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BEFORE THE LAND USE COMMISSION  
OF THE STATE OF HAWAII

In the Matter of the Petition	)	DOCKET NO. A09-782
	)	
of	)	PETITION FOR LAND USE
	)	DISTRICT BOUNDARY
TROPIC LAND LLC, a Hawaii	)	AMENDMENT; EXHIBITS "1"
limited liability company	)	through "10"; VERIFICATION;
	)	and AFFIDAVIT OF MAILING
To Amend the Agricultural Land	)	
Use District Boundaries into the	)	
Urban Land Use District for	)	
Approximately 96.0 acres in Lualualei,	)	
Waianae District, Oahu, Hawaii,	)	
Tax Map Key No. (1) 8-7-09:02 (por.)	)	
_____	)	

**PETITION FOR LAND USE DISTRICT BOUNDARY AMENDMENT**

COMES NOW, TROPIC LAND LLC, a Hawaii limited liability company, whose principal place of business is ASB Tower, Suite 2690, 1001 Bishop Street, Honolulu, Hawaii 96813 ("Petitioner"), and respectfully petitions the Land Use Commission of the State of Hawaii ("Commission") to amend the land use district boundaries of approximately 96.0 acres of land in Lualualei, Waianae District, Oahu, Hawaii, more particularly described below, from the State Land Use Agricultural District to the State Land Use Urban District, and in support of the Petition, respectfully alleges and presents the following:

**I**  
**STANDING**

Petitioner alleges standing to file this Petition for a Land Use District Boundary Amendment pursuant to Section 15-15-46(3), Hawaii Administrative Rules (“HAR”) and Section 205-4(a), Hawaii Revised Statutes (“HRS”), which entitles any person with a property interest in the land sought to be reclassified to petition the Commission for a district boundary amendment.

**II**  
**AUTHORIZED REPRESENTATIVES**

KERRY M. KOMATSUBARA, attorney for Petitioner, has been appointed and is hereby authorized to represent Petitioner in its Petition for a Land Use District Boundary Amendment and the proceedings thereon pursuant to HAR Section 15-15-35(b). Pursuant to HAR Section 15-15-50(c)(2), all correspondence and communication with regard to this Petition shall be addressed to:

1. Kerry M. Komatsubara, Esq.  
20 Mamalahoa Place  
Honolulu, Hawaii 96817  
Telephone No. (808) 225-4541
  
2. Mr. Arick Yanagihara  
Project Manager  
Tropic Land LLC  
ASB Tower, Suite 2690  
1001 Bishop Street  
Honolulu, Hawaii 96813  
Telephone No. (808) 457-1172

Pursuant to HAR Section 15-15-50(c)(5)(C), appended to this Petition is the Affidavit of Mailing which is Petitioner’s authorized representative attesting to

its compliance with the service of process requirements for HAR Section 125-15-48(a).

**III**  
**AUTHORITY FOR RELIEF SOUGHT**

This Petition is filed pursuant to HRS Chapter 205, as amended, and HAR Title 15, Chapter 15, as may be amended from time to time, and all other applicable statutes and rules. The Commission is authorized to grant the relief sought herein pursuant to the provisions of HRS Chapter 205, as amended, and all applicable statutes and rules promulgated and governing the Commission.

**IV**  
**COMMUNICATIONS AND SERVICE OF PROCESS**

All papers, notices and pleadings required to be served upon Petitioner in this proceeding shall be addressed to and served upon Petitioner and Kerry M. Komatsubara, as Petitioner's representative.

**V**  
**ENVIRONMENTAL IMPACT STATEMENT**

Attached as Exhibit "1" is Petitioner's Environmental Impact Statement Preparation Notice ("EISPN") for the proposed light industrial park project that is the subject of this Petition and is further described herein Section IX.B. ("Project"). The EISPN was prepared by Kimura International, Inc. An environmental impact statement ("EIS") is required for the Project because the Project involves an amendment to the Wai'anae Sustainable Communities Plan, an action described under HRS Section 343-5(a)(6).

Filing of this Petition is the earliest practicable time to determine whether an EIS shall be required to assess the Project pursuant to Section 343-5(b),

HRS. Petitioner requests that Commission determine: (a) that the Commission is the Appropriate Accepting Authority for the Environmental Impact Statement pursuant to Section 343-5(c), HRS, and (b) issue a EISPN for the Project pursuant to Section 343-5(c), HRS.

Assuming the Commission determines that it is the Appropriate Accepting Authority for the EIS, Petitioner will circulate the Draft EIS for public comment and will furnish the written comments and responses to the Commission with the Final EIS.

## **VI** **DESCRIPTION OF THE PETITION AREA**

The land affected by this Petition consists of approximately 96.0 acres (herein "Petition Area") situated in the State Land Use Agricultural District in Lualualei, Waianae District, Island of Oahu, City and County of Honolulu, State of Hawaii. The Petition Area is a portion of TMK No. (1) 8-7-09:02 which is approximately 236.154 acres (herein "Lot 205-A"). Petitioner is not seeking a land use reclassification for the remainder of the lands in Lot 205-A (i.e., approximately 72.7 acres will remain in the State Land Use Agricultural District and approximately 67.3 acres will remain in the State Conservation District).

Both Lot 205-A and the Petition Area are identified in the Project Location Map which is attached hereto and incorporated herein as Exhibit "2."

## **VII** **PETITIONER'S PROPRIETY INTEREST IN THE PETITION AREA**

Petitioner is the owner in fee simple of Lot 205-A, which includes all of the Petition Area, pursuant to that certain deed by and between Kabushiki Kaisha

Oban, a Japan corporation, as grantor, and Petitioner, as grantee, dated November 21, 2005 and recorded on December 27, 2005, as Document No. 3371920 in the Land Court of the State of Hawaii. A true and correct copy of this deed is attached hereto and incorporated herein as Exhibit "3."

Lot 205-A, including the Petition Area, is subject to the following encumbrances:

1. That certain First Mortgage, Security Agreement and Financing Statement in favor of First Hawaiian Bank, dated December 22, 2005, and recorded on December 27, 2005, with the Office of the Assistant Registrar of the Land Court of the State of Hawaii as Document No. 3371921.
2. Easement T (1.240 acres), as shown on Map 62, filed with Land Court Application No. 130, for road widening purposes, located along the westerly boundary of Lot 205-A, as set forth by Land Court Order No. 45711.
3. Easement U (1.00 acres), as shown on Map 62, filed with Land Court Application No. 130, for fence line purposes, located along the northerly boundary of Lot 205-A, as set forth by Land Court Order No. 45711.

## **VIII**

### **EXISTING USE OF THE PETITION AREA; ADJACENT LAND USES**

#### **A. Existing Use of the Petition Area**

The Petition Area is currently within the State Land Use Agricultural District and is zoned by the City and County of Honolulu as P-2 (General

Preservation). See the City and County of Honolulu Zoning Map which is attached hereto and incorporated herein as Exhibit "4."

In addition, the Petition Area is subject to an existing Unilateral Agreement issued by the City and County of Honolulu relating to the development of an 18-hole golf course and clubhouse facility (herein "Golf Course UA"). The Golf Course UA is dated September 24, 1996, and is recorded as Document No. 2337653 in the Land Court of the State of Hawaii. A true and correct copy of the Golf Course UA is attached hereto and incorporated herein as Exhibit "5."

Except for the linear tree farm and Petitioner's temporary on-site office trailer, the Petition Area currently is vacant and covered mostly with grasses, haole koa bushes, and isolated kiawe trees. The linear tree farm is a 30-foot wide landscaped buffer on the east-side of Lualualei Naval Access Road and which was planted in 2007. The Petitioner's on-site office is a 40' modular trailer and is used to house Petitioner's maintenance operations on a temporary basis. Unpaved fire lanes are maintained by the Petitioner throughout the Petition Area to give access to emergency vehicles in the event of brush fires which are common in the area.

Limited portions of the Petition Area previously were used for cattle grazing. A truck farm operated on 15 acres for a brief period in the 1980's, but closing voluntarily in 1988. Since then, the Petition Area has remained largely vacant and unused.

## **B. Existing Use of Adjacent Lands**

### **1. General Description of Lualualei Valley**

The Petition Area rests in Lualualei Valley. Land uses in Lualualei Valley are generally divided into four zones and are currently in use as follows:

The lower valley or makai zone is characterized by a mix of residential and commercial uses that developed along Farrington Highway.

The upper valley is occupied by the U.S. military, including the naval magazine and transmitter facility, and connects over the ridge to Schofield Barracks on the central O'ahu plateau.

The western zone is a mixture of the house and farm lots that are arrayed along Hakimo Road, and the predominantly industrial uses along Lualualei Naval Access Road. Unlike Hakimo Road, the parcels on the lower-end of Lualualei Naval Access Road are larger and much fewer in number. This corridor has a distinctly industrial character, conveyed by the presence of the PVT landfill for construction and demolition debris and the former cement plant, now operated as a waste processing facility by West Oahu Aggregates and Pineridge Farms.

The eastern zone, where the Petition Area is situated, are primarily vacant lands bordering the foothills of Pu'u Heleakala Ridge.

### **2. Specific Uses of Land Immediately Adjacent to the Petition Area**

Land uses adjacent to the Petition Area include the U.S. Naval Reservation to the north; Pu'u Heleakala Ridge to the east and south/east;

vacant agricultural lands that are being considered for a future landfill to the south; and to the west, a string of small-agricultural lots that are vacant except for one lot with “lean-to” chicken coops on the ground, approximately 23.893-acres of vacant land owned by the Petitioner and which were part of the golf course development under the Golf Course UA, and a 23.648-acre fallow agricultural lot.

**IX**  
**RECLASSIFICATION SOUGHT AND PROPOSED USE AND DEVELOPMENT**

**A.     Reclassification Sought**

Petitioner respectfully requests the Commission to amend the present classification of the Petition Area from the State Land Use Agricultural District to the State Land Urban District use (“Proposed Action”).

**B.     Proposed Action**

The Proposed Action is being sought to allow for the development of the Project which is a light-industrial park known as the Nanakuli Community Baseyard Project. In keeping with the character of an I-1 zoned development, the Project is intended to be limited to uses “which have few environmental impacts and those which complement the development scale of communities they serve.” See Section 21-3.130(e) of the Revised Ordinances of Honolulu, as amended. Also, the Project is intended to accommodate light manufacturing, base yards for trucks, warehousing and a possible incubator center for small businesses.

It is Petitioner’s present intention to develop the Project as an industrial condominium featuring 35-40 units, with condominium units ranging between one-half acres to three acres in size. See the Preliminary Project Map which is



attached hereto and incorporated herein as Exhibit "6." The Preliminary Project Map identifies the Project's preliminary layout, including the location and details of the Project's entrance, roadways, linear tree farm, condominium units, incubator center and rock-fall mitigation buffer area.

## **X** **PROJECT TIMETABLE**

Project development and implementation is scheduled to begin immediately following approvals of necessary land use amendments, zoning, permits and available funding. Petitioner anticipates Project development to commence in 2010 or 2011 with full build-out of the Project by 2021. Construction of roads, industrial pads, along with support infrastructure and utilities would be phased over a ten-year (10) period. Industrial pad development will be partially dependent upon sales and absorption and is estimated at ten (10) years.

## **XI** **IMPACTS ON RESOURCES OF THE AREA**

At this time, the Petitioner anticipates the customary impacts associated with development projects including those related, but not limited to drainage, resources, soils, flora and fauna, and visual resources. A preliminary discussion of the resources in the Petition Area is contained in the EISPN. See Exhibit "1," Section 3.

The Project would result in impacts to a number of resources including drainage, groundwater, visual resources, noise and air quality impacts associated with increased vehicular traffic and construction activities, and public

infrastructure and services. The Project is not likely to adversely impact resources such as archaeological and cultural resources, biological resources (flora and fauna), and agricultural capability.

Additional details regarding the Project's impacts on the resources of the area will be provided as such information becomes available through studies conducted in conjunction with the preparation of the Petitioner's EIS.

## **XII** **AVAILABILITY OF INFRASTRUCTURE AND PUBLIC SERVICES**

The Project will generate additional demand on existing transportation infrastructure and systems (e.g., potable water, wastewater, drainage, electrical power and solid waste disposal) as well as public facilities and services (e.g., police, fire and emergency services). The Project will include mitigation measures such as improvements to roadways and intersections in the vicinity of the Petition Area.

Additional details regarding the Project's impacts on the availability of infrastructure and public services in the area will be provided as such information becomes available through studies conducted in conjunction with the preparation of the Petitioner's EIS.

## **XIII** **ECONOMIC IMPACTS**

The Project provides to the Nanakuli-Mailii community, and also to the broader Waianae Coast, economic and employment opportunities that are both *needed and wanted*.

- A. Recent action of the Nanakuli-Mailii Neighborhood Board.

The Nanakuli-Mailii Neighborhood Board #36 (“Neighborhood Board”) has recognized that the Wai’anae Coast has “lagged” behind the rest of Oahu in terms of economic development and employment opportunities. In an effort to improve the economic climate in the Nanakuli-Mailii neighborhood, the Neighborhood Board has been working diligently in the City and County of Honolulu’s 5-year review process to amend the Wai’anae Sustainable Communities Plan (2009) to call for the development of the light-industrial park in Lualualei Valley. As a part of this effort, the Neighborhood Board’s Chairperson, Ms. Patty Teruya, has cited the information contained in the Draft Leeward Coast Initiative Inventory Report dated August 31, 2007 (“2007 DBEDT Report”), which shows that:

1. In 2000, the per capita income of Wai’anae Coast residents was about 61% of the State average. (at page 14 of 2007 DBEDT Report)
2. In 2000, more Wai’anae Coast households were in low income categories than the State average. (at page 15 of 2007 DBEDT Report)
3. In 2000, the percentage of Wai’anae Coast individuals below the poverty level was much higher than the State average. (at page 15 of 2007 DBEDT Report)
4. The average wage gap has been widening and by 2004 the Wai’anae Coast wages were 20% less than the State average wage. (at page 16 of 2007 DBEDT Report)
5. In 2000, most of the workers in the Wai’anae Coast work elsewhere and that Wai’anae Coast workers spend 16 more minutes traveling to work than the State average. (at page 18 of 2007 DBEDT Report); and
6. The unemployment rate in the Wai’anae Coast has been much higher than the State average and the gap has widened over the past twenty years. (at page 21 of 2007 DBEDT Report)

The Neighborhood Board also identified the following additional economic data that urge the need for immediate action to stimulate economic growth and to create new jobs directly within the Wai'anae Coast:

1. Wai'anae has one of the largest Native Hawaiian populations in Hawaii. The entire coast has poverty levels near 20%, with some census tracts exceeding a 50% poverty level. Over 90% of households in Wai'anae earn less than \$50,000 per year. The median household income is \$25,638. Historically, all of the communities along the Wai'anae Coast have been economically depressed. Unemployment is estimated to be twice the national average. (Mr. Michael Pecsok, Vice Chancellor for Academic Services, Leeward Community College, May 4, 2005); and
2. The Wai'anae area is ranked first in unemployment and poverty, with an average income of \$13,348, compared to Honolulu County's per capita income of \$21,998. Wai'anae's unemployment rate is 8.6 percent, which is more than double that of Honolulu County's average of 3.8 percent. The poverty rate is 21.9 percent, compared to Honolulu County's average of 9.9 percent. (University of Hawaii - West Oahu, December 13, 2005)

Most alarming to the Neighborhood Board is that the economic data and reports indicate that the economic gap between the Wai'anae Coast residents and the rest of Oahu has been widening since 1980. See pages 14, 15, 16 and 21 of 2007 DBEDT Report. Also recognized by the Neighborhood Board is that the Department of Planning and Permitting of the City and County of Honolulu recently reported that the total number of jobs in the Wai'anae area is projected to *decrease* from 6,888 to 6,849 in the 30-year period from 2000 to 2030. See page 7 of DPP's 2007 Annual Report on the Status of Land Use on Oahu.

Thus, the Neighborhood Board recognized that unless immediate action is taken, the poor economic circumstances in their community will not only remain poor, but it will actually worsen in time. With this recognition, the Neighborhood

Board has unanimously supported the development of the Project and has requested favorable action by the various governmental entities involved in the permitting process. Attached hereto and incorporated herein by reference as Exhibit "7" is a true and correct copy of the July 15, 2008 Resolution, together with a copy of Mr. Victor Kila's (a member that was absent during the vote on the July 15, 2008 Resolution) July 21, 2008 letter of support for the July 15, 2008 Resolution which is attached hereto as Exhibit 8."

The Neighborhood Board also recognized that the Project will provide quality jobs that provide career-type wages and opportunities. Petitioner's Project is targeted to provide jobs in the construction trades, transportation and trucking, warehousing and storage, and automotive repair and care. This worker target for the Project is consistent with the occupational profile of the Waianae Coast labor market.

- B. In addition to the creation of quality jobs, the Project creates a center for businesses and industry along the Waianae Coast which is much needed and desired by Waianae Coast businesses.

According to 2007 data compiled by real estate specialists, Colliers Monroe & Friedlander, there is a shortage of industrial space on the Island of Oahu, including in the Waianae Coast. This report is supported by requests received by the Petitioner from Waianae Coast small businesses looking for industrial space to lease or own, but presently have located outside of their community because of a lack of available space along the Waianae Coast.

In response to demands from existing small businesses in the Waianae Coast, Petitioner has made plans to make available some land within the Project

for a business incubator facility. Many Waianae Coast businesses that are operating out of their residences will now have an alternative facility to relocate their operations and house their businesses.

- C. This Project will partially fill the economic and employment void that has occurred with the shrinking of the U.S. Navy's operations in Lualualei Valley.

"In the early 1950s, more than 1,500 military and civilians were employed by the naval magazine" as was reported in that certain news article entitled "*Lualualei, The Navy owns more than 9,000 acres in the Waianae Valley. Its radio tower are a familiar sight, but more goes on beneath the earth.*" The October 5, 1998 news article was written by Gregg K. Kakesako of the Honolulu Star-Bulletin, and a true and correct copy is attached hereto as Exhibit "9." The news article goes on further to say that the number of jobs at the time that article was written (1998) was "cut almost in half."

According to a recent report made by the Navy at a community meeting in Nanakuli, the Lualualei Naval Base operations have been downsized and currently employ less than 50 people. The Project will help to create new jobs that will help to offset the more than 1,450 net-job loss experienced in the Navy operations.

- D. Additional details regarding the Project's economic impacts will be provided as such information becomes available through studies conducted in conjunction with the preparation of Petitioner's EIS.

**XIV**  
**OTHER PROPOSED PROJECTS**

Petitioner is aware of a proposal to construct and operate a municipal solid waste composting and landfill facility on an approximately 172-acre site adjacent to makai border of the Petition Area. This 172-acre site is owned by Leeward Land LLC, the applicant of an Environmental Impact Statement Preparation Notice that was published in the May 23, 2006 issue of the OEQC Environmental Notice. This landfill project is commonly known as the Nanakuli B Landfill Project.

Other than the Nanakuli B Landfill Project, Petitioner is not aware of any other proposed project in the Lualualei and Nanakuli Valley area.

**XV**  
**PETITIONER'S FINANCIAL CONDITION**

Evidence of Petitioner's financial condition in the form of its Financial Statement is attached hereto as Exhibit "10," and incorporated herein by this reference. Petitioner intends to use proceeds from sales of its condominium units to fund the Project. In conjunction with sale proceeds, Petitioner will also obtain funding from additional borrowing from financial institutions or from capital contributions from the constituent members of Petitioner.

**XVI**  
**AFFORDABLE HOUSING**

Petitioner is not proposing to develop any residential units as part of the Project.

**XVII**  
**STANDARDS FOR DETERMINING THE**  
**BOUNDARIES OF AN “URBAN” DISTRICT**

The Proposed Action is consistent with the standards for determining boundaries of the State Land Use Urban District pursuant to HAR Section 15-15-18.

The Petition Area is located approximately two (2) miles inland from Farrington Highway and alongside Lualualei Naval Access Road. The major state land use classifications in the immediate area (i.e. Lualualei Valley) are Agricultural and Urban with Conservation lands along the mountain areas of the valley.

Industrial-type uses are throughout the mauka-end of Lualualei Valley:

- (a) The U.S. Navy maintains its munitions storage facility on a 7,498-acre reservation adjacent to and mauka of the Petition Area.
- (b) The U.S. Navy operates its transmitter facility on its 1,718-acre transmitter field on the Makua-side of Lualualei Valley.
- (c) The PVT landfill for construction and demolition debris is located along Lualualei Naval Access Road and is makai of the Petition Area and is approximately 186.4-acres in size.
- (d) The former cement plant that is presently operated as a waste processing facility by West Oahu Aggregates and Pineridge Farms also is located along Lualualei Naval



Access Road, just makai of the Petition Area. This operation is on about 25 acres of land in the State Land Urban District and is zoned I-2, Intensive Industrial District, by the City and County of Honolulu.

Most of the agricultural operations in Lualualei Valley have either been discontinued or relocated to other areas on Oahu with better soil quality and more available water for irrigation.

Most of the commercial and residential uses in Lualualei Valley are located in the makai-end and nearby Farrington Highway. There is a sprinkling of homes in the mauka-end of Lualualei Valley, but not along Lualualei Naval Access Road which has more of an industrial ambiance because of the type of traffic (i.e. trucks and military vehicles) along this transportation artery and the presence of large-sized lots that are conducive for industrial development.

Reclassification of the Petition Area to the State Land Use Urban District and the subsequent City and County of Honolulu Zone Change Application would permit the Petition Area to conform to the surrounding land uses and would permit the proposed industrial development. A detailed discussion of the conformity of the Petition Area to the State Land Use Urban District standards (as set forth in HAR Section 15-15-18) will be contained in the Petitioner's EIS.

### **XVIII** **CONFORMANCE WITH THE HAWAII STATE PLAN**

Based upon the facts, data and information contained in this Petition and the exhibits attached hereto, and by the evidence and testimony to be submitted by Petitioner in the proceedings herein, the Project is consistent with the Hawaii

State Plan ("State Plan") as set forth in HRS Chapter 226, as amended, which is a guide for future long-range development for the state.

The Project generally conforms to the applicable goals, objectives and policies of the State Plan, and applicable priority guidelines and functional plan policies. A preliminary discussion of the Project's conformance with the State Plan is included in the Petitioner's EISPN. See Exhibit "1," Sections 4.1 and 4.2. Further explanations and a more detailed description of the conformance of the Project will be contained in the Petitioner's EIS.

**XIX**  
**CONFORMANCE WITH CITY AND COUNTY OF HONOLULU**  
**GENERAL PLAN AND THE WAI'ANAЕ SUSTAINABLE COMMUNITIES PLAN**

Based upon the facts, data and information contained in this Petition and the exhibits attached hereto, and by the evidence and testimony to be submitted by Petitioner in the proceedings herein, the Project is consistent with the applicable goals, policies and standards of the City and County of Honolulu General Plan (1992) ("Honolulu General Plan"). The Project generally conforms to the applicable goals, objectives and policies of the Honolulu General Plan are included in the Petitioner's EISPN. See Exhibit "1," Section 4.3. Further explanations and a more detailed description of the conformance of the Project will be contained in the Petitioner's EIS.

The Project does not presently conform to the Waianae Sustainable Communities Plan ("WSCP"), however, the Petitioner filed an application to amend the WSCP and the WSCP Land Use Map with the City and County of Honolulu, Department of Planning and Permitting on November 13, 2007. The 5-

year review of the WSCP currently is underway and Petitioner's request to amend the WSCP is being considered as part of that process.

**XX**  
**CONFORMITY WITH CHAPTER 205A**

The purpose of the Hawaii Coastal Zone Management Program ("HCZMP") is to establish guidelines for the use, protection and development of resources within the coastal zone. Development activities in the coastal zone must conform to the HCZMP objectives and policies, as outlined in HRS Chapter 205A. The HCZMP is supplemented by the County's Special Management Area ("SMA") that controls development along the shoreline and generally requires a permit from the County for activities in the SMA. The Petition Area is not located within the County SMA.

A preliminary discussion of the Project's conformance with the above-mentioned HCZMP is included in Petitioner's EISPN. See Exhibit "1," Section 4.3.4. Further explanations and a description of the conformance of the Proposed Action with the HCZMP and HRS Chapter 205A will be discussed in Petitioner's EIS.

**XXI**  
**IMPACTS ON NATIVE HAWAIIAN CUSTOMARY AND TRADITIONAL RIGHTS**

An archaeological survey was conducted in November, 1990 by Cultural Surveys Hawaii for the entire Lot 205-A as part of the Oban golf course development. The Petition Area was a part of the surveyed area and the findings and conclusions of that survey are contained in *An Archaeological Inventory*

*Survey for the Proposed Lualualei Golf Course, Lualualei, Waianae, Oahu,*  
January, 1991.

The survey identified seven (7) archaeological sites within the Lot 205-A, and only four (4) sites are located within the Petition Area. Of the four (4) sites within the Petition Area, only one site is interpreted as being possibly attributable to traditional Hawaiian activity and was evaluated as “no longer significant” (NLS) because of the lack of cultural or scientific interest. The other three (3) sites are associated with prior cattle ranching operations.

Only one of the seven (7) sites within Lot 205-A was of significance and was recommended for preservation. This site is far away from the Petition Area and is located in the foothills of Pu’u Heleakala and will not be disturbed by the Project.

The Department of Land and Natural Resources, State Historic Preservation Division (SHPD) was consulted during the environmental review process for the earlier golf course proposal. At that time, SHPD determined that the golf course project would have no adverse impact on significant historical resources and given the smaller footprint of the Project and its location away from the only significant site, the Project is not expected to adversely affect historic resources.

Petitioner will prepare a cultural impact assessment of the impact of the Project on Native Hawaiian customary and traditional rights under Article XII, Section 7 of the Hawaii State Constitution.

**XXII**  
**REASONABLENESS OF AND COMPLIANCE WITH**  
**REQUIREMENTS FOR BOUNDARY AMENDMENTS**

In accordance with HAR Section 15-15-77 and HRS Section 205-4(h), and based upon the facts, data and information submitted and contained in this Petition and Exhibits “1” to “10” and by the evidence and testimony to be submitted by Petitioner in the proceedings herein, the district boundary amendment requested by this Petition is reasonable, does not violate HRS Section 205-2, as amended, and is consistent with the provisions of HRS Sections 205-16, 205-17 and 205A-2 and Chapter 226, as amended.

**XXIII**  
**ASSESSMENT OF NEED FOR INCREMENTAL RECLASSIFICATION**

Petitioner intends to develop the Project over a ten (10) year period. Permitting is anticipated to require a two (2) year period. Petitioner intends to commence design and construction of the backbone infrastructure for development of the entire Petition Area in a single integrated system as soon as all permits or exemptions have been obtained. Project occupancy is expected to occur within eighteen (18) months from approval of the necessary land use, zoning and permit approvals. The initial phase is expected to include construction of roads, support infrastructure and utilities. Full development of the industrial condominium units will depend upon sales and market absorption.

Without assurance that the entire Project may be built as planned, it would not be feasible for Petitioner to proceed to design and build large scale infrastructure improvements with the capacity needed to accommodate

development of the entire Project. Therefore, Petitioner submits that it would not be appropriate for the Project to be approved in increments.

WHEREFORE, Petitioner respectfully requests that the Land Use Commission amend the land use district boundaries of the Petition Area from the State Land Use Agricultural District to the State Land Use Urban District for the purposes and in the manner proposed in this Petition.

DATED: Honolulu, Hawaii, March 12, 2009.

TROPIC LAND LLC, a Hawaii limited liability company

By   
Ariek Yanagihara  
Its Project Manager