

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII



In the Matter of the Petition of) DOCKET NO. A07-772
)
A&B PROPERTIES, INC.) PETITIONER A & B PROPERTIES
) HAWAII, LLC, SERIES T'S:
To Amend the Agricultural Land) (1) LIST OF WITNESSES; (2) LIST
Use District Boundary into the) OF EXHIBITS
Urban District for approximately)
94.352 acres at Waiakoa, Island)
and County of Maui, State of)
Hawaii, TMK: 3-8-04: portion of)
2, portion of 22 and portion of)
30)
_____)

PETITIONER A & B PROPERTIES HAWAII, LLC, SERIES T'S:

(1) LIST OF WITNESSES; (2) LIST OF EXHIBITS; (3) EXHIBIT "10"

AND

CERTIFICATE OF SERVICE

BENJAMIN M. MATSUBARA, #993-0
CURTIS T. TABATA, #5607-0
Matsubara, Kotake & Tabata
888 Mililani Street, Suite 308
Honolulu, Hawaii 96813

Attorneys for Petitioner
A & B PROPERTIES HAWAII, LLC,
SERIES T

LAND USE COMMISSION

DOCKET NO./PETITIONER: A07-772/A&B PROPERTIES, INC.

PARTY: Petitioner A & B PROPERTIES HAWAII, LLC, SERIES T

LIST OF WITNESSES

NAME/ORGANIZATION/POSITION (List In Order of Appearance)	TO BE QUALIFIED AS AN EXPERT IN:	SUBJECT MATTER	WRITTEN TESTIMONY	EXHIBIT NUMBER(S)	LENGTH OF DIRECT
Natalie I. Kiehm / Vice President of A & B Properties Hawaii, LLC, Series T	N/A	Project overview and status	No	1, 2, 3, 4, 5, 6, 7, 8, 10, 11	15-20 minutes
Michael Y. Hamasu / Director of Consulting and Research	Real Estate Market Assessment	Kamalani Project Market Assessment	No	9	15-20 minutes

DOCKET NO./PETITIONER: A07-772/A&B PROPERTIES, INC.

PARTY: Petitioner A & B PROPERTIES HAWAII LLC, SERIES T

LIST OF EXHIBITS

EXHIBIT NUMBER	DESCRIPTION	PARTY: OBJECTIONS	ADMIT
1	January 22, 2020 Planning Department letter (attached to the Motion For Order Granting Time Extension as Exhibit 1, previously filed and served on all parties)		
2	Findings of Fact, Conclusions of Law and Decision and Order dated February 20, 2009 (attached to the Motion For Order Granting Time Extension as Exhibit 2, previously filed and served on all parties)		
3	2020 Annual Status Letter dated October 22, 2020 (attached to the Motion For Order Granting Time Extension as Exhibit 3, previously filed and served on all parties)		
4	Kamalani Project's Location Map, Site Plan and Photographs (attached to the Motion For Order Granting Time Extension as Exhibit 4, previously filed and served on all parties)		
5	land owner letter authorizing the Motion (attached to the Motion For Order Granting Time Extension as Exhibit 5, previously filed and served on all parties)		
6	DBEDT 2020 Quarterly Economic Indicators: Maui County (attached to the Motion For Order Granting Time Extension as Exhibit 6, previously filed and served on all parties)		
7	Maui County Employment by Industry prepared by the County of Maui (attached to the Motion For Order Granting Time Extension as Exhibit 7, previously filed and served on all parties)		

DOCKET NO./PETITIONER: A07-772/A&B PROPERTIES, INC.

PARTY: Petitioner A & B PROPERTIES HAWAII LLC, SERIES T

LIST OF EXHIBITS

EXHIBIT NUMBER	DESCRIPTION	PARTY: OBJECTIONS	ADMIT
8	UHERO state forecast dated September 25, 2020 (attached to the Motion For Order Granting Time Extension as Exhibit 8, previously filed and served on all parties)		
9	Kamalani Project - Maui, Hawaii, Economic Impact due to Covid-19 (attached to the First Amendment to Motion For Order Granting Time Extension as Exhibit 9, previously filed and served on all parties)		
10	Proposed Stipulated Order Granting Petitioner's Motion For Order Granting Time Extension		
11	Declaration of Natalie I. Kiehm (attached to the Motion For Order Granting Time Extension, previously filed and served on all parties)		
12	Declaration of Natalie I. Kiehm (attached to the First Amendment to Motion For Order Granting Time Extension, previously filed and served on all parties)		

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In the Matter of the Petition of) DOCKET NO. A07-772
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A&B PROPERTIES, INC.) STIPULATED ORDER GRANTING
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STIPULATED ORDER GRANTING PETITIONER'S MOTION FOR ORDER
GRANTING TIME EXTENSION
AND
CERTIFICATE OF SERVICE

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**STIPULATED ORDER GRANTING PETITIONER'S
MOTION FOR ORDER GRANTING TIME EXTENSION**

On February 20, 2009, the Commission issued its Findings of Fact, Conclusions of Law and Decision and Order ("Decision and Order"), approving the Kamalani Project, then known as Kihei Residential, to reclassify approximately 94.352 acres from the Agricultural Land Use District to the Urban Land Use District for the development of approximately 600 market and affordable residential units ("Project").

As of the filing date of the Motion, Petitioner has built and sold 170 units in the Project. The 170 units have met the requisite affordable home requirement for the entire Project.

On November 17, 2020, Petitioner A&B Properties Hawaii, LLC, Series T ("Petitioner") filed its Motion for Order Granting Time Extension ("Motion") to

request: 1) recognizing A&B Properties Hawaii, LLC, Series T's standing to seek relief requested herein as successor Petitioner; and 2) granting a time extension for Conditions 22 and 23 in the Decision and Order.

On January 21, 2021, Petitioner filed its First Amendment to Motion for Order Granting Time Extension to include Exhibit 9 to the Motion.

The original petitioner, A&B Properties, Inc., was converted to A & B Properties Hawaii, LLC, Series T effective December 21, 2016, with Series T being established effective December 31, 2016. The land owner of the Petition Area when the Decision and Order was entered was Alexander & Baldwin, Inc. Alexander & Baldwin, Inc. has since converted to Alexander & Baldwin, LLC, and the Petition Area has been conveyed to Kamalani Ventures LLC.

The current landowner of the Petition Area, Kamalani Ventures LLC, has authorized its Manager, A & B Properties Hawaii, LLC, Series T, to seek approval of the Motion.

Condition 22 of the Decision and Order states:

Infrastructure Deadline. Petitioner shall complete construction of the proposed backbone infrastructure, including the primary roadways and access point, residential internal roadways, and water supply, sewage and electrical infrastructure within ten years from the date of the decision and order.

The effects of the Covid Pandemic have significantly impacted the timing of the Project and market projections state that the minimum additional time required to complete the Project is 11.1 years.

Condition 23 of the Decision and Order states:

Order to Show Cause. If Petitioner fails to complete proposed backbone infrastructure within ten years from the date of the decision and order, the Commission may issue and serve upon Petitioner an Order to Show Cause and the Petitioner shall appear before the Commission to explain why the Petition Area should not revert to its previous State Land Use Agricultural District classification or be changed to a more appropriate classification.

Petitioner requests that Condition 23 be amended to reflect the substantial commencement language in HRS Section 205-4(g).

The undersigned parties agree to recognizing Petitioner as having standing to bring the Motion and to the request for time extension pursuant to § 15-15-70 and § 15-15-94.

ORDER

This Commission, having duly considered Petitioner's Motion, the written and oral comments of the County and OP in this proceeding, the stipulation of the parties herein, and the motion having the requisite votes for approval, and there being good cause for the motion,

HERBY ORDERS that A&B Properties Hawaii, LLC, Series T be recognized as having standing herein and as successor Petitioner, and that Condition 22 and 23 of the Decision and Order be amended as follows:

Condition 22.

Infrastructure Deadline. Petitioner shall complete construction of the proposed backbone infrastructure, including the primary roadways and access point, residential internal roadways, and water supply, sewage and electrical infrastructure by February 20, 2029.

Condition 23.

Order to Show Cause. If Petitioner fails to substantially commence use of the land in accordance with representation made to the commission, the Commission may issue and serve upon Petitioner an Order to Show Cause and the Petitioner shall appear before the Commission to explain why the Petition Area should not revert to

its previous State Land Use Agricultural District classification or be changed to a more appropriate classification.

ADOPTION OF ORDER

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

A & B PROPERTIES HAWAII, LLC,
SERIES T

By _____
Benjamin M. Matsubara
Curtis T. Tabata
Its Attorneys

STATE OF HAWAII
OFFICE OF PLANNING

By _____
Mary Alice Evans
Its Director

STATE OF HAWAII
DEPARTMENT OF THE ATTORNEY GENERAL

By _____
Bryan C. Yee, Esq.
Its Deputy Attorney General

COUNTY OF MAUI
MAUI COUNTY PLANNING DEPARTMENT

By _____
Michele Chouteau Mclean
Its Planning Director

COUNTY OF MAUI
DEPARTMENT OF THE CORPORATION
COUNSEL

By _____
Michael J. Hopper, Esq.
Deputy Corporation Counsel

APPROVED AS TO FORM

LAND USE COMMISSION
STATE OF HAWAII

Deputy Attorney General

By: _____
JONATHAN LIKEKE SCHEUER
Chairperson and Commissioner

Filed and effective on:

Certified by: _____
DANIEL E. ORODENKER
Executive Officer
State Land Use Commission

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CERTIFICATE OF SERVICE

I hereby certify that a file-marked of the foregoing document was duly served upon the following **AS INDICATED BELOW** on _____, 2021.

MARY ALICE EVANS, DIRECTOR
Office of Planning, State of Hawai'i
235 South Beretania Street
Room 600, Leiopapa A Kamehameha Bldg.
Honolulu, HI 96813

CERTIFIED MAIL
RETURN RECEIPT
REQUESTED

BRYAN C. YEE, ESQ.
Deputy Attorney General
Department of the Attorney General
425 Queen Street
Honolulu, HI 96813

CERTIFIED MAIL
RETURN RECEIPT
REQUESTED

MICHELE CHOUTEAU MCLEAN
PLANNING DIRECTOR
Maui County Planning Department
County of Maui, State of Hawai'i
2200 Main Street
One Main Plaza, Suite 315
Wailuku, HI 96793

CERTIFIED MAIL
RETURN RECEIPT
REQUESTED

MICHAEL J. HOPPER, ESQ.
Deputy Corporation Counsel
County of Maui, State of Hawai'i
200 South High Street
Kalana O Maui Bldg., Floor 3
Wailuku, HI 96793

CERTIFIED MAIL
RETURN RECEIPT
REQUESTED

DATED: Honolulu, Hawai'i, _____, 2021.

Of Counsel:
MATSUBARA, KOTAKE & TABATA
A Law Corporation

BENJAMIN M. MATSUBARA
CURTIS T. TABATA
Attorneys for Petitioner
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235 South Beretania Street
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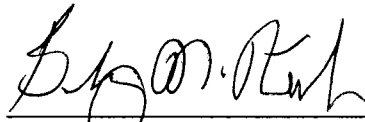
CERTIFIED MAIL
RETURN RECEIPT
REQUESTED

A&B Properties, Inc.
822 Bishop Street
Honolulu, HI 96813

CERTIFIED MAIL
RETURN RECEIPT
REQUESTED

DATED: Honolulu, Hawai'i, April 13, 2021.

Of Counsel:
MATSUBARA, KOTAKE & TABATA
A Law Corporation



BENJAMIN M. MATSUBARA
CURTIS T. TABATA
Attorneys for Petitioner
A & B PROPERTIES HAWAII, LLC, SERIES T