

BEFORE THE LAND USE COMMISSION  
OF THE STATE OF HAWAI'I

In the Matter of the Petition of	)	DOCKET NO. A00-730
	)	
LANIHAU PROPERTIES, LLC	)	ORDER ACCEPTING PETITIONER'S
	)	ENVIRONMENTAL IMPACT
To Amend the Conservation Land Use	)	STATEMENT FOR A STATE LAND
District Boundary into the Urban Land Use	)	USE DISTRICT BOUNDARY
District for Approximately 336.984 Acres at	)	AMENDMENT FILED ON APRIL 10,
Honokohau, North Kona, Hawaii,	)	2003
Tax Map Key Nos.: 7-4-08: portion of	)	
13 and 7-4-08: 30	)	

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ORDER ACCEPTING PETITIONER'S ENVIRONMENTAL IMPACT  
STATEMENT FOR A STATE LAND USE DISTRICT BOUNDARY  
AMENDMENT FILED ON APRIL 10, 2003

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LAND USE COMMISSION  
STATE OF HAWAII

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On April 10, 2003, Lanihau Properties, LLC ("Petitioner") filed its second Final Environmental Impact Statement ("FEIS II"). The FEIS II contained additional clarification in certain issue areas described by the State Land Use Commission ("LUC" or "Commission") pursuant to its Order Denying Acceptance of Petitioner's Final Environmental Impact Statement by the State Land Use Commission issued on April 25, 2002 ("Rejection Order").

The Rejection Order identified the following issues and concerns in the rejection of Petitioner's initial Final Environmental Impact Statement filed on March 21, 2002 ("FEIS I"):

1. The Commission believed that FEIS I did not fulfill the definitions and requirements of an environmental impact statement and did not adequately describe identifiable environmental impacts, such as exploration of the environmental impacts of all proposed actions as specified in Section 11-200-17 (f), Hawaii Administrative Rules ("HAR").
2. FEIS I did not 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.
3. FEIS I did not include an assessment of solar power as an alternative energy source.

The Commission also expressed the need for Petitioner to consult with the National Park Service ("NPS") for revisions to those sections relating to potential impacts to Kaloko-Honokohau National Historical Park ("KAHO").

On April 25, 2003, the Commission held a meeting in Honolulu, Hawaii, to consider acceptance of FEIS II as Petitioner's Final Environmental Impact Statement. Petitioner provided clarification on the following issues raised by LUC staff and the Commission's previous Rejection Order (which was subsequently rescinded):

- The potential impacts upon the North Kona aquifer from the project's estimated potable water demand;

- The potential impacts upon the capacity of the Pu`uanahulu landfill from the project's estimated solid waste generation and alternatives, and clarification that the project's solid waste management plan will be implemented by its prospective tenants;
- The potential air quality impacts from the project's energy demands, and the use of particulates as a proxy for other emissions;
- Estimation of the project's twenty-year (20) energy demands, and documentation by HELCO that the project would have no impacts;
- The lack of incentives and cost effective technologies limiting solar energy as an energy alternative, and the sharing of information as to the benefits of solar water heating with tenants to encourage increased solar use;
- The development of Area D may take twenty (20) years to complete and its exclusion may result in an estimated 12% tax revenue reduction within the twenty-year (20) timeframe; the lack of incentive to construct a connector road from Kealakehe Parkway; and the issue of incremental districting for Area D in light of the project's twenty-year (20) timeframe;
- The groundwater issues in relation to KAHO include: maintaining baseline groundwater flow rates; wastewater effluent analysis targeted nitrates and phosphates but the NPS monitoring data includes a full suite of contaminants; compliance with Department of Health regulations regarding injection well drilling and the occurrence of void encounters; and the confirmation that the owner's association will be empowered with certain pollution prevention authority and oversight; and
- Petitioner acknowledged that the proposed mitigation measures based upon the certain conditions of approval from LUC Docket No. A00-732/TSA Corporation reflect NPS and LUC concerns and will not preclude the inclusion or deletion of conditions as deemed appropriate by the LUC.

The County had no objections to FEIS II and recommended its acceptance by the Commission.

OP had no objections to FEIS II and stood by its previous position of acceptance for FEIS I.

On April 25, 2003, at its meeting in Honolulu, Hawaii, the Commission accepted Petitioner's FEIS II 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 Final Environmental Impact Statement submitted by Petitioner as FEIS II, under LUC Docket No. A00-730/LANIHAU PROPERTIES, LLC, 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 April 25, 2003, a Motion to accept Petitioner's FEIS II was made and seconded. There being a vote tally of six ayes, the Motion

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

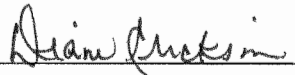
Dated: Honolulu, Hawai'i, JUN 2 2003.

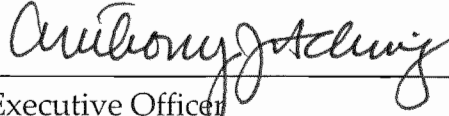
LAND USE COMMISSION  
STATE OF HAWAII

By   
LAWRENCE N. CING  
Chairperson and Commissioner

APPROVED AS TO FORM:

Filed and effective on JUN 2 2003, 2003

  
Deputy Attorney General

Certified by:  
  
Executive Officer

BEFORE THE LAND USE COMMISSION  
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In the Matter of the Petition of ) DOCKET NO. A00-730  
)  
LANIHAU PROPERTIES, LLC ) CERTIFICATE OF SERVICE  
)  
To Amend the Conservation Land Use )  
District Boundary into the Urban Land Use )  
District for Approximately 336.984 Acres at )  
Honokohau, North Kona, Hawaii, )  
Tax Map Key Nos.: 7-4-08: portion of )  
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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 April 10, 2003 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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Office of Planning  
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Honolulu, Hawaii 96804-2359

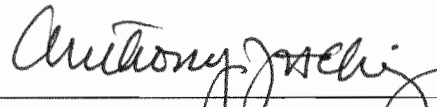
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Hilo, Hawaii 96720-4262

DATED: Honolulu, Hawaii, this 2nd day of June, 2003.



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ANTHONY J. H. CHING  
Executive Officer