



BEFORE THE LAND USE COMMISSION  
OF THE STATE OF HAWAII

LAND USE COMMISSION  
STATE OF HAWAII  
2013 APR 19 P 12:14

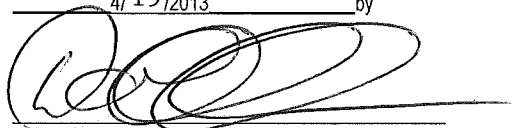
In The Matter Of The Petition Of	)	DOCKET NO. A10-787
	)	
MAUI R&T PARTNERS, LLC	)	FINDINGS OF FACT, CONCLUSIONS OF
	)	LAW, AND DECISION AND ORDER
To Amend The Agricultural Land Use	)	ACCEPTING A FINAL
District Boundary Into The Urban Land	)	ENVIRONMENTAL IMPACT
Use District For Approximately 253.05	)	STATEMENT AND CERTIFICATE OF
Acres Of Land At Kīhei, Island Of	)	SERVICE
Maui, State Of Hawai`i, Tax Map Keys:	)	
2-2-24: 16 And 17 And 2-2-02: Por. 54	)	
_____	)	

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND DECISION AND ORDER  
ACCEPTING A FINAL ENVIRONMENTAL IMPACT STATEMENT

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

4/19/2013 by  
  
Executive Officer



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FINDINGS OF FACT, CONCLUSIONS OF LAW, AND DECISION AND ORDER  
ACCEPTING A FINAL ENVIRONMENTAL IMPACT STATEMENT

The State Land Use Commission ("Commission"), having examined the proposed Final Environmental Impact Statement ("FEIS") filed by Maui R&T Partners, LLC ("Petitioner"), on March 5, 2013, and upon consideration of the matters discussed therein, at its meeting on April 4, 2013, in Kahului, Maui, Hawai'i, hereby makes the following findings of fact, conclusions of law, and decision and order:

## FINDINGS OF FACT

1. On June 23, 2010, Petitioner filed a Petition For District Boundary Amendment ("Petition") to reclassify approximately 253.05 acres of land at Kīhei, Island of Maui, State of Hawai'i, identified as Tax Map Keys: 2-2-24: 16 and 17 and 2-2-02: por. 54, from the State Land Use Agricultural District to the State Land Use Urban District for the Maui Research & Technology Park Master Plan Update ("Project").

2. An Environmental Assessment/Environmental Impact Statement Preparation Notice ("EA/EISPN") was included with the Petition pursuant to section 343-5(a)(6), Hawai'i Revised Statutes ("HRS"), and section 11-200-6(b)(2)(A), Hawai'i Administrative Rules ("HAR").

3. On July 15, 2010, and by a written Order dated July 27, 2010, the Commission (i) agreed to be the accepting authority pursuant to chapter 343, HRS; and (ii) determined that the proposed action may have a significant effect on the environment to warrant the preparation of an Environmental Impact Statement ("EIS").

4. The State Office of Environmental Quality Control ("OEQC") published notice of the availability of the EA/EISPN in its August 8, 2010, issue of *The Environmental Notice*, which began a 30-day public comment period that ended on September 7, 2010.

5. Upon receipt of the comments, Petitioner prepared a Draft EIS ("DEIS"). The OEQC published notice of the availability of the DEIS in its June 23, 2012, issue of *The Environmental Notice*, which began a 45-day public comment period that ended on August 7, 2012.

6. The following Federal, State, and County agencies and organizations/individuals provided written comments on the DEIS: the U.S. Department of the Interior, Geological Survey, Pacific Islands Water Science Center; the U.S. Department of the Interior, Fish and Wildlife Service, Pacific Islands Fish and Wildlife Office; the Commission; the State Office of Planning ("OP"); the State Department of Education; the State Department of Accounting and General Services; the State Department of Defense, Office of the Director of Civil Defense; the State Department of Health, Clean Air Branch, Environmental Planning Office, Wastewater Branch, Maui District Health Office, Safe Drinking Water Branch, Solid and Hazardous Waste Branch; the State Department of Transportation; the State Department of Land and Natural Resources, Historic Preservation Division, Engineering Division, Land Division, Division of Aquatic Resources, Division of State Parks; the University of Hawai'i at Mānoa, Environmental Center; the County Department of Planning, Zoning Administration and Enforcement Division; the County Department of Housing and Human Concerns; the County Department of Fire and Public Safety, Fire Prevention

Bureau; the County Department of Transportation; the County Department of Parks and Recreation; the County Department of Public Works; the County Department of Water Supply; Hawaiian Telcom; State Senator Rosalyn H. Baker; and Victoria A. Huffman.

7. On March 5, 2013, Petitioner filed the proposed FEIS with this Commission.

8. On April 4, 2013, the Commission met in Kahului, Maui, Hawai'i, to consider acceptance of Petitioner's proposed FEIS. Curtis T. Tabata, Esq., Wyeth M. Matsubara, Esq., and Steve Perkins appeared on behalf of Petitioner. James Giroux, Esq., and Kurt Wollenhaupt appeared on behalf of the DP. Bryan C. Yee, Esq., appeared on behalf of OP. At the meeting, Victoria A. Huffman provided oral testimony.<sup>1</sup> Following the receipt of public testimony, Petitioner provided a background of the Project and an assessment of the proposed FEIS's compliance with the requirements of chapter 343, HRS, and chapter 11-200, HAR.

9. The DP stated that it supported the acceptance of the proposed FEIS.

10. The OP stated that it had no objection to the acceptance of the proposed FEIS, but noted that it did not receive a copy of the proposed FEIS in a timely

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<sup>1</sup> Ms. Huffman had e-mailed comments on the proposed FEIS to the Commission office on April 1, 2013.

manner and that the organization and structure of the document made it difficult to review.

11. The Commission finds that the proposed FEIS substantially conforms to the content requirements of section 11-200-18, HAR, to the extent that it includes (i) the DEIS revised to incorporate substantive comments received during the consultation and review processes; (ii) reproductions of all letters received containing substantive questions, comments, or recommendations; (iii) a list of persons, organizations, and public agencies commenting on the DEIS; (iv) the responses of Petitioner to each substantive question, comment, or recommendation received in the review and consultation processes; and (v) text written in a format that allows the reader to easily distinguish changes made to the text of the DEIS.

12. After due deliberation at the Commission's meeting on April 4, 2013, a motion was made and seconded to accept Petitioner's proposed FEIS. There being a vote tally of 8 ayes, 0 nays, and 1 excused, the motion carried.

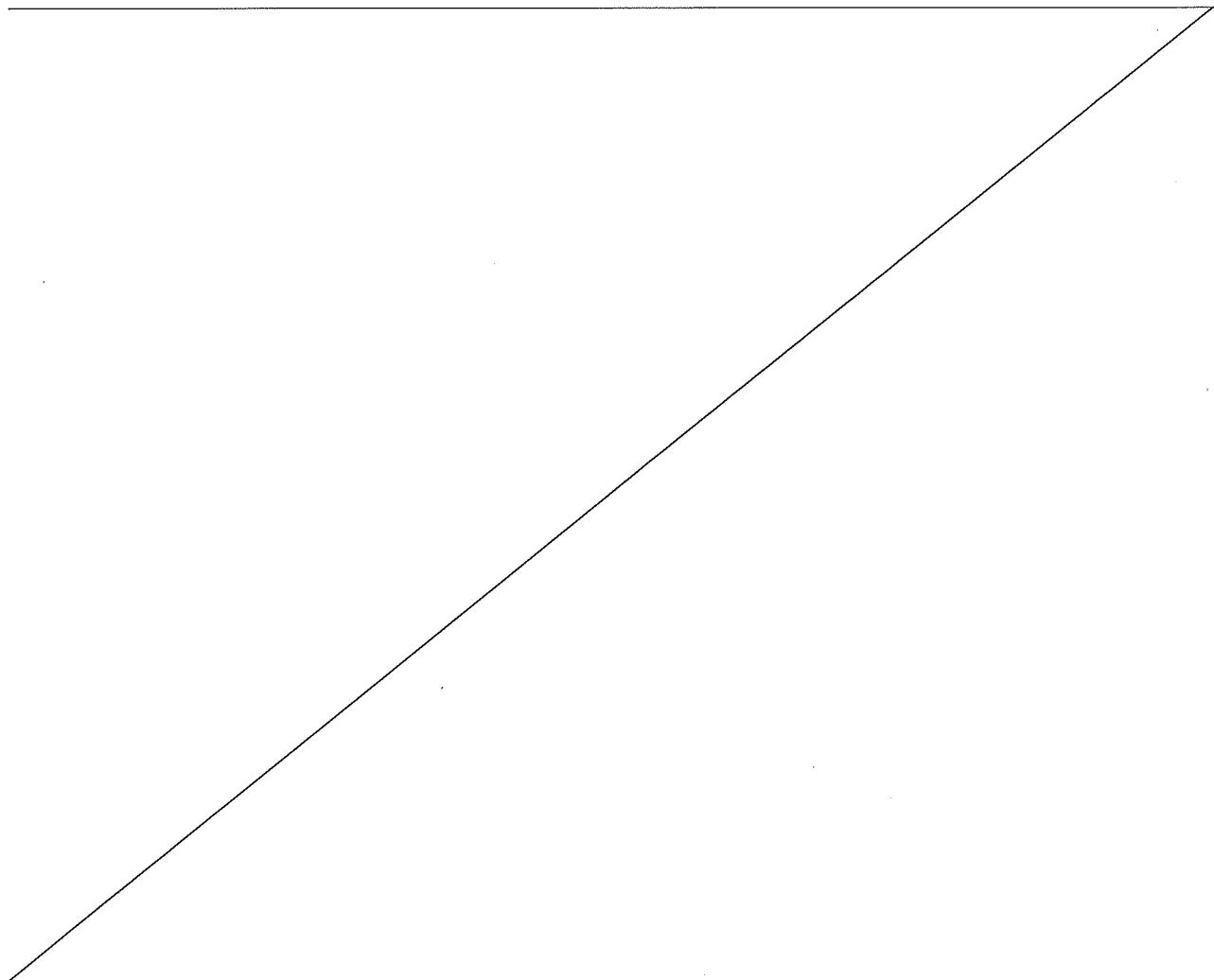
#### CONCLUSIONS OF LAW

Pursuant to chapter 343, HRS, and the EIS Rules under chapter 11-200, HAR, and a motion having been made at a meeting on April 4, 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, this Commission concludes that

Petitioner's proposed FEIS substantially satisfies the criteria and procedures governing the acceptance of an FEIS under section 11-200-23, HAR.

DECISION AND ORDER

IT IS HEREBY ORDERED that the proposed FEIS filed by Petitioner in Docket No. A10-787/Maui R&T Partners, LLC, be ACCEPTED pursuant to chapter 343, HRS, and chapter 11-200, 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 19th day of April, 2013, per motion on April 4, 2013.

LAND USE COMMISSION

APPROVED AS TO FORM

STATE OF HAWAII

  
Deputy Attorney General

By   
KYLE CHOCK  
Chairperson and Commissioner

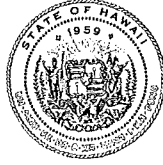
Filed and effective on:

4/19/13

Certified by:

  
DANIEL ORODENKER  
Executive Officer





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CERTIFICATE OF SERVICE

I hereby certify that a FINDINGS OF FACT, CONCLUSIONS OF LAW, AND DECISION AND ORDER ACCEPTING A FINAL ENVIRONMENTAL IMPACT STATEMENT for DOCKET NO. A10-787 was served upon the following by either 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		
BRYAN YEE, ESQ. Deputy Attorney General Hale `Auhau, Third Floor 425 Queen Street Honolulu, Hawai`i 96813		X	

	HAND DELIVERED	REGULAR MAIL	CERTIFIED MAIL
CURTIS T. TABATA, Esq. Matsubara-Kotake 888 Mililani Street, 8 <sup>th</sup> Floor Honolulu, Hawaii 96813			X
William Spence, Director Department of Planning County of Maui 250 South High Street Wailuku, Hawaii 96793		X	
JAMES GIROUX, Esq. Corporation Counsel County of Maui 250 South High Street Wailuku, Hawaii 96793			X

Honolulu, Hawai'i, April 19\_\_, 2013.



DANIEL ORODENKER

Executive Officer