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LAND USE COMMISSION
STATE OF HAWAII

2019 MAY 14 A 11:44

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Attorney for OFFICE OF PLANNING,
STATE OF HAWAII

BEFORE THE LAND USE COMMISSION

OF THE STATE OF HAWAII

In the Matter of the Petition of)	DOCKET NO. A06-770
)	
THE SHOPOFF GROUP)	STIPULATION OF THE PARTIES
)	
To Amend the Agricultural Land Use)	
District Boundaries Into the Urban Land Use)	
District for Approximately 129.99 Acres In)	
North Kona District, Island of Hawaii, Tax)	
Map Key Nos. (3) 7-3-007: 038, 039, and)	
(3) 7-3-009: 007)	
)	

STIPULATION OF THE PARTIES

With respect to the Order to Show Cause, dated March 29, 2019 ("OSC"), issued by the Land Use Commission of the State of Hawai'i ("Commission"), the undersigned Parties, by and through their counsel as applicable, hereby enter into this Stipulation pursuant to Section 15-15-93(c), Hawaii Administrative rules ("HAR"). The undersigned Parties stipulate to the following:


1. That the undersigned are not aware of compliance by the Original Petitioner, The Shopoff Group, L.P. ("Original Petitioner"). Successor Petitioner, Kula Nei Partners LLC ("Successor Petitioner"), has not and does not intend to comply

with the representations and conditions of the Findings of Fact, Conclusions of Law, and Decision and Order for a State Land Use District Boundary Amendment (“D&O”), dated October 21, 2008.

2. There has been no substantial commencement by the Original Petitioner to the Parties' knowledge or Successor Petitioner of use of the Petition Area or substantial progress in developing the Petition Area in accordance with the representations and commitments made to the Commission;
3. That certain Notice of Imposition of Conditions (“Notice”) was recorded with the Bureau of Conveyances of the State of Hawai‘i (“Bureau”) on October 28, 2008, and a copy of the recorded statement was filed with the Commission by the Original Petitioner on October 28, 2008;
4. That the land use district boundary classification for the Petition Area, the subject 129.99 acres identified as Tax Map Key Nos. (3) 7-3-007:038, 039, and (3) 7-3-009:007, shall revert from its current “Urban” classification to its former “Agricultural” classification, and the Petitioner shall no longer be subject to the D&O Conditions upon appropriate motion by the Commission;
5. That upon reversion to the former “Agricultural” classification, the Successor Petitioner stipulates that they intend to utilize the Property in the manner as described in Successor Petitioners Declaration of Robert E. Lee Jr.
6. That the Parties hereto shall not oppose a motion by the Commission to incorporate the order to show cause by including the reversion of the Reclassified Area to its former land use classification or to a more appropriate classification in accordance with Section 15-15-93(e), HAR;

7. That the Parties hereto hereby waive the procedural requirements as set forth in Chapters 91 and 205, Hawai'i Revised Statutes, and Chapter 15-15, HAR, pertaining to notices, hearings and proceedings, and agree that the Land Use Commission may proceed with the disposition of the requests herein made;
8. That this Stipulation may be executed in counterparts, each of which shall be deemed an original, and said counterparts shall together constitute one and the same agreement, binding all of the Parties hereto, notwithstanding all of the parties are not signatory to the original or the same counterparts. For all purposes, including, without limitation, recordation, filing and delivery of this instrument, duplicate unexecuted and unacknowledged pages of the counterparts may be discarded and the remaining pages assembled as one document.

DATED: Honolulu, Hawai'i, May 14, 2019.



DAWN T. APLINA
Attorney for the OFFICE OF PLANNING,
STATE OF HAWAI'I

DATED: Honolulu, Hawai'i, May 16, 2019.



ROBERT E. LEE, JR.
Co-manager, Kula Nei Partners LLC
SUCCESSOR PETITIONER

DATED: Honolulu, Hawai'i, _____.

RONALD KIM
Attorney for the COUNTY OF HAWAII,
DEPARTMENT OF PLANNING

7. That the Parties hereto hereby waive the procedural requirements as set forth in Chapters 91 and 205, Hawai'i Revised Statutes, and Chapter 15-15, HAR, pertaining to notices, hearings and proceedings, and agree that the Land Use Commission may proceed with the disposition of the requests herein made;
8. That this Stipulation may be executed in counterparts, each of which shall be deemed an original, and said counterparts shall together constitute one and the same agreement, binding all of the Parties hereto, notwithstanding all of the parties are not signatory to the original or the same counterparts. For all purposes, including, without limitation, recordation, filing and delivery of this instrument, duplicate unexecuted and unacknowledged pages of the counterparts may be discarded and the remaining pages assembled as one document.

DATED: Honolulu, Hawai'i, _____.

DAWN T. APDINA
Attorney for the OFFICE OF PLANNING,
STATE OF HAWAI'I

DATED: Honolulu, Hawai'i, _____.

ROBERT E. LEE, JR.
Co-manager, Kula Nei Partners LLC
SUCCESSOR PETITIONER

DATED: Honolulu, Hawai'i, May 8, 2011.

RONALD KIM
Attorney for the COUNTY OF HAWAII,
DEPARTMENT OF PLANNING