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LAND USE COMMISSION
Department of Business, Economic Development & Tourism
State of Hawai'i

June 20, 2018

Ms. Moana Palama
Keālia Properties LLC
Hawai'i Management Services LLC
P.O. Box 1630
Kōloa, Hawai'i 96756

Dear Ms. Palama:

Subject: Docket No. A17-803/Keālia Properties, LLC
Draft Environmental Impact Statement (DEIS)
Keālia Mauka Homesites
Tax Map Key: (4) 4-7-004: por. 001

We have reviewed the DEIS for the subject project and have the following comments to offer:

- 1) In accordance with Hawai'i Administrative Rules (HAR) §11-200-17(b), the DEIS shall contain a summary sheet that concisely discusses, among other things, significant beneficial and adverse impacts, proposed mitigation measures, alternatives considered, unresolved issues, and compatibility with land use plans and policies. The DEIS does not include this summary sheet. We note that the *Project Summary* included as part of the DEIS fails to address this requirement.
- 2) In accordance with HAR §11-200-17(e), a project description shall be included. In its description of the project, the DEIS identifies the estimated development costs of the project and references Kodani & Associates as the basis for the various figures. Based on our review of Appendix G entitled *Preliminary Engineering Report for Kealia Residential Subdivision* by Kodani & Associates Engineers, LLC, dated July 11, 2017, we are unable to locate where the specific costs are identified in the report. In addition, clarification should be provided as to how the

Petitioner intends to finance these improvements and whether any public funds will be requested for any portion of these improvements.

We would like to point out that there are slight differences between the DEIS and the report in the number and size of the lots and the number/acreage of the parks proposed for the project. These differences should be rectified as they may affect the analysis and conclusions regarding the project's impact on infrastructure. Please also note that similar discrepancies appear in the *Market and Econometric Studies* prepared by CBRE.

As the project will involve the development of for-sale residential lots, information on the proposed lot prices should be included as part of its general description. While we acknowledge that the *Market and Econometric Studies* suggest "appropriate affordable lot prices based on application of formulae used in past years to 2017 income levels," the actual lot prices proposed by the Petitioner should be identified.

- 3) In accordance with HAR §11-200-17(f), a separate and distinct section on the alternatives which could attain the objectives of the action, regardless of cost, in sufficient detail to explain why they were rejected is required. A discussion on the alternative of postponing action pending further study and on alternative locations for the proposed project should be included in this section to fully address this requirement.
- 4) In accordance with HAR §11-200-17(g), a description of the environmental setting, including a description of the environment in the vicinity of the proposed action, should be provided. In the DEIS, reference is made to the potential impact of the project on a natural spring feeding a taro lo'i. It is further stated that the cultural researcher was unable to gain access to the property to verify the location of the lo'i or its water source during preparation of the Cultural Impact Assessment. Instead, an estimate of the lo'i's location and an educated guess of the water source were made by the hydrogeologist. In the interest of providing full disclosure and given the significance of the issue, clarification should be provided as to the reason the cultural researcher was unable to access the property and

whether not viewing the lo'i and water source firsthand compromised in any way the accuracy of the conclusions reached in regard to the potential impact of the project on groundwater resources.

- 5) In accordance with HAR §11-200-17(h), a discussion of how the proposed action may conform or conflict with the objectives and specific terms of approved or proposed land use plans, policies, and controls for the area affected shall be included. The discussion in the DEIS regarding Act 181, SLH 2011, as it relates to sustainability points out that individual lot buyers will be encouraged to, among other things, utilize energy efficient design, water efficient features, and renewable energy. We request that any incentives and other mechanisms proposed to ensure the lot buyers carry out these conservation measures be identified.

HAR §11-200-17(h) also requires that a list of necessary governmental approvals required for the proposed action be provided. While the *Project Summary* does contain such a listing, it fails to describe the status of each identified approval as required. It also neglects to include the required district boundary amendment from the Land Use Commission (LUC) as a required approval for the proposed project.

- 6) In accordance with HAR §11-200-17(i), the probable impact of the proposed action on the environment shall be addressed, including the interrelationships and cumulative environmental impacts of the proposed action and other related developments. We believe that the discussion on cumulative and secondary impacts (Section 6.2) should identify the other developments with their specific impacts quantified by subject area to better assess the overall cumulative impacts on the environment.

One area which should be more fully addressed is the potential impact of the project to the nearshore environment, particularly the marine biota, both individually from the project and cumulatively with other existing developments, including the Kealia Kai and Ka'ao Road Subdivisions. As neither a formal inventory of the marine resources nor a marine resource impact assessment was prepared, this matter

should be thoroughly discussed in compliance with the environmental review requirements.

We also note the absence of a thorough discussion of the project's impact on school facilities in Kapa`a. The DEIS points out that the current excess capacity at Kapa`a Elementary School will be eliminated and the existing over capacity at Kapa`a High School will continue over the next five years, which is well within the expected ten-year buildout of the project.¹ However, it is concluded that the project's students (from non-resident second/vacation home buyers) to Kaua`i's public schools over the buildout period will not have a significant adverse impact. While the projected number of these students may be minimal, the number of students from local households are expected to be much larger. Although the DEIS states that most of these local students are already attending Kaua`i's public schools (although not necessarily in the Kapa`a schools complex), no evidence is provided to support this statement. To the extent that such students may be coming from outside Kapa`a, we believe that a discussion to address their potential impact on the future capacities of Kapa`a's existing school facilities is warranted.

Additionally, the potential impact to agricultural production in the vicinity of the Petition Area and in the County of Kaua`i and the State should be addressed. While the DEIS indicates that an additional 86 acres has been added to one of the existing leases on the parcel to address the urbanization of the Petition Area, it is not clear where this additional acreage is located and for what it will be used. Reference is also made of the agricultural land that is available in the East Kaua`i region due to the closure of Līhu`e Plantation to offset the loss of the Petition Area. However, no further information is provided on the location and size of this agricultural land, its soil classification, and whether there are sufficient quantities of water to support viable agricultural production on it. Relatedly, the statement that the project will not adversely impact County and State efforts toward the goal of food self-sufficiency as nearly 36,000 acres on Kaua`i have been

¹ According to the *Market and Econometric Studies*, full absorption/sell out of the finished lots is estimated to be completed within seven years.

designated as Important Agricultural Land should be supported by a discussion as to how this acreage achieves that goal.

We further note that there is no discussion in the DEIS on the existing emergency management facilities in the area and on the potential impacts on such facilities from the project. We request that the Final EIS address this matter, including any plan to fund and construct adequate emergency management measures to serve the Petition Area as may be required by the State Department of Defense, Emergency Management Agency, and the County Emergency Management Agency.

With respect to the impact on cultural resources, please include a statement in the appropriate section of the document addressing Hawaiian customary and traditional rights under Article XII, section 7, of the Hawai'i State Constitution.

Finally, we note that the economic analysis of the project analyzed the public fiscal impacts of only the non-resident component of the project in terms of the cost to the State and County of Kaua'i of providing government services to them on a per capita basis. It was assumed that the cost of providing government services to the project's resident households were already being absorbed, and therefore do not represent increased funding costs spending from the State and County. We request that the additional costs to the State and County to support the non-resident, second-homeowner demographic within the project be broken down by the type of service and facility.

- 7) In accordance with HAR §11-200-17(l), all probable adverse environmental effects which cannot be avoided should be addressed. As part of this discussion, other interests and considerations of governmental policies that are thought to offset the adverse environmental effects of the proposed action should be included. In addition, the extent to which these countervailing benefits could be realized by following reasonable alternatives to the proposed action that would avoid some or all of the adverse environmental effects should be discussed. The existing paragraph in the DEIS (section 6.4)

intended to address this requirement fails to delve into these areas to the extent required.

- 8) In accordance with HAR §11-200-17(m), descriptions of proposed mitigation measures should be provided, including a discussion of any performance bonds, if any, that may be posted and other provisions to assure that the measures will, in fact, be undertaken. While we acknowledge the DEIS includes descriptions of various measures, we believe that the matter requires further discussion as to the timing of each step in the mitigation process as well as the responsibilities and commitments of the Petitioner (and other parties as the case may be) to ensure that such measures are implemented as represented.
- 9) In accordance with HAR §11-200-17(n), a separate and distinct section that summarizes unresolved issues and contains either a discussion of how such issues will be resolved prior to commencement of the action, or what overriding reasons there are for proceeding without resolving the problems should be provided. We request that the issue of wastewater service be identified as an unresolved issue as the County of Kaua'i will issue a "will serve" letter to the project only following the receipt of zoning approval, which is not assured. Until this happens, we believe the matter is unresolved.
- 10) In accordance with HAR §11-200-17(p), a list of persons or agencies who were consulted during the consultation process and had no comment shall be included in the DEIS. The LUC should be listed as a consulted agency under the heading of State of Hawai'i.
- 11) In accordance with HAR §11-200-20(d), the applicant shall sign and date the original copy of the DEIS and shall indicate that the statement and all ancillary documents were prepared under the signatory's direction or supervision and that the information submitted, to the best of the signatory's knowledge fully addresses document content requirements as set forth in sections 11-200-17, and 11-200-18, as appropriate. While we acknowledge that there is a statement to that effect in the DEIS, the signature is that of the consultant and not the applicant, which is Keālia Properties, LLC. Further, as the document is the DEIS, the statement incorrectly states that "[t]his final

environmental impact statement and all ancillary documents..." fully addresses the EIS document content requirements.

- 12) In the DEIS, there are several references to the terms *potable water* and *non-potable water*. We request that they be replaced by the terms *drinking water* and *non-drinking water*, respectively. We have been advised that although potable water has generally been used to mean drinking water, the State Department of Health (DOH) uses the latter term specifically to indicate water for human consumption that is derived from surface water and/or groundwater and is regulated by the DOH pursuant to HAR chapter 11-20.
- 13) We request that the Phase I Environmental Site Assessment, which was prepared for the previous landowners and included the Petition Area as part of its study area, be included as an appendix to the document to fully disclose the potential impacts of encountering hazardous substances, including contaminants and pesticides as well as heavy metals (i.e., arsenic), from previous agricultural activities on the Petition Area during development of the proposed homesites.

We have no further comments to offer at this time. Thank you for the opportunity to comment on the subject DEIS.

Sincerely,

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

DANIEL E. ORODENKER
Executive Officer

c: Scott Ezer/Leslie Kurisaki, HHF