

BEFORE THE LAND USE COMMISSION

OF THE STATE OF HAWAII

In The Matter Of The Petition Of)	DOCKET NO. A07-772
)	
A&B PROPERTIES, INC.)	ORDER DETERMINING (1) THAT THE
)	LAND USE COMMISSION AGREES TO
To Amend The Agricultural Land Use)	BE THE ACCEPTING AUTHORITY
District Boundary Into The Urban Land)	PURSUANT TO CHAPTER 343, HAWAII
Use District For Approximately 94.352)	REVISED STATUTES; AND (2) THAT
Acres Of Land At Waiakoa, Maui,)	THE PROPOSED ACTION MAY HAVE A
Hawai'i, Tax Map Key: 3-8-04: Por. 2,)	SIGNIFICANT EFFECT UPON THE
Por. 22, And Por. 30)	ENVIRONMENT TO WARRANT THE
)	PREPARATION OF AN
)	ENVIRONMENTAL IMPACT
)	STATEMENT
)	

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 AGREES TO BE THE ACCEPTING AUTHORITY PURSUANT TO CHAPTER 343,
 HAWAII REVISED STATUTES; AND (2) THAT THE PROPOSED ACTION MAY
 HAVE A SIGNIFICANT EFFECT UPON THE ENVIRONMENT TO WARRANT THE
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PREPARATION OF AN ENVIRONMENTAL IMPACT STATEMENT

On March 2, 2007, A&B Properties, Inc., ("Petitioner") filed a Petition For Land Use District Boundary Amendment ("Petition") to reclassify approximately 94.352 acres of land at Waiakoa, Maui, Hawaii, identified as Tax Map Key: 3-8-04: por. 2, por. 22, and por. 30, from the State Land Use Agricultural District to the State Land Use Urban District for residential, commercial, and park uses ("Project"). An

Environmental Impact Statement Preparation Notice (“EISPN”) was included with the Petition.¹

The Project is subject to the environmental review process as it may involve the use of State and/or County lands and it proposes to amend the Kihei-Makena Community Plan pursuant to sections 343-5(a)(1) and 343-5(a)(6), Hawai`i Revised Statutes (“HRS”), and sections 11-200-6(b)(1)(A) and 11-200-6(b)(2)(A), Hawai`i Administrative Rules (“HAR”).

On March 16, 2007, the Land Use Commission (“Commission”) held a meeting in Honolulu, Hawai`i, to determine (i) whether this Commission should be the accepting authority pursuant to chapter 343, HRS; and (ii) whether the Project may have a significant effect upon the environment to warrant the preparation of an EIS pursuant to chapter 343, HRS. Benjamin M. Matsubara, Esq., and Curtis T. Tabata, Esq., appeared on behalf of Petitioner. Bryan C. Yee, Esq., and Abe Mitsuda appeared on behalf of the State Office of Planning (“OP”). By e-mail received on March 12, 2007, the County of Maui (“County”) informed the Commission that it would not be present at the meeting, and in fact was not present or represented. The County also stated that its Department of Planning agreed the Commission is the appropriate accepting authority, and that

¹ By preparing the EISPN, Petitioner has already acknowledged that the Project may have a significant effect upon the environment, and therefore will require the preparation of an Environmental Impact Statement (“EIS”).

given Petitioner's intention to do an EIS, there was no need to determine whether the Project may have a significant effect to warrant the preparation of an EIS.

At the meeting, Petitioner stated that the filing of its Petition represented the earliest practicable time to determine whether an EIS is warranted. Petitioner further stated that this Commission is the appropriate accepting authority, and that due to the scope of the Project, it may have a significant effect on the environment to warrant the preparation of an EIS. The OP stated that it had no objection to the Commission serving as the accepting authority, and that it agreed with and supported the preparation of an EIS in this matter.

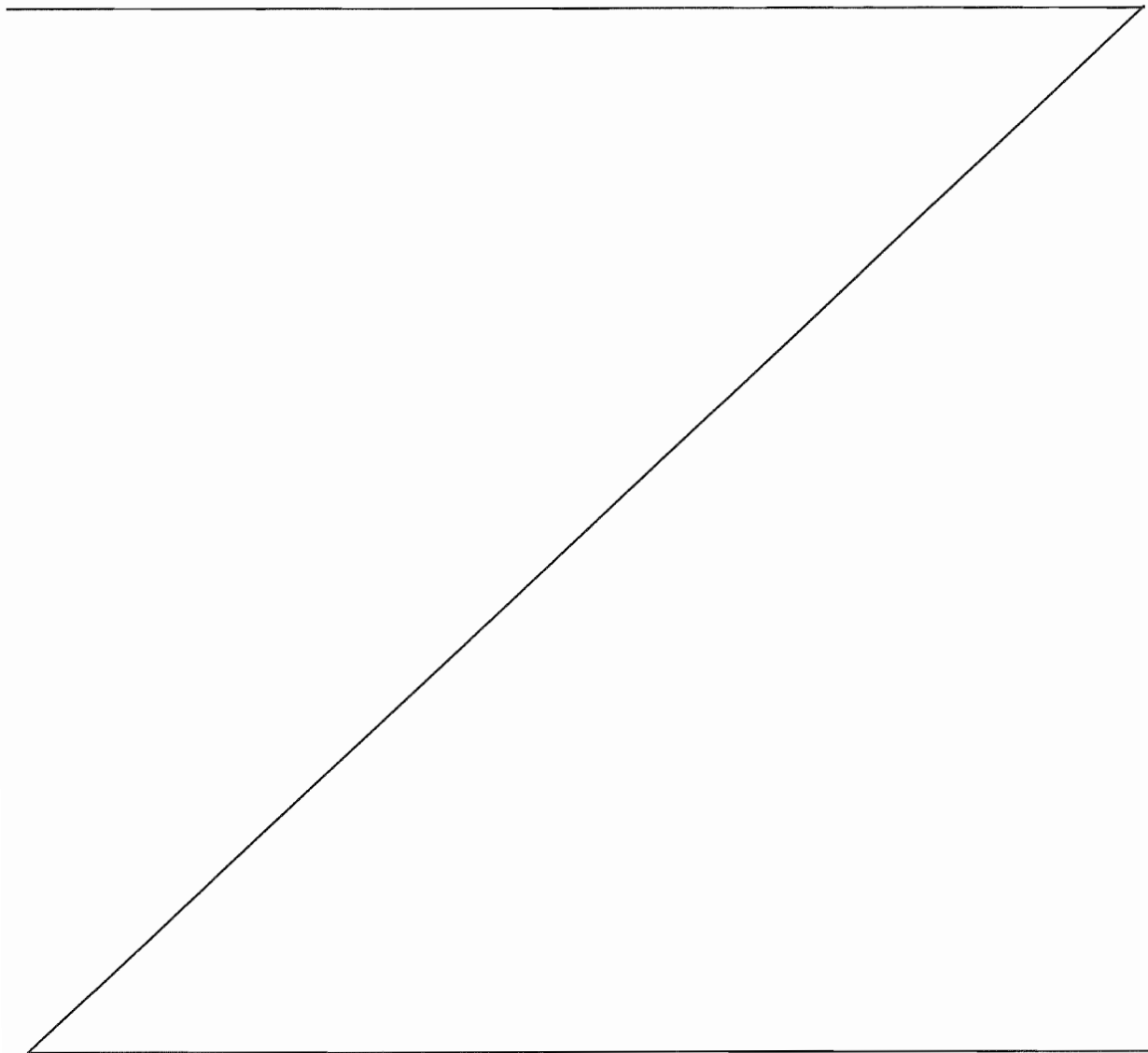
Following discussion, a motion was made and seconded to have this Commission agree to be the accepting authority pursuant to chapter 343, HRS, and to have the Commission find that the Project may have a significant effect upon the environment sufficient to warrant the preparation of an EIS. There being a vote tally of 8 ayes and 1 absent, the motion carried.

ORDER

This Commission, having duly considered Petitioner's EISPN, the arguments by the parties in this proceeding, and a motion having been made at its meeting on March 16, 2007, in Honolulu, Hawai'i, and the motion having received the affirmative votes required by section 15-15-13, HAR, and there being good cause for the motion,


HEREBY ORDERS that it agrees to be the accepting authority pursuant to chapter 343, HRS, and that the Project may have a significant effect upon the environment to warrant the preparation of an EIS.

IT IS FURTHER ORDERED that Petitioner shall make the EISPN available for a 30-day public review and comment period pursuant to section 11-200-15(b), HAR, and section 343-5(c), HRS.



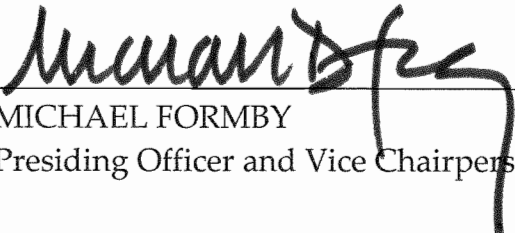
Done at Honolulu Hawaii, this 29th day of
March, 2007, per motion on March 16, 2007.

APPROVED AS TO FORM



Deputy Attorney General

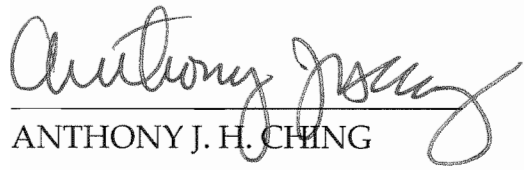
LAND USE COMMISSION
STATE OF HAWAI'I

By 

MICHAEL FORMBY
Presiding Officer and Vice Chairperson

Filed and effective on
MAR 29 2007

Certified by:



ANTHONY J. H. CHING

BEFORE THE LAND USE COMMISSION

OF THE STATE OF HAWAII

In The Matter Of The Petition Of) DOCKET NO. A07-772
)
A&B PROPERTIES, INC.) CERTIFICATE OF SERVICE
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To Amend The Agricultural Land Use)
District Boundary Into The Urban Land)
Use District For Approximately 94.352)
Acres Of Land At Waiakoa, Maui,)
Hawai'i, Tax Map Key: 3-8-04: Por. 2,)
Por. 22, And Por. 30)
_____)

CERTIFICATE OF SERVICE

I hereby certify that a copy of the Order Determining (1) That The Land Use Commission Agrees To Be The Accepting Authority Pursuant To Chapter 343, Hawai'i Revised Statutes; And (2) That The Proposed Action May Have A Significant Effect Upon The Environment To Warrant The Preparation Of An Environmental Impact Statement 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:

DEL. LAURA H. THIELEN, Director
Office of Planning
P. O. Box 2359
Honolulu, Hawaii 96804-2359

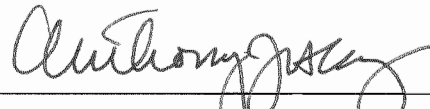
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CERT: BENJAMIN M. MATSUBARA, Esq.
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Honolulu, HI 96813

Dated: Honolulu, Hawaii, MAR 29 2007.



ANTHONY J. H. CHING
Executive Officer