

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

In the Matter of the Petition of)	DOCKET NO. A00-732
TSA INTERNATIONAL, LIMITED)	FINDINGS OF FACT,
To Amend the Conservation Land)	CONCLUSIONS OF LAW, AND
Use District Boundary into the)	DECISION AND ORDER
Urban Land Use District for)	ACCEPTING AN ENVIRONMENTAL
Approximately 102.016 Acres at)	IMPACT STATEMENT FOR A
Kaloko, North Kona, Hawai`i, Tax)	STATE LAND USE DISTRICT
Map Key No.: 7-3-51: 60)	BOUNDARY AMENDMENT

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND DECISION AND ORDER
ACCEPTING AN ENVIRONMENTAL IMPACT STATEMENT FOR A STATE LAND USE
DISTRICT BOUNDARY AMENDMENT

LAND USE COMMISSION
STATE OF HAWAII
2000 DEC 15 A 9:21

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The Land Use Commission ("LUC" or "Commission") having examined the Final Environmental Impact Statement ("FEIS"), filed by TSA INTERNATIONAL, LIMITED ("Petitioner") on October 18, 2000, hereby makes the following Findings of Fact, Conclusions of Law and Decision and Order:

FINDINGS OF FACT

DESCRIPTION OF THE PETITION AREA AND PROPOSED DEVELOPMENT

1. On May 22, 2000, TSA INTERNATIONAL LIMITED ("Petitioner") filed a petition to reclassify approximately 102.016 acres of land from the State Land Use Conservation District ("Petition") at Kaloko, North Kona, Hawaii, Tax Map Key No.: 7-3-051: 060 ("Petition Area"). This area is adjacent to the existing Kaloko Light Industrial Park, and is approximately 3.4 miles north of Kona and lies east or mauka of the Queen Kaahumanu Highway. To the south adjacent to the Petition Area is the proposed Kaloko-Honokohau Business Park and existing

quarrying operation, subject of LUC Docket No. A00-730/Lanihau Partners, L.P. To the west or makai of the highway is the Kaloko-Honokohau National Historic Park.

2. Petitioner proposes the completion of the Kaloko Industrial Park through Phases III and IV to provide 82 one-acre fee-simple industrial lots, suitable for light industrial and industrial-commercial mixed uses. The proposed development is a continuation of the existing Kaloko Industrial Park Phases I and II, comprised of 92 lots, and will extend eastward or mauka of the existing park.

PROCEDURAL MATTERS

3. On May 22, 2000, Petitioner submitted its Petition to amend the district boundaries of the Petition Area from the Conservation District to the Urban District. The Petition included an environmental assessment pursuant to Chapter 343, Hawaii Revised Statutes ("HRS") and Section 11-200-6(b)(1), Hawaii Administrative Rules ("HAR"), as amended.

4. On June 15, 2000, the LUC determined that the proposed boundary amendment may have a significant effect on the environment and required the Petitioner to prepare an Environmental Impact Statement ("EIS") pursuant to Chapter 343, HRS, and Chapter 11-200, HAR, and issued its Order Requiring Petitioner to Prepare an Environmental Impact Statement on July 26, 2000.

5. On June 26, 2000, staff filed Petitioner's Environmental Impact Statement Preparation Notice ("EISPN") with the Office of Environmental Quality Control ("OEQC"), and the

notice of the EISPN was published by OEQC in "The Environmental Notice" on July 8, 2000. The public comment deadline was August 7, 2000.

6. On August 10, 2000, staff filed Petitioner's Draft Environmental Impact Statement ("DEIS") with OEQC, and the notice of the DEIS was published by OEQC in "The Environmental Notice" on August 23, 2000. The public comment deadline was October 7, 2000.

7. On October 16, 2000, staff received untimely comments on the DEIS from the Department of Health ("DOH") dated October 6, 2000, as transmitted by Petitioner.

8. On October 17, 2000, staff received untimely comments on the DEIS from the Environmental Center, University of Hawaii at Manoa.

9. On October 18, 2000, staff received Petitioner's FEIS.

10. On October 30, 2000, staff received untimely comments on the DEIS from the Natural Resources Conservation Service, United States Department of Agriculture ("NRCS") as transmitted by Petitioner.

11. On October 31, 2000, staff received untimely comments on the DEIS from the Historic Preservation Division, Department of Land and Natural Resources ("SHPD") as transmitted by Petitioner.

12. On October 31, 2000, staff received a copy of a letter dated October 12, 2000, from Mayor Stephen K. Yamashiro to the Hawaii County Council transmitting a proposed resolution

relating to the extension of the municipal sewer system from the Kealakehe Waste Water Treatment Plant ("KWWTP") to service the Petition Area.

13. At its meeting on November 2, 2000, the LUC heard public witness testimony stating concerns about the FEIS from the Sierra Club and the National Park Service.

CONFORMANCE WITH CHAPTER 343 HRS REQUIREMENTS

14. The FEIS conforms to the requirements of Section 11-200-18, HAR, and contains revisions of the DEIS based on comments received during the consultation and review processes; reproductions of all letters received containing substantive questions, comments, or recommendations; a list of persons, organizations and public agencies commenting on the DEIS; the responses of the Petitioner to significant environmental points raised in the review and consultation processes; the responses of the Petitioner describing the disposition of significant environmental issues raised; where Petitioner's position is at variance with recommendations and objections raised in the comments, Petitioner had given reasons why specific comments and suggestions were not accepted, and factors of overriding importance warranting an override of the suggestions; and, a format that included language that is highlighted and deleted language that was line-crossed.

15. Untimely comment letters received from DOH, the Environmental Center, the NRCS, and SHPD were not included in the FEIS, but were entered into the record on this docket.

SIGNIFICANT ISSUES IDENTIFIED BY REVIEWERS

16. The potential contamination of groundwater and surface and coastal water quality from storm water runoff and discharge and the proposed use of leach fields for wastewater treatment were identified as significant issues by LUC staff, the Office of Planning ("OP"), NRCS, the Kaloko-Honokohau National Historic Park, Sierra Club, Hawaii Chapter, and the Fish and Wildlife Service. To mitigate impacts from storm water discharge, Petitioner proposed utilizing best management practices ("BMPs"); complying with requirements of the National Pollutant Discharge Elimination System permit during construction activities; and preparing a pollution prevention plan for use by individual lot owners and tenant/operators to address cumulative and long-term impacts.

17. The impacts to marine and pond environments of the Kaloko-Honokohau National Historic Park from potential contamination of groundwater and surface water that flow into coastal areas were identified as concerns from the Fish and Wildlife Service, OP, the Kaloko-Honokohau National Historic Park, and Sierra Club. To mitigate the potential impacts to these environments, Petitioner proposed the implementation of BMPs in the development of storm water drainage systems, and the preparation of a pollution prevention plan.

18. The Fish and Wildlife Service pointed out that two federally endangered species, the Hawaiian hawk (*Buteo solitarius*) and the Hawaiian hoary bat (*Lasirus cinereus semotus*) should be included in the FEIS because of their occurrence in the general

vicinity and may occur around the project site during transit. Petitioner included the presence of the aforementioned species in the FEIS.

19. The Kaloko-Honokohau National Historic Park stated that the FEIS should address the impacts of industrial parks to sensitive natural and cultural areas, and the Sierra Club identified the need for a map showing cultural and natural resources in the proposed project area and the adjacent proposed Kaloko-Honokohau Business Park. To address these concerns, Petitioner included a map of cultural and natural resources in the requested area in the FEIS, and proposed the following mitigative measures: project designs that mitigate visual impacts impairing the use of landmarks in the project area by fishermen; consultation with SHPD and the Hawaii Island Burial Council if any burial sites are encountered; and the use of BMPs, mitigative drainage measures, and the pollution prevention plan.

20. Concerns of increased nutrients affecting groundwater and coastal water quality were raised regarding the use of individual on-site septic systems and leach fields to treat wastewater generated from the project. To mitigate these impacts, Petitioner proposed individual wastewater systems as an interim measure and stated that the County of Hawaii was planning to extend sewer service from the KWTTP to the Petition Area, but no timeframe was provided.

21. Concerns regarding the proposed drainage system focused upon the use of drain inlets, dry wells, and seepage pits, and the potential contamination from storm water runoff.

To mitigate these impacts, Petitioner proposed utilizing asphaltic concrete swales, and BMPs such as flow-through infiltration and filtration methods.

22. Concerns regarding the proposed roadway system and traffic impacts focused upon the inclusion of impacts to the Hina Lina Street/Mamalahoa Highway intersection and impacts of industrial vehicles on traffic operations and safety in the traffic report; the need to maintain adequate sight distances on Kaumanu and Hina Lina Streets; the identification of the mid-elevation lateral connection between Palani Road and Ka`iminami Drive proposed by the County of Hawaii; and, clarification of the change of the PM level of service estimates at the Queen Kaahumanu/Hina Lina Street intersection. Petitioner responded that the assessment of the Hina Lina Street/Mamalahoa Highway intersection was not included because of its remoteness from the project site; the impact of industrial vehicles on traffic operations and safety will be addressed in the design of project roadways; the FEIS acknowledged the mid-elevation connector road as "Main Street" and the project will utilize Kaumanu Road as the primary collector; the changes in level of service estimates were based on using data from the Hawaii Long Range Transportation Plan which Petitioner felt more accurately reflects the anticipated cumulative impacts.

23. Verizon Hawaii Inc. stated that it will provide communication system service to the project area through a combination of fiber and copper cable and electronic equipment that will require utilizing HELCO power poles and an easement for

an area set aside for its electronic equipment. Petitioner responded in the FEIS that it will provide the area set aside for the easement and coordinate with Verizon regarding requirements for telephone service for the project area.

24. The Sierra Club stated that the DEIS does not have any discussion on using photovoltaic cells in the project area. Petitioner responded that the use of photovoltaic cells were not proposed because of available and less costly electrical service to the project area; a large amount of photovoltaic cells will be needed that will place a burden upon project structures; the required angle of the cells may increase visual impacts of the project; and, the installation of the cells on the ground would require a sizeable amount of land.

25. The Office of the Director of Civil Defense, Department of Defense ("Civil Defense") requested that the Petitioner install a solar powered siren with certain specifications in a central location adjacent to Maiiau Street running east-west and intersecting with Kamanu Street. Petitioner responded that it will coordinate with the Civil Defense during the project's design phase.

26. The OEQC stated that full disclosure of the cumulative impacts of projects related geographically should be included in the FEIS. The Sierra Club stated that Petitioner did not respond in discussing the cumulative impact of both the proposed project and the adjacent Kaloko-Honokohau Business Park, subject of LUC Docket No. A00-730/Lanihau Partners L.P.; nor, provide any discussion of the long-term visual impact of the

proposed mixed use developments in the region, such as the visual impacts along Nimitz Highway. The Sierra Club stated failure to adequately address the identified concerns subjects the Petitioner to a lawsuit over the adequacy of the EIS.

Petitioner included in the FEIS other proposed developments in the project vicinity that included:

- Kaloko-Honokohau Business Park, pending before the LUC as subject of LUC Docket No. A00-730/Lanihau Partners L.P.
- Liliuokalani Trust, subject of LUC Docket No. A89-646/Liliuokalani Trust.
- Urban Expansion State Lands, subject of LUC Docket BR92-685/Office of State Planning.
- University of Hawaii Center at West Hawaii, subject of LUC Docket BR92-685/Office of State Planning.

The FEIS also included, for each impact assessment discussion, a subsection discussing the assessment of the cumulative impacts regarding the proposed project.

UNRESOLVED ISSUES

27. The FEIS identified and summarized the following unresolved issues:

- Entitlements: The FEIS was prepared in support of a State Land District Boundary Amendment Petition, and a subsequent change in zoning from the County of Hawaii will be required. Since the entitlements are still being pursued they are unresolved at this time.

- **Municipal Sewer Service:** Extension of the County of Hawaii's wastewater system service north of the KWTP is in the preliminary planning stages. The timetable and alignment of the extension are not yet resolved.
- **Queen Kaahumanu Highway Widening:** The widening of the highway from two to four lanes by DOT is expected to be undertaken by year 2010, but a more precise timetable has not yet been resolved.
- **Coordination with the Kaloko-Honokohau National Historic Park Interests:** The proposed projects of Kaloko Industrial Park, Phases III and IV and the proposed Kaloko-Honokohau Business Park have generated concerns regarding impacts to the Kaloko-Honokohau National Historic Park. Coordination meetings and discussions planned with interested and affected groups have not yet been resolved.
- **A Pollution Prevention Plan:** Petitioner is proposing to prepare a pollution prevention plan for use by individual lot owners and tenants/operators of the proposed mixed industrial/commercial lots to control the potential transport of pollutants that may adversely impact the groundwater system. The details of the plan have not yet been resolved.

28. On November 2, 2000, the Commission held a hearing at Lihue, Kauai, to consider acceptance of Petitioner's FEIS to

reclassify approximately 102.016 acres¹ of land currently in the Conservation District to the Urban District for Phases III and IV of the Kaloko Industrial Park comprised of mixed light industrial and commercial uses. At the hearing, Petitioner stated it will provide more details of the proposed pollution prevention plan prior to the hearing of the Petition. Petitioner agreed that it will address the following issues during the hearing of the Petition: clarification of the methodology and data used in traffic flow forecasts; clarification of the effectiveness of individual wastewater treatment systems; clarification of its archaeological and cultural impact assessments and status of their reviews; and, clarification on the scheduling of the proposed meeting with the National Park Service and attendant organizations on design, infrastructure, and other issues.

29. The Commission expressed concerns of the project's potential impact to the groundwater and the coastal resources of the Kaloko-Honokohau National Historic Park and the Natural Energy Laboratory of Hawaii and the Hawaii Ocean Science Technology Park at Keahole ("NELH and HOST Park"). LUC advised Petitioner of the following: to coordinate with Lanikai Partners L.P. and the County of Hawaii for the construction of a complete wastewater treatment facility that will be in place prior to the sale of lots in the project; all storm water runoff into the proposed drainage system should be treated; Petitioner shall report to the Commission on the status of these efforts prior to

¹ The FEIS identified a correction of the acreage from approximately 102.3 acres to approximately 102 acres based on Boundary Interpretation No. 00-21.

the hearing of the Petition; and, Petitioner shall coordinate with interested groups including the National Park Service, NELH and HOST Park staff, the fishing community of the coastal area, and the Sierra Club.

30. The Commission also expressed that the employment generated by the project may result in the potential need for affordable housing near the project area to reduce the travel time and improve the safety and welfare of project workers. The Commission advised Petitioner to consult with the Housing and Community Development Corporation of Hawaii on meeting affordable housing needs resultant from the project. Petitioner acknowledged that it will look into this issue.

31. On November 2, 2000, at its meeting in Lihue, Kauai, a motion to accept Petitioner's FEIS was made and seconded, and received the affirmative votes required by Section 15-15-13, HAR.

CONCLUSIONS OF LAW

Pursuant to Chapter 343, HRS, as amended, and Chapter 200 of Title 11, HAR, entitled "Environmental Impact Statement Rules," the Commission concludes that the Petitioner's Final Environmental Impact Statement satisfies the criteria and procedures for acceptance specified in Section 11-200-23, HAR.

ORDER

IT IS HEREBY ORDERED that the Final Environmental Impact Statement submitted by TSA INTERNATIONAL, LIMITED, under LUC Docket No. A00-732/TSA INTERNATIONAL, LIMITED, is accepted pursuant to Chapter 343, HRS, and Chapter 200 of Title 11, HAR;

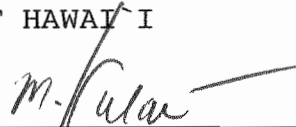
and the concerns raised by the Commission shall be addressed by the Petitioner prior to the hearing.

ADOPTION OF ORDER


The undersigned Commissioners, being familiar with the record and proceedings, hereby adopt and approve the foregoing ORDER this 8th day of December 2000. The ORDER and its ADOPTION shall take effect upon the date this ORDER is certified and filed by the Commission.

LAND USE COMMISSION
STATE OF HAWAII

By


MERLE A. K. KELAI
Chairperson and Commissioner

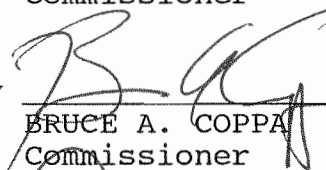
By


LAWRENCE N.C. ING
Vice Chairperson and Commissioner


By

(abstain)
P. ROY CATALANI
Commissioner

By


BRUCE A. COPPA
Commissioner


By


PRAVIN DESAI
Commissioner

By

(absent)
ISAAC FIESTA, JR.
Commissioner

By


M. CASEY JARMAN
Commissioner

Filed and effective on
December 15, 2000

Certified by:

Gather Luder
Executive Officer

By *Stanley Roehrig*
STANLEY ROEHRIG
Commissioner

By *Peter Yukimura*
PETER YUKIMURA
Commissioner

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OF THE STATE OF HAWAI`I

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TSA INTERNATIONAL, LIMITED)	CERTIFICATE OF SERVICE
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Use District Boundary into the)	
Urban Land Use District for)	
Approximately 102.3 Acres at)	
Kaloko, North Kona, Hawai`i, Tax)	
Map Key No.: 7-3-51: 60)	
_____)	

CERTIFICATE OF SERVICE

I hereby certify that a copy of the Findings Of Fact, Conclusions Of Law, And Decision And Order Accepting An Environmental Impact Statement For A State Land Use District Boundary Amendment 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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DATED: Honolulu, Hawaii, this 15th day of December 2000.



ESTHER UEDA
Executive Officer