



LAND USE COMMISSION  
STATE OF HAWAII

2017 FEB -8 A 8: 02


BEFORE THE LAND USE COMMISSION  
OF THE STATE OF HAWAII

In The Matter Of The Petition Of	)	DOCKET NO. DR16-58
	)	
COUNTY OF KAUA'I HOUSING AGENCY	)	ORDER GRANTING PETITIONER,
	)	COUNTY OF KAUA'I HOUSING
	)	AGENCY'S PETITION FOR
For A Declaratory Order Regarding the Waiver of	)	DECLARATORY ORDER; AND
Section of Section 15-15-50 ( c ) (20) of the	)	CERTIFICATE OF SERVICE
Hawai'i Administrative Rules, in Relation to a	)	
Petition to be filed under Hawai'i Revised Statutes	)	
Section 201H-38 for Reclassification of Land	)	
Situated at `Ele`ele, Kaua`i, Hawai`i, consisting of	)	
Approximately 75 acres, Tax Map Key No. (4) 2-	)	
<u>1-001:054</u>	)	

ORDER GRANTING PETITIONER COUNTY OF KAUA'I HOUSING AGENCY'S  
PETITION FOR DECLARATORY ORDER  
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, HAWAII

Date 2/8/17

By   
DANIEL E. ORODENKER  
Executive Officer



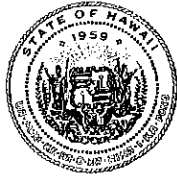
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ORDER GRANTING PETITIONER COUNTY OF KAUA`I HOUSING AGENCY'S  
PETITION FOR DECLARATORY ORDER

On December 7, 2016, the Commission received a Petition for Declaratory Order ("Petition") filed by James K. Mee, Esq., on behalf of the COUNTY OF KAUA`I HOUSING AGENCY ("Petitioner") pursuant to Hawai`i Administrative Rules (HAR) Section 15-15-99, Memorandum in Support, Exhibit "A"- "C", and Certificate of Service.

In its Petition, the Petitioner stated that it seeks a waiver of the incremental development schedule and map requirements in HAR Section 15-15-50(c)(20), and to redistrict the entire Petition Area as set forth in HAR Section 15-15-78(a)(1), as applied to a petition filed on December 7, 2016, with the Land Use Commission, due to its inability to forecast the availability of public funds and community population growth prior to obtaining land use entitlements.

The Petitioner does not believe the time schedule requirement is jurisdictional. Further, the Petitioner believes that there is good cause for waiver of the time schedule requirement as the Petitioner plans to develop the entire Petition Area; that full development can't be substantially completed within ten years; that as a County agency it is waived from the financial reporting requirements for a Petition; and that due to the uncertain availability of public funding it is impossible for Petitioner to provide a definitive time schedule or map to develop the Petition Area in increments.

On December 14, 2016, the State Office of Planning ("OP") filed a Response to Petitioner's Request for Declaratory Order stating No Objection.

On December 20, 2016, the County of Kaua'i ("County") filed a Statement of No Opposition and that a representative would not be attending the hearing.

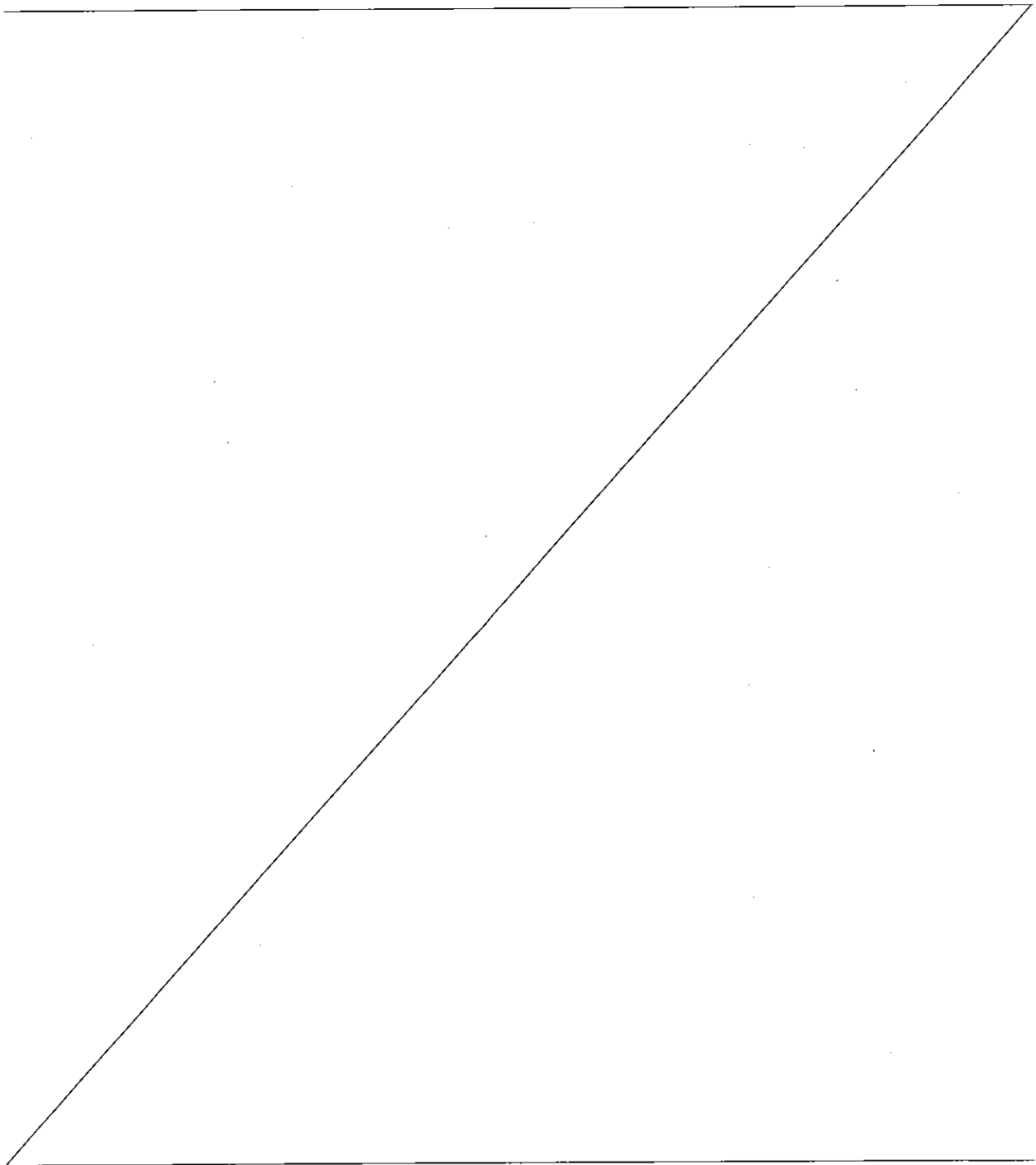
On December 22, 2016, the Commission met at the Honolulu Airport, Honolulu, Hawai'i, to consider the Petition for Declaratory Order. James K. Mee, Esq., was present on behalf of Petitioner and Dawn Takeuchi-Apuna, Esq. was present on behalf of OP. The County had provided by prior correspondence that they would not be attending the hearing. There was no public testimony.

Commissioner Gary Okuda disclosed a possible conflict of interest. Petitioner and OP had no objection to Commissioner Okuda's participation in the hearing.

At the meeting, the Chair asked whether the parties had any additional pleadings they wished to file or argument to present. Mr. Mee responded that he did not. Ms. Takeuchi-Apuna responded that OP rested on its statement of no objection.

Following discussion, a motion was made and seconded to waive the requirement that the Petitioner submit a schedule and map for development of the project in increments, under


Section 15-15-50(c)(20), HAR, for good cause shown. There being a vote tally of 9 ayes and 0 nays, the motion carried.



ORDER

This Commission, having duly considered the Petition for Declaratory Order and the pleadings and arguments of the parties in this proceeding, and a motion having been made at a meeting on December 22, 2016, in Honolulu, Hawai`i, and the motion having received the affirmative votes required by HAR Section 15-15-13, and there being good cause for the motion, HEREBY ORDERS that the Petition for Declaratory Order be and hereby is GRANTED.

DATED: Honolulu, Hawai`i, February 8, 2017, per motion in Honolulu, Hawai`i, on December 22, 2016.

By:   
EDMUND ACZON  
Chairperson and Commissioner

APPROVED AS TO FORM:

  
Deputy Attorney General

Filed and Effective on:

2/8/17

Certified by:

  
DANIEL E. ORODENKER  
Executive Officer



BEFORE THE LAND USE COMMISSION  
OF THE STATE OF HAWAII

In The Matter Of The Petition Of

COUNTY OF KAUA'I HOUSING  
AGENCY

To Amend The Agricultural Land Use  
District Boundaries Into The Urban  
Land Use District For Certain Lands  
Situated At 'Ele'ele, Kaua'i, Hawai'i;  
Consisting Of Approximately 75  
Acres, Tax Map Key No. (4) 2-1-001:  
054

DOCKET NO. DR16-58

CERTIFICATE OF SERVICE

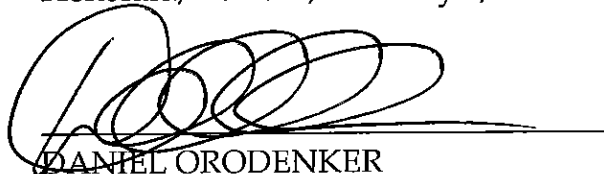
CERTIFICATE OF SERVICE

I hereby certify that a copy of the ORDER GRANTING PETITIONER COUNTY OF KAUA'I HOUSING AGENCY'S PETITION FOR DECLARATORY ORDER in the above referenced-docket was duly 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
LEO ASUNCION, DIRECTOR Office of Planning 235 S. Beretania Street Rm. 600 Honolulu, Hawai'i 96813	X		
DAWN TAKEUCHI-APUNA, ESQ Deputy Attorney General Hale Auhau, Third Floor 425 Queen Street Honolulu, Hawai'i 96813			X

	HAND DELIVERED	REGULAR MAIL	CERTIFIED MAIL
MICHAEL DAHLIG Director, Department of Planning, County of Kaua'i 4444 Rice Street Lihue, Hawai'i 96766			X
KAUAI COUNTY PLANNING COMMISSION c/o Planning Department County of Kaua'i 4444 Rice Street Lihue, Hawai'i 96766			X
BENJAMIN A. KUDO, Esq. JAMES K. MEE Esq. Ashford & Wriston LLP 999 Bishop Street, Suite 1400 Honolulu, Hawai'i 96813 Attorneys for Lāna'i Resort Partners			X
JEAN NISHIDA SOUZA PO Box 450 Hanapepe, Hawaii 96716			X

Honolulu, Hawai'i, February 8, 2017



DANIEL ORODENKER

Executive Officer