

BEFORE THE LAND USE COMMISSION

OF THE STATE OF HAWAI'I

In The Matter Of The Petition Of	)	DOCKET NO. A06-765
)	
MAALAEA PROPERTIES, LLC, a Hawai'i	)	ORDER DETERMINING (1)
limited liability company, and LODI	)	THAT THE LAND USE
DEVELOPMENT, INC., a California	)	COMMISSION AGREES TO BE
corporation	)	THE ACCEPTING AUTHORITY
	)	PURSUANT TO CHAPTER 343,
To Amend The Agricultural Land Use District	)	HAWAI'I REVISED STATUTES;
Boundary Into The Urban Land Use District	)	AND (2) THAT THE PROPOSED
For Approximately 256.903 Acres Of Land At	)	ACTION MAY HAVE A
Mā`alaea, Maui, Hawai'i, Tax Map Key:	)	SIGNIFICANT EFFECT UPON
3-6-01: 18	)	THE ENVIRONMENT TO
_____	)	WARRANT THE
	)	PREPARATION OF AN
	)	ENVIRONMENTAL IMPACT
	)	STATEMENT

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

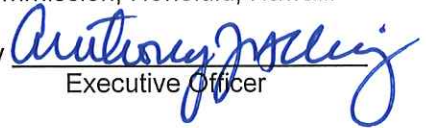
This is to certify that this is a true and correct copy of the document on file in the office of the State Land Use Commission, Honolulu, Hawaii.

JUN 28 2006

_____ Date

by

Executive Officer



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

On May 22, 2006, Maalaea Properties, LLC, a Hawai'i limited liability company, and Lodi Development, Inc., a California corporation (collectively "Petitioner"), filed a Petition For Land Use District Boundary Amendment ("Petition") to reclassify approximately 260 acres of land at Mā`alaea, Maui, Hawai`i, identified as Tax Map Key: 3-6-01: 18 ("Petition Area"), from the State Land Use Agricultural District to the State Land Use Urban District for residential, community center, and park uses

("Project"). An Environmental Impact Statement Preparation Notice ("EISPN") was included with the Petition.¹

The Project is subject to the environmental review process as it proposes (i) the use of State or County lands for access; and (ii) the installation of a wastewater treatment facility serving more than 50 single-family dwellings, pursuant to sections 343-5(a)(1) and 343-5(a)(9)(A), Hawai'i Revised Statutes ("HRS"), and section 11-200-6(b)(1)(A), Hawai'i Administrative Rules ("HAR").

On June 16, 2006, Petitioner filed an Amended Petition For Land Use District Boundary Amendment ("Amended Petition"). The Amended Petition, among other things, amended the acreage of the Petition Area from approximately 260 acres to approximately 256.903 acres.

On June 22, 2006, the Land Use Commission ("Commission") held a meeting in Makena, Maui, to determine (i) whether this Commission should be the accepting authority pursuant to chapter 343, HRS; and (ii) if so, whether the Project warranted the preparation of an EIS. James W. Geiger, Esq., and Mike Atherton appeared on behalf of Petitioner. Jane E. Lovell, Esq., and Michael W. Foley appeared on behalf of the County of Maui Department of Planning ("DP"). Bryan C. Yee, Esq., and Laura Thielen appeared on behalf of the State Office of Planning ("OP").

¹ By preparing the EISPN, Petitioner has already acknowledged that the Project may have a significant effect upon the environment, and therefore will require the preparation of an Environmental Impact Statement ("EIS").

At the meeting, Petitioner requested that this Commission be the accepting authority for the EIS, and that it authorize Petitioner to proceed with the filing of the EIS. The DP stated that it supported this Commission as the accepting authority, and agreed that an EIS is appropriate for the Project. The DP also pointed out that the County administration is strongly opposed to the Project, and requested that Petitioner's EIS consultant, Munekiyo & Hiraga, Inc. ("MHI"), solicit comments from the various County agencies on the EIS.² Finally, the DP requested that all hearings on the Petition, including the hearing on the acceptance of the EIS, be held on Maui. The OP stated that it supported this Commission as the accepting authority, and further that an EIS is required in this case.

Following discussion, a motion was made and seconded to have this Commission agree to be the accepting authority pursuant to chapter 343, HRS. There being a vote tally of 8 ayes and 1 absent, the motion carried. Thereafter, a second motion was made and seconded to have the Commission find that the Project may have a significant effect upon the environment sufficient to warrant the preparation of an EIS. There being a vote tally of 8 ayes and 1 absent, the motion carried.

ORDER

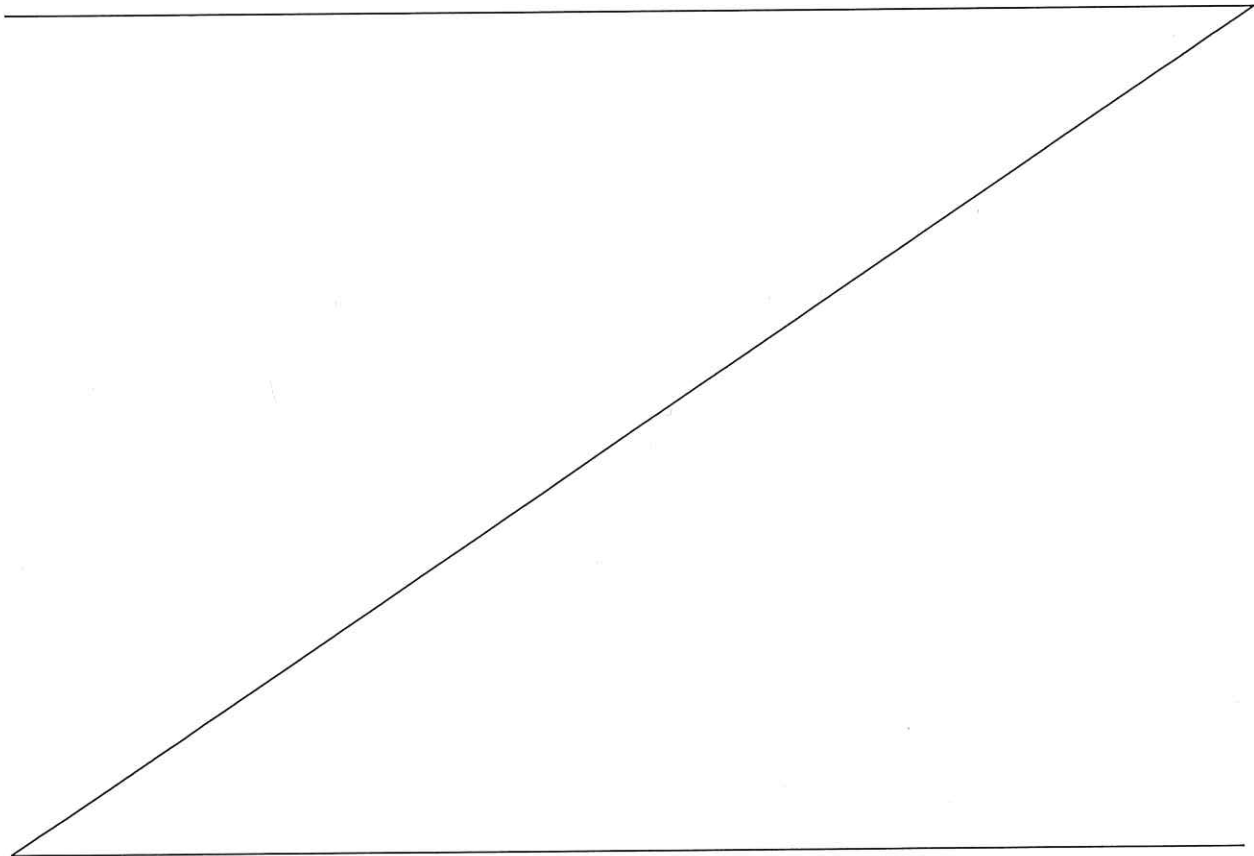
This Commission, having duly considered Petitioner's EISPN, the arguments by the parties in this proceeding, and two motions having been made at its

² At the meeting, the DP filed letters from Michael W. Foley to James Geiger dated May 22, 2006, and to Mike Munekiyo of MHI dated June 21, 2006, that, in part, reflected these comments.
Docket No. A06-765 Maalaea Properties, LLC, and Lodi Development, Inc.
Order Determining (1) That The Land Use Commission Agrees To Be The Accepting Authority Pursuant To Chapter 343, Hawai'i Revised Statutes; And (2) That The Proposed Action May Have A Significant Effect Upon The Environment To Warrant The Preparation Of An Environmental Impact Statement

meeting on June 22, 2006, in Makena, Maui, and the motions having received the affirmative votes required by section 15-15-13, HAR, and there being good cause for the motions,

HEREBY ORDERS that it agrees to be the accepting authority pursuant to chapter 343, HRS, and that the Project may have a significant effect upon the environment to warrant the preparation of an EIS.

IT IS FURTHER ORDERED that Petitioner shall make the EISPN available for a 30-day public review and comment period pursuant to section 11-200-15(b), HAR, and section 343-5(c), HRS.




ADOPTION OF ORDER

The undersigned Commissioners, being familiar with the record and proceedings, hereby adopt and approve the foregoing ORDER this 28th day of June, 2006, as conforming to the vote taken on Maui on June 22, 2006. This ORDER and its ADOPTION shall take effect upon the date this ORDER is certified and filed by this Commission.

Any person aggrieved by this decision and order may seek judicial review in accordance with the provisions of HRS section 91-4.

Done at Honolulu, Hawai'i, this 28th day of June, 2006, per motion on June 22, 2006.

APPROVED AS TO FORM


Deputy Attorney General

LAND USE COMMISSION
STATE OF HAWAII

By 
RANDALL F. SAKUMOTO
Chairperson and Commissioner

Filed and effective on
JUN 28 2006

Certified by:


ANTHONY J. H. CHUNG

BEFORE THE LAND USE COMMISSION

OF THE STATE OF HAWAII

In The Matter Of The Petition Of)	DOCKET NO. A06-765
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MAALAEA PROPERTIES, LLC, a Hawai`i)	CERTIFICATE OF SERVICE
limited liability company, and LODI)	
DEVELOPMENT, INC., a California)	
corporation)	
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To Amend The Agricultural Land Use District)	
Boundary Into The Urban Land Use District)	
For Approximately 256.903 Acres Of Land At)	
Mā`alaea, Maui, Hawai`i, Tax Map Key:)	
3-6-01: 18)	
_____)	

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, Hawai`i Revised Statutes; And (2) That The Proposed Action May Have A Significant Effect Upon The Environment 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:

DEL. LAURA H. THIELEN, Director
 Office of Planning
 P. O. Box 2359
 Honolulu, Hawaii 96804-2359

BRYAN YEE, Esq.
Deputy Attorney General
Hale Auhau, Third Floor
425 Queen Street
Honolulu, Hawaii 96813

MICHAEL FOLEY, Director
County of Maui, Planning Department
250 South High Street
Wailuku, Hawaii 96793

BRIAN MOTO, Esq.
JANE LOVELL, Esq.
Corporation Counsel
County of Maui
250 South High Street
Wailuku, Hawaii 96793

CERT. JAMES GEIGER, Esq.
33 Lono Avenue, Suite 470
Kahului, Hawaii 96732

Dated: Honolulu, Hawaii, JUN 28 2006.



ANTHONY J. HUCHING
Executive Officer