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County of Hawai'i
PLANNING DEPARTMENT

Michael Yee
Director

Duane Kanuha
Deputy Director

East Hawai'i Office
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January 23, 2020

William Aila Jr., Chairman
Hawaiian Homes Commission
State of Hawai'i
Department of Hawaiian Homes
P.O. Box 1879
Honolulu, HI 96805

Dear Mr. Aila:

SUBJECT: Designation of Zoning for TMK (3) 2-2-061:002, Panaewa, Hawai'i

Thank you for your letter dated November 25, 2019, notifying the Hawai'i County Planning Department (PD) that the Department of Hawaiian Home Lands (DHHL) has designated the zoning of Residential Agricultural- minimum lot size of 1/2 acres (RA-.5a) for the property identified as (3) 2-2-061:002, pursuant to the Memorandum of Agreement (MOA) between DHHL and the County and transmitting Attorney Generals (AG) letter regarding State Land Use compliance requirements. We will update our maps with the RA-.5a zoning district and inform other relevant County departments by copy of this letter. We understand that pursuant to Attorney Generals Letter dated November 13, 2019, DHHL does not need to comply with Chapter 205 of the Hawai'i Revised Statutes and therefore, does not need to observe the underlying State Land Use District requirements.

If you have any questions, please feel free to contact Norren Kato of this office at 961-8154.

Sincerely,

MICHAEL YEE
Planning Director

NK:jaa

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Mr. William Aila Jr.
January 23, 2020
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Enclosure: State Department of Hawaiian Home Lands letter dated November 25, 2019

cc w/encl.: ✓ Planning Department- GIS Section
Department of Water Supply
Department of Public Works
Department of Environmental Management
Real Property Tax Office
State Land Use Commission

DAVID Y. IGE
GOVERNOR
STATE OF HAWAII

JOSH GREEN
LT. GOVERNOR
STATE OF HAWAII



WILLIAM J. AILA, JR.
CHAIRMAN
HAWAIIAN HOMES COMMISSION

TYLER I. GOMES
DEPUTY TO THE CHAIRMAN

STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS

P. O. BOX 1879
HONOLULU, HAWAII 96805

November 25, 2019

The Honorable Michael Yee, Director
County of Hawaii Planning Department
101 Pauahi Street, Suite 3
Hilo, HI 96720

Aloha Mr. Yee

Subject: Designation of Zoning - Pana'ewa, Hawai'i
TMK (3)-2-2-061-002

Pursuant to the Hawaiian Homes Commission Act of 1921, as amended, the Hawaiian Homes Commission (HHC) exercises exclusive land use authority over its trust lands. Pursuant to the 2002 Memorandum of Agreement between the County of Hawaii and the Department of Hawaiian Home Lands (DHHL), this letter is to inform the County Planning Department of DHHL's designation of zoning as follows:

Designated Zoning: RA-0.5a
Tax Map Key No.: (3)-2-2-061-002
Total Acreage: 10 acres
Location: Pana'ewa, Hilo, Hawai'i

DHHL determined that the RA-0.5a zoning standards are more appropriate for this parcel and DHHL and any future DHHL lessee(s) will conform to the County of Hawaii standards for this county zoning district.

DHHL previously made the request to designate RA-0.5a zoning for this parcel on January 23, 2018. In a response letter dated May 25, 2018 from the County Planning Department, the Planning Department raised concerns over the RA-0.5a designation for this parcel as it would be inconsistent with the State Land Use designation for this parcel. Your office requested a determination from DHHL as to how DHHL would resolve State/County zoning conflicts.

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PLANNING DEPARTMENT
COUNTY OF HAWAII

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TYLER I. GOMES
DEPUTY TO THE CHAIRMAN

The Honorable Michael Yee
November 25, 2019
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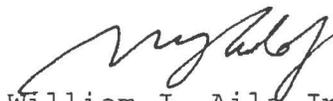
To address the County Planning Department's request, DHHL sought a formal opinion from the Department of the State Attorney General as to whether the powers of the Land Use Commission extend to lands controlled by DHHL (Enclosed). In short, the Department of the State Attorney General has opined that under the Hawaiian Homes Commission Act, laws that would "significantly affect" DHHL's use of its lands cannot apply to Hawaiian Home Lands. To the extent that the Land Use Commission's classifications conflict with DHHL's uses of its lands for homesteading purposes, the Hawaiian Homes Commission Act will control and the Land Use Commission's classifications cannot be enforced.

Please inform your staff of the contents of this letter so that any future DHHL or future DHHL lessee(s) application for the necessary permits, licenses, and other county approvals in connection with TMK: (3)-2-2-061-002 may proceed as smoothly as possible.

Please also use the enclosed Department of the Attorney General's opinion to resolve the State/County land use conflicts that were identified on other DHHL parcels that were identified in the County's May 28, 2018 letter.

Should you have any questions or concerns, please contact Andrew H. Choy, DHHL Planning Office Program Manager, at andrew.h.choy@hawaii.gov or 808-620-9481.

Aloha,



William J. Aila Jr., Chairman
Hawaiian Homes Commission

Enclosure

C: DHHL East Hawaii District Office (via email)
DHHL Land Development Division (via email)