

BEFORE THE LAND USE COMMISSION

OF THE STATE OF HAWAII

In The Matter Of The Petition Of)	DOCKET NO. A06-763
)	
KAPOLEI PROPERTY DEVELOPMENT,)	ORDER DETERMINING (1)
LLC)	THAT THE LAND USE
)	COMMISSION AGREES TO BE
To Amend The Agricultural Land Use District)	THE ACCEPTING AUTHORITY
Boundary Into The Urban Land Use District)	PURSUANT TO CHAPTER 343,
For Approximately 331.674 Acres Of Land At)	HAWAII REVISED STATUTES;
'Ewa, O'ahu, Hawai'i, Tax Map Keys:)	AND (2) THAT THE PROPOSED
9-1-14: Por. 33 And 34 And 9-1-15: Por. 20)	ACTION MAY HAVE A
_____)	SIGNIFICANT EFFECT UPON
		THE ENVIRONMENT TO
		WARRANT THE
		PREPARATION OF AN
		ENVIRONMENTAL IMPACT
		STATEMENT

ORDER DETERMINING (1) THAT THE LAND USE COMMISSION
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
PREPARATION OF AN ENVIRONMENTAL IMPACT STATEMENT

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PREPARATION OF AN ENVIRONMENTAL IMPACT STATEMENT

On March 17, 2006, Kapolei Property Development, LLC ("Petitioner"),
filed a Petition For Land Use District Boundary Amendment ("Petition") to reclassify
approximately 331.674 acres of land at `Ewa, O`ahu, Hawaii, identified as Tax Map
Keys: 9-1-14: por. 33 and 34 and 9-1-15: por. 20, from the State Land Use Agricultural
District to the State Land Use Urban District to allow the development of the Kapolei

Harborside Center ("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 will involve the use of State lands, pursuant to section 343-5(a)(1), Hawai'i Revised Statutes ("HRS"), and section 11-200-6(b)(1)(A), Hawai'i Administrative Rules ("HAR").

On April 6, 2006, the Land Use Commission ("Commission") held a meeting in Kahului Maui, to determine (i) whether this Commission should be the accepting authority pursuant to chapter 343, HRS; and (ii) if so, whether the Project warranted the preparation of an EIS. Benjamin A. Kudo, Esq.; Naomi U. Kuwaye, Esq.; and Cameron W. Nekota, Esq. appeared on behalf of Petitioner. Bryan C. Yee, Esq.; Laura Thielen; and Abe Mitsuda appeared on behalf of the State Office of Planning ("OP"). The City and County of Honolulu Department of Planning and Permitting ("DPP") previously notified the Commission staff that it would not be present at the meeting, and further that it had no objections to this Commission being the accepting authority and to Petitioner's preparation of an EIS.²

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").

² The DPP subsequently filed a letter with the Commission office in Honolulu, Hawai'i, on April 6, 2006, informing the Commission that it had no position as to whether the Commission is the appropriate accepting authority and whether the proposed action may have a significant effect to warrant the preparation of an EIS.

At the meeting, Petitioner stated that this Commission is the appropriate accepting authority as it is the initial agency receiving and processing the Petition pursuant to section 343-5(c), HRS, and further that the Project will have a significant effect upon the environment. Petitioner also stated that it will amend the Petition to include an additional approximately 12.845 acres of land, identified as Tax Map Key: 9-1-14: 35, within the Petition Area, and that it will file an amended EISPN to reflect this additional acreage. The OP stated that this Commission is the appropriate accepting authority for the EIS, and further that the Project will have a significant effect.

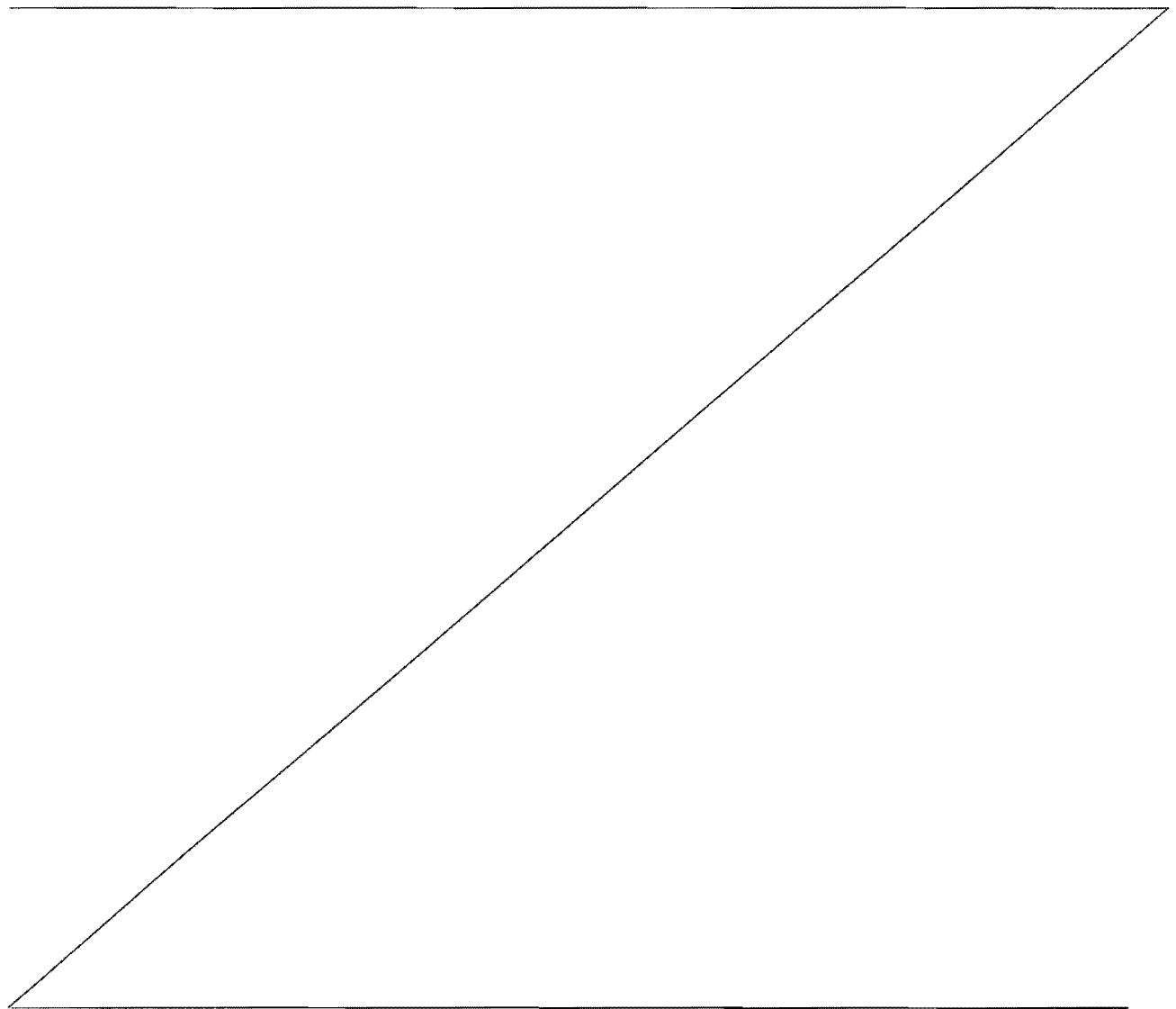
Following discussion, a motion was made and seconded to have this Commission agree to be the accepting authority pursuant to chapter 343, HRS. There being a vote tally of 6 ayes and 2 absent, the motion carried. Thereafter, a second motion was made and seconded to have the Commission find that the Project may have a significant effect upon the environment sufficient to warrant the preparation of an EIS. There being a vote tally of 6 ayes and 2 absent, the motion carried.

ORDER

This Commission, having duly considered Petitioner's EISPN, the arguments by the parties in this proceeding, and two motions having been made at its meeting on April 6, 2006, in Kahului, Maui, and the motions having received the affirmative votes required by section 15-15-13, HAR, and there being good cause for the motions,

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 amended 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.




ADOPTION OF ORDER

The undersigned Commissioners, being familiar with the record and proceedings, hereby adopt and approve the foregoing ORDER this 18th day of May, 2006, as conforming to the vote taken on Kahului, Maui on April 6, 2006. This ORDER and its ADOPTION shall take effect upon the date this ORDER is certified and filed by this Commission.

Any person aggrieved by this decision and order may seek judicial review in accordance with the provisions of HRS section 91-4.


Done at Lanai, Hawai'i, this 18th day of May, 2006, per motion on April 6, 2006.

APPROVED AS TO FORM


Deputy Attorney General

LAND USE COMMISSION
STATE OF HAWAII

By 
RANDALL F. SAKUMOTO
Chairperson and Commissioner

By 
STEVEN LEE MONTGOMERY
Vice-Chairperson and Commissioner

By (absent)
LISA M. JUDGE
Vice-Chairperson and Commissioner

By Thomas Contrades
THOMAS CONTRADES
Commissioner

By Michael D. Formby
MICHAEL D. FORMBY
Commissioner

By _____
KYONG-SU IM
Commissioner

Filed and effective on
MAY 24 2006

By Duane Kanuha
DUANE KANUHA
Commissioner

Certified by:

Anthony J. H. Ching
ANTHONY J. H. CHING

By (absent)
RANSOM PILTZ
Commissioner

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KAPOLEI PROPERTY DEVELOPMENT,)	
LLC)	CERTIFICATE OF SERVICE
)	
To Amend The Agricultural Land Use District)	
Boundary Into The Urban Land Use District)	
For Approximately 331.674 Acres Of Land At)	
'Ewa, O'ahu, Hawai'i, Tax Map Keys:)	
9-1-14: Por. 33 And 34 And 9-1-15: Por. 20)	
_____)	

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:

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 Honolulu, Hawaii 96804-2359

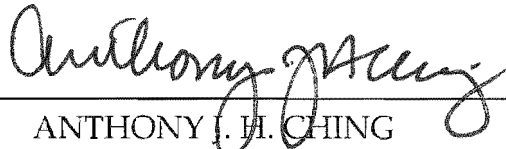
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Dated: Honolulu, Hawaii, MAY 24 2006.



ANTHONY J. H. CHING
Executive Officer