BEFORE THE LAND USE COMMISSION

OF THE STATE OF HAWAII

In the Matter of the Petition of HASEKO (HAWAII), INC. To Amend the Agricultural Land Use District Boundary into the Urban Land Use District for Approximately 125.041 Acres at Kalaoa 5th, North Kona, Hawaii, State of Hawaii, Tax Map Key No.: 7-3-10: Portion 27	DOCKET NO. A89-645 HASEKO (HAWAII), INC.

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.

FEB 0 6 1990 by _____
Date **Executive Officer**

LAND USE COMMISSION
STATE OF HAWAII
FEB 6 10 52 AM '90

FINDINGS OF FACT,
CONCLUSIONS OF LAW, AND DECISION AND ORDER

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In the Matter of the Petition of HASEKO (HAWAII), INC. To Amend the Agricultural Land Use District Boundary into the Urban Land Use District for Approximately 125.041 Acres at Kalaoa 5th, North Kona, Hawaii, State of Hawaii, Tax Map Key No.: 7-3-10: Portion 27	)	DOCKET NO. A89-645 HASEKO (HAWAII), INC.

FINDINGS OF FACT,
CONCLUSIONS OF LAW, AND DECISION AND ORDER

HASEKO (HAWAII), INC., a Hawaii corporation (hereinafter "Petitioner"), filed a Petition on July 21, 1989, and an amendment to Petition on August 30, 1989, pursuant to Chapter 205, Hawaii Revised Statutes, as amended (hereinafter "HRS"), and Title 15, Subtitle 3, Chapter 15, Hawaii Land Use Commission Rules, as amended (hereinafter "Commission Rules"), to amend the Land Use District Boundary of approximately 125.041 acres of land situate at Kalaoa 5th, North Kona, Island and County of Hawaii, State of Hawaii, Hawaii Tax Map Key No.: 7-3-10: portion of 27 (hereinafter "Property"), from the Agricultural District to the Urban District for a residential community. The Hawaii State Land Use Commission (hereinafter "Commission"), having heard and examined the testimony, evidence and arguments of counsel presented during the hearing, and the parties' proposed stipulated findings of fact,

conclusions of law and decision and order, hereby makes the following findings of fact and conclusions of law:

FINDINGS OF FACT

PROCEDURAL MATTERS

1. Petitioner filed a Petition for a Land Use District Boundary amendment on July 21, 1989, and amendment to Petition on August 30, 1989.

2. Petitioner is Haseko (Hawaii), Inc., a Hawaii corporation, with its principal place of business and mailing address at 820 Mililani Street, Suite 820, Honolulu, Hawaii, 96813.

3. The Commission conducted a hearing [was held] on the Petition on November 16 and 17, 1989, pursuant to notices published on October 5, 1989 in the Honolulu Advertiser and the Hawaii Tribune Herald, newspapers of general circulation.

4. The Commission allowed Joe Almeida to testify as a public witness and accepted the written testimony of William R. Coops on November 16, 1989.

5. A timely petition for intervention was received by the Commission from Elizabeth Ann Stone without the required $50.00 filing fee. Ms. Stone failed to serve the petition for intervention on the parties. In addition, Ms. Stone failed to appear at the hearing on either November 16 or 17, 1989. The Commission accordingly granted Petitioner's motion to dismiss Ms. Stone's petition for intervention on November 17, 1989.

DESCRIPTION OF THE PROPERTY

6. The Property is situated at Kalaoa 5th, North Kona, Hawaii, approximately eight miles north of central Kailua-Kona.

7. The Property is adjacent to and south of the lower or makai half of the Kona Palisades Subdivision, a residential subdivision in the State Land Use Urban District. The Keahole Airport, Hawaii Ocean Science and Technology (hereinafter "HOST") Park and Natural Energy Laboratory of Hawaii (hereinafter "NELH") are situated makai of the Property. There are also other Urban designated single family residential subdivisions situated to the northeast, east and southeast of the Property along the Hawaii Belt Road.

8. The Property represents a 125-acre portion of a 140-acre development known as Pu'uhonua Subdivision (hereinafter the "Project"). The first 15 acres, situated immediately mauka of the Property, was reclassified from the Agricultural to the Urban Land Use District by the County of Hawaii (hereinafter the "County") on May 22, 1989, in accordance with Section 205-3.1(c), HRS, and under County of Hawaii Ordinance No. 89-66. Subsequently, the County rezoned the subject 15-acre parcel to Single Family Residential, with a minimum lot size of twenty thousand square feet (RS-20) under County Ordinance No. 89-67.

9. The Property is owned in fee simple by Petitioner.

10. The Queen Kaahumanu Highway is situated makai of the Property and the Mamalahoa Highway (also known as the "Belt Highway") is situated mauka of the Property. Ka'iminani Street runs mauka-makai through the Kona Palisades Subdivision, parallel to the Property, connecting with the Queen Kaahumanu Highway at the makai side and the Belt Highway at the mauka end.

11. Access into the Property is provided through the side streets intersecting Ka'iminani Street. In addition, Hi'olani Street, extending from the Kona Acres Subdivision provides access to the 15 acres of Pu'uhonua Subdivision adjoining the Property.

12. The Property is presently vacant and open, with some scrubby vegetation.

13. The United States Department of Agriculture (USDA), Soil Conservation Service's Soil Survey for the Island of Hawaii, classifies the land as being of the Punaluu (rPYD) Series and Pahoehoe (rLW) and Aa (rLV) lava flows.

14. The Punaluu Series consists of well-drained, thin organic soils over pahoehoe lava bedrock. The surface layer is black peat about four inches thick. The peat is rapidly permeable. The pahoehoe lava is very slowly permeable, although water moves rapidly through the cracks. Runoff is slow and the erosion hazard is slight. Aa lava has practically no soil covering and is bare of vegetation except for mosses, lichens, ferns and a few small ohia trees. This lava is rough

and broken and consists of a mass of clinkery, hard, glassy, sharp pieces piled in tumbled heaps.

15. The Property is presently unrated under the Agricultural Lands of Importance in the State of Hawaii (ALISH) classification system. The University of Hawaii's Land Study Bureau's Overall Master Productivity Rating of the Property for agricultural use is Class E or very poor.

16. The elevation of the Property in a makai to mauka orientation ranges from 420 feet to 820 feet above sea level. The average slope of the Property is about ten percent, with the steeper portion being the mauka area.

17. The Property is not any more susceptible to potential lava inundation or earthquake than any other site along the North Kona coast.

18. The climate in the area is considered semi-arid. The average temperature ranges from 70 to 78 degrees Fahrenheit.

19. Rainfall at the lower end of the Property averages about 20 inches per year, and increases to about 45 inches per year at the upper end.

20. According to the Flood Insurance Rate Map (FIRM) prepared by the U.S. Army Corps of Engineers, the Property is located within Zone X (areas outside of the 500-year flood plain.) There is also no major or discernible drainage problems within the Property.

DESCRIPTION OF THE PROPOSED DEVELOPMENT

21. Petitioner proposes to develop a 479-unit residential community consisting of single family lots, multi-family townhouses, a neighborhood shopping center, a passive park, a sewage treatment plant and related infrastructure.

Residential Lots and Townhouse Units

22. Petitioner proposes to develop the Property into a series of 15,000, 10,000 and 7,500-square foot single family residential lots, with the larger lots being located on the mauka end of the Property. Petitioner proposes to develop the adjoining 15-acre parcel into twenty-four 20,000-square foot single family residential lots.

23. Petitioner proposes to sell vacant single family lots and to impose restrictive deed covenants which would provide some design constraints to eliminate the possibility of ohana zoning or ohana dwellings on the single-family residential lots.

24. A series of multi-family townhouses is being proposed to be located on the lower or makai end of the Property. Petitioner intends to be the developer of these townhouse units.

25. Petitioner also proposes to provide sixty percent of the 479 residential units of the Project (the Project includes the Property together with the adjoining fifteen acres) as affordable housing units.

26. Petitioner is willing to provide the affordable housing on the Property if Petitioner receives the necessary land use permits to allow Petitioner to develop approximately 479 residential units as proposed by Petitioner, and to construct the affordable housing units as multi-family townhouses.

27. In the event that the County does not approve a project density which can support the provision of affordable housing, Petitioner proposes to construct off-site affordable housing or to pay an in-lieu fee for the development of affordable housing.

28. Petitioner proposes to market the residential units in the Project locally through a real estate agent in the Kona area.

Commercial Development

29. Petitioner proposes to develop a 4.5-acre area within the Property for a neighborhood shopping center in order to provide for the neighborhood commercial needs of the residents of the Project.

30. The shopping center is expected to provide between 40,000 to 50,000 square feet of commercial space. Petitioner intends to be the developer of this commercial area.

Park Development

31. Petitioner proposes to develop a 2-acre passive park near the neighborhood shopping center and townhouses,

which would provide more open space to the commercial and high density portions of the Project.

Proposed Road, Sewer and Other Infrastructure

32. The roadways for the Project include a major 60-foot right-of-way with curbs, gutters and sidewalks running mauka-makai through the spine of the Project and minor connector roads and cul-de-sacs providing access to the driveways of the individual lots.

33. The major road in the Project is proposed to be an extension of the existing Hi'olani Street. This proposed extension will eventually hook up to the lower end of Ka'iminani Street through State-owned property, below the Kona Palisades Subdivision.

34. Petitioner has requested and received a right-of-entry from the State Department of Land and Natural Resources to conduct preliminary archaeological studies necessary for the acquisition of a 300-foot right-of-way through State-owned land immediately makai of the Property to be used as the makai connection between the major road in the Project and Ka'iminani Street.

35. Petitioner has also acquired the fee simple interest in a makai 10,000 square-foot parcel of land within Kona Palisades Subdivision for an alternate connector between Ka'iminani Street and the proposed Hi'olani Street extension if the Petitioner's preferred route through State-owned land is not approved.

36. The roadway system for the Project is designed to divert traffic away from Ka'iminani Street.

37. Sewage disposal for the Project is intended to be handled by a system of collection sewers, a sewage treatment plant and a leaching field to dispose of the treated effluent.

38. The sewage treatment plant is intended to be constructed near the makai boundary of the Property below the Department of Health's Underground Injection Control (UIC) Line.

39. Other proposed infrastructure improvements consist of a drainage system to control surface water runoff, a potable water system, and power and communication facilities. Petitioner is committed to developing such infrastructure improvements.

Development Timeframe and Costs

40. Kirkland Whittle, Petitioner's project and construction manager, estimates that the cost of the Project to be approximately $36 million for the infrastructure, approximately $4 million for the shopping center, and approximately $16 million for the townhouses.

41. Petitioner proposes to commence construction within the Property immediately upon receipt of all State and County land use approvals, and to substantially complete the development of the Property within five years after the date of final County zoning approvals.

PETITIONER'S FINANCIAL CAPABILITY
TO UNDERTAKE THE PROPOSED DEVELOPMENT

42. Petitioner's balance sheet dated March 31, 1989, lists assets of the company at $147,592,574 and liabilities at $147,592,574.

43. Petitioner has also submitted the 1989 annual report of Haseko Corporation, a Japanese corporation, which is the parent company of Petitioner. This annual report describes the overall structure and provides a financial summary for Haseko Corporation.

44. Petitioner has also submitted letters from First Hawaiian Bank and Central Pacific Bank which indicate the lines of credit or the amount of funds immediately available from these two banks for use by petitioner.

45. Petitioner presently has unsecured lines of credit of $27 million from First Hawaiian Bank and $15 million from Central Pacific Bank. In addition, Petitioner intends to request an increase to its lines of credit with local banks in the State of Hawaii to approximately $100 million early in 1990.

46. Petitioner has had extensive experience in the development of hotel and condominium properties in the State of Hawaii.

47. Petitioner has used its lines of credit to finance other projects in the past and intends to use its lines of credit to finance the Project.

STATE AND COUNTY PLANS AND PROGRAMS

48. The Property is designated within the State Land Use Agricultural District as reflected on the Land Use District Boundary Map H-2, Keahole.

49. The County of Hawaii General Plan Land Use Pattern Allocation Guide (LUPAG) Map designates the Property as Alternate Urban Expansion (AUE). Residential and neighborhood commercial uses may be allowed in areas designated AUE.

50. The 1988 draft West Hawaii Regional Plan prepared by the Office of State Planning identifies the Property as within the Kailua-Kona to Keahole Urban Expansion Planning Area.

51. The County's Kona Regional Plan Land Use concept Map designates the Property for residential uses with a density of four and five units per acre.

52. The County Planning Department's Keahole to Kailua Development Plan draft released in September, 1989, designates the area for residential uses.

53. The County zoning designation for the Property is Unplanned (U). This zoning district applies to those areas that, as of 1967, when the Zoning map for the area was initially adopted, were not studied sufficiently to adopt specific zoning district classifications.

54. The Property is not within the County's Special Management Area (SMA).

NEED FOR THE PROPOSED DEVELOPMENT

55. Petitioner's market study, prepared in March 1989 by the Hallstrom Appraisal Group, Inc., indicates that there will be a need for an additional 30,000 housing units over the next twenty years in order to meet all income levels of housing demands in West Hawaii. There is a need at the present time for upwards of 3,000 housing units in the market in West Hawaii and a future need of approximately 1,400 to 1,500 additional housing units per year over the next twenty years.

56. The in-place and currently proposed housing inventory or supply is and will be insufficient to meet all market housing required.

57. Petitioner proposes to provide an additional 479 units of housing in West Hawaii through the Project within an approximate five-year period.

58. Petitioner's market study found that the Kalaoa-Kealakehe area, in which the Project is situated, is one of the most underserviced communities in the entire state from a commercial perspective.

59. Petitioner's market study also estimates that the residents of the Project would generate a need for approximately 40,000 to 50,000 square feet of commercial space to keep the community at the level of service that is adequate for any suburban or rural community.

60. Petitioner proposes the development of a 4.5-acre neighborhood shopping center with approximately 40,000 to

50,000 square feet of commercial space designed primarily to capture the neighborhood commercial needs of the residents of the Pu'uhonua Subdivision.

IMPACT UPON RESOURCES OF THE AREA

Agricultural Resources

61. The Property is not being used for any agricultural activity.

62. Petitioner's agricultural impacts study prepared by Decision Analysts Hawaii, Inc. concludes that since no agricultural activities are taking place within the Property and since the land is unsuited for the cultivation of crops, the development of the Project would not adversely affect the growth of diversified agriculture.

63. The State Department of Agriculture also indicates that it did not foresee adverse impacts upon the agricultural resources of the area should the subject Petition be approved and the proposed residential development constructed.

Air Quality

64. Petitioner anticipates that there is a potential for short-term air quality impacts from the fugitive dust associated with the construction activity. Petitioner's air quality study indicates that fugitive dust problems can be mitigated through adequate dust control measures employed during the construction.

65. Petitioner has represented that it will implement dust control measures during construction, which measures will include watering and early landscaping.

Archaeological/Historical Resources

66. Petitioner's archaeology expert, Paul. H. Rosendahl conducted a field survey of the Project site. A second survey was conducted for the 300 foot corridor of State-owned land proposed for the subdivision road connection to Ka'iminani Drive.

67. The survey for the Project site revealed 34 sites, of which 25 sites were assessed as significant solely for scientific information content. Further data recovery was recommended for ten of the 25 sites, with no further work being recommended for the remaining 15 sites, since sufficient information was obtained during the survey from these sites.

68. The nine remaining sites within the Project site were assessed as important and further data collection was recommended for either of these sites.

69. Only two sites were revealed in the road corridor survey. No further work was recommended for either of these sites.

70. The preparation and implementation of an archaeological data recovery and preservation plan developed in conjunction with the State Department of Land and Natural Resources, State Parks Historic Sites Division, is recommended

by Petitioner's archaeological consultant to mitigate the impacts of the development on the archaeological resources.

71. Petitioner represents that it intends to follow the recommendations of its archaeological expert and will fund and implement a data recovery and historic preservation mitigation plan. Petitioner also represents that it will accept the recommendations of the County Planning Department and the State Department of Land and Natural Resources, State Parks Historic Sites Division regarding the historic sites on the Project site.

Flora and Fauna

72. Petitioner's consultant, Andrew Berger, conducted a biological survey and assessment of the terrestrial vertebrate animals on the Project site and concluded that the Project site does not have any history of being a habitat for threatened or endangered animal species.

73. Petitioner's botanical consultant, Char and Associates, conducted a botanical survey in 1988. The study noted that the general vegetation on the Project site is open scrub at the upper elevations of the subject site changing to grassland at the lower elevations.

74. Seventy-one plant species were found throughout the Project site of which 50 species or 70 percent were exotic or alien species, five or 7 percent were species of Polynesian introduction, and 16 species or 23 percent were native or presumed native species. One of the species, Caesalpinia

kavaiensis, also called the uhiuhi, is officially listed as endangered. Another species, the nehe or Lipochaeta cf. vinosa, may be considered endangered. The Ko'oko'olau of Bidens micrantha is considered rare and vulnerable.

75. Petitioner's botanical consultant recommends that the uhiuhi, a large tree with deep set roots, be preserved in its present location on the Property in a park area of a maximum of 15,000 square feet, down to a minimum area of 5,000 square feet. Other native plants, including the nehe and the Ko'oko'olau could be moved to this park area for preservation purposes.

76. Because the uhiuhi is an endangered species, a management plan would have to be established for the preservation of this species acceptable to the State Department of Land and Natural Resources, Division of Forestry and Wildlife.

77. Petitioner has represented that it will take appropriate measures to protect the endangered species on the Property and will accept the recommendations of the Department of Land and Natural Resources and follow any federal guidelines with respect to endangered species.

Water Quality

89. The HOST park and NELH are situated directly makai of the Property and their ocean related operations are dependent upon the use of sea water. The attraction for companies to locate at NELH/HOST is the availability of

nutrient rich, near pathogen-free water. Representatives of the HOST park have expressed a concern about maintaining the quality of the water that it uses. The Office of State Planning (OSP) indicates that additional details regarding proposed wastewater management and disposal plans are needed to assess the impacts of the Project upon NELH/HOST Park operations.

79. Effects of the disposal of sewage effluent upon the ground waters and the coastal waters in the vicinity of the Property were analyzed in a study by Petitioner's consulting civil engineer, M & E Pacific.

80. The study looked at the flow or the nature of the percolation through the media from the proposed effluent leaching field to the groundwater table, and from the groundwater table into the coastal zone or the shoreline waters. M & E Pacific estimates that the time of travel of the effluent down from the surface to the groundwater table to be between one to two months. The seepage to the shoreline, which is over a length of about 11,000 feet, would take about one year. In addition, as the effluent travels, dispersion will be occurring which will reduce the concentration. The study concludes that as the effluent reaches the shoreline the mixing and dispersion because of wave action would make the overall impact of seepage insignificant.

81. Petitioner's consulting engineer notes that the closest drinking water well in the vicinity is a little less

than one mile upgrade from the effluent disposal area. In addition, the leaching field is proposed to be located below the UIC line. Petitioner's consulting engineer concludes that the disposal of sewage effluent from the Project would not result in any substantial adverse impact upon the groundwater in the vicinity of the Property.

82. Petitioner's consulting engineer also concludes that, based upon the study conducted, there would not be any substantial adverse impact upon the nearshore waters as a result of the disposal of sewage effluent from the Project; nor would there be any adverse impact caused by the method proposed to dispose of surface water runoff. However, this conclusion was reached without the benefit of data from any baseline study of nearshore waters or groundwater.

83. It was the opinion of Petitioner's consulting engineer that the method of wastewater disposal proposed for the Project would not have any adverse impact on the quality of water used by HOST and NELH operations.

84. OSP remains concerned about water quality and would like to see baseline studies performed and monitoring programs implemented in conjunction with HOST park, NELH and the Department of Health (DOH).

ADEQUACY OF PUBLIC SERVICES AND FACILITIES

Roadway and Highway Services and Facilities

85. Petitioner intends to construct a 60-foot wide mauka-makai road paralleling Ka'iminani Street and connecting

to Ka'iminani Street at the lower portion of the Property. Ka'iminani Street, which is the primary access to the Kona Palisades Subdivision, is a mauka-makai connector between the Queen Kaahumanu Highway and the Hawaii Belt Road. This roadway has a 60-foot wide right-of-way with a 20-foot wide pavement.

86. The Queen Kaahumanu Highway-Ka'iminani Street intersection is channelized with separate turning lanes. The mauka Hawaii Belt Road-Ka'iminani Street intersection is not channelized.

87. A traffic impact assessment report, prepared by Petitioner's traffic consultant, concludes that the Project is not expected to have an adverse traffic impact upon the adjacent street system. The report also concludes that the traffic operations on Ka'iminani Street intersections with the side streets and Mamalahoa Highway are expected to be at acceptable levels of service.

88. The traffic impact assessment report notes that the intersection at Queen Kaahumanu Highway will eventually require some form of traffic improvement, such as signalization, sometime in the future due to growth of through traffic on Ka'iminani Street.

89. Petitioner's traffic consultant concludes that the traffic problem at the Queen Kaahumanu Highway intersection was a regional problem and was not a problem that would be caused solely by the Project.

90. OSP has expressed a preference for grade separations at major road intersections of Queen Kaahumanu Highway instead of signalization, in order to maintain Queen Kaahumanu Highway as a major highway and not an urban arterial.

91. Petitioner represents that it would be willing to pay for its proportionate share of the regional traffic improvements that may be required by the State Department of Transportation for the Ka'iminani-Queen Kaahumanu Highway intersection.

Water Service

92. Petitioner currently has 101 units of water commitments from the County of Hawaii Department of Water Supply of which 24 units will be used for the 15-acre parcel that is already zoned RS-20. The demand for water for the Project, including the Property, is estimated at approximately 0.2 million gallons per day.

93. Since the remaining 77 units of water commitments are insufficient to accommodate all of the Project, Petitioner has begun processing an application to drill an exploratory well on State-owned land for the purpose of locating and developing an additional source of potable water. If the test well proves successful, Petitioner intends to turn the well over to the County Department of Water Supply in exchange for being provided with the remaining water commitments required for the Project. In the event that this test well does not

prove successful, Petitioner is committed to fund and develop any necessary water source and transmission facility to service its Project.

94. Other water system improvements for the Project, including the Property, include one 0.5 million gallon (MG) on-site reservoir and one 0.25 MG off-site reservoir. These improvements will be funded by Petitioner.

Sewage Treatment and Disposal

95. There is no municipal sewage system presently extending to the Property. Therefore, Petitioner intends to construct its own private sewage treatment plant on the makai portion of the Property.

96. The proposed sewage treatment disposal system will consist of a wastewater collection system, treatment plant, and effluent disposal system. The estimated wastewater flow from the Project is approximately 283,500 gallons per day.

Solid Waste Disposal

97. There is no government operated pick-up service for solid waste within the County of Hawaii. Currently, solid waste from the area in which the Project is situated is disposed of at the Kailua landfill. A new landfill is proposed for operation in early 1991.

98. Petitioner's civil engineering consultant estimates that since the projected solid waste from the Project will be rather small, the development should not adversely impact or unduly burden the existing solid waste facilities.

Drainage Systems

99. The existing surface water runoff generated on-site totals approximately 70 cubic feet per second (cfs) and sheet flows into the adjacent vacant lot. The Project is estimated to increase the amount of surface water runoff to 223 cfs.

100. Petitioner proposes to construct drywells within the Project to dispose of the surface water runoff. The number of drywells would be determined during the design process for the Project and the design of these drywells would be in accordance with County of Hawaii standards.

Electrical and Telephone Services

101. Electrical and telephone services are or can be made available to the Project; including the Property. A location for the necessary electric sub-station, either on-site or near-site, has to be finalized with the Hawaii Electric Light Company (HELCO). Petitioner is also committed to developing infrastructure improvements such as underground utilities.

Police and Fire Protection

102. The Property is within an existing serviceable region by basic police and fire facilities. The police station is situated at Kealakehe, a distance of approximately three miles from the Property. Fire protection is provided by Kailua-Kona fire station which is approximately six miles from the Property.

103. Petitioner represents that it would be willing to pay for its proportionate share of the cost for police and fire services that are attributable to the impacts created by the Project.

Schools

104. Existing public schools servicing the area include Kealakehe Elementary and Intermediate School (K-8) and Konawaena High School

105. Although the State Department of Education, Hawaii District, had no objection to the proposed development, OSP has expressed concern regarding the impact of the increased student enrollment from the Project upon the existing school facilities.

106. Petitioner represents that it would be willing to pay for its proportionate share of the cost for schools that is attributable to the impacts created by the Project.

Park and Recreation Services and Facilities

107. Petitioner is proposing to develop a 2-acre passive park within the Property, which Petitioner would be willing to dedicate to the County of Hawaii.

108. The County Department of Parks and Recreation has indicated that a 7.5-acre park site would be required based upon its desired ratio of five acres of park per 1,000 persons. However, the Department of Parks and Recreation indicates that it does not have the resources to either develop or maintain such a park area.

CONFORMANCE TO URBAN DISTRICT STANDARDS

109. The Project meets the standards applicable in establishing boundaries of the Urban District set forth in Section 15-15-18 of the Commission's Rules as follows:

a. The Project is in reasonable proximity to centers of trading and employment facilities. The subject site is proximate to several employment centers, including the resort center of Keauhou and the resort/commercial center of Kailua. It is also less than three miles away from the Kaloko Industrial Park, Keahole Airport, and the NELH. It is also situated in an area where a number of people commute to the resort destination areas in South Kohala.

b. Petitioner has substantiated the economic feasibility of the Project, through its market study, the estimated costs of Project, and the growing demand for the types of housing opportunities proposed for the Project.

c. The Property is in proximity to existing basic services such as water, sanitation, schools, police and fire protection.

d. There is sufficient reserve areas for urban growth in Kona and West Hawaii based on a ten-year projection.

e. The Property is of satisfactory topography with a gentle slope not exceeding 20 percent. The Property is also reasonably free from the threat of flooding, tsunami, unstable soil and other adverse environmental effects.

f. The Property is contiguous to an Urban District to the north, and the eastern portion of the Project is designated Urban. The Urban designation for the Property is also consistent with the county General Plans in that it is designated Alternate Urban Expansion on the County General Plan LUPAG Map and designated for residential use in the Kona Regional Plan.

g. The urbanization of the Property will not contribute towards scattered spot urban development, necessitating unreasonable investment in public supportive service,s since it is contiguous to an existing urban and residential area. In addition, the urbanization of the Property functionally amounts to an urban in-filling of the area between Keahole and Kailua.

CONFORMANCE WITH THE HAWAII STATE PLAN

110. The proposed reclassification is generally consistent with the objectives, policies and priority guidelines of the Hawaii State Plan for the physical environment, relating to land, air and water quality; for socio-cultural advancement relating to housing; for population growth and land resources; and for affordable housing. The proposed reclassification:

a. Provides for an urban development in close proximity to existing services and facilities (Section 226-13(b)(7), HRS);

b. Provides 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 (Section 226-19(a)(1), HRS);

c. Stimulates and promotes feasible approaches that increase housing choices for low-income, moderate-income, and gap-group households (Section 226-19(b)(2), HRS);

d. Increases home ownership and rental opportunities and choices in terms of quality, location, cost, densities, style and size of housing (Section 226-19(b)(3), HRS);

e. Promotes design and location of housing developments taking into account the physical setting, accessibility to public facilities and services and other concerns of existing communities and surrounding areas (Section 226-19(b)(5), HRS);

f. Makes available marginal or non-essential agricultural lands for appropriate urban uses while maintaining agricultural lands of importance in the agricultural district (Section 226-104(b)(2), HRS); and,

g. Encourages public and private sector cooperation in the development of rental housing alternatives (Section 226-106(6).

111. Given the shortage of housing in West Hawaii, the proposed reclassification is generally consistent with the State Housing Functional Plan.

CONFORMANCE TO COASTAL ZONE POLICIES AND OBJECTIVES

112. The proposed reclassification of the Property for the development of the Project conforms to the policies and objectives of the Coastal Zone Management Program, Chapter 205A, Hawaii Revised Statutes, as amended.

RULING ON PROPOSED FINDINGS OF FACT

Any of the proposed stipulated 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, Hawaii Revised Statutes, as amended, and the Hawaii Land Use Commission Rules, the Commission finds upon a preponderance of the evidence that the proposed reclassification of the Property, which is the subject of the Petition in Docket No. A89-645, by Haseko (Hawaii), Inc., consisting of approximately 125.041 acres of land

situated at Kalaoa 5th, North Kona, Island and County of Hawaii, Hawaii and identified as Hawaii Tax Map Key No. 7-3-10: portion of 27, from the Agricultural District to the Urban District, subject to the conditions stated in the Order, conforms to the standards for establishing the Urban boundaries, is reasonable, not violative of Section 205-2, Hawaii Revised Statutes, as amended.

ORDER

IT IS HEREBY ORDERED that the Property, being the subject of the Petition in Docket Number A89-645, filed by Haseko (Hawaii), Inc., consisting of approximately 125.041 acres of land, situate at Kalaoa 5th, North Kona, Island and County of Hawaii, State of Hawaii and identified as Hawaii Tax Map Key No.: 7-3-10: portion of 27, and approximately identified on Exhibit "A" attached hereto and incorporated by reference herein, shall be and the same is hereby reclassified from the Agricultural District to the Urban District and the State Land Use District Boundaries are amended accordingly, subject to the following conditions:

1. Petitioner shall provide housing opportunities for low, low-moderate, and moderate income Hawaii residents by constructing and offering for sale or rent a number of residential units equivalent to at least thirty percent (30%) of the total residential units within the Project at prices which families with an income range up to 120 percent of Hawaii County's median income can afford and at least thirty percent

(30%) of the total residential units within the Project at prices which families with an income range of 120 to 140 percent of Hawaii County's median income can afford. The "Project" includes the Property and the adjoining 15 acres. This affordable housing condition shall be satisfied by construction of housing units on-site. In the event that Petitioner does not receive all the required land use permit approvals from the County of Hawaii which would allow construction in substantial compliance with representations made before the Land Use Commission, then this condition shall be satisfied by the Petitioner by either the construction of on-site or off-site housing units or cash payments, or a combination thereof, that satisfy the then current housing needs, as approved by the State Housing Finance and Development Corporation and the County of Hawaii.

2. Petitioner shall participate in the funding and construction of transportation improvements at the intersection of Ka'iminani Street and the Queen Kaahumanu Highway as deemed necessary by the State Department of Transportation, provided that the extent of the Petitioner's participation shall not exceed the Project's share of the increased community traffic impacts in the region. A schedule for the implementation of the Petitioner's participation in any regional transportation improvements, including the total costs paid by Petitioner for such improvements, shall be provided to the Petitioner by the

State Department of Transportation within a reasonable time period after the effective date of this Decision and Order.

3. Petitioner shall fund and construct the necessary water source and transmission facility improvements for the Property as are required by the County Department of Water Supply.

4. Petitioner shall fund and construct the necessary sewage treatment facilities for the Property as are required by the State Department of Health.

5. Petitioner shall pay for its pro rata share for police, park, fire, and solid waste facilities as may be required by the County of Hawaii.

6. Petitioner shall pay for its pro rata share for school facilities as may be required by the State Department of Education. A schedule for the implementation of Petitioner's participation in any school facilities, including the total costs to be paid by Petitioner for such facilities, shall be provided to the Petitioner by the State Department of Education within a reasonable time period after the effective date of this Decision and Order.

7. Petitioner shall develop and implement a plan to mitigate the impacts of the Project on the endangered and threatened botanical species located on the Property in accordance with Federal and State guidelines. The plan shall be developed by the Petitioner prior to submission of a change of zone application for the Property to the County of Hawaii.

8. Petitioner shall develop and implement a plan to mitigate the adverse impact on the air quality caused by the fugitive dust during the construction on the Property. The plan shall include, among other dust control measures, a provision for early landscaping of the Property. The plan shall be developed by the Petitioner prior to submission of a change of zone application for the Property to the County of Hawaii.

9. Petitioner shall prepare a preservation and data recovery plan for all the significant historic sites on the Property, which plan shall be submitted to the Department of Land and Natural Resources, State Parks Historic Sites Division and the County of Hawaii Planning Department for their review and approval.

10. Petitioner shall immediately stop work on the impacted area and contact the State Historic Preservation Office should any archaeological resources such as artifacts, shell, bone, or charcoal deposits, human burial, rock or coral alignments, paving or walls be encountered during the construction of the Project.

11. Petitioner shall pay for its pro rata share for a baseline study and monitoring program regarding the impacts of the proposed development upon the nearshore waters as may be required by NELH and HOST Park. A schedule for the implementation of Petitioner's participation including the total costs to be paid by Petitioner shall be provided to the

Petitioner by NELH and HOST Park within a reasonable period of time after the effective date of this Decision and Order.

12. Petitioner shall give notice to the Land Use Commission of any intent to sell, lease, assign, place in trust or otherwise voluntarily alter the ownership interest in the Property prior to the development of the Property.

13. Petitioner shall develop the Property in substantial compliance with representations made to the Land Use Commission in obtaining the reclassification of the Property.

14. 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 Project and Petitioner's progress in complying with the conditions imposed in this Decision and Order.

15. 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. A89-645 - HASEKO (HAWAII), INC.

Done at Honolulu, Hawaii, this 6th day of February 1990, per motion on January 23, 1990.

LAND USE COMMISSION
STATE OF HAWAII

By _____
RENTON L. K. NIP
Chairman and Commissioner

By _____
FREDERICK P. WHITTEMORE
Vice Chairman and Commissioner

By _____
LAWRENCE F. CHUN
Commissioner

By _____
SHARON R. HIMENO
Commissioner

By (absent)
ALLEN K. HOE
Commissioner

By _____
ALLEN Y. KAJIOKA
Commissioner

By _____
EUSEBIO LAPENIA, JR.
Commissioner

By _____
JAMES M. SHINNO
Commissioner

By _____
ELTON WADA
Commissioner

Filed and effective on
February 6, 1990

Certified by:

_____
Executive Officer

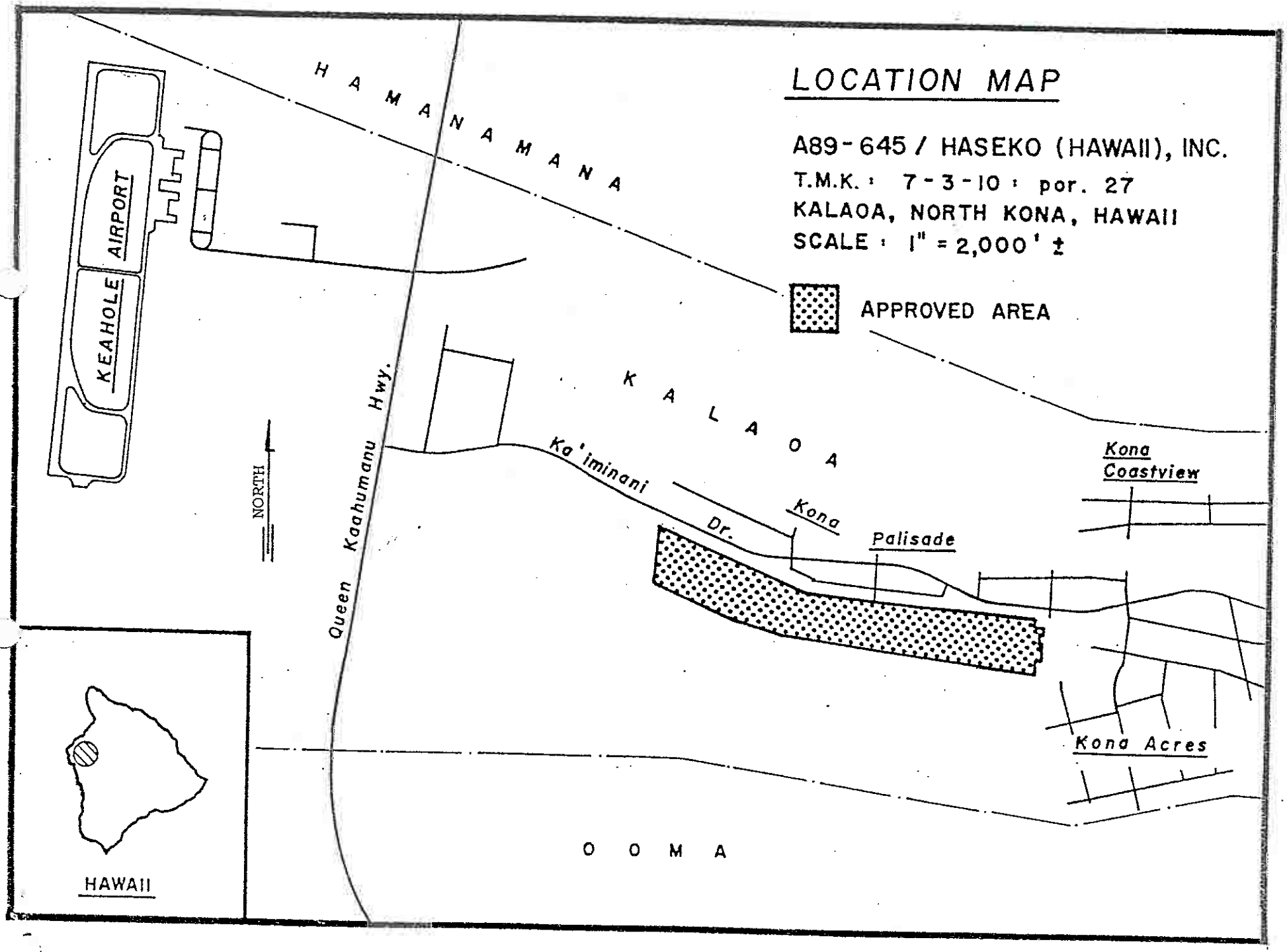
LOCATION MAP
A89-645 / HASEKO (HAWAII), INC.
T.M.K.: 7-3-10: por. 27
KALAOA, NORTH KONA, HAWAII
SCALE: 1" = 2,000' ±
APPROVED AREA
HAMANAMANA
KEAHOLE AIRPORT
NORTH
Queen Kaahumanu Hwy.
KALAOA
Ka'iminani Dr.
Kona Palisade
Kona Coastview
Kona Acres
OOMA
HAWAII

EXHIBIT "A"

BEFORE THE LAND USE COMMISSION

OF THE STATE OF HAWAII

In the Matter of the Petition of	)	DOCKET NO. A89-645
	)	
HASEKO (HAWAII), INC.	)	HASEKO (HAWAII), INC.
	)	
To Amend the Agricultural Land Use District Boundary into the Urban Land Use District for Approximately 125.041 Acres at Kalaoa 5th, North Kona, Hawaii, State of Hawaii, Tax Map Key No.: 7-3-10: Portion 27	)	

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. SANDRA PECHTER SCHUTTE, ESQ., Attorney for Petitioner
Roehrig, Roehrig, Wilson, Hara & Schutte
101 Aupuni Street, Suite 124
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 6th day of February 1990.

ESTHER UEDA
Executive Officer