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Attorneys for Petitioner  
KEALIA PROPERTIES, LLC

2017 OCT 16 A 9:23  
LAND USE COMMISSION  
STATE OF HAWAII

**BEFORE THE LAND USE COMMISSION**

**OF THE STATE OF HAWAII**

In the Matter of the Petition of	)	DOCKET NO. A17-803
	)	
KEALIA PROPERTIES, LLC	)	PETITIONERS' MOTION TO
	)	DESIGNATE THE LAND USE
To Amend The Agricultural Land Use	)	COMMISSION AS APPROVING
District Boundary Into The Urban Land Use	)	AGENCY FOR ENVIRONMENTAL
District For Approximately 53.361 Acres Of	)	STATEMENT UNDER HRS CHAPTER
Land At Keālia, Kawaihau, Puna, Island Of	)	343 AND FOR AUTHORITY TO
Kaua'i, State of Hawai'i, Tax Map	)	PREPARE ENVIRONMENTAL
Key: (4) 4-7-004: por. 001	)	IMPACT STATEMENT
	)	PREPARATION NOTICE
	)	

**PETITIONERS' MOTION TO DESIGNATE THE LAND  
USE COMMISSION AS APPROVING AGENCY FOR  
ENVIRONMENTAL STATEMENT UNDER HRS  
CHAPTER 343 AND FOR AUTHORITY TO PREPARE  
ENVIRONMENTAL IMPACT STATEMENT PREPARATION NOTICE**

Comes now, KEALIA PROPERTIES, LLC ("Petitioner"), by and through its attorneys, MASUBARA, KOTAKE & TABATA, respectfully moves the Land Use Commission of the State of Hawaii ("Commission") for an order: (1) to determine that

it will be the accepting authority and the approving agency for the environmental statement under HRS Chapter 343; (2) to determine, through its judgment and experience, that an Environmental Impact Statement ("EIS") is likely to be required; and (3) to authorize Petitioners to prepare an Environmental Impact Statement Preparation Notice ("EISPN" ) .

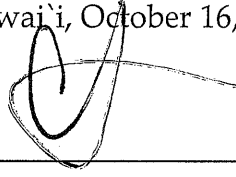
This motion is brought pursuant to HAR § 15-15- 70, HRS § 343-5, and HAR § 11-200-12. In this docket, Petitioner seeks to reclassify approximately 53.361 acres from the Agricultural District to the Urban District to develop approximately 235 residential lots in Keālia, Kawaihau, Puna, Kaua`i, Hawai`i. The project for which the Petition addresses will require the use of state or county lands which require compliance with HRS Chapter 343.

Further, Petitioners ask this Commission to exercise its discretion to determine, based upon its judgment and experience, that an EIS is needed for review of this project as it will likely have significant impacts upon the environment.

Accordingly, Petitioners ask this Commission to determine that it act as the approving agency for compliance with HRS Chapter 343, that this Commission determine that an EIS shall be required, and that Petitioners should prepare an EISPN.

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DATED: Honolulu, Hawai'i, October 16, 2017.



Of Counsel:

MATSUBARA, KOTAKE & TABATA  
A Law Corporation

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BENJAMIN M. MATSUBARA  
CURTIS T. TABATA  
Attorneys for Petitioner  
KEALIA PROPERTIES, LLC

BEFORE THE LAND USE COMMISSION

OF THE STATE OF HAWAII

In the Matter of the Petition of ) DOCKET NO. A17-803  
)  
KEALIA PROPERTIES, LLC ) MEMORANDUM IN SUPPORT OF  
) MOTION  
To Amend The Agricultural Land Use )  
District Boundary Into The Urban Land Use )  
District For Approximately 53.361 Acres Of )  
Land At Keālia, Kawaihau, Puna, Island Of )  
Kaua`i, State of Hawai`i, Tax Map )  
Key: (4) 4-7-004: por. 001 )  
\_\_\_\_\_)

MEMORANDUM IN SUPPORT OF MOTION

KEALIA PROPERTIES, LLC ("Petitioner") filed a Petition for Land Use District Boundary Amendment on October 16, 2017 ("Petition"). Attached to the Petition as Exhibit "5" is the draft Environmental Impact Statement Preparation Notice ("EISPN") for the Proposed Keālia Mauka Homesites ("Project").

The Project will require use of state or county lands, including public roadways.

Use of state or county lands is an action which triggers and environmental assessment under § 343- 5(a)(1) of the Hawaii Revised Statutes ("HRS")

Filing of the Petition is the earliest practicable time for an accepting agency to determine whether an Environmental Impact Statement ("EIS") shall be required to assess the Project pursuant to HRS Chapter 343.

Under HRS Chapter 343, an action is reviewed by way of an environmental assessment to determine whether an EIS is needed. If, however, the agency determines that the project is likely to have a significant impact, then the environmental assessment step may be bypassed, and allow the applicant to go straight to the environmental impact statement process. See HRS § 343-5(e).

The determination of whether the project will likely have a significant impact is measured by the significance criteria under § 11-200-12(b) of the Hawaii Administrative Rules ("HAR").

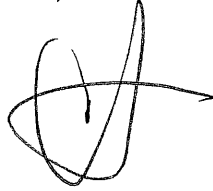
The proposed Project is to provide 235 residential lots ranging from 5,600 square feet to 7,300 square feet on approximately 53.361 acres of currently vacant land. The proposed Project would result in the loss of the natural landscape as it currently exists, may substantially affect the economic and social welfare of the community or State, and may involve secondary impacts, such as population changes or effects on public facilities. See HAR § 11-200-12(b)(1), (4) and (6).

Based on these potential impacts, the Commission, using its judgment and experience, can determine that an EIS is likely to be required.

For these reasons, Petitioners respectfully request that the Commission determine that it is the appropriate accepting authority and approving agency for review under HRS Chapter 343, that it authorize Petitioners to not prepare an

environmental assessment, and that it authorize Petitioners to prepare an EIS beginning with the preparation of an EISPN pursuant to HRS § 343-5(e).

DATED: Honolulu, Hawai`i, October 16, 2017.

A handwritten signature in black ink, consisting of several overlapping loops and a long horizontal stroke extending to the right.

Of Counsel:

MATSUBARA, KOTAKE & TABATA  
A Law Corporation

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BENJAMIN M. MATSUBARA  
CURTIS T. TABATA  
Attorneys for Petitioner  
KEALIA PROPERTIES, LLC

BEFORE THE LAND USE COMMISSION

OF THE STATE OF HAWAII

In the Matter of the Petition of ) DOCKET NO. A17-803  
)  
KEALIA PROPERTIES, LLC ) CERTIFICATE OF SERVICE  
)  
To Amend The Agricultural Land Use )  
District Boundary Into The Urban Land Use )  
District For Approximately 53.361 Acres Of )  
Land At Keālia, Kawaihau, Puna, Island Of )  
Kaua`i, State of Hawai`i, Tax Map )  
Key: (4) 4-7-004: por. 001 )  
\_\_\_\_\_)

CERTIFICATE OF SERVICE

THE UNDERSIGNED HEREBY CERTIFIES that a true and correct file-marked copy of the foregoing document was duly served upon the following parties VIA ELECTRONIC MAIL and/or AS INDICATED BELOW at their last known address:

DAWN TAKEUCHI-APUNA, ESQ.  
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425 Queen Street  
Honolulu, Hawai'i 96813

HAND-DELIVERY  
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LEO R. ASUNCION, JR., Director  
Office of Planning, State of Hawai'i  
235 South Beretania Street  
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Honolulu, Hawai'i 96813

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*Leo.R.Asuncion@hawaii.gov*

MICHAEL DAHILIG, Director  
Planning Department, County of Kauai  
4444 Rice Street  
Lihu`e, Kaua`i, Hawai`i 96766

CERTIFIED MAIL  
RETURN RECEIPT  
REQUESTED  
*mdahilig@kauai.gov*

JODI HIGUCHI, ESQ.  
Deputy Kauai County Attorney  
Office of the County Attorney  
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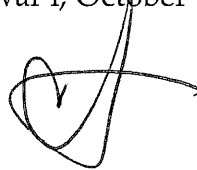
**CERTIFIED MAIL**  
**RETURN RECEIPT**  
**REQUESTED**

*jhiguchi@kauai.gov*

KAUAI COUNTY PLANNING COMMISSION  
c/o Planning Department, County of Kauai  
4444 Rice Street  
Līhu`e, Kaua`i, Hawai`i 96766

**CERTIFIED MAIL**  
**RETURN RECEIPT**  
**REQUESTED**

DATED: Honolulu, Hawai`i, October 16, 2017.



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