



BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

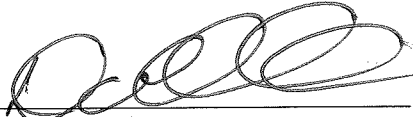
In The Matter Of The Petition Of)	DOCKET NO. A15-798
)	
WAIKAPŪ PROPERTIES, LLC.)	FINDINGS OF FACT, CONCLUSIONS
)	OF LAW, AND DECISION AND
To Amend The Agricultural Land Use)	ORDER ACCEPTING A FINAL
District Boundary Into The Urban Land)	ENVIRONMENTAL IMPACT
Use District For Approximately 335.155)	STATEMENT; AND CERTIFICATE OF
Acres; and to Amend the Agricultural Land)	SERVICE
Use District Boundary Into the State Rural)	
District for Approximately 149.848 Acres)	
Of Land At Waikapū, Wailuku District,)	
Maui, Hawai'i, Tax Map Keys: (2) 3-6-)	
002: 003 (por.); (2) 3-6-004: 003 (por.); (2))	
3-6-004: 006 (por.); and (2) 3-6-005:007)	
(por.).)	

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

_____ 1/20/17 _____ by


Executive Officer



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2017 JAN 20 A 8:38

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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 Waikapū Properties, LLC. (“Petitioner”), on December 23, 2016, and upon consideration of the matters discussed therein, at its meeting on January 18, 2017, in Wailuku, Maui, Hawai`i, hereby makes the following findings of fact, conclusions of law, and decision and order:

FINDINGS OF FACT

1. On April 16, 2015, Waikapū Properties, LLC (“Petitioner”), filed a Petition for Land Use District Boundary Amendment (“Petition”) to reclassify approximately 149.848 acres of land, identified as Tax Map Key: (2) 3-6-004:003 (por.) from the State Agricultural District into the State Rural District, and approximately 335.155 acres of land, identified as Tax Map Key: (2) 3-6-002:003 (por.), (2) 3-6-004:006 (por.), and (2) 3-6-005:007 (por.) from the State Agricultural District into the State Urban District (“Petition Area”) for the planned Waikapū Country Town development (“Project”) at Waikapū, Wailuku District, Island and County of Maui, Hawai`i. The reclassification request totals approximately 485.003 acres.

2. Petitioner included with the Petition an Environmental Impact Statement Preparation Notice (“EISPN”), pursuant to subsections 343-5(a)(1), 343-5(a)(6), and 343-5(a)(9)(A), Hawai`i Revised Statutes (“HRS”), and subsections 11-200-6(b)(1)(A) and 11-200-6(b)(2)(A), Hawai`i Administrative Rules (“HAR”).

3. On April 29, 2015, and by a written Order dated May 1, 2015, 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 EISPN in its May 23, 2015, issue of *The Environmental Notice*, which began a 30-day public comment period that ended on June 22, 2015.

5. Upon receipt of the comments, Petitioner prepared a Draft EIS (“DEIS”). The OEQC published notice of the availability of the DEIS in its February 8, 2016, issue of *The*

Environmental Notice, which began a 45-day public comment period that ended on March 28, 2016.

6. The following Federal, State, and County agencies and organizations/individuals provided comments on the DEIS: the State Department of Business, Economic Development, and Tourism, State Office of Planning (“OP”); the State Department of Defense, the State Department of Accounting and General Services; the State Department of Health, Environmental Health Administration, Office of Environmental Quality Control, Wastewater Branch, and Maui District Health Office; the State Department of Transportation; the State Department of Education; the State Department of Agriculture; the State Department of Land and Natural Resources, Land Division, and the State Historic Preservation Division (“SHPD”); the State Office of Hawaiian Affairs; the County of Maui Department of Fire and Public Safety; the County of Maui Department of Planning (“County”); the County of Maui Department of Environmental Management; the County of Maui Department of Public Works; the County of Maui Department of Parks and Recreation; the County of Maui Department of Housing and Human Concerns; the County of Maui Police Department; the County of Maui Department of Water Supply; Richard “Dick” Mayer; and Albert Perez, Maui Tomorrow Foundation.

7. On December 23, 2016, Petitioner filed a proposed Final EIS (“FEIS”). The OEQC published a notice of its availability in the January 8, 2017 issue of the *Environmental Notice*. The 30-day period for LUC to take action ends on January 24, 2017.

8. On January 18, 2017, the Commission met in Wailuku, Maui, Hawai'i, to consider acceptance of Petitioner's proposed FEIS.¹ Paul Mancini, Esq.; Michael Atherton, and Michael Summers appeared on behalf of Petitioner. Michael Hopper, Esq., and Kurt Wollenhaupt appeared on behalf of the Maui Department of Planning ("County"). Dawn Apuna, Esq., and Rodney Funakoshi appeared on behalf of the State Office of Planning ("OP"). At the meeting, Mercer "Chubby" Vicens, Kimokeo Kapahulehua, Russel Gushi, Bobby Pahia, Mike Takehara, Dick Mayer, Lucienne de Naie, and Luke McClean provided oral and/or written public testimony.

9. The Petitioner provided a presentation on the proposed FEIS and its compliance with the requirements of chapter 343, HRS, and chapter 11-200, HAR.

10. The County stated that it believed the Petitioner's EIS met the statutory and administrative rule requirements for acceptance; and supported the LUC's acceptance of the proposed FEIS.

11. The OP stated that the Petitioner had addressed all of its questions raised in comments on the Draft EIS and recommended the LUC's acceptance of the proposed FEIS.

12. The Commission finds that the proposed FEIS complies with the content requirements of section 11-200-18, HAR and is accepted pursuant to chapter 343, HRS, specifically:

- (a) the applicant has signed indicating the Final EIS was prepared under their direction;
- (b) the Final EIS was formatted to easily distinguish changes made;
- (c) the Final EIS contains a list of persons, organizations, and public agencies commenting on the Draft EIS;
- (d) the Final EIS has reproduced all letters received containing substantive comments and summary of any scoping meetings;

¹ At the meeting, Commissioner Mahi disclosed that he may have distant familial ties to Mahi kuleana owners within the Project, but that he does not personally know them. There were no objections by Petitioner, OP, and the County to Commissioner Mahi's participation in the proceeding.

- (e) the applicant has revised its Draft EIS to incorporate substantive comments received during the consultation and review process; and,
- (f) the applicant has responded to each substantive comment with a point-by-point discussion of the validity, significance, and relevance of comments; discussion as to how each comment was evaluated and considered in planning the proposed action; verbatim changes that have been made to the DEIS; and reasons why specific comments were not accepted, and factors overriding importance warranting an override.

13. After due deliberation at the Commission's meeting on January 18, 2017, a motion was made and seconded to accept Petitioner's proposed FEIS. There being a vote tally of 7 ayes, 0 nays, and 2 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 January 18, 2017, in Wailuku, 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 generally 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. A15-798 Waikapū Properties, LLC. be ACCEPTED pursuant to chapter 343, HRS, and chapter 11-200, HAR.

IT IS FURTHER ORDERED that the Executive Officer is authorized to notify and submit a record of this acceptance to the applicant and the Department of Health, Office of Environmental Quality Control by the deadline for Commission action.

ADOPTION OF ORDER

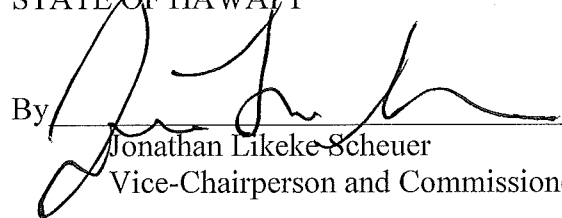
This ORDER shall take effect upon the date this ORDER is filed and certified by this Commission.

Done at Honolulu, Hawai'i, this 20th, day of January, 2017, per motion on January 18, 2017 in Kahului, Maui.

APPROVED AS TO FORM

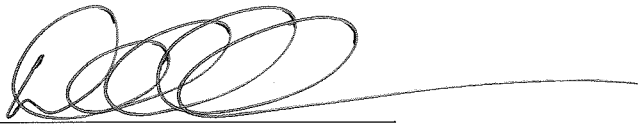

Deputy Attorney General

LAND USE COMMISSION
STATE OF HAWAII

By 
Jonathan Likeke Scheuer
Vice-Chairperson and Commissioner

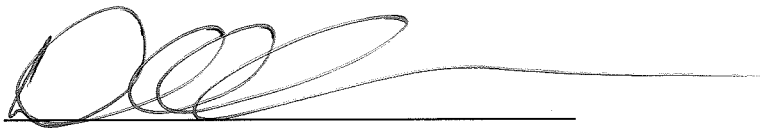
Filed and effective on:

January 20, 2017.

Certified by: 
DANIEL ORODENKER
Executive Officer
State Land Use Commission

	HAND DELIVERED	REGULAR MAIL	CERTIFIED MAIL
DAWN TAKEUCHI-APUNA, ESQ, Deputy Attorney General Hale Auhau, Third Floor 425 Queen Street Honolulu, Hawai`i 96813		X	
WILLIAM SPENCE, DIRECTOR Department of Planning County of Maui 250 South High Street Wailuku, Hawai`i 96793		X	
PATRICK WONG, ESQ. Corporation Counsel Department of the Corporation Counsel County of Maui 200 South High Street Wailuku, Hawai`i 96793			X
JAMES W. GEIGER, ESQ. Mancini, Welch & Geiger 305 E. Wakea Avenue, Suite 200 Kahului, HI 96732			X

Honolulu, Hawai`i, January 20, 2017



DANIEL ORODENKER
Executive Officer