

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the matter of the Petition)	DOCKET NO. A03-740
)	
of)	ORDER ACCEPTING PETITIONER'S
)	ENVIRONMENTAL IMPACT
MAUI LAND & PINEAPPLE COMPANY,)	STATEMENT FOR A STATE LAND
INC.)	USE DISTRICT BOUNDARY
)	AMENDMENT FILED ON
To Amend the Land Use District Boundary)	OCTOBER 13, 2003
to Reclassify Approximately 40.6 acres of)	
land in the Agricultural District to the Urban)	
District at Pukalani, Makawao, Maui,)	
Hawaii, Tax Map Key: (2) 2-3-07: 08)	
_____)	

ORDER ACCEPTING PETITIONER'S ENVIRONMENTAL IMPACT
STATEMENT FOR A STATE LAND USE DISTRICT BOUNDARY
AMENDMENT

This is to certify that this is a true and correct
copy of the document on file in the office of the
State Land Use Commission, Honolulu, Hawaii,
DEC 12 2003 by Anthony Jones
Date Executive Officer

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On August 28, 2003 the Commission issued its Order Requiring Petitioner to Prepare an Environmental Impact Statement ("EIS Order") pursuant to Orders on Motion For Summary Judgment Filed by Defendant Maui Land & Pineapple Company, Inc. issued by the Honorable Joel E. August, in Civil No. 02-1-0500 (1), Circuit Court of the Second Circuit, State of Hawaii, on April 16, 2003 ("Court Orders").

On October 13, 2003, Petitioner filed its Revised Final Environmental Impact Statement ("RFEIS") pursuant to the EIS Order.

On October 22, 2003, the Department of Planning, County of Maui ("County"), informed Staff that it will not attend the LUC action meeting on Petitioner's RFEIS scheduled for October 23, 2003. The County had no objections to the acceptance of the RFEIS and stood by its comments on the RFEIS received by the LUC on September 25, 2003.

On October 23, 2003, the Commission held a meeting in Wailea, Maui, Hawaii, to consider acceptance of Petitioner's Final Environmental Impact Statement as filed as RFEIS.

Petitioner filed its Supplements to Revised Final EIS ("EIS Supplements") that included additional information to clarify issues raised in Staff's Report regarding the acceptability and content of the RFEIS and clarification of the findings in the RFEIS.

Public witness testimony was received from Barbara Long; Issac Hall, Esq. representing Malama Maui; Aric Nakashima; Sally Raisbeck; and John Chang, Esq., Deputy Attorney General, and Abe Mitsuda representing the Office of Planning, Department of Business, Economic Development and Tourism (“OP”).

Concerns were raised by Ms. Long and Mr. Hall that they did not review the RFEIS, so their comments lacked the insights of Petitioner’s revisions and comments from RDEIS reviewers. Mr. Hall asserted that the Commission committed two procedural errors by not providing copies of the RFEIS to his organization and the public, and Malama Maui was not consulted in the preparation of the RFEIS. On the latter, he believed that Malama Maui was an organization that Petitioner was required to consult with in the development of the RFEIS. Ms. Long and Mr. Hall requested the Commission to defer its action to allow them to review the RFEIS. Staff clarified that RDEIS reviewers and the public are not provided a copy of the RFEIS prior to the Commission’s acceptance pursuant to Chapter 343, HRS (“EIS Laws”) and Chapter 11-200, Hawai’i Administrative Rules (“EIS Rules”) namely: i) RDEIS reviewers receive responses from the Petitioner, including any verbatim language changes made pursuant to their respective comments; ii) the RFEIS, as filed with the Commission, is considered preliminary prior to Commission’s acceptance and would be subject to subsequent revisions from the Commission’s action; iii)

copies of the RFEIS are not distributed until the Commission grants acceptance of the RFEIS and the accepted RFEIS is published by the Office of Environmental Quality Control, Department of Health; and iv) courtesy copies of the preliminary RFEIS may be sent to interested individuals and entities upon request. Petitioner believed that the procedure suggested by Mr. Hall was not supported by the EIS Laws and Rules, and clarified it had not received any requests from the public witnesses that raised the issue.

The other issues raised during public witness testimony included: the location of the Commission's action meeting in an area more convenient to Upcountry residents; deferral of the Commission's action for public review of the RFEIS and EIS Supplements and consequent extension; the inadequacy of the RFEIS in meeting the requirements of the EIS Laws and Rules; recommendations for rejection; concerns of the scale of the Project and its components; the need to acknowledge the historical significance of the Corn Mill Camp and preservation of the Camp's water tower; the impact of the Project upon the surrounding region including the Kulamalu town center project; the impacts of the Project upon regional water supplies; and the implication of the Project's proposed well development upon Upcountry water meter requests and the cost of water to the County.

Petitioner provided clarification of the following issues : the scope of the Project and impacts upon surrounding businesses; the desired development of senior housing with the development of multi-family units as an alternative; development of nearby wells to address Project needs and augment County water supplies; location of pedestrian and bike ways and proposed parking along Makawao Avenue; the inclusion of discussion regarding Chapters 205 and 205A, HRS; the assessment of the proposed waste stream from the Project, its impacts upon the County landfill, and proposed waste reduction from recycling; the continuation of agricultural activities on other lands owned by Petitioner; a matrix of development alternatives; and inclusion of two new unresolved issues, Department of Education fair-share payments and archaeological survey confirmation from the State Historic Preservation Division, Department of Land and Natural Resources.

OP had no objections to the RFEIS and stated its position that the RFEIS met the standards pursuant to the EIS Rules and Laws.

On October 23, 2003, at its meeting in Wailea, Maui, Hawai`i, the Commission accepted Petitioner's RFEIS for the foregoing reasons.

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 has satisfied the criteria and procedures for acceptance of a Final Environmental Impact Statement and the requirements of Section 11-200-23, HAR.

ORDER

IT IS HEREBY ORDERED that the Revised Final Environmental Impact Statement submitted by Petitioner as RFEIS, under LUC Docket No. A03-740/MAUI LAND & PINEAPPLE, CO., LTD., be and the same is hereby 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 during the case in chief.

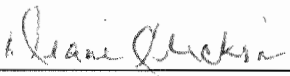
At the hearing conducted on October 23, 2003, a Motion to accept Petitioner's RFEIS was made and seconded. There being a vote tally of five ayes, the Motion was PASSED, having received the affirmative votes required by Section 15-15-13, HAR.

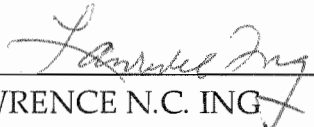
Done at Honolulu, Hawai'i, this 12th day of December,

2003, per motion on October 23, 2003.

APPROVED AS TO FORM

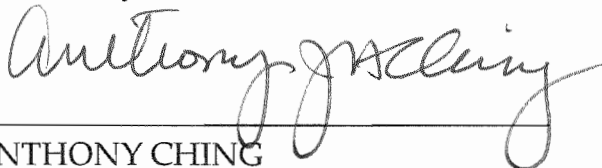
LAND USE COMMISSION
STATE OF HAWAI'I

By 
Deputy Attorney General


LAWRENCE N.C. ING
Chairperson and Commissioner

Filed and effective on

Certified by:


ANTHONY CHING
Executive Officer

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MAUI LAND & PINEAPPLE)	
COMPANY, INC.)	
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District to the Urban District at Pukalani,)	
Makawao, Maui, Hawaii, Tax Map Key:)	
(2) 2-3-07: 08)	
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CERTIFICATE OF SERVICE

I hereby certify that a copy of the Order Accepting Petitioner's Environmental Impact Statement for a State Land Use District Boundary Amendment Filed on October 13, 2003, was served upon the following by either hand delivery or depositing the same in the U. S. Postal Service by regular or certified mail as noted:

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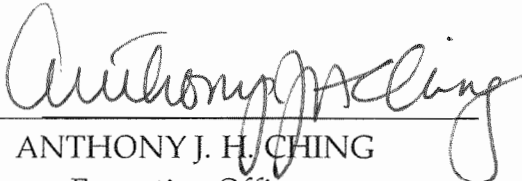
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Dated: Honolulu, Hawaii, December 12, 2003.



ANTHONY J. H. CHING
Executive Officer