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LAND USE COMMISSION

STATE OF HAWAII

ADOPTION OF ORDER	PAGE
A12-795 WEST MAUI LAND COMPANY, INC.-)	1
KAHOMA RESIDENTIAL, LLC.)	
ACTION)	
A10-787 MAUI R&T PARTNERS, LLC.)	14
_____)	

TRANSCRIPT OF PROCEEDINGS

The above-entitled matters came on for an adoption of order and an action meeting at the Maui Arts & Cultural Center, Haynes Meeting Room, One Cameron Way, Kahului, Maui, Hawaii, commencing at 9:30 a.m. on April 4, 2013, pursuant to Notice.

REPORTED BY: HOLLY M. HACKETT, CSR #130, RPR
Certified Shorthand Reporter

A P P E A R A N C E S

COMMISSIONERS:

KYLE CHOCK, CHAIRMAN
SHELDON BIGA
THOMAS CONTRADES
RONALD HELLER VICE CHAIR
LANCE M. INOUE
ERNEST MATSUMURA
CHAD McDONALD VICE CHAIR
NICHOLAS W. TEVES, JR.

EXECUTIVE OFFICER: DAN ORODENKER
CHIEF CLERK: RILEY HAKODA
STAFF PLANNERS: BERT SARUWATARI, SCOTT DERRICKSON

DEPUTY ATTORNEY GENERAL: SARAH HIRAKAMI, ESQ.

AUDIO TECHNICIAN: WALTER MENCHING

Docket No. A12-795 WEST MAUI LAND COMPANY, INC.-KAHOMA
RESIDENTIAL, LLC (Maui)

For the Petitioner: JAMES GEIGER, ESQ.
HEIDI BIGELOW, WMLC, Inc.

For the County: JAMES GIROUX, ESQ.
Deputy Corporation Counsel
KURT WOLLENHAUPT, Planning

For the State: BRYAN YEE, ESQ.
Deputy Attorney General

Intervenor: MICHELE LINCOLN

1
2 Docket No. A10-787 MAUI R&T PARTNERS, LLC'S

3 For the Petitioner: CURTIS TABATA, ESQ.
4 WYETH MATSUBARA, ESQ.

5 For the County: JAMES GIROUX, ESQ.
6 Deputy Corporation Counsel
KURT WOLLENHAUPT, Planning

7 For the State: BRYAN YEE, ESQ.
8 Deputy Attorney General
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I N D E X

PUBLIC WITNESSES

PAGE

Victoria Huffman

18

1 CHAIRMAN CHOCK: (gavel) Good morning,
2 everybody. I'd like to call our meeting to order.
3 Our first item of business is the adoption of minutes.
4 Do we have a motion to approve?

5 COMMISSIONER BIGA: So moved.

6 COMMISSIONER CONTRADES: Second.

7 CHAIRMAN CHOCK: Any opposed? Minutes are
8 approved. Dan, tentative meeting schedule.

9 MR. ORODENKER: Thank you, Mr. Chair.
10 Tomorrow we are on O'ahu for the Kunia Loa Ridge
11 Farmlands tentative site visit at 9:00 a.m. starting
12 at Honolulu International Airport. April 18th back
13 here on Maui for Waiko Industrial Investment, LLC
14 decision-making.

15 April 19 at Honolulu International Airport
16 conference room 3 Ko Olina Development, LLC boat
17 launch ramp status report and approval of the revised
18 administrative rules.

19 May 2nd and 3rd we will be in a video
20 conference to adopt the Waiko Industrial Investment,
21 LLC adoption of order.

22 On May 16 the calendar is open.

23 June 13th and 14th State of Hawai'i DOE
24 Kihei High School once again here on Maui.

25 xx

1 CHAIRMAN CHOCK: Thank you, Dan. Next item
2 on our agenda this morning is A12-795 adoption of the
3 order West Maui Land Company, Inc. Kahoma Residential.
4 Will the parties please identify themselves for the
5 record.

6 MR. GEIGER: Good morning, Chair,
7 Commissioners. James Geiger appearing on behalf of
8 the Petitioner who's also represented by Heidi
9 Bigelow.

10 MR. GIROUX: Good morning. James Giroux,
11 deputy corporation counsel on behalf of Department of
12 Planning. With me is Kurt Wollenhaupt.

13 MR. YEE: Good morning. Deputy Attorney
14 General Bryan Yee on behalf of the Office of Planning.

15 MS. LINCOLN: Michele Lincoln, Intervenor.

16 CHAIRMAN CHOCK: Good morning, everyone.
17 Let me briefly update the record on this matter. On
18 March 21st, 2013 the Commission met in Kahului, Maui
19 and voted to grant the petition for district boundary
20 amendment in Docket A12-795.

21 On March 27 the Commission mailed the
22 April 4th through 5th LUC meeting agenda notice to the
23 parties and statewide, O'ahu and Maui mailing lists.

24 On March 28 the Commission mailed copies of
25 the LUC's Proposed Findings of Fact, Conclusions of

1 Law and Decision and Order to the parties.

2 On April 3 the Commission received
3 Petitioner's position on the LUC's Proposed Findings
4 of Fact, Conclusions of Law and Decision and Order.
5 Is there anyone in the audience who wishes to provide
6 public testimony on this matter? We have no one
7 signed up. Is there anybody in the audience who would
8 like to come forward and provide testimony?

9 MR. ORODENKER: Mr. Chair, we have Victoria
10 Huffman.

11 CHAIRMAN CHOCK: Scratch that. Since
12 there's no public testimony on *this* matter,
13 Commissioners, before you is the Form of the Order
14 granting the Petition for District Boundary Amendment
15 in this Docket No. A12-795. Chair will entertain a
16 motion to approve the Form of the Order in this
17 matter. Commissioners, what is your pleasure?

18 COMMISSIONER CONTRADES: So moved.

19 COMMISSIONER McDONALD: Second.

20 CHAIRMAN CHOCK: Moved by Commissioner
21 Contrades. I'm sorry. Commissioner Biga.

22 COMMISSIONER BIGA: So moved.

23 CHAIRMAN CHOCK: Seconded by Commissioner
24 McDonald. Any discussion? Commissioner Heller.

25 COMMISSIONER HELLER: Yes. I have a couple

1 of things I'd like to suggest as minor modifications.
2 The first one is on page 9. I think it's just a typo,
3 but in paragraph 55 the last line where it reads "to
4 rebut *and* submittals by Bolomet" I think it's meant to
5 say to "rebut *any* submittals by Bolomet."

6 And the next one on page 45 No. 334 I do
7 actually have a proposed change to that one. It reads
8 "The County of Maui Department of Water Supply has
9 excess capacity of potable water available for
10 additional projects." I would propose to modify that
11 by deleting the word *excess* and replacing it with
12 *adequate*. And then at the end of the sentence adding
13 the words *in the vicinity of Petition Area*. Reasoning
14 that I don't know that that's necessarily islandwide
15 statement that's something that relates to this
16 particular vicinity. I'd like to suggest those
17 changes or corrections.

18 CHAIRMAN CHOCK: Thank you, Vice-chair
19 Heller. Commissioners, any other comments?

20 COMMISSIONER HELLER: I guess I'm proposing
21 that as an amendment to the motion.

22 COMMISSIONER BIGA: I accept.

23 COMMISSIONER McDONALD: I accept.

24 CHAIRMAN CHOCK: Okay. Accepted by
25 Commissioners Biga and McDonald. Commissioners, any

1 other comments? Having heard no further comments,
2 Dan, please call for the question.

3 MR. ORODENKER: The motion is to accept the
4 Proposed Decision and Order for West Maui Land, Inc.
5 Commissioner Biga?

6 COMMISSIONER BIGA: Yes.

7 MR. ORODENKER: Commissioner McDonald?

8 VICE CHAIR McDONALD: Yes.

9 MR. ORODENKER: Commissioner Heller?

10 COMMISSIONER HELLER: Yes.

11 MR. ORODENKER: Commissioner Matsumura?

12 COMMISSIONER MATSUMURA: Yes.

13 MR. ORODENKER: Commissioner Teves?

14 COMMISSIONER TEVES: Yes.

15 MR. ORODENKER: Commissioner Contrades?

16 COMMISSIONER CONTRADES: Yes.

17 MR. ORODENKER: Commissioner Makua is
18 excused. Commissioner Inouye?

19 COMMISSIONER INOUE: Yes.

20 MR. ORODENKER: Chair Chock?

21 CHAIRMAN CHOCK: Yes.

22 MR. ORODENKER: Mr. Chair, the motion
23 carries unanimously.

24 CHAIRMAN CHOCK: Okay, Parties. Thank you
25 very much.

1 MR. GEIGER: Thank you, Chair and
2 Commissioners.

3 MS. LINCOLN: Can I make a comment just 2
4 minutes?

5 CHAIRMAN CHOCK: I'm sorry?

6 MS. LINCOLN: Could I make a 2-minute
7 comment?

8 CHAIRMAN CHOCK: Our proceeding on this
9 matter is closed.

10 MS. LINCOLN: Oh, I know.

11 CHAIRMAN CHOCK: You want to make some
12 general comments.

13 MS. LINCOLN: Yes.

14 CHAIRMAN CHOCK: Sure. Please.

15 MS. LINCOLN: Okay. Just when you were
16 going through the corrections I had submitted a letter
17 back in January with correct spellings of my witness's
18 name Jane Imai is number 90 in there. And Cynthia
19 Cajugal, their names were spelled incorrectly on the
20 first Decision and Order and they're spelled
21 incorrectly on the second. So you're going to make
22 corrections on it anyway, could we respectfully put
23 their names in correctly?

24 CHAIRMAN CHOCK: I don't think that would
25 be a problem. Those are non-substantive changes.

1 MS. LINCOLN: No. 107 the substitute court
2 reporter's name. I know on the docket is says Cammie
3 Gillett but on that it says "Smith". So I don't know
4 if that's an issue. But if you're making corrections
5 if you could just look into that.

6 CHAIRMAN CHOCK: We'll make a note of that.
7 Thank you.

8 MS. LINCOLN: I just wanted to extend my
9 thank you to the Commission for serving the people of
10 Hawai'i. I didn't even know two years ago that we had
11 a Land Use Commission. And as I got involved I didn't
12 realize you guys did this for volunteer. I really
13 appreciate all the hours you put in for reading all
14 that material and sitting in attending all these
15 meetings.

16 I appreciate the sacrifice you do taking
17 time away from your families and your friends from
18 your hobbies and other things that would be way more
19 enjoyable than this from your work and your jobs. I
20 do appreciate that.

21 Your time is precious and I do appreciate
22 the time that you spend serving the people of Hawai'i
23 on this Commission. I also want to thank you for your
24 patience with me during this whole proceedings on by
25 behalf.

1 And I just wanted you to know that I never
2 prayed for you to deny this Petition. I prayed for
3 wisdom and discernment for you. And I prayed for you
4 to have the strength of your convictions and be able
5 to stand up for that. And I'm going to continue to
6 pray for that 'cause I believe that you're on this
7 Commission for such a time as this.

8 And I'm so excited to see what's going to
9 happen in Hawai'i and the part that you play in it.
10 And you're very honorable men and I thank you for
11 that. And women, the one's missing.

12 In the Old Testament in the book of Daniel
13 Chapter 3 there's the story of three men. And they
14 would not bow down to a government ruling. And as a
15 result they went into a firey furnace. I just want to
16 let you know that I'm planning on going into the fire.
17 I respect your positions, Commissioners, but I object
18 to this Decision and Order. And I will be appealing
19 and requesting a stay.

20 I just want to quote in the words of
21 Abraham Lincoln, quote, "Let us have the faith that
22 right makes might. And in that faith let us to the
23 end dare to do our duty as we understand it."

24 So I pray that Hawai'i will move forward in
25 the way it should go under your Commission because the

1 life of the land is only going to be perpetuated in
2 righteousness. Thank you.

3 CHAIRMAN CHOCK: Thank you very much,
4 Ms. Lincoln, not just for your comments but for your
5 participation in this matter as well. That concludes
6 the Adoption of the Order on the West Maui Land
7 Company Kahoma Residential, Inc.

8 We'll take a brief recess in place to allow
9 the parties to reset and we'll pick up in a quick
10 minute. Thank you. (9:40 recess)

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1 CHAIRMAN CHOCK: We're back on the record.
2 This is an action meeting on Docket No. A10-787 Maui
3 R&T Partners, LLC to consider the acceptance of the
4 Final Environmental Impact Statement. Parties, please
5 identify yourselves for the record.

6 MR. TABATA: Good morning, Mr. Chair,
7 members of the Commission. Curtis Tabata and Wyeth
8 Matsubara appearing on behalf of the Petitioner Maui
9 R&T Partners, LLC. Also present is Steve Perkins
10 project manager of Maui R&T Partners.

11 CHAIRMAN CHOCK: Good morning. County?

12 MR. GIROUX: Good morning. James Giroux on
13 behalf of the Department of Planning, county of Maui.
14 With me is Kurt Wollenhaupt.

15 MR. YEE: Good morning. Deputy Attorney
16 General Bryan Yee on behalf of the Office of Planning.

17 CHAIRMAN CHOCK: Good morning, everyone.
18 Let me briefly update the record on this docket. On
19 June 24, 2010 Maui R&T Partners, LLC filed a Petition
20 for Land Use District Boundary Amendment to reclassify
21 approximately 253 acres of land at Kihei, island of
22 Maui identified as tax map key (2)2-2-024:016 and 017,
23 and (2) 2-2-002-054 from the State Land Use
24 Agricultural District to the State Land Use Urban
25 District together with the \$500 filing fee.

1 On July 15, 2010 and by written order dated
2 July 27, 2010 the Land Use Commission agreed to be the
3 accepting authority pursuant to Chapter 343 HRS, and
4 determined that the proposed action may have a
5 significant effect on the environment to warrant the
6 preparation of an Environmental Impact Statement.

7 The Office of Environmental Quality Control
8 published notice of the availability of the EISPN in
9 its August 8, 2010 issue of the Environmental Notice.
10 A 30-day public comment period for the EISPN ended on
11 September 7th, 2010.

12 The Office of Environmental Quality Control
13 published notice of the availability of the Draft EIS
14 in its June 23rd, 2012 issue of the Environmental
15 Notice. The 45-day public comment period for the DEIS
16 ended on August 7, 2012.

17 On March 5, 2013 Petitioner filed its
18 proposed Final EIS.

19 On March 6 the Commission delivered the
20 documents packaged for publication of notice in the
21 next available edition of the Environmental Notice and
22 for evaluation for acceptance.

23 On March 12 the Commission received
24 Petitioner's response to LUC's DEIS comment letter to
25 Petitioner dated July 30, 2012, and an acknowledgment

1 letter from OEQC regarding the LUC's March 6, 2013
2 letter transmitting the FEIS for the proposed Project.

3 On March 22, the Commission received
4 Petitioner's digital copies of the Final EIS for the
5 Petition. The Office of Environmental Quality Control
6 published notice of the availability of the Final EIS
7 in its March 23, 2013 issue of the Environmental
8 Notice.

9 On March 27 the Commission mailed the LUC
10 April 4 through 5, 2013 mailing agenda notice to the
11 parties and statewide, O'ahu and Maui mailing lists.

12 On April 2 the Commission received e-mail
13 correspondence from Victoria Huffman.

14 Let me briefly describe our procedure for
15 today on this docket. First I will give opportunity
16 for the Petitioner to comment on the Commission's
17 policy governing reimbursement of hearing expenses. I
18 will then call for those individuals desiring to
19 provide public testimony to identify themselves. All
20 such individuals will be called in turn to our witness
21 box where they will be sworn in prior to their
22 testimony.

23 After completion of the public testimony
24 portion of the proceedings Petitioner will make its
25 presentation. After completion of the Petitioner's

1 presentation we will receive any comments from the
2 Maui County Planning Department and the State Office
3 of Planning.

4 After we have received comments of the
5 Petitioner, Maui County and the State we will conduct
6 our deliberations. Are there any questions regarding
7 our procedure for today, Parties?

8 MR. TABATA: No questions.

9 MR. GIROUX: No questions.

10 MR. YEE: No questions.

11 CHAIRMAN CHOCK: Mr. Tabata, has our staff
12 informed you of the Commission's policy regarding the
13 reimbursement of hearing expenses? If so could you
14 state your client's position with respect to this
15 policy.

16 MR. TABATA: We have been advised of the
17 policy and we will comply with it.

18 CHAIRMAN CHOCK: Thank you. Is there
19 anyone in the audience who desires to provide public
20 testimony on this matter? I believe Victoria Huffman
21 is the only testifier signed up to provide public
22 testimony. Victoria, please come forward. I need to
23 swear you in.

24 xx

25 xx

1 VICTORIA HUFFMAN,
2 being first duly sworn to tell the truth, was examined
3 and testified as follows:

4 THE WITNESS: Absolutely.

5 CHAIRMAN CHOCK: Could you state your name
6 and address?

7 THE WITNESS: Victoria A. Huffman, 163
8 Kulupu'u Street, Kihei, Hawai'i.

9 CHAIRMAN CHOCK: Proceed.

10 THE WITNESS: Good morning, Commissioners.
11 I'm a registered traffic engineer specializing in
12 traffic signal timing, land development review and
13 traffic studies having worked for a very large
14 municipality in California.

15 I have reviewed the traffic study for this
16 document and I have found it very inadequate. I did
17 provide you written testimony. I know you're very
18 busy but I hope you had the opportunity to take a look
19 at that. It was sent to you electronically on Monday.

20 At any rate I do not believe the FEIS
21 complies with your Hawaii Administrative Rules chapter
22 11 for many reasons which I cited in that testimony.
23 But the one I'd like to focus on is that the FEIS's
24 traffic study did not include the very large project
25 what has just been approved by Maui County called

1 Downtown Kihei project.

2 The Downtown Kihei project consists of a
3 150-room hotel along with 270,000 square feet of
4 retail and commercial and a very large movie theater.
5 When this project was approved -- not the project
6 itself, excuse me, but its EA was approved last month
7 by the Planning Commission, the traffic mitigation had
8 not been resolved. And another traffic study will be
9 conducted and presented to HDOT and the Department of
10 Public Works.

11 One of the commissioners described Kihei
12 traffic as horrific and I know that's the case because
13 now I live there myself. And the Downtown Kihei
14 project is located across Pi'ilani Highway, that's
15 makai of Pi'ilani Highway on Pi'ikea Avenue.

16 Now, the problem with this is without
17 including the Downtown Kihei project in the analysis
18 we really don't know the significant impacts of the
19 Maui Research and Tech Park. Let me give you one
20 example. From the Downtown Kihei project traffic
21 study in its EA it reported that with that Downtown
22 Kihei project in place in 2015, that that new
23 roundabout which taxpayers spent \$2 million to have
24 constructed, would operate at Level of Service D.

25 Now, what traffic engineers mean by Level

1 of Service D is it's based on delay. And we have an A
2 through F system. Anything A through D is considered
3 acceptable delay. Anything E and F is considered
4 unacceptable delay with F being gridlock conditions.
5 So keep in mind Downtown Kihei project reported Level
6 of Service D for that roundabout.

7 The Maui Research and Tech Park traffic
8 study on the other hand for its first analysis year,
9 year 2024, reported a Level of Service A for that
10 roundabout. Now, I'm not running the analysis myself,
11 but my technical opinion when you combine those two
12 projects that roundabout would be overcapacity
13 requiring taxpayers to reconstruct the roundabout.

14 Now, there are numerous other intersections
15 makai of Pi'ilani Highway that are operating very
16 poorly particularly three along South Kihei Road.
17 Right in that vicinity it's very much often
18 gridlocked.

19 These signals are so bad and so tightly
20 spaced that there is a CIP project identified for
21 Mr. David Goode in the Public Works Department to
22 retime those signals and have them coordinated.

23 At any rate, the point I'm trying to make
24 to you is that the TIAR, the Traffic Impact Analysis
25 Report for the Maui Research and Tech Park, should be

1 redone to include the Downtown Kihei project to
2 provide an accurate disclosure of the traffic impacts
3 of the Maui Research and Tech Park.

4 I just please strongly wish you consider
5 this. And I hope you have had the opportunity to read
6 my written comments to you because it points out other
7 deficiencies in the FEIS which I think were very
8 important. Unless you want me to describe them in
9 detail I think I'll leave them at hand and not
10 describe them in the sake of time because I know how
11 valuable your time is. I just wanted to thank you for
12 your time and aloha.

13 CHAIRMAN CHOCK: Thank you, Victoria.
14 Parties, any questions for this testifier?

15 MR. TABATA: Yes, thank you.

16 CHAIRMAN CHOCK: Mr. Tabata.

17 MR. TABATA: Ms. Hoffman, thank you for
18 your testimony. Just some background information.
19 Where are you currently employed?

20 THE WITNESS: I'm not employed. I'm living
21 full time and I'm a full-time resident of the state of
22 Hawai'i.

23 MR. TABATA: So you're retired now.

24 THE WITNESS: Preferred retirement I might
25 say.

1 MR. TABATA: Congratulations.

2 THE WITNESS: Thank you.

3 MR. TABATA: Prior to your retirement where
4 were you employed?

5 THE WITNESS: The City of San Diego.

6 MR. TABATA: As a traffic engineer.

7 THE WITNESS: Yes, that's correct.

8 MR. TABATA: How many years did you work
9 with the City of San Diego?

10 THE WITNESS: From 1991 to 2012 October of
11 last year.

12 MR. TABATA: Approximately how many
13 projects did you work on?

14 THE WITNESS: I cannot even count them
15 particularly when I worked in the Development Services
16 Department from years 2002 to 2012. There were so
17 many developmental projects that came in front of my
18 desk I'm sorry I cannot answer that question
19 accurately.

20 MR. TABATA: Maybe over a hundred?

21 THE WITNESS: Oh, absolutely.

22 MR. TABATA: Thank you. On these projects,
23 numerous projects you worked on, would there often be
24 more than one traffic engineer working on the project?

25 THE WITNESS: No, not typically. Unless

1 you consider the chain of command where a senior
2 engineer would be working with an associate engineer.

3 MR. TABATA: Well, I was referring to a
4 situation where the developer would have a traffic
5 engineer, and perhaps you would be working on the
6 project also.

7 THE WITNESS: That is correct. Yes, I
8 would be reviewing the developer's traffic studies.

9 MR. TABATA: I see.

10 THE WITNESS: In behalf of the citizens of
11 San Diego.

12 MR. TABATA: Now, just as a general concept
13 isn't it common for two traffic engineers to have
14 different opinions and conclusions just as a general
15 concept?

16 THE WITNESS: That is correct, but it's
17 numeric so it's not really -- I mean if you analyze
18 something, if you analyze it correctly you get one
19 data set, one conclusion. So in respect to conducting
20 a traffic study, the data set should be there's only
21 one data set that's the correct answer.

22 MR. TABATA: Okay. Well, did you have any
23 disputes with the developers' traffic engineers in
24 your career?

25 THE WITNESS: Absolutely.

1 MR. TABATA: Numerous times?

2 THE WITNESS: Yes, I would say so.

3 MR. TABATA: Thank you. For today I
4 understand -- I've seen your comment letter dated
5 August 5th -- for today I believe we can agree to
6 disagree on some of your, many of your comments. But
7 as a hypothetical we were wondering that *if* we were to
8 address all of your comments and follow your
9 recommendations, we were wondering if we could then
10 count on your support for our Project.

11 THE WITNESS: Absolutely. I think you have
12 a fine project but I do want your project to disclose
13 all impacts to the decision-maker and the public.

14 MR. TABATA: Thank you. I have no more
15 questions.

16 CHAIRMAN CHOCK: Thank you, Petitioner.
17 County, any questions?

18 MR. GIROUX: We have no questions.

19 CHAIRMAN CHOCK: State?

20 MR. YEE: No questions.

21 CHAIRMAN CHOCK: Commissioners, any
22 questions? Commissioner McDonald.

23 COMMISSIONER McDONALD: Just curious. Were
24 your review and comments based on the February 2013
25 TIAR?

1 THE WITNESS: The one that was released for
2 public review. And public review closed in August.

3 COMMISSIONER McDONALD: So it wasn't a
4 February -- I understand a February 2013 TIAR has been
5 prepared.

6 MR. TABATA: That is correct. That was in
7 response to comments received on the Draft EIS.

8 COMMISSIONER McDONALD: Thank you.

9 CHAIRMAN CHOCK: Commissioners, any other
10 questions for this testifier? (no response) Thank
11 you, Victoria.

12 THE WITNESS: Thank you. You have a
13 wonderful day, everybody.

14 CHAIRMAN CHOCK: You too. Thank you.
15 Anyone else from the public wishing to provide public
16 testimony please come forward now. I've seen no one
17 else. Petitioner, are you prepared to proceed with the
18 presentation?

19 MR. TABATA: Yes, Mr. Chair.

20 CHAIRMAN CHOCK: Proceed.

21 MR. TABATA: Thank you. The Petitioner,
22 Maui R&T Partners, LLC is requesting that the
23 Commission accept the proposed Final EIS filed May
24 5th, 2013 for its Maui Research & Technology Park
25 Master Plan update.

1 As a matter of background we have two
2 dockets involved with this one project. The tech park
3 was originally approved by the Land Use Commission in
4 1985 in docket No. A84-585, later amended in 1986.
5 The effect of this 1996 D&O was to reclassify
6 approximately 150.32 acres from the Agricultural
7 District to the Urban District and to incrementally
8 approve approximately 150 acres.

9 So as of today what we have is an existing
10 tech park. This 1986 Decision and Order included a
11 condition that said, quote, "Petitioner shall develop
12 the property as an industrial park for high technology
13 users," end quote. No other uses are expressly
14 mentioned in that 1986 D&O.

15 Today the tech park is comprised of
16 180,000 square feet of office, laboratory and data
17 center space. It generates an estimated 100 to
18 \$150 million a year revenue, employs approximately 400
19 people in over 20 companies.

20 On June 24, 2010 Petitioner filed another
21 Petition for a District Boundary Amendment A10-787 to
22 reclassify an additional 253.05 acres of adjacent
23 lands to the Urban District to pursue the Tech Park's
24 Master Plan update.

25 The Master Plan update seeks to modernize

1 the Project and expand the offerings of the park to
2 not only provide a place of employment but also a
3 place to live and play with additional components
4 including residential, commercial, and a mixed-use
5 village center as well as an expansion of a
6 knowledge-based industrial employment component.

7 Now, if our proposed Final EIS is accepted
8 the Petitioner will also be filing a Motion to Amend
9 and Update the 1986 Decision and Order to allow for
10 the additional uses that go beyond high technology
11 like commercial and residential.

12 Now, along with the new Petition that was
13 filed in 2010 the Petitioner also submitted an
14 Environmental Impact Statement Preparation Notice
15 pursuant to Chapter 343 of the Hawaii Revised
16 Statutes. That is the environmental statement that we
17 are reviewing today based upon the EISPN.

18 Now, the standard for evaluating the EIS is
19 found in Hawaii Administrative Rules section 11-200-
20 23A. The legal standard that was applied by the
21 Hawai'i Supreme Court in Price vs. Obayashi states
22 that: "Whether an EIS satisfies the statutory
23 requirements is a question of law is based on the rule
24 of reason test under which an EIS need not be
25 exhaustive to the point of discussing all possible

1 details bearing on the proposed action, but will be
2 upheld as adequate if it has been compiled in good
3 faith and sets forth sufficient information to enable
4 the decision-maker to consider fully the environmental
5 factors involved, and to make a reasoned decision
6 after balancing the risk of harm to the environment
7 against the benefits to be derived from the proposed
8 action as well as to make a reasoned choice between
9 alternatives.

10 To meet this statutory requirement the EIS
11 has evaluated the Project's impacts and mitigation
12 measures and have included several reports including
13 but not limited to an archaeological inventory survey,
14 a cultural impact assessment, preliminary engineering
15 and drainage report, a sustainability plan, an
16 incremental plan and an updated Traffic Impact
17 Analysis Report.

18 Based on comments received on the Draft EIS
19 the Petitioner has asked its traffic engineer, Parsons
20 Brinckerhoff, to revise its TIAR to be responsive to
21 the comments to include an updated TIAR, the
22 February 2013 TIAR that Commissioner McDonald
23 mentioned in the proposed Final EIS, to analyze two
24 new build scenarios and three new intersections. And
25 also to include in the assumptions the Downtown Kihei

1 project.

2 We do disagree with Ms. Huffman's
3 testimony. I believe she was referring to the prior
4 EIS when she mentioned about in her testimony that she
5 was referring to the August TIAR. So the revised TIAR
6 that we did in February does include the Downtown
7 Kihei project.

8 In addition to that we did comply with the
9 content requirements. We included all the comment
10 letters and responses to the comments. Based on the
11 above we believe the Petitioner has satisfied the
12 statutory, regulatory requirements for the acceptance
13 of the proposed Final EIS. And we respectfully
14 request that the EIS be accepted. Thank you.

15 CHAIRMAN CHOCK: Thank you very much,
16 Petitioner. Mr. Giroux, do you have any presentations
17 this morning?

18 MR. GIROUX: No presentation.

19 CHAIRMAN CHOCK: Thank you. Bryan?

20 MR. YEE: The Office of Planning has no
21 objection to the acceptance of the EIS today, but we
22 do have two comments or concerns. The first, frankly,
23 deals with the failure to provide a copy of the EIS to
24 the Office of Planning.

25 Now, fortunately the Petitioner *did* go to

1 the Office of Planning before filing to inform us of
2 the status of this case. So we were aware that an EIS
3 was going to be filed. Because of that we were able
4 to call knowing that it was going to be filed soon.

5 It was on our calendar list of things that
6 were coming up. So we were able to call and get a
7 copy but we did not get a copy at the time of the
8 filing with the Office of Planning.

9 This is not an objection to the acceptance
10 today. But it is, it was exacerbated. This was a
11 fact which was exacerbated by a second concern. That
12 is with the organization and structure of the EIS.

13 The information required by Chapter 343 is
14 contained in the EIS. The Office of Planning was able
15 to ascertain that this met the requirements of
16 Chapter 343. Quite frankly, we had to work at finding
17 the information. In our view there are various issues
18 with the structure and format. I'll just raise a
19 couple for you today.

20 For example, in every EIS there's a list of
21 agency comments and concerns. And this particular
22 case they have that in a binder. And they filed it
23 chronologically rather than by subject matter. The
24 list of who provided comments is contained in a
25 different binder.

1 So when you're reviewing the comments and
2 concerns, you're going through the binder, you really
3 have to read every single one of them to find the
4 particular agency you're interested in unless you
5 happen to remember there's another binder with
6 actually a list of those agency comments and concerns.

7 This is not -- this does not go to the
8 adequacy of acceptance today. It's an example of how
9 the Office of Planning had to work at finding the
10 information in the document.

11 The second dealt with the comment that the
12 Office of Planning provided. That was we wanted an
13 explanation of the permits of this LUC process. One
14 of the requirements of the EIS is to have a list and a
15 description of the various permits and approvals that
16 we needed.

17 So the Office of Planning views the EIS as
18 being probably the primary document by which members
19 of the public can understand what's coming up, what's
20 gonna happen, both substantively in the terms of the
21 Project as well as what are the approvals that are
22 going to be necessary as this Project moves through
23 the process.

24 And they did include in the Final EIS on
25 pages 37 and 38, a description. We had Office of

1 Planning planners who read through that and had
2 trouble understanding what the process was. These are
3 sophisticated individuals who are familiar with the
4 LUC process. And actually they had trouble reading
5 through it figuring out what was going to be done. I
6 did read through it. As I said, the information is in
7 there. But, you know, you have to read what they say.
8 You have to look at a different map in a different
9 appendix. You have to understand how the LUC process
10 works. You have to make a couple of assumptions, or
11 you have to be aware of a couple of facts in order to
12 understand.

13 In our view it wasn't that hard of an
14 issue. It is a little more complicated than your
15 normal case. It's not a simple movement from Ag to
16 Urban. But there are basically -- there was basically
17 an initial Decision and Order which let me just say,
18 call them four different pieces of the property.
19 Pieces 1 and 2 were urbanized. Pieces 3 and 4 were
20 incrementally approved and so are not currently urban.

21 Petitioner is going to file -- has filed
22 and will be filing an amended Petition to urbanize 3
23 and 4 plus an additional parcel of property.

24 In addition they'll be filing a Motion to
25 Modify the Original D&O to allow for greater range of

1 uses. And you need a description of the particular
2 parcels, the acreage and the proposed uses. That's
3 all we're asking for in this. It's in there. All the
4 information's there I want to emphasize again, but
5 people had trouble understanding that description on
6 pages 37 and 38. So if the Office of Planning had
7 trouble we were concerned the public was going to have
8 the same trouble as well.

9 Moving forward -- I'm sorry. Before I
10 finish up on this issue -- we do want to say, however,
11 that there is a sustainability plan in this EIS which
12 we commend the Petitioner for doing. We think that's
13 a very positive characteristic of this EIS.

14 And that with respect to Ms. Huffman's
15 comments while it's true traffic may be an issue in
16 this case, we're satisfied with the TIAR in terms of
17 moving forward with this case. We can certainly work
18 with the Petitioner on the adequacy for purposes of
19 the final Decision and Order.

20 Moving forward on this, the Office of
21 Planning recommends that the Petitioner do describe
22 perhaps in a better way what is going to be happening
23 as we move forward, either the amended Petition or
24 perhaps both the Amended Petition as well as the
25 Motion to Modify to the prior D&O and the

1 consolidation request. So that everyone will have a
2 clear understanding of what's going to happen in this
3 process. So with that the Office of Planning again
4 has no objection to the acceptance of the EIS today.
5 Thank you.

6 CHAIRMAN CHOCK: Thank you, State.

7 MR. GIROUX: Chair, I didn't realize that
8 was my opportunity to put the County's position on the
9 record. So I'd just like to state that we are in
10 support of the acceptance of the EIS.

11 CHAIRMAN CHOCK: Okay. Thank you,
12 Mr. Giroux. Petitioner, do you have any final
13 comments?

14 MR. TABATA: Well, we have been in
15 discussion with Office of Planning. I've been advised
16 of their comments. And we appreciate their comments.
17 We will do our best to more clearly describe what the
18 prior Petition was about and where we're going
19 forward. Thank you.

20 CHAIRMAN CHOCK: Okay. Commissioners, what
21 is your pleasure on this subject? (no comments) I had
22 one question, Mr. Tabata. Did your client provide OP
23 with the EIS?

24 MR. TABATA: Yes. When we were notified
25 that they had not received a copy, our office made --

1 I had my hard copy delivered to them that day. So,
2 yes, they have a copy.

3 CHAIRMAN CHOCK: Okay. So it was just an
4 oversight.

5 MR. TABATA: Yes. And we apologize for
6 that.

7 CHAIRMAN CHOCK: Okay. Thank you,
8 Mr. Tabata. Commissioners, what is your pleasure on
9 this subject? Any questions for any of the parties?
10 (pause) No questions? What is your pleasure on this
11 matter, Commission?

12 COMMISSIONER CONTRADES: Mr. Chair?

13 CHAIRMAN CHOCK: Commissioner Contrades.

14 COMMISSIONER CONTRADES: I move that we
15 accept the, in the case of A10-787 Maui R&T Partners,
16 LLC's that we accept their FEIS.

17 COMMISSIONER TEVES: Second.

18 CHAIRMAN CHOCK: Moved and seconded. Any
19 discussion? Dan, will you please poll the Commission.

20 MR. ORODENKER: Thank you, Mr. Chair. The
21 motion is to accept the FEIS in case A10-787 Maui R&T.
22 Commissioner Contrades?

23 COMMISSIONER CONTRADES: Aye.

24 MR. ORODENKER: Commissioner Teves?

25 COMMISSIONER TEVES: Yes.

1 MR. ORODENKER: Commissioner Matsumura?

2 COMMISSIONER MATSUMURA: Yes.

3 MR. ORODENKER: Commissioner Biga?

4 COMMISSIONER BIGA: Yes.

5 MR. ORODENKER: Commissioner McDonald?

6 COMMISSIONER McDONALD: Yes.

7 MR. ORODENKER: Commissioner Napua is
8 excused. Commissioner Heller?

9 COMMISSIONER HELLER: Yes.

10 MR. ORODENKER: Commissioner Inouye?

11 COMMISSIONER INOUE: Yes.

12 MR. ORODENKER: Chair Chock?

13 CHAIRMAN CHOCK: Yes.

14 MR. ORODENKER: Mr. Chair, the motion
15 carries unanimously.

16 CHAIRMAN CHOCK: Thank you very much,
17 Parties. Any questions?

18 MR. TABATA: No questions, thank you.

19 MR. GIROUX: No questions.

20 CHAIRMAN CHOCK: I believe that was the
21 final item on our agenda this morning. That was light
22 speed compared to some of our past Maui dockets.
23 (laughter). Is there a motion to -- any other
24 business before we adjourn, Commission? Staff,
25 anything? Motion to adjourn.

1 COMMISSIONER TEVES: So moved.

2 CHAIRMAN CHOCK: Aloha means goodbye.

3 (gavel)

4 (The proceedings were adjourned at 10:11 a.m.)

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C E R T I F I C A T E

I, HOLLY HACKETT, CSR, RPR, in and for the State of Hawai'i, do hereby certify;

That I was acting as court reporter in the foregoing LUC matter on the 4th day of April 2013;

That the proceedings were taken down in computerized machine shorthand by me and were thereafter reduced to print by me;

That the foregoing represents, to the best of my ability, a true and correct transcript of the proceedings had in the foregoing matters.

DATED: This _____ day of _____ 2013

HOLLY M. HACKETT, HI CSR #130, RPR
Certified Shorthand Reporter

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