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LAND USE COMMISSION
STATE OF HAWAII
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BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of:

DOCKET NO. A11- 794

STATE OF HAWAII, DEPARTMENT OF
EDUCATION

To Amend the Agricultural Land Use District
Boundaries into the Urban Land Use District
for Approximately 77.2 acres of land at Kihei,
Maui, Hawaii, Maui Tax Map Key No. 2-2-
02: 81 and 83.

AMENDED PETITION FOR LAND USE DISTRICT BOUNDARY AMENDMENT

VERIFICATION

EXHIBITS NOS. 9 - 15

AFFADAVIT OF MAILING

CERTIFICATE OF SERVICE

DOCKET NO. A11- 794

To Amend the Agricultural Land Use District Boundaries into the Urban Land Use District for Approximately 77.2 acres of land at Kihei, Maui, Hawaii, Maui Tax Map Key No. 2-2-02: 81 and 83.

2. Authority for Relief Sought. Petitioner has filed this Petition pursuant to Section 205-4, Hawaii Revised Statutes ("HRS") and Section 15-15-46 et seq., Hawaii Administrative Rules ("HAR").

3. Environmental Impact Statement. Attached as Exhibit No. 9 is the Final Environmental Impact Statement (the "FEIS") for the Project which was accepted by Governor Neil Abercrombie, as the appropriate Accepting Authority, on November 9, 2012. Governor Abercrombie's acceptance is attached as Exhibit No. 10. Petitioner believes an Environmental Impact Statement ("EIS") is required for the Project because development of the Project will require use of State land and funds for design, entitlement and construction. Use of State land or State funds is an action described under Section 343-5(a)(1), Hawaii Revised Statutes.

Petitioner, as the State department initiating the proposed action, engaged Group 70 International, Inc. ("Group 70") to prepare the EIS. Group 70 prepared and submitted an Environmental Impact Statement Preparation Notice ("EISPN") on behalf of Petitioner to the Office of Environmental Quality Control ("OEQC") on October 28, 2009. OEQC published notice of the EISPN in the Environmental Notice on November 8, 2009. Group 70 prepared and submitted a Draft Environmental Impact Statement ("DEIS") on behalf of Petitioner to OEQC on December 13, 2011. OEQC published notice of the DEIS in the Environmental Notice on December 23, 2011. A copy of the DEIS was submitted previously as Exhibit No. 1. Group 70 compiled the public comments on the DEIS and has responded to all comments in the FEIS.

4. Legal Name of Petitioner. Petitioner's exact legal name and location of its principal place of business is:

State of Hawaii, Department of Education (DOE)
Office of School Facilities and Support Services
Facilities Development Branch
1151 Punchbowl Street, Room 501
Honolulu, Hawaii 96813

5. Communications To Petitioner. The name title and address of the persons to whom correspondence or communications in regard to this Petition are to be served are as follows:

Petitioner: Ken Masden- Public Works Manager
State of Hawaii, Department of Education (DOE)
Office of School Facilities and Support Services,
Facilities Development Branch
Planning Section
4680 Kalanianaʻole Highway, TB-1A
Honolulu, Hawaii 96821
Phone: (808) 377-8301

Petitioner's Agent: Group 70 International, Inc.
925 Bethel Street, 5th Floor
Honolulu, HI 96813
Contact: Christine Ruotola, AICP
Telephone: (808) 523-5866, Ext. 121
Email: cruotola@group70int.com

Petitioner's Attorney: ALSTON HUNT FLOYD & ING
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6. Description of the Petition Area. The land which is the subject of this Petition (the "Petition Area") is situated at Kihei, Maui, Hawaii, and is comprised of two separate parcels of land: (1) Lot 1-A-1 of the Kaonolulu Ranch – Water Tank Subdivision, containing approximately 29.175 acres and identified as Maui Tax Map Key No. 2-2-02:81, and (2) Lot 2-A of the Anawio Subdivision, containing approximately 48.007 acres and identified as Maui Tax Map Key No.: 2-2-02:83.

A map generally identifying the location of the Petition Area is shown as Figure 1-2 in the FEIS. A map depicting the Petition Area to be reclassified into the State Land Use

Urban District is shown as Figure 1-4 in the FEIS. Survey maps describing the Petition Area by metes and bounds were submitted previously as Exhibit Nos. 2 and 3. Metes and bounds descriptions of the proposed State Land Use Urban District were also previously submitted as Exhibit Nos. 4 and 5.

A full sized copy of Maui Tax Map No. 2-2-2 modified to show the Petition Area is attached as Exhibit No. 11 and incorporated by reference. A letter from County of Maui, Department of Public Works to Michael E. Silva, Ronald M. Fukumoto Engineering, Inc., which identifies the Petition Area lots by the newly issued Tax Map Parcel Numbers, 2-2-02:81 & 83, is attached as Exhibit 12 and incorporated by reference. Petitioner shall provide such other descriptions and maps of the Petition Area to the Commission as the Commission may require.

7. Reclassification Sought, Present Use of the Petition Area, Assessment of Conformity.

(a) The Petition Area is presently classified in the State Land Use Agricultural District. Petitioner seeks to reclassify the Petition Area to the State Land Use Urban District to develop Kihei High School, a new public high school to serve the South Maui Region and relieve overcrowding in Central Maui's Baldwin High School and Maui High School. These two schools presently accommodate South Maui high school students. Site development would include construction of approximately 209,435 square feet of educational buildings and approximately 575,660 square feet of athletic facilities to support a planned initial enrollment capacity of 800 students with the potential to expand to 1,650 students as population increase requires and funding becomes available. Petitioner proposes to design and construct the Kihei High School to meet or exceed the U.S. Green Building Council's Leadership in Energy and Environmental Design ("LEED") for Schools Rating System Silver certification, or such other sustainable building standard as may be promulgated by the Board of Education or the State

Legislature. The Project will also include associated athletic facilities, i.e. football stadium, tennis courts, a track, soccer, baseball and softball fields and necessary infrastructure improvements, i.e. new roadways, utilities, drainage, wastewater and potable water systems. Petitioner proposes to construct an extension of Kulanihakoi Street mauka of Pi'ilani Highway to serve as the main campus access road.

(b) The FEIS includes an assessment of conformity of the reclassification to the standards for determining the boundaries for the Urban District. Petitioner submits that the Petition Area conforms to standards set forth in §15-15-18, HAR, because the Petition Area is adjacent to North Kihei, a residential and resort community in the State Land Use Urban District, which community comprises a center of trading and employment.

(c) In addition, basic public services and facilities are available to the Petition Area. The Petition Area is reasonably free from danger of flood, tsunami, unstable soil conditions and other adverse environmental effects. The Petition Area is also immediately east of and is located across Pi'ilani Highway from other land presently classified in the State Land Use Urban District.

(d) The Project does not presently conform to the Kihei-Makena Community Plan Land Use Map, but the Draft Maui Island Plan, as prepared by the County of Maui Planning Department and modified by the General Plan Advisory Committee ("GPAC") and County of Maui Planning Commission, recommends that the Urban Growth Boundary include the Kihei Mauka Planned Growth Area, which includes the Petition Area. The Draft Maui Island Plan includes Kihei High School among the proposed land uses. The Maui County Council's General Plan Committee is presently reviewing the Draft Maui Island Plan.

8. Petitioner's Petition Area Interest. State of Hawaii Board of Land and Natural Resources ("BLNR") is the fee simple owner of the two lots comprising the Petition

Area. Kaonoulu Ranch conveyed Lot 1-A-1 (Tax Map Key No. 2-2-02:81) to BLNR by deed dated January 13, 2012, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii as Document No. 43950673. Haleakala Ranch conveyed Lot 2-A (Tax Map Key No. 2-2-02:83) to BLNR by deed dated January 13, 2012, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii as Document No. 43950672. Copies of the deeds for the Petition Area are attached as Exhibit Nos. 13 and 14 and incorporated by reference. An authorization letter from State of Hawaii Board of Land and Natural Resources is attached as Exhibit No. 15 and incorporated by reference.

9. Type of Development Proposed. Petitioner will develop a public high school on the Petition Area. Although surrounding landowners are contemplating development of a master planned community mauka of the Petition Area, Petitioner's involvement will be limited to development of the high school on the Petition Area. Petitioner is not participating in any planning process to develop the remainder of surrounding landowners' other lands.

10. Petitioner's Financial Condition and Funding for the Project. As a State department, Petitioner is not required by Section 15-15-50(c)(8), HAR to provide a financial statement. The State of Hawaii, in the General Appropriations Act of 2008, SLH 2008, C 158, had appropriated \$20 million for the planning, land acquisition, design and construction of Kihei High School. Petitioner will continue to request additional appropriations for design and construction. Petitioner is considering different options to design, construct and finance construction of Kihei High School, including a design-build contract, development by a private entity who will lease the school to Petitioner, or the traditional method of the State appropriating capital improvement funds and the State issuing general obligation bonds to provide additional funds sufficient to complete design and construction of the Project.

11. Description of the Petition Area, Surrounding Areas and Use of Land.

The Petition Area is presently in low productivity pasture use. A complete description of the Petition Area and a description of the topography, soil classification and agricultural potential of the Petition Area are included in the FEIS.

12. Assessment of the Impacts of the Proposed Development Upon the

Environment. A complete description of the impact that development of the Project will have on the surrounding landowners' use of the Petition Area for agricultural purposes and the agricultural resources in the area is included in the FEIS. A complete description of the impact development of the Project would have on natural resources in the area is included in the FEIS. Complete descriptions of the impact that development of the Project would have on archaeological and cultural resources, public recreation resources, traffic, noise, air quality and socio-economic resources is included in the FEIS.

13. Availability of Public Services and Facilities. A complete description of

the availability and impact that development of the Project would have on public services is included in the FEIS. A complete description of the availability and adequacy of public facilities to serve the Project, such as roadway, drainage, water and waste facilities, is included in the FEIS.

14. Location of the Proposed Development in Relation to Adjacent Land Use

Districts. The Petition Area is located immediately mauka of and is adjacent to the North Kihei Community in the Urban District.

15. Economic Impacts of the Proposed Development. The economic impact

assessment of the Project on the Kihei-Makena community and an economic analysis of the Project are included in the FEIS.

16. Assessment of Need for the Reclassification. Petitioner's assessment of

population growth trends justifies the need for development and construction of a public high school to serve South Maui's growing population and to alleviate the need to transport high school age children to Baldwin High School and Maui High School, Central Maui's two public high schools that presently serve the South Maui community. Development of the Project will reduce overcrowding at Baldwin High School and Maui High School. A complete description of the need for the Project is included in the FEIS.

17. Assessment of Conformity to State Planning Policies. A complete discussion of the Project community's conformance to the applicable goals, objectives and policies of the Hawaii State Plan and the applicable priority guidelines and functional plan policies is included in the FEIS.

18. Assessment of Conformity to Objectives of The Coastal Zone Management Program. A complete discussion of the Project's conformance to objectives and policies of the Coastal Zone Management program as described in Chapter 205A, HRS, is included in the FEIS.

19. Assessment of Conformity to Applicable County Development Policies. The County of Maui Planning Department's proposed Draft Maui Island Plan and amendments to the Kihei-Makena Community Plan propose a Kihei Mauka Expansion Area that includes the Petition Area and Kihei High School as a proposed use.

20. Assessment of Need for Incremental Reclassification. Petitioner intends to develop and construct the Project in two phases. Phase I consists of development of the entire Kihei High School campus and includes construction of all essential classroom and other buildings. Phase II will involve campus expansion. A proposed Conceptual Phasing Plan for the Project is shown as Figure 2-2 in the FEIS.

Phase I involves construction of on-site and off-site infrastructure improvements for the entire campus site, including campus driveways, fire lanes, parking and walkways, and Piilani Highway improvements including traffic signalization, grading, drainage and utilities. Phase I will include complete facilities for the high school campus to serve a student population of approximately 800 students. The major features are two classroom houses, an administrative/student center, library, cafeteria, selected elective buildings and selected athletics facilities. Current plans contemplate developing Phase I utilizing a design-build contract that combines design and construction of the entire campus under a single contract. Although the design-build contract will specify the development program for the campus, the exact location of buildings and improvements will be determined during the design phase.

Petitioner intends to commence design and construction of Phase I as soon as all discretionary permits have been obtained, and to complete Phase I within ten (10) years of reclassification. Assuming approval of necessary entitlements and appropriation of sufficient funds, design and construction may be anticipated to take approximately two years to complete, prior to school opening projected for 2016, providing funds are available.

Phase II would consist of additional classroom houses and other amenities to be constructed when enrollment increases justify the improvements. Completion of Phase II would increase the school's capacity to a maximum student population of 1,650 students. Phase II facilities could include construction of two additional classroom houses, additional electives buildings, an auditorium and a swimming pool and remaining athletics facilities. The buildings and the potential future facilities comprising Phase II will be integrated in the campus master plan. Phase II facilities and future improvements may not be located in a single contiguous area.

The design and construction schedule for Phase II is not predetermined, but will also be based on availability of State funding. Subject to approval of the Legislature and release

of funds by the Governor and the demands of population growth in South Maui, individual elements of Phase II could be constructed separately, with projected completion of Phase II construction scheduled to be approximately 10 years after the completion of Phase I. A complete discussion of these factors is included in the FEIS.

Backbone infrastructure and facilities for the entire campus site will be developed across entire parcels during Phase I. Therefore the entire Petition Area should be reclassified to the Urban District at one time rather than in increments. Petitioner also requests that no condition be imposed on timing of completion of infrastructure improvements.

21. Assessment of Impacts on Hawaiian Customary and Traditional Rights.

An assessment of the impact that development of the Petition Area would have on Native Hawaiian customary and traditional rights under Article XII, Section 7 of the Hawaii State Constitution is included in the FEIS. An assessment of the impact that development of the Petition Area would have on access and trails is included in the FEIS. In addition, a Cultural Impact Study is included in the FEIS.

22. Written Comments to the Petition. Petitioner attached all written comments and responses to the EISPN in the DEIS and attached all written comments and responses to the EISPN and to the DEIS in the FEIS.

WHEREFORE, Petitioner respectfully requests that the Land Use Commission amend the land use district boundaries of the Petition Area from the State Land Use Agricultural District to the State Land Use Urban District, for the purposes and in the manner proposed in this Petition.

DATED: Honolulu, Hawaii, December 13th, 2012.

STATE OF HAWAII, DEPARTMENT OF
EDUCATION

By: 

Name: DUANE KASHIWAI

Title: Administrator, Facilities Development Branch