

BEFORE THE LAND USE COMMISSION

OF THE STATE OF HAWAI'I

In the Matter of the Petition of	)	DOCKET NO. A95-716
	)	
TOKYO GREEN HAWAII, INC.,	)	FINDINGS OF FACT,
a Hawai'i corporation	)	CONCLUSIONS OF LAW, AND
	)	DECISION AND ORDER
To Amend the Conservation Land Use	)	ACCEPTING THE KALOKO
District Boundary into the Urban	)	TOWN CENTER FINAL
Land Use District for Approximately	)	ENVIRONMENTAL IMPACT
223.924 Acres at Kaloko-Kohanaiki,	)	STATEMENT, DATED
North Kona, Hawai'i, Tax Map Key	)	SEPTEMBER 1996
No. 7-3-09: por. 17	)	
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LAND USE COMMISSION  
STATE OF HAWAII  
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FINDINGS OF FACT, CONCLUSIONS OF LAW, AND DECISION AND ORDER  
ACCEPTING THE KALOKO TOWN CENTER FINAL ENVIRONMENTAL  
IMPACT STATEMENT, DATED SEPTEMBER 1996

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FINDINGS OF FACT, CONCLUSIONS OF LAW, AND DECISION AND ORDER  
ACCEPTING THE KALOKO TOWN CENTER FINAL ENVIRONMENTAL  
IMPACT STATEMENT, DATED SEPTEMBER 1996

The Land Use Commission ("Commission"), having examined and considered the Kaloko Town Center Final Environmental Impact Statement, dated September 1996 ("FEIS"), submitted by Tokyo Green Hawaii, Inc., a Hawai'i corporation ("Petitioner"), on September 19, 1996, in Honolulu, Hawai'i, hereby makes the following findings of fact, conclusions of law, and decision and order:

FINDINGS OF FACT

DESCRIPTION OF AFFECTED PROPERTY AND PROPOSED DEVELOPMENT

1. The FEIS was submitted in support of Petitioner's request for a State land use district boundary amendment from the State Land Use Conservation District for approximately 223.924 acres of land to the State Land Use Urban District, located at Kaloko-Kohanaiki, North Kona, Hawai'i, and identified as TMK No. 7-3-09: por. 17 ("Property").

2. The Property is situated approximately at the midpoint between the Keahole Airport and Kailua Town along Queen Ka'ahumanu Highway. The Property is bordered on the south by Hina Lani Drive.

3. Petitioner seeks to develop the Property into a mixture of land uses, including commercial/retail, office/commercial/retail, and multi-family and single-family residential uses, as well as a site for a school and park.

#### PROCEDURAL MATTERS

4. On October 3, 1995, Petitioner submitted a Petition for Land Use District Boundary Amendment to amend the State land use district boundary of the Property from the Conservation District to the Urban District. Petitioner subsequently submitted an Amended Petition on December 18, 1995, and a Second Amended Petition on March 7, 1996 (collectively referred to herein as "Petition"). The amendments to the Petition amended the certificate of service and the tax map key designation and acreage comprising the Property.

5. The Petition included an environmental assessment ("EA") as required by section 343-5(a)(7), Hawai'i Revised Statutes ("HRS").

6. On October 30, 1995, Petitioner filed an amended EA to 1) include a determination of the proposed action; 2) include a list of agencies to be consulted in the preparation of the Environmental Impact Statement ("EIS"); and 3) clarify the acreage and the tax map key designation of the Property.

7. On November 2, 1995, and by a written Order dated November 21, 1995, the Commission required Petitioner to prepare an EIS, pursuant to chapter 343, HRS.

8. On June 12, 1996, Petitioner submitted a Draft Environmental Impact Statement ("DEIS"). Notice of the DEIS's availability for agency and public review was published in the Office of Environmental Quality Control's June 23, 1996, issue of "The Environmental Notice." Comments on the DEIS were received through the public comment period, which ended on August 7, 1996. The public comment period was subsequently extended to August 14, 1996, during which additional comments on the DEIS were received.

9. The Office of Planning and the Hawai'i County Planning Department had no objections to the acceptance of the FEIS.

#### CONTENT REQUIREMENTS

10. The FEIS conforms to the requirements of section 11-200-18, HAR, to the extent that it includes (a) substantive comments received during the consultation and review processes; (b) reproductions of all letters received containing substantive questions, comments, or recommendations; (c) a list of persons, organizations and public agencies commenting on the DEIS; (d) the responses of Petitioner to each substantive question, comment, or recommendation received in the review and consultation processes; and (e) text which is written in a format that allows the reader to easily distinguish changes made to the text of the DEIS.

11. Any findings of fact that are deemed a conclusion of law shall be deemed a conclusion of law.

CONCLUSIONS OF LAW

1. Petitioner provided satisfactory responses to comments submitted during the review process, which have been incorporated in the FEIS.

2. Pursuant to chapter 343, HRS, and chapter 11-200, HAR, entitled "Environmental Impact Statement Rules," this Commission concludes that Petitioner has satisfied the criteria and procedures for acceptance of a Final Environmental Impact Statement and the requirements of section 11-200-23, HAR.

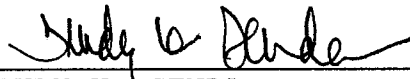
ORDER

IT IS HEREBY ORDERED that the Final Environmental Impact Statement filed by Tokyo Green Hawaii, Inc., a Hawai'i corporation, under Docket No. A95-716, be and the same is hereby accepted pursuant to chapter 343, HRS, and chapter 11-200, HAR.

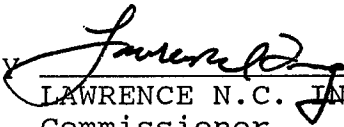
DOCKET NO. A95-716 - TOKYO GREEN HAWAII, INC.

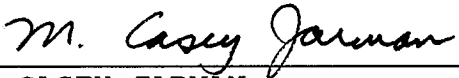
Done at Honolulu, Hawai'i, this 18th day of October 1996,  
per motion on October 10, 1996.

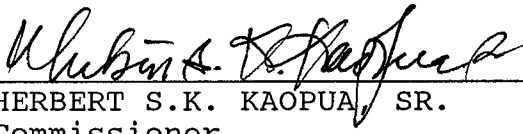
LAND USE COMMISSION  
STATE OF HAWAI'I


By   
TRUDY K. SENDA  
Chairperson and Commissioner

By (absent)  
RUPERT K. CHUN  
Vice Chairperson and Commissioner

By   
LAWRENCE N.C. ING  
Commissioner

By   
M. CASEY JARMAN  
Commissioner

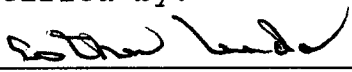
By   
HERBERT S.K. KAOPUA, SR.  
Commissioner

By   
LLOYD F. KAWAKAMI  
Commissioner

By   
MERLE A. K. KELAI  
Commissioner

Filed and effective on  
October 18, 1996

Certified by:

  
Executive Officer

By (absent)  
EUSEBIO LAPENIA, JR.  
Commissioner

By (absent)  
JOANN N. MATTSON  
Commissioner

BEFORE THE LAND USE COMMISSION  
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TOKYO GREEN HAWAII, INC., ) CERTIFICATE OF SERVICE  
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Land Use District for Approximately )  
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No. 7-3-09: por. 17 )  
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CERTIFICATE OF SERVICE

I hereby certify that a copy of the Findings of Fact, Conclusions of Law, and Decision and Order Accepting the Kaloko Town Center Final Environmental Impact Statement, Dated September 1996 was served upon the following by either hand delivery or depositing the same in the U. S. Postal Service by certified mail:

CERT. RICK EGGED, Director  
Office of State Planning  
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Honolulu, Hawaii 96811-3540

CERT. VIRGINIA GOLDSTEIN, Planning Director  
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CERT. MICHAEL W. MOORE, ESQ., Attorney for Petitioner  
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CERT. HAWAII ELECTRIC LIGHT COMPANY, INC.  
Attn: William Stormont  
Manager of Administration  
P. O. Box 1027  
Hilo, Hawaii 96721

CERT. GARY GILL, Director  
Office of Environmental Quality Control  
220 South King Street, 4th Floor  
Honolulu, Hawaii 96813

DATED: Honolulu, Hawaii, this 18th day of October 1996.



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ESTHER UEDA  
Executive Officer