

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of)
PUALANI DEVELOPMENT COMPANY)
To Amend the Agricultural Land)
Use District Boundary into the)
Urban Land Use District for)
approximately 99.324 acres at)
Puapuaaiki and Puapuaanui, North)
Kona, Island, County and State)
of Hawaii, Tax Map Key Nos.)
7-5-17:28 and portion of 29)

DOCKET NO. A88-632
PUALANI DEVELOPMENT
COMPANY

**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.**

SEP 13 1989 by *Lothar Leub*
Date Executive Officer

FINDINGS OF FACT, CONCLUSIONS OF LAW
AND DECISION AND ORDER

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FINDINGS OF FACT, CONCLUSIONS OF LAW
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PUALANI DEVELOPMENT COMPANY, a Hawaii joint venture ("Petitioner"), filed the Petition for Land Use District Boundary Amendment on November 22, 1988 (the "Petition"), and filed the First Supplement to the Petition on May 1, 1989 ("First Supplement"), pursuant to Chapter 205, Hawaii Revised Statutes, as amended, ("HRS"), and the Hawaii Land Use Commission Rules, Title 15, Subtitle 3, Chapter 15, Hawaii Administrative Rules, as amended (the "Commission Rules") to amend the land use district boundary to reclassify approximately 99.324 acres of land at Puapuaaiki and Puapuaanui, North Kona, Island, County and State of Hawaii, identified as Hawaii Tax Map Key Numbers: 7-5-17:28 and portion of 29 (hereinafter the "Property") from the Agricultural Land Use District to the Urban Land Use District to develop the Property as a residential subdivision to be

known as the Pualani Subdivision. The Land Use Commission of the State of Hawaii (the "Commission"), having heard and examined the testimony, evidence and argument of counsel presented during the hearings and the parties' proposed findings of fact, conclusions of law and decision and order and responses to proposed findings of fact, conclusions of law and decision and order, hereby makes the following findings of fact:

FINDINGS OF FACT

PROCEDURAL MATTERS

1. On November 23, 1988, the petition for amendment of district boundaries was served upon the Commission by Steven S.C. Lim, attorney for the Petitioner.

2. On March 10, 1989, a Petition for Intervention on the subject petition was filed by Elizabeth Ann Stone.

3. On March 17, 1989, a pre-hearing conference was held with all parties in attendance.

4. On March 22, 1989, a Joint Petition for Intervention on the subject petition was filed by William Ferreira, Chrystal Nylin, Thomas DeAguiar, Eleanor DeAguiar and J. James Sogi, by and through Mark Van Pernis, attorney for Joint Intervenors.

5. On March 30, 1989, the Office of State Planning (OSP) received a Stipulation for Continuance of Hearing, which was executed by Steven S.C. Lim, attorney for the Petitioner, and by Duane Kanuha, Planning Director of the County of Hawaii

on behalf of the County of Hawaii. OSP did not execute said Stipulation for Continuance of hearing.

6. On April 6, 1989, the Commission held a public hearing on the subject petition pursuant to notice published in the Honolulu Advertiser and Hawaii Tribune Herald on February 24, 1989. During this public hearing, the Petitioner requested and was granted a motion to continue the hearing.

7. At the April 6, 1989 public hearing, the Commission heard oral argument from Mark Van Pernis on the Joint Petition for Intervention, and issued an Order Granting Petition for Intervention and Denying Motion to Dismiss Joint Petition for Intervention on April 19, 1989. The Commission also heard from Elizabeth Ann Stone, and issued an Order Denying Petition for Intervention on April 19, 1989. Ms. Stone requested and was permitted to speak as a public witness on the subject petition. There were no other public witnesses.

8. On May 1, 1989, a First Supplement to the petition was served upon the Commission by Steven S.C. Lim, attorney for the Petitioner.

9. On May 22, 1989, a second pre-hearing conference was held with all parties in attendance.

10. On June 8-9, 1989, the Commission held the continued public hearing on the subject petition pursuant to notice published in the Honolulu Advertiser and Hawaii Tribune Herald on February 24, 1989. The Commission allowed into evidence the April 12, 1989 letter from Elizabeth Ann Stone.

The Commission also allowed the following persons to testify as public witnesses on June 8, 1989: J. James Sogi, William Ferreira, Chrystal Nylin, and Thomas Stifler.

11. At the June 8, 1989 Commission meeting, Mark Van Pernis, Esq., on behalf of Intervenors under the Joint Petition for Intervention of William Ferreira, Chrystal Nylin, Thomas DeAguiar, Eleanor DeAguiar and J. James Sogi, voluntarily withdrew its Joint Petition for Intervention. The Commission allowed the withdrawal with no objection from any of the parties. Thereafter, the remaining parties consisted of the Petitioner, the County of Hawaii Planning Department ("County") and the Office of State Planning for the State of Hawaii ("OSP").

12. Pursuant to stipulation of the parties at the June 8, 1989 hearing, the Commission granted approval for Petitioner to file the metes and bounds description and survey map for the petitioned area within thirty days of the Commission's final action on the Petition.

DESCRIPTION OF PROPERTY

13. The petition area is located approximately 3 miles southeast of Kailua-Kona, on the mauka side of the Queen Kaahumanu Highway extension. It is situated approximately 2,000 feet south of the Hualalai Road/Queen Kaahumanu Highway extension intersection, and approximately 2,000 feet north of the Kuakini Highway/Queen Kaahumanu Highway extension intersection.

14. The petition area is bounded on the west by the Queen Kaahumanu Highway extension; and on the north, south and east by vacant and undeveloped lands. A narrow strip of land on the eastern side of the petition area extends to the Hualalai Road.

15. The project site is situated on the slopes of Mt. Hualalai at elevations of 325 feet to 750 feet above mean sea level. The slopes of the site range from 3 percent to 45 percent. The project site is covered with keawe trees and dense vegetation.

16. The U.S.D.A. Soil Conservation, Soil Survey of the Island of Hawaii, indicates that the soils of the petition area are predominantly of the following: Kaimu extremely stoney peat (rKED); Punaluu extremely rocky peat (rPYD); and Waiaha extremely stony silt loan (WHC). According to the Soil Survey, the Kaimu soil series consist of well-drained, thin organic soils over a'a lava. The Kaimu extremely stoney peat (rKED) soil occurs at low elevations on Mauna Loa, with slopes ranging from 6 percent to 20 percent. Permeability is rapid, runoff is slow and the erosion hazard is slight. Kaimu soil is used for pasture, macadamia nuts, papaya and citrus fruits.

17. The Punaluu soil series are well-drained, thin organic soils over pahoehoe lava bedrock. The Punaluu extremely rock peat (rPYD) soil occurs on the leeward side of Mauna Loa, with slopes ranging from 6 percent to 20 percent.

Rock outcrops occupy 40 to 50 percent of the surface.

Permeability is rapid, runoff is slow, and the erosion hazard is slight. Punaluu soil is used for pasture.

18. The Waiaha soil series are shallow, well-drained silt loams that formed in volcanic ash. The Waiaha extremely stony silt loam is low on the leeward side of Hualalai and Mauna Loa. Permeability is moderately rapid, runoff is slow, and the erosion hazard is slight. Waiaha soil is used for pasture.

19. According to the September 1988 U.S. Flood Insurance Rate Map (FIRM), the bulk of the subject property falls within Zone X, areas determined to be outside the 500-year storm plain. However, the northwest section of the property lies within the 100-year and 500-year hazard area (Zone AE).

20. The Land Study Bureau overall master productivity ratings for the subject property are "C", "D" and "E", which indicate that the project soils have very poor to moderate productivity potential for most agricultural uses. Most of the property is classified "D", pahoehoe with Kainaliu which is shallow, moderately fine in texture with volcanic ash and pahoehoe, and is very poorly suited for machine tillability. According to the Agricultural Lands of Importance to the State of Hawaii (ALISH) System, approximately 20% of the property is classified as "Other Important" and the remaining portion is not classified by ALISH for agricultural purposes.

PROPOSAL FOR RECLASSIFICATION

21. Initially, the Petitioner had proposed to develop a planned residential community consisting of approximately 546 two- and three-bedroom, single-family detached units with minimum lot areas of 5,000 square feet per unit. The proposed project was to be designed as an "affordable housing" community.

22. Petitioner's First Supplement to the Petition, which was filed on May 1, 1989, amended the proposed project. Petitioner now proposes to develop a single-family residential subdivision on the subject property consisting of lot sizes approximately 7,500 square feet per lot with a cluster of approximately thirteen 20,000 square feet lots located at the mauka end of the subject property along its northeast boundary. Out of the approximately 383 proposed total lots within the Pualani Subdivision development, the Petitioner intends to develop approximately 60% of the residential units as affordable housing (80% to 140% of the County of Hawaii median income market range).

23. The Pualani Subdivision project will include installation of curbs, gutters and sidewalks with underground utilities, a private recreational park located to the makai end of the property fronting Queen Kaahumanu Highway Extension/Hawaii Belt Road and a proposed archaeological preserve which will include an archaeological site complex ("T-37") which has been classified as significant and

recommended for in-place preservation by Petitioner's archaeological consultant Dr. Paul H. Rosendahl.

24. The main access to the project site is proposed from a 120-foot wide permitted access point off the Queen Kaahumanu Highway Extension. Internal circulation roadways will be constructed to County of Hawaii standards with a 60-foot wide right-of-way for the major subdivision roadway and 50-foot wide right-of-way for all other internal roads. The project roadway plan will also provide north-south internal roadway stubouts to adjacent properties for purposes of future access.

25. The Petitioner proposes to construct a private wastewater treatment facility capable of providing secondary treatment acceptable to the County of Hawaii and State of Hawaii Department of Health with discharge of the treated effluent by means of a leaching field located below the underground injection control (UIC) line either on the makai end of the property or upon adjacent property pursuant to contract. All other utility services to the subject property are available and will be constructed by Petitioner.

26. Petitioner proposes to construct single-family detached dwellings ranging in sizes from 850 square feet through approximately 1,300 square feet. Petitioner's projected sale prices for the houses within the 383 lot project in 1988 dollars are 38 houses (10%) at \$74,950.00, 76 houses

(20%) at \$99,950.00, 114 houses (30%) at \$139,950.00 and 155 houses (40%) sold at market prices.

27. Petitioner's amended preliminary engineering cost estimate for the 383 lot subdivision plan is approximately \$11,430,000.00. This estimate includes site preparation, roadway and drainage systems, sewage treatment plant and transmission laterals, water system and electrical, telephone, CATV and street lighting systems.

28. Petitioner estimates that the demand for residential properties in the affordable category and at the "market" category would be readily absorbed within one year of completion of the project construction. The market demand in the West Hawaii region for single-family residences is exceptionally high and the demand is projected to continue for at least the next five years. The Petitioner projects that the project will be substantially completed within five years after the date of the final County zoning approval.

PETITIONER'S FINANCIAL CAPABILITY
TO UNDERTAKE THE PROPOSED DEVELOPMENT

29. The Petitioner's Statement of Financial Condition is provided in the Petition as Exhibit 5. According to the Balance Sheet (as of November 1, 1988), assets are valued at \$2,268,875. The items listed under assets are as follows:

Cash and cash equivalents	\$ 22,000
160+/- acres of land, including the petition area	1,725,000
Water commitments	<u>521,875</u>
Total Assets	<u>\$ 2,268,875</u>

Liabilities and Partners Capital of \$2,268,875 are as follows:

Accounts payable (mortgage/note re: water commitments	\$ 521,875
Partners capital	22,000
Mortgage/note on 160+/- acres fee	<u>1,725,000</u>
Total liabilities and partners capital	<u>\$ 2,268,875</u>

30. Petitioner has made approximately \$322,000.00 in capital contributions through June of 1989 and projects additional contributions to cover development costs.

Petitioner, through its joint venture partners, owns the subject property and 805 units of water commitments from the Kealakekua Water Source Agreement for a total asset balance of approximately \$2,568,875.00. The liabilities of Pualani Development Company consist primarily of a first mortgage and promissory note on the property and water rights in favor of the joint venture partners of Pualani Development Company: JD Hawaii Corp., a Hawaii corporation and CCM Hawaii, Inc., a Hawaii corporation.

31. Petitioner proposes to obtain financing for construction of infrastructure for the project through subordination of its first mortgage lien on the property. Thereafter, once the basic site preparation, roadway, drainage, wastewater, utility and potable water systems are constructed and in place, the Petitioner will finance the cost of house construction within the project from the sale of house and lot packages.

STATE OF HAWAII AND COUNTY OF HAWAII PLANS AND PROGRAMS

32. The State of Hawaii currently designates the subject property as Agriculture on the State Land Use boundary map. There are no federal plans or programs directly affecting development of the subject property for the proposed residential project.

33. The County of Hawaii General Plan Land Use Pattern Allocation Guide (LUPAG) Map designates the mauka portion of the property for Low Density Urban Development, which allows residential uses at a density of four units per acre and certain neighborhood commercial uses, provided that applicable goals, policies and standards of the General Plan are met. The balance of the property to the makai is designated as Extensive Agriculture and Alternate Urban Expansion on the LUPAG Map. The Extensive Agriculture designation is applied to land suited for pasturage or range uses. The Alternate Urban Expansion designation allows alternate development patterns when designated urban areas become largely developed, designated urban areas develop too slowly, developers propose to develop marginally acceptable areas and extend their own infrastructure, the potential for urbanization exists via non-conforming subdivisions, new non-contiguous urban clusters may be desirable and the urban form of an area has not yet been established.

34. The County of Hawaii zoning designation for the subject property is "Unplanned" by the Hawaii County Zoning

Code. The Kona Regional Plan was adopted by the Planning Commission in 1984, and serves as a guide in implementing the General Plan. The Kona Regional Plan Land Use Concept Map designates the subject site as appropriate for residential developments at a density of four units to an acre, subject to adjustment given the demand for "affordable" housing. Pursuant to the "Unplanned" zoning of the subject property, single-family residential uses at a density of one per building site, agricultural uses and other agricultural-related activities are allowed on the subject property.

35. The subject property is not situated within the County of Hawaii Special Management Area. The project site is also outside any designated storm wave and tsunami inundation zones. Furthermore, no U.S. Army Corps of Engineers wetland permits are expected to be required in that no wetlands are found on the project site.

NEED FOR THE PROPOSED DEVELOPMENT

36. The current population of the North Kona/South Kohala study area is estimated at 34,100. By the year 2010, the West Hawaii population is projected to increase to 102,900. The projected figure represents a 211.16% increase in population. By the year 2010, some 49,603 dwelling units must be in place to accommodate the increased population.

37. The market study states that "the number of available units in the West Hawaii housing market constitutes

no more than 10 to 14 months of supply, and is woefully inadequate to meet both the current and projected housing needs in the region."

38. The State Housing Finance and Development Corporation also states in its memorandum to OSP dated May 19, 1989 that "Policy C(7) of the State Housing Functional Plan strives for the integration of special needs housing in new and existing neighborhoods. (Special needs housing means housing for persons for whom social problems, age, or physical or mental handicaps impair their ability to live independently and for whom such ability can be improved by more suitable housing conditions.) Implementing Action C(7)(b) of the housing plan recommends a set aside of at least one percent of the total number of units in the project for special needs housing. In this case, two of the affordable housing units could be set aside for those with special housing needs."

39. Petitioner's Market Feasibility Study by the Hallstrom Appraisal Group concluded that the demand for residential properties in both the "affordable" category and "market" category in West Hawaii remains exceptionally high, and is projected to remain so through the next five years.

40. Extreme demand for residential properties of all types in the West Hawaii area coupled with rapid price appreciation throughout the region has created critical demand for "affordable" priced homes. The recent influx of new

residents into West Hawaii and the focusing of construction of "upper-end" units by developers increases the need for the type of affordable housing development (at least 60% of the homes) proposed in the Pualani Subdivision. Petitioner's consultant projects that even with the absorption of the Pualani Subdivision project into the market, the need for housing projects of this type will remain at a constant high level.

ECONOMIC IMPACTS

41. The Petitioner anticipates that development of the subject property as proposed in the Petition will have both direct and indirect impacts on employment within Hawaii County, and particularly in West Hawaii. It is projected that a minimum of 15,000 to 20,000 direct or primary jobs will be directly created by full buildout of the West Hawaii resorts planned over the next 20 years. In addition, indirect jobs and secondary service level opportunities will be generated in the West Hawaii region. The provision of affordable housing as proposed by the Petitioner will assist in alleviating the current housing shortage for the projected increase in employees required to service the growing resort industry in West Hawaii.

42. The impacts of the project on State and County revenues is expected to involve costs such as the provision of operational expenses for police, fire and expanded school facilities which would be offset in part by the benefits of

projected construction-related tax and income/excise tax revenues from the residents within the project. The primary benefit to the County and State will be found in the project's provision of the affordable housing oriented to meet the income capability of those residents ranging between 80% to 120% of the median income within the County of Hawaii. The Petitioner proposes to provide its pro rata fair share to minimize impacts on public services and facilities as a result of development of the proposed project.

SOCIAL IMPACTS

43. The West Hawaii area has been characterized as rapidly developing without a concurrent growth in the supply of affordable housing. The Petitioner proposes to minimize social disruption to the existing West Hawaii community arising from development of the project by providing private recreational amenities within the project area and affordable housing that will alleviate the pressures on West Hawaii residents presently experienced due to the unfavorably high portion of household income which must be allocated to housing expense. The Petitioner proposes to provide its pro rata fair share to minimize the impacts upon the State of Hawaii and County of Hawaii public facilities and services created as a result of the impacts related to approval of the proposed project.

IMPACTS UPON RESOURCES OF THE AREA

44. The subject property is presently vacant of any structures and active agricultural use and there is no evidence

of recent active agricultural use of the property. The State Land Study Bureau overall master productivity rating for the subject property are "C", "D" and "E", which indicates that the project soils have very poor to moderate productivity for most agricultural uses. The Agricultural Lands of Importance to the State of Hawaii (ALISH) classification does not classify the majority of this property for agricultural purposes, with approximately 20% of the property classified as "Other Important". The State of Hawaii Department of Agriculture states that development of the subject property for the proposed uses should not have any significant impacts on the agricultural resources of the area.

45. The State Department of Agriculture states that it does not foresee significant impacts on the agricultural resources of the area, should the proposed reclassification be approved. However, it points out that small-acreage coffee farms are situated immediately to the east of the project site.

46. According to the botanical survey conducted by Char & Associates, there are no listed, proposed or candidate threatened and endangered flora or plant species designated by the federal and/or state governments found on the subject property. Petitioner has committed to preserve where practicable any old kukui trees located within the archaeological preserve (Site T-37) scheduled for in-place preservation by Petitioner. Kukui trees are often associated with archaeological sites such as Site T-37.

47. With respect to the fauna located within the subject property, Dr. Andrew Berger states that there is no endemic ecosystem located on or near the subject property due to the disturbance for pasture uses in the past, and thus no significant impact on the biological resources of the area is anticipated. There are no rare flora or fauna located on the subject property, and though there is possible occasional foraging by endemic species such as the hawk and owl, the reclassification of the subject property would have no significant impact on either of these species.

48. The archaeological survey identified 76 significant historic sites, containing 129 component features, within the petition area. Functional types tentatively identified include possible burials, religious, habitation, agricultural, and transportation features. Formal feature types recorded include platforms, mounds, C- and L-shaped walled shelters, walled enclosures, and trails.

49. Of the 76 sites identified within the property, 69 were assessed as significant only for information content. No further work was recommended for 18 of those 69 sites. For the remaining 51 of the 69 sites, further data collected were recommended and physical preservation was not considered essential. The remaining seven sites were assessed as culturally significant and further treatment ranging from data collection to in-place preservation was recommended.

Petitioner has committed to accept and commit to the July 1988 consulting archaeologist's recommendations made by Paul H. Rosendahl Ph.D, Inc., to include preparation of a detailed historic preservation mitigation plan acceptable to DLNR-Historic Sites Section and the County of Hawaii Planning Department. The mitigation plan would provide for eventual verification by DLNR-Historic Sites Section and the County of Hawaii Planning Department of plan execution, data collection and testing of two previously identified possible burial sites (T-15, T-56) and contingency plans for dealing with discovery of previously unidentified archaeological sites or any human burials encountered in the course of mitigation work and subsequent construction activities. Petitioner is committed to preservation of a park site as an archaeological preserve for site T-37, a probable heiau site which will be preserved in place with some level of interpretive development. Where practicable, Petitioner shall incorporate the adjacent stands of old kukui trees within the area of site T-37 into a landscaping plan. Petitioner has also committed to subsequent data recovery work from the remaining 58 significant sites identified in the July 1988 archaeologist's report pursuant to a historic preservation mitigation plan approved by the DLNR-Historic Sites Section and the County of Hawaii Planning Department.

50. The impacts upon the ground water resources of the West Hawaii region arising from development of the subject

property will be minimal. The Petitioner has committed to construct a private wastewater treatment facility with discharge of treated effluent into a leaching field located below the underground injection control (UIC) line. The Sewage Effluent Disposal Study by M&E Pacific, Inc. and the Sewage Effluent Migration Study by Harding Larson Associates conclude that disposal of the secondary treated effluent would have no adverse impact on the Island of Hawaii's existing and future sources of drinking water. Additionally, due to the dilution process in the transport of treated effluent and subsequent dispersion in the open coast regime to the makai of the subject property, the impact on the near-shore waters would be insignificant. Discharge of the treated effluent into the leaching field would not impact any drinking water sources of the County Department of Water Supply. The Petitioner proposes to utilize the potable water commitments already assigned to the subject property from the County of Hawaii Department of Water Supply Kealakekua Water Source Agreement which are sufficient to service the proposed development.

51. The recreational, scenic and cultural resources of the West Hawaii region are proposed to be addressed by the proposed development. The Petitioner proposes a 5.7 acre park site at the northwest corner of the proposed project to include bike and jogging trails throughout the subdivision. While the uses proposed for the park site seem incompatible with the

location of the wastewater treatment facility within the park site, the Petitioner's consulting engineer states that design criteria can be formulated such that the activities are compatible. There are public parks within a three mile radius of the subject property. The cultural resources of the area will be highlighted through interpretative development of the archaeological park site surrounding site T-37.

52. Because the subject property does not abut the shoreline and is located between approximately 325 to 750 feet above mean sealevel, the coastal and aquatic resources should not be impacted significantly by the proposed development. The Petitioner's analysis of potential impacts of the sewage disposal into the leaching field shows no significant negative impacts on the shoreline, coastal and aquatic resources of the region.

ENVIRONMENTAL QUALITY

53. Development of the subject property as proposed in the Petition is anticipated to create project construction noise activity and traffic-related vehicle noise. These impacts can be minimized through the Petitioner's commitment to the use of mitigation measures during the applicable periods of construction. The impact of the traffic traversing Queen Kaahumanu Highway Extension on the project area may have impacts on the residential development. The Petitioner has committed to provide mitigation measures to address off-site

noise impacts on the project through the use of mitigation measures such as screening hedges, landscape buffering or other sound-attenuation measures.

54. The petition identifies construction-related activities as the sources of short-term air quality impacts associated with the proposed project. The petition states that "increased truck traffic on the Queen Kaahumanu Highway extension would contribute to higher vehicular emissions... Dust associated with the clearing, grading, trenching, and related on-site work will also be generated."

55. The petition states that "continuous dust-control measures will be employed to avoid violations of State and Federal particulate standards downwind of the subject site. These measures include the use of sprinklers and the use of equipment to comply with proper air pollution regulations."

56. According to the petition, "the long-term impacts on air quality would be primarily related to the traffic generated by this development. This added traffic would suggest added emissions of carbon monoxide, nitrogen oxides, and lead. However, this should be somewhat offset by the reduction in emission rates for new vehicles."

57. The Petitioner's Air Quality Impact Report for the Pualani Subdivision prepared by J.W. Morrow assessed short and long-term impacts of development of the residential subdivision. The study concluded that short-term impacts such

as fugitive dust during construction could be mitigated through use of frequent watering and landscaping of the affected areas. The long-term impacts identified included a slight increase in carbon dioxide levels along the principal access road due to projected traffic growth. This slight increase is expected to have minimal impact on the ambient air quality for the region and the present ambient air standards are predicted to be maintained.

58. The water quality for the region will not be significantly impacted by the proposed development according to the summary report prepared by M&E Pacific, Inc. The Petitioner's commitment to utilize a wastewater treatment facility capable of providing secondary treatment with discharge of the treated effluent into a leaching field for a daily average flow of 0.3 million gallons per day will have no significant impact on the groundwater resources of the area. The nearest source of drinking water is located approximately 3 miles to the south at Kahaluu. Due to the distance of the subject property from the Class AA waters at the shoreline, the time of travel for treated sewage effluent from the site to the groundwater and from the groundwater entry to the shoreline is approximately 140 days. Due to the dilution process in the transport of the treated effluent and subsequent dispersion into the open coast regime, the impact on the near shore waters of the region would be insignificant.

ADEQUACY OF PUBLIC SERVICES AND FACILITIES

59. The highway and roadway facilities adjacent to the project site include a permitted access from the Queen Kaahumanu Extension along the property frontage at a 120 feet wide access, forming a "T" intersection with the Queen Kaahumanu Extension. The increase in existing traffic is projected to be mitigated by installation of traffic signalization at the Lako Street Extension/Kuakini Highway intersection currently planned south of the project site. There is also a possibility that a signal light intersection will be installed at the Kuakini Highway/Queen Kaahumanu Extension intersection north of the project site. The Petitioner is committed to comply with the traffic improvement and mitigation recommendations contained in the October 1988 Traffic Impact Report and the April 28, 1989 Supplemental Report by Austin, Tsutsumi and Associates, Inc., in cooperation with the State Department of Transportation and the County of Hawaii.

60. The State Department of Transportation (DOT) had the following comments in its memorandum to OSP dated January 26, 1989:

- "1. The traffic impact analysis report (TIAR) should be revised to assess the traffic conditions when the development is fully developed. That is, the trips generated by the proposed project should be superimposed not on existing traffic conditions, but on conditions anticipated for the target year of development. The forecast conditions should also reflect the traffic generated by other major developments in the area.

2. A fully channelized intersection with deceleration, acceleration and left-turn storage lanes conforming to current highway design standards should be constructed by the developer.

The TIAR should include the computations to determine the length requirements of the turning lanes. Traffic signals should be provided by the developer when warranted and deemed necessary by the State Department of Transportation. The necessary conduits should be installed at the onset of the development project.

3. This project should be coordinated with other developments in the immediate area. Internal boundary stub roads should be constructed to connect with adjacent developments.
4. A drainage study for the project must be submitted for our review and approval.
5. Plans for all work within the State highway right-of-way must be submitted for our review and approval. The developer shall bear all costs for these improvements.
6. The developer should consider implementing traffic management programs, such as ridesharing, subscription bus service, vanpools, carpool computer matching service, provision of park-and-ride and day-care facilities, etc. as appropriate."

61. The petition states that "there are no existing water facilities on the project site. However, the subject site is located within the County Department of Water Supply's North Kona system. This system is being supplied by four wells and a shaft at Kahaluu, near Keauhou and south of the subject site."

62. According to the petition, the average daily demand for potable water would be approximately 400 gallons per day per household (or 153,200 gallons per day for the entire

project). The maximum daily demand would be 600 gallons per day per household (or 229,800 gallons per day for the entire project).

63. The County Department of Water Supply's (DWS) memorandum dated December 27, 1988 states that Petitioner "has secured rights to a water commitment of 805 units through the Kealakekua Source Agreement. Pursuant to this agreement, the prevailing facilities charge must be paid before a water commitment will be issued....The proposed subdivision will be subject to off-site water system improvements, which will include transmission pipelines, booster pumps, and storage reservoirs."

64. Although there are no existing water facilities on the project site, the County Department of Water Supply is committed to provide water service to the subject property pursuant to the commitments held by the Petitioner under the Kealakekua Water Source Agreement. Upon full buildout, the estimated demand for potable water is approximately 153,200 gallons of water per average day, computed on an average daily consumption level of 400 gallons per unit.

65. According to DOH's memorandum to OSP dated January 20, 1989, the Underground Injection Control (UIC) line generally bisects the project site. DOH states the "elevations of the site range from about 325 feet to 750 feet; the UIC line is roughly at elevation 500 feet."

66. Regarding the disposal of the treated sewage, DOH states that "effluent disposal will probably be by way of injection wells or leach field-ground disposal. If injection wells are considered, only land areas below the UIC line can be utilized and a UIC permit will be required to operate the injection facility. Issuance or denial of a UIC permit will be based on UIC regulations and other supporting information. If a leach field system is proposed, land areas below the UIC line is strongly recommended for use instead of land areas above the UIC line. These recommendations are general ones and a final departmental decision will be based on more detailed information of the site and surrounding conditions."

67. The wastewater disposal will be handled through the construction by Petitioner of a private wastewater treatment facility acceptable to the State Department of Health and County of Hawaii with a leaching field located below the underground injection control (UIC) line. The County of Hawaii does not have public sewage treatment and disposal systems available in the area.

68. Drainage for the subject property presently flows primarily into existing natural land contours. During heavy rainfall, runoff flows overland into the drainage swale located along the Queen Kaahumanu Highway Extension near the northwest corner of the subject property. This section of the property has been classified within the fringes of the 100 year and 500

year flood hazard areas (Zones X and AE, respectively) by the U.S. Army Corps of Engineers Flood Insurance Rate Map (FIRM). The Petitioner proposes to construct curbs, gutters and sidewalks which would accommodate the additional runoff generated by the development. Drywells would be constructed within the subject property to handle the existing and increased rainfall runoff. The portion of the subject property affected by the 100 year and 500 year storm designation will be preserved for park use.

69. The Preliminary Engineering Report for Pualani Subdivision (Petitioner's Exhibit 10) states that "there are no existing drainage improvements on the site. Little runoff is currently generated due to the undeveloped nature, with most of the rainfall percolating into the ground. During intense rain storms, runoff flows overland into the Hawaii Belt Road drainage swale which directs runoff to a flood hazard area located at the northwest corner of the property."

70. According to the report, "runoff will increase due to the development of the site and the on-site measures to reduce the effects of the increased runoff will be implemented....The planned development will maintain the existing surface water as much as possible....The proposed drainage system will consist primarily of standard type catch basins and modified type catch basins over drywells with connecting pipe culverts to dispose surface runoff."

71. The petition states that "for those residential lots with any portion being within the 500-year storm area, the applicant intends to denote such hazard areas to prospective homeowners. All buildings will be built to conform with flood elevation requirements of the County." (Emphasis added.)

72. The petition also points out that the area most prone to the flood hazard will be used of the recreational park proposed for the northwest corner of the petition area.

73. DOH states in its memorandum to OSP dated January 20, 1989 that "drainage drywells are considered to be injection wells, and a Underground Injection Control (UIC) permit would be required.

74. The State Department of Transportation (DOT) states in its memorandum to OSP dated January 26, 1989 that a drainage study for the project must be submitted for its review and approval.

75. The existing refuse collection and disposal facility within the North Kona district is a landfill at Kealakehe, North Kona, located approximately two miles north of the subject property along the Queen Kaahumanu Highway. The County of Hawaii does not provide refuse collection service to the general public although a number of private refuse haulers provide this service for a fee. It is anticipated that the subject development will have some impact upon the landfill site and an alternative site is being proposed by the County to the north of the existing site.

76. Existing public schools servicing the area include Kahakai Elementary (kindergarten through fifth grade), Kealakehe Intermediate (grades 6 through 8), and Konawaena High School (grades 9 through 12), and certain of the public schools are nearing capacity. Petitioner recognizes that the proposed development may create additional burdens on these public facilities and has committed to provide its pro rata fair share to minimize the impacts upon the public school system in the area.

77. According to the petition, "there are no public parks in the immediate vicinity. There are, however, public parks within a 3-mile radius. These include a park further south along the Mamalahoa Highway in the vicinity of Puuloa; a small basketball court in Kailua Village; and a park in a residential subdivision mauka of and near the Lunapule Road/Kuakini Highway intersection."

78. Police and fire protection services are provided by the County of Hawaii. Fire protection is provided by the fire stations at Kailua-Kona and Captain Cook. The police services are available from the stations located at Captain Cook and Kealakehe. Emergency medical and paramedical services are provided by the County Fire Department. The new 83-bed Kona Hospital is located at Kealakekua approximately 7 miles from the subject property. The Petitioner has committed to provide its pro rata fair share to minimize impacts on the

County of Hawaii and State of Hawaii public facilities and services.

79. Electrical power for the Island of Hawaii is provided by Hawaii Electric Light Company (HELCO) with a new substation located near the Keahole Airport in North Kona. Because the subject property is undeveloped, there are no existing electric or telephone lines on the subject property. Both Hawaii Electric Light Company and Hawaiian Telephone Company can provide adequate services to the Pualani Subdivision project. Within the project site, the Petitioner shall install underground electric and telephone system improvements. No adverse impacts on these public utilities are expected from development of the subject property.

80. The petition states that "electrical power for the Big Island is provided by the Hawaii Electric Light Company (HELCO)....A new substation located near the Keahole Airport in North Kona was recently constructed. Distribution lines of 12.47 KV are located along Kuakini Highway....Main power and telephone trunk lines run along the Belt Highway fronting the property."

81. According to the petition, "both the Hawaii Electric Company and the Hawaiian Telephone Company can provide adequate services for the Pualani Subdivision Project. Within the project site, electric and telephone system improvements will be installed underground. No adverse impacts are expected."

82. The petition states that "the primary existing refuse collection and disposal facility in the North Kona District is a landfill in Kealakehe, North Kona, along the Queen Kaahumanu Highway. This landfill is located approximately 2 miles north of Kailua, Kona. There are plans for a new site further north.

83. The petition further states that "it is likely that this development will have some measure of impacts to the landfill site. Yet, with or without this development and based upon present projections, the existing landfill will be near its peak in a few years. As such, it is reasonable to assume that an alternative will be found by the County very shortly."

COMMITMENT OF STATE FUNDS AND RESOURCES

84. The impact of development of the subject property as proposed in the Petition will impact on certain State of Hawaii resources, primarily upon the State Department of Education school system and the State Department of Transportation highways and drainage systems. The Petitioner has committed to provide its pro rata fair share to minimize the added impacts upon the State of Hawaii resources directly arising from the additional burdens placed on the State resources as a result of the impacts related to approval of the proposed project. The Petitioner has also committed to fund improvements to the Queen Kaahumanu Highway Extension fronting the project in cooperation with the State Department of Transportation Highways Division.

CONFORMANCE WITH THE APPLICABLE DISTRICT STANDARDS,
(SECTION 205-17(2), HAWAII REVISED STATUTES

85. The project conforms with the Urban district boundary standards contained in Section 205-17(2), Hawaii Revised Statutes and also meets the standards for determining "U" Urban district boundaries contained in Section 15-15-18 of the Commission Rules.

86. The subject property, while not immediately contiguous to an existing Urban District, is functionally part of an urbanizing "city-like" area experiencing rapid urban growth which is projected to continue for the next ten years. The subject site is proximate to several trading and employment centers, including the resort center of Keauhou and the resort/commercial center of Kailua-Kona, and is designated as Alternate Urban Expansion on the County of Hawaii General Plan.

87. The subject property is in close proximity to lands characterized by "city-like" concentrations of people, structures, streets, urban level of services and other related land uses. The subject property is in proximity to basic services such as Queen Kaahumanu Extension transportation system, water service from the County Department of Water Supply Kealakekua Source Agreement, and is proximate to schools, parks and police and fire protection. All utilities to service the project will be provided to the project site at Petitioner's expense.

88. Petitioner has made approximately \$322,000.00 in capital contributions through June of 1989 and projects additional contributions to cover development costs. Petitioner, through its joint venture partners, owns the subject property and 805 units of water commitments from the Kealakekua Water Source Agreement for a total asset balance of approximately \$2,568,875.00. The liabilities of Pualani Development Company consist primarily of a First Mortgage and Promissory Note in favor of the joint venture partners of Pualani Development Company: JD Hawaii Corp., a Hawaii corporation and CCM Hawaii, Inc., a Hawaii corporation. Conventional financing will be pursued for construction of infrastructure for the project and thereafter, once the basic infrastructure is constructed, Petitioner will finance the cost of house construction within the project from the sale of house and lot packages.

89. The subject property is reasonably free from the dangers of floods, tsunamis, unstable soil conditions and other adverse environmental effects. The northwest corner of the petition area which falls within the 100 year and 500 year storm area shall be primarily set aside for use as a recreational park.

90. The urbanization of the subject property will not contribute to scattered spot urban development because the classification of the subject property would infill pockets of

land yet to be urbanized in the region. Approximately 600 feet south of this property, the Commission reclassified approximately 173.66 acres in Docket No. A83-549, Gamlon Corporation, from the Agricultural to Urban land use district for approximately 500 single-family and multi-family residential units on January 26, 1984. Development of the subject property will not necessitate unreasonable investment in public infrastructure or support services in light of Petitioner's commitment to participate in its pro rata fair share of impacts on public facilities.

91. While the petition area is contiguous to the Agricultural District, Urban District lands are situated in close proximity. Kailua-Kona is located approximately 3 miles northwest of the petition area. The Urban District lands extending south from Kailua-Kona to Keauhou, makai of the Queen Kaahumanu Highway extension/Kuakini Highway corridor are located less than 2,000 feet west of the petition area. The Gamlon Corp. property (LUC Docket No. A88-549) which was incrementally approved by the LUC for reclassification in January 1984, is located 500 feet south of the petition area.

CONFORMANCE WITH THE GOALS, OBJECTIVES AND POLICIES OF THE HAWAII STATE PLAN; RELATIONSHIP WITH APPLICABLE PRIORITY GUIDELINES AND FUNCTIONAL PLANS

92. The Petitioner's project as proposed in the Petition is consistent with the applicable goals, objectives and policies of the Hawaii State Planning Act as found in

Sections 226-1 through 63, Hawaii Revised Statutes, as amended. The project as proposed in the Petition is also in conformity with the applicable priority guidelines contained in Sections 226-101 through 105, Hawaii Revised Statutes, as amended.

93. The project is also in general conformity with the applicable Functional Plans adopted by the Hawaii State Legislature as guides to implement the Hawaii State Plan in functional areas.

94. The proposed reclassification is generally consistent with the following objectives, policies, and priority guidelines of the Hawaii State Plan:

SEC. 226-19 Objectives and policies for socio-cultural advancement-housing.

(a) Planning for the State's socio-cultural advancement with regard to housing shall be directed towards achievement of the following objectives:

(1) Greater opportunities for Hawaii's people to secure reasonably priced, safe, sanitary, livable homes located in suitable environments that satisfactorily accommodate the needs and desires of families and individuals.

- (2) The orderly development of residential areas sensitive to community needs and other land uses.
- (b) To achieve the housing objectives, it shall be the policy of this State to:
 - (1) Effectively accommodate the housing needs of Hawaii's people.
 - (2) Stimulate and promote feasible approaches that increase housing choices for low-income, moderate-income, and gap-group households.
 - (3) Increase homeownership and rental opportunities and choices in terms of quality, location, cost, densities, style, and size of housing.

. . .

95. The proposed project generally conforms with the preceding objectives and policies, through the provision of housing opportunities for Hawaii's people. However, conformance with public health and sanitation standards, and with historic resource preservation objectives must be ensured.

CONFORMANCE WITH COASTAL ZONE MANAGEMENT OBJECTIVES AND POLICIES

96. The proposed reclassification of the Property for the development of the project conforms to the policies and

objectives of the Coastal Zone Management Program detailed in Chapter 205A, Hawaii Revised Statutes, as amended.

97. The project site lies outside the designated storm wave and tsunami inundation zones at a distance of approximately one lineal mile from the shoreline. No adverse impacts on marine ecosystems and water quality standards are expected from the project. The site is located outside of the County of Hawaii Special Management Area and thus no Hawaii Coastal Zone Management or Special Management Area Use permits are required. Furthermore, no wetlands are found on the project site and no U.S. Army Corps of Engineers Wetland permits are expected to be required.

INCREMENTAL DISTRICTING

98. Petitioner states that full development of the Property in accordance with the need therefore shall be substantially complete within five years after the date of final county zoning approval. Therefore, Petitioner believes that its request to reclassify the entire Property to the Urban District at this time is appropriate and that incremental districting is not warranted.

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 Commission by adoption herein, or rejected by clearly contrary findings of fact herein, are hereby denied and rejected.

Any conclusion of law herein improperly designated as a finding of fact should be deemed or construed as a conclusion of law; any finding of fact herein improperly designated as a conclusion of law should be deemed or construed as a finding of fact.

CONCLUSIONS OF LAW

Pursuant to Chapter 205 of the Hawaii Revised Statutes, as amended, and the Hawaii Land Use Commission Rules (1986), as amended, the Commission finds upon a clear preponderance of the evidence that the reclassification of the Property consisting of approximately 99.324 acres from the Agricultural land use district into the Urban land use district at Puapuaaiki and Puapuaanui, North Kona, Island, County and State of Hawaii, subject to the conditions stated in the Order, conforms to the standards for establishing the Urban district boundaries, is reasonable, non-violative of Section 205-5, Hawaii Revised Statutes, and is consistent with the policies and criteria established pursuant to Section 205-16, (the Hawaii State Planning Act, Chapter 226, Hawaii Revised Statutes, as amended), Section 205-17 (Land Use Commission decision-making criteria), and Section 205A-2 (Coastal Zone Management program objections and policies), Hawaii Revised Statutes.

ORDER

IT IS HEREBY ORDERED that the Property, consisting of approximately 99.324 acres, being the subject of this Docket

Number A88-632 by Pualani Development Company, situate at Puapuaaiki and Puapuaanui, North Kona, Island and County of Hawaii, State of Hawaii, identified as Tax Map Key (3) 7-5-17:28 and Portion of 29, and approximately identified in Exhibit "A" attached hereto and incorporated by reference herein, for reclassification from the Agricultural District to the Urban District, shall be and is hereby approved subject to the following conditions:

1. The Petitioner shall provide housing opportunities for low, low-moderate, and moderate income Hawaii residents by offering for sale at least thirty percent (30%) of the units in the petition area at prices which families with an income range of up to one hundred twenty percent (120%) of the County of Hawaii's median income can afford, and thirty percent (30%) of the units in the petition area at prices which families with an income range of one hundred twenty to one hundred forty percent (120-140%) of the County of Hawaii's median income can afford.

This condition may be fulfilled through projects under such terms as may be mutually agreeable between Petitioner, the Housing Finance and Development Corporation of the State of Hawaii and the County including the construction of rental units to be made available at rents which families in the specified income ranges can afford.

In addition, Petitioner may obtain the special credit, as may be determined by the Housing Finance and Development

Corporation and the County, for the provision of housing affordable to persons with very low incomes (those earning less than fifty percent (50%) of the County of Hawaii's median income) and for the provision of housing for special needs groups, as may be determined by the Housing Finance and Development Corporation and the County.

Insofar as possible, the Petitioner shall implement this affordable housing requirement concurrently with the completion of market priced units for the residential project. The determination of median income, as the term is used in this condition, shall be based on median income published by the United States Department of Housing and Urban Development at the time that construction of such housing units is commenced.

2. The Petitioner shall preserve site T-37; shall archaeologically test sites T-15 and T-56 and then, with the State Department of Land and Natural Resources (DLNR), Historic Sites Section's approval, either preserve or archaeologically data recover these two sites; and shall archaeologically data recover the remaining 55 significant historic sites within the petition area. The Petitioner shall prepare a detailed historic preservation mitigation plan to carry out these commitments. This plan must be approved by the DLNR, Historic Sites Section and the County of Hawaii, Planning Department before it is implemented. The plan shall consist of two subparts: an archaeological data recovery plan and a

preservation plan. The former shall address the sites that are to undergo data recovery; the latter shall address the site(s) to be preserved. The latter shall include buffer zones around the site, protection measures during construction, and long-term preservation measures. The Historic Sites Section and County of Hawaii, Planning Department shall verify successful execution of the plan. All archaeological data recovery fieldwork must be verified as concluded and all protection measures for site(s) to be preserved must be verified as in place before land alteration activities may begin.

3. The Petitioner shall commit to the construction of a wastewater treatment works, which must conform with the requirements of Hawaii Administrative Rules, Title 11, Department of Health, Chapter 62, Wastewater Systems, effective December 10, 1988. The Petitioner shall base the final placement of the wastewater disposal system, which must be acceptable to the State Department of Health regulations, on the information obtained through the general survey of public and private potable water supply wells contained in Petitioner's Exhibit 22.

4. The Petitioner shall fund and construct transportation improvements necessitated by the proposed development and identified by the State Department of Transportation. Improvements would include internal boundary

stub roads to connect with adjacent developments and a fully channelized intersection with deceleration, acceleration and left-turn storage lanes conforming to current highway design standards. Traffic signals should be provided by the developer when warranted and deemed necessary by the State Department of Transportation. The necessary conduits should be installed at the outset of the development project. The Petitioner shall submit plans for all work within the State highway right-of-way to the State Department of Transportation for its review and approval.

5. The Petitioner shall submit a drainage study for the proposed project to the State Department of Transportation for its review and approval.

6. The Petitioner shall provide its pro rata share for school facilities as may be required by and to the satisfaction of the State Department of Education.

7. The Petitioner shall provide its pro rata share for police, park and fire facilities as may be required by and to the satisfaction of the County of Hawaii Planning Department.

8. The Petitioner shall participate in an air quality monitoring program as specified by the State Department of Health.

9. In the event that the County of Hawaii adopts an impact fee ordinance which addresses impacts of the project on public services and facilities, the foregoing fair share

contributions shall be included as a credit against any specific impositions included in the County's impact fee computations.

10. Petitioner shall provide mitigation measures such as setbacks, walls or housing unit designs, to mitigate increase noise levels and decrease air quality from the Queen Kaahumanu Highway extension, as may be required and to the satisfaction of the State Department of Health and the County of Hawaii. These improvements shall be implemented on a schedule acceptable to and approved by the State Department of Health and the County of Hawaii.

11. Petitioner shall complete the development on the Property in substantial compliance with representations made before the Land Use Commission.

12. Petitioner shall notify the Commission of any intent to sell, lease, assign, place in trust, or otherwise voluntarily alter the ownership interest in the Property prior to visible commencement of construction on the Property; provided, however, that Petitioner may transfer ownership in the Property to an affiliate or in a manner consistent with prior representations to the Commission, and may mortgage the Property at any time without notice to the Commission.

13. Petitioner shall provide annual reports to the Land Use Commission, the Office of State Planning and the County of Hawaii Planning Department in connection with the

status of the subject project and Petitioner's progress in complying with the conditions imposed.

14. The Commission may fully or partially release these conditions as to all or any portion of the Property upon timely motion, and upon the provision of adequate assurance of satisfaction of these conditions by the Petitioner.

DOCKET NO. A88-632 - PUALANI DEVELOPMENT COMPANY

Done at Honolulu, Hawaii, this 13th day of September 1989,
per motion on August 10, 1989.

LAND USE COMMISSION
STATE OF HAWAII

By (absent) _____
RENTON L. K. NIP
Chairman and Commissioner

By Laurence F. Chun _____
LAWRENCE F. CHUN
Vice Chairman and Commissioner

By Allen K. Hoe _____
ALLEN K. HOE
Commissioner

By Sharon R. Himeno _____
SHARON R. HIMENO
Commissioner

By James M. Shinno _____
JAMES M. SHINNO
Commissioner

By Elton Wada _____
ELTON WADA
Commissioner

By Eusebio Lapenia, Jr. _____
EUSEBIO LAPENIA, JR.
Commissioner

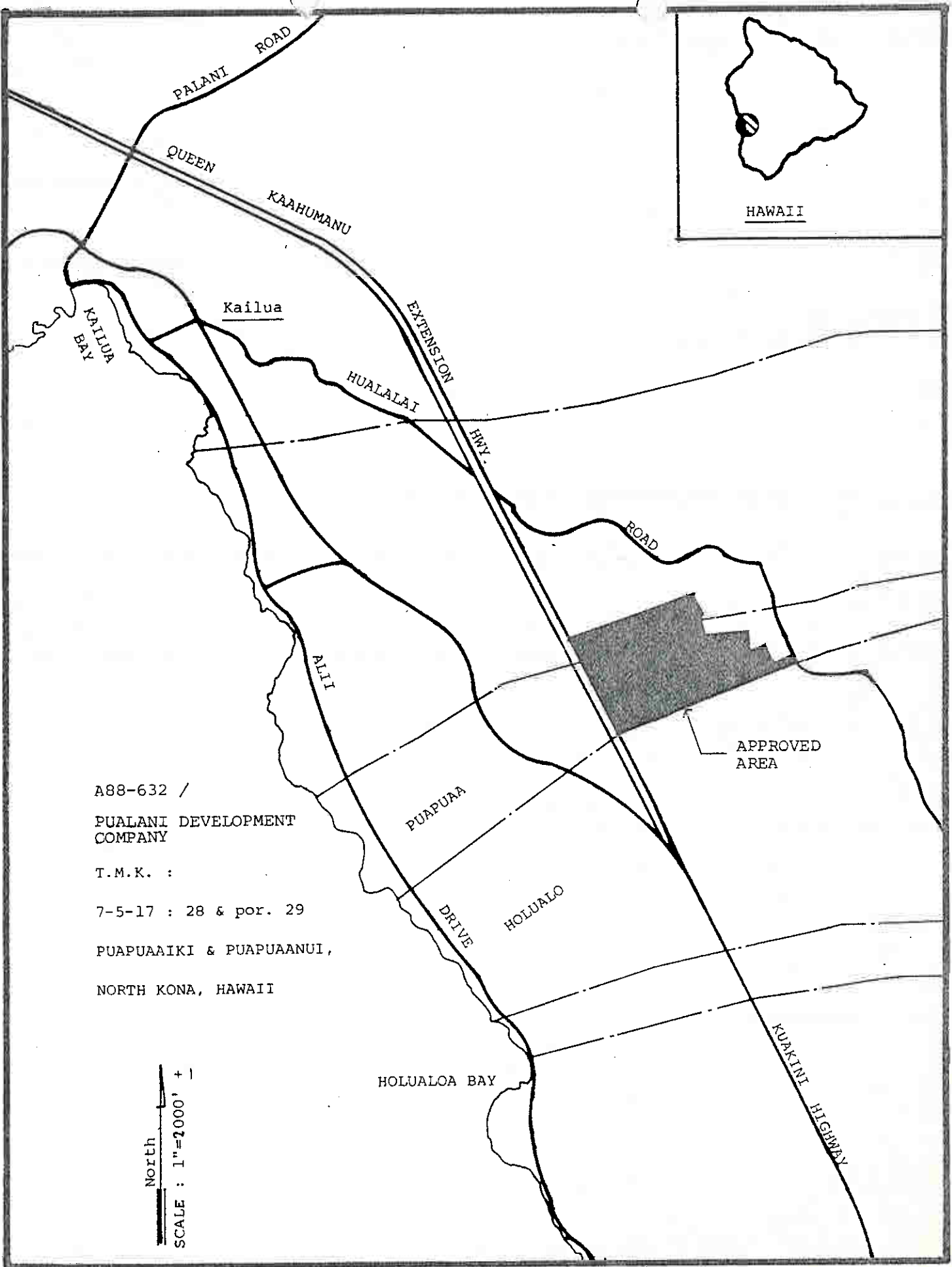
By Frederick P. Whittemore _____
FREDERICK P. WHITTEMORE
Commissioner

By (absent) _____
ALLEN Y. KAJIOKA
Commissioner

Filed and effective on
September 13, 1989

Certified by:

Robert Lee
Executive Officer



A88-632 /
 PUALANI DEVELOPMENT
 COMPANY
 T.M.K. :
 7-5-17 : 28 & por. 29
 PUAPUAAIKI & PUAPUAANUI,
 NORTH KONA, HAWAII

North
 SCALE : 1"=2000' + 1

EXHIBIT "A"

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of)	DOCKET NO. A88-632
PUALANI DEVELOPMENT COMPANY)	
To Amend the Agricultural Land)	PUALANI DEVELOPMENT
Use District Boundary into the)	COMPANY
Urban Land Use District for)	
approximately 99.324 acres at)	
Puapuaaiki and Puapuaanui, North)	
Kona, Island, County and State)	
of Hawaii, Tax Map Key Nos.)	
7-5-17:28 and portion of 29)	

CERTIFICATE OF SERVICE

I hereby certify that a copy of the Findings of Fact, Conclusions of Law and 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:

HAROLD S. MASUMOTO, Director
Office of State Planning
State Capitol, Room 410
Honolulu, Hawaii 96813

CERT. DUANE KANUHA, Planning Director
Planning Department, County of Hawaii
25 Aupuni Street
Hilo, Hawaii 96720

CERT. STEVEN S. C. LIM, ESQ., Attorney for Petitioner
Case & Lynch
275 Ponahawai Street, Suite 201
Hilo, Hawaii 96720

DATED: Honolulu, Hawaii, this 13th day of September 1989.



ESTHER UEDA
Executive Officer