

DEPARTMENT OF PLANNING  
 COUNTY OF MAUI  
 One Main Plaza  
 2200 Main Street, Suite 315  
 Wailuku, Hawaii 96793  
 Telephone: (808) 270-7735  
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**BEFORE THE LAND USE COMMISSION  
 OF THE STATE OF HAWAII**

In the Matter of the Petition of:	)	Docket No. A03-739
	)	
A&B PROPERTIES, INC.	)	DEPARTMENT OF PLANNING, COUNTY
	)	OF MAUI'S POSITION STATEMENT ON
	)	A&B PROPERTIES, INC.'S MOTION TO
To Amend the Agricultural Land Use District	)	DESIGNATE THE LAND USE COMMISSION
Boundary into the Urban Land Use District	)	(LUC) AS APPROVING AGENCY FOR
for Approximately 138.158 Acres of Land at	)	ENVIRONMENTAL STATEMENT UNDER HRS
Kahului, Maui, Hawaii, Tax Map Keys No.:	)	CHAPTER 343 AND FOR AUTHORITY TO
(2) 3-8-001:002 (Por.), (2) 3-8-006:004	)	PREPARE ENVIRONMENTAL IMPACT
(Por.), (2) 3-8-079:013 (Por.)	)	STATEMENT PREPARATION NOTICE
_____	)	(EISPN)

**THE DEPARTMENT OF PLANNING, COUNTY OF MAUI'S POSITION STATEMENT ON A&B PROPERTIES, INC.'S MOTION TO DESIGNATE THE LUC AS APPROVING AGENCY FOR ENVIRONMENTAL STATEMENT UNDER HRS, CHAPTER 343, AND FOR AUTHORITY TO PREPARE EISPN**

In accordance with §15-15 of the State Land Use Commission Rules, the Maui County Planning Department (Department) supports the designation of the Land Use Commission (LUC) as approving agency for the Environmental Statement under Hawaii Revised Statutes (HRS) Chapter 343. The proposed Windward Hotel site is located at Tax Map Keys (2) 3-8-001:001 (por.), 3-8-006:004 (por.) and 3-8-079:013 (por.), which are located within Maui Business Park Phase II, an approximately 179-acre area, which was approved for a Land Use District Boundary Amendment (DBA) from "Agricultural" to "Urban" in 2004 for light industrial uses. In the Decision and Order (D&O), Condition number 20 states, "Petitioner shall develop the Property in substantial compliance

with the representations made to the Commission. Failure to so develop the Property may result in reversion of the Property to its former classification, or change to a more appropriate classification.” Because the proposed hotel would not be compliant with representations made to the LUC, an amendment to the D&O is required.

In order to proceed with project development, in addition to an amendment to the DBA, a Community Plan Amendment, Change of Zoning and Special Management Area Use Permit are also required. These additional approvals are being pursued, contingent upon an approval of an amendment to the D&O for the DBA, which must occur first. Pursuant to §15-15-24, permissible uses within the Urban District are: “Any and all uses permitted by the counties, either by ordinances or rules may be allowed within this district, subject to any conditions imposed by the commission pursuant to section 205-4(g), HRS.” Because the proposed use would be allowed in the Urban District if the referenced entitlements and permit are approved, dependent upon approval and conditions imposed by the LUC, the Department supports the Petitioner’s Motion that the LUC serve as the approving agency.

### **SUMMARY OF SUPPORT FOR PREPARATION OF EIS**

The Department notes that an Environmental Assessment (EA) was previously prepared for the project and published by the Office of Environmental Quality Control (OEQC) on August 8, 2018. At the time, the Maui Planning Commission (MPC) was to serve as the accepting authority. The MPC reviewed the document and provided comments in preparation for the Final EA on August 28, 2018. After comments were received through the Draft EA process, the Applicant decided that there were enough substantive comments to warrant the preparation of an EIS.

An EISPN was published by OEQC on January 8, 2019. Agency comments were received and a Draft EIS was published on October 8, 2019. The MPC reviewed the Draft EIS and provided comments for the Final EIS at its November 12, 2019 meeting. At this meeting, one of the MPC’s comments was that clarification is needed on the appropriate approving agency, given that the

LUC's approval of an amended D&O would need to occur before the MPC could act on the County-level entitlements. Should OEQC determine that the LUC should serve as the approving agency, it should also consider the fact that the EA and EIS processes were already initiated. Although the MPC was originally thought to be the appropriate approving agency, which proved to be incorrect, much of the process was otherwise properly initiated. Therefore, it would be appropriate for the LUC to authorize the preparation of the EIS.

### Conclusion

This Position Statement does not in any way address all concerns the Department may have. As previously mentioned, the Department is unaware of whether certain conditions were fulfilled, and reserves its right to comment at a later time.

DATED: Wailuku, Hawaii, January 30, 2020.



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MICHELE CHOUTEAU MCLEAN, AICP  
Planning Director  
Department of Planning

xc: Parties Served on Certificate of Service for A03-739  
Clayton I. Yoshida, AICP, Planning Program Administrator (PDF)  
Pam Eaton, Planning Program Administrator (PDF)  
John S. Rapacz, Planning Program Administrator (PDF)  
Kathleen Aoki, Administrative Planning Officer (PDF)  
Tara K. Furukawa, Staff Planner (PDF)  
Project File

MCM:TKF:xx  
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**BEFORE THE LAND USE COMMISSION  
OF THE STATE OF HAWAII**

In the Matter of the Petition of:	)	Docket No. A03-739
	)	
A&B PROPERITES, INC.	)	CERTIFICATE OF SERVICE
	)	
	)	
To Amend the Agricultural Land Use District	)	
Boundary Into the Urban Land Use District	)	
For Approximately 138.158 Acres of Land at	)	
Kahului, Maui, Hawaii, Tax Map Key Nos.:	)	
(2) 3-8-001:002 (Por.), (2) 3-8-006:004	)	
(Por.), (2) 3-8-079:013 (Por.)	)	
_____	)	

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing was served on the following on the date indicated below:

DANIEL E. ORODENKER  
Executive Director  
State of Hawaii Land Use Commission  
P.O. Box 2359  
Honolulu, Hawaii 96804-2359

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MAUI PLANNING COMMISSION.  
County of Maui  
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DATED: Wailuku, Hawaii, January 31, 2020.

  
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MICHÈLE MCLEAN, AICP  
Planning Director  
Department of Planning