



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

In the Matter of the Application of)	DOCKET NO. A02-737
)	
U of N BENCORP)	
)	
To Amend the Agricultural Land Use District)	FINDINGS OF FACT, CONCLUSIONS OF
to the Urban Land Use District for)	LAW, AND DECISION AND ORDER
approximately 62 acres, Tax Map Key Nos.:)	ACCEPTING PETITIONER'S SECOND
(3) 7-5-10:85 and 7-5-17:006 situated at)	FINAL ENVIRONMENTAL IMPACT
Wai'aha 1 st , North Kona, Island of Hawai'i,)	STATEMENT RECEIVED ON NOVEMBER
State of Hawai'i.)	17, 2025; AND CERTIFICATE OF SERVICE
)	
_____)	

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND DECISION AND ORDER
ACCEPTING PETITIONER'S SECOND FINAL ENVIRONMENTAL IMPACT
STATEMENT RECEIVED ON NOVEMBER 17, 2025, 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, Hawai'i.

02/20/2026

BY 
DANIEL E. ORODENKER
Executive Officer



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The 2021 Motion Requesting the Land Use Commission (“LUC” or “Commission”), To (A) Be the Accepting Authority for an Environmental Impact Statement And (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, was granted on February 18, 2021. In accordance with Hawai'i Administrative Rules (“HAR”) §11-200.1-5(e)(6)(C), the Second Final Environmental Impact Statement (“SFEIS”) was filed with the Commission, the accepting authority, for acceptance pursuant to HAR §11-200.1-28, on November 17, 2025.

The LUC, having examined the proposed SFEIS filed by University of the Nations Kona Inc. (“Petitioner” or “UNK”) on November 17, 2025, per Motion made on January 21, 2021, Designating The LUC To be the Accepting Authority For An Environmental Impact Statement, and having heard and examined the testimony, exhibits, evidence, public testimony, and argument of counsel and the parties present during the December 3, 2025, meeting held in Kailua- Kona, Hawai‘i, hereby makes the following Findings of Fact, Conclusions of Law, and Decision and Order.

FINDINGS OF FACT

Previous Procedural Matters

1. To the extent that any of the following Findings of Fact shall be determined to be Conclusions of Law, they shall be deemed as such.
2. On November 21, 2003, Petitioner filed the Original State Land Use Boundary Amendment Application, and an Amended State Land Use Boundary Amendment Application on December 5, 2003.
3. On August 8, 2003, the LUC issued the Findings of Fact, Conclusions of Law, and Decision and Order for a State Land Use District Boundary Amendment, amending approximately 62 acres from State Land Use Agricultural to Urban, Tax Map Key Nos.: (3) 7-5-10:85 and 7-5-17:06 situated at Wai‘aha 1st North Kona, Island of Hawai‘i, State of Hawai‘i.
4. On December 21, 2006, Petitioner filed the 2006 Motion to Amend the 2003 Decision and Order.

5. On February 4, 2019, the Petitioner Filed a Motion to Substitute Petitioner and Withdraw Land Use Commission Approvals and Revert Land Use District Boundary Classification to Agricultural.
6. During the March 27-28, 2019 hearing, the Commission voted to set an Order to Show Cause (“OSC”) hearing, and on March 29, 2019, the LUC issued an Order to Show Cause and set the hearing for May 22, 2019.
7. On May 8, 2019, Petitioner filed a Motion to Rescind Order to Show Cause or to Continue hearing on Order to Show Cause.
8. During the May 22, 2019, hearing the Commission deferred making a final decision on the OSC and ordered UNK to appear before the Commission in 6 months’ time with an update on the status of the project and its efforts to comply with the original 2003 Decision and Order.
9. On October 7, 2019, the Commission issued another Decision and Order granting a Motion to Continue by the Petitioner to continue hearings on the OSC.
10. On October 14, 2019, Petitioner Filed a Motion for Reconsideration of Order to [sic] Granting United Nation [sic] of Kona’s Motion to Continue Hearing on Order to Show Cause.
11. The Commission orally granted in part and denied in part the Motion for Reconsideration. The granting in part was only to correct factual matters and the non-substantive matters that were discussed during the hearing. No written order was executed on this action (Transcripts for the January 8, 2020, meeting pgs. 68-80).
12. On March 23, 2020, Petitioner filed the 2020 Motion to Amend, and the Motion to withdraw the 2006 Motion to Amend.

13. On July 23, 2020, the Commission dismissed the Order to Show Cause without prejudice but encouraged the Petitioner to proceed with Hawai'i Revised Statutes Chapter 343 compliance.
14. On January 21, 2021, Petitioner filed its Motion Requesting the Land Use Commission to A) Be the Accepting Authority for an EIS and B) Determine that the Proposed Action Warrants the Preparation of an EIS, to be Initiated with the Preparation of an EISPN, Memorandum.
15. On February 18, 2021, the LUC issued an order granting University of the Nations, Kona, Inc.'s Motion Requesting the Land Use Commission to (A) Be the Accepting Authority for an Environmental Impact Statement and (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 to Parties.
16. On March 8, 2021, the Environmental Impact Statement Preparation Notice and Public Scoping Meeting was published in the March 8, 2021, issue of The Environmental Notice ("TEN").
17. On November 2, 2022, The LUC held a status report meeting regarding the status of Petitioners preparation of the Environmental Impact Statement and issued the 2022 Findings of fact, Conclusions of Law, and Decision and Order on December 8, 2022 ("2022 Order").
18. On June 22, 2023, the LUC held a Status Report in accordance with the Commission's 2022 Order and to provide evidence that the Petitioner is making adequate progress on the Environmental Impact Statement.

19. On February 8, 2024, the Draft Environmental Impact Statement (“DEIS”) and the Public Scoping Meeting Audio Recording of the scoping meeting held on March 25, 2021, were posted in the February 8, 2024, issue of the TEN.
20. On February 8, 2024, the LUC received the physical copies of the DEIS, but were not stamped in, pending the electronic filings.
21. On February 14, 2024, the LUC received, stamped, and made the electronic filings of the DEIS publicly available on the LUC website.
22. On June 16, 2025, the LUC received, stamped, and made the electronic filings of the Petitioners submittals for the Final Environmental Impact Statement; Volume I and Volume II (“FEIS”).
23. On June 23, 2025, the FEIS, was published in the issue of the TEN on June 23, 2025.
24. On July 1, 2025, the Agenda notice for the July 9, 2025, Land Use Commission Meeting was emailed and mailed to the Statewide, Hawai‘i Island, and Parties mailing lists.
25. On July 3, 2025, the LUC Staff Report was posted and made publicly available on the LUC website.
26. On July 7, 2025, the LUC received email correspondence from Petitioner indicating withdrawal of the FEIS.
27. On July 7, 2025, the Agenda Cancellation notice for the July 9, 2025, Land Use Commission Meeting was emailed and mailed to the Statewide, Hawai‘i Island, and Parties mailing lists.
28. On July 8, 2025, the LUC received the FEIS Withdrawal Letter from the Petitioner.
29. On July 23, 2025, the FEIS Withdrawal Letter was published in the July 23, 2025, issue of the TEN.

30. On November 17, 2025, the LUC received the Second Final Environmental Impact Statement; Volume I, Volume II (“SFEIS”), and the Submittal Letter to the Environmental Review Program for Publication in the TEN.
31. On November 21, 2025, the LUC Staff Report for the SFEIS was posted and made publicly available on the LUC website.
32. On November 23, 2025, the SFEIS was published in the November 23, 2025, issue of the TEN.
33. On November 24, 2025, the Agenda notice for the December 3, 2025, Land Use Commission Meeting was emailed and mailed to the Statewide, Hawai‘i Island, and Parties mailing lists.
34. On November 24, 2025, the LUC received, stamped, and posted the State of Hawai‘i Office of Planning and Sustainable Development (“OPSD”) letter in support of the Petitioner’s SFEIS.
35. From November 28, 2025 to December 2, 2025, the LUC received nine written public testimonies, that were stamped and posted to the Land Use Commission website for public review.
36. On December 2, 2025, the LUC received, stamped, and posted the copy of Petitioner’s PowerPoint for the December 3, meeting.
37. On December 3, 2025, prior to the meeting, the LUC received two written public testimonies that were stamped and posted to the Land Use Commission website for public review.
38. On December 3, 2025, the Land Use Commission held its hybrid meeting, at 10:15 a.m., at the Courtyard by Marriott King Kamehameha Kona Beach Hotel, 75-5660 Palani Rd,

Kailua-Kona, HI 96740, and virtually through Zoom to consider the Petitioners 2020 Master Plan Update Second Final Environmental Impact Statement that was filed on November 17, 2025, pursuant to HAR § 11-200.1-28.

39. Individuals representing the Parties present at the hearing in person include the following: Derek Simon, Esq, David Hamilton, and Jeffery Overton for Petitioner; Alison Kato, Esq., Mary Alice Evans, and Leodoloff Asuncison for OPSD; and Jean Campbell, Esq. and Michelle Ahn for the County of Hawai‘i Planning Department.
40. At the December 3, 2025, hearing, there were four members of the public and three members of the public online that provided verbal public testimony prior to the Parties presentations.
41. During two of the public testimonies, the individuals orally requested a contested case before the public hearing ends, if the Commission approves the SFEIS. See 12/03/25 Tr. at 28:1-3 and 35: 3-4.
42. At the direction of the Deputy Attorney General present, Chair Lee confirmed with the testifiers who requested contested case hearings that they agreed to the continuation of the public testimony and decision making. See 12/03/25 Tr. at 29:7-23 and 36: 5-11.
43. The Commission began the evidentiary portion of the hearing. During the evidentiary portion of the hearing, presentations were made by the Petitioner, the County of Hawai‘i Planning Department, and the OPSD.
44. During the evidentiary portion of the hearing between the presentations of the Petitioner and County of Hawai‘i Planning Department, the Commission and Staff entered Executive Session to consult with its legal counsel on questions and issues pertaining to the Board’s powers, duties, privileges, immunities, and liabilities. Following the

conclusion of Executive Session and the presentations, the evidentiary portion of the hearing was closed on December 3, 2025.

45. Following the close of the evidentiary portion of the hearing, the Commission provided a second round of public testimony and received public testimony from two individuals online and one individual in person.
46. After the Petitioner, DPP, and OPSD were given the opportunity to provide final comments, the LUC entered deliberation on this matter. Following discussion, a motion was made to accept the Petitioner's Second Final Environmental Impact Statement that was filed on November 17, 2025, pursuant to HAR §11-200.1-28, it was suggested that the motion include the acceptance of the 2020 Master Plan Update. The motion was amended to accept the Petitioner's 2020 Master Plan Update, Second Final Environmental Impact Statement. The Motion was seconded. The Motion was restated to Accept the Petitioner's 2020 Master Plan Update, Second Final Environmental Impact Statement filed on November 17, 2025, pursuant to HAR §11-200.1-28. A vote was taken on the Motion, and being a total of 6 ayes, 0 nays, and 3 excused, the Motion passed.

OFFICE OF PLANNING AND SUSTAINABLE DEVELOPMENT (“OPSD”) POSITION

47. OPSD provided comments on the Draft Environmental Impact Statement (DEIS) in a letter dated April 3, 2024.
48. OPSD filed their Letter in Support of Petitioner's SFEIS with the LUC on November 24, 2025, which states; “OPSD finds that the SFEIS meets the requirements of Hawai'i Revised Statutes (“HRS”) Chapter 343 and Hawai'i Administrative Rules (“HAR”) Chapter 11-200.1.”

49. During the hearing, OPSD represented its satisfaction that the SFEIS discloses the identifiable environmental effects of the proposed action, the necessary information, and that it responded to the comments received during the environmental review process. See 12/03/25 Tr. at 108:16-25.
50. OPSD clarified that the approval of the SFEIS is not an acceptance of the Proposed Project, an amendment to the 2003 Decision and Order, or approval of the Petitioner's Master Plan Update. See 12/03/25 Tr. at 109: 4-9.
51. OPSD recommended the acceptance of the SFEIS. See 12/03/25 Tr. at 109:13-14.

COUNTY OF HAWAI'I PLANNING DEPARTMENT ("COH") POSITION

52. The County of Hawai'i Planning Department did not submit a written position to the LUC prior to the hearing.
53. During the hearing, COH represented that the petition area included in the SFEIS is designated in the County's Land Use Patter Allocation Guide Map as medium density urban. Representing that the proposal is consistent with the general plan and community development plan. See 12/03/25 Tr. at 104:3-22.

RULINGS ON FINDINGS OF FACT

Any of the findings of fact submitted by Petitioner or other parties not already ruled upon by the Commission by adoption herein, or rejected by clearly contrary findings of fact herein, are hereby denied and rejected.

Any conclusion of law herein improperly designated as a finding of fact should be deemed or construed as a conclusion of law; any finding of fact herein improperly designated as a conclusion of law should be deemed or construed as a finding of fact.

CONCLUSIONS OF LAW

1. To the extent that any of the following Conclusions of Law shall be determined to be Findings of Fact, they shall be deemed as such.
2. Pursuant to Hawai‘i Administrative Rules (“HAR”) § 15-15-70(a) provides that “[a]ny party may make motions before, during, or after the close of a hearing.
3. Pursuant to Petitioners 2021 Request for The Commission to be the Accepting Authority
 - a. HAR §11-200.1-14(d)(2) and Hawai‘i Revised Statute (“HRS”) §343-5(e) Applicability and requirements. Allows an approving agency to determine, through its judgment and experience, that an EIS is warranted and direct an applicant to go directly to preparing an EISPN rather than an Environmental Assessment.
 - b. The February 18, 2021, Land Use Commission Decision and Order, Findings of Fact, Conclusions of Law, Granting Petitioners 2021 Motion.

DECISION AND ORDER

The LUC, having duly considered the written and oral arguments presented by the Petitioner, University of the Nations, Kona, Inc., the Office of Planning and Sustainable Development, Hawai‘i County Planning Department, and members of the public, and a motion having been made and seconded at the meeting on December 3, 2025, held at the Courtyard by Marriott King Kamehameha Kona Beach Hotel, 75-5660 Palani Rd, Kailua-Kona, HI 96740, and the motion having received the affirmative votes required by HAR § 15-15-13, and there being good cause for the motion,

HEREBY FINDS AND CONCLUDES that, pursuant to HRS Chapter 205 and the Commission Rules under HAR chapter 15-15, upon consideration of the decision-making criteria

set forth in HRS § 205-17, Petitioners 2021 Motion for the Commission to be the Accepting Authority for an Environmental Impact Statement under Chapter 343, Hawai'i Revised Statutes, and based upon the preponderance of the evidence and good cause shown, the Commission moved to accept the University of the Nations, Kona, Inc. 2020 Master Plan Update Second Final Environmental Impact Statement filed with the Land Use Commission on November 17, 2025, pursuant to HAR 11-200.1-28. The motion received 6 affirmative votes, 0 nays, and 3 excused, therefore, the motion passed.

ADOPTION OF DECISION AND ORDER

The undersigned Commissioners, being familiar with the record and proceedings, hereby adopt and approve the foregoing DECISION AND ORDER on 02/20/2026. This DECISION AND ORDER may be executed in counterparts. This DECISION AND ORDER shall take effect upon the date this DECISION AND ORDER is certified by this Commission.

Done at Honolulu, Hawai'i, this day of 02/20/2026, per motion on December 3, 2025.

APPROVED AS TO FORM

LAND USE COMMISSION

Miranda Steed

STATE OF HAWAI'I

MIRANDA STEED, Esq.
Deputy Attorney General

By _____
BRIAN LEE
Chairperson and Commissioner

Filed and effective on:

02/20/2026

Certified by:



DANIEL E. ORODENKER
Executive Officer



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CERTIFICATE OF SERVICE

I hereby certify that a copy of the FINDINGS OF FACT, CONCLUSIONS OF LAW,
AND DECISION AND ORDER APPROVING THE MOTION ACCEPTING PETITIONER'S
SECOND FINAL ENVIRONMENTAL IMPACT STATEMENT RECEIVED ON
NOVEMBER 17, 2025, was served upon the following, by either hand delivery or depositing the
same in the U.S. Postal Service by regular or certified mail on the date appearing below, as
follows:

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Dated 02/20/2026
Honolulu, Hawai'i.



DANIEL E. ORODENKER
Executive Officer