

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

In the Matter of the Petition of)	DOCKET NO. A00-733
Harrison J. and Sharene Z. Klein)	FINDINGS OF FACT,
To Amend the Conservation)	CONCLUSIONS OF LAW, AND
District Boundary into the)	DECISION AND ORDER
Agricultural District for)	DETERMINING A NEGATIVE
Approximately 2.621 Acres)	DECLARATION FOR A STATE
at Keonepoko Iki, Puna, Hawai`i,)	LAND USE DISTRICT
<u>Tax Map Key No.: 1-5-009: 039</u>)	BOUNDARY AMENDMENT

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND DECISION AND ORDER
DETERMINING A NEGATIVE DECLARATION FOR A STATE LAND USE DISTRICT
BOUNDARY AMENDMENT

STATE OF HAWAII
LAND USE COMMISSION
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BOUNDARY AMENDMENT

The Land Use Commission ("Commission"), having examined the Final Environmental Assessment ("FEA") filed by Harrison J. and Sharene Z. Klein ("Petitioner") on January 18, 2001, and upon consideration of the matters discussed therein, at its meeting of February 16, 2001, in Honolulu, Hawai`i, hereby makes the following findings of fact and conclusions of law:

FINDINGS OF FACT

1. The subject area covered by the FEA is situated at Keonepoko Iki, District of Puna, Island of Hawai`i, identified as Tax Map Key No. (3) 1-5-009: 039 ("Petition Area" or "Property".) The Petition Area is designated within the State Land Use Conservation District and is zoned A-1a "Agricultural" with a minimum lot size of one-acre by the County of Hawai`i.

2. Petitioner seeks to amend the State Land Use Conservation District boundary to reclassify approximately 2.621

acres from the Conservation District into the Agricultural District in order to allow for the cultivation of ti-leaf plants, coconut trees, and palms on approximately one-half acre of the Petition Area.

3. Petitioner does not have development plans to subdivide the Property at the present time.

4. On August 21, 2000, Petitioner filed a Verified Petition for Land Use District Boundary Amendment to reclassify approximately 2.621 acres from the Conservation Land Use District to the Agricultural Land Use District ("Petition").

5. The Petition included a Draft Environmental Assessment ("DEA") as required by section 343-5(a)(7), Hawai'i Revised Statutes ("HRS").

6. On September 14, 2000, and by a written Order Continuing Land Use Commission Action on Determining Whether the Anticipated Effects Discussed in Petitioner's Draft Environmental Assessment Constitutes a Significant Effect Pursuant to Chapter 343, HRS, filed on October 5, 2000, the Commission identified several issues that required further analysis. Petitioner agreed that additional work on the DEA was needed prior to the Commission's action in determining whether the anticipated effects discussed in Petitioner's DEA constituted a "significant effect" pursuant to Chapter 343, HRS.

7. On October 6, 2000, Petitioner filed an Amended Verified Petition ("First Amended Petition") including a revised DEA.

8. On October 19, 2000, and by a written Order of Preliminary Determination for a Negative Declaration of an Environmental Assessment filed on November 9, 2000, the Commission made a preliminary determination of a negative declaration for the proposed action.

9. The DEA was subject to a 30-day public review and comment period pursuant to section 343-5(c), HRS. The review and comment period ended on December 8, 2000.

10. On December 26, 2000, Commission staff received notification from Petitioner that it had voluntarily extended the public review comment period to January 15, 2001.

11. There were a total of five (5) Federal, State, and County of Hawai'i agencies which commented on the DEA prior to the January 15, 2001, deadline. The Federal agency included the Department of Army ("Army"). The State agencies included the Land Division, Department of Land and Natural Resources ("LD"); and, the State Historic Preservation Division, Department of Land and Natural Resources ("SHPD"). The County of Hawai'i agencies included the Department of Water Supply ("DWS") and the Department of Public Works ("DPW").

12. The DWS noted that the water system in the area was privately owned and operated, and therefore the private water purveyor must be consulted for water resources.

13. The DPW noted that any building construction, and all earthwork and grading shall be in conformance with codes and requirements of the Hawai'i County Code and the County of

Hawai'i. DPW also noted that a 40-foot setback line was needed fronting the Property.

14. The Army noted that the action would not require a Department of Army permit.

15. The LD noted that it has no record of a shoreline certification for the Property.

16. The SHPD noted that the proposed boundary amendment will have no effect on significant historic properties.

17. The FEA included Petitioner's responses to these comments, and a proposal for a development alternative that would reclassify the Property from the Conservation District to the Urban District. Petitioner filed the FEA with the Commission on January 18, 2001.

18. On January 19, 2001, and by a written Order Continuing LUC Action On Determining Whether the Anticipated Effects Discussed in Petitioner's Final Environmental Assessment Constitutes a Significant Effect Pursuant to Chapter 343, HRS, filed on January 31, 2001, the Commission determined that more time was needed to review the FEA.

19. On February 16, 2001, at the Commission's meeting, OP stated it had no objections to the acceptance of the FEA.

20. Based on the FEA, there are no significant impacts on the environment anticipated as a result of the proposed reclassification from the Conservation District to the Agricultural District.

21. On February 16, 2001, at the Commission's meeting in Honolulu, O`ahu, a motion to issue a finding of no significant impact was made and seconded, and received the affirmative votes required by section 15-15-13, Hawai`i Administrative Rules, ("HAR").

CONCLUSIONS OF LAW

Pursuant to chapter 343, HRS, and chapter 11-200, HAR, entitled "Environmental Impact Statement Rules," this Commission, having considered the criteria for determining potential environmental effects provided in chapter 11-200, HAR, and after considering the proposed action, as well as the short-term and long-term effects of the action, concludes that the proposed action will not have a significant effect on the environment, and therefore does not require an environmental impact statement.

DECISION AND ORDER

IT IS HEREBY ORDERED that the proposed action by Petitioner, as described in the Petition and First Amended Petition filed in this docket, will not require an environmental impact statement pursuant to chapter 343, HRS, and chapter 11-200, HAR, entitled "Environmental Impact Statement Rules."

IT IS HEREBY ORDERED that the Petition be deemed a proper filing as of February 16, 2001.


ADOPTION OF ORDER

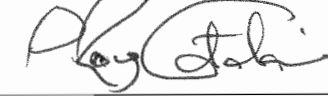
The undersigned Commissioners, being familiar with the record and proceedings, hereby adopt and approve the foregoing ORDER this 8th day of March 2001. The ORDER and its

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


LAND USE COMMISSION
STATE OF HAWAII

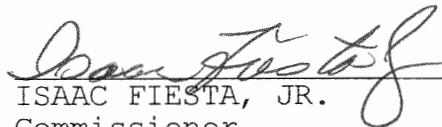
By 
MERLE A. K. KELAI
Chairperson and Commissioner

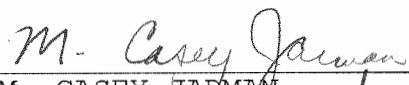
By 
LAWRENCE N.C. ING
Vice Chairperson and Commissioner

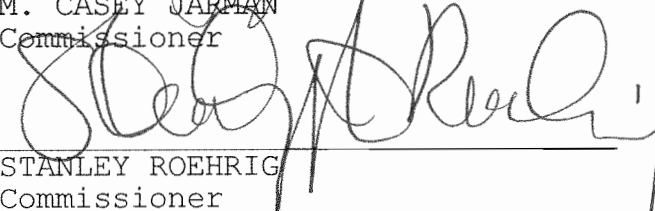
By 
P. ROY CATALANI
Commissioner

By 
BRUCE A. COPPA
Commissioner

By 
PRAVIN DESAI
Commissioner

By 
ISAAC FIESTA, JR.
Commissioner

By 
M. CASEY JARMAN
Commissioner

By 
STANLEY ROHRIG
Commissioner

By 
PETER YUKIMURA
Commissioner

Filed and effective on
March 15, 2001

Certified by;

Acting Executive Officer

BEFORE THE LAND USE COMMISSION

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In the Matter of the Petition of) DOCKET NO. A00-733
Harrison J. and Sharene Z. Klein) CERTIFICATE OF SERVICE
To Amend the Conservation)
District Boundary into the)
Agricultural District for)
Approximately 2.621 Acres)
at Keonepoko Iki, Puna, Hawaii,)
Tax Map Key No.: 1-2-009: 39)
_____)

CERTIFICATE OF SERVICE

I hereby certify that a copy of the Findings Of Fact, Conclusions Of Law, And Decision And Order Determining A Negative Declaration 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 March 2001.


BERT SARUWATARI
Acting Executive Officer