

BEFORE THE LAND USE COMMISSION

LAND USE COMMISSION  
STATE OF HAWAII

OF THE STATE OF HAWAII

2020 JAN 16 A 11: 06

In the Matter of the Petition of )  
)  
A&B PROPERTIES, INC. A Hawai`i, )  
Corporation )  
)  
To Amend the Agricultural Land Use )  
District Boundary Into The Urban Land )  
Use District For Approximately 138.158 )  
Acres Of Land At Kahului, Maui, )  
Hawai`i, Tax Map Key Nos.: )  
3-8-01: Por. 2, 3-8-06: Por.4, And 3-8-79: )  
Por. 13 )  
\_\_\_\_\_)

DOCKET NO. A03-739  
R.D. OLSON DEVELOPMENT

**PETITIONER'S 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;**

AND

CERTIFICATE OF SERVICE

BENJAMIN M. MATSUBARA, #993-0  
CURTIS T. TABATA, #5607-0  
Matsubara, Kotake & Tabata  
888 Mililani Street, Suite 308  
Honolulu, Hawai`i 96813

Attorneys for Petitioner  
R.D. OLSON DEVELOPMENT

BEFORE THE LAND USE COMMISSION

OF THE STATE OF HAWAII

In the Matter of the Petition of	)	DOCKET NO. A03-739
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A&B PROPERTIES, INC. A Hawai`i,	)	PETITIONER'S MOTION TO
Corporation	)	DESIGNATE THE LAND
	)	USE COMMISSION AS APPROVING
To Amend the Agricultural Land Use	)	AGENCY FOR ENVIRONMENTAL
District Boundary Into The Urban Land	)	STATEMENT UNDER HRS CHAPTER
Use District For Approximately 138.158	)	343 AND FOR AUTHORITY TO
Acres Of Land At Kahului, Maui,	)	PREPARE ENVIRONMENTAL
Hawai`i, Tax Map Key Nos.:	)	IMPACT STATEMENT
3-8-01: Por. 2, 3-8-06: Por.4, And 3-8-79:	)	PREPARATINO NOTICE
Por. 13	)	
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PETITIONER'S 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

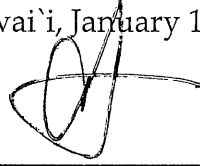
Comes now, R.D. OLSON DEVELOPMENT, ("R.D. OLSON" or "Petitioner"),  
by and through its attorneys, MASUBARA, KOTAKE & TABATA, respectfully moves  
the Land Use Commission of the State of Hawaii ("Commission") for an order: (1) to  
determine that it will be the accepting authority and the approving agency 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 Petitioner to prepare an Environmental Impact  
Statement Preparation Notice ("EISPN" ).

This motion is brought pursuant to HAR § 15-15- 70, HRS § 343-5, and HAR § 11-200.1-13. In this docket, Petitioner seeks to amend the Amended Findings of Fact, Conclusions of Law and Decision and Order filed March 25, 2004 (“2004 Decision and Order”) providing that a portion of the Petition Area, that portion being identified as Tax Map Key Nos. (2) 3-8-103:014 (portion), 015, 016, 017, and 018, comprising approximately 5.17 acres of land (“Petition Area B” or the “Subject Property”), shall be subject to a new decision and order that is specific to Petition Area B and that said Petition Area B shall not be subject to the 2004 Decision and Order, for the purpose of establishing appropriate findings of fact, conclusions of law and decision and order that are specifically applicable to Petitioner’s Windward Hotel and limited to Petition Area B. The project for which the Petition addresses will require a community plan amendment which requires compliance with HRS Chapter 343.

Further, Petitioner 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, Petitioner 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 Petitioner should prepare an EISPN.

DATED: Honolulu, Hawai'i, January 16, 2020.



Of Counsel:

MATSUBARA, KOTAKE & TABATA  
A Law Corporation

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BENJAMIN M. MATSUBARA  
CURTIS T. TABATA  
Attorneys for Petitioner  
R.D. OLSON DEVELOPMENT

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In the Matter of the Petition of	)	DOCKET NO. A03-739
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A&B PROPERTIES, INC. A Hawai'i,	)	MEMORANDUM IN SUPPORT OF
Corporation	)	MOTION
	)	
To Amend the Agricultural Land Use	)	
District Boundary Into The Urban Land	)	
Use District For Approximately 138.158	)	
Acres Of Land At Kahului, Maui,	)	
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MEMORANDUM IN SUPPORT OF MOTION

R.D. OLSON DEVELOPMENT ("R.D. OLSON" or "Petitioner") has filed a Motion for Order Amending the Findings of Fact, Conclusions of Law and Decision and Order filed March 25, 2004 ("Motion to Amend") to allow the development of a 200 room hotel in Kahului, Maui. Attached to the Motion to Amend as Exhibit "1" is the draft Environmental Impact Statement Preparation Notice ("EISPN") for the Proposed Windward Hotel ("Project").

The Project will require a community plan amendment which triggers and environmental assessment under § 343- 5(a)(6) of the Hawaii Revised Statutes ("HRS")

Filing of the Motion to Amend 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 § 11-200.1-13 of the Hawaii Administrative Rules ("HAR").

The proposed Project is a 200 room hotel on approximately 5.17 acres of land of currently vacant land. The proposed Project would result in the loss of the existing landscape, may have adverse effect on 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 §11-200.1-13(b)(1), (4) and (6).

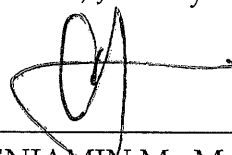
Based on these potential impacts, the Commission, using its judgment and experience, can determine that an EIS is likely to be required.

For these reasons, Petitioner 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 Petitioner to not prepare an environmental assessment, and that it authorize Petitioner to prepare an EIS beginning with the preparation of an EISPN pursuant to HRS § 343-5(e).

DATED: Honolulu, Hawai`i, January 16, 2020.

Of Counsel:  
MATSUBARA, KOTAKE & TABATA  
A Law Corporation



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BENJAMIN M. MATSUBARA  
CURTIS T. TABATA  
Attorneys for Petitioner  
R.D. OLSON DEVELOPMENT

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\_\_\_\_\_)

CERTIFICATE OF SERVICE

I hereby certify that a file-marked of the foregoing document was duly served upon the following AS INDICATED BELOW on January 16, 2020.

DAWN TAKEUCHI-APUNA, ESQ. ) HAND DELIVERY  
Deputy Attorney General  
Department of the Attorney General  
425 Queen Street  
Honolulu, Hawai'i 96813

MARY ALICE EVANS, DIRECTOR ) HAND DELIVERY  
Office of Planning, State of Hawai'i  
235 South Beretania Street  
Room 600, Leiopapa A Kamehameha Bldg.  
Honolulu, Hawai'i 96813



MICHELE CHOUREAU MCLEAN, DIRECTOR  
Maui County Planning Department  
County of Maui, State of Hawai'i  
2200 Main Street  
One Main Plaza, Suite 315  
Wailuku, Hawai'i 96793

CERTIFIED MAIL,  
RETURN RECEIPT  
REQUESTED

MAUI PLANNING COMMISSION  
County of Maui, State of Hawai'i  
2200 Main Street  
One Main Plaza, Suite 315  
Wailuku, Hawai'i 96793

CERTIFIED MAIL,  
RETURN RECEIPT  
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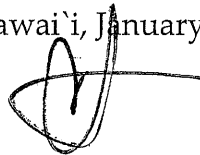
MOANA LUTEY, ESQ.  
Corporation Counsel  
Department of the Corporation Counsel  
200 S. High Street  
Kalana O Maui Bldg, 3rd Fl  
Wailuku, Hawai'i 96793

CERTIFIED MAIL,  
RETURN RECEIPT  
REQUESTED

MR. DANIEL YASUI  
Vice-President  
A&B Properties, Inc.  
822 Bishop Street  
Honolulu, Hawai'i 96813

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RETURN RECEIPT  
REQUESTED

DATED: Honolulu, Hawai'i, January 16, 2020.



Of Counsel:  
MATSUBARA, KOTAKE & TABATA  
A Law Corporation

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