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BEFORE THE LAND USE COMMISSION

OF THE STATE OF HAWAII

In the Matter of the Petition of GAMLON CORP. For Amendment of District Boundary and Reclassification of Certain Lands Situated at North Kona, County, Island and State of Hawaii.	DOCKET NO. A83-549

This is to certify that this is a true and correct copy of the Decision and Order on file in the office of the State Land Use Commission, Honolulu Hawaii.

1/26/84
Date

by
Executive Officer

FINDINGS OF FACT, CONCLUSIONS OF LAW
AND DECISION AND ORDER

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FINDINGS OF FACT, CONCLUSIONS OF LAW
AND DECISION AND ORDER

Petitioner, GAMLON CORP., a Hawaii corporation, filed the Petition in the above-captioned matter 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 lands consisting of approximately 173.66 acres, identified as Tax Map Key Nos. 7-6-21:4, 9, 10, 11, 12, 13, 15, 16 and 17 (hereinafter referred to as "subject property") situated in the ahupua'a of Holualoa First and Second, North Kona, County, Island and State of Hawaii, from the Agricultural to the Urban District. The Land Use Commission, having heard and examined the testimony and evidence during the public hearing held on September 8, 1983, in Kailua-Kona, Hawaii, and having considered the entire record filed in this docket, hereby makes the following findings of fact and conclusions of law.

FINDINGS OF FACT

PROCEDURAL MATTERS

1. On May 9, 1983, Gamlon Corp. (hereinafter referred to as "Petitioner") filed this Petition to amend the Agricultural District boundary at Holualoa First and Second, North Kona, County, Island and State of Hawaii, to reclassify the subject property into the Urban District.

2. The Land Use Commission (hereinafter referred to as "Commission") held a public hearing on this Petition on September 8, 1983, in the Resolution Room, Kona Hilton Hotel, Kailua-Kona, Hawaii, pursuant to notice of hearing published in the Honolulu Advertiser and the Hawaii Tribune Herald on August 3, 1983.

3. The Commission received one timely request for intervention on July 20, 1983 from Elizabeth Ann Stone on behalf of the Honest Environmental Citizen's Against Progress, and denied the request in the absence of Ms. Stone at the hearing. The Commission received two untimely requests to appear as public witnesses from James Sogi representing Mr. and Mrs. Roy Nagle, property owners in the area, Maile Akimeseu, representing the Friends of Kamoa Point, Inc., and permitted them to testify as public witnesses.

DESCRIPTION OF SUBJECT PROPERTY

4. The subject property is located mauka of Kuakini Highway approximately 2.6 miles south of the Palani Road - Kuakini

Highway intersection in Kailua-Kona, Hawaii. The subject property is bordered by vacant, undeveloped lands to the north and generally to the east, by the Kalani Sunset, Leilani Sunset, and Kainana Subdivisions to the south, and by the old Kailua-Keauhou Middle Road to the west.

5. With the exception of an undivided interest in five acres of Tax Map Key No. 7-6-21: 17, which is owned in fee simple by Hawaii Preparatory Academy, Kalott Properties N.V., a Netherland-Antilles corporation, a wholly-owned subsidiary of Petitioner, owns all of the subject property. Petitioner holds an option to purchase the subject property from Kalott Properties N.V. Hawaii Preparatory Academy and Kalott Properties N.V. have authorized Petitioner to file this Petition.

6. Hawaii Tax Map Keys Nos. 7-6-21: 14, 18 and 19 are within the general boundary of the subject property but are not being considered for reclassification as a part of this Petition. Parcel 18, owned by the County of Hawaii and the Dillingham Investment Corporation, and Parcel 19, owned by the County of Hawaii, are an existing and proposed drainage way for the Holualoa School and Horseshoe Bend streams. Parcel 14 is owned by John P. Ellbogen.

7. On August 23, 1982, the State of Hawaii instituted an eminent domain action against Kalott Properties, N.V. to condemn a portion of Tax Map Key Nos. 7-6-21, parcels 13 (.578 acres) and 16 (2.202 acres) for the Kuakini Highway realignment

project. As of the date of the public hearing, final judgment had not been entered in this action.

8. The subject property is currently leased to and utilized by the Palani Ranch for cattle grazing under a month-to-month lease.

9. The United States Department of Agriculture's 1973 Soil Conservation Service Soil Survey Map of Island of Hawaii, classifies the soil of the subject property as being in the Punaluu series and an extremely rocky peat. Permeability is moderately rapid, runoff is slow, and erosion hazard is slight.

10. The elevation of the subject property ranges from 350 feet to 700 feet at its mauka boundary. The slope generally ranges from 6% to 20%.

11. Vegetation on the subject property is composed of almost entirely exotic specimens, with Koa-haole the dominant species. The subject property does not support any plant life considered rare, threatened or endangered. Several native species and exotic species common to Kona and found throughout the State also grow on the subject property.

12. Approximately 75% of the subject property is located within the defined boundaries of the Holualoa drainage basin. The Federal Insurance Administration has designated two portions of the subject property adjacent to the both sides of the

Horseshoe Bend and Holualoa School intermittent streams in Flood Zone "A," which is defined as areas susceptible to a 100-year flood, in the Flood Insurance Rate Maps for the Island of Hawaii.

PROPOSAL FOR DEVELOPMENT

13. With the exception of the five acres owned by the Hawaii Preparatory Academy, Petitioner proposes to develop a single-family and multi-family residential subdivision on the subject property. Petitioner intends to develop approximately 500 residential units of which 215 would be single-family residential units and 285 would be multi-family residential units.

14. Petitioner proposes to build the single-family residential units on approximately 103 acres, with each unit having a minimum lot size of approximately 15,000 sq. ft. The Petitioner estimates that single-family density will be at approximately 2.1 units per acre.

15. Petitioner proposes to build multi-family townhouse residential units on approximately 65 acres at an estimated density of RM-8.0 (1 unit per 8,000 feet of land area) or 4.4 units per acre.

16. Petitioner proposes to use the Holualoa School Stream as a boundary between the single-family units (to the south) and the multi-family units (to the north).

17. Petitioner intends to market 25% to 50% of the single-family units as house/lot packages and 50% to 75% as lot-only sales. Petitioner intends to market the multi-family units as residential, as opposed to resort, townhouse, condominiums. Pursuant to the County of Hawaii's incremental zoning requirements, Petitioner is required to construct dwellings on at least 25% of the lots in its first phase proposed residential subdivision in order to obtain rezoning of second phase.

18. Petitioner estimates that it will sell the vacant house lots for approximately $70,000 (1983 dollar) and three- and four-bedroom house/lot packages for $150,000 (1983 dollar). The multi-family units will range in price from $90,000 to $180,000 (1983 dollar).

19. Petitioner has agreed in principle to work jointly to provide housing opportunties for low- and medium-income residents. Petitioner proposes to cooperate with State and County housing agencies in order to offer ten percent of the lots and house and lot packages at prices that will enable residents to quality for Federal- or State-assisted housing loan programs.

20. Hawaii Housing Authority (HHA) feels that approximately 10% of the housing units should be affordable by low and moderate income families.

21. HHA recommends that a condition be included to assure that 10% of the units will be affordable to low and

moderate income families, as determined by the County of Hawaii and HHA.

22. The Draft Kona Regional Plan estimates that approximately 40% of the households in Kona are currently facing some kind of housing problem which ranges from the household paying too large a percentage of its income for housing, living in substandard or unsafe housing, living in a crowded household or combinations thereof.

23. Petitioner estimates construction costs for on-site and off-site improvements to be approximately $35 million (1983 dollar). This estimate includes major drainage improvements, road construction, site preparation, and labor and materials.

24. Petitioner estimates that Phase 1 and 2 can be completed within 8 1/2 years from the date of the Commission's approval of this Petition.

25. Petitioner is a wholly-owned subsidiary of Blue Chip Corporation, a Japan corporation. Petitioner holds approximately $14 million of investment property free of any mortgages and can use said property to finance the proposed project. If necessary, Blue Chip Corporation will provide any additional funds needed to complete the project.

STATE AND COUNTY PLANS

26. The subject property is situated within the State Land Use Agricultural District. It is contiguous to urban classified lands to the south which have been developed for low density

residential uses (Kalani Sunset, Leilani Sunset, and Kainana Subdivisions). To the west, the Kailua-Keauhou Middle Road (40 foot right-of-way), which is in the Agricultural District, separates the subject property from adjoining Agricultural and Urban Districts. Lands to the north are designated Agricultural. Lands to the east are designated Rural.

27. The County of Hawaii General Plan Land Use Pattern Allocation Guide (LUPAG) map designates most of the subject property as "Alternate Urban Expansion" and a small area as "Low Density Urban." The two stream beds and adjacent areas are designated as "Flood Plains."

28. The draft Kona Regional Plan prepared by the County of Hawaii's Planning Department recommends that the subject property be developed for low density residential (RES-4, 4 units per acre), and moderate density residential (RES-10, 10 units per acre) uses. Petitioner's proposed project is consistent with the draft Kona Regional Plan.

29. The Kailua-Honalo Urban Zone Map (Ordinance No. 74, 1967) zones the entire subject property as "Unplanned" with a minimum lot size of five acres. Petitioner must obtain a rezoning of the subject property.

30. The subject property is not situated within either the Special Managment Area or the boundaries of the Kailua Village Special District.

NEED FOR GROWTH AND DEVELOPMENT

31. The draft Kona Regional Plan poses three growth alternatives for Kona with corresponding population forecasts for the period 1980-2000. The population projections to the year 2000 are as follows: Alternative I: 33,200; Alternative II: 39,400; and Alternative III: 46,300.

32. Using these population projections and the anticipated decline in household size, the draft Kona Regional Plan indicates future new housing requirements at between 5,240 to 9,915 units or a production rate of 262 to 496 units per annum for Kona.

33. In addition, 1,580 units will reach obsolescence by the year 2000 and will need to be replaced. Petitioner's consultant assumes 40% of the above enumerated housing units reaching obsolescence will not be repaired.

34. Using the draft Kona Regional Plan's estimates of new housing units required and the obsolescence factor developed by Petitioner's consultant, the total number of new housing units needed for Kona ranges from 5,872 to 10,547 units.

35. Petitioner's market study of 32 existing residential subdivisions of ten or more units in the North Kona area (as defined geographically by the market study) identified a total of 4,580 existing residential lots. Of that total, 2,352 or 51% of the lots have houses built on them and contribute to the existing

housing stock. The balance of 2,228 lots or 49% are vacant. In addition, only 345 vacant lots are for sale.

36. If all the existing vacant lots counted in the market study become available for housing by the year 2000, the current available inventory of finished lots represents between 21% and 38% of the projected need.

37. Petitioner's market study estimates that 80% of the housing units needed for Kona will be built in the area studied by Petitioner (hereinafter referred to as "study area"), which encompasses the Kailua-Kona-Keauhou segement of the draft Kona Regional Plan prepared by the County of Hawaii's Planning Department. This amounts to between 4,698 to 8,437 units.

IMPACTS ON THE RESOURCES OF THE AREA

Agricultural Resources

38. The State Department of Agriculture does not place the subject property in any of its important agricultural land categories in its ALISH Maps for North Kona.

39. The Land Study Bureau's Detailed Land Classification Map for the Island of Hawaii indicates that two land types, D293 and E295, are distributed across the subject property. The D and E ratings indicate that the land is poorly or very poorly suited for agricultural activities.

40. Although the subject property is currently used for cattle grazing, it does not have a high capacity for intensive

agricultural use. Approximately 24 to 30 head of cattle are located on the subject property.

41. The draft Kona Regional Plan, which was developed in consultation with farmers and governmental agencies concerned with agricultural activities, recommends that the subject property be used for residential purposes.

Archaeological Resources

42. Cultural Surveys Hawaii conducted an archaeological reconnaissance in January of 1983. It discovered 47 archaeological sites on the subject property, some of which are merely remnants.

43. Based on preliminary observations, none of the sites discovered are historically significant except for research purposes. Petitioner will conduct further archaeological work as recommended by Cultural Surveys Hawaii, the State of Hawaii and the County of Hawaii.

Recreational Resources

44. Petitioner intends to develop a private recreation area for residents of the proposed development.

PUBLIC SERVICES AND FACILITIES

Fire Fighting and Police Services

45. The County of Hawaii will provide police service from the Kona District Headquarters located in Captain Cook. Fire protection service will be provided by the County from its Kailua Fire Station located on Palani Road.

Schools

46. Students from the proposed project will attend the Kealakehe Elementary and Intermediate School (Grades K-8) and the Konawaena High School (Grades 9-12). The opening of the Kahakai Elementary School in September, 1982, which has a capacity of 670 students, alleviates the overcrowding at Kealakehe Elementary and Intermediate School. The Kealakehe and Kahakai school facilities are expected to meet the needs of the growing North Kona population for the next seven (7) years. The DOE plans to construct additional school facilities at the Kealakehe Intermediate School and the Konawaena High School during the late 1980's in order to meet the needs of the residents of Petitioner's and other developments during the next 10-year period.

Electrical Utilities Services

47. Hawaii Electric & Light Company, Inc. and Hawaiian Telephone Company lines serve the area. Petitioner will provide all necessary service connection and transmission lines necessary to transmit electricity and other utilities to the development as may be required by applicable state and county regulations.

Water

48. Petitioner does not have a water commitment from the Board of Water Supply for this project, but Petitioner is a participant in the Kona Source Agreement I with the County development of Water Supply and other developers for development of new

domestic water sources in Kona. Petitioner has paid $125,000 as a contribution for its prorata share for 500 water units.

49. Should the exploratory activities conducted pursuant to the water agreement prove successful, Petitioner will execute a subsequent water source development agreement II and the Board of Water Supply will issue water commitments issued to participating developers, including Petitioner.

Drainage

50. Although approximately 75% of the subject property lies in the defined boundaries of the Holualoa Drainage Basin, intermittent flooding is limited to the Horseshoe Bend and the Holualoa School Streams. Petitioner will build and dedicate to the County of Hawaii all drainage facilities recommended in the Drainage Master Plan for the North Kona Flood Control Project within the boundaries of the subject property.

51. Properties located makai of the subject property (below Kuakini Highway) to the coastline have received various development approvals conditioned on the requirement that development of these projects may not commence unless the developers implement their portion of the drainage facilities recommended in the Drainage Master Plan for the North Kona Flood Control Project.

52. The development of the subject property and properties located makai of the subject property will result in a

continuous drainage system from the mauka boundary of the subject property to the ocean.

Sewage Treatment and Disposal Services

53. Petitioner proposes to dispose of sewage waste generated by the single-family residential area by individual cesspools. Petitioner proposes that the multi-family residential area will be served by private treatment plants.

54. Petitioner shall design and construct all sewage treatment facilities to satisfy the requirements specified in Chapter 38, Public Health Regulations, State of Hawaii.

Solid Waste Disposal Services

55. The County of Hawaii does not provide refuse collection service. Petitioner will require purchasers to haul refuse to the Kona Sanitary Land Fill or make arrangements with commercial disposal services. The landfill, which serves the North and South Kona districts, is located about four miles north of Kailua Village off of Queen Kaahumanu Highway.

56. The existing land fill has a life expectancy of approximately 10 years. The County of Hawaii is planning to install a refuse shredding facility to alleviate problems.

Roadway and Highway Services

57. The State Department of Transportation has approved two accesses from the proposed project to Kuakini Highway. Petitioner proposes to connect present north/south lateral road

system, specifically Kilohana, Leilani, and Pualani Streets to the proposed internal roadway system for the development. The lateral connections and intersection improvements would provide safer and more convenient ingress and egress to Kuakini Highway for residents of these adjacent subdivisions.

58. Petitioner anticipates that traffic generated by the proposed project should be mitigated by the completion of the Kuakini Highway realignment project which is already under construction by the State of Hawaii and which State expects to complete before the proposed project is completed.

CONTIGUITY OF DEVELOPMENT

59. The subject property is contiguous to an Urban District to the south which has been developed for low density residential uses (Kalani Sunset, Leilani Sunset, and Kainana Subdivisions). The Kailua-Keauhou Middle Road (40 foot right-of-way) separates the subject property from an existing Urban District along part of the subject property's makai (west) boundary.

COMPLIANCE WITH STANDARDS FOR DETERMINING DISTRICT BOUNDARIES

60. The character of the area is "city like" due to the adjacent residential subdivisions located to the south of the subject property. In addition, proposed commercial development by Dillingham Investment Corporation on lands between Kuakini Highway and the subject property further amplify the "city like" character of the area.

61. The subject property is centrally located to established employment centers. It is only 2 1/2 miles south of Kailua Village and 4 miles north of the Keauhou resort community. Dillingham Investment Corporation has proposed to construct a shopping center and medical center on nearby land already designated for commercial use.

62. Although the development of the subject property for residential use will not create permanent employment opportunities, the development of this project at a cost of $35 million will provide short-term employment opportunities for persons associated with the construction and real estate industries.

63. Reclassification of the subject property is reasonably necessary to accommodate urban growth projected for the North Kona area.

64. The subject property does not have any adverse geographic or topographic constraints which will hinder or endanger the proposed development. The proposed project will be designed and constructed to be reasonably free from the danger of floods, tsunami, unstable soil conditions, and other adverse environmental effects.

65. The proposed development will not result in "spot" urban development because an existing Urban District which has been developed for low-density residential uses is located adjacent

to the subject property on the south and a Rural District, which permits the development of residential housing on half acre lots, is contiguous to the subject property on its east (mauka) boundary.

66. Petitioner will install all on-site utility lines, roads, sewage disposal, and water systems at no cost to the state or county governments. Petitioner will also construct and dedicate to the County of Hawaii a major drainage facility within the boundaries of its property.

COMPLIANCE WITH THE HAWAII STATE PLAN

67. Petitioner's proposed project is consistent with the Hawaii State Plan's objectives and policies relating to population, the economy (general), and housing.

INCREMENTAL DISTRICTING

68. Petitioner cannot complete full urban development of the subject property within five years from the date of the Commission's approval of the redistricting; Petitioner proposes to develop the property in two increments, encompassing 5 years and 3 1/2 years. Petitioner will substantially complete development of the first 124.660 acre increment, consisting of the makai portion of the single-family residential area, all of the multi-family area, and all infrastructure systems within five years. The second increment consisting of the mauka portion of the single-family residential area, totalling 49 acres, is scheduled for completion within 3 1/2 years thereafter. The descriptions of Increment I and Increment II of Petitioner's proposed development

are illustrated on the map attached hereto as Exhibit A and incorporated herein by reference. Petitioner cannot start development on the second increment until development on all on-site and off-site improvements within Increment I have been substantially completed.

RULING ON PROPOSED FINDINGS OF FACT

The Land Use Commission hereby rejects any of the proposed findings of fact submitted by the Petitioner or the other parties not already ruled upon by adoption herein, or rejected by clearly contrary findings of fact herein.

CONCLUSIONS OF LAW

Pursuant to Chapter 205, Hawaii Revised Statutes, as amended, and the Rules of Practice and Procedure and District Regulations of the Land Use Commisison, State of Hawaii, the Commission concludes that the reclassification of all of the lands within Increment I, consisting of approximately 124.660 acres (as shown on Exhibit A attached hereto), from the Agricultural to the Urban District and amendment of the land use district boundary to permit the development of Increment I is reasonable, in conformity with Section 205-2, Hawaii Revised Statutes, and is consistent with the Hawaii State Plan as set forth in Chapter 226, Hawaii Revised Statutes, as amended, and the District Regulations of the Land Use Commission.

The Commission further concludes that although full development of the lands within Increment II (as shown on Exhibit A attached hereto) cannot be reasonably completed within five years from the date of the Commission's decision on this matter, reclassification of the lands within Increment II, consisting of approximately 49 acres, from the Agricultural to the Urban District and the amendment of the land use district boundary to permit the development of Increment II is reasonable, in conformity with Section 205-2, Hawaii Revised Statutes, and is consistent with the Hawaii State Plan, as set forth in Chapter 226, Hawaii Revised Statutes, as amended, and the District Regulations of the Land Use Commission. Therefore, incremental redistricting of the lands within Increment II of Petitioner's development is reasonable and warranted.

DECISION AND ORDER

IT IS HEREBY ORDERED that the lands within Increment I of Petitioner's development plan of the subject property, consisting of 124.660 acres, as depicted in Exhibit A attached hereto and incorporated herein by reference, situated in the ahupua'a of Holualoa First and Second, North Kona, County, Island and State of Hawaii, shall be and the same is hereby reclassified from the Agricultural to the Urban District, and the district boundaries are amended accordingly.

IT IS ALSO HEREBY ORDERED that the lands within Increment II of Petitioner's development plan of the subject property/consisting of approximately 49 acres, as depicted in Exhibit A attached hereto and incorporated herein by reference, situated in the ahupua'a of Holualoa First and Second, North Kona, County, Island and State of Hawaii, shall be and the same are hereby approved for incremental development pursuant to State Land Use Commission's District Regulation 6-2, and that redistricting from the Agricultural to the Urban District will be granted upon receipt of an application by Petitioner for redistricting of Increment II, and upon a prima facie showing by Petitioner that it has substantially completed the on-site and off-site improvements within Increment I, in accordance with Petitioner's development plan as indicated above, within five years of the date of this Order, including but not limited to partial satisfaction of the condition A below, to the extent of the number of lots to be developed in Increment I and full satisfaction of condition B below.

IT IS FURTHER HEREBY ORDERED that the reclassification and incremental districting of the subject property shall be subject to the following conditions:

A. Petitioner shall provide housing opportunities for low and moderate income Hawaii residents prior to assigning or transferring (except by way of mortgage or assignment as security)

its interest in the subject property, by offering for sale, on a preferential basis, on its own or in cooperation with either or both the Hawaii Housing Authority or the County of Hawaii, ten percent (10%) of the lots or house and lots to be developed on the subject property, to residents of the State of Hawaii of low and moderate family income as determined by the Hawaii Housing Authority or County of Hawaii from time to time. The preferential lots or houses and lots shall be offered for sale at prices not exceeding prices that enable such purchasers to qualify for and obtain state-assisted financing (i.e., Act 105 or Hula Mae) or federally-insured or assisted financing (i.e., FHA Section 245 program) intended to encourage home ownership by low and moderate income families; and

B. In making the ultimate decision as to whether a historical or archaeological site is significant enough to warrant preservation, the Petitioner shall consult with and accept the decision of the Historic Preservation Officer of the Department of Land and Natural Resources; and

C. Petitioner shall submit annual progress reports to the Commission, Department of Planning and Economic Development, and Hawaii County Planning Department as to its progress in satisfying these conditions; and

D. These conditions may be fully or partially released by the Commission as to all or any portion of the subject properties upon timely motion and provision of adequate assurance of satisfaction of these conditions by the Petitioner.

DOCKET NO. A83-549 - GAMLON CORP.

Done at Honolulu, Hawaii, this 13th day of December, 1983, per motions on December 1, 1983 and December 13, 1983.

LAND USE COMMISSION
STATE OF HAWAII

By _____
WILLIAM W. L. YUEN
Chairman and Commissioner

By _____
RICHARD B. F. CHOY
Vice Chairman and Commissioner

By _____
LAWRENCE F. CHUN
Commissioner

By _____
SHINSEI MIYASATO
Commissioner

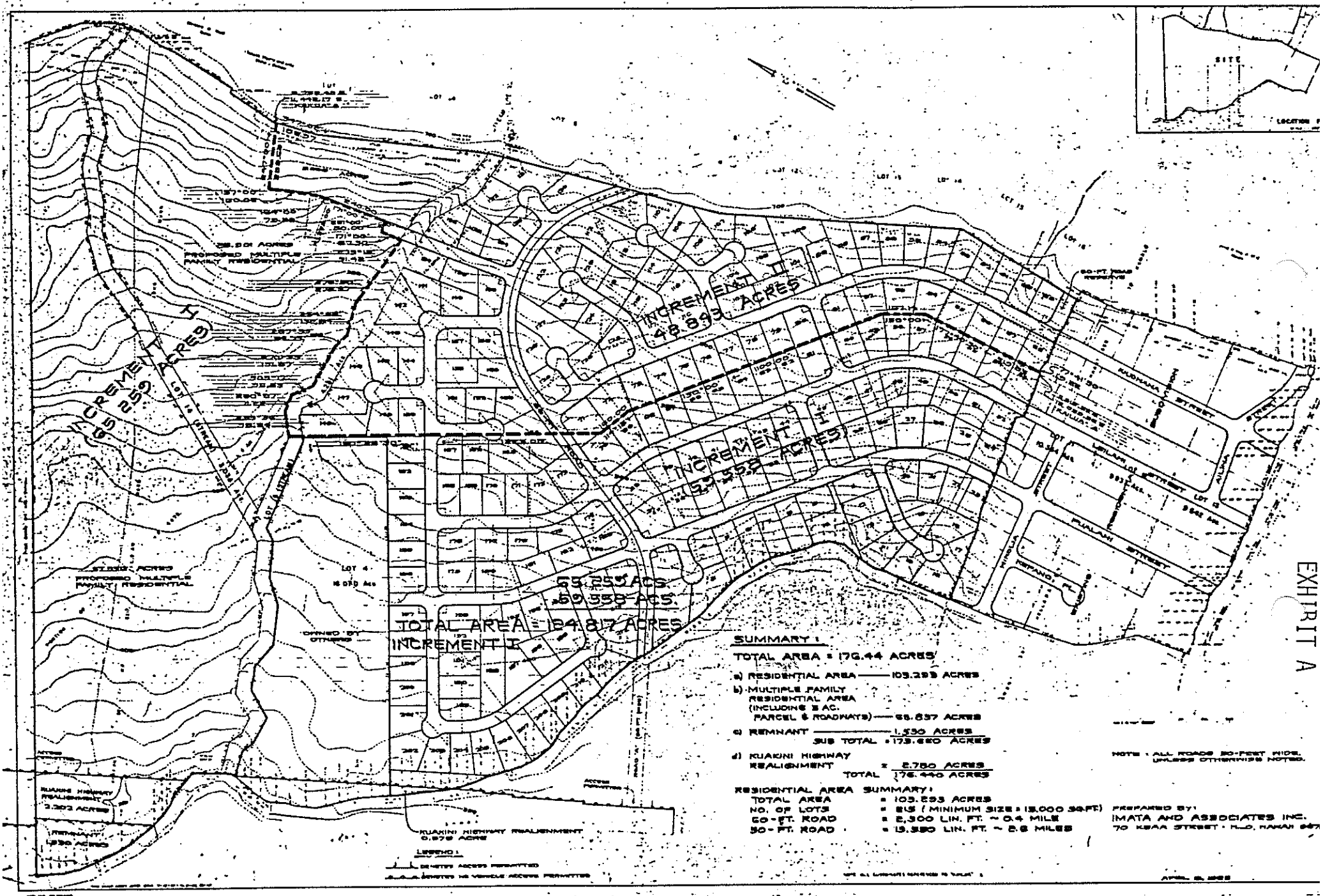
By _____
WINONA E. RUBIN
Commissioner

By _____
TEOFILO PHIL TACBIAN
Commissioner

By _____
ROBERT S. TAMAYE
Commissioner

By _____
FREDERICK P. WHITTEMORE
Commissioner

A83-549 - GAMLON CORP.



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CERTIFICATE OF SERVICE

I hereby certify that a copy of the Land Use Commission's 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
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SIDNEY FUKE, Planning Director
Planning Department
County of Hawaii
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Hilo, Hawaii 96720

RICHARD G. MACMILLAN
KARL K. KOBAYASHI
The Queen Street Building
345 Queen Street, Suite 800
Honolulu, Hawaii 96813

DATED: Honolulu, Hawaii, this 26th day of January, 1984.

GORDAN Y. FURUTANI
Executive Officer