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LAND USE COMMISSION
STATE OF HAWAI'I

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TRANSCRIPT OF PROCEEDINGS

The above-entitled matters came on for a Public Hearing at Conference Rooms A, B, C, 2nd Floor State Building, 3060 Eiwa Street, Lihue, Hawai'i, commencing at 9:30 a.m. on December 10, 2014, 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:

EDMUND ACZON
BRANDON AHAKUELO
NEIL CLENDENINN
KENT HIRANAGA
CHAD McDONALD, CHAIRMAN
ARNOLD WONG
SANDRA SONG

EXECUTIVE OFFICER: DAN ORODENKER

CHIEF CLERK: RILEY HAKODA
STAFF PLANNER: SCOTT DERRICKSON
DEPUTY ATTORNEY GENERAL: DIANE ERICKSON, ESQ.

Status Report

Docket No. SP87-364 Kahili Adventist School

For the Petitioner: MAX GRAHAM, ESQ.
CANEN HO'OKANO

For the County: (No appearance)
Deputy Corporation Counsel

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

RODNEY FUNAKOSHI
LEO ASUNCION
Office of Planning

A P P E A R A N C E S (cont'd)

Hearing & Action

Docket No. A11-791 Kapa'a Highlands II

For the Petitioner: WILLIAM YUEN, ESQ.
MELISSA UHL, Atty.

For the County: (no appearance)

For the State: BRYAN YEE, ESQ.
Deputy Attorney General
LEO ASUNCION
Director Office of Planning
RODNEY FUNAKOSHI
Office of Planning

I N D E X

(No public testimony)

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1 CHAIR McDONALD: (gavel) 'Morning. I'd
2 like to call the state of Hawai'i Land Use Commission
3 meeting to order. The first order of business is the
4 adoption of our meeting minutes from November 20th and
5 21st. Commissioners, any edits or revisions? Do I
6 have a motion to approve?

7 COMMISSIONER WONG: Move.

8 COMMISSIONER ACZON: Second.

9 CHAIR McDONALD: Motion to approve by
10 Commissioner Wong, second by Commissioner Aczon.
11 Before going further I want to introduce our newest
12 Commissioner from the Island of Kauai: Commissioner
13 Clendeninn. Welcome, Commissioner.

14 COMMISSIONER CLENDENINN: Thank you.

15 CHAIR McDONALD: Also I want to make note
16 that we do not have a sound person this morning. So
17 for the benefit of our court reporter if everybody
18 could speak up so that she can properly record
19 statements and testimonies made this morning.

20 Okay. Mr. Orodenger, can you please
21 review with the Commission our tentative meeting
22 schedule.

23 MR. ORODENKER: Thank you, Mr. Chair. Our
24 next meeting is scheduled on January 7th, 2015, that's
25 a Wednesday. That would be to adopt the form of the

1 Order for Halekua Development. This is intended to be
2 a video conference so you Commissioners will not have
3 to travel for that. That matter should be disposed of
4 fairly quickly.

5 January 21st, and 22nd we currently do not
6 have anything on the agenda.

7 February 4th and 5th will be McClean
8 Honokohau Properties in Kona. And the schedule is
9 open subsequent to that.

10 CHAIR McDONALD: I failed to take a vote
11 for the approval of the meeting minutes.

12 Commissioners, again, I have a motion to approve by
13 Commission Wong, second by Commissioner Aczon. All
14 those in favor say aye, "aye". Any opposed? (no
15 response) The minutes are so adopted. Okay.

16 Good morning. This is a meeting on Docket
17 SP87-364 Kahili Adventist School to receive a status
18 report from Petitioner on the Petition Area and
19 adherence to other conditions in the Commission's
20 Decision and Order to take appropriate action, if any.

21 On April 26, 2010 the Commission mailed
22 out its Decision and Order granting Kahili Adventist
23 School, Kaua'i's request to amend Conditions No. 1 and
24 No. 2 of the Special Permit SP87-13 of LUC docket
25 No. SP87-364, Class IV zoning permit Z-IV-87-51.

1 On August 14, 2014 the Commission received
2 written correspondence from Kahili Adventist School,
3 KHS Representative Mark Valencia, that KHS was no
4 longer the lessee or in possession of the property
5 that was subject to SP87-364, and that the landowner
6 Eric Knudsen Trust, will comply with the conditions of
7 the Special Permit.

8 On December 2nd, 2014 the Commission
9 mailed the Notice of Agenda for the December 10, 2014
10 LUC meeting to the parties, statewide and Kauai
11 mailing lists. On December 9, 2014 the Commission
12 received a fax from County of Kaua'i stating that the
13 County of Kaua'i took no position related to the
14 proposed action on this agenda item.

15 Let me briefly describe our procedure for
16 today on this docket. First, we'll have the parties
17 identify themselves for the record. I will then call
18 for those individuals desiring to provide public
19 testimony to identify themselves. All such
20 individuals will be called in turn to our witness box
21 where they will be sworn in prior to their testimony.

22 After public testimony is completed the
23 Applicant will make its presentation. After
24 completion of the Applicant's presentation the Office
25 of Planning will then provide its public comments.

1 Are there any questions on our procedures for today?
2 Hearing none, will the parties please identify
3 themselves for the record.

4 MR. GRAHAM: Good morning, Commissioner
5 McDonald and State Land Use Commission members. I'm
6 Max Graham. I represent the Eric A. Knudsen Trust.
7 With me is Canen Ho'okcano. He's the property manager
8 for the trust.

9 CHAIR McDONALD: Good morning.

10 MR. YEE: Good morning. Deputy Attorney
11 General Bryan Yee on behalf of the Office of Planning.
12 With me is Rodney Funakoshi and Leo Asuncion from the
13 Office of Planning.

14 CHAIR McDONALD: Good morning, Mr. Yee.
15 Is there anyone in the audience wishing to provide
16 public testimony on this matter? Hearing none,
17 Mr. Graham, can you please proceed with your
18 presentation.

19 MR. GRAHAM: Yes. I notice we don't have
20 any maps up. Is everyone familiar with Kahili
21 Mountain Park, the location? If not I did present to
22 you a memorandum. If you go to Exhibit A1 on the
23 memorandum there's a location map that shows the
24 general location of the property. So if you're
25 familiar with Kauai, as you head out towards the west

1 side going toward the Po'ipu turnoff, which is Mauna
2 Hila Road. It's also known as the Tunnel of Trees
3 Road on Kaumuali'i Highway. Go a little bit past that
4 about a mile and turn there's a dirt gravel road that
5 goes to the mauka side of the highway. So if you're
6 going west you turn right, go mauka, and you'll hit
7 the Kahili Mountain Park property which is about a
8 mile up the road. Okay. So that's the property we're
9 talking about.

10 I've attached as Exhibit B-1 a chronology
11 of planning events concerning the property. Let me
12 just give you a brief history of what's happened with
13 that property and then we'll discuss about what's
14 happening right now.

15 The actual lot which is the subject matter
16 of this matter is lot 396. That's a Land Court lot.
17 It was not even created until approximately, let's
18 see, 1984. So prior to that time this area was part
19 of a larger parcel. The parcels historically have
20 been owned by the Augustus F. Knudsen Trust and the
21 Eric A. Knudsen Trust.

22 They were registered, this whole area
23 mauka of the highway, was registered in Land Court in
24 1936. In 1967 the Eric A. Knudsen Trust and the
25 Augustus F. Knudsen Trust leased the property to Eric

1 Knudsen who was one of the principals of the Trust.
2 Mr. Knudsen established an entity that he called the
3 Kahili Mountain Park, Inc. and applied for a permit
4 before the Land Use Commission.

5 So in 1967 the Land Use Commission
6 approved the first permit, the first Kahili Mountain
7 Park Permit, which was Special Permit 6748. And at
8 the time that that permit was approved the property
9 was being used for lychee and macadamia nut tree
10 orchards. Actually those orchards still exist on the
11 property til' this day.

12 Mr. Knudsen's proposal was for a
13 commercial recreational park facility. And the State
14 Land Use Commission approved his proposal which
15 allowed him to construct, just in general, an office,
16 a restaurant, a bar, a lounge, recreational facilities
17 and 16 cottages that would be rented out to visitors.

18 And under the present term they were
19 transient vacation rentals. They were rentals for
20 less than 180-day periods. And it was intended to
21 provide these kind of a recreational alternative to
22 people who did not want to stay in hotels. So that
23 was 1967.

24 In 1973, let's see -- in 1975 Mr. Knudsen
25 came back to the State Land Use Commission and

1 expanded the park facility, asked for an expansion.
2 So the first permit was for about 50 acres. The
3 second permit he came in for was for approximately,
4 let's see, about 215 acres of this area. And the main
5 component of the proposal was to add 20 more cottages,
6 add more of these rentals for overnight visitors.

7 At the same time Mr. Knudsen reported to
8 the Commission that the restaurant/lounge/bar facility
9 wasn't working very well. And I think at that point
10 that was abandoned, so he didn't try to continue that
11 operation anymore. So then -- so that's 1975.

12 In 1984 as a result of consolidations and
13 re-subdivision this whole area became what is now
14 known as lot 396 of the Land Court 956 Application.
15 So it became a separate lot that exists to this day.

16 And in 1984 the Eric A. Knudsen Trust and
17 the Augustus F. Knudsen Trust leased this lot 396 to
18 the Hawaiian Association of Seventh Day Adventists.
19 They subsequently applied for a permit to operate a
20 school on the site. And that is the actual Special
21 Permit that we're considering today. That was
22 approved in 1987.

23 Essentially the approval was for the
24 operation of a school that eventually became a school
25 that had classes K through 12 and covered the entire

1 area. The approval allowed the creation of additional
2 homes for teacher housing basically is what it was
3 for. The cabin use for rentals continued. Various
4 buildings associated with the new school were
5 constructed. Those included a large school -- school
6 building.

7 If you look at your map there's a site
8 schematic that I handed out. So there was a large
9 school building, a school gym, some classrooms. They
10 continue to operate the camp sites and some additional
11 staff residences were constructed.

12 So the Kahili -- this was operated as the
13 Kahili Adventist School. So that was the -- they did
14 business under that moniker. But it was the
15 Seventh-Day Adventist Church that operated the
16 facility. So 19 -- let's see, in about 1990 the
17 Seventh-Day Adventists came in for an amendment to
18 expand portions of the school program to get
19 additional faculty housing. That was approved.

20 A second amendment was later approved in
21 2010 concerning interior improvements and the
22 surfacing of these improvements, and a traffic study
23 that was to be performed at Kaumuali'i Highway. And
24 when the second amendment was approved in 2010 there
25 was a requirement that the Applicant start presenting

1 annual reports to the Commission. So up to that time
2 there were no annual reports.

3 Then -- so in 2012 the -- prior to 2012,
4 actually, in the year 2000 the Augustus F. Knudsen
5 Trust dissolved and there was a partition between the
6 two trusts of all the lands that were co-owned. And
7 this lot became -- was conveyed solely to the Eric A.
8 Knudsen Trust. Now the Eric A. Knudsen Trust is the
9 sole owner of this property.

10 In 2012 the Eric A. Knudsen and the
11 school, the Seventh-Day Adventist, became involved in
12 litigation concerning whether and under what
13 conditions the school had the right under the lease to
14 rent out the cabins for overnight visitors.

15 And that lawsuit was settled earlier this
16 year with the school agreeing to vacate the premises.
17 So as of July 30th of this year the school vacated the
18 premises. So now the school is no longer in
19 operation. The buildings are still there. There's no
20 school operation. I think three of the homes are
21 occupied by employees of the Trust, at least one of
22 whom manages the property.

23 The orchards are still in place and are
24 being fixed up, maintained, fixed up. And the Trust
25 is trying to decide what to do with this property.

1 The Trust actually approached a couple of entities
2 about whether there was any interest in operating the
3 school. And at this point there seems to be no
4 interest by anyone in operating the school. The Trust
5 is trying to decide what to do with the property. It
6 could continue the overnight rentals of the cabins.
7 It could use -- it could actually develop farm
8 dwelling units on the property.

9 It could -- it thought about using it for
10 community purposes or events including things like
11 weddings, parties or maybe some combination of all
12 these things including the agricultural aspects of the
13 property which continue.

14 So at this point the Trust doesn't really
15 know what it wants to do. The bottom line here is
16 that I'm requesting that we be allowed -- we be given
17 6 months to come back -- I suggest July 1st, 2015, to
18 report to the Commission on what the Trust has decided
19 to do with the property. Whatever they do could
20 involve a requirement that they come in either for a
21 new special permit or some amendment to any of the
22 three existing permits.

23 In the meantime the school is not in
24 operation. It appears to be from reviewing the status
25 reports that were previously filed by the school, that

1 actually the operation there is still in compliance.
2 There's no school, but otherwise it seems to be in
3 compliance with the condition. One of the major
4 concerns was traffic impacts on Kaumuali'i Highway.
5 And, of course, that's no longer a concern given that
6 the school is no longer in operation.

7 So I don't think there's any negative
8 impact from deferring the matter for another 6 months
9 so that the Trust can try to decide what to do with
10 the property. That's the status of the property at
11 this point. And I'm open to questions.

12 CHAIR McDONALD: Thank you, Mr. Graham.
13 Before we get to questions I understand that the
14 County of Kaua'i will not be appearing. Mr. Yee,
15 does Office of Planning have any public comments on
16 the matter?

17 MR. YEE: I think our only comment is, as
18 you know, this land is agricultural. So to the
19 extent they're simply using the land for permitted use
20 in agricultural I don't think there's a particular
21 problem. The question arises whether there's a use on
22 the lands which goes beyond what's generally allowed
23 in the Agricultural District. And if so, they would
24 need either a Special Permit or reclassification.

25 In this case they have a Special Permit to

1 operate, as I recall in 2010 a school that was the
2 gist of the Permit. So if they're not operating the
3 school are they doing something -- and I'm not saying
4 they are or aren't -- I'm just posing the framework.
5 Are they doing something for which a Special Permit is
6 needed?

7 If they are then they need to address the
8 issue of the fact that the school is no longer
9 operating. The timing of that, how that occurs I'll
10 defer to the Commission. But it seems that that would
11 be the framework of the analysis.

12 Are they essentially -- are they
13 operating in violation of 205? If, *if* I'm not saying
14 they are, but if they're engaging in an operation
15 outside the permitted uses in the Agricultural
16 District. I will say that the County's position would
17 have been important I think in addressing that
18 further. Since we don't know what the County's
19 position is it's difficult to make a decision. At
20 least basing, the only thing I've seen is their status
21 report.

22 It seems like further monitoring and
23 review would seem to be appropriate unless these
24 issues can be more definitively determined today.
25 Thank you.

1 CHAIR McDONALD: Thank you, Mr. Yee.
2 Commissioners, any further questions on this matter?

3 COMMISSIONER SONG: Yes. I have a
4 question for our executive director. The report was
5 very interesting. But I'm asking why after 27 years
6 we're asking for status reports on a Special Permit.
7 Because the statute 205 does not require annual status
8 reports. I don't believe the counties require annual
9 status reports, and a special permit under 15 acres.
10 My question is: Are we overregulating by requiring
11 annual reports from applicants?

12 MS. ERICKSON: I recommend we go into
13 executive session.

14 CHAIR McDONALD: I'm going to entertain a
15 motion for executive session at this time to address
16 Commissioner Song's inquiry as to the roles and
17 liability of the Commissioners.

18 COMMISSIONER WONG: Moved.

19 COMMISSIONER AHAKUELO: Second.

20 CHAIR McDONALD: Motion by Commissioner
21 Wong, seconded by Commissioner Ahakuelo. All those in
22 favor say aye. "Aye" Any opposed? The Commission
23 will now go into executive session. If you folks
24 could please remove yourselves from the meeting room.

25 (9:55 executive session)

1 xxx

2 COMMISSIONER McDONALD: (10:10) We're back
3 on the record. Commissioners, any further discussion
4 on this matter? Any questions for Mr. Graham and his
5 party?

6 COMMISSIONER WONG: I have a question. As
7 you know the conditions follow the land, correct?

8 MR. GRAHAM: Correct.

9 COMMISSIONER WONG: So all the conditions
10 must follow whatever, must go to yours now, correct?

11 MR. GRAHAM: Correct.

12 COMMISSIONER WONG: The report that was
13 done by the church or the school last year or the year
14 previous, they said they wanted to do retirement
15 homes? Is that part -- are you still looking into
16 that or was that the Church's idea?

17 MR. GRAHAM: That was the Church's idea.
18 We have no interest in that.

19 COMMISSIONER WONG: The other thing I was
20 looking at that was just handed out, looking at
21 commercial transient vacation rentals that's not part
22 of the special permit. So you would come back to us
23 to amend?

24 MR. GRAHAM: Actually it is part of the
25 permit. Once the Trust decides what it wants to do it

1 really needs to come back in and amend the present
2 permit or get a new one. It's going to be different.
3 The transient vacation rental refers to the rental of
4 the cabins. The recreational uses were previously
5 permitted and they may want to do that again as well.

6 What I envision is that once the Trust
7 decides what it wants to do we'll be back before the
8 county. And the county will have an interest because
9 the county has to issue a use permit. We'll come back
10 to the Land Use Commission, either get a new permit or
11 amend the existing permit.

12 COMMISSIONER WONG: Thank you.

13 CHAIR McDONALD: Anything further?
14 Mr. Graham, you made a representation that you'd be
15 willing to come back to the Commission 6 months to
16 provide an update as far as what the new landowner,
17 his intentions are of the use of the property.

18 MR. GRAHAM: Correct.

19 CHAIR McDONALD: So with that I would like
20 you folks to provide the Commission updates as to what
21 the proposed uses will be. We had set the date for
22 July 1st, 2015 so you can work with staff getting that
23 scheduled next year.

24 MR. GRAHAM: We will do that.

25 CHAIR McDONALD: Thank you very much. We

1 will recess 5 minutes for the change in agenda items.
2 (recess)

3 CHAIR McDONALD: (10:20) Back on the
4 record. This is an action meeting on Docket No.
5 A11-791 Kapa'a Highlands Phase II (Ho'kua Place, LLC)
6 to recognize HG Kaua'i Joint Venture, Ho'kua Place as
7 a successor Petitioner with standing to seek and
8 obtain the relief requested by the Motion.

9 To determine whether the Land Use
10 Commission is the appropriate accepting Authority
11 pursuant to Chapter 343 Hawaii Revised Statutes, of an
12 Environmental Impact Statement relating to the
13 development and reclassification of approximately
14 97 acres from the Agricultural and Rural Districts to
15 the Urban District Tax Map Key Nos. (4) 4-3-03: por 1;
16 and to determine whether the proposed action may have
17 a significant effect to warrant the preparation of an
18 Environmental Impact Statement pursuant to Chapter 343
19 Hawaii Revised Statutes.

20 On March 21st, 2011 the Commission
21 received the Petition for Land Use District Boundary
22 Amendment together with Exhibits 1 through 14 from
23 Petitioner Kapa'a Highlands Phase II, Three Stooges,
24 LLC.

25 On April 15, 2011 the Commission received

1 a Notice of Intent to Intervene from Likookalani
2 Martin. On April 18, 2011 the Commission received
3 Notices of Intent to Intervene from the Sierra Club
4 and Wailua-Kapa'a Neighborhood Association.

5 On April 27, 2011 the LUC advised
6 Petitioner's representative that the Petition had been
7 deemed defective. (pause).

8 CHAIR McDONALD: Between April 28, 2011
9 and March 2012 the Commission received correspondence
10 from various agencies regarding this matter. On
11 October 29, 2014 the Commission received Petitioner's
12 Motion to Substitute Petitioner and designate the Land
13 Use Commission as approving agency for Environmental
14 Impact Statement.

15 On October 25, 2014 the Commission
16 received OP's Statement of No Objection to HG Kaua'i
17 Joint Venture Group, LLC, Motion to Substitute
18 Petitioner, designate the Land Use Commission as
19 approving agency for Enviromental Impact Statement and
20 appearance as counsel for Petitioner.

21 On December 2nd, 2014 the Commission
22 mailed the December 10, 2014 Notice of Agenda to the
23 parties, statewide and Kaua'i mailing lists. Let me
24 briefly describe our procedures for today. First,
25 we'll have the parties identify themselves for the

1 record. I will then give opportunity for the
2 Petitioner to comment on the Commission's policy
3 governing reimbursement of hearing expenses. I will
4 then call for those individuals desiring to provide
5 public testimony to identify themselves.

6 All such individuals will be called in
7 turn to our witness box where they will be sworn in
8 prior to their testimony. After completion of public
9 testimony portion the Petitioner will make its
10 presentation. After completion of the Petitioner's
11 presentation we will receive any comments from the
12 State Office of Planning. The Commission will then
13 conduct its deliberations.

14 Are there any questions on our procedures
15 for today? Will the parties please identify
16 themselves for the record.

17 MR. YUEN: William Yuen and Melissa Uhl of
18 the law firm of Alston, Hunt, Floyd & Ing on behalf of
19 Petitioner HG Hawai'i Joint Venture, LLC. With us is
20 Gregg Allen, HG Kaua'i Joint Venture, LLC.

21 CHAIR McDONALD: Good morning.

22 MR. YEE: Good morning. Deputy Attorney
23 General Bryan Yee on behalf of the Office of Planning.
24 With me is Rodney Funakoshi and Leo Asuncion from the
25 Office of Planning.

1 CHAIR McDONALD: Thank you, Mr. Yee.
2 Mr. Yuen, has our staff informed you of the
3 Commission's policy regarding the reimbursement of
4 hearing expenses?

5 MR. YUEN: Yes.

6 CHAIR McDONALD: If so could you please
7 state your client's position.

8 MR. YUEN: We're in agreement.

9 CHAIR McDONALD: Thank you. Is there
10 anyone who wishes to provide public testimony on this
11 matter? Hearing none, Mr. Yuen would you please
12 proceed with the presentation.

13 MS. UHL: Good morning, Chair,
14 Commissioners. As you know we have a motion before
15 the Commission to substitute the Petitioner to the HG
16 Kaua'i Joint Venture, LLC. HG Kaua'i is the successor
17 in interest to the property that purchased the
18 property in 2013. So pursuant to Hawaii
19 Administrative Rules section 15-15-71 we request that
20 the Petitioner be substituted.

21 Second, we would ask that the Land Use
22 Commission be the accepting Authority for the EIS
23 associated with this Project. Finally, we would
24 request permission to publish the EISPN and go
25 directly to the EIS process.

1 Finally, we believe that the Land Use
2 Commission is the appropriate accepting Authority
3 because it's the earliest practical time as it will
4 issue the first discretionary approval for this
5 Project.

6 CHAIR McDONALD: Thank you. Seeing that
7 the County of Kaua'i will not be appearing, Mr. Yee,
8 any comments from the Office of Planning?

9 MR. YEE: OP has no objection to the
10 motion.

11 CHAIR McDONALD: Okay. Commissioners, any
12 questions for the Petitioner? Seeing none,
13 Commissioners, what's your pleasure on this subject
14 matter?

15 COMMISSIONER CLENDENINN: I'd like to make
16 a motion.

17 CHAIR McDONALD: Sure, Commissioner.

18 COMMISSIONER CLENDENINN: I'd like to move
19 to allow the substitution of HG Kauai Joint Venture,
20 LLC as the Petitioner of record, good cause is shown
21 to identify the Land Use Commission as the approving
22 agency to process and review the Applicant's proposed
23 action pursuant to Chapter 343 HRS as the Petition to
24 Amend Land Use District Boundaries represents the
25 earliest practical time to determine whether an

1 Environmental Impact Statement, EIS, shall be
2 required.

3 And direct Petitioner to proceed directly
4 to the preparation of an Environmental Impact
5 Statement, Preparation Notice, EISPN, because the
6 Commission has reviewed the Petition. Based on its
7 judgment, experience the Applicant under Chapter
8 343-5(b) HRS the proposed action may have significant
9 effects requiring the preparation of a full
10 Environmental Impact Statement.

11 The proposed Project requires the use of
12 state or county lands or finds pursuant to Section 343
13 5A-1 HRS and may have a significant impact on the
14 environment as it may: 1. Involve revocable
15 commitment or loss or destruction of any natural or
16 cultural resources. 2. Substantially affect the
17 economic and social welfare of the community or state.
18 And 3. Involves substantial secondary impacts such as
19 impact on public facilities.

20 COMMISSIONER ACZON: I second the motion.

21 CHAIR McDONALD: We have a motion by
22 Commissioner Clendeninn, seconded by Commissioner
23 Aczon. Executive Director Orodener, could you please
24 poll the Commission.

25 MR. ORODENER: Thank you, Mr. Chair. The

1 motion is to approve Petitioner's 3-part motion to
2 allow the substitution of HC Kaua'i Joint Venture, LLC
3 as the Petitioner of record to identify the Land Use
4 Commission as the approving agency to direct the
5 Petitioner to proceed directly to the preparation of
6 an Environmental Impact Statement and preparation
7 notice. Commissioner Clendeninn?

8 COMMISSIONER CLENDENINN: Aye.

9 MR. ORODENKER: Commissioner Aczon?

10 COMMISSIONER ACZON: Aye.

11 MR. ORODENKER: Commissioner Wong?

12 COMMISSIONER WONG: Aye.

13 MR. ORODENKER: Commissioner Mahi and
14 Commissioner Scheuer are absent. Commissioner
15 Hiranaga?

16 COMMISSIONER HIRANAGA: Aye.

17 MR. ORODENKER: Commissioner Ahakuelo?

18 COMMISSIONER AHAKUELO: Aye.

19 MR. ORODENKER: Commissioner Song?

20 COMMISSIONER SONG: Aye.

21 MR. ORODENKER: Chair McDonald?

22 CHAIR McDONALD: Aye.

23 MR. ORODENKER: Mr. Chair, the motion
24 passes unanimously.

25 CHAIR McDONALD: Thank you to the parties.

1 We have a scheduled executive session to consult with
2 the Commission's attorney on questions and issues
3 pertaining to the Commission's powers, duties,
4 privileges and liabilities with respect to appeals of
5 the Commission's decision relating to the Castle &
6 Cooke Homes; D.R. Horton; Bridge Aina Le'a; D.W. Aina
7 Le'a; Michele Lincoln and other matters in litigation
8 and appropriate action if any. So at this time the
9 Commission will enter executive session -- oh, let me
10 ask for a motion. Motion?

11 COMMISSIONER ACZON: Second.

12 CHAIR McDONALD: Commissioner Aczon
13 second. All those in favor say aye. "Aye". Any
14 opposed? Commission will now go into executive
15 session. (10:30)

16

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18 (The proceedings were adjourned at 11:00 a.m.)

19

20 --oo00oo--

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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 matters on the____ day of _____2014;

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_____

HOLLY M. HACKETT, HI CSR #130, RPR #5910
Certified Shorthand Reporter