

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of) DOCKET NO. A80-482
)
T.S.K., ASSOCIATES)
)
For Amendment of District)
Boundaries and Reclassification)
of Certain Lands Situated at)
Kaloko, North Kona, County of)
Hawaii, State of Hawaii)
_____)

FINDINGS OF FACT, CONCLUSIONS
OF LAW, DECISION AND ORDER

The above-captioned land use boundary amendment proceeding was initiated by the petition of T.S.K., ASSOCIATES pursuant to Chapter 205, Hawaii Revised Statutes, and the Rules of Practice and Procedure of the Land Use Commission, State of Hawaii, to amend the Land Use District Boundary of certain land consisting of approximately 240.46 acres and identified by Tax Map Key 7-3-09: portion of parcel 1, (hereinafter referred to as the "subject property") situated at Kaloko, North Kona, Island of Hawaii, from the Conservation District to the Urban District. The Land Use Commission, having heard the evidence presented on the matter during the hearing held on August 12, 1980 and August 13, 1980 in Kailua, Kona, Hawaii, and having duly considered the record in this Docket, the proposed findings of fact and conclusions of law, and the comments to the proposed findings of fact and conclusions of law, hereby makes the following findings of fact and conclusions of law:

FINDINGS OF FACT

PROCEDURAL MATTERS

1. The petition was filed on April 14, 1980, by T.S.K., ASSOCIATES, a registered Hawaii partnership (hereinafter "Petitioner"), as the fee simple owner of the subject property, requesting the Land Use Commission (hereinafter "Commission") to amend the Conservation District boundary at Kaloko, North Kona, Island of Hawaii, by reclassifying the subject property into the Urban District, certificate of service of the petition being attached thereto.

2. The subject property covered by the petition included land which was the subject of a prior petition in Land Use Commission Docket No. A78-440 which was denied on July 17, 1979. On May 28, 1980, at 9:00 o'clock a.m., at the County Council Chambers, County Building (Kalana O Maui) 200 South High Street, Kahului, Maui, State of Hawaii, the Commission held a hearing to determine whether the petition could be received and considered by the Commission at this time under Rule 6-14 of Part VI of the Commission's Rules of Practice and Procedure. Attorneys James T. Funaki, Esq., and Roy Y. Nihei, Esq., appeared on behalf of Petitioner, Deputy Attorney General Annette Y. W. Chock appeared on behalf of the Department of Planning and Economic Development, State of Hawaii, and the Planning Department of the County of Hawaii appeared by its Director Sidney M. Fuke. After having heard the oral arguments of counsel present and Director Fuke, and having read the written memorandum of Petitioner, the Commission by Order Regarding The Consideration of T.S.K., Associates' Petition, filed herein on June 5, 1980, decided that the petition did not cover the same request and presented new data, and to consider the petition of Petitioner as of the date of filing, April 14, 1980.

3. Notice of hearing scheduled for August 12, 1980, at 10:00 o'clock a.m. in the Resolution Room, Kona Hilton Hotel, Kailua, Kona, Hawaii, was published in the Hawaii Tribune Herald and the Honolulu Advertiser on July 13, 1980, and served by mail on the parties.

4. Requests to appear as a public witness were received by the Commission from Elizabeth Ann Stone, Gerald G. Duerksen and Billy Kimi. The requests of Elizabeth Ann Stone and Gerald G. Duerksen were timely filed with the Commission; however, the request of Billy Kimi was not timely filed.

5. Gerald G. Duerksen appeared and testified as a public witness.

6. Although having been permitted to be heard, Elizabeth Ann Stone failed to appear as a public witness at any time during the hearing of the petition on August 12, 1980 and August 13, 1980.

7. The proposed action of the Commission on Billy Kimi's untimely request was rendered moot inasmuch as Mr. Kimi failed to appear at any time during the hearing of the petition on August 12, 1980 and August 13, 1980.

DESCRIPTION OF THE SUBJECT PROPERTY

8. The subject property is located at Kaloko, North Kona, Island of Hawaii, and consists of approximately 240.46 acres. It is identified by Tax Map Key 7-3-09: portion of 1, Third Taxation Division.

9. The subject property is located mauka of and abuts Queen Kaahumanu Highway. It is approximately 3 to 4 miles south of Keahole Airport, approximately 3 to 4 miles north of Kailua Village, and approximately 1 mile mauka of the coastline.

10. The elevation of the subject property ranges from 100 feet above mean sea level along the makai boundary (Queen Kaahumanu Highway) to 300 feet along the mauka (east) boundary. The subject property slopes gently mauka to makai (east to west) at an average of 5 percent to 10 percent. The subject property has a generally irregular surface with localized mounds and depressions present throughout, characteristic of non-eroded lava flows.

11. The soils of the subject property are part of a soil group classified as lithosol (a soil lacking definite genetic horizons, consisting of a freshly or imperfectly weathered mass of hard rocks or hard rock fragments). The subject property is composed almost entirely of basaltic rock. The lava flows are "pahoe hoe" and "aa" lava. The lava material is very friable and can usually be graded using conventional earth moving equipment.

12. The climate of the subject area is semi-tropical and considered to be dry and arid with light rainfall. The average annual precipitation at Kailua is 25 inches. The subject area has an average annual temperature of 75°(F) with an average high of 83° and an average low of 67°(F).

13. The natural drainage system of the subject property consists of rainfall percolating through the layers of very porous lava to the underground water table. There is no record of flooding in the subject property. The subject property is not within the flooding or tsunami inundation areas identified by the preliminary Flood Insurance Rate Maps prepared by the U. S. Department of Housing and Urban Development Federal Insurance Administration.

14. The subject property is presently vacant and undeveloped. It consists of large, barren masses of lava

interrupted by patches of scrub vegetation and has been unused since its formation.

PROPOSAL FOR DEVELOPMENT

15. Petitioner is a registered Hawaii partnership composed of Kobayashi Development & Construction, Inc., a Hawaii corporation having 50% ownership, Takemasa International, Inc., a Hawaii corporation, having 45% ownership and Kazuo Omiya, Inc., a Hawaii corporation, having 5% ownership. Takemasa International, Inc., is presently in the process of purchasing the interest of Kobayashi Development & Construction, Inc.

16. Petitioner proposes to develop a light industrial subdivision composed of 194 one-acre minimum size lots which will be sold in fee.

17. Petitioner proposes to develop the light industrial subdivision over a period of 15 years as follows:

<u>Phase</u>	<u>No. of Lots</u>	<u>Construction Period</u>
1	49	1981-1985
2	56	1981-1985
3	36	1986-1990
4	53	1991-1995
TOTAL	194	

18. The proposed light industrial subdivision is anticipated to cost approximately \$10,900,000.00 as follows:

<u>Activity</u>	<u>PHASE I</u>	<u>PHASE 2</u>	<u>PHASE 3</u>	<u>PHASE 4</u>
Site Improvements	\$1,584,000	\$1,806,000	\$1,614,000	\$1,700,000
Channelization Queen Kaahumanu Hwy.	547,000			
Electrical Substation	982,000			
Mauka-makai 80-ft. ROW Connecting Road			744,000	
2-0.5 MG Water Tanks			1,972,000	
TOTALS	\$3,113,000	\$1,806,000	\$4,330,000	\$1,700,000

19. The first increment of the proposed light industrial subdivision, consisting of Phases 1 and 2, will be financed by the sale of a 630-acre parcel of land, mauka of the subject property, which will generate approximately \$6,300,000.00. Petitioner has received preliminary approval from the Hawaii County Planning Department to consolidate and resubdivide the 630-acre parcel into five one-hundred acre lots and one one-hundred thirty acre lots. The estimated fair market value of the 630-acre parcel is \$10,000.00 to \$20,000.00 per acre.

20. The necessary funds to finance the development of Phases 3 and 4 will be generated from the sale of lots in Phases 1 and 2.

21. As part of the development of the proposed light industrial subdivision, Petitioner shall construct a portion of a new mauka-makai roadway (Kaloko roadway) within an 80-foot right of way which roadway will extend from Mamalahoa Highway to Queen Kaahumanu Highway. Plans for other portions of the Kaloko roadway have already been approved by the Hawaii County Planning Department.

22. The construction of the Kaloko roadway will be at no cost to the County of Hawaii. The Kaloko roadway will avoid the need for and cost of constructing a similar-purpose roadway which the County has planned from Palani Drive to Queen Kaahumanu Highway. Petitioner estimates that it will save the County \$6,000,000.00 to \$8,000,000.00.

23. Petitioner's water system has been designed, at the request of the County Department of Water to complement the existing County water system for the area. Petitioner proposes to improve the reliability and stability of the County water system by providing an alternate source or alternate alignment for water service in the event an existing water

supply from a tank to a service level is somehow impaired.

24. The County of Hawaii has expressed great interest in the water system improvements proposed by Petitioner, and the improvements, if constructed, would greatly enhance the entire County water system for the general Kailua-Kona area at no cost to the County.

FEDERAL, STATE AND COUNTY PLANS

25. The subject property is in the State Land Use Conservation District.

26. The Land Use Pattern Allocation Guide (LUPAG) Map component of the County of Hawaii General Plan designates the subject property as Conservation. Although the use of the subject property for the proposed light industrial subdivision does not conform to the LUPAG Map of the County General Plan, it conforms to some of the goals, policies and standards of the County General Plan in determining an Urban district.

27. The Petitioner has filed an application to the County General Plan to amend the designation of the subject property from a Conservation to an Industrial designation, which application is presently pending.

28. According to the County Zone maps, the subject property is within the Open zoned district.

29. The National Park Service has proposed the establishment of a Kaloko-Honokohau National Historical Park for the land directly across from the subject property on the makai side of Queen Kaahumanu Highway.

30. The subject property is not within the Hawaii County Special Management Area.

NEED FOR GROWTH AND DEVELOPMENT

31. The County of Hawaii, and particularly North Kona, have experienced substantial population growth in the

last 10 years. In 1970, the population of Hawaii County was 63,468 and according to the Federal preliminary census the present population is approximately 90,138, indicating a 45.27% growth. The population growth in North Kona has been tremendous. The population of North Kona in 1970 was approximately 4,832 and today it is estimated to be 13,789 reflecting a 185% increase in 10 years.

32. The fastest growing and largest industry in North Kona is tourism. It is becoming increasingly important to the County of Hawaii in terms of jobs, income and public resources. North Kona will remain the pivotal area of tourism growth for at least the next 10 years.

33. The growth of tourism and other primary industries of the North Kona region will require additional light industrial supportive facilities to support that growth.

34. Eighty-two (82) persons have expressed interest in purchasing fee simple industrial lots in Petitioner's proposed light industrial subdivision. The demand for light industrial land indicated by the 82 persons may exceed the demand which will absorb the supply of light industrial land within a 100-acre proposed expansion of the Kona Industrial Subdivision by Liliuokalani Trust.

35. The only industrially zoned lands of significance in Kailua-Kona are owned by Liliuokalani Trust, and such land, is made available only on a long-term leasehold basis. Reclassification of land to be sold in fee simple for light industrial use in Kailua-Kona will create a freer market for such lands, and ultimately result in lower rents for light industrial activities.

36. Presently, there are practically no vacancies in the Kona Industrial Subdivision. When vacancies exist, space is re-leased almost immediately. Rentals charged by

industrial building owners in the Kona Industrial Subdivision (tenants or subtenants of Liliuokalani Trust) on new subleases currently being negotiated vary from a low of 35 cents per square foot per month, triple net (that is, the tenant is charged with all expenses of operation such as taxes, insurance, utilities, building, and yard maintenance), for hidden warehouse space, without parking, office or plumbing, and minimal electrical distribution, to a current high average of 60 cents per square foot per month, triple net, for spaces having sheet frontage, windows and some parking.

37. Due to the higher rental charges in the Kona Industrial Subdivision and the shortage of commercial space in Kailua-Kona, more space on this subdivision is being rented to retail commercial rather than industrial tenants. The following are retail tenants occupying spaces in the said subdivision as of the date of the hearing:

- Kona Shoe Store (a retail shoe store)
- Pro-Am Sports Center (a general sporting goods store)
- Kona Coast House of Lights (retail lighting fixtures to the general public)
- Scott's Pet Shop (retail pet store)
- Pratt's Furniture (retail furniture store)
- Pratt's Fantasia (retail kitchen and bath accessory)
- Kamaaina TV (television sales & service)
- Sound Specialties of Kona (stereo & high fidelity equipment)
- Warehouse Supermarket (wholesale & retail grocers)
- House of Music (retailer of musical instruments, pianos and organs)
- Mom's Furniture (retail furniture store)
- Home Furniture (retail furniture store)
- Radio Shack (electronic & audio fidelity equipment)
- Hakoda's (TV and appliance store)
- Teru's Bar and Restaurant (license bar and adjacent family restaurant)
- Kona Hardware (retail hardware store)
- LT-TV and Appliance (television & appliance store)
- Tropical Interiors (retail furniture store)
- Office Things (retail stationers)
- Hawaiian Divers (retail sporting goods)
- Dive Kona (retail sporting goods)
- Big Island Marine (retail sporting goods)

38. There is land owned by the State of Hawaii, located in Kealakehe, which is designated Industrial under the Hawaii County General Plan. The State plan for its Kealakehe industrial site was initiated in the 1960's but no such industrial land has yet been developed. Although the 1980 State Legislature adopted a Resolution requesting a feasibility study of the potential of the Kealakehe industrial site for development, development of this land is not even in the planning stage. The preliminary development procedure requires a study, hiring of consultants, and appropriation of funds, so that the actual development is years away. In any event, industrial lots on such a development, completed, would be made available on a leasehold rather than fee simple basis.

IMPACT ON RESOURCES OF THE AREA

Agricultural Resources

39. The Detailed Land Classification for the Island of Hawaii prepared by the Land Study Bureau of the University of Hawaii and published in November 1965, classifies the subject property as type No. 289 and E319. The "E" classification means that the land is very poorly suited for agricultural purposes.

40. The subject property is not classified within the three categories of "Prime Agricultural Lands", "Unique Agricultural Lands", or "Other Lands of Agricultural Importance" on the maps delineating Lands of Agricultural Importance to the State of Hawaii published by the Hawaii State Department of Agriculture. The subject property is presently vacant and has been lying idle since its formation.

Water Resources

41. The present source of the Hawaii County Department of Water Supply system for the Kailua-Kona area

consists for four deep wells, designated as the Kahalu'u Wells A, B, C and D with a total safe yield capacity of 4.5 million gallons per day (MGD) and a Maui shaft with a safe yield of 6 MGD. The maximum safe yield of the aquifer of the Kailua-Kona region is estimated to be 10 MGD.

42. The Hawaii County is currently undertaking a program to replace the 8-inch transmission line along Kuakini Highway from the existing pressure reducer at 300 foot elevation to Palani Road with a 20-inch line (Kuakini pipeline project). Two phases are required to install the new line.

43. The Hawaii County Department of Water Supply has issued a commitment for water availability for the 194 lots in the proposed light industrial subdivision, contingent upon the completion of the Kuakini pipeline project, Phases I and II.

44. Phase I of Kuakini pipeline project was under construction as of the hearing date and was scheduled to be completed by January 1981. The contract for Phase II was scheduled to be awarded shortly after the completion of the hearing and is scheduled for completion in late 1981.

Natural and Environmental Resources

45. The natural vegetation on the subject property consists predominantly of fountain grass and small amounts of hialoa, sword fern, klu, red-top grass and caper, none of which are included in the U. S. Department of the Interior, Fish and Wildlife Service, Endangered and Threatened Species Plant List; consequently the proposed light industrial subdivision will have no significant adverse impact on the flora and fauna.

46. The presence of "Ohe" and "Halapepe" on the subject property was noted but the specific species were not

identified. Although certain species of ohe and halapepe were on the U. S. Department of the Interior Fish and Wildlife Service proposed endangered species list, such proposed endangered species were not placed on the official list of endangered species within the time prescribed and is no longer in effect. There is no evidence to indicate that the particular species of ohe and halapepe found on the subject property conforms to the species of ohe and halapepe on the proposed endangered list. Ohe and halapepe are not normally found on the subject property inasmuch as their normal habitat occurs at elevations of approximately 1,800 feet above sea level, and the elevation of the subject property is only 100 to 300 feet above sea level.

47. The subject property has no definable streams.

48. There is no evidence that the development of the subject property will have an adverse effect on water quality. Present Hawaii State Department of Health rules allow the use of cesspools to handle the sewage generated by the proposed light industrial subdivision. Lava tubes which could transport sewage liquids can be detected by various methods, such as proof rolling, and sealed to prevent passage of liquids.

49. Petitioner plans to mitigate the visual impact of the subject property from Queen Kaahumanu Highway by physical measures, such as berms, landscaping, street trees and plants. Further, the distance of 96 feet from the edge of the Queen Kaahumanu Highway right of way to the boundary of the subject property will serve as a buffer area and further mitigate adverse, visual or scenic impacts, if any, of the subject proposed light industrial subdivision.

Recreational Resources

50. The only existing recreational activity occurring on the subject property is hiking. The proposed light industrial subdivision will not have any significant adverse impact on that recreational activity, because of the availability of alternate areas for hiking.

Archeological and Historical Resources

51. No historical or archaeological site listed on the State or Federal Historic Registers is located on the subject property.

52. An archaeological and historical reconnaissance survey of the subject property was conducted by Mr. Lloyd J. Soehren, Petitioner's consulting archaeologist, in March 1980. The survey reports indicate that the subject property, in aboriginal times, lay between the upland agricultural zone and the littoral habitation zone and was unsuited for either activity. Consequently, there is little likelihood of archaeological features other than trails and possible graves being present on the surface of the subject property.

53. The survey describes approximately seven archaeological and historic features such as trails, a cairn, one water-worn pebble and shellfish remains. These features are not unique. For archaeological and historical purposes there is no need for them to remain in place, and recordation of such features will be sufficient.

54. As an archaeologist, Mr. Soehren had no objection to the development of the proposed light industrial subdivision on the subject property. Mr. Soehren, however, recommends that an archaeologist be consulted in the event grading or construction activity reveals graves or lava tubes. Petitioner has represented that it will conduct the necessary follow-up

archaeological survey and consultation.

Environmental Resources

55. The principal air quality impact of the proposed light industrial subdivision would be caused by vehicular traffic generated by the project. Although the proposed light industrial subdivision could exceed State standards for carbon monoxide (CO) concentrations under worst-case meteorological conditions, the development will not significantly impact upon air quality. Petitioner has stated that it will comply with State Department of Health, Public Health Regulations, Chapter 42, Ambient Air Quality Standards.

56. The noise level increase caused by the activities of the proposed light industrial subdivision will not significantly and adversely affect surrounding land uses. Adequate distance separates the subject property from the nearest noise sensitive neighbors. The nearest residential areas are approximately two miles mauka of the subject property. The major facilities planned for the Kaloko-Honokahau National Cultural Park are to be located near the shoreline approximately one mile makai of the subject property.

PUBLIC SERVICES AND FACILITIES

Water Services

57. The sources of water for the subject property are the Kahalu'u Wells. Water services to the subject property is available from the existing 12-inch line along Queen Kaahumanu Highway.

58. Petitioner proposes to construct two 500,000 gallon water tanks and an eight inch service line to serve this project. There will be no additional cost to Hawaii County to provide water service to the proposed light

industrial subdivision.

59. The Hawaii County Department of Water Supply has committed to make water available for the proposed light industrial subdivision contingent upon the completion of the Kuakini pipeline project, Phase I and II.

Sewage and Solid Waste Disposal Services

60. Cesspools, which are permissible under the Department of Health regulations will be utilized to handle the sewage generated by the proposed light industrial subdivision. There will be no cost to Hawaii County for sewage treatment and disposal.

Roadway and Highway Services and Facilities

61. The subject property abuts and will have direct access to Queen Kaahumanu Highway, which is a two-lane, Class I State Highway, designed for a 70-mile per hour vehicle speed. It is a limited access highway with a 300-foot right of way. Access from the highway to the subject property will be provided by Petitioner at no cost to Hawaii County.

62. Mamalahoa Highway, which was formerly the main road between Kailua-Kona and Kamuela, is five miles inland at an elevation of 800 feet.

63. Petitioner, in conjunction with certain other parties involved in the development of adjoining lands, proposes to construct a 80-foot right of way connecting road (Kaloko roadway) from Mamalahoa Highway to Queen Kaahumanu Highway as a part of the development of the proposed light industrial subdivision.

64. The proposed light industrial subdivision will increase traffic volume on Queen Kaahumanu Highway, Palani Road, Kuakini Highway and other roads in the Kailua-Kona area.

However, such increase will not change the level of service or cause the traffic to exceed the capacity of the roads. The level of service is a quantitative measure representing a corrected factor of speed, time travel, traffic interruption, freedom to maneuver, safety, driving comfort and convenience, and operating cost that are provided by the highway facilities under a particular volume condition. There are six levels of service from service level A which is freeflow to service level F which is forceflow.

65. The level of service for the Queen Kaahumanu Highway and Palani Road link by 1985 are estimated to be at levels E and C respectively. With intersection improvements such as providing additional lanes for turns, the level of service will remain the same even with the proposed light industrial subdivision traffic superimposed upon the projected traffic volume. The level of service for the year 1995 is level E for all lanes with or without the proposed light industrial subdivision traffic added to the projected traffic.

66. All traffic movements at the Palani Road/Kuakini Highway intersection are estimated to be at service level F by 1985 except for the Palani mauka bound and Palani makai through movement which would be at level E. All movements would be at level F by the year 1995 including the Palani mauka and Palani makai through movement. The levels of service for this particular intersection would remain unchanged with the added proposed light industrial subdivision traffic superimposed upon the projected traffic volume.

67. The estimated 1985 traffic volume on Queen Kaahumanu Highway based on the Kuakini Highway realignment EIS which was prepared by the State Department of Transportation, including traffic generated by the proposed light industrial subdivision, is 1,050 vehicles per hour. The estimated 1985

traffic volume on Queen Kaahumanu Highway based the projected growth including the traffic generated by the proposed light industrial subdivision is 1,216 vehicles per hour. The computed capacity of the Queen Kaahumanu Highway under prevailing conditions, not considering intersections and bottlenecks is 1,840 vehicles per hour. The project volumes do not exceed the computed capacity, therefore, there will be no significant impact on Queen Kaahumanu Highway to the year 1985.

68. The estimated 1995 traffic volume on Queen Kaahumanu Highway based on the Kuakini realignment EIS, including traffic generated by the proposed light industrial subdivision when fully developed, will be 1,690 vehicles per hour. Therefore, based on the State Highway projections the 1995 traffic volume will be below the computed capacity of 1,840 vehicles per hour.

69. The traffic projection for 1995, computed using an eight percent growth rate, will exceed computed capacities with or without the proposed light industrial subdivision traffic.

70. Completion of Petitioner's proposed Kaloko roadway will reduce traffic along Palani Road and Mamalahoa Highway to the Queen Kaahumanu Highway intersection. Employment-related traffic generated by the proposed light industrial subdivision from the subdivisions mauka of the Queen Kaahumanu Highway and along the Mamalahoa Highway will not contribute to congestion at the Palani/Queen Kaahumanu and Palani/Kuakini intersections.

Electrical and Other Utility Services

71. Hawaii Electric Light Company, Inc. will provide electrical power for the proposed light industrial subdivision.

There is a substation located at Kealakehe and at Keahole airport. Petitioner may develop its own on-site substation at its sole cost. Telephone service is also available to the proposed light industrial subdivision.

Police and Firefighting Services

72. Police service and firefighting service are adequate to serve the proposed light industrial subdivision. A fire station is located in Kailua-Kona. Police service for South Kona is headquartered in the Captain Cook vicinity. The County plans to construct a new police station in Kailua-Kona.

SCATTERIZATION AND CONTIGUITY OF DEVELOPMENT

73. The subject property is located approximately midway between Keahole Airport and Kailua Village, approximately 3 to 4 miles from each point. The airport and village are both located within the State Land Use Urban District.

74. There are a number of industrial related type of activities in close proximity to the subject property, such as a quarry and concrete batching plant and a quarry and construction yard just south of the subject property. A terminal freight site, a county dump site, and an animal pound are located in nearby Kealakehe.

75. Immediately makai of the subject property, separated only by Queen Kaahumanu Highway, are lands within the State Land Use Urban District. The U. S. Department of Interior, National Parks Service, has plans to develop such lands into a national historical park. The proposed national park development project proposes to serve activities generating 500,000 visitors a year, physical facilities for which development would require all of the urban infrastructure necessary for an urban area such as a water system, drainage

system, a sewage system, electrical system, parking and roadways.

76. The proposed light industrial subdivision will not contribute toward scattered spot urban development, and it will not necessitate unreasonable investment and public supportive services. The subject property's location along Queen Kaahumanu Highway midway between Keahole airport and Kailua-Kona enables the subject property to have immediate access to existing services and facilities such as water, highways, roads, fire services, police services and other public supportive services for maximum use.

CONFORMANCE WITH DISTRICT REGULATIONS, GUIDELINES, AND STANDARDS FOR DETERMINING DISTRICT BOUNDARIES

77. The subject property is contiguous to an existing State Land Use Urban District, the mauka (east) boundary of which is Queen Kaahumanu Highway.

78. The subject property is located 3 to 4 miles from existing trading and employment areas of Kailua Village and Keahole Airport.

79. The subject property is located in reasonable proximity to basic services such as water, police and fire protection, electrical and telephone utilities and streets all of which are existing and available. The proposed light industrial subdivision will not contribute towards scattered spot urban development, and it will make maximum use of existing services and facilities and will not necessitate unreasonable investment in public supportive services.

80. The location of the subject property is appropriate and suited for the development of a light industrial subdivision. The subject property is reasonably proximate to Kailua Village for practical service and convenience yet sufficiently removed to avoid or reduce the

potential land use conflicts with resort-commercial center activity.

81. The subject property has satisfactory topography, drainage and soil conditions. For urban development the topography of the project site ranges from 100 feet above mean sea level along the makai (Queen Kaahumanu Highway) boundary to 300 feet along the mauka (east) boundary with an average slope of 5% to 10%. The natural drainage system consists of rainfall percolating through the layers of very porous lava to the underground water table. There is no record of flooding on the subject property, and it is not within tsunami inundation areas.

82. The proposed light industrial subdivision is reasonably necessary to accommodate growth and development of the North Kona area. There is an insufficient supply to meet the existing demand for land in light industrial use in the Kailua-Kona area. The 100-acre expansion within the Kona Industrial Subdivision will alleviate some of the demand but will not accommodate all of the additional existing demand for industrial land over the next ten years.

83. The proposed light industrial subdivision is reasonably necessary to meet existing and future needs and to help alleviate the single supplier market condition which now prevails in Kailua-Kona. Fee simple light industrial lands will encourage quality constructed buildings and should facilitate financing for lot purchasers.

84. The development of a light industrial subdivision would serve to aid the growth of other primary industries in a region. The continuing growth of tourism in Kailua-Kona will continue to generate additional light industrial supportive activities to support that growth.

85. The Petitioner has adduced evidence of its financial capacity to cause the development of the proposed light industrial subdivision and to obtain the necessary financing.

86. The commencement of businesses in the proposed light industrial subdivision should offer permanent employment opportunities to the workforce in the area. The exact number of jobs, types of job, salaries, etc., cannot be accurately computed presently, however, evidence has been adduced that a number of permanent jobs and short-term jobs for the construction of improvements will be created by development of this project.

87. Although the subject property is within the Land Use Conservation District, its essential qualities, characteristics, and properties do not necessitate it remaining in the Conservation District.

INCREMENTAL DISTRICTING

88. Full urban development of the entire subject property cannot reasonably be completed within five years from the date of Commission approval. The Petitioner, has stated its intention to accomplish the development of the subject property in four phases as follows:

<u>Phase</u>	<u>No. of Lots</u>	<u>Construction Period</u>
1	49	1981-1985
2	56	1981-1985
3	36	1986-1990
4	53	1991-1995
<u>TOTAL</u>	<u>194</u>	

Phases 1 and 2, consisting of 49 and 56 lots, respectively, will be completed within 5 years from the date of Commission approval. Phases 3 (36 lots) and 4 (53 lots) shall thereafter be completed within 5 years of their respective commencement dates.

89. The infrastructural requirements for all four phases are integrally related and are required to be planned as a unit in advance and the economics justified and also committed in advance. Phases 1 and 2 are needed presently to meet current demands. The lands related to Phase 3 and Phase 4 are also presently needed to meet the projected demands for supportive light industrial uses and activities which are resulting from the growing tourism industry; however, development of Phases 3 and 4 may only be commenced upon substantial completion of Phases 1 and 2.

RULING ON PROPOSED FINDINGS OF FACT

Any of the proposed findings of fact submitted by the Petitioner or the other parties not already ruled upon by the Land Use Commission by adoption herein, or rejected by clearly contrary findings of fact herein, are hereby denied and rejected.

CONCLUSIONS OF LAW

Pursuant to Chapter 205, Hawaii Revised Statutes, and State Land Use Rules of Practice and Procedure and District Regulations, the Commission concludes that the reclassification of all of the lands within Phase 1 and Phase 2 of the Petitioner's development plan of the subject property herein described, situated at Kaloko, North Kona, Island of Hawaii, State of Hawaii, consisting of 130.10 acres, and more particularly identified by Tax Map Key Number 7-3-09:portion of parcel 1, as further described in Exhibit A, hereby attached to and incorporated by reference herein, from the Conservation District to the Urban District and amendment of the Land Use Boundaries to permit the development of Phase 1 and Phase 2 of the Petitioner's development plan for a light industrial subdivision is reasonable, nonviolative of Section 205, Hawaii Revised Statutes, and is consistent with State Land Use District Regulations and Guidelines.

The Commission further concludes that although full development of the lands within Phase 3 and Phase 4 of the Petitioner's development plan cannot be reasonably completed within five years from the date of the Commission's

decision in this matter, reclassification of the lands within Phase 3 and Phase 4 of the Petitioner's development plan of the subject property consisting of 110.36 acres and more particularly identified by Tax Map Key Number 7-3-09:portion of parcel 1, as further described in Exhibit A, hereby attached to and incorporated by reference herein, from the Conservation District to the Urban District and amendment of the Land Use District Boundaries to permit the development to Phase 3 and Phase 4 of the Petitioner's development plan is reasonable, nonviolative of Section 205-2, Hawaii Revised Statutes, and is consistent with State Land Use District Regulations and Guidelines. Therefore, incremental redistricting of the lands within Phase 3 and Phase 4 of the Petitioner's development plan is reasonable and warranted pursuant to State Land Use District Regulations and guidelines.

ORDER

IT IS HEREBY ORDERED:


That the lands within Phase 1 and Phase 2 of the Petitioner's development plan for a light industrial subdivision in Docket Number A80-482, consisting of 130.10 acres, more particularly identified as Tax Map Key Number 7-3-09:portion of Parcel 1, and further described in Exhibit A attached hereto and incorporated by reference herein, situated at Kaloko North Kona, Island of Hawaii, State of Hawaii, shall be and the same is hereby reclassified from the Conservation to the Urban District and the District Boundaries are amended accordingly.

BE IT ALSO ORDERED that the lands within Phase 3 and Phase 4 of the Petitioner's development plan for a light industrial subdivision in Docket Number A80-482, consisting of 110.36 acres, more particularly identified as Tax Map Key Number 7-3-09:portion of Parcel 1, and further described in Exhibit A attached hereto and incorporated by reference herein, shall be and the same are approved for incremental development pursuant to State Land Use District Regulation 6-2 and that redistricting from the Conservation to the Urban Classification will be granted upon receipt of an application by Petitioner for redistricting of the second increment upon a prima facie showing that there has occurred substantial completion of the onsite and offsite improvements within Phase 1 and Phase 2 as described herein and in accordance with the Petitioner's development plan as indicated above, within five years of the date of this order.

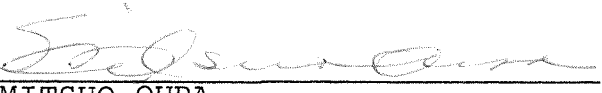
DONE at Honolulu, Hawaii, this 14th day of
May, 1981, per motion on February 3,
1981.


LAND USE COMMISSION
STATE OF HAWAII

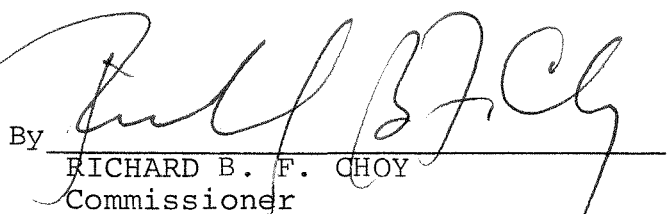
By 
C. W. DUKE
Chairman and Commissioner

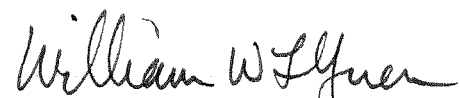
By 
SHINICHI NAKAGAWA
Vice Chairman and Commissioner

By 
SHINSEI MIYASATO
Commissioner

By 
MITSU OURA
Commissioner

By 
GEORGE R. PASCUA
Commissioner

By 
RICHARD B. F. CHOY
Commissioner

By 
WILLIAM W. L. YUEN
Commissioner

A80-482 T.S.K., ASSOCIATES

KEAHOLE AIRPORT

KALAOA

OOMA

HOMESTEADS

PLAT 10 A

PLAT 05

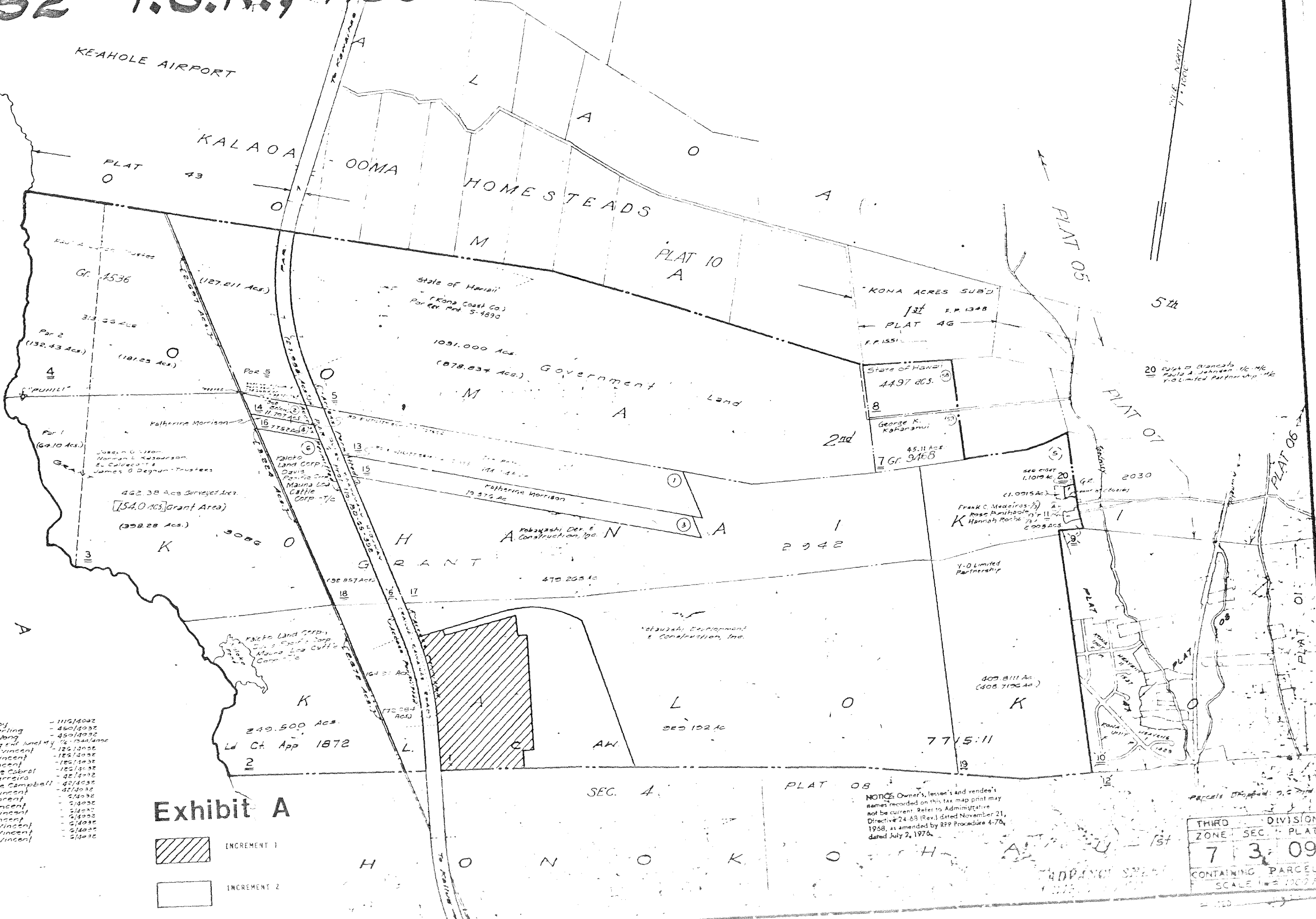
5th

PLAT 07

PLAT 06

PLAT 01

PLAT 01



Dwy Jo 2622
 Source Tax Maps, Binwell & Survey Dept
 By I.A.H. & S.L.C. February, 1936

- 13 & 14
- Ann Au Hoy - 11161002
 - Joan Festerling - 45010032
 - William Hong - 45010032
 - Jack Hong and Amelia - 12510000
 - Antone Vincent - 12510000
 - Donald Vincent - 12510000
 - Peter Vincent - 12510000
 - Josephine Cabral - 4210000
 - Becky Pereira - 4210000
 - Mary Jane Campbell - 4210000
 - George Vincent - 210000
 - Calvin Vincent - 210000
 - Chyle Vincent - 210000
 - Cheryl Vincent - 210000
 - Carla Vincent - 210000
 - Collette Vincent - 210000
 - Clinton Vincent - 210000
 - Cathryn Vincent - 210000

Exhibit A

INCREMENT 1

INCREMENT 2

NOTICE Owner's, lessor's and vendee's names recorded on this tax map print may not be current. Refer to Administrative Directive 24-63 (Rev.) dated November 21, 1968, as amended by RFP Procedure 4-76, dated July 2, 1976.

THIRD	DIVISION
7	3
09	
CONTAINING PARCELS	
SCALE 1" = 1000 FT	

PURPOSE OF THE MOTION

The Petitioner is requesting by its Motion the redesignation of a portion of the Second Increment of the Kaloko Light Industrial Subdivision for roadway use.

THE HEARING

The hearing on this Motion was conducted on January 31, 1986, in Kailua, Kona, Hawaii, pursuant to notice published on December 20, 1985 in the Hawaii Tribune Herald and the Honolulu Advertiser. Petitioner was represented by Gary T. Okamoto of Wilson, Okamoto & Associates; The County of Hawaii was represented by Albert Lono Lyman, County of Hawaii Planning Director; and The Department of Planning And Economic Development was represented by Deputy Attorney General Everett Kaneshige. The following witness presented by the parties testified:

Petitioner:

Kazuo Omiya representing T.S.K., Associates.

POSITION OF THE PARTIES

The County of Hawaii - no position. The Department of Planning and Economic Development - approval.

APPLICABLE REGULATIONS

Standards for determining the Petitioner's request for approval of a portion of the second increment into the

Urban District is found under Part VI, Rule 6-2 of the State Land Use Commission's District Regulations. Said regulation provides in pertinent part that:

6-2 INCREMENTAL DISTRICTING

- (1) Petitioners submitting applications for redistricting to Urban shall also submit proof that development of the premises in accordance with the demonstrated need therefor will be accomplished within 5 years from the date of Commission approval. In the event full urban development cannot reasonably be completed within such period, the petitioner shall also submit a schedule for development of the total of such project in increments, each such increment to be completed within no more than a 5-year period.
- (2) If it appears to the Commission that full development of the total premises cannot reasonably be completed within 5 years and that the incremental development plan submitted by the petitioner is reasonable, and if the Commission is satisfied that all other pertinent criteria for redistricting the premises or part thereof to Urban are present, then the Commission shall redistrict to Urban only that portion of the premises which the petitioner plans to develop first and upon which it appears that total development can reasonably be completed within 5 years. At the same time, the Commission will indicate its approval of the future redistricting to Urban of the total premises requested by the petitioner, or so much thereof as shall be justified as appropriate therefor by the petitioner, such approval to indicate a schedule of incremental redistricting to Urban over successive periods not to exceed 5 years each.

- (3) Upon receipt of an application for redistricting to Urban of the second and subsequent increments of premises for which previous approval for incremental development has been granted by the Commission, substantial completion of any offsite and onsite improvements of the urban development, in accordance with the approved incremental plan, of the preceding increment redistricted to Urban will be prima facie proof that the approved incremental plan complies with the requirements for boundary amendments.

FINDINGS OF FACT

The Land Use Commission, having duly considered the record in this Docket, and the record in Docket A84-566, the testimony of the witnesses and the evidence introduced herein makes the following findings of fact:

1. The Land Use Commission, State of Hawaii, by its Decision and Order dated July 7, 1981, in Docket No. A80-482, approved the reclassification from the Conservation District to the Urban District of the First Increment of the Kaloko Light Industrial Subdivision. The First Increment consisting of approximately 130.10 acres in the western portion of the property, included the lands in Phase 1 and Phase 2 of Petitioner's development plan. The Second Increment, consisting of the remaining 110.36 acres of land in Phase 3 and Phase 4 situated to the north and east of the First Increment was approved for incremental redistricting. In its Decision and Order, the Commission stated in Findings of Fact No. 21 that:

"As part of the development of the proposed light industrial subdivision, Petitioner shall construct a portion of a new mauka-makai roadway (Kaloko roadway) within an 80-foot right-of-way which roadway [sic] will extend from Mamalahoa Highway to Queen Kaahumanu Highway. Plans for other portions of the Kaloko roadway have already been approved by the Hawaii County Planning Department.

2. Petitioner's Motion to redesignate 8.5 acres of the Second Increment to construct the mauka-makai roadway also contributes to the fulfillment of a condition of approval in the Commission's Decision and Order for Docket No. A84-566 (Takemasa International, Inc.). The Commission's approval in Docket No. A84-566 resulted in the reclassification of approximately 190 acres of land situated northeast of the subject property from the Agricultural to the Urban District for a golf course. The Commission's Decision and Order in Docket No. A84-566, dated February 28, 1985, provided that the reclassification was subject to two conditions, one of which provided as follows:

"Petitioner shall construct an all-weather connecting road to the County of Hawaii standards from the Queen Kaahumanu Highway to the mauka boundary of lands owned by Petitioner mauka of the subject property, within a time schedule to be established by the County of Hawaii."

3. Petitioner has represented that the mauka-makai roadway will be constructed within an 80-foot wide right-of-way and will extend from Queen Kaahumanu Highway in an alignment through the light industrial subdivision, and will eventually extend northward abutting the golf course, and connect with the roadway through the existing Urban District (A80-486 Y.O. Limited Partnership, and Kona Heavens Subdivision) to Mamalahoa Highway. The Petitioner has further represented that construction plans have been completed for the section of the mauka-makai roadway within the Second Increment of the light industrial subdivision and that said plans have been approved by the County of Hawaii Department of Public Works.

4. The Petitioner has also, to date, completed:

- a) The first segment of the mauka-makai roadway, including the channelized intersection improvements to Queen Kaahumanu Highway, and
- b) Construction of on-site and off-site improvements for Phase 1 of the First Increment of the light industrial subdivision.

5. Based on a review of the Motion, and the evidence adduced at the hearing and the provisions of Chapter 205 of the Hawaii Revised Statutes and the State Land Use Commission's Rules of Practice and Procedure and District Regulations, the Department of Planning And Economic Development, State of Hawaii has recommended that the redesignation of the property be approved because the request is reasonable and does not alter the Commission's Findings of Fact, Conclusions of Law and Decisions and Orders. Additionally, the Petitioner will still be subject to the incremental districting of the remaining 101.86 acres pursuant to State Land Use District Regulation 6-2 and the conditions as reflected in the Commission's Decision and Order in Docket No. A84-566 issued on February 28, 1985.

CONCLUSION OF LAW

Granting of the Petitioner's Motion redesignating property consisting of approximately 8.5 acres, situate at Kaloko, North Kona, Island and County of Hawaii, State of Hawaii, is reasonable and non-violative of Section 6-2 of the Land Use Commission's Rules of District Regulations.

ORDER

IT IS HEREBY ORDERED:

That Petitioner's Motion to Redistrict Mauka-Makai Roadway Portion of the Second Increment in Docket No. A80-482 consisting of approximately 8.5 acres of land situate at Kaloko, North Kona, Island and County of Hawaii, State of Hawaii is hereby granted.

Done at Honolulu, Hawaii, this 15th day of May
1986, per motions on March 11, 1986 and May 14, 1986.

LAND USE COMMISSION
STATE OF HAWAII

By *T. P. Tacbian*
TEOFILO PHIL TACBIAN
Chairman and Commissioner

By *Frederick P. Whittemore*
FREDERICK P. WHITTEMORE
Vice Chairman and Commissioner

By *Winona E. Rubin*
WINONA E. RUBIN
Commissioner

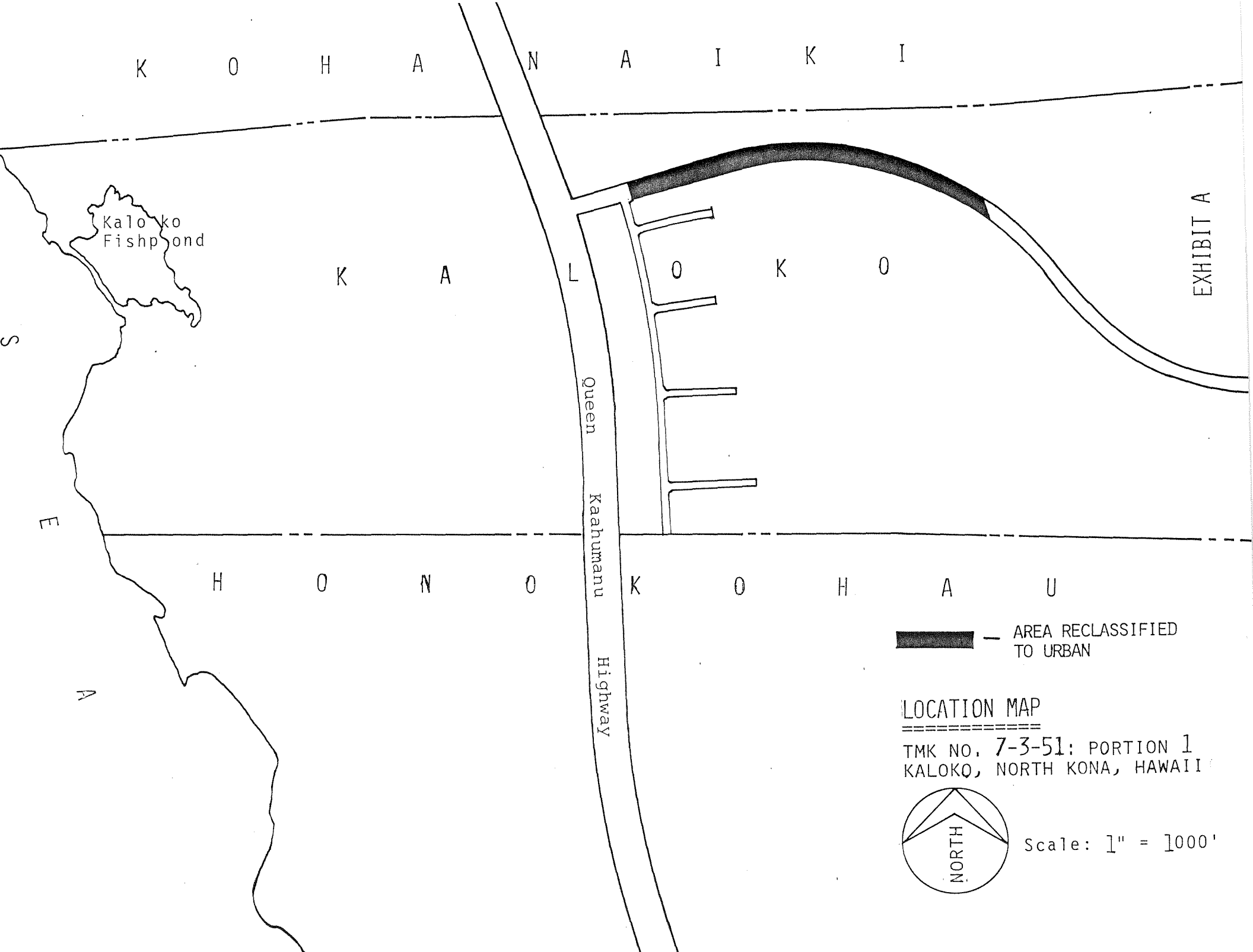
By *Richard B. F. Cho*
RICHARD B. F. CHOY
Commissioner

By *William W. L. Yuen*
WILLIAM W. L. YUEN
Commissioner

By *Robert S. Tamaye*
ROBERT S. TAMAYE
Commissioner

By *Toru Suzuki*
TORU SUZUKI
Commissioner

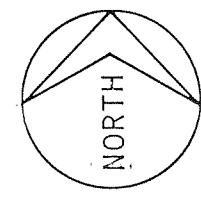
By *Lawrence F. Chun*
LAWRENCE F. CHUN
Commissioner



 — AREA RECLASSIFIED TO URBAN

LOCATION MAP

TMK NO. 7-3-51: PORTION 1
KALOKO, NORTH KONA, HAWAII



Scale: 1" = 1000'

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of) DOCKET NO. A80-482
T.S.K., ASSOCIATES)
To Amend the Conservation Land Use)
District Boundary to Reclassify)
Approximately 240.46 Acres at)
Kaloko, North Kona, Island and)
County of Hawaii, into the Urban)
Land Use District)

CERTIFICATE OF SERVICE


I hereby certify that a copy of the Land Use Commission Decision and Order was served upon the following by either hand delivery or depositing the same in the U. S. Postal Service by certified mail:

KENT M. KEITH, Director
Department of Planning and Economic Development
State of Hawaii
250 South King Street
Honolulu, Hawaii 96813

ALBERT LONO LYMAN, Planning Director
Planning Department
County of Hawaii
25 Aupuni Street
Hilo, Hawaii 96720

KAZUO OMIYA, Vice President
TSA International, Limited
Suite 901A
1150 South King Street
Honolulu, Hawaii 96814

DATED: Honolulu, Hawaii, this 15th day of May 1986.


ESTHER UEDA
Executive Officer

DOCKET NO. A80-482 - T.S.K., ASSOCIATES

A copy of the Land Use Commission's Decision and Order was served upon the following by regular mail on May 15, 1986.

EVERETT KANESHIGE, Deputy Attorney General
Department of the Attorney General
State Capitol, 4th Floor
Honolulu, Hawaii 96813

RONALD IBARRA
Office of the Corporation Counsel
County of Hawaii
25 Aupuni Street
Hilo, Hawaii 96720

GARY T. OKAMOTO, ESQ.
Suite 800
1150 S. King Street
Honolulu, Hawaii 96814

Environmental Quality Commission
465 S. King Street, Room 115
Honolulu, Hawaii 96813

BENJAMIN MATSUBARA, Hearing Officer
1717 Pacific Tower
1001 Bishop Street
Honolulu, Hawaii 96813