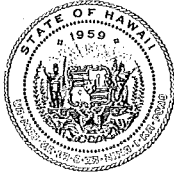


ORIGINAL



BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

LAND USE COMMISSION
STATE OF HAWAII
2013 SEP 10 A 9:05

In The Matter Of The Petition Of	)	DOCKET NO. A94-706
)	
KA'ONO'ULU RANCH	)	ORDER DETERMINING (1) THAT THE
	)	STATE LAND USE COMMISSION
To Amend The Agricultural Land Use	)	AGREES TO BE THE ACCEPTING
District Boundary Into The Urban Land	)	AUTHORITY PURSUANT TO CHAPTER
Use District For Approximately 88	)	343, HAWAII REVISED STATUTES;
Acres Of Land At Ka'ono'ulu,	)	AND (2) THAT THE PROPOSED
Makawao-Wailuku, Maui, Hawai'i,	)	ACTION MAY HAVE A SIGNIFICANT
Tax Map Key: 3-9-01: 16, 169, And 170	)	EFFECT UPON THE ENVIRONMENT TO
Through 174	)	WARRANT THE PREPARATION OF AN
_____	)	ENVIRONMENTAL IMPACT
	)	STATEMENT; AND CERIFICATE OF
	)	SERVICE

ORDER DETERMINING (1) THAT THE STATE LAND USE COMMISSION
AGREES TO BE THE ACCEPTING AUTHORITY PURSUANT TO CHAPTER 343,
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HAVE A SIGNIFICANT EFFECT UPON THE ENVIRONMENT TO WARRANT THE
PREPARATION OF AN ENVIRONMENTAL IMPACT STATEMENT

AND

CERIFICATE OF SERVICE



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By Order Granting Pi'ilani Promenade South, LLC, and Pi'ilani

Promenade North, LLC's, Motion to Stay Phase II of the Order to Show Cause

Proceeding dated July 12, 2013, the State Land Use Commission ("Commission") stayed

its proceeding in the above-entitled docket to determine whether the reversion of the

Petition Area to its former land use classification or to a more appropriate classification

is the appropriate remedy.¹ The Commission conditioned the stay on both Pi`ilani and Honua`ula refraining from commencing any construction or development activities on their respective parcels within the Petition Area during the stay.² The Commission further conditioned the stay on Pi`ilani filing a Motion for Order Amending the Findings of Fact, Conclusions of Law, and Decision and Order (“Motion for Order Amending the D&O”) to reflect the changes in the development of the Petition Area from the uses originally proposed by Ka`ono`ulu Ranch and requesting, among other things, the bifurcation of this docket to cover its parcels not later than December 31, 2013.

Pi`ilani proposes to develop a mix of light industrial and business/commercial uses with approximately 200 apartment units (“Project”) on its parcels within the Petition Area.

On August 14, 2013, Pi`ilani filed an Environmental Impact Statement Preparation Notice (“EISPN”) with the Commission consistent with Act 172, Session Laws of Hawai`i 2012, to proceed directly to the preparation of the Environmental

¹ The Commission previously determined under Phase I of the Order to Show Cause proceeding that Pi`ilani Promenade South, LLC, and Pi`ilani Promenade North, LLC (collectively “Pi`ilani”), and Honua`ula Partners, LLC (“Honua`ula”), violated Condition Numbers 5, 15, and 17 of this Commission’s Findings of Fact, Conclusions of Law, and Decision and Order (“D&O”) filed February 10, 1995. Ka`ono`ulu Ranch, the original Petitioner and Pi`ilani’s and Honua`ula’s predecessor, had proposed to develop the Petition Area as the Ka`ono`ulu Industrial Park, consisting of a 123-lot commercial and light industrial subdivision.

² Honua`ula had represented that it will not commence any construction on its parcel while a stay of the Order to Show Cause proceeding was in effect, or unless and until Honua`ula provided this Commission with adequate notice to do otherwise and the Commission grants said request.

Impact Statement (“EIS”) itself rather than preparing an environmental assessment to determine whether an EIS is warranted. The EIS is intended to disclose the potential impacts of the Project in support of Pi’ilani’s Motion for Order Amending the D&O that will be filed with this Commission.

The Project is subject to the environmental review process as it proposes to use State land for roadway widening purposes, pursuant to section 343-5(a)(1), Hawai‘i Revised Statutes (“HRS”), and section 11-200-6(b)(1)(A), Hawai‘i Administrative Rules (“HAR”).

On September 5, 2013, the Commission met in Kahului, Maui, Hawai‘i, to determine (i) whether this Commission should be the accepting authority pursuant to chapter 343, HRS; and (ii) whether the Project may have a significant effect upon the environment to warrant the preparation of an EIS. Jonathan H. Steiner, Esq., appeared on behalf of Pi’ilani and Honua`ula. Michael J. Hopper, Esq., appeared on behalf of the County Department of Planning (“DP”). Bryan C. Yee, Esq., and Rodney Funakoshi were present on behalf of the State Office of Planning (“OP”).

At the meeting, Pi’ilani noted that this Commission is the appropriate accepting authority for the EIS pursuant to chapter 343, HRS, and further that the Project may have a significant effect upon the environment to warrant the preparation of an EIS.

Both OP and DP supported this Commission serving as the accepting authority for the EIS and Pi'ilani moving directly to the preparation of an EIS for the Project.

Following discussion, a motion was made and seconded to have this Commission agree to be the accepting authority pursuant to chapter 343, HRS, and to have the Commission find that the Project may have a significant effect upon the environment to warrant the preparation of an EIS. There being a vote tally of 6 ayes, 0 nays, and 3 excused, the motion carried.

ORDER

This Commission, having duly considered Pi'ilani's EISPN, the comments of OP and DP, and a motion having been made at its meeting on September 5, 2013, in Kahului, Maui, Hawai'i, and the motion having received the affirmative votes required by section 15-15-13, HAR, and there being good cause for the motion,

HEREBY ORDERS that it agrees to be the accepting authority pursuant to chapter 343, HRS, and that the Project may have a significant effect upon the environment to warrant the preparation of an EIS.

IT IS FURTHER ORDERED that Pi'ilani shall make the EISPN available for a 30-day public review and comment period pursuant to section 343-5(e), HRS, and section 11-200-15(b), HAR.

ADOPTION OF ORDER

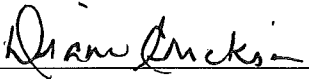
This ORDER shall take effect upon the date this ORDER is certified by this Commission.

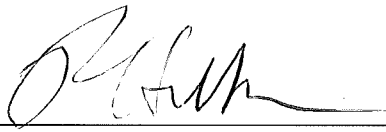
Done at Honolulu, Hawai'i, this 10th , day of September, 2013, per motion on September 5, 2013.

LAND USE COMMISSION

APPROVED AS TO FORM

STATE OF HAWAII


Deputy Attorney General

By 
RONALD HELLER
Chairperson and Commissioner

Filed and effective on:

9/10/13

Certified by:


DANIEL ORODENKER
Executive Officer



BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In The Matter Of The Petition Of

KA'ONO'ULU RANCH

To Amend The Agricultural Land Use
District Boundary Into The Urban Land Use
District For Approximately 88 Acres Of
Land At Ka'ono'ulu, Makawao-Wailuku,
Maui, Hawai'i, Tax Map Key: 3-9-01: 16,
169, And 170 Through 174

DOCKET NO. A94-706

CERTIFICATE OF SERVICE

2013 SEP 10 A 9:05

LAND USE COMMISSION
STATE OF HAWAII

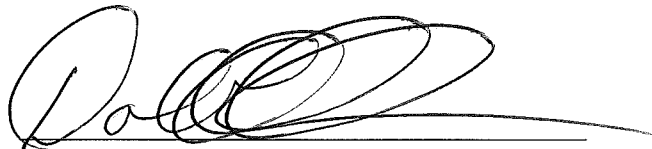
CERTIFICATE OF SERVICE

I hereby certify that a copy of the ORDER DETERMINING (1) THAT THE STATE LAND USE COMMISSION AGREES TO BE THE ACCEPTING AUTHORITY PURSUANT TO CHAPTER 343, HAWAII REVISIED STATUTES; AND (2) THAT THE PROPOSED ACTION MAY HAVE A SIGNIFICANT EFFECT UPON THE ENVIRONMENT TO WARRANT THE PREPARATION OF AN ENVIRONMENTAL IMPACT STATEMENT; AND CERTIFICATE OF SERVICE was served upon the following by either by hand delivery or depositing the same in the U. S. Postal Service by regular or certified mail as noted:

	HAND DELIVERED	REGULAR MAIL	CERTIFIED MAIL
JESSE SOUKI, DIRECTOR Office of Planning 235 S. Beretania Street Rm. 600 Honolulu, Hawai'i 96813	X		

	HAND DELIVERED	REGULAR MAIL	CERTIFIED MAIL
BRYAN YEE, ESQ. Deputy Attorney General Hale Auhau, Third Floor 425 Queen Street Honolulu, Hawai'i 96813		X	
TOM PIERCE PO Box 798 Makawao, Hawaii 96768			X
William Spence Director, County of Maui Planning Department 250 S. High St Kalana Pakui Bldg Ste 200 Wailuku, HI 96793		X	
MICHAEL HOPPER, Esq. Deputy Corporation Counsel 200 S. High St. Kalana O Maui Bldg 3rd Flr Wailuku, HI 96793			X
McCorriston Miller Mukai MacKinnon LLP JONATHAN H. STEINER, Esq Five Waterfront Plaza, 4th Floor 500 Ala Moana Boulevard Honolulu, Hawai'i 96813			X

Honolulu, Hawai'i, September 10, 2012.



DANIEL ORODENKER
Executive Officer