A04-753 Aina Nui Corporation (Oahu)

I hereby certify that this is
a true copy from the records
of the Bureau of Conveyances,
as 3437501 thru 3437503 & 2006-105645 thru 2006-105647

M Gegu-Chang
for Registrar of Conveyances
Assistant Registrar, Land Court
State of Hawaii

LAND COURT SYSTEM | REGULAR SYSTEM

AFTER RECORDATION: RETURN BY MAIL ( ) PICK UP (X)

Benjamin A. Kudo, Esq.
Naomi U. Kuwaye, Esq.
745 Fort Street, 17th Floor
Honolulu, Hawai'i 96813

Phone: (808) 521-9500

Tax Map Key Nos. 9-1-14: Por. 33 and 9-1-15: Por. 4 and Por. 20 Total Pages: 18

DECLARATION OF CONDITIONS
APPLICABLE TO AN AMENDMENT
OF DISTRICT BOUNDARY FROM AGRICULTURAL TO URBAN

THIS DECLARATION OF CONDITIONS is made this 26th day of May, 2006, by AINA NUI CORPORATION, a Hawai'i corporation whose principal mailing address is 1001 Kamokila Boulevard, Suite 255, Kapolei, Hawai'i 96707, as Petitioner in State of Hawai'i Land Use Commission Docket No. A04-753 (hereinafter called the "Declarant" or "Petitioner");

W I T N E S S E T H:

WHEREAS, Declarant will be developing certain real property situated at Honouliuli, 'Ewa, Island of O'ahu, State of Hawai'i specifically identified as Tax Map Key Nos. 9-1-14: Por. 33 and 9-1-15: Por. 4 and Por. 20, and more particularly described in Exhibit "1" and Exhibit "2" attached hereto and incorporated herein by reference (hereinafter referred to as the "Petition Area"); and

WHEREAS, the Petition Area is a portion of Lot 15250 (Map 1171) of Land Court Application No. 1069 which is covered by **Certificate of Title No. 681,004,** is a portion of Lot 14082 (Map 1083) of Land Court Application No. 1069 which is covered by **Certificate of Title No. 729,804,** and is a portion of Lot 14083 (Map 1083) of Land Court Application No. 1069 which is covered by **Certificate of Title No. 729,805**;

WHEREAS, said State of Hawai'i State Land Use Commission (hereinafter called the "Commission"), by Findings of Fact, Conclusions of Law, and Decision and Order filed April 10, 2006, in said Docket No. A04-753 (hereinafter called the "Decision and Order"), amended the State Land Use district boundaries and reclassified the Petition Area from the State Land Use Agricultural District to the State Land Use Urban District as reflected in Exhibit "A" attached hereto, subject to certain conditions enumerated therein; and

WHEREAS, pursuant to section 15-15-92, Hawai'i Administrative Rules ("HAR"), the conditions imposed by the Commission in said Docket No. A04-753 shall be recorded at the Bureau of Conveyances of the State of Hawai'i;

NOW, THEREFORE, Declarant hereby declares that the Petition Area reclassified from the State Land Use Agricultural District to the State Land Use Urban District, described in said Exhibit "1" and Exhibit "2", shall be subject to the following conditions imposed by the Commission in said Docket No. A04-753.

1. **Affordable Housing.** Petitioner shall provide affordable housing opportunities for low, low-moderate, and gap group income residents of the State of Hawai`i to the satisfaction of the City and County. The number, location, and distribution of the affordable housing or other provisions for affordable housing shall be under such terms as determined by the City and County, but the number shall not be less than 30 percent of the total residential units in the

Petition Area. This Condition No. 1 shall be satisfied by no later than nine years from the issuance of the first building permit for the first residential unit in the Petition Area.

2. **Public School Facilities.** Petitioner shall contribute to the development, funding, and/or construction of school facilities, on a fair-share basis, as determined by and to the mutual satisfaction of Petitioner and the DOE. Terms of the contribution shall be agreed upon in writing by Petitioner and the DOE prior to obtaining City and County final subdivision approval.

3. **Wastewater Facilities.** Petitioner shall provide wastewater system improvements as required by the DOH and appropriate City and County agencies.

4. **Transportation.** Petitioner shall participate in the implementation of the `Ewa Highway Master Plan as determined by the DOT, the City and County's Department of Transportation Services, and the DPP.

Petitioner shall set aside land necessary for the future construction of Hanua Street to Malakole as a four-lane highway. In the event the Hanua Street extension is built, as part of Petitioner's fair-share requirements for future regional roadway improvements, Petitioner agrees it shall be built as a four-lane divided highway, or to an alternative design as identified by the DOT, in either case in accordance with State highway standards, so that the extension of Hanua Street may be dedicated to the State at the option of the DOT with the option for dedication expiring five years after completion of the Hanua Street extension.

Petitioner shall submit a revised Traffic Impact Assessment Report ("TIAR") for review and approval by the DOT and the City and County prior to submittal of a change of zone application with the City and County. The revised TIAR shall include the technical comments that were requested by the DOT in its letter to Petitioner dated May 6, 2005.

5. **Previously Unidentified Burial/Archaeological/Historic Sites.** Without any limitation to any other condition found herein, if any burials or archaeological or historic sites,

such as artifacts, marine shell concentrations, charcoal deposits, stone platforms, pavings, and walls not previously identified in studies referred to herein, are discovered during the course of construction of the Project, then all construction activity in the vicinity of the discovery shall stop until the issuance of an archaeological clearance from the SHPD that mitigative measures have been implemented to its satisfaction.

6. **Solid Waste Management Plan.** Petitioner shall develop a Solid Waste Management Plan in conformance with the Integrated Solid Waste Management Act, chapter 342G, HRS. Petitioner's Solid Waste Management Plan shall be approved by the City and County Department of Environmental Services. The Plan shall address and encourage awareness of the need to divert the maximum amount of waste material caused by developments away from the City and County's landfills.

7. **Air Quality Monitoring.** Petitioner shall implement soil erosion and dust control measures and participate in an air quality monitoring program as specified by the DOH.

8. **Notification of Potential Nuisances.** Petitioner shall inform all prospective purchasers of properties in the Petition Area of the potential impacts, including, but not limited to, noise, dust, lighting, fumes, soot, smoke, light, heat, vapors, odors, chemicals, vibrations, and other substances and phenomena of every description to be discharged, emitted, or transmitted over and upon the properties or other industrial events associated with commercial marine activities that may be generated by Kalaeloa Barbers Point Harbor which may affect the properties and may be considered a nuisance.

The disclosure shall be made through a Disclosure Document which shall be signed by the prospective purchaser as an affirmative acknowledgement of the potential impacts. A copy of the form of the Disclosure Document shall be provided to the OP for its review and approval prior to commencement of sales. In addition, the disclosure shall be included as a covenant in

the deed to purchasers, releasing the State of Hawai`i from all liability for nuisance claims and shall be recorded so as to run with the land.

This condition in no way prohibits, prevents, or restricts Petitioner from modifying the disclosure to include other uses and additional disclosures to prospective purchasers.

a. Petitioner shall notify all prospective buyers and/or lessees of the Petition Area that the Petition Area is subject to aircraft overflights and shall provide covenants in the deed to initial purchasers releasing the State of Hawai`i and the United States government from all liability.

9. **Drainage Master Plan.** Petitioner shall prepare and submit a detailed drainage master plan to the DPP and the DOT for review and approval.

10. **Drainage Improvements.** Petitioner shall fund the design and construction of drainage improvements, including interim detention basins as may be necessary, required as a result of the development of the Petition Area to the satisfaction of appropriate State and City and County agencies. Drainage improvements affecting Kalaeloa Barbers Point Harbor shall be submitted to the DOT for review and approval.

11. **Water Master Plan.** Petitioner shall prepare and submit a water master plan to the BWS for review and approval.

12. **Water Resources Allocation.** Petitioner shall provide adequate potable and non-potable water source storage and transmission facilities and improvements to accommodate the development of the Petition Area as approved by appropriate State and City and County agencies.

13. **Best Management Practices.** Petitioner shall implement Best Management Practices ("BMP") to protect surface and groundwater resources. The BMP shall be designed to minimize infiltration and runoff from construction and vehicle operations, reduce or eliminate

soil erosion and ground water pollution, and effect dust control measures during and after the development process in accordance with the DOH guidelines.

14. **Water Conservation Measures.** Petitioner shall implement water conservation measures and best management practices, such as use of indigenous and drought tolerant plants and turf and the use of non-potable water alternatives, and incorporate such measures into the landscape planting.

15. **Hazardous Materials.** Storage and/or disposal of hazardous materials/wastes on the Petition Area shall be in conformance with all applicable DOH and Environmental Protection Agency requirements.

16. **Fire Protection.** Petitioner shall submit all roadway and water system designs for the Project to the City and County Fire Department for review and approval.

17. **Golf Course.** Petitioner shall comply with the principles of the DOH's "Guidelines Applicable to Golf Courses in Hawai`i," including, but not limited to, irrigating the golf course with non-potable water.

18. **Civil Defense.** Petitioner shall fund and construct its fair-share of adequate civil defense measures serving the Petition Area as required by the State of Hawai`i Department of Defense, Office of Civil Defense, and the City and County Civil Defense Agency.

19. **Energy Conservation Measures.** Petitioner shall implement energy conservation measures such as the use of solar energy and solar heating and incorporate such measures into the Project.

20. **Compliance with Representations to the Commission.** Petitioner shall develop the Petition Area in substantial compliance with the representations made to the Commission. Failure to so develop the Petition Area may result in reversion of the Petition Area to its former classification, or change to a more appropriate classification.

21. **Notice of Change of Ownership.** Petitioner shall give notice to the Commission of any intent to sell, lease, assign, place in trust, or otherwise voluntarily alter the ownership interests in the Petition Area, prior to development of the Petition Area.

22. **Annual Reports.** Petitioner shall timely provide without any prior notice, annual reports to the Commission, OP, and the DPP in connection with the status of the development of the Petition Area and Petitioner's progress in complying with the conditions imposed herein. The annual report shall be submitted in a form prescribed by the Executive Officer of the Commission.

23. **Release of Conditions.** The Commission may fully or partially release the conditions provided herein as to all or any portion of the Petition Area upon timely motion and upon the provision of adequate assurance of satisfaction of these conditions by Petitioner.

24. **Notice of Imposition of Conditions.** Within seven days of issuance of the Commission's Decision and Order for the subject reclassification, Petitioner shall: (a) record with the Bureau of Conveyances a statement that the Petition Area is subject to conditions imposed herein by the Commission in the reclassification of the Petition Area; and (b) file a copy of such recorded statement with the Commission.

25. **Recordation of Conditions.** Petitioner shall record the conditions imposed herein by the Commission with the Bureau of Conveyances pursuant to section 15-15-92, HAR.

The foregoing conditions imposed by the Commission shall run with the land and shall be binding upon the Petitioner and each and every subsequent owner, lessee, sub-lessee, transferee, grantee, assignee, or developer.

[The remainder of this page is intentionally left blank.]

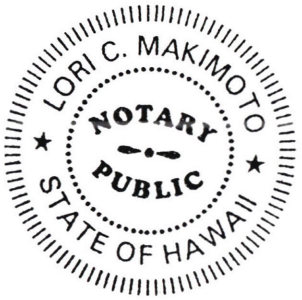
DATED: Honolulu, Hawai'i, May 26, 2006.

AINA NUI CORPORATION,
a Hawai'i corporation

By _____
DONNA GOTH
Its President

STATE OF HAWAI'I)
) SS.
CITY AND COUNTY OF HONOLULU)

On this 26th day of May, 2006, before me personally appeared DONNA GOTH, to me personally known, who, being by me duly sworn, did say that she is the President of AINA NUI CORPORATION, a Hawai'i corporation, and that the said instrument was signed on behalf of said corporation by authority of its Board of Directors, and that said officer acknowledged said instrument to be the free act and deed of said corporation.



Print Name: Lori C. Makimoto
Notary Public, State of Hawai'i

My commission expires: 03-30-2007

PROPOSED KAPOLEI WEST URBAN DISTRICT BOUNDARY AMENDMENT

LOT A

Being a portion of Lot 15250 (Map 1171) of Land Court Application 1069.

Situate at Honouliuli, Ewa, Oahu, Hawaii

Beginning at the Southeast corner of this parcel of land on the North side of Exclusion 2 as shown on Map 1 of Land Court Application 1069, the coordinates of said point of beginning referred to Government Survey Triangulation Station "KAPUAI NEW" being 17,007.69 feet South and 10,054.16 feet West, and running by azimuths measured clockwise from true South:

1.	105°	23'		3,747.60 feet	along Exclusion 2;
2.	Thence along same, on a curve to the right with a radius of 2,845.00 feet, the chord azimuth and distance being: 115° 10' 24.5" 967.53 feet;				
3.	202°	40'		244.67 feet	along Lots 11951 and 11950 (Map 854) of Land Court Application 1069;
4.	258°	25'		154.04 feet	along Lot 4595-A (Map 475) of Land Court Application 1069;
5.	276°	05'		630.00 feet	along same;
6.	259°	30'		630.00 feet	along same;
7.	282°	10'		600.00 feet	along same;
8.	278°	20'		348.48 feet	along same;
9.	256°	15'		922.77 feet	along same and along the remainder of Lot 15250 (Map 1171) of Land Court Application 1069;
10.	276°	00'		225.00 feet	along the remainder of Lot 15250 (Map 1171) of Land Court Application 1069;
11.	328°	12'	54"	1901.30 feet	along same;

ControlPoint Surveying, Inc.
1150 South King Street, Suite 102
Honolulu, Hawaii 96814

Exhibit "1"

12.	15°	14'	30"	219.68 feet	along same to the point of beginning and containing an area of 98.646 acres.



Wilfred Y.K. Chin

Wilfred Y.K. Chin
Licensed Professional Land Surveyor
Certificate Number 3499
License Expires 4/06

June 18, 2004
Honolulu, Hawaii

ControlPoint Surveying, Inc.
1150 South King Street, Suite 102
Honolulu, Hawaii 96814

PROPOSED KAPOLEI WEST URBAN DISTRICT BOUNDARY AMENDMENT

LOT B

Being portions of Lots 14082 and 14083 as shown of Map 1083 of Land Court Application 1069.

Situate at Honouliuli, Ewa, Oahu, Hawaii

Beginning at the Northeast corner of this parcel of land on the South side of Exclusion 2 as shown on Map 1 of Land Court Application 1069, the coordinates of said point of beginning referred to Government Survey Triangulation Station "KAPUAI NEW" being 17,448.57 feet South and 8,602.51 feet West, and running by azimuths measured clockwise from true South:

1. Along the remainder of Lot 14083 (Map 1083) of Land Court Application 1069, on a curve to the left with a radius of 720.00 feet, the chord azimuth and distance being:
   33° 43' 46" 453.25 feet;

2. 15 ° 23' 79.79 feet along same;

3. 105° 23' 3058.01 feet along remainders of Lots 14083 and 14082 (Map 1083) of Land Court Application 1069;

4. 135° 00' 495.44 feet along Lot 9540 (Map 710) of Land Court Application 1069;

5. 45° 00' 684.55 feet along same;

6. 135° 00' 1074.14 feet along same;

7. 53° 00' 1317.88 feet along same;

8. 89° 12' 14" 952.10 feet along same;

9. 217° 21' 04" 235.00 feet along Lot 4621 (Map 451) of Land Court Application 1069;

10. Thence along same, on a curve to the left with a radius of 800.00 feet, the chord azimuth and distance being:
    251° 00' 638.00 feet;

11.	308°	00'	220.00 feet along Lot 4626 (Map 451) of Land Court Application 1069;
12.	233°	00'	807.46 feet along Lots 4626 and 4627 (Map 451) of Land Court Application 1069;
13.	144°	00'	1007.70 feet along Lot 4627 (Map 451) of Land Court Application 1069;

14. Thence along Exclusion 2 (Map 1) of Land Court Application 1069, on a curve to the left with a radius of 2,885.00 feet, the chord azimuth and distance being: 293° 47' 45" 844.14 feet;

15.	285°	23'	5264.20 feet along same to the point of beginning and containing an area of 75.563 acres.

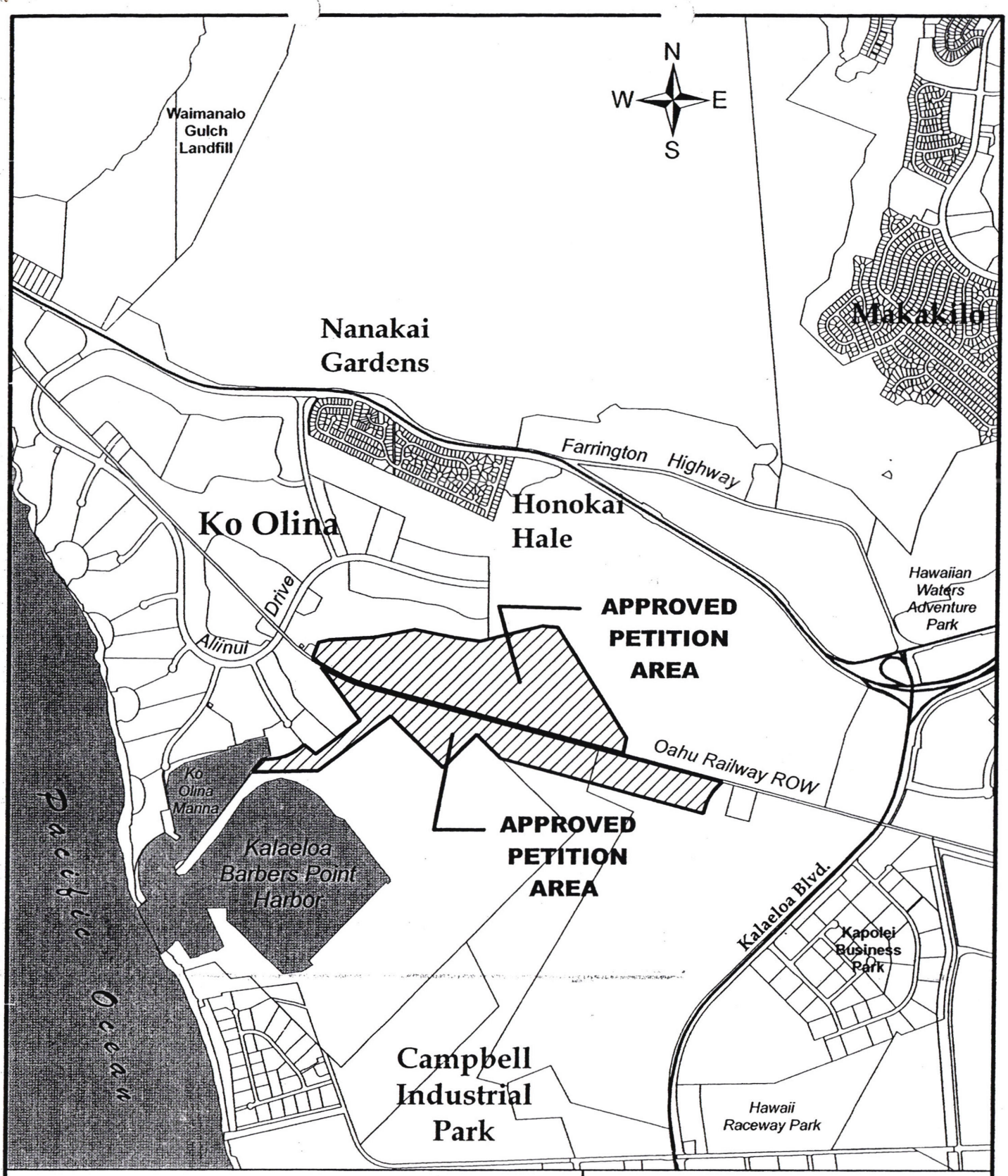


Wilfred Y.K. Chin

June 18, 2004
Honolulu, Hawaii

Wilfred Y.K. Chin
Licensed Professional Land Surveyor
Certificate Number 3499
License Expires 4/06

ControlPoint Surveying, Inc.
1150 South King Street, Suite 102
Honolulu, Hawaii 96814

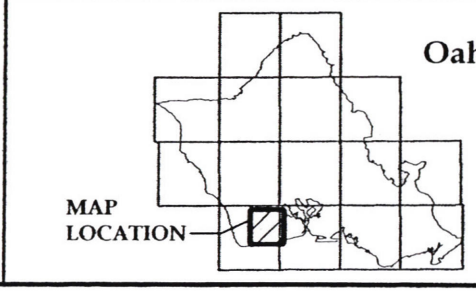


A04-753 AINA NUI CORPORATION,
a Hawai`i Corporation

LOCATION MAP

Tax Map Keys: 9-1-14: 33 (por.) and 9-1-15: 4 (por.) and 20 (por.)
`Ewa, O`ahu, Hawai`i
Scale: 1" = 2,000 feet

EXHIBIT "A"



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JOINDER AND CONSENT

KAPOLEI PROPERTY DEVELOPMENT LLC, a Hawaii limited liability company is a co-owner in fee simple of Lot 14082 (Map 1083), being all of the land covered by **Certificate of Title No. 729,804,** and is a co-owner in fee simple of Lot 14083 (Map 1083), being all of the land covered by **Certificate of Title No. 729,805,** and **KAPOLEI PROPERTY DEVELOPMENT LLC** hereby joins in, consents to and approves of the Declaration of Conditions Applicable to an Amendment of District Boundary From Agricultural to Urban dated May 26, 2006, made by Aina Nui Corporation, a Hawaii corporation, to which this joinder and consent is attached.

IN WITNESS WHEREOF, the undersigned have executed this instrument as of June 2, 2006.

KAPOLEI PROPERTY DEVELOPMENT LLC,
a Hawaii limited liability company

By Aina Nui Corporation, a Hawaii corporation,
its member manager

By _____
Name: Orlando R. Davidson
Its: Vice President

By _____
Name:
Its: Bradford J. Myers
Senior Vice
President/Treasurer

STATE OF HAWAII)
) ss.
CITY AND COUNTY OF HONOLULU)

On this 2nd day of June, 2006, before me personally appeared Orlando R. Davidson and Bradford J. Myers, to me personally known/proved to me on the basis of satisfactory evidence, who, being by me duly sworn or affirmed, did say that such persons executed the foregoing instrument as the free act and deed of such persons, and if applicable in the capacity shown, having been duly authorized to execute such instrument in such capacity.

Lydia L. Hannemann

Name: Lydia L. Hannemann

Notary Public, State of Hawaii

My commission expires: February 11, 2008

4837-5713-2033.1.054406-00043

JOINDER AND CONSENT

C.R. CHURCHILL, D.A. HEENAN, RICHARD W. GUSHMAN, II and RONALD J. ZLATOPER, the duly appointed, qualified and acting **TRUSTEES UNDER THE WILL AND OF THE ESTATE OF JAMES CAMPBELL, DECEASED,** acting in their fiduciary and not in their individual capacities are a co-owner in fee simple of Lot 14083 (Map 1083), being all of the land covered by **Certificate of Title No. 729,805,** and said Trustees hereby join in, consent to and approve of the Declaration of Conditions Applicable to an Amendment of District Boundary From Agricultural to Urban dated May 26, 2006, made by Aina Nui Corporation, a Hawaii corporation, to which this joinder and consent is attached.

IN WITNESS WHEREOF, the undersigned have executed this instrument as of June 2, 2006.

TRUSTEES UNDER THE WILL AND OF THE ESTATE OF JAMES CAMPBELL, DECEASED, acting in their fiduciary and not in their individual capacities

Landon H.W. Chun
Executive Vice President/
Chief Financial Officer

Howard Schwiebert
Vice President
Hawaii Land Management

STATE OF HAWAII)
) ss.
CITY AND COUNTY OF HONOLULU)

On this 2nd day of June, 2006, before me personally appeared Landon H. W. Chun and Howard Schwiebert, to me personally known, who being by me duly sworn did say that they are two of the attorneys-in-fact for **C. R. CHURCHILL, D. A. HEENAN, RICHARD W. GUSHMAN, II and RONALD J. ZLATOPER,** the duly appointed, qualified and acting **TRUSTEES UNDER THE WILL AND OF THE ESTATE OF JAMES CAMPBELL, DECEASED,** duly appointed to act jointly under that certain Special Power of Attorney and Revocation of Previous Power of Attorney dated December 7, 2005, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii as Document No. 3366527 and recorded in the Bureau of Conveyances of the State of Hawaii as Document No. 2005-254391; and that the foregoing instrument was executed in the name and on behalf of **C. R. CHURCHILL, D. A. HEENAN, RICHARD W. GUSHMAN, II and RONALD J. ZLATOPER,** the duly appointed, qualified and acting **TRUSTEES UNDER THE WILL AND OF THE ESTATE OF JAMES CAMPBELL, DECEASED,** by such persons in their capacities as attorneys-in-fact; and they acknowledged this instrument to be the free act and deed of the Trustees under the Will and of the Estate of James Campbell, Deceased, as aforesaid.

LS

Lydia L. Hannemann
Notary Public, State of Hawaii
Name: Lydia L. Hannemann
My commission expires: February 11, 2008

OFFICE OF THE
ASSISTANT REGISTRAR, LAND COURT
STATE OF HAWAII
(Bureau of Conveyances)

The original of this document was recorded as follows:

DOCUMENT NO. Doc 3437501(-3437503) CTN AS LISTED HEREIN JUN 07, 2006 09:00 AM

DATE

THE ORIGINAL OF THE DOCUMENT RECORDED AS FOLLOWS:
STATE OF HAWAII

BUREAU OF CONVEYANCES

Doc 2006-105645(-2006-105647)
JUN 07, 2006 09:00 AM

LAND COURT SYSTEM | REGULAR SYSTEM

AFTER RECORDATION: RETURN BY MAIL ( ) PICK UP (X)

Benjamin A. Kudo, Esq.
Naomi U. Kuwaye, Esq.
745 Fort Street, 17th Floor
Honolulu, Hawai'i 96813
Phone: (808) 521-9500

Tax Map Key Nos. 9-1-14: Por. 33 and 9-1-15: Por. 4 and Por. 20 Total Pages: 18

DECLARATION OF CONDITIONS APPLICABLE TO AN AMENDMENT OF DISTRICT BOUNDARY FROM AGRICULTURAL TO URBAN

THIS DECLARATION OF CONDITIONS is made this 26th day of May, 2006, by AINA NUI CORPORATION, a Hawai'i corporation whose principal mailing address is 1001 Kamokila Boulevard, Suite 255, Kapolei, Hawai'i 96707, as Petitioner in State of Hawai'i Land Use Commission Docket No. A04-753 (hereinafter called the "Declarant" or "Petitioner");

W I T N E S S E T H:

WHEREAS, Declarant will be developing certain real property situated at Honouliuli, 'Ewa, Island of O'ahu, State of Hawai'i specifically identified as Tax Map Key Nos. 9-1-14: Por. 33 and 9-1-15: Por. 4 and Por. 20, and more particularly described in Exhibit "1" and Exhibit "2" attached hereto and incorporated herein by reference (hereinafter referred to as the "Petition Area"); and

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1. **Affordable Housing.** Petitioner shall provide affordable housing opportunities for low, low-moderate, and gap group income residents of the State of Hawai`i to the satisfaction of the City and County. The number, location, and distribution of the affordable housing or other provisions for affordable housing shall be under such terms as determined by the City and County, but the number shall not be less than 30 percent of the total residential units in the

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such as artifacts, marine shell concentrations, charcoal deposits, stone platforms, pavings, and walls not previously identified in studies referred to herein, are discovered during the course of construction of the Project, then all construction activity in the vicinity of the discovery shall stop until the issuance of an archaeological clearance from the SHPD that mitigative measures have been implemented to its satisfaction.

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the deed to purchasers, releasing the State of Hawai`i from all liability for nuisance claims and shall be recorded so as to run with the land.

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15. **Hazardous Materials.** Storage and/or disposal of hazardous materials/wastes on the Petition Area shall be in conformance with all applicable DOH and Environmental Protection Agency requirements.

16. **Fire Protection.** Petitioner shall submit all roadway and water system designs for the Project to the City and County Fire Department for review and approval.

17. **Golf Course.** Petitioner shall comply with the principles of the DOH's "Guidelines Applicable to Golf Courses in Hawai`i," including, but not limited to, irrigating the golf course with non-potable water.

18. **Civil Defense.** Petitioner shall fund and construct its fair-share of adequate civil defense measures serving the Petition Area as required by the State of Hawai`i Department of Defense, Office of Civil Defense, and the City and County Civil Defense Agency.

19. **Energy Conservation Measures.** Petitioner shall implement energy conservation measures such as the use of solar energy and solar heating and incorporate such measures into the Project.

20. **Compliance with Representations to the Commission.** Petitioner shall develop the Petition Area in substantial compliance with the representations made to the Commission. Failure to so develop the Petition Area may result in reversion of the Petition Area to its former classification, or change to a more appropriate classification.

21. **Notice of Change of Ownership.** Petitioner shall give notice to the Commission of any intent to sell, lease, assign, place in trust, or otherwise voluntarily alter the ownership interests in the Petition Area, prior to development of the Petition Area.

22. **Annual Reports.** Petitioner shall timely provide without any prior notice, annual reports to the Commission, OP, and the DPP in connection with the status of the development of the Petition Area and Petitioner's progress in complying with the conditions imposed herein. The annual report shall be submitted in a form prescribed by the Executive Officer of the Commission.

23. **Release of Conditions.** The Commission may fully or partially release the conditions provided herein as to all or any portion of the Petition Area upon timely motion and upon the provision of adequate assurance of satisfaction of these conditions by Petitioner.

24. **Notice of Imposition of Conditions.** Within seven days of issuance of the Commission's Decision and Order for the subject reclassification, Petitioner shall: (a) record with the Bureau of Conveyances a statement that the Petition Area is subject to conditions imposed herein by the Commission in the reclassification of the Petition Area; and (b) file a copy of such recorded statement with the Commission.

25. **Recordation of Conditions.** Petitioner shall record the conditions imposed herein by the Commission with the Bureau of Conveyances pursuant to section 15-15-92, HAR.

The foregoing conditions imposed by the Commission shall run with the land and shall be binding upon the Petitioner and each and every subsequent owner, lessee, sub-lessee, transferee, grantee, assignee, or developer.

[The remainder of this page is intentionally left blank.]

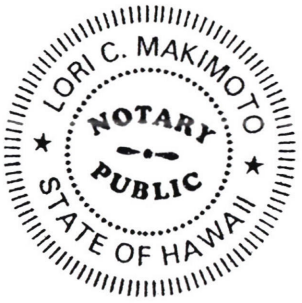
DATED: Honolulu, Hawai'i, May 26, 2006.

AINA NUI CORPORATION,
a Hawai'i corporation

By _____
DONNA GOTH
Its President

STATE OF HAWAI'I)
) SS.
CITY AND COUNTY OF HONOLULU)

On this 26th day of May, 2006, before me personally appeared DONNA GOTH, to me personally known, who, being by me duly sworn, did say that she is the President of AINA NUI CORPORATION, a Hawai'i corporation, and that the said instrument was signed on behalf of said corporation by authority of its Board of Directors, and that said officer acknowledged said instrument to be the free act and deed of said corporation.



Print Name: Lori C. Makimoto
Notary Public, State of Hawai'i

My commission expires: 03-30-2007

PROPOSED KAPOLEI WEST URBAN DISTRICT BOUNDARY AMENDMENT

LOT A

Being a portion of Lot 15250 (Map 1171) of Land Court Application 1069.

Situate at Honouliuli, Ewa, Oahu, Hawaii

Beginning at the Southeast corner of this parcel of land on the North side of Exclusion 2 as shown on Map 1 of Land Court Application 1069, the coordinates of said point of beginning referred to Government Survey Triangulation Station "KAPUAI NEW" being 17,007.69 feet South and 10,054.16 feet West, and running by azimuths measured clockwise from true South:

1.	105°	23'		3,747.60 feet	along Exclusion 2;
2.	Thence along same, on a curve to the right with a radius of 2,845.00 feet, the chord azimuth and distance being: 115° 10' 24.5" 967.53 feet;				
3.	202°	40'		244.67 feet	along Lots 11951 and 11950 (Map 854) of Land Court Application 1069;
4.	258°	25'		154.04 feet	along Lot 4595-A (Map 475) of Land Court Application 1069;
5.	276°	05'		630.00 feet	along same;
6.	259°	30'		630.00 feet	along same;
7.	282°	10'		600.00 feet	along same;
8.	278°	20'		348.48 feet	along same;
9.	256°	15'		922.77 feet	along same and along the remainder of Lot 15250 (Map 1171) of Land Court Application 1069;
10.	276°	00'		225.00 feet	along the remainder of Lot 15250 (Map 1171) of Land Court Application 1069;
11.	328°	12'	54"	1901.30 feet	along same;

ControlPoint Surveying, Inc.
1150 South King Street, Suite 102
Honolulu, Hawaii 96814

Exhibit "1"

12.	15°	14'	30"	219.68 feet	along same to the point of beginning and containing an area of 98.646 acres.



Wilfred Y. K. Chin

Wilfred Y.K. Chin
Licensed Professional Land Surveyor
Certificate Number 3499
License Expires 4/06

June 18, 2004
Honolulu, Hawaii

ControlPoint Surveying, Inc.
1150 South King Street, Suite 102
Honolulu, Hawaii 96814

PROPOSED KAPOLEI WEST URBAN DISTRICT BOUNDARY AMENDMENT

LOT B

Being portions of Lots 14082 and 14083 as shown of Map 1083 of Land Court Application 1069.

Situate at Honouliuli, Ewa, Oahu, Hawaii

Beginning at the Northeast corner of this parcel of land on the South side of Exclusion 2 as shown on Map 1 of Land Court Application 1069, the coordinates of said point of beginning referred to Government Survey Triangulation Station "KAPUAI NEW" being 17,448.57 feet South and 8,602.51 feet West, and running by azimuths measured clockwise from true South:

1. Along the remainder of Lot 14083 (Map 1083) of Land Court Application 1069, on a curve to the left with a radius of 720.00 feet, the chord azimuth and distance being:
   33° 43' 46" 453.25 feet;

2. 15 ° 23' 79.79 feet along same;

3. 105° 23' 3058.01 feet along remainders of Lots 14083 and 14082 (Map 1083) of Land Court Application 1069;

4. 135° 00' 495.44 feet along Lot 9540 (Map 710) of Land Court Application 1069;

5. 45° 00' 684.55 feet along same;

6. 135° 00' 1074.14 feet along same;

7. 53° 00' 1317.88 feet along same;

8. 89° 12' 14" 952.10 feet along same;

9. 217° 21' 04" 235.00 feet along Lot 4621 (Map 451) of Land Court Application 1069;

10. Thence along same, on a curve to the left with a radius of 800.00 feet, the chord azimuth and distance being:
    251° 00' 638.00 feet;

11.	308°	00'	220.00 feet along Lot 4626 (Map 451) of Land Court Application 1069;
12.	233°	00'	807.46 feet along Lots 4626 and 4627 (Map 451) of Land Court Application 1069;
13.	144°	00'	1007.70 feet along Lot 4627 (Map 451) of Land Court Application 1069;

14. Thence along Exclusion 2 (Map 1) of Land Court Application 1069, on a curve to the left with a radius of 2,885.00 feet, the chord azimuth and distance being: 293° 47' 45" 844.14 feet;

15. 285° 23' 5264.20 feet along same to the point of beginning and containing an area of 75.563 acres.

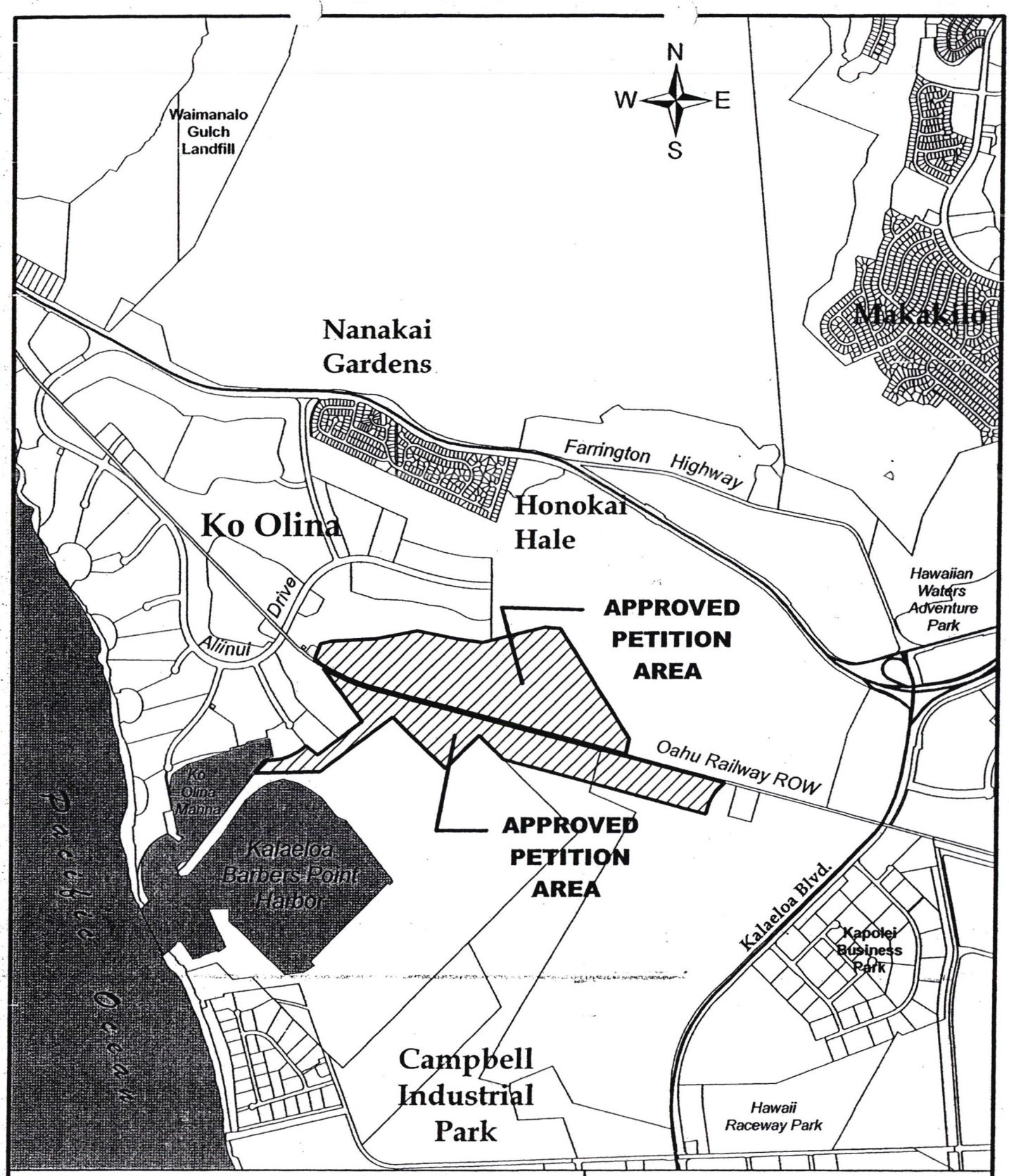


Wilfred Y.K. Chin

June 18, 2004
Honolulu, Hawaii

Wilfred Y.K. Chin
Licensed Professional Land Surveyor
Certificate Number 3499
License Expires 4/06

ControlPoint Surveying, Inc.
1150 South King Street, Suite 102
Honolulu, Hawaii 96814



A04-753 AINA NUI CORPORATION, a Hawai`i Corporation

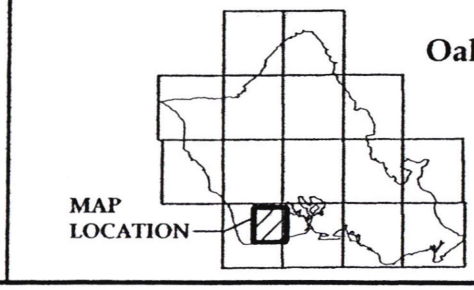
LOCATION MAP

Tax Map Keys: 9-1-14: 33 (por.) and 9-1-15: 4 (por.) and 20 (por.)

`Ewa, O`ahu, Hawai`i

Scale: 1" = 2,000 feet

EXHIBIT "A"



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JOINDER AND CONSENT

KAPOLEI PROPERTY DEVELOPMENT LLC, a Hawaii limited liability company is a co-owner in fee simple of Lot 14082 (Map 1083), being all of the land covered by **Certificate of Title No. 729,804,** and is a co-owner in fee simple of Lot 14083 (Map 1083), being all of the land covered by **Certificate of Title No. 729,805,** and **KAPOLEI PROPERTY DEVELOPMENT LLC** hereby joins in, consents to and approves of the Declaration of Conditions Applicable to an Amendment of District Boundary From Agricultural to Urban dated May 26, 2006, made by Aina Nui Corporation, a Hawaii corporation, to which this joinder and consent is attached.

IN WITNESS WHEREOF, the undersigned have executed this instrument as of June 2, 2006.

KAPOLEI PROPERTY DEVELOPMENT LLC,
a Hawaii limited liability company

By Aina Nui Corporation, a Hawaii corporation,
its member manager

By _____
Name: Orlando R. Davidson
Its: Vice President

By _____
Name:
Its: Bradford J. Myers
Senior Vice
President/Treasurer

STATE OF HAWAII)
) ss.
CITY AND COUNTY OF HONOLULU)

On this 2nd day of June, 2006, before me personally appeared Orlando R. Davidson and Bradford J. Myers, to me personally known/proved to me on the basis of satisfactory evidence, who, being by me duly sworn or affirmed, did say that such persons executed the foregoing instrument as the free act and deed of such persons, and if applicable in the capacity shown, having been duly authorized to execute such instrument in such capacity.

Lydia L. Hannemann

Name: Lydia L. Hannemann

Notary Public, State of Hawaii

My commission expires: February 11, 2008

4837-5713-2033.1.054406-00043

JOINDER AND CONSENT

C.R. CHURCHILL, D.A. HEENAN, RICHARD W. GUSHMAN, II and RONALD J. ZLATOPER, the duly appointed, qualified and acting **TRUSTEES UNDER THE WILL AND OF THE ESTATE OF JAMES CAMPBELL, DECEASED,** acting in their fiduciary and not in their individual capacities are a co-owner in fee simple of Lot 14083 (Map 1083), being all of the land covered by **Certificate of Title No. 729,805,** and said Trustees hereby join in, consent to and approve of the Declaration of Conditions Applicable to an Amendment of District Boundary From Agricultural to Urban dated May 26, 2006, made by Aina Nui Corporation, a Hawaii corporation, to which this joinder and consent is attached.

IN WITNESS WHEREOF, the undersigned have executed this instrument as of June 2, 2006.

TRUSTEES UNDER THE WILL AND OF THE ESTATE OF JAMES CAMPBELL, DECEASED, acting in their fiduciary and not in their individual capacities

Landon H.W. Chun

Landon H.W. Chun
Executive Vice President/
Chief Financial Officer

Howard Schwiebert

Howard Schwiebert
Vice President
Hawaii Land Management

STATE OF HAWAII)
) ss.
CITY AND COUNTY OF HONOLULU)

On this 2nd day of June, 2006, before me personally appeared Landon H. W. Chun and Howard Schwiebert, to me personally known, who being by me duly sworn did say that they are two of the attorneys-in-fact for **C. R. CHURCHILL, D. A. HEENAN, RICHARD W. GUSHMAN, II and RONALD J. ZLATOPER,** the duly appointed, qualified and acting **TRUSTEES UNDER THE WILL AND OF THE ESTATE OF JAMES CAMPBELL, DECEASED,** duly appointed to act jointly under that certain Special Power of Attorney and Revocation of Previous Power of Attorney dated December 7, 2005, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii as Document No. 3366527 and recorded in the Bureau of Conveyances of the State of Hawaii as Document No. 2005-254391; and that the foregoing instrument was executed in the name and on behalf of **C. R. CHURCHILL, D. A. HEENAN, RICHARD W. GUSHMAN, II and RONALD J. ZLATOPER,** the duly appointed, qualified and acting **TRUSTEES UNDER THE WILL AND OF THE ESTATE OF JAMES CAMPBELL, DECEASED,** by such persons in their capacities as attorneys-in-fact; and they acknowledged this instrument to be the free act and deed of the Trustees under the Will and of the Estate of James Campbell, Deceased, as aforesaid.

LS

Lydia L. Hannemann
Notary Public, State of Hawaii
Name: Lydia L. Hannemann
My commission expires: February 11, 2008

Part-Fee
Sandy aggregation

IMANAKA KUDO & FUJIMOTO

A Limited Liability Law Company

Mitchell A. Imanaka
Benjamin A. Kudo
Wesley M. Fujimoto
Jon M.H. Pang
Richard T. Asato, Jr.
Naomi U. Kuwaye

Bryan P. Andaya
Nikki T. Senter
Ryan E. Sanada
Nina L. Yang
Cameron W. Nekota
April J. Cadiz
Stephanie G. Uechi
Owen T. Iida

Of Counsel
R. Brian Tsujimura
Perfecto R. Yasay, Jr. *

* admitted to practice only in New York and Philippines

Hon. Mario R. Ramil
Former Associate Justice
Hawaii Supreme Court

TOPA Financial Center
Fort Street Tower
745 Fort Street, 17th Floor
Honolulu, Hawaii 96813
Phone: (808) 521-9500
Facsimile: (808) 541-9050
info@imanakakudo.com
http://www.imanakakudo.com

LETTER OF TRANSMITTAL

LAND USE COMMISSION
STATE OF HAWAII

2006 JUN -8 A 11:23

June 7, 2006

Mr. Anthony Ching
Executive Officer
State Land Use Commission
Land Use Commission
Department of Business, Economic Development & Tourism
State of Hawaii
235 South Beretania Street
Honolulu, Hawaii 96813

Re: Land Use Commission Docket A04-753, Aina Nui Corporation, Kapolei West Expansion Area Project

Please find enclosed the following:

Copies	Dated	Description
2- 1 Certified & 1 Regular	5/26/06	Declaration of Conditions Applicable to an Amendment of District Boundary From Agricultural to Urban, recorded at the Bureau of Conveyances on June 7, 2006

Is/Are transmitted herewith…

- ☒ For your files
- ☐ For execution and return
- ☐ For execution and forwarding as noted below
- ☐ For execution in black ink before a Notary Public
- ☐ For review and comment
- ☐ Approved as noted
- ☐ For necessary action
- ☐ Per your request
- ☐ Per our conversation
- ☐ For payment
- ☐ See remarks below

REMARKS:

Very truly yours,

IMANAKA KUDO & FUJIMOTO

By Cameron W. Nekota /mf
Benjamin A. Kudo/Naomi U. Kuwaye/Cameron W. Nekota

Enclosures

Method of Delivery: ☐ Mail ☒ Hand Delivery ☐ Facsimile ☐ Other:

Aina Nui

BEFORE THE LAND USE COMMISSION

OF THE STATE OF HAWAI`I

In the matter of the Petition of AINA NUI CORPORATION A Hawai`i Corporation  To Amend The Agricultural Land Use District Boundary Into The Urban Land Use District For Approximately 174.209 Acres Of Land At `Ewa, O`ahu, Hawai`i,Tax Map Keys: 9-1-14: Por. 33 And 9-1-15: Por. 4 And Por. 20	)	DOCKET NO. A04-753 FINDINGS OF FACT, CONCLUSIONS OF LAW, AND DECISION AND ORDER

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND DECISION AND ORDER

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, Hawaii.

APR 10 2006 by _____
Date Executive Officer

BEFORE THE LAND USE COMMISSION

OF THE STATE OF HAWAI`I

In the matter of the Petition	)	DOCKET NO. A04-753
	)	
of	)	
	)	
AINA NUI CORPORATION	)	FINDINGS OF FACT,
A Hawai`i Corporation	)	CONCLUSIONS OF LAW, AND
	)	DECISION AND ORDER
To Amend The Agricultural Land Use	)	
District Boundary Into The Urban Land	)	
Use District For Approximately 174.209	)	
Acres Of Land At `Ewa, O`ahu,	)	
Hawai`i,Tax Map Keys: 9-1-14: Por. 33	)	
And 9-1-15: Por. 4 And Por. 20	)	
	)	

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND DECISION AND ORDER

AINA NUI CORPORATION, a Hawai`i corporation ("Petitioner")[1], filed a Petition For Land Use District Boundary Amendment ("Petition") on September 29, 2004, pursuant to section 205-4, Hawai`i Revised Statutes ("HRS"), and chapter 15-15, Hawai`i Administrative Rules ("HAR"), to amend the land use district boundary to reclassify approximately 174.209 acres of land, situated at `Ewa, O`ahu, Hawai`i, identified by Tax Map Keys ("TMK"): 9-1-14: 33 (por.) and 9-1-15: 4 (por.) and 20 (por.) ("Petition Area"), from the State Land Use Agricultural District to the State Land Use Urban District for residential, golf course, and park uses ("Project").

The Land Use Commission ("Commission"), having heard and examined the testimony, evidence, and argument of counsel presented during the hearing; Petitioner's Proposed Findings Of Fact, Conclusions Of Law, And Decision And Order; the Joinder Of The Department Of Planning And Permitting ("DPP") Urging Adoption Of Petitioner's Proposed Findings Of Fact, Conclusions Of Law, And Decision And Order; the Office of Planning's ("OP") Exceptions To Petitioner Aina Nui Corporation's Proposed Findings Of Fact, Conclusions Of Law, And Decision And Order; and the Stipulated Proposed Findings Of Fact, Conclusions Of Law, And Decision And Order entered into by the parties, hereby makes the following findings of fact, conclusions of law, and decision and order:

FINDINGS OF FACT

PROCEDURAL MATTERS

1. On September 29, 2004, Petitioner filed the Petition. The Petition included an Environmental Impact Statement Preparation Notice, pursuant to sections 343-5(a)(1) and (4), HRS, and sections 11-200-6(b)(1)(A) and (D), HAR.

2. On October 7, 2004, and by a written Order dated December 14, 2004, the Commission agreed to be the accepting authority pursuant to chapter 343, HRS, and determined that the proposed action may have a significant effect on the environment to warrant the preparation of an Environmental Impact Statement ("EIS").

[1] Petitioner, whose principal place of business is 1001 Kamokila Boulevard, Suite 255, Kapolei, Hawai`i, 96707, is an agent for The Estate of James Campbell ("Campbell Estate").

3. On June 16, 2005, and by a written Order dated August 4, 2005, the Commission accepted Petitioner's Final EIS ("FEIS").

4. On June 17, 2005, the Commission conducted a field trip to the Petition Area.

5. By letter dated August 18, 2005, the Executive Officer of the Commission deemed the Petition a proper filing and accepted it for processing as of June 16, 2005.

6. On September 8, 2005, the DPP filed its Statement Of Position Of The Department Of Planning And Permitting In Support Of Petition With Conditions.

7. On September 19, 2005, the OP filed its Statement Of Position Of The Office Of Planning In Support Of The Petition.

8. On September 19, 2005, a prehearing conference was held at the Leiopapa A Kamehameha Building (aka the State Office Tower), Room 405, in Honolulu, Hawai`i, with representatives of Petitioner, the OP, and the DPP present. A Prehearing Order was subsequently issued on September 20, 2005.

9. On October 6, 2005, the Commission conducted a hearing on the Petition at the Kakuhihewa Building, Room 111, Conference Room A & B, in Kapolei, Hawai`i, pursuant to the Notice of Hearing published in the *Honolulu Star-Bulletin*, the *West Hawaii Today*, the *Hawaii Tribune-Herald*, the *Maui News*, and *The Garden Island* on September 4, 2005. The Commission did not receive any petition for intervention.

10. On October 6, 2005, the Commission heard public testimony from Jane Ross and Maeda Timson in favor of the Petition and accepted their written testimony into evidence. Also testifying as a public witness in favor of the Petition was Lorraine Martinez. Dr. Michael Keoni Dudley provided public testimony in opposition to the Petition. The hearing was continued to October 7, 2005.

11. On October 19, 2005, the Commission resumed the hearing on the Petition at the Leiopapa A Kamehameha Building, Room 405, in Honolulu, Hawai`i. At the hearing, the Commission heard public testimony from Kenneth Williams and Ralph F. Harris and accepted their written testimony into evidence. The Commission continued the hearing to October 20, 2005.

12. On October 20, 2005, following the completion of the parties' respective cases, the Commission closed the hearing on the Petition.

13. On February 3, 2006, the Commission held an action meeting on the Petition at the Leiopapa A Kamehameha Building, Room 405, in Honolulu, Hawai`i. At the meeting, the Commission deferred action on the Petition to its next meeting on O`ahu.

14. On March 3, 2006, the Commission resumed its action meeting on the Petition at the Leiopapa A Kamehameha Building, Room 405, in Honolulu, Hawai`i.

DESCRIPTION OF THE PROPERTY

15. The Petition Area consists of approximately 174.209 acres, identified by TMKs: 9-1-14: 33 (por.) and 9-1-15: 4 (por.) and 20 (por.), in `Ewa, O`ahu, Hawai`i.

16. The acreage breakdown of each parcel by their respective portion of the Petition Area is as follows: Parcel 33 - 55.5 acres, Parcel 4 - 98.6 acres, and Parcel 20 - 20.1 acres.

17. The portion of the Petition Area above the Oahu Railway & Land Company Right-of-Way ("OR&L ROW") is owned in fee by Petitioner. The portion of the Petition Area below the OR&L ROW is owned by Petitioner as a tenant-in-common with Campbell Estate, which has authorized Petitioner to act as its agent in the current Petition.

18. The Petition Area is located approximately 20 miles west of downtown Honolulu and is located south of the Wai`anae Mountain Range between the City of Kapolei and the Ko Olina Resort.

19. The most recent uses of the land within the Petition Area include transportation along the OR&L ROW, occupation by the Ewa Plantation Company and the Oahu Sugar Company ("OSCO"), livestock grazing, and a coral pit quarry to the south. Currently, large portions of the Petition Area are vacant and unused, with the exception of the OR&L ROW used by the Hawaiian Railway Society.

Additionally, a Coast Guard Range Light is located at the southernmost tip of the Petition Area.

20. Land uses surrounding the Petition Area include the 372.6-acre urbanized area of the Kapolei West Project to the north, the Ko Olina Resort and golf course to the west, Kalaeloa Barbers Point Harbor and the James Campbell Industrial Park ("Campbell Industrial Park") to the south, and the City of Kapolei to the east.

21. The H-1 Freeway is located to the north of the Petition Area.

22. Elevation of the Petition Area ranges from 15 feet above mean sea level ("msl") at the southernmost tip to 65 feet above msl at the northernmost boundary.

23. The Petition Area is relatively flat and slopes gently with a range of 1 percent to 5 percent, with the steepest slope of approximately 25 percent located along a ridgeline that forms its northernmost boundary.

24. The annual rainfall on the Petition Area averages approximately 21 inches.

25. The Petition Area contains the following soil types as determined by the U.S. Department of Agriculture, Soil Conservation Service, now known as the Natural Resource Conservation Service ("NRCS"):

CR Coral Outcrop (136.6 acres or 78 percent).

EmA Ewa silty clay loam, moderately shallow, 0 to 2 percent slopes (10.8 acres or 6 percent).

EmB Ewa silty clay loam, moderately shallow, 2 to 6 percent slopes (3.0 acres or 2 percent).

MnC Mamala stony silty clay loam, 0 to 12 percent slopes (23.7 acres or 14 percent).

26. According to the joint NRCS, University of Hawai`i College of Tropical Agriculture and Human Resources, and the State Department of Agriculture Agricultural Lands of Importance to the State of Hawai`i system, approximately 10 acres (6 percent) of the Petition Area are considered "Prime," while 22 acres (12 percent) are classified as "Other." The remaining approximately 142 acres (82 percent) of the Petition Area are unrated.

27. The University of Hawai`i Land Study Bureau's Overall (Master) Productivity Rating system classifies the soils within the Petition Area as follows:

Soil Type	Acreage
A	0.0 (0 percent)
B	20.0 (11 percent)
C	45.0 (26 percent)
D	0.0 (0 percent)
E	92.0 (53 percent)
Unrated	18.0 (10 percent)

28. Of the total 174.209 acres within the Petition Area, approximately 15 acres are good for growing low elevation crops, approximately 33 acres are suitable for these crops, and the remaining approximately 126 acres are poorly suited for farming, largely because most of the land is coral outcrop.

29. The Flood Insurance Rate Map designates the Petition Area as Zone "D," where there are possible but undetermined flood hazards – no analysis conducted. The Petition Area is outside of the tsunami inundation zone.

PROPOSAL FOR RECLASSIFICATION

30. The 174.209-acre Petition Area is part of the larger Kapolei West development, which includes approximately 372.6 acres urbanized pursuant to LUC Docket A90-655/West Beach Estates. Petitioner intends to develop the Kapolei West development as a residential golf course community with approximately 2,370 low and medium-density residential units.

31. The Conceptual Master Plan for the Project will include approximately 1,170 medium-density homes on approximately 77 acres of land and 11 low-density homes on approximately 9.3 acres of land. Of the 1,181 homes proposed in the Petition Area, approximately 520 homes are intended to be primary residences (44 percent), with the remaining 660 homes (56 percent) intended as secondary residences. The final unit breakdown will be largely dictated by market demand at the time of development.

32. Two public parks are planned for the Petition Area: an approximately 14.3-acre neighborhood park south of the OR&L ROW and a 2.8-acre passive mini-park adjacent to the golf course south of the OR&L ROW.

33. A 15.5-acre middle school site is identified within a residential area adjacent to the proposed Kapolei Parkway, north of the Petition Area, and in the

urban portion of Kapolei West. Petitioner has been in discussions with the State Department of Education ("DOE") regarding the proposed middle school and intends to comply with the DOE's fair-share requirements for school facilities, including any fair-share cash contributions. Petitioner's donation of the middle school site and any required cash contributions will satisfy the DOE's fair-share requirements for the entire Kapolei West development, including the Project.

34. The City and County of Honolulu ("City and County") currently requires that 30 percent of all residential units built, apartments or single-family, be within the affordable housing range. Of the total 30 percent affordable housing units required, 20 percent shall be affordable for those households earning more than 80 percent up to and including 120 percent of the City and County's median income. The remaining 10 percent must be affordable to households up to and including 80 percent of the median income. Petitioner has agreed to comply with the City and County's affordable housing requirements.

35. Development costs for the Petition Area are estimated to total $444.0 million, including on and offsite infrastructure, vertical construction, landscaping, and soft costs such as professional services, administration of operating subsidiaries, and marketing. Of the total estimated development costs, residential construction is projected to cost $291.0 million, and on and offsite infrastructure costs are projected to cost $98.5 million. The remaining costs are attributed to professional services, operating subsidiaries, and marketing expenditures.

36. The Project is anticipated to commence in 2008. Based on the projected absorption rates, the Petition Area could take an estimated 9 years to build out.

PETITIONER'S FINANCIAL CAPABILITY TO UNDERTAKE THE PROPOSED DEVELOPMENT

37. Petitioner submitted the Consolidated Financial Statements and Consolidating Schedules for James Campbell Corporation and Subsidiaries for December 31, 2004 and 2003. As of December 31, 2004, Petitioner reflected total assets of $55,084,458, total liabilities of $806,193, and total stockholder's equity of $54,278,265.

38. Petitioner intends to finance development of the Project from the sale of assets, as well as by utilizing project borrowing and the borrowing capacity of Campbell Estate.

39. Petitioner has the necessary economic ability to carry out the representations and commitments relating to the development of the Project.

STATE AND COUNTY PLANS AND PROGRAMS

40. The Petition Area is currently designated in the State Land Use Agricultural District, as reflected on the Commission's official map, O-6 (`Ewa).

41. The City and County's `Ewa Development Plan ("`Ewa DP"), adopted in 1997, designates the Petition Area within the Urban Growth Boundary.

42. The Petition Area is zoned AG-1 Restricted Agricultural District and AG-2 General Agricultural District. Petitioner intends to apply for rezoning of the

Kapolei West development (including both the Petition Area and the urbanized area) to P-2 General Preservation, A-1 Low-Density Apartment, A-2 Medium-Density Apartment, R-5 Residential, and BMX-3 Business Mixed Use.

43. The southernmost tip of the Petition Area abutting the Ko Olina Marina (approximately 1.1 acres) lies within the City and County's Special Management Area ("SMA"). The area is planned for residential use, and will require review in accordance with chapter 25, Revised Ordinances of Honolulu ("ROH"), with which Petitioner intends to comply.

NEED FOR THE PROPOSED DEVELOPMENT

44. Mikiko Corporation prepared reports entitled "Market Assessment for Residential Uses at the Proposed Kapolei West, Island of Oahu" (dated May 21, 2004) and "Economic and Fiscal Impact Assessment for the Proposed Kapolei West Development, Island of Oahu" (dated October 27, 2004). There is an estimated deficit of nearly 16,300 housing units in 2005, based on the results of the State housing policy study conducted by SMS Research in 2003. The Project will contribute approximately 1 percent to 2.5 percent of unplanned-for housing needs in the `Ewa DP area in the 2006 to 2020 timeframe.

ECONOMIC IMPACTS

45. The Project will create approximately 2,600 direct jobs and 3,196 indirect and induced jobs over the construction period from 2006 to 2020.

46. The Project is anticipated to generate $1.4 million per year for the City and County and $3.9 million per year for the State in additional operating revenues by stabilization in 2020.

47. Personal earnings from the Project could amount to $17 million annually.

48. Personal earnings from operational employment within the Petition Area could amount to $13 million annually by stabilization in 2020.

SOCIAL IMPACTS

49. The Project is estimated to have a net impact of 420 additional full-time equivalent persons on the population of the City and County. Approximately 380 of this total will be new to the State, and will include employees, dependents, and part-time residents.

50. In 2020, the average daily population, including both primary home and secondary home residents, projected for the Petition Area is estimated to be 1,900 persons. This is based on assumptions that the 510 primary resident units would be occupied 95 percent of the time with an average of 3 persons per household, while 640 second home units would be occupied an average of 30 percent of the year by an average of 2.3 persons per unit. In 2020, the average daily population of 1,900 would constitute 1.5 percent of the `Ewa DP area population (projected by the `Ewa DP to be approximately 125,000).

51. The Project is expected to have a mixed effect on social welfare. The range of attitudes and opinions of Kapolei area residents towards the Kapolei West development and other developments have been characterized in a vote to endorse the Kapolei West development by the Makakilo/Kapolei/Honokai Hale Neighborhood Board. Discussion presented during the Board's deliberations indicate a range of opinions from general support of public policy objectives to encourage growth to Kapolei to concerns about the consequences of that growth, such as school overcrowding, traffic congestion, and loss of open space. The Project, as part of the fulfillment of Kapolei as the "Second City," will provide new employment, housing, and recreational opportunities for residents, while investment in schools and civic facilities elsewhere in Kapolei is anticipated to improve the quality of life in the region. Traffic congestion is expected to subside as the regional roadway network is constructed and there is increased job and housing opportunities available in the region.

IMPACTS UPON RESOURCES OF THE AREA

Agricultural Resources

52. Decision Analysts Hawaii, Inc., prepared a study entitled "Kapolei West Impact on Agriculture for the Petition Area" (dated March 2005). The Project will not adversely impact any existing agricultural operations. Although the Project will result in the loss of agricultural land, it is located in an urban area that is poorly suited for agriculture. Furthermore, the Project will not limit the potential

growth of diversified agriculture on O`ahu due to the large amount of land that has been released from plantation agriculture since the late 1960s.

Flora and Fauna

53. Char & Associates prepared two botanical surveys for the Petition Area, "Botanical Survey, Kapolei Rezoning, ± 96-Acre Parcel, Kapolei, Ewa District, O`ahu" (dated November 2003) and "Botanical Survey Kapolei West – Parcels A to C, Kapolei, `Ewa District, Oahu" (dated April 2004). The dominant vegetation types within the Petition Area are kiawe forest and buffelgrass/koa haole scrub. Both of these vegetation types are dominated by introduced or alien species, which constitute approximately 90 percent of the vegetation within the Petition Area. The remaining 10 percent consists of native indigenous and endemic species. There are no threatened or endangered species or species of concern in the Petition Area. As a result, the Project is not expected to have a significant negative impact on botanical resources.

54. Mr. Phillip Bruner, Environmental Consultant, reviewed two previous studies conducted in the Kapolei area to evaluate the potential impact of the Project on any threatened and endangered species. Mr. Bruner reviewed a study he conducted in 1989 entitled "Survey of the Avifauna and Feral Mammals at the Proposed Campbell Commercial-Industrial Site, Ewa, Oahu," and a study done by Andrew J. Berger in August 1979 entitled "Birds of West Beach Region Follow-up Report April-May 1979, Ewa, Oahu." No threatened or endangered species were observed during

either survey; however, it was noted that the Hawaiian Owl, or pueo, which is recognized as an endangered species by the State, has been known to forage in the area.

55. Mr. Bruner visited the Petition Area on September 15, 2005, and did not observe any pueo. He found that a fire had recently burned the majority of the Petition Area, and consequently it currently lacks the environmental resources required by foraging or nesting pueo. Based on the previous studies of the area, it is anticipated that the Project will not have an impact on any threatened or endangered species of avifauna and mammals, or their habitat.

Archaeological/Historical/Cultural Resources

56. Between 2003 and 2005, Cultural Surveys Hawaii, Inc. ("CSH"), conducted six archeological studies of the Petition Area. A total of 21 sites were identified within the Petition Area. These included three sites associated with commercial sugar cultivation, three sites associated with ranching and/or military activity, 13 Hawaiian sites, a trig station, and the OR&L ROW. Of the 21 sites identified within the Petition Area, seven are recommended for preservation. The reclassification and development of the Petition Area will have no adverse impact on the preservation and maintenance of the sites identified.

57. The State Historic Preservation Division ("SHPD") concurred with CSH's preservation recommendations as evidenced by Petitioner's Exhibit 39a, a letter from Melanie Chinen, Administrator, SHPD, to Hallett Hammatt, Ph.D., CSH. The Project will comply with the SHPD requirements to preserve significant historical

sites requiring further archaeological work or documentation prior to future development.

58. CSH also prepared a study for the Petition Area entitled "A Cultural Impact Assessment of Approximately 595 Acres at Kapolei, Honouliuli Ahupuaa, Ewa District of Honolulu" (dated December 2004), which included an examination of historical documentation, review of archaeological studies, and community consultations and interviews. Twenty-three parties were consulted and two were interviewed. None of those persons consulted or interviewed identified any cultural sites in the Petition Area nor recalled any native Hawaiian traditional and customary practices being exercised. It does not appear that the Project will have any adverse effect on the exercise of native Hawaiian traditional and customary rights that would require protection under Article XII, Section 7, of the Hawai`i State Constitution.

Groundwater Resources

59. Mr. John Mink of Mink and Yuen prepared a hydro-geological study entitled "Kapolei West Geology, Hydrology and Water Resources Study" (dated March 2005) for the Petition Area.

60. Within the Petition Area, groundwater occurs in two separate aquifers, the Wai`anae Basalt Aquifer and the caprock limestone aquifer. Groundwater in both the Wai`anae Aquifer (in the vicinity of the Petition Area) and the caprock limestone aquifer do not meet potability standards. The Wai`anae Aquifer is included in the `Ewa-Kunia Aquifer System of the Pearl Harbor Aquifer Sector. The sustainable

yield for the `Ewa-Kunia Aquifer System is approximately 16 million gallons per day ('mgd"). Current allocations total 15.457 mgd (including 0.957 mgd allocated to Petitioner). Of the current allocations, approximately 12.2 mgd are presently being used based on average pumpage over the last five years. The remaining approximately 3.8 mgd of the sustainable yield are unused. The unallocated share is approximately 0.543 mgd. The Board of Water Supply's ("BWS") share of the total allocation is approximately 9.72 mgd, of which it has pumped over the last five years an average of 7.85 mgd, leaving an unused balance of 1.87 mgd. If the available allocation (0.543 mgd) is added to the BWS surplus (1.87 mgd), a total of 2.41 mgd are available from the `Ewa-Kunia Aquifer System.

61. The Ko`olau Basalt Aquifer in the Waipahu-Waiawa Aquifer System also serves the Kapolei-`Ewa Plain region. The sustainable yield for this system is approximately 104 mgd, 82 mgd of which have been allocated. Of the current allocations, approximately 44 mgd are presently being used based on average pumpage over the last five years. The remaining approximately 60 mgd of the sustainable yield are unused. The unallocated share is approximately 22 mgd.

62. The Project has an estimated average potable water demand of approximately 461,600 gallons per day ("gpd").

63. Based on the total unused BWS allocation in the Waipahu-Waiawa Aquifer System and the `Ewa-Kunia Aquifer System and the projected amount

of potable water needed to support the Project, there is enough potable water currently available to sustain development of the Project.

Recreational Resources

64. The Project will include approximately 17.1 acres of land for parks, including a neighborhood park and a mini-park. A portion of the West Kapolei golf course is also planned within the Petition Area. Finally, multi-purpose pathways to accommodate pedestrian and bicycle traffic and private recreational centers are proposed.

65. The Project, including the already urbanized area, will include a privately owned golf course which will have public play for a fee equivalent to kama`aina rates charged by other similar golf courses located on the island of O`ahu.

Scenic Resources

66. The Project will not obstruct significant panoramic views of the shoreline and urban Honolulu from the H-1 Freeway. The Project will be limited in height to preserve existing views from mauka areas. In addition, the golf course and park spaces will provide open space relief in contrast to the surrounding industrial uses at Kalaeloa Barbers Point Harbor and Campbell Industrial Park.

ENVIRONMENTAL QUALITY

Noise

67. D.L. Adams Associates, Ltd., prepared an acoustical study for the Petition Area entitled "Environmental Noise Assessment Report Kapolei West 100

Acre Petition, Kapolei, Oahu, Hawaii" (dated February 2005). Based on the acoustical study, there will be no significant impact to the Petition Area from aircraft noise or the H-1 Freeway, but aircraft noise from occasional aircraft flyovers may be audible.

68. Temporary noise impacts may occur during construction within the Petition Area and the contractor will be required to obtain a State of Hawai`i Department of Health ("DOH") construction noise permit

69. The Project is not expected to be a significant source of long-term noise. Any significant source of noise generated from the Project will be mitigated by the use of mufflers, silencers, acoustical enclosures, and noise barrier walls.

Air Quality

70. B.D. Neal & Associates prepared an air quality study for the Petition Area entitled "Air Quality Study for the Proposed Kapolei West 100 Acre Petition, Kapolei, Oahu, Hawaii" (dated March 2005). The potential short-term air quality impact of the development of the Petition Area will occur from fugitive dust during construction. Mitigation measures include watering of active work areas, using windscreens, keeping adjacent paved roads clean, and by covering open bodied trucks. Other dust control measures could include limiting the area that can be disturbed at any given time and/or mulching or chemically stabilizing inactive areas that have been worked. Paving and landscaping of construction areas early on will also reduce dust emissions. Exhaust emissions from construction equipment can be mitigated by moving construction equipment and workers to and from the construction site during

off-peak traffic hours. Petitioner intends to implement these measures during the development of the Project as they become necessary.

71. After construction, motor vehicles coming to and from the Project will result in a long-term increase in air pollution emissions in the Petition Area. In the year 2020, carbon monoxide concentrations in the Petition Area were estimated to increase slightly at the intersection of Kapolei Parkway and Kalaeloa Boulevard compared to the without-project cases, while other areas within the Petition Area would remain unchanged. Worst-case scenario concentrations of carbon monoxide should remain within both national and State ambient air quality standards. Due to the small impact, implementing mitigation measures for traffic-related air quality impacts are unnecessary.

72. Due to the proximity of industries located at Campbell Industrial Park, occasional impacts on the Petition Area from emissions emanating from these facilities will probably be unavoidable. Such impacts may occur in conjunction with the coincidental occurrence of industry malfunctions and southerly winds, both of which are relatively infrequent events.

ADEQUACY OF PUBLIC SERVICES AND FACILITIES

Highway and Roadway Facilities

73. Wilbur Smith Associates prepared a traffic impact assessment report entitled "Kapolei West Traffic Impact Assessment Report, City of Kapolei" (dated June 1, 2005).

74. The existing roads within the vicinity of the Petition Area include: (1) Kalaeloa Boulevard, which is a four-lane divided highway that connects the Campbell Industrial Park area to the H-1 Freeway at the Pālailai Interchange; (2) Kapolei Parkway, which is partially completed and will be extended westward to provide east-west access to and within the Petition Area; and (3) Koio Drive, which is a four-lane roadway within the Ko Olina Resort that has a median divider and connects Ali`inui Drive to Farrington Highway.

75. Principal access to the Petition Area will be from Kapolei Parkway.

76. Regional roadway improvements identified in chapter 33A, ROH, and impacting the Petition Area include the construction of the Kapolei Interchange, the extension of Kapolei Parkway between Kamokila Boulevard and Fort Barrette Road, and the extension of Kapolei Parkway between Kalaeloa Boulevard and Ali`inui Drive.

77. Other improvements for the Kapolei region not identified in chapter 33A, ROH, or the O`ahu Metropolitan Planning Organization Transportation Plan for O`ahu assumed to be in place include the following: (1) provision of a double left-turn lane on the makai-bound and westbound approaches at the Kalaeloa Boulevard intersection with the Kapolei Parkway; (2) widening of Kalaeloa Boulevard to a six-lane roadway; (3) construction of the Hanua Street extension and the additional ramp connections to the H-1 Freeway and Farrington Highway; and (4) installation of a

traffic signal at the Kapolei Parkway intersection with the Hanua Street extension and the incorporation of double left-turn lanes on the westbound approach.

78. In the event the Hanua Street extension is built as a four-lane divided highway or an alternative design identified by the DOT, in either case in accordance with State highway standards, the DOT will have five years to exercise its option to accept dedication of this roadway commencing upon the completion of the Hanua Street extension.

79. The Project would contribute approximately 24 percent of the total traffic generated by the entire Kapolei West development in the morning peak hour. In the afternoon peak hour, the Project would generate 18.5 percent of the total trips. The approximately 372.6 acres of land within the Kapolei West development already designated within the State Land Use Urban District would generate most of the peak hour trips because it includes the regional commercial area and would have a higher proportion of full-time residents.

80. The trip rates for resort-residential units are lower than those for full-time residents. Many of the units owned by part-time residents might be unoccupied for much of the year.

81. The reclassification and development of the Petition Area will result in the following impacts to the H-1 Freeway: (1) in the year 2020 during the morning peak hour, the Project would add an estimated 113 vehicles to the Honolulu-bound H-1 traffic between the Pāiwa and Kunia Interchanges, or approximately a 1.1

percent increase to the estimated 10,200 Honolulu-bound vehicles on that segment; and (2) in the year 2020 during the afternoon peak hour, the Project would add an estimated 115 vehicles to the Wai`anae-bound H-1 Freeway traffic between the Pāiwa and Kunia Interchanges, or approximately a 1.2 percent increase to the estimated 9,700 Wai`anae-bound vehicles on that segment.

82. Petitioner is required to comply with chapter 33A, ROH, related to a traffic impact fee program for `Ewa, and Petitioner will contribute its "fair- share" to future roadway improvements in the `Ewa region as provided in chapter 33A, ROH. Based on the number of residential units proposed, the Project's fair-share will amount to approximately $1,469,100.

Water Service

83. Engineering Concepts, Inc., prepared a report entitled "Preliminary Engineering Report for the Proposed Kapolei West Development, Kapolei, Oahu, Hawaii" (dated February 2005). The report addressed existing potable and non-potable water conditions, projected water demand, the proposed water system, and impacts and mitigation measures.

84. A dual water system will be used. Potable water for the Petition Area will be supplied by the BWS. The BWS system provides potable water service to the `Ewa/Kapolei region. Wells located in Waipahu are the water source for the system. These wells include the Hō`ae`ae Wells, Kunia Wells 1, and Waipahu Wells. Transmission of water from the wells to `Ewa/Kapolei is via 30-inch and 36-inch

transmission mains along Farrington Highway. Storage for the area is handled by the Kapolei 215 Reservoir located mauka of the freeway below the Makakilo City development and the 3.0 million gallon ("MG"), 4.0 MG, and 5.0 MG Barbers Point 215 Reservoirs located above the Petition Area in the southeastern corner of the proposed Makaiwa Hills development.

85. The existing potable water system serving the adjacent areas would need to be extended to serve the Project. The distribution line in Ali`inui Drive would be connected to the 16-inch line in Kapolei Parkway near Kalaeloa Boulevard. Additional storage may also be needed. It is expected that an additional reservoir would be placed next to the existing Barbers Point 215 tanks. The proposed offsite and onsite potable water system would be designed with the BWS Water System Standards and is anticipated to be dedicated to the BWS for operation and maintenance.

86. Petitioner will prepare and submit a water master plan to the BWS for its review and approval. Actual water commitments will not be issued until building permit applications are submitted. Under current BWS policy, water use allocations are granted in incremental amounts as subdivision plans are approved or buildings permits are obtained.

87. The BWS is currently in the process of providing non-potable water for the Kapolei area through the use of recycled effluent from the Honouliuli Wastewater Treatment Plant ("HWTP"). A 16-inch R1 water line runs along the OR&L ROW from the HWTP to the City of Kapolei. The non-potable water system within the

City of Kapolei has been converted from a caprock brackish water source to the reclaimed effluent. Plans for construction of a non-potable water line connecting the City of Kapolei system to the existing non-potable tanks above Farrington Highway is currently in the review and approval process. Completion of the line is expected within the next two years. Additional storage would be required as well as extension of the proposed BWS non-potable water mains. At minimum, a 1.0 mgd tank would be required for the Project. Storage requirements could also be met within the golf course in the form of lakes and water features.

88. Non-potable water will be used to irrigate the golf course and park areas. There are two non-potable water sources that could serve the Project. There is the BWS reclaimed wastewater from the HWTP and an allocation to Petitioner of 957,000 gpd from Pump 10, a former OSCO primary pumping station used for irrigation. The Project would require an estimated 334,000 gpd. There is presently sufficient non-potable water available to meet the needs of the Project.

89. Petitioner will incorporate appropriate design and landscaping measures to encourage water conservation and minimize water consumption where possible.

Wastewater Disposal

90. Engineering Concepts, Inc., prepared a report entitled "Preliminary Engineering Report for the Proposed Kapolei West Development, Kapolei, Oahu, Hawaii" (dated February 2005). The report addressed existing wastewater

conditions, projected wastewater flows, infrastructure modifications, and impacts and mitigation measures.

91. The Petition Area is currently undeveloped and does not generate wastewater flows. The Project is expected to generate a total average wastewater flow rate of approximately .30 mgd. Wastewater from the Project will be diverted to the HWTP, which is located approximately four miles east of the Petition Area. The HWTP has a capacity of treating up to 38 mgd of wastewater with expansion capability to 51 mgd. Current treatment loads are well below capacity and are more than sufficient to accommodate the additional loads from the Project.

Drainage

92. Engineering Concepts, Inc., prepared a report entitled "Preliminary Engineering Report for the Proposed Kapolei West Development, Kapolei, Oahu, Hawaii" (dated February 2005). The report addressed existing drainage conditions, flood hazards, runoff, infrastructure modifications, and impacts and mitigation measures, both on and offsite of the Petition Area.

93. The Petition Area falls within two watersheds. Both watersheds run from the crest of the Wai`anae Mountain range to the ocean. The western watershed discharges through the Ko Olina Resort development, accepting runoff through the existing golf course. The eastern watershed discharges through the West Kalaeloa area adjacent to the Kalaeloa Barbers Point Harbor.

94. A majority of the Petition Area above the OR&L ROW is within the western watershed and discharges runoff into the adjacent Ko Olina golf course. The portion of the Petition Area below the OR&L ROW will drain into the eastern watershed.

95. The Project will alter the character of the Petition Area by replacing existing vegetative cover with pavement, buildings, and landscaped yards typical of a residential development. As a result of the Project, the rate of peak runoff from the Petition Area is expected to increase. Estimated peak runoff for 10 and 50-year storms for the Petition Area is expected to increase by approximately 18 percent after development.

96. Drainage of the Petition Area within the western Ko Olina watershed can be addressed by the existing Ko Olina drainage systems, which were designed to accept runoff from the previously planned Ko Olina Phase 2 development. Kapolei Property Development, an affiliate of Campbell Estate, is currently planning a major drainage channel as part of the West Kalaeloa development makai of the Petition Area. Design of this channel will accommodate peak storm runoff contributions from the mauka developments, including portions of Kapolei West and Makaiwa Hills, in accordance with the storm drainage standards of the City and County. Should the development of the Petition Area precede construction of the drainage channel through West Kalaeloa, Petitioner will incorporate interim detention basins in the phasing of the Kapolei West development. These temporary detention basins would dampen flows

discharged into West Kalaeloa to what the existing drainage can accommodate. Temporary detention basins will likely be located within the limits of the proposed golf course.

97. The Kapolei West golf course will be the major drainage way through the Kapolei West development area. Runoff discharging from the mauka areas through culverts at Farrington Highway will be collected and directed to the golf course/drainage way. Onsite improvements will collect runoff through underground drainage systems within the Petition Area and direct runoff to the golf course. Several major box or pipe culverts will be required at roadway crossings and at the crossing of the OR&L ROW. Connections to mauka and makai improvements will be coordinated as to locations and inverts. The golf course/drainage way and underground drainage systems will be designed to accommodate peak runoff flows for the onsite as well as offsite improvements in accordance with the City and County's storm drainage standards.

98. Although existing drainage patterns generally route runoff around Kalaeloa Barbers Point Harbor, storm and surface water runoff from the area has already affected the harbor. The drainage systems proposed by Petitioner will need to prevent and/or control further runoff and flooding into the harbor.

99. In addition to State and City and County agencies designated to review and approve drainage plans, any drainage improvements affecting Kalaeloa Barbers Point Harbor shall be submitted to the DOT for review and approval.

Solid Waste Disposal

100. Engineering Concepts, Inc., prepared a report entitled "Preliminary Engineering Report for the Proposed Kapolei West Development, Kapolei, Oahu, Hawaii" (dated February 2005). The report addressed existing solid waste conditions, projected solid waste generation and characteristics, solid waste collection and service, and impacts and mitigation measures.

101. The Project will generate solid waste during construction and after development. Construction wastes will primarily be made up of vegetation, rocks, and debris resulting from clearing the site prior to construction. Municipal solid waste generated from the entire Kapolei West development area is estimated to be 22 tons/day and will be collected by the City and County.

102. Petitioner will incorporate design strategies and construction technologies into the Project that support the practice of conservation and recycling.

103. The City and County is currently operating a landfill site in Waimanalo Gulch and the H-Power waste energy recovery facility on the leeward side of O`ahu. The City and County is currently exploring alternative means of handling solid waste as an ongoing county-wide concern.

Schools

104. The DOE has six schools in the Kapolei Public School Complex (four elementary, one intermediate, and one high school). Enrollment in Kapolei schools is close to or exceeding facility capacity, although, with the exception of the high school,

projected enrollment is anticipated to increase very slightly or decrease. The DOE's long-term enrollment projections are based upon anticipated population increases in the Kapolei area, which, as the designated "Second City," includes the planned implementation of developments such as the Project.

105. Four of the schools within the Kapolei Public School Complex are within the service area of the Petition Area and include Barbers Point Elementary School, Kapolei Elementary School, Kapolei Middle School, and Kapolei High School. Residential units planned for the Petition Area would generate approximately 261 students.

106. New facilities currently planned to meet the growing demand in the `Ewa region include an elementary school at the Mehana subdivision within the City of Kapolei, an elementary school at Ko Olina, and a new high school complex within the `Ewa Plains area.

107. There is a significant need for a middle school in the area of the Kapolei West development. A 15.5-acre middle school site has been identified in the 372.6 acres of land within the Kapolei West development already designated within the State Land Use Urban District. Petitioner is currently in discussions with the DOE regarding the proposed middle school. Petitioner intends to comply with the DOE's fair-share requirements for school facilities, including any fair-share cash contributions. Petitioner's donation of the middle school site and any required cash contributions will

satisfy the DOE's fair-share requirements for the entire Kapolei West development, including the Project.

Police and Fire Protection

108. The City and County Police Department provides police protection services to the Petition Area.

109. The Petition Area is located within District 8 for coverage from the Kapolei Police Station. District 8 services the communities of `Ewa, `Ewa Beach, Westloch, Barbers Point, Kapolei, Makakilo, Campbell Industrial Park, Honokai Hale, Ko Olina, Nānākuli, Mā`ili, Wai`anae, Mākaha, Mākua, and Ka`ena.

110. The Project will increase the demand for police services. It is anticipated that the resources necessary to support these services will be funded out of the increased real property tax revenues generated by the Project.

111. The City and County Fire Department provides fire protection services to the Petition Area.

112. The Petition Area will be serviced by the Makakilo (three miles northeast) and the Kapolei (one mile southeast) Fire Stations.

113. The Project will increase the demand for fire protection services; however, existing facilities are adequate to provide such services to the Petition Area. Design and construction of the water system will meet all the requirements of the BWS. Access roads capable of supporting the Fire Department's fire apparatus will be

designed and built according to its requirements. All roadway and water system designs will be submitted to the Fire Department for review and approval.

Emergency/Medical Services

114. Hurricane shelters within the Kapolei region are inadequate to safely accommodate the existing and projected population for the area. Petitioner will fund and construct its fair-share of adequate civil defense measures serving the Petition Area as required by the State of Hawai`i Department of Defense, Office of Civil Defense, and the City and County Civil Defense Agency.

115. Ambulance services located in Kapolei, Waipahu, and Nānākuli would provide emergency medical services to the Petition Area. St. Francis Medical Center-West serves the Leeward coast with a full range of medical and surgical services, including 24-hour emergency care complete with a helipad to facilitate the rapid transport of patients and Express Care services of treatment of minor medical emergencies. Additionally, City and County ambulance services are augmented by the U.S. Army's 68th Medical Detachment, Military Assistance to Safety and Traffic program, located at Wheeler Air Force Base.

Electricity and Telephone Services

116. Engineering Concepts, Inc., prepared a report entitled "Preliminary Engineering Report for the Proposed Kapolei West Development, Kapolei, Oahu, Hawaii" (dated February 2005). The report addressed existing electrical and

telephone service conditions, required power modifications, and impacts and mitigation measures.

117. The Hawaiian Electric Company ("HECO") will provide the necessary electrical service to the Petition Area. HECO maintains two parallel 60-foot-wide easements that cross the eastern end of the Kapolei West development in a northeast direction. The easements serve 138 kV overhead transmission lines originating from a HECO substation east of the Petition Area. Campbell Estate and/or its affiliates are currently coordinating alignments for additional HECO power lines through the West Kalaeloa area from the H-POWER plant to the substation at the OR&L ROW. HECO is also in the process of planning and designing a new substation at Ko Olina.

118. It is estimated that power requirements for the Project will be in the 1 to 4 kV range per residential unit with an assumed average of 48 kWh per unit per day. Power to the Petition Area is planned via the existing Kapolei substation and the new Ko Olina substation. Annual power consumption for the Project is estimated at 21 mWh.

119. Petitioner will incorporate energy efficiency design guidelines into the Project to minimize energy consumption.

120. Hawaiian Telcom, Inc., will provide the necessary telephone services to the Petition Area. The existing telecommunication facilities need to be

augmented to support the anticipated demands of the Project. Also, easements may be required to install the necessary electronic equipment and cable facilities.

COMMITMENT OF STATE FUNDS AND RESOURCES

121. Government costs incurred as a result of the Project are not expected to exceed the revenues derived. The State's operating revenues, derived principally from general excise taxes, income taxes, and specific licenses, fees, fines, and other payments, are anticipated to exceed the State's additional operating expenses throughout the Project's development and operating periods. The State's net additional revenues are projected to amount to $3.9 million per year by stabilization in 2020.

CONFORMANCE TO URBAN DISTRICT STANDARDS

122. The proposed reclassification of the Petition Area is in general conformance to section 15-15-18, HAR, standards for determining "U" Urban District boundaries as follows:

(1) *It shall include lands characterized by "city-like" concentrations of people, structures, streets, urban level of services and other related land uses*

The Petition Area is adjacent to lands characterized by "city-like" concentrations of people, structures, streets, urban level of services, and other related land uses. The Petition Area is located east of the existing resort, residential subdivision, and golf course at the Ko Olina Resort, south of the residential communities of Nānākai Gardens and Honokai Hale, and west of the City and Villages of Kapolei.

(2) *It shall take into consideration the following specific factors:*

(A) *Proximity of centers of trading and employment except where development would generate new centers of trading and employment;*

(B) *Availability of basic services such as schools, parks, wastewater systems, solid waste disposal, drainage, water, transportation systems, public utilities, and police and fire protection; and*

(C) *Sufficient reserve areas for foreseeable urban growth*

The Petition Area is located near existing and proposed employment centers, which include the City of Kapolei, the Campbell Industrial Park, Kalaeloa Barbers Point, Kapolei Business Park, and Ko Olina Resort. Upon completion, services such as schools, parks, wastewater systems, solid waste disposal, drainage, water, transportation systems, and police and fire protection are or will be available to serve the Petition Area.

(3) *It shall include lands with satisfactory topography, drainage, and reasonably free from the danger of any flood, tsunami, unstable soil condition, and other adverse environmental effects*

The Petition Area includes lands with satisfactory topography and drainage, which are free from natural hazards such as flooding or tsunami inundation.

(4) *Land contiguous with existing urban areas shall be given more consideration than non-contiguous land, and particularly when indicated for future urban use on state or county general plans*

The Petition Area abuts lands within the State Land Use Urban District. Furthermore, the Petition Area is within the City and County's Urban Growth Boundary and has been identified for future urban growth in the `Ewa DP.

(5) *It shall include lands in appropriate locations for new urban concentrations and shall give consideration to areas of urban growth as shown on the state and county general plans*

The Petition Area is an appropriate location for new urban concentration as an infill project between the City of Kapolei and the Ko Olina Resort. The Petition Area is within the Urban Growth Boundary and has been identified for future urban growth in the General Plan and the `Ewa DP.

(6) *It may include lands which do not conform to the standards in paragraphs (1) to (5):*

(A) *When surrounded by or adjacent to existing urban development; and*

(B) *Only when those lands represent a minor portion of this district*

The Petition Area conforms to the standards in paragraphs (1) through (5) above.

(7) *It shall not include lands, of which the urbanization will contribute towards scattered spot urban development, necessitating unreasonable investment in public infrastructure or support services;*

The reclassification of the Petition Area will not result in scattered spot urban development as the majority of the area surrounding the Petition Area has already been urbanized.

(8) *It may include lands with a general slope of twenty per cent or more if the commission finds that those lands are desirable and suitable for urban purposes and that the design and construction controls, as adopted by any federal, state, or county agency, are adequate to protect the public health, welfare and safety, and the public's interests in the aesthetic quality of the landscape.*

The topography of the Petition Area is relatively flat to gently sloping. Slopes range from 1 percent to 5 percent, with the steepest slope of approximately 25 percent located along a ridgeline that forms the northernmost boundary of the Petition Area. The majority of the Petition Area is below 20 percent slope.

CONFORMANCE WITH THE GOALS, OBJECTIVES, AND POLICIES OF THE HAWAI`I STATE PLAN; RELATIONSHIP WITH APPLICABLE PRIORITY GUIDELINES AND FUNCTIONAL PLANS

123. The proposed reclassification of the Petition Area is in general conformance with the following goals, objectives, policies, and priority guidelines of the Hawai`i State Plan:

Section 226-4 State goals

Section 226-4(1) A strong, viable economy, characterized by stability, diversity, and growth, that enables the fulfillment of the needs and expectations of Hawai`i's present and future generations.

Section 226-4(3) Physical, social, and economic well-being, for individuals and families in Hawai`i, that nourishes a sense of community responsibility, of caring, and of participation in community life.

The development and operation of the Project are expected to significantly impact the economy by increasing employment opportunities, personal income, and net operating revenues to the State and the City and County. The Project is also anticipated to improve the quality of life in the region by addressing the pent-up demand for housing units in an area that has been targeted for growth by the State and the City and County. The Project, as a part of the Kapolei West development, will bridge the resort

second home community and visitor attractions of Ko Olina Resort to the west and the primary residential community of Kapolei to the east.

Section 226-5 Objective and policies for population

Section 226-5(b)(1) Manage population growth statewide in a manner that provides increased opportunities for Hawai`i's people to pursue their physical, social, and economic aspirations while recognizing the unique needs of each county.

Section 226-5(b)(3) Promote increased opportunities for Hawai`i's people to pursue their socio-economic aspirations throughout the islands.

The Petition Area is located in the `Ewa region in West O`ahu, designated by City and County policy as the location of O`ahu's secondary urban center. The `Ewa region will accommodate a major share of O`ahu's future growth, with public investment in infrastructure and public facilities supporting the future development and economic activity being encouraged in the region. The Project will provide approximately 1,181 residential units to support employment centers at Ko Olina, the City of Kapolei, and Campbell Industrial Park. The Project is also expected to increase employment opportunities, and therefore personal income in the form of direct, indirect, and induced jobs during the construction and operation of the Project.

Section 226-6 Objectives and policies for the economy – in general

Section 226-6(a)(1) Increased and diversified employment opportunities to achieve full employment, increased income and job choice, and improved living standards for Hawai`i's people.

In addition to development-related jobs during construction, the Project could provide some 260 long-term permanent jobs during operations, contributing to

the personal income of those employed. Direct operational jobs could include a variety of types and levels of work, including opportunities in real estate brokerage, management, sales and marketing, golf course operations, maintenance and engineering, retail, entertainment, and landscaping. Indirect and induced employment opportunities will also be generated by the Project during its construction and operation.

Section 226-13 Objectives and policies for the physical environment – land, air, and water quality

Section 226-13(b)(7) Encourage urban developments in close proximity to existing services and facilities.

The Petition Area lies between established communities (Honokai Hale and Nānākai Gardens subdivisions), the Ko Olina Resort and golf course, the expanding City of Kapolei, Kalaeloa Barbers Point Harbor and its related industrial uses, and a major proposed community (Makaiwa Hills). Development of urban uses in the Petition Area would support the economic and population growth in the region and would help to relieve development pressures on rural and urban fringe areas.

Section 226-19 Objectives and policies for socio-cultural advancement – housing

Section 226-19(b)(3) Increase homeownership and rental opportunities and choices in terms of quality, location, cost, densities, style, and size of housing.

Section 226-19(b)(5) Promote design and location of housing developments taking into account the physical setting, accessibility to public facilities and services, and other concerns of existing communities and surrounding areas.

Section 226-19(b)(6) Facilitate the use of available vacant, developable, and underutilized urban lands for housing.

The Petition Area would provide approximately 1,181 residential units in a variety of housing types, densities, and prices, including market-priced single-family homes and town homes that would be available to buyers and residents with a range of incomes. The Petition Area's location in the `Ewa region ensures that adequate public and community services as well as employment opportunities are accessible to residents. A percentage of the residential development would provide affordable housing opportunities in accordance with City and County guidelines and requirements.

The Petition Area represents approximately 30 percent of the master-planned Kapolei West community. The remaining 70 percent is within the State Land Use Urban District. Development of the Petition Area in conjunction with the adjacent urbanized area would allow Petitioner to improve vacant lands between the Ko Olina golf course and the eastern boundary of the Project, thereby enhancing the overall marketability and buyer appeal of the master-planned Kapolei West community.

Section 226-104 Population growth and land resources priority guidelines

Section 226-104(b)(1) Encourage urban growth primarily to existing urban areas where adequate public facilities are already available or can be provided with reasonable public expenditures, and away from areas where other important benefits are present, such as protection of important agricultural land or preservation of lifestyles.

Section 226-104(b)(2) Make available marginal or nonessential agricultural lands for appropriate urban uses while maintaining agricultural lands of importance in the agricultural district.

The Petition Area is located in the `Ewa region, surrounded by existing residential communities, the Ko Olina Resort and golf course, the City of Kapolei, and the industrial activities associated with Kalaeloa Barbers Point Harbor. The Project supports the City and County's directed growth policies that encourage residential and commercial development in the `Ewa region. The Petition Area has been identified for future urbanization in the `Ewa DP, and is contiguous with existing and proposed urban development. Although the Petition Area contains approximately 15 acres of good agricultural land, due to its position between existing and planned urban development, use of the Petition Area for long-term agriculture production is neither feasible nor essential. As a result of the closure of the plantations, there are ample lands within the State Land Use Agricultural District on O`ahu that may be used for diversified agriculture.

124. The reclassification of the Petition Area conforms to the Housing and Employment Functional Plans.

CONFORMANCE WITH THE COASTAL ZONE MANAGEMENT PROGRAM

125. The proposed reclassification of the Petition Area generally conforms to the objectives and policies of the Coastal Zone Management Program, chapter 205A, HRS. The majority of the Petition Area is not located along the shoreline or next to any beaches. A portion of the Petition Area fronts the Ko Olina Marina and Kalaeloa Barbers Point Harbor. Drainage facilities within the Petition Area will be adequately planned and constructed in accordance with applicable DOH administrative

rules and City and County ordinances and drainage standards. Wastewater generated from the Petition Area will be appropriately treated at the municipal HWTP. Significant cultural and historical sites have been identified within the Petition Area. Petitioner will continue to work with SHPD to further preserve these sites. The development of the Petition Area will alter some makai views from the H-1 Freeway and surrounding residential areas. Unused agricultural lands that appear as undeveloped open space will be replaced with urban uses. Residential buildings will be limited in height and will not obstruct makai views from the H-1 Freeway. Significant panoramic ocean views and distant vistas of downtown Honolulu will not be obstructed. The Petition Area is not in an identified flood hazard area or tsunami inundation zone. Finally, the development of the Petition Area will not affect the State's implementation of its ocean resources management plan.

CONFORMANCE WITH THE CITY AND COUNTY GENERAL PLAN

126. The Petition Area is located within the `Ewa region, which the General Plan identifies for future development. Urbanization of these lands would comply with plans to direct population growth to `Ewa to relieve urban development pressures on rural and urban fringe areas. The Project would provide residential, recreational, and employment opportunities to support the planned growth of the secondary urban center in Kapolei. The Project is not anticipated to adversely impact the environmental quality or historical/cultural/natural resources of the area nor unduly burden governmental agencies to provide public services and facilities

INCREMENTAL DISTRICTING

127. Petitioner anticipates the development of the Petition Area to commence in 2008 following the receipt of the required land use approvals. Based on projected absorption rates, the Project could take an estimated nine years to build out. Consequently, incremental districting is not necessary.

RULINGS ON PROPOSED 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. Pursuant to chapter 205, HRS, and the Commission Rules under chapter 15-15, HAR, and upon consideration of the Commission decision-making criteria under section 205-17, HRS, the Commission finds upon the clear preponderance of the evidence that the reclassification of the Petition Area, consisting of approximately 174.209 acres of land in the State Land Use Agricultural District at `Ewa, O`ahu, Hawai`i, and identified as TMKs: 9-1-14: 33 (por.) and 9-1-15: 4 (por.) and 20 (por.), to the State Land Use Urban District, and subject to the conditions stated in the Order

below, conforms to the standards for establishing the boundaries of the State Land Use Urban District, is reasonable, not violative of section 205-2, HRS, and is consistent with the policies and criteria established pursuant to sections 205-16, 205-17, and 205A-2, HRS.

2. Article XII, Section 7, of the Hawai`i State Constitution requires the Commission to protect native Hawaiian traditional and customary rights. The State reaffirms and shall protect all rights, customarily and traditionally exercised for subsistence, cultural, and religious purposes and possessed by ahupua`a tenants who are descendants of native Hawaiians who inhabited the Hawaiian Islands prior to 1778, subject to the right of the State to regulate such rights. The State and its agencies are obligated to protect the reasonable exercise of customarily and traditionally exercised native Hawaiian rights to the extent feasible. Public Access Shoreline Hawai`i v. Hawai`i County Planning Commission, 79 Hawai`i 425, 450, n.43, 903 P.2d 1246, 1271, n.43, certiorari denied, 517 U.S. 1163, 1165. Ct. 1559, 134 L.Ed.2d 660 (1996).

3. The Commission is empowered to preserve and protect customary and traditional rights of native Hawaiians. Ka Pa`akai O Ka `Aina v. Land Use Commission, 94 Hawai`i 31, 3 P.3d 1068 (2001).

4. Seven sites have been identified as having historical or cultural significance and are recommended for preservation. Four of the seven sites are covered by an existing preservation plan and Petitioner will work with the SHPD to formulate a preservation plan for the remaining sites. Adherence to an SHPD accepted preservation

plan ensures that there will be no adverse impact to these sites. In the event any previously unidentified archaeological sites are found, Petitioner will comply with all applicable statutes and rules of the State of Hawai`i Department of Land and Natural Resources.

5. The Petition Area lies back from the coast on the extensive `Ewa limestone plain. Historical documentation and archaeological studies indicate that this area was probably never permanently inhabited during traditional Hawaiian times. There is no evidence to suggest any native Hawaiian traditional and customary rights are being exercised within the Petition Area.

6. Article XI, Section 1, of the Hawai`i State Constitution requires the State to conserve and protect Hawai`i's natural beauty and all natural resources, including land, water, air, minerals, and energy sources, and to promote the development and utilization of these resources in a manner consistent with their conservation and in furtherance of the self-sufficiency of the State.

7. There are no threatened and endangered species of flora and fauna or species of concern in the Petition Area.

8. Air quality of the Petition Area will be impacted in the short-term by fugitive dust and exhaust emissions from stationary and mobile equipment during the construction phase of the Project. Petitioner will implement all required measures to mitigate the effects of fugitive dust and exhaust emissions.

9. The long-term impacts to air quality that will result from the development of the Petition Area are minimal and no mitigation measures are necessary.

10. Petitioner will employ a dual water system to conserve the supply of potable water, and non-potable water will be used where appropriate and permitted.

11. Article XI, Section 3, of the Hawai`i State Constitution requires the State to conserve and protect agricultural lands, promote diversified agriculture, increase agricultural self-sufficiency, and assure the availability of agriculturally suitable lands.

12. The reclassification of the Petition Area will urbanize approximately 15 acres of prime agricultural land. However, due to the large amount of agricultural land that has been released from plantation agriculture, it is anticipated that the urbanization of these 15 acres will not adversely impact the potential growth of diversified agriculture on O`ahu.

13. Article XI, Section 7, of the Hawai`i State Constitution states that the State has an obligation to protect, control, and regulate the use of Hawai`i's water resources for the benefit of its people.

14. The Petition Area is within a designated water management area that is managed by the State Commission on Water Resource Management ("CWRM"). Non-potable water will be obtained from Pump 10 in which Petitioner has an allocation or reclaimed water from the HWTP. Use of non-potable water from Pump 10 for golf

course irrigation will require a modification of the existing water use permit from the CWRM. The Petition Area will obtain potable water from the Waipahu-Waiawa Aquifer System and the `Ewa-Kunia Aquifer System, which have adequate sustainable yields to meet the water demands of the Project.

DECISION AND ORDER

IT IS HEREBY ORDERED that the Petition Area, consisting of approximately 174.209 acres of land in the State Land Use Agricultural District at `Ewa O`ahu, Hawai`i, and further identified as TMKs: 9-1-14: 33 (por.) and 9-1-15: 4 (por.) and 20 (por.), and shown approximately on Exhibit "A," attached hereto and incorporated by reference herein, shall be and is hereby reclassified to the State Land Use Urban District, and the State land use district boundaries shall be amended accordingly.

Based upon the findings of fact and conclusions of law stated herein, it is hereby determined that the reclassification of the Petition Area will not significantly affect or impair the preservation or maintenance of natural systems and habitats or the valued cultural, historical, agricultural, and natural resources of the area.

IT IS HEREBY FURTHER ORDERED that the reclassification of the Petition Area from the State Land Use Agricultural District to the State Land Use Urban District shall be subject to the following conditions:

1. **Affordable Housing.** Petitioner shall provide affordable housing opportunities for low, low-moderate, and gap group income residents of the State of

Hawai'i to the satisfaction of the City and County. The number, location, and distribution of the affordable housing or other provisions for affordable housing shall be under such terms as determined by the City and County, but the number shall not be less than 30 percent of the total residential units in the Petition Area. This Condition No. 1 shall be satisfied by no later than nine years from the issuance of the first building permit for the first residential unit in the Petition Area.

2. **Public School Facilities.** Petitioner shall contribute to the development, funding, and/or construction of school facilities, on a fair-share basis, as determined by and to the mutual satisfaction of Petitioner and the DOE. Terms of the contribution shall be agreed upon in writing by Petitioner and the DOE prior to obtaining City and County final subdivision approval.

3. **Wastewater Facilities.** Petitioner shall provide wastewater system improvements as required by the DOH and appropriate City and County agencies.

4. **Transportation.** Petitioner shall participate in the implementation of the `Ewa Highway Master Plan as determined by the DOT, the City and County's Department of Transportation Services, and the DPP.

Petitioner shall set aside land necessary for the future construction of Hanua Street to Malakole as a four-lane highway. In the event the Hanua Street extension is built, as part of Petitioner's fair-share requirements for future regional roadway improvements, Petitioner agrees it shall be built as a four-lane divided highway, or to an alternative design as identified by the DOT, in either case in

accordance with State highway standards, so that the extension of Hanua Street may be dedicated to the State at the option of the DOT with the option for dedication expiring five years after completion of the Hanua Street extension.

Petitioner shall submit a revised Traffic Impact Assessment Report ("TIAR") for review and approval by the DOT and the City and County prior to submittal of a change of zone application with the City and County. The revised TIAR shall include the technical comments that were requested by the DOT in its letter to Petitioner dated May 6, 2005.

5. **Previously Unidentified Burial/Archaeological/Historic Sites.** Without any limitation to any other condition found herein, if any burials or archaeological or historic sites, such as artifacts, marine shell concentrations, charcoal deposits, stone platforms, pavings, and walls not previously identified in studies referred to herein, are discovered during the course of construction of the Project, then all construction activity in the vicinity of the discovery shall stop until the issuance of an archaeological clearance from the SHPD that mitigative measures have been implemented to its satisfaction.

6. **Solid Waste Management Plan**. Petitioner shall develop a Solid Waste Management Plan in conformance with the Integrated Solid Waste Management Act, chapter 342G, HRS. Petitioner's Solid Waste Management Plan shall be approved by the City and County Department of Environmental Services. The Plan shall address

and encourage awareness of the need to divert the maximum amount of waste material caused by developments away from the City and County's landfills.

7. **Air Quality Monitoring.** Petitioner shall implement soil erosion and dust control measures and participate in an air quality monitoring program as specified by the DOH.

8. **Notification of Potential Nuisances.** Petitioner shall inform all prospective purchasers of properties in the Petition Area of the potential impacts, including, but not limited to, noise, dust, lighting, fumes, soot, smoke, light, heat, vapors, odors, chemicals, vibrations, and other substances and phenomena of every description to be discharged, emitted, or transmitted over and upon the properties or other industrial events associated with commercial marine activities that may be generated by Kalaeloa Barbers Point Harbor which may affect the properties and may be considered a nuisance.

The disclosure shall be made through a Disclosure Document which shall be signed by the prospective purchaser as an affirmative acknowledgement of the potential impacts. A copy of the form of the Disclosure Document shall be provided to the OP for its review and approval prior to commencement of sales. In addition, the disclosure shall be included as a covenant in the deed to purchasers, releasing the State of Hawai`i from all liability for nuisance claims and shall be recorded so as to run with the land.

This condition in no way prohibits, prevents, or restricts Petitioner from modifying the disclosure to include other uses and additional disclosures to prospective purchasers.

a. Petitioner shall notify all prospective buyers and/or lessees of the Petition Area that the Petition Area is subject to aircraft overflights and shall provide covenants in the deed to initial purchasers releasing the State of Hawai`i and the United States government from all liability.

9. **Drainage Master Plan.** Petitioner shall prepare and submit a detailed drainage master plan to the DPP and the DOT for review and approval.

10. **Drainage Improvements**. Petitioner shall fund the design and construction of drainage improvements, including interim detention basins as may be necessary, required as a result of the development of the Petition Area to the satisfaction of appropriate State and City and County agencies. Drainage improvements affecting Kalaeloa Barbers Point Harbor shall be submitted to the DOT for review and approval.

11. **Water Master Plan**. Petitioner shall prepare and submit a water master plan to the BWS for review and approval.

12. **Water Resources Allocation**. Petitioner shall provide adequate potable and non-potable water source storage and transmission facilities and improvements to accommodate the development of the Petition Area as approved by appropriate State and City and County agencies.

13. **Best Management Practices.** Petitioner shall implement Best Management Practices ("BMP") to protect surface and groundwater resources. The BMP shall be designed to minimize infiltration and runoff from construction and vehicle operations, reduce or eliminate soil erosion and ground water pollution, and effect dust control measures during and after the development process in accordance with the DOH guidelines.

14. **Water Conservation Measures.** Petitioner shall implement water conservation measures and best management practices, such as use of indigenous and drought tolerant plants and turf and the use of non-potable water alternatives, and incorporate such measures into the landscape planting.

15. **Hazardous Materials.** Storage and/or disposal of hazardous materials/wastes on the Petition Area shall be in conformance with all applicable DOH and Environmental Protection Agency requirements.

16. **Fire Protection.** Petitioner shall submit all roadway and water system designs for the Project to the City and County Fire Department for review and approval.

17. **Golf Course.** Petitioner shall comply with the principles of the DOH's "Guidelines Applicable to Golf Courses in Hawai`i," including, but not limited to, irrigating the golf course with non-potable water.

18. **Civil Defense.** Petitioner shall fund and construct its fair-share of adequate civil defense measures serving the Petition Area as required by the State of

Hawai`i Department of Defense, Office of Civil Defense, and the City and County Civil Defense Agency.

19. **Energy Conservation Measures**. Petitioner shall implement energy conservation measures such as the use of solar energy and solar heating and incorporate such measures into the Project.

20. **Compliance with Representations to the Commission**. Petitioner shall develop the Petition Area in substantial compliance with the representations made to the Commission. Failure to so develop the Petition Area may result in reversion of the Petition Area to its former classification, or change to a more appropriate classification.

21. **Notice of Change of Ownership**. Petitioner shall give notice to the Commission of any intent to sell, lease, assign, place in trust, or otherwise voluntarily alter the ownership interests in the Petition Area, prior to development of the Petition Area.

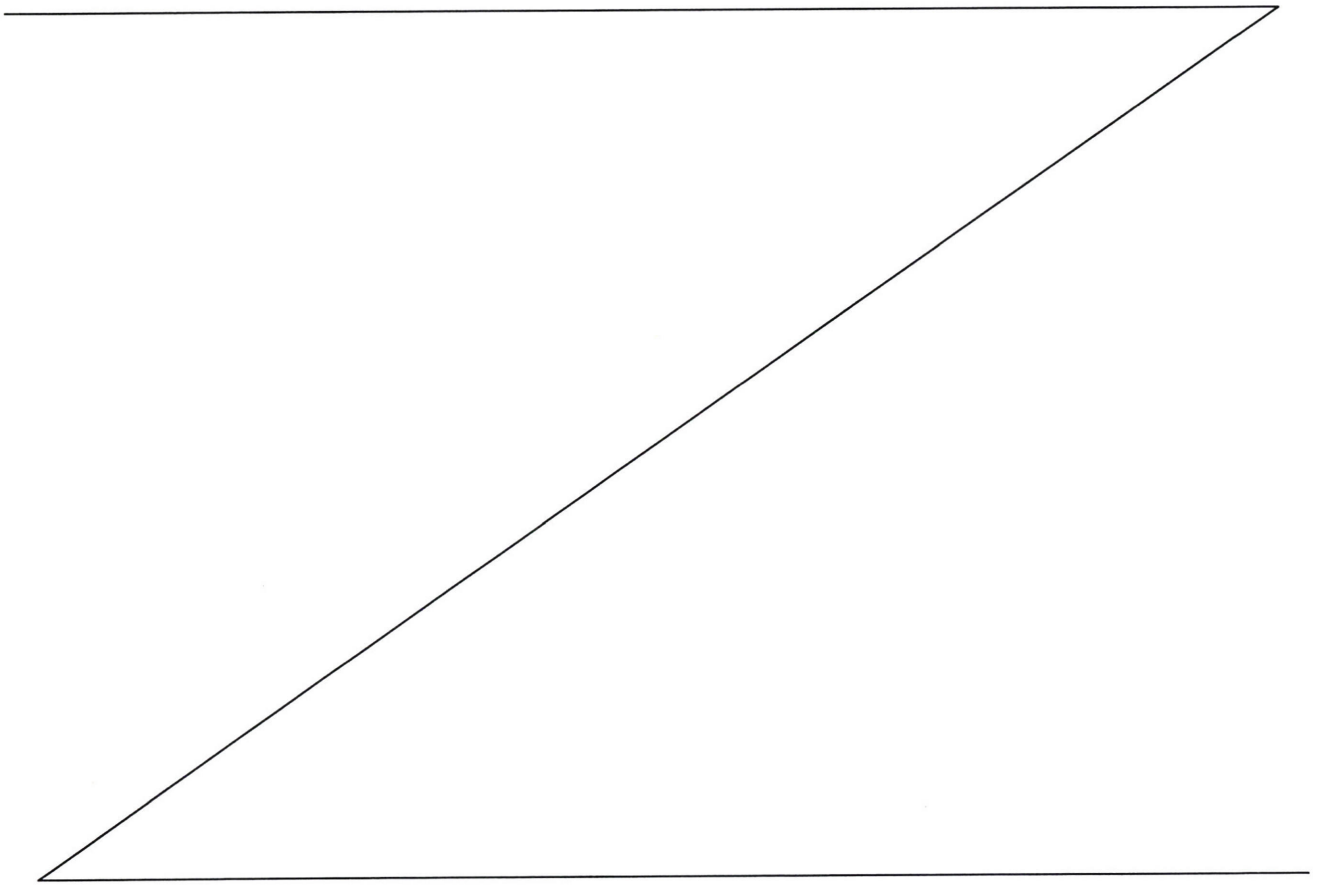
22. **Annual Reports**. Petitioner shall timely provide without any prior notice, annual reports to the Commission, OP, and the DPP in connection with the status of the development of the Petition Area and Petitioner's progress in complying with the conditions imposed herein. The annual report shall be submitted in a form prescribed by the Executive Officer of the Commission.

23. **Release of Conditions**. The Commission may fully or partially release the conditions provided herein as to all or any portion of the Petition Area upon

timely motion and upon the provision of adequate assurance of satisfaction of these conditions by Petitioner.

24. **Notice of Imposition of Conditions**. Within seven days of issuance of the Commission's Decision and Order for the subject reclassification, Petitioner shall: (a) record with the Bureau of Conveyances a statement that the Petition Area is subject to conditions imposed herein by the Commission in the reclassification of the Petition Area; and (b) file a copy of such recorded statement with the Commission.

25. **Recordation of Conditions**. Petitioner shall record the conditions imposed herein by the Commission with the Bureau of Conveyances pursuant to section 15-15-92, HAR.



ADOPTION OF ORDER

The undersigned Commissioners, being familiar with the record and proceedings, hereby adopt and approve the foregoing ORDER this 6th day of April, 2006, as conforming to the vote taken on Oahu on March 3, 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 Kahului, Maui, Hawai`i, this 6th day of April, 2006, per motion on March 3, 2006.

APPROVED AS TO FORM

Deputy Attorney General

LAND USE COMMISSION
STATE OF HAWAI`I

By _____
RANDALL F. SAKUMOTO
Chairperson and Commissioner

By _____
STEVEN LEE MONTGOMERY
Vice-Chairperson and Commissioner

By _____
LISA M. JUDGE
Vice-Chairperson and Commissioner

By _____
THOMAS CONTRADES
Commissioner

By _____
MICHAEL D. FORMBY
Commissioner

By _____
KYONG-SU IM
Commissioner

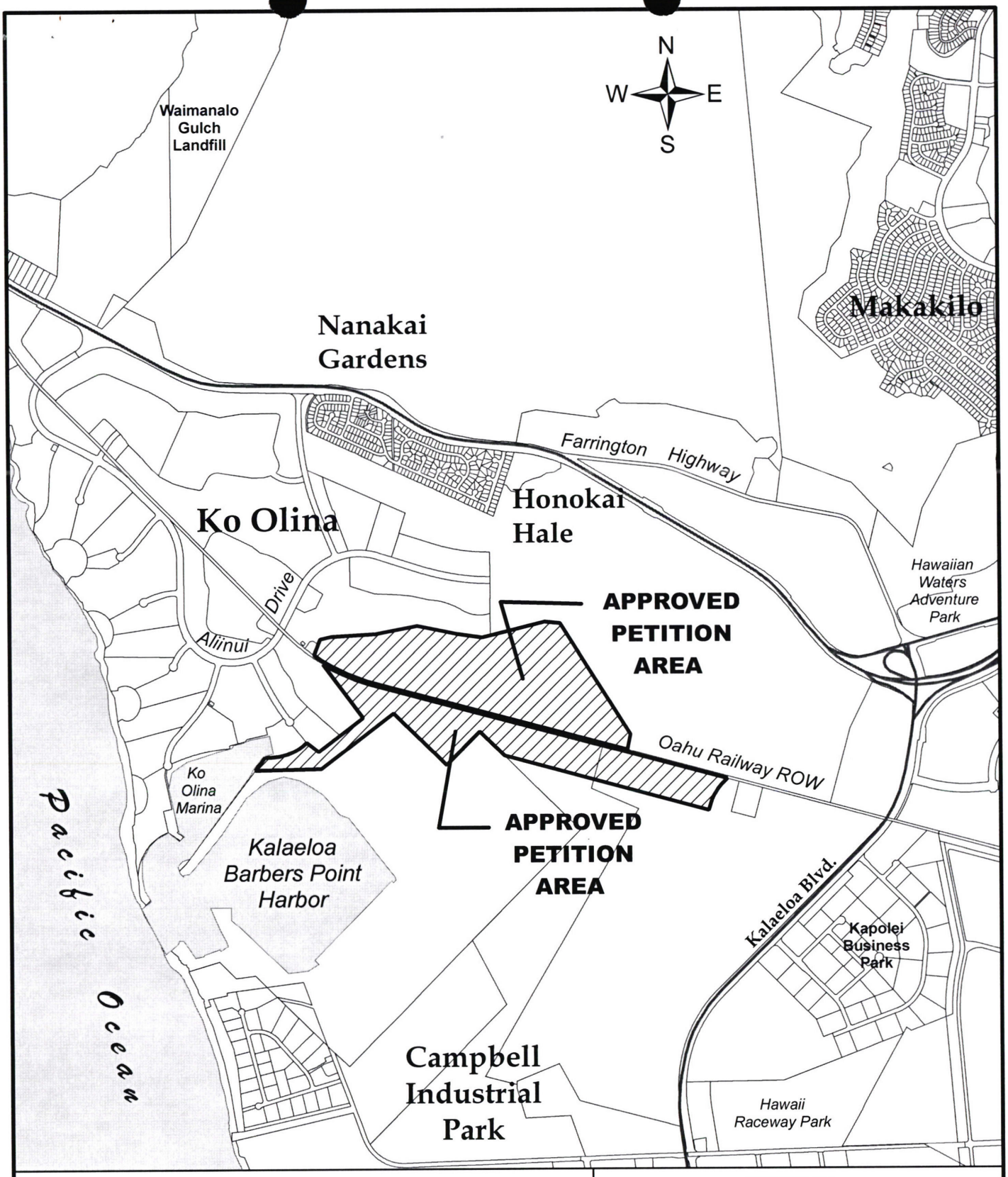
By _____
DUANE KANUHA
Commissioner

By _____
RANSOM PILTZ
Commissioner

Filed and effective on
APR 10 2006

Certified by:

_____
ANTHONY J. H. CHING



A04-753 AINA NUI CORPORATION, a Hawai`i Corporation

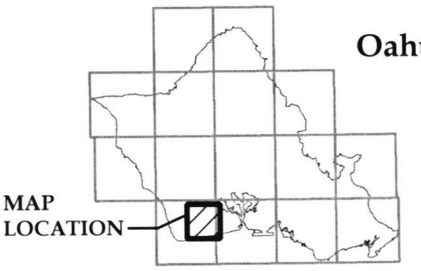
LOCATION MAP

Tax Map Keys: 9-1-14: 33 (por.) and 9-1-15: 4 (por.) and 20 (por.)

`Ewa, O`ahu, Hawai`i

Scale: 1" = 2,000 feet

EXHIBIT "A"



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BEFORE THE LAND USE COMMISSION

OF THE STATE OF HAWAI`I

In the matter of the Petition of AINA NUI CORPORATION A Hawai`i Corporation  To Amend The Agricultural Land Use District Boundary Into The Urban Land Use District For Approximately 174.209 Acres Of Land At `Ewa, O`ahu, Hawai`i,Tax Map Keys: 9-1-14: Por. 33 And 9-1-15: Por. 4 And Por. 20	)	DOCKET NO. A04-753 CERTIFICATE OF SERVICE

CERTIFICATE OF SERVICE

I hereby certify that a copy of the Findings of Fact, Conclusions of Law, and Decision and Order 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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Deputy Attorney General
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Department of Planning and Permitting
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Honolulu, Hawaii 96813

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Corporation Counsel
City and County of Honolulu
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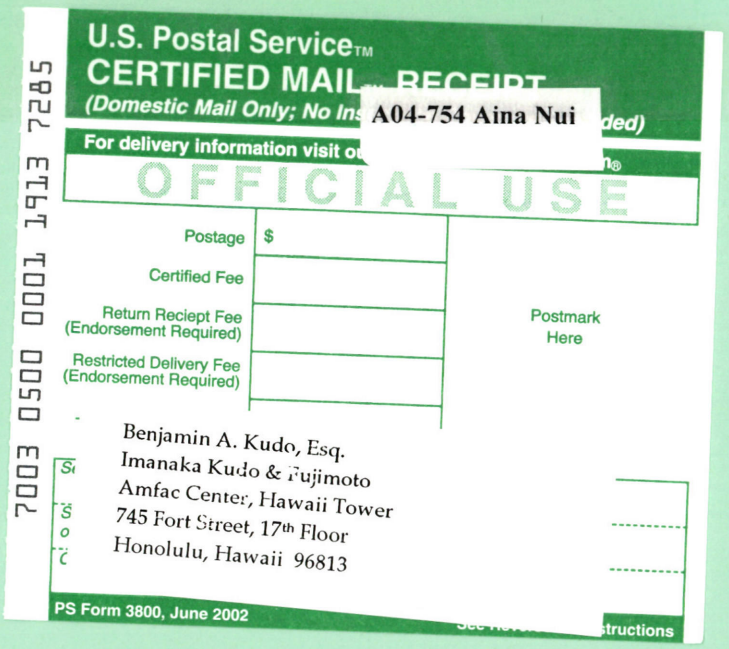
Honolulu, HI 96813

CERT. BENJAMIN A. KUDO, Esq.
WESLEY M. FUJIMOTO
NAOMI U. KUWAYE
745 Fort Street, 17th Floor
Honolulu, Hawaii 96813

Dated: Honolulu, Hawaii, APR 10 2006.

ANTHONY J.H. CHING
Executive Officer



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Imanaka Kudo & Fujimoto
Amfac Center, Hawaii Tower
745 Fort Street, 17th Floor
Honolulu, Hawaii 96813

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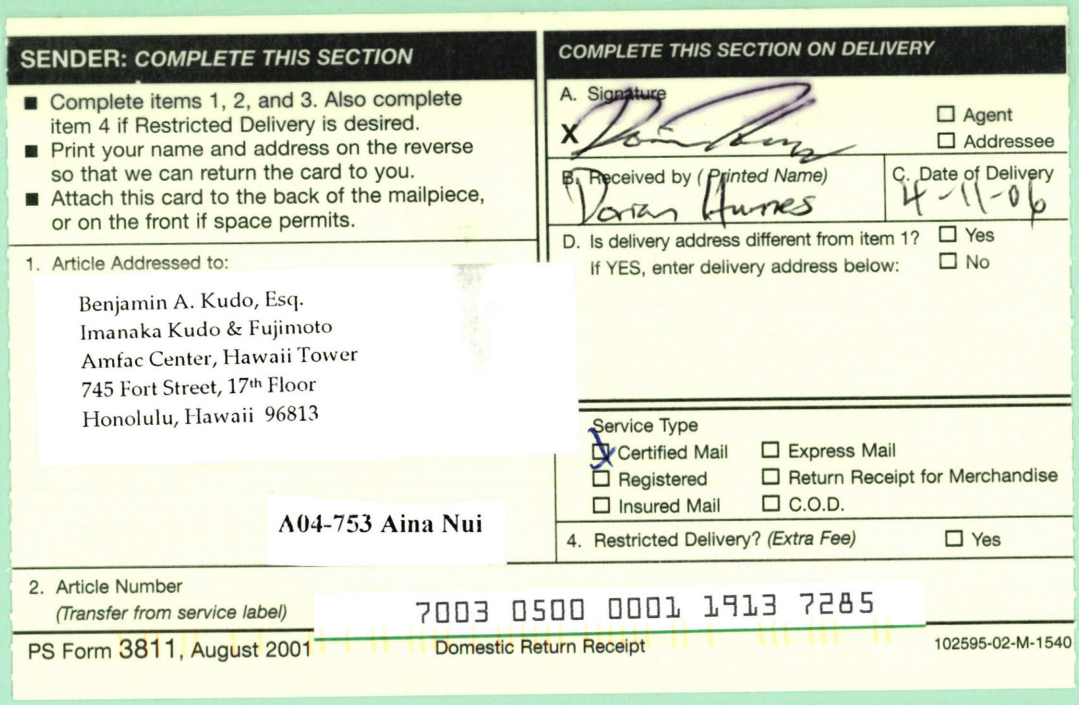

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Benjamin A. Kudo, Esq.
Imanaka Kudo & Fujimoto
Amfac Center, Hawaii Tower
745 Fort Street, 17th Floor
Honolulu, Hawaii 96813

A04-753 Aina Nui

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State of Hawaii
LAND USE COMMISSION
P. O. Box 2359
Honolulu, HI 96804-2359

B002

LAND USE COMMISSION
MINUTES OF MEETING

April 6, 2006

Maui Beach Hotel
Elleair Ballroom
170 Kaahumanu Avenue
Kahului, Maui, Hawaii

COMMISSIONERS PRESENT:	Thomas Contrades Michael Formby Kyong-su Im Duane Kanuha Steven Montgomery Randall Sakumoto
COMMISSIONERS ABSENT:	Ransom Piltz
COMMISSIONER RECUSED:	Lisa Judge
STAFF PRESENT:	Diane Erickson, Deputy Attorney General Anthony Ching, Executive Officer Bert Saruwatari, Staff Planner Sandra Matsushima, Chief Clerk Holly Hackett, Court Reporter Walter Mensching, Audio Technician

Chair Sakumoto called the meeting to order at 10:05 a.m.

ADOPTION OF MINUTES

Chair Sakumoto noted a correction on the minutes of March 2, 2006, page 4, 2nd full paragraph, 2nd sentence to read "a denial with modification is not permitted."

Commissioner Im also noted the corrected spelling of the word "application" on the minutes of March 2, 2006, page 6, last paragraph,

Vice Chair Montgomery then moved to adopt the Land Use Commission meeting minutes of March 2, 2006 as amended and the meeting minutes of March 3, 2006. Commissioner Contrades seconded the motion. The amended minutes of March 2, 2006 and March 3, 2006 were approved by voice votes.

TENTATIVE MEETING SCHEDULE

Executive Officer Anthony Ching reported the following schedule:

- April 20 the LUC will take a field trip to include various sites; a visit to the H-power facility, Kapolei Harborside development (a new docket), the Phonecians boat ramp, the Ko Olina marina and the previous location of the Ko Olina boat ramp, and the Waimanalo Gulch landfill site. The field trip will commence at approximately 9:00 a.m.
- April 21 will be a full agenda with the status report from the Department of Environmental Services on the Waimanalo Gulch landfill and other ministerial items. The meeting will be held at the conference room on the 2nd floor to accommodate a large audience.
- May 4 will feature a one-day meeting at the Hilo Hawaiian Hotel to hear the McCully docket.
- May 18-19 the LUC is scheduled for Lanai, but may also be on Maui for a portion of that time.
- July 6-7 the LUC will be on Maui to commence hearings on the Hale Mua docket.
- July 20-21 the LUC may be on the Big Island.

There were no questions posed by the Commission.

DR04-30 KULEANA KU`IKAHI, LLC (Maui)

Chair Sakumoto stated that this was an action meeting on DR04-30 Kuleana Ku`ikahi, LLC (Maui) to adopt the Findings of Fact, Conclusions of Law, and Decision and Order.

APPEARANCES
Richard McCarty, Esq., represented Kuleana Ku`ikahi, LLC
Blaine Kobayashi, Esq., represented Intervenor R. Charles Bergsen, et al
Paul Horikawa, Esq., represented Intervenor Jason and Concetta Cuevas
Jane Lovell, Deputy Corporation Counsel, represented County of Maui, Dept. of Planning
Bryan Yee, Deputy Attorney General, represented State Office of Planning
Laura Thielen, Director, State Office of Planning
Abe Mitsuda, State Office of Planning

Chair Sakumoto noted that the Commission had received correspondence from James Geiger, Esq., indicating that he was not able to attend the meeting due to previously scheduled court matters.

Chair Sakumoto noted that there were no public witnesses.

Mr. Ching stated that at the last meeting in Kapalua, the Commission in its deliberations, directed that a number of changes be made to the document. Mr. Ching summarized the changes made to the decision and order as per the Commission's deliberations.

Chair Sakumoto noted that he had proposed that an additional change be made to ensure that the order section track the language currently found in Finding of Fact Number 10.

Mr. Ching commented that such a change was outside of the scope of the LUC's deliberations and that Commission action was needed.

After a brief discussion, Commissioner Formby commented that he recollects that at the last meeting, Chair Sakumoto proposed a change but the Commission had not made a decision at that time. Commissioner Formby then moved for a non-substantive change to the language of the decision and order that it parallels that of Findings of Fact Number 10. The motion was seconded by Vice Chair Montgomery.

Commissioner Formby added that this change assures that the language of the decision and order reflects the same charge that the LUC gave to its hearings officer. The motion directs staff to ensure that the order parallels the language found in Findings of Fact Number 10.

The Commission was polled as follows:

Ayes: Commissioners Formby, Montgomery, Contrades, Im, Kanuha, and Sakumoto.

The motion passed with 6 ayes, 1 recused, 1 absent.

Commissioner Formby then moved that the Land Use Commission in DR04-30 Kuleana Ku`ikahi LLC adopt the Findings of Fact, Conclusions of Law, and Decision and Order as amended. The motion was seconded by Commissioner Contrades.

The Commission was polled as follows:

Ayes: Commissioners Formby, Contrades, Montgomery, Im, Kanuha, and Sakumoto.

The motion passed with 6 ayes, 1 recused, 1 absent.

A04-753 AINA NUI CORPORATION (Oahu)

Chair Sakumoto stated that this was an action meeting on Docket No. A04-753 Aina Nui Corporation (Oahu) to adopt the Findings of Fact, Conclusions of Law, and Decision and Order.

APPEARANCES
Benjamin Kudo, Esq., represented Petitioner
Cameron Nekota, Esq., represented Petitioner
Naomi Kuwaye, Esq., represented Petitioner
Bryan Yee, Esq., represented State Office of Planning
Laura Thielen, Director, State Office of Planning
Abe Mitsuda, State Office of Planning

Chair Sakumoto noted that there were no public witnesses.

Mr. Ching summarized the changes to the order, and noted that the outstanding issue was that the LUC had directed that changes be made to condition number 1 governing affordable housing. Mr. Ching added that the changes were made to the second sentence, and read the amended condition.

Vice Chair Montgomery moved to adopt the decision and order as conforming to the vote taken at the previous meeting. The motion was seconded by Commissioner Kanuha.

The Commission was polled as follows:

Ayes: Commissioners Montgomery, Kanuha, Formby, Contrades, Im, and Sakumoto.

The motion passed with 6 ayes, 2 absent.

A06-763 KAPOLEI PROPERTY DEVELOPMENT, LLC (Oahu)

Chair Sakumoto stated that this was an action meeting to: 1) determine whether the Land Use Commission is the appropriate accepting authority pursuant to Chapter 343, Hawaii Revised Statutes, for the reclassification of approximately 331.674 acres of land currently in the Agricultural District to the Urban District at Ewa, Oahu, Hawaii; and 2) to determine whether an Environmental Impact Statement Preparation Notice is warranted pursuant to Chapter 343, Hawaii Revised Statutes.

APPEARANCES
Benjamin Kudo, Esq., represented Petitioner
Cameron Nekota, Esq., represented Petitioner
Naomi Kuwaye, represented Petitioner
Bryan Yee, Esq., represented State Office of Planning
Laura Thielen, Director, State Office of Planning
Abe Mitsuda, State Office of Planning

Chair Sakumoto noted that staff has received communication from the City and County of Honolulu that they will not be attending today's meeting.

Chair Sakumoto noted that there were no public witnesses.

Ms. Kuwaye stated that the Petitioner has begun to prepare an EIS and that they believed that the proposed boundary will have a significant effect and that the Land Use Commission is the appropriate accepting authority. Ms. Kuwaye commented that the Petitioner plans to amend the petition filed on March 17, 2006 to include a 12.845-

acre lot located on the southern boundary of the Petition area. Ms. Kuwaye added that the petitioner will also be amending its exhibits and an amended EISPN will also be filed.

Mr. Yee stated that OP agrees that the LUC is the appropriate accepting authority and that the proposed action will have a significant effect to warrant the preparation of an EIS.

Mr. Ching stated that staff concurs with petitioner that the possibility of a significant impact warrants the preparation of an EIS and that the LUC is the appropriate reviewing and accepting authority.

Vice Chair Montgomery moved that the LUC is the accepting authority in Docket No. A06-763 Kapolei Property Development. The motion was seconded by Commissioner Formby.

The Commission was polled as follows:

Ayes: Commissioners Montgomery, Formby, Kanuha, Contrades, Im, and Sakumoto.

The motion passed with 6 ayes, 2 absent.

Commissioner Im moved that the proposed action would have a significant effect and warrants the preparation of an EIS. The motion was seconded by Vice Chair Montgomery.

The Commission was polled as follows:

Ayes: Commissioners Montgomery, Formby, Kanuha, Contrades, Im, and Sakumoto.

The motion passed with 6 ayes, 2 absent.

A recess break was taken at 10:45 a.m. The meeting reconvened at 11:00 a.m.

A00-734 CASTLE & COOKE HOMES HAWAII, INC. (Oahu)

Chair Sakumoto stated that this was an action meeting to Vacate the Decision and Order issued on June 27, 2002, pursuant to Supreme Court decision filed in S. C. No. 26174 on February 10, 2006.

APPEARANCES
Benjamin Matsubara, representing Castle & Cooke Homes Hawaii, Inc.
Bryan Yee, Esq., represented State Office of Planning
Laura Thielen, Director, State Office of Planning
Abe Mitsuda, State Office of Planning

Public Witness

1. Lucienne deNaie

Ms. deNaie stated that she was appearing in the capacity of Chairperson of the state chapter of the Hawaii Sierra Club. Ms. deNaie noted that they were the plaintiffs in this matter requesting that a full EIS be done on the project and expressed her appreciation to the LUC for taking the necessary steps to allow that to proceed in compliance with the Supreme Court ruling.

There were no questions posed by the parties and the Commission of the witness.

Staff's Report

Mr. Ching provided a brief chronology of the docket.

Mr. Matsubara stated that the co-applicants are working out the details and they intend to proceed consistent with the Supreme Court's decision. Mr. Matsubara clarified that he is representing Castle and Cooke Hawaii and has spoken to the attorney for Pacific Health Community, who has indicated that they had no objections to his attendance at this meeting.

Mr. Yee noted that the OP agrees with the proposed LUC action.

Chair Sakumoto stated that given the ruling filed by the Supreme Court, the LUC's order of June 27, 2002 is vacated. Chair Sakumoto added that any further

consideration by the LUC in this docket requires an environmental assessment or environmental impact statement be completed for the project in accordance to HRS §343(5)(c).

Mr. Matsubara noted a housekeeping matter and introduced Richard Mirikitani, Senior Vice President for Castle and Cooke Hawaii.

A recess break was taken at 11:15 a.m. The meeting reconvened at 11:25 a.m.

Chair Sakumoto noted that they have received a message that the counsel for the Lanihau Properties docket was still in flight to the meeting from Hilo. Chair Sakumoto entertained a motion to amend the agenda to hear the next item first, the Waikapu Investment 28 docket.

Commissioner Im moved to amend the agenda to take the Waikapu Investment 28 matter before the Lanihau Properties docket. The motion was seconded by Commissioner Formby. The motion was approved by voice votes.

A04-746 WAIKAPU INVESTMENT 28, LLC. (Maui)

Chair Sakumoto stated that this was an action meeting: 1) to consider the First Stipulation for Extension of Time to File Responses to Waikapu 28 Investment, LLC's Motion to Amend Findings of Fact, Conclusions of Law, and Decision and Order for a State Land Use District Boundary Amendment filed December 14, 2004; and 2) to consider the Petitioner's Motion to Amend Findings of Fact, Conclusions of Law, and Decision and Order for a State Land Use District Boundary Amendment filed December 14, 2004.

APPEARANCES
Scott Nunokawa, Waikapu Investment 28, LLC
Jane Lovell, Deputy Corporation Counsel, represented County of Maui, Dept. of Planning
Bryan Yee, Deputy Attorney General, represented State Office of Planning
Laura Thielen, Director, State Office of Planning
Abe Mitsuda, State Office of Planning

Chair Sakumoto noted that Petitioner was seeking relief in relation to the Petitioner's educational fair share contribution. The LUC had previously authorized the issuance of a subpoena to the DOE, Patricia Hamamoto, or her designee to appear

before the Commission to be examined under oath regarding the statements and allegations related to the DOE's fair share contribution calculations raised in Petitioner's motion filed on November 25, 2005. On March 31, 2006, the Petitioner filed a motion withdrawing the Motion To Amend Findings of Fact, Conclusions of Law, and Decision and Order.

Chair Sakumoto stated that the withdrawal by the Petitioner of their motion leaves no matter before the LUC.

Chair Sakumoto noted that there were no public witnesses.

Mr. Nunokawa stated that the fair share agreement with the DOE is being executed at this point.

Ms. Lovell stated that the County had no comments and that they are happy that this matter has been resolved.

Mr. Yee noted that the State had no comments.

Chair Sakumoto stated that given the withdrawal of Petitioner's motion, the LUC recalls their subpoena of Patricia Hamamoto.

Chair Sakumoto noted that Mr. Moore, counsel for Lanihau Properties had not yet arrived on Maui and called for a lunch break at 11:25 a.m. Mr. Moore arrived at this time.

Commissioner Formby then moved that the Commission reconvene at 11:30 a.m. to hear the Lanihau docket prior to taking a lunch break. The motion was seconded by Vice Chair Montgomery. The motion was approved by voice votes.

A00-730 LANIHAU PROPERTIES, LLC (Hawaii)

Chair Sakumoto stated that this was an action meeting on Docket No. A00-730 Lanihau Properties, LLC, to consider the request for time extension of six months to allow Petitioner to comply with certain conditions of approval.

APPEARANCES
Michael Moore, Esq., represented Petitioner
Bryan Yee, Esq., represented State Office of Planning
Laura Thielen, Director, State Office of Planning
Abe Mitsuda, State Office of Planning

Chair Sakumoto noted that there were no public witnesses.

Chair Sakumoto noted that the Commission has received communication from the County Planning Department and the National Park Service (intervenors) that both parties were not able to attend today's meetings and that they both have no objections to the request for time extension.

Staff's Report

Mr. Ching provided the procedural history relevant to this time extension.

Mr. Moore summarized petitioner's request and reported on the status of condition 1c, which relates to the individual wastewater systems required; condition 3b,which relates to pollution prevention plans that are required prior to any construction or occupation of the property; and condition 8, the affordable housing assessment requirement.

Mr. Yee noted that the State had no questions.

Chair Sakumoto raised a few questions related to condition 8 and the County of Hawaii ordinance on affordable housing for industrial properties.

Mr. Yee stated that OP has no objections to the request for extension and also noted that the National Park Service is supporting the request. Mr. Yee added that if a future extension is required, they would request that a formal motion be submitted, as it was difficult to respond and formulate a response to an extension request in the form of a letter, where more discussion and justification could have been provided.

Chair Sakumoto asked what is the commencement date being requested for the time extension of 6 months and noted that the last extension expired in February.

Mr. Moore commented that he would request the date to start from today, the date of action from the board.

Commissioner Im stated that he was not opposed to the extension but if the extension expired in February, he believed that the condition has not been met and technically the Petitioner is in violation of that condition. Commissioner Im discussed whether the LUC would need to waive that lapse and then grant the extension. Commissioner Im believed that the extension should begin from the date of the termination of the last extension (February) so that there is no gap in the time period. Commissioner Im added that he agreed with the State's counsel that a formal motion needs to be filed, if necessary in the future. Commissioner Im asked if the Petitioner would have adequate time if the time extension is granted from February.

Mr. Moore commented that their request is for 6 months and would like that date effected as of today, with the inclusion of a waiver from the last extension.

Mr. Yee suggested that the date should begin from the expiration date to assure that there is no lapse.

Commissioner Formby concurred with Commissioner Im that the date should start from the date of expiration. Commissioner Formby suggested that since there are no waivers before the LUC, the extension could be for 8 months and treated as a motion for extension.

Commissioner Kanuha raised a few questions regarding the modification of the County's affordable housing policy for industrial developments. Commissioner Kanuha commented that TSA, which is in the same area as the petitioner, has recently submitted a housing needs assessment and has addressed the pending modification to this policy. Commissioner Kanuha added that since TSA could produce an adequate housing needs assessment, he believed that Petitioner may not need the proposed extension.

After a brief discussion, Commissioner Formby moved to approve a time extension of 8 months from the expiration of the prior extension, which was in February 2006, on conditions 1c, 3b and 8. In addition, should Petitioner come back to this Commission for another extension that it be only by formal motion with a discussion of substantive issues. The motion was seconded by Commissioner Montgomery.

The Commission was polled as follows:

Ayes: Commissioners Formby, Montgomery, Contrades, Im, Kanuha, and Sakumoto.

The motion passed with 6 ayes, 2 absent.

The meeting adjourned at 12:10 p.m.

(Please refer to LUC Transcript of April 6, 2006 for more details on this matter.)

Aina Nui

LAND USE COMMISSION
NOTIFICATION OF LAND USE COMMISSION MEETING
DATE, TIME AND PLACE

April 6, 2006 – 10:00 a.m.
April 7, 2006 – 8:30 a.m.

Maui Beach Hotel
Elleair Ballroom
170 Kaahumanu Avenue
Kahului, Maui, Hawaii

A G E N D A

I. CALL TO ORDER

II. ADOPTION OF MINUTES

March 2, 2006 and March 3, 2006

III. TENTATIVE MEETING SCHEDULE

IV. ACTION

1. DR04-30 KULEANA KU`IKAHI, LLC (Maui)
   Adoption of Order

2. A04-753 AINA NUI CORPORATION (Oahu)
   Adoption of Order

3. A06-763 KAPOLEI PROPERTY DEVELOPMENT, LLC (Oahu)
   - To determine whether the Land Use Commission is the appropriate accepting authority pursuant to Chapter 343, Hawaii Revised Statutes, for the reclassification of approximately 331.674 acres of land currently in the Agricultural District to the Urban District at Ewa, Oahu, Hawaii.
   - To determine whether the proposed action may have a "significant effect" to warrant the preparation of an Environmental Impact Statement pursuant to Chapter 343, Hawaii Revised Statutes.

4. A00-734 CASTLE & COOKE HOMES HAWAII, INC. and PACIFIC HEALTH COMMUNITY, INC. (Oahu)
   To Vacate the Land Use Commission Decision and Order issued on June 27, 2002, pursuant to Supreme Court opinion filed in S. C. No. 26174 on January 27, 2006, which affirmed the September 23, 2003, Final Judgment of the Circuit Court.

(over)

IV. ACTION (continued)

5. A00-730 LANIHAU PROPERTIES, LLC (Hawaii)
To consider Petitioner's request for a time extension to comply with Condition Nos. 1c, 3b, and 8 of the Findings of Fact, Conclusions of Law, and Decision and Order dated September 26, 2003.

V. WITHDRAWAL OF MOTION AND OTHER RELATED MATTERS

1. A04-746 WAIKAPU 28 INVESTMENT, LLC (Maui)

- Withdrawal of Petitioner's Motion To Amend Findings Of Fact, Conclusions Of Law, And Decision And Order For A State Land Use District Boundary Amendment filed December 14, 2004.

- Subpoena to Patricia Hamamoto, Superintendent of Education, State of Hawaii, or her designee, or authorized representative to appear before the Land Use Commission to be examined under oath regarding: the statements and allegations relating to the Department of Education and the Department of Education's fair share contribution calculations raised in that certain motion: Waikapu 28 Investment, LLC's Motion to Amend Findings of Fact, Conclusions of Law, and Decision and Order For a State Land Use District Boundary Amendment filed December 14, 2004, filed with the Land Use Commission by Waikapu 28 Investment, LLC, on November 25, 2005; and other matters relating thereto.

VI. CONTINUED HEARING

1. A04-751 MAUI LAND & PINEAPPLE COMPANY, INC. (Maui)
To consider the reclassification of approximately 310.440 acres of land currently in the Agricultural District to the Urban District at Mahinahina and Kahana, Lahaina, Maui, Hawaii, for residential, commercial, elementary school site, and park uses.

The Commission may elect to consult with counsel in executive session pursuant to Section 92-5, HRS.
Persons with disabilities who need accommodation should call (808) 587-3822 no later than 12:00 noon, 2 business days before the date of the meeting.
The mailing address for the Land Use Commission is P.O. Box 2359, Honolulu, Hawai`i, 96804-2359.
Some materials for these agenda items may be available on our website at http://luc.state.hi.us.

LAND USE COMMISSION
MINUTES OF MEETING

February 3, 2006

Conference Room 405
Leiopapa A Kamehameha
235 So. Beretania Street
Honolulu, Hawaii

COMMISSIONERS PRESENT:	Michael Formby Kyong-su Im Duane Kanuha Steven Montgomery Ransom Piltz Randall Sakumoto
COMMISSIONERS ABSENT:	Thomas Contrades Lisa Judge
STAFF PRESENT:	Anthony Ching, Executive Officer Diane Erickson, Deputy Attorney General Bert Saruwatari, Staff Planner Maxwell Rogers, Staff Planner Sandra Matsushima, Chief Clerk Holly Hackett, Court Reporter Wade Kersey, Audio Technician

Chair Sakumoto called the meeting to order at 9:10 a.m.

Chair Sakumoto entertained a motion to amend the agenda to include: 1) an executive session under §92-5 (a)(2) to consider the evaluation of an employee of the Commission; and 2) to shift item number III Tentative Meeting Schedule after the Lanai Resort Partners docket, and before item number V, because the Tentative Meeting Schedule will be impacted by the scheduling of the Lanai docket.

Commissioner Kanuha moved to amend the agenda as noted. The motion was seconded by Commissioner Im. The motion was approved by voice votes.

EXECUTIVE SESSION

Commissioner Kanuha moved that the Commission enter into executive session to consult with legal counsel pursuant to § 92-5(a)(2), Hawaii Revised Statutes, to consider the hire, evaluation dismissal, or discipline of an officer or employee or of charges brought against the officer or employee, where consideration of matters affecting privacy will be involved. The motion was seconded by Commissioner Im. Said motion was unanimously approved by voice votes.

The Commission entered into executive session at 9:15 a.m.

The open meeting reconvened at 9:20 a.m.

ADOPTION OF MINUTES

Chair Sakumoto noted an amendment to page 2, last paragraph. Second sentence should read that "Chair Sakumoto added that his law firm has since become more involved in this matter...." instead of "Chair Sakumoto added that he has since become more involved in this matter...."

After a brief discussion regarding Commission examination of Mr. Lemmo of the DLNR in the McCully docket as to comments on page 12, Commissioner Piltz moved to adopt the Land Use Commission meeting minutes of January 20, 2006 as amended. Commissioner Kanuha seconded the motion. The minutes of January 20, 2006 were approved by voice votes.

A04-753 AINA NUI CORPORATION (Oahu)

Presiding Officer Montgomery stated that this was an action meeting on Docket No. A04-753 Aina Nui Corporation (Oahu) to consider the reclassification of approximately 174.209 acres of land currently in the Agricultural District to the Urban District at Ewa, Oahu, Hawaii for residential, golf course, park, and open space uses.

APPEARANCES
Benjamin Kudo, Esq., represented Petitioner
Naomi Kuwaye, Esq., represented Petitioner
Cameron Nekota, Esq., represented Petitioner
Lori Sunakoda, Esq., represented Department of Planning and Permitting
Raymond Sakai, City and County of Honolulu, Department of Planning and Permitting
Gregg Kinkley, Esq., represented State Office of Planning
Abe Mitsuda, State Office of Planning

Presiding Officer Montgomery noted that there were no public witnesses.

Mr. Kudo used a PowerPoint presentation with slides for illustration, which he indicated were not intended for submittal as exhibits. Mr. Kudo added that Petitioner Aina Nui Corporation filed on January 10, 2006, a stipulated order with the cooperative efforts and agreement with the Petitioner, State, and the City and County of Honolulu.

Mr. Kudo discussed HRS Chapter 205-17, the LUC decision making criteria and the supportive findings that were included in the stipulation. Mr. Kudo also referenced HAR 15-15-18 Standards for Determining Urban District Boundaries, and HRS Chapter 205(a)(2), the Coastal Zone Management Program and cross-referenced the criteria with appropriate findings from the stipulated order.

Mr. Kudo concluded that Petitioner has satisfactorily met its burden of proof and that the reclassification is in conformance with state laws, regulations and the administrative rules.

Ms. Sunakoda stated that the City had a few minor technical comments. On page 4, paragraph 13, the LUC meeting date should be changed from February 2 to February 3. Ms. Sunakoda added that on Page 10, item 41, with respect to the final EIS, the Department's comment is for it to be consistent with Exhibit 3.

Mr. Kinkley noted that the State has participated with Petitioner in the stipulation and agrees with the City that the date should be changed to February 3rd. Mr. Kinkley also noted the inclusion of an *okina* in the word Ewa and commented that he believes that the State was still in discussion on condition number 4.

A recess break was taken at 9:45 a.m. to allow the parties to discuss the potential amendment of condition number 4. The meeting reconvened at 10:00 a.m.

Mr. Kinkley clarified that they have no further comments on condition number 4 and that the State concluded its presentation.

Commissioner Sakumoto noted that in condition number 4, paragraph 2, there is some reference regarding the Hanua Street extension to be dedicated to the State at the option of the DOT, expiring five years after completion of the Honua Street extension. Commissioner Sakumoto asked for clarification as to when the 5-year period would commence.

Mr. Kudo explained that he believes that reference came from Ms. Thielen's testimony as the State did not want that condition to be open-ended. Mr. Kudo also noted that he believed that Ms. Thielen had a personal conversation with Ms. Goth and they have agreed that the 5-years was a reasonable time frame. Mr. Kudo cited the testimony of Ms. Thielen from the October 20, 2005 transcripts, page 51, lines 6 to 10.

Commissioner Sakumoto noted that it would be appropriate to include a finding of OP's recommendation for a 5-year term in the order.

Mr. Kudo replied in the affirmative and added that an appropriate finding will be included and could possibly reference the testimony from the transcripts.

Presiding Officer Montgomery then polled the Commissioners to confirm that each one of the members had reviewed the record or transcripts of the proceedings and were prepared to deliberate on the subject.

The Commission was polled as follows:

Ayes: Commissioners Kanuha, Im, Formby, Piltz, Sakumoto, and Montgomery.

Mr. Ching discussed the Findings of Fact, Procedural Matters under numbers 1 to 13. Mr. Ching noted that Finding No. 13 has already been offered for amendment to change the date of February 2 to February 3. Mr. Ching continued with the Description of Property, numbers 14 to 28; Proposal for Reclassification, numbers 29 to 35; Petitioner's Financial Capability to Undertake the Proposed

Development, numbers 36 to 38; State and County Plans and Programs, numbers 39 to 42. Mr. Ching noted a few punctuation amendments to Finding No. 40, and an amendment to the second sentence in Finding No. 41.

Chair Sakumoto asked if a decision was made regarding the inclusion of the *okina*.

Mr. Ching replied that the practice has been to use the *okina* and added that staff recommends that it be included in the document for consistency.

Mr. Ching continued with the Need for the Proposed Development, Economic and Social Impacts, numbers 43 to 54; Archeological/Historical/ Cultural Resources, numbers 55 to 62; Environmental Quality, numbers 63 to 70; Adequacy of Public Services and Facilities, numbers 71 to 117. Mr. Ching noted that Finding No. 75 includes a description of the Hanua Street extension and suggested that this may be the area to insert a new finding to reflect the Hanua Street 5-year construction and dedication as discussed and cited from Ms. Thielen's previous testimony.

Mr. Ching continued with the Commitment of State Funds and Resources, Conformance with the Goals and Objectives, Policies of the Hawaii State Plan, Relationship with Applicable Priority Guidelines and Functional Plans, numbers 118 to 123.

A recess break was taken at 10:10 a.m. The meeting reconvened at 10:30 a.m.

Commissioner Sakumoto provided his proposed language for a finding regarding the Hanua Street extension in support of the imposition of condition number 4.

Commissioner Formby added that Commissioner Sakumoto's proposed language brings clarity to Ms. Thielen's testimony and to condition number 4.

Commissioner Im noted that there appeared to be no findings in the stipulated order related to the golf course and the public's use of the privately owned golf course. Commissioner Im also asked about user rates for the golf course.

Mr. Kudo noted that his client is not planning any specifics at this time, however, it would be acceptable to them to indicate that the privately-owned golf course will offer comparable rates to the public similar to *kama`aina* rates.

Commissioner Im proposed a new condition number 64 referencing that the Project, including the already urbanized area, will include a privately owned golf course which will have public play for a fee equivalent to *kama`aina* rates charged by similar golf courses located in the island of Oahu.

Commissioner Formby proposed a change to condition number 4, page 43, paragraph 4, Transportation. Commissioner Formby added that this amendment clarifies that some of the improvements described in this condition are outside of the Petition Area and not only within the jurisdiction of this Petition. Commissioner Formby also noted that as customary, staff should be authorized to make technical non-substantive amendments, such as including the use of the *okina*, etc.

Mr. Kudo stated that all the amendments are acceptable to his client.

Commissioner Sakumoto made a few clarifying comments on the language of condition number 4, regarding the Hanua Street extension.

Commissioner Formby discussed the proposed language of the fair share requirements and regional improvements.

Both the County and the State had no objections to the amendments.

Commissioner Im raised concerns regarding the language in the affordable housing condition and commented on the Supreme Court case, *Ka Pa'akai o ka Aina.* Commissioner Im also raised concerns relative to an adjacent parcel owned by the Petitioner that was previously reclassified twelve years ago to the urban district, and that Petitioner had not yet proceeded to develop this parcel.

EXECUTIVE SESSION

Commissioner Im moved to go into executive session under §92-5(a)(4), Hawaii Revised Statutes, to consult with the board's attorney on questions and issues pertaining to the board's powers, duties, privileges, immunities, and

liabilities. Commissioner Sakumoto seconded the motion. Said motion was unanimously approved by voice votes.

The Commission entered into executive session at 10:50 a.m.

The open meeting reconvened at 11:10 a.m.

Commissioner Formby commented that he shared Commissioner Im's concern regarding the affordable housing requirement. Commissioner Formby proposed language for the petitioner to provide affordable housing opportunities for low, low-moderate, and gap group income residents to the satisfaction of the City and County. Commissioner Formby added that the location, distribution, and other provisions shall be under such terms as determined by the City and County and shall be reported to the LUC for review and approval.

Commissioner Sakumoto moved to defer taking action on this matter until the next meeting on Oahu. Commissioner Sakumoto noted that there are only six Commissioners present today and approval for a DBA requires that all six vote in favor of the petition. Also, the issue of the affordable housing condition is unclear in the record and this issue deserves further examination and analysis. Commissioner Sakumoto asked that staff brief the Commission on the affordable housing issue and describe what the record supports as appropriate language for an affordable housing condition.

Commissioner Kanuha seconded the motion and commented that being a former county official and being on the LUC for a short period, he has noticed that there are significant differences among the counties in terms of how each addresses affordable housing matters. Commissioner Kanuha added that the LUC needs some kind of oversight to ensure that there are levels of consistency among the counties and to ensure that the representations made by the petitioner are implemented.

Commissioner Piltz echoed Commissioners Sakumoto and Kanuha adding that his concern is to ensure that the affordable housing will be built in due time.

Commissioner Formby also supports the motion to defer and commented that although he would have liked to see this matter voted on today, he also shared in the concern of the language in the affordable housing condition.

Presiding Officer Montgomery commented that affordable housing is a statewide crisis and that it is important for the LUC to proceed cautiously.

After a brief discussion, Commissioner Sakumoto clarified that he has instructed staff to only examine the record created and to not go beyond the record. Commissioner Sakumoto added that the reason is that the condition should be fairly worded and that the petitioner deserves the record to be properly understood by the LUC.

Mr. Kudo commented that although he had hoped for a decision today, he supports the motion to defer and that Petitioner has no objections.

The Commission was polled as follows:

Ayes: Commissioners Sakumoto, Kanuha, Formby, Im, Piltz, and Montgomery.

The motion passed with 6 ayes, 2 absent.

A recess break was taken at 11:25 a.m. The meeting reconvened at 11:35 a.m.

A89-649 LANAI RESORT PARTNERS

Chair Sakumoto stated that this was an action meeting A89-649 Lanai Resort Partners to consider the recommendation of the Executive Officer for a hearing date on the remand and other pertinent scheduling issues and items.

APPEARANCES
Bruce Lamon, Esq., represented Petitioner
T.J. Quan, Esq., represented Intervenor
Jane Lovell, Esq., represented the County of Maui Department of Planning
Gregg Kinkley, Esq., represented State Office of Planning
Laura Thielen, State Office of Planning
Abe Mitsuda, State Office of Planning

Chair Sakumoto noted that there were no public witnesses.

Mr. Ching reported that on January 24 a prehearing was held to solicit recommendations and discussion amongst the parties with respect to a timetable

for this matter on remand. Mr. Ching added that a reasonable timeframe was developed at the prehearing and recommended the following dates:

- The parties have agreed that a first exchange of witness and exhibit lists is not necessary prior to the filing of the dispositive motions.
- The filing deadline for the dispositive motions will be no later than close of business on March 31, 2006.
- The filing deadline for response to the motions will be no later than close of business on April 13, 2006.
- The hearing on the motions will be held on May 18 & 19, 2006 in Lanai. A site visit may also be scheduled at this time.
- A second prehearing and the exchange of witness lists and exhibits will be conducted on May 25, 2006.
- The hearing dates to consider the remand of this docket will be scheduled to begin on June 7, 8, and 9, 2006 in Lanai.

Mr. Ching added that staff would incorporate this timeline as presented if approved by the LUC today.

Mr. Lamon stated that the Petitioner has no objections to the schedule, but commented that they may ask for more time between the exchange of exhibit lists and the June 7, 8, and 9 hearing dates.

Ms. Lovell stated that she believed the report accurately reflected the concerns expressed at the prehearing conference and added that their office files on this matter was severely limited. Ms. Lovell commented that the parties have discussed the possibility of scanning copies and sharing in the costs, which may also affect the timeline.

Mr. Kinkley echoed that the State agrees to the idea of scanning the files.

Mr. Mitsuda noted that the OP has the files, although it is not according to the court's index.

Mr. Lamon stated that they have made arrangements to copy the entire file and could possibly burn CDs and circulate it on the database.

Chair Sakumoto noted that scanning the files will assure that everyone is looking at the same record and commented that the willingness to share the cost is helpful and a step in the right direction.

Mr. Ching noted that the file is a volume of materials and that the LUC needs to maintain good custodial care of these documents and will work within this realm to ensure that the parties have access to all of the materials.

Chair Sakumoto asked if the June 7, 8, and 9 hearings will be added to the regularly scheduled June meetings.

Mr. Ching commented that during the Tentative Meeting Schedule discussion, he will propose that the June 7, 8, and 9 meeting dates be the sole meetings for the month of June and will tentatively reserve as a contingency, the latter two meeting dates (June 15th & 16th) if the three hearing dates are not adequate to complete hearings on Lanai.

Mr. Quan entered the meeting at this time. Mr. Quan apologized for not being able to be present at the start of this agenda item because he was called to an emergency at his office.

Chair Sakumoto entertained a motion that the LUC direct the Executive Officer to prepare an order, which sets this matter to hearing.

Vice Chair Montgomery moved to direct the Executive Officer to prepare an order setting the matter for hearing in accordance with the dates that were set in his report. The motion was seconded by Commissioner Piltz.

The Commission was polled as follows:

Ayes: Commissioners Montgomery, Piltz, Formby, Kanuha, Im, and Sakumoto.

The motion passed with 6 ayes, 2 absent.

TENTATIVE MEETING SCHEDULE

Executive Officer Anthony Ching reported the following schedule:

- February 16 & 17 at the Kapalua Bay Hotel in West Maui for the Pulelehua docket and to also commence hearings on Kuleana Ku`ikahi.

- March 2 meeting will be held at the City and County's Kapolei Hale to ensure appropriate community participation for the West Beach and Sphere dockets.
- March 3 the LUC will reconvene their meeting in the LUC conference room for continued hearing and action on the Aina Nui and ACF dockets.
- March 16 or 17 is tentatively scheduled for a one-day meeting on Maui to take action on a motion filed by Waikapu 28 Investment.
- April 6 & 7 is tentatively scheduled on the Big Island for the Big Island County Club Homes docket. This may be cancelled should the filing not prove complete.
- April 20 on Maui to open hearings on Hale Mua. This date may also be cancelled in the event that the petition remains incomplete.
- May 18 & 19 and June 7, 8, & 9 have just been approved for Lanai hearings.

Mr. Ching added that for a number of reasons, the meeting schedule is presently hard to predict with certainty.

Vice Chair Montgomery noted that he will not be able to attend the March 16 & 17 meeting dates and suggested to change the meeting dates since there appears to be the absence of other commissioners on those dates.

Mr. Ching indicated that he would cancel the March 16 & 17 meeting dates and shift the Waikapu 28 Investment matter to April 6 & 7, 2006 in Maui.

Mr. Ching announced that the OP is also willing to facilitate a workshop event for the LUC to receive information on affordable housing from county housing agencies and legislative issues.

After a brief discussion, there were no further questions posed by the Commission.

A recess break was taken at 12:00 p.m. The meeting reconvened at 12:10 p.m.

LEGISLATIVE UPDATE

Mr. Ching provided a brief legislative update and discussed issues of HB1938 related to permissible agricultural uses. Mr. Ching also discussed two proposals being entertained by the Legislature involving a quasi-legislative mechanism where individual counties would have an opportunity to update the LUC's district boundary maps via a boundary review and application process. Mr. Ching also described a proposal seeking to nominate a native Hawaiian cultural practitioner as a member on the Commission to further enhance sensitivity to native Hawaiian cultural issues.

Vice Chair Montgomery noted that he believes there are currently only geographical requirements for members with no requirements that nominees possess specific expertise. Vice Chair Montgomery added that it might be difficult to define what a Hawaiian cultural practitioner would be and if that requirement would specify culture as opposed to ethnicity.

Mr. Ching replied that the current formula is a geographical requirement and noted that last year HB 445 proposed that OHA nominate at least one member of the Commission. Mr. Ching added that testimony was provided to include that it is currently a requirement of this Commission that all members are sensitive to the impacts of any proposed project upon native Hawaiian cultural practices.

Commissioner Formby commented that he prefers to have more cultural practitioners testify before the Commission so that the facts go onto the record.

Chair Sakumoto concurred with Commissioner Formby adding that the Commission needs these qualified people to testify before the Commission rather than sitting as a board member.

Mr. Ching noted that this matter has not yet been scheduled for hearing but will take into consideration the comments made by this Commission.

After a discussion, Chair Sakumoto requested that the Executive Officer continue to provide the LUC with his testimony and to also include the respective bills. Chair Sakumoto also noted that draft testimony would be limited to processes only as opposed to policy matters.

Mr. Ching replied in the affirmative, adding that his primary role in drafting testimony involved an analysis of how it affects the LUC's operations and efficiency and not get into policy areas.

After a brief discussion, Mr. Ching noted that he will attempt to keep the LUC informed on future legislative proposals and responses. Mr. Ching added that he will also agenda a workshop forum to provide the opportunity for LUC discussions with a balanced panel.

The meeting adjourned at 12:40 p.m.

(Please refer to LUC Transcript of February 3, 2006 for more details on this matter.)

LINDA LINGLE
GOVERNOR

ANTHONY J.H. CHING
EXECUTIVE OFFICER

STATE OF HAWAII
DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT & TOURISM
LAND USE COMMISSION
P.O. Box 2359
Honolulu, Hawaii 96804-2359
Telephone: 808-587-3822
Fax: 808-587-3827

April 27, 2006

NOTIFICATION OF BOUNDARY AMENDMENT DECISION FILED BY THE STATE LAND USE COMMISSION

To All Concerned Agencies:

The Decision and Order for the following boundary amendment petitions have been filed by the Land Use Commission:

Petition Docket No.	Boundary Amendment Requested	LUC Action of March 3, 2006	Date of Decision and Order
A04-753 AINA NUI CORPORATION, A Hawai`i Corporation	To reclassify approximately 174.209 acres of land from Agricultural to Urban at `Ewa, Island of O`ahu	Approved approximately 174.209 acres at `Ewa, Island of O`ahu, TMK Nos.: 9-1-14: Por. 33 and 9-1-15: Por. 4 and Por. 20 (see attached map)	April 6, 2006
A05-758 A CHARITABLE FOUNDATION CORPORATION, a Nevada non-profit corporation	To reclassify approximately 28.759 acres of land from Agricultural to Conservation; and approximately 5.219 acres of land from Conservation to Agricultural at Pūpūkea, Ko`olauloa and Waialua, Island of O`ahu	Approved approximately 28.759 acres and 5.219 acres at Pūpūkea, Ko`olauloa and Waialua, Island of O`ahu, TMK Nos.: 5-9-23: Por. 1; 5-9-24: 1; and 6-1-02: Por. 22 (see attached map)	April 24, 2006

The above action may include conditions, which affect your agency. If you would like a copy of the conditions or more information on this matter, please contact me at 587-3822, or you can log onto our website at http://luc.state.hi.us and click on Findings of Fact, Conclusions of Law, and Decision and Order.

Sincerely,

ANTHONY J. H. CHING
Executive Officer

Enclosures

NOTIFICATION OF BOUNDARY AMENDMENT DECISIONS BY LUC

STATE/FEDERAL AGENCIES (All Petitions)

___X___Office of Planning
1) Laura Thielen, Director
2) Mary Lou Kobayashi
3) Abe Mitsuda

___X___Department of Education
1) Ms. Patricia Hamamoto
2) Facilities & Support Services Branch
Mr. Ray Minami

___X___Department of Health
1) Dr. Chiyome L. Fukino
2) Office of Environmental Quality Control

___X___Department of Land and Natural Resources
Office of the Chairperson

___X___Department of Transportation
1) Mr. Rodney Haraga
2) Statewide Transportation Planning Office

_____USDA Soil Conservation Service
Attn.: Ms. Nicole Simmons

___X___Department of Agriculture
Office of the Chairperson

_____Department of Defense
Office of the Adjutant General

_____Housing & Community Development Corporation of Hawaii

___X___DOH - Clean Air Branch

_____DOH - Clean Water Branch

___X___DOH - Solid & Hazardous Waste Branch

_____DOH - Safe Water Drinking Branch

___X___DOH -Wastewater Branch

_____DLNR - Land Management Division

_____DLNR - Aquatic Resources Division

_____DLNR - Division of Forestry & Wildlife

___X___DLNR - Historic Preservation Division

___X___DLNR - Division of Water Resource Management

_____DOT - Airports Division

___X___DOT - Harbors Division

___X___DOT - Highways Division

_____U.S. Fish and Wildlife Service

_____National Marine Fisheries Services

___X___DOH-Environmental Planning Office

_____Office of Hawaiian Affairs

_____Department of Hawaiian Home Lands

_____DLNR – State Parks Division

City & County of Honolulu (Oahu Petitions Only)

___X___Department of Planning & Permitting

_____Planning Commission - Executive Secretary

___X___Board of Water Supply
Manager and Chief Engineer

_____Department of Facility Maintenance - Director

___X___Department of Environmental Services - Director

___X___Department of Transportation Services - Director

___X___Department of Budget and Fiscal Services - Property Assessment Section

_____Department of Budget and Fiscal Services - Property Technical Office

___X___Department of Budget and Fiscal Services - Mapping Section

___X___Oahu Civil Defense Agency

___X___Fire Department

___X___Department of Community Services

County of Hawaii (Hawaii Petitions Only)

_____Planning Department - Director

_____Planning Commission - Chairperson

_____Department of Water Supply

_____Department of Public Works

_____Real Property Tax Office

_____Civil Defense Agency

County of Maui (Maui Petitions Only)

_____Planning Department - Director

_____Planning Commission - Chairperson

_____Department of Water Supply

_____Department of Public Works & Waste Management

_____Real Property Tax Division

_____Department of Housing and Human Concerns

_____Civil Defense Agency

County of Kauai (Kauai Petitions Only)

_____Planning Department - Director

_____Planning Commission - Chairperson

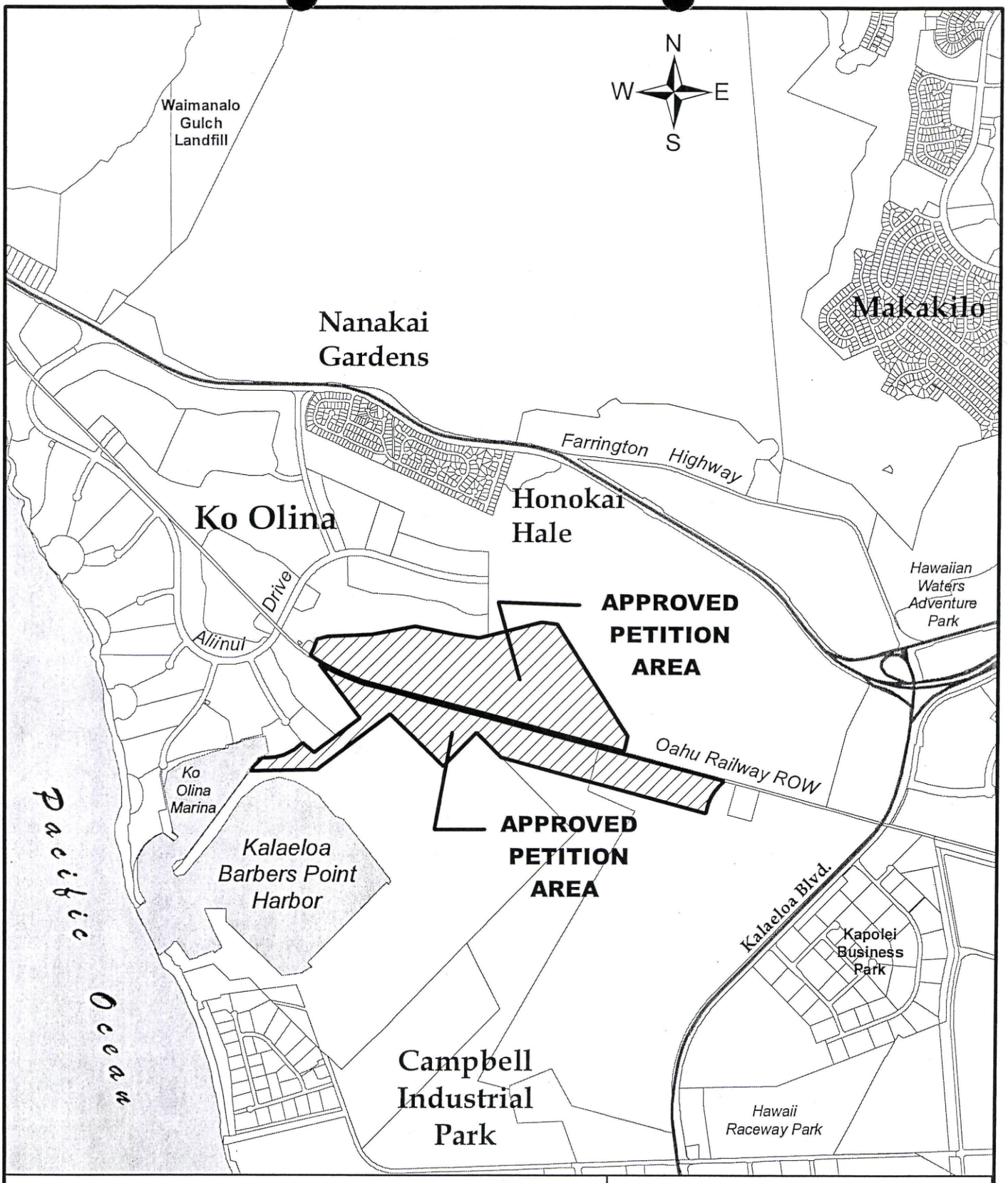
_____Department of Water Supply

_____Department of Public Works

_____Real Property Tax Division

_____Kauai Civil Defense Agency

_____Housing Agency



A04-753 AINA NUI CORPORATION

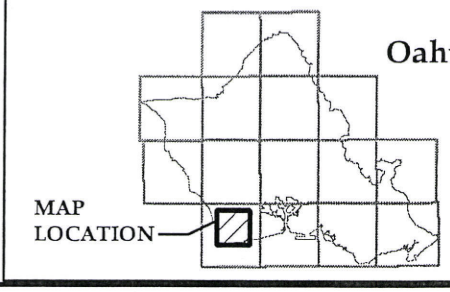
LOCATION MAP

Tax Map Key: 9-1-14: por. 33 and 9-1-15: por. 4 and por. 20

`Ewa, O`ahu, Hawai`i

Scale: 1" = 2,000 feet

EXHIBIT "A"



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Maui

LAND USE COMMISSION
NOTIFICATION OF LAND USE COMMISSION MEETING
DATE, TIME AND PLACE

March 3, 2006 – 9:00 a.m.

Leiopapa A Kamehameha
Conference Room 405
235 So. Beretania Street
Honolulu, Hawaii

AMENDED AGENDA
2/23/06

I. CALL TO ORDER

II. ADOPTION OF MINUTES

February 16, 2006 and February 17, 2006

III. TENTATIVE MEETING SCHEDULE

IV. LEGISLATIVE UPDATE

V. ACTION

1. DR04-30 KULEANA KU`IKAHI LLC (Maui)
   Adoption of Decision and Order

2. A04-746 WAIKAPU 28 INVESTMENT, LLC (Maui)
   To consider whether or not to issue a subpoena to the Department of Education to appear and testify in the matter of Waikapu 28 Investment, LLC's Motion to Amend Findings of Fact, Conclusions of Law, and Decision and Order for a State Land Use District Boundary Amendment filed December 14, 2004.

3. A05-758 A CHARITABLE FOUNDATION CORPORATION (Oahu)
   To consider the reclassification of (i) approximately 28.759 acres of land currently in the Agricultural District to the Conservation District for a State Park Reserve; and (ii) approximately 5.219 acres of land currently in the Conservation District to the Agricultural District for the development of farm dwellings with agricultural uses at Pupukea, Koolauloa and Waialua, Oahu, Hawaii.

4. A04-753 AINA NUI CORPORATION (Oahu)
   To consider the reclassification of approximately 174.209 acres of land currently in the Agricultural District to the Urban District at Ewa, Oahu, Hawaii for residential, golf course, park, and open space uses.

The Commission may elect to consult with counsel in executive session pursuant to Section 92-5, HRS.
Persons with disabilities who need accommodation should call (808) 587-3822 no later than 12:00 noon, 2 business days before the date of the meeting.
The mailing address for the Land Use Commission is P.O. Box 2359, Honolulu, Hawai`i, 96804-2359.
Some materials for these agenda items may be available on our website at http://luc.state.hi.us.

LAND USE COMMISSION
NOTIFICATION OF LAND USE COMMISSION MEETING
DATE, TIME AND PLACE

March 2, 2006 – 10:00 a.m.

Kapolei Hale
First Floor Conference Room
1000 Uluohia Street
Kapolei, Hawaii

AMENDED AGENDA
2/23/06

I. CALL TO ORDER

II. ACTION

1. SP04-398 SPHERE LLC dba PACIFIC AGGREGATE (Oahu)

   A. Motions received February 22, 2006:

   - Motion to Intervene As a Party; or In the Alternative, Motion to Intervene for the Limited Purpose of Raising Certain Procedural Motions;
   - Motion to Dismiss or to Deny Special Use Permit for Failure to Comply With HRS §205;
   - Motion to Dismiss or In the Alternative to Deny the Application As Inappropriate Use of HRS §205-6;
   - Motion for Declaratory Order.

   B. To consider a special use permit to establish a construction and demolition debris landfill on approximately 190 acres of land within the Agricultural District at Maili, Waianae, Oahu, Hawaii. The Land Use Commission previously denied the special use permit and remanded the matter to the City and County of Honolulu Planning Commission for further proceedings to supplement the record and address the special use permit criteria.

(OVER)

Aina Nui

LAND USE COMMISSION
NOTIFICATION OF LAND USE COMMISSION MEETING
DATE, TIME AND PLACE

March 3, 2006 – 9:00 a.m.

Leiopapa A Kamehameha
Conference Room 405
235 So. Beretania Street
Honolulu, Hawaii

AMENDED AGENDA

I. CALL TO ORDER

II. ADOPTION OF MINUTES

February 16, 2006 and February 17, 2006

III. TENTATIVE MEETING SCHEDULE

IV. LEGISLATIVE UPDATE

V. ACTION

1. DR04-30 KULEANA KU`IKAHI LLC (Maui)
   Adoption of Decision and Order

2. A04-746 WAIKAPU 28 INVESTMENT, LLC (Maui)
   To consider whether or not to issue a subpoena to the Department of Education to appear and testify in the matter of Waikapu 28 Investment, LLC's Motion to Amend Findings of Fact, Conclusions of Law, and Decision and Order for a State Land Use District Boundary Amendment filed December 14, 2004.

3. A05-758 A CHARITABLE FOUNDATION CORPORATION (Oahu)
   To consider the reclassification of (i) approximately 28.759 acres of land currently in the Agricultural District to the Conservation District for a State Park Reserve; and (ii) approximately 5.219 acres of land currently in the Conservation District to the Agricultural District for the development of farm dwellings with agricultural uses at Pupukea, Koolauloa and Waialua, Oahu, Hawaii.

4. A04-753 AINA NUI CORPORATION (Oahu)
   To consider the reclassification of approximately 174.209 acres of land currently in the Agricultural District to the Urban District at Ewa, Oahu, Hawaii for residential, golf course, park, and open space uses.

The Commission may elect to consult with counsel in executive session pursuant to Section 92-5, HRS.
Persons with disabilities who need accommodation should call (808) 587-3822 no later than 12:00 noon, 2 business days before the date of the meeting.
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LAND USE COMMISSION
NOTIFICATION OF LAND USE COMMISSION MEETING
DATE, TIME AND PLACE

March 2, 2006 – 10:00 a.m.

Kapolei Hale
First Floor Conference Room
1000 Uluohia Street
Kapolei, Hawaii

AMENDED AGENDA

I. CALL TO ORDER

II. ACTION

1. SP04-398 SPHERE LLC dba PACIFIC AGGREGATE (Oahu)

   To consider a special use permit to establish a construction and demolition debris landfill on approximately 190 acres of land within the Agricultural District at Maili, Waianae, Oahu, Hawaii. The Land Use Commission previously denied the special use permit and remanded the matter to the City and County of Honolulu Planning Commission for further proceedings to supplement the record and address the special use permit criteria.

(OVER)

Aina Nui

LAND USE COMMISSION
NOTIFICATION OF LAND USE COMMISSION MEETING
DATE, TIME AND PLACE

March 3, 2006 – 9:00 a.m.

Leiopapa A Kamehameha
Conference Room 405
235 So. Beretania Street
Honolulu, Hawaii

A G E N D A

I. CALL TO ORDER

II. ADOPTION OF MINUTES

February 16, 2006 and February 17, 2006

III. TENTATIVE MEETING SCHEDULE

IV. LEGISLATIVE UPDATE

V. ACTION

1. A04-746 WAIKAPU 28 INVESTMENT, LLC (Maui)

   To consider whether or not to issue a subpoena to the Department of Education to appear and testify in the matter of Waikapu 28 Investment, LLC's Motion to Amend Findings of Fact, Conclusions of Law, and Decision and Order for a State Land Use District Boundary Amendment filed December 14, 2004.

2. A05-758 A CHARITABLE FOUNDATION CORPORATION (Oahu)

   To consider the reclassification of (i) approximately 28.759 acres of land currently in the Agricultural District to the Conservation District for a State Park Reserve; and (ii) approximately 5.219 acres of land currently in the Conservation District to the Agricultural District for the development of farm dwellings with agricultural uses at Pupukea, Koolauloa and Waialua, Oahu, Hawaii.

3. A04-753 AINA NUI CORPORATION (Oahu)

   To consider the reclassification of approximately 174.209 acres of land currently in the Agricultural District to the Urban District at Ewa, Oahu, Hawaii for residential, golf course, park, and open space uses.

The Commission may elect to consult with counsel in executive session pursuant to Section 92-5, HRS.
Persons with disabilities who need accommodation should call (808) 587-3822 no later than 12:00 noon, 2 business days before the date of the meeting.
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Some materials for these agenda items may be available on our website at http://luc.state.hi.us.

LAND USE COMMISSION
NOTIFICATION OF LAND USE COMMISSION MEETING
DATE, TIME AND PLACE

March 2, 2006 – 10:00 a.m.

Kapolei Hale
First Floor Conference Room
1000 Uluohia Street
Kapolei, Hawaii

A G E N D A

I. CALL TO ORDER

II. ACTION

1. A83-562 WEST BEACH ESTATES * (Oahu)
*present owner is Ko Olina Resort and Marina

Status report and action if appropriate

2. SP04-398 SPHERE LLC dba PACIFIC AGGREGATE (Oahu)

To consider a special use permit to establish a construction and demolition debris landfill on approximately 190 acres of land within the Agricultural District at Maili, Waianae, Oahu, Hawaii. The Land Use Commission previously denied the special use permit and remanded the matter to the City and County of Honolulu Planning Commission for further proceedings to supplement the record and address the special use permit criteria.

(OVER)

LAND USE COMMISSION
NOTIFICATION OF LAND USE COMMISSION MEETING
DATE, TIME AND PLACE

February 3, 2006 – 9:00 a.m.

Leiopapa A Kamehameha
Conference Room 405
235 So. Beretania Street
Honolulu, Hawaii

A G E N D A

I. CALL TO ORDER

II. ADOPTION OF MINUTES

January 20, 2006

III. TENTATIVE MEETING SCHEDULE

IV. ACTION

1. A04-753 AINA NUI CORPORATION (Oahu)

   To consider the reclassification of approximately 174.209 acres of land currently in the Agricultural District to the Urban District at Ewa, Oahu, Hawaii for residential, golf course, park, and open space uses.

2. A89-649 LANAI RESORT PARTNERS (Lanai)

   To consider the recommendation of the Executive Officer for a hearing date on the remand and other pertinent scheduling issues and items.

V. LEGISLATIVE UPDATE

The Commission may elect to consult with counsel in executive session pursuant to Section 92-5, HRS.
Persons with disabilities who need accommodation should call (808) 587-3822 no later than 12:00 noon, 2 business days before the date of the meeting.
The mailing address for the Land Use Commission is P.O. Box 2359, Honolulu, Hawai`i, 96804-2359.
Some materials for these agenda items may be available on our website at http://luc.state.hi.us.

Aina Nui

LAND USE COMMISSION
MINUTES OF MEETING

October 20, 2005

Conference Room 405
Leiopapa A Kamehameha
235 So. Beretania Street
Honolulu, Hawaii

COMMISSIONERS PRESENT:	Thomas Contrades Michael Formby Duane Kanuha Steven Montgomery Ransom Piltz Randall Sakumoto
COMMISSIONERS ABSENT:	Kyong-su Im Lisa Judge
STAFF PRESENT:	Russell Suzuki, Deputy Attorney General Bert Saruwatari, Staff Planner Sandra Matsushima, Chief Clerk Holly Hackett, Court Reporter Walter Mensching, Audio Technician

Presiding Officer Montgomery called the meeting to order at 8:40 a.m.

APPEARANCES
Benjamin Kudo, Esq., represented Petitioner
Naomi Kuwaye, Esq., represented Petitioner
Cameron Nekota, Esq., represented Petitioner
Don Kitaoka, Esq., represented Department of Planning and Permitting
Raymond Sakai, City and County of Honolulu, Department of Planning and Permitting
John Chang, Esq., represented State Office of Planning
Laura Thielen, Director, State Office of Planning
Abe Mitsuda, State Office of Planning

Presiding Officer Montgomery noted that there were no public witnesses.

Presiding Officer Montgomery stated that the Commission will continue with the cross-examination of Ms. Goth.

Petitioner's Witness

1. Donna Goth

Mr. Kitaoka raised questions regarding the zone change approvals, Aina Nui's commitment to pay impact fees associated with the Ewa Highway master plan, concerns of the DPP, the concept of connectivity, three possible roadways and connections, bikeways and pedestrian quarters, dual water system for potable and non-potable water, water allocation and the drainage master plan.

Mr. Chang had questions and concerns relative to the water system, the current sustainable yields, the Waipahu/Waiawa aquifer, the non-potable water source, drainage channel, the recommended conditions from the OP, and the two additional conditions proposed from the State regarding Hanua Street improvements and the notification of potential nuisances at Kalaeloa Harbor.

Commissioner Formby posed questions in reference to the major drainage channel and a commitment from the Kapolei West project. Commissioner Formby also had questions related to affordable housing, buyer eligibility restrictions, the City's affordable housing requirement and in lieu fees, options for the units to be on-site versus off-site, discussion and agreement with the DOE, and plans for mitigating traffic impacts.

Commissioner Piltz had questions and concerns regarding education in the final EIS, the number of students generated in this Petition Area, the entire generation of students for Kapolei West, an agreement with the DOE, and the notification and contacts made with the Fairways and Ko Olina Associations addressing their concerns.

Presiding Officer Montgomery raised a few questions in reference to the proposed park uphill from the main harbor, its function to protect and buffer sensitive archeological areas, such as the sinkhole, burial, canoe, bones, and wildlife areas, and suggested the possibility of creating a management plan with the appropriate government agencies.

Commissioner Formby had a few questions and concerns regarding the planned use of the peninsula property and the significance of industrial uses and any harbor activity in that area.

After discussion, there were no further questions posed by the parties or the Commission.

A recess break was taken at 9:30 a.m. The meeting reconvened at 9:45 a.m.

States Witnesses

1. Roy Hardy

Mr. Hardy commented on the duties of the Commission on Water Resource Management and matters related to the Petition Area. Mr. Hardy discussed issues of the aquifers, appropriate approvals and the reasonable amounts of water usage, water use permit, ground water permits, sustainability, the total current usage and the usage contained in the study.

Commissioner Piltz had a few questions on the de-salting process and the amount of waste generated from a gallon of seawater. Mr. Hardy replied that he did not have that information at this time.

There were no further questions posed by the parties or the Commission.

2. Laura H. Thielen

Ms. Thielen stated that the OP had filed their statement of position in support of the Petition on September 19, 2005 and filed supplemental testimony on October 19, 2005. Ms. Thielen summarized the position of the OP and discussed the areas of interest: 1) planning and managing growth; 2) water resources; 3) transportation; 4) housing; and 5) the DOE and education.

Mr. Chang introduced and offered into evidence the OP's supplemental testimony and 2 proposed conditions as OP's exhibits 9 and 10. There were no objections by the parties. Said exhibits were admitted into evidence.

Mr. Chang noted a few corrections to the exhibits. On Exhibit 9, the street name should be *Malakole Street*, and not *Molokole Street* as indicated. On Exhibit 10, second paragraph, ending of the second sentence, strike out the word *any* and change *sale* to *sales*. In the following sentence, change the word *purchase* to *purchaser.*

Commissioner Kanuha raised a few questions on OP's supplemental testimony and the new conditions introduced. Commissioner Kanuha asked Petitioner if they were in agreement with these conditions. Mr. Kudo replied in the affirmative.

Commissioner Formby commented on past land designations where in some instances, the land became fallow. Commissioner Formby discussed with Ms. Thielen, not specific to this project, options on enforcement or placing time restrictions on a developer's affordable housing contribution to the county.

After a discussion, there were no further questions posed by the parties or the Commission.

Mr. Kudo gave his closing remarks.

Following the close of the evidentiary hearing, Presiding Officer Montgomery read the post hearing instructions to the parties. The parties were instructed to draft their findings of fact, conclusions of law, and decision and order based upon the record in this docket and serve the document to the parties no later than November 21, 2005. The parties would then have till November 28, 2005 to file their responses.

Mr. Kudo noted that the Petitioner intends to pursue and file with the Commission a fully stipulated order.

Mr. Kitaoka stated that the City supports the development of a stipulated order.

Mr. Chang indicated that the State is also in support of the development of a stipulated order.

Chair Sakumoto entered the meeting at this time. Chair Sakumoto stated that he had no comments or questions for the parties at this time.

Presiding Officer Montgomery continued with post hearing instructions and stated that given the willingness of the parties to pursue a stipulated order, their proposal should be filed with the LUC no later than close of business on November 21, 2005 and will be considered at the next LUC meeting tentatively scheduled for January 6, 2006.

The meeting adjourned at 10:45 a.m.

(Please refer to LUC Transcript of October 20, 2005 for more details on this matter.)

Aina Nui

LAND USE COMMISSION
MINUTES OF MEETING

October 19, 2005

Conference Room 405
Leiopapa A Kamehameha
235 So. Beretania Street
Honolulu, Hawaii

COMMISSIONERS PRESENT:	Thomas Contrades Michael Formby Kyong-su Im Lisa Judge Duane Kanuha Steven Montgomery Ransom Piltz Randall Sakumoto
COMMISSIONERS ABSENT:	None
STAFF PRESENT:	Anthony Ching, Executive Officer Diane Erickson, Deputy Attorney General Bert Saruwatari, Staff Planner Maxwell Rogers, Staff Planner Sandra Matsushima, Chief Clerk Holly Hackett, Court Reporter Walter Mensching, Audio Technician

Chair Sakumoto called the meeting to order at 9:15 a.m.

ADOPTION OF MINUTES

Commissioner Piltz moved to adopt the Land Use Commission meeting minutes of October 6, 2005 and October 7, 2005. Vice Chair Judge seconded the motion. Commissioner Im commented that he was not present on October 7, 2005 as indicated on the minutes. The minutes of October 6, 2005 and amended minutes of October 7, 2005 were approved by voice votes.

TENTATIVE MEETING SCHEDULE

Executive Officer Anthony Ching reported that the November 2 field trip to the Kauai ATV site may coincide with the HCPO field tours and polled the Commission on their preference for the Kauai ATV field trip during the early morning or late in the afternoon. Mr. Ching added that the field trip will be a tour to the Waita Reservoir and a drive through the mountain to view, at a distance, the ATV trails and bridge that crosses over the State highway. Mr. Ching noted that the bridge area is not accessible with the van. The tour would take approximately one and a half hour. Staff has previously taken pictures of the site, which could be shared with the Commission. Mr. Ching added that a quorum is not required for the field trip and that the parties would be attending.

After a brief discussion, an afternoon field trip appeared to be preferred. Mr. Ching noted that he would check on HCPO's activity schedule to coordinate a reasonable time for the field trip.

Mr. Ching also reported the following schedule:

- The sole December meetings have shifted to December 1 and 2 in Kona at the Waikoloa Marriott in anticipation of a Big Island filing that would require the LUC to meet in that area.

- January 5 and 6 will be held on Oahu.

- January 19 and 20 will be held on Maui for the Hearings Officer's proposed order for the Kuleana Ku`ikahi docket.

There were no further questions posed by the Commission.

A03-743 HAWAII ELECTRIC LIGHT COMPANY, INC. (Hawaii)

Chair Sakumoto stated that this was an action meeting on Docket No. A03-743 Hawaii Electric Light Company, Inc., to adopt the order reclassifying approximately 15.643 acres of land currently in the Conservation District to the Urban District at Keahole, North Kona, Hawaii, for improvements and upgrades to the Keahole Generating Station and Airport Substation.

APPEARANCES
Benjamin Kudo, Esq., represented Petitioner
April Cadiz, represented Petitioner
Bobbie Jean Leithead-Todd, Esq., represented County of Hawaii Planning Department
Norman Hayashi, County of Hawaii Planning Department
John Chang, Esq., represented State Office of Planning
Laura Thielen, Director, State Office of Planning
Abe Mitsuda, State Office of Planning

Chair Sakumoto noted that there were no public witnesses.

Mr. Ching summarized the substantive changes to the order taken from the Commission's deliberation at their last meeting. Mr. Ching also noted that the parties have received copies of the order via e-mail.

Chair Sakumoto had a few comments to Findings of Fact 27, and also commented on Warren Lee's testimony related to the feasibility of acquiring a new site.

After a brief discussion, Commissioner Kanuha moved to adopt the Findings of Fact, Conclusions of Law, and Decision and Order for Docket No. A03-743 Hawaii Electric Light Company, Inc. Commissioner Piltz seconded the motion. The Commission was polled as follows:

Ayes: Commissioners Kanuha, Piltz, Contrades, Formby, Im, Judge, and Sakumoto.

The motion passed with 7 ayes, 1 absent.

A recess break was taken at 9:45 a.m. The meeting reconvened at 9:55 a.m.

Vice Chair Montgomery entered the meeting at this time.

A87-617 BRIDGE AINA LE`A, LLC and BANTER, INC. – fka Puako Hawaii Properties (Hawaii)

Chair Sakumoto stated that this was an action meeting to consider Petitioner Bridge Aina Le`a LLC and Banter, Inc.'s Motion To Amend Conditions 1 and 8 of Amended Findings of Fact, Conclusions of Law, and Decision and Order Dated July 9, 1991

APPEARANCES
Bernard Bays, Esq., represented Petitioner
Robert Martin, Esq., represented Petitioner
Joshua Trevye, Esq., represented Petitioner
Bobbie Jean Leithead-Todd, Esq., represented County of Hawaii Planning Department
Norman Hayashi, County of Hawaii, Department of Planning
John Chang, Esq., represented State Office of Planning
Laura Thielen, Director, State Office of Planning
Abe Mitsuda, State Office of Planning

Chair Sakumoto noted that there were no public witnesses.

Mr. Bays noted some preliminary matters regarding the LUC 's concern about the golf courses in the non-urbanized agricultural area that are also owned by Petitioner. Mr. Bays noted that they have filed a memo discussing the status and legality of the golf course and the permit issued by the County of Hawaii. Mr. Bays added that they have also prepared an amended condition no. 1 which, incorporates the representation by the Petitioner related to the affordable housing requirement. The Petitioner then distributed to the parties and the LUC copies of their latest filing.

Chair Sakumoto asked Mr. Bays if they were offering these submittals as new exhibits. Mr. Bays replied in the affirmative.

Admission of Additional Exhibits

Mr. Bays offered exhibits 16, 20, 21, 25a, 26, and 27. The parties had no objections. Said exhibits were admitted into the record.

Mr. Bays continued with his presentation and discussed the Petitioner's proposal for reduction in affordable housing units, the County's affordable housing requirement, in lieu fees, and the numerous letters of support for this project.

Vice Chair Montgomery asked what is Petitioner's strategy regarding in lieu fees and what is his legal opinion on the LUC condition.

Mr. Bays replied that he was unsure of that answer.

Ms. Leithead-Todd noted that in the past, the County would routinely accept in lieu fees but the County has recently changed its policy and has not been accepting in lieu fees, even in cases where the requirement would have yielded only a few units.

Mr. Chang commented that because it was a LUC condition that required that no less than 1000 units built, the petitioner could not pay an in lieu fee. Mr. Chang added that the condition specifically stated that a required number of units were to be built and that before the petitioner could pay any in lieu fees, they would need to return to the LUC to change that condition.

Commissioner Kanuha noted a disclosure that he served as the Planning Director for the County of Hawaii during the time this petition was initially filed.

Vice Chair Judge had a few questions and concerns relative to the Petitioner's financial capability, Cole Capital and Westwood Heritage, and submittal of financial information for the LUC's review.

Commissioner Im commented that the statue governing the LUC's decision-making criteria, 15-15-77, requires that the LUC find a clear preponderance of the evidence. Commission Im discussed issues of housing opportunities and home rule. Commissioner Im expounded on the need for clear evidence and added that this particular Petition was amended in 1991 and that under 15-15-79, the Petitioner should have made substantial progress within a reasonable time to fulfill the conditions contained in the LUC's order.

Commissioner Im also raised questions and concerns related to the Petitioner's recent filing regarding the development of the golf courses on agricultural land and the passage of time from the 1991 amendment and specific county requirements that 3 golf courses are developed by 2011.

Commissioner Formby posed questions relative to in lieu fees and any attempts by the Petitioner to satisfy that condition, credits, and the 107 units on another property.

A recess break was taken at 11:00 a.m. The meeting reconvened at 11:20 a.m.

Chair Sakumoto noted that the disclosure from Commissioner Kanuha, having served as the Planning Director over 15 years ago, is not a standard for disqualification under 15-15-61, HRS, as Commissioner Kanuha is well within another career and no longer affiliated with the County. Chair Sakumoto then asked Commissioner Kanuha if he could be fair and objective while participating in this matter. Commissioner Kanuha replied in the affirmative. There were no objections by the parties.

Mr. Bays noted that in response to Vice Chair Judge's questions on the representation by Mr. Paoa, and the Commission's concern, they will prepare and file an affidavit this afternoon related to the Petitioner' s financial capability.

Petitioner's Witness

1. Ann Bouslog

Ms. Bouslog stated that she is a real estate development advisor and provided her experience and education background. A copy of her resume was submitted as exhibit 13. Ms. Bouslog discussed issues of the demographics in market research, housing studies, and her familiarity with the Aina Lea location. Ms. Bouslog also noted that she conducted the Waikoloa employee housing study and discussed the methodology for the housing study, the types of markets, housing produced, costs, preliminary layout and background for the development of these lands. During her discussion, Ms. Bouslog referenced exhibits 10 and 28.

Ms. Leithead-Todd raised a few questions related to Ms. Bouslog's assumptions that were based on underground utilities, the allocated costs for the affordable housing units, and the cost of the infrastructure, not including the golf course and the commercial uses.

Mr. Chang posed questions regarding the estimated sales price, HUD's estimated median income, and the size of these homes.

Commissioner Formby asked if Ms. Bouslog could provide a copy of exhibit 28, Mikiko Corporation's breakdown and assumptions for the LUC to review during the lunch break. Ms. Bouslog replied in the affirmative.

A lunch recess was taken at 12:05 p.m. The meeting reconvened at 1:23 p.m.

Commissioner Im raised a few questions as to the cost of $600-$700 per square foot for the affordable housing units as provided by the Petitioner, and noted that the numbers on exhibit 28 appear to be for the entire property. Commissioner Im sought clarity on exhibit 28.

Commissioner Formby also asked for clarification on exhibit 28 and the burden of cost for developing the 384 units and the appropriate size of the units for these families.

Vice Chair Montgomery posed a few questions relative to the affordable housing pent up demand, market changes, and the computations for 40% of affordable housing.

Chair Sakumoto raised questions on what numbers are feasible and the evidence to support it, and the comparison of exhibit 11a and 28 in terms of infrastructure costs.

Commissioner Im asked for clarification on exhibit 28 and its relation to exhibit 11a, and asked Ms. Bouslog to summarize the total construction and development costs. Commissioner Im explained three scenarios that would be useful in comparing those costs and commented that he believes that the LUC does not currently have a clear preponderance of evidence to make a decision here.

Chair Sakumoto asked Ms. Bouslog if she has performed an analysis to reach a conclusion that the project is feasible with a 20% condition and how the market units will carry the burden of developing the affordable units first. Ms. Bouslog replied that she has not done this analysis and added that this is a high risk project.

After a discussion, there were no further questions posed by the parties or the Commission.

A recess was taken at 2:28 p.m. The meeting reconvened at 2:40 p.m.

Admission of Additional Exhibits

Mr. Bays offered into evidence Petitioner's exhibit 29 Bridge Capital LLC and Subsidiaries Combined Financial Statements, and exhibit 30 Affidavit of Hoolae Paoa.

Vice Chair Judge noted that exhibit 29 does not include or mention Bridge Aina Lea and Banter, Inc. in this analysis.

There were no objections by the parties. Exhibits 29 and 30 were admitted into the record.

2. Ed Brown

Mr. Brown discussed the budgetary pricing for conducting parcel grading and infrastructure by his firm.

Ms. Leithead-Todd asked if he was familiar with construction on other islands, and if the hard rock on the Kona side adds to higher construction costs.

Mr. Brown replied that their numbers were based on the similar cost of construction in Hualalai and confirmed its higher cost.

Commissioner Piltz raised a few questions regarding the utilities in the project and if the potable wells are on-site.

Vice Chair Montgomery asked why the golf course grading was so expensive and if the golf courses could utilize the existing terrain.

Vice Chair Judge raised a few questions relative to the timing of beginning of construction for the project, and the pads for affordable housing.

Commissioner Kanuha had a question on the initial grading onsite.

Commissioner Formby asked what the $259 million represented. Mr. Brown replied total infrastructure cost.

Commissioner Im raised a few questions relative to the relationship with Petitioner and the current configuration of the Project, the cost of the infrastructure for the affordable housing, Petitioner's exhibit 11a, and potable water wells.

Chair Sakumoto asked what is the County's position.

Ms. Leithead-Todd stated that the Petitioner must conform to the affordable housing policy.

After a discussion, Chair Sakumoto noted that the Commission is dissatisfied with Ms. Bouslog's testimony and recommended that Petitioner prepare a case that addresses the questions that were brought up today by the commission. Chair Sakumoto adjourned this docket item till the next meeting on November 4, 2005 in Kauai.

Vice Chair Judge left the meeting at this time.

A04-753 AINA NUI CORPORATION (Oahu)

Presiding Officer Montgomery stated that this was a continued hearing on Docket No. A04-753 Aina Nui Corporation (Oahu) to consider the reclassification of approximately 174.209 acres of land currently in the Agricultural District to the Urban District at Ewa, Oahu, Hawaii for residential, golf course, park, and open space uses.

APPEARANCES
Benjamin Kudo, Esq., represented Petitioner
Naomi Kuwaye, Esq., represented Petitioner
Cameron Nekota, Esq., represented Petitioner
Don Kitaoka, Esq., represented Department of Planning and Permitting
Raymond Sakai, City and County of Honolulu, Department of Planning and Permitting
John Chang, Esq., represented State Office of Planning
Abe Mitsuda, State Office of Planning

Public Witnesses:

1. Ken Williams

Mr. Williams stated that he is the Vice President/General Manager of the Ko Olina Community Association. Mr. Williams stated that they are not opposed to the development of Kapolei West nor its reclassification, but a strong advocate for the proper and appropriate development of this area. Mr. Williams added that his concerns were for loss of regional jobs and industrial lands, the residential development along Industrial Harbor, the stacking of residential projects, the increase in regional traffic impacts, and the industrial traffic through residential and resort areas.

Commissioner Contrades had a few questions regarding the location of the regional jobs and industrial lands.

Commissioner Piltz asked if there is current industrial activity or potential loss of activity.

Chair Sakumoto raised a few questions relative to the regional traffic solutions.

Commissioner Piltz commented that at the last meeting, the $93 million in mitigative measures and the $38 million were to be addressed by the Petitioner.

Commissioner Im had questions regarding the negative impacts on the compatibility of uses, residential subdivision built next to the working industrial harbor and resort areas, and impacts to the regional effectiveness of the harbor. Commissioner Im also posed questions regarding the community association's concerns.

Commissioner Formby raised a few questions on the number of slips occupied in Ko Olina.

After a brief discussion, there were no further questions posed by the parties or the Commission.

2. Ralph Harris

Mr. Harris stated that he is the President of Ko Olina Fairways Association of Apartment Owners, representing 280 of the homeowners at the Ko Olina Fairways. Mr. Harris stated that they are opposed to the approval of the application that takes away industrial lands and employment by facilitating an unsuitable development plan. Mr. Harris noted 4 major areas of "close proximity" to the Fairways. Mr. Harris added that they have recommended that Aina Nui revisit their plan, but that this issue was not directly addressed by their consultant during the EIS proceedings.

Commissioner Im raised questions relative to the location of the golf course to the Fairways project, and the traffic impacts from the intersection that has created a commercial parcel drawing people at all hours, and the residents' concern that this is not appropriate in a residential neighborhood.

After a brief discussion, there were no further questions posed by the parties or the Commission.

Mr. Kudo commented that Petitioner's witness, Mr. Mink has passed away, but Ms. Goth is prepared to answer questions on water resources in that area.

Petitioner's Witness

1. Donna Goth

Ms. Goth stated that she is the President of Aina Nui and discussed the Kapolei Master Plan, regional infrastructure for transportation, water and sewer, Project acreage and uses, relationship between urbanized parcel and petition area, history of urbanized parcel and why it has not been developed, reasons for filing the Petition, and the development costs. Ms. Goth also discussed the Petitioner's commitment to meet affordable housing requirements, and the six priority transportation projects.

After Ms. Goth ended her testimony, the meeting adjourned at 5:00 p.m.

(Please refer to LUC Transcript of October 19, 2005 for more details on this matter.)

LAND USE COMMISSION
NOTIFICATION OF LAND USE COMMISSION MEETING
DATE, TIME AND PLACE

October 19, 2005 – 9:00 a.m.
October 20, 2005 – to be announced

Leiopapa A Kamehameha
Conference Room 405
235 So. Beretania Street
Honolulu, Hawaii

A G E N D A

I. **CALL TO ORDER**

II. **ADOPTION OF MINUTES**

October 6, 2005 and October 7, 2005

III. **TENTATIVE MEETING SCHEDULE**

IV. **ADOPTION OF ORDER**

1. A03-743 HAWAII ELECTRIC LIGHT COMPANY, INC. (Hawaii)

   Adoption of Findings of Fact, Conclusions of Law, and Decision and Order.

V. **ACTION**

1. A87-617 BRIDGE AINA LE`A, LLC and BANTER, INC. fka PUAKO HAWAII PROPERTIES (Hawaii)

   To consider Petitioner Bridge Aina Le`a LLC and Banter, Inc.'s Motion To Amend Conditions 1 and 8 of Amended Findings of Fact, Conclusions of Law, and Decision and Order Dated July 9, 1991.

(over)

VI. CONTINUED HEARING

1. A04-753 AINA NUI CORPORATION (Oahu)

To consider the reclassification of approximately 174.209 acres of land currently in the Agricultural District to the Urban District at Ewa, Oahu, Hawaii for residential, golf course, park, and open space uses.

The Commission may elect to consult with counsel in executive session pursuant to Section 92-5, HRS.
Persons with disabilities who need accommodation should call (808) 587-3822 no later than 12:00 noon, 2 business days before the date of the meeting.
The mailing address for the Land Use Commission is P.O. Box 2359, Honolulu, Hawai`i, 96804-2359.
Some materials for these agenda items may be available on our website at http://luc.state.hi.us.

Aina Nui

LAND USE COMMISSION
MINUTES OF MEETING

October 7, 2005

Kakuhihewa
601 Kamokila Boulevard
Room 111 Conference Room A & B
Kapolei, Oahu, Hawaii 96707

COMMISSIONERS PRESENT:	Thomas Contrades Kyong-su Im Lisa Judge Duane Kanuha Steven Montgomery Ransom Piltz Randall Sakumoto
COMMISSIONERS ABSENT:	Michael Formby
STAFF PRESENT:	Diane Erickson, Deputy Attorney General Anthony Ching, Executive Officer Bert Saruwatari, Staff Planner Maxwell Rogers, Staff Planner Sandra Matsushima, Chief Clerk Holly Hackett, Court Reporter Walter Mensching, Audio Technician

Presiding Officer Montgomery called the meeting to order at 9:10 a.m.

A04-753 AINA NUI CORPORATION (Oahu)

Presiding Officer Montgomery stated that the Commission will continue with testimony from petitioner's witness.

APPEARANCES
Benjamin Kudo, Esq., represented Petitioner
Cameron Nekota, represented Petitioner
Don Kitaoka, Esq., represented Department of Planning and Permitting
Raymond Sakai, City and County of Honolulu, Department of Planning and Permitting
John Chang, Esq., represented State Office of Planning
Abe Mitsuda, State Office of Planning

Petitioner's Witnesses

1. Maya LeGrande

Ms. LeGrande discussed the botanical resources in this area describing the vegetation types and the indigenous and endangered species of plants. Ms. LeGrande added that the proposed development is not expected to have any negative impacts to the area.

Mr. Kitaoka noted that the City had no questions.

Mr. Chang asked the number of times Ms. LeGrande accompanied Ms. Char on the field surveys. Ms. LeGrande replied once in the November 2003 survey.

2. David Shideler

Mr. Shideler stated that he is employed at Cultural Surveys Hawaii and is an archaeologist. Mr. Shideler was qualified as an expert in the field of archaeology. Mr. Shideler summarized his written testimony and discussed the archaeological studies regarding the 21 sites that were identified in the course of the studies within the Petition lands. Mr. Shideler also recommended the preservation of 7 sites, which included the burial cave, OR&L, a shrine, and an agricultural site with a notable sinkhole. Mr. Shideler added that the Petition area will not adversely impact the cultural resources.

Mr. Kitaoka raised a few questions regarding the burial site, signage, and the recommended buffer or perimeter fence.

Mr. Change posed a question relative to customary practices not found on this site.

Vice Chair Judge commented that in Exhibit 39a, the DLNR describes the area as 124 acres and Petitioner has a slightly larger acreage of 174. Vice Chair Judge posed questions relative to the survey that was conducted on this project area, burial caves, a buffer or perimeter fencing with DLNR restrictions and signage, and sinkholes.

Presiding Officer Montgomery posed questions on the size of the sinkholes, fossils of birds, and the sediment of Ewa fauna found in the sinkholes.

After a brief discussion, there were no further questions posed by the parties or the Commission.

3. Bruce Plasch

Mr. Plasch stated that he is an economic financial consultant and was previously qualified as an expert in the field of economics. Mr. Plasch summarized his written testimony and discussed issues of economic impacts on the petition's agricultural lands. Mr. Plasch added that this project will not affect the agricultural employment and would instead result in a lot of resources.

Mr. Kitaoka stated that the City had no questions.

Mr. Chang raised a few questions regarding the current land use for agricultural purposes on this project area, if any, and the closest areas outside of the petition area that are being used for agricultural farming.

Vice Chair Judge posed questions relative to the list of existing crops as listed on page 9 and 11 and the types of crops that are presently being raised. Vice Chair Judge also raised questions on the differences in low altitude farming and the crops raised on higher elevations.

Commissioner Kanuha had questions and concerns regarding the agricultural conditions and types of low elevation crops, the impact of growth in diversified crops, and the generation and number of employees who work there.

Presiding Officer Montgomery had a few questions in reference to the peak year of agriculture (1968) before World War II and sugar cane and macadamia nut farming.

A recess break was taken at 10:00 a.m. The meeting reconvened at 10:15 a.m.

Mr. Kudo noted that the City has requested for their witness to testify out of order and added that the parties have stipulated.

City's Witness

1. Kathy Sokugawa

Ms. Sokugawa stated that she is the Chief Planner for the City's Department of Planning and Permitting. Ms. Sokugawa briefly summarized her educational background and employment history. Ms. Sokugawa was recognized as an expert in land use planning. There were no objections by the parties.

Ms. Sokugawa stated that the City supports this Petition as it is consistent with the City's General Plan and the elements that set forth the anticipated growth. Ms. Sokugawa discussed the project's consistency with the Ewa Development Plan and the General Plan, sustainable development and smart growth, and the City's affordable housing guidelines and standard conditions of approval.

Mr. Kudo noted that the Petitioner had no questions.

Mr. Chang raised a few questions on the affordable housing requirement imposed by the City, and the acceptance of in lieu fees for this project.

Vice Chair Judge raised a few questions and concerns relative to the increase in public services, such as fire and police.

Commissioner Piltz had a few questions regarding the traffic impacts, the Ewa Regional Highway Program, and the infrastructure improvement fees.

Commissioner Kanuha posed questions in reference to participation by the Petitioner in the Ewa Highway Master Plan, and fair share requirements with respect to traffic improvements.

After further discussion and clarification on the affordable housing condition, there were no questions posed by the parties and the Commission.

Petitioners Witness (continued)

4. Ann Bouslog

Ms. Bouslog stated that she is a real estate development advisor and noted that she conducted the market assessment and study for this project. Ms. Bouslog summarized her written testimony and discussed issues of concept and relationship of the community, urban expansion, economic and social impacts, and fiscal assessment. Ms. Bouslog also commented on the home price sales in the Kapolei West project with an average home selling for $445,000 in the project area, and $503,000 in the urban area outside of this Petition. Ms. Bouslog also discussed job revenue, expenditures, and the affordable housing study.

Mr. Kitaoka stated that the City had no questions.

Mr. Chang raised questions on the approximate purchase price for the homes, the year of the research conducted, the ratio of primary versus secondary homes, and the market responses.

Vice Chair Judge posed questions and concerns related to the mix in the studies of secondary versus resident homes, the demand for executive golf course homes, and the density ranges. Vice Chair Judge also had concerns relative to the affordable housing numbers.

Commissioner Kanuha asked if this additional analysis on the affordable housing issue will be presented to the Commission as an amendment or only by this verbal testimony today. Mr. Kudo replied that this issue is by way of oral testimony and added that Ms. Bouslog's written study on affordable housing has been submitted as an exhibit.

There were no further questions posed by the parties or the Commission.

A lunch recess was taken at 11:35 a.m. The meeting reconvened at 12:45 p.m.

Commissioner Kanuha left the meeting at this time.

Chair Sakumoto entered the meeting at this time.

DOCKET NO. A87-617 BRIDGE AINA LE`A and BANTER, INC.
fka Puako Hawaii Properties (Hawaii)

Chair Sakumoto stated that this was an action meeting to consider Petitioner Bridge Aina Le`a LLC and Banter, Inc.'s Motion To Amend Conditions 1 and 8 of Amended Findings of Fact, Conclusions of Law, and Decision and Order Dated July 9, 1991.

Chair Sakumoto noted that this is a continuance of Mr. Paoa's testimony and that he will be on the stand and subject to examination by the Commission at this time.

APPEARANCES
Bernard Bays, Esq., represented Petitioner
Robert Martin Esq., represented Petitioner
Josh Trevye Esq., represented Petitioner
John Chang, Esq., represented State Office of Planning
Laura Thielen, Director, State Office of Planning
Abe Mitsuda, State Office of Planning

Public Witness

1. George Robertson

Mr. Robertson stated that he is the President of Puako Community Association and thanked the Commission for allowing him the opportunity to testify again today as he flew over from Kona this morning. Mr. Robertson stated that after a board meeting with the Association, he was instructed to follow up on this hearing and to raise the issues that were discussed at their board meeting. Mr. Robertson commented that they are in need of affordable housing and he believes that the Petitioner can produce the 1,000 units of affordable housing. Mr. Roberts also asked that the Commission consider rejecting the time-share component as the Association is very much against it and also opposes the resort development plan.

Mr. Bays asked Mr. Robertson for clarification and asked him if the Association did not oppose the reduction requirement and the project as a whole, but opposes the time-share component. Mr. Robertson replied in the affirmative.

Mr. Chang noted that the State had no questions.

Vice Chair Judge commented that the time-share matter is between the Petitioner and the County's zoning and noted that the Commission does not dictate the zoning. Vice Chair Judge added that she believes if the Petitioner builds time-share units, they would need to increase the affordable housing ratio, as required by ordinance. Vice Chair Judge suggested that Mr. Robertson reserve his zoning questions and address them with the County at a later time.

Chair Sakumoto noted that Mr. Robertson's testimony appears to have changed between last week and today. Chair Sakumoto asked if Mr. Robertson is taking a different position from what was testified earlier. Mr. Robertson replied that the Association had a board meeting and these issues came up more refined and the members asked him to testify about their concerns, especially regarding the time share component. Mr. Robertson added that the Association will take a stand on the reduction of affordable housing units, if Petitioner deleted the time-share.

There were no further questions posed by the parties and the Commission.

Chair Sakumoto noted that there were no other public witnesses.

Petitioner's Witness

1. Mr. Paoa

Chair Sakumoto commented that since Commissioners Contrades and Piltz were not available at the last hearing, Mr. Paoa could briefly review his presentation again and to also explain the exhibits.

Mr. Paoa began his presentation and stated that his testimony last week primarily focused on the reduction of affordable housing units and the difference of the project today. Mr. Paoa discussed issues of the original development, in lieu fees, and the quality of the homes to be designed by Architects Hawaii.

Vice Chair Montgomery commented that it was unfortunate that the County was not in attendance today. Vice Chair Montgomery raised a few questions on preferences to accommodate the displaced sugar workers, ILWU membership and support, pre-qualifying applicants for the affordable homes, and the time-share component.

Mr. Bays commented that it was his understanding that the County supports this Petition on the affordable housing component.

Commissioner Piltz had a few questions and concerns related to the time-share component and the economic factor.

Vice Chair Judge posed questions relative to the agreement with the County on affordable housing and its timeline.

Chair Sakumoto raised questions and concerns regarding the development timetable, construction and full build out, and at what point in the construction process will the developer be at a benchmark or threshold and cannot turn back. Chair Sakumoto also questioned the discretionary permits.

Mr. Bays noted that they have prepared and submitted an amended condition 1, exhibit 25, which states the location and distribution of the affordable housing units and that Petitioner shall build the affordable housing units concurrently in proportion to the market units.

Chair Sakumoto had questions and concerns on Mr. Paoa's testimony as he believed Mr. Paoa previously testified that he needed to build the affordable homes first.

Mr. Paoa replied that they are not going to build the entire market component at once, as they will be built in phases. Mr. Paoa added that they may be building foundations ahead of time. Mr. Paoa noted that besides the commercial component, the affordable housing would be first and added that they are horizontal developers and plans to have all the grading and infrastructure to start at the same time.

Vice Chair Judge commented that this was not the impression that she received at the last meeting, where she believed Mr. Paoa testified that they would build the 384 affordable homes first and has agreed to build them on site not using credits. Vice Chair Judge noted that she is not comforted to hear a different version today that only the slabs would be poured and that the affordable housing units will only be constructed in proportion to the market units.

Commissioner Piltz raised questions related to the procedure on building these pads, and the timeline to build horizontally with the market and affordable units.

Chair Sakumoto posed questions regarding the construction timetable of the market and affordable homes, the completion date or occupancy of the 384th home, and the stage in time for the granting of the certificate of occupancy.

Admission of additional exhibits

Chair Sakumoto noted that during Petitioner's presentation, they have introduced exhibits 11a, 12a, 22, 23, and 25. The State had no objections to the submittal of said exhibits. Said exhibits were admitted into evidence.

A recess break was taken at 1:50 p.m. The meeting reconvened at 2:00 p.m.

Chair Sakumoto noted that the project, as being represented, has now changed in size, scope and nature. Chair Sakumoto referenced condition number 13 of the original Amended Findings of Fact, Conclusions of Law, and Decision and Order dated July 9, 1991 and commented that Petitioner should give it some consideration that they need to be in compliance to this order.

Chair Sakumoto also commented that Mr. Paoa had provided some testimony in response to Vice Chair Montgomery's concerns related to the time share component and recalls that Mr. Paoa's response was that it was a right to have the time share component because it was heavily litigated with the County. Chair Sakumoto referenced a footnote on page 6 of the Petitioner's Motion to Amend Conditions 1 and 8, and noted some confusion as the footnote indicates "....no timeshare units."

Mr. Bays replied that the footnote and supporting memorandum is correct as Mr. Paoa is guarding the entitlement as this is what the County has given him. Mr. Bays added that they do not foresee any time-share projects being built at this present time, but want to reserve that entitlement.

Chair Sakumoto commented that the Commission needs to have a clear representation of what the project is and what is expected to be built.

2. Mike Bowen

Mr. Bowen stated that he is a partner of Westwood Development Group, a national developer typically involved in large scale projects. Mr. Bowen discussed his previous projects of planned communities, shopping centers, multi-family residential projects, and issues of financial support and equity funds.

Mr. Chang raised a few questions regarding Mr. Bowen's experience in developing malls, open-air retail, community centers, groceries, big box, and lifestyle centers such as the Shops at Wailea. Mr. Chang also had a few questions on the golf course component's timetable.

Vice Chair Judge posed questions on Heritage/Westwood, the equity financing agreement, the controlling entity, and the affordable housing construction timeline.

Chair Sakumoto raised a few questions relative to Westwood's due diligence before becoming an investor in the project, the 5-year projection for awarding of the certificate of occupancy for the 384 affordable housing units, market demands, and financial commitment for the entire project.

Vice Chair Montgomery had a few questions and concerns regarding the time-share component, the housing market and economic stability.

Commissioner Piltz posed questions in reference to the market homes timeline and the number of units they could produce per year.

Vice Chair Judge had questions and concerns regarding the construction timeline of the 384 affordable housing units and the 1900 market units according to County requirements, with the absence of catastrophic or unforeseeable conditions.

Mr. Bays commented that it was his understanding that in order to deliver 100 market units, you would need to have 20 affordable homes constructed and completed. Mr. Bays added that in addition to the money already spent exploring this project, Goodfellows is ready to start immediately and have set aside all other projects.

The meeting adjourned at 2:35 p.m.

(Please refer to LUC Transcript of October 7, 2005 for more details on this matter.)

Aina Nui

LAND USE COMMISSION
MINUTES OF MEETING

October 6, 2005

Kakuhihewa
601 Kamokila Boulevard
Room 111 Conference Room A & B
Kapolei, Oahu, Hawaii 96707

COMMISSIONERS PRESENT:	Thomas Contrades Kyong-su Im Lisa Judge Duane Kanuha Steven Montgomery Ransom Piltz
COMMISSIONERS ABSENT:	Michael Formby Randall Sakumoto
STAFF PRESENT:	Diane Erickson, Deputy Attorney General Anthony Ching, Executive Officer Bert Saruwatari, Staff Planner Sandra Matsushima, Chief Clerk Holly Hackett, Court Reporter Walter Mensching, Audio Technician

Presiding Officer Montgomery called the meeting to order at 10:10 a.m.

A04-753 AINA NUI CORPORATION (Oahu)

Presiding Officer Montgomery stated that this was a hearing on Docket No. A04-753 Aina Nui Corporation (Oahu) to consider the reclassification of approximately 174.209 acres of land currently in the Agricultural District to the Urban District at Ewa, Oahu, Hawaii for residential, golf course, park, and open space uses.

APPEARANCES
Benjamin Kudo, Esq., represented Petitioner
Cameron Nekota, Esq., represented Petitioner
Don Kitaoka, Esq., represented Department of Planning and Permitting
Raymond Sakai, City and County of Honolulu, Department of Planning and Permitting
John Chang, Esq., represented State Office of Planning
Laura Thielen, Director, State Office of Planning
Abe Mitsuda, State Office of Planning

Presiding Officer Montgomery asked Petitioner if staff has informed them of the Commission's policy regarding reimbursement of hearing expenses and if they had agreed to the reimbursement policy. Mr. Kudo replied in the affirmative.

Public Testimony

1. Maeda Timson

Ms. Timson stated that she has been a resident of Makakilo for 34 years and is also the Chair of the Makakilo neighborhood board. Ms. Timson commented that she is in support of this project since it would benefit the community with jobs and shopping centers, stimulate the economy, and that Campbell Estates has a caring relationship with the community.

There were no questions posed by the parties or the Commission.

2. Jane Ross

Ms. Ross stated that she is a resident of Honokai Hale, a residential community adjacent to the Kapolei West project, and also a member of the Makakilo neighborhood board. Ms. Ross stated that she was in support of this project because she has lived in this community for over 40 years and remembers a time when there was no mail delivery, no street lights, and no restaurants or shops in this area. She added that Kapolei West will be a positive addition to their community.

Vice Chair Judge asked if Nanakai Gardens was a part of the Honokai Hale residential community. Ms. Ross replied in the affirmative and stated that Nanakai Gardens and Honokai Hale are a part of the same community.

3. Michael Keoni Dudley

Mr. Dudley stated that he was in opposition for this project. Mr. Dudley stated that he is also a member of the Kapolei neighborhood board and commented that a vote for this project was not an unanimous vote as they have received over 600 communications via phone calls, e-mail, etc. concerning traffic impacts and believes that this project is moving too fast. Mr. Dudley also expressed his concern over who will be moving into these high-priced resort homes.

There were no questions posed by the parties or the Commission.

4. Lorraine Martinez

Ms. Martinez stated that she has lived in Honokai Hale since the 1960's and is in support of Campbell Estate and their proposal.

There were no questions posed by the parties or the Commission.

Staff Report

1. Bert Saruwatari

Mr. Saruwatari provided a map orientation of the project and commented on the previous dockets for reclassification in this area. There were no questions posed by the Commission.

Admission of Exhibits

Mr. Kudo described and introduced petitioner's 2nd amended list of exhibits and offered into evidence the approximate 58 exhibits. There were no objections by the parties. Said exhibits were admitted into evidence.

Mr. Kudo stated that Petitioner also has an oral stipulation with the parties to qualify their witnesses as experts in their stated fields, as indicated on Petitioner's witness list. There were no objections expressed by the parties and the Commission.

Mr. Kitaoka introduced and offered the City and County of Honolulu's eight exhibits. There were no objections by the parties. Said exhibits were admitted into evidence.

Mr. Chang described and offered the State's 12 exhibits. There were no objections by the parties. Said exhibits were admitted into evidence.

Petitioner's Presentation

Mr. Kudo noted that the Petitioner will begin with a short video presentation, which contained the historical development and vision of the city of Kapolei.

After the video presentation, Presiding Officer Montgomery noted that the audio of the video presentation was not recorded by the court reporter.

Mr. Kudo began his presentation and discussed the history of the area, the Kapolei / Ewa highway master plan, projected growth and regional traffic improvements, and the second city of Kapolei and future surrounding projects.

Petitioner Witnesses

1. Thomas Fee

Mr. Fee stated that he is a planner with Helber Hassert & Fee and was previously qualified by the LUC as an expert in land use and environmental planning. Mr. Fee discussed the planning aspects of the Petition and provided a general map orientation and concept plan. Mr. Fee added that Petitioner is consistent with the State and Ccounty general plan.

A recess break was taken at 11:15 a.m. The meeting reconvened at 11:25 a.m.

Mr. Fee continued with his testimony and discussed issues of existing and potential supplies of ground water, non-potable water for golf courses, the Hawaii State functional plan, affordable housing, mixed zoning, diversified agricultural lands, recreational resources to coastal areas, park, and facilities, public pathways and bikeways, coastal zone management issues, drainage master plan, archeological and cultural preserves, and the historical OR&L right of way.

Cross Examination

Mr. Kitaoka raised a few questions in the area entitled Transit Mix Use on petitioner's exhibit 5. Mr. Fee commented that it will be serving as the regional transit corridor in a village setting with a mix of housing, retail and transit oriented uses to support the City's transit corridor.

Mr. Chang posed questions relative to traffic impacts and residents who currently live in Kapolei and commute to town on a daily basis to work. Mr. Chang also had a few questions on the timeline of creating a second city in Kapolei.

Vice Chair Judge raised a few questions in petitioner's exhibit 5, the location of the quarry. Vice Chair Judge also raised concern for the level of pesticide use on the golf course given its proximity to the ocean and suggested that the golf course be rated to Audubon status.

Commissioner Im had concerns related to the urban area reclassified in 1991, and commented that since the property was to be used in accordance with the representations at that time, of which plans were to develop 3500 units on that reclassification to urban area. Commissioner Im raised questions on issues of density and the need for more affordable housing.

Vice Chair Judge raised a few questions on the density issue and the change in zoning process with the County.

Mr. Kudo noted that there will be witnesses to address the affordable housing and density issues. Those witnesses would be Dr. Bouslog and Ms. Goth.

A lunch recess break was taken at 12:25 p.m. The meeting reconvened at 1:35 p.m.

Vice Chair Judge left the meeting at this time.

ADOPTION OF MINUTES

Commissioner Piltz moved to adopt the Land Use Commission meeting minutes of September 29, 2005 and September 30, 2005.

Commissioner Kanuha seconded the motion and noted an amendment on page 6 of the September 29 minutes, 2nd paragraph, under cross examination of Mr. Lemmo, Mr. Chang asked what the DLNR's position was. Commissioner Kanuha added that he believed Mr. Lemmo's response was that the DLNR would prefer that the petition area remain in the conservation district or in the alternative, be partially in the conservation district. Commissioner Im commented that he also remembered that as being Mr. Lemmo's comment. The amended minutes of September 29, 2005 and September 30, 2005 were approved by voice votes.

TENTATIVE MEETING SCHEDULE

Executive Officer Anthony Ching reported that staff is scheduling a field trip on or before the next hearing on the Big Island. Mr. Ching asked for the Commission's preferences with respect to a Wednesday-Thursday-Friday meeting dates or a Tuesday-Wednesday-Thursday schedule to accomplish the field trip and two day meetings. Mr. Ching added that the various meeting dates are being offered since there appears to be some hardship in finding a venue for the hearings in Hilo. Mr. Ching noted that there are no hotels available at this time and staff is pursuing the county chamber's office. Mr. Ching also noted that staff could go ahead and take some photos and a video if the field trip date is a conflict with the Commission's schedule. Suggested meeting dates would be November 30, December 1 and 2 or November 29, 30, and December 1. There will be no other meetings in December and would conclude the LUC's calendar for 2005.

Commissioner Piltz commented that the Wednesday-Thursday-Friday meeting dates are more feasible for him.

Presiding Officer Montgomery noted for staff to proceed with that schedule and resumed the hearing on the Aina Nui docket.

A04-753 AINA NUI CORPORATION (Oahu) - continued

Mr. Kudo requested that tomorrow's hearing (October 7, 2005) start an hour earlier at 9:00 a.m. to ensure that their witnesses will be able to complete their testimony.

Presiding Officer Montgomery entertained a motion to amend the agenda for a start time of 9:00 a.m.

Commissioner Piltz moved to amend the agenda to begin at 9:00 a.m. Commissioner Contrades seconded the motion. The motion was approved by voice votes.

Mr. Kudo discussed issues of the previously reclassified portion of the property as a follow up to Commissioner Im's concerns and noted that development has not occurred because Campbell Estates had given this option to another party, West Beach Estates, who then relinquished the property to Seaside, then to Aina Nui, West Kapolei. Mr. Kudo added that they will be providing details on this matter.

Petitioner's Witnesses (continued)

2. Phillip Lloyd Bruner

Dr. Bruner stated that he is employed at the biology department at BYUH and has been teaching biological courses since 1978. Dr. Bruner was qualified as an expert in the field of faunal surveys – bird and mammals.

Dr. Bruner discussed issues of an earlier study by Andrew Berger (1972) on Hawaiian Birdlife as related to the habitat in Campbell Industrial Park and relevant state birds. Dr. Bruner summarized the content of the report and commented on his report of introduced alien species, migratory species of birds, native birds, and the minimal impact, if any, on mammals, flora, fauna, alien species by the project and the natural consequences of changes in a natural habitat.

Mr. Kitaoka noted that the City had no questions.

Mr. Chang raised a few questions relative to the most recent field survey conducted and if an invertebrate survey was conducted.

Commissioner Im asked if Dr. Bruner personally conducted a recent field survey on the Petition area. Dr. Bruner replied that he has not done that.

Presiding Officer Montgomery commented that he appreciated Dr. Bruner's use on the book of birds in the Pacific Islands and added that Dr. Bruner's resume and past fieldwork experience places him in a good position to evaluate this situation in Ewa.

3. Barry Neal

Dr. Neal stated that he was a certified meteorologist and has been previously qualified in the field of meteorology by the Commission. He discussed issues of air quality, emission control mitigation, and the state and national ambient air quality standards.

Mr. Kitaoka raised a few questions relative to any past instances or serious consequences of the neighboring properties, businesses at Campbell Industrial Park, or emissions from the adjacent refinery operations.

Mr. Chang noted that the State had no questions.

4. Bryant Terry Brothers

Mr. Brothers stated that he is employed with Wilber Smith & Associates from Raleigh North Carolina. Mr. Brothers was previously qualified as a civil engineer with an emphasis on traffic engineering.

Mr. Brothers summarized his written testimony and discussed issues of existing and planned roadways in the vicinity of the project area, scope of the traffic assessment report, three different time scenarios for 2003, 2014 and 2020, and the acceptable levels and conditions of the interchange and freeway peak hours. Mr. Brothers added that given the small portion of traffic projected by the Petition area, the project would have a small impact.

A recess break was taken at 2:35 p.m. The meeting reconvened at 2:50 p.m.

Mr. Kitaoka raised questions and concerns relative to the concepts of continuity, roadway linkages from the Petition area and neighboring areas, and the encouragement of non-vehicular activity.

Mr. Chang posed questions regarding the Ewa Regional Traffic Plan, the network of roads for better traffic flow, and the mitigation of traffic funneled into the H-1 freeway.

Commissioner Piltz had a few questions relative to the connector roads, Honoa Street interchange and the acceptable peak hour levels of D or better and non-desirable levels of E and F.

Presiding Officer Montgomery asked if they have computed their models compared to the rising cost of fuel to see how it may impact the traffic. Mr. Brothers replied that they have not taken that into consideration when conducting their analysis.

Commissioner Im raised a few questions in reference to the control of implementing mitigation measures, identifying alternatives to the corridor of traffic flow, and the number of cars during peak hours going on to the H-1.

Vice Chair Judge entered the meeting at this time.

Commissioner Im had a few concerns relative to the study that based 60% of residents and 40% of non-residents and asked if they studied the impacts if this percentage was to change to include more residents and less non-residents. Mr. Brothers replied that they have not recognized that scenario.

Commissioner Piltz raised a few questions related to exhibit 19, Highway Improvement Estimate Costs, impact fees collected, and the amount that the Petition area is contributing relative to $38 million. Mr. Brothers replied that he did not have that answer as their role was to analyze the traffic needs of the project.

5. Craig Arakaki

Mr. Arakaki stated that he is employed by Engineering Concepts as a licensed civil engineer. Mr. Arakaki was previously qualified in the field of civil engineering.

Mr. Arakaki summarize his written testimony and stated that Engineering Concepts performed a preliminary infrastructure needs report for the overall project and petition area. Mr. Arakaki discussed issues of wastewater, power, infrastructure impacts and proposed mitigation measures, drainage, interim detention basin, and the regional water system.

Mr. Kitaoka noted that the City had no questions.

Mr. Chang raised a few questions related to the major drainage channel, planning and design of the channel, the required number of permits and process of the studies needed, and the DOT Harbors Division's preference of no drainage entering the harbors.

Commissioner Im posed questions relative to the interim detention basin, the intent and capacity, and the phasing of the temporary detention basins.

Commissioner Kanuha asked if there was an adequate potable water source to serve this Petition area. Mr. Arakaki replied in the affirmative.

Vice Chair Judge raised questions and concerns related to the irrigation of the golf course with non-potable water, the non-potable source or reclaimed wastewater, construction plans and review approval processes.

Commissioner Piltz posed questions related to the storm drain plan based on 100 years or 50 years and the main drainage plan design.

Presiding Officer Montgomery raised questions on the Ewa coral plain, sinkholes and potential traps for flightless birds.

A recess break was taken at 3:25 p.m. The meeting reconvened at 3:55 p.m.

Presiding Officer Montgomery noted that the Commission needs a 6th vote on amending the agenda and entertained a motion to amend the agenda to commence at 9:00 a.m. tomorrow morning.

Commissioner Contrades moved to amend the agenda to commence at 9:00 a.m. on October 7, 2005. Commissioner Piltz seconded the motion. The motion was approved by voice votes.

6. Todd Beiler

Mr. Beiler stated that he is employed by D.L. Adams and Associates and was previously qualified as an expert in acoustical engineering. Mr. Beiler stated that he was hired by Helber Hassert & Fee to conduct and measure the traffic noise levels.

Mr. Beiler summarized his written testimony and discussed issues of his assessment of existing and future traffic noise, aircraft noise, sound measurements along the project site, daytime, peak hour and night noise levels, recommended building distances and mitigation impacts.

Mr. Kitaoka noted that the City had no questions.

Mr. Chang raised a few questions regarding the evaluation of aircraft noise within the project area, different scenarios, the flight paths and noise contour maps used.

Commissioner Im asked if the noise study was conducted on this project area only or the entire Petition area. Mr. Beiler replied that they were contracted by Helber Hassert & Fee to look at the entire area.

Presiding Officer Montgomery posed questions relative to the aircraft noise, the former Naval air station, and the increase of activity in that area.

Mr. Kudo clarified that the Petition area is greater than 300 feet from the H-1 freeway.

Commissioner Piltz requested that the traffic engineer provide information on the cost estimate for highway improvements and how much of the $38 million is already allocated to the Petition area. Mr. Kudo replied that they will provide that information at tomorrow's meeting.

The meeting adjourned 4:10 p.m.

(Please refer to LUC Transcript of October 6, 2005 for more details on this matter.)

Aina Nui

LAND USE COMMISSION
MINUTES OF MEETING

June 16, 2005

Conference Room 405
Leiopapa A Kamehameha
235 So. Beretania Street
Honolulu, Hawaii

COMMISSIONERS PRESENT:	P. Roy Catalani Isaac Fiesta, Jr. Michael Formby Kyong-su Im Lisa Judge Steven Montgomery Randall Sakumoto Peter Yukimura
COMMISSIONERS ABSENT:	Ransom Piltz
STAFF PRESENT:	Russell Suzuki, Deputy Attorney General Anthony Ching, Executive Officer Bert Saruwatari, Staff Planner Maxwell Rogers, Staff Planner Sandra Matsushima, Chief Clerk Holly Hackett, Court Reporter

Chair Catalani called the meeting to order at 9:10 a.m.

ADOPTION OF MINUTES

Vice Chair Sakumoto moved to adopt the Land Use Commission meeting minutes of June 2, 2005 and June 3, 2005. Vice Chair Montgomery seconded the motion. Said motion was approved by voice votes.

TENTATIVE MEETING SCHEDULE

Executive Officer Anthony Ching reported that the July 28-29 schedule will take place between Maui and the Big Island. On July 28, the LUC will take action on the Maui Lani 100 stipulated order from 9:00 a.m. to 12:00 noon. The LUC will then fly to Kona and convene at 8:30 a.m. on July 29th for final action on the Kamehameha Investment docket.

Mr. Ching also reported the upcoming hearing schedule:

- August 11-12 - McCully docket in Hilo;
- August 25-26 - Aina Nui West Oahu docket;
- July 6-8 - hearings held by the hearing officer for the Kuleana Ku`ikahi docket. This matter will be heard by the Commission in late October.

There were no questions posed by the Commission.

A87-617 BRIDGE AINA LE`A LLC (Hawaii)

Chair Catalani stated that this was an action meeting to consider Petitioner Bridge Aina Le`a LLC's Motion To Amend Condition Number 1 of Amended Findings of Fact, Conclusions of Law, and Decision and Order Dated July 9, 1991.

APPEARANCES
Ben Kudo, Esq., represented Petitioner
Stephanie Uechi, represented Petitioner
Norman Hayashi, County of Hawaii Planning Department
Bobbie-Jean Leithead-Todd, Esq., represented County of Hawaii Planning Department
John Chang, Esq., represented State Office of Planning
Abe Mitsuda, State Office of Planning

Chair Catalani noted that after reviewing the submittals of the Petitioner, there are two issues that need clarification. The first is that the LUC files indicate that the current Petitioner of record is Puako Hawaii Properties, as established in the LUC's 1991 order.

Subsequently, there was a motion to amend the docket and identify the new parties but this motion was withdrawn by the movant and this matter still remains under the Puako Hawaii Properties caption. This creates an issue relating to the adequacy of the LUC's public notice of its meeting on this docket. The State's Sunshine Law requires that our agenda provide sufficient notice and detail to the public on matters being heard by the LUC.

Chair Catalani also noted that there needs to be clarification on the present movant's legal standing to make this motion and its authority to make representations on behalf of the other entities with property interest. Recently, notice was received by the Commission regarding the transfer of property interest for a significant portion of the petition area from Bridge Aina Le`a, LLC to Banter, Inc.

Chair Catalani stated that while the movant will have the opportunity today to clarify the ownership issues, because of the notice concerns, this matter needs to be deferred until proper notice can be published.

Mr. Kudo stated that although he would have liked to move forward with this motion, he moved to defer until such time to ensure that proper notice is given to the public.

After a brief discussion, Commissioner Fiesta moved to accept Petitioner's motion to defer and requested that the movant work with the LUC's Executive Officer on a future meeting date on the Big Island. Commissioner Yukimura seconded the motion.

The Commission was polled as follows:

Ayes: Commissioners Fiesta, Yukimura, Judge, Im, Formby, Montgomery, Sakumoto, and Catalani.

The motion passed with 8 ayes and 1 absent.

Chair Catalani called upon the public witnesses who wished to provide testimony at this time.

Public Witnesses

1. John S. Carroll

Mr. Carroll stated that he was testifying as a private citizen and expounded on the need for affordable housing on the Big Island, adding that this project has the ability to provide affordable housing and is a role model on how these projects can be done successfully.

There were no questions posed by the parties or the Commission.

2. Franklin Hayashida

Mr. Hayashida stated that he represents the Iron Workers Stabilization Fund that represents over 500 union members and 75 unionized companies throughout Hawaii. Mr. Hayashida noted their overall support for this project.

There were no questions posed by the parties or the Commission.

3. John Goemans

Mr. Goemans stated that he had no objections and will testify at the next scheduled meeting.

4. Buzz Hong

Mr. Hong stated that he is the Executive Director of the Hawaii Building and Construction Trades Council, AFL-CIO comprised of 18 construction companies. Mr. Hong added that they have submitted their testimony in support of the project and will be appearing at the next Big Island meeting.

There were no questions posed by the parties or the Commission.

5. Vernon Ta`a

Mr. Ta`a stated that he is representing the Plumbers and Fitters Local 675 in support of the project and looking forward to testifying at the next hearing.

There were no questions posed by the parties or the Commission.

A recess break was taken at 9:35 a.m. The meeting reconvened at 10:00 a.m.

DOCKET NO SP05-399 KAUAI ATV LLC (Kauai)

Chair Catalani stated that this was an action meeting on SP05-399 Kauai ATV, LLC (Kauai) to consider acceptance of a Special Permit request for the expansion of use and additional structures within a previously County-approved staging area and expansion of commercial recreational activities involving the increase and change of number of vehicles allowed for guided all-terrain vehicle tours, water activities in the Waita Reservoir, two paint ball parks, and a speedball tournament field on approximately ± 22,000 acres at Koloa, Kauai, Hawaii.

APPEARANCES
Walton Hong, Esq., represented Petitioner
Myles Hironaka, Deputy Director, County of Kauai Planning Department
James Tagupa, Esq., represented County of Kauai Planning Department
John Chang, Esq., represented State Office of Planning
Abe Mitsuda, State Office of Planning

Chair Catalani noted that there were no public witnesses.

Staff Report

1. Anthony Ching

Mr. Ching briefly discussed the report and summarized the issues and staff's recommendations as follows:

- Petitioner is not the landowner but rather a licensee;
- Clarity from the landowner as to the scope of the outdoor recreational activities which will be licensed is needed;
- What is the size of the permit area;
- Permission to utilize roads/trails which transit the Knudsen TMK parcels should be demonstrated;
- LUC staff had performed a boundary interpretation;
- Transit over roads located within or in proximity to the SLU conservation district is an issue;

- Transit over or parallel to the Kaumualii Highway is also another important issue;
- The duration of the special permit is not specified ;
- Annual reports need to be submitted by the county;
- Was appropriate notice and agenda published during the County Planning Commission hearing.

EXECUTIVE SESSION

Vice Chair Sakumoto moved to go into executive session under §92-5(a)(4), Hawaii Revised Statutes, to consult with the board's attorney on questions and issues pertaining to the board's powers, duties, privileges, immunities, and liabilities related to the boundary interpretation of the special permit. Commissioner Yukimura seconded the motion. Said motion was unanimously approved by voice votes.

The Commission entered into executive session at 10:20 a.m.

The open meeting reconvened at 10:55 a.m.

Chair Catalani reconvened the meeting and noted that the Commission has received advise from their attorney related to the identification of specific TMK parcels.

Petitioner's Presentation

Mr. Hong made his presentation and provided the procedural history on this special permit and stated that as the proposed application includes an expanded area, which is clearly beyond 15 acres, the special permit application is being transmitted to the LUC for its review and consideration.

Commissioner Im raised questions related to the specific operations and activities of the original permit, the path of the ATV trails near the highway, and if any environmental studies were required or if an EA was conducted.

Vice Chair Sakumoto posed questions regarding the location and recordation of the trails, metes and bounds descriptions, impacts of the ATVs on the environment, the permit area's TMKs, and previous attempts to provide public notice to all of the adjoining landowners that encompass this permit area.

Commissioner Yukimura had a few questions relative to other potential landowners, besides Knudsen Trust, within the entire permit area as identified by the TMKs. Commissioner Yukimura asked if the petitioner would have any objection to a condition that Kauai ATV and Grove Farms give assurance that the ATV activities will substantially comply with the representations made at this hearing.

Mr. Hong replied in the affirmative and added that Kauai ATV has no problems with a condition requiring that all activities conform with the specific representations in the record.

Vice Chair Montgomery raised questions relative to noise and environmental noise impacts and how they are being addressed.

Commissioner Formby posed a few questions regarding the TMK issues and proper noticing to the public.

After a brief discussion, Chair Catalani noted that the parties have agreed that the new information provided today declares this application incomplete and will be properly noticed on a future agenda. Chair Catalani asked if the County and the Petitioner will be providing supplemental information on the TMKs for the entire permit area and the specific ATV uses limited to the trails and the paintball areas. Mr. Hong replied in the affirmative.

Petitioner's Witnesses

1. Olie Rivera

Mr. Rivera stated that he is the manager and owner of Kauai ATV, LLC. Mr. Rivera stated that they have been conducting activities within the permitted areas on the trails in accordance with the special permit.

Mr. Hironaka stated that the County had no questions.

Mr. Chang had a few questions relative to the ATV tours and other private vehicles utilizing the trails.

Commissioner Formby raised a few questions related to the limited use of the existing cane haul roads and other future agricultural uses in the area.

2. Allan Smith

Mr. Smith stated that he is the Chief Operating Officer with Grove Farms. Mr. Smith discussed issues of authority for Grove Farms to use 2 parcels owned by the Knudsen Trust and stated that they are in the process of getting a formal right of entry and has not had any resistance from the land owner.

Mr. Smith stated that they have expanded the application thru the joinder process to encompass the additional outdoor uses, to include canoeing , fishing, rodeos, tubing , walking, etc. and will be operated by various licensees with permission by the County.

Commissioner Judge had a few questions relative to the noticing of adjoining landowners and any landowner on record within 300 feet of the exterior or boundary line.

Commissioner Im posed questions regarding the Catholic Church that is in the process of being sold, the conveyance of the property, and the relocation of a portion of the road within the neighboring property.

Vice Chair Sakumoto expressed his appreciation to Grove Farms for their willingness to join the petitioner in this application. Vice Chair Sakumoto commented that the Planning Commission basically approved the use of the trail, but now the Special Permit would cover the entire 20,000+ acres. He asked if there was any type of contractual agreement with Kauai ATV that limits the portions of the Grove Farm property, such as a prescribed route.

Mr. Smith replied that there is a licensed agreement and they also have security and maintenance personnel who coordinate daily activities and usage with Kauai ATV and other existing users and ranchers. He added that they enforce activities daily and maintain other controls. Mr. Smith also noted that 90 percent of the trail's route is fenced in on both sides.

Commissioner Im had a few questions relative to the agricultural uses of the property, the quarry operations, other licensed activities, and any traffic impacts created by these operations.

After a brief discussion, there were no further questions posed by the parties or the Commission.

Commissioner Yukimura moved to declare this matter incomplete given the new information and to have this matter continued on Kauai after an appropriate agenda is posted and to allow the parties an opportunity to correct the deficiencies. Vice Chair Sakumoto seconded the motion.

The Commission was polled as follows:

Ayes: Commissioners Yukimura, Sakumoto, Fiesta, Judge, Im, Formby, Montgomery, and Catalani.

The motion passed with 8 ayes and 1 absent.

A lunch break was taken at 12:00 p.m. The meeting reconvened at 1:10 p.m.

Russell Suzuki left the meeting at this time.

A05-755 HALE MUA PROPERTIES, LLC (Maui)

Chair Catalani stated that this was an action meeting to consider acceptance of Hale Mua Properties, LLC's Final Environmental Assessment for the reclassification of approximately 232.135 acres of land currently in the Agricultural District into the Urban District, and 5.918 acres from the Rural District to the Urban District, at Waiehu, Maui, Hawaii for an approximately 466-lot single family residential subdivision.

APPEARANCES
Blaine Kobayashi, Esq., represented Petitioner
Sterling Kim, President of Hale Mua Properties
John Chang, Esq., represented State Office of Planning
Abe Mitsuda, State Office of Planning

Chair Catalani noted that there were no public witnesses.

Chair Catalani stated that on June 15, 2005, the Commission received e-mail correspondence from Jane Lovell, Deputy Corporation Counsel for the County of Maui informing the Commission that the County Department of Planning will not be present today.

Petitioner's Presentation

Mr. Kobayashi began his presentation and stated that the petitioner proposes to develop a 466-lot residential development in Waiehu, Maui. Of the 466-lots, 51% or 238 lots will be set aside for much needed affordable housing.

Mr. Kobayashi discussed each of the OEQC's 13 significance criteria as it relates to the project and the comment letters received during the review period. Mr. Kobayashi added that the petitioner is requesting that the LUC accept the EA and believes that there is sufficient justification for the Commission to issue a finding of no significant impact.

Vice Chair Sakumoto raised a few questions related to the scenic vistas and the County's concern on the potential loss of open space.

Mr. Chang noted that the State has reviewed the EA and believes that the Petitioner has met the requirements.

Staff Report

1. Maxwell Rogers

Mr. Rogers briefly summarized the report and discussed the issues pertaining to 11-200-12(b) HAR, Significance Criteria and noted three substantive issues:

- FEA lacks a biological study;
- Loss of open space;
- Appropriate area for archaeological monitoring.

Mr. Rogers also noted minor issues to be addressed and added that staff has reviewed the EA and believes that it is an adequate document as prescribed under Chapter 343 and the three issues raised by staff can be clarified in the Petitioner's case in chief.

Mr. Kobayashi stated that they have no additional comments and have no objections to the staff recommendations.

Commissioner Judge raised a few questions relative to the DOE letter and the anticipated low enrollment in the school. Commissioner Judge commented that it would be helpful to have a DOE representative or a DOE report that explains the calculation for school enrollment and plans in Maui.

Mr. Chang stated that they will notify the DOE of the LUC's request and will advise them when this matter comes before the LUC.

Vice Chair Sakumoto posed a few questions related to the biological study and how Petitioner plans to address this issue.

Commissioner Im had questions and concerns regarding the representation of low prices for the affordable homes and how Petitioner will be able to keep these prices down in that low range.

Commissioner Im moved to accept Hale Mua Properties FEA with the 3 amendments, and that a finding of no significant impact be issued. The motion was seconded by Commissioner Judge.

The Commission was polled as follows:

Ayes: Commissioners Im, Judge, Yukimura, Sakumoto, Fiesta, Formby, Montgomery, and Catalani.

The motion passed with 8 ayes and 1 absent.

Mr. Kobayashi expressed his appreciation to Chair Catalani, and Commissioners Fiesta and Yukimura for their commitment and significant amount of time spent during their years of service on this commission.

A recess break was taken at 1:50 p.m. The meeting reconvened at 2:10 p.m.

A04-753 AINA NUI CORPORATION (Oahu)

Chair Catalani stated that this was an action meeting to consider acceptance of Aina Nui Corporation's Final Environmental Impact Statement for the reclassification of approximately 174.209 acres of land currently in the Agricultural District into the Urban District at Ewa, Oahu, Hawaii for residential, golf course, park, and open space uses.

APPEARANCES
Ben Kudo, Esq., represented Petitioner
Raymond Sakai, City and County of Honolulu, Department of Planning and Permitting
Don Kitaoka, Esq., represented Department of Planning and Permitting
John Chang, Esq., represented State Office of Planning
Abe Mitsuda, State Office of Planning

Chair Catalani noted that there were no public witnesses.

Petitioner's Presentation

Mr. Kudo made his presentation and stated that Aina Nui Corporation Kapolei West is located in the Ewa district. The proposed project will consist of a master planned residential golf course community. Mr. Kudo added that they are requesting that the LUC accept the FEIS prepared for the Kapolei West project and believes that they are in compliance with LUC rules and statutes.

Petitioner's Witnesses

1. Thomas Fee

Mr. Fee provided an orientation on the project site and discussed issues relating to the Kapolei long-range master plan, the OR&L right of way, the mix of primary and secondary homes on the market, golf course locations, and noted that the fairways will carry regional drainage, best management practices, and water quality.

Commissioner Im raised a few questions relative to the current uses of the petition area, golf courses, agricultural uses, and quarrying operation.

After a brief discussion, there were no further questions posed by the parties or the Commission.

2. Donna Goth

Ms. Goth stated that she is the President of Aina Nui Corporation. Ms. Goth discussed the background in terms of the evolving areas, the Kapolei long-range plan, jobs creation in the region, existing job centers in the West Oahu area, the UH West Oahu campus, and regional traffic mitigation plans.

Mr. Chang raised a few questions relative to the original transportation plan, the widening of Fort Weaver Road, Kapolei Parkway, the North-South Road, Makakilo interchange, and the widening of Fort Barrette Road.

Commissioner Judge posed questions regarding the regional transportation plan and the long-range master plan.

Commissioner Im had questions and concerns relative to the petition area and the transit line into the area, West Kapolei and the business area, open spaces, and the urban growth boundary.

Vice Chair Montgomery had a few questions regarding the Ewa Plains and a study on bird life.

Vice Chair Sakumoto raised questions relative to the transportation issues and the types of discussion the developers have had with the community on traffic concerns.

Mr. Kitaoka stated that the City had some outstanding issues raised during the comment period but has no objections for the FEIS and will leave the acceptability of the FEIS to the LUC for decision making.

Mr. Chang noted that the State has no objections to LUC acceptance of the FEIS and believes that the LUC should approve the FEIS.

Vice Chair Montgomery moved to accept Aina Nui Corporation's FEIS. Commissioner Fiesta seconded the motion.

The Commission was polled as follows:

Ayes: Commissioners Montgomery, Fiesta, Formby, Im, Judge, Sakumoto, Yukimura, and Catalani.

The motion passed with 8 ayes and 1 absent.

FIELD TRIP for June 17, 2005

Mr. Ching issued instructions for all interested individuals to meet at 9:00 a.m. near the flag poles fronting the State Capitol. The Petitioner will provide bus transportation for public, Commissioners, and all others who wish to attend. A quorum is not required, there will be no formal discussion, and the trip will provide an opportunity to see the geographical area of the proposed Kapolei West project.

Mr. Kudo reiterated Mr. Kobayashi's previous statement and expressed his appreciation to the outgoing commissioners for their commitment to public service.

Mr. Chang also noted that the State of Hawaii expresses their thanks to the Commissioners for their 8 years of dedicated service to the Commission.

The meeting adjourned at 3:00 p.m.

(Please refer to LUC Transcript of June 16, 2005 for more details on this matter.)

LAND USE COMMISSION
NOTIFICATION OF LAND USE COMMISSION MEETING
DATE, TIME AND PLACE

October 6, 2005 – 10:00 a.m.
October 7, 2005 – 10:00 a.m.

Kakuhihewa
601 Kamokila Boulevard
Room 111 Conference Room A & B
Kapolei, Oahu, Hawaii 96707

A M E N D E D A G E N D A

I. CALL TO ORDER

II. ADOPTION OF MINUTES

September 29, 2005 and September 30, 2005

III. TENTATIVE MEETING SCHEDULE

IV. HEARING

1. A04-753 AINA NUI CORPORATION (Oahu)

   To consider the reclassification of approximately 174.209 acres of land currently in the Agricultural District to the Urban District at Ewa, Oahu, Hawaii for residential, golf course, park, and open space uses.

V. ACTION

1. A87-617 BRIDGE AINA LE`A, LLC and BANTER, INC. fka PUAKO HAWAII PROPERTIES (Hawaii)

   To consider Petitioner Bridge Aina Le`a LLC and Banter, Inc.'s Motion To Amend Conditions 1 and 8 of Amended Findings of Fact, Conclusions of Law, and Decision and Order Dated July 9, 1991.

The Commission may elect to consult with counsel in executive session pursuant to Section 92-5, HRS.
Persons with disabilities who need accommodation should call (808) 587-3822 no later than 12:00 noon, 2 business days before the date of the meeting.
The mailing address for the Land Use Commission is P.O. Box 2359, Honolulu, Hawai`i, 96804-2359.
Some materials for these agenda items may be available on our website at http://luc.state.hi.us.

LAND USE COMMISSION
NOTIFICATION OF LAND USE COMMISSION MEETING
DATE, TIME AND PLACE

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A G E N D A

I. CALL TO ORDER

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Some materials for these agenda items may be available on our website at http://luc.state.hi.us.

LINDA LINGLE
GOVERNOR

ANTHONY J.H. CHING
EXECUTIVE OFFICER

STATE OF HAWAII
DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT & TOURISM
LAND USE COMMISSION
P.O. Box 2359
Honolulu, Hawaii 96804-2359
Telephone: 808-587-3822
Fax: 808-587-3827

September 28, 2005

Mr. Peter Young, Chairperson
Board of Land and Natural Resources
P. O. Box 621
Honolulu, Hawaii 96809

Dear Mr. Young:

Subject: LUC Docket No. A04-753/Aina Nui Corporation

By letter dated August 22, 2005, we requested that pursuant to §6E-42, Hawaii Revised Statutes (HRS), your agency review the Petition for Land Use District Boundary Amendment (Petition) filed in the subject docket and comment on the effect of the proposed project on historic properties, aviation artifacts, or burial sites, consistent with §6E-43, HRS, including those listed in the Hawaii register of historic places. We also requested that the Division of Water Resource Management review the Petition and comment on the impact of the proposed project on the water resources of the subject area.

To date, we have not received a response from your office. Inasmuch as the Land Use Commission is scheduled to conduct a hearing on the Petition on October 6 & 7, 2005, in Kapolei, Hawaii, we would appreciate receiving your comments on the Petition by October 3, 2005.

Thank you for your assistance in this matter. Please feel free to contact Bert Saruwatari of my office at 587-3822, should you require clarification or any further assistance.

Sincerely,

ANTHONY J. H. CHING
Executive Officer

c: Benjamin A. Kudo, Esq.
City and County of Honolulu Department of Planning and Permitting
Office of Planning

Aina Nui

BEFORE THE LAND USE COMMISSION

OF THE STATE OF HAWAI`I

In The Matter Of The Petition Of	DOCKET NO. A04-753
AINA NUI CORPORATION, A Hawai`i Corporation	PREHEARING ORDER
To Amend The Agricultural Land Use District Boundary Into The Urban Land Use District For Approximately 174.209 Acres Of Land At `Ewa, O`ahu, Hawai`i, Tax Map Keys: 9-1-14: Por. 33 And 9-1-15: Por. 4 And Por. 20	

PREHEARING ORDER

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, Hawaii.

SEP 2 0 2005 by _____
Date Executive Officer

BEFORE THE LAND USE COMMISSION

OF THE STATE OF HAWAI`I

In The Matter Of The Petition Of	DOCKET NO. A04-753
AINA NUI CORPORATION, A Hawai`i Corporation	PREHEARING ORDER
To Amend The Agricultural Land Use District Boundary Into The Urban Land Use District For Approximately 174.209 Acres Of Land At `Ewa, O`ahu, Hawai`i, Tax Map Keys: 9-1-14: Por. 33 And 9-1-15: Por. 4 And Por. 20	

PREHEARING ORDER

WHEREAS, it is desired to expedite the orderly conduct and disposition of this proceeding by a prompt and timely exchange of exhibits;

WHEREAS, a Prehearing Conference in this proceeding was held on September 19, 2005, in Honolulu, Hawai`i, to identify the parties and their respective positions; to identify and clarify issues; to arrange for the timely submission of exhibits; and to set schedules; now, therefore,

IT IS HEREBY ORDERED that no later than September 26, 2005, each party shall submit and serve upon all the other parties all exhibits; and, that no later than September 29, 2005, a party may submit and serve upon all the other parties any exhibits, memoranda, or other documentary information in response or in rebuttal to the documents submitted on September 26, 2005.

IT IS FURTHER ORDERED that unless there has been a showing of good cause or the lack of significant prejudice, filings or submissions which are untimely may be stricken or rejected by this Commission at the time of the hearing; and

IT IS FURTHER ORDERED that unless there has been a showing of good cause or lack of significant prejudice, or unless otherwise ordered by this Commission, a party shall not be allowed at any continued hearing in this proceeding to submit any additional exhibits not previously identified by the dates provided herein.

Dated: Honolulu, Hawai`i, SEP 20 2005

LAND USE COMMISSION
STATE OF HAWAI`I

By ANTHONY J. H. CHING
Executive Officer

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

In The Matter Of The Petition Of	DOCKET NO. A04-753
AINA NUI CORPORATION, A Hawai`i Corporation	CERTIFICATE OF SERVICE
To Amend The Agricultural Land Use District Boundary Into The Urban Land Use District For Approximately 174.209 Acres Of Land At `Ewa, O`ahu, Hawai`i, Tax Map Keys: 9-1-14: Por. 33 And 9-1-15: Por. 4 And Por. 20	

CERTIFICATE OF SERVICE

I hereby certify that a copy of the Prehearing Order was served upon the following by either hand delivery or depositing the same in the U. S. Postal Service by regular mail as noted:

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

JOHN CHANG, Esq.
Deputy Attorney General
425 Queen Street
Honolulu, Hawaii 96813

HENRY ENG, Director
Department of Planning and Permitting
650 South King Street
Honolulu, Hawaii 96813

CARRIE OKINAGA, Esq.
Corporation Counsel
City and County of Honolulu
530 South King Street
Honolulu, HI 96813

CERT. BENJAMIN A. KUDO, Esq.
745 Fort Street, 17th Floor
Honolulu, Hawaii 96813

Dated: Honolulu, Hawaii, SEP 20 2005.

ANTHONY J. H. CHING
Executive Officer

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Benjamin A. Kudo
Wesley M. Fujimoto
Naomi U. Kuwaye
745 Fort Street, 17th Floor
Honolulu, Hawaii 96813

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- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Benjamin A. Kudo
Wesley M. Fujimoto
Naomi U. Kuwaye
745 Fort Street, 17th Floor
Honolulu, Hawaii 96813

A04-753 Aina Nui Corp.

2. Article Number *(Transfer from service label)* 7003 0500 0001 1913 7032

COMPLETE THIS SECTION ON DELIVERY

A. Signature
X [signature] ☐ Agent ☐ Addressee

B. Received by *(Printed Name)* Dawn Homes
C. Date of Delivery 9/21/05

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type
☑ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? *(Extra Fee)* ☐ Yes

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State of Hawaii
LAND USE COMMISSION
P.O. Box 2359
Honolulu, HI 96804-2359

2005 SEP 23 A 11:59

LAND USE COMMISSION
STATE OF HAWAII

B002

Minutes of Prehearing
Docket No. A04-753 Aina Nui Corporation
September 19, 2005
10:30 a.m.

Present: Anthony Ching, Executive Officer
Diane Erickson, Deputy Attorney General
Bert Saruwatari, Planner
Sandra Matsushima, Chief Clerk
Laura Thielen, Office of Planning
Abe Mitsuda, Office of Planning
Judith Henry, Office of Planning
Ben Kudo, Esq., Representing Petitioner
Naomi Kuwaye, Esq., Representing Petitioner
Donna Goth, Aina Nui Corporation
Dan Davidson, Aina Nui Corporation
Don Kitaoka, Esq., representing City and County of Honolulu
Raymond Sakai, City and County of Honolulu

Mr. Ching explained the prehearing rules provided for under 15-15-57 HAR and identified all those present.

Mr. Ching noted the objectives and stated that a prehearing conference order will be issued to establish a schedule of filing dates for submittals, such as the witness and exhibit lists. Mr. Ching reviewed a list of documents filed with the LUC and confirmed that all documents were received by the parties.

Mr. Ching noted that the Affidavit of Publication was not received by the LUC to date and asked if Petitioner has published the Notice of Hearing in the papers. Mr. Kudo responded that the notice was published on September 4, 2005 and that the affidavit of publication will be filed with the LUC.

Mr. Ching discussed the order of presentation as:

1. Petitioner's case in chief
2. City and County of Honolulu
3. State Office of Planning

Mr. Ching noted that there were no parties of intervention.

Mr. Ching discussed the Petitioner's list of exhibits and list of witnesses and the estimated times needed for their testimony.

Mr. Kudo commented that prior to the hearing date, he would like to qualify the witnesses as experts in their fields and would stipulate with the parties.

Mr. Ching noted that for efficiency, the estimated filing deadline will be 2-weeks prior to the hearing date or no later than close of business on Thursday, September 22, 2005. Mr. Ching reminded the parties that they should also file any updated information, such as financial reports, sufficiently.

Due to the short timeline, Mr. Kudo commented that he was planning to file his written testimony on Monday, September 26.

After the time line of the proceedings were discussed, Mr. Ching discussed some of the issues that should be addressed at the hearing related to HAR §15-15-77 Decision Making Criteria For Boundary Amendments. Mr. Ching noted that issues for consideration should focus primarily on the decision making criteria, such as affordable housing, traffic, public school facilities, and the County's General Plan.

After a discussion, Mr. Ching noted that a prehearing order will be served to the parties and asked that they file their submittals no later than close of business, Monday, September 26.

Mr. Ching then explained the LUC reimbursement policy for hearing expenses. Mr. Kudo had no objections to the reimbursement policy.

The meeting adjourned at 11:15 a.m.



"Ipoleimanu Mau"
<imau@imanakakudo.com>
08/17/2005 02:06 PM

To "Sandra M Matsushima" <SMatsushima@dbedt.hawaii.gov>
cc
bcc
Subject RE: A04-753 Aina Nui Corp

Sandy,

Thank you for the information!

Aloha,
Ipo

-----Original Message-----
From: Sandra M Matsushima [mailto:SMatsushima@dbedt.hawaii.gov]
Sent: Wednesday, August 17, 2005 12:29 PM
To: Ipoleimanu Mau
Subject: A04-753 Aina Nui Corp

Re: Docket No. A04-753 Aina Nui Corporation (Oahu) hearing dates October 6 & 7, 2005.

Attached are the following Word files for your use/action:

- Notice of Hearing for publication by September 6, 2005.
- Updated mailing lists of Oahu and Statewide for your mail out of this notice.

A reminder to please submit the Affidavit of Publication and the Affidavit of Mailing to the LUC.

Should you have additional concerns, please do not hesitate to contact me via this e-mail address or telephone (808) 587-3824.

Thanks, Sandy

Aina Nui

BEFORE THE LAND USE COMMISSION

OF THE STATE OF HAWAI`I

In The Matter Of The Petition Of AINA NUI CORPORATION, a Hawai`i corporation  To Amend The Agricultural Land Use District Boundary Into The Urban Land Use District For Approximately 174.209 Acres Of Land At `Ewa, O`ahu, Hawai`i, Tax Map Keys: 9-1-14: Por. 33 And 9-1-15: Por. 4 And Por. 20	DOCKET NO. A04-753 FINDINGS OF FACT, CONCLUSIONS OF LAW, AND DECISION AND ORDER ACCEPTING A FINAL ENVIRONMENTAL IMPACT STATEMENT

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND DECISION AND ORDER ACCEPTING A FINAL ENVIRONMENTAL IMPACT STATEMENT

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, Hawaii.

AUG 4 2005 by _____

Date Executive Officer

BEFORE THE LAND USE COMMISSION

OF THE STATE OF HAWAI`I

In The Matter Of The Petition Of	)	DOCKET NO. A04-753
	)	
AINA NUI CORPORATION, a Hawai`i corporation	)	FINDINGS OF FACT, CONCLUSIONS OF LAW, AND DECISION AND ORDER ACCEPTING A FINAL ENVIRONMENTAL IMPACT STATEMENT
	)	
To Amend The Agricultural Land Use District Boundary Into The Urban Land Use District For Approximately 174.209 Acres Of Land At `Ewa, O`ahu, Hawai`i, Tax Map Keys: 9-1-14: Por. 33 And 9-1-15: Por. 4 And Por. 20	)	

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND DECISION AND ORDER ACCEPTING A FINAL ENVIRONMENTAL IMPACT STATEMENT

The Land Use Commission ("Commission"), having examined the Final Environmental Impact Statement ("FEIS") filed by Aina Nui Corporation, a Hawai`i corporation ("Petitioner"), on June 7, 2005, and upon consideration of the matters discussed therein, at its meeting on June 16, 2005, in Honolulu, Hawai`i, hereby makes the following findings of fact and conclusions of law:

FINDINGS OF FACT

1. On September 29, 2004, Petitioner filed a Petition For Land Use District Boundary Amendment ("Petition").

2. Petitioner seeks to reclassify approximately 174.209 acres of land, identified as Tax Map Keys: 9-1-14: por. 33 and 9-1-15: por. 4 and por. 20, from the State Land Use Agricultural District to the State Land Use Urban District.

3. The Petition included an Environmental Impact Statement Preparation Notice ("EISPN"), pursuant to sections 343-5(a)(1), 343-5(a)(4), and 343-5(a)(6), Hawai`i Revised Statutes ("HRS"), and sections 11-200-6(b)(1)(A), 11-200-6(b)(1)(D), and 11-200-6(b)(2)(A), Hawai`i Administrative Rules ("HAR").

4. On October 7, 2004, and by a written Order dated December 14, 2004, the Commission (i) agreed to be the accepting authority pursuant to chapter 343, HRS; and (ii) determined that the proposed action may have a significant effect on the environment to warrant the preparation of an Environmental Impact Statement ("EIS").

5. The Office of Environmental Quality Control ("OEQC") published notice of the EISPN in its October 23, 2004, issue of *The Environmental Notice*, which began a 30-day public comment period that ended on November 22, 2004.

6. Upon receipt of the comments, Petitioner prepared a Draft Environmental Impact Statement ("DEIS"), which was transmitted to the OEQC on March 11, 2005. The OEQC published notice of the availability of the DEIS in its March 23, 2005, issue of *The Environmental Notice*, which began a 45-day public comment period that ended on May 6, 2005.

7. The following federal, state, and city and county agencies; community organizations; public utility; and individual provided responses on the DEIS: the U.S. Department of the Interior, U.S. Geological Survey, Pacific Islands Water Science Center; the Department of the Army, Regulatory Branch; the Commission; the State Office of Planning ("OP"); the State Department of Human Services, Housing and

Community Development Corporation of Hawai`i; the State Department of Land and Natural Resources ("DLNR"), Land Division; the DLNR, Engineering Division; the DLNR, Office of Conservation and Coastal Lands; the DLNR, Commission on Water Resource Management; the DLNR, Division of Forestry and Wildlife; the State Department of Health; the OEQC; the University of Hawai`i Environmental Center; the State Department of Transportation; the State Department of Education; the State Department of Agriculture; the State Department of Business, Economic Development and Tourism, Strategic Industries Division; the State Department of Budget and Finance, Public Utilities Commission; the City and County of Honolulu ("C&C") Department of Planning and Permitting ("DPP"); the C&C Department of Design and Construction; the C&C Department of Environmental Services; the C&C Department of Facility Maintenance; the C&C Department of Parks and Recreation; the C&C Department of Transportation Services; the C&C Civil Defense Agency; the C&C Board of Water Supply; the C&C Fire Department; the C&C Police Department; the Ko Olina Community Association; the Ko Olina Fairways AOAO; the Hawaiian Railway Society; Hawaiian Telcom, Inc.; and State Senator Colleen Hanabusa.

8. On June 7, 2005, Petitioner filed the FEIS with this Commission.[1]

[1] The FEIS originally did not contain a separate and distinct section that summarized the unresolved issues as required by section 11-200-17(n), HAR. Petitioner subsequently addressed this oversight, as well as certain typographical errors, and incorporated the additional material to the FEIS that was considered by this Commission.

9. The Commission finds that the FEIS generally conforms to the content requirements of section 11-200-18, HAR, to the extent that it includes (i) the DEIS revised to incorporate substantive comments received during the consultation and review process; (ii) reproductions of all letters received containing substantive comments; (iii) a list of persons, organizations, and public agencies commenting on the DEIS; (iv) the responses of Petitioner to each substantive question, comment, or recommendation received in the review and consultation processes; and (v) text written in a format that allows the reader to easily distinguish changes made to the text of the DEIS.

10. On June 16, 2005, the Commission met in Honolulu, Hawai`i, to consider acceptance of Petitioner's FEIS. Benjamin A. Kudo, Esq., appeared on behalf of Petitioner. John W. K. Chang, Esq., and Abe Mitsuda appeared on behalf of OP. Don Kitaoka, Esq., and Ray Sakai appeared on behalf of the DPP. At the meeting, Tom Fee of Helber Hastert and Fee, Planners, preparer of the FEIS, provided an orientation of the project site and an overview of the FEIS relative to the EIS content requirements of chapter 343, HRS. Donna Goth, Petitioner's President, then provided an overview of the transportation and employment issues in the region. Following the presentation, the DPP stated that it took no position on the acceptance of the FEIS. The OP recommended that Petitioner's FEIS be accepted. Thereafter, a motion was made and seconded to accept Petitioner's FEIS. There being a vote tally of 8 ayes, 0 nays, and 1 absent, the motion carried.

CONCLUSIONS OF LAW

Pursuant to chapter 343, HRS, and the EIS Rules under chapter 11-200, HAR, and a motion having been made at a meeting on June 16, 2005, 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, this Commission concludes that Petitioner's FEIS generally satisfies the criteria and procedures governing the acceptance of an FEIS under section 11-200-23, HAR.

DECISION AND ORDER

IT IS HEREBY ORDERED that the FEIS filed by Petitioner under LUC Docket No. A04-753/Aina Nui Corporation be ACCEPTED pursuant to chapter 343, HAR, and chapter 11-200, HAR.

ADOPTION OF ORDER

The undersigned Commissioners, being familiar with the record and proceedings, hereby adopt and approve the foregoing ORDER this 4th day of August, 2005. This ORDER and its ADOPTION shall take effect upon the date this ORDER is certified and filed by this Commission.

Done at Honolulu, Hawai`i, this 4th day of August, 2005, per motion on June 16, 2005.

APPROVED AS TO FORM

Deputy Attorney General

LAND USE COMMISSION
STATE OF HAWAI`I

By
P. ROY CATALANI
Chairperson and Commissioner

By
RANDALL SAKUMOTO
Vice-Chairperson and Commissioner

By
STEVEN LEE MONTGOMERY
Vice-Chairperson and Commissioner

By _____
ISAAC FIESTA, JR.
Commissioner

By _____
MICHAEL D. FORMBY
Commissioner

By _____
KYONG-SU IM
Commissioner

By _____
LISA M. JUDGE
Commissioner

Filed and effective on
AUG 4 2005

By (absent)
RANSOM PILTZ
Commissioner

Certified by:

_____
ANTHONY J. H. CHUNG

By _____
PETER YUKIMURA
Commissioner

BEFORE THE LAND USE COMMISSION

OF THE STATE OF HAWAI`I

In The Matter Of The Petition Of	)	DOCKET NO. A04-753
	)	
AINA NUI CORPORATION, a Hawai`i	)	
To Amend The Agricultural Land Use District	)	
Boundary Into The Urban Land Use District	)	
For Approximately 174.209 Acres Of Land At	)	
`Ewa, O`ahu, Hawai`i, Tax Map Keys: 9-1-14:	)	
Por. 33 And 9-1-15: Por. 4 And Por. 20	)	
	)	

CERTIFICATE OF SERVICE

I hereby certify that a copy of the Findings of Fact, Conclusions of Law, and Decision and Order Accepting a Final 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

JOHN CHANG, Esq.
Deputy Attorney General
Hale Auhau, Third Floor
425 Queen Street
Honolulu, Hawaii 96813

HENRY ENG, Director
Department of Planning and Permitting
650 South King Street
Honolulu, Hawaii 96813

CARRIE OKINAGA, Esq.
Corporation Counsel
City and County of Honolulu
530 South King Street
Honolulu, HI 96813

CERT. BENJAMIN A. KUDO, Esq.
WESLEY M. FUJIMOTO
NAOMI U. KUWAYE
745 Fort Street, 17th Floor
Honolulu, Hawaii 96813

Dated: Honolulu, Hawaii, AUG 4 2005.

ANTHONY J. H. CHING
Executive Officer

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A04-753 Aina Nui

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Benjamin A. Kudo, Esq.
Imanaka Kudo & Fujimoto
Amfac Center, Hawaii Tower
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Honolulu, Hawaii 96813

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Benjamin A. Kudo, Esq.
Imanaka Kudo & Fujimoto
Amfac Center, Hawaii Tower
745 Fort Street, 17th Floor
Honolulu, Hawaii 96813

A04-753 Aina Nui

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LAND USE COMMISSION
STATE OF HAWAII
2005 AUG -9 A 9:00

State of Hawaii
LAND USE COMMISSION
P.O. Box 2359
Honolulu, HI [illegible]-2359

3580/2359

FIELD TRIP
June 17, 2005
9:30 a.m.

A04-753 AINA NUI CORPORATION (Oahu)

COMMISSIONERS PRESENT:	Randall Sakumoto Kyong Su Im Lisa Judge Michael D. Formby Steven Lee Montgomery
COMMISSIONERS ABSENT:	P. Roy Catalani Isaac Fiesta, Jr. Peter Yukimura
STAFF PRESENT:	Anthony Ching, Executive Officer Bert Saruwatari, Staff Planner
PARTIES PRESENT:	Petitioner: Ben Kudo, Esq. Cameron Nekota, Esq. Dan Davidson Tom Fee Donna Goth Office of Planning Abe Mitsuda John W. K. Chang, Esq. Judith Henry City and County of Honolulu Department of Planning and Permitting Don Kitaoka, Esq. Ray Sakai
GENERAL PUBLIC:	Laura Kodama

The attendees met in front of the State Capitol at approximately 9:00 a.m. The field trip started at approximately 9:30 a.m. Dan Davidson and Tom Fee provided an

overview of the field trip, including various sites of interest that would be viewed by the attendees.

During the field trip, Petitioner's representatives provided the attendees with informational materials, including a Project Relationship Map and a Development Concept Plan for the Kapolei West project and a copy of *Kapolei Magazine*. Among the sites visited on the field trip were the City of Kapolei, the Petition Area, the Kapolei West project area, the Ko Olina Resort, and the Kapolei Business Park.

The field trip ended at approximately 11: 45 a.m.

KAPOLEI WEST FIELD TRIP

Name	AFFILIATION
BEN KUDU	Petitioner Atty.
Cameron Nekota	" "
Laura Kodama	Castle & Cooke Homes Hawaii
JOHN N. K. CHANG	DEPUTY ATTORNEY GENERAL
Lisa Judge	LUC Commissioner
MICHAEL D. FORMBY	LUC COMMISSIONER
DON KITAOKA	DEPUTY CORPORATION COUNSEL
Abe Mitsuda	OP.
Kyong Su Im	LUC commissioner
RAY SAKAI	DPP c/c of HNL
Judith Henry	OP - DBEDT
Dan Davidson	Aina Nui
Tom Fee	Helber Hastert & Fee Planners

LINDA LINGLE
GOVERNOR

ANTHONY J.H. CHING
EXECUTIVE OFFICER

STATE OF HAWAII
DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT & TOURISM
LAND USE COMMISSION
P.O. Box 2359
Honolulu, Hawaii 96804-2359
Telephone: 808-587-3822
Fax: 808-587-3827

August 18, 2005

Benjamin A. Kudo, Esq.
Naomi U. Kuwaye, Esq.
Imanaka, Kudo & Fujimoto
Topa Financial Center, Fort Street Tower
745 Fort Street, 17th Floor
Honolulu, Hawaii 96813

Dear Mr. Kudo and Ms. Kuwaye:

Subject: LUC Docket No. A04-753/Aina Nui Corporation

This is to inform you that pursuant to the Land Use Commission's acceptance of the Final Environmental Impact Statement on June 16, 2005, and in reliance on the information you furnished as described below, the Petition for Land Use District Boundary Amendment (Petition) filed in the subject docket is hereby deemed a proper filing and accepted for processing as of June 16, 2005.

Please be advised that this determination is made in reliance on the following information provided by your office: (i) the entities to whom Easements 1439, 1440, 1224, 1284, 1441, and 2798 are in favor have already been served with a copy of the Petition as required by §205-4(c), Hawaii Revised Statutes, and §15-15-48(a), Hawaii Administrative Rules, or do not have a property interest in the Petition Area as recorded in the City and County of Honolulu's real property tax records at the time the Petition was filed so as to require such service; (ii) the Department of Transportation, the Hawaiian Railway Society, Hawaiian Cement, and Aloun Farm do not have a recorded property interest in the Petition Area in the manner described above; and (iii) there are no further persons with a recorded property interest that have not already been served with a copy of the Petition. The acceptance of the Petition for processing is further made with the understanding that an updated Exhibit "13" (Consolidated Financial Statements and Consolidating Schedules) as of December 31, 2004, will be filed with our office.

Please feel free to contact Bert Saruwatari of my office at 587-3822, should you require clarification or any further assistance.

Sincerely,

ANTHONY J. H. CHING
Executive Officer

c: Office of Planning
City & County of Honolulu Department of Planning and Permitting
Donna Goth, Aina Nui Corporation

LINDA LINGLE
GOVERNOR

ANTHONY J.H. CHING
EXECUTIVE OFFICER

STATE OF HAWAII
DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT & TOURISM
LAND USE COMMISSION
P.O. Box 2359
Honolulu, Hawaii 96804-2359
Telephone: 808-587-3822
Fax: 808-587-3827

August 22, 2005

Mr. Peter Young, Chairperson
Board of Land and Natural Resources
P. O. Box 621
Honolulu, Hawaii 96809

Dear Mr. Young:

Subject: LUC Docket No. A04-753/Aina Nui Corporation

On September 29, 2004, Petitioner Aina Nui Corporation filed a Petition for Land Use District Boundary Amendment (Petition) with the Land Use Commission.

The Petition requests reclassification of approximately 174.209 acres of land situated at Ewa, Oahu, Hawaii, and identified as TMKs: 9-1-14: por. 33 and 9-1-15: por. 4 and por. 20.

Pursuant to §6E-42, Hawaii Revised Statutes (HRS), we request that your agency review the Petition and comment on the effect of the proposed project on historic properties, aviation artifacts, or burial sites, consistent with §6E-43, HRS, including those listed in the Hawaii register of historic places. We understand that the Office of Planning has forwarded a copy of the Petition to your department. Please provide your comments on the Petition to our office as soon as possible.

We also request that the Division of Water Resource Management review the Petition and comment on the impact of the proposed project on the water resources of the subject area.

Thank you for your assistance in this matter. Please feel free to contact Bert Saruwatari of my office at 587-3822, should you require clarification or any further assistance.

Sincerely,

ANTHONY J. H. CHING
Executive Officer

c: Benjamin A. Kudo, Esq.
City and County of Honolulu Department of Planning and Permitting
Office of Planning

LINDA LINGLE
GOVERNOR

ANTHONY J.H. CHING
EXECUTIVE OFFICER

STATE OF HAWAII
DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT & TOURISM
LAND USE COMMISSION
P.O. Box 2359
Honolulu, Hawaii 96804-2359
Telephone: 808-587-3822
Fax: 808-587-3827

June 27, 2005

Ms. Genevieve Salmonson, Director
Office of Environmental Quality Control
235 South Beretania Street, Room 702
Honolulu, Hawaii 96813-2437

Dear Ms. Salmonson:

Subject: LUC Docket No. A04-753/Aina Nui Corporation (Kapolei West Expansion Area)
Final Environmental Impact Statement (FEIS)
Ewa, Oahu, Hawaii
Tax Map Keys: 9-1-14: por. 33; 9-1-15: por. 4 and por. 20

At its meeting on June 16, 2005, the Land Use Commission accepted the FEIS for the subject project. We respectfully request the publication of this acceptance in the next available issue of *The Environmental Notice*.

Enclosed please find the following:

1) OEQC Publication Form
2) Project Summary Description
3) Completed FEIS Distribution Cover Letter to Participants
4) Completed FEIS Distribution List
5) Two Copies of the FEIS (Vols. 1 and 2) + .pdf file

A diskette containing items 1 through 4 is also provided herein for your convenience.

Please feel free to contact Bert Saruwatari of my office at 587-3822, should you require clarification or any further assistance.

Sincerely,

ANTHONY J. H. CHING
Executive Officer

Enclosures

c: Benjamin A. Kudo, Esq. (w/o enclosures)
Corlyn Olson Orr (w/o enclosures)

For Publication in the OEQC Environmental Notice

1. Project Name: Kapolei West Expansion Area

Type of Document *(check one)*: ☐Draft EA ☐Final EA ☐EIS prep notice ☐draft EIS ☒final EIS ☐NEPA ☐Other (explain):

check if applicable: ☐revised document ☐supplemental document

Legal Authority *(check one)*: ☒chapter 343 HRS ☐Oahu SMA ☐NEPA
Agency determination: ☐Anticipated FONSI ☐FONSI ☒FEIS acceptance

Applicable sections *(check all that apply)*:
☒use of state or county lands or funds
☐use of conservation district lands
☐use within shoreline setback area
☒use of historic site or district
☐use of land in the Waikiki district
☐amendment to county general plan
☐reclassification of conservation lands
☐construction or modification of helicopter facilities
☐ wastewater facility, waste-to-energy facility, landfill, oil refinery, or power-generating facility

2. Island: O'ahu
Judicial District: 'Ewa
Tax Map Key Number: (1) 9-1-14: por. 33; 9-1-15: por. 4 and por. 20

3. Applicant or proposing agency: Aina Nui Corporation
Address: 1001 Kamokila Boulevard, Suite 255
Kapolei, Hawai'i 96707
Contact: Ms. Donna Goth, President Phone: (808) 674-3540

4. Approving Agency (EAs) or Accepting Authority (EISs): State of Hawaii Land Use Commission
Address: P.O. Box 2359
Honolulu, Hawai'i 96804
Contact: Bert Saruwatari, Planner Phone: (808) 587-3822

5. Consultant: Helber Hastert & Fee, Planners
Address: 733 Bishop Street, Suite 2590,
Honolulu, Hawai'i 96813
Contact: Corlyn Olson Orr, Project Planner Phone: (808) 545-2055

6. Public Comment Deadline: N/A

7. Permits required prior to implementation:
State Land Use District Boundary Amendment, Water Use, Zone Change, Special Management Area Permit, Project Water, Drainage, Wastewater, and Roadway Master Plans, Subdivision Approvals, Grading and Building

8 Project Summary *(name of file)*: KapoleiWestExpansionAreaFEIS project summary.doc

9 Public Library Copy: Kapolei Public Library (to be mailed before July 8, 2005)

10 ☐ Please publish notice of *(check all that apply)*: ☐ Safe Harbor Agreement ☐ Accreted land ☐ Habitat conservation plan ☐ Incidental take license

11 This form was prepared by: Corlyn Olson Orr, Helber Hastert & Fee, Planners
Phone: (808) 545-2055

Kapolei West Expansion Area FEIS
Project Summary
For Publication in the OEQC Environmental Notice July 8, 2005 edition

The Kapolei West Expansion Area FEIS was accepted by the Land Use Commission on June 16, 2005. The FEIS was prepared in support of a petition for a State Land Use District Boundary Amendment to reclassify approximately 174.2 acres of land from the Agricultural District to the Urban District (referred to as the "Petition Area"). The Petition Area is located in Ewa, Oahu and consists of Tax Map Key parcels 9-1-14: 33 (por.), 9-1-15: 4 (por.), and 9-1-15:20 (por.). The Petition Area straddles the State-owned, historic Oahu Railway & Land Company (OR&L) Railroad right-of-way (ROW). The Petition Area is surrounded by the 372.6-acre area formerly known as Ko Olina Phase II to the north (urbanized in 1991 under Docket A90-655), Ko Olina Resort to the west, Kalaeloa Barbers Point Harbor and the Kapolei Business Park to the south, and Kalaeloa Boulevard and the City of Kapolei to the east.

Development proposed for the Petition Area includes approximately 1,200 low and medium-density residential units, approximately 60 acres of golf course, and nearly 28 acres of park and open space (Proposed Action). Together with the former Ko Olina Phase II project area now in the State Land Use Urban District, the Petition Area is planned to be part of "Kapolei West," a 548-acre master-planned residential and golf community.

Beneficial impacts of the Proposed Action include provision of almost 1,200 homes; increased housing choices; creation of over 300 construction period and 260 operational period jobs annually; and net fiscal benefits for the County and State. All impacts on existing infrastructure systems and public facilities and services are discussed in the FEIS, and with mitigation will result in no adverse impact. The Proposed Action would not pose long-term risks to human health and safety or impact threatened or endangered biological resources. The Proposed Action would not adversely impact significant historic sites or rights customarily and traditionally exercised for subsistence, cultural and religious purposes and would have minimal or no impact on Hawaiian culture, its practices and traditions. Proposed mitigation measures to address impacts to the OR&L ROW would be coordinated with the State of Hawaii Department of Transportation, the State of Hawaii Historic Preservation Division and the Hawaiian Railway Society. Potential traffic impacts would require mitigating measures including roadway and intersection improvements.

Accepting Authority	OEQC FEIS Recommended Distribution	Kapolei West Expansion Area FEIS Distribution
OEQC	M (5)	X (3 + 1 .pdf)
State Agencies		
Hawaii Finance Development Corporation	O	
State Department of Agriculture	O	X
State Department of Accounting and General Services	O	
State Department of Business, Economic Development and Tourism	O	X
State DBEDT Energy, Resources & Technology Division	O	
State DBEDT Planning Office	O	X
Department of Defense	O	
State Department of Archives	O	
State Department of Education	O	X
State Department of Hawaiian Homelands	O	
State Department of Health, Env. Planning Office	O	X
State Department of Land and Natural Resources	O	X
State DLNR Historic Preservation Division	O	X
State Department of Transportation	O	X
Office of Hawaiian Affairs	O	
UH Environmental Center	M(2)	X(2)
UH Marine Programs	O	
UH Water Resources Research Center	O	
Federal Agencies		
US Geological Survey	O	X
US Fish and Wildlife Service	O	
US National Marine Fisheries Service	R (2)	X (2)
US National Park Service	O	
US Natural Resources Conservation Service	O	
US Army Engineer Division	O	X
US Naval Base, Pearl Harbor	O	
US Federal Aviation Administration	O	
US Federal Highway Administration	O	
US Coast Guard	O	X
US EPA - Pacific Islands Contact Office	O	

City and County of Honolulu *		
Board of Water Supply	O	X
Department of Design and Construction	O	X
Fire Department	O	X
Department of Community Services	O	X
Department of Planning & Permitting	O	X
Department of Parks and Recreation	O	X
Planning Department	O	
Police Department	O	X
Department of Facility Maintenance	O	X
Department of Transportation Services	O	X
Department of Environmental Services	O	X
Libraries and Depositories		
Nearest State Library	M	X (Kapolei)
State Main Library	M	X
Regional Libraries	M	X (7)
DBEDT Library	M	X
UH Hamilton Library	M	X
Legislative Reference Bureau	M	X
Library, Honolulu Dept. of Customer Services (formerly MRRC) *	M	X
UH Hilo Library *	M	
Maui Community College Library *	M	
Kauai Community College Library *	M	
News Media		
Honolulu Advertiser	M	X
Honolulu Star Bulletin	M	X
Hawaii Tribune Herald *	M	
West Hawaii Today *	M	
The Garden Island Newspaper *	M	
Maui News *	M	
Molokai Dispatch *	M	
Elected Officials		
US Senator	O	
US Representative	O	
State Senator	O	X
State Representative	O	X

County Councilmember	O	X
Neighborhood Board Chair	O	X
Local Utilities		
Electric	O	X
Telephone	O	X
Gas	O	X
Citizen Groups, Individuals & Consulted Parties		
DBEDT Strategic Industries Division		X
State Department of Budget and Finance, Public Utilities Commission		X
State Department of Human Services, Housing and Community Development Corporation of Hawaii		X
Oahu Civil Defense Agency		X
Hawaiian Railway Society		X
Ko Olina Community Association		X
Ko Olina Fairways Association of Apartment Owners		X
Senator Colleen Hanabusa		X

Key:

M = Mandatory
R = Recommended
O = Optional
(#) = Number of Copies
* = For actions in the respective county

For Draft and Final EISs, please check next to key letter to indicate whether documents will be sent to the respective party.

Draft EIS Distribution List Approved by OEQC on _____

Final EIS Distribution List Approved by OEQC on _____

Dear Participant:

Attached for your review is a Final Environmental Impact Statement (FEIS) that was prepared pursuant to the EIS law (Hawaii Revised Statutes, Chapter 343) and the EIS rules (Administrative Rules, Title 11, Chapter 200).

Title Of Project: Kapolei West Expansion Area
Location: Oahu, Ewa District
Tax Map Key Nos.: (1) 9-1-14: por. 33; 9-1-15: por. 4 and por. 20

Agency Action: _____ Applicant Action: X

Accepting Authority: **Land Use Commission, State of Hawaii**
Address: P.O. Box 2359, Honolulu, HI 96804
Contact: Bert Saruwatari, Planner Phone: (808) 587-3822

Applicant: **Aina Nui Corporation**
Address: 1001 Kamokila Boulevard, Suite 255, Kapolei, HI 96707
Contact: Donna Goth, President Phone: (808) 674-3540

Consultant: **Helber Hastert & Fee, Planners**
Address: 733 Bishop Street, Suite 2590, Honolulu, HI 96813
Contact: Corlyn Olson Orr, Project Planner Phone: (808) 545-2055

If you no longer need this EIS, please recycle it. Thank you for your participation in the EIS process.

Sincerely,

HELBER HASTERT & FEE, PLANNERS

Thomas A. Fee, AICP
President

Enclosure

Helber Hastert & Fee, *Planners*

Transmittal

File transmittal

To: Land Use Commission
235 South Beretania Street, #406
Honolulu, Hawaii 96813
Phone: 587-3822

Attention: Bert Saruwatari

Job Name: Kapolei West Expansion Area

Date: June 24, 2005

Job No. 2003108

Copies	Date	Description
3	June 05	Kapolei West Expansion Area Final EIS – Volume 1 of 2
3	June 05	Kapolei West Expansion Area Final EIS – Volume 2 of 2
1	June 05	Kapolei West Expansion Area Final EIS Volumes 1 and 2 (.pdf)
1		OEQC Environmental Notice Publication Form
1		Kapolei West Expansion Area FEIS Project Summary for publication in the OEQC Environmental Notice July 8, 2005
1	6/17/05	Kapolei West Expansion Area FEIS Mailing List
1		FEIS Participant Cover Letter (Draft)
1	June 05	Diskette (includes MSword files of OEQC publication form, project summary, FEIS mailing list and participant cover letter)

We transmit:
- X Attached
- ☐ Under separate cover

Via:
- ☐ Mail
- ☐ Messenger
- ☐ Courier Service
- ☐ Blueprint Company
- ☐ Pick-Up
- X Hand Delivery

LAND USE COMMISSION STATE OF HAWAII 2005 JUN 24 P 3:07

Remarks: 2 copies of the Final EIS and the .pdf file for submittal to OEQC
1 copy of the Final EIS for LUC file

The following:
- X Documents
- ☐ Correspondence
- ☐ Plans
- ☐ Sketches/Renderings
- ☐ Photos
- ☐ Maps
- ☐ Brochures
- ☐ _____

Copies to:

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- ☐ As requested
- ☐ For review and comment
- ☐ For your use/information
- X For your records
- X For distribution
- ☐ To be returned
- ☐ Returned as requested
- ☐ _____

By: Corlyn Olson Orr

Helber Hastert & Fee
Pacific Guardian Center, Makai Tower
733 Bishop Street, Suite 2590
Honolulu, Hawaii 96813
Telephone 808 545-2055
Facsimile 808 545-2050

Helber Hastert & Fee, *Planners*

Transmittal

To: Land Use Commission
235 South Beretania Street, #406
Honolulu, Hawaii 96813
Phone: 587-3822

Attention: Bert Saruwatari

Job Name: Kapolei West Expansion Area

Date: June 24, 2005

Job No. 2003108

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- ☐ To be returned
- ☐ Returned as requested
- ☐

By: **Corlyn Olson Orr**

Helber Hastert & Fee
Pacific Guardian Center, Makai Tower
733 Bishop Street, Suite 2590
Honolulu, Hawaii 96813
Telephone 808 545-2055
Facsimile 808 545-2050

Aina Nui

BEFORE THE LAND USE COMMISSION

OF THE STATE OF HAWAI`I

In The Matter Of The Petition Of AINA NUI CORPORATION, a Hawai`i Corporation  To Amend The Agricultural Land Use District Boundary Into The Urban Land Use District For Approximately 174.209 Acres Of Land At `Ewa, O`ahu, Hawai`i, Tax Map Keys: 9-1-14: Por. 33 And 9-1-15: Por. 4 And Por. 20	DOCKET NO. A04-753 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

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

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, Hawaii.

DEC 14 2004 by _____
Date Executive Officer

BEFORE THE LAND USE COMMISSION

OF THE STATE OF HAWAI`I

In The Matter Of The Petition Of AINA NUI CORPORATION, a Hawai`i Corporation  To Amend The Agricultural Land Use District Boundary Into The Urban Land Use District For Approximately 174.209 Acres Of Land At `Ewa, O`ahu, Hawai`i, Tax Map Keys: 9-1-14: Por. 33 And 9-1-15: Por. 4 And Por. 20	DOCKET NO. A04-753 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

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

On September 29, 2004, Aina Nui Corporation, a Hawai`i corporation ("Petitioner"), filed a Petition For Land Use District Boundary Amendment ("Petition") to reclassify approximately 174.209 acres of land at `Ewa, O`ahu, Hawai`i, identified as Tax Map Keys: 9-1-14: por. 33 and 9-1-15: por. 4 and por. 20, from the State Land Use Agricultural District to the State Land Use Urban District for residential, golf course,

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 will involve the use of a historic site located on State lands[2], pursuant to sections 343-5(a)(1) and 343-5(a)(4), Hawai`i Revised Statutes ("HRS"), and sections 11-200-6(b)(1)(A) and 11-200-6(b)(1)(D), Hawai`i Administrative Rules ("HAR"). In the Petition and EISPN, Petitioner asserted that the Land Use Commission ("Commission") was the appropriate accepting authority for the EIS as it was the initial agency receiving and processing Petitioner's request for a land use approval, pursuant to chapter 343, HRS, and title 11, chapter 200, HAR.

On October 7, 2004, this Commission held a meeting in Hilo, Hawai`i, to determine (i) whether the 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., and Naomi U. Kuwaye, Esq., appeared on behalf of Petitioner. John W. K. Chang, Esq., and Abe Mitsuda appeared on behalf of the Office of Planning ("OP"). By an e-mail correspondence dated October 6, 2004, the City and County of Honolulu Department of Planning and Permitting informed the Commission that (i) it would not be present at the meeting; (ii) it agreed this Commission was the appropriate

[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 Project's roadways are proposed to cross the O`ahu Railroad and Land Company right-of-way, which is owned by the State of Hawai`i and listed on the National Register of Historic Places.

accepting authority; and (iii) it concurred with Petitioner's determination to prepare an EIS.

At the meeting, Petitioner reiterated that the Project involved the use of a historic site located on State lands and may generate significant effects upon the environment to warrant the preparation of an EIS. Petitioner further noted that this Commission was the appropriate accepting authority for the EIS as it was the agency initially receiving and processing the Petition pursuant to section 343-5(c), HRS. The OP stated that based upon the ruling by the circuit court in the First Circuit, this Commission should be the accepting authority, and that they had no objection to the preparation of an EIS.

Following discussion, a motion was made and seconded to have this Commission agree to be the accepting authority pursuant to chapter 343, HRS, and further that 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 7 ayes, 0 nays, and 2 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 October 7, 2004, in Hilo, 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 available the EISPN for a 30-day public review and comment period pursuant to sections 11-200-15(b), HAR, and 343-5(c), HRS.

Dated: Honolulu, Hawai`i, December 14, 2004.

ADOPTION OF ORDER

The undersigned Commissioners, being familiar with the record and proceedings, hereby adopt and approve the foregoing ORDER this 14th day of December, 2004. This ORDER and its ADOPTION shall take effect upon the date this ORDER is certified and filed by this Commission.

Done at Honolulu, Hawai`i, this 14th day of December, 2004, per motion on October 7, 2004.

APPROVED AS TO FORM

Deputy Attorney General

LAND USE COMMISSION
STATE OF HAWAI`I

By _____
P. ROY CATALANI
Chairperson and Commissioner

By (absent)
RANDALL SAKUMOTO
Vice-Chairperson and Commissioner

By _____
STEVEN LEE MONTGOMERY
Vice Chairperson and Commissioner

By _____
PRAVIN DESAI
Commissioner

By _____
KYONG SU IM
Commissioner

By _____
ISAAC FIESTA, JR.
Commissioner

By _____
LISA M. JUDGE
Commissioner

Filed and effective on
DEC 14 2004

By _____
MICHAEL D. FORMBY
Commissioner

Certified by:

_____
ANTHONY J. H. CHING

By (absent)
PETER YUKIMURA
Commissioner

BEFORE THE LAND USE COMMISSION

OF THE STATE OF HAWAI`I

In The Matter Of The Petition Of	)	DOCKET NO. A04-753
	)	
AINA NUI CORPORATION,	)	CERTIFICATE OF SERVICE
a Hawai`i Corporation	)	
	)	
To Amend The Agricultural Land Use District	)	
Boundary Into The Urban Land Use District	)	
For Approximately 174.209 Acres Of Land At	)	
`Ewa, O`ahu, Hawai`i, Tax Map Keys: 9-1-14:	)	
Por. 33 And 9-1-15: Por. 4 And 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:

DEL. MARY LOU KOBAYASHI
Office of Planning
P. O. Box 2359
Honolulu, Hawaii 96804-2359

JOHN CHANG, Esq.
Deputy Attorney General
Hale Auhau, Third Floor
425 Queen Street
Honolulu, Hawaii 96813

ERIC G. CRISPIN, Director
Department of Planning and Permitting
City & County of Honolulu
650 South King Street
Honolulu, Hawaii 96813

DAVID ARAKAWA, Esq.
Corporation Counsel
City & County of Honolulu
530 South King Street
Honolulu, Hawaii 96813

CERT. BENJAMIN A. KUDO, Esq.
745 Fort Street, 17th Floor
Honolulu, HI 96813

Dated: Honolulu, Hawaii, DEC 14 2004.

ANTHONY J. H. CHING
Executive Officer

7003 0500 0001 1913 0927

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A04-753 Aina Nui

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City, State, ZIP+4

Benjamin A. Kudo, Esq.
Imanaka Kudo & Fujimoto
Amfac Center, Hawaii Tower
745 Fort Street, 17th Floor
Honolulu, Hawaii 96813

PS Form 3800, June 2002 — See Reverse for Instructions

SENDER: *COMPLETE THIS SECTION*

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Benjamin A. Kudo, Esq.
Imanaka Kudo & Fujimoto
Amfac Center, Hawaii Tower
745 Fort Street, 17th Floor
Honolulu, Hawaii 96813

A04-753 Aina Nui

COMPLETE THIS SECTION ON DELIVERY

A. Signature
X [signature]
☒ Agent
☐ Addressee

B. Received by (*Printed Name*)
L. Sewell

C. Date of Delivery
12/15/04

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type
☒ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (*Extra Fee*) ☐ Yes

2. Article Number
(*Transfer from service label*) 7003 0500 0001 1913 0927

PS Form 3811, August 2001 — Domestic Return Receipt — 102595-02-M-1540

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State of Hawaii
LAND USE COMMISSION
P.O. Box 2359
Honolulu, HI 96804-2359

2004 DEC 16 A 8:22
LAND USE COMMISSION
STATE OF HAWAII

02

Aina Nui

LAND USE COMMISSION
NOTIFICATION OF LAND USE COMMISSION MEETING
DATE, TIME AND PLACE

June 16, 2005 – 9:00 a.m.
June 17, 2005 – Field Trip
(Field trip time and meeting place to be announced)

Conference Room 405
Leiopapa A Kamehameha
235 So. Beretania Street
Honolulu, Hawaii

A G E N D A

I. ADOPTION OF MINUTES

June 2, 2005 and June 3, 2005

II. TENTATIVE MEETING SCHEDULE

III. ACTION

1. A87-617 BRIDGE AINA LE`A LLC (Hawaii)

   To consider Petitioner Bridge Aina Le`a LLC's Motion To Amend Condition Number 1 of Amended Findings of Fact, Conclusions of Law, and Decision and Order Dated July 9, 1991.

2. SP05-399 KAUAI ATV, LLC (Kauai)

   To consider acceptance of a Special Permit request for the expansion of use and additional structures within a previously County-approved staging area and expansion of commercial recreational activities involving the increase and change of number of vehicles allowed for guided all-terrain vehicle tours, water activities in the Waita Reservoir, two paint ball parks, and a speedball tournament field on approximately ± 22,000 acres at Koloa, Kauai, Hawaii.

(over)

III. ACTION (continued)

3. A05-755 HALE MUA PROPERTIES, LLC (Maui)

To consider acceptance of Hale Mua Properties, LLC's Final Environmental Assessment for the reclassification of approximately 232.135 acres of land currently in the Agricultural District into the Urban District, and 5.918 acres from the Rural District to the Urban District, at Waiehu, Maui, Hawaii for an approximately 466-lot single family residential subdivision.

4. A04-753 AINA NUI CORPORATION (Oahu)

To consider acceptance of Aina Nui Corporation's Final Environmental Impact Statement for the reclassification of approximately 174.209 acres of land currently in the Agricultural District into the Urban District at Ewa, Oahu, Hawaii for residential, golf course, park, and open space uses.

IV. FIELD TRIP & ORIENTATION – June 17, 2005

(Time and meeting place to be announced)

1. A04-753 AINA NUI CORPORATION (Oahu)

The Commission may elect to consult with counsel in executive session pursuant to Section 92-5, HRS.
Persons with disabilities who need accommodation should call (808) 587-3822 no later than 12:00 noon, 2 business days before the date of the meeting.
The mailing address for the Land Use Commission is P.O. Box 2359, Honolulu, Hawai`i, 96804-2359.
Some materials for these agenda items may be available on our website at http://luc.state.hi.us.

LINDA LINGLE
GOVERNOR

ANTHONY J.H. CHING
EXECUTIVE OFFICER

STATE OF HAWAII
DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT & TOURISM
LAND USE COMMISSION
P.O. Box 2359
Honolulu, Hawaii 96804-2359
Telephone: 808-587-3822
Fax: 808-587-3827

March 11, 2005

Ms. Genevieve Salmonson, Director
Office of Environmental Quality Control
235 South Beretania Street, Room 702
Honolulu, Hawaii 96813-2437

Dear Ms. Salmonson:

Subject: LUC Docket No. A04-753/Aina Nui Corporation
Draft Environmental Impact Statement (DEIS)
Ewa, Oahu, Hawaii
Tax Map Key: 9-1-14: por. 33 and 9-1-15: por. 4 and por. 20

We respectfully request the publication of the DEIS for the subject project in the next available issue of The Environmental Notice.

Enclosed please find the following:

1) OEQC Bulletin Publication Form
2) Project Summary Description
3) Distribution Cover Letter to Participants
4) Distribution List for the DEIS
5) Four Copies of the DEIS

Electronic copies of documents 1 through 4 are also provided herein via diskette.

Please feel free to contact Bert Saruwatari of my office at 587-3822, should you require clarification or any further assistance.

Sincerely,

ANTHONY J. H. CHING
Executive Officer

Enclosures

c: Benjamin M. Kudo, Esq. (w/o enclosures)
Corlyn Olson Orr (w/o enclosures)

For Publication in the OEQC Environmental Notice

1. Project Name: Kapolei West Expansion Area

Type of Document *(check one)*: ☐Draft EA ☐Final EA ☐EIS prep notice ☒draft EIS ☐ final EIS ☐NEPA ☐Other (explain):

check if applicable: ☐revised document ☐supplemental document

Legal Authority *(check one)*: ☒chapter 343 HRS ☐Oahu SMA ☐NEPA
Agency determination: ☐Anticipated FONSI ☐FONSI ☐FEIS acceptance

Applicable sections *(check all that apply)*:
☒use of state or county lands or funds
☐use of conservation district lands
☐use within shoreline setback area
☒use of historic site or district
☐use of land in the Waikiki district
☐amendment to county general plan
☐reclassification of conservation lands
☐construction or modification of helicopter facilities
☐ wastewater facility, waste-to-energy facility, landfill, oil refinery, or power-generating facility

2. Island: Oahu
Judicial District: Ewa
Tax Map Key Number: (1) 9-1-14: por. 33; 9-1-15: por. 4 and por. 20

3. Applicant or proposing agency: Aina Nui Corporation
Address: 1001 Kamokila Boulevard, Suite 255
Kapolei, Hawaii 96707
Contact: Ms. Donna Goth, President Phone: (808) 674-3540

4. Approving Agency (EAs) or Accepting Authority (EISs): State of Hawaii Land Use Commission
Address: P. O. Box 2359, Honolulu, Hawaii 96804-2359
Contact: Anthony J. H. Ching, Executive Officer Phone: (808) 587-3822

5. Consultant: Helber Hastert & Fee, Planners
Address: 733 Bishop Street, Suite 2590,
Honolulu, Hawaii 96813
Contact: Corlyn Olson Orr, Project Planner Phone: (808) 545-2055

6. Public Comment Deadline: May 6, 2005

7. Permits required prior to implementation:
State Land Use District Boundary Amendment, Water Use, Zone Change, Special Management Area Permit, Project Water, Drainage, Wastewater, and Roadway Master Plans, Subdivision Approvals, Grading and Building

8 Project Summary *(name of file)*: KapoleiWestExpansionAreaDEIS project summary.doc

9 Public Library Copy: Kapolei Public Library (to be mailed before March 23, 2005) *(not required for final EAs)*

10 ☐ Please publish notice of *(check all that apply)*: ☐ Safe Harbor Agreement ☐ Accreted land ☐ Habitat conservation plan ☐ Incidental take license

11 This form was prepared by: Corlyn Olson Orr, Helber Hastert & Fee, Planners
Phone: (808) 545-2055

Kapolei West Expansion Area DEIS
Project Summary
For Publication in the OEQC Environmental Notice March 23, 2005 edition

Aina Nui Corporation, an affiliate of the Estate of James Campbell, has filed a petition for a State Land Use District Boundary Amendment to reclassify approximately 174.2 acres of land from the Agricultural District to the Urban District (referred to as the "Petition Area") with the State Land Use Commission. The Petition Area is located in Ewa, Oahu and consists of Tax Map Key parcels 9-1-14: 33 (por.), 9-1-15: 4 (por.), and 9-1-15:20 (por.). The Petition Area straddles the State-owned, historic Oahu Railway & Land Company (OR&L) Railroad right-of-way (ROW). The Petition Area is surrounded by the 372.6-acre area formerly known as Ko Olina Phase II to the north (urbanized in 1991 under Docket A90-655), Ko Olina Resort to the west, Kalaeloa Barbers Point Harbor and the Kapolei Business Park to the south, and Kalaeloa Boulevard and the City of Kapolei to the east.

Development proposed for the Petition Area includes approximately 1,200 low and medium-density residential units, approximately 60 acres of golf course, and nearly 28 acres of park and open space (Proposed Action). Together with the former Ko Olina Phase II project area now in the State Land Use Urban District, the Petition Area is planned to be part of "Kapolei West," a 548-acre master-planned residential and golf community.

Beneficial impacts of the Proposed Action include provision of almost 1,200 homes; increased housing choices; creation of over 300 construction period and 260 operational period jobs annually; and net fiscal benefits for the County and State. Non-significant impacts include increased demands on existing infrastructure systems and public facilities and services. The Proposed Action would not pose long-term risks to human health and safety or impact threatened or endangered biological resources. The Proposed Action would not adversely impact significant historic sites or rights customarily and traditionally exercised for subsistence, cultural and religious purposes and would have minimal or no impact on Hawaiian culture, its practices and traditions. Potential traffic impacts would require mitigating measures including roadway and intersection improvements.

Dear Participant:

Attached for your review is a Draft Environmental Impact Statement (DEIS) that was prepared pursuant to the EIS law (Hawaii Revised Statutes, Chapter 343) and the EIS rules (Administrative Rules, Title 11, Chapter 200).

Title Of Project: Kapolei West Expansion Area
Location: Oahu, Ewa District
Tax Map Key Nos.: (1) 9-1-14: por. 33; 9-1-15: por. 4 and por. 20

Agency Action: _____ Applicant Action: X

YOUR COMMENTS MUST BE RECEIVED OR POSTMARKED BY: MAY 6, 2005

Please send original comments to:

Applicant: **Aina Nui Corporation**
Address: 1001 Kamokila Boulevard, Suite 255, Kapolei, HI 96707
Contact: Donna Goth, President Phone: (808) 674-3540

Copies of the comments should be sent to:

The Office of Environmental Quality Control
Address: 235 South Beretania Street, Suite 702, Honolulu, HI 96813

Accepting Authority: **Land Use Commission, State of Hawaii**
Address: P. O. Box 2359, Honolulu, HI 96804-2359
Contact: Anthony J. H. Ching, Executive Officer Phone: (808) 587-3822

Consultant: **Helber Hastert & Fee, Planners**
Address: 733 Bishop Street, Suite 2590, Honolulu, HI 96813
Contact: Corlyn Olson Orr, Project Planner Phone: (808) 545-2055

Thank you for your participation in the EIS process. We look forward to receiving your comments, questions and suggestions.

Sincerely,

HELBER HASTERT & FEE, PLANNERS

Thomas A. Fee, AICP
President

Enclosure

		FirstName	LastName	JobTitle	Department	Company1	Address1	Address 2	City	State	Postal Code
1.				State Conservationist	Resources Conservation Service	U.S. Department of Agriculture	P.O. Box 50004		Honolulu	HI	96850
2.					Regulatory Branch, CEPOH-EC-R	U.S. Army Corps of Engineers	Building 230		Fort Shafter	HI	96858-5440
3.						Commander Navy Region Hawaii (Code N465)	850 Ticonderoga St., Suite 110		Pearl Harbor	HI	96860
4.				Pacific Islands Administrator	Dept. of the Interior	Fish & Wildlife Services	300 Ala Moana Blvd., Room 3108		Honolulu	HI	96813
5.				District Chief	Dept. of the Interior	U.S. Geological Survey	677 Ala Moana Blvd., Room 415		Honolulu	HI	96813-5412
6.					Honolulu Airports District Office	Federal Aviation Administration	300 Ala Moana Blvd., Room 7-128		Honolulu	HI	96850
7.						Federal Highway Administration	300 Ala Moana Blvd., Room 3306		Honolulu	HI	96850
8.				Commander	Fourteenth Coast Guard District	U.S. Coast Guard	300 Ala Moana Blvd., 9th Floor		Honolulu	HI	96850
9.					State of Hawaii	Department of Agriculture	1428 South King Street		Honolulu	HI	96814
10.					State of Hawaii	Department of Accounting and General Services	1151 Punchbowl Street		Honolulu	HI	96813
11.						Public Utilities Commission	465 South King Street, Room 103		Honolulu	HI	96813

		FirstName	LastName	JobTitle	Department	Company1	Address1	Address 2	City	State	Postal Code
12.					State of Hawaii	Department of Business, Economic Development & Tourism	P.O. Box 2359		Honolulu	HI	96804
13.					State of Hawaii	Office of Planning	P.O. Box 2359		Honolulu	HI	96804
14.					State of Hawaii	DBEDT, Energy, Resources and Technology Division	235 South Beretania Street, 5th Floor		Honolulu	HI	96813
15.					State of Hawaii	Department of Defense	3949 Diamond Head Road		Honolulu	HI	96816-4495
16.				Superintendent of Education	State of Hawaii	Department of Education	P.O. Box 2360		Honolulu	HI	96804
17.	**3 copies**				State of Hawaii	Department of Health	Environmental Planning Office	P.O. Box 3378	Honolulu	HI	96801
18.				Director	State of Hawaii	Office of Environmental Quality Control	236 South Beretania Street, Suite 702		Honolulu	HI	96813
19.					State of Hawaii	Department of Hawaiian Home Lands	P.O. Box 1879		Honolulu	HI	96805
20.					State of Hawaii	Department of Human Services	1390 Miller Street, Room 209		Honolulu	HI	96813
21.					State of Hawaii	Department of Labor and Industrial Relations	830 Punchbowl Street, Room 312		Honolulu	HI	96813
22.	**5 copies**				State of Hawaii	Department of Land & Natural Resources	P.O. Box 621		Honolulu	HI	96809
23.				State Historic Preservation Officer	State of Hawaii	Department of Land & Natural Resources	601 Kamokila Blvd., Room 555		Kapolei	HI	96707
24.				Director	State of Hawaii	Department of Transportation	869 Punchbowl Street		Honolulu	HI	96813

		FirstName	LastName	JobTitle	Department	Company1	Address1	Address 2	City	State	Postal Code
25.	Recommended by DLNR	Administrator		Harbors Division	State of Hawaii	Department of Transportation	79 South Nimitz Highway		Honolulu	HI	96813-4898
26.					State of Hawaii	Department of Budget and Finance	P.O. Box 150		Honolulu	HI	96810
27.				Administrator	State of Hawaii	Office of Hawaiian Affairs	711 Kapiolani Blvd., Suite 1250		Honolulu	HI	96813
28.	**4 copies**				University of Hawaii	Environmental Center	2550 Campus Road, Crawford 317		Honolulu	HI	96822
29.					University of Hawaii	Water Resources Research Center	Holmes Hall, Room 283	2540 Dole Street	Honolulu	HI	96822
30.					State of Hawaii	Oahu Metropolitan Planning Organization	707 Richard Street, Suite 200		Honolulu	HI	96813
31.					City & County of Honolulu	Board of Water Supply	630 S. Beretania Street		Honolulu	HI	96843
32.					City & County of Honolulu	Department of Community Services	715 South King Street, #311		Honolulu	HI	96813
33.					City & County of Honolulu	Department of Design & Construction	650 South King Street		Honolulu	HI	96813
34.					City & County of Honolulu	Department of Environmental Services	650 South King Street		Honolulu	HI	96813
35.					City & County of Honolulu	Department of Facility Maintenance	1000 Uluohia Street, Suite 215		Kapolei	HI	96707
36.					City & County of Honolulu	Department of Parks & Recreation	650 South King Street		Honolulu	HI	96813
37.	**5 copies**				City & County of Honolulu	Department of Planning & Permitting	650 South King Street, 7th Floor		Honolulu	HI	96813
38.	**2 copies**				City & County of Honolulu	Department of Transportation Services	650 South King Street, 3rd Floor		Honolulu	HI	96813

		FirstName	LastName	JobTitle	Department	Company1	Address1	Address 2	City	State	Postal Code
39.				Fire Chief		Honolulu Fire Department	3375 Koapaka Street, Suite H425		Honolulu	HI	96819
40.				Police Chief		Honolulu Police Department	801 South Beretania Street		Honolulu	HI	96813
41.					City & County of Honolulu	Oahu Civil Defense Agency	650 South King Street		Honolulu	HI	96813
42.						Verizon Telephone	1177 Bishop Street		Honolulu	HI	96813
43.						Hawaiian Electric Company	P.O. Box 2750		Honolulu	HI	96740
44.						Gas Company	841 Bishop Street, Suite 1705		Honolulu	HI	96813
45.						The Sierra Club, Hawaii Chapter	P.O. Box 2577		Honolulu	HI	96803
46.						Hawaii Audubon Society	850 Richards Street, Suite 505		Honolulu	HI	96813
47.						Hawaii's Thousand Friends	305 Hahani Street #282		Kailua	HI	96734
48.						Land Use Research Foundation of Hawaii	700 Bishop Street, Suite 1928		Honolulu	HI	96813
49.						League of Women Voters	49 S. Hotel Street, Room 314		Honolulu	HI	96813
50.						The Outdoor Circle	1314 S. King Street, Suite 306		Honolulu	HI	96814
51.						Life of the Land	76 North King Street, Suite 203		Honolulu	HI	96817

		FirstName	LastName	JobTitle	Department	Company1	Address1	Address 2	City	State	Postal Code
52.						Hawaii Building & Construction Trade Council	560 N. Nimitz Hwy., Suite 215A		Honolulu	HI	96817
53.						Hawaii Farm Bureau Foundation	2343 Rose Street		Honolulu	HI	96819
54.						Hawaiian Railway Society	P.O. Box 60369		Ewa	HI	96706
55.		Ms. Maeda	Timson			Makakilo/Kapolei/Honokai Hale Neighborhood Board No. 34	92-684 Nohona Street		Kapolei	HI	96707
56.		Mr. Glen	Kila			Waianae Coast Neighborhood Board No. 24	85-140 Maiuu Road		Waianae	HI	96792
57.						Leeward Oahu Transportation Management Association	700 Bishop Street, Suite 1928		Honolulu	HI	96813
58.		Ms. Kuulei	Jolonino	President		Honokai Hale/Nanakai Gardens Community Association	92-769 Paakai Street		Kapolei	HI	96707
59.						Ko Olina Community Association	92-1480 Aliinui Drive		Ko Olina	HI	96707
60.				Resident Manager		Ko Olina Fairways Association of Apartment Owners	1543 ALII NUI DR		Kapolei	HI	96707
61.						Ko Olina Resort, LLC	92-1220 Aliinui Drive		Kapolei	HI	96707
62.						West Oahu Economic Development Association	P.O. Box 700972		Kapolei	HI	96709
63.						Hawaiian Civic Club	P.O. Box 700007		Kapolei	HI	96709
64.		Mr. Keola	Lloyd			Kapolei Rotary Club	P.O. Box 700913		Kapolei	HI	96709
65.		Mr. James	Plasse			Makakilo-Kapolei Lions Club	92-1223 Umena Street		Kapolei	HI	96707

		FirstName	LastName	JobTitle	Department	Company1	Address1	Address 2	City	State	Postal Code
52.						Hawaii Building & Construction Trade Council	560 N. Nimitz Hwy., Suite 215A		Honolulu	HI	96817
53.						Hawaii Farm Bureau Foundation	2343 Rose Street		Honolulu	HI	96819
54.						Hawaiian Railway Society	P.O. Box 60369		Ewa	HI	96706
55.		Ms. Maeda	Timson			Makakilo/Kapolei/Honokai Hale Neighborhood Board No. 34	92-684 Nohona Street		Kapolei	HI	96707
56.		Mr. Glen	Kila			Waianae Coast Neighborhood Board No. 24	85-140 Maiuu Road		Waianae	HI	96792
57.						Leeward Oahu Transportation Management Association	700 Bishop Street, Suite 1928		Honolulu	HI	96813
58.		Ms. Kuulei	Jolonino	President		Honokai Hale/Nanakai Gardens Community Association	92-769 Paakai Street		Kapolei	HI	96707
59.						Ko Olina Community Association	92-1480 Aliinui Drive		Ko Olina	HI	96707
60.				Resident Manager		Ko Olina Fairways Association of Apartment Owners	1543 ALII NUI DR		Kapolei	HI	96707
61.						Ko Olina Resort, LLC	92-1220 Aliinui Drive		Kapolei	HI	96707
62.						West Oahu Economic Development Association	P.O. Box 700972		Kapolei	HI	96709
63.						Hawaiian Civic Club	P.O. Box 700007		Kapolei	HI	96709
64.		Mr. Keola	Lloyd			Kapolei Rotary Club	P.O. Box 700913		Kapolei	HI	96709
65.		Mr. James	Plasse			Makakilo-Kapolei Lions Club	92-1223 Umena Street		Kapolei	HI	96707

		FirstName	LastName	JobTitle	Department	Company1	Address1	Address 2	City	State	Postal Code
66.						Ewa Neighborhood Board	530 S. King Street, Room 400		Honolulu	HI	96813
67.		Representative Mark	Moses				Hawaii State Capitol	415 S. Beretania Street, Room 310	Honolulu	HI	96813
68.						Friends of the Pearl Harbor Historic Trail	P.O. Box 2893		Aiea	HI	96701
69.		Senator Brian	Brian Kanno				Hawaii State Capitol	415 South Beretania Street, Room 202	Honolulu	HI	96813
70.		Representative	Michael Kahikina				Hawaii State Capitol	415 South Beretania Street, Room 404	Honolulu	HI	96813
71.		Councilmember Mike	Todd Apo				Council District #1	530 South King Street, Room 202	Honolulu	HI	96813
72.		Councilmember	Donovan Dela Cruz				City Council Chair	530 South King Street, Room 202	Honolulu	HI	96813

		FirstName	LastName	JobTitle	Department	Company1	Address1	Address 2	City	State	Postal Code
73.		Councilmember	Nestor Garcia				City Council Chair	530 South King Street, Room 202	Honolulu	HI	96813
74.						UHM Hamilton Library	Hawaiian Collection	2550 McCarthy Mall	Honolulu	HI	96822
75.						Legislative Reference Bureau	Hawaii State Capitol	415 South Beretania Street, Room 004	Honolulu	HI	96813
76.					Department of Business, Economic Development & Tourism	Business Resource Center Library	250 South Hotel Street, 4th Floor		Honolulu	HI	96813
77.						Hawaii State Library	Hawaii Documents Center	478 South King Street	Honolulu	HI	96813
78.						Kapolei Public Library	1020 Manawai Street		Kapolei	HI	96707
79.						Waianae Public Library	85-625 Farrington Highway		Waianae	HI	96792
80.						Ewa Beach Public & School Library	91-950 North Road		Ewa Beach	HI	96706
81.						Hawaii Kai Regional Library	249 Lunalilo Home Road		Honolulu	HI	96825
82.						Pearl City Regional Library	1138 Waimano Home Road		Pearl City	HI	96782
83.						Kaimuki Regional Library	1041 Koko Head Avenue		Honolulu	HI	96816

		FirstName	LastName	JobTitle	Department	Company1	Address1	Address 2	City	State	Postal Code
84.						Kaneohe Regional Library	45-829 Kamehameha Hwy		Kaneohe	HI	96744
85.						Lihue Regional Library	4344 Hardy Street		Honolulu	HI	96766
86.						Hilo Regional Library	300 Waianuenue		Hilo	HI	96720
87.						Kahului Regional Library	90 School Street		Kahului	HI	96732
88.						Municipal Reference & Records Center	City Hall Annex	558 South King Street	Honolulu	HI	96813
89.				Editor		Honolulu Advertiser	P.O. Box 31000		Honolulu	Hi	96849
90.				City Editor		Honolulu Star-Bulletin	500 Ala Moana Blvd., Suite 7-500		Honolulu	HI	96813

Aina Nui

LAND USE COMMISSION
MINUTES OF MEETING

October 7, 2004

Mokuola Ballroom
Hilo Hawaiian Hotel
71 Banyan Drive
Hilo, Hawaii

COMMISSIONERS PRESENT:	P. Roy Catalani Michael Formby Pravin Desai Isaac Fiesta Kyong-su Im Lisa Judge Steve Montgomery
COMMISSIONERS ABSENT:	Randall Sakumoto Peter Yukimura
STAFF PRESENT:	Anthony Ching, Executive Officer Bert Saruwatari, Staff Planner Maxwell Rogers, Staff Planner Holly Hackett, Court Reporter Walter Mensching, Audio Technician

Chair Catalani called the meeting to order at 9:54 a.m.

TENTATIVE MEETING SCHEDULE

Executive Officer Anthony Ching reported the following schedule:

- The next meeting will be held in Maui on October 21 and 22 to hear the Kuleana Ku`ikahi docket.
- The November 4 and 5 meetings will also be held in Maui.

There were no questions posed by the Commission.

LUC REIMBURSMENT POLICY UPDATE

Mr. Ching presented a power point presentation and discussed the Land Use Commission's operating funds, hearing expenses, the HAR 15-15-49 reimbursement rule and projected an adverse impact on the Commission's available operating budget.

Commissioner Montgomery had questions related to any potential relief given to qualified petitioners, reimbursement policies, and the nature of budget increases.

Commissioner Desai's questions and concerns were in reference to requirements placed upon the LUC with respect to the venue and length of the hearings.

After a brief discussion, Mr. Ching proposed that Commission consider taking action on this matter at the next meeting.

ELECTION OF OFFICERS

Commissioner Fiesta moved to nominate Commissioner Montgomery as Vice-Chair of the Commission. The motion was seconded by Commissioner Judge. Said motion was approved by voice votes.

A04-753 AINA NUI CORP

Chair Catalani stated this is an action meeting on Docket No. A04-753 Aina Nui Corporation to determine whether the Land Use Commission is the appropriate accepting authority and whether the proposed action may have a "significant effect" to warrant the preparation of an environmental impact statement.

APPEARANCES:
Naomi Kuwaye, Esq., represented Petitioner
R. Ben Tsukazaki, Esq., represented Petitioner
John Chang, Esq., represented State Office of Planning
Abe Mitsuda, State Office of Planning

Chair Catalani noted that there were no public witnesses.

Chair Catalani also noted that the City and County of Honolulu's Department of Planning and Permitting is excused from the proceedings but had provided email correspondence in which it indicated that it agrees with Petitioner's motion.

Petitioner presented its case where it offered to prepare an EIS and concurs that the Land Use Commission is the appropriate accepting authority.

There were no questions from the parties and the Commissioners.

Commissioner Im moved to approve the acceptance of the Land Use Commission as the appropriate accepting authority and that the project would have a significant effect. Commissioner Fiesta seconded both motions. The Commission was polled as follows:

Ayes: Commissioners Im, Fiesta, Desai, Formby, Judge, Montgomery, and Catalani.

The motion passed with a vote of 7 ayes and 2 absent.

A87-617 PUAKO HAWAII PROPERTIES (fka) SIGNAL PUAKO CORP

Chair Catalani stated that this is an action meeting on Docket No. A87-617 Puako Hawaii Properties (fka) Signal Puako Corporation to consider Bridge Aina Lea, LLC's Motion to Amend Corporate Ownership and to Amend Land Use Commission Order dated July 1, 1991 and to Amend Paragraph (1) to Comply with Existing Hawaii County Standards and Requirements.

APPEARANCES:
John Carroll, Esq., represented the Petitioner
Tom Dunn, Esq., represented the Petitioner
Christopher Gregory, Esq., represented the Petitioner
Hoolae Paoa, CEO of Bridge Aina Lea
James Baldwin, Project Director of Bridge Aina Lea
Norman Hayashi, County of Hawaii Planning Department
Bobbie Jean Leithead-Todd, Esq., represented County of Hawaii Planning Department
John Chang, Esq., represented State Office of Planning
Abe Mitsuda, State Office of Planning

Chair Catalani noted that there were no public witnesses at this time.

Chair Catalani asked the Petitioner to focus his presentation on the affordable housing aspect of the motion.

Mr. Carroll made a presentation of its case and discussed the projected size and number of constructed units (107) off-site with the remainder of affordable units on-site.

Ms. Leithead-Todd had questions in reference to timelines, the affordable housing conditions, and the number of market units.

Mr. Paoa discussed the number of proposed housing units and timelines.

There were no questions from Commissioners.

Mr. Baldwin provided a PowerPoint presentation of the project.

Chair Catalani had questions regarding the location and timing of affordable and market units.

A recess break was taken at 11:07 and the meeting reconvened at 11:20 a.m.

Cross Examination

Ms. Leithead-Todd had questions relative to housing credits qualifications.

Mr. Chang's questions were in reference to another site, if necessary, that would accommodate the additional affordable units.

Commissioner Fiesta had questions and concerns regarding traffic impacts and work commutes experienced on the island of Hawaii, and the limited number of affordable homes; problems that already exist on the Big Island.

Commissioner Desai's questions were relative to reducing the project density and the number of affordable homes to be built.

Vice Chair Montgomery had a few questions on the justification to reduce affordable housing for this project, and an analysis of the property's conditions that run-with-the-land. Vice Chair Montgomery indicated the need for more information on both these matters.

The Commissioners discussed matters related to financial ability of the Petitioner and the financial aspects of the project

Commissioner Judge had a few questions regarding the affordable housing rules, and the timeframe to build these homes.

Commissioner Im had questions and concerns relative to Petitioner's argument to reduce affordable housing. Commissioner Im suggested that the Petitioner work with the County to revise the motion and to further provide financial information to support their argument.

Chair Catalani added that the Commission is trying to understand financially why the Petitioner is reducing the 1,000 affordable housing units to 90 units.

After a discussion, Mr. Carroll requested to defer the motion until the December commission meeting in Kona.

Chair Catalani noted that he would allow Miles Miyasato of Hawaii Operating Engineers to provide testimony at this time.

PUBLIC WITNESS

1. Miles Miyasato

Mr. Miyasato stated that he was testifying as a concerned member of the community. He discussed the need for roadway improvements in the area and added that he supports this project.

After a brief discussion, there were no questions by the parties and the Commission.

Commissioner Fiesta moved that the Commission defer the motion until the next meeting on the Big Island. The motion was seconded by Commissioner Im. The Commission was polled as follows:

Ayes: Commissioners Fiesta, Im, Desai, Formby, Judge, Montgomery, and Catalani.
Nays: None

The motion passed with a vote of 7 ayes and 2 absent.

A lunch break was taken at 12:30 p.m. The meeting reconvened at 1:40 p.m.

A04-744 HILUHILU DEVELOPMENT, LLC

Chair Catalani stated that this is an action meeting on Docket No. A03-744 Hiluhilu Development, LLC to consider acceptance of the Final Environmental Impact Statement for the reclassification of approximately 725.2 acres of land currently in the Conservation and Agricultural District in to the Urban District.

APPEARANCES:
Alan Okamoto, Esq. representing the Petitioner
Roger Harris, Petitioner's representative
Jeff Overton, Environmental Planner, Group 70
Norman Hayashi, County of Hawaii Planning Department
Bobbie Jean Leithead-Todd, Esq., represented County of Hawaii Planning Department
John Chang, Esq., represented State Office of Planning
Abe Mitsuda, State Office of Planning

PUBLIC WITNESS:

1. Jan Yokota

Ms. Yokota stated that she is the Director of CIP at the University of Hawaii. Ms. Yokota discussed issues relative to infrastructure improvements, potable water, roadways, design standards and the MOU.

2. Rodney Freitas

Mr. Freitas stated that he is the Chancellor of West Hawaii Community College. He testified that he is in support of the project and expounded on the urgency for UH to have a new site.

After a brief discussion, there were no further questions.

Admission of Exhibits by the Parties

Mr. Okamoto submitted three exhibits from petitioner. There were no objections by the County and the State. Said exhibits were admitted into the record.

The County had questions and concerns regarding their recommendation for airport access and mauka connection to the highway, and the timelines of the roadway infrastructure.

The State's questions were related to petitioner working with the other state agencies, such as the DOT, DLNR, DHHL, and UH to resolve access problems.

Vice Chair Montgomery commended the Petitioner on the quality of studies in the appendix and asked a few questions in reference to the chemical treatment for termite control.

A recess break was taken at 2:45 p.m. and the meeting reconvened at 3:05 p.m. Commissioner Fiesta left the proceedings at this time.

Staff Report

1. Maxwell Rogers

Mr. Rogers, staff planner, provided a GIS map orientation of the area and briefly summarized the staff report.

Commissioner Im sought clarification of the master plan and additional information on the assisted living units for seniors.

After a brief discussion, there were no further questions by the parties and the Commission.

Commissioner Judge moved to accept the FEIS based on the exhibits and testimony provided, and corrections to the master plan proposed by Commissioner Im. The motion was seconded by Vice Chair Montgomery. The Commission was polled as follows:

Ayes: Commissioners Judge, Montgomery, Im, Desai, Formby, and Catalani.
Nays: None

The motion passed with a vote of 6 ayes and 3 absent.

SP00-393 KAMEHAMEHA SCHOOLS BERNICE PAUAHI BISHOP ESTATE and BR93-699 OFFICE OF STATE PLANNING, STATE OF HAWAII

Chair Catalani state that this is an action meeting on SP00-393 Kamehameha Schools Bernice Pauahi Bishop Estate and BR93-699 Office of State Planning, State of Hawaii to consider the petitioner's Motion to consolidate for hearing (1) Motion to Release Conditions 3, 4, 5, 7, 12, 13, 14, 17, and 18 from Decision and Order Entered on April 7, 2000, in Docket No. SP00-393 and (2) Motion to Release Conditions 2, 4, 7, 8, 11 and 15 in the Order Partially Approving Motion, entered on April 7, 2000, in Docket No. BR93-699.

Appearances:
Linnel Nishioka, representing Kamehameha Schools Bernice Pauahi Bishop Estate
Lane Ishida, Esq., Kamehameha Schools Bernice Pauahi Bishop Estate
Peter Uchiyama, Kamehameha Schools Bernice Pauahi Bishop Estate
Yukio Takemoto, Kamehameha Schools Bernice Pauahi Bishop Estate
Norman Hayashi, County of Hawaii Planning Department
Bobbie Jean Leithead-Todd, Esq., represented County of Hawaii Planning Department
John Chang, Esq., represented State Office of Planning
Abe Mitsuda, State Office of Planning

Chair Catalani noted that there were no public witnesses.

Staff Report

1. Anthony Ching

Mr. Ching provided a map orientation and a video of traffic at the intersection of Volcano and Pa'ahana fronting the property taken in May of this year. Mr. Ching referenced

staff's diagram of the intersection. The video was taken on a school day before school started in the morning and for the duration of the morning peak hour.

Ms. Nishioka made a presentation of its case and stated that the Petitioner seeks to consolidate the motions.

Mr. Chang pointed out that the consolidation might affect the part of the boundary review that is outside of the footprint of the Property.

Vice Chair Montgomery moved to consolidate the two motions. The motion was seconded by Commissioner Im. The Commission was polled as follows:

Ayes: Commissioners Montgomery, Im, Desai, Formby, Judge and Catalani.
Nays: None

The motion passed with a vote of 6 ayes and 3 absent.

Ms. Nishioka stated that the Petitioner is requesting to withdraw certain conditions and believes that petitioner has satisfied conditions 7g and 8.

The County had no objections to the release of conditions.

Mr. Chang had questions and concerns regarding the traffic study as the school is not fully built out and that the upper level students were not included in this component of the school.

Commissioner Im's questions and concerns were relative to any downside should the conditions be released and the other issues of project mitigation raised by the DOT.

Commissioner Formby had questions in reference to the DOT negotiations.

Commissioner Judge raised questions that were relative to the relationship of the agricultural subdivision to school traffic.

Vice Chair Montgomery had questions regarding the school's ride sharing policies.

Commissioner Desai left the proceedings at 4:00 p.m.

STATE'S WITNESS

1. Stanley Tamura

Mr. Tamura stated that he is the district engineer at the DOT's Hawaii District. Mr. Tamura identified the deceleration lane and noted that the lanes are needed for safety and capacity.

A recess break was taken at 4:20 p.m. The meeting reconvened at 4:38 p.m.

Commissioner Formby's questions were regarding the ownership of the property for the acceleration to deceleration lanes. Mr. Tamura replied that the DOT did not own the footage.

Vice Chair Montgomery had questions and concerns regarding the regional traffic problems and the analysis of the traffic study.

Commissioner Im's questions were in reference to the DOT and petitioner working together to satisfy the LUC condition.

Chair Catalani had questions and concerns relative to the acceleration and deceleration lanes, and the shoulder lane.

Mr. Takemoto stated that the master plan does not exceed the 1120 students and that the high school student enrollment will be expanded. Eighty percent are currently driven by bus and twenty percent are driven by parents during regular school hours.

After a discussion, Commissioner Im moved that the petitioner has not met the condition related to meeting the DOT needs.

After discussion and deliberation, the commission amended the motion so as to allow the petitioner to withdraw conditions 2 and 11 from the boundary review and conditions 12 and 3 from the special permit; timelines for a position statement from the DOT regarding regional traffic, and to defer action relating to 7g from the special permit, and 7 and 8 from the boundary review.

Commissioner Judge seconded the amended motion. The Commission was polled as follows:

Ayes: Commissioners Im, Judge, Montgomery, Formby, and Catalani.
Nays: None

The motion passed with a vote of 5 ayes and 4 absent.

A recess break was taken at 6:05 p.m. and the meeting reconvened at 6:18 p.m.

A04-747 KAMEHAMEHA INVESTMENT CORPORATION

APPEARANCES:
R. Ben Tsukazaki, Esq. represented Petitioner
Norman Hayashi, County of Hawaii Planning Department
Bobbie Jean Leithead-Todd, Esq., represented County of Hawaii Planning Department
John Chang, Esq., represented State Office of Planning
Abe Mitsuda, State Office of Planning
Lorene Maki, State Office of Planning

PUBLIC WITNESSES

1. Ray Soon

Mr. Soon stated that he is in support of the project and also the implementation of the project. He added that no changes will be made to the master plan and discussed issues of education and stewardship of resources.

Vice Chair Montgomery's questions and concerns were in reference to the many people who testified against this project at the last hearing and regarding statements of policy level issues.

Chair Catalani's questions were relative to the goals of the Kamehameha Investment Corporation.

Commissioner Judge's questions were relative to the need for the West Hawaii campus and its plan.

2. William Meilcke

Mr. Mielcke stated that he is in support of the project and noted that it is an important aspect of Bishop Estate's plan, which was authorized to proceed by its board of directors and trustees.

Commissioner Im had questions and concerns regarding Bishop Holding Corporation, the role of the outside developer, and the master plan.

STATE'S WITNESS

1. Stanley Tamura

Mr. Tamura stated that he is the district engineer at the DOT's Hawaii Division. Mr. Tamura testified that the development would adversely affect traffic upon full build out.

After a brief discussion, Chair Catalani adjourned the meeting at 7:18 p.m.

(Please refer to LUC Transcript of October 7, 2004 for more details on this matter.)

LAND USE COMMISSION
NOTIFICATION OF LAND USE COMMISSION MEETING
DATE, TIME AND PLACE

October 7, 2004 – 9:30 a.m.
October 8, 2004 - 8:30 a.m.
Mokuola Ballroom
Hilo Hawaiian Hotel
71 Banyan Drive
Hilo, Hawaii

A G E N D A

I. ADOPTION OF MINUTES

1. September 16, 2004 and September 17, 2004

II. TENTATIVE MEETING SCHEDULE

III. LUC REIMBURSEMENT POLICY UPDATE

IV. ACTION

1. ELECTION OF OFFICERS

   Election of 2nd Vice Chairperson.

2. A04-753 AINA NUI CORPORATION (Oahu)

   - To determine whether the Land Use Commission is the Appropriate Accepting Authority pursuant to Chapter 343, Hawaii Revised Statutes, for the reclassification of approximately 174.209 acres of land currently in the Agricultural District to the Urban District at Ewa, Oahu, Hawaii.

   - To determine whether the proposed action may have a "significant effect" to warrant the preparation of an Environmental Impact Statement pursuant to Chapter 343, Hawaii Revised Statutes.

- over -

3. A87-617 PUAKO HAWAII PROPERTIES (fka) SIGNAL PUAKO CORPORATION (Hawaii)

To consider Bridge Aina Lea, LLC's Motion to Amend Corporate Ownership and to Amend Land Use Commission Order dated July 1, 1991 and to Amend Paragraph (1) to Comply with Existing Hawaii County Standards and Requirements. This docket involved the reclassification of approximately 1,060 acres of land in the Agricultural District to the Urban District for residential and golf course uses at Waikoloa, South Kohala, Hawaii.

4. A04-744 HILUHILU DEVELOPMENT, LLC (Hawaii)

To consider acceptance of Hiluhilu Development, LLC's Final Environmental Impact Statement for the reclassification of approximately 725.2 acres of land currently in the Conservation and Agricultural District to the Urban District for residential, golf course, and mixed uses at Kau, North Kona, Hawaii.

5. SP00-393 KAMEHAMEHA SCHOOLS BERNICE PAUAHI BISHOP ESTATE (Hawaii) and BR93-699 OFFICE OF STATE PLANNING, STATE OF HAWAII

To consider Motion to consolidate for hearing (1) Motion to Release Conditions 3, 4, 5, 7, 12, 13, 14, 17, and 18 from Decision and Order Entered on April 7, 2000, in Docket No. SP00-393 and (2) Motion to Release Conditions 2, 4, 7, 8, 11 and 15 in the Order Partially Approving Motion, entered on April 7, 2000, in Docket No. BR93-699.

To consider Motion to Release Conditions 3, 4, 5, 7, 12, 13, 14, 17, and 18 from Decision and Order Entered on April 7, 2000, in Docket No. SP00-393 and Conditions 2, 4, 7, 8, 11 and 15 in the Order Partially Approving Motion, entered on April 7, 2000, in Docket No. BR93-699.

V. CONTINUED HEARING

1. A04-747 KAMEHAMEHA INVESTMENT CORPORATION (Hawaii)

To reclassify approximately 487.246 acres of land currently in the Agricultural District into the Rural District for the development of a single-family residential subdivision at Keauhou I and II and Kahaluu, North Kona, Hawaii.

The Commission may elect to consult with counsel in executive session pursuant to Section 92-5, HRS.

Persons with disabilities who need accommodation should call (808) 587-3822 no later than 12:00 noon, 2 business days before the date of the meeting.

The mailing address for the Land Use Commission is P.O. Box 2359, Honolulu, Hawai`i, 96804-2359.

Some materials for these agenda items may be available on our website at http://luc.state.hi.us.

LINDA LINGLE
GOVERNOR

ANTHONY J.H. CHING
EXECUTIVE OFFICER

STATE OF HAWAII
DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT & TOURISM
LAND USE COMMISSION
P.O. Box 2359
Honolulu, Hawaii 96804-2359
Telephone: 808-587-3822
Fax: 808-587-3827

September 30, 2004

TO: Gwyn Tsuchiya
Fiscal Office

FROM: Sandra Matsushima
Land Use Commission

SUBJECT: Transmittal of Land Use Commission Fees

We are transmitting a check in the amount of $500.00 from Kapolei (Imanaka Kudo & Fujimoto) for the Land Use Commission's petition filing fee regarding LUC Docket No. A04-753 Aina Nui Corporation.

Attachment

Bank of Hawaii

CASHIER'S CHECK

59-102/1213

9402911

CUSTOMER'S RECEIPT AND AGREEMENT

ISSUED BY Kapolei

September 07, 2004

PAY TO THE ORDER OF STATE OF HAWAII LAND USE COMMISSION********** $500.00

NOTICE TO CUSTOMERS

You usually cannot stop payment of the attached check after you send it to the payee. If it is lost, stolen or destroyed, notify Bank of Hawaii immediately. You may be required to buy an indemnity or surety bond before a replacement or refund is issued.

See reverse for agreement regarding this cashier's check.

NOT NEGOTIABLE

LUC PETITION FEE

Fee $8.00

THIS MULTI-TONE AREA OF THE DOCUMENT CHANGES COLOR GRADUALLY AND EVENLY FROM DARK TO LIGHT.

Bank of Hawaii

59-102/1213

9402911

CASHIER'S CHECK

ISSUED BY Kapolei

September 07, 2004

VOID AFTER 90 DAYS

PAY TO THE ORDER OF STATE OF HAWAII LAND USE COMMISSION********** $500.00

FIVE ZERO ZERO 00 CTS CTS

LUC PETITION FEE

Brian Stewart

AUTHORIZED SIGNATURE

⑈9402911⑈ ⑆121301028⑆ 0090⑈000160⑈

THE ORIGINAL DOCUMENT HAS A REFLECTIVE WATERMARK ON THE BACK. HOLD AT AN ANGLE TO VIEW WHEN CHECKING THE ENDORSEMENT.

Anthony Ching/DBEDT
09/22/2004 08:32 AM

To nkuwaye@imanakakudo.com
cc Bert Saruwatari/DBEDT@DBEDT, Sandra M Matsushima/DBEDT@DBEDT
bcc
Subject Comments on Draft Petition

Naomi:

Many apologies for the oversight in not transmitting these comments to you sooner. I confirm that consideration of the EISPN - LUC to be reviewing and accepting agency and a EIS is warranted will be taken up on October 7 in Hilo.

Please find attached my comments regarding your draft petition.

Anthony J.H. Ching
State Land Use Commission
235 South Beretania
Honolulu, Hawaii 96804-2359
(808) 587-3822

ainanuidraftpetition.ltr.doc

September 21, 2004

Benjamin A. Kudo, Esq.
Naomi U. Kuwaye, Esq.
Bree M. Kurihara, Esq.
Imanaka, Kudo & Fujimoto
Topa Financial Center, Fort Street Tower
745 Fort Street, 17th Floor
Honolulu, Hawaii 96813

Dear Mr. Kudo and Madames Kuwaye and Kurihara:

Subject: Draft Petition For Land Use District Boundary Amendment and Environmental Impact Statement Preparation Notice
Aina Nui Corporation

We are in receipt of the Draft Petition For Land Use District Boundary Amendment (Draft Petition) and Environmental Impact Statement Preparation Notice (EISPN) transmitted by your letter dated August 23, 2004. We understand that this matter involves the reclassification of lands from the State Land Use Agricultural District to the State Land Use Urban District, and that the EISPN was prepared to address the requirements of Chapter 343, Hawaii Revised Statutes, to the extent that the proposed project will require the use of State lands and the use of an historic site. We further understand that Petitioner has identified the Land Use Commission (LUC) as the accepting authority for the Environmental Impact Statement (EIS). Given the nature of the reclassification, we request that both the Final Petition and EISPN address the legal and statutory basis under which the LUC may serve in this capacity.

Our review of the Draft Petition is based on the understanding that the completed Certificate of Service and other petition content requirements as provided in section 15-15-50, Hawaii Administrative Rules (HAR), will be addressed with the subsequent filing of the Final Petition and EIS. We therefore reserve the right to provide additional comments at that time as part of our review of the petition for completeness.

With this understanding, we have the following technical comments to offer:

1) In accordance with §15-15-38(b), HAR, all pleadings shall show the case docket number assigned by the chief clerk of the Commission. We suggest that immediately prior to the filing of the Final Petition, the chief clerk be contacted for the appropriate docket number.

2) In accordance with §15-15-48, HAR, copies of the Final Petition should be served upon the City and County of Honolulu Department of Planning and Permitting and the Planning Commission, the Office of Planning, and all persons with a property interest in the subject property (i.e., Petition Area) as recorded in the county's real property tax records at the time the Final Petition is filed. We acknowledge that those individuals with a property interest in the subject property will be included on the Final Petition's Certificate of Service. We would like to point out that page 2, paragraph 4, of the Affidavit Of Naomi U. Kuwaye Attesting To Service Of Petition For Land Use District Boundary Amendment (Affidavit) (Exhibit "10") should reference that service is being made in compliance with §15-15-48(a), HAR. The Affidavit also should list those persons with a property interest in the subject property.

3) In accordance with §15-15-50(c)(3), HAR, the description of the subject property, including the tax map key number, should be provided. We note that the captions on the documents, as well as Paragraph V of the Draft Petition entitled "Description of the Petition Area" on page 3, do not accurately reflect that the subject property consists of portions of all three parcels. In addition, the tax maps of the subject property should be provided. We note that Exhibit "1" appears to be a portion of tax map 9-1-15. The whole map should be provided. We request that tax map 9-1-14 with the subject property clearly identified also be provided in its entirety. The Final Petition should include at least one full size copy of each of the whole tax map. The remaining 15 copies may be at a reduced size, however, they should still represent the entire map.

In addition, on the survey map (Exhibit "2"), a portion of the area termed "Existing Agriculture" immediately below Lot B is, in fact, designated within the Urban District as it was reclassified pursuant to LUC Docket No. A96-719/State of Hawaii, Department of Transportation, Harbors Division. We have enclosed a map of this area for your information. All references on the map to "Agriculture" also should be corrected to "Agricultural" to reflect the proper name of said district.

4) In accordance with §15-15-50(c)(22), HAR, a copy of the notification of petition filing should be provided. Exhibit "15," which is intended to address this requirement should be entitled "Notification of Petition Filing." The second "of" in the title should be deleted. In addition, the location map should delineate the subject property only, and not the larger Kapolei West project area. Please note that the statewide and Oahu mailing lists should be attached to the Affidavit of Naomi U. Kuwaye Attesting to Sending of Notification of Petition Filing. Please call our office to obtain a copy of the mailing lists.

Upon submittal of the Final Petition and EISPN, we request that electronic versions of the documents (in PDF format) be included so that they may be posted on our website.

We have no further comments to offer at this time. Thank you for the opportunity to comment on the Draft Petition.

Please feel free to contact Bert Saruwatari of my office at 587-3822, should you require clarification or any further assistance.

Sincerely,

ANTHONY J. H. CHING
Executive Officer

Enclosure