

DAVID Y. IGE
GOVERNOR



STATE OF HAWAII
DEPARTMENT OF DEFENSE
OFFICE OF THE DIRECTOR OF EMERGENCY MANAGEMENT / CIVIL DEFENSE
3949 DIAMOND HEAD ROAD
HONOLULU, HAWAII 96816-4495

RECEIVED AT AH MEETING ON 7/3/19
Councilmember Rawlins-Fernandez

MAJOR GENERAL ARTHUR J. LOGAN
DIRECTOR OF EMERGENCY MANAGEMENT

VERN T. MIYAGI
ADMINISTRATOR OF EMERGENCY MANAGEMENT

PHONE (808) 733-4300
FAX (808) 733-4287

June 26, 2017

Mr. Vince Bagoyo
Bagoyo Development Consulting Group
1500 Kilinoe Place
Wailuku, Hawaii 96793

Dear Mr. Bagoyo:

Draft Application for Proposed Makila Rural East Workforce Housing Project

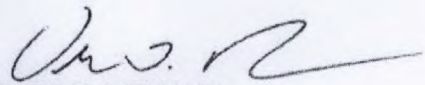
Thank you for the opportunity to comment on this proposed development.

The proposed community will increase the residential population in an area with limited safe room options. As a result, we strongly recommend incorporation of hardening measures for safe rooms within planned residential facilities, and the hardening of proposed community facilities, if applicable, so as to withstand high-wind and/or seismic events.

Additionally, there is insufficient outdoor warning siren coverage for the project location. We recommend the installation of one (1) solar powered 121 db siren. Hawaii Emergency Management Agency will work with the project developer to determine proper location of the siren.

If you have any questions please call Havinne Okamura, Hazard Mitigation Planner, at (808)733-4300, extension 556.

Sincerely,


VERN T. MIYAGI
Administrator of Emergency Management



United States Department of the Interior



FISH AND WILDLIFE SERVICE

Pacific Islands Fish and Wildlife Office
300 Ala Moana Boulevard, Room 3-122
Honolulu, Hawaii 96850

In Reply Refer To:
01EPIF00-2017-TA-0293

JUL 05 2017

Mr. Vince Bagoyo
Bagoyo Development Consulting
1500 Kilinoe Place,
Wailuku, Hawaii 96793

Subject: Technical Assistance for the Draft Application for the Makila Rural East
Workforce Housing Project, Launiupoko, Maui

Dear Mr. Bagoyo:

The U.S. Fish and Wildlife Service (Service) received your letter on June 7, 2017, requesting technical assistance for the Draft Application for The Affordable Workforce Housing Subdivision in Launiupoko, Maui. The Makila Rural East Workforce Housing Development Project proposes to develop 50 affordable workforce residential houses on 14.6 acres and 45 market priced agricultural lots on 49.3 acres. The total project area is 97.5 acres with related improvements including neighborhood country stores and a community park. The proposed development is located north of Honoapiilani Highway in the Launipoko area of West Maui, Tax Map Keys (TMK) (2) 4-7-013:006, 007, 008, and 010.

Based on information you provided and pertinent information in our files, including data compiled by the Hawaii Biodiversity and Mapping Project, there are 6 federally listed species in the vicinity of the project area: the endangered Hawaiian hoary bat (*Lasiurus cinereus semotus*), Hawaiian goose or nene (*Branta sandvicensis*), Hawaiian petrel (*Pterodroma sandwichensis*), band-rumped storm petrel (*Oceanodroma castro*), one endangered insect, the Blackburn's sphinx moth (*Manduca blackburni*), and the threatened Newell's shearwater (*Puffinus newelli*). There is no proposed or final critical habitat within the vicinity of the project area. The Service recommends the following measures to avoid and minimize project impacts listed species:

Hawaiian hoary bat

The Hawaiian hoary bat roosts in both exotic and native woody vegetation across all islands and will leave young unattended in trees and shrubs when they forage. If trees or shrubs 15 feet (ft) or taller are cleared during the pupping season, there is a risk that young bats could inadvertently be harmed or killed. Additionally, Hawaiian hoary bats forage for insects from as low as three ft to higher than 500 ft above the ground and can become entangled in barbed wire used for fencing.

To minimize impacts to the Hawaiian hoary bat:

- Woody plants greater than 15 ft tall should not be disturbed, removed, or trimmed during the bat birthing and pup rearing season (June 1 through September 15).
- Barbed wire should not be used for fencing.

Nene

Nene are known to occupy various habitat and vegetation community types ranging from coastal dune vegetation and nonnative grasslands (such as golf courses, pastures, and rural areas) to sparsely vegetated low- and high-elevation lava flows, mid-elevation native and non-native shrubland, cinder deserts, native alpine grasslands and shrublands, and nonnative alpine shrubland-woodland community habitats. There is the potential for disturbance activities, including noise, to reduce the reproductive success or survival of nene. Nene have an extended breeding season with eggs reported from all months except May, June, and July, although the majority of nene in the wild nest during the wet (winter) season between October and March. Nesting peaks in December and most goslings hatch from December to January. Nene nest on the ground in a shallow scrape in the dense shade of a shrub or other vegetation.

To minimize impacts to the Nene:

- Work should cease immediately if a nest is discovered and our office be contacted for further guidance.
- A 100-ft buffer should be established and maintained around all active nests and broods until the goslings have fledged. No disruptive activities should occur within this buffer.
- If a nene appears during ongoing work, all activity should be temporarily suspended until the animal leaves on its own accord.

Seabirds

Hawaiian seabirds may traverse the project area at night during the breeding season (March 1 to December 15). Outdoor lighting could result in seabird disorientation, fallout, and injury or mortality. Seabirds are attracted to lights and after circling the lights they may become exhausted and collide with nearby wires, buildings, or other structures or they may land on the ground. Downed seabirds are subject to increased mortality due to collision with automobiles, starvation, and predation by dogs, cats, and other predators. Young birds (fledglings) traversing the project area between September 15 and December 15, in their first flights from their mountain nests to the sea, are particularly vulnerable.

To minimize potential project impacts to seabirds:

- All outdoor lights should be fully shielded so the bulb can only be seen from below bulb height and only used when necessary.
- Automatic motion sensor switches and controls should be installed on all outdoor lights or lights should be turned off when human activity is not occurring in the lighted area.
- Nighttime construction should be avoided during the seabird fledging period, September 15 through December 15.
- Follow county lighting ordinances for Maui and Hawaii counties.

Blackburn's sphinx moth

The Blackburn's sphinx moth (BSM) may be in the vicinity of the proposed project area. Adult moths feed on nectar from native plants, including beach morning glory (*Ipomoea pes-caprae*), iliee (*Plumbago zeylanica*), and maiapilo (*Capparis sandwichiana*); larvae feed upon non-native

tree tobacco (*Nicotiana glauca*) and native aiea (*Nothocestrum latifolium*). To pupate, the larvae burrow into the soil and can remain in a state of torpor for up to a year (or more) before emerging from the soil. Soil disturbance can result in death of the pupae.

Survey recommendations:

- A qualified biologist should survey areas of proposed construction activities for BSM and its host plants prior to work initiation.
- Surveys should be conducted during the wettest portion of the year (usually November-April or several weeks after a significant rain) and immediately prior to construction.
- Surveys should include searches for eggs, larvae, and signs of larval feeding (chewed stems, frass, or leaf damage).
- Any larval host plants of BSM identified should not be cut or disturbed without further discussions with the Service.
- If moths or their larval host plants are found during the survey, please contact the Service for additional guidance to avoid take.

To minimize potential impacts to the Blackburn's sphinx moth:

- If there are populations of larval host plants near the site such that they could spread into the site within a year, the site should be monitored every 4-6 weeks leading up to, during, and after construction has been completed. This measure is primarily to detect tree tobacco entering the site and preventing it from growing over 3 ft tall. Tree tobacco can grow to over 3 ft in approximately six weeks.
- Any emerging tree tobacco can and will be removed before it reaches 3 ft tall. If it grows 3 ft tall, the plants may become a host plant for BSM, and removal of the plant may cause take to occur.
- Post-construction monitoring for tree tobacco can be completed by any groundskeeper or regular maintenance crew that will be responsible for maintaining the area on a regular basis. We recommend providing maintenance crews with picture placards of tree tobacco at different life stages and if detected, have it removed before it reaches 3 ft tall.
- If the proposed project requires gravel or dirt fill to be used at the project location, the Service recommends getting the fill from a source that is certified weed free or a plant survey be conducted around the area where the fill will be extracted. The survey is a measure to avoid spreading non-native tree tobacco and other invasive plant species from where the fill is removed to the proposed project area. Non-native tree tobacco and other invasive species seeds could be found in the fill and unknowingly spread to the project area thus attracting BSM to the project site and increasing the risk of future take.

Landscape Suggestions – Native Species

Hawaii's native ecosystems are heavily impacted by exotic invasive plants. The following websites are good resources to use when choosing landscaping plants: Pacific Island Ecosystems at Risk (www.hear.org/Pier), Hawaii-Pacific Weed Risk Assessment (http://www.botany.hawaii.edu/faculty/daehler/wra/full_table.asp.html) and Global Compendium of Weeds (www.hear.org/gcw).

- Whenever possible use native plants for landscaping purposes. If native plants do not meet the landscaping objectives, choose species that are thought to have a low risk of becoming invasive.

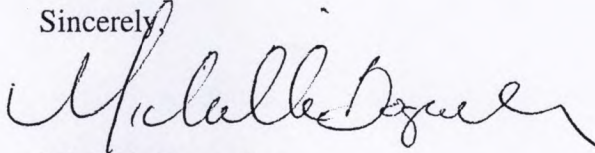
Mr. Vince Bagoyo

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Implementation of these measures will minimize but does not ensure that take of listed species associated with this proposed action will be fully avoided. If there is a federal action agency funding, permitting, or assisting in the implementation of this project, we recommend that agency consult with the Service to address potential project impacts to listed species pursuant to section 7 (a)(2) of the Endangered Species Act. If there is no federal action agency associated with the project, but impacts to listed species cannot be fully avoided, the project should coordinate with the Service directly pursuant to section 10 (a)(1)(B) of the Endangered Species Act. Given the scope and scale of the proposed project, we anticipate that further coordination will be necessary to address potential project impacts to listed species.

Thank you for your efforts to conserve listed species and native habitats. Please contact Fish and Wildlife Biologist William O'Neill (808-875-1582 ext 202, email: william_oneill@fws.gov) if you have any questions or for further guidance. When referring to this project, please include this reference number: **01EPIF00-2017-TA-0293**.

Sincerely,

A handwritten signature in black ink, appearing to read "Michelle Bogardus", with a stylized flourish at the end.

Michelle Bogardus
Island Team Leader
Maui Nui and Hawaii Island

44-28 ✓

DAVID Y. IGE
Governor

SHAN S. TSUTSUI
Lt. Governor



State of Hawaii
DEPARTMENT OF AGRICULTURE
1428 South King Street
Honolulu, Hawaii 96814-2512
Phone: (808) 973-9600 FAX: (808) 973-9613

SCOTT E. ENRIGHT
Chairperson, Board of Agriculture
PHYLLIS SHIMABUKURO-GEISER
Deputy to the Chairperson

July 11, 2017

Mr. Vince Bagoyo
Bagoyo Development Consulting Group
1500 Kilinoe Place,
Wailuku, Hawaii 96793

Dear Mr. Bagoyo:

Subject: Draft 201H Application for Workforce Housing Community
Makila Kai Rural-East
Hope Builders LLC
TMK: 4-7-13: 6, 7, 8, 10 Lahaina, Maui
Area: 97.5 acres

Thank you for the opportunity to provide our comments on the subject project which is located on property within the State Agricultural District.

The proposed development provides both affordable workforce homes and market-priced homes. The affordable workforce housing component of the project will be on approximately 14.6 acres containing 50 lots of 10,000 sq. ft. or greater in area. This normally requires a State land use district boundary amendment from Agricultural to Urban, pursuant to Chapter 205, Hawaii Revised Statutes (HRS); however, the development is proposed under the provisions of Chapter 201H, HRS, that allows a qualified project to proceed and be exempt from applying for a State land use district boundary amendment as well as County planning and zoning ordinances and rules.

The 49 acres of market-priced homes will offer lots equal to or slightly greater than 1-acre. As in the case of the affordable workforce homes, exemptions will be sought for these homes and lots from various Chapter 205, HRS, and Maui County zoning and subdivision ordinances and rules.

A little over one-half (54.4 acres) of the 94.2-acre property will be set aside for open space that includes farming (24 acres), greenbelt, park, and lot setback reserve areas. Further subdivision, condominium property regimes, and accessory dwellings will not be allowed (Appendix D, Section 1.0).



Mr. Vince Bagoyo
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There are no properties near the project site that are classified in the State Urban District. The Maui Island Plan (2012) (MIP) designates the project site as within the Makila Planned Rural Growth Area, and this area and adjacent property to the northwest and southeast as within the Rural Growth Boundary. The West Maui Community Plan (1996) classifies all land mauka of Honoapiilani Highway as Agricultural.

The property was cultivated in sugarcane up until 1999 by Pioneer Mill. After sugarcane, the property has been used for occasional cattle grazing. The Applicant claims that the property is currently not in agricultural use (Application, page 11). However, cattle grazing on the project site was confirmed in the Statewide Agricultural Land Use Baseline 2015 study (page 61, Maui Crop Summary). Additionally, according to online records of the Maui County Real Property Assessment Division website, there appears to be current agricultural assessments of "Pasture" for all 4 parcels comprising the project area. The Baseline 2015 study also identifies pasture use on the lands adjoining the property at the time the study was undertaken.

Comments:

While the Department recognizes that the project area is within the MIP's Makila Planned Rural Growth Area, the Department has concerns that the proposed Urban classification of 14.6 acres within the project area may constitute an urban "spot zone". The MIP recognizes that urbanization is a contributing factor to the general loss of agricultural land within the County: "Noncontiguous and fragmented agricultural parcels offer less economy of scale for production and marketing and make it more difficult to justify the cost of agricultural investment...Once fragmentation begins, it leads the way to further development of agricultural land." (MIP, page 7-4).

The Department recommends the Applicant discuss whether this project constitutes a move towards "urbanization", resulting in urban encroachment and what subsequent impact it would have on the viability of the existing farms and potential agricultural production on agricultural lands in the vicinity, including potential impacts outlined by the MIP from urbanization (diminished production capacity, higher land costs to farmers, conflicts with non-agricultural land uses, social changes, and water) (MIP, page 7-4).

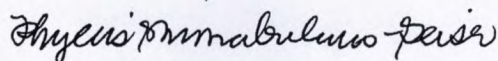
The Department further recommends that the Applicant explain how the proposed Urban classification of 14.6 acres is consistent with the MIP's Makila Planned Rural Growth Area. According to the MIP, the Makila Planned Rural Growth Area is intended to be a "rural project [that] shall be developed using a [Conservation Subdivision Design] CSD plan that is intended to preserve open space; maximize the efficient use of infrastructure; and protect natural, agricultural, and scenic resources." (MIP, page 8-62, emphasis added). The CSD plan "shall cluster development within portions of the site to keep the remainder of the land undeveloped and protected." (MIP, page 8-62, emphasis added).

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Finally, while the Department supports the proposed 23.9-acre dedicated agricultural area (Application, page 4) and the use of a portion of each of the proposed agricultural lots for agricultural activities, the Department has concerns that the exemptions being sought under Section 201H-38, HRS, will create 45 market-value "fake farms" on the 49 acres within the State Agricultural District. The Department recommends that the Application clearly state whether the Applicant is seeking an exemption from Section 19.30A.050, Maui County Code, and Section 205-4.5(a)(4), HRS, which requires that any farm dwellings built on land in the Agricultural District must be incidental, subordinate, or in connection with an agricultural activity that provides income to the family occupying the dwelling. The Department strongly opposes "gentrification" of the State Agricultural District.

Should you have any questions, please contact Earl Yamamoto at 973-9466, or email at earl.j.yamamoto@hawaii.gov.

Sincerely,



for Scott E. Enright
Chairperson, Board of Agriculture

c: Mr. Leo Asuncion, Director
Office of Planning

Mr. William Spence, Director
Planning Department
County of Maui

Makila kai large lot workforce housing East Project-maui – 201H



OFFICE OF PLANNING STATE OF HAWAII

235 South Beretania Street, 6th Floor, Honolulu, Hawaii 96813
Mailing Address: P.O. Box 2359, Honolulu, Hawaii 96804

DAVID Y. IGE
GOVERNOR

LEO R. ASUNCION
DIRECTOR
OFFICE OF PLANNING

Telephone: (808) 587-2846
Fax: (808) 587-2824
Web: <http://planning.hawaii.gov/>

Ref. No. P-15660

July 11, 2017

Mr. Vince Bagoyo
Bagoyo Development Consulting Group
1500 Kilinoe Place
Wailuku, HI 96793

Dear Mr. Bagoyo:

Subject: Draft Application for Proposed Makila Rural East Workforce Housing Project
Chapter 201-H Application
Applicant: Hope Builders, LLC
Project: 50 Workforce Housing in the Urban District and 45 Market-rate Lots in the Agricultural District
TMK: (2) 4-7-013: 006, 007, 008 and 010
Location: Lahaina, Maui, Hawaii
Land Area: Total Project Area 97.581 Acres; 14.6 Acres To Urban;

Thank you for the opportunity to review the proposal to establish a workforce housing community in the Launiupoko Lahaina area. The proposal includes 50 workforce housing units with a minimum lot size of 10,000 square feet, and 45 market-rate agricultural lots with minimum lot size of one (1) acre. The development will include park, open space and setback areas on about 54 percent of the site. The project will be processed under Chapter 201H, Hawaii Revised Statutes (HRS), through the County of Maui. The Office of Planning (OP) has the following comments and concerns.

1. Project Overview Pages 1-3, and V. Proposed Exemptions Request Pursuant to § 201H-38, HRS. The document indicates that the site is currently within the State Agricultural district. Page 2, paragraph 1 of the document states that Petitioner plans to request approval for a State Land Use District Boundary Amendment (DBA). However, Section V. page 83, 2.1 indicates that Petitioner will seek exemptions from the actual filing of an application for a DBA, and also an exemption from proceedings and hearings for a DBA, for the approximately 14.6-acre area that will contain the workforce housing lots and homes. Thus, the Petitioner appears to be requesting that the County Council approve a DBA without following any of the procedures for appropriate proceedings for a State DBA.

Mr. Vince Bagoyo.

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OP believes a DBA cannot be acted upon by the County Council without any proceedings which normally characterize the filing and processing of a DBA. Further, OP notes that a project cannot be exempted through the § 201H process for the project. § 201H-38, HRS, states that "...housing projects [shall] be exempt from all statutes, ordinances, charter provisions, and rules of any government agency relating to planning, zoning, construction standards for subdivisions, development and improvement of land, and the construction of dwelling units thereon; provided that: ... (4) The land use commission shall approve, approve with modification or disapprove a boundary change within forty-five days after the corporation has submitted a petition to the commission as provided in § 205-4..." Based on this statutory language, at best, a 201H housing project may be provided an expedited 45-day DBA process, but it cannot be fully exempted from the DBA process.

2. The smaller proposed market one-acre lots are not conducive to promoting agricultural activity. OP does not support such use of the § 201H process to enable lots smaller than the current County two-acre minimum lot size, as it further exacerbates the problem of gentlemen estate lots that inflate agricultural land value, benefit the homeowner via property tax exemptions and lower water rates, while providing no viable agricultural production on agricultural land, and generally reducing land available for farming and making it more expensive for farmers.
3. On page 3 paragraph 5 there are conflicting statements regarding whether Ohana or accessory dwelling units will be permitted. Please indicate whether any Ohana or accessory dwelling units will be permitted on each lot within the project.
4. List of Permits and Approvals Required. The document should provide a list of permits and approvals that the project requires. We note that the applicant intends to process a DBA through the County of Maui. Also, the document indicates that a NPDES permit will be required. These and other relevant approvals should be included within the document.
5. Page 54. 3. Wastewater: With respect to wastewater systems, Petitioner should determine the economic feasibility of a package wastewater treatment system that would serve the entire project or at least the affordable units. OP has concerns regarding wastewater seepage into coastal waters in this area.
6. Page 46-47. 10. Archaeological Resources, Section III and Appendix C Archaeological Inventory Survey (AIS). Letter dated November 13, 2006 from the

Mr. Vince Bagoyo.

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Department of Land and Natural Resources, State Historic Preservation Division (SHPD) determined that the AIS to be acceptable, however, the letter further states that archaeological monitoring is appropriate during any deconstruction of mounds (SPF 50-50-03-5930), and that a monitoring plan is needed prior to any deconstruction of the mounds within the project site. The summary provided on page 46, paragraph 2 is unclear whether an archaeological monitoring plan will be submitted to the SHPD prior to any earth moving activities. This should be made a condition of the approval for this project.

7. Flora and Fauna. Appendix F. Page 8-9. The document states that the U.S. Fish and Wildlife Service should be consulted in regards to determining adequate mitigation measures for the endangered Hawaiian Hoary bat, Nene, Hawaiian petrels, and Threatened Newell's Shearwaters.
8. Page 50. Section 4 Recreational and Educational Resources. The application indicates that the proposed development is within the State Department of Education Lahainaluna Complex Area, in the West Maui School Impact District. The document states that the project will work with the Department of Education. This should be made a condition of the approval.
9. Water Resources. The document indicates that water will be provided by a private water system. However, no information on the capacity of that water system to accommodate this new development was included in the document. This should be a part of the document in order for the County Council to review the project.
10. Sustainability. The document should include a sustainability plan which describes how the project addresses the sustainability priority guidelines of § 226-108, HRS. The plan should also describe the sustainable development, smart growth and livability principles, resource conservation, and green building measures that are expected to be employed in the development. See OP Technical Assistance Memorandum in http://files.hawaii.gov/dbedt/op/docs/OP_TAM_2013-12-03.pdf.
11. Traffic. The document should indicate that the planning horizon for the proposed project and should include a schedule of development for the entire project and a map showing the location and timing of each phase of development, if applicable. Regarding infrastructure (e.g., roadway improvements), the Petitioner should discuss how improvements will be completed to ensure that mitigation coincides with the impact created by the proposed project. We note that the document indicates that no additional traffic mitigation measures will be necessary. The State Department of

Mr. Vince Bagoyo.

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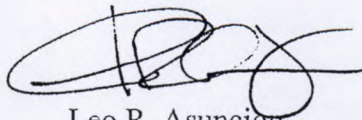
Transportation should be consulted since there may be impacts to the State highway system.

12. IV. Consistency and Relationship to Land Use Plans, Policies, and Controls. Page 73 Maui Island Plan. We note that the Maui Island Plan designates the site within the Rural Growth Boundary, rather than the Urban Growth Boundary. Thus, the Urban designation does not appear to be consistent with the County's growth plans for this area.

13. V. Proposed Exemptions Request Pursuant to § 201H-38, HRS. Pages 81-84. While exemptions from subdivision and zoning requirements are permitted under § 201H-38, HRS, the process cannot be used to exempt requirements in the State Agricultural District, notably, the requirement in § 205-4.5(a)(4), HRS, relating to farm dwellings and the need for single-family dwellings to be connected to an agricultural use. We are concerned that the Petitioner understand that the requirements under § 205-4.5, HRS, are still in force and all housing within the State Agricultural Land Use District must be compliant farm dwellings.

Thank you for the opportunity to review this project. If you have any questions, please call Lorene Maki of our Land Use Division at (808) 587-2888.

Sincerely,

A handwritten signature in black ink, appearing to read 'Leo R. Asuncion', with a stylized flourish at the end.

Leo R. Asuncion
Director

Cc: County of Maui, Department of Housing and Human Concerns
County of Maui, Department of Planning
Land Use Commission