



LAND USE COMMISSION
STATE OF HAWAII

2019 MAR 29 P 3:33

BEFORE THE LAND USE COMMISSION

OF THE STATE OF HAWAII

In the matter of the Motion of
U of N BENCORP

To Amend the Agricultural Land Use
District to the Urban Land Use District
for approximately 62 acres, Tax Map Key
Nos.: (3) 7-5-010: 085 and 7-5-017: 006
situated at Wai`aha 1st, North Kona,
County and State of Hawai`i

) DOCKET NO. A02-737
)
) ORDER TO SHOW CAUSE;
) EXHIBIT "A"; CERTIFICATE OF
) SERVICE
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ORDER TO SHOW CAUSE; EXHIBIT A

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

3/29/19

by

Executive Officer



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ORDER TO SHOW CAUSE

TO: U OF N BENCORP ("Petitioner"),

YOU ARE HEREBY COMMANDED, under the authority of section 205-4, Hawai`i Revised Statutes ("HRS"), and section 15-15-93, Hawai`i Administrative Rules ("HAR"), to appear before the Land Use Commission, State of Hawai`i ("Commission"), at the Natural Energy Laboratory of Hawai`i (NELHA) – Hale Iako Training Room #119, on May 22, 2019, at 9:30 a.m., to show cause as to why that certain land at Wai`aha 1st, North Kona, County and State of Hawai`i, Tax Map Key No. (3) 7-5-010:85 and 7-5-017:006 covering approximately 62 acres of land referred to as the Subject Area, and approximately identified on Exhibit "A", attached hereto and incorporated herein, should not revert to its former land use classification or be changed to a more appropriate classification.

The Commission has reason to believe that you have failed to perform according to the conditions imposed and to the representations and commitments made to the Commission in obtaining reclassification of the Subject Area. The conditions of the Decision and Order which may have been violated or not been met include, but may not be limited to the following:

1. Condition 1 Affordable Housing;
2. Condition 2 Drainage Improvements;
3. Condition 3 Public School Facilities.;
4. Condition 4 Water Resources;
5. Condition 5 Wastewater Facilities;
6. Condition 6 Archaeology
7. Condition 7 Cultural, Historical, Customary and traditional Rights and Resources;
8. Condition 8 Soil Erosion and Dust Control
9. Condition 9 Transportation
10. Condition 10 Traffic
11. Condition 11 Cultural Center
12. Condition 12 Ka Haka 'Ula O Ke'elikolani College of Hawaiian Language at University of Hawaii-Hilo
13. Condition 13 Civil Defense
14. Condition 14 Solid Waste;
15. Condition 15 Compliance with Representation to the Commission;
16. Condition 16 Notice of Change in Ownership;
17. Condition 17 Annual Reports;
18. Condition 18 Release of the Conditions Imposed by the Commission

Section 205-4, HRS, authorizes the Commission to impose conditions necessary to “assure substantial compliance with representations made by the petitioner in seeking a boundary change” and that “absent substantial commencement of use of the land in accordance with such representations, the [C]ommission shall issue and serve upon the party bound by the condition an order to show cause why the property should not be revert to its former land use classification or be changed to a more appropriate classification.”

Accordingly, the Commission will conduct a hearing on this matter in accordance with the requirements of Chapter 91, HRS, and subchapters 7 and 9 of chapter 15-15, HAR. All parties in this docket shall present testimony and exhibits to the Commission as to whether Petitioner has failed to perform according to representations made in seeking the land use reclassification.

Any party may retain counsel if the party so desires.

ADOPTION OF ORDER

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

Done at Honolulu, Hawai'i, this 29th, day of March, 2019, per motion on March 28, 2019.

LAND USE COMMISSION

APPROVED AS TO FORM

STATE OF HAWAII

Randall S. Aisling
Deputy Attorney General

By 
JONATHAN SCHEUER
Chairperson and Commissioner

Filed and effective on:

3/29/19

Certified by:


DANIEL ORODENKER
Executive Officer



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CERTIFICATE OF SERVICE

I hereby certify that a certified copy of the ORDER TO SHOW CAUSE, was served upon the following by depositing the same in the U. S. Postal Service by registered or certified mail as noted:

DEL.	MARY ALICE EVANS, Director Office of Planning P. O. Box 2359 Honolulu, Hawai`i 96804-2359
DEL.	DAWN TAKEUCHI APUNA, Esq. Deputy Attorney General 425 Queen Street Honolulu, Hawai`i 96813 Attorney for State Office of Planning
CERT.	JULIE ANJO, Esq. Office of General Counsel 75-5851 Kuakini Highway #452 Kona, Hawai`i 96740 Attorney for Petitioner U OF N BENCORP

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CERT. JOSEPH K. KAMELAMELA, Esq.
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Hilo, Hawai'i 96720
Attorney for County of Hawai'i
Department of Planning

Dated: Honolulu, Hawai'i, March 29, 2019



DANIEL E. ORODENER
Executive Officer