, the Commission held an in-person hearing on the Miki Basin Industrial Park. At the hearing, the Commission entered into the record Petitioner's exhibits and OPSD's exhibits. The County offered no exhibits. Though the opportunity was provided, no oral or written testimony was submitted by the public. Thereafter, Petitioner commenced with its case-in-chief. *See* 11/16/22 Tr. 16:8 to 18:9, 41:23 to 42:7.

30. The County witness, Maui Planning Department Director Michelle McLean, provided testimony in support of the Project. OPSD witness Land Division Chief Katia Balassiano provided testimony in support of the Project. 11/16/22 Tr. 183:16-23.

31. On November 16, 2022, OPSD and the County confirmed with the Commission that the County and OPSD would review Petitioner's Proposed Findings of Fact Conclusions of Law and file a reply with any recommended revisions rather than filing their own individual Proposed Findings of Fact Conclusions of Law Decision and Order. 11/16/22 Tr. at 189:24-190:5.

32. On November 18, 2022, Petitioner filed its Second Amended Exhibit List and PowerPoint slides, which were presented during the November 16, 2022, hearing, as Exhibit 21.

33. On December 21, 2022, the Proposed Findings of Fact Conclusions of Law and Decision and Order was served by Petitioner on the County and OPSD.

34. On February 8, 2023, the Commission held a virtual meeting to consider the adoption of the Proposed Findings of Fact, Conclusions of Law and Decision and Order Approving the Petition. Following discussion, a motion was made and seconded to adopt the Proposed Findings of Fact, Conclusions of Law and Decision and Order.

## **1. Authority for Relief Sought**

### **Identification of Petitioner**

35. Pūlama Lāna'i has standing to petition the Commission for a Boundary Amendment pursuant to HRS § 205-4(a) and HAR § 15-15-46(3).

36. Lāna'i Resorts, LLC, dba Pūlama Lāna'i, is a land and asset management limited liability company organized in the State of Hawai'i. Pūlama Lāna'i's principal place of business is located at 733 Bishop Street, Suite 1500 Honolulu, Hawai'i 96813.



### **Petitioner's Property Interest**

37. Pūlama Lānaʻi is the fee owner of the Petition Area, which is comprised of a portion of the parcel identified by Tax Map Key No. (2) 4-9-002:061.

### **Notification of Petition Filing**

38. Petitioner served a copy of the Petition on the Maui County Planning Department, the Maui Planning Commission, the Lānaʻi Planning Commission, OPSD and all persons with a property interest in the Petition Area as recorded in the County's real property tax records at the time the Petition was filed in accordance with HAR § 15-15-48. Pet. at Gray Aff.

39. A copy of the Notification of Petition Filing was sent to all persons on the Commission's State and County mailing lists in accordance with HAR § 15-15-50(d). Pet. at Gray Aff.

### **Description of the Subject Property**

40. The Petition Area is approximately 200 acres in size, comprised of a portion of Tax Map Key No. (2) 4-9-002:061, situated at Lānaʻi City, County of Maui, State of Hawaiʻi, and is owned in fee simple by Petitioner. Pet. at 5.

41. The location of the Petition Area is well-suited for industrial development. The Petition Area is adjacent to existing industrial uses, including the Lānaʻi Airport, the Miki Basin Industrial Condominium and the Hawaiian Electric Company ("*HECO*") fossil fuel power plant. The Petition Area is located approximately 3.2 miles southwest of Lānaʻi City. See Pet. Ex. 2 at II.E; 11/16/22 Tr. (Dr. Keiki-Pua Dancil) at 124:3-4.

42. There are no known property interests in the Petition Area. *Id.*

### **Requested Reclassification**

43. Petitioner seeks the reclassification of the Petition Area from the Agricultural District to the Urban District to develop a 200-acre industrial park. Pet. at 6.

44. The Petition Area is comprised of former pineapple fields and is largely vacant. An approximate 14.5-acre interim area has been established for industrial stockpiling and storage and operation of a concrete batch plant on a portion of the Project area that borders the western side of the neighboring Miki Basin Industrial Complex. *See* Pet. Ex. 2 at 1. Petitioner applied for and obtained a County Special Use Permit for use of the 14.5-acre area. *See* Pet. Ex. 21; 11/16/22 Tr. at 73:4-8.

45. The majority of the Petition Area is an extension of similar land uses taking place at the adjoining airport, fossil fuel facility and industrial 20-acre condominium. The Petition Area is also close to available public service resources. Accordingly, the Petition Area is appropriate for urban growth. Pet. at 6.

46. Pursuant to HAR § 15-15-18, setting forth the standards for determining Urban District boundaries, such district shall include “lands characterized by ‘city-like’ concentrations of people, structures, streets, urban level of services and other related land uses;” and “shall take into consideration the following specific factors: proximity to centers of trading and employment . . . ; availability of basic services such as schools, parks . . . public utilities . . . and; sufficient reserve areas for foreseeable urban growth.” HAR § 15-15-18(1)-(2). “It shall also include lands with satisfactory topography, drainage and reasonably free from the danger of any flood, tsunami, unstable soil condition, and other adverse environmental effects.” *Id.* at (3). The Boundary Amendment sought in this Petition conforms to these standards. Pet. at 6.

### **Type of Use Being Proposed**

47. The Project is an effort to implement the Lāna‘i Community Plan, which calls for 225 acres within the Miki Basin for heavy and light industrial use, by rezoning the designated land area to allow for such use. 11/16/22 Tr. (Dancil) at 128:5-10.

48. Over 85 percent of the Petition Area has been allocated for specific uses. *Id.* at 128:14-16.

49. The Project will consist of a 200-acre industrial park for light and heavy industrial use. The proposed project will include 127 acres for renewable energy—specifically, photovoltaic plus battery energy storage—20 acres for infrastructure purposes including roads, common areas and other related uses, 12.5 acres for the relocation of an existing asphalt plant from its current location near Kaumālapa‘u Harbor and 26 acres for new industrial uses. The remaining 14.5 acres will be used for the relocation of an existing concrete batch plant, recycling and rock crushing facility and for the storage and stockpiling of aggregate and construction materials. Pet. Ex. 2 at 1; 11/16/22 Tr. (Dancil) at 131:8 to 132:3, 179:13 to 180:1.

50. The 26 acres of other new industrial uses will consist of uses allowed under Maui County Code “M-1, Light Industrial” and “M-2, Heavy Industrial” zoning. While the specific uses have not been identified at this time, possible new future industrial uses may include a slaughterhouse, warehouse space for cold storage, baseyard space, animal hospital or other uses. Pet. Ex. 2 at 1-2; 11/16/22 Tr. (Kurt Matsumoto) at 52:19 to 53:4.

51. Petitioner will develop “backbone infrastructure,” such as roads, electric and water utility lines, as necessary. 11/16/22 Tr. (Matsumoto) at 63:20 to 64:15.

52. Individual tenants within the Project will be responsible for vertical development and infrastructure within their specific properties and for compliance with applicable regulatory



requirements associated with individual developments. Petitioner will require all tenants to implement best management practices with respect to preventing environmental harm. Pet. Ex. 2 at 1-2; 11/16/22 Tr. (Matsumoto) at 65:9-12.

### **Impact of the Project on Housing Needs**

53. The Project will not impact housing needs. Pet. at 14.

### **Need for the Proposed Development**

54. A market study conducted by Plasch Econ Pacific in 2021 (the “*Market Study*”) concluded that there is a shortage of rental industrial space on the island. Pet. Ex. 2. at App’x A.

55. It is expected that there will be a future need for industrial-zoned lands on Lāna‘i, particularly since there are limited such lands currently available. In addition to providing land for renewable energy uses and relocation of existing facilities, the Petition Area will provide light and heavy industrial space for potential uses such as a slaughterhouse, warehouse space for cold storage, base yard space, animal hospital or other uses for existing and new businesses on island. See Pet. Ex. 2 at App’x A; 11/16/22 Tr. (Matsumoto) at 51:14 to 53:3.

56. Approximately 3,000 acres or 3 percent of Lāna‘i is designated as Urban. There is not sufficient area within those lands for an industrial park as all Urban-zoned lands are in use. 11/16/22 Tr. (Dancil) at 130:6-14.

57. The Project implements the Lāna‘i Community Plan by rezoning land for light and heavy industrial uses to accommodate for present need and future growth. *Id.* at 128:5-10; *id.* (Maui County Planning Director Michelle McLean) at 182:5-7.

### **Development Within Ten Years**

58. The relocation of the concrete batch plant, the rock crushing facility and the asphalt plant is anticipated to occur within the first or second year after all State and County permitting is approved. The renewable energy project is anticipated to be completed within the next ten years. Pet. at 10; 11/16/22 Tr. (Dancil) at 133:1-8.

59. All calculations of time are based upon the assumption that all necessary permits and approvals are granted in a timely manner. Pet. at 10; 11/16/22 Tr. (Dancil) at 132:23 to 133:11.

60. The concrete batch plant, rock crushing facility, asphalt plant and renewable energy project will cover approximately 154 acres or approximately 77 percent of the Project's total area. *See* Pet. at 6-7.

61. When including the land being used for infrastructure, over 85 percent of the Project will be developed within the first 10 years. 11/16/22 Tr. (Dancil) at 128:3-17.

62. The Project will be substantially developed—85 percent of the 200 acres—within the first 10 years if not sooner. 11/16/22 Tr. (Dancil) at 128:11-16.

63. It is unnecessary to approve the Petition Area incrementally, because it is not necessary to determine whether full development of the Petition Area can substantially be completed within ten years after the date of this Decision and Order. *See* HAR § 15-15-78(a).

64. The remaining 26 acres slated for other industrial uses will be developed as needed. If this area is not developed within the first 10 years, development is anticipated through years 11 to 20. Pet. at 9; 11/16/22 Tr. (Dancil) at 132:23 to 133:11.

65. The 26-acre portion of the industrial park is functionally distinct from the remainder of the Petition Area and that the development of the 26-acre portion is not dependent on the development of the rest of the Petition Area.

66. Aspects of this development are unique from developments on other islands. For example, much of the land adjacent to the Petition Area, with the exception of the Lānaʻi Airport, Kaumālapaʻu Highway, and the HECO fossil fuel power plant is owned by Petitioner. Surrounding lands in the State Agricultural District are vacant and owned by Petitioner. 11/16/22 Tr. (Matsumoto) 57:17 to 58:19.

67. No adjacent properties would be adversely affected if portions of the light and heavy industrial area remained undeveloped after the initial 10-year period. Moreover, no other landowner would be deprived of the opportunity to develop the light and heavy industrial area. Thus, the risk of adverse impact on land use that the 10-year substantial completion requirement is intended to minimize does not exist here because of the unusual nature of the project and Pūlama Lānaʻi's ownership. OPSD Testimony In Support with Conditions and Exhibits, at 9.

68. Based on the entire record, the Commission finds that approximately 85 percent of the Petition Area can be developed within ten years and that the remaining portion can be developed within twenty years and is satisfied that all other pertinent criteria for amending the land use boundary for the entire Petition Area will be met to support reclassification for the entire Petition Area.

### **Densities and Project Market**

69. The renewable energy project is anticipated to consist of 127-acres containing photovoltaic panels, battery storage and associated infrastructure. *See* Pet. Ex. 7; 11/16/22 Tr. (Dancil) at 132:23 to 133:11.

70. The asphalt plant is anticipated to consist of 12.5 acres and will be relocated to the Petition Area in one to two years after permit approval. *See* Pet. Ex. 7; 11/16/22 Tr. (Dancil) at 132:23 to 133:11.



71. The concrete batch plant, recycling and rock crushing facility is anticipated to consist of 14.5 acres and be relocated to the Petition Area within one to two years after permit approval. *See* Pet. Ex. 7; 11/16/22 Tr. (Dancil) at 132:23 to 133:11.

72. Other industrial uses are anticipated to consist of up to 23 individual areas ranging in size from approximately 0.5 to 2 acres, to be offered for rent and to be developed on an as-needed basis. Pet. at 11; Pet. Ex. 7; Pet. Ex. 7; 11/16/22 Tr. (Dancil) at 132:23 to 133:11.

## **2. The Subject Property**

### **Recent and Present Use**

73. The Petition Area is located 3.2 miles southwest of Lānaʻi City on land adjoining the Lānaʻi Airport, the HECO 5-acre fossil fuel power plant and the existing 20-acre Miki Basin Industrial Condominium. The Petition Area is immediately adjacent to the Urban District along its northern boundary. The remainder of the adjacent land falls within the Agricultural District. Pet. at 1-14; 11/16/22 Tr. (Dancil) at 124:3-4, 125:18 to 127:7.

74. The Petition Area is comprised of former pineapple fields and is largely vacant. An approximate 14.5-acre interim staging area is currently operating under a County Special Use Permit for industrial stockpiling and storage and operation of a concrete batch plant and asphalt plant on a portion of the Project area that borders the western side of the neighboring Miki Basin Industrial Complex. *See* Pet. Ex. 2 at 1. *See* Pet. Ex. 21; 11/16/22 Tr. (Matsumoto) at 73:4-8.

75. A Phase I Environmental Site Assessment (“*ESA*”) conducted by TRC documented that there are no recognized environmental concerns associated with the Petition Area. Pet at 12; Ex. 2 at App’x E.

### **Soil Classification**

76. Soils at the site are predominantly “Waikapū Silty Clay Loam,” “Molokai Silty Clay Loam” and “Uwala Silty Clay Loam.” Pet. Ex. 2 at II.A.4.

77. Soils within the Petition Area are classified as “D” and “E” pursuant to the University of Hawai‘i Land Study Bureau Detailed Land Classification rating system, with “A” indicating the most productive soil and “E” the least. Pet. at 18; Pet. Ex. 2 at II.A.4.

78. The Petition Area is classified on Agricultural Lands of Importance to State of Hawai‘i (“*ALISH*”) maps as “unique.” The Petition Areas is designated as “unique” due to its historic use for pineapple cultivation. Pet. Ex. 2 at II.A.3.

### **Flood and Drainage**

79. According to Federal Emergency Management Agency records, the Petition Area is located within Flood Zone X, designated as areas outside of the 0.2 percent annual chance floodplain. Pet. Ex. 2 at III.A.5.

80. Additional surface water runoff generated within the proposed Industrial Park will be contained by the Miki and Pālāwai Basins. *Id.* at III.A.

81. The Petition Area is 3.5 miles inland from the shoreline, is located at a high elevation at approximately 1,247 feet above mean sea level, and thus, it is outside the tsunami evacuation zone and is not subject to the negative impacts from sea level rise. *Id.* at IIA.5; *id.* at App’x E.

### **Topography**

82. The Petition Area moderately slopes at approximately 5 percent from Miki Road to the southeast and is overgrown with dense grassland and shrubs. Pet. Ex. 2 at 47.

### **3. Adequacy of Public Services and Facilities**

#### **Schools**

83. The Project is not anticipated to generate an increase in enrollment. The Project is located within walking distance of Lānaʻi High and Elementary School—the only public school that serves the educational needs of the island of Lānaʻi. *See* Ex. 2 at II.C.5.

#### **Parks**

84. The Project will not have an impact on recreational resources.

85. There are adequate parks and recreational facilities available. Public parks and recreational facilities maintained by the Maui County Department of Parks and Recreation, as well as those associated with the Lānaʻi public schools, in Lānaʻi City include the Lānaʻi Community Center, the Lānaʻi Gym and Tennis Courts, the Lānaʻi Little League Field, Fraser Avenue Park and the Kaumālapaʻu Highway/Fraser Avenue Park. There are also several parks owned and maintained by Pūlama Lānaʻi with recreational facilities available for public use. Ex. 2 at II.C.6.

#### **Wastewater Systems**

86. The Project will construct onsite Individual Wastewater Systems (“*IWS*”), decentralized Wastewater Treatment Plants (“*WWTP*”) and collection systems. Pet. Ex. 2 at II.D.3; *id.* at App’x I.

87. Each development within the industrial park will be required to provide its own wastewater treatment system and associated wastewater collection system. The type of treatment system will be determined by the size and type of development. Sizing of each system will be determined during the design phase of each development. *Id.* at II.D.3; *id.* at App’x I.



88. The average wastewater flow for full buildout of the industrial park is based on the County of Maui's Wastewater Flow Standards and the Design Standards of the Department of Wastewater Management. The proposed design wastewater flow is estimated at 80,179 gallons per day ("GPD"), with a design peak flow of 333,688 GPD. *Id.* at II.D.3; *id.* at App'x I.

### **Solid Waste Disposal**

89. Construction-generated waste will be disposed of in accordance with a disposal plan developed by the contractor. Appropriate construction-generated waste will be disposed in the landfill. Pet. Ex. 2 at II.C.4.

90. The renewable energy area will not generate new solid waste once constructed. Appropriate decommissioning practices in compliance with Federal, State and local regulations will be implemented at the end of the renewable energy project's useful life. *Id.*

91. Individual users at the Miki Basin Industrial Park will be responsible for disposing solid waste, recyclables and green waste consistent with State and County regulations. *Id.*

92. Petitioner employs solid waste mitigation strategies such as rural recycling events for hard to recycle items and green waste recycling with the resulting compost made available to the community. *Id.*

### **Drainage**

93. No permanent surface water bodies or wetlands are located within the Petition Area. Pet. Ex. 2 at II.A.6.

94. The planned drainage of the proposed Miki Basin Industrial Park detailed in the Drainage Report prepared by R.W. Towill meets the County of Maui Storm Drainage Standards. *Id.* at App'x J.

95. Offsite surface water runoff will be intercepted before entering the Petition Area by proposed drainage ditches. The drainage ditches will divert runoff around the perimeter of the project site to an offsite discharge point downstream. *Id.* at II.D.4.

96. Onsite runoff generated within the Petition Area can be accommodated by the existing Miki Basin and Pālāwai Basin capacity. *Id.* at II.D.4.

97. The Project is not anticipated to have an adverse impact to any existing downstream properties. *Id.* at II.D.4; *id.* at App'x J.

## **Water**

98. The Lāna'i Water Company privately owns the domestic water system on Lāna'i, including Mānele Bay Water System (Public Water System 238 ("**PWS 238**")), which provides service to the Petition Area. Pet. Ex. 2 at II.D.2.

99. The Project's water use conforms to the Lāna'i Water Use and Development Plan ("**LWUDP**"). Pet. Ex. 2 at II.D.2.

100. Akinaka & Associates, Ltd. prepared a Water Master Plan for PWS 238 ("**Akinaka Report**"). The Water Master Plan assessed the existing water distribution system and the capacity of PWS 238 and provided recommendations for the forecasted water demand for the Miki Basin Industrial Park. *See* Pet. Ex. 2 at App'x H-1.

101. PWS 238 provides water service to Mānele, Hulopo'e and the Pālāwai Irrigation Grid. Water from the wells is either stored in the existing 0.5 million gallon ("**MG**") Hi'i Tank or 1.0 MG concrete Hi'i Reservoir or fed directly into the distribution system depending on demand. PWS 238 utilizes 10-inch, 12-inch and 16-inch transmission mains. PWS 238 is interconnected with the Lāna'i City Water System (Public Water System 237 ("**PWS 237**")). During emergencies, PWS 237 can be connected to PWS 238 by opening a valve. Pet. Ex. 2 at II.D.2.a.

102. The water demand on Lāna‘i is estimated, as of August 2021, at 1.517 million gallons per day (“**MGD**”). At full build out, the water demand estimated for the Project is 0.159 MGD. Other proposed or approved projects are estimated at 0.260 MGD for a total forecasted water demand for Lāna‘i of 1.936 MGD. The total forecasted need is below the 4.3 MGD trigger set by the Commission on Water Resources Management (“**CRWM**”) and further below the sustainable yield of 6 MGD for Lāna‘i. *Id.* at II.D.2; *id.* at App’x H-1.

103. Anticipated future water needs for the 26 acres of new industrial uses are consistent with State standards. 11/16/22 Tr. (Dancil) at 136:12-24.

104. Petitioner may need to develop an additional source to provide additional pump capacity of at least 426 gallons per minute (“**GPM**”) to support the estimated demand of the Project at full build-out. Petitioner commissioned a New Well Supply from Tom Nance Water Resource Engineering to identify potential sources. The report identified a recommended well site that could meet or exceed the necessary 426 GPM capacity to ensure adequate supply for the Project. *See* Pet. Ex. 2 at II.D.5; *id.* at App’x H-2.

105. Petitioner will develop an additional water well source if required.

106. The Project will be constructed with appropriate water efficiency measures. *Id.* at II.D.5.

107. Petitioner has represented and committed that water usage for the Project will not exceed the maximum daily usage calculations provided in the Akinaka Report. 11/16/22 Tr. (Matsumoto) 66:22 to 67:2.

### **Transportation Services**

108. The primary street for ingress/egress for the Project is Miki Road. Miki Road is a generally north-south, two-way privately-owned roadway that begins to the north at its intersection

with Kaumālapa‘u Highway and extends approximately 2.95 miles to the south. Kaumālapa‘u Highway is generally an east-west, two-way, two-lane state-owned roadway that runs perpendicular to Miki Road.

109. The Traffic Impact Analysis Report (“*TIAR*”) evaluated traffic impacts resulting from the proposed Project. Currently, the Kaumālapa‘u Highway/Miki Road intersection operates at level of service (“*LOS*”) B, which is defined as reasonably free-flow traffic conditions. Pet. Ex. 2 at II.D.1; *id.* at App’x G.

110. When warranted, the *TIAR* recommends the widening of Miki Road between its intersection with Kaumālapa‘u Highway to the project driveways and to provide an exclusive westbound left-turn deceleration lane. *Id.* at App’x G.

111. At full build-out, each of the intersections is forecasted to operate at LOS B, which is similar to existing conditions. *Id.* at II.D.1; *id.* at App’x G.

#### **Public Utilities**

112. The existing HECO fossil fuel power plant is adjacent to the Petition Area.

113. Approximately 127 acres of the Project are slated for the development of a renewable energy project. Petitioner has committed that the renewable energy project will only use the technology of photovoltaic and battery energy storage as represented in the FEA. *See generally* Ex. 2; 11/16/22 Tr. (Dancil) at 179:16 to 180:1.

114. The Project’s location adjacent to the HECO fossil fuel power plant will significantly reduce connection costs associated with bringing the renewable energy project online. The electricity generated by the renewable energy project will provide clean energy for 95 percent of the energy demand for the island of Lāna‘i. By replacing the use of fossil fuels with renewable



energy, Lānaʻi will increase resiliency and minimize the impacts of price fluctuations based on the price of oil. 11/16/22 Tr. (Dancil) at 177:13-20; *see id.* at 138:21 to 139:6.

115. At the hearing, concerns were raised regarding the potential of Pūlama Lānaʻi taking two resorts off-grid, which may result in an overall load reduction on the island-wide system of approximately 40 percent. In the event pulling the hotels off the existing grid would lead to an increase in costs for consumers, Pūlama Lānaʻi represented and committed that it will either offset the increase or not pursue that course of action. *Id.* at 164:13 to 167:20, 180:2-15.

116. Hawaiian Telecom (“*HTCO*”) and Charter Communications, dba Spectrum (“*Spectrum*”) will offer broadband and telephone services to the Project. Pet. Ex. 2.

#### **Police and Fire Protection**

117. The Maui Police Department (“*MPD*”) serves as the primary law enforcement agency for the island of Lānaʻi, including the Petition Area. Pet. Ex. 2 at II.C.1.

118. The island makes up District II of the MPD, which is comprised of eleven full-time officers, including a Lieutenant, two Sergeants and a School Resource Officer. The number of officers currently exceeds the estimated need. As the Project is located within an area that is currently patrolled, it will not require a significant increase to existing law enforcement services. *Id.*

119. The Lānaʻi Fire Station provides the fire protection services for the island. Located in Lānaʻi City, the fire station is approximately one mile from the Petition Area. *Id.*

120. The Project is not anticipated to have a significant impact on fire protection services. *Id.*

## **Civil Defense**

121. The Maui Emergency Management Agency (“*MEMA*”) is responsible for the administration of County, State and Federal emergency programs. Petitioner also has an Emergency Operations Plan, which integrates the company’s emergency response efforts with other stakeholders, including the County of Maui and State of Hawai‘i.

122. The closest emergency shelter to the Project is located at Lāna‘i High and Elementary School. The Petition Area is at a high elevation and is outside the flood and tsunami evacuation zones. Pet. Ex. 2 at II.A.5.

123. Petitioner will work with State and County agencies regarding any further civil defense measures necessary to serve the Project. Pet. at 22.

## **Emergency Medical Services and Medical Facilities**

124. Lāna‘i Community Hospital provides hospital services to the island. Lāna‘i Community Hospital is affiliated with Maui Health. This facility is open to everyone regardless of health coverage. *See* Ex. 2 at II.C.2

125. The Project is not anticipated to adversely affect medical services or facilities in the area. *Id.*

## **Impacts on Area Resources**

126. Petitioner has represented and committed that it or its consultants will implement the mitigation measures identified in the Final Environmental Assessment with equivalent mitigation measures, or better. 11/16/22 Tr. (Matsumoto) at 67:16-22.

127. Petitioner has acknowledged and committed to OPSD's proposed 11 conditions with certain revisions proposed by the parties and incorporated here. 11/16/22 Tr. (Matsumoto) at 55:4-7; (Dancil) at 140:11-23; 147:19-24.

#### **4. Environmental Resources**

128. Impacts to air quality in and around the Petition Area due to future industrial activities will be regulated by DOH. Pet. Ex. 2 at II.A.10.

129. The renewable energy project will utilize 127 acres and will not generate any adverse air quality impacts. *Id.*

130. With respect to the relocation of an existing concrete batch plant, recycling and rock crushing operation and for the storage and stockpiling of aggregate and construction materials, the stockpiles may generate dust. The Project will adhere to the environmental regulations for the storage and use of the aggregate stockpiles to mitigate any potential impact to air quality. *Id.*

131. With respect to the 26 acres for other industrial uses, any potential use that may constitute an air pollution source must file an application with DOH. If deemed appropriate, DOH may require the applicant to assess the air quality impact of the proposed emissions. *Id.*

132. Noise around the Petition Area is dominated by noise from airport-related activities, including roadway use and aircraft taxiing, taking off and landing. Operations at the HECO fossil fuel power plant and the Miki Basin Industrial Condominium also contribute noise to the surrounding area. Pet. Ex. 2 at II.A.12.

133. No noise-sensitive areas are in the Petition Area. The nearest noise-sensitive area is Lānaʻi City. The Project is located approximately 3 miles from Lānaʻi City and, accordingly, will not impact noise sensitive areas. *Id.*

134. Petitioner will comply with all applicable State and Federal regulations and BMPs to mitigate any impact on air quality or noise caused during construction. Pet. at 24.

#### **Agricultural Resources**

135. A study regarding the Project's potential impacts on agriculture was conducted by Plasch Econ Pacific Inc. Ex. 2 at App'x B.

136. The Project represents approximately 1.1 percent of the 18,000-plus acres of former plantation lands. The assessment concluded the Project Area is located on land that is currently unproductive and that there is an adequate amount of available agricultural lands surrounding the Petition Area and on the Island. *Id.* at II.A.3; *id.* at App'x B.

137. The Petition Area makes up a small fraction of the 20,000 potentially cultivatable acres on the island and even less of the 200,000 acres of fallow agricultural lands vacated by the sugar and pineapple industries statewide. *Id.* at App'x B.

138. There is presently no demand for agricultural use of the Petition Area. There is sufficient available agricultural land to meet near to mid-term demand. *Id.* at II.A.3; *id.* at App'x B.

#### **Recreational Resources**

139. The Project will not have an impact on recreational resources in the area. Pet. Ex. 2 at II.C.6.

#### **Cultural Resources**

140. In order to fulfill its duty to preserve and protect customary and traditional Native Hawaiian rights to the extent feasible, pursuant to the Hawai'i Supreme Court's holding in *Ka*



*Pa'akai O Ka'Aina v. Land Use Com'n, State of Hawai'i*, 94 Hawai'i 31, 7 P.3d 1068 (2000), the Commission must make specific findings and conclusions as to the following:

- (1) The identity and scope of "valued cultural, historical, or natural resources" in the Petition Area, including the extent to which traditional and customary Native Hawaiian rights are exercised in the Petition Area;
- (2) The extent to which those resources - including traditional and customary Native Hawaiian rights - will be affected or impaired by the proposed action; and
- (3) The feasible action, if any, to be taken by the Commission to reasonably protect Native Hawaiian rights if they are found to exist.

141. Dr. Trisha Kehaulani Watson testified regarding cultural resources and the archeological work conducted for the Project.

142. The Petition Area is situated in the ahupua'a of Kamoku. Pet. Ex. 2 at App'x D-1.

143. Ethnographic data was collected and a cultural resources assessment was included in the Archaeological Inventory Survey ("*AIS*") conducted for the Project. The cultural resources assessment involved ethnographic research and interviews of individuals with knowledge of Kamoku and native Hawaiian beliefs, practices and traditions on Lāna'i. 11/16/22 Tr. (Dr. Trisha Kehaulani Watson) at 26:7-22; Pet. at 25.

144. One of the interviewees indicated that the Petition Area had been used for gathering of 'a'alii and 'uhaloa for adornments and la'au lapa'au. Both 'a'alii and 'uhaloa are common throughout the Pālāwai-Miki Region of Lāna'i and prevalent in the surrounding areas. Therefore, while the Petition Area is used for traditional practices, the cultural assessment concluded that the

Project is not anticipated to affect the availability of these cultural resources, and the project will not affect access to these resources in the region. Pet. Ex. 2, App'x D-1; *id.* at App'x D-4. *See also* 11/16/22 Tr. (Watson) at 27:18-23 (testifying that the Project will not affect or impair native Hawaiian customary or traditional rights).

145. The Project will not have any adverse impacts on the exercise of native Hawaiian traditional and customary practices in the area. Pet. Ex. 2, App'x D-4 at 4.

### **Historic Resources**

146. The AIS was completed by T.S. Dye & Colleagues (Log. No.: 2020.01586).

147. The methodology for the AIS was a 100 percent pedestrian survey with 31 trenches conducted across the Property. Two historic sites were identified. The AIS recommended that a data recovery plan be developed for two sites, 50-40-98-1980 and 50-40-98-1981. The AIS was accepted by the State Historic Preservation Division ("**SHPD**"). 11/16/22 Tr. (Trisha Kehaulani Watson) at 25:7 to 26:6; Pet. Ex. 2, App'x D-2.

148. Both historic sites were historic, remnant fire pits but were not pre-contact. Traditional lithic scatter was also associated with one site, which is pre-contact. All were documented and properly catalogued. 11/16/22 Tr. (Watson) at 25:23 to 26:6.

149. A data recovery plan and data recovery report for the two sites identified in the AIS was prepared and accepted by SHPD. No further work is required for the sites identified in the AIS. 11/16/22 Tr. (Watson) at 26:7 to 27:13; Pet. Ex. 13.

150. SHPD determined there are no historic properties affected for 14.5 acres of the Petition Area included in the County of Maui Permit Application SUP2 2021/0008. Pet. Ex. 8.

151. Petitioner has represented and committed that the DBA will be submitted to SHPD in accordance with SHPD requirements for review and approval. 11/16/22 Tr. (Watson) at 31:5-16.

### **Scenic Resources**

152. The Petition Area abuts the southeast end of Lānaʻi Airport and the Project will have complementary, industrial uses to the neighboring facilities.

153. The Petition Area is not located near traditional access or walking trails between coastal or upland areas. Ex. 2 at II.A.14; 11/16/22 Tr. (Watson) 39:15-18.

154. The Petition Area is not part of a scenic corridor, and the Project will not affect scenic vistas or view planes. Pet. Ex. 2 at II.A.14.

### **Flora and Fauna**

155. No State or federally-listed threatened or endangered species or rare native Hawaiian plant species were documented or observed within the Petition Area. Ex. 2 at App'x C.

156. The Petition Area is not designated a critical habitat for any species. *Id.*

157. Historically, the vegetation of Lānaʻi has been impacted by grazing and commercial pineapple cultivation. *Id.*

### **Groundwater**

158. The sustainable yield of Lānaʻi's combined aquifers is estimated at 6 MGD. Most of the available water included in this estimate is in the Central aquifer, which is divided into two aquifer systems (the leeward and the windward) with an estimated sustainable yield of 3 MGD each. Pet. Ex. 2 at II.D.2.

159. Groundwater from the Leeward aquifer, in the Central aquifer sector will be utilized from PWS 238 until demand necessitates the development of a new source. *Id.*

160. The Project will be serviced by Lānaʻi Water Company. The Company regularly monitors water quality parameters and ensures adherence to all State and Federal standards. *Id.*

161. The Project will conform to all requirements of CWRM and DOH related to the installation, inspection and maintenance of water systems associated with the Project. *Id.*

## **5. Climate Change Concerns and Proposed Mitigation**

### **Impacts of Sea Level Rise**

162. The Petition Area is between 1,000 and 1,250 feet above sea level, located approximately 3.5 miles inland from the western shoreline towards the center of the island in Lānaʻi City. Pet. Ex. 2 at II.A.5.

163. The Petition Area falls well outside the Sea Level Rise Exposure Area as shown on the Hawaiʻi Sea Level Rise Viewer for the Hawaiʻi Sea Level Rise Vulnerability Adaptation Report. Pet. at 34.

164. Based on the maps and information available in the Hawaiʻi Sea Level Rise Vulnerability Adaptation Report, the predicted three- to six-foot increase in sea level over the next century is not anticipated to have an impact on the Petition Area. Accordingly, no mitigation measures are necessary. Pet. Ex. 2 at II.A.5.

### **Infrastructure Adaptions**

165. The Project will be designed to meet all applicable Federal, State and County requirements. Pet. at 34.

166. Buildings developed in the Project will follow County requirements for low-flow fixtures and fittings. *Id.*

167. The Project will involve limited or no landscaping. *Id.*

168. The Project will be serviced with existing water and utilities to minimize infrastructure excavation and land disruption. *Id.*



## **Overall Carbon Footprint and Mitigation**

169. The Project is not projected to contribute to the emission of greenhouse gases. *See* Pet. at 28-35.

170. According to estimated carbon footprint calculated utilizing the Environmental Protection Agency (“*EPA*”) Equivalencies Calculator for each component of the Project, the Project results in an overall reduction of CO<sub>2</sub>E per year. *Id.*

171. The 127-acre renewable energy component of the Project is estimated to displace approximately 25,382 metric tons of CO<sub>2</sub>E per year. The concrete crushing facility is anticipated to generate 79.57 CO<sub>2</sub>E per year. The asphalt plant is anticipated to generate approximately 52 CO<sub>2</sub>E per year. The new industrial uses are anticipated to generate between 21 to 358 CO<sub>2</sub>E per year, accounting for possible uses and respective offset resulting from the use of renewable energy to service such uses. The net result is a reduction in estimated CO<sub>2</sub>E between 25,229 CO<sub>2</sub>E to 24,892 CO<sub>2</sub>E per year. *Id.*

172. Petitioner is committed to reducing its carbon footprint. Consistent with this goal, Petitioner, in partnership with other organizations, is managing and protecting Lāna‘i’s natural resources through projects such as native reforestation, use of carbon encapsulating concrete and recycling efforts. Pet. Ex. 2 at II.C.

## **6. Adherence to Sustainability Principles and Priority Guidelines in HRS § 226-108 and Hawai‘i State Plan.**

### **Walkability**

173. Pedestrian walkability within the Project will not be provided due to the nature of the planned heavy and light industrial uses. Pet. at 35.

## **Accessibility to Alternate Forms of Transportation and Transit Oriented Development**

### **Opportunities**

174. The Project is not a Transit Oriented Development (“*TOD*”). The Petition Area was intentionally chosen for its proximity to the workforce and existing industrial areas. Pet. at 35.

### **Green Infrastructure**

175. Petitioner will, to the extent feasible and practicable, incorporate measures into the Project to promote energy conservation and sustainable design. Pet. at 36.

176. The Project incorporates 127 acres of renewable energy development that will decrease Lāna‘i’s dependence on fossil fuel. *Id.*

177. Stormwater will be directed into the Miki and Pālāwai Basins where it can percolate back into the aquifer or evaporate. *Id.*

178. Road and lot layouts are oriented with the natural topography of the site to minimize mass grading requirements. *Id.*

### **Mitigation of Heat Island Effect**

179. The Project is an industrial park that will implement limited or no landscaping. Large swaths of land in the surrounding areas will remain undeveloped to absorb radiation from the sun and release moisture back into the atmosphere. Pet. at 36.

### **Urban Agricultural Opportunities**

180. Petitioner maintains community gardens in Lāna‘i City for use by the public to encourage urban agriculture. Pet. at 36.

181. The community gardens, relocated from the Petition Area in February 2020, will continue to provide access to agricultural opportunities for the residents of the Project and the surrounding area. *Id.*

## **7. Economic Impacts**

### **Financial Condition**

182. The Project is being entirely privately funded by Petitioner, with the exception of the renewable energy project that will be developed by the awardee of HECO's competitive bid process. No portion of the Project will utilize government funding. Pet. at 36-37.

### **Economic Impacts of Proposed Use**

183. The Project will create temporary and permanent employment opportunities. Pet. at 37; 11/16/22 Tr. (Matsumoto) at 68:9 to 69:1.

184. The Project will provide space for new businesses and industrial uses to encourage diversification of the Lāna'i economy. Pet. at 37.

185. The Project will transform vacant land of limited agricultural potential into an asset for the community. Pet. Ex. 2 at II.B.2.

186. Construction activities will result in short- and long-term creation of jobs and materials spending. *Id.*

187. Overall, the Project will produce an estimated \$670,000 in State taxes and \$380,000 in County taxes annually. Pet. Ex. 2 at App'x F.

## **8. Conformity to Objectives and Policies of Hawai‘i State Plan**

### **Conformity to Hawai‘i State Plan**

188. The Project will support and conform to the following goals of the State by supporting the state economy, providing housing opportunities and enhancing the social stability and well-being for the people of Lāna‘i:

#### HRS § 226-4, State Goals

(1) A strong, viable economy, characterized by stability, diversity, and growth, that enables the fulfillment of the needs and expectations of Hawai‘i’s present and future generations.

(2) A desired physical environment, characterized by beauty, cleanliness, quiet, stable natural systems, and uniqueness, that enhances the mental and physical well-being of the people.

(3) Physical, social, and economic well-being, for individuals and families in Hawai‘i, that nourishes a sense of community responsibility, of caring, and of participation in community life.

189. The Project will also support and conform to the following objectives and policies:

#### HRS § 226-5, Objective and policies for population

(b)(2) Encourage an increase in economic activities and employment opportunities on the neighbor islands consistent with community needs and desires.



(b)(3) Promote increased opportunities for Hawai‘i’s people to pursue their socio-economic aspirations throughout the islands.

HRS § 226-6, Objective and policies for the economy—in general

(a)(1) Increased and diversified employment opportunities to achieve full employment, increased income and job choice, and improved living standards for Hawai‘i’s people, while at the same time stimulating the development and expansion of economic activities capitalizing on defense, dual-use, and science and technology assets, particularly on the neighbor islands where employment opportunities may be limited.

(a)(2) A steadily growing and diversified economic base that is not overly dependent on a few industries, and includes the development and expansion of industries on the neighbor islands.

HRS § 226-10, Objective and policies for the economy—potential growth and innovative activities

(a) Planning for the State’s economy with regard to potential growth and innovative activities shall be directed towards achievement of the objective of development and expansion of potential growth and innovative activities that serve to increase and diversify Hawai‘i’s economic base.

HRS § 226-11, Objective and policies for the physical environment—land-based, shoreline, and marine resources

(a)(1) Prudent use of Hawai‘i’s land-based, shoreline, and marine resources.

(a)(2) Effective protection of Hawai‘i’s unique and fragile environmental resources.

(b)(1) Exercise an overall conservation ethic in the use of Hawai‘i’s natural resources.

(b)(2) Ensure compatibility between land-based and water-based activities and natural resources and ecological systems.

(b)(3) Take into account the physical attributes of areas when planning and designing activities and facilities.

(b)(6) Encourage the protection of rare or endangered plant and animal species and habitats native to Hawai‘i.

HRS § 226-12, Objective and policies for the economy—scenic, natural beauty, and historic resources

(a) Planning for the State’s physical environment shall be directed towards achievement of the objective of enhancement of Hawai‘i’s scenic assets, natural beauty, and multi-cultural/historical resources.

(a)(1) Promote the preservation and restoration of significant natural and historic resources.

(a)(5) Encourage the design of developments and activities that complement the natural beauty of the islands.

HRS § 226-13, Objective and policies for the physical environment—land, air, and water quality

(a)(1) Maintenance and pursuit of improved quality in Hawai‘i’s land, air, and water resources.

(a)(2) Greater public awareness and appreciation of Hawai‘i’s environmental resources.

(b)(2) Promote the proper management of Hawai‘i’s land and water resources.

(b)(4) Encourage actions to maintain or improve aural and air quality levels to enhance the health and well-being of Hawai‘i’s people.

(b)(5) Reduce the threat to life and property from erosion, flooding, tsunamis, hurricanes, earthquakes, volcanic eruptions, and other natural or man-induced hazards and disasters.

(b)(7) Encourage urban developments in close proximity to existing services and facilities.

HRS § 226-14, Objective and policies for facility systems—in general

(a) Planning for the State’s facility systems in general shall be directed towards achievement of the objective of water, transportation, waste disposal, and energy and telecommunication systems that support statewide social, economic, and physical objectives.

(b)(1) Accommodate the needs of Hawai‘i’s people through coordination of facility systems and capital improvement priorities in consonance with state and county plans.

(b)(2) Encourage flexibility in the design and development of facility systems to promote prudent use of resources and accommodate changing public demands and priorities.

(b)(3) Ensure that required facility systems can be supported within resource capacities and at reasonable cost to the user.

(b)(4) Pursue alternative methods of financing programs and projects and cost saving techniques in the planning, construction, and maintenance of facility systems.

HRS § 226-15, Objective and policies for facility systems—solid and liquid waste

(a)(1) Maintenance of basic public health and sanitation standards relating to treatment and disposal of solid and liquid wastes.

(a)(2) Provision of adequate sewerage facilities for physical and economic activities that alleviate problems in housing, employment, mobility, and other areas.

(b)(1) Encourage the adequate development of sewerage facilities that complement planned growth.

(b)(2) Promote reuse and recycling to reduce solid and liquid wastes and employ a conservation ethic.

(b)(3) Promote research to develop more efficient and economical treatment and disposal of solid and liquid wastes.

HRS § 226-16, Objective and policies for facility systems—water

(a) Planning for the State's facility systems with regard to water shall be directed towards achievement of the objective of the provision of water to adequately accommodate domestic, agricultural, commercial, industrial, recreational, and other needs within resource capacities.

(b)(1) Coordinate development of land use activities with existing and potential water supply.

(b)(6) Promote water conservation programs and practices in government, private industry, and the general public to help ensure adequate water to meet long-term needs.

HRS § 226-18, Objective and policies for facility systems—energy

(a)(1) Dependable, efficient, and economical statewide energy systems capable of supporting the needs of the people.

(a)(2) Increased energy security and self-sufficiency through the reduction and ultimate elimination of Hawai'i's dependence on imported fuels for electrical generation and ground transportation.



(a)(3) Greater diversification of energy generation in the face of threats to Hawai‘i’s energy supplies and systems.

(a)(4) Reduction, avoidance, or sequestration of greenhouse gas emissions from energy supply and use.

(b) To ensure the short- and long-term provision of adequate, reasonably priced, and dependable energy services to accommodate demand.

(c)(1) Support research and development as well as promote the use of renewable energy sources.

(c)(2) Ensure that the combination of energy supplies and energy-saving systems is sufficient to support the demands of growth.

(c)(3) Base decisions of least-cost supply-side and demand-side energy resource options on a comparison of their total costs and benefits when a least-cost is determined by a reasonably comprehensive, quantitative, and qualitative accounting of their long-term, direct, and indirect economic, environmental, social, cultural, and public health costs and benefits.

(c)(4) Promote all cost-effective conservation of power and fuel supplies through measures, including: (A) Development of cost-effective demand-side management programs; (B) Education; (C) Adoption of energy-efficient practices and technologies; and (D) Increasing energy efficiency and decreasing energy use in public infrastructure.

(c)(5) Ensure, to the extent that new supply-side resources are needed, that the development or expansion of energy systems uses the least-cost energy supply option and maximizes efficient technologies.

(c)(6) Support research, development, demonstration, and use of energy efficiency, load management, and other demand-side management programs, practices, and technologies.

(c)(7) Promote alternate fuels and transportation energy efficiency.

(c)(8) Support actions that reduce, avoid, or sequester greenhouse gases in utility, transportation, and industrial sector applications.

(c)(9) Support actions that reduce, avoid, or sequester Hawai‘i’s greenhouse gas emissions through agriculture and forestry initiatives.

HRS § 226-21, Objective and policies for socio-cultural advancement—  
education

(a) Planning for the State’s socio-cultural advancement with regard to education shall be directed towards achievement of the objective of the provision of a variety of educational opportunities to enable individuals to fulfill their needs, responsibilities, and aspirations.

(b)(1) Support educational programs and activities that enhance personal development, physical fitness, recreation, and cultural pursuits of all groups.

HRS § 226-25, Objective and policies for socio-cultural advancement—  
culture

(a) Planning for the State's socio-cultural advancement with regard to culture shall be directed toward the achievement of the objective of enhancement of cultural identities, traditions, values, customs, and arts of Hawai'i's people.

(b)(1) Foster increased knowledge and understanding of Hawai'i's ethnic and cultural heritages and the history of Hawai'i.

(b)(2) Support activities and conditions that promote cultural values, customs, and arts that enrich the lifestyles of Hawai'i's people and which are sensitive and responsive to family and community needs.

HRS § 226-27, Objective and policies for socio-cultural advancement—  
government

(b)(7) Improve the fiscal budgeting and management system of the State.

*See* Pet. at 28-41; Pet. Ex. 2 at K-1.

190. The Hawai'i State Plan also sets forth Priority Guidelines to improve the quality of life for Hawai'i's present and future generations. The Project supports and conforms to the following Priority Guidelines:

HRS § 226-103, Economic priority guidelines

(a)(1)(A)(i) Encourage investments which reflect long-term commitments to the State.

(a)(1)(A)(ii) Encourage investments which rely on economic linkages within the local economy.

(a)(1)(A)(iii) Encourage investments which diversify the economy.

(a)(1)(A)(iv) Encourage investments which reinvest in the local economy.

(a)(1)(A)(v) Encourage investments which are sensitive to community needs and priorities.

(a)(1)(A)(vi) Encourage investments which demonstrate a commitment to provide management opportunities to Hawai'i residents.

(e)(1) Maintain and improve water conservation programs to reduce the overall water consumption rate.

(f)(1) Encourage the development, demonstration, and commercialization of renewable energy sources.

HRS § 226-104, Population growth and land resources priority guidelines

(b)(1) Encourage urban growth primarily to existing urban areas where adequate public facilities are already available or can be provided with reasonable public expenditures, and away from areas where other important benefits are present, such as protection of important agricultural land or preservation of lifestyles.

(b)(2) Make available marginal or nonessential agricultural lands for appropriate urban uses while maintaining agricultural lands of importance in the agricultural district.

(b)(6) Seek participation from the private sector for the cost of building infrastructure and utilities, and maintaining open spaces.

(b)(9) Direct future urban development away from critical environmental areas or impose mitigating measures so that negative impacts on the environment would be minimized.

(b)(12) Utilize Hawai'i's limited land resources wisely, providing adequate land to accommodate projected population and economic growth needs while ensuring the protection of the environment and the availability of the shoreline, conservation lands, and other limited resources for future generations.

HRS § 226-108, Sustainability

(1) Encourage balanced economic, social, community, and environmental priorities.

(3) Promote a diversified and dynamic economy.

(4) Encourage respect for the host culture.

(5) Promote decisions based on meeting the needs of the present without compromising the needs of future generations.



(7) Emphasize that everyone, including individuals, families, communities, businesses, and government, has the responsibility for achieving a sustainable Hawai‘i.

HRS § 226-109, Climate change adaptation priority guidelines

(1) Ensure that Hawai‘i’s people are educated, informed, and aware of the impacts climate change may have on their communities.

(2) Encourage community stewardship groups and local stakeholders to participate in planning and implementation of climate change policies.

(3) Invest in continued monitoring and research of Hawai‘i’s climate and the impacts of climate change on the State.

(4) Consider native Hawaiian traditional knowledge and practices in planning for the impacts of climate change.

(5) Encourage the preservation and restoration of natural landscape features, such as coral reefs, beaches and dunes, forests, streams, floodplains, and wetlands, that have the inherent capacity to avoid, minimize, or mitigate the impacts of climate change.

(6) Explore adaptation strategies that moderate harm or exploit beneficial opportunities in response to actual or expected climate change impacts to the natural and built environments.

(7) Promote sector resilience in areas such as water, roads, airports, and public health, by encouraging the identification of climate change threats, assessment of potential consequences, and evaluation of adaptation options.

(10) Encourage planning and management of the natural and built environments that effectively integrate climate change policy. Pet. Ex. 2 at App'x K-1.

### **Conformity to State Functional Plans**

191. The boundary amendment request is consistent with the objectives of the following State Functional Plans:

#### Employment State Functional Plan

The Project will result in the creation of construction and construction-related short-term employment during the development period as well as long-term employment opportunities in industrial and renewable energy industries. This will provide local residents with opportunities to compete in the workforce and potentially start new businesses that create additional job opportunities. *See* Pet. Ex. 2 at III.C; *id.* at App'x F.

#### Energy State Functional Plan

A primary objective of the Energy State Functional Plan is to moderate the growth in energy demand through conservation and energy efficiency in an effort to become a more sustainable island state. The Project conforms to this objective by incorporating 127-acres of renewable energy development

into the Petition Area, which is anticipated to result in a significant decrease in the carbon footprint for Lānaʻi. The inclusion of this large renewable energy project will reduce Lānaʻi's long-term dependence on fossil fuels and decrease greenhouse gas emissions. *Id.* at III.C.

#### Historic Preservation State Functional Plan

An AIS was prepared for the Petition Area. A data recovery plan was implemented prior to proposed construction activities, and research questions were developed and addressed through data yielded by laboratory testing. The AIS included research compliant with guidelines for development of a cultural impact assessment study. The Project will not have a negative impact on Hawaiian traditional and customary practices. *Id.*

*See also id.* at App'x D-4.

#### **Conformance to Hawaiʻi Coastal Zone Management Program**

192. The Petition Area is not located on the shoreline and is not within the Special Management Area. Pet. at 44.

193. Consequently, development of the Project will not impact coastal recreational activities, affect public shoreline access, increase coastal hazards, have an adverse effect upon the region's coastal ecosystem or otherwise conflict with the Coastal Zone Management Program. *Id.*

194. Best management practices and erosion and sedimentation control measures will be implemented during construction to mitigate any possible impact from runoff on coastal ecosystems. *Id.*

## **9. Conformity to County General Plan**

### **Conformity to County of Maui General Plan**

195. The vision for the County expressed in the General Plan is that the County will be an innovative model of sustainable island living and a place where every individual can grow to reach his or her potential.

196. The County has expressed, by way of the General Plan, the intention to be a leader in the creation of responsible, self-sufficient communities and environmentally sound economic development and land stewardship. The Project conforms to this vision.

197. Among other goals and objectives, the development of the Project directly conforms to and supports the following goals, policies, objectives, and strategies expressed in the Countywide Policy Plan:

- Improve the stewardship of the natural environment.
- Evaluate development to assess potential short-term and long-term impacts on land, air, aquatic, and marine environments.
- Educate the construction and landscape industries and property owners about the use of best management practices to prevent erosion and nonpoint source pollution.
- Document, record, and monitor existing conditions, populations, and locations of flora and fauna communities.
- Promote an economic climate that will encourage diversification of the County's economic base and a sustainable rate of economic growth.
- Support economic decisions that create long-term benefits.
- Invest in infrastructure, facilities, and programs that foster economic diversification.

- Support and promote locally produced products and locally owned operations and businesses that benefit local communities and meet local demand.
- Expand economic sectors that increase living-wage job choices and are compatible with community values.
- Support emerging industries.
- Significantly increase the use of renewable and green technologies to promote energy efficiency and energy self-sufficiency.
- Promote the use of locally renewable energy sources, and reward energy efficiency.
- Encourage small-scale energy generation that utilizes wind, sun, water, biowaste, and other renewable sources of energy.
- Expand renewable-energy production.
- Community character, lifestyles, economies, and natural assets will be preserved by managing growth and using land in a sustainable manner.
- Improve land use management and implement a directed-growth strategy.
- Direct urban and rural growth to designated areas.
- Direct new development in and around communities with existing infrastructure and service capacity, and protect natural, scenic, shoreline, and cultural resources.
- Design all developments to be in harmony with the environment and to protect each community's sense of place.
- Ensure better connectivity and linkages between land uses.
- Promote civic engagement.
- Foster consensus building through in-depth, innovative, and accessible public participatory processes.



- Promote and ensure public participation and equal access to government among all citizens.
- Expand opportunities for all members of the public to participate in public meetings and forums.
- Develop a project-review process that mandates early and ongoing consultation in and with communities affected by planning and land use activities.
- Minimize the causes and negative effects of climate change.
- Invest in infrastructure that is not dependent on fossil fuels and utilizes renewable energy.
- Significantly increase the use of renewable and green technologies to promote energy efficiency and energy self-sufficiency.
- Expand renewable-energy production.
- Promote the retrofitting of existing buildings and new development to incorporate energy-saving design concepts and devices.
- Reduce Maui County's dependence on fossil fuels and energy imports.
- Support green building practices such as the construction of buildings that aim to minimize carbon dioxide production, produce renewable energy, and recycle water.

Pet. Ex. 2 at App'x K-2.

### **Conformity to the Lānaʻi Community Plan (2016)**

198. The Project conforms to the 2016 Lānaʻi Community Plan. The 2016 update to the community plan highlighted key issues to the Lānaʻi community. The Project addresses a number

of these issues by consolidating industrial uses scattered around Lānaʻi and providing space for new industrial uses and economic growth.

199. The Project conforms to the following issues identified in the plan:

- Encourage economic diversity, environmental health, infrastructure, maintenance, and hazard preparedness to improve the community's resiliency.
- Require developments to mitigate their impacts on historic, cultural, natural, and scenic resources.
- Support diversification of Lānaʻi's economy.
- Encourage and support lease and fee simple land ownership options for residential commercial, and industrial properties.
- Support the increased use of renewable energy sources.
- Limit new residential, commercial or industrial development to existing communities and proposed expansion areas as shown on the Lānaʻi Community Plan.
- Ensure all lands are zoned and zoning standards are consistent with Community Plan policies and land use designations.
- Relationship With Major Landowner: The relationship between the island's previous major landowner and the community was historically difficult. Recent discussion with others and progress seen in community meetings, the involvement of Pūlama Lānaʻi has been helpful in improving relations between the residents and major landowner.

*See Pet. Ex. 2 at III.D.2.*

200. The Petition Area is designated by the Community Plan as “Light Industrial” and “Heavy Industrial.” Amending the district boundary line from “Agriculture” to “Urban” is consistent with the community plan designations.

#### **Conformity to County Zoning Designations**

201. The majority of the land underlying the Petition Area is currently zoned “Agricultural” by the Maui County Code (“MCC”). The remaining portion is zoned “Interim.” Pet. Ex. 2 at I.E.

202. Petitioner has represented that it will seek a change in zoning from the Maui County Council for “M-1, Light Industrial” and “M-2, Heavy Industrial” designations, which is identical to the designation called for in the Lāna‘i Community Plan.

#### **Conformity with the Urban District Standards**

203. The Petition Area is presently classified in the State Land Use Agricultural District.

204. The three adjoining parcels—the airport, HECO fossil fuel facility and the 20-acre Miki Basin Industrial Condominium—are in the Urban District. Pet. Ex. 2 at III.A.

205. The proposed reclassification of the Petition Area is in general conformance with HAR §15-15-18, standards for determining Urban District Boundaries, as follows:

Criterion 1. The Project will be characterized by “city-like” concentrations of people, structures, streets and urban levels of services and other related land uses. The Project will support industrial uses and will be an extension of similar uses in the adjacent Lāna‘i Airport, Miki Basin Industrial Condominium and HECO fossil fuel power plant. Pet. Ex. 2 at I.

Criterion 2. The Project is located approximately three (3) miles from Lāna‘i City. The town center contains markets, shops, restaurants, banks, medical care, the only public

school, a cultural center and more. Basic public services are available. Sufficient reserve areas for foreseeable urban growth are available. The island is primarily rural, and vast portions of the formerly cultivated lands lay fallow. The Lānaʻi Community Plan contemplates housing and future developments in other areas, which will not be affected by the development of the Project.

Criterion 3. The Petition Area has satisfactory topography and drainage to accommodate development of the Project. The Petition Area is located between 1,000 and 1,250 feet above sea level, is not subject to tsunami inundation and is not within a tsunami evacuation zone identified by the National Oceanic and Atmospheric Administration. Located in Flood Zone X, the Petition Area has little chance of flooding, and is outside the 0.2 annual chance floodplain. *Id.* at II.A.5.

Criteria 4 and 5. Reclassification of the Petition Area as Urban would be an extension of existing, adjacent urban use. The Project is contiguous with other existing urban areas and is an appropriate location for a new urban concentration. The Project conforms to the objectives and policies of the applicable plans.

Criterion 6. Reclassification of the Petition Area conforms to the standards set forth in HAR §§ 15-15-18(1)-(5).

Criterion 7. The Petition Area is adjacent to existing urban use. Development of the Project will be an extension and consolidation of existing urban and industrial uses, which are currently dispersed throughout the island. Furthermore, the Petition Area is within existing service areas for public infrastructure and support services.

Criterion 8. The Project is situated on gently to moderately sloping lands. The approximate range of ground slopes and elevations of the Petition Area range from 0 percent (0% grade) to 15 percent (15% grade). Most of the Petition Area has slopes of less than 4 percent (4%). There are no identified 20 percent (20%) slope areas within the Petition Area.

*See* Pet. Ex. 2 at 15; *id.* at Figure 6; *id.* at App'x B at 2–4; *id.* at App'x C at 1.

## **RULINGS ON PROPOSED FINDINGS OF FACT**

Any of the findings of fact submitted by Petitioner or other parties that are not already ruled upon by the Commission by adoption herein, or that are rejected by clearly contrary findings of fact herein, are hereby denied and rejected.

Any conclusions of law herein improperly designated as a finding of fact should be deemed or construed as a conclusion of law; any finding of fact herein improperly designated as a conclusion of law should be deemed or construed as a finding of fact.

## **CONCLUSIONS OF LAW**

1. Pursuant to HRS Chapter 205 and the Commission Rules under HAR chapter 15-15, upon consideration of the Commission decision-making criteria under HRS §205-17 and based upon the preponderance of the evidence, the Commission finds and concludes that the reclassification of the Petition Area consisting of approximately 200 acres of land and comprised of a portion of Tax Map Key No. (2) 4-9-002:061 situated at Lānaʻi City, Island of Lānaʻi County of Maui, State of Hawaiʻi to the State Land Use Urban District, subject to the conditions stated in the Order below, conforms to the standards for establishing the boundaries of the State Land Use



Urban District, is reasonable, not violative of HRS §205-2 and Part III of HRS Chapter 205, and consistent with the policies and criteria established pursuant to HRS §§ 205-16, 205-17 and 205A-2.

2. The Commission is empowered to preserve and protect customary and traditional rights of Native Hawaiians. *See Ka Pa'akai O Ka'Aina v. Land Use Comm'n, State of Hawai'i*, 94 Hawai'i 31, 7 P.3d 1068 (2000).

3. Article XI, Section 1, of the Hawai'i State Constitution requires the State to conserve and protect Hawai'i's natural beauty and all natural resources, including land, water, air, minerals and energy sources and to promote the development and utilization of these resources in a manner consistent with their conservation and in furtherance of the self-sufficiency of the State.

4. Article XI, Section 1, of the Hawai'i State Constitution states that all public natural resources are held in trust by the State for the public benefit, and the State should make appropriate assessments and require reasonable measures to protect public natural resources, while applying a higher level of scrutiny where public natural resources are used for economic gain. *Kaua'i Springs, Inc. v. Planning Comm'n of Cnty. of Kaua'i*, 133 Hawai'i 141, 324 P.3d 951 (2014).

5. Article XI, Section 3, of the Hawai'i State Constitution requires the State to conserve and protect agricultural lands, promote diversified agriculture, increase agricultural self-sufficiency and assure the availability of agriculturally suitable lands.

6. The Petition Area is not designated as Important Agricultural Land under Part III of HRS Chapter 205.

7. Article XI, Section 7, of the Hawai'i State Constitution states that the State has an obligation to protect, control and regulate the use of Hawai'i's water resources for the benefit of its people.

8. Article XII, Section 7, of the Hawai‘i State Constitution requires the Commission to protect Native Hawaiian traditional and customary rights. The State of Hawai‘i reaffirms and shall protect all rights, customarily and traditionally exercised for subsistence, cultural and religious purposes and possessed by ahupua‘a tenants who are descendants of Native Hawaiians who inhabited the Hawaiian Islands prior to 1778, subject to the right of the State to regulate such rights. The State and its agencies are obligated to protect the reasonable exercise of customarily and traditionally exercised Native Hawaiian rights to the extent feasible. *See Pub. Access Shoreline Hawai‘i v. Hawai‘i Cnty. Planning Comm’n*, 79 Hawai‘i 425, 450 n.43, 903 P.2d 1246, 1271 n.43 (1995).

9. Based on the facts of this case, the reclassification is consistent with the requirements of Article XI, Sections 1, 3 and 7, and Article XII, Section 7, of the Hawai‘i State Constitution and *Ka Pa‘akai O Ka‘Aina v. Land Use Comm’n, State of Hawai‘i*, 94 Hawai‘i 31, 7 P.3d 1068 (2000).

10. The Commission concludes that it has observed and complied with its duties arising from Article XI, Section 1, Article XI, Section 3, Article XI, Section 7 and Article XII, Section 7, of the Hawai‘i State Constitution.

## **DECISION AND ORDER**

IT IS HEREBY ORDERED that the Petition Area, consisting of approximately 200 acres of land, comprised of a portion of Tax Map Key No. (2) 4-9-002:061 situated at Lāna‘i City, Island of Lāna‘i County of Maui, State of Hawai‘i, and shown on Exhibit 1 attached hereto and incorporated by reference herein, shall be and is hereby classified to the State Land Use Urban District, and the State Land Use District boundaries shall be amended accordingly.

Based on the findings of fact and conclusions of law stated herein, it is determined that the reclassification of the Petition Area will not significantly affect or impair the preservation or maintenance of natural systems and habitats or valued cultural, historical, agricultural and other natural resources of the area.

IT IS FURTHER ORDERED that the reclassification of the Petition Area from the State Land Use Agricultural District to the State Land Use Urban District shall be subject to the following conditions:

1. Preserving Water Resources. In consultation with the Commission on Water Resource Management, Petitioner shall install water efficient fixtures and implement water efficient practices throughout the development to reduce the increased demand on the area's freshwater resources. Alternative water sources shall be used wherever practicable.
2. Stormwater Management. To the satisfaction of the County Department of Public Works, Petitioner shall implement BMPs for stormwater management to minimize the impact of the project to the existing area's hydrology while maintaining on-site filtration and preventing polluted runoff from storm events.
3. CWRM Water Audit Program. Petitioner shall expand its participation in the State Commission of Water Resources Management's Water Audit Program to include the Miki Basin Industrial Park and update its water usage data.
4. FAA Notice of Construction. Prior to construction, Petitioner shall submit to the FAA, FAA Form 7460-1 Notice of Construction or alteration pursuant to the Code of Federal Regulations, Title 14, Part 77.9. Construction equipment and staging area heights, including heights of temporary construction cranes, shall be included in the submittal.

5. Notification of Proximity to Lāna‘i Airport. Petitioner shall notify and disclose to all prospective lessees within the Project, as part of any conveyance document (lease, rental agreement, etc.) required for the transfer of real property or any interest in real property, of the potential adverse impacts of aircraft activity at and from the Lāna‘i Airport such as noise, right of flight, emissions, vibrations, and other incidences of aircraft operations.

6. Hazards to Aircraft Operations.

a) Petitioner shall not provide landscape or vegetation that will create a wildlife attractant.

Stormwater retention basins shall be designed, engineered, constructed, and maintained to prevent standing water from accumulating for periods longer than 48 hours after a storm event so as to avoid attracting wildlife. If the development creates a wildlife attractant that can potentially become a hazard to aircraft operations, the developer shall immediately mitigate the hazard upon notification by the HDOT-A and/or FAA.

b) Petitioner shall conduct or require the photovoltaic (“*PV*”) developer to conduct a glint and glare analysis for the PV system. Petitioner shall also submit or require the PV developer to submit a submission to the FAA a separate FAA Form 7460-1 for the PV system. After the FAA determination of the Form 7460-1 and the glint and glare analysis, a copy shall be provided to the HDOT-A by the owner of the PV system. The owner of the PV system shall immediately mitigate glint and glare hazards and any radio frequency interference (“*RFI*”) hazards emitted by the PV system upon notification by the HDOT-A and/or FAA. In addition, the PV system and battery energy storage facility shall have sufficient firefighting/fire suppressant capability to prevent thick smoke from an uncontrolled fire creating a hazard to airport operations.

c) During construction, the developer shall mitigate any fugitive dust from construction activities to prevent dust hazards to flight operations.

d) Petitioner shall also work with HDOT-A regarding the widening of the portion of Miki Road (Easement 4) located within HDOT-A property. As such, design plans for the road widening shall be submitted to HDOT-A Engineering Branch for review and approval prior to construction. If additional HDOT-A land is required to accommodate the widening of Miki Road, Petitioner shall work with HDOT-A on revising the Memorandum of Agreement, dated November 23, 2021, and the Right of Entry Agreement, dated November 23, 2021.

7. Kaumālapa‘u Highway Impact Mitigation. Petitioner shall improve the Kaumālapa‘u Highway approach on Miki Road prior to any new occupancy of the site or submit a schedule acceptable to HDOT-HWY, Maui District Engineer. Petitioner shall implement, when warranted, at no cost to the State, all recommended improvements referenced in the Traffic Impact Analysis Report dated June 3, 2021, as follows:

- a) Widen Miki Road to two lanes between the project site driveways and Kaumālapa‘u Highway with intersection geometrics capable of accommodating turning movements.
- b) Add an exclusive westbound left-turn deceleration lane on Kaumālapa‘u Highway at the intersection of Miki Road.

Should traffic issues arise at any time up to one year after the full buildout of the Miki Industrial Park, Petitioner shall commence a Traffic Impact Analysis Report and shall be responsible for mitigation of any traffic impacts and issues attributable to the Miki Basin Industrial Park identified

in the Traffic Impact Analysis Report, at no cost to the State, to the satisfaction of the HDOT-HWY, Maui District Engineer.

8. Endangered Hawaiian Hoary Bat. Petitioner shall not remove any trees during the bat birthing and pup rearing season (June 1 through September 15). During this period woody plants greater than 15 feet (4.6 meters) tall shall not be disturbed, removed, or trimmed. Barbed wire should also be avoided for any construction because bats can become ensnared and killed by such fencing material during flight.

9. Impacts to Seabirds. For nighttime lighting that might be required, Petitioner shall install fully shielded lights to minimize the attraction of seabirds. Nighttime work that requires outdoor lighting shall be prohibited during the seabird fledgling season from September 15 through December 15 unless such work is necessitated by an emergency and cannot be performed during the daytime.

10. Invasive Species. Petitioner shall minimize the movement of plant or soil material between worksites as to prevent the spread of pathogens, pests, or invasive plant parts that could harm native species and ecosystems. All equipment, materials, and personnel should be cleaned of excess soil and debris to minimize the risk of spreading invasive species.

11. Infrastructure Deadline. Petitioner shall require that the construction of the proposed PV and battery energy storage project, which includes the primary roadways and access points, and other utility system improvements required for the PV and battery energy storage project, be completed within ten (10) years from the date of this Decision and Order approving the Petition.

12. Previously Unidentified Burials and Archeological/Historic Sites. In the event historic resources, including human skeletal remains, are identified during construction activities, all work



shall cease in the immediate vicinity of the find, the find shall be protected from additional disturbance and SHPD shall be contacted immediately.

13. BMPs. Petitioner shall implement all appropriate BMPs to minimize infiltration and runoff from construction and vehicle operations, reduce or eliminate soil erosion and ground water pollution and formulate dust control measures to be implemented during and after the development process in accordance with DOH guidelines and County ordinances and rules.

14. Compliance with Representations to the Commission. Petitioner shall develop the Petition Area in substantial compliance with the representations made to the Commission. Failure to so develop the Petition Area may result in reversion of the Petition Area to its former classification or change to a more appropriate classification.

15. Backbone Infrastructure Deadline. Petitioner shall complete construction of the proposed backbone infrastructure, which consists of the primary roadways, internal roadways, water supply, sewer, drainage and electrical infrastructure within ten years from the date of the Decision and Order approving the reclassification of the Petition Area.

16. Order to Show Cause. If Petitioner fails to complete the proposed backbone infrastructure within ten years from the date of the Decision and Order approving reclassification of the subject Increment, the Commission may issue and serve upon Petitioner an Order to Show Cause and Petitioner shall appear before the Commission to explain why the Petition Area should not revert to its previous State Land Use Agricultural District classification or be changed to a more appropriate classification.

17. Notice of Change of Ownership. Petitioner shall give notice to the Commission of any intent to sell, lease, assign, place in trust, or otherwise voluntarily alter the ownership interests in the Petition Area, at any time prior to completion of development of the Petition Area.
18. Annual Reports. Petitioner shall timely provide without any prior notice, annual reports to the Commission, OPSD, and the County, and their respective successors, in connection with the status of the development of the Petition Area and Petitioner's progress in complying with conditions imposed herein. The annual report shall be submitted in a form prescribed by the Executive Officer of the Commission. The annual report shall be due on or before the anniversary date of the Decision and Order for the reclassification of the Petition Area.
19. Release of Conditions. The Commission may fully or partially release the conditions provided herein as to all or any portion of the Petition Area upon timely motion and upon the provision of adequate assurance of satisfaction of these conditions by Petitioner or its successors and assigns.
20. Renewable Energy. The 127 acres within the Project Area that have been planned for renewable energy will only be used for the technology of photo-voltaic and battery storage.
21. Consumer Cost Condition. If an increase to rate payers will result from the removal of the two hotels from the existing grid, Petitioner will commit to either offset the increase or not remove the hotels from the grid.

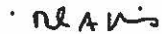
### ADOPTION OF ORDER

The undersigned Chair of the Land Use Commission, being familiar with the record and proceedings, hereby adopts and approves the foregoing ORDER on Mar 28, 2023. This ORDER shall take effect upon the date this ORDER is certified by this Commission.

Done at Honolulu, Hawai'i this day of Mar 28, 2023, per motion on February 8, 2023.

APPROVED AS TO FORM

LAND USE COMMISSION  
STATE OF HAWAII



DANIEL MORRIS, ESQ.  
Deputy Attorney General



DAN GIOVANNI  
Chairperson and Commissioner

Filed and effective on:

Mar 28, 2023

Certified by:



DANIEL ORODENKER  
Executive Officer



23 MAR 28 P4:59

BEFORE THE LAND USE COMMISSION  
OF THE STATE OF HAWAII

In the Matter of the Petition of

DOCKET NO. A19-809

PŪLAMA LĀNA'I,

**CERTIFICATE OF SERVICE**

To Amend the Agriculture Land Use District  
Boundaries Into the Urban Land Use District for  
approximately 200 acres of land, consisting of a  
portion of Tax Map Key No. (2) 4-9-002:061  
(por.) at Lāna'i City, Island of Lāna'i, County of  
Maui, State of Hawai'i.

**CERTIFICATE OF SERVICE**

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 either hand delivery or by  
depositing a copy in the U.S. mail, postage prepaid and/or via email:

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Dated Mar 28, 2023  
Honolulu, Hawai'i



DANIEL ORODENKER  
Executive Officer

## NOTICE OF PUBLIC HEARING

DATE: \_\_\_\_\_

### TO ALL OWNERS / LESSEES:

Please be informed that the undersigned applicant has applied to the Lānaʻi Planning Commission for a Change of Zoning from Agricultural and Interim to M-1, Light Industrial and M-2, Heavy Industrial \* to develop the following:

\*PLEASE INDICATE ALL PLAN CASE TYPES YOU'RE APPLYING FOR

a. Name of Proposed Development: Miki Basin Industrial Park

b. Description of Proposed Development: 200-acre light and heavy industrial park

### THIS SECTION TO BE COMPLETED BY THE PLANNING DEPARTMENT

A PUBLIC HEARING WILL BE HELD ON THIS PROPOSED DEVELOPMENT ON: Date: August 16, 2023 Time: 5:00 PM

Place: Remote Meeting Location via BlueJeans Meeting URL: <https://bluejeans.com/849745451>.

Physical Location - Current Division Conference Room at One Main Plaza, 2200 Main Street, Suite 619, Wailuku, HI 96793.

Courtesy Testimony Site on Lanai - Maui County Council Lanai District Office, 814 Fraser Avenue (entrance on Gay Street) Lanai City, Hawaii 96763.

Attached please find a map identifying the location of the specific parcel(s) being considered in the request for a Change of Zoning from Agricultural and Interim to M-1, Light Industrial and M-2, Heavy Industrial.

Information relative to the application is available for review at the Planning Department, 2200 Main Street, Suite 315, Wailuku, Maui, Hawaii; [planning@mauicounty.gov](mailto:planning@mauicounty.gov); telephone (808) 270-7735; toll free from Molokai 1-800-272-0117, extension 7735; toll free from Lanai 1-800-272-0125, extension 7735.

Public Testimony: relative to this request may be provided in person at the public hearing, or submitted in writing via US mail or email at least two days prior to the hearing date addressed to the appropriate Planning Commission c/o the County of Maui, Department of Planning.

Testimony via US Mail:  
Planning Commission  
c/o Maui County Planning Department  
2200 Main Street, Suite 315  
Wailuku, Maui, HI 96793

Testimony via Email:  
[planning@mauicounty.gov](mailto:planning@mauicounty.gov)  
(NOTE: Please include the "Name of Proposed Development" from this notice in the subject line and body of email testimony)

The development is proposed at the following location:

c. Street Address: Miki Road, Lānaʻi, Hawaiʻi

d. Tax Map Key No: (2)4-9-002:061(por.) Sq.Ft./Acreage: 200 acres

e. Existing Land Use Designations:  
State Land Use District: District Boundary Amendment from Agricultural to Urban is in process with the State Land Use Commission (Docket A19-809)  
Maui Island Plan: N/A  
Community Plan: Light Industrial and Heavy Industrial  
County Zoning: Agricultural and Interim  
Other Designation: \_\_\_\_\_

### THIS SECTION TO BE COMPLETED BY THE PLANNING DEPARTMENT

The public hearing is held under the authority of Chapter 205A, 91 and 92 of the Hawaii Revised Statutes and the appropriate Planning Commission rules.

Any party may be represented by Counsel or other representative.

Name of Applicant (PRINT): Lanai Resorts LLC, a Hawaii Limited Liability Company doing business as Pūlama Lānaʻi  
Kurt Matsumoto, President

Mailing Address: 733 Bishop Street, Suite 1500  
Honolulu, Hawaiʻi 96813

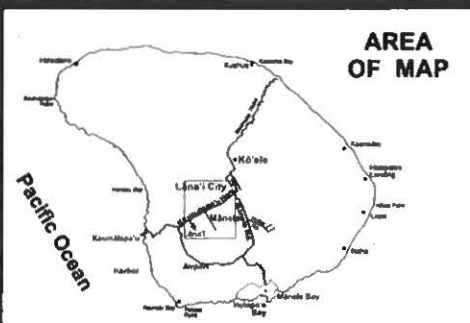
Signature: Kurt Matsumoto Telephone: (808) 237-2001

Pulama Lanai\MikiBasinExp 1769\Applications\COZ\ZPA - COZ CPA\NOH\_Form\_2022

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EXHIBIT 6





Lāna'i City

Kaunalapau Highway

Miki Road

Lāna'i Airport Rd.

Lāna'i Airport

Kaupili Road

**Project Site**

**Manele Small Boat Harbor**

Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

Pacific Ocean

## Miki Basin Industrial Park Regional Location Map



0 2500 5000  
1250 Feet

Prepared for: Lanai Resorts LLC, a Hawaii Limited Liability Company doing business as Pūlama Lāna'i

 **MUNEKIYO HIRAGA**

Pulama Lāna'i Miki Basin Exp 1769 Applications Figures Reg Location NOA BW

## NOTICE OF PUBLIC HEARING

DATE: July 10, 2023

### TO ALL OWNERS / LESSEES:

Please be informed that the undersigned applicant has applied to the Lānaʻi Planning Commission for a County Special Use Permit \*

to develop the following: \*PLEASE INDICATE ALL PLAN CASE TYPES YOU'RE APPLYING FOR

a. Name of Proposed Development: Miki Basin Industrial Park

b. Description of Proposed Development: The Applicant is requesting a County Special Use Permit to relocate an existing 12.5-acre asphalt plant and an existing 14.5-acre concrete batch plant, recycling, and rock crushing facility to the proposed Miki Basin Industrial Park.

### **THIS SECTION TO BE COMPLETED BY THE PLANNING DEPARTMENT**

A PUBLIC HEARING WILL BE HELD ON THIS PROPOSED DEVELOPMENT ON: Date: August 16, 2023 Time: 5:00 PM

Place: Remote Meeting Location via BlueJeans Meeting URL: https://bluejeans.com/849745451.

Physical Location - Current Division Conference Room at One Main Plaza, 2200 Main Street, Suite 619, Wailuku, HI 96793.

Courtesy Testimony Site on Lanai - Maui County Council Lanai District Office, 814 Fraser Avenue (entrance on Gay Street) Lanai City, Hawaii 96763.

Attached please find a map identifying the location of the specific parcel(s) being considered in the request for a County Special Use Permit

Information relative to the application is available for review at the Planning Department, 2200 Main Street, Suite 315, Wailuku, Maui, Hawaii; [planning@mauicounty.gov](mailto:planning@mauicounty.gov); telephone (808) 270-7735; toll free from Molokai 1-800-272-0117, extension 7735; toll free from Lanai 1-800-272-0125, extension 7735.

Public Testimony: relative to this request may be provided in person at the public hearing, or submitted in writing via US mail or email at least two days prior to the hearing date addressed to the appropriate Planning Commission c/o the County of Maui, Department of Planning.

Testimony via US Mail:  
Planning Commission  
c/o Maui County Planning Department  
2200 Main Street, Suite 315  
Wailuku, Maui, HI 96793

Testimony via Email:  
[planning@mauicounty.gov](mailto:planning@mauicounty.gov)  
(NOTE: Please include the "Name of Proposed Development" from this notice in the subject line and body of email testimony)

The development is proposed at the following location:

c. Street Address: Miki Road, Lānaʻi, Hawaiʻi

d. Tax Map Key No: (2)4-9-002:061 (por.)

Sq.Ft./Acreage: 27 acres

e. Existing Land Use Designations:

State Land Use District: Urban

Maui Island Plan: N/A

Community Plan: Heavy Industrial

County Zoning: Change of Zoning Requested to M-2, Heavy Industrial (ZPA 2022-00005)

Other Designation: \_\_\_\_\_

### **THIS SECTION TO BE COMPLETED BY THE PLANNING DEPARTMENT**

The public hearing is held under the authority of Chapter 205A, 91 and 92 of the Hawaii Revised Statutes and the appropriate Planning Commission rules.

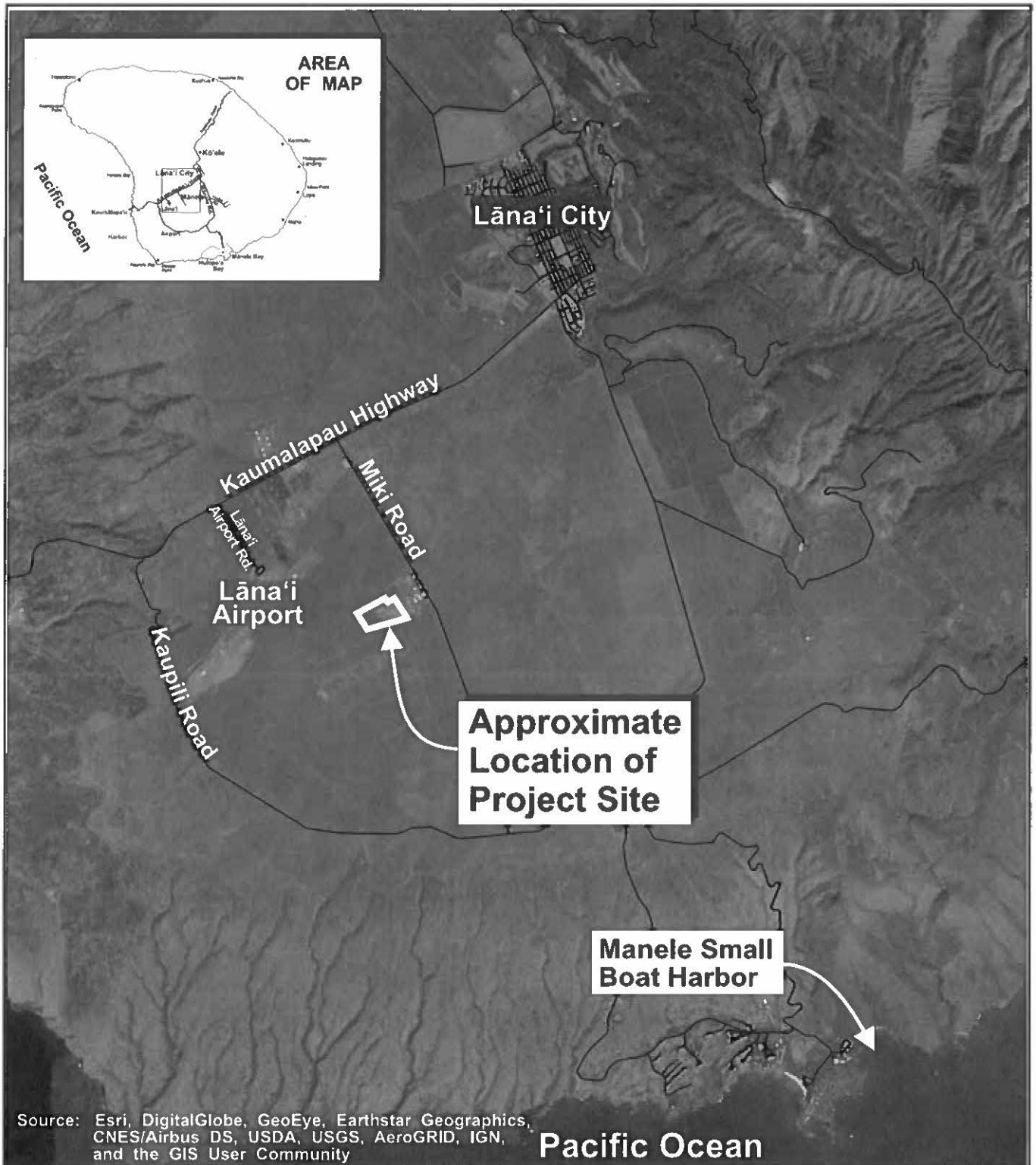
Petitioners to intervene shall be in conformity with §12-201 of the Rules of Practice and Procedure for the Maui Planning Commission; §12-401 of the Rules of Practice and Procedure for the Molokai Planning Commission; or §12-401 of the Rules of Practice and Procedure for the Lanai Planning Commission. The Petition to Intervene shall be filed with the respective planning commission and served upon the applicant no less than ten (10) business days before the first public hearing date, no later than 4:30 p.m. on the day of August 2, 2023. Filing of all documents with the Planning Commission shall be in c/o the County of Maui, Department of Planning, 2200 Main Street, Suite 315, Wailuku, Maui, Hawaii 96793.

Any party may be represented by Counsel or other representative.

Name of Applicant (PRINT): Lanai Resorts LLC, a Hawaii Limited Liability Company doing business as Pūlama Lānaʻi  
Kurt Matsumoto, President

Mailing Address: 733 Bishop Street, Suite 1500  
Honolulu, Hawaiʻi 96813

Signature:  Telephone: (808)237-2001



# **Asphalt Plant and Rock Crushing Facilities at Miki Basin Industrial Park** **Regional Location Map**



Prepared for: Lanai Resorts LLC, a Hawaii Limited Liability Company doing business as Pūlama Lāna'i

**MUNEKIYO HIRAGA**

DAVID Y. IGE  
GOVERNOR  
KE KIA'ĀINA



AUDREY HIDANO  
COMPTROLLER  
KA LUNA HO'OMALU HANA LAULĀ

MEOH-LENG SILLIMAN  
DEPUTY COMPTROLLER  
KA HOPE LUNA HO'OMALU HANA LAULĀ

**STATE OF HAWAII | KA MOKU'ĀINA O HAWAII**  
**DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES | KA 'OIHANA LOIHELU A LAWELAWÉ LAULĀ**  
P.O. BOX 119, HONOLULU, HAWAII 96810-0119

Response refer to:  
Ma-217(22)

December 2, 2022

**MEMORANDUM**

**TO:** Michele Chouteau McLean, Director  
Department of Planning, County of Maui

**ATTN:** Kurt Wollenhaupt, Staff Planner

**FROM:** Reid K. Siarot, State Land Surveyor *mk*  
DAGS, Survey Division

**SUBJECT:** Miki Basin Industrial Park  
Applicant: Lanai Resorts LLC  
Permit No.: ZPA2022-00005  
TMK: 4-9-02: Por. 61

This in regard to your email dated November 15, 2022 and request for comments on the subject application.

The subject proposal has been reviewed and confirmed that no Government Survey Triangulation Stations or Benchmarks are affected. Survey Division has no objections to the proposed project.

Should you have any questions, please call me at 586-0390.

**EXHIBIT 7**



Karlynn K. Fukuda  
PRESIDENT

Mark Alexander Roy AICP, LEED AP  
VICE PRESIDENT

Tessa Munekiyo Ng AICP  
VICE PRESIDENT

Michael T. Munekiyo AICP  
SENIOR ADVISOR

January 13, 2023

Reid K. Siarot, State Land Surveyor  
Survey Division  
Department of Accounting and  
General Services  
PO Box 119  
Honolulu, HI 96810-0119

SUBJECT: Application for Change of Zoning for Miki Basin Industrial Park at  
TMK (2)4-9-002:061 (por.), Lānaʻi, Maui, Hawaiʻi

Dear Mr. Siarot:

Thank for your comment letter dated December 2, 2022, regarding the Application for Change of Zoning for the subject project. On behalf of Lānaʻi Resorts LLC, a Hawaiʻi Limited Liability Company, doing business (dba) as Pūlama Lānaʻi (Applicant), we acknowledge that the Department of Accounting and General Services Survey Division has no objections to the proposed project.

We appreciate your input and should you have any questions or require further information regarding the proposed project, please contact me at (808) 244-2015 (extension 221).

Very truly yours,



Chris Sugidono  
Senior Associate

CEJS:yp

cc: Kurt Wollenhaupt, County of Maui, Department of Planning  
Keiki-Pua Dancil, Pūlama Lānaʻi

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JOSH GREEN, M.D.  
GOVERNOR | KE KIA'ĀINA

SYLVIA LUKE  
LIEUTENANT GOVERNOR | KA HOPE KIA'ĀINA



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

STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAII'  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
LAND DIVISION

P.O. BOX 621  
HONOLULU, HAWAII 96809

December 15, 2022

County of Maui  
Department of Planning, Current Division  
Attn: Mr. Kurt Wollenhaupt, Staff Planner  
2200 Main Street, Suite 315  
Wailuku, Hawaii 96793

via email: [kurt.wollenhaupt@co.maui.hi.us](mailto:kurt.wollenhaupt@co.maui.hi.us)

Dear Mr. Wollenhaupt:

SUBJECT: Change of Zone Application from Agricultural and Interim to M-1 Light Industrial and M-2 Heavy Industrial for the **Miki Basin Industrial Area** located at Miki Road, Island of Lanai; County of Maui; TMK: (2) 4-9-002:061 por. on behalf of Lanai Resorts LLC dba Pulama Lanai

Thank you for the opportunity to review and comment on the subject matter. The Land Division of the Department of Land and Natural Resources (DLNR) distributed or made available a copy of your request pertaining to the subject matter to DLNR's Divisions for their review and comments.

At this time, enclosed are comments from the Division of Forestry & Wildlife on the subject matter. Should you have any questions, please feel free to contact Darlene Nakamura at (808) 587-0417 or email: [darlene.k.nakamura@hawaii.gov](mailto:darlene.k.nakamura@hawaii.gov). Thank you.

Sincerely,

*Russell Tsuji*

Russell Y. Tsuji  
Land Administrator

Enclosure  
cc: Central Files

EXHIBIT 8



DAVID Y. IGE  
GOVERNOR OF HAWAII



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

STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
LAND DIVISION

POST OFFICE BOX 621  
HONOLULU, HAWAII 96809

Nov 21, 2022

**MEMORANDUM**

FROM: **DLNR Agencies:**  
\_\_\_ Div. of Aquatic Resources ([kendall.l.tucker@hawaii.gov](mailto:kendall.l.tucker@hawaii.gov))  
\_\_\_ Div. of Boating & Ocean Recreation ([richard.t.howard@hawaii.gov](mailto:richard.t.howard@hawaii.gov))  
X Engineering Division ([DLNR.ENGR@hawaii.gov](mailto:DLNR.ENGR@hawaii.gov))  
X Div. of Forestry & Wildlife ([rubyrosa.t.terrago@hawaii.gov](mailto:rubyrosa.t.terrago@hawaii.gov))  
\_\_\_ Div. of State Parks ([curt.a.cottrell@hawaii.gov](mailto:curt.a.cottrell@hawaii.gov))  
X Commission on Water Resource Management ([DLNR.CWRM@hawaii.gov](mailto:DLNR.CWRM@hawaii.gov))  
\_\_\_ Office of Conservation & Coastal Lands ([sharleen.k.kuba@hawaii.gov](mailto:sharleen.k.kuba@hawaii.gov))  
X Land Division – Maui District ([daniel.l.omellas@hawaii.gov](mailto:daniel.l.omellas@hawaii.gov))

TO: Russell Y. Tsuji, Land Administrator *Russell Tsuji*

SUBJECT: Change of Zone Application from Agricultural and Interim to M-1 Light Industrial and M-2 Heavy Industrial for the **Miki Basin Industrial Area**

LOCATION: Miki Road, Island of Lanai; County of Maui; TMK: (2) 4-9-002:061 por.

APPLICANT: County of Maui on behalf of Lanai Resorts LLC dba Pulama Lanai

Transmitted for your review and comment is information on the above-referenced subject matter. Please submit any comments by **December 14, 2022**.

If no response is received by the above date, we will assume your agency has no comments. Should you have any questions about this request, please contact Darlene Nakamura at [darlene.k.nakamura@hawaii.gov](mailto:darlene.k.nakamura@hawaii.gov). Thank you.

**BRIEF COMMENTS:**

- ( ) We have no objections.  
( ) We have no comments.  
( ) We have no additional comments.  
☒ Comments are included/attached.

Signed: *DL*

Print Name: LAINIE BERRY, Wildlife Program Mgr.

Division: Division of Forestry and Wildlife

Date: Dec 15, 2022

Attachments  
cc: Central Files

JOSH GREEN, M.D.  
GOVERNOR | KE KIA'ĀINA

SYLVIA LUKE  
LIEUTENANT GOVERNOR | KA HOPE KIA'ĀINA



**STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAII'**  
**DEPARTMENT OF LAND AND NATURAL RESOURCES**

Division of Forestry and Wildlife  
1151 Punchbowl Street, Room 325  
Honolulu, Hawaii 96813

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

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

December 13, 2022

**MEMORANDUM**

*Log no. 3905*

**TO:** RUSSELL Y. TSUJI, Land Administrator  
Land Division

**FROM:** LAINIE BERRY, Wildlife Program Manager  
Division of Forestry and Wildlife

**SUBJECT: Division of Forestry and Wildlife Comments for the Change of Zone Application for Miki Basin Industrial Park on Lāna'i**

The Department of Land and Natural Resources, Division of Forestry and Wildlife (DOFAW) has received your request for comments for the Change of Zone Application (ZPA2022-00005) from Agricultural and Interim to M-1 Light Industrial and M-2 Heavy Industrial for the Miki Basin Industrial Area located at Miki Road, on the island of Lāna'i; TMK: (2) 4-9-002:061 (por.). The proposed project consists of developing 200 acres that will include 20 acres for infrastructure purposes; 127 acres for renewable energy projects; 14.5 acres for the relocation of an existing concrete recycling and rock crushing operation (and for the storage and stockpiling of aggregate and construction materials); 12.5 acres for the relocation of an existing asphalt plant; and 26 acres for new industrial uses. Possible new future industrial uses include a slaughterhouse, warehouse space for cold storage, laboratory/testing facilities, niche product development, automotive services, multi-media facility, animal hospital, and other industrial uses allowed under "M-1, Light Industrial" and "M-2, Heavy Industrial" zoning.

DOFAW concurs with the mitigation measures included in the application and attached Final Environmental Assessment intended to avoid construction and operational impacts to State-listed species including the Hawaiian Hoary bat or 'Ōpe'ape'a (*Lasiurus cinereus semotus*), Blackburn's Sphinx Moth (*Manduca blackburni*) and seabirds. For illustrations and guidance related to seabird-friendly light styles that also protect the dark, starry skies of Hawai'i please visit <https://dlnr.hawaii.gov/wildlife/files/2016/03/DOC439.pdf>. DOFAW provides the following additional comments regarding the potential for the proposed work to affect listed species in the vicinity of the project area.

DOFAW recommends minimizing the movement of plant or soil material between worksites. Soil and plant material may contain detrimental fungal pathogens (e.g., Rapid 'Ōhi'a Death), vertebrate and invertebrate pests (e.g., Coqui Frogs, Little Fire Ants, etc.), or invasive plant parts (e.g., Ivy Gourd, Fountain Grass, etc.) that could harm our native species and ecosystems. We recommend consulting the Maui Invasive Species Committee (MISC) at (808) 573-6472 to help plan, design, and construct the project, learn of any high-risk invasive species in the area, and ways to mitigate their spread. All equipment, materials, and personnel should be cleaned of excess soil and debris to minimize the risk of spreading invasive species.

We appreciate your efforts to work with our office for the conservation of our native species. These comments are general guidelines and should not be considered comprehensive for this site or project. It is the responsibility of the applicant to do their own due diligence to avoid any negative environmental impacts. 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](mailto:paul.m.radley@hawaii.gov).

Sincerely,



LAINIE BERRY  
Wildlife Program Manager

Karlynn K. Fukuda  
PRESIDENT

Mark Alexander Roy AICP, LEED AP  
VICE PRESIDENT

Tessa Munekiyo Ng AICP  
VICE PRESIDENT

Michael T. Munekiyo AICP  
SENIOR ADVISOR

January 13, 2023

Dr. Lainie Berry, Wildlife Program Manager  
Division of Forestry and Wildlife  
Department of Land and Natural Resources  
1151 Punchbowl Street, Room 325  
Honolulu, HI 96813

**SUBJECT: Application for Change of Zoning for Miki Basin Industrial Park at  
TMK (2)4-9-002:061 (por.), Lānaʻi, Maui, Hawaiʻi**

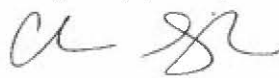
Dear Dr. Berry:

Thank for your comment letter dated December 13, 2022, regarding the Application for Change of Zoning for the subject project. On behalf of Lānaʻi Resorts LLC, a Hawaiʻi Limited Liability Company, doing business (dba) as Pūlama Lānaʻi (Applicant), we appreciate you taking the time to provide us comments on this 200-acre master-planned light and heavy industrial development.

On behalf of the Applicant, we offer the following responses to your comments which are presented in **Exhibit A**, herein.

We appreciate your input and should you have any questions or require further information regarding the proposed project, please contact me at (808) 244-2015 (extension 221).

Very truly yours,



Chris Sugidono  
Senior Associate

CEJS:yp  
Enclosure

cc: Kurt Wollenhaupt, County of Maui, Department of Planning (w/enclosure)  
Keiki-Pua Dancil, Pūlama Lānaʻi (w/enclosure)

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## EXHIBIT A

### **Comment No. 1:**

*DOFAW concurs with the mitigation measures included in the application and attached Final Environmental Assessment intended to avoid construction and operational impacts to State-listed species including the Hawaiian Hoary bat or 'Ōpe'ape'a (*Lasiurus cinereus semotus*), Blackburn's Sphinx Moth (*Manduca blackburni*) and seabirds. For illustrations and guidance related to seabird-friendly light styles that also protect the dark, starry skies of Hawai'i please visit <https://dlnr.hawaii.gov/wildlife/files/2016/03/DOC439.pdf>.*

**Response:** The Applicant appreciates the comment and will refer to the resource provided for seabird-friendly light styles that also protect the dark, starry skies of Hawai'i.

### **Comment No. 2:**

*DOFAW recommends minimizing the movement of plant or soil material between worksites. Soil and plant material may contain detrimental fungal pathogens (e.g., Rapid 'Ōhi'a Death), vertebrate and invertebrate pests (e.g., Coqui Frogs, Little Fire Ants, etc.), or invasive plant parts (e.g., Ivy Gourd, Fountain Grass, etc.) that could harm our native species and ecosystems. We recommend consulting the Maui Invasive Species Committee (MISC) at (808) 573-6472 to help plan, design, and construct the project, learn of any high-risk invasive species in the area, and ways to mitigate their spread. All equipment, materials, and personnel should be cleaned of excess soil and debris to minimize the risk of spreading invasive species.*

**Response:** The Applicant acknowledges the comment and will minimize the movement of plant or soil material between worksites. Consultation with the MISC will also be conducted, as needed. Additionally, all equipment, materials, and personnel will be cleaned of excess soil and debris to minimize the risk of spreading invasive species.

### **Comment No. 3:**

*We appreciate your efforts to work with our office for the conservation of our native species. These comments are general guidelines and should not be considered comprehensive for this site or project. It is the responsibility of the applicant to do their own due diligence to avoid any negative environmental impacts. 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.*

**Response:** The Applicant acknowledges the comment and will do its due diligence to avoid negative environmental impacts.

**Kurt Wollenhaupt - Agency Review for - ZPA2022-00005 - Miki Basin Industrial Park**

---

**From:** Cori China <cori.china@k12.hi.us>  
**To:** <kurt.wollenhaupt@co.maui.hi.us>  
**Date:** 11/15/2022 2:08 PM  
**Subject:** Agency Review for - ZPA2022-00005 - Miki Basin Industrial Park

---

Hi Kurt,  
This is Cori from the Department of Education. We have no comment. The property is not located in a designated School Impact Fee district.

Mahalo,  
Cori China  
Hawaii Department of Education  
Office of Facilities and Operations  
Facilities Development Branch, Planning Section  
3633 Waiālae Avenue, Room C209  
Honolulu, HI 96816  
Phone: [\(808\) 784-5095](tel:8087845095)

This is a staff email account managed by Hawaii Department Of Education School District. This email and any files transmitted with it are confidential and intended solely for the use of the individual or entity to whom they are addressed. If you have received this email in error please notify the sender.

**EXHIBIT 9**



January 13, 2023

Via email: [cori.china@k12.hi.us](mailto:cori.china@k12.hi.us)

Cori China  
Office of Facilities and Operations  
Facilities Development Branch, Planning Section  
Hawai'i Department of Education  
3633 Waialae Avenue, Room C209  
Honolulu, HI 96816

SUBJECT: Application for Change of Zoning for Miki Basin Industrial Park at  
TMK (2)4-9-002:061 (por.), Lāna'i, Maui, Hawai'i

Dear Ms. China:

Thank for your comment dated November 15, 2022, regarding the Application for Change of Zoning for the subject project. On behalf of Lāna'i Resorts LLC, a Hawai'i Limited Liability Company, doing business (dba) as Pūlama Lāna'i (Applicant), we acknowledge that the Department of Education has no comments to offer at this time and notes that the property is not located in a designated School Impact Fee district.

We appreciate your input and should you have any questions or require further information regarding the proposed project, please contact me at (808) 244-2015 (extension 221).

Very truly yours,



Chris Sugidono  
Senior Associate

CEJS:yp

cc: Kurt Wollenhaupt, County of Maui, Department of Planning  
Keiki-Pua Dancil, Pūlama Lāna'i

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**Kurt Wollenhaupt - Agency Review for - ZPA2022-00005 - Miki Basin Industrial Park**

---

**From:** "Nakayama, Megumi" <megumi.nakayama@hawaii.gov>  
**To:** "kurt.wollenhaupt@co.maui.hi.us" <kurt.wollenhaupt@co.maui.hi.us>  
**Date:** 11/22/2022 9:55 AM  
**Subject:** Agency Review for - ZPA2022-00005 - Miki Basin Industrial Park  
**Cc:** "Setogawa, Aaron H." <aaron.h.setogawa@hawaii.gov>

---

Aloha,

Thank you for the opportunity to comment. Office of Planning and Sustainable Development has no comments at this time for the subject rezoning application.

Mahalo,

**Megumi Nakayama**  
Secretary  
Land Use Division,  
State of Hawaii Office of Planning and Sustainable Development  
Telephone: (808) 587-2842

**EXHIBIT 10**

Karlynn K. Fukuda  
PRESIDENT

Mark Alexander Roy AICP, LEED AP  
VICE PRESIDENT

Tessa Munekiyo Ng AICP  
VICE PRESIDENT

Michael T. Munekiyo AICP  
SENIOR ADVISOR

January 13, 2023

Via Email: [megumi.nakayama@hawaii.gov](mailto:megumi.nakayama@hawaii.gov)

Megumi Nakayama, Secretary  
Land Use Division  
State of Hawai'i  
Office of Planning and  
Sustainable Development

SUBJECT: Application for Change of Zoning for Miki Basin Industrial Park at  
TMK (2)4-9-002:061 (por.), Lāna'i, Maui, Hawai'i

Dear Ms. Nakayama:

Thank for your comment dated November 22, 2022, regarding the Application for Change of Zoning for the subject project. On behalf of Lāna'i Resorts LLC, a Hawai'i Limited Liability Company, doing business (dba) as Pūlama Lāna'i (Applicant), we acknowledge that the Office of Planning and Sustainable Development has no comments to offer at this time.

We appreciate your input and should you have any questions or require further information regarding the proposed project, please contact me at (808) 244-2015, extension 221.

Very truly yours,



Chris Sugidono  
Senior Associate

CEJS:yp

cc: Kurt Wollenhaupt, County of Maui, Department of Planning  
Keiki-Pua Dancil, Pūlama Lāna'i

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JOSH GREEN, M.D.  
GOVERNOR



STATE OF HAWAII  
DEPARTMENT OF TRANSPORTATION  
869 PUNCHBOWL STREET  
HONOLULU, HAWAII 96813-5097

EDWIN H. SNIFFEN  
DIRECTOR

Deputy Directors  
DREANALEE K. KALILI  
TAMMY L. LEE  
ROBIN K. SHISHIDO  
ROSS M. HIGASHI

IN REPLY REFER TO

DIR 1093  
STP 8.3510

December 12, 2022

**VIA EMAIL:** kurt.wollenhaupt@co.maui.hi.us

Ms. Michele Chouteau McLean, AICP  
Director  
Planning Department  
County of Maui  
2200 Main Street, Suite 315  
Wailuku, Hawaii 96793

Dear. Ms. McLean:

Subject: Change of Zoning Application (ZPA2022-00005)  
Pulama Lanai Miki Basin Industrial Park  
Lanai City, Lanai, Hawaii  
Tax Map Key: (2) 4-9-002: 061

Thank you for your email dated November 16, 2022, requesting the Hawaii Department of Transportation's (HDOT) review and comments on the Change of Zoning Application for the Pulama Lanai Miki Basin Industrial Park. HDOT understands Pulama Lanai is proposing to develop a 200-acre industrial park containing a renewable energy project, the relocation of an existing concrete recycling and rock crushing operation, the relocation of an existing asphalt plant, and areas for a mix of new heavy and light industrial uses. The property is accessed via Miki Road which intersects with Kaunalapau Highway (State Route 440) to the north.

HDOT previously reviewed and commented on the subject project during Pulama Lanai's recent petition for a State Land Use District Boundary Amendment (DBA) under Land Use Commission (LUC) Docket No. A19-809.

HDOT has the following comments:

Airports Division (HDOT-A)

1. The HDOT-A has no objections to the proposed zone change.

**EXHIBIT //**

2. The proposed development is adjacent to the property boundary of Lanai Airport (LNY). All projects within five miles from Hawaii State airports are advised to read the Technical Assistance Memorandum (TAM) for guidance with development and activities that may require further review and permits. The TAM can be viewed at this link: [http://files.hawaii.gov/dbedt/op/docs/TAM-FAA-DOT-Airports\\_08-01-2016.pdf](http://files.hawaii.gov/dbedt/op/docs/TAM-FAA-DOT-Airports_08-01-2016.pdf).
3. The proposed development is approximately 1,850 feet from the existing end of Runway 21 at LNY and will be approximately 1,350 feet from the end of a future 500-foot Runway 21 extension. Prior to construction, Federal Aviation Administration (FAA) regulation requires the submittal of FAA Form 7460-1 Notice of Proposed Construction or Alteration pursuant to the Code of Federal Regulations, Title 14, Part 77.9, if the construction or alteration is within 20,000 feet of a public use or military airport which exceeds a 100:1 surface from any point on the runway of each airport with its longest runway more than 3,200 feet. Construction equipment and staging area heights, including heights of temporary construction cranes, shall be included in the submittal. The form and criteria for submittal can be found at the following website: <https://oeaaa.faa.gov/oeaaa/external/portal.jsp>.
4. Due to the proximity to the airport, the developer should be aware of potential noise from aircraft operations. There is also a potential for fumes, smoke, vibrations, odors, etc., resulting from occasional aircraft flight operations over or near the project location. These impacts may increase or decrease over time and depending on airport operations.
5. The HDOT-A requires that the proposed development does not provide landscape and vegetation that will create a wildlife attractant. Standing water also has the potential to become a wildlife hazard. The developer shall prevent standing water from accumulating for periods longer than 48 hours after a storm event. If the development creates a wildlife attractant that can potentially become a hazard to aircraft operations, the developer shall immediately mitigate the hazard upon notification by the HDOT-A and/or FAA. Please review the FAA Advisory Circular 150/5200-33C, Hazardous Wildlife Attractants On Or Near Airports for guidance.
6. During construction, the developer shall mitigate any fugitive dust from construction activities. Fugitive dust may become an obstruction and is hazardous to flight operations.
7. Be aware that photovoltaic (PV) systems located in or near the approach path of aircrafts can create a hazardous condition for pilots due to possible glint and glare reflected from the PV panel array. If glint or glare from the PV array creates a hazardous condition for pilots, the owner of the PV system shall be prepared to immediately mitigate the hazard upon notification by the HDOT-A and/or FAA.



The FAA requires a glint and glare analysis for all PV systems near airports. The [www.sandia.gov/glare](http://www.sandia.gov/glare) website has information and guidance with the preparation of a glint and glare analysis. A separate FAA Form 7460-1 will be necessary for the PV system. After the FAA determination of the Form 7460-1 glint and glare analysis, a copy shall be provided to the HDOT-A by the owner of the PV system.

PV systems have also been known to emit radio frequency interference (RFI) to aviation-dedicated radio signals, thereby disrupting the reliability of air-to-ground communications. Again, the owner of the PV system shall be prepared to immediately mitigate the RFI hazard upon notification by the HDOT-A and/or FAA.

8. If energy from the PV system is stored on site, the battery storage facility shall have sufficient firefighting/fire suppressant capability. Thick smoke from an uncontrolled fire can create a hazard to airport operations.
9. The Applicant shall work with HDOT-A regarding the widening of the portion of Miki Road (Easement 4) located within HDOT-A property. As such, design plans for the road widening shall be submitted to the HDOT-A Engineering Branch for review and approval prior to construction. If additional HDOT-A land is required to accommodate the widening of Miki Road, the Applicant shall work with HDOT-A on revising the Memorandum of Agreement, dated November 23, 2021, and the Right of Entry Agreement, dated November 23, 2021.

#### Highways Division (HDOT-HWY)

HDOT-HWY also recommended conditions for the recent DBA, and for consistency purposes would like to request the language and details of the recommended conditions also be utilized for the subject Change of Zoning application:

1. The Applicant shall improve the Kaunalapau Highway approach on Miki Road prior to any new occupancy of the site or submit a schedule acceptable to Hawaii Department of Transportation, Highways Division (HDOT-HWY), Maui District Engineer. The Applicant shall implement, when warranted, at no cost to the State, all recommended improvements referenced in the Traffic Impact Analysis Report (TIAR) dated June 3, 2021, as follows:
  - a. Widen Miki Road to two lanes between the project site driveways and Kaunalapau Highway with intersection geometrics capable of accommodating turning movements.
  - b. Add an exclusive westbound left-turn deceleration lane on Kaunalapau Highway at the intersection of Miki Road.

Ms. Michele Chouteau McLean  
December 12, 2022  
Page 4

STP 8.3510

2. Should traffic issues arise at any time up to one year after the full buildout of the Miki Basin Industrial Park, the Applicant shall commence a TIAR and shall be responsible for mitigation of any traffic impacts and issues attributable to the Miki Basin Industrial Park identified in the TIAR, at no cost to the State, to the satisfaction of the HDOT-HWY, Maui District Engineer.

If there are any questions, please contact Mr. Blayne Nikaido of the HDOT Statewide Transportation Planning Office at (808) 831-7979, or via email at [blayne.h.nikaido@hawaii.gov](mailto:blayne.h.nikaido@hawaii.gov).

Sincerely,



EDWIN H. SNIFFEN  
Director of Transportation



Karlynn K. Fukuda  
PRESIDENT

Mark Alexander Roy AICP, LEED AP  
VICE PRESIDENT

Tessa Munekiyo Ng AICP  
VICE PRESIDENT

Michael T. Munekiyo AICP  
SENIOR ADVISOR

January 13, 2023

Edwin H. Sniffen, Director  
State of Hawai'i  
Department of Transportation  
869 Punchbowl Street  
Honolulu, HI 96813-5097

SUBJECT: Application for Change of Zoning for Miki Basin Industrial Park at  
TMK (2)4-9-002:061 (por.), Lāna'i, Maui, Hawai'i

Dear Mr. Sniffen:

Thank for your comment letter dated December 12, 2022, regarding the Application for Change of Zoning for the subject project. On behalf of Lāna'i Resorts LLC, a Hawai'i Limited Liability Company, doing business (dba) as Pūlama Lāna'i (Applicant), we appreciate you taking the time to provide us comments on this 200-acre master-planned light and heavy industrial development.

On behalf of the Applicant, we offer the following responses to your comments which are presented in **Exhibit A**, herein.

We appreciate your input and should you have any questions or require further information regarding the proposed project, please contact me at (808) 244-2015 (extension 221).

Very truly yours,

Chris Sugidono  
Senior Associate

CEJS:yp  
Enclosure

cc: Kurt Wollenhaupt, County of Maui, Department of Planning (w/enclosure)  
Keiki-Pua Dancil, Pūlama Lāna'i (w/enclosure)

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## EXHIBIT A

### **Airports Division (HDOT-A)**

#### **Comment No. 1:**

*The HDOT-A has no objections to the proposed zone change.*

**Response:** The Applicant appreciates the comment and recognizes HDOT-A has no objections to the proposed request.

#### **Comment No. 2:**

*The proposed development is adjacent to the property boundary of Lanai Airport (LNY). All projects within five miles from Hawaii State airports are advised to read the Technical Assistance Memorandum (TAM) for guidance with development and activities that may require further review and permits. The TAM can be viewed at this link:*

*[http://files.hawaii.gov/dbedt/op/docs/TAM-FAA-DOT-Airports\\_08-01-2016.pdf](http://files.hawaii.gov/dbedt/op/docs/TAM-FAA-DOT-Airports_08-01-2016.pdf).*

**Response:** The Applicant acknowledges the comment and will review the Technical Assistance Memorandum (TAM) for guidance with development and activities that may require further review and permits.

#### **Comment No. 3:**

*The proposed development is approximately 1,850 feet from the existing end of Runway 21 at LNY and will be approximately 1,350 feet from the end of a future 500-foot Runway 21 extension. Prior to construction, Federal Aviation Administration (FAA) regulation requires the submittal of FAA Form 7460-1 Notice of Proposed Construction or Alteration pursuant to the Code of Federal Regulations, Title 14, Part 77.9, if the construction or alteration is within 20,000 feet of a public use or military airport which exceeds a 100:1 surface from any point on the runway of each airport with its longest runway more than 3,200 feet. Construction equipment and staging area heights, including heights of temporary construction cranes, shall be included in the submittal. The form and criteria for submittal can be found at the following website: <https://oeaaa.faa.gov/oeaaa/external/portal.jsp>.*

**Response:** The Applicant acknowledges the required submittal of FAA Form 7460-1 Notice of Proposed Construction or alteration. The Applicant also acknowledges that construction equipment and staging area heights, including heights of temporary construction cranes, shall be included in the submittal.

**Comment No. 4:**

*Due to the proximity to the airport, the developer should be aware of potential noise from aircraft operations. There is also a potential for fumes, smoke, vibrations, odors, etc., resulting from occasional aircraft flight operations over or near the project location. These impacts may increase or decrease over time and depending on airport operations.*

**Response:** The Applicant acknowledges the potential noise from aircraft operations, as well as the potential for fumes, smoke, vibrations, odors, etc. resulting from occasional aircraft flight operations over or near the project location.

**Comment No. 5:**

*The HDOT-A requires that the proposed development does not provide landscape and vegetation that will create a wildlife attractant. Standing water also has the potential to become a wildlife hazard. The developer shall prevent standing water from accumulating for periods longer than 48 hours after a storm event. If the development creates a wildlife attractant that can potentially become a hazard to aircraft operations, the developer shall immediately mitigate the hazard upon notification by the HDOT-A and/or FAA. Please review the FAA Advisory Circular 150/5200-33C, Hazardous Wildlife Attractants On Or Near Airports for guidance.*

**Response:** The Applicant acknowledges the requirement and will not provide landscape and vegetation that will create a wildlife attractant at the proposed project site. It should be further noted that landscaping in an industrial area is not conducive.

**Comment No. 6:**

*During construction, the developer shall mitigate any fugitive dust from construction activities. Fugitive dust may become an obstruction and is hazardous to flight operations.*

**Response:** The Applicant acknowledges the comment and will mitigate any fugitive dust from construction activities.

**Comment No. 7:**

*Be aware that photovoltaic (PV) systems located in or near the approach path of aircrafts can create a hazardous condition for pilots due to possible glint and glare reflected from the PV panel array. If glint or glare from the PV array creates a hazardous condition for pilots, the owner of the PV system shall be prepared to immediately mitigate the hazard upon notification by the HDOT-A and/or FAA.*



*The FAA requires a glint and glare analysis for all PV systems near airports. The [www.sandia.gov/glare](http://www.sandia.gov/glare) website has information and guidance with the preparation of a glint and glare analysis. A separate FAA Form 7460-1 will be necessary for the PV system. After the FAA determination of the Form 7460-1 glint and glare analysis, a copy shall be provided to the HDOT-A by the owner of the PV system.*

*PV systems have also been known to emit radio frequency interference (RFI) to aviation-dedicated radio signals, thereby disrupting the reliability of air-to-ground communications. Again, the owner of the PV system shall be prepared to immediately mitigate the RFI hazard upon notification by the HDOT-A and/or FAA.*

**Response:** The Applicant acknowledges the comment and the owner of the PV system will be prepared to immediately mitigate possible glint and glare hazards upon notification by the HDOT-A and/or FAA.

A glint and glare analysis will also be completed with a separate FAA Form 7460-1 for the PV system. A copy will be provided to the HDOT-A.

Additionally, the owner of the PV system will be prepared to immediately mitigate any RFI hazard upon notification by the HDOT-A and/or FAA.

**Comment No. 8:**

*If energy from the PV system is stored on site, the battery storage facility shall have sufficient firefighting/fire suppressant capability. Thick smoke from an uncontrolled fire can create a hazard to airport operations.*

**Response:** The Applicant acknowledges the comment and will ensure the battery storage facility has sufficient firefighting/fire suppressant capability.

**Comment No. 9:**

*The Applicant shall work with HDOT-A regarding the widening of the portion of Miki Road (Easement 4) located within HDOT-A property. As such, design plans for the road widening shall be submitted to the HDOT-A Engineering Branch for review and approval prior to construction. If additional HDOT-A land is required to accommodate the widening of Miki Road, the Applicant shall work with HDOT-A on revising the Memorandum of Agreement, dated November 23, 2021, and the Right of Entry Agreement, dated November 23, 2021.*

**Response:** The Applicant acknowledges the comment and will submit design plans for the road widening of the aforementioned portion of Miki Road to the HDOT-

A Engineering Branch for review and approval prior to construction. Should additional HDOT-A land be needed, the Applicant will work with HDOT-A on revising the aforementioned Memorandum of Agreement and Right of Entry Agreement.

**Highways Division (HDOT-HWY)**

**Comment No. 1:**

*The Applicant shall improve the Kaunalapau Highway approach on Miki Road prior to any new occupancy of the site or submit a schedule acceptable to Hawaii Department of Transportation, Highways Division (HDOT-HWY), Maui District Engineer. The Applicant shall implement, when warranted, at no cost to the State, all recommended improvements referenced in the Traffic Impact Analysis Report (TIAR) dated June 3, 2021, as follows:*

- a. Widen Miki Road to two lanes between the project site driveways and Kaunalapau Highway with intersection geometrics capable of accommodating turning movements.*
- b. Add an exclusive westbound left-turn deceleration lane on Kaunalapau Highway at the intersection of Miki Road.*

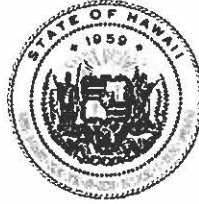
**Response:** The Applicant acknowledges the comment and will submit a schedule for improvements to be accepted by HDOT-HWY. The Applicant will also implement all recommended improvements referenced in the TIAR, when warranted.

**Comment No. 2:**

*Should traffic issues arise at any time up to one year after the full buildout of the Miki Basin Industrial Park, the Applicant shall commence a TIAR and shall be responsible for mitigation of any traffic impacts and issues attributable to the Miki Basin Industrial Park identified in the TIAR, at no cost to the State, to the satisfaction of the HDOT-HWY, Maui District Engineer.*

**Response:** The Applicant acknowledges the comment and will coordinate with the HDOT-HWY, Maui District Engineer, should traffic issues arise at any time up to one year after the full buildout of the proposed project.

DAVID Y. IGE  
GOVERNOR OF  
HAWAII



**STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES**

STATE HISTORIC PRESERVATION DIVISION  
KAKUHIHEWA BUILDING  
601 KAMOKILA BLVD., STE 555  
KAPOLEI, HI 96707

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

October 11, 2022

Daniel E. Orodener, Executive Officer  
State of Hawaii Land Use Commission  
Department of Business, Economic Development & Tourism  
P.O. Box 2359  
Honolulu, Hawai'i 96804-2359  
Wailuku, HI 96793  
c/o: [Daniel.E.Orodener@hawaii.gov](mailto:Daniel.E.Orodener@hawaii.gov)

IN REPLY REFER TO:  
Project No.: 2020PR33693  
Doc. No.: 2210IK07  
Archaeology

Dear Daniel E. Orodener:

**SUBJECT: Chapter 6E-42 Historic Preservation Review –  
Miki Basin Industrial Park Project – 2<sup>nd</sup> Draft Environment Assessment for the  
State Land Use District Boundary Amendment (Docket No. A19-809)  
Archaeological Data Recovery Plan  
Archaeological Data Recovery Report  
Kamoku Ahupua'a, Lāna'i City, Island of Lāna'i  
TMK: (2) 4-9-002:061 por.**

This letter provides the State Historic Preservation Division's (SHPD's) review of a draft archaeological data recovery plan (DRP) titled, *Archaeological Data Recovery Plan for Sites 50-40-98-1980 and 50-40-98-1981 Within the Miki Basin 200 Acres Industrial Development Lands of Kalulu and Kaunolū, Lahaina District, Lāna'i Island* TMK: (2) 4-9-002:061 (Dye, May 2018) and a draft archaeological data recovery report (DRR) titled, *Archaeological Data Recovery Report for Sites 50-40-98-1980 and 50-40-98-1981 Within the Miki Basin 200 Acres Industrial Development Lands of Kalulu and Kaunolū, Lahaina District, Lāna'i Island* TMK: (2) 4-9-002:061 (Dye, February 2019).

SHPD previously reviewed and accepted an archaeological inventory survey (AIS) report (DiVito et al., May 2018) for the proposed Miki Basin Industrial Park Project in a letter dated August 4, 2020 (Log No. 2020.01586, Doc. No. 2008AM02). SHPD concurred with the proposed mitigation recommendations of archaeological data recovery for SIHP Site 50-40-98-01980 (surface lithic scatter and exposed fire-pit) and SIHP Site 50-40-98-01981 (subsurface fire-pit). SHPD received an HRS 6E Submittal Form and SHPD's previous review letter of the subject project on December 20, 2021 (Submission No. 2020PR33693.002) and the draft DRP and draft DRR on January 7, 2022 (Submission No. 2020PR33693.003). The unsolicited DRP and DRR were developed before SHPD's review and acceptance of the AIS report.

The landowner, Pūlama Lāna'i, proposes the Miki Basin Industrial Park Project consisting of a 200-acre master-planned light and heavy industrial development on land adjoining the Lāna'i Airport, the Maui Electric Company (MECO) 5-acre power plant, and the existing 20-acre Miki Basin Industrial Condominium. There are no proposed ground disturbances and currently is considered a paper action only. According to the submittal documents, future ground-disturbing activities will require a new HRS 6E review.

**EXHIBIT 12**

T.S. Dye and Colleagues, Archaeologists, Inc. (TSD) conducted an archaeological inventory survey (DiVito et al., May 2018) of 200 acres for the subject Miki Basin Industrial Park Project. The survey included a 100 percent coverage pedestrian survey of the project area which was conducted using transects spaced at 10-meter (m) intervals. Subsurface testing of the project area included the excavation of 31 backhoe trenches. The test trenches were excavated to 145 cm below ground surface, measured 3 to 4 m in length, and were each 1 m wide. TSD identified two historic properties during the AIS testing: SIHP Site 50-40-98-01980, comprised of two features, a lithic scatter and an eroded exposed fire-pit; and SIHP Site 50-40-98-01981, a subsurface truncated fire-pit feature. During the AIS fieldwork, all the lithic artifacts were collected in the field, and both fire pits were bisected and fully excavated. TSD assessed SIHP Sites 50-40-98-01980 and 50-40-98-01981 as significant for the information on Hawaiian history and prehistory that they have yielded (Criterion "d"). The report indicates that the Miki Basin Industrial Park Project will adversely impact both historic properties and recommends that data recovery be conducted as mitigation. SHPD concurred with the significance assessments and mitigation recommendations for SIHP Sites 50-40-98-01980 and 50-40-98-01981 (Log No. 2020.01586, Doc. No. 2008AM02).

#### Data Recovery Plan (Dye, May 2018)

TSD produced the subject DRP for SIHP Sites 50-40-98-01980 and 50-40-98-01981. As indicated above, the DRP was produced prior to SHPD's review and acceptance of the AIS report (DiVito et al., May 2018). The DRP includes a brief management summary, site descriptions, research questions, and methodology. The plan stipulates that no fieldwork will be conducted for the data recovery work. During the AIS fieldwork, all the artifacts were collected from the field, the fire pits were bisected, and charcoal samples were collected. The DRP focuses on conducting charcoal identification, accelerator mass spectrometry dating, and calibration of the laboratory results with the BCal software package for each fire-pit feature. Additionally, the collected lithic artifacts would be subjected to EDXRF at the University of Hawai'i at Hilo to identify the source of rock with non-destructive geochemical analysis. Lastly, the DRP indicates the laboratory results would be presented in the DRR.

Research questions include 1) gathering data on the history of vegetation change on Lāna'i in an effort to date two periods of change, the pre-Contact period and the mid-nineteenth century when sheep and goats were raised on the island; and 2) complete technological and geochemical sourcing analyses of the lithic artifacts to determine the reduction sequences for the lithic artifacts and to determine possible source locations.

#### Data Recovery Report (Dye, February 2019)

TSD produced the subject DRR before SHPD's review and acceptance of the DRP (Dye, May 2018). The DRR includes a management summary, an overview of the DRP, laboratory results, a discussion of research objectives, and conclusions. Two pieces of wood charcoal were selected for radiocarbon dating. A piece of 'ilima charcoal (SIHP Site 50-40-98-01981) and a piece of 'akoko (SIHP Site 50-40-98-01980) were submitted to Beta-Analytic for AMS dating. The results indicated that both sites dated near the end of the pre-Contact period.

Dye (February 2019) compared the ages and firewood composition of the fire-pits at SIHP Sites 50-40-98-01980 and 50-40-98-01981 with ten fire-pit features on Lāna'i Island and with 33 fire-pit features from Waimānalo, O'ahu Island, to distinguish tempos of vegetation change following Polynesian colonization of the islands. The combination of wood charcoal identification and controlled radiocarbon dating yields indicate the choice of wood species to fuel a fire and a precise estimate of when the firing occurred. The DRR report states that the reported calibrated ages of the individual fire-pits were more helpful in asking the question of when the first fire-pit construction and use were, second occurrences, etc. Dye (February 2019) states that based on the present evidence, the first occurrence of fire-pit construction and use on Lāna'i began in the late fifteenth century and continued into the historic period. In addition, the identification of firewood used in the fire-pits indicates the prevalence in the historical period of native forest, with relatively little replacement of native species by introduced vegetation species (canoe plants) by Polynesians. In addition, the current evidence suggests the first fire-pits were constructed 400 to 500 years after Polynesians colonized the Hawai'i island chain, and it was unlikely that the earliest evidence for human activity on Lāna'i has been identified. The second research question related to the technological and geochemical sourcing analyses (EDXRF) of the collected lithic artifacts concluded that Lāna'i's archaeological study on stone tools is in the early stages of understanding. The reduction sequence of the adze preforms consisted of large flakes from a boulder of suitable rock materials. This reduction sequence involving flakes was common in Hawai'i and associated with producing small adzes. Dye (February 2019) indicates that the adze rejects were sourced from local rocks but cautions that imported adzes will mostly likely be identified with subsequent research.

The DRP meets the minimum requirements of HAR §13-278-3. **It is accepted.** In addition, SHPD agrees with the conclusion that the archaeological data recovery work conducted for the current study adequately mitigates possible future adverse impacts to SIHP Sites 50-40-98-01980 and 50-40-98-01981. No further archaeological work is needed at either site. Additionally, the DRR meets the minimum requirements of HAR §13-278-4 and HAR §13-284-9(d). **It is accepted.**

Please send two hard copies of the mitigation plan and report, each clearly marked FINAL, along with a copy of this letter and a text-searchable PDF versions of the plan and report to the Kapolei SHPD office, Attn: SHPD Library. Also, submit a text-searchable PDF copy of the final plan and report to HICRIS Project No. 2020PR33693 using the Project Supplement option and a PDF copy of each to [lehua.k.soares@hawaii.gov](mailto:lehua.k.soares@hawaii.gov).

**SHPD notifies the County** that the permit issuance process may proceed.

**SHPD requests** the opportunity to review future projects involving ground disturbances within the Miki Basin Industrial Park Project.

Please contact 'Iolani Kauhane, Maui Archaeologist III, at [iolani.kauhane@hawaii.gov](mailto:iolani.kauhane@hawaii.gov) for matters regarding archaeological resources or this letter.

Aloha,

*Alan Downer*

Alan S. Downer, PhD  
Administrator, State Historic Preservation Division  
Deputy State Historic Preservation Officer

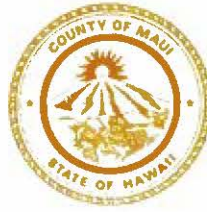
cc: Keiki-Pua Dancil, [kdancil@pulamalanai.com](mailto:kdancil@pulamalanai.com)  
Olivia Simpson, [osimpson@pulamalanai.com](mailto:osimpson@pulamalanai.com)  
Dodge Watson, [dodge@honuaconsulting.com](mailto:dodge@honuaconsulting.com)  
Trisha Watson, [watson@honuaconsulting.com](mailto:watson@honuaconsulting.com)  
Land Use Commission, [dbedt.luc.web@hawaii.gov](mailto:dbedt.luc.web@hawaii.gov)



MICHAEL P. VICTORINO  
Mayor

BRADFORD K. VENTURA  
Fire Chief

GAVIN L.M. FUJIOKA  
Deputy Fire Chief



**DEPARTMENT OF FIRE & PUBLIC SAFETY**  
FIRE PREVENTION BUREAU  
COUNTY OF MAUI  
313 MANEA PLACE  
WAILUKU, HI 96793

December 12, 2022

VIA EMAIL: [kurt.wollenhaupt@co.maui.hi.us](mailto:kurt.wollenhaupt@co.maui.hi.us)

County of Maui  
Department of Planning  
Attn: Kurt Wollenhaupt

**SUBJECT: ZPA2022-00005 – MIKI BASIN INDUSTRIAL PARK, CHANGE IN ZONING**

Dear Kurt,

Fire Prevention Bureau recommends meeting the subdivision land use requirements for water supply and access for all fronting and any proposed internal roads.

For heavy industrial land use, the requirements are:

1. Service roads to proposed properties shall have a clear width of 20 feet. Any dead-end roads or cul-de-sacs shall have a clear width of 32 ft., and if greater than 150 ft. in length, shall be provided with an approved fire apparatus turn-around. All turns and required turnarounds shall have an outside turning radius of 40.5 feet.
2. Water supply for fire protection shall have a minimum flow of 2500 gallons per minute for a two-hour duration with hydrant spacing a maximum of 250 feet between hydrants. Dead-ends shall have a hydrant within 125 ft. Once construction of buildings are planned, there shall be at least one hydrant within 400 feet of any building to be constructed.

Formal review comments will be provided in response to the subdivision application.

For any questions or comments, please feel free to contact us at (808) 876-4690 or by email at [fire.prevention@mauicounty.gov](mailto:fire.prevention@mauicounty.gov).

Sincerely,

Plans Review - Fire Prevention Bureau

CG:jn

**EXHIBIT 13**



Karlynn K. Fukuda  
PRESIDENT  
Mark Alexander Roy AICP, LEED AP  
VICE PRESIDENT  
Tessa Munekiyo Ng AICP  
VICE PRESIDENT  
Michael T. Munekiyo AICP  
SENIOR ADVISOR

January 13, 2023

Plans Review - Fire Prevention Bureau  
Department of Fire & Public Safety  
313 Manea Place  
Wailuku, HI 96793

SUBJECT: Application for Change of Zoning for Miki Basin Industrial Park at  
TMK (2)4-9-002:061 (por.), Lānaʻi, Maui, Hawaiʻi

Dear Sir/Madame:

Thank for your comment letter dated December 12, 2022, regarding the Application for Change of Zoning for the subject project. On behalf of Lānaʻi Resorts LLC, a Hawaiʻi Limited Liability Company, doing business (dba) as Pūlama Lānaʻi (Applicant), we appreciate you taking the time to provide us comments on this 200-acre master-planned light and heavy industrial development.

The Applicant acknowledges the comments provided by the Fire Prevention Bureau and will comply with the requirements for heavy industrial land use. It is noted that the Applicant is not proposing to subdivide the subject property, but the bureau will be able to provide formal review comments through other applicable permits.

We appreciate your input and should you have any questions or require further information regarding the proposed project, please contact me at (808) 244-2015, extension 221.

Very truly yours,

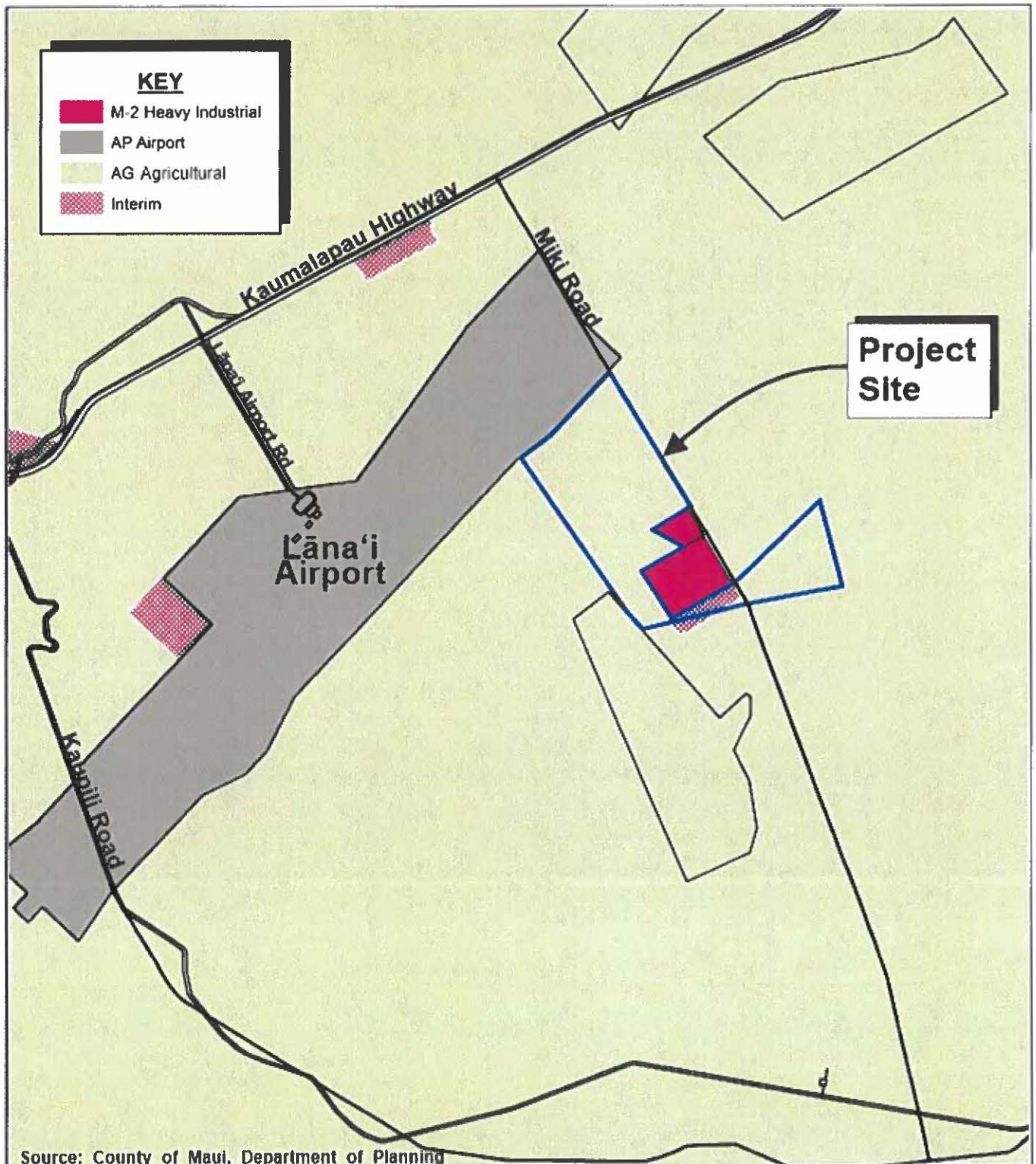
Chris Sugidono  
Senior Associate

CEJS:yp

cc: Kurt Wollenhaupt, County of Maui, Department of Planning  
Keiki-Pua Dancil, Pūlama Lānaʻi

K:\DATA\Pulama LanaiWikiBasinExp 1769\Applications\COZ\COZ Response\DF&PS.docx





**Figure 10** Miki Basin Industrial Park  
Maui County Zoning Map



**EXHIBIT 14**

Prepared for: Lanai Resorts LLC, a Hawaii Limited Liability Company doing business as Pūlama Lānaʻi

 **MUNEKIYO HIRAGA**

Pūlama Lānaʻi Miki Basin Exp. 1769 Applications Figures Map/Court/Zoning



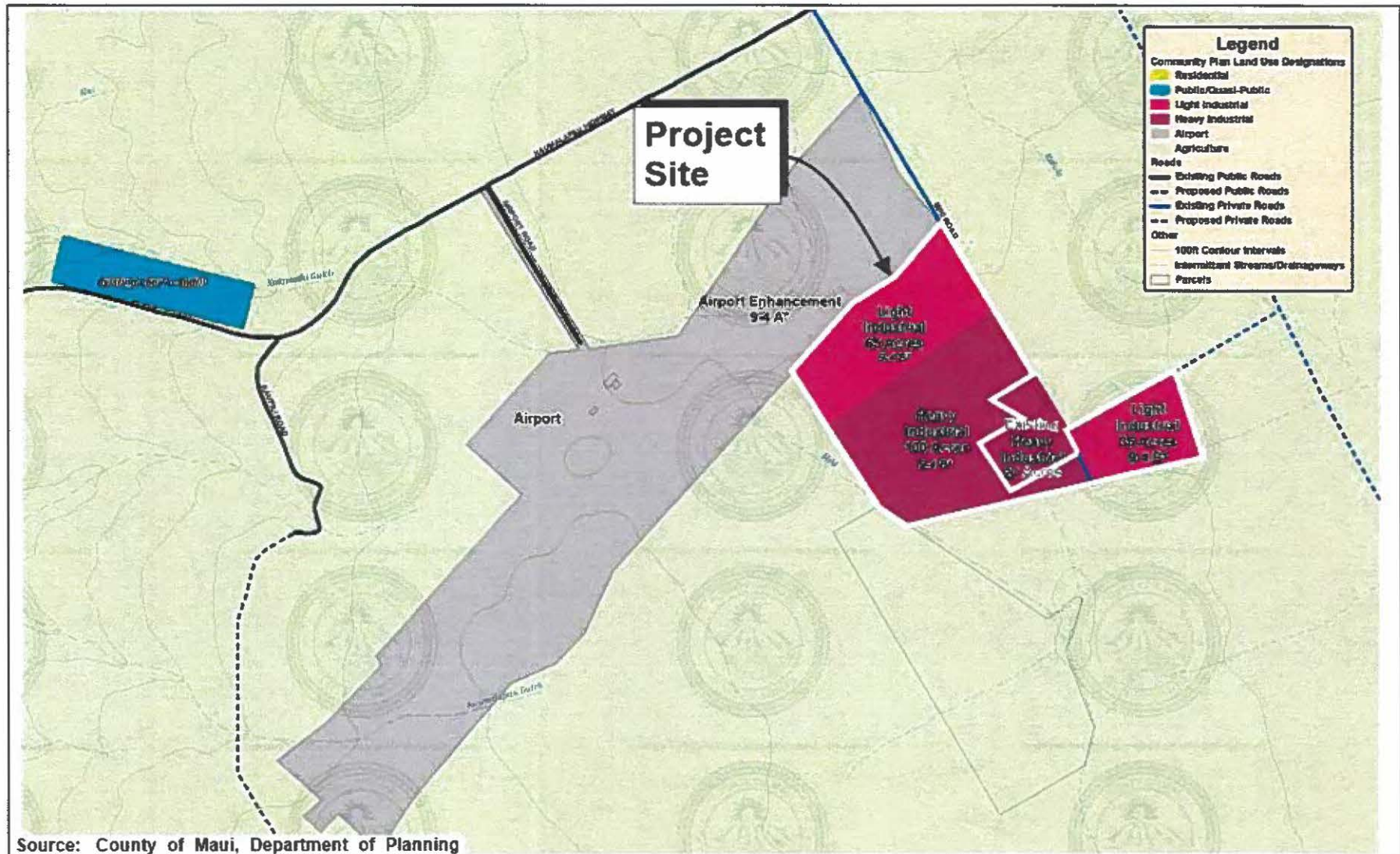


Figure 9

## Miki Basin Industrial Park Lāna'i Community Plan Map

NOT TO SCALE



Prepared for: Lanai Resorts LLC, a Hawaii Limited Liability  
Company doing business as Pūlama Lāna'i



MUNEKIYO HIRAGA

Pūlama Lāna'i Miki Basin Exp. 1765-Applications Figures Lāna'i Comm Plan

## Chapter 19.24 - M-1 LIGHT INDUSTRIAL DISTRICT

*Footnotes:*

--- (10) ---

**Editor's note**— Sec. 2 of Ord. No. 3975, effective Sept. 24, 2012, amended ch. 19.24 in its entirety to read as herein set out. Former ch. 19.24 pertained to the same subject matter, consisted of §§ 19.24.010—19.24.050; and derived from § 8-1.12 of the prior code.

## 19.24.010 - Purpose and intent.

The M-1 light industrial district is designed to contain mostly warehousing and distribution types of activity, and permits most compounding, assembly, or treatment of articles or materials with the exception of heavy manufacturing and processing of raw materials. Residential uses are excluded except for dwelling units located in the same building as any non-dwelling permitted use.

( Ord. No. 5126, § 4, 2020; Ord. No. 3975, § 2, 2012)

## 19.24.020 - Permitted uses.

- A. Within the M-1 light industrial district, no building, structure or premises will be used and no building or structure will be hereafter erected, structurally altered, replaced, or enlarged except for one or more of the following uses:

Uses	Notes and Exceptions
Any use permitted in a B-1, B-2, or B-3 business district except single family dwellings, duplexes, bungalow courts, short-term rental homes, and transient vacation rentals	
Animal kennels	
Dwelling units located in the same building as any non-dwelling permitted use	

EXHIBIT 16



Assembly of electrical appliances, radios and phonographs including the manufacture of small parts such as coils, condensers crystal holders and the like	
Carpet cleaning plants	
Cold storage plants	
Commercial laundries	
Craft cabinet and furniture manufacturing	
Education, specialized	
Farm implement sales and service	
General food, fruit and vegetable processing and manufacturing plants	
Harbor facilities	
Ice cream and milk producing, manufacturing and storage	
Laboratories—experimental, photo or motion picture, film or testing	
Light and heavy equipment and product display rooms, storage and service	
Machine shop or other metal working shop	

Manufacture, compounding or treatment of articles or merchandise from the following previously prepared materials: aluminum, bone, cellophane, canvas, cloth, cork, feathers, felt, fiber, fur, glass, hair, horn, leather, plastics, precious or semi-precious metals or stones, shell, tobacco and wood	
Manufacture, compounding, processing, packing or treatment of such products as candy, cosmetics, drugs, perfumes, pharmaceutical, toiletries, and food products	Except the rendering or refining of fats and oils
Manufacture, dyeing and printing of cloth fabrics and wearing apparel	
Manufacture of musical instruments, toys, novelties and rubber and metal stamps	
Manufacture of pottery and figurines or other similar ceramic products	
Milk bottling or central distribution stations	
Mortuaries and morgues	
Plumbing shops	
Poultry or rabbit slaughter incidental to a retail business on the same premises	
Production facility, multimedia	

Radio transmitting and television stations; provided, that towers are of the self-sustaining type without guys	
Replating shop	
Retail lumber yard including mill and sash work	Mill and sash work shall be conducted within a completely enclosed building
Small boat building	
Soda water and soft drink bottling and distribution plants	
Tire repair operation including recapping and retreading	
Utility facilities, minor, and substations up to, and including, 69 kv transmission	
Warehouse, storage and loft buildings	
Wearing apparel manufacturing	
Wholesale business, storage buildings, nonexplosive goods and warehouses	

( Ord. No. 5126, § 5, 2020; Ord. No. 3975, § 2, 2012)

#### 19.24.030 - Accessory uses and structures.

The following uses and structures, located on the same lot, are deemed accessory, customary, incidental, usual and necessary to the above permitted uses in the district:

##### *Uses:*

Energy systems small-scale

Fences, walls, patios, decks and other landscape features

Garages, porte-cochere, mailboxes, ground signs, and trash enclosures

Security/watchman or custodian outbuildings

Subordinate uses and structures which are determined the planning director to be clearly incidental and customary to the permitted uses listed herein (Ord. No. 3975, § 2, 2012)

19.24.040 - Reserved.

19.24.050 - Development standards.

	M-1	Notes and Exceptions
Minimum lot area (square feet)	7,500	Except for utility facilities minor, which shall have no minimum lot area
Minimum lot width (in feet)	65	
Maximum building height (in feet) with five or more apartments or dwelling units on Maui and Lanai	60	Except that vent pipes, fans, chimneys, antennae, and equipment used for small scale energy or communications systems on roofs shall not exceed 10 feet above the building roof
Maximum building height (in feet) with four or fewer apartments or dwelling units on Maui and Lanai	45	Except that vent pipes, fans, chimneys, antennae, and equipment used for small scale energy or communications systems on roofs shall not exceed 10 feet above the building roof

Maximum building height (in feet) on Molokai	40	
Minimum yard setback (in feet)		
Front	0 or the same as the adjoining zoning category whichever is greater	Where the setback of the adjoining non-industrial zoned parcel is less than 10 feet, a minimum setback of 10 feet shall be applied
Side and rear	0 or the same as the adjoining zoning category whichever is greater	
Freestanding antenna or wind turbine structures height and setback	Maximum height of 75 feet and shall be setback 1 foot for every foot in height from all property lines	
Accessory structures allowed within setback area	Boundary walls, parking area, trash enclosures, and ground signs	
Enclosure requirement	All uses are to be conducted wholly within a completely enclosed building, or within an area enclosed on all sides except the front of the lot, by a solid fence or wall or cyclone fence at least 6 feet in height	

( Ord. No. 5126, § 6, 2020; Ord. No. 3975, § 2, 2012)

19.24.060 - Rulemaking authority.



The planning director may adopt rules to implement this chapter. (Ord. No. 3975, § 2, 2012)

Chapter 19.26 - M-2 HEAVY INDUSTRIAL DISTRICT

Footnotes:

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**Editor's note**— Ord. No. 3976, effective Sept. 24, 2012, amended ch. 19.26 in its entirety to read as herein set out. Former ch. 19.26 pertained to the same subject matter; consisted of §§ 19.26.010—19.26.050; and derived from § 8-1.13 of the prior code.

19.26.010 - Purpose and intent.

Those uses which include the manufacture or treatment of goods from raw materials are permitted in the M-2 heavy industrial district. Those uses which are listed under section 19.26.040 cannot be automatically included in the M-2 heavy industrial district because of their hazardous or offensive nature. Provision is made whereby the location and conduct of these uses is subject to review and approval of the commission as conforming to the intent of this title. (Ord. No. 3976, § 1, 2012)

19.26.020 - Permitted uses.

Within the M-2 heavy industrial district, no building, structure or premises will be used and no building or structure will be hereafter erected, structurally altered, replaced, or enlarged except for one or more of the following uses:

Uses	Notes and Exceptions
Any use permitted in the B-1, B-2 and B-3 business districts and M-1 light industrial district except single family dwellings, duplexes, bungalow courts, short-term rental homes, transient vacation rentals and apartments	Except for living quarters used by security/watchmen or custodians of an industrially used property
Alcohol manufacture	
Automobile wrecking, if conducted within a building	<b>EXHIBIT 17</b>

Boiler and steel works	
Brick, tile or terra cotta manufacture	
Canneries except fish canneries	
Chemical manufacture	
Concrete or cement products manufacture	
Factories	
Foundries	
Freight classification yard (railroad)	
Junk establishment used for storing, depositing, or keeping junk or similar goods for business purposes	Such establishment shall not be nearer than 8 feet from any other property line for the storage of the junk or similar goods except in buildings entirely enclosed with walls
Lime kilns which do not emit noxious and offensive fumes	
Lumber yard	
Machine shops	
Material recycling and recovery facilities	
Oilcloth or linoleum manufacture	
Oil storage plants	
Paint, oil (including linseed), shellac, turpentine, lacquer, or varnish manufacture	

Petroleum products manufacture or wholesale storage of petroleum	
Planing mill	
Plastic manufacture	
Railroad repair shops	
Rolling mills	
Ship works	
Soap manufacture	
Sugar mills and refineries	
Utility facilities, major	
In general those uses which may be obnoxious or offensive by reason of emission of odor, dust, smoke, gas, noise, vibration and the like and not allowed in any other district	Provided, however, that any use not specified in this section shall not be permitted unless approved by the planning director as conforming to the intent of this title

( Ord. No. 5126, § 7, 2020; Ord. No. 3976, § 1, 2012)

#### 19.26.030 - Accessory uses and structures.

The following uses and structures, located on the same lot, are deemed accessory, customary, incidental, usual, and necessary to the above permitted uses in the district:

##### Uses

Energy systems, small-scale

Fences, walls, patios, decks, and other landscape features

Garages, porte-cochere, mailboxes, ground signs, and trash enclosures

Security/watchman or custodian outbuildings

Subordinate uses and structures which are determined by the planning director to be clearly incidental and customary to the permitted uses listed herein

(Ord. No. 3976, § 2, 2012)

#### 19.26.040 - Special uses.

The following uses and structures shall be permitted in the M-2 heavy industrial district provided a County special use permit, pursuant to section 19.510.070, Maui County Code, has first been obtained.

##### **Special Uses**

Acetylene gas manufacture or bulk storage

Acid manufacture

Ammonia, bleaching powder or chlorine manufacture

Asphalt manufacture of refueling and asphaltic concrete plant

Blast furnace or coke oven

Cement, lime, gypsum, or plaster of paris manufacture

Crematories

Creosote treatment plants

Explosives manufacture or storage

Fertilizer manufacture

Fish canneries

Garbage, offal or dead animals reduction or dumping

Gas manufacture

Glue manufacture

Petroleum refinery

Quarry or stone mill

Rock, sand, gravel, or earth excavation, crushing or distribution

Saw mill

Slaughter of animals

Stock yard or deeding pens

Tannery or the curing or storage of raw hides

(Ord. No. 3976, § 1, 2012)

19.26.050 - Development standards.

	M-2	Notes and Exceptions
Minimum lot area (square feet)	10,000	
Minimum lot width (in feet)	75	
Maximum building height (in feet) on Maui and Lanai	90	Except that vent pipes, fans, chimneys, antennae, and equipment used for small scale energy or communications systems on roofs shall not exceed 10 feet above the building roof
Maximum building height (in feet) on Molokai	40	Except that vent pipes, fans, chimneys, antennae, and equipment used for small scale energy or communications systems on roofs shall not exceed 10 feet above the building roof
Minimum yard setback (in feet)		



Front	0 or the same as the adjoining zoning category whichever is greater	Where the setback of the adjoining non-industrial zoned parcel is less than 10 feet, a minimum setback of 10 feet shall be applied
Side and rear	0 or the same as the adjoining zoning category whichever is greater	
Accessory structures allowed within setback area	Boundary walls, parking area, trash enclosures, and ground signs	
Freestanding antenna or wind turbine structures height and setback	Maximum height of 75 feet and shall be setback 1 foot for every foot in height from all property lines	
Enclosure requirement	All uses are to be conducted wholly within a completely enclosed building, or within an area enclosed on all sides except the front of the lot, by a solid fence or wall or cyclone fence at least 6 feet in height	

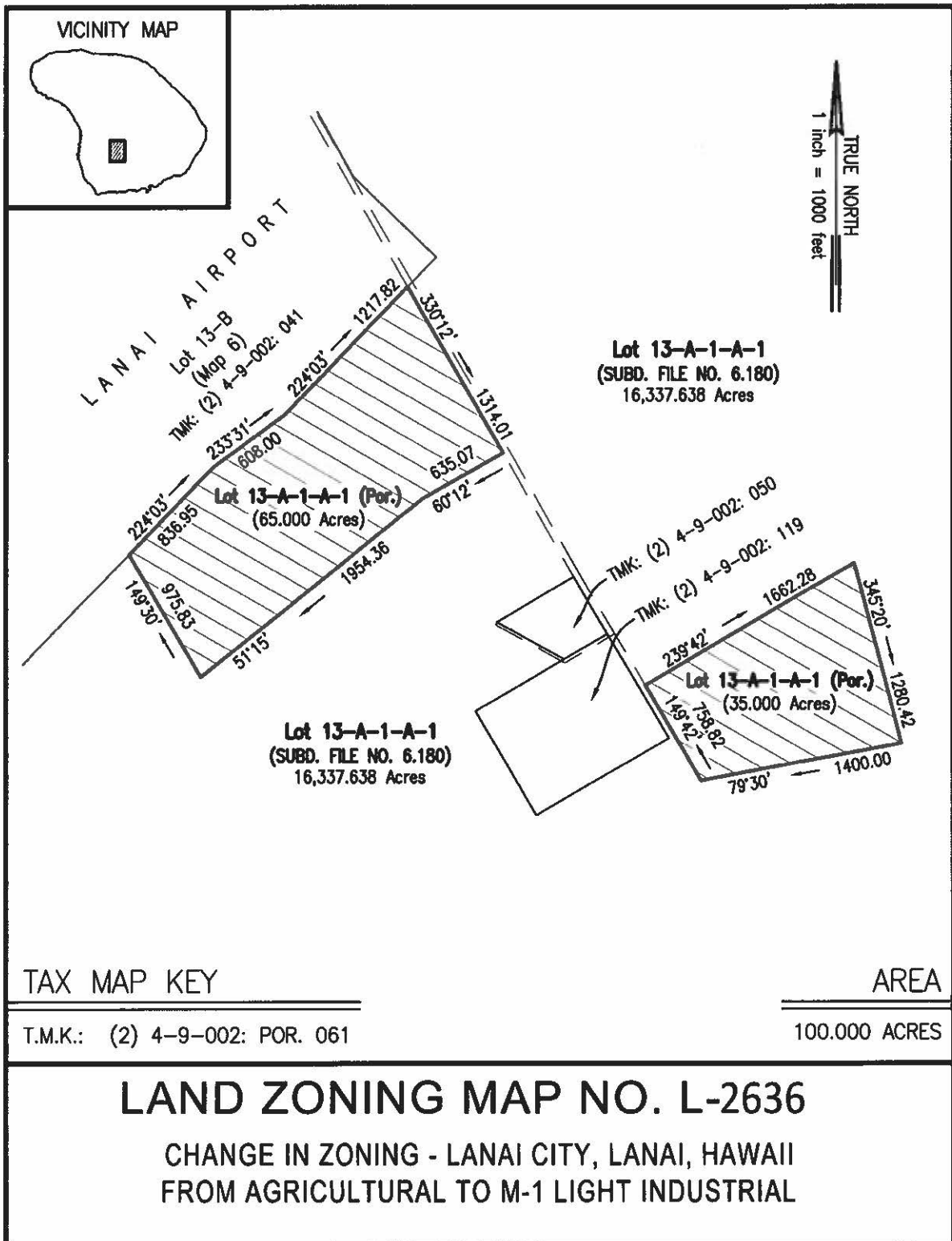
( Ord. No. 5126, § 8, 2020; Ord. No. 3976, § 1, 2012)

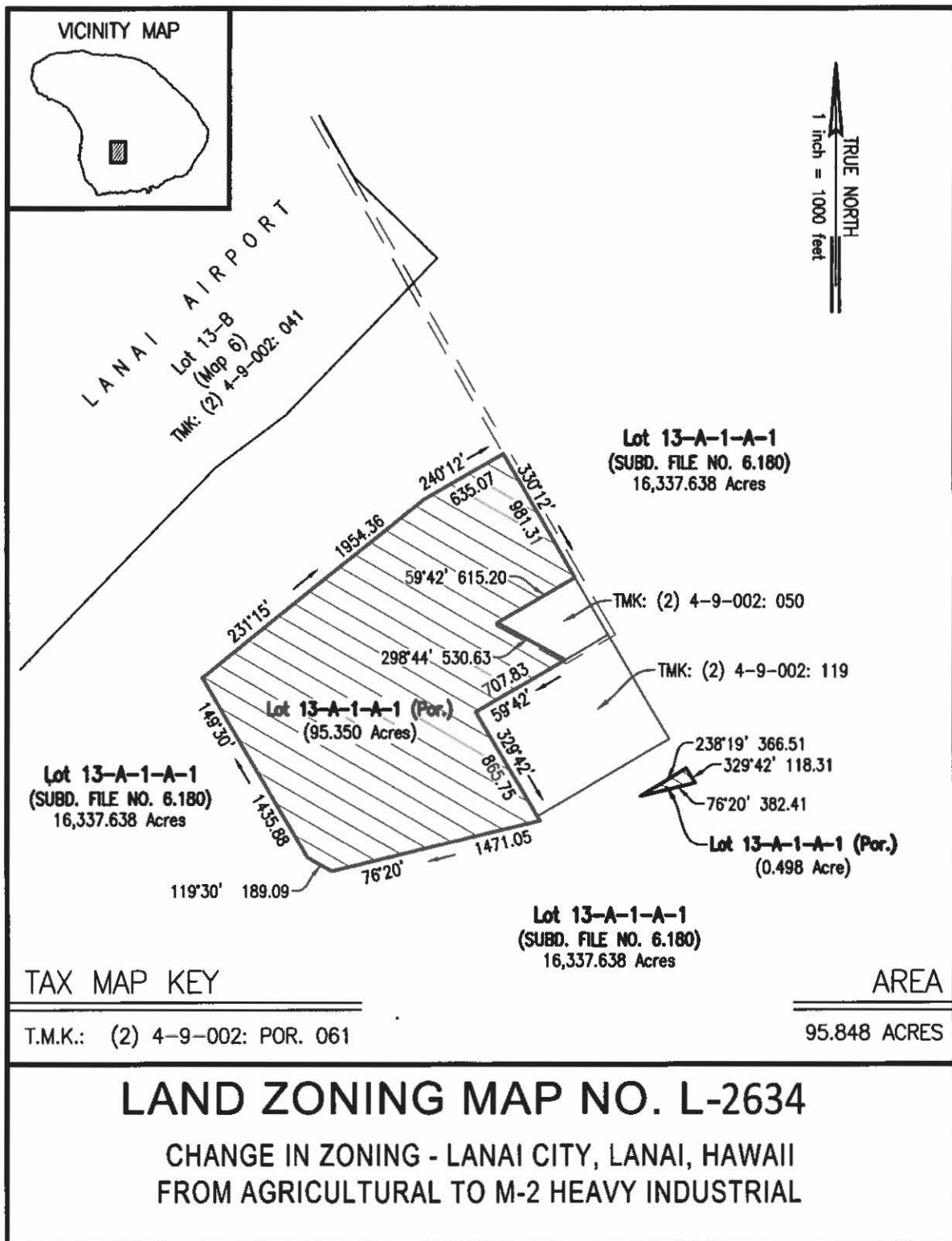
19.26.060 - Rulemaking authority.

The planning director may adopt rules to implement this chapter. (Ord. No. 3976, § 1, 2012)

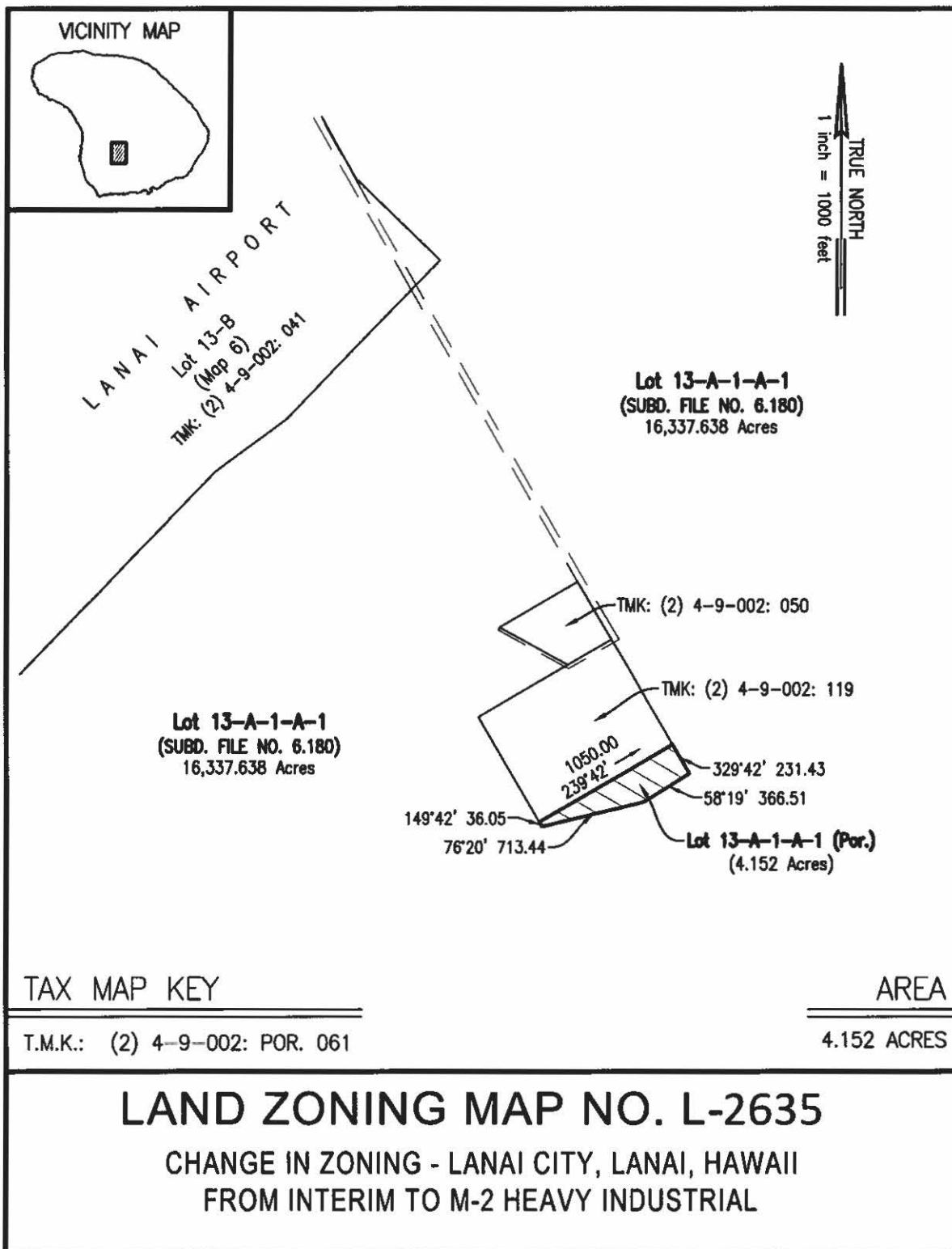
M-1 Light Industrial
Any use permitted in a B-1, B-2, or B-3 business district except single family dwellings, duplexes, bungalow courts, short-term rental homes, and transient vacation rentals
Dwelling units located in the same building as any non-dwelling permitted use
Assembly of electrical appliances, radios and phonographs including the manufacture of small parts such as coils, condensers crystal holders and the like
Carpet cleaning plants
Cold storage plants
Commercial laundries
Craft cabinet and furniture manufacturing
Education, specialized
Farm implement sales and service
General food, fruit and vegetable processing and manufacturing plants
Ice cream and milk producing, manufacturing and storage
Laboratories—experimental, photo or motion picture, film or testing
Light and heavy equipment and product display rooms, storage and service
Machine shop or other metal working shop
Manufacture, compounding or treatment of articles or merchandise from the following previously prepared materials: aluminum, bone, cellophane, canvas, cloth, cork, feathers, felt, fiber, fur, glass, hair, horn, leather, plastics, precious or semi-precious metals or stones, shell, tobacco and wood
Manufacture, compounding, processing, packing or treatment of such products as candy, cosmetics, drugs, perfumes, pharmaceutical, toiletries, and food products (Except the rendering or refining of fats and oils)
Manufacture, dyeing and printing of cloth fabrics and wearing apparel
Manufacture of musical instruments, toys, novelties and rubber and metal stamps
Manufacture of pottery and figurines or other similar ceramic products
Milk bottling or central distribution stations
Plumbing shops
Production facility, multimedia
Radio transmitting and television stations; provided, that towers are of the self-sustaining type without guys
Replating shop
Retail lumber yard including mill and sash work (Mill and sash work shall be conducted within a completely enclosed building)
Small boat building
Soda water and soft drink bottling and distribution plants
Solar energy facilities
Tire repair operation including recapping and retreading
Utility facilities, minor, and substations up to, and including, 69 kV transmission
Warehouse, storage and loft buildings
Wearing apparel manufacturing
Wholesale business, storage buildings, nonexplosive goods and warehouses

<b>M-2 Heavy Industrial</b>	
Any use permitted in the B-1, B-2 and B-3 business districts and M-1 light industrial district except single family dwellings, duplexes, bungalow courts, short-term rental homes, transient vacation rentals and apartments (Except for living quarters used by security/watchmen or custodians of an industrially used property)	
Automobile wrecking, if conducted within a building	
Boiler and steel works	
Concrete or cement products manufacture	
Factories	
Junk establishment used for storing, depositing, or keeping junk or similar goods for business purposes (Such establishment shall not be nearer than 8 feet from any other property line for the storage of the junk or similar goods except in buildings entirely enclosed with walls)	
Lumber yard	
Machine shops	
Material recycling and recovery facilities	
Oil storage plants	
Petroleum products manufacture or wholesale storage of petroleum	
Planing mill	
Utility facilities, major	
In general those uses which may be obnoxious or offensive by reason of emission of odor, dust, smoke, gas, noise, vibration and the like and not allowed in any other district. Provided, however, that any use not specified in this section shall not be permitted unless approved by the planning director as conforming to the intent of this title.	
<b>M-2 Heavy Industrial Special Uses (See concurrent County Special Use Permit (CSUP))</b>	
Asphalt manufacture of refueling and asphaltic concrete plant	
Rock, sand, gravel, or earth excavation, crushing or distribution	









BEFORE THE LANAI PLANNING COMMISSION

COUNTY OF MAUI

STATE OF HAWAII

In the Matter of the Applications of

LANAI RESORTS LLC, A HAWAII LIMITED  
LIABILITY COMPANY DOING BUSINESS AS  
PŪLAMA LĀNA'I

**Miki Basin Industrial Park**

To Obtain a Change of Zoning and a County  
Special Use Permit for the Miki Basin Industrial  
Park Project Located on Approximately 200  
acres of Land identified as Maui Tax Map Key  
No. (2)4-9-002:061(por.); Lāna'i, Hawai'i

DOCKET NO. ZPA2022-00005  
DOCKET NO. CSUP2023-00002

(K. Wollenhaupt)

DEPARTMENT OF PLANNING  
REPORT AND RECOMMENDATION  
AUGUST 16, 2023 MEETING

DEPARTMENT OF PLANNING  
COUNTY OF MAUI  
2200 MAIN STREET, SUITE 315  
WAILUKU, MAUI, HI. 96793

**CP Change of Zoning/General Plan Amendments/DBA**

**CP County Special Use Permit**

BEFORE THE LANAI PLANNING COMMISSION

COUNTY OF MAUI

STATE OF HAWAII

In the Matter of the Applications of

LANAI RESORTS LLC, A HAWAII LIMITED  
LIABILITY COMPANY DOING BUSINESS AS  
PŪLAMA LĀNA'I

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No. (2)4-9-002:061(por.); Lāna'i, Hawai'i

DOCKET NO. ZPA2022-00005  
DOCKET NO. CSUP2023-00002

(K. Wollenhaupt)

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**DESCRIPTION OF THE PROJECT**

This matter arises from applications for a Change of Zoning (CIZ) from primarily "Agricultural" zoned land with a small portion of "Interim" zoned land to "M-1, Light Industrial" and "M-2, Heavy Industrial" zoning, along with a County Special Use Permit (CSUP). The applications were filed by Munekiyo Hiraga (Consultant) on behalf of Lāna'i Resorts LLC, a Hawai'i limited liability company doing business as Pūlama Lāna'i (Applicant). The total project valuation is \$78,800,000.

The proposed Miki Basin Industrial Park is to be located at Miki Road, Lāna'i, Hawai'i on 200 acres of land. The proposed project will consist of 20 acres for infrastructure purposes (10 percent of the project area, which will be used for roads, common areas, and other related uses); 127 acres for renewable energy projects (e.g., photovoltaic plus battery energy storage); 14.5 acres for the relocation of an existing concrete recycling and rock crushing operation (and for the storage and stockpiling of aggregate and construction materials); 12.5 acres for the relocation of an existing asphalt plant; and 26 acres for new industrial uses. The CSUP has been prepared and submitted for the asphalt plant and rock crushing facilities which are identified special uses within the proposed "M-2, Heavy Industrial" zoning district. Possible new future industrial uses include a slaughterhouse, warehouse space for cold storage, laboratory/testing facilities, niche product development, automotive services, multi-media facility, animal hospital, and other industrial uses allowed under "M-1, Light Industrial" and "M-2, Heavy Industrial" zoning. The number of parking spaces to be provided will be determined based on specific uses and will be in compliance with parking requirements established by Maui County Code, MCC, Chapter 19.36B.

Eighty-seven percent of the land area (174 acres) is planned to be developed within five years of securing all entitlements and ministerial permits. The remaining 13 percent (26 acres) are set aside for new industrial uses. The new industrial uses will be implemented throughout the

duration of the project (over a period of 20 years); however, may begin within the first 10 years.

As a Special Use in the "M-2, Heavy Industrial" zoning district, the relocated asphalt plant will be on a 12.5-acre site. The plant and its aggregate stockpiles cover approximately 79,000 square feet (sf.). Portable restrooms and an office trailer are also planned for the site.

As an additional Special Use in the "M-2, Heavy Industrial" zoning district, the rock and concrete crushing operation will be located on a 14.5-acre site. The operation includes a 700 sf. scale house and 16,400 sf. of crushing equipment. Other permitted uses on the M-2 Heavy Industrial 14.5-acre site include a concrete batch plant, cement silo storage, aggregate stockpiles and concrete washout pit, which will cover approximately 25,000 sf. An office trailer, portable restrooms and water tank will also be located on the site.

It is estimated that up to 25 employees will work at the crushing, concrete batching and asphalt batching operations. Hours of operation will be from 7:00 a.m. to 3:30 p.m.

The renewable energy project will be located on a 127-acre site. Facilities and equipment may include, but are not limited to, photovoltaic panels, battery energy storage systems, substation structures, control equipment enclosure cabinets, circuit breakers, transformers, relays, switches, arresters, telecommunication equipment and security equipment. The Decision & Order from the State Land Use Commission's (LUC) District Boundary Amendment proceedings, stated that these 127 acres within the project area that have been planned for renewable energy will only be used for the technology of photovoltaic and battery energy storage.

Other industrial uses are planned for the remaining 26 acres. While the specific uses have not been identified at this time, possible new future industrial uses may include a slaughterhouse, warehouse space for cold storage, animal hospital, and other industrial uses allowed under "M-1, Light Industrial" and "M-2, Heavy Industrial" zoning.

The proposed Miki Basin Industrial Park will provide industrial land on Lāna'i and an industrial park. Currently, vacant industrial land (according to the Applicant) is not available on the island. The project will provide space for the relocation and/or expansion of existing industrial activities on Lāna'i, land and warehouses for storing goods and equipment, and land and buildings to accommodate industrial activities existing and new to Lāna'i. Readily available industrial land can be important for a business to take immediate advantage of any new economic opportunities which may arise.

According to the Market Assessment prepared for the project, pent-up demand for industrial land and industrial space to accommodate "typical industrial activities" (i.e., manufacturing, warehouses, base yards, etc.) is readily apparent on Lāna'i. See Final Environmental Assessment (Final EA), Appendix "A", Market Assessment for this study. See Final EA in digital link at:

[https://files.hawaii.gov/dbedt/erp/Doc\\_Library/2022-03-08-LA-FEA-Miki-Basin-Industrial-Park.pdf](https://files.hawaii.gov/dbedt/erp/Doc_Library/2022-03-08-LA-FEA-Miki-Basin-Industrial-Park.pdf) or by a link on the Commission agenda.

Many businesses in Lāna'i City are operated from homes, partly because of the dearth of industrial parks on Lāna'i that are available to serve small scale tenants. Yards and rooms are used for operations and to store equipment and supplies. In some cases, inadequate space may be limiting local companies' ability to expand. For some of these businesses, an industrial park

may be a more suitable location because of more space, visual impacts, noise, odors, dusts, etc. Many of these home businesses provide a second source of income for workers employed elsewhere on Lānaʻi. If industrial space were available, some business owners might opt to expand their companies into full-time operations. In other cases, businesses are operated from vans and residences, and some might benefit from a permanent location in an industrial park. In addition, some industrial activities may fail to develop on Lānaʻi due to a lack of a suitable location.

### Parking

The preliminary site plan shows 50 parking spaces for all uses on the property. Final parking requirements will be determined during the building permit process in accordance with Chapter 19.36B, Maui County Code.

See **Exhibit 1**, for a Location Maps, **Exhibit 2** for Site Photographs, **Exhibit 3** for Conceptual Master Plan, and **Exhibit 4** for Project Plans.

### **BRIEF HISTORY OF APPLICATIONS**

The majority of the project site is vacant and fallow agricultural land. An approximately 14.5-acre interim industrial use for the concrete crushing facility has been established for a portion of the project area that borders the western side of the Miki Basin Industrial Condominium. The Applicant applied and was approved for a Land Use Commission Special Permit (SUP2 2021-0008) for the 14.5-acre area in March 2022, with a duration of five years. Should this application for a CIZ and CSUP be approved, the need for the SUP2 will disappear as the concrete crushing facility will then be considered a Special Use in the "M-2, Heavy Industrial" zoning district.

During the Lānaʻi Community Plan process, the proposed 200-acre industrial site was publicly discussed at ten Lānaʻi Community Plan Advisory Council meetings, four Lānaʻi Planning Commission (LPC) meetings, and three Maui County Council meetings as part of an update to the Lānaʻi Community Plan. A public community meeting was also held on Lānaʻi on October 22, 2018. The project was explained, and questions were asked and answered.

A Draft Environmental Assessment (Draft EA) for the Miki Basin Industrial Park was previously published on November 23, 2019. Because additional details became available on the proposed action and technical studies were updated, a 2nd Draft EA was published on November 23, 2021. Consultation conducted during the preparation of the November 23, 2019 Draft EA and comments received on that previously published Draft EA informed the preparation of the 2nd Draft EA.

The 2nd Draft EA consultation included a public hearing before the LPC on December 15, 2021. The LPC requested additional information regarding the project, which was addressed in the FEA and response letter to the LPC.

The Final EA was prepared and submitted to the State of Hawaiʻi, LUC for a public hearing on February 16, 2022. The LUC determined that the Final EA was acceptable and issued a Finding of No Significant Impact by letter to the State Environmental Review Program on February 25, 2022.

The acceptance of the Final EA set the stage for review by the LUC of the Petition to amend the agriculture land use district boundary into the urban land use district boundary for the



200 acres of land. The Petition was filed with the LUC on June 7, 2022.

On November 16, 2022, the LUC held an in-person hearing on the Miki Basin Industrial Park. No oral or written testimony was presented by the public. At this meeting the Office of Planning and Sustainable Development (OPSD) and the County confirmed with the LUC that they would review the Petitioner's Findings of Fact, Conclusions of Law Decision and Order.

On November 21, 2022, the proposed Decision and Order was served by the Petitioner to the County and OPSD.

On February 8, 2023, the LUC heard closing arguments and approved the reclassification of 200 acres from agricultural district to urban district for an industrial park and other uses at Miki Basin (A19-809) with 21 conditions. See **Exhibit 5** for the Decision & Order for Docket A19-809, which was approved on March 28, 2023.

### **DESCRIPTION OF THE PROPERTY**

1. The Property, which is approximately 200 acres, is located on Miki Road, Lānaʻi, Hawaiʻi at Maui Tax Map Key No. (2)4-9-002:061(por.); 3.2 miles southwest of Lānaʻi City off of Kaumālapaʻu Highway and south of Lānaʻi Airport.
2. Land Use Designations --
  - a. State Land Use District -- The project site is located within the State Urban District. The proposed uses are consistent with the Urban designation of the property.
  - b. Maui Island Plan -- Not Applicable
  - c. Lanai Community Plan -- The Lānaʻi Community Plan was adopted by the County of Maui through Ordinance No. 4343 which took effect on July 26, 2016. Land use guidelines are set forth by the Lānaʻi Community Plan Land Use Map. The project site is designated as "Light Industrial" and "Heavy Industrial" by the Community Plan. The proposed project is consistent with the Community Plan land use designations.
  - d. County Zoning -- The project site is zoned "Agricultural", with a small portion zoned "Interim" by County Zoning. The Applicant is seeking a CIZ to "M-1, Light Industrial" and "M-2, Heavy Industrial" designations, to bring consistency with the Lānaʻi Community Plan. Pūlama Lānaʻi will work with Maui County in establishing the allowable uses in the Miki Basin Industrial Park from the overall permitted uses allowed by zoning commonly referred to as 'conditional zoning'. The Miki Basin Industrial Park will focus on Light and Heavy Industrial uses, including renewable energy uses, an asphalt plant, a concrete recycling and rock crushing operation,

and materials storage and stockpiling of aggregate and construction materials. "Special Uses" permitted in "M-2, Heavy Industrial" zoning include asphalt manufacture, cement, lime, gypsum, or plaster of paris manufacture, and rock, sand, gravel, or earth excavation, crushing or distribution. As such, a CSUP has been filed for the asphalt plant and for rock crushing facilities.

e. Other -- N/A

### 3. Surrounding Uses --

North --	Fallow agricultural land and Kaumālapa'u Highway
East --	Fallow agricultural land
South --	Fallow agricultural land
West --	Lāna'i Airport and fallow agricultural land
Adjacent --	Hawaiian Electric Company Generating Station and Miki Basin Industrial Condominium

4. The project area is situated on gently to moderately sloping lands with an average slope of five percent to the southeast with elevations of 1,361 ft. above mean sea level to approximately 1,180 feet above mean sea level in the southeastern portion of the project area. The lands were formerly part of a large pineapple plantation. These lands have lain fallow since the plantation closed in 1992, and are now overgrown with a dense cover of grassland and shrubs.

Soils consist of three series characterized as clay loam (WRA, 0 to 3 percent slopes), Molokai silty clay loam (MuA, 0 to 3 percent slopes; MuB, 3 to 7 percent slopes; MuC, 7 to 15 percent slopes) and Uwala silty clay loam (UwB, 2 to 7 percent slopes; UwC, 7 to 15 percent slopes), which are all variants of deep, well-drained soils of the upland plateau of Lāna'i (U.S. Department of Agriculture (USDA), 1972).

Although historical evidence suggests the existence of perennial streams, no surface water resources currently exist in this area. There are also no wetlands located on or in the immediate vicinity of the proposed project site (*County of Maui, Department of Water Supply, 2011*).

A terrestrial vegetation and wildlife study of the project area was completed. No State or federally listed threatened or endangered species or rare native Hawaiian plant species were observed within the project area, and the area is not designated as a critical habitat for any species. Historically, the vegetation of Lāna'i has been impacted by grazing and commercial pineapple cultivation. The vegetation in the project area is dominated by hardy, invasive non-native species. Of the 39 plant species observed, three are native to the Hawaiian Islands. 'Ilima (*Sida fallax*), 'uhaloa (*Waltheria indica*) and 'a'ali'i (*Dodonaea viscosa*) and are common native plants documented in small numbers in the project area.

As stated previously, the majority of the project site is vacant and fallow agricultural land. An approximately 14.5-acre interim industrial use approved by Special Permit by the LPC in March

of 2022 for the concrete crushing facility has been established for a portion of the project area that borders the western side of the Miki Basin Industrial Condominium.

### **APPLICABLE REGULATIONS FOR A CHANGE IN ZONING**

*Pursuant to Title 19, Chapter 19.510, General Application Procedures, Section 19.510.010(C), the Planning Director has determined that the application and Department Report meets the requirements of Section 19.510.010(D).*

*Pursuant to Title 19, Chapter 19.510, Section 19.510.040 Change of Zoning of the Maui County Code, the appropriate planning commission shall hold a public hearing on all applications for zoning changes and make a recommendation to the County Council. The County Council may grant a change of zoning if all the following criteria are met:*

- 1. The proposed request meets the intent of the general plan and the objectives and policies of the community plans of the county;*
- 2. The proposed request is consistent with the applicable community plan land use map of the county;*
- 3. The proposed request meets the intent and purpose of the district being requested;*
- 4. The application, if granted, would not adversely affect or interfere with public or private schools, parks, playgrounds, water systems, sewage and solid waste disposal, drainage, roadway and transportation systems, or other public requirements, conveniences and improvements;*
- 5. The application, if granted, would not adversely impact the social, cultural, economic, environmental, and ecological character and quality of the surrounding area; and*
- 6. If the application change in zoning involves the establishment of an agricultural district with a minimum lot size of two acres, an agricultural feasibility study shall be required and reviewed by the Department of Agriculture and the United States Soil and Conservation Service.*

*In the case in which the owners or lessees of forty percent or more of the land located within a five-hundred-foot distance from the boundaries of the subject parcel have filed written protests, the ordinance which grants the application shall not become effective unless approved by a vote of seven members of the County Council.*

*Pursuant to Title 19, Chapter 19.510, Section 19.510.050 Conditional zoning of the Maui County Code, the County Council may impose conditions upon the applicant's use of the property. The conditions shall be imposed if the Council finds them necessary to prevent circumstances which may be adverse to the public health, safety and welfare. The conditions shall be reasonably conceived to mitigate the impacts emanating from the proposed land and shall meet the following criteria:*

- 1. That the public shall be protected from the potentially deleterious effects of the proposed use; and*

2. *That the need for public services created by the proposed use shall be fulfilled.*

## **APPLICABLE REGULATIONS FOR A COUNTY SPECIAL USE PERMIT**

### ***M-2 Heavy Industrial Districts***

*Within the M-2 Heavy Industrial District a special permit may be granted pursuant to Title 19, Chapter 19.26 M-2 Heavy Industrial District, Section 19.26.020 Use regulations, Subsection 28; Maui County Code, 1980, as amended.*

*Pursuant to Section 19.510.070 Special use permits of the Maui County Code, a special use permit shall comply with the criteria established for a permit and the policies and objectives of the general plan and community plans of the county, the Hawaii revised statutes, and the revised charter of the county.*

*A special use permit may be granted by the appropriate planning commission provided the following criteria have been met:*

1. *The proposed request meets the intent of the general plan, and the objectives and policies of the applicable community plan of the county;*
2. *The proposed request is consistent with the applicable community plan land use map of the county;*
3. *The proposed request meets the intent and purpose of the applicable district;*
4. *The proposed development will not adversely affect or interfere with public or private schools, parks, playgrounds, water systems, sewage and solid waste disposal, drainage, roadway and transportation systems, or other public requirements, conveniences, and improvements;*
5. *The proposed development will not adversely impact the social, cultural, economic, environmental, and ecological character and quality of the area;*
6. *That the public shall be protected from the deleterious effects of the proposed use; and,*
7. *That the need for public service demands created by the proposed use shall be fulfilled.*
8. *If the use is located in the state agricultural and rural district, the commission shall review whether the use complies with the guidelines established in section 15-15-95 of the state rules of the land use commission of the State.*

## **PROCEDURAL MATTERS**

1. On October 7, 2022, and April 27, 2023, the applicant mailed a "Notice of Application" for the CIZ and CSUP applications respectively to all owners and recorded lessees within 500 ft. of the subject property notifying them of the applicant's intent to file the applications with the County of Maui. Copies of the "Notices of Application" are on file in the Maui Planning Department.

2. On July 10, 2023, the Maui County Planning Department mailed a notice to the applicant and appropriate state and county agencies notifying them of the scheduled public hearing.

3. On July 10, 2023, the applicant mailed a letter of notification and location map to all owners and recorded lessees within 500 ft. of the subject property describing the applications and notifying them of the scheduled hearing date, time and place by either certified or registered mail receipt (return receipt requested for land use amendments). Copies of the letter, location map, list of owners and recorded lessees, certified and registered mail receipts and return receipts (if required) are on file in the Planning Department. See **Exhibit 6** for the Notice of Public Hearing.

4. On July 14, 2023, a notice of hearing on the applications was published in the Maui News by the Maui County Planning Department.

5. On July 21, July 28, and August 4, 2023, the applicant published a Notice and location map in the Maui News once a week for three consecutive weeks prior to the date of the hearing.

6. The subject applications trigger compliance to Chapter 343, Hawaii Revised Statutes, relating to Environmental Impact Statements.

Pursuant to Chapter 343, Hawaii Revised Statutes, relating to Environmental Impact Statements, a Findings of No Significant Impact (FONSI) was issued by the State of Hawaii Land Use Commission and filed with the Environmental Review Program. The FONSI was published on March 8, 2022, in the Environmental Notice. The deadline for filing of an appeal was on April 22, 2022. No appeals were filed.

## **REVIEWING AGENCIES**

<b>Federal Agencies:</b>	<b>Comment</b>	<b>Exhibit Number</b>
Federal Aviation Administration	No Response	

<b>State Agencies:</b>	<b>Comment</b>	<b>Exhibit Number</b>
Department of Accounting and General Services on 12/2/22	Yes	<b>7</b>
Applicant's Response on 1/13/23	Yes	<b>7a</b>
Department of Land and Natural Resources, Division of Forestry and Wildlife on 12/13/22	Yes	<b>8</b>
Applicant's Response on 1/13/23	Yes	<b>8a</b>
Department of Education, Office of Facilities and Operations, Facilities Development Branch, Planning Section on 11/15/22	Yes	<b>9</b>
Applicant's Response on 1/13/23	Yes	<b>9a</b>
Office of Planning and Sustainable Development on 11/22/22	Yes	<b>10</b>
Applicant's Response on 1/13/23	Yes	<b>10a</b>
Department of Transportation, Airports Division and Highways Division on 12/12/22	Yes	<b>11</b>
Applicant's Response on 1/13/23	Yes	<b>11a</b>
Office of Hawaiian Affairs	No Response	



<b>State Agencies:</b>	<b>Comment</b>	<b>Exhibit Number</b>
Department of Land and Natural Resources, State Historic Preservation Division – Archaeology	Yes	<b>12</b>
Department of Agriculture	No Response	
Department of Business, Economic Development and Tourism	No Response	

<b>County Agencies:</b>	<b>Comment</b>	<b>Exhibit Number</b>
Department of Fire & Public Safety on 12/12/22	Yes	<b>13</b>
Applicant's Response on 1/13/23	Yes	<b>13a</b>
Department of Public Works	No Response	
Department of Finance, Real Property Division	No Response	
Department of Water Supply	No Response	
Maui Emergency Management Agency	No	
Department of Parks and Recreation	No	
Department of Environmental Management, Solid Waste	No	
Department of Environmental Management, Wastewater	No	

## **ANALYSIS**

### **LAND USE**

1. The proposed project is in conformance with the goals, objectives and policies of the Hawaii State Plan. It will provide additional opportunities for employment and economic growth.
2. The subject property is in the State Urban District. The proposed uses are consistent with the Urban designation of the property recently granted by the LUC in Docket No. A19-809 on February 8, 2023 and approved in the issuance of the Decision & Order on March 28, 2023.
3. As stated in the Maui County Charter, as amended in 2002:

*The General Plan shall indicate desired population and physical development patterns for each island and region within the county; shall address the unique problems and needs of each island and region; shall explain the opportunities and the social, economic, and environmental consequences related to potential developments; and shall set forth the desired sequence, patterns, and characteristics of future developments. The general plan shall identify objectives to be achieved, and priorities, policies, and implementing actions to be pursued with respect to population density, land use maps, land use regulations, transportation systems, public and community facility locations, water and sewage systems, visitor destinations, urban design, and other matters related to development.*

The County of Maui 2030 General Plan Countywide Policy Plan, adopted by the Maui County Council on March 19, 2010, is the first component of the decennial General Plan update.

The Countywide Policy Plan replaces the General Plan as adopted in 1990 and amended in 2002. The Countywide Policy Plan acts as an over-arching values statement and umbrella policy document for the Maui Island Plan and the nine Community Plans that provides broad goals, objectives, policies, and implementing actions that portray the desired direction of the County's future. The plan includes:

1. A vision statement and core values for the County to the year 2030
2. An explanation of the plan-making process
3. A description and background information regarding Maui County today
4. Identification of guiding principles
5. A list of countywide goals, objectives, policies, and implementing actions related to the following core themes:
  - A. Protect the Natural Environment
  - B. Preserve Local Cultures and Traditions
  - C. Improve Education
  - D. Strengthen Social and Healthcare Services
  - E. Expand Housing Opportunities for Residents
  - F. Strengthen the Local Economy
  - G. Improve Parks and Public Facilities
  - H. Diversify Transportation Options
  - I. Improve Physical Infrastructure
  - J. Promote Sustainable Land Use and Growth Management
  - K. Strive for Good Governance
  - L. Mitigate Climate Change and Work Toward Resilience

The following Countywide Policy Plan goals, objectives, policies, and/or Implementing Actions are relevant to the proposed Miki Basin Industrial Park project;

**THEME:** Protect the Natural Environment

**GOAL:** Maui County's natural environment and distinctive open spaces will be preserved, managed, and cared for in perpetuity.

**Objective:**

(3) Improve the stewardship of the natural environment.

**Policies, Implementing Actions, or Other:**

**Policies:**

- (c) Evaluate development to assess potential short-term and long-term impacts on land, air, aquatic, and marine environments

\* \* \*

- (l) Educate the construction and landscape industries and property owners about the use of best management practices to prevent erosion and nonpoint source pollution

**Implementing Action:**

- (a) Document, record, and monitor existing conditions, populations, and locations of flora and fauna communities

**Relevance:**

The Final Environmental Assessment (EA) prepared for the project evaluated the potential short-term and long-term impacts of the proposed action on the environment. The Final EA included a Flora and Fauna Survey that documents and records existing conditions at the subject property.

**THEME:** Strengthen the Local Economy

**GOAL:** Maui County's economy will be diverse, sustainable, and supportive of community values.

**Objective:**

- (4) Expand economic sectors that increase living-wage job choices and are compatible with community values.

**Policies, Implementing Actions, or Other:**

**Policy:**

- (a) Support emerging industries, including the following:
- Health and wellness industry;
  - Sports and recreation industry;
  - Film and entertainment industry;
  - Arts and culture industry;
  - Renewable-energy industry;
  - Research and development industry;
  - High-technology and knowledge-based industries;
  - Education and training industry;
  - Ecotourism industry; and
  - Agritourism industry.

**Relevance:**

The proposed action does have a direct relationship to the objective to

expand economic sectors that increase living-wage job choices compatible with community values. The proposed action is envisioned to incorporate renewable energy, developments, and operating spaces involved in other emerging industries.

**THEME:** Improve Physical Infrastructure

**GOAL:** Maui County's physical infrastructure will be maintained in optimum condition and will provide for and effectively serve the needs of the County through clean and sustainable technologies.

**Objective:**

- (3) Design all developments to be in harmony with the environment and to protect each community's sense of place.

**Policies, Implementing Actions, or Other:**

**Policy:**

- (h) Ensure better connectivity and linkages between land uses.

**Relevance:**

The proposed action is directly related to this objective as it will provide an opportunity for similar industrial uses to co-locate in an area specifically designated for industrial use by the 2016 Lānaʻi Community Plan. Building the industrial park will allow existing industrial facilities currently scattered in business and residential area in Lānaʻi City to relocate to more appropriate locations having the infrastructure and buffers necessary for industrial uses.

**THEME:** Improve Physical Infrastructure

**GOAL:** Maui County's physical infrastructure will be maintained in optimum condition and will provide for and effectively serve the needs of the County through clean and sustainable technologies.

**Objective:**

- (3) Significantly increase the use of renewable and green technologies to promote energy efficiency and energy self-sufficiency.

**Policies, Implementing Actions, or Other:**

**Policies:**

- (a) Promote the use of locally renewable energy sources, and reward energy efficiency.

\* \* \*

- (d) Encourage small-scale energy generation that utilizes wind, sun, water, biowaste, and other renewable sources of energy.
- (e) Expand renewable-energy production.

**Relevance:**

The land use plan envisioned for the project area includes 127 acres for renewable energy, which advances the objective of energy self-sufficiency.

**THEME:** Promote Sustainable Land Use and Growth Management

**GOAL:** Community character, lifestyles, economies, and natural assets will be preserved by managing growth and using land in a sustainable manner.

**Objective:**

- (1) Improve land use management and implement a directed-growth strategy.

**Policies, Implementing Actions, or Other:**

**Policies:**

- (b) Direct urban and rural growth to designated areas

\* \* \*

- (h) Direct new development in and around communities with existing infrastructure and service capacity, and protect natural, scenic, shoreline, and cultural resources

\* \* \*

- (h) Ensure better connectivity and linkages between land uses.

**Relevance:**

The proposed project directly supports the goal for managed growth, as the action is proposed within an area designated for industrial uses by the 2016 Lānaʻi Community Plan. In this connection, the proposed action has a relationship to the policy of directing development in and around communities having infrastructure service potential, and ensuring connectivity and linkages between land uses.

**THEME:** Strive for Good Governance

**GOAL:** Strengthen governmental planning, coordination, consensus building, and decision making.



**Objective:**

- (2) Promote civic engagement

**Policies, Implementing Actions, or Other:**

**Policies:**

- (a) Foster consensus building through in-depth, innovative, and accessible public participatory processes
- (b) Promote and ensure public participation and equal access to government among all citizens

\* \* \*

- (g) Expand opportunities for all members of the public to participate in public meetings and forums.

**Implementing Action:**

- (d) Develop a project-review process that mandates early and ongoing consultation in and with communities affected by planning and land use activities.

**Relevance:**

The proposed action promotes civic engagement through the Chapter 343, HRS, Environmental Assessment (EA) and land use entitlements processes. Public participation is promoted through review process for the Draft EA and land use applications, as well as through the Lānaʻi Planning Commission proceedings. Additionally, the applicant has undertaken a community outreach process designed to inform nearby residents and the larger community of the proposed project. Collectively, the foregoing processes support community-based decision-making.

**THEME:** Mitigate Climate Change and Work Toward Resilience

**GOAL:** Minimize the causes and negative effects of climate change.

**Objective:**

- (3) Significantly increase the use of renewable and green technologies to promote energy efficiency and energy self-sufficiency.

**Policies, Implementing Actions, or Other:**

**Policies:**

- (e) Expand renewable-energy production.

\* \* \*

- (i) Promote the retrofitting of existing buildings and new development to incorporate energy-saving design concepts and devices.

\* \* \*

- (K) Reduce Maui County's dependence on fossil fuels and energy imports.
- (l) Support green building practices such as the construction of buildings that aim to minimize carbon dioxide production, produce renewable energy, and recycle water.

**Relevance:**

The project directly supports the objective of significantly increasing the use of renewable and green technologies to promote energy efficiency and energy self-sufficiency, with 127 acres proposed for renewable energy use that will reduce the island's dependence on fossil fuels.

- 4. The Lāna'i Community Plan was adopted by the County of Maui through Ordinance No. 4343 which took effect on July 26, 2016. Land use guidelines are set forth by the Lāna'i Community Plan Land Use Map. The project site is designated as "Light Industrial" and "Heavy Industrial" by the Community Plan. The proposed project is consistent with the Community Plan land use designations. and is consistent with the land use map of the Community Plan.

The following Community Plan subjects, goals, objectives, policies, and implementing actions are relevant to the proposed action:

**SUBJECT:** HAZARD MITIGATION

**GOAL:** Lana'i will be prepared for natural disasters.

**Objective:**

- 3. Encourage economic diversity, environmental health, infrastructure, maintenance, and hazard preparedness to improve the community's resiliency.

**Policies or Implementing Actions:**

**Relevance, or Other:**

**Relevance:**

The proposed Miki Basin Industrial Park will include 127 acres for renewable energy projects (e.g., photovoltaic plus battery energy storage),

which will improve the overall resiliency and sustainability of Lānaʻi. The planned increase in renewable energy projects will also reduce the island's reliance on fossil fuel, currently imported from off-island and used to generate electricity by Hawaiian Electric Company.

**SUBJECT:** CULTURAL, HISTORIC, AND SCENIC RESOURCES

**GOAL:** Lānaʻi's diverse cultural, archaeological, and historic resources and practices, and scenic resources will be protected for future generations.

**Objective:**

9. Require developments to mitigate their impacts on historic, cultural, natural, and scenic resources.

**Policies or Implementing Actions:**

**Relevance, or Other:**

**Relevance:**

The proposed project has been designed so as to not impede scenic views from upland areas. An AIS has been prepared and accepted by the SHPD. The project is not anticipated to have an impact on native Hawaiian traditional and cultural practices. The Applicant will abide by the recommendations and requirements from the SHPD.

**SUBJECT:** ECONOMIC DEVELOPMENT

**GOAL:** A stable, sustainable, and diverse economy that is consistent and compatible with Lana i's rural island lifestyle.

**Policies or Implementing Actions:**

**Policy:**

1. Support diversification of Lanaʻi's economy.

**Relevance, or Other:**

**Relevance:**

While much of Lānaʻi's economy relies on the visitor industry, the proposed Miki Basin Industrial Park will include 127 acres for renewable energy projects (e.g., Photovoltaic plus battery energy storage) and 26 acres for new industrial uses allowed under Maui County Code "M-1, Light Industrial" and "M-2, Heavy Industrial" zoning. While the specific uses have not been identified at this time, possible new future industrial uses may include a slaughterhouse, warehouse space for cold storage, animal hospital or other uses.

**SUBJECT:** ECONOMIC DEVELOPMENT

**GOAL:** A stable, sustainable, and diverse economy that is consistent and compatible with Lanai's rural island lifestyle.

**Policies or Implementing Actions:**

**Policy:**

8. Encourage and support lease and fee simple land ownership options for residential commercial, and industrial properties.

**Relevance, or Other:**

**Relevance:**

The Applicant may lease land within the Miki Basin Industrial Park for individuals to pursue industrial operations and businesses. The Applicant will, when applicable, develop the major common infrastructure, such as roads and electric and water utility lines, to support the industrial park, while individual users will be responsible for vertical development on their particular properties and for compliance with applicable regulatory requirements associated with their individual developments.

**SUBJECT:** INFRASTRUCTURE AND UTILITIES (ENERGY)

**GOAL:** Increase the proportion of electricity that is generated from renewable sources to reduce electricity costs and Lana'i's dependence on fossil fuels.

**Policies or Implementing Actions:**

**Policy:**

1. Support the increased use of renewable energy sources.

**Relevance, or Other:**

**Relevance:**

The proposed Miki Basin Industrial Park will include 127 acres for renewable energy projects (e.g., photovoltaic plus battery energy storage), which will reduce Lāna'i's reliance on fossil fuel.

**SUBJECT:** LAND USE

**GOAL:** Lana'i will have an efficient and sustainable land use pattern that protects agricultural lands, open space, natural systems, and rural and urban character.

**Policies or Implementing Actions:**

**Policy:**

2. Limit new residential, commercial, or industrial development to existing communities and proposed expansion areas as shown on the Lānaʻi Community Plan land use maps.

**Relevance, or Other:**

**Relevance:**

The proposed project implements the vision for placement of industrial land uses on the island and expands upon the much-needed industrially zoned land area called for in the Lānaʻi Community Plan. The site was chosen for its proximity to the workforce in Lānaʻi City and proximity to other industrial uses.

**SUBJECT:** LAND USE

**GOAL:** Lānaʻi will have an efficient and sustainable land use pattern that protects agricultural lands, open space, natural systems, and rural and urban character.

**Policies or Implementing Actions:**

**Policy:**

10. Ensure all lands are zoned and zoning standards are consistent with community plan policies and land use designations as shown on Maps 9.2 through 9.6.

**Relevance, or Other:**

**Relevance:**

The subject CIZ and CSUP applications will bring consistency between zoning and the Lānaʻi Community Plan.

5. **Zoning:** The lands underlying the proposed project site are zoned “Agricultural”, with a small portion zoned “Interim” by the County of Maui. See **Exhibit 14**. The Applicant is seeking a CIZ approval from the Maui County Council for “M-1, Light Industrial” and “M-2, Heavy Industrial” designations, congruent with that called for in the 2016 Lānaʻi Community Plan. See **Exhibit 15**. The Applicant is also seeking a CSUP from the LPC for the relocated asphalt plant and rock crushing facilities, identified as Special Uses in the “M-2, Heavy Industrial” zoning district.

Pūlama Lānaʻi will work with Maui County in establishing the allowable uses in the Miki Basin Industrial Park from the overall permitted uses allowed by zoning. See **Exhibit 16** for all the permitted uses in the “M-1 Light Industrial” district and see **Exhibit 17** for all



permitted and special uses in the "M-2, Heavy Industrial" district. The Miki Basin Industrial Park will focus on Light and Heavy Industrial uses, including renewable energy uses, an asphalt plant, a concrete recycling and rock crushing operation, and materials storage and stockpiling of aggregate and construction materials. Possible new future industrial uses in the project area include a slaughterhouse, warehouse space for cold storage, laboratory/testing facilities, niche product development, automotive services, multimedia facility, animal hospital, and other industrial related uses allowed under "M-1, Light Industrial" and "M-2, Heavy Industrial" zoning. See **Exhibit 18** for the proposed permitted and special uses being considered in this application for a CIZ and CSUP. See **Exhibit 19** for the Change in Zoning from Agricultural to "M-1 Light Industrial" and "M-2 Heavy Industrial" and from Interim to "M-2 Heavy Industrial."

MCC, Section 19.510.040 outlines the criteria which a project must meet in order to be granted a CIZ by the Maui County Council.

1. **The proposed request meets the intent of the general plan and the objectives and policies of the community plans of the county.**

The proposed project implements the vision for placement of industrial land uses on the island and expands upon the much-needed industrially zoned land area called for in the Lāna'i Community Plan. The community plan states: *"The existing industrial uses on Miki Road will be expanded into a proposed industrial area of approximately 200 acres".*

2. **The proposed request is consistent with the applicable community plan land use map of the county.**

The Lāna'i Community Plan already designates the project area with the land use of "Light Industrial" and "Heavy Industrial".

3. **The proposed request meets the intent and purpose of the district being requested.**

The proposed Miki Basin Industrial Park conforms to the requested "M-1, Light Industrial" District designation, which includes *"warehousing and distribution types of activity, and permits most compounding, assembly, or treatment of articles or materials,"* according to MCC Chapter 19.24. The project also conforms to the requested "M-2, Heavy Industrial" District designation, which includes the *"manufacture or treatment of goods from raw materials,"* according to MCC Chapter 19.26.

The industrial park includes the concrete recycling and rock crushing operation, and materials storage and stockpiling of aggregate and construction materials. Possible new future industrial uses in the project area include a slaughterhouse, warehouse space for cold storage, laboratory/testing facilities, niche product development, automotive services, multi-media facility, animal hospital, and other industrial related uses allowed under "M-1, Light Industrial" and "M-2, Heavy Industrial" zoning.

4. **The application, if granted, would not adversely affect or interfere with public**

**or private schools, parks, playgrounds, water systems, sewage and solid waste disposal, drainage, roadway and transportation systems, or other public requirements, conveniences and improvements.**

The applications, if granted, will not adversely affect or interfere with public or private schools, parks, playgrounds as the proposed development is not considered a direct population generator, and will not necessitate an expansion of existing services or provision of new social services.

However, with regards to infrastructure, the proposed Miki Basin Industrial Park project will be developed to include all required infrastructure systems needed to support the project. A Traffic Impact Analysis Report (TIAR), Water Master Plan, study on new well supply alternatives for the Mānele Bay Water System, Wastewater Master Plan, and Drainage Report were all prepared for the project, which assessed existing infrastructure, projected project demand and needs, and proposed infrastructure systems to support the proposed project to ensure the proposed development's infrastructure needs are appropriately addressed.

**5. The application, if granted, would not adversely impact the social, cultural, economic, environmental, and ecological character and quality of the surrounding area.**

The proposed project is located on land adjoining the Lāna'i Airport, the Hawaiian Electric Company (HECO) 5-acre power plant, and the existing 20-acre Miki Basin Industrial Condominium. The master-planned project is a 200-acre light and heavy industrial development located in an area called for in the Lāna'i Community Plan. It would not adversely impact social, cultural, economic, environmental, and ecological character and quality of the area.

If the change in zoning involves the establishment of an agricultural district with a minimum lot size of two acres, an agricultural feasibility study shall be required and reviewed by the department of agriculture and the United States Soil and Conservation Service.

The CIZ does not involve the establishment of an agricultural district. The request is for a change in zoning to "M-1, Light Industrial" and "M-2, Heavy Industrial".

Additionally, MCC, Section 19.30A.020 outlines criteria applied to agricultural lands for determining whether those lands should be retained in the agricultural district. If two of the following three criteria are met, the lands are given high priority for retention:

- A. *Agricultural Lands of Importance to the State of Hawai'i (ALISH);*
- B. *Lands not classified by the ALISH system whose agricultural land suitability, based on soil, topographic, and climatic conditions, supports the production of agricultural commodities, including but not limited to coffee, taro, watercress, ginger, orchard and flower crops and nonirrigated pineapple. In addition, these lands shall include lands used for intensive*

*animal husbandry, and lands in agricultural cultivation in five of the ten years immediately preceding the date of approval of this chapter; and*

- C. *Lands which have seventy-five percent or more of their boundaries contiguous to lands within the agricultural district.*

Although the lands underlying the proposed project meet both Criteria A and C, there are several reasons supporting the proposed rezoning of the lands from "Agricultural" to "M-1, Light Industrial" and "M-2, Heavy Industrial".

**1. Important Agricultural Lands**

The lands underlying the proposed project site are not designated as Important Agricultural Lands (IAL) and there are no IAL lands in the vicinity of the proposed project.

**2. Agriculture Functional Plan**

The Agriculture Functional Plan supports a system of standards, criteria, and procedures "to redesignate parcels of 'important agricultural lands' to 'urban' or 'other use' upon a demonstrated change of economic or social conditions, where the requested redesignation will provide greater benefits to the public than its retention in the IAL district" (State of Hawai'i, Department of Agriculture, 1991). Although the project site is not designated IAL, economic and social conditions have evolved over the years, with plantation agriculture declining in Hawai'i. Furthermore, the proposed use of the lands for the Miki Basin Industrial Park project would consolidate industrial uses to a location near similar facilities and activities. These uses would provide long-term public benefit. As such, the proposed rezoning of land from "Agricultural" to "M-1, Light Industrial" and "M-2, Heavy Industrial" is anticipated to provide greater benefits to the public than retaining the land in the agricultural designation.

**3. Lāna'i Community Plan**

The proposed project implements the vision for placement of industrial land uses on the island and expands upon the much-needed industrially zoned land area called for in the Lāna'i Community Plan. In this regard, the proposed rezoning is supported by the Lāna'i Community Plan.

**4. Impacts on Agriculture**

An Impacts on Agriculture report was prepared for the proposed project to analyze potential impacts the project has on agricultural resources. Refer to Final EA, Appendix "B". The loss of 200 acres of agriculture land on Lāna'i, plus the loss of agricultural land due to other projects (i.e., the cumulative impact), is too small to significantly affect the growth of diversified agriculture on Lāna'i or Statewide. The project will also not have any adverse effects on any existing onsite agricultural operations since the land has not been cultivated since the pineapple plantation closed in 1992.

The impacts on agriculture will be offset by the benefits of the project, including:

- (1) employment generated by construction activity and onsite commercial and industrial activity;
- (2) offsite economic activity generated by the purchases of goods and services by construction companies and the families of construction workers;
- (3) tax revenues derived from County property taxes and State taxes (excise, personal income, and corporate income); and
- (4) goods and services provided by businesses of the project.

### **COUNTY SPECIAL USE PERMIT APPLICABILITY**

MCC, Section 19.510.070 outlines the criteria which a project must meet in order to be granted a CSUP by the Lanai Planning Commission.

1. **The proposed request meets the intent of the general plan and the objectives and policies of the applicable community plan of the county.**

The Miki Basin Industrial Park, including the proposed special uses, directly and indirectly promotes many of the goals and objectives of the Countywide Policy Plan. This includes the project's investment in the local economy which will support local businesses that are linked to the construction, industrial, and renewable energy industries. From a long-term perspective, the Miki Basin Industrial Park supports economic diversification and the overall business environment by providing opportunities for new enterprises to establish places of operations for their respective ventures.

The Lāna'i Community Plan was adopted by the County of Maui through Ordinance No. 4343 which took effect on July 26, 2016. Land use guidelines are set forth by the Lāna'i Community Plan Land Use Map. The project site for the proposed special uses is designated as "Heavy Industrial" by the Community Plan. The Miki Basin Industrial Park, including the proposed special uses, is consistent with the Community Plan land use designations.

2. **The proposed request is consistent with the applicable community plan land use map of the county.**

The Lāna'i Community Plan was adopted by the County of Maui through Ordinance No. 4343 which took effect on July 26, 2016. Land use guidelines are set forth by the Lāna'i Community Plan Land Use Map. The Miki Basin Industrial Park is designated as "Light Industrial" and "Heavy Industrial" by the Community Plan. The proposed special uses are located in the area of

the Industrial Park that is designated "Heavy Industrial" by the Community Plan.

3. **The proposed request meets the intent and purpose of the applicable district.**

The "M-2, Heavy Industrial District" is intended to include those uses which include the manufacture or treatment of goods from raw materials. The proposed asphalt plant and rock crushing activities are identified as special uses in the "M-2, Heavy Industrial District" under Maui County Code, Section 19.26.040.

4. **The proposed development will not adversely affect or interfere with public or private schools, parks, playgrounds, water systems, sewage and solid waste disposal, drainage, roadway and transportation systems, or other public requirements, conveniences, and improvements.**

The Miki Basin Industrial Park, including the proposed special uses, is located approximately 3.2 miles from Lāna'i City and is not in close proximity to public or private schools, parks, or playgrounds. The Miki Basin Industrial Park will allow industrial uses to be established in a location appropriate for such uses, away from residential areas. As discussed previously, infrastructure improvements, including roadway, water, wastewater, and drainage improvements will be developed as part of the Miki Basin Industrial Park. Adverse impacts to public services or infrastructure are not anticipated.

5. **The proposed development will not adversely impact the social, cultural, economic, environmental, and ecological character and quality of the area.**

The Miki Basin Industrial Park, including the proposed special uses, is located on land adjoining the Lāna'i Airport, the Hawaiian Electric 5-acre fossil fuel facility, and the existing 20-acre Miki Basin Industrial Condominium. The proposed special uses are located in an area identified for industrial use in the Lāna'i Community Plan. It would not adversely impact social, cultural, economic, environmental, and ecological character and quality of the area.

6. **That the public shall be protected from the deleterious effects of the proposed use.**

The proposed special uses will be located in an area specifically designated for industrial uses and located 3.2 miles from Lāna'i City. Best management practices will be implemented at the asphalt plant and rock crushing facilities. Deleterious effects to the public are not anticipated.



7. **That the need for public service demands created by the proposed use shall be fulfilled.**

The proposed special uses will not expand the need for public services.

8. **If the use is located in the state agricultural and rural district, describe how the use complies with the guidelines established in section 15-15-95 of the rules of the land use commission of the State.**

The proposed special uses are not located in the State Agricultural or Rural District. In February 2023, the State Land Use Commission approved a District Boundary Amendment for the Miki Basin Industrial Park, designating the property as Urban.

## **AGRICULTURE**

1. The project area is currently not productive nor readily suitable for cultivation. The 200 acres of the proposed project represents approximately 1.1 percent of the 18,000 plus acres of the previously cultivated pineapple fields. Although the project will result in the loss of approximately 200 acres of historically cultivated agricultural land, the land has not been cultivated for decades. Moreover, the 200-acre project area makes up a fraction of the potentially cultivatable acres on the island and even less of the 200,000 acres of fallow agricultural lands vacated by the sugar and pineapple industries statewide. There is presently no demand for agricultural use of the project area, and there is sufficient available agricultural land to meet near to mid-term demand. See Final EA, Appendix "B", Impacts on Agriculture Report.

## **ARCHAEOLOGICAL, HISTORIC AND CULTURAL RESOURCES**

1. T. S. Dye & Colleagues prepared an AIS with subsurface testing in the project area on May 9, 2018, during the environmental review process. The AIS recommended that a data recovery plan be developed for Sites 50-40-98-1980 and 50-40-98-1981, and that this plan be implemented prior to proposed construction activities within the parcel. SHPD concurred with this recommended mitigation. The Applicant has prepared an Archaeological Data Recovery Plan and Archaeological Data Recovery Report that have been submitted to SHPD for review. See Final EA, Appendices "D-1", "D-2", "D-3", and "D-4".

The Applicant will comply with all applicable County, State and Federal laws and rules regarding the treatment of archaeological and historic sites. Should evidence of archaeological or cultural resources be encountered during site preparation work or during drilling, then activities at the site will be suspended and Pūlama Lāna'i and the SHPD will be contacted immediately for review, evaluation, and recommendations on how to preserve or avoid damage to the resources. However, given the conclusions of the AIS, discovery of historic items in the project area are not expected. None of the historic sites identified in the AIS are located on the project area. The aforementioned sites were previously removed, as noted in the Archaeological Data Recovery Plan and Archaeological Data Recovery Report that was submitted to SHPD.

The pedestrian survey and subsurface testing resulted in the identification and



documentation of two secondarily deposited historic scatters and two historic properties, designated as Site 50-40-98-1980 and Site 50-40- 98-1981. Site 50-40-98-1980 is comprised of two features including a lithic scatter and an eroded exposed fire-pit. Site 50-40-98-1981 is a subsurface truncated fire-pit feature. Both historic properties are evaluated as significant for the important information on Hawaiian history and prehistory that they have yielded.

The impacts to cultural resources were assessed for the project area by Honua Consulting Services LLC. See Final EA, Appendix "D-4", Supporting Documentation on Cultural Impact Assessment Requirement. The AIS prepared for the proposed project included research compliant with guidelines for development of a Cultural Impact Assessment (CIA). The project area is situated in the ahupua'a of Kamoku. The CIA involved ethnographic research and interviews of individuals with knowledge of Kamoku and native Hawaiian beliefs, practices and traditions on Lāna'i. One of the interviewees indicated that the project area had been used for gathering of 'a'alii and 'uhaloa for adornments and la'au lapa'au. Both 'a'alii and 'uhaloa are common throughout the Pālāwai-Miki Region of Lāna'i and prevalent in the surrounding areas. Therefore, while the project area is used for traditional practices, the proposed project is not anticipated to affect the availability of these cultural resources, and the project will not affect access to these resources in the region. The project is not anticipated to have an impact on native Hawaiian traditional and cultural practices in the ahupua'a.

2. The State Historic Preservation Division (SHPD) accepted the AIS on August 4, 2020. See Final EA, Appendix "D-2", State Historic Preservation Division Archaeological Inventory Survey Acceptance Letter.

SHPD concurred with the recommended mitigation of a data recovery plan be developed for Sites 50-40-98-1980 and 50-40-98-1981 and that this plan be implemented prior to proposed construction activities within the subject parcel.

By letter dated October 11, 2022, the SHPD accepted the Data Recovery Plan and Data Recovery Report and notified the County that the permit issuance process may proceed. See **Exhibit 12**.

## **INFRASTRUCTURE AND PUBLIC FACILITIES AND SERVICES**

1. **Water** -- Akinaka & Associates, Ltd. prepared a Water Master Plan for Mānele Bay Water System (Public Water System 238 ("PWS 238")), which provides service to the project area and to Mānele, Hulopo'e and the Pālāwai Irrigation Grid. See Final EA, Appendix "H-1", Water Master Plan.

PWS 238 is owned, operated and maintained by the Lāna'i Water Company. PWS 238 is sourced by Well No. 2 (State Well No. 5-4953-001) and Well No. 4 (State Well No. 5-4952-002). PWS 238 provides water service to Mānele, Hulopo'e, and the Pālāwai Irrigation Grid. Water from the wells is either stored in the existing 0.5 million gallon (MG) Hi'i Tank, 1.0 MG concrete Hi'i Reservoir, or fed directly into the distribution system depending on the demand. PWS 238 consists of 10-inch, 12-inch, and 16-inch transmission mains. PWS 238 is interconnected with the Lāna'i City Water System (Public Water System 237 ("PWS 237")). During emergencies, PWS 237 can be connected to

PWS 238 by opening a valve.

The existing average daily water usage of PWS 238 is estimated at 433,000 gallons per day (GPD). Existing water demand for the Concrete Batch Plant (CBP) is 3,500 GPD, which is currently provided by PWS 238. Existing water demand for the asphalt plant is 1,000 GPD, which is currently provided by PWS 237. The asphalt plant will have a new demand of 1,000 GPD on PWS 238, when it is relocated into the Miki Basin Industrial Park. As mentioned previously, PWS 238 consists of 10-inch, 12-inch, and 16-inch transmission mains. The 12-inch transmission main transports water from the 1,000,000 gallon Hi'i Reservoir to the 500,000 gallon Hi'i Tank and into the Mānele Bay Water System (PWS 238). The 12-inch main splits at a junction to serve both Mānele and Pālāwai Irrigation Grid. From the junction to Mānele and Hulopo'e, the 12-inch line feeds into three pressure breaker storage tanks. From the junction to the Pālāwai Irrigation Grid area, the waterline upsizes to a 16-inch main for water delivery. The existing 12-inch Pālāwai PRV downstream of the junction reduces the pressure in the waterline to 95 psi.

The Mānele Bay Water System (PWS 238) is interconnected with the Lāna'i City Water System (PWS 237). During emergencies, the Lāna'i City System (PWS 237) can be connected to the Mānele Bay Water System (PWS 238) by opening a valve. The majority of the project will be developed within five years upon securing all entitlements and can be supported by the current water system. The remaining 13 percent will likely need additional capacity depending on the new industrial uses that will be implemented throughout the duration of the project (over a period of 20 years).

The Water Master Plan notes that PWS 238 does not have adequate well-pump capacity (source) for the full buildout of the project. However, there is enough storage to support the full buildout with the existing tank and reservoir.

The Water Master Plan includes a detailed list of improvements that will be required to support full buildout of the industrial park which include modifying or replacing the existing PRV, drilling a new source or multiple sources to obtain an additional minimum pump capacity of 426 gallons per minute (GPM), and evaluating the condition of sections of the Pālāwai Irrigation Grid to determine the need for pipe repair, replacement or possible abandonment.

The New Well Supply Alternatives report prepared by Tom Nance Water Resource Engineering concluded that a new well to supply the Miki Basin Industrial Park project can be accommodated within the Leeward Aquifer System's 3.0 MGD sustainable yield. See Final EA, Appendix "H-2", New Well Supply Alternatives for the Mānele Bay Water System, Public Water System No. 238.

The water demand for the proposed project is also analyzed in the context of the 6.0 MGD sustainable yield for the island as a whole. The current water demand on Lāna'i is 1.517 MGD, the next additional incremental demand is the full buildout for the Miki Basin Industrial Park at 0.159 MGD, followed by other proposed or approved projects at 0.260 MGD. The total forecasted water demand for Lāna'i (summation of the values) is 1.936 MGD, which is 55 percent less than the 4.3 MGD trigger set by CWRM and 68 percent less than the sustainable yield of 6 MGD for Lāna'i. The near-term Miki Basin Industrial Park's anticipated uses include the relocation of the CBP and the asphalt plant. These near-term uses are expected to have an incremental demand of 2,625 GPD for the CBP

and a new demand of 1,000 GPD for the asphalt plant on PWS 238. In the long term, the new industrial uses are expected to have a new demand of 156,000 GPD on PWS 238.

According to the Water Master Plan for PWS 238, the full buildout of the Miki Basin Industrial Park's new or incremental estimated water demand on PWS 238 is 159,625 GPD. The estimated water demand on PWS 238 for the full buildout of the Miki Basin Industrial Park is 163,125 GPD, which includes the existing and new or incremental estimated water demand. The projected average day demand for PWS 238, including full buildout of the Miki Basin Industrial Park and existing demands (not Miki Basin Industrial Park related), is 592,625 GPD.

The Water Master Plan includes a detailed list of improvements that will be required to support full buildout of the industrial park. Three alternative well sites were also evaluated, with the recommended site located 2,000 feet northwest of existing Well No. 2 at the top of a former pineapple field and accessed by old plantation roads. This proposed well site is far enough away from existing wells so as not to impact their sustainable supplies. A well at this site would encounter high-level, drinking water quality groundwater and could meet or exceed the necessary 426 GPM capacity to ensure adequate supply for the full buildout of the Miki Basin Industrial Park. Additionally, the design and operations of facilities will include measures which will promote the conservation of water resources.

The project will be constructed with appropriate water efficiency measures. The Applicant confirms its commitment that water usage for the project will not exceed the maximum daily usage calculations provided in the Water Master Plan report.

The County of Maui, Department of Water Supply (DWS) noted that Lāna'i island does not obtain water service from the County, and, therefore, any building or plumbing permits would not be reviewed by DWS. DWS noted, however, if a subdivision application is received, then it would review the project to ensure compliance with county code. The Applicant acknowledged the comments and confirmed that the project does not involve a subdivision of the property.

Additionally, DWS provided its standard comments for Best Management Practices (BMPs) for pollution prevention and conservation indoor and outdoor BMPs and noted that the project's potential use of R-1 recycled wastewater would be in alignment with the Lāna'i Island Water Use and Development Plan. The Applicant will utilize R-1 recycled wastewater for the project, to the extent feasible and practicable, as well as BMPs for pollution prevention and water conservation measures. It is noted, however, that landscaping in an industrial area is not necessarily conducive.

2. **Sewers** -- There is currently no existing County or privately owned or operated wastewater treatment system in the vicinity of the proposed 200-acre Miki Basin Industrial Park. Wastewater is currently treated via onsite individual wastewater systems. Currently, there is no wastewater generated from the proposed 200-acre Miki Basin Industrial Park site. According to the Akinaka & Associates, Ltd. Wastewater Master Plan for the proposed 200-acre Miki Basin Industrial Park, the construction of onsite Individual Wastewater Systems (IWS), decentralized Wastewater Treatment Plants (WWTP) and collection systems will be required to support development activity. See Final EA, Appendix "I", Wastewater Master Plan. Each development within the industrial park will be required to

provide its own wastewater treatment system and associated wastewater collection system. The type of treatment system used will be determined by the size and type of development. Sizing of each system will be determined during the design phase of each development.

Since specific development plans for the industrial park are not yet available, proposed wastewater flows for buildout of the industrial park are based on the proposed land use and an estimated developable area for each parcel. The proposed design average wastewater flow for full buildout of the industrial park is 80,179 GPD, with a design peak flow of 333,688 GPD.

It is anticipated that the concrete facility and asphalt plant may be the first sites developed, and will require the installation of an IWS septic system. The wastewater flows generated from these facilities are minimal and could be managed with an IWS even after development of a nearby decentralized WWTP. The light industrial area west of Miki Road would produce the majority of the projected design wastewater flow. A WWTP developed at the lowest point in the project site on the southwestern edge of the light industrial area west of Miki Road could collect the wastewater from this area without the need for pump stations and force mains.

The wastewater system for the Miki Basin Industrial Park will be designed in conformance with the requirements of the DOH and the County of Maui to ensure proper handling and treatment of wastewater generated by the project. The County of Maui, Department of Environmental Management did not provide any comments on the proposed project.

3. **Drainage** -- R.M. Towill Corporation prepared a Drainage Report on July 9, 2021, to determine that the offsite and onsite drainage system requirements for the proposed Miki Basin Industrial Park meet the County of Maui Storm Drainage Standards. See Final EA, Appendix "J", Drainage Report.

Offsite runoff generated from the area north of Miki Road sheet flows and is intercepted by an unlined ditch along Miki Road. Once in the unlined ditch, the runoff flows towards the southeast direction to a low point in Miki Road, near the existing HECO facility.

The existing onsite terrain is covered with vegetation and slopes at about five percent from Miki Road toward the southeast. There is no existing storm drain system within the project area.

Offsite runoff, including runoff generated from the HECO facility, is diverted around the Miki Basin Industrial Condominium site and is discharged into an existing drainageway. Runoff generated within the existing Miki Basin Industrial Condominium site is collected by an onsite drainage system and is discharged offsite. There are currently no drainage structures within the 200-acre project area. The proposed development will increase the amount of impervious area within the project.

The project will increase the runoff onsite by 141.36 cfs based on a 100-year, 24-hour storm. Existing drainage patterns will be maintained by discharging intercepted offsite runoff to its original flow path. Offsite runoff will be intercepted before entering the project site by proposed drainage ditches. The drainage ditches will divert runoff around the



perimeter of the project site to an offsite discharge point downstream. The ditches will be sized to accommodate the peak runoff flow from the 100-year, 24-hour storm and 10-year, 1-hour storm where necessary and provide a minimum 2-foot freeboard.

Onsite runoff will be collected by a proposed underground storm drain system consisting of pipes and inlets. The additional flow generated within the proposed parcels can be accommodated by the existing Miki Basin and Pālāwai Basin. The additional runoff volume is negligible compared to the available basin capacity. Stormwater treatment will not be provided for this project since the runoff flows into an existing offsite sump with no outlet to the ocean.

Applicable law will be followed to minimize soil movement, erosion and compaction during all project actions. The proposed drainage plan will meet the requirements of Chapter 4, "Rules for the Design of Storm Drainage Facilities in the County of Maui" and Chapter 111, "Rules for the Design of Storm Water Treatment Best Management Practices".

The project will include the implementation of site- specific BMPs during the construction to provide erosion control and minimize impacts to downstream properties. Based on the foregoing, the proposed 200-acre industrial development will not have an adverse impact on any existing downstream properties. As indicated by the Flood Insurance Rate Map for the County of Maui, the project site is located within Zone X. The Zone X designation corresponds to areas of minimal flood hazard, which are the areas outside the Special Flood Hazard Area and higher than the elevation of the 0.2-percent annual chance flood.

Due to the project location, significant adverse impacts related to flood hazards, are not anticipated.

4. **Roadways, Curbs, Gutters and Sidewalks** -- The primary street for ingress/egress for the project is Miki Road. Miki Road is a generally north-south, two-way privately-owned roadway that begins to the north at its intersection with Kaumālapa'u Highway and extends approximately 2.95 miles to the south. Kaumālapa'u Highway is generally east-west, two-way, two-lane State-owned roadway that runs perpendicular to Miki Road. Miki Road is 13 to 15 feet wide and currently requires vehicles to pull off to the unpaved shoulder when encountering approaching vehicles traveling in the opposite direction.

The Traffic Impact Analysis Report (TIAR) evaluated traffic impacts resulting from the proposed project. See Final EA, Appendix "G", attached, Traffic Impact Analysis Report. Due to atypical traffic caused by COVID-19, Hawai'i Department of Transportation (HDOT) traffic volume data from 2018 were utilized instead of the 2020 traffic volumes in the TIAR. The TIAR considered the total traffic impacts of the project as well as the impacts of known future developments in the vicinity of the project. Currently, the Kaumālapa'u Highway/Miki Road intersection operates at level of service (LOS) B, which is defined as reasonably free-flow traffic conditions. At least two driveway access points to the project site will be provided along Miki Road. Project Driveway 1 provides access to the light and heavy industrial areas west of Miki Road and Project Driveway 2 provides access to the light industrial area east of Miki Road. See Final EA, Appendix "G", Traffic Impact Analysis Report, attached. The TIAR recommends the widening of Miki Road between its intersection with Kaumālapa'u Highway to the project driveways. Miki Road is currently estimated to be 13 feet wide and should be widened to accommodate large vehicles and

full side-by-side bi-directional travel with intersections capable of accommodating turning movements, and to provide an exclusive westbound left-turn deceleration lane. Each of the intersections is forecasted to operate at LOS B, which is similar to existing conditions. The project is anticipated to generate 161 trips during the weekday AM peak hour of traffic and 163 trips during the weekday PM peak hour of traffic by 2040.

Upon completion of the project, all intersection movements are forecast to operate at LOS B or better during the AM and PM peak hours of traffic. Miki Road is privately-owned; the levels of service for the proposed uses on such are acceptable and not significant. The Hawai'i Department of Transportation (HDOT) Airports Division provided comments and guidance on addressing Federal Aviation Administration (FAA) regulations and impacts from aircraft operations. The Applicant acknowledged the division's comments and will comply with all FAA regulations.

HDOT's Highways Division provided recommendations on traffic mitigations and improvements, and requested additional information on planned projects that could affect traffic conditions on Kaunapali Highway by 2040. The Highways Division also requested consultation with the Maui Highway District Engineer for required permits and approvals, as well as implementation of a maintenance and monitoring program. The Applicant acknowledged responsibility for all required improvements and confirmed it will consult directly with the Maui District Engineer on permit approvals, and maintenance and monitoring during the project's development. The Applicant also provided additional information and clarification in the Final EA.

5. **Electrical and Telephone** -- Overhead/underground electrical and telephone service is available to the site. The HECO powerplant is adjacent to the proposed project and provides energy to Lāna'i Airport operations. The electrical service lines to the Airport are underground, running from Kaunapali Highway along the Airport access road to the Airport.

The Miki Basin Industrial Park will include 127 acres for renewable energy projects, including photovoltaic equipment with battery energy storage. The project's location adjacent to the HECO fossil fuel power plant will significantly reduce connection costs associated with bringing the renewable energy project online. The electricity generated by the renewable energy project will provide clean energy for 95 percent of the energy demand for the island of Lāna'i. By replacing the use of fossil fuels with renewable energy, Lāna'i will increase resiliency and minimize the impacts of price fluctuations based on the price of oil. The project is not anticipated to have an adverse impact on existing electrical, telephone, or cable television systems, nor is it expected to extend existing service area limits. Early project coordination will be carried out with the service providers to ensure services can be delivered to the project site in a timely basis. Hawaiian Telecom (HTCO) and Charter Communications dba Spectrum (Spectrum) will offer broadband and telephone services to the project. Services are currently provided and available to the project site. No impacts are anticipated as a result of this project.

6. **Parks** -- The Maui County Department of Parks and Recreation and Lāna'i public schools maintain a number of recreational resources on the island of Lāna'i. County parks and facilities in Lāna'i City include: the Lāna'i Community Center, the Lāna'i Gym and Tennis Courts, and the Lāna'i Little League Field, Fraser Avenue Park and Kaunapali



Highway/Fraser Avenue Park.

Pūlama Lāna'i also owns and maintains a number of recreational facilities that are available for public use including Dole Park, Olopua Woods Park, Waialua Park, Hulopo'e Beach Park, and the Lāna'i Recreation Center.

Other recreational facilities operated by Pūlama Lāna'i include the 18-hole championship golf course at Mānele Resort and the 9-hole Cavendish Golf Course.

The proposed action is not expected to generate a need for additional recreational facilities. There are no anticipated adverse impacts to existing recreational facilities and resources.

7. **Schools** -- The project is located approximately 3.2 miles from Lāna'i High and Elementary School, which is the only public school that serves the educational needs of the island of Lāna'i. The project is not anticipated to generate an increase in enrollment.

The proposed Miki Basin Industrial Park will allow existing industrial uses currently scattered in business and residential areas in Lāna'i City to relocate to more appropriate locations having the infrastructure and buffers necessary for industrial uses. The project is not a population generator and, as such, adverse impacts on educational facilities are not anticipated.

8. **Solid Waste** -- The Lāna'i Landfill on Kaumālapa'u Highway accepts municipal solid waste and construction debris dropped-off from commercial and residential customers. In addition, personal delivery to the landfill of municipal solid waste, green waste, and trash is available.

During the initial short-term construction phase of the project, the contractor will develop and implement a construction-generated waste disposal plan. Appropriate construction debris will be taken to the landfill.

A large proportion of the Miki Basin Industrial Park, 127 acres, is proposed for renewable energy uses such as photovoltaic plus battery energy storage, which would not be a generator of new solid waste. If necessary, appropriate decommissioning practices in compliance with federal, state, and local regulations will be implemented at the end of the useful life of the renewable energy project. Individual users at the Miki Basin Industrial Park will be responsible for disposing of solid waste, recyclables, and green waste consistent with State and County regulations and programs.

With respect to the concrete recycling and crushing operation, the operator will manage solid waste disposal consistent with the County programs on the island. Most of the materials and by-products would consist of rock, aggregate, and concrete cement that is planned to be recycled as much as possible to reduce the need for costly importation of building materials. Materials that are considered construction and demolition debris waste would be handled and disposed of in accordance with State and County regulations and laws. Inasmuch as the concrete crushing operation represents a relocation of an existing use, significant new solid waste generation is not anticipated.

Based on the foregoing, the proposed Miki Basin Industrial Park is not anticipated to

generate a significant adverse impact related to solid waste disposal considerations.

9. **Public Services** -- The Lānaʻi Fire Station provides the fire protection services for the island. Located at 1345 Fraser Avenue in Lānaʻi City, the fire station is approximately three miles from the project area. The station includes a total staffing of 18 personnel. Three captains, six Firefighter III, and nine Firefighter I. Lānaʻi Station houses one engine company and one tanker. There are six personnel on duty daily (County of Maui, Department of Fire and Public Safety, 2014-2015).

The site is served by Lānaʻi Public and School Library on Fraser Avenue.

The site is served by the Lānaʻi Police Station.

The nearest hospital facility is the Lānaʻi Community Hospital in Lānaʻi City.

The proposed project will not adversely affect public services. It is not a population generator, nor will it expand service limits for public services. The project involves development of an area for light and heavy industrial uses, as identified in the Lānaʻi Community Plan.

No adverse impacts on police and fire protection services, and medical services are anticipated.

## **SOCIO ECONOMIC IMPACTS**

The proposed Miki Basin Industrial Park will be compatible with existing industrial uses on neighboring properties and has been designated by the Lānaʻi Community Plan for industrial use. In this regard, the proposed action is not anticipated to have significant adverse effects on the neighboring facilities or the Lānaʻi Airport.

**Population and Demography:** The proposed project is not a direct population generator and, thus, not anticipated to have a significant adverse impact on population or demographic trends on Lānaʻi. The project will allow existing industrial facilities currently scattered in business and residential areas in Lānaʻi City to relocate to more appropriate locations for industrial uses with infrastructure and buffers.

**Economy:** The project will create temporary and permanent employment opportunities. The project will also provide space for new businesses to flourish and for the diversification of the economy. The project will transform vacant land of limited agricultural potential into an asset for the community. Construction activities will result in short- and long-term creation of jobs and materials spending. During the initial 10-year development period, when most of the development is expected to occur, total construction expenditures are estimated at \$78.8 million. Construction expenditures plus indirect sales related to construction expenditures are expected to average \$12.9 million per year based on State economic multipliers. By 2030, new economic activities at the Miki Basin Industrial Park are expected to generate approximately \$17.1 million annually. Overall, the project will produce annually an estimated \$670,000 in State taxes and \$380,000 in County taxes. See Final EA, Appendix "F", Economic, Population, and Fiscal Impacts Report.

## **ENVIRONMENTAL IMPACTS**

There will be short term noise and air quality impacts during the construction phases of the project. Best management practices should be incorporated into the project in accordance with Federal, State and County standards.

The proposed project is also approximately 3.5 miles inland from the shoreline and at a significantly high elevation, thus, the project site is not subject to any foreseeable negative impacts from tsunamis or sea level rise. The proposed improvements are located outside of the projected 3.2-ft. sea level rise hazard area as identified in the Hawai'i Sea Level Rise Vulnerability and Adaptation Report published in 2017 by the Hawai'i Climate Change Mitigation and Adaptation Commission.

According to the Flora and Fauna Study, the vegetation in the project area is dominated by hardy, invasive non-native species. No special habitats for native plants were found. Because of the above information, it is determined that there is nothing of special botanical concern with regard to this project. No recommendations with reference to plants were deemed necessary. The fauna recorded in this project area is largely non-native in character. Axis deer are abundant throughout the area and have significantly modified the habitat by reducing plant species to a few hardy dominants. Two indigenous seabirds, the endangered 'ua'u and the threatened 'a'o, while not nesting in the project area, do fly over it during dusk to access their burrows high in the mountains and again at dawn to head out to sea. Young birds taking their first fledging flights are inexperienced fliers. They often are disoriented by bright lights and crash into light structures where they become vulnerable to injury and predators. The Flora and Fauna Study recommended that any significant outdoor lighting associated with the proposed project be hooded to direct the light downward to mitigate this threat. No other recommendations with reference to fauna were deemed necessary in the study.

The project area is not part of a scenic corridor, and the project will not affect scenic vistas or view planes. Rather, the project area abuts the southeast end of Lāna'i Airport and the project will have complementary, industrial uses to the neighboring facilities. No adverse impacts to open space or scenic resources are anticipated as a result of the project. The project area is not located near traditional access or walking trails between coastal or upland areas.

A terrestrial vegetation and wildlife study of the project area was completed. See Final EA, Appendix "C", Flora and Fauna Study. No State or federally listed threatened or endangered species or rare native Hawaiian plant species were observed within the project area, and the area is not designated as a critical habitat for any species. Historically, the vegetation of Lāna'i has been impacted by grazing and commercial pineapple cultivation. The vegetation in the project area is dominated by hardy, invasive non-native species. Of the 39 plant species observed, only three are native to the Hawaiian Islands. 'Ilima (*Sida fallax*), 'uhaloa (*Waltheria indica*) and 'a'ali'i (*Dodonaea viscosa*) are common native plants documented in small numbers in the project area.

No other recommendations with reference to fauna were deemed necessary in the study. See Final EA, Appendix "C", Flora and Fauna Study.

The U.S. Fish and Wildlife Service (USFWS) was consulted for the proposed project and recommended avoidance and minimization measures be implemented for the project as it relates to the endangered Hawaiian petrel (*Pterodroma sandwichensis*) which may occur in the vicinity or pass through the project area. The USFWS also provided additional information on listed

species that may occur or transit through the proposed project area, along with recommended avoidance and minimization measures for the Hawaiian hoary bat, Blackburn's sphinx moth, and Hawaiian seabirds. The measures will be incorporated into the project plans, as applicable.

The proposed project is located inland approximately 3.5 miles from the coastal zone and the underlying soils are composed of silty clay loam. As such, impacts to dune ecosystems are not anticipated.

Although historical evidence suggests the existence of perennial streams, no surface water resources currently exist on the island. There are also no wetlands located on or in the immediate vicinity of the proposed project site.

No surface water resources currently exist on Lānaʻi, thus, there will be no impacts to streams or wetlands.

The proposed project area is inland approximately 3.5 miles from the coastline. As such, adverse impacts to marine ecosystems are not anticipated from the proposed action.

The project area is located in the Miki Basin on gently to moderately sloping lands that were part of a large pineapple plantation. The proposed project is not anticipated to adversely impact any significant natural features.

The proposed project is located in the Miki Basin approximately four miles southwest of Lānaʻi City and abuts the southeast end of Lānaʻi Airport. The project area is situated on gently sloping land with an average slope of five percent. The proposed project is located away from public roadways and residential areas. The proposed project is not anticipated to adversely impact open space resources.

Noise around the project area is dominated by noise from airport-related activities, including roadway use and aircraft taxiing, taking off and landing. Operations at the HECO fossil fuel power plant and the Miki Basin Industrial Condominium also contribute noise to the surrounding area. The nearest noise sensitive areas to the project area are located in Lānaʻi City. No noise-sensitive areas are present within the project area. Ambient noise conditions will be temporarily affected by construction activities. Sound attenuating construction equipment will be used, where practicable, and necessary to mitigate noise impacts caused by construction. Night-time construction activity is not anticipated or proposed. Future industrial park users will be responsible for complying with all applicable DOH rules and regulations relating to noise impacts. Pūlama Lānaʻi will ensure that any impact to air quality or noise caused during construction will be mitigated by compliance with applicable State and Federal regulations and best management practices.

Construction related activities for the proposed project will be the primary source of airborne pollutants affecting the surrounding air quality. Appropriate BMPs, such as frequent watering of exposed surfaces and regular maintenance of construction equipment will be utilized to minimize air quality impacts associated with project construction.

Any future industrial activities which may have air quality impacts will be regulated by the DOH. The 127 acres of the Miki Basin Industrial Area to be used for renewable energy projects (photovoltaic plus battery storage), will not generate adverse air quality impacts. Other future uses include the relocation of an existing concrete recycling and rock crushing operation, and for the



storage and stockpiling of aggregate and construction materials.

Stockpile sites are generally left uncovered based on the need to transfer aggregate materials into and out of storage frequently. The generation of dust is the primary emission or by-product associated with the stockpile site. BMPs employed at the site to address these problems would principally consist of adhering to environmental regulations for the storage and use of the aggregate stockpiles. Dust control would be handled by use of regular wetting of the crushed concrete and rock, and materials storage areas with a sufficient amount of water to saturate the area without causing runoff.

In the context of the Green House Gas Reporting Program (25,000 metric tons of CO<sub>2</sub> EQ), the relative effects GHG emissions (CO<sub>2</sub> EQ) during construction from earthmoving equipment and transportation of materials to and from the project site, will be short term and are not considered significant. Based on the foregoing, the proposed action is not anticipated to create significant direct and indirect foreseeable GHG emissions. This action does not fall within the threshold of mandatory GHG reporting.

Construction related activities for the proposed project will be the primary source of airborne pollutants affecting the surrounding air quality. Appropriate BMPs, such as frequent watering of exposed surfaces and regular maintenance of construction equipment will be utilized to minimize air quality impacts associated with project construction.

The proposed project commits 200 acres of land for the construction of the proposed Miki Basin Industrial Park. Other resources which will be committed in the implementation of the proposed action include material and fuel resources. The project will result in short-term beneficial impacts related to temporary construction employment and spending.

The Applicant will work to minimize noise emissions at the relocated facilities, including the use of all combustion powered equipment and vehicles. Any equipment found to be in poor condition will be repaired or replaced, and mufflers shall be used in accordance with federal and state laws and regulations. Considering the project represents the relocation of existing facilities, significant increases in noise generation are not anticipated. It should be noted that the relocation site was selected, in part, due its close proximity to similar industrial uses, as well as its distance from noise-sensitive areas.

Construction of the industrial park will allow existing industrial facilities currently scattered in business and residential areas in Lānaʻi City to relocate to more appropriate locations having the infrastructure and buffers necessary for industrial uses. The proposed action also provides opportunities for future industrial development on Lānaʻi, which will add to the Lānaʻi's economy and, thereby, contribute to the island's resiliency and sustainability.

#### **OTHER GOVERNMENTAL APPROVALS, REGULATIONS, POLICIES, PLANS, BEST MANAGEMENT PRACTICES**

The following permits and approvals will be required prior to the implementation of the project:

##### **State of Hawaiʻi**

1. National Pollutant Discharge Elimination System (NPDES), as applicable



2. Community Noise Permit, as applicable
3. Permit to Perform Work Upon State Highways, as applicable
4. Permit to Operate or Transport Oversize and/or Overweight Vehicles and Loads Over State Highways, as applicable

#### County of Maui

1. Maui County Code, Title 19, Change of Zoning (CIZ)
2. County Special Use Permit (asphalt plant and rock crushing operation) and/or other Title 19 approvals, as applicable
3. Construction Permits (Grading, Building, Electrical, and Plumbing)

#### **TESTIMONY**

As of August 7, 2023, the Planning Department has received no testimony regarding these applications.

#### **ALTERNATIVES**

##### **Change in Zoning**

1. Deferral. The Commission may defer action to another meeting date in order to obtain additional information that will assist in their deliberations on the request.
2. Recommend Approval with no Conditions. The Commission may take action to recommend to the Maui County Council approval of the Change of Zoning without imposing any conditions.
3. Recommend Approval with Conditions. The Commission may take action to recommend to the Maui County Council approval of the Change of Zoning with conditions.
4. Denial. The Commission may take action to recommend to the Maui County Council denial of the Change of Zoning.

##### **County Special Use Permit**

1. Deferral. The LPC may defer action to another meeting date in order to obtain additional information that will assist in their deliberation on the request.
2. Approve With No Conditions. The LPC may take action to approve the request without imposing any conditions.
3. Approve With Conditions. The LPC may take action to approve the request with conditions.
4. Denial. The LPC may take action to deny the requests.

## **CONCLUSIONS OF LAW**

The subject applications comply with the applicable standards for the following:

### **Change of Zoning**

Pursuant to Sections 19.510.040 and 19.510.050 of the Maui County Code, the proposed request meets the criteria for a Change in Zoning as follows:

1. With the application of recommended conditions of approval, the proposed request meets the intent of the general plan and the objectives and policies of the Lānaʻi Community Plan;
2. With the application of recommended conditions of approval, the proposed request is consistent with the applicable Lānaʻi Community Plan land use map of the County;
3. With the application of recommended conditions of approval, the proposed request meets the intent and purpose of the zoning district being requested;
4. The application, if granted, would not, with appropriate mitigation measures, adversely affect or interfere with public or private schools, parks, playgrounds, water systems, sewage and solid waste disposal, drainage, roadway and transportation systems, or other public requirements, conveniences and improvements; and,
5. The application, if granted, would not, with appropriate mitigation measures, adversely impact the social, cultural, economic, environmental, and ecological character and quality of the surrounding area.

### **County Special Use Permit**

Pursuant to Section 19.510.070, a Special Use Permit shall comply with the criteria established for a permit and the policies and objectives of the General Plan and Community Plans of the County, the Hawaiʻi Revised Statutes, and the revised Charter of the County.

A Special Use Permit may be granted by the appropriate planning commission provided the following criteria have been met:

1. The proposed request meets the intent of the general plan, and the objectives and policies of the applicable community plan of the county;
2. The proposed request is consistent with the applicable community plan land use map of the county;
3. The proposed request meets the intent and purpose of the applicable district;
4. The proposed development will not adversely affect or interfere with public or private schools, parks, playgrounds, water systems, sewage and solid waste disposal, drainage, roadway and transportation systems, or other public requirements, conveniences, and improvements;

5. The proposed development will not adversely impact the social, cultural, economic, environmental, and ecological character and quality of the area;
6. That the public shall be protected from the deleterious effects of the proposed use;
7. That the need for public service demands created by the proposed use shall be fulfilled; and
8. If the use is located in the state agricultural and rural district, the commission shall review whether the use complies with the guidelines established in Section 15-15-95 of the rules of the land use commission of the state.

### **RECOMMENDATION**

The Department recommends approval of the Change in Zoning for the subject application.

### **Change in Zoning**

The Change in Zoning will change the Zoning District from "Agricultural" to "M-1, Light Industrial" on 100 acres and from "Agricultural" to "M-2, Heavy Industrial" on 100 acres and is subject to approval by the Council and to the following conditions:

1. That the permitted uses in the "M-1, Light Industrial" District shall be limited to those outlined in the following table:

<b>M-1 Light Industrial</b>
Any use permitted in a B-1, B-2, or B-3 business district except single-family dwellings, duplexes, bungalow courts, short-term rental homes, and transient vacation rentals
Dwelling units located in the same building as any non-dwelling permitted use
Assembly of electrical appliances, radios and phonographs including the manufacture of small parts such as coils, condensers crystal holders and the like
Carpet cleaning plants
Cold storage plants
Commercial laundries
Craft cabinet and furniture manufacturing
Education, specialized
Farm implement sales and service
General food, fruit and vegetable processing and manufacturing plants
Ice cream and milk producing, manufacturing and storage
Laboratories – experimental, photo or motion picture, film or testing
Light and heavy equipment and product display rooms, storage and service
Machine shop or other metal working shop
Manufacture, compounding or treatment of articles or merchandise from the following previously prepared materials: aluminum, bone, cellophane, canvas, cloth, cork, feathers, felt, fiber, fur, glass, hair,

horn, leather, plastics, precious or semi-precious metals or stones, shell, tobacco and wood
Manufacture, compounding, processing, packing or treatment of such products as candy, cosmetics, drugs, perfumes, pharmaceutical, toiletries, and food products. (except the rendering or refining of fats and oils)
Manufacture, dyeing and printing of cloth fabrics and wearing apparel
Manufacture of musical instruments, toys, novelties and rubber and metal stamps
Manufacture of pottery and figurines or other similar ceramic products
Milk bottling or central distribution stations
Plumbing shops
Production facility, multimedia
Radio transmitting and television stations; provided, that towers are of the self-sustaining type without guys
Replating shop
Retail lumberyard including mill and sash work (Mill and sash work shall be conducted within a completely enclosed building)
Small boat building
Soda water and soft drink bottling and distribution plants
Solar energy facilities
Tire repair operation including recapping and retreading
Utility facilities, minor, and substations up to, and including 69 kV transmission
Warehouse, storage and loft buildings
Wearing apparel manufacturing
Wholesale business, storage buildings, nonexplosive goods and warehouses

2. That the permitted uses and special uses in the "M-2, Heavy Industrial" District shall be limited to those outlined in the following table.

<b>M-2 Heavy Industrial</b>
Any use permitted in a B-1, B-2, and B-3 business district and M-1 light industrial district except single-family dwellings, duplexes, bungalow courts, short-term rental homes, and transient vacation rentals and apartments (Except for living quarters used by security/watchmen or custodians of an industrially used property)
Automobile wrecking, if conducted within a building
Boiler and steel works
Concrete or cement products manufacture
Factories
Junk establishment used for storing depositing, or keeping junk or similar goods for business purposes (Such establishment shall not be nearer than 8 feet from any other property line for the storage of the junk or similar goods except in buildings entirely enclosed with walls)
Lumber yard
Machine shops
Material recycling and recovery facilities
Oil storage plants
Petroleum products manufacture or wholesale storage of petroleum
Planing mill
Utility facilities, major

In general those uses which may be obnoxious or offensive by reason of emission of odor, dust, smoke, gas, noise, vibration and the like and not allowed in any other district. Provided, however, that any use not specified in this section shall not be permitted unless approved by the planning director as conforming to the intent of this title
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<b>M-2 Heavy Industrial Special Uses</b>
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Asphalt manufacture of refueling and asphaltic concrete plant
Rock, sand, gravel, or earth excavation, crushing or distribution

3. That the conditions associated with Decision & Order for Docket No. A19-809 approved by the State of Hawaii Land Use Commission shall be applicable to the project area.

The proposed zoning map is shown in **Exhibit 19**.

In consideration of the foregoing, the Planning Department recommends that the Lānaʻi Planning Commission adopt the Planning Department's Report and Recommendation for the Change in Zoning prepared for the August 16, 2023, meeting as the Findings of Fact, Conclusion of Law and Decision and Order and authorize the Director of Planning to transmit said written Decision and Order to the Maui County Council on behalf of the Lānaʻi Planning Commission.

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The Department recommends approval of the County Special Use Permit for the subject application.

**County Special Use Permit**

The Maui County Special Use Permit shall allow: 1) asphalt manufacture of refueling and asphaltic concrete plant, and 2) rock, sand, gravel or earth excavation, crushing or distribution subject to the following conditions:

1. That the County Special Use Permit shall be valid until August 31, 2033, subject to extension by the Planning Director upon a timely request for extension filed at least 90 days prior to its expiration. The Planning Director may forward the time-extension request to the Commission for review and approval and may require a public hearing on the time extension by the Commission.
2. That the County Special Use Permit shall not be transferred without the prior written approval of the Lānaʻi Planning Commission.
3. That the Applicant, its successors and permitted assigns shall exercise reasonable due care as to third parties with respect to all areas affected by subject County Special Use Permit and shall procure at its own cost and expense, and shall maintain during the entire period of this County Special Use Permit, a policy or policies of comprehensive liability insurance in the minimum amount \$1,000,000.00 naming the County of Maui as an additional insured, insuring and defending the



applicant and County of Maui against any and all claims or demands for property damage, personal injury and/or death arising out of this permit, including but not limited to: (1) claims from any accident in connection with the permitted use, or occasioned by any act or nuisance made or suffered in connection with the permitted use in the exercise by the applicant of said rights; and (2) all actions, suits, damages and claims by whomsoever brought or made by reason of the non-observance or non-performance of any of the terms and conditions of this permit. Proof of a policy naming County of Maui as an additional insured shall be submitted to the Department within ninety 90 calendar days from the date of transmittal of the decision and order.

4. That full compliance with all applicable governmental requirements shall be rendered by the Applicant.
5. That the Applicant shall submit to the Planning Department a digital copy of a detailed initial and final report addressing its compliance with the conditions established with the subject County Special Use Permit. A preliminary report shall be reviewed and approved by the Planning Department prior to issuance of a building permit. Additionally, a final compliance report shall be submitted to the Planning Department for review and approval prior to issuance of a certificate of occupancy.
6. That the Applicant shall develop the property in substantial compliance with the representations made to the Lānaʻi Planning Commission in obtaining the County Special Use Permit. Failure to so develop the property may result in the revocation of the permit.
7. That all exterior illumination shall consist of fully shielded downward lighting throughout the project.
8. That no quarrying operations shall be permitted on the subject site, without express written approval of the Lānaʻi Planning Commission.
9. That upon termination of the rock crushing facility and asphalt plant, all equipment and materials for rock crushing operations shall be removed and the site shall be restored in a manner to prevent erosion from wind and rain and in a manner that would not adversely affect natural drainage patterns.
10. That appropriate measures, as governed by the Department of Health, shall be taken during the operation of the rock crushing facility and asphalt plant to mitigate impacts relative to dust and soil erosion by wind and water and increased ambient noise levels.
11. That the hours of operations of the rock crushing facility and asphalt plant shall be limited to the period beginning at 7:00 a.m. and ending at 3:30 p.m. Monday thru Saturday.
12. That the Applicant shall monitor haulers to and from the rock crushing facility and asphalt plant for potential leakage of materials from their loads and maintain the

driveway to the plant, removing loose aggregate and other debris associated with their operation

In consideration of the foregoing, the Planning Department recommends that the Lānaʻi Planning Commission adopt the Planning Department's Report and Recommendation for the County Special Use Permit prepared for the August 16, 2023, meeting as its Findings of Fact, Conclusions of Law, and Decision and Order, approve the County Special Use Permit contingent upon the County Council passage of the associated Change in Zoning, and to authorize the Director of Planning to transmit said written Decision and Order on behalf of the Lānaʻi Planning Commission.

APPROVED:

  
KATHLEEN ROSS AOKI  
Planning Director

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**LANA'I PLANNING COMMISSION  
REGULAR MEETING  
AUGUST 16, 2023**

**A. CALL TO ORDER**

The regular meeting of the Lanai Planning Commission (Commission) was called to order by Mr. Reynold Gima, Chair, at approximately 5:00 p.m., Wednesday, August 16, 2023, online via BlueJeans videoconferencing platform, Meeting No. **849 745 451**; and at the Current Planning Conference Room, One Main Plaza, 2200 Main Street, Wailuku, Hawaii, 96793; and at the Maui County Council, Lanai District Office, 814 Fraser Avenue (entrance on Gay Street), Lanai City, Hawaii 96763.

A quorum of the Commission was present. (See Record of Attendance)

Mr. Reynold Gima: Alright. Good evening, everyone. I want to welcome everyone to the August 16, 2023 meeting of the Lanai Planning Commission. Let the record show that we have quorum with Commissioners Rabaca, Atacador, Manna, de la Cruz, Kaye and Gima present. Just some real quick housekeeping. Sandi, is there anybody in the room with you? Okay. Sally, anybody in the room with you?

Ms. Sally Kaye: No.

Mr. Gima: Okay. Erin?

Ms. Erin Atacador: No, I'm alone.

Mr. Gima: Okay. Negus?

Mr. Negus Manna: I'm alone.

Mr. Gima: Okay. Zane?

Mr. Zane de la Cruz: There's no one else here with me.

Mr. Gima: Okay. And I am alone. We're still waiting for Michelle. Nikki Alboro is ill. Had the stomach flu the last couple of days, so she won't be in the meeting. And Lisa Grove, may or may not make the meeting. Okay. Just a reminder on housekeeping. All the Commissioners must be on camera throughout the meeting. All votes will be done by a show of hands. I can see everybody on my screen, so I should be able to recognize when someone wants to speak. In terms of testimony, those in attendance if you wish to testify on an agenda item, please sign up with Leilani in the chat. Include your name and the agenda item. And until such time that you do testify, please mute your audio and video. We will receive testimony online from the County Planning Conference Room and the Gabe Johnson's office here on Lanai.

That being said, we will go straight to Item B, public hearing, Change in Zoning and County Special Use Permit, Lanai Resorts LLC, a Hawaii limited liability company doing business as Pulama Lanai requesting a Change of Zoning from Agricultural and Interim to M1 Light

Industrial and M2 Heavy Industrial on 200 acres of land, and a County Special Use Permit to relocate an existing asphalt plant and rock crushing facility on 27 acres, which is part of the 200 acres, at the Miki Basin Industrial Park located at Lanai, Hawaii. So at this time I will turn this over to Kurt to provide the Department's staff report and then we'll take public testimony. Following that, the Commissioners can comment and ask questions on this item. Okay, Kurt? Oh, wait. One, one thing before --. No, that's okay. I'll let you, let you make the presentation. Thank you Kurt.

**B. PUBLIC HEARING (Action to be taken after public hearing.)**

**1. CHANGE IN ZONING AND COUNTY SPECIAL USE PERMIT**

**LANAI RESORTS LLC, A HAWAII LIMITED LIABILITY COMPANY doing business as PULAMA LANAI, requesting a Change of Zoning from Agricultural and Interim to M-1 Light Industrial and M-2 Heavy Industrial on 200 acres of Land, and a County Special Use Permit to relocate an existing asphalt plant and rock crushing facility on 27 acres (part of the 200 acres) at the Miki Basin Industrial Park located at Lanai, Hawaii. TMK (2) 4-9-002:061(por.) (ZPA2022-00005 and CSUP2023-00002) (K. Wollenhaupt)**

**Change in Zoning (ZPA 2022-0005):**

Mr. Kurt Wollenhaupt: Good afternoon, Commissioners. And it's been a terrible week. Anyway, we hope that we can get through this. So anyway, okay, in front of you tonight is the Miki Basin Industrial Park project. And this is for a Change of Zoning and a County Special Use Permit on 200 acres of land in Lanai.

Since you haven't had your training, I hope you'll bear with me, and if I go into too much detail, please tell me that we don't need this, we understand this. But for the new people, I thought it might be helpful if I would briefly go through what a Change in Zoning and County Special Use permit entails. If you think that would be helpful, I can do that or I'll just go into the report itself. Is there any preference one way or another? It would be brief.

Mr. Gima: Yeah, I think that would be helpful, Kurt. Thank you.

Mr. Wollenhaupt: Okay. So in Hawaii, we have a number of levels of zoning and district boundary. We have in the whole State of Hawaii, there is something called the District Boundary and there's four different districts: Agricultural, Conservation, Rural and Urban. And then there's the County zoning, and that's what we're looking at this evening. And the current zoning for this property is primarily Agricultural, and it's being considered for a change to M1 and M2 Industrial. So we have two points of this chair, if you will; the State zoning, which is called a district boundary. We have the County zoning. And then we also have the Community Plan. So each of the districts has a community plan. For instance, Lanai has the community plan, Molokai, Hana, Kahului, etcetera. So in order for a project to lock down all three, they need to, they need to really coordinate with each other. So by way of history, this project really

started with the Lanai Community Plan. When it was updated, this area became Heavy Industrial and Light Industrial. So the first leg of the chair is now set.

Then what happened was because there is the use of County land -- the use of County lands in the sense that there's a highway that's going to be visited in this application, there was the necessity to do an environmental review. So the environmental review was done. The Lanai Planning Commission was consulted for that and they made their comments. And the State Land Use Commission, it was the accepting authority. So this was all to click into place the second leg of the chair, which is the district boundary. So remembering we now have the community plan is industrial. We now need to look at the district boundary from the State Land Use Commission perspective. And they then did a deliberation with an environmental assessment as to whether or not these agricultural lands were appropriate for urbanization. They unanimously, under Chair Scheuer decided that these lands were appropriate for urbanization, and the State Land Use Commission then set these lands for the urban designation. So now we have the Community Plan and we have the State District Boundary incongruity.

So now what we have to look at is tonight's review is the County's zoning districts. And right now, the zoning is primarily agricultural, with a little bit of interim, but agriculture for the most part. And it's being considered to change that designation from Agricultural to M1 and M2. M1 being Light Industrial, and that is again to the Community Plan of Light Industrial, and M2 being Heavy Industrial, which is again to that which is already in the Community Plan and designated as Heavy Industrial.

So the role of the Lanai Planning Commission this evening is to determine whether or not this is an appropriate Change of Zoning, and to make a recommendation to the Maui County Council, who will be the final authority as to whether or not this Change of Zoning is granted.

Now there's something called Conditional Zoning, and that's what we're advocating this evening is that it's not just a Change in Zoning to Industrial, but it's a Change in Zoning to Industrial with a set of conditions, and we'll get into that later on.

In addition, not to throw too much at you, but this is also a request for the review of a County Special Use permit. So within the zoning district of Heavy Industrial, there are many uses that are outright permitted. You can just do that. But there are some uses that are considered to be necessary to have a higher level of review. And this evening, we're going to look at two of those uses, the two being the asphalt plant and also the rock crushing facility. Now both of these facilities are in existence on the Lanai, but it would appear that it's appropriate to consolidate them on this appropriately zoned land.

So what we have tonight is we have the final piece of the chair, the third leg of the Change of Zoning to Industrial. And then assuming that that will happen, then a County Special Use permit, if that's also approved, that would click in at the time the County Council would approve the Change in Zoning.



So that's really the matter for us tonight. We have 200 acres; 100 of which are which are being considered for the Heavy Industrial, M2, and the Light Industrial, M1. And on those 200 acres of land and the applicant, Pulama Lanai along with their consultants, is going to give a much more detailed review of the project's specifics itself. But I'll just do an overview.

On the 200 acres of land, there are going to be about 20 of this for infrastructure purposes, roads, et cetera. And importantly, 127 acres are going to be reserved for the Renewable Energy Project of a photovoltaic and battery energy storage facility. And this was debated in considerable length at the State Land Use Commission. So exhibit number five, which is the Decision and Order from the State Land Use Commission outlines one of those conditions being that those 127 acres are to be used for this photovoltaic renewable energy project. Then, as stated previously, we will need to find room, of course, for the relocation of the concrete recycling and rock crushing operation, the 14 ½ acres. And then the relocation of asphalt plant of 12 ½ acres.

So the timelines of this project is outlined in your packet. It is going to be considerably a long process from the drafting of an initial EA, the drafting of the second EA, reviewed by the Environmental Assessment by the Lanai Planning Commission, acceptance of the Final EA by the State Land Use Commission, an application for a petition for a District Boundary Amendment, and then the decision and order that was approved on February 8<sup>th</sup>, 2023 to move this into the Urban District.

We will, we'll be getting into the nuts and bolts of the project, but that that should provide an overview of why we're here tonight. Change of Zoning and that's going to be the final decision by the Council. The County Special Use Permit for the asphalt plant and for the concrete recycling facility; that will be determined by the Lanai Planning Commission. But it would not go into effect until such time as the Council would approve the Change in Zoning. And that is what we are going to be reviewing in depth this evening. So that wraps it up for the overview of the Planning Department's initial go with the project this evening. Thanks. And Danny Dias is also on the line. He's the supervisor. He's, he's also on the line this evening. And Ann Cua was here, but I know she was not scheduled to be here for this meeting this evening. So Danny is the manager this evening. Thank you.

Mr. Gima: So Kurt, did you say that Pulama Lanai was going to make a presentation?

Mr. Wollenhaupt: Yes, Dr. Dancil has a presentation that will outline history, what exactly the project is going to entail.

Mr. Gima: Okay. Before we move on to that, some procedural issues. So Commissioners, so tonight we will not be approving or disapproving from what Kurt you were saying, we're either going to adopt or not adopt the recommendations of the Planning Department to the County Council. Is that accurate?

Mr. Wollenhaupt: For the, for the Change of Zoning you'll have the option to either recommend approval to the Council on the Change of Zoning, recommended denial, defer it for another meeting, or to recommend approval with conditional zoning. Now that's for the Change of Zoning.

For the County Special Use Permit, you would be approving or denying it, but that's all -- but there would be in the recommendation it notes that were you to approve this, were you to approve the County Special Use Permit, it would not become viable and valid until such time as the Change in Zoning was approved by the Council.

So you're actually, you would be approving with conditions the County Special Use Permit, you would be giving recommendations to the Council on the Change in zoning. So there are two distinct actions on those items. And we've done this for the . . . (inaudible) . . .

Mr. Gima: Excuse me. I mean, the reason I asked is because in . . . in, in the recommendations section of the packet, I mean, the, the, the wording that you provided it says in consideration of the foregoing the Planning Department recommends that the Lanai Planning Commission adopts the Planning Department's recommendation. So are we adopting the recommendation or are we approving the Change in Zoning requests and are we approving the County Special Use Permit?

Mr. Wollenhaupt: On page --

Mr. Gima: Because I just want that clarified.

Mr. Wollenhaupt: Yeah, on page 37, it shows the alternatives. So for the Change in Zoning, you can defer the matter, you can recommend approval with no conditions, recommend approval with conditions, or deny it, recommend denial. So those are your options. So when we say recommend approval, the Department --. Well, the Department recommends approval with conditions of the Change in Zoning, but then that is recommending approval to the Council. Whereas with the County Special Use Permit, the Lanai Planning Commission takes action to approve the request as you are the final authority on that permit.

Mr. Gima: Okay. Um, second procedural issue, um, do, do we vote on the Change in Zoning and the County Special Use Permit separately? And do we have the option of recommending one but disapproving the other?

Mr. Wollenhaupt: You would be, you would be making two decisions. Yes, and you can, again, you have those four options. They're outlined on page 37 so I won't repeat them. But conceivably, yes. Yes. Danny's also on the -- I see he's on the screen if he has any other comments to make, but there's two different decisions here to be made. And I can, again, and tell you that some of the possible alternatives, but I won't since they're on page 37. Okay.

Mr. Danny Dias: Yeah. Just to add, you, we would recommend that you take those two items separately because they are separate items. I guess from a practical standpoint, it -- I'm trying to think if it would make sense though to, you know, say approve one or recommend approve of one and then deny the other, though. But I, yeah --. Because I think they, at least for what Pulama Lanai wants, I think, you know, they would need both of them.

Mr. Gima: So would it make a difference if we do the Change in Zoning first or is it better to do the County Special Use permit first?

Mr. Wollenhaupt: Oh, I would recommend discussing the Change in Zoning because that incorporates the entire 200 acres of which the County Special Use Permit for the asphalt plants and for the concrete recycling are in those 200 acres. So I think it could be critical to determine whether or not you even believe this Change in Zoning is appropriate for these lands. And then we can drill down as to what's going to happen on the different locations. And if you think that those are good places or admittedly necessary activities that go on, on any community, it's always difficult to find a place for what we might term more noxious activities, or trying to locate them in the central area close to services, but far enough away from homes is what we hope that we could come to a conclusion. Because it's important to have a place that is appropriately zoned, but also mitigates the noise pollution that can come from some of these activities. Thanks.

Mr. Gima: Okay. So before we go to Keiki-Pua, Commissioners, you guys have any questions or comments on procedure only, not the content of the requests, but any comments or questions on procedure?

Ms. Atacador: No.

Mr. Gima: Okay. Hearing, hearing none, why don't we move on to, uh, Keiki-Pua. And Keiki-Pua, could you make your presentation specific to the Change in Zoning request? You're on mute, Keiki-Pua.

Dr. Keiki-Pua Dancil: Thank you. Aloha Commissioners. Chair Gima, would you like to recognize, we had a new commissioner joined during the discussion?

Mr. Gima: Yes. Thank you, Michelle Fujie is on camera now.

Dr. Dancil: Aloha Commissioners. Chair, may I share my screen?

Mr. Gima: By all means.

Dr. Dancil: Thank you. Can I get a thumbs up if you guys can see my screen, please? Thank you. Thank you, Kurt, for that overview of the project. Before we dive in, I want to just build on the foundation that Kurt provided to you. We'll walk you through a little more details on the history of the entitlement process for this application. The information in your packet and what

you'll see tonight may look familiar to some of you. Those of whom have been on the Commission for a few years recognize the material. It is the same information that was presented to this body in the Environmental Review Assessment.

The project area was identified by the community, not by Pulama Lanai. Led by the Planning Department, the project area was discussed extensively during the Lanai Community Plan that was adopted in 2016. These discussions took place over many years between 2013 and 2016. The Community Plan identified 225 acres of light and heavy industrial use in the Miki Basin area. In order for us as a land owner to implement the Community Plan, we embarked on the entitlement process, which has taken years.

On the screen I outlined the milestones and I'm going to just touch on a little bit more detail than what Kurt had already provided. In the first step was the Environmental Assessment. What we did was we sought approval and acceptance from the Land Use Commission of a Finding of No Significant Impact (FONSI) on the project area. We filed two drafts; one draft in 2019, and one draft in 2021. The second draft EA . . . (inaudible) . . . more detail, in particular the solar or photovoltaic battery energy storage project. The link to the Final EA was included in your materials. It is quite voluminous. The Final EA is comprised of many studies conducted by professionals that are technical experts. They hold professional degrees in the area of expertise and have years of experience in their field of study. On the screen, you'll see a list of all of the studies that were completed as part of the EA; water, wastewater, traffic and archaeology, to name a few. These experts have evaluated existing conditions, potential impacts, and provided mitigation measures in their reports. Comments were solicited on the Draft EA from the public, agencies, departments, including this body, the Lanai Planning Commission. Comments and responses were included in the Final EA. The Land Use Commission reviewed our Final EA application. There are criteria that we needed to meet in order for the Land Use Commission to issue a Finding of No Significant Impact or FONSI. These criteria are set forth in Hawaii Administrative Rules, and I'm sharing them on screen here. There are many of them. And the Land Use Commission issued a Finding of No Significant Impact in February of 2022.

This brings us to this milestone. We came before this body for approval for State Land Use Special Use Permit for interim uses in March of 2022. This is a 14.5 acres within the 200 acres, and we are here, that we are here for tonight. Going forward, if this application, the Change in Zoning is approved and the land is rezoned to Heavy Industrial and Light Industrial, this Special Use Permit is moot and will be removed. It will no longer be necessary.

In November of 2022, the Land Use Commission reviewed our District Boundary Amendment that Kurt went over. Again, they reviewed our application against criteria that is clearly set forth in the Hawaii Revised Statutes and the Hawaii Administrative Rules to determine if our application met the criteria for approval of our application. All of these here. In March, the Land Use Commission issued a Decision and Order to redistrict 200 acres of agricultural land to urban, subject to 21 conditions. Which brings me here tonight; the next step in the entitlement process.

Chair Gima, I included in this slide both of them, but I'm going to concentrate just on the Change in Zoning. We're here tonight to respectfully request your recommendation and concurrence with the Planning Department for approval of the Change in Zoning. Our application is implementing the Community Plan, which was adopted in 2016. It is an essential step to a more resilient economy on Lanai, and we have addressed the criteria for the Change in Zoning. This is your job here tonight, to determine whether we have addressed the criteria for Change in Zoning. Tessa Munekiyo, our planning consultant, is with me tonight, and will go over these criteria later in the presentation.

The project area is outlined here in red on the screen. As Kurt mentioned at the State level, 200 acres are now Urban. We went through that process. We're here tonight for the Change in Zoning, majority of which is Agricultural with just a small sliver that's Interim. And Community Plan has already set the course for it. It's already Heavy and Light Industrial. The airport borders the northwest side of the project area. The other surrounding areas are fallow, formerly used for pineapple production. In the interior, you have the HECO power plant and the Miki 20 industrial condo, which is shaded in orange and then a Miki – I mean, the MECO or HECO fossil fuel facility is in green. I also call out in blue the Special Use Permit that this body approved last year in March, the interim industrial uses.

The rezoning will relocate existing and direct new light and heavy industrial uses nearby other similar uses. The Community Plan identified light magenta as Light Industrial, and the dark magenta as Heavy Industrial. There are 100 acres that are light industrial and 100 acres that are heavy industrial for this project here. So let's go into specifics of the actual project area.

The proposed development plans are outlined on the screen: ten percent for infrastructure; 127 acres for a renewable energy project, which is solar or photovoltaic and battery energy storage; 14.5 for concrete crushing and recycling; 12.5 for an asphalt plant; and 26 acres for other industrial uses totaling 200 acres. Greater than 85 percent of the land use has been identified for specific use that I just went over. We believe these can be executed in the next five years pending on foreseen circumstances. In the Heavy Industrial use, we have relocating the existing industrial uses on island, primarily the concrete recycling and rock crushing operation and the existing asphalt plant. In the Heavy and Light Industrial use, you have the Renewable Energy Project, which is the photovoltaic or solar plus battery energy storage project and other new industrial uses. In years 11 through 20, we believe we will continue as needed, developing the other new industrial uses. Those have not been specifically identified at this time.

I'm going to turn the camera over to Tessa and she's going to walk you through just the Change in Zoning at this time. And then we will come back for the Special Uses.

Ms. Tessa Munekiyo Ng: Thank you, Dr. Dancil, and good evening, Commissioners. My name is Tessa Munekiyo Ng from Munekiyo Hiraga. And I'll continue with the presentation to address the Change In Zoning components of the application. So there are five criteria



established in Maui County Code that guides approval of Change in Zonings, and those are shown here on the screen. It's also detailed on Page 20 of the staff report, as well as in the application. But we have a detailed analysis of the project's compliance with, with each of these five criteria in the staff report and summarized here on the screen. You can see that the first two criteria speak to the consistency with the General Plan and the Community Planning. And as has been discussed already tonight, the Lanai Community Plan calls for the uses to be Light Industrial and Heavy Industrial, so there is consistency there. The proposed request does meet the intent and purpose of the, the districts which are being requested, which is Light and Heavy Industrial Uses. And if granted, there would be no adverse effects to services, social, cultural, environmental characteristics. And all of those impacts were thoroughly analyzed through the Environmental Review process that Dr. Dancil went through earlier. The environmental review process included review by numerous agencies, members of the public, as well as the Lanai Planning Commission, and it culminated with the issuance of the Finding of No Significant Impact, which indicates that the project will not have significant adverse impacts. So the Change in Zoning criteria are met for the project.

The applicant has worked with the Planning Department to establish the allowable uses within the Miki Basin Industrial Park. And what's shown here on this screen are the proposed uses within the M1 Light Industrial portion of the industrial park. These are also shown on page-39 of your staff report and also included as condition one of the conditions of approval recommended by the Department. And so these are the uses that would be allowed in the 100 acre M1 zoned portion of the industrial park.

We go to the next slide. These are the uses that would be allowed in the M2 zoned portion of the Miki Basin Industrial Park. And these are also listed on page-40 of the staff report and as condition two of the recommended in CIZ approval.

Dr. Dancil: Chair, the -- we'll stop here. The next section is the Special Use Permit. So if you want to take that up later, we can stop here just for the Change in Zoning.

Mr. Gima: Okay, thank you, Keiki-Pua. At this time, I will open it up for public testimony and then Commissioners can comment and question after that. Leilani, anybody in the chat or in the County Planning Conference Room?

Ms. Leilani Ramoran-Quemado: Thank you, Chair. This is Leilani. There is no one in the Planning Conference Room and no one on chat signed up to testify. Thank you.

Mr. Gima: Okay, Roxanne, I assume you're in Lanai District Office. Any testifiers?

Ms. Roxanne Morita: Hi Chair. No, there's no one here to testify.

Mr. Gima: Okay. Thank you, Roxanne. So at this time, I will close public testimony specific to the Change in Zoning requests. Okay, Commissioners comments, questions for either Kurt from the Planning Department or Pulama Lanai. Negus?

Mr. Manna: Yes, thank you. Keiki-Pua, thank you for your explanation. I just had one question to clarify. You -- for the renewables, you gave an example of photovoltaic. Have you determined that is the route you're going to go or is there an option that the renewables may be a different source? Thank you.

Dr. Dancil: Thank you, Commissioner Manna, for that question. It is --. Let me back up. The District Boundary Amendment set forth a condition that the renewable energy project can only be solar, photovoltaic and battery energy storage because that is what was studied and presented in all of the studies. All of the impacts were evaluated based on photovoltaic battery energy storage, and so that is the only use that can be put in there. If we did decide to change, we would have to go back to the Land Use Commission and redo the studies for the impact. And, you know, say if it's, making up something, geothermal, we'd have to go back and do all of these studies considering geothermal. So the impacts were studied for photovoltaic and battery energy storage.

Mr. Manna: Thank you.

Dr. Dancil: Thank you for your question.

Mr. Gima: Go ahead Erin.

Ms. Atacador: Thank you, Chair. I did have a few questions. If it's all right, can I start with a couple of questions for Kurt from the Planning Department?

Mr. Gima: Sure.

Ms. Atacador: Okay, I'll go ahead.

Mr. Gima: Yeah, go ahead.

Ms. Atacador: Thanks, Kurt. Sorry, I didn't see where he was. First off, thank you, Kurt, for being here. As you mentioned, it's a difficult week, so I appreciate, you know, you still making yourself and your team available to, to meet with us to go over this. In no particular order here. I'm just trying to see what makes the most sense. So I guess first off, you know, in the packet there, um, when reviewing the Community Plan, I noticed that the responses had a lot of mays and possibilities in them. Um, is, at one point, as the project, if approved, gets continued, would the applicant still be responsible for delivering those mays or impossibilities? Or would those, like, how do we hold that accountable, you know, if this gets approved?

Mr. Wollenhaupt: Well, there's been an environmental review that's been done on this, and the accountability comes from well, conditions that you put on it, that we're talking about the Change in Zoning here. So the Change in Zoning does allow for certain activities. And I guess the accountability is going to be coming from when you look at the proposed activities that

you would allow a Change in Zoning, which we call Conditional Zoning, then you do essentially agree that those uses are going to be allowed in this area. So there is a level of when I, when I look at some of the uses here, plumbing shops, production facilities, manufacturing with pottery, manufacturing compounding, there's going to be a certain level of environmental impact that has already been studied through the Environment Assessment. So you're saying, how do we, how to keep them responsible? Well, we have a zoning enforcement division. We, of course, have all of the conditions that go with the District Boundary Amendment, of which there are 21, and those go into details such as preserving water resources, storm water management, the CRWM water audit, federal aviation notice because of the proposed solar, a review of hazards to airport operations, highway impact mitigation in regards to Miki Road, conditions on the endangered . . . (inaudible) . . . , impacts to seabirds with downward lighting, issues regarding invasive species and how it would be minimized between worksites --

Ms. Atacador: Sure and I apologize, I don't need . . . (inaudible) . . . So more so, I guess what I was focusing on is the Community Plan that brings up the diversifying the economy and, you know, encouraging local entrepreneurship and local economy. And so there's, you know, different areas in there in the, um, that says, you know, may include, you know, this for residents to expand their own business. You know, so that, that kind of, to me, is an important one because if it's going to be something that our residents would be involved in and have the opportunity to potentially rent industrial space and it, you know, that's definitely all positive stuff, but it says may and possible. So I just, you know, I mean would that take into consideration anything when approving or conditioning it?

Mr. Wollenhaupt: Well, I think on who is going to be using it, I think, it probably best ask the applicant, Pulama Lanai. Of course, the Community Plan is broad based goals, and it does use kind of higher level aspirations. Conditional Zoning is just that, that you can recommend conditions as you see fit. So with regards to who might benefit from the renting of the specific area or parcel of land, that's probably best to ask of the applicant on their policies, goals, hopes on that. And I know that you can find the Community Plan a bit aspirational, if I do say. A stable, sustainable, diverse economy that is consistent and compatible with Lanai's rural lifestyle. So how do you get there and how you different in a concrete batch, not just aspiration?

Ms. Atacador: Right.

Mr. Wollenhaupt: It's probably always a . . . (inaudible) . . .

Ms. Atacador: Right.

Mr. Wollenhaupt: We have the applicant here to ask that question also.

Ms. Atacador: Sure. Thank you. And then also one more question for you. Um, I noticed, unfortunately, there are a lot of no responses received from the reviewing agencies. Is that

typical? I mean, I hate to say it, but it kind of feels like, you know, the typical Lanai out of sight, out of mind, that so many agencies, no response from them when regarding this. You know, is that taken as they approve it or it --?

Mr. Wollenhaupt: It's oftentimes taken as they, they don't have any concerns. If they don't have any specific conditions they would want to put in. We do, we do get, um --. That's really rather frequent in the sense of their comments. If definitely if it says no comment that means that they didn't have any concerns that would require conditions. So with MEMA, Parks & Recreation, Environmental Management, Solid Waste, Waste Wastewater, those just simply didn't have any comment. And that's, that's actually can be considered relatively positive in the sense that there's not any grave concerns. If they did comment, they may have this very simple hope or condition, or they're just simply saying yes, we understand the project and we are commenting that we essentially don't have too many comments. No responses are pretty typical from some organizations. If we didn't get a response say from a, we didn't get a clearance from SHPD or we didn't get a clearance or a response from Fire, that would be concerning. In this case, not getting a response from the Department of Finance, well, they, they will see that the tax rules will change if this gets approved. Some of these organizations may have responded within the Environmental Assessment. There was a lot of review there. So we try, we try to, we try and send it out to as many agencies as we think are applicable, and we oftentimes don't get a response. But we also send a 45-day notice. We send another notice and if we've not heard from them after two notices, then we have to assume that they're not going to comment.

Ms. Atacador: Thank you. That, that clears that up. Um, notice of public hearing, is that the Planning, the Planning Department's responsibility or would that be the applicants?

Mr. Wollenhaupt: Well, it's kind of twofold. We have the notice of the hearing that's in the newspaper. That's published by the County. But then the applicant also sends out the notice of the hearing to all of the property owners within 500 feet of the property line of the parcel. So that's the responsibility of the applicant. The responsibility in the newspaper is that of the County for their public hearing notice. And then there's also a notice, a notice that begins, there's a notice of the application. That precedes this whole process. So the application when it comes, there's a notice that it's even been applied for. Then, as the public hearing gets closer then there's a notice that the public hearing and this is the date, and the time, and the place.

Ms. Atacador: And the newspaper is the only source, though, that it's, it's posted?

Mr. Wollenhaupt: It's posted on the website.

Ms. Atacador: Okay.

Mr. Wollenhaupt: On the agenda. And then everyone within 500 feet is getting a certified mailing of the notice of the hearing.

Ms. Atacador: Got it.

Mr. Gima: Erin, Erin, let me just jump in real quick here. Kurt, could you comment on that 500 feet and the email that I questioned that I sent to you about that?

Mr. Wollenhaupt: Some people may think that 500 feet is from the project site, but it's actually from the project boundary border. So this is 200 acres out of a very, very large parcel. So people would be getting notified that would be miles essentially from this. But we use not the project site of the 200 acres. We use the large TMK which it's a part. So that's why people might have been getting notices when they were -- this isn't anywhere near, I don't think, were near Miki Basin. No, but if you do live within 500 feet of the boundary, of the TMK, in which the 200 acres are located.

Ms. Atacador: Yeah. I have a comment.

Mr. Gima: Thank you, Kurt.

Ms. Atacador: I'm two houses away from that. Because I didn't get a notification, I'm two houses over this. Ah, all right, thanks so much, Kurt. I think that that was kind of all the questions that I had from the planning, planning side.

Mr. Gima: And for the applicant, Erin?

Ms. Atacador: Um, yeah, if, if that's okay with everyone if I keep going.

Mr. Gima: Yeah. Go ahead. Go ahead.

Ms. Atacador: Okay, thank you. So I guess since I kind of brought it up with Kurt, yeah, just addressing a lot of the may and possible, you know, statements that were made regarding the plans of other industrial uses. And you know, it being available to different local businesses if they're operating out of their homes, or vehicles, or whatever, you know, if that's -- how concrete is that maybe and possibility?

Dr. Dancil: Thank you Commissioner Vice-Chair Atacador for the question. So we have about -- I call it the mauka side. So you know if the project area is split by Miki Road, and the mauka parcel that's where we identified, specific identified uses haven't been called out. The other side, the makai side of Miki Road, has, we've identified specific uses. Relocating existing urban uses and constructing the new photovoltaic and battery energy storage project. And the reason why there is a lot of mays, et cetera, is because we don't know exactly what is needed. However, if a resident has something that they're interested, that is of industrial, light industrial, they can come to us and put a proposal together. So that's why I said a lot of, you know, it will be developed over time. It's going to -- that's the area that's going to take longest to build out. We're not going to build out something if we don't know what the exact uses. We



gave some examples in the application, but we're not bound to those. So that's why it was very ambiguous. If you look at what we're going in for, the Change in Zoning, that area mauka of the road is light industrial. So if you look on page, I believe, 39 and 40 on the permitted uses within light industrial, those are the types of uses that can take place on the mauka side. So that's why we want it to be generic enough. So that's why the may, the use of the word, word may.

Ms. Atacador: Thank you. For the renewable energy, is that for supply to Lanai only or is potentially to outer island as well?

Dr. Dancil: Lanai only. There is no cable.

Ms. Atacador: Thank you. Um, I think that that was it. I went through and had questions. But as the presentation went on, I was trying to cross out my questions I had as they are answered.

Dr. Dancil: Thank you, Vice-Chair Atacador. If you would allow me to expand a little bit on the answer in which Kurt provided a response on the different types of agencies that, you know, may have not been commenting in the Change in Zoning application. But as I mentioned during my introduction, this is the same material that went through the EA and the DBA process. Tessa's going to outline some of the key agencies that have gone through and reviewed this just so that other Commissioners that weren't here during that process can understand who, what agencies, departments did respond so I'm going to turn it over to Tessa.

Ms. Munekiyo Ng: Yeah, thank you Dr. Dancil. So as was described in the early parts of the presentation, there's actually been three opportunities for agencies and members of the public to provide comment. The first two were during the Environmental Assessment process because there were two Draft EAs; 2019 and 2021. And then also during the District Boundary Amendment process, there was also an opportunity for comment. But the second Draft EA was probably the most extensive review process in which --. And so I should back up to say that the Final EA addressed comments that were received both on the first Draft EA and the second Draft EA. But a lot of the agencies that were receiving the Change of Zoning application for review and comment had already previously commented on the EA and, or perhaps also the District Boundary Amendment. So, for example, the Office of Planning and Sustainable Development had no comment on the CIZ, but that is because they did provide extensive comments during the Draft EA, as well as provided testimony in support for the District Boundary Amendment. Some of the other agencies that provided comments during the Draft EA process included State Department and Transportation, the U.S. Fish and Wildlife Service, Department of Housing and Human Concerns, the County Planning Department, State DLNR, Department of Health, Clean Air Branch, Department of Water Supply and agencies like that. So there has been quite a few comments, opportunities for comments and responses provided.

Ms. Atacador: Thank you. I guess it's more of a misunderstanding on my part because they had the option to put no, right, but instead a no response seems a little bit, you know, even if they were part of the process they, they could have responded no, not with no response. But again, that's my personal, personal comment.

Ms. Munekiyo Ng: Yeah.

Ms. Atacador: Thank you.

Ms. Munekiyo Ng: Thank you for the opportunity to clarify.

Mr. Gima: Thanks, Erin. Michelle?

Ms. Fujie-Kaauamo: Aloha, Chair. Thank you for allowing me to speak. I had a question then in regards to the comment of the departments that did have a chance to comment, specifically the Department of Transportation in the final, I guess, the final on page 142. So the Airports Division and the Highway Division did submit comments. I wanted to know with the -- I guess they provided the following comments and I wanted to know what. So now that the, these departments have provided the comments, is it now the responsibility of the developer or the, the requester to fulfill these comments or respond to those comments? I think, I mean, in light of everything that is going on, there are some that are of particular concern, I think, to some or to Lanai. One of which is the Department of Transportation, the Airports Division, speaking about how close to the proximity to the airport would be. And so if there was some kind of fire or that there is, you know, the potential for fumes or smoke that could result in interfering with aircraft operations. And as the airport is one of our major lifelines to our island, I was curious what, now that these departments have actually said this, what would be the response in regards to these comments?

Mr. Wollenhaupt: Well, I'll be very brief but then I'll let Pulama answer. The conditions specific to hazards to aircraft operations and then also to impact on highways, those have been memorialized in our conditions that they have to, the applicant has to comply with. And the County is the, is the agency that enforces them. And on page 57 and 58 of the District Boundary Amendment, which is Exhibit-5 in the staff report, those are specific conditions that outline what the applicant has to do with regards to hazards around the airport and also highway impact mitigation. So they have, they're bound by those. And those conditions came from the responses from the different agencies. But I shall let Pulama and Tessa comment more in detail. Thank you.

Ms. Munekiyo Ng: Yeah, we have nothing further to add. Thank you very much. The condition six and seven of the District Boundaries Amendment incorporates the Department's comments.

Mr. Gima: Any other questions, Michelle?

Ms. Fujie-Kaauamo: No, that answer to my question. I was just trying to find out where that statement was, so thank you for clarifying. Page 57 and 58, Exhibit-5, is that what you said?

Mr. Wollenhaupt: Right. It's a pretty big exhibit, but it's Exhibit-5 and it's the decision and order by the State Land Use Commission.

Ms. Fujie-Kaauamo: And you said it's enforceable by the County?

Mr. Wollenhaupt: Well, that, that, that leads to another debate of which I guess we're probably not going to get into. But the Land Use Commission is a, is a group of nine people, some appointed by the Governor and I believe the State House. And they, they look at district boundaries greater than 15 acres. If it's greater than 15 acres, it goes to the State Land Commission. If it's under 15 acres, then it's our County that reviews it. So this being greater than 15 acres, it goes to the State LUC. They, um, craft what is called the Decision and Order which is Exhibit-5. But the enforcement is left to the Counties. So it's up to the Counties to figure out how to enforce these conditions put on by a body which is outside of the County. So it does leave us sometimes which -- we have to find a way to enforce them. There have been projects that have been notable in recent times about enforcing conditions of the LUC, but that's what we have to do. So someone else may comment more on that.

Ms. Munekiyo Ng: Thank you Kurt --

Mr. Gima: Okay, thanks.

Ms. Munekiyo Ng: -- if I may add to the Commissioner's question. Condition three of proposed CIZ's conditions of approval includes that the conditions associated with the Decision and Order for the District Boundary Amendment be applicable to the project so it does kind of incorporate those conditions. And there is a requirement as part of the State Land Use District's decision and order for annual reports so that compliance will be ongoing.

Mr. Gima: Okay. Thanks, Tessa. Michelle, question answered?

Ms. Fujie-Kaauamo: No. Yes, thank you. Thank you very much.

Mr. Gima: Okay. Zane, Sally, Sandi, any questions for the Planning Department or the applicant? Ah, go ahead Zane.

Mr. de la Cruz: Um, so in the FEA, Reference 20, talks about the TIAR, making recommendations for, I think, like a turn lane on Kaumalapau Highway. I just want to know like who, if that rec -- does the recommendation have to be fulfilled and if it, or if it is fulfilled, who's responsible for that construction?

Ms. Munekiyo Ng: The applicant is responsible for the improvements. That's also a, that's condition seven of the District Boundary Amendment as well. Thank you for the question.

Mr. Gima: Any other questions, Zane?

Mr. de la Cruz: Yeah, just for some clarifications. When they're talking about, you know, the site was going to have its own wastewater treatment facilities. So is that part of the, is that allocated in like the infrastructure, like the, I think, it's a 10 percent or 20 percent of the 200 acres is for infrastructure and is the part of wastewater treatment facilities part of that or do they have to be like on their own separate industrial, light industrial parcel? And which, and which category is that allotted?

Dr. Dancil: Thank you, Commissioner de la Cruz. I am going to call up Ken Kawahara from Akinaka and Associates. He's -- his firm worked on the waste water plan, and I'm going to share my screen so that we can put up a graphic on where those are located. It's also found in the Final EA, in the wastewater master plan, and there's a map and it's not located on a separate. It will be within the . . . (inaudible) . . . I'm going to find that graphic, I'm going to put it up on screen, and then if you have further questions, I have Ken here to answer. Bear with me. I'm going to put it up on screen right now. So it's on page FEA, Ref 605; the map on screen. And so you'll see the dots for the wastewater master plan. So it's located within the industrial park.

Mr. Gima: That answer your question, Zane, or any comments?

Mr. de la Cruz: Potentially. So all of the wastewater treatment is going on the mauka side of the road. Does that imply that the makai side won't have, I guess, like restrooms or anything like that?

Mr. Ken Kawahara: Good evening, Commissioners. Ken Kawahara with Akinaka and Associates. To answer your question, the future wastewater for the mauka side is outlined, and I know it's a little bit difficult to see. But those red circles represent manholes for a collection system. And then that rectangular in the right corner is what we considered the larger wastewater treatment system. But if, if you look where it says concrete crushing facility, there's a small red square or rectangle. So to answer your question and what it says on the text on the left hand side, it's going to be treated by onsite individual wastewater systems until we determine exactly what the wastewater requirements is for the future. So there is some flexibility and wastewater will be treated on an individual basis. Hopefully, I answered your question.

Mr. Gima: Any more questions, Zane? And if not, I'm going to go to Michelle.

Mr. de la Cruz: Yeah, I've got another one. And just kind of, I guess, piggyback on with Erin's earlier question. Um, or like, I guess I'm looking at the priorities of the build out of the Miki Industrial. I know we have that infographic about the power plant and the existing rock crusher and asphalt plant, and then other new uses. So are these all going to be trying and built

simultaneously, built out simultaneously? Or are they going to be, is there going to be more priority towards one over the other?

Dr. Dancil: Thank you, Commissioner de la Cruz for that question. I'm going to share my screen again and I went over briefly, but I'll just put it back up on screen so you can see. Within the first five years we believe that we will be relocating. And again, it's five years from all approvals. So, you know, we have many, you have committee hearings, Council hearings. There's — it's not from this decision today. The relocation of existing industrial users will be relocated; the concrete recycling and rock crushing operation and the existing asphalt plant. Then the Renewable Energy Project, when that starts moving forward, will likely come in. And then other new industrial uses will start depending on needs. And then that area would continue on. But we believe over 85 percent will likely be in the first five years.

Mr. Gima: Is your question answered, Zane? Or do you need further clarification?

Mr. de la Cruz: I guess some --. Sorry, I'm having trouble wording my question. We, we can move on to someone else.

Mr. Gima: Okay. We can come back to you. Go ahead, Michelle.

Ms. Fujie-Kaauamo: I'm sorry. Can you hear me? This, this might be a silly question, but when Zane posed his question about having the wastewater treatment or a new wastewater treatment facility, I was curious if there was a difference in terms of the capacity needed for that area versus the current capacity. I know that it says it's not within the vicinity, but does it take like a specialized type of water treatment in that area because of the type of industrialized, I guess, material being made? Or is it just that just because of the location of it? Because we have two current wastewater treatment plants on island already and it's far away from that site. So is it the need just because of the location or is it because there are additional type of, I guess, wastewater treatments that need to happen because of the different operations down there? Because I mean, like currently our concrete plant that is in existence, like, is functioning then without wastewater treatment. So is -- I sorry I don't know if that's the, but I was just kind of curious about what additional type of water treatment needs to happen out there. Is it because of the type of industry in that area? Or is it just to not put pressure on our current existing waste plants? I don't know if that makes sense, but I was just --. Maybe, maybe you could help clarify.

Mr. Kawahara: Thank you, Commissioner Fujie. A very good question. So the facility or the area is not connected to the, to the County wastewater treatment plant or any. So each individual use would be having their own treatment system. We've just worked on our private wastewater system, and every wastewater system has to be reviewed and approved by the State Department of Health. They have permitting requirements.



But to specifically answer your question is most of the waste is from, you know, your, your regular restroom facilities. So it's not per se industrial waste, you know, you know, the people working there need to use the restroom so it's providing those type of facilities.

Ms. Fujie-Kaauamo: Okay, thank you. That answered my question.

Mr. Kawahara: You're welcome.

Mr. Gima: Zane, you ready?

Mr. de la Cruz: I guess the, the -- I understand that the, like the your one to ten plan is to build out the PV farm, the relocate or just reincorporate the asphalt and the rock crusher, and build new industrial use areas. But, I guess, my question was is there going to be -- I'm assuming that it's limited manpower availability. So is it going to be prioritizing, like, we're not going to start building out the new industrial uses until we're done with the power plant? Or are all three going to try, try to happen simultaneously if there is a need for the, the new unspecified industrial?

Dr. Dancil: Thank you, Commissioner de la Cruz for that question. It doesn't have to happen serially. So the Renewable Energy Project, that is a project that will be developed by independent power producer. It will not be developed by Pulama Lanai. That independent power producer will need to engage with Hawaiian Electric. And that power is going to be fed into the Lanai grid and that renewable energy is going to be provided to all residents. They will see all residents on Lanai will see the benefits of that renewable energy project. At the same time that that's happening we can relocate the concrete crushing facilities as well as the asphalt plant. If there is a need, a resident comes to us or a business comes to us and says I have this idea to do, for example, a slaughterhouse and provides a business plan and there is a need and then we could start building out the mauka side of the road to accommodate that use. It doesn't have to happen serially. It can happen concurrently. And that's why I have the other industrial uses spanning the entire spectrum. At this time, we just don't know. We just need to zone the land and whatever it is in the light industrial permitted uses that you all are reviewing this evening will be allowed.

Mr. Gima: Okay, you're good, Zane? Do you have any more questions?

Mr. de la Cruz: That answers my question.

Mr. Gima: Okay. Negus?

Mr. Manna: Ah, yes, thank you. My question is for Pulama Lanai. Have -- can you confirm or have you had any requests from the community or have you accepted any deposits for use in the industrial area as of yet?

Dr. Dancil: Thank you, Commissioner Manna, for that question. We have not accepted any deposits. People are always coming to us with ideas, and that's why some of those ideas were listed as examples in our application.

Mr. Manna: Thank you.

Mr. Gima: Okay, Sandi, Sally, any questions?

Ms. Kaye: I, I have one. I have one for just clarification. And I, and I apologize if this was not made clear or I didn't get it before. The difference between heavy industrial and light industrial. The mauka section is the acreage that you're setting aside for future light industrial uses, correct?

Dr. Dancil: Aloha, Commissioner Kaye. Is that directed to us or Planning?

Ms. Kaye: It doesn't matter. Whoever wants to take it.

Dr. Dancil: Okay. That mauka is in the community plan designated as light industrial.

Ms. Kaye: Okay, so then the, the other part of it, that's not the, the renewable, that's heavy industrial where you're going to also ask for Special Use Permits, to put your existing uses. Does that preclude any other heavy industrial uses coming into that area? Is that all used up then?

Dr. Dancil: Thank you, Commissioner Kaye. So it is correct. In regards to the 100 acres that is in this Change in Zoning, those uses have been identified and will be relocated and constructed.

Ms. Kaye: Well, then you're your, your visual had actually under heavy industrial, other heavy industrial uses, as if there was room for more. That's what confused me.

Dr. Dancil: Sorry. It should be other industrial uses, and that's light industrial.

Ms. Kaye: Okay. Thank you.

Mr. Gima: Sandi, you had a question?

Ms. Rabaca: No, no questions.

Mr. Gima: Okay. Let's see. I got, I got a couple of questions. In the packet, the renewable energy project is referenced over 20 times. So, PD and Pulama can respond to this. So what, what is this, number one, what is the status of the renewable energy project? And the second part of the question is, does its status affect the Change in Zoning? Is it predicated? Is a

change in zoning and what's been requested predicated on the renewable energy project coming online?

Dr. Dancil: Thank you, Commissioner Gima, Chair Gima, for that question. So the status as of today, the project has been awarded and the independent power producer is engaged with Hawaiian Electric to bring that project before the Public Utilities Commission. That step has not happened yet.

In regards to it being predicated. In the District Boundary Amendment, it stated that no other uses besides the solar and photovoltaic energy could take place on that 127 acres. So that was part of the District Boundary Amendment. So this -- those 127 acres can only be used for solar and battery energy storage.

Mr. Gima: Thanks. One of the reasons why I asked is because, and it's referenced in the Land Use Commission hearings is that there has, there has been prior discussions about Pulama Lanai taking the hotels off grid and there's some conditions related to that. But if you, if Pulama takes the Project Districts off the grid and then the developer of the Renewable Energy Project might say there's no more demand, so we'll then pull out. So Pulama and Planning Department, if that would happen, how does that affect this Change in Zoning, if any at all?

Dr. Dancil: Thank you, Chair Gima. If you look at the specific condition in which you are referencing in the Land Use Commission's Decision an Order regarding the renewable energy project, if we do take the resorts off grid, HECO would have to go out and resize the project, and it could be less than 127 acres, or it could not. It just depends on the technology. If they use fixed angle, it, it could, it could be the same size. So it just depends on the technology. Technology has to be photovoltaic and battery energy storage. But it's very specific conditions on that. So you are correct, it would have to go back to market, and it could potentially be smaller than the 127 acres.

Mr. Gima: Planning Department, but does, would that affect the Change in Zoning request?

Mr. Wollenhaupt: I don't know if it would affect the Change in Zoning request because the Change in Zoning request is for the conditions that you would put on it this evening. And if you were to have a 127 acres required by the State Land Commission to be in photovoltaic but only, let's say 27 acres were used, there would be 100 acres that essentially would --. They'd have to go back to the State Land Use Commission to have this changed because as I understand it, those 100 acres that now can only be used for photovoltaic, but they don't need the 100 acres they now would just be sitting there. So that would be an odd thing, but they'd have to go back to the State Land Use. They have to do a review on the impacts and make a request that they would like to have this changed and here's why.

Dr. Dancil: I also want to add to that -- thank you, Kurt -- is that the State has a goal to get to 100 percent renewable energy by 2045, so it does leave room for future expansion. I just want to put that out there.

Mr. Gima: Okay. Thanks to the both of you for clarifying that. I was a bit confused about drainage and I would have liked to have seen a more definitive statement specific to the airport property. So can a definitive statement be made that drainage off of these 200 acres would not affect the airport property?

Dr. Dancil: Commissioner Chair Gima, you give us a moment. We're going to try to locate the drainage report. I believe it is in the FEA and the areas in which the drainage is identified is not located at the airport property area.

Mr. Gima: So while you're looking, the other thing there was a bit confusing for me was currently three parts to this question. Currently, where, currently where is the asphalt plan? Two, where currently is the concrete batch plan? And three, where currently is the concrete recycling area?

Dr. Dancil: I'm going to hand it over to Tessa to just walk you through the drainage report first and answer that one first.

Mr. Gima: Okay, thank you.

Ms. Munekiyo Ng: Thank you, Chair Gima. So this is, if you happen to have the EA in front of you, the drainage report is starting on FEA Ref 606, and the drainage maps are on FEA Ref 610 and 611. But we also have a summary of the drainage in the body of the EA itself and the offsite runoff will be intercepted by ditches before entering the project site. And then with respect to the onsite runoff, the, there will be --. Sorry I'm just looking for the statement here. Yeah, the existing drainage ditches will be sized. There will be drainage ditches sized to accommodate the peak flow, runoff flows from the 100 year 24-hour storm and the 10 year one hour storm.

Mr. Gima: Yeah, I'm just, I mean, I read that part, but I'm just looking for a definitive statement that those culverts or drainage pipes are not going to exit out onto the airport property. Can, can Pulama make a definitive statement that it won't?

Ms. Munekiyo Ng: The flows are --

Mr. Gima: Because if it --

Ms. Munekiyo Ng: Right. Yeah, the flows go away from the airport.

Mr. Gima: Okay.

Dr. Dancil: Thank you, Tessa. For your second question, Chair Gima, if I think I got all the parts right, but I'm sure you'll correct me if I'm wrong. So the existing asphalt plant is located at the old plant one. It's still located there right off of Kaumalapau going down to the harbor,

Kaunalapau Harbor. The Concrete Plant is located in Miki 20, which is on heavy industrial. And concrete recycle is located in Miki 20, which is zoned heavy industrial as well as urban. So it is a permitted use in those two areas.

Mr. Gima: So the only thing that will be physically relocated is the asphalt batch plant.

Dr. Dancil: No, that is incorrect. We will be relocated those activities that are currently in Miki 20, the concrete batch plant and recycling into the Miki 200. So it literally is going to pop the property line.

Mr. Gima: Oh, okay, okay. That was not clear in the packet. I could not tell. Okay. So the concrete, the two concrete operations is just going to move kind of next door. Asphalt is going to come down from above the harbor. Okay, thank you.

Dr. Dancil: That is correct. Thank you.

Mr. Gima: Let's see what else? Um, I think you know, going, going way back to when this was before the Community Plan, I think everybody was in concurrence that they wanted to see the light industrial in the Miki Basin area so that certain operations could move down, down there. What Pulama activities or facilities are you guys planning to move down to M1 or M2 in anticipation of this being approved by the County Council?

Dr. Dancil: Thank you, Chair Gima. We don't have any specific uses at this time besides what I just went through in the response to the last question.

Mr. Gima: Okay. And are there any non Pulama businesses and facilities that are expressing interest in the M1, M2 areas?

Mr. Kurt Matsumoto: So in, it's not necessarily going to be in M1 or M2. We're going to absorb some of the existing uses in the Miki 20. So, for example, Hawaii Gas, Maui Oil, those types of activities would move into Miki 20.

Mr. Gima: Okay. Thank you. And there are references in the documents that there, there is a lot of interest in this project and being able to move facilities or businesses down there. Has Pulama or any of your consultants surveyed Lanai's businesses about their interest in relocating or starting a business down in the Miki Basin M1, M2 or the existing, um, industrial area?

Dr. Dancil: There was no specific survey. However, in the economic analysis, there was aerial, as well as drive by within Lanai City identifying activities that are being conducted within the residential area that's, you know, should be relocated to a permitted area like a light industrial area.



Mr. Gima: And has Pulama Lanai discussed or made preliminary proposals on maybe incentivizing local businesses or organizations to move down there?

Mr. Matsumoto: So not as yet, but if the zoning is approved, then we can start making those types of plans.

Mr. Gima: Okay, thank you. Is Ken still there? I had some questions about the water master plan. Hi Ken. The report was somewhat confusing to me in the sense that on one hand, you made, there are representations made that there's enough water, that it's nowhere close to the trigger of 4.3 million gallons a day. And yet, on the other hand, there is the recommendation that it's going to require a new well. Can, can you further explain that so I'm not as confused.

Dr. Dancil: Chair, I'm going to share my screen again to help with the visuals.

Mr. Kawahara: Yeah, Chair Gima, hopefully you can see that on the screen. So I think there's, there's two things that, that we're talking about here. One is the actual resource or what we call, you know, the aquifer. So there's this, if you can see the screen, the red line is the number six is the sustainable yield for the aquifer that's been identified by the Water Commission.

And as far as on water masterplan, we look at the existing infrastructure, we look at the demands and we identify if there's enough source, storage and transmission capacity. So that's a little bit different than, you know, maybe what's under the ground.

So hopefully that kind of answer your question that we looked in the water master plan on what is the forecasted demand for the project.

Mr. Gima: No, that didn't answer my question because like I said, you made representations or the report made representations that there's a lot of water because it's nowhere close to the 4.3 million gallons a day trigger yet the recommendation is being made that it's going to require a new well to accommodate full buildout out of this project.

Mr. Kawahara: Yeah, so in our water master plan, we look at, there is actually well number two and well number four. And when we talk about capacity and we're, you know, very conservative when we do this type of water master plans. So for a well number two, it has a smaller pump capacity than, well number four. So what we do is we look at the smallest pump and we look at if well number four was out of operation, how much water would well number two be able to provide. And looking at that, and we did have that graphic there, that might be helpful. And if you don't mind, we're going to share screen again. So the current demand is 1.517. And then the next bar over, the incremental demand, is 0.159. So, and other approved projects in the area. So the forecasted demand is 55 percent below the trigger set by the Water Commission, the state agency, which manages the water resources, and they also commented on the Draft EA and the DBA as it says in the title.

So basically, there is a lot of water under the ground, but this project and looking at the demand, the current pumpage again, hypothetically, if well number four were to go down that well number two would not be able to supply the full buildout. And as we can see in another graphic that in the near term it will. But under the full buildout, then there may be a need for another well as the project goes along.

Mr. Gima: That's still didn't clear, clarify. I'm sure you're well aware that during the LUC hearings there were, there was testimony submitted that all the wells in the current system is in the Leeward Aquifer. The Leeward Aquifer sustainable yield is three million gallons a day. And the trigger for the three million gallons a day is 2.1 million. And so at full build out at 1.9 million, you are very close to that trigger on the Leeward Aquifer. So I guess -- I mean, I'm glad you guys are looking at putting in another well. There's no concerns about that. I was just confused because on one hand, you're talking to plenty of water, but then you're, you're recommending building a new well. So I guess, I guess what I'd like for you to acknowledge is the fact that the 1.9 million gallons is all on the Leeward Aquifer and that it's close to the trigger at full build out.

Mr. Kawahara: Yes, I understand what you're saying. Maybe, maybe it's not the best metaphor or analogy. It's that let's say if you have a bank account and you have so much funds in your savings account, but you have a checking account, which is actually the infrastructure. If you need more from your savings account, then you transfer over to your checking account. So in this case, the bank account is the aquifer, and the, the checking account is what the current infrastructure is there. So when the time comes and you need and you need to write a bigger check, then you transfer more funds into your checking account. So understanding what you're saying about the Leeward Aquifer, citing the well would be looked at. And also in our water master plan, if you take a look at it, we do mention that interconnecting the Lanai, Lanai City Water System is another way of moving water where you need it.

Mr. Gima: Okay, thank you, Ken. I won't belabor the point. In future, in future applications regarding the six million gallons a day sustainable yield, will you please add that it is predicated on the recharge rate. I've brought, I've brought this up so many times before and you guys failed to do that every time. It's important to include the recharge rate in there. I don't need a response from that. Let's see if I have any more questions on the Change in Zoning. No, I'll stop there for now. So Commissioners, any other comments or questions for the Planning Department or Pulama Lanai regarding the Change in Zoning application? Okay, hearing seeing none.

So our alternatives are we can defer. We can recommend approval with no conditions. We can recommend approval with conditions. Or we can deny. I believe the Planning Department for the Change in Zoning Application has three conditions. Is that accurate, Kurt?

Mr. Wollenhaupt: Yes, that's correct. Our recommended then it is conditional zoning. So there are M1 Light Industrial specific uses, the M2 Heavy Industrial, along with the Special Uses,

and then that, of course, the conditions associated with the State Land Use Commission's Decision and Order shall be applicable to this project area, which then incorporates the 127 acres of the photovoltaic. So that's correct; three conditions.

Mr. Gima: Okay, so before I entertain a motion, Commissioners are there -- do you guys want to discuss or do you have any possible additional conditions that you'd like to add? Sally?

Ms. Kaye: Yes, I would like us to think about two conditions. I don't think they're particularly onerous to address. I think Negus and Erin's concern, we could ask the applicant to give us an annual report on the number of users or residents that have applied or have shown interest, just a progress report. I noticed that the LUC had a, had a condition of an annual report, but it didn't include that kind of granular detail. And that might provide a little satisfaction to residents, you know, that, that progress is being made.

The other one would be a semi-annual water use report as we've, as we've discussed and talked about for other projects. That would -- well, just like we've done with other projects, the source of the water that's used, and I don't know whether it would be granular enough to just say for heavy industrial or light industrial or, you know, broken down by, by the three different uses. I'm not sure, but I think a water use, a semi-annual water use report would be really useful.

Mr. Gima: Okay, thanks Sally. Kurt, any comments on how to phrase that as condition four and five?

Mr. Wollenhaupt: Well probably the comments would be similar to other times that the applicant should provide an annual report regarding, regarding interests, leases, users for the light industrial condominium area. We can word that a little better. But just have to drill down on what specific information you want to see; a number of inquiries, where they might be emanating from, whether that's a local business person, or whether it's Hawaii, or whether it's off islands, out of the State. And then the water use, that's pretty common that the applicant should provide a semi-annual water use report indicating the source of water, use of water. We could look in another, I can look at another older one to get that crafted properly. But the idea behind it is common. As Commissioner Kaye had said that this has been done before, especially with water reports. You just have to remember that we get lots, and sometimes we get an awful lot of reports and we have to keep them off straight so the tracking system of the of all these reports hopefully can over time it can be improved.

Mr. Gima: Okay, thanks, Kurt.

Mr. Wollenhaupt: Yeah. Thanks.

Mr. Gima: So, um, does this meet your satisfaction, Negus and Erin?

Ms. Atacador: Yeah, definitely. I appreciate the suggestion, Commissioner Kaye. That's a great, great solution.

Mr. Manna: Yeah, I agree with the water report. I'm not sure if it's necessary, but I wouldn't disagree with the, with the community report.

Mr. Gima: Okay. Any other conditions, Commissioners, that you'd like to add? Okay. If not, I will entertain a motion that the Lanai Planning Commission adopt or approve the Planning Department's report and recommendation for the Change in Zoning prepared for the August 16, 2023 meeting as the Findings of Facts, Conclusion of Law, and Decision and Order and authorize the Director of Planning to submit, transmit said written Decision Order to the Maui County Council on behalf of the Lanai Planning Commission, and that this report include conditions four and five that was submitted by Commissioner Kaye.

Mr. Manna: Are you asking for a second?

Ms. Atacador: Do we say so moved?

Mr. Manna: I second it.

Mr. Gima: Okay, it's been moved by Commissioner Atacador, seconded by Commissioner Manna that the Lanai Planning Commission adopt approve the Planning Department's report and recommendation for the Change in Zoning prepared for the August 16, 2023 meeting as the Findings of Fact, Conclusion of Law, and Decision and Order, and authorize the Director of Planning to transmit said written Decision and Order to the Maui County Council on behalf of the Lanai Planning Commission, and that report includes conditions number four and five that was submitted by Commissioner Kaye. Okay, any further discussion? Hearing none, all in favor raise your hands. Two, three, four, five, six. Okay, all opposed raise your hand? Okay, motion is approved unanimously.

**It was moved by Ms. Erin Atacador, seconded by Mr. Negus Manna, then unanimously**

**VOTED: To adopt/approve and transmit the Department's report and recommendation for the Change in Zoning, with the amendments as discussed, to the Maui County Council.**

(Assenting: E. Atacador, Z. de la Cruz, M. Fujie-Kaauamo, S. Kaye, N. Manna, S. Rabaca)  
(Excused: N. Alboro, E. Grove)

Mr. Gima: Thank you. So at this time, let's take a ten minute break. Be back here at 6:56 p.m. and we'll take up the County Special Use Permit application.

*(Lanai Planning Commission recessed at 6:46 p.m., and reconvened at 6:56 p.m.)*

**County Special Use Permit (CSUP 2023-0002):**

Mr. Gima: We are back on record. Waiting for Sandi to come on camera. All right, quorum is back. Turn this over back to you, Kurt.

Mr. Wollenhaupt: You're looking tonight is what we call a County Special Use Permit. This permit would only activate in the sense that should the Council approve your recommendation for the Change in Zoning. The areas under the M2 Heavy Industrial have certain permitted uses. But then there also uses which are of a special nature that they need to be separately approved by the Lanai Planning Commission. The two uses that are under consideration are for an asphalt plant and also for a rock crushing facility. That being said, the County Special Use Permit is a time limited permit. The Change in Zoning is essentially forever unless they decide to do another Change in Zoning. However, the Special Permit is time limited for a period of time, often, five, ten years, depending upon the project. And it then is subject to renewal requests and review as to how the operations have worked over time as to whether or not their Director may approve and renew that, or whether it required another public hearing in the future.

Also with such a permit does come conditions regarding hours of operation; what actually can be done with a specific activity; what's going to happen after that activity may close; how are you going to button it up, remediate the site. It has certain requirements about in this one, rock, rock haulers and monitoring the leakage of materials, exterior illumination, and I shan't read all the conditions. But there are conditions associated with this that govern the operation. And as the applicant has stated, this evening, it's their intent to move the asphalt plant to this perhaps newly zoned area. And also to move their rock crushing facility to this newly zoned area from different areas on Lanai including essentially those next door and then those relatively close by.

So that's what's under consideration, and the Lanai Planning Commission is the deciding authority on this one. This is not a recommendation to the Council. But it would not go into effect unless the Council approves the Change in Zoning. So I believe that the applicant now would continue on with their presentation of their request for a Special Uses in the M2 Heavy Industrial District. And there they are.

Dr. Dancil: Thank you, Kurt. So thank you, Commissioners. We are here tonight. And as Kurt mentioned, for the second permit before you, which is the Special Uses within the M2 Heavy Industrial area.

I am going to call them out in particular. So in Area B, that's where the asphalt plant will be located. And in Area C, that is where the rock crushing distribution concrete batch plant, all of those things will be located in C. So C is 14.5 acres, and B is 12.5 acres. So, collectively, it's 27 acres and that's where we are asking for Special Uses within those 27 acres. I'm going to hand it over to Tessa and fast forward to that section of the presentation.



Ms. Munekiyo Ng: Thank you, Dr. Dancil. So on the screen here are the eight criteria that guides approval for Special Use Permits, County Special Use Permits. And as Kurt mentioned, Special Uses are uses that do meet the intent of the particular zoning districts. So in this case, the M2 Heavy Industrial Zoning Districts, that requires review and approval of the Planning Commission to ensure that adverse impacts are mitigated. So there are eight criteria for approval, for approval. And again, we do have detailed analysis of this in the staff report and the application, and we summarize it here on the screen.

So first, it discusses a couple of criteria related to consistency with the General Plan and Community Plan. And so as we've been discussing this evening, the Lanai Community Plan does designate the area for heavy industrial use, and it meets the intent and purpose of the district. Again, you know, heavy industrial uses and these are specific Special Uses called out in the M2 Heavy Industrial District. And the final five criteria are related to ensuring that there are no adverse impacts. And as we've talked about, there's been extensive environmental review of this that culminated in the Finding of No Significant Impact that was issued by the Land Use Commission. And so all of these impact area criteria have been adequately addressed as well. And the eighth criteria is particular to uses in the State Agricultural or Rural districts, so that's not applicable here because we're in the Urban district.

So if we go to the next slide, as Dr. Dancil talked about we are requesting special uses for two specific sites; the asphalt manufacturer plant and the rock and concrete crushing and distribution facility. The uses that you see on the top right of the screen, the terminology there is verbatim taken from the Maui County Code 19.26.40. And so that's why the use might not sound exactly like what we've been describing today. But the proposal is as has been described tonight and as is described in the application, but the terminology is just a function of how the uses are listed in the, in the Zoning Code.

And so, as Kurt mentioned there are some conditions for the County Special Use Permit, there is actually 12 that are, and the recommendations. It is contingent upon the Change in Zoning approval, and there are limitations in terms of time. In this case, ten years. And hours of operation and other conditions related to mitigation and operations and things like that. So those are located in the staff report on page-41 and 42, the 12 conditions. But that kind of summarizes that request for the County Special Use Permit.

Mr. Gima: Alright, thank you, Tessa and Keiki-Pua. Anything else to add Keiki-Pua?

Dr. Dancil: Nothing, Commissioner.

Mr. Gima: Okay. At this time I will open it up for public testimony. Leilani, anything in the chat or in the planning conference room?

Ms. Ramoran-Quemado: Thank you, Chair. I don't see anyone signed in the chat as well as there's no one in the conference room. Thank you.

Mr. Gima: Okay. Thanks. Roxanne, anyone in the Lanai District Office wanting to testify?

Ms. Morita: Hi Chair, no, there's no one here to testify.

Mr. Gima: Alrighty. So at this time, I will close public testimony on the County Special Use Permit request. So Commissioners, comments, questions, concerns? Sally?

Ms. Kaye: Yeah, sorry. I just want to -- notice that I would like Kurt actually to address that condition number one. Has the Planning Director approving the timely request and I'm wondering why that can't be, why can't it come back to the planning commission? It will be ten years from now if an extension is requested, all of us will be gone and no one will be present on the Commission that has any idea about this. So I think if that's possible; one thing to consider.

And then 90 days. That came up before in a couple of years ago in a permit that, and the Planning Department acknowledge that they were no longer requiring 90 days because a permit extension had lapsed because they hadn't applied early enough. Have they gone back to requiring the 90 days prior to the expiration? Or is that kind of just, you know, ad hoc?

Mr. Wollenhaupt: Well, a couple of things. Can, can, can you -- you can make that condition to whatever you believe, and vote on, and passes. So should you wish that a renewal must go back to the Planning Director for a public hearing, I mean, the Planning Commission for public hearing, that is your prerogative for debate and review. And if it's approved, then it's a condition of the project.

With regards to the 90 days, well, we changed the short-term home rental and the bed and breakfast. That's now very specific. You must apply 60 days before. It's, it's expiration or you do not have a permit. And then we have six months to get that bed and breakfast or short-term home rental renewed officially with an official permit.

The 90 days that's within this is what seemingly is just, it's the language that seems to be common on most permits, so I'm not aware of any code change.

Ms. Kaye: Well, okay, fine. That -- you were not on this project, Kurt. It was, it was another planner, but was an AT&T permit extension, and they didn't apply in time. And so we called, called it out at a meeting. And at the time, Jordan was still on in the Deputy Director position, and he said they kind of have let that go. And they were letting people apply, even though they hadn't met the 90 day deadline, so that's why I asked.

Mr. Wollenhaupt: Well there's, I mean, Danny's on, I think he's on the, on the line here. It has been common practice that that should you apply two days before the permit expired, we would still take the application.

Ms. Kaye: Right. That's, that's what happened.

Mr. Wollenhaupt: I, I'm not entirely sure what we would do in this case.

Mr. Dias: Yeah, I can add. I'll just add to that. So that, the 90 days, is more of a courtesy for the Department to give us some time to, you know, receive it and process it. The only example I can think of where there is a hard date in the Code would be, as Kurt mentioned, in the short-term rental code where it states if it doesn't come in within 60 days, then the Department quote shall not accept it. But other than that, it's just more of, you know, getting people to, to submit these on time and not coming in, you know, the day before it expires.

Ms. Kaye: Okay, then I'm going to recommend that that condition say the request for extension filed within 90 days, not at least because that's, that's kind of a legal requirement. If you don't meet the at least 90 days, then there's issue for discussion. And I don't, I don't know why you wouldn't just say filed within 90 days. I mean, that might be a headache for you, but I think it's more appropriate for the way you've been letting things slide and we read them and say, oh, they did meet the 90 day deadline, we have a problem so.

Mr. Wollenhaupt: Great. Was that --? I guess when you get to the conditions you're discussing now, so at the time that you discuss amendments and conditions we can work on -- I guess you'll talk about that.

Mr. Gima: Anything else, Sal?

Ms. Kaye: Um, can I just ask? I, I know this is going back but it went so fast the last one. When, when Kurt talked about, and I'm talking Mr. Matsumoto now, the Miki 20, he was referring to the 20 acres that have been on the books since what 1998 Community Plan to sell 50 percent acreage to residents. And I think what what's going on for the new guys on the Commission is the stuff that's in that 20 acres, Miki 20, is now going to get move to the heavy industrial, which frees up some of that area for what use it. I'm not really sure what that could be -- I guess that could be heavy industrial. But I just want to clarify what Miki 20 was because that kind of came out of the blue. And if I'm wrong, I'm, I stand corrected.

Mr. Matsumoto: Um, yeah, Commissioner Kaye, you're correct. When we have the ability to move the activities like the concrete plant, then we can address the, the, the lots that are in the 20 acre site and we would be able to then proceed with things like putting it on the market for sale.

Ms. Kaye: Okay, thank you.

Mr. Gima: Okay, Commissioners, any other questions? Oh, let's see. I think I have a few. Um, Pulama, can, can you remind us what Airports Division had to say, if anything at all, about any possible concerns about dust when you're excavating, crushing and or storing materials in that site?

Dr. Dancil: Thank you, Commissioner Gima. We did, I believe it was some of these things were discussed in the Final EA and we have to file with the Department of Health and . . . (inaudible) . . . to ensure that we are compliant with all of their requirements for operation. So those comments are addressed there. It wasn't necessarily us -- State Department of Health also commented on that as well.

Mr. Gima: Airports Division didn't have any specific concerns about potential dust or their aircraft flying in or flying out around that area?

Dr. Dancil: Subject to check, I believe they didn't have specific things to dust.

Mr. Gima: Okay. In, in both applications there were several references to number of employees and it made some reference to sharing of employees. So if all three operations are going on at once, what's the minimum number of employees and what's the maximum number of employees you'll have down there?

Dr. Dancil: I don't have that information in front of me, but I believe in the application Exhibit -

Ms. Munekiyo Ng: Exhibit-4.

Dr. Dancil: Exhibit-4. Okay, so the top of page-3, on Exhibit-4, six to eight, concrete batching, up to nine, that could be sharing. So I guess the maximum going to be nine . . . would be the maximum. And I can't find on what would be minimum for operations. So I guess that would be six according to just the rock crushing operation alone.

Mr. Gima: Thank you, Keiki-Pua. Um, Planning Department, and this is somewhat of a carryover in the last couple of meetings regarding water use. If the project required, or the project demand demanded 1.1 million gallons a day of water use in the project, what would the Planning Department do or do differently with regard to this application?

Mr. Wollenhaupt: Well, that's probably, that's probably the subject in our experts that they're dealing with the water. But if you're looking at 1.1 million, which is for much more than this activity would, then as you've been stating, you would be looking the, the 2.1 critical number that's coming up. We're getting a little -- that that's what I learned this evening anyway. So we would be having greater discussion on the water side of this if this was going to be using 1.1 million gallons for the asphalt plant and the concrete plant. That would probably be addressed in the EA as we're looking through. I'm not sure where we're going with this question in the sense of we would look at whatever reports were coming in. Again, we're not experts in solving the critical water issues over there. We do have to rely on those people who have a little bit more understanding of that. But with that number, that would require a greater analysis.

Mr. Gima: Well, the reason why I brought it up and then I challenged both the applicant and the Planning Department is there is no upper limit or an allocation. Million gallons. Would you

bring the application to the Planning Commission as is? Or would you have discussions with the, the applicant?

Mr. Wollenhaupt: Well, we have discussions with the applicant throughout the whole project and that would . . . (inaudible) . . . would be reviewing that critical number in a, in a professional way. I don't know what more to say on this. That hopefully would be a red flag that you got to bring in the Director and the supervisor and the head of the Current Division that, okay, we now have, we now have a critical issue here that's more than these projects have been taking.

Mr. Gima: Yes you are --

Mr. Wollenhaupt: So that would be a red light that we've better take another review and looks a little deeper into this.

Mr. Gima: Yes, you are right. I am putting you on the spot and rightfully so because there is no upper limit. You cannot say that's too much water because there is no standard that the applicant, nor the Planning Department is using. Okay ask and answer.

Um, Pulama Lanai, can you talk -- I was a bit confused about your outreach efforts in terms of engaging the community through this process. Can you talk about how you engage the community in going over this...both?

Ms. Munekiyo Ng: Yeah, yeah. Thank you, Chair Gima, for the question. In the Final EA, this Final EA, Ref-128, we have a discussion about the consultation that was conducted. And so, you know, as has been discussed, this goes back to the Lanai Community Plan process . . . (inaudible) . . . Community Plan Advisory Committee meetings for Planning Commission, Lanai Planning Commission meetings, and three Council meetings, as well as a public community meeting subsequent to that held on October 22nd, 2018. So those were kind of all of the actions surrounding the Community Plan. And the October 2018 meeting was, you know, subsequent to that completion and more specific to the project. And then as the project continued through the planning process, there were opportunities for public involvement and comment during that two Draft EAs and as well as the DBA.

Mr. Gima: Okay. So there were -- but there were no Pulama specific community meetings on, on this endeavor. I, I hear what you're saying about the LUC and, and Planning Commission opportunities. I, um, I was confused because you guys made reference to the community plan meetings, and, and for Commissioners, the community plan meetings covered a wide array of subjects. So it wasn't, it wasn't specific to this project. So, okay, thank you, Tessa, for, for clarifying, clarifying that. Let's see. Okay, I'll jump over to Michelle; go ahead.

Ms. Fujie-Kaauamo: Thank you, Chair Gima. I had a question regarding when you were talking about the airport, Chair, specifically that kind of gave me an idea about the air quality in terms of like the dust and the impact that it could potentially have at the airport. So I kind of dove a little bit deeper into the document and I noticed that on page-54 of the, what is this,



of the Final EA. It's the PDF version of the page number version. It says that the State Department of Health, Clean Air Branch, maintains air quality monitoring stations throughout the State. However, no monitoring stations are located on the island of Lanai, and, and I know that there was a comment in the conditions that spoke about just kind of the long term effects that that might potentially be an issue in the, like the, for long term perspective activities in which -- so this is going back up to page-20 -- air quality impacts may be regulated by the State Department of Health. So I was a little bit concerned because I mean, they say it's good because of trade winds, but with the kind of increase amount of, potentially increase the amount of activity down in that area and near the airport, I was curious if -- I don't know if that -- it says that it's a Department of Health, that there would be the ones required to monitor it. But if there's no monitoring device or like station then how would they know whether or not the air quality is bad? So I was curious if maybe we could put in any --. And we're talking about approving a long term zoning, right? So is there a way that it could be where, like, we do have some kind of monitoring system put in place on the island of Lanai for air quality? Because currently it doesn't have.

Ms. Munekiyo Ng: Thank you, Commissioner Fujie for the question. So the Department of Health does monitor these uses. And specific uses, although there isn't a kind of like a community wide monitoring station in Lanai, specific uses are monitored. And so uses like the asphalt plant and the concrete plant are, or concrete crushing, are uses that are monitored. And so the existing facilities do have the Department of Health Air Permits, and those permits would be transferred with the facility. So the monitoring and review is there.

Ms. Fujie-Kaauamo: Okay, thank you very much.

Ms. Munekiyo Ng: Thank you.

Mr. Gima: All right. Sandi? Negus? Erin? Zane? Questions? Comments? Sally?

Ms. Kaye: Yeah, I just have --. I want to follow up on, on Michelle's question. That was, that was, that was a great question. So if the Department of Health is already monitoring, how is it happening and how often?

Mr. Matsumoto: I can't speak to the frequency, but they do surprise inspections, and we also get surprise inspections from OSHA specifically to check on how the plants are being operated. And we also, for the concrete plant, it's, it's all new equipment. So we invested a lot in getting technology up to date. And there's a lot of attention paid in that industry in terms of the type of emissions, dust, and all that because it has a lot to do with that immediate workplace. So you're concerned about the impact at the airport. A lot of focus is placed by OSHA on the immediate site, so there's a lot of attention paid to that by those two different agencies. And like I said, it's just, these are all surprise inspections. They just show up and then they measure what's happening.

Dr. Dancil: So we cannot operate without those permits in place.

Ms. Kaye: How many surprise inspections have you had in the last five years?

Mr. Matsumoto: Every year, there's at least two or more inspections. Yeah, so if we're in violation, we get cited. It's publicly listed. So we have to do a lot in order to make sure that the operation is safe.

Ms. Kaye: Okay, thank you.

Mr. Gima: So I have one last question. And for those of you who are unaware how sensitive I am about water, during the Land Use Commission proceedings there was a statement made to the effect of the project's water use conforms to the water, Lanai's Water Use and Development Plan. So Pulama, Tessa, and or Ken, can you specifically explain or comment on how the project's water use conforms to the Water Use and Development Plan?

Ms. Munekiyo Ng: Yeah, in the Final EA we have some discussion about it. And, you know, the Water Use and Development Plan was adopted by CWRM back in 2012, so over ten years ago now. And the, Pulama Lanai acquired the assets during 2012, so they were not part of those stakeholder discussions, and the planning sessions, the many planning sessions for the Water Use Development Plan. But and as a result, many of the proposed projects that were included have either changed or are no longer being considered. So the discussion that's presented in the EA and in the Water Master Plan is considered to be the more realistic projected water demand for the project and for the island.

Dr. Dancil: To build on that as well, water, Department of Water Supply did some of that comment, talking about how incorporating conservation measures, and that part of conforming with the Water Use and Development Plan. Chair Gima, as you know, the allocation tables were not included in the Water Use and Development Plan and that's why those were not discussed in these applications or in any of our applications.

Mr. Gima: Okay. All right, thank you. Asked and answered. Commissioners, any further comments, questions? All right, hearing none. Besides what Sally offered as an amendment to condition number one, any other conditions, Commissioners, you want to include?

All right. So again, we have the similar alternatives with the Change in Zoning request. We can defer, we can approve with no conditions, we can approve with conditions, or we can deny. And then, as Kurt mentioned earlier, we're the final authority on the, on this request. That being said --

Mr. Wollenhaupt: Question just to confirm, Commissioner Kaye. So that the County's Special Use Permit shall be valid until August 31, 2033 subject to an extension by the Lanai Planning Commission upon a timely request for extension filed within 90 days prior to its expiration.

Ms. Kaye: Actually, that's up to you. The first part, yes, I would love to and I will always say this, I've said it for years, please bring it back to us, the planning commission. The 90 days, that's, that's your issue.

Mr. Wollenhaupt: Right.

Ms. Kaye: I just wanted to clarify that I really I don't care if you want to leave it like that, that's fine. But then we're going to hold you to it. If they don't do it within 90 days, there's going to be an issue. Okay. So I'm only going to stand on the Lanai Planning Commission amendment to that condition.

Mr. Gima: But you have no preference, Sally, to, to change it, to change, at least to within?

Ms. Kaye: That was just a recommendation that they consider clarifying what their processes, so they don't drive us all crazy.

Mr. Gima: Okay, any objections from the Commissioners or the Planning Department to change, at least to the word within?

Mr. Wollenhaupt: No objections from the Planning Department.

Mr. Gima: Okay, so we'll, we'll amend condition one as, as you stated earlier, Kurt. Okay, so -- . Go ahead Sally.

Ms. Kaye: Yeah, I'm sorry. I'm going to clarify that. My question was about the 90 days. My recommendation for change in the condition is simply to make it from the Planning Director to the Planning Commission. I, I -- the 90 day, if it's written that way, that's the Planning Department's decision. They can leave it like that. That's all. Just the Planning Commission from Planning Director.

Mr. Gima: Okay. Alright, so if there are no other discussions, questions, or additional conditions, I will entertain --

Mr. Manna: Sorry to interrupt Kurt, Chair, but could we have Kurt just go over the wording again please?

Mr. Wollenhaupt: Well I understand it, that the County Special Use Permit shall be valid until August 31, 2033, subject to extension by the Lanai Planning Commission on a timely request for extension filed at least 90 days prior to its expiration. Because that's what we originally had put. And if they file it 89 days, then that's -- hopefully there will be a concrete decision made in ten years on this subject. But it is worth, it is worth pursuing to get a final answer.

Mr. Manna: Thank you, Kurt. Thank you, Chairman.

Mr. Wollenhaupt: Thanks.

Mr. Gima: Wait. I thought there were no objections to changing at least to the word within.

Mr. Wollenhaupt: There's no objection from -- you can do whatever you wish. I think it's an unclear, it's an unclear matter as to what we will do if they -- if you said at least and they filed 89 nine days, I believe the practice has been that we will still accept it. But I do not, I don't have any clear answer as to the definitive practice that we do at the moment if you file 89 days.

Ms. Kaye: Okay, let me clarify, Chair Gima. My recommendation is that we only change condition one from Planning Director to Lanai Planning Commission, period. What they do with the rest of it is up to them. That's their kuleana.

Mr. Gima: Okay. Okay. We'll follow, we'll follow your lead and then just leave the language as at least then. Okay. All right. Is that clear as mud for everybody? Okay. So I will now entertain a motion that the Lanai Planning Commission adopt the Planning Department's report and recommendation for the County Special Use Permit prepared for the August 16<sup>th</sup>, 2023 meeting as its Findings of Fact, Conclusions of Law, and Decision and Order approve the County Special Use permit contingent upon the County Council passage of the associated, associated Change in Zoning, and to authorize the Director of Planning to transmit said written Decision and Order on behalf of the Lanai Planning Commission, and as a condition one is amended.

Ms. Kaye: So move.

Ms. Atacador: Second.

Mr. Gima: Okay, it's been moved by Commissioner Kaye, seconded by Commissioner Atacador that the Lanai Planning Commission adopt the Planning Department's report and recommendation for the County Special Use Permit prepared for the August 16<sup>th</sup>, 2023 meeting as its Findings of Fact, Conclusions of Law, and Decision and Order. Approve the County Special Use Permit contingent upon the County Council passage of the associated Change in Zoning, and to authorize the Director of Planning to transmit said written decision and order on behalf of the Lanai Planning Commission, and have the condition one as amended. Okay, any further discussion on the motion? Hearing none, all in favor raise your hands.

**It was moved by Ms. Sally Kaye, seconded by Ms. Erin Atacador, then unanimously**

**VOTED: To adopt/approve the Department's report and recommendation for the County Special Use Permit, with the amendments as discussed, contingent to the Maui County Council's passage of the associated Change in Zoning.**

(Assenting: E. Atacador, Z. de la Cruz, M. Fujie-Kaauamo, S. Kaye, N. Manna, S. Rabaca)  
(Excused: N. Alboro, E. Grove)

Mr. Gima: Okay, all opposed? All right, motion is carried.

Dr. Dancil: Thank you.

Mr. Matsumoto: Thank you.

**C. DIRECTOR'S REPORT**

**1. Completed Lanai Applications Report as distributed by the Planning Department with the August 16, 2023 agenda.**

Mr. Gima: Okay, moving on to the Director's Report. Who's going to cover the approved projects for Lanai?

Mr. Danny Dias: Chair, we don't have any projects. What we do have is some requests for comments. And so, yeah, so those aren't permits. It's you know, yeah, requests for comments.

Mr. Gima: Could you explain both of them specifically?

Mr. Dias: Uh, let me see here. I -- hold on. I'm going to have to pull up some more information so if you can give me about a minute or so.

Okay, I'm going to attempt to share screen here. So this is a request for consultation from the Department of Environmental Management. Let me see here. Okay, can you folks see that?

Mr. Gima: Yes.

Mr. Dias: Okay. So it's basically the Director of the Department of Environmental Management stating that they intend to issue a declaration of exemption from the preparation of an Environmental Assessment. And the work, I'm scrolling down here, is for the installation of mechanical aerators at an existing waste stabilization pond. And so, you know, as you folks know there is a list of exempted items that was vetted from environmental review. And so essentially, the Department of Environmental Management is notifying the Department that they are exempting this, this, what appears to be essentially a maintenance project. I'm going to stop sharing. And if you can give me another minute to find the other project; hold on here.

Ms. Kaye: While you're doing that, can I ask a question, please, Danny?

Mr. Dias: Sure.



Ms. Kaye: So, okay, there's a request for a consultation to declare an exemption Lanai Wastewater. Who made the request and what is the work that's to be done?

Mr. Dias: Okay, let me share screen again.

Ms. Kaye: Yes, I'm sorry. It's very small. I can't read it.

Mr. Dias: Okay. Okay, is that better?

Ms. Kaye: Okay, so, so the County is, is asking the County. One County agency is asking the other County agency to be exempt from --?

Mr. Dias: Well, this is, this appears --. I'm sorry. Let me, let me look at this real quick. One moment.

Ms. Kaye: If you want to just tell us next month, I don't mean to put you on the spot.

Mr. Dias: Yeah, to be honest, I didn't, I didn't like read this in detail, and it is written kind of strange because it says requests for consultation. But essentially, as you folks know, a trigger for environmental review is amongst other things, the use of County land or funds. So any time there's a County project, it automatically triggers an Environmental Assessment. However, you know, a County project could be, you know, re-striping a crosswalk, right? Because you're using County funds. So there is a list of things that are exempt that went through, you know, sort of like the project that you folks reviewed that went through the EA process. And so essentially, whenever the County has a project, they notify us that, by the way, we're doing something. This technically triggers environmental review. However, it's exempt. And then this is where they show us what the project is, is exempt under. And that would be here, exemption class two, exemption item number three, which is, you know, utility services including sewer, water, drainage, electrical, communications, irrigation, etc. So, you know, if you can just imagine all the County projects, big or small, having to do an EA, you know, that would just be extremely costly. So I hope that, you know, that that kind of clarify it.

Ms. Kaye: Could you just back up a little bit on that screen? Page up.

Mr. Dias: Let me share screen again. Here?

Ms. Kaye: Okay, aerators, okay. So you're talking about aerators. Um, I thought that was always done. Is this something that they have to apply for all the time? Or what?

Mr. Dias: Like I stated, whenever the County does a project it, it technically triggers environmental review. But you know, obviously that's not practical, right? And I mean, there's so much things that the County does. You know, this repaving roads, putting up signs. So we can imagine having to do an EA for every single thing. So --

Ms. Kaye: Okay, wait, wait. It says upgrades to pond system to improve wastewater process. Yeah, just if you could let us know. I'm sorry. I don't mean to put you on the spot.

Mr. Dias: Okay, so, so, I'm sorry. What is your, what is your question? Do you want Department of Environmental Management to explain their project then?

Ms. Kaye: No, I just want to know what, what upgrades. What is this about? Is this a one-time thing? Is this something they do all the time? What caused it to be filed in the first place? Do we have a problem with our wastewater treatment plant, pond?

Mr. Dias: Okay. I'll, I'll try to find out more information.

Ms. Kaye: Okay, thank you. Sorry.

Mr. Gima: Yeah, Danny, it probably would be helpful to ask if this is a capacity issue, whether the upgrades and stuff is a capacity issue, or is it just repair and maintenance and that kind of stuff, because those are two separate, two separate issues, yeah?

Mr. Dias: Okay, I'll ask wastewater for basically a project description, and then I will also ask them if there is any capacity issues. Anything else?

Mr. Gima: Michelle?

Ms. Fujie-Kaauamo: For a consultation and this is being brought to us for what purpose? Like I guess is it just information? I don't understand what the word consultation means when it's being brought. I don't see that document in our, in our packet either. So is that something that --? Yeah. So where did that packet come from?

Mr. Dias: So essentially, any project that the Department touches, you know, we send to you folks for, you know, just, just as a heads up. So the wording request for consultation, I'm kind of stumped on that, too, because that's almost like they're just saying we're declaring this project exempt. I don't know why they would call it a request for consultation because I don't think they are. The only thing I can think of is if, you know, the Director of Public Works or the Director of Planning disagreed with them exempting their projects. So that's the only thing just looking at this for the first time tonight, that's the only thing I can think of is they're saying, this is our project, we're declaring it exempt. But if you disagree, then you know, then give us consulting as to why you disagree.

Ms. Fujie-Kaauamo: So this is just more informational then on our part for now.

Mr. Dias: This is more informational. This isn't, you know, like a, like a permit that you would make a decision on.

Ms. Fujie-Kaauamo: Okay, thank you.

Mr. Dias: Okay, let me look for the other one. So the other request for comment was just a bunch of questions that an architect was asking of the Department. Let me kind of blow this up and then share screen. So I, if you folks want to read it. It's basically Marni Tam asking all these questions and I'll just leave it up there and let me know when you folks want me to take it down. And just keep in mind that this doesn't necessarily mean they're coming in for a project. They're just asking questions.

Mr. Gima: So again, Danny, it's just an FYI for us, right?

Mr. Dias: Correct. Correct. I am going to stop sharing screen now unless somebody is still reading. Okay, so those are, those are the two items on the closed project list for Lanai right now.

Mr. Gima: All right. Anything else from the Commissioners on the two items we just discussed? All right. Thanks, Danny.

Mr. Dias: You're welcome.

## **2. Agenda Items for the September 20, 2023**

Mr. Gima: So next, next meeting is September 20th. Any of you will not be able to make the meeting? Okay --

Mr. Dias: And Chair can I --? Oh, sorry, at some point, can I interject regarding that meeting date, please?

Mr. Gima: Sure. Okay, Negus?

Mr. Manna: I just wanted to make you aware that I would be traveling in Maui so I would make my best attempt to --. I'm traveling for work for that week from the 18th to the 21st, just to make you aware, but I will do my best to attend.

Mr. Gima: Okay, thank you. All right Danny.

Mr. Dias: Okay, that's actually a perfect segue way to what I was going to say. Just so you folks are aware of all the boards and commissions that we have, Corp Counsel, Corporation Counsel has advised us to cancel all the meetings for the month of August, and that may extend into the month of September. This Commission is the only one that we still held the meeting. And the reason why amongst, you know, the obvious thing is as we move forward due to the Sunshine Law, we have to make sure that everybody in Maui County has an opportunity to attend these meetings. So although, you know, generally speaking, it's usually only Lanai people that attend these commission meetings, we still have to have it available for everybody else. And right now with, you know, just the amount of people displaced with

electricity not necessarily being available, internet, et cetera, as a precaution, we may have to extend, you know, meeting cancellations into September, maybe even beyond that. So we don't have any items or we, we didn't have any items scheduled for September 20th. You know, we were thinking about maybe doing some sort of training or something, but if we can have it, we will. But just be aware that we might not be able to. And that's all Chair.

Mr. Gima: All right. Thanks, Danny. You kind of answered my question. Commissioners, comments about what Danny just shared?

Ms. Atacador: Ah, I do Chair, if that's okay.

Ms. Gima: Go ahead.

Ms. Atacador: This is just, just food for thought. Two months ago, our, Gabe Johnson's office wasn't available for testifiers to testify in person, but there was a location in Maui that testifiers could go to and with sunshine laws in mind, I understand that we're an outer island, but I think it's, it's not right to say that if you want to testify in person, you can go to Maui and spend the night and do it. But we still had the meeting even though there was no place on Lanai for people to testify in person. So with that called out, that's just, you know, my personal comment that if we couldn't hold our meetings because Maui County people couldn't attend, I think that that's to be considered both ways, right? Like how on Lanai, we didn't have a place for people to testify in person, but we could still conduct the meetings. So that's, that's, that's my comment.

Mr. Gima: Good point, Erin. Thank you. Okay, Mariana, did you want to comment?

Ms. Mariana Lowy-Gerstmar: Hi, yes. Nice meeting, everyone. My name is Mariana. I'm just covering today, today's hearing. I talked to Mimi and we may also switch to just online, so there wouldn't be a problem with this local, like in-person testifying option. So I don't foresee that we will cancel the meeting next month, to be honest. But we won't have a physical location, that will be the change.

Ms. Atacador: Because like for me it's more important to secure a physical location on Lanai for people to come in.

Ms. Lowy-Gerstmar: Absolutely. And if that's the case --. Yeah, absolutely, and I'll talk to her. And if that's the case, then there shouldn't be any need to cancel this meeting at all. Okay, I just, I just would like to tell you that to just to be patient with us. We are dealing with a lot of things besides assisting and advising these meetings. There's a lot going on, but we are, you know, we're trying to make things happen and that's why I'm here today. Everything went very smooth so thank you all. But yeah, if we can, we will totally try to make the meetings happen.

Ms. Atacador: Thank you. And yeah, we do understand what you guys are going through and we appreciate you still taking the time to be a part of our meeting so we can conduct it. We

really do appreciate it and recognize that you guys, you know, are doing, going above and beyond right now to let us conduct our meeting.

Ms. Lowy-Gerstmar: Yeah, we will, we will, we'll be in touch. So no, it wouldn't be just a decision last minute just to cancel on this. We -- there's something else happening. Okay. Thank you.

**D. NEXT REGULAR MEETING DATE: September 20, 2023**

**E. ADJOURNMENT**

Mr. Gima: Thank you, Mariana. Okay, if there is no meeting next month then yeah --. Well, let me take that back. Do any of the Commissioners have any agenda items they would want if and, if we have a meeting next month? Go ahead Zane.

Mr. de la Cruz: I'm not sure if this falls into an agenda item or, or not. But we do often have the conversation about water, water availability, and I know we always get mired down into there are new allocations and things of that matter. Well, I, I guess what I've noticed is that as far as water availability goes, we have really good documentation on output, like, how much we're taking from the aquifer. But as far as I know there is zero documentation on inputs, like, I don't know if there are any rain gauges because that's what's based on, right? Like, I think it's nine million gallons a day of infiltration in the aquifer that needs to happen for the six million gallon daily outputs. And so is there some way that we can, I don't know, like make that a necessity? Is there, is there --? Do we have the authority? Is there a mechanism we can use to say that, you know, if we are going to be using the six million gallons a day bench line, then based on that same document, we need to know that nine million gallons a day on average are going into? Is that, like, yeah, do we have any authority or is there a mechanism we can utilize to get that report?

Mr. Gima: Excellent question, Zane. Um, County, would you like to respond to, to that and whether or not this can be an agenda item?

Mr. Dias: Yeah, it can definitely be an agenda item. We'd have to figure out. I mean, you know, obviously, as you folks know, we're not water experts, so we would have to reach out to find out, you know, like what other agency, I guess maybe CWRM or somebody would have that information or at least be able to speak about the, you know, the methodology of how you would get that info and so forth. So, yeah, I can run this up the ladder and then just kind of get some input on, on how we would provide that information. Because obviously we, as a department, wouldn't be able to provide that info.

Mr. Gima: Okay, thank you. Sally, it looks like you're poised to say something.

Ms. Kaye: Nope.

Mr. Gima: Okay, if there are no other potential agenda items and if there are no objections, meeting is adjourned for today. Thank you, everybody. Thank you for Pulama and their consultants and Planning Department; appreciate it.

There being no further discussion brought forward to the Commission, the meeting ended at 8:00 p.m.

Respectfully submitted by,

LEILANI A. RAMORAN-QUEMADO  
Secretary to Boards and Commissions II

**RECORD OF ATTENDANCE**

**PRESENT:**

Erin Atacador, Vice-Chair  
Zane de la Cruz  
Michelle Fujie-Kaauamo (present at 5:08 p.m.)  
Reynold Gima, Chair  
Sally Kaye  
Negus Manna  
Sandi Rabaca

**EXCUSED:**

Nicole Alboro  
Elisabeth Grove

**OTHERS:**

Danny Dias, Planning Supervisor, Current Planning Division  
Kurt Wollenhaupt, Staff Planner, Current Planning Division  
Mariana Lowy-Gerstmar, Deputy Corporation Counsel  
Roxanne Morita, Executive Assistant, Maui County Council, Lanai District Office  
Leilani Ramoran-Quemado, Secretary to Boards and Commissions II, Current Planning Division