

BEFORE THE LAND USE COMMISSION

OF THE STATE OF HAWAI'I

In the matter of the Petition	)	DOCKET NO. A05-756
	)	
of	)	ORDER DETERMINING (1) THAT
	)	THE LAND USE COMMISSION
KAANAPALI DEVELOPMENT CORP.	)	AGREES TO BE THE ACCEPTING
	)	AUTHORITY PURSUANT TO
To Amend the Agricultural Land Use	)	CHAPTER 343, HAWAI'I
District Boundary for approximately	)	REVISED STATUTES; and (2)
849.77 acres of land to the Urban District	)	DETERMINING THAT THE
at Honokowai, Hanakoo, Kuhua and	)	PROPOSED ACTION MAY HAVE
Kapunakea, Island and County of Maui,	)	A "SIGNIFICANT IMPACT" TO
State of Hawai'i, Tax Map Key Nos.: 4-4-	)	WARRANT THE PREPERATION
2-: 39, 4-4-2-: 40, 4-4-2: 41, 4-4-2: 42 and 4-	)	OF AN ENVIRONMENTAL
4-: 70 (por.) Second Taxation Division	)	IMPACT STATEMENT

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ORDER (1) DETERMINING THAT THE LAND USE COMMISSION AGREES TO BE THE ACCEPTING AUTHORITY PURSUANT TO CHAPTER 343, HAWAI'I REVISED STATUTES; and (2) DETERMINING THAT THE PROPOSED ACTION MAY HAVE A "SIGNIFICANT IMPACT" TO WARRANT THE PREPERATION OF AN ENVIRONMENTAL IMPACT STATEMENT

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ORDER (1) DETERMINING THAT THE LAND USE COMMISSION AGREES TO BE THE ACCEPTING AUTHORITY PURSUANT TO CHAPTER 343, HAWAII REVISED STATUTES; and (2) DETERMINING THAT THE PROPOSED ACTION MAY HAVE A "SIGNIFICANT IMPACT" TO WARRANT THE PREPERATION OF AN ENVIRONMENTAL IMPACT STATEMENT

KAANAPALI DEVELOPMENT CORP., a Hawai'i corporation ("Petitioner"), filed its Petition for State Land Use District Boundary Amendment on February 23, 2005, to amend the State Land Use District Boundary for approximately 849.77 acres of land situated at Honokowai, Hanakoo, Kuhua and Kapunakea, Island and County of Maui, State of Hawai'i, and designated by Tax Map Key Nos.: 4-4-2: 39, 4-4-2: 40, 4-4-2: 41, 4-4-2: 42, and 4-4-6: 70 (por.), Second Taxation Division ("Petition Area"), from the

Agricultural Land Use District to the Urban Land Use District for the development of single- and multi-family residences, commercial, mixed-use, and public and quasi-public improvements (“Project”). Included with the Petition was Petitioner’s Environmental Impact Statement Preparation Notice (“EISPN”).

Petitioner asserted that pursuant to § 343-5(c), HRS, the Project requires the preparation of an EISPN and EIS because the Petitioner alleges that the Project requires: (1) an amendment to the West Maui Community Plan; (2) improvements to or a replacement of wastewater pump stations no. 1 and no. 2 and to the Lahaina Wastewater Reclamation Facility situated on lands owned by the County of Maui; (3) improvements to Honoapiilani Highway, on lands owned by the State of Hawaii; and (4) improvements to Puukoolii Road, owned by the County of Maui. In the Petition, Petitioner asserted that this docket is the earliest practicable time that an EISPN could be prepared. The Petitioner then requested the Land Use Commission (“Commission”) to review and issue the appropriate determination to the EISPN and environmental impact statement (“EIS”) for the Project, all before entering a decision and order relating to a change in land use classification.

On March 3, 2005, the Commission held its meeting in Makena, Maui, for the following: 1) to determine whether the Commission should be the accepting authority pursuant to Chapter 343, HRS; and 2) if so, to determine whether the Project may have a “significant impact” sufficient to warrant the preparation an EIS pursuant to Chapter

343, HRS. In attendance were Petitioner; the Planning Department, County of Maui (“County”); and the Office of Planning, Department of Business, Economic Development and Tourism, State of Hawaii (“OP”).

Petitioner stood by its position. The County concurred with Petitioner’s legal analysis asserting that the LUC is the appropriate accepting authority. OP concurred with the County’s position and added that OP did not object to the Petitioner’s preparation of an EIS.

Commissioner Lisa M. Judge stated that she would like to recognize that certain issues regarding whether the Land Use Commission is the appropriate accepting authority and whether a land use district amendment is the appropriate time to require an environmental assessment or an environmental impacts statement are on appeal to the Hawaii Supreme Court.

At its meeting on March 3, 2005, a motion was made with the above mentioned disclaimer that: (1) the Commission agrees to accept responsibility for receiving and acceptance of the EISPN and EIS and, (2) that the proposed action warrants the preparation of an EIS, pursuant to Chapter 343, HRS, was made and seconded. There being a vote tally of seven ayes and no nays, the motion carried, having received the affirmative votes required by Section 15-15-13, HAR.

ORDER

IT IS HEREBY ORDERED that the Commission: (1) agrees to be the accepting authority under HRS Chapter 343, and (2) determines that the proposed action warrants preparation of an EIS in Docket No. A05-756 pursuant to Chapter 343, HRS, by the authority of the presiding officer under section 15-15-60, HAR.

Dated: Honolulu, Hawai'i, APR - 5 2005.


LAND USE COMMISSION  
STATE OF HAWAII



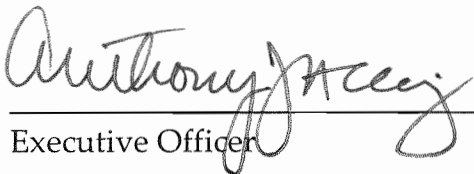
By P. ROY CATALANI  
Chair and Commissioner

APPROVED AS TO FORM:

Filed and effective on  
APR - 5 2005, 2005

  
\_\_\_\_\_  
Deputy Attorney General

Certified by:

  
\_\_\_\_\_  
Executive Officer

BEFORE THE LAND USE COMMISSION

OF THE STATE OF HAWAII

In the matter of the Petition ) DOCKET NO. A05-756  
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 of ) CERTIFICATE OF SERVICE  
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 KAA NAPALI DEVELOPMENT CORP. )  
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 To Amend the Agricultural Land Use )  
 District Boundary for approximately )  
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CERTIFICATE OF SERVICE

I hereby certify that a copy of the Order Determining (1) That The Land Use Commission Agrees To Be The Accepting Authority Pursuant To Chapter 343, Hawaii Revised Statutes; and (2) Determining That The Proposed Action May Have A "Significant Impact" To Warrant The Preparation of An Environmental Impact Statement 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:

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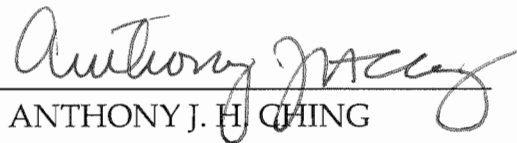
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Dated: Honolulu, Hawaii, APR - 5 2005.

  
ANTHONY J. H. CHING

Executive Officer