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

In the Matter of the Petition of

COUNTY OF HAWAII
PLANNING DEPARTMENT

To Amend the Agricultural Land Use District Boundary into the Urban Land Use District for Approximately 955.78 Acres at Keahou through Keauhou, North Kona, Island of Hawaii, State of Hawaii, Tax Map Key No.: 7-4-08: por. 1; 7-5-03: 6, 7, 23; 7-5-10: 5; 7-5-17: 1, 19; 7-6-13: 9; 7-7-04: por. 2, 56; 7-7-07: 41; 7-7-08: por. 27, 99, 105; 7-8-10: por. 29, and por. 30.

DOCKET NO. A94-705

ORDER DENYING INTERVENOR E MAU NA ALA HELE’S MOTION TO DECLARE THE PETITION STILL DEFECTIVE; OR IN THE ALTERNATIVE, PORTIONS STILL DEFECTIVE

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On July 9, 1996, Intervenor E Mau Na Ala Hele ("Intervenor - E Mau") filed its Motion to Declare the Petition Still Defective; or in the Alternative; Portions of the Petition Still Defective ("Motion"), pursuant to Hawai'i Administrative Rules ("HAR") Sections 15-15-70, and Hawai'i Revised Statutes ("HRS") Chapter 6E, and Section 205-4.

The Motion requested that the Land Use Commission ("Commission") issue an order removing the boundary amendment petition filed by the County of Hawaii Planning Department ("Petitioner") in this docket from consideration by the Commission on the grounds that the petition was still defective.

The Motion represented that the petition filed, as amended, remains defective pursuant to the petition requirements
listed in HAR Section 15-15-50(c). Specifically, the Motion cites HAR Section 15-15-50(c)(10), as the petition requirement that is not met by the petition filed, as amended.

The Motion also argues that until such time that an adequate archaeological inventory study is completed for all parcels within the petition area, the petition be deemed defective and processing of the petition be deferred.

On August 13, 1996, Intervenor - E Mau filed its Supplemental Memorandum in Support of E Mau Na Ala Hele’s Motion to Declare the Petition Still Defective. The Supplemental Memorandum further argued that the Petitioner was not in compliance with HRS Section 6E-8, and that the requisite HRS Section 6E-42 review by the State Historic Preservation Division recommends deferral of a decision on the petition.

On August 21, 1996, Petitioner County of Hawaii Planning Department ("Petitioner") filed its Memorandum in Opposition to Intervenor E Mau Na Ala Hele’s Motion to Declare Petition Still Defective.

On August 22, 1996, the Motion came before the Commission at its meeting in Honolulu, Oahu. Upon hearing oral arguments by the parties, the Commission deferred action on the Motion due to Petitioner County of Hawaii Planning Department’s HRS 6E appeal of the non-concurrence letter from the State Historic Preservation Division, Department of Land and Natural Resources, to the State Historic Preservation Board.

On December 2, 1997, the Commission held a continued action meeting on the Motion in Kailua-Kona, Hawai‘i.
The Commission, having considered the arguments, both written and oral, provided by the parties in the subject docket, and upon review of the entire record herein, and good cause showing therefrom,

IT IS HEREBY ORDERED that the Motion to Declare the Petition Still Defective; or in the Alternative; Portions Still Defective filed by Intervenor E Mau Na Ala Hele IS HEREBY DENIED.
Done at Honolulu, Hawai'i, this 26th day of January 1998, per motions on December 2, 1997 and January 22, 1998.

LAND USE COMMISSION
STATE OF HAWAI'I

By RUPERT K. CHUN
Chairperson and Commissioner

By M. CASEY JARMA
Vice Chairperson and Commissioner

By (absent)
LAWRENCE M. C. INC
Vice Chairperson and Commissioner

By P. ROY CATALANI
Commissioner

By ISAAC FIESTA, JR.
Commissioner

By (absent)
HERBERT S.K. KAOPUA, SR.
Commissioner

By MERLE A. K. KELAI
Commissioner

By JOANN N. MATTSON
Commissioner

By PETER YUKIMURA
Commissioner

Filed and effective on January 26, 1998

Certified by:
Executive Officer
BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAI’I

In the Matter of the Petition of
COUNTY OF HAWAI’I
PLANNING DEPARTMENT

DOCKET NO. A94-705
CERTIFICATE OF SERVICE

To Amend the Agricultural Land Use
District Boundary into the Urban
Land Use District for Approximately
955.78 Acres at Keahoulu through
Keauhou, North Kona, Island of
Hawai‘i, State of Hawai‘i, Tax Map
Key No.: 7-4-08: por. 1; 7-5-03: 6,
7, 23; 7-5-10: 5; 7-5-17: 1, 19;
7-6-13: 9; 7-7-04: por. 2, 56;
7-7-07: 41; 7-7-08: por. 27, 99,
105; 7-8-10: por. 29, and por. 30.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the Order Denying
Intervenor E Mau Na Ala Hele’s Motion to Declare the Petition
Still Defective; or in the Alternative, Portions Still Defective
was served upon the following by either hand delivery or
depositing the same in the U. S. Postal Service by certified mail:

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KEITH WALLIS, Director
Representing Intervenor E Mau Na Ala Hele
P. O. Box 6384
Kamuela, Hawaii 96743

DATED: Honolulu, Hawaii, this 26th day of January 1998.

ESTHER UEDA
Executive Officer