



LAND USE COMMISSION
STATE OF HAWAII

2021 FEB 18 A 7:23

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of

U of N BENCORP

To Amend the Agricultural Land Use
District to the Urban Land Use District for
approximately 62 acres, Tax Map Key
Nos.: (3) 7-5-10:85 and 7-5-17:06 situated
at Wai'aha 1st, North Kona, Island, County
and State of Hawaii.

) DOCKET NO. A02-737
)
) ORDER GRANTING PETITIONER'S
) MOTION REQUESTING THE LAND
) USE COMMISSION (A) TO BE THE
) ACCEPTING AUTHORITY FOR AN
) ENVIRONMENTAL IMPACT
) STATEMENT; (B) DETERMINE THAT
) THE PROPOSED ACTION WARRANTS
) THE PREPARATION OF AN
) ENVIRONMENTAL IMPACT
) STATEMENT, TO BE INITIATED WITH
) THE PREPARATION OF AN
) ENVIRONMENTAL IMPACT
) STATEMENT PREPARATION NOTICE;
) AND CERTIFICATE OF SERVICE

ORDER GRANTING PETITIONER'S MOTION REQUESTING THE LAND USE
COMMISSION (1) TO BE THE ACCEPTING AUTHORITY FOR AN
ENVIRONMENTAL IMPACT STATEMENT; (2) DETERMINE THAT THE
PROPOSED ACTION WARRANTS THE PREPARATION OF AN ENVIRONMENTAL
IMPACT STATEMENT, TO BE INITIATED WITH THE PREPARATION OF AN
ENVIRONMENTAL IMPACT STATEMENT PREPARATION NOTICE

AND

CERTIFICATE OF SERVICE

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

2/18/2021 by

Executive Officer



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On January 21, 2021, the University of the Nations Kona Inc.,
("Petitioner") filed a Motion Requesting The Land Use Commission (A) To Be The
Accepting Authority For An Environmental Impact Statement; (B) Determine That The
Proposed Action Warrants The Preparation Of An Environmental Impact Statement, To
Be Initiated With The Preparation Of An Environmental Impact Statement Preparation

Notice ("Motion"), pursuant to Hawai'i Administrative Rules ("HAR") §§15-15-70, 11-200.1-4, 11-200.1-5, 11-200.1-14, and Hawai'i Revised Statutes ("HRS") §343-5(a)(1).

On March 23, 2020, Petitioner filed a Motion to Amend Findings of Fact, Conclusions of Law and Decision and Order for Land Use District Boundary Amendment dated August 8, 2003. ("Petition").

In its Motion to Amend, Petitioner proposes to revise the land use plan and development proposal for the approximately 62 acres of land ("Petition Area") in the State Land Use Urban District at Wai'aha, North Kona, County and State of Hawai'i, to allow for expansion of the existing campus in the Petition Area to accommodate its projected future growth.

Petitioner notes that before the Commission can act on the Motion to Amend, UNK must first comply with HRS Chapter 343 Hawai'i Revised Statutes.

In its Motion, Petitioner requested that the State Land Use Commission ("Commission") (A) determine that it will be the accepting authority for the environmental assessment under HRS Chapter 343; and (B) determine, through its judgement and experience, that an Environmental Impact Statement ("EIS") is warranted and that the environmental review process should be initiated by the preparation of an Environmental Impact Statement Preparation Notice ("EISPN").

On January 29, 2021, the State Office of Planning ("OP") filed a written response expressing no opposition to Petitioner's Motion.

On February 1, 2021, the County of Hawai'i Planning Department ("Planning Department") noted that it had reviewed UNK's Motion with its associated documents, including the EISPN and was in support of it.

On February 6, 2021, the Commission met via ZOOM virtual meeting platform, to determine (A) whether this Commission should be the accepting authority pursuant to HRS Chapter 343; (B) whether the proposed action may have a significant effect upon the environment to warrant the preparation of an EIS; and (3) whether to authorize Petitioner to prepare an EISPN pursuant to HRS §343-5(e). Derek Simon, Esq., appeared on behalf of Petitioner. Diana Mellon-Lacey, Esq., Zendo Kern, Maija Jackson and Jeff Darrow appeared on behalf of the Planning Department. Bryan Yee, Esq., and Rodney Funakoshi were present on behalf of OP.

At the meeting, Petitioner summarized its position in support of its Motion that this Commission is the appropriate accepting authority for the EIS pursuant to HRS Chapter 343, that the proposed action may have a significant effect upon the environment such that an EIS is likely to be required, and that Petitioner be allowed to proceed directly to the preparation of an EIS commencing with the preparation of an EISPN.

Both OP and the Planning Department stated that they had no objections to Petitioner's Motion.

Following discussion, a motion was made and seconded to have this Commission (A) agree to be the accepting authority pursuant to HRS chapter 343; (B) find that the proposed action may have a significant effect upon the environment to warrant the preparation of an EIS and authorized Petitioner to prepare an EISPN pursuant to HRS §343-5(e). The Commission also authorized the Commission's Executive Officer to notify and submit a record of the Commission's decision to Petitioner and the State Office of Environmental Quality Control ("OEQC"), and to sign the Order on this matter on behalf of the Commission. There being a vote tally of 8 ayes and 0 nays the motion carried.

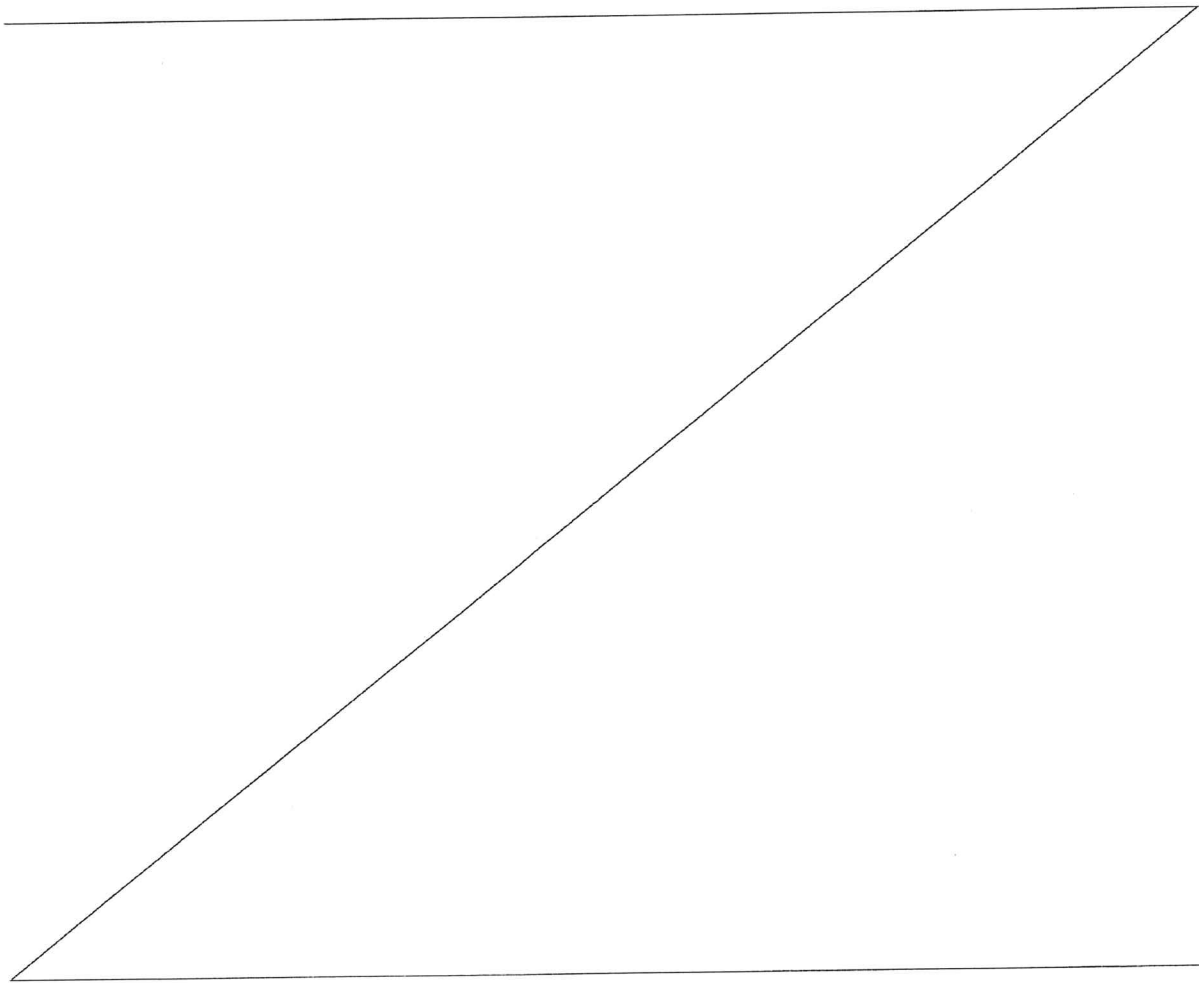
ORDER

This Commission, having duly considered Petitioner's Motion, the comments of OP and the Planning Department, and a motion having been made at its meeting on February 6, 2021, via ZOOM virtual interactive conference platform, and the motion having received the affirmative votes required by HAR §15-15-13, and there being good cause for the motion,

HEREBY ORDERS (A) that it agrees to be the accepting authority pursuant to HRS Chapter 343; (B) that the proposed action may have a significant effect upon the environment to warrant the preparation of an EIS; and that Petitioner is authorized to prepare an EISPN pursuant to HRS §343-5(e).

IT IS ALSO ORDERED that Petitioner shall make the EISPN available for a 30-day public review and comment period pursuant to HRS §343-5(e) and HAR §11-200.1-4.

IT IS FURTHER ORDERED that the Commission's Executive Officer shall notify and submit a record of the Commission's decision to Petitioner and the OEQC, and shall sign the Order on this matter on behalf of the Commission.



ADOPTION OF ORDER

This ORDER shall take effect upon the date this ORDER is certified by this Commission.

Done at Honolulu, Hawai'i, this 18th, day of February, per motion on February 6, 2021.

LAND USE COMMISSION
STATE OF HAWAII

APPROVED AS TO FORM



Deputy Attorney General



By _____
DANIEL ORODENKER
Executive Officer

Filed and effective on:

2/18/2021

Certified by:



DANIEL ORODENKER
Executive Officer



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situated at Wai`aha 1 st , North Kona,)	
County and State of Hawai`i)	

CERTIFICATE OF SERVICE

I hereby certify that a certified copy of the ORDER GRANTING PETITIONER'S MOTION REQUESTING THE LAND USE COMMISSION (1) TO BE THE ACCEPTING AUTHORITY FOR AN ENVIRONMENTAL IMPACT STATEMENT; (2) DETERMINE THAT THE PROPOSED ACTION WARRANTS THE PREPARATION OF AN ENVIRONMENTAL IMPACT STATEMENT, TO BE INITIATED WITH THE PREPARATION OF AN ENVIRONMENTAL IMPACT STATEMENT PREPARATION NOTICE was served upon the following by depositing the same in the U. S. Postal Service by registered or certified mail as noted:

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Dated: Honolulu, Hawai'i, February 18, 2021



DANIEL E. ORODENKER
Executive Officer