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LAND USE COMMISSION
STATE OF HAWAII

2019 MAY 20 P 2:34

Attorneys for
UNIVERSITY OF THE NATIONS, KONA,
INC.

BEFORE THE LAND USE COMMISSION

OF THE STATE OF HAWAI'I

In the Matter of the Petition Of

U of N BENCORP

To Amend the Agricultural Land Use District
to the Urban Land Use District for
Approximately 62 Acres, Tax Map Key Nos.:
(3) 7-5-010:085 and 7-5-017:006 situated at
Wai'aha, North Kona, County and State of
Hawai'i

DOCKET NO. A02-737

UNIVERSITY OF THE NATIONS,
KONA, INC., STATE OF HAWAII
OFFICE OF PLANNING AND COUNTY
OF HAWAII, PLANNING
DEPARTMENT'S JOINT STIPULATION
TO STAY HEARING ON ORDER TO
SHOW CAUSE AND RESERVATION OF
RIGHTS; ORDER; CERTIFICATE OF
SERVICE

**UNIVERSITY OF THE NATIONS, KONA, INC., STATE OF HAWAII OFFICE OF
PLANNING AND COUNTY OF HAWAI'I, PLANNING DEPARTMENT'S
JOINT STIPULATION TO STAY HEARING ON
ORDER TO SHOW CAUSE AND RESERVATION OF RIGHTS**

IT IS HEREBY STIPULATED by and among UNIVERSITY OF THE NATIONS,
KONA, INC. ("UNK"), the STATE OF HAWAII OFFICE OF PLANNING, and the COUNTY
OF HAWAI'I, PLANNING DEPARTMENT, by and through their undersigned counsel, being
parties who appeared in this matter to date and served with the State of Hawai'i Land Use

Commission's ("**Commission**") Order to Show Cause, filed on March 29, 2019 (the "**OSC**"), to stay the hearing presently scheduled for May 22, 2019, and other hearings, actions or proceedings on the OSC ("**OSC Proceedings**"), for one (1) year to allow UNK to prepare and file its Amended Motion to Amend Findings of Fact, Conclusions of Law, and Decision and Order (the "**Amended Motion to Amend**").

The Parties hereto enter into this Stipulation subject to the following reservations:

1. UNK shall not conduct any development activities, including, but not limited to, construction, grading, or performing any ground-disturbing activities, within the Petition Area during the pendency of the OSC Proceedings; provided, however, that pending final action by the Commission on the Amended Motion to Amend, UNK shall retain the right to continue with one or more of the following activities on and relating to the Petition Area:

- a. Revise, update and proceed with any and all new or existing development plans and studies necessary to support the Amended Motion to Amend;
- b. Establish new and/or improve existing fire breaks and any other emergency work for the health and safety of the properties surrounding the Petition Area;
- c. Conduct any and all further work to protect and preserve archaeological and historical sites within the Petition Area pursuant to plans approved by the State of Hawai'i Department of Land and Natural Resources, State Historic Preservation Division, including, without limitation, the installation of signage, the establishment of one or more access easements, and the restoration of damaged or disturbed burial sites;
- d. Continue to pursue development of water sources within the Petition Area, including but not limited to the drilling of a test well;

- e. Construct a security wall and/or fence around the perimeter of the Petition Area.
2. UNK shall submit a written six-month status report to the Commission and Parties no later than November 30, 2019.
3. Nothing in this Stipulation waives UNK's right to argue in any OSC proceedings that UNK has "substantially commenced" its use of the Petition Area in accordance with the representations made to the Commission and all such rights are hereby reserved. *See DW Aina Le'a Dev., LLC v. Bridge Aina Le'a, LLC*, 134 Hawai'i 187, 339 P.3d 685 (2014).

This Stipulation is made pursuant to Chapter 205, Hawai'i Revised Statutes and Title 15, Subtitle 3, Chapter 15 of the Hawai'i Administrative Rules §§ 15-15-42(2) (allowing for extensions of time to file pleadings by stipulation of the parties) and 15-15-93(c) (providing that any procedure in an order to show cause hearing may be modified or waived by stipulation of the parties).

DATED: Honolulu, Hawai'i, May 15, 2019.



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UNIVERSITY OF THE NATIONS, KONA, INC.

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Attorneys for
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RONALD N.W. KIM

Attorneys for

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COUNTY OF HAWAI'I, PLANNING
DEPARTMENT

APPROVED AND SO ORDERED:

BEFORE THE LAND USE COMMISSION
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In the Matter of the Petition Of
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CERTIFICATE OF SERVICE

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CERTIFICATE OF SERVICE

I hereby certify that a filed copy of the foregoing document 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:

<p>MICHAEL YEE, DIRECTOR Department of Planning, County of Hawai'i Aupuni Center 101 Pauahi Street, Suite 3 Hilo, HI 96720</p>	<p>U.S. MAIL, POSTAGE PREPAID</p>
<p>JOSEPH K. KAMELAMELA, ESQ. Corporation Counsel Department of the Corporation Counsel County of Hawai'i Hilo Lagoon Centre, 101 Aupuni Street, Unit 325 Hilo, HI 96720</p> <p>Attorneys for County of Hawai'i Department of Planning</p>	<p>U.S. MAIL, POSTAGE PREPAID</p>
<p>Mary Alice Evans Director Office of Planning, State of Hawai'i 235 S. Beretania Street, Suite 600 Honolulu, HI 96813</p>	<p>HAND DELIVERY</p>

<p>DAWN TAKEUCHI APUNA, ESQ. Deputy Attorney General Department of the Attorney General, State of Hawai'i 425 Queen Street Honolulu, HI 96813</p> <p>Attorneys for Office of Planning, State of Hawai'i</p>	<p>HAND DELIVERY</p>
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DATED: Honolulu, Hawai'i, May 20, 2019.



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