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LAND USE COMMISSION
STATE OF HAWAII

2019 MAY 20 A 10:51


COUNTY OF HAWAII
OFFICE OF THE CORPORATION COUNSEL

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TRANSMITTAL

DATE: May 17, 2019

TO: State Land Use Commission
P.O. Box 2359
Honolulu, Hawai'i 96804

FROM:  Liza Osorio, Legal Technician I to
Ronald Kim, Deputy Corporation Counsel

RE: In the Matter of the Petition of U OF N BENCORP, To Amend the Agricultural Land Use District Boundary into 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 Waiaha 1st, North Kona, County and State of Hawaii

<i>COPIES/ITEMS</i>	<i>DATE</i>	<i>DESCRIPTION</i>
Original and (1) copy	05-17-19	STATEMENT OF THE POSITION OF THE COUNTY OF HAWAII PLANNING DEPARTMENT ON THE LAND USE COMMISSION'S ORDER TO SHOW CAUSE; CERTIFICATE OF SERVICE

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| <input type="checkbox"/> Your information and files | <input type="checkbox"/> Your approval |
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as noted below | <input type="checkbox"/> See remarks below |
| <input type="checkbox"/> Per your request | <input checked="" type="checkbox"/> Filing with the LUC |

REMARKS: Enclosed are the original and one copy of the above referenced document. Should you have any questions with regard to the enclosed please do not hesitate to contact our office. Thank you.

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LAND USE COMMISSION
STATE OF HAWAII

2019 MAY 20 A 10:51

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BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAI'I

In the Matter of the Petition of

U OF N BENCORP

To Amend the Agricultural Land Use District
Boundary Into 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
Waiaha 1st, North Kona, County and State of
Hawai'i

DOCKET NO. A02-737

STATEMENT OF POSITION OF THE
COUNTY OF HAWAI'I PLANNING
DEPARTMENT ON THE LAND USE
COMMISSION'S ORDER TO SHOW
CAUSE; CERTIFICATE OF SERVICE

**STATEMENT OF POSITION OF THE COUNTY OF HAWAI'I PLANNING
DEPARTMENT ON THE LAND USE COMMISSION'S ORDER TO SHOW CAUSE**

The County of Hawai'i Planning Department ("County"), by and through its undersigned attorneys, hereby provides its Statement of Position in regards to the Land Use Commission's Order to Show Cause as to why that certain land situated at Waiaha 1st, North Kona, County and Island of Hawai'i, Tax Map Key Nos. (3) 7-5-010:085 and 7-5-017:006, covering approximately 62 acres of land ("Subject Area"), should not revert to its former land use classification or be changed to a more appropriate classification.

The Subject Area was reclassified from Agricultural to Urban in the Land Use Commission's Findings of Fact, Conclusions of Law, and Decision and Order For A State Land Use District Boundary Amendment," dated August 8, 2003 ("D&O"), and the County's position is that this Urban classification of the Subject Area is the most appropriate classification for this land. The Urban classification is consistent with the County's General Plan, the Kona Community Development Plan, and the zoning for surrounding properties. Accordingly, the County respectfully requests that the Land Use Commission not revert the Subject Area to its former Agricultural land use classification or change to some other classification, but to rather approve the parties' joint stipulation to stay this Order to Show Cause hearing for one year. This stay will allow Petitioner University of the Nations, Kona, Inc., as successor-in-interest to U of N Bencorp ("Petitioner") to complete preparatory work and file its Amended Motion to Amend Findings of Fact, Conclusions of Law, and Decision and Order. Alternatively, if the Land Use Commission does intend on proceeding to hear the Order to Show Cause at the present juncture, then the County respectfully requests that the Commission find that the Subject Area is appropriately classified as Urban.


The Urban State Land Use classification for the Subject Area appears to be the most appropriate classification for this land. The County's Land Use Pattern Allocation Guide Map in its General Plan designates the subject area as being appropriate for Medium Density Urban land uses (described as "village and neighborhood commercial and single family and multiple family residential and related functions (multiple family residential—up to 35 units per acre)"). See D&O at FOF ¶71. The Kona Community Development Plan designates the Subject Area as being within the Kona Urban Area. See Petitioner's Exhibit 23.

The surrounding properties are primarily classified as State Land Use Urban and zoned by the County as Residential or Commercial Village Districts. See Petitioner's Exhibits 28a, 28b, and 22. The Land Use Commission also previously found that the Subject Area had a low or generally poor potential for agricultural productivity. See D&O at FOF ¶¶ 32-33.

In light of the foregoing, the County respectfully submits that the present Urban classification appears to be the most appropriate State Land Use classification and respectfully suggests that the Land Use Commission stay this proceeding for one year and/or allow the Subject Area to be classified as State Land Use Urban.

Dated: Hilo, Hawai'i, May 17, 2019.

COUNTY OF HAWAI'I, PLANNING
DEPARTMENT

By 

RONALD KIM
Deputy Corporation Counsel
Its attorney

BEFORE THE LAND USE COMMISSION

OF THE STATE OF HAWAI'I

In the Matter of the Petition of

U OF N BENCORP

To Amend the Agricultural Land Use District
Boundary Into the Urban Land Use District for
Approximately 62 Acres, Tax Map Key Nos.
(3) 7-5-002:010:085 and 7-5-017:006, situated
at Waiaha 1st, North Kona, County and State of
Hawai'i

DOCKET NO. A02-737

CERTIFICATE OF SERVICE

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served upon the following by mailing
the same, postage prepaid, on May 17, 2019:

MARY ALICE EVANS, Director
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as successor-in-interest to U of N Bencorp

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Hilo, Hawai'i 96720

Dated: Hilo, Hawai'i, May 17, 2019.

COUNTY OF HAWAI'I, PLANNING
DEPARTMENT

By

A handwritten signature in black ink, appearing to read 'RONALD KIM', is written over a horizontal line. The signature is stylized and cursive.

RONALD KIM
Deputy Corporation Counsel
Its attorney