

Christine L. Andrews, J.D.
605 South Alu Road
Wailuku, HI 96793

LAND USE COMMISSION
STATE OF HAWAII

Phone: 808-250-3678 Email: mauiwit@hotmail.com 2014 JAN -2 A 8:02

December 31, 2013

Mr. Dan Orodener
Executive Director
Land Use Commission

(Also via email to: luc@dbedt@hawaii.gov and fax to: 808-587-3827)

P.O. Box 2359

Honolulu, HI 96813

SUBJECT: H.A.R. 11-200-15(B) Request to Become A Consulted Party, and
H.A.R. 11-200-15(B) Request By Consulted Party That Land Use Commission, As
Approving Agency, Extend the Period for Comments for Thirty Days, or until February
6, 2014, for: Docket No. A06-766/Towne Development of Hawaii, Inc., Endurance
Investors, LLC, and Association of II Wai Hui LP.
EISPN-Proposed Pu'unani Subdivision Project, TMK: 3-5-02:2 and Por. 3, Wailuku,
Maui, Hawaii

Dear Sir or Madam:

My residence at 605 South Alu Road, Wailuku, Maui, Hawaii, is in Wailuku Heights, directly uphill from, and adjacent to, the Proposed Pu'unani Subdivision Project (the Project) area. The EISPN for the Project was published in the December 8, 2013 Environmental Notice. Please consider this my timely request under Section 11-200-15(B) of the Hawaii Administrative Rules (H.A.R.) to become a consulted party for the Project. I will be submitting my written comments separately.

As a Consulted Party, this is also my written request, as authorized under H.A.R. Section 11-200-15(B), to the Land Use Commission, as the approving agency, to extend the period for comments under the EISPN Notice for thirty days until February 6, 2014, upon good cause as outlined below.

H.A.R. Section 11-200-14 "General Provisions" provides the following guidance regarding the intent and purpose of the EIS process and the obligations of the Land Use Commission, as approving agency, in making a determination regarding my request for extension of the public comment period, "Agencies shall ensure that statements are prepared at the earliest opportunity in the planning and decision-making process. This shall assure an early open forum for discussion of adverse effect and available alternatives, and that the decision-makers will be enlightened to any environmental consequences of the proposed action."

I also refer the Land Use Commission to the following language from H.A.R. Section 11-200-15(A), "applicants shall endeavor to develop a fully acceptable EIS prior to the time the EIS is filed with the office, through a full and complete consultation process, and shall not rely solely upon the review process to expose environmental concerns."

The factual basis for the determination of good cause to extend the comment period for thirty days to February 6, 2014, is as follows:

1. In 2009, I submitted comments during a prior public comment period. At that time I requested that Applicant place me on its mailing list to be personally notified regarding significant developments as to the Project or any public comment opportunities.
2. From 2009 to date, I have received no personal notification from Applicant regarding any action on the Project. Due to the economic downturn, I assumed that the Project was no longer economically viable.
3. In a letter dated November 25, 2013, to the Office of Environmental Quality Control, the Land Use Commission indicated that the previous Draft EIS for the Project had been withdrawn and a new EISPN prepared. In the letter, LUC submitted copies of the new EISPN and requested publication in The Environmental Notice.
4. In a letter dated December 5, 2013, to the Wailuku Heights I and II Association, c/o Paul Ueoka, Applicant's consultant Munekiyo & Hiraga, Inc. gave notice of the EISPN, the anticipated December 8, 2013, publication date, and the 30-day comment deadline of January 7, 2014. Considering the date of the LUC letter to OEQC of Nov. 25, 2013, the delay of notice to the Association until Dec. 5 seems unnecessary and inconsistent with the intent of the H.R.S. and H.A.R. to have a full, open, and informed EIS process.
5. Paul Ueoka, Wailuku Heights Extension Community Association President, is an attorney with the law firm Carlsmith Ball in Wailuku. The law firm Carlsmith Ball represents Applicant. There appears to be a conflict of interest in Mr. Ueoka representing Applicant and also the Association on this matter, especially as it related to statutory notice.
6. Although the notice from Munekiyo & Hiraga, Inc. was dated December 5, 2013, and the letter was sent locally, so Mr. Ueoka should have received it on December 6, 2013, Mr. Ueoka did not forward the notice to the Association members until December 10, 2013. Given the time-sensitive nature of the notice, this delay is not consistent with the intent of the H.R.S. and H.A.R. regarding the EIS process.
7. The Wailuku Heights Extension Community Association is not a very active association. The Association sends out a newsletter about twice a year, including once in December. The timing of the EISPN notice coincided with the time of year when Association residents receive the (not very informative) newsletter. Many Association members, including myself, assumed that the mail containing the EISPN notice was, in fact, just the Association newsletter and did not treat it with the urgency they would have had it arrived in any other month than the month the semi-annual newsletter also generally arrives.
8. The notice regarding the EISPN should have come from Applicant or Applicant's representatives, not from the Association. If the EISPN notice had come from Applicant or Applicant's representatives, Association members would have better understood the urgency of the matter discussed.
9. The burden is on Applicant and the Approving Agency to ensure the EIS process, as required by H.A.R. 11-200-14, provides "an early open forum for discussion." Applicant did not meet this burden. Applicant could have, and should have, directly contacted individual adjacent landowners. This is easily accomplished by accessing the Maui County Real Property tax search website, which can automatically generate mailing labels for surrounding property owners. As a planning consultant, Applicant's consultant is aware of this system and its ease of use. All applicant needs to enter is the desired radius for notification in feet. Compiling such a list takes seconds, and would have been the appropriate means of notifying concerned individuals instead of putting the expense of notification mailing upon neighboring Community Associations and taking up limited public comment period time in the process.
10. The publication in The Environmental Notice on December 8, 2013, was the worst possible publication date for the purposes of compliance with the intent of the EIS process as

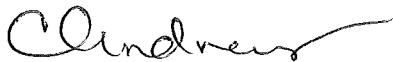
outlined in H.A.R. 11-200-14 and 11-200-15(A). The publication date and comment period coincide with the busy holiday season and school vacation periods. Many Association members are traveling off-island, including many of my friends and neighbors whom have a direct interest in the Project. Many are not expected to return until Sunday, January 5, 2014, just in time for the beginning of school on Monday, January 6, 2014. The public comment deadline of January 7, 2013, seems intended to make it difficult or impossible for many Association members to participate in the public comment process.

11. In a conversation with OEQC on December 30, 2013, it was brought to my attention that this Project is the first under new "Direct to EIS" rules that allows the Project to bypass the Environmental Assessment process. This Project is the first one to go out to statutory comment period under this new process.
12. Considering that this Project has not had any activity since 2009, the application of this rapid "Direct to EIS" process to this Project as the first Project to go to statutory comment period seems in contravention of the intent for public input outlined in Chapter 343, Hawaii Revised Statutes, and the obligation of LUC, under H.A.R. Section 11-200-14 as the Approving Agency to "assure an early open forum for discussion of adverse effects and available alternatives."

Based upon the foregoing factual basis, there is good cause shown for the Land Use Commission to exercise its authority under H.A.R. Section 11-200-15(B) to grant my request as a consulted party to extend the period for comments for a period not to exceed thirty days.

I await the timely decision of the Land Use Commission regarding this time-sensitive request.

Yours truly,



Christine L. Andrews, J.D. individually and as Trustee, Christine Andrews Trust

c.c. Ms. Colleen Suyama, Senior Associate

Munekiyo & Hiraga, Inc.

(Also via email to: colleen@mhplanning.com and fax to: 808-244-8729)

305 High Street, Suite 104

Wailuku, HI 96793

c.c. Hawaii Office of Environmental Quality Control

(Also via email to: oeqchawaii@doh.hawaii.gov and fax to: 808-586-4186)

235 S. Beretania St., Ste. 702

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James P. Heine
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As a Consulted Party, this is also my written request, as authorized under H.A.R. Section 11-200-15(B), to the Land Use Commission, as the approving agency, to extend the period for comments under the EISPN Notice for thirty days until February 6, 2014, upon good cause as outlined below.

H.A.R. Section 11-200-14 "General Provisions" provides the following guidance regarding the intent and purpose of the EIS process and the obligations of the Land Use Commission, as approving agency, in making a determination regarding my request for extension of the public comment period, "Agencies shall ensure that statements are prepared at the earliest opportunity in the planning and decision-making process. This shall assure an early open forum for discussion of adverse effect and available alternatives, and that the decision-makers will be enlightened to any environmental consequences of the proposed action."

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The factual basis for the determination of good cause to extend the comment period for thirty days to February 6, 2014, is as follows:

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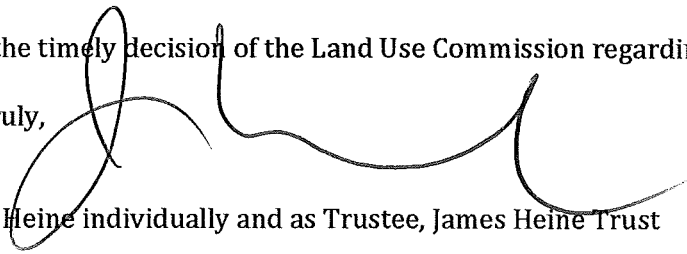
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Yours truly,


James P Heine individually and as Trustee, James Heine Trust

c.c. Ms. Colleen Suyama, Senior Associate
Munekiyō & Hiraga, Inc.
(Also via email to: colleen@mhplanning.com and fax to: 808-244-8729)
305 High Street, Suite 104
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c.c. Hawaii Office of Environmental Quality Control
(Also via email to: oeqchawaii@doh.hawaii.gov and fax to: 808-586-4186)
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LAND USE COMMISSION
STATE OF HAWAII

Laina Babstock
P.O. Box 2705
Wailuku, HI 96793

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EISPN-Proposed Pu'unani Subdivision Project, TMK: 3-5-02:2 and Por. 3, Wailuku, Maui, Hawaii

Dear Sir or Madam:

I am a resident of Wailuku Town, and I believe that the agricultural history, sense of place, open space, and natural environment of the Wailuku district where I reside will be significantly and detrimentally impacted by the Proposed Pu'unani Subdivision Project (the Project) area. The EISPN for the Project was published in the December 8, 2013 Environmental Notice. Please consider this my timely request under Section 11-200-15(B) of the Hawaii Administrative Rules (H.A.R.) to become a consulted party for the Project. I will be submitting my written comments separately.

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2. The EISPN was published in the December 8, 2013 Environmental Notice.
3. The publication in The Environmental Notice on December 8, 2013, was the worst possible publication date for the purposes of compliance with the intent of the EIS process as outlined in H.A.R. 11-200-14 and 11-200-15(A). The publication date and comment period coincide with the busy holiday season and school vacation periods. I believe that the publication date was selected with the intent of undermining public participation by having it published during a traditionally busy holiday season when many Maui travel off-island or are occupied with children on school break and visiting family. This timing has precluded the participation of many residents, including many of my friends and neighbors, whom have a direct interest in the Project. Many are not expected to return until Sunday, January 5, 2014, just in time for the beginning of school on Monday, January 6, 2014. The public comment deadline of January 7, 2013, seems intended to make it difficult or impossible for many Maui and Wailuku residents to participate in the public comment process.
4. My understanding is that this Project is the first under new "Direct to EIS" rules that allows the Project to bypass the Environmental Assessment process. This Project is the first one to go out to statutory comment period under this new process. Considering that this Project has not had any activity since 2009, the application of this rapid "Direct to EIS" process to this Project as the first Project to go to statutory comment period seems in contravention of the intent for public input outlined in Chapter 343, Hawaii Revised Statutes, and the obligation of LUC, under H.A.R. Section 11-200-14 as the Approving Agency to "assure an early open forum for discussion of adverse effects and available alternatives."

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Laina Babstock

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