

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of) DOCKET NO. A00-730
)
LANIHAU PROPERTIES, LLC) ORDER DENYING ACCEPTANCE
) OF PETITIONER'S FINAL
To Amend the Conservation Land Use) ENVIRONMENTAL IMPACT
District Boundary into the Urban Land Use) STATEMENT BY THE STATE LAND
District for Approximately 336.984 Acres at) USE COMMISSION
Honokohau, North Kona, Hawaii,)
Tax Map Key Nos.: 7-4-08: portion of)
13 and 7-4-08: 30)

ORDER DENYING THE ACCEPTANCE OF PETITIONER'S FINAL
ENVIRONMENTAL IMPACT STATEMENT BY THE STATE LAND USE
COMMISSION

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STATE OF HAWAII
2002 APR 25 A 6:53

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COMMISSION

Lanihau Properties, LLC, fka Lanihau Partners, L.P. (Petitioner), filed a Petition for Land Use District Boundary Amendment to reclassify approximately 336.984 acres of land at Honokohau, North Kona, Hawaii, from the Conservation Land Use District to the Urban Land Use District (Petition).

The Petition proposes to develop a business park that will include mixed light industrial and commercial uses and retention and expansion of existing quarrying and quarry-related uses such as a ready mix concrete plant, an asphalt concrete plant, stockpiling, quarry and aggregate sales, and pre-cast concrete manufacturing.

PROCEDURAL MATTERS

On March 24, 2000, Petitioner filed its Petition. The Petition included an environmental impact statement preparation notice (EISPN) as required by section 343-5 (a)(7), Hawaii Revised Statutes (HRS).

On April 20, 2000, the LUC determined that the proposed reclassification will constitute a “significant effect” and required the Petitioner to submit an environmental impact statement pursuant to its Order Requiring Petitioner To Prepare An Environmental Impact Statement issued on May 9, 2000.

On May 26, 2000, Staff filed Petitioner’s EISPN with the Office of Environmental Quality Control (OEQC). The EISPN subsequently appeared in OEQC’s issue of the June 8, 2000 Environmental Notice. The 30-day public comment deadline was ultimately set for July 24, 2000.

On February 23, 2001, staff filed Petitioner’s Draft Environmental Impact Statement (DEIS) with OEQC. Notice of the filing was published in the Environmental Notice on March 8, 2001. The DEIS 45-day public comment deadline was set for April 23, 2001.

On March 21, 2002, Petitioner filed its Final Environmental Impact Statement (FEIS) with the Commission.

On April 5, 2002, the Commission held a hearing in Honolulu, Oahu, to consider whether to accept Petitioner’s FEIS pursuant to the Hawaii

Environmental Impact Statement (EIS) Law, Chapter 343, HRS, and the EIS Rules, Chapter 11-200, Hawaii Administrative Rules (HAR). At the hearing, the Planning Department, County of Hawaii, did not register any objections to Petitioner's FEIS. The Office of Planning also indicated that the FEIS was acceptable, but reserved the opportunity to raise comments and concerns during the hearing on the Petition. The National Park Service, U.S. Department of Interior (NPS), provided public witness testimony recommending that the Commission reject the FEIS because it did not adequately assess the potential impacts to pond, marine, and fauna resources affecting the Kaloko-Honokohau National Historical Park pursuant to the requirements of Sections 11-200-16, 11-200-17, and 11-200-18, HAR. NPS also testified that the FEIS should include the relevant findings of fact and conditions of approval contained in the Findings of Fact, Conclusions of Law, and Decision and Order for A00-732/TSA Corporation issued by the Commission on February 14, 2002. (The Petitioner noted that that docket had been referred to in the FEIS and the Findings of Fact, Conclusions of Law, and Decision and Order had been added as an exhibit to the FEIS.)

The Commission believes the FEIS did not fulfill the definitions and requirements of an environmental impact statement and did not adequately describe identifiable environmental impacts as specified in the statute and rules. For example, the Commission concluded that the FEIS did not contain a rigorous

exploration of the environmental impacts of all proposed alternative actions as specified in Section 11-200-17 (f), HAR. Nor did the FEIS provide sufficient findings as specified in Section 11-200-17 (i), HAR, in regard to potable water demand and sustainability, cumulative solid waste generation, quantification of air quality assessments, and the relationship of the project's energy demand with the HELCO's regional energy capacity. The FEIS also did not include an assessment of the potential for solar power to serve as an alternative energy source.

On April 5, 2002, at its meeting in Honolulu, Oahu, the Commission rejected Petitioner's FEIS for the foregoing reasons.

CONCLUSIONS OF LAW

Pursuant to Chapter 11-200, HAR, and Chapter 15, HAR, the Commission, having considered Petitioner's FEIS within thirty days of its filing, concludes that Petitioner's FEIS does not satisfy the criteria for acceptance set forth in Chapter 343, HRS, and Chapter 11-200, HAR. The FEIS is therefore rejected.

ORDER

IT IS HEREBY ORDERED that Petitioner's FEIS is not accepted pursuant to Chapter 343, HRS and Chapter 11-200, HAR.

At the hearing conducted on April 5, 2002, a Motion to reject Petitioner's FEIS was made and seconded. There being a vote tally of seven ayes and one

nay, the Motion was PASSED, having received the affirmative votes required by
Section 15-15-13, HAR.

Dated: Honolulu, Hawai'i, April 25, 2002.

LAND USE COMMISSION
STATE OF HAWAII

By M. Kelai
MERLE A. K. KELAI
Chairperson and Commissioner

APPROVED AS TO FORM:

Simeon Quetin
Deputy Attorney General

Filed and effective on
April 25, 2002

Certified by:
Anthony J. King
Executive Officer

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the Order Denying the Acceptance of
Petitioner's Final Environmental Impact Statement by the State Land Use Commission
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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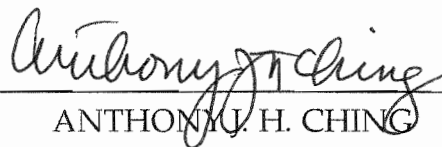
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DATED: Honolulu, Hawaii, this 25th day of April, 2002.



ANTHONY H. CHING
Executive Officer