



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

LAND USE COMMISSION
STATE OF HAWAII
2015 OCT 22 P 3:13N

In The Matter Of The Petition Of	)	DOCKET NO. A15-799
)	
MAKILA LAND CO., LLC	)	ORDER GRANTING MOTION
	)	REQUESTING THE LAND USE
	)	COMMISSION TO BE THE
	)	ACCEPTING AUTHORITY FOR AN
To Amend The Agricultural Land Use	)	ENVIRONMENTAL IMPACT
District Boundary into the Rural Land Use	)	STATEMENT AND REQUESTING
District for approximately 231 acres of land	)	THAT THE LAND USE COMMISSION
consisting of Tax Map Key Nos. (2) 4-7-013:	)	DETERMINE THAT THE PROPOSED
001 to 005, 006 (por.), 007 (por.), 008 (por.),	)	ACTION WARRANTS THE
and 009 to 012; and into the State Urban	)	PREPARATION OF AN
Land Use District for approximately 40 acres	)	ENVIRONMENTAL IMPACT
of land consisting of Tax Map Key Nos. (2)	)	STATEMENT TO BE INITIATED WITH
4-7-013: 006 (por.), 007 (por.), and 008	)	THE PREPARATION OF AN
(por.) at Launiupoko, Polanui, Lāhaina,	)	ENVIRONMENTAL IMPACT
Island and County of Maui, State Of Hawai'i	)	STATEMENT PREPARATION
	)	NOTICE; CERTIFICATE OF SERVICE

ORDER GRANTING MOTION REQUESTING THE LAND USE COMMISSION TO BE THE
ACCEPTING AUTHORITY FOR AN ENVIRONMENTAL IMPACT STATEMENT AND
REQUESTING THAT THE LAND USE COMMISSION DETERMINE THAT THE
PROPOSED ACTION WARRANTS THE PREPARATION OF AN ENVIRONMENTAL
IMPACT STATEMENT TO BE INITIATED WITH THE PREPARATION OF AN
ENVIRONMENTAL IMPACT STATEMENT PREPARATION NOTICE

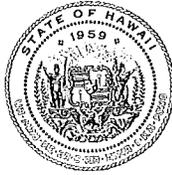
AND

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.

October 22, 2015 by

Executive Officer



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

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Island and County of Maui, State Of Hawai'i)	STATEMENT PREPARATION NOTICE
_____)	

ORDER GRANTING MOTION REQUESTING THE LAND USE COMMISSION TO BE THE ACCEPTING AUTHORITY FOR AN ENVIRONMENTAL IMPACT STATEMENT AND REQUESTING THAT THE LAND USE COMMISSION DETERMINE THAT THE PROPOSED ACTION WARRANTS THE PREPARATION OF AN ENVIRONMENTAL IMPACT STATEMENT TO BE INITIATED WITH THE PREPARATION OF AN ENVIRONMENTAL IMPACT STATEMENT PREPARATION NOTICE

On September 11, 2015, Makila Land Co., LLC ("Petitioner") filed a Petition for Land Use Boundary Amendment ("Petition"); Petitioner's Exhibits 1-7; Verification of Jennifer A. Lim; Affidavit of Jennifer A. Lim Attesting to Service of Petition; Affidavit of Jennifer A. Lim Attesting to Mailing of the Notification of Petition Filing; and Certificate of Service.

On September 11, 2015, Petitioner also filed Petitioner's Motion Requesting the Land Use Commission to be the Accepting Authority for an Environmental Impact Statement, and Requesting that the Land Use Commission Determine That the Proposed Action Warrants the Preparation of an Environmental Impact Statement, to be Initiated With the Preparation Notice; Memorandum in Support of Motion; Appendix "A," and Certificate of Service ("Motion").

On September 14, 2015, Petitioner filed electronic copies of its Petition and Motion; and a Revised Table of Contents for the Petition.

On September 18, 2015, the LUC sent Petitioner a letter deeming the Petition defective for failure to meet the content requirements outlined in Section 15-15-50, Hawai'i Administrative Rules ("HAR"), for a properly filed petition. At that time staff identified additional information that was required.

On September 18, 2015, the LUC mailed the Meeting Agenda notice for the September 30, 2015 meeting to be held via video conference in Kahului, Maui; Honolulu, O'ahu; Hilo, Hawai'i; and Lihu'e, Kaua'i to the Parties, the Statewide, Maui, Kaua'i, Hawai'i, and O'ahu mailing lists.

On September 18, 2015, Petitioner filed a Notice of Corrected Certificate of Service, which provided an updated mailing address for Pioneer Mill Company, LLC.

On September 19, 2015, the LUC mailed an Amended Meeting Agenda notice (correcting the meeting time) to the Parties, the Statewide, Maui, Kaua'i, Hawai'i, and O'ahu mailing lists.

On September 23, 2015, the State Office of Planning ("OP") filed its Statement of No Objection to Petitioner's Motion.

On September 28, 2015, Mr. David Jenkins, on behalf of Makila Plantation Homeowners Association ("MPHOA") filed via e-mail a Notice of Intent to Intervene¹; .MPHOA's Notice of Appearance and Position Statement Concerning Petitioner's Motion.

On September 29, 2015, Mr. Douglas R. Wright, Esq. on behalf of MPHOA, filed an Amended Certificate of Service for its Notice of Appearance and Position Statement filed on September 28, 2015.

On September 30, 2015, the Land Use Commission ("Commission") conducted a video conference with meeting rooms in Kahului, Maui; Līhu'e, Kaua'i; Hilo, Hawai'i; and Honolulu, O'ahu, to consider the Motion.² Jennifer A. Lim, Esq., Rory Frampton, and Tom Witten appeared on behalf of Petitioner. Also present were Rodney Funakoshi and Katie Mineo on behalf of OP; and Michele McLean on behalf of the County of Maui Planning Department ("County").

At the meeting, there was public testimony from two individuals on Maui: Mr. David Jenkins and Mr. George Ii Brown. Mr. Jenkins provided a position on behalf of MPHOA, which has no objection to Petitioner's Motion and filed an amended Notice of Intent to Intervene at that time³. Mr. Brown spoke as an individual owner of a lot within MPHOA and was concerned about the potential environmental impacts from the proposed Project.

The Petitioner provided a summary of its Motion request and some background on studies it planned to conduct as part of the EIS process. Petitioner argued that this Commission is the appropriate accepting authority for the EIS because the filing of the Petition represented the earliest practicable time to determine

¹ Mr. Jenkins was informed that his initial Notice of Intent to Intervene did not fully comply with §15-15-52(b), HAR, with respect to required information and confirmation that it had been served upon the Petitioner, OP, and the County of Maui.

² Petitioner's Motion has acknowledged that the proposed Project may have a significant effect upon the environment, and therefore will require the preparation of an Environmental Impact Statement ("EIS"). Amendments to Section §343-5, HRS, allow an approving agency to determine "...through its judgment and experience..." that an EIS is warranted and direct an applicant to go directly to preparing an EIS Preparation Notice ("EISPN") rather than an Environmental Assessment (Act 172, SLH2012).

³ Mr. Jenkins was informed at this time by staff that this filing also needed to be served by mail to the Petitioner, the Office of State Planning, and the County of Maui Planning Department.

whether an EIS is warranted. Further, the proposed Project is subject to the environmental review process because it requires the amendment of a county development/community plan; proposes the construction of a wastewater treatment facility; and proposes to use State and County lands in the development of water, wastewater, and roadway construction Section 343-5(a)(1), HRS and Section 11-200-6(b)(1)(A), HAR.

The County had no objections to this Commission serving as the accepting authority for the EIS and the preparation of an EIS for the proposed Project as described in the Petition.

OP had no objections to this Commission serving as the accepting authority for the EIS and the preparation of an EIS for the proposed Project as described in the Petition.

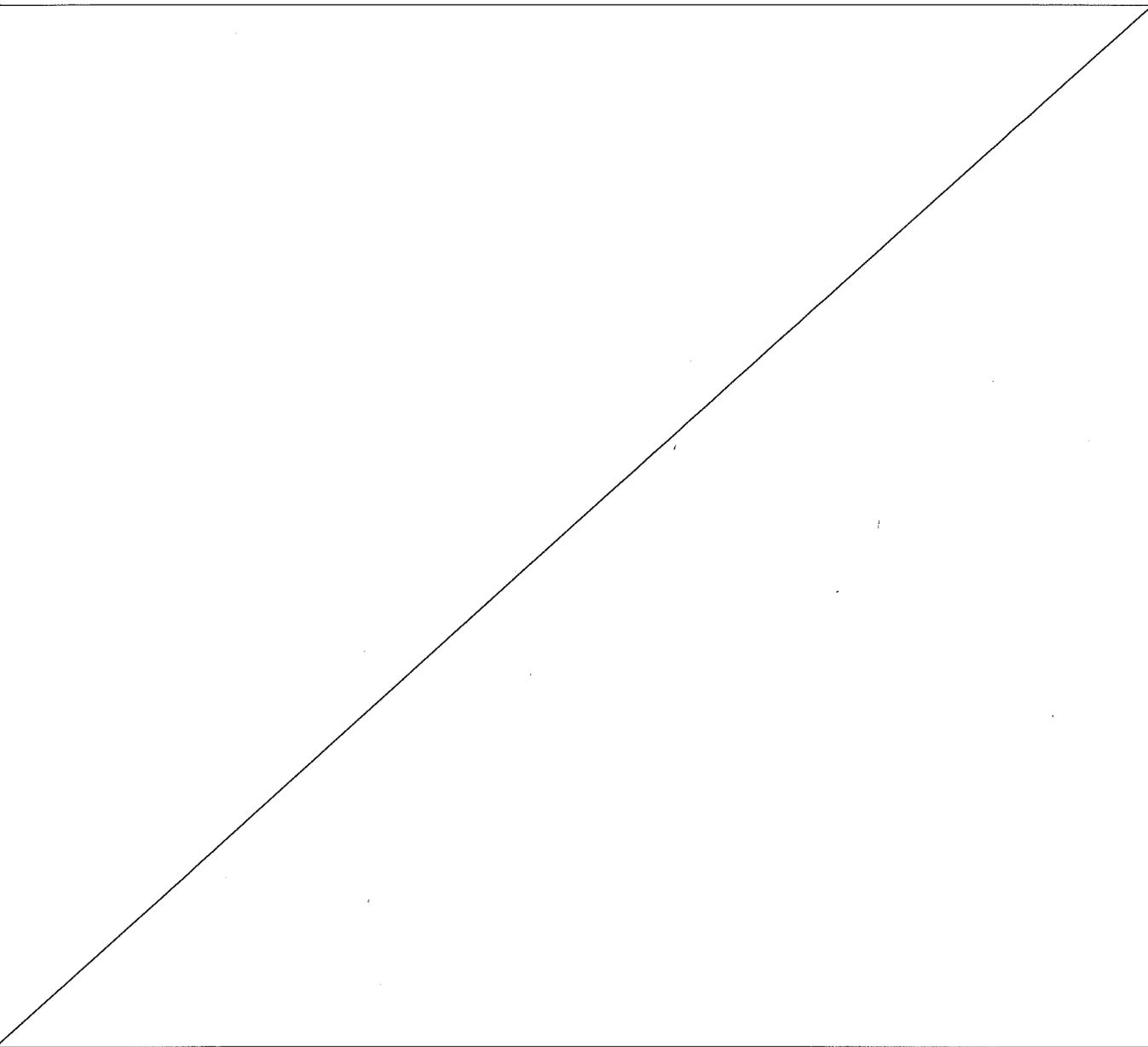
Following discussion, a motion was made and seconded that the Land Use Commission agree to be the accepting authority for an environmental impact statement and, based on its judgement and experience, that the proposed project may have a significant impact on the environment, therefore an EIS is warranted and the Petitioner should go directly to the preparation of an EIS preparation notice.

There being a vote tally of 6 ayes, 0 nays, and 2 excused, and one vacant position; the motion carried.

ORDER

This Commission, having duly considered Petitioner's pleadings and motion, the comments of the County and OP, and comments by the public, and a motion having been made at its meeting on September 30, 2015, in Kahului, island of Maui, and the motion having been seconded and having received the affirmative votes required by section 15-15-13, HAR, and there being good cause for the motion,

HEREBY GRANTS Petitioner's Motion and ORDERS that the Commission agrees to be the accepting authority pursuant to chapter 343, HRS, that the proposed Project may have a significant effect upon the environment to warrant the preparation of an EIS, and directs the Petitioner to file an EISPN available for a 30-day public review and comment period pursuant to Sections 343-5(c) and 343-5(e), HRS, and Section 11-200-15(b), HAR.

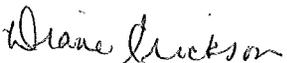


ADOPTION OF ORDER

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

Done at Honolulu, Hawai'i, this 22nd, day of October, 2015, per motion on September 30, 2015.

APPROVED AS TO FORM



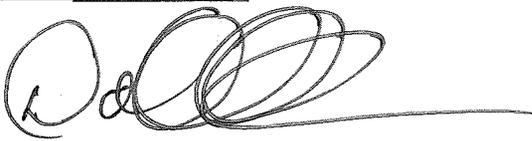
Deputy Attorney General

LAND USE COMMISSION
STATE OF HAWAI'I

By 

EDMUND ACZON
Chairperson and Commissioner

Filed and effective on:

October 22, 2015.

Certified by: _____
DANIEL E. ORODENKER
Executive Officer
State Land Use Commission



BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of

MAKILA LAND CO., LLC

To Amend The Agricultural Land Use District Boundaries Into The Rural Land Use District For Approximately 231 acres of land, consisting of Tax Map Key Nos. (2) 4-7-013:001, 002, 003, 004, 005, 006 (por.), 007 (por.), 008 (por.), 009, 010, 011, 012, And Into The Urban Land Use District For Approximately 40 acres of land, consisting of Tax Key Nos. (2) 4-7-013: 006 (por.), 007 (por.), 008 (por.) at Launiupoko, Polanui, Lahaina, Island and County of Maui, State of Hawai'i

DOCKET NO. A15-799

CERTIFICATE OF SERVICE

2015 OCT 22 P 3:12

LAND USE COMMISSION
STATE OF HAWAII

CERTIFICATE OF SERVICE

I hereby certify that due service of the within document was made by depositing the same with the United States Mail, postage prepaid, or by hand delivery, on October 22, 2015, addressed to:

LEO R. ASUNCION, JR., AICP
Acting Director
Office of Planning
State of Hawaii
235 South Beretania Street, 6th Floor
Honolulu, Hawaii 96813

BY HAND DELIVERY

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Deputy Attorney General
Department of the Attorney General
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Honolulu, HI 96813

BY MAIL

RAY MCCORMICK
Highways Administrator
Department of Transportation
State of Hawaii
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BY MAIL

WILLIAM SPENCE
Director, County of Maui Department of
Planning
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One Main Plaza Bldg., Ste 315
Wailuku, HI 96793

BY MAIL

PLANNING COMMISSION
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DAVID GOODE
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BY MAIL

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Honolulu, HI 96813

MAUI ELECTRIC COMPANY, BY MAIL
LIMITED
c/o Phil Hauret
Hawaiian Electric Company
1100 ASB Tower
1001 Bishop Street
Honolulu, HI 96813

HAWAIIAN TELCOM, INC BY MAIL
Attn: Legal Department
1177 Bishop Street
Honolulu, HI 96813

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ASSOCIATION, INC.
c/o Management Consultants of Hawaii
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HOMEOWNERS ASSOCIATION, INC.
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Lahaina, HI 96761-0039

KAUAULA LAND COMPANY LLC BY MAIL
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1001 Bishop St.,
Honolulu, HI 96813

BY CERTIFIED MAIL

DATED: Honolulu, Hawai'i, October 22, 2015.

A handwritten signature in black ink, consisting of several overlapping loops and a long horizontal stroke at the end, positioned above a horizontal line.

DANIEL ORODENKER
Executive Officer
State Land Use Commission