

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of)
THE LUSK COMPANY) DOCKET NO. A88-628
To Amend the Agricultural Land)
Use District Boundary into the)
Urban Land Use District for)
Approximately 76.851 acres at)
Honouliuli, Ewa, Island of Oahu,)
City and County of Honolulu,)
State of Hawaii, Tax Map Key)
No. 9-1-16: Portion of Parcel 4)
_____)

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LAND USE COMMISSION
HAWAII

FINDINGS OF FACT, CONCLUSIONS OF LAW
AND DECISION AND ORDER

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No. 9-1-16: Portion of Parcel 4)
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FINDINGS OF FACT, CONCLUSIONS OF LAW
AND DECISION AND ORDER

The Lusk Company, a California corporation (hereinafter referred to as "Petitioner"), filed a petition on August 31, 1988 pursuant to Chapter 205, Hawaii Revised Statutes, as amended ("HRS"), and Title 15, Subtitle 3, Chapter 15, Hawaii Administrative Rules, as amended ("Commission Rules"), to amend the Land Use District Boundary to reclassify approximately 76.851 acres of land situate at Honouliuli, Ewa, Oahu, City and County of Honolulu, State of Hawaii, Tax Map Key Number: 9-1-16: Portion of Parcel 4 (hereinafter referred to as the "Property" or the "project site"), from the Agricultural District to the Urban District for a residential development. The Land Use Commission (hereinafter "Commission"), having heard the testimony, and examined the evidence presented during

the hearings and the parties' stipulated 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 August 31, 1988, Petitioner filed a petition for amendment of district boundaries.

2. On January 24, 1989, a prehearing was conducted at the Commission's office.

3. On February 7 and 8, 1989, the Commission conducted a hearing on the petition pursuant to notice published in the Honolulu Star-Bulletin, a newspaper of general circulation, on December 30, 1988. The Commission continued the hearing on July 27, 1989, pursuant to notice served on the parties on July 18, 1989.

4. The Commission did not receive any requests for intervention.

5. The Commission allowed Captain Louis D. Milotti, Commanding Officer of the Naval Air Station, Barbers Point, Hawaii, to testify as a public witness on February 7, 1989.

DESCRIPTION OF THE PROPERTY

6. The Property comprises approximately 76.851 acres of land situate at Honouliuli, Ewa, Oahu, City and County of Honolulu, State of Hawaii and is more particularly described as Tax Map Key No. 9-1-16: portion of parcel 4.

7. The Property is located 22 miles from Honolulu, between the H-1 Freeway and Farrington Highway on the Honolulu side of Makakilo Drive and Barbers Point Access Road. It is located to the east of the proposed Kapolei Town Center, and immediately to the north of the proposed Kapolei Village.

8. The Property is owned in fee by the Estate of James Campbell, Deceased. Petitioner has entered into an Acquisition Agreement with said Estate.

9. A portion of the Property is being used for sugarcane cultivation at the present time.

10. The project site is relatively flat with a slight incline. Elevation of the Property is generally between 100 and 250 feet above sea level.

11. The predominant soil types found in this area include Molokai silty clay loam, Ewa silty clay loam, Lualualei stony clay, stony steep lands and gulches. The Molokai soils are a silty clay loam deposited over a substrata of soft weathered rock and the Ewa soils consist of alluvium deposited over coral limestone and consolidated calcareous sand. The Molokai and Ewa soils are found on the productive portion of the lands.

12. The Land Study Bureau has given the lands in sugar production productivity ratings of "A" and "B" if irrigated. The State Department of Agriculture has designated approximately 55 acres in sugar production as "Prime Agricultural Lands".

- a. The subject lands rated "prime" are about 0.1 percent of "Prime" lands on Oahu.
- b. The inventory of agricultural lands on Oahu and the State of Hawaii in comparison to the lands on the subject Property under the ALISH (Agricultural Lands of Importance to the State of Hawaii) classifications are as follows:

	<u>SUBJECT PROPERTY</u>	<u>OAHU</u>	<u>STATE</u>
PRIME	63	55,563	304,310
UNIQUE	0	9,006	31,320
OTHER	1	29,990	642,544

13. The Land Evaluation Site Assessment (LESA) classifies the subject lands from 59 to 90. The higher the rating the more productive the land.

14. All ratings, designations and classifications of the soils assume that irrigation water is available. If irrigation water was not available, the lands would not be productive.

15. A small natural drainageway originating from within the Makalapa Gulch (approximately 198 acres), mauka of the project site, crosses the H-1 Freeway in underground culverts and traverses the project site. At times of peak flow, the gulch generates about 830 cubic feet per second (cfs) of storm runoff.

16. Within the project site, runoff from 69 acres flows into the drainageway contributing approximately 180 cfs to the peak flow of 1010 cfs at Farrington Highway.

17. Eventual disposal of storm water is accomplished primarily through surcharging of the coral pit located just within the Barbers Point Naval Air Station's northern boundary.

18. Median annual rainfall for the Property and the general area is approximately 20 inches.

19. The Property lies within the National Flood Insurance Program Flood Insurance Rate Map Designation of Zone D, which is defined as an area in which flood hazards are undetermined.

DESCRIPTION OF PROPOSED DEVELOPMENT

20. Petitioner proposes to develop the Property by constructing thereon approximately 500 single-family residential units which could accommodate a population of approximately 1700-1900 persons. This development will be called "Kapolei Knolls".

21. Kapolei Knolls will consist of 500 single-family residential units approximately 1100 square feet in size consisting of either 3 bedrooms and 2 baths or 4 bedrooms and 2-1/2 baths.

22. Approximate density will be 6 units per acre with each lot estimated to be a minimum of 5000 square feet.

23. Petitioner proposes to construct a recreational park on the Property and comply with the City and County of Honolulu ("City") parks ordinance.

24. Petitioner proposes to sell the units at market price at the time of sales. Petitioner believes that based on 1987 market sales, prices will average \$160,000.00 per unit. The provision of affordable housing is addressed through the Petitioner's contribution of in-lieu fees to the State Housing Finance and Development Corporation.

25. Petitioner proposes to commence construction of the development, after receiving governmental approvals, by 1991 and complete occupancy thereof by 1995.

26. Petitioner estimates total cost of the development of Kapolei Knolls to be approximately \$72 million in 1987 dollars.

PETITIONER'S FINANCIAL CAPABILITY
TO UNDERTAKE THE PROPOSED DEVELOPMENT

27. Petitioner is financially capable of developing the subject Property. Petitioner has submitted a consolidated balance sheet for The Lusk Company and a comparative balance sheet for Lusk Hawaii, A Division of The Lusk Company. The consolidated balance sheet for The Lusk Company, as of October 31, 1988 and 1987, lists assets of \$810,940,000.00 and \$733,946,000.00, respectively, and liabilities of \$685,987,000.00 and \$599,604,000.00, respectively. Minority

and partnership interests are listed as \$26,793,000.00 and \$51,563,000.00, respectively, and stockholders' equity as \$98,160,000.00 and \$82,779,000.00, respectively.

28. The comparative balance sheet for Lusk Hawaii, for the period ending October 31, 1987 and 1986, lists assets of \$22,523,561.00 and \$24,698,607.00, respectively, and liabilities of \$24,342,699.00 and \$25,420,763.00, respectively. Division equity is listed as \$(1,819,138.00) and \$(722,156.00), respectively.

STATE AND COUNTY PLANS AND PROGRAMS

29. The Property is currently within the State Land Use Agricultural District as reflected on the Commission's Official Map, O-6, Ewa.

30. The general plan of the City and County of Honolulu provides a statement of long range social, economic, environmental and design objectives for the island of Oahu as well as a statement to meet these objectives.

The project is generally in conformance with the economic activity, population, natural environment, transportation and utilities, physical development and urban design, health and education, culture and recreation and housing plans and policies.

Petitioner's development is in conformance with the general plan's housing policy which calls for "decent" housing for all the people of Oahu at prices they can afford.

31. The Property is designated on the City and County of Honolulu's Ewa Development Plan as Residential.

32. The Property is presently zoned AG-1 Restricted Agricultural.

33. The Property is not within the Special Management Area of the City and County of Honolulu.

NEED FOR THE PROPOSED DEVELOPMENT

34. The growth rate historically has been growing faster in the Ewa area as compared to Oahu's population in general. It is forecasted to grow even faster in the future. Ewa is projected to grow from an estimate of 36,800 people in 1985 to approximately 71,800 in the year 2000.

35. Petitioner's market analyst, Environmental Capital Managers, Inc. (ECMI), prepared a market study for the proposed Kapolei Knolls project.

ECMI indicates that compared with the State's overall resident population growth between 1920 to 1980, the Ewa judicial district has outpaced the State by 1-1/2% annually. Oahu's average annual growth rate was about 3.1% over the 1920 to 1980 period while the Ewa judicial district was estimated to yield a 3.9% annual growth rate.

36. ECMI indicates that the State Department of Planning and Economic Development estimated that the City and County of Honolulu's resident population would grow at an average annual rate of 0.9 percent between 1980 and 2005. Ewa is expected to have phenomenal growth in excess of 4 times that

of Oahu's rate. Central Oahu and Ewa will account for almost 50% of the expected growth on the island of Oahu to the year 2005, with Ewa accounting for over 33%.

37. For the immediate 5-year period commencing in 1987, the Central Oahu and Ewa areas will exhibit the largest growth both in absolute population and households. For this period Ewa forecasts an annual growth of 1.7% both in population and households.

38. Petitioner indicates the intended market will be all of Oahu with special attention given to prospective purchasers from Ewa including the Kapolei Town area. Purchasers will be primarily dual wage earners and step-up buyers moving from ownership of condominium or smaller townhouse units to a larger one.

39. The 500 units projected for Kapolei Knolls would involve an in-migration of approximately 1700-1900 individuals.

40. The City projects a shortage of 46,000 dwelling units by the year 2005 which includes a shortfall of 8,000 units in Ewa.

41. The City recently raised the overall population limits for Ewa and Central Oahu, indicating guidance to where they would like to see growth take place.

IMPACT UPON RESOURCES OF THE AREA

Agricultural Resources

42. Fifty five acres of the Property are presently under sugarcane cultivation.

43. The agricultural significance of the Property can be examined in terms of the total amount of existing land of similar quality. These lands (76.851 acres) constitute a very small percentage of such lands; to wit: one tenth of one percent. The State is concerned about cumulative impact of incremental withdrawal/losses of prime agricultural lands.

44. The acreage in question here with productive potential is insignificant when viewed as a percentage of the lands currently being used for crop production on Oahu. Currently 40,700 acres are being used for crop production on Oahu as compared to 55 acres on the subject parcel. This represents about 0.13 percent of the lands currently cropped on Oahu. In addition there are approximately 14,000 acres on Oahu which though designated agriculture or prime agriculture are not being used for agriculture.

45. While the Office of State Planning (also referred to as the "State") continues its efforts to maintain agriculture on the Ewa plan, it nonetheless states that the public interest in housing overrides continued agricultural operations on the subject Property.

Groundwater Resources

46. The development of the project would have no effect on underlying groundwater supplies.

47. The Navy's well, known as the Barbers Point Shaft, is located 2500 to 2600 feet east of the Kapolei Knolls

project. The Navy's well located nearby would also not be detectably influenced by this development.

48. Groundwater in the area moves in a westerly direction. As a result, any percolation from the Kapolei Knolls site would not adversely affect the Navy's well.

Historical Archaeological Resources

49. The project site has been under active sugarcane cultivation for a number of years. No archaeological sites are known to exist within the project area and previous cultivation of the site makes any findings unlikely.

50. The State of Hawaii through its Department of Land Natural Resources agree that there are no historic sites remaining on the subject property and that this project will have "no effect" on significant historic sites.

51. In the event that any archaeological remains are discovered during site preparation, all work will cease and the State Historic Preservation Officer will be notified.

Flora and Fauna

52. A major portion of the site has been used for sugarcane cultivation over a long period of time. This use has rendered the site relatively clear of heavy vegetation and topographic variations.

53. Vegetation on site is consistent with weeds and vines found in cultivated fields.

54. Ten bird species were recorded on site. All but one were introduced species. The sole native species, the Pacific Golden Plover, is a wide ranging migrating species.

55. No mammals were observed on site but tracks of the Indian mongoose were found along the edges of the canefield.

56. Flora and fauna are not expected to be significantly impacted. There are no rare or endangered plants or animals in the area.

Recreational

57. Petitioner will provide a park within the project. Petitioner will comply with the provisions of the City and County of Honolulu Park Dedication Ordinance requirements.

ENVIRONMENTAL QUALITY

Aural Quality

58. Petitioner retained the services of a consultant to evaluate potential noise impacts on the project site on future residents as well as possible noise impacts from project traffic. The two types of noise involved were from traffic and aircraft.

59. The critical noise contour level of 65 day-night noise level (Ldn), resulting from traffic noise from the H-1 Freeway and Farrington Highway encroaches into the subject Property approximately 100 to 200 feet. A majority of Kapolei Knolls however falls below the 65 Ldn level.

60. Attenuation measures are available wherein the noise level in excess of 65 Ldn can be reduced. Such measures include the building of walls, installing attenuation windows, and air conditioning.

61. Project traffic related noise will add less than half a Ldn.

62. Aircraft noise was studied using the 1984 Air Installation Compatible Use Zone (AICUZ) for Barbers Point Naval Air Station.

63. Based on the flight tracks and numbers of flights in the AICUZ study the aircraft noise level was determined to be below 60 Ldn on the project site. A 55 Ldn level contour crosses through the middle of the project.

64. The risk of adverse impact from aircraft noise is not considered severe or unmanageable. Adequate disclosure of the aircraft noise to potential purchasers of units will be given.

Air Quality

65. There will be two types of short term air quality impact from project construction: fugitive dust and on-site emissions from construction equipment. Fugitive dust emissions will arise from grading and dirt moving activities within the project site and from any off-site dirt hauling. Adequate fugitive dust control can be accomplished by complying with the State of Hawaii Air Pollution Control regulations regarding a

regular watering program and covering dirt hauling trucks. Additionally, dust may arise from agricultural operations in the vicinity.

66. On-site construction equipment emissions will be insignificant compared to vehicular emissions from the H-1 Freeway and neighboring roadways.

67. On-site long term effects once the subdivision is completed are minimal.

68. The greatest long term indirect impact would be generated with increased motor vehicle traffic by the emission of carbon monoxide.

69. Under tests conducted for peak hour traffic, current carbon monoxide levels were within the State Ambient Air Quality Standards (AAQS) with the exception of the intersection of Makakilo Drive and Farrington Highway. With the development of other projects in the area of Kapolei Knolls, the State AAQS will be violated in several areas. However, the computed worst case one-hour carbon monoxide concentrations are well within Federal Ambient Air Quality Standards. Computed worst case eight-hour carbon monoxide concentrations are within both State and Federal AAQS.

70. The Kapolei Knolls project adds as many as 100 peak hour vehicles to existing levels along the H-1 corridor between Pearl City and Aloha Stadium but represents only one percent of existing traffic and therefore the project's

regional air pollution impact from traffic would appear to be relatively small.

ADEQUACY OF PUBLIC SERVICES AND FACILITIES

Highway and Roadway Facilities

71. The subject Property is served by Farrington Highway which is its southern boundary. This highway, a two lane highway 20 feet wide, connects to Waipahu 4 miles East, and is 1-1/2 miles away from the Palailai Interchange toward the west. It also intersects Makakilo Drive/Barbers Point Access Road just west of the project site. Just north of this intersection is the Makakilo Interchange and vehicles will have access to the H-1 Freeway over the ramp to Honolulu.

72. Vehicular access to the project will be from Farrington Highway. There will be two access roads.

73. At the time of the completion of the Kapolei Knolls project in 1995, the anticipated completion of the Ko'Olina development and considering the ongoing development at Makakilo City, the H-1 Freeway would be near capacity. In addition, the merging of traffic onto the H-1 Freeway at the Makakilo Interchange would be a significant problem. However, Petitioner believes that the project will have minimal effects on these conditions.

74. Anticipated also by 1995 in addition to Ko'Olina and the continued development of Makakilo City, are the partially completed developments of Kapolei Village and the

Kapolei Town Center. Petitioner's traffic consultant Parsons, Brinckeroff, Quade and Douglas, Inc., stated that Farrington Highway and the Barbers Point Access Road need to be widened and the signalized intersection at Farrington Highway and Barbers Point Access Road needs to be improved.

75. Petitioner's traffic consultant also stated the following:

- a. On H-1 Freeway the level of service in the morning would be C if 3 lanes are available for mixed traffic heading toward Honolulu, and C also for the afternoon traffic returning from Honolulu.
- b. The level of service at the signalized intersection at Farrington Highway and Makakilo Drive would be D. However, because of the impact of the larger projects, the impact of the Kapolei Knolls project would be minimal.

76. The intersection of the proposed access roads and Farrington Highway together with the roadway from the Kapolei Village project would have a level of service of C.

77. Petitioner's consultant estimates that during the morning peak hour, 105 cars will enter and 275 cars will be exiting the project and that in the afternoon peak hour, 315 cars will be entering and 185 will be exiting.

Mitigation measures recommended include the widening of Farrington Highway near the Kapolei Village intersection and redesignation of 3 lanes in either direction of the H-1 Freeway for mixed traffic during certain hours of the day.

78. Under existing conditions, the project will not adversely affect traffic.

79. All proposed roadways within the project will be designed in accordance with City and County standards for public or private roadway as applicable.

Water Services

80. The average daily water demand for the development will be 0.25 million gallons per day.

81. Water for the project is available through the City Board of Water Supply's "228" and "440" systems. The "228" system which interconnects back to Red Hill will service approximately 20 percent of the project. The remainder of the project will use the excess capacity in the "440" system. Both systems have adequate capacity to serve the project's water requirement.

82. The Board of Water Supply has commented that the approved Ewa Water Master Plan includes the off-site water system required to serve the development.

83. Petitioner is proposing to participate in the development of these wells through the Campbell Estate. Campbell Estate together with other entities are parties to the

Ewa Plains Water Development Corp. who is developing several wells known as the Honouliuli wells. Preliminary test results indicate an adequate amount of potable water.

Drainage

84. One small natural drainage way, originating from within the Makalapa Gulch mauka of the project crosses the H-1 Freeway in underground culverts and traverses the project site. Runoff water is transmitted through plantation ditches into the adjacent cane fields.

85. Petitioner prepared a study to evaluate the environmental impact of the project as it relates to storm generated surface water runoff.

86. The study indicated slight increases of nitrogen, phosphorus and suspended solids and concludes that the impact on the area is minimal. Constituents such as biocides, pesticides, herbicides and heavy metals are not problems.

87. During times of peak storm flow, of the total 1010 cfs of runoff from the Makalapa Gulch, the project site will contribute approximately 180 cfs of runoff water.

88. Petitioner will retain any increases in runoff caused by urbanization from its lands on site in what will be the park site. During times of intense storm flows, the park will be flooded and the water will "bleed off" through a drain system. In the alternative, Petitioner will discuss the matter with the developers of the Kapolei golf course to have this golf course act as the retention basin.

89. The internal drainage systems will be built to City and County of Honolulu standards.

Wastewater Disposal

90. The average daily wastewater to be generated by this project is 0.20 million gallons per day.

91. The project will initially be serviced by the Makakilo Interceptor sewer line. This line runs directly to the Honouliuli Treatment Plant. There is capacity in this line at present to service the needs of this development.

92. As the Makakilo Interceptor sewer line reaches capacity and as other developments are constructed in the Ewa area, Petitioner will cooperate and share the cost with the developers of Kapolei Village to construct another interceptor line to the Honouliuli plant.

93. The expansion of the Honouliuli Treatment Plant is planned to commence construction in 1991. Petitioner proposes to pay its proportionate share or assessment as established by the City for this expansion.

Solid Waste Disposal

94. Solid waste pick up will be collected by the Department of Public Works, Division of Refuse Collection and Disposal of the City and County of Honolulu.

Schools

95. Schools within the vicinity and which will service the project include Barbers Point, Makakilo, Maukalani

and Ewa Beach Elementary Schools, Ilima Intermediate School and Campbell High School.

96. Demand for educational facilities near the project site will increase and Petitioner will work closely with the Department of Education and keep it informed of the project timetable to insure that adequate facilities are available for the residents of Kapolei Knolls.

Police and Fire Protection

97. The Pearl City Police Station staffed by 161 officers will service the project site. Coordination with the Honolulu Police Department will be maintained to ensure that adequate service is available.

98. The project will be serviced by the Ewa Beach, Waipahu and Makakilo Fire Stations. These existing facilities are adequate to service the development.

Energy and Utilities

99. Energy and telecommunication facilities necessary for the development will be planned and coordinated with the appropriate agencies and public utilities.

100. The Hawaiian Electric Company has advised that the HECO Waiiau-CIP #1 and #2 138 kv transmission lines may pass in the vicinity of this project. Petitioner will maintain contact with Hawaiian Electric Company on this matter.

Medical Services

101. Medical and health services are presently available at the Kaiser Punawai Clinic in Waipahu. Emergency

service is available at the Wahiawa General Hospital. A full service hospital, St. Francis Hospital-West, is planned to be built at Farrington Highway and Ft. Weaver Road.

SOCIAL AND ECONOMIC IMPACTS

102. The proposed development is located 22 miles from Honolulu, the primary employment center of Oahu. Other employment centers in proximity to the project are Pearl Harbor, Honolulu International Airport, Hickam Air Base, Waipahu, Wahiawa and Mililani Town. Kapolei Town Center to be developed in the near future enhances the chances of employment near the project.

103. The current trends and projections indicate that the economy of Hawaii and the City and County of Honolulu should fare well in the future. The employment picture will remain favorable for the existing and projected labor force. Studies by Kenneth Leventhal & Company indicate that by the year 2005 there will be 22,000-34,000 new jobs in the Ewa area.

104. The State of Hawaii and the City and County of Honolulu can expect to gain financially from this development by way of general excise tax revenues from construction and home sales, income tax revenues from construction workers' salaries and added real property taxes.

CONFORMANCE TO URBAN DISTRICT STANDARDS

105. The Property meets the standards applicable in establishing boundaries of the Urban District set forth in Section 15-15-18 of the Commissions Rules in that:

- a. The Property as developed by Petitioner will be "city like" in character with a concentration of 500 homes with a population of 1700-1900 persons on approximately 76.851 acres when completed.

Petitioner intends to build houses with either 3 bedrooms and 2 bathrooms or 4 bedrooms and 2-1/2 bathrooms with a total of 1100 square feet including garages on 5000 square foot residential lots.

- b. The project is approximately 22 miles from downtown Honolulu and in close proximity to other employment centers such as Pearl Harbor, Honolulu International Airport, Hickam Air Base, Pearl City, Waipahu, Mililani Town and Wahiawa. Kapolei Town Center will be developed in close proximity to the project.
- c. Petitioner has determined that the development is economically feasible, and Petitioner's financial capability is adequate to develop this project.
- d. Basic services such as sewers, transportation systems, water, sanitation, schools, parks, police and fire protection

are or will be adequate to serve the development.

e. The topography and drainage of the Property in its developed state will be satisfactory and reasonably free from the danger of floods , unstable soil conditions and other adverse environmental effects.

(1) The topography is relatively flat with elevations ranging from approximately 100-250 feet above sea level. Makalapa drainageway traverses the middle of the project.

(2) The on-site drainage system will be designed in a manner so that all storm waters would be discharged into the park site which will be used as a retention basin. The system will be designed in accordance with applicable City and County of Honolulu standards.

f. The subject Property is contiguous to lands being developed for residential purposes. Kapolei Village will be located makai of the project. Makakilo City is mauka across the H-1 Freeway from the project.

g. The development responds to market demand as well as the General Plan Policy of the City

and County of Honolulu which calls for the full development of a secondary urban center in the West Beach-Makakilo area of Ewa.

- h. The project plan will be designed to be aesthetically pleasing and compatible with the surrounding area.

106. The petition area is proximate to the Naval Air Station Barbers Point, Campbell Industrial Park, the proposed Kapolei Town Center and Kapolei Village, Ko 'Olina Resort, and the existing community of Makakilo. The proposed reclassification is a component of Campbell Estate's Ewa Master Plan, which, together with the City and County of Honolulu and State, promotes the development of the proposed secondary urban center.

107. While basic services are currently in place, or located nearby, improvements to existing infrastructural facilities and public services will be necessary. The Petitioner should participate in the funding and construction of these infrastructure improvements.

CONFORMANCE WITH THE HAWAII STATE PLAN

108. The proposed project is generally consistent with objectives and policies of the Hawaii State Plan, Chapter 226, Hawaii Revised Statutes as follows:

- a. Section 226-5 Objectives and Policies for Population.

The development will add 1700-1900 persons into the Ewa area. It is anticipated that these people will come from other parts of the island which would represent a population shift rather than a net increase. The 500 homes to be developed will in part alleviate the demand for housing on this island.

b. Section 226-6 Objectives and Policies for the Economy.

Development of this project would directly benefit the economy in the following manner:

- (1) Short term employment for persons in the construction field.
- (2) The development is located in close proximity to employment centers.
- (3) Government revenues will increase through general excise tax, income tax and real property tax realizations.

c. Section 226-12 Objectives and Policies for the Physical Environment - Science, Natural Beauty and Historic Resources.

The project plan will be designed to be aesthetically pleasing and compatible with

the surrounding area. In the event a historic resource is discovered during construction, Petitioner shall immediately stop construction and notify the State Department of Land and Natural Resources Historic Site Section.

- d. Section 226-13 Objectives and Policies for the Physical Environment - Land, Air and Water Quality.

No significant environmental impacts are expected.

- e. Section 226-15 Objectives and Policies for Facility Systems - Solid and Liquid Wastes.

The existing Makakilo Interceptor sewer line near the project boundary, which connects to the Honouliuli Treatment Plant, has sufficient capacity to serve the project. Petitioner is willing to pay its fair share toward the expansion of the Honouliuli Wastewater Treatment Plant.

- f. Section 226-16 Objectives and Policies for Facility Systems - Water.

There is adequate water available for the project. The existing "228" and "440" water systems have sufficient capacity to serve the project.

- g. Section 226-19 Objectives and Policies for Socio-Cultural Advancement - Housing.

This development will provide 500 much needed single-family units into the housing market.

- h. Section 226-23 Objectives and Policies for Socio-Cultural Advancement - Leisure.

Petitioner will provide a park site within the project. Petitioner will comply with the City and County of Honolulu Park Dedication Ordinance requirements.

- i. Section 226-104 Population Growth and Distribution Priority Guidelines.

This development will in part meet the needs of people presently living in the City and County of Honolulu without encouraging an additional influx of people. The Property will be part of the secondary urban center and is in proximity to the existing Makakilo City, the proposed Kapolei Village and the Kapolei Town Center.

- j. Section 226-105 Hawaii's Land Resources.

The Property adjoins an area of existing and proposed residential homes and is a logical extension to an urban designation.

109. While the proposed reclassification conflicts with the State of Hawaii objectives and policies as they relate to agriculture, the need for housing overrides these objectives and policies.

CONFORMANCE TO COASTAL ZONE POLICIES AND OBJECTIVES

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

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, the Commission finds upon a preponderance of the evidence that the reclassification of the Property consisting of approximately 76.851 acres situate at Honouliuli, District of

Ewa, City and County of Honolulu, State of Hawaii, identified as Tax Map Key No. 9-1-16: Portion of 4 and more approximately described in Exhibit A, attached hereto and incorporated herein by reference, from the Agricultural District to the Urban District for Petitioner's Kapolei Knolls Project, a single-family residential development, subject to the conditions in the Order, is reasonable, nonviolative of Section 205-2, Hawaii Revised Statutes and is consistent with the Hawaii State Plan as set forth in Chapter 226, Hawaii Revised Statutes, as amended, and the Hawaii Land Use Commission Rules.

ORDER

IT IS HEREBY ORDERED that the Property consisting of approximately 76.851 acres, being the subject of Docket Number A88-628 by THE LUSK COMPANY, a California corporation, situate at Honouliuli, District of Ewa, City and County of Honolulu, State of Hawaii, identified as Tax Map Key No. 9-1-16: Portion of 4, and more approximately described in Exhibit A attached hereto and incorporated by reference herein, for reclassification from the Agricultural District to the Urban District, shall be and hereby is approved subject to the following conditions:

1. Petitioner, as it has offered in order to address affordable housing concerns, shall make contributions as follows:

- a. Petitioner shall contribute the sum of \$1,488,572.00 to the Housing Finance and

Development Corporation, State of Hawaii, for the development of affordable housing programs.

- b. The aforesaid sum shall be paid in two installments:
 - (1) \$744,286.00 upon acquiring the building permit for the construction of the first house in the project, and
 - (2) \$744,286.00 upon sale of the first house.
- c. Notwithstanding the aforementioned, full payment hereof shall be made no later than thirty six (36) months after the Decision and Order is rendered by the State Land Use Commission in this matter.
- d. The sum agreed to shall be reduced by the amount or corresponding value of any affordable housing requirement which may be required by the City and County of Honolulu for Petitioner's project.

2. Petitioner shall participate in the funding and construction of transportation improvements necessitated by the proposed development and identified by the State Department of Transportation. In addition, Petitioner shall coordinate transportation improvements with the Housing Finance and Development Corporation, adjoining land owners and developers,

and/or other Federal, State and County agencies on a schedule accepted and approved by the State Department of Transportation.

3. Petitioner shall provide drainage improvements for the subject project and should coordinate off-site improvements with the Estate of James Campbell, the Naval Air Station Barbers Point, the Housing Finance and Development Corporation, adjoining land owners and developers, and/or other Federal, State and County agencies.

4. Petitioner shall coordinate, with the Honolulu Board of Water Supply, Department of Land and Natural Resources, the Ewa Plains Water Development Corp., the Housing Finance and Development Corporation, adjoining land owners and developers, and/or other affected Federal, State, and County agencies, measures designed to obtain the required water for the project. In the event that water is not available due to insufficient supply, Petitioner shall fund on an equitable basis, necessary water source, storage, transmission facilities, and filtration system development.

5. Petitioner shall inform all prospective purchasers of: a) possible odor, noise, and dust pollution resulting from the adjacent Farrington Highway, the Makakilo Drive/Barbers Point Access Road, and surrounding agricultural operations, and b) the Hawaii Right-to-Farm Act, Chapter 165, Hawaii Revised Statutes, which limits the circumstances under which pre-existing farming activities may be deemed a nuisance.

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

7. Petitioner shall be responsible for implementing effective sound attenuation measures to bring noise levels from vehicular traffic on the adjacent H-1 Freeway and Farrington Highway down to acceptable levels. Petitioner shall coordinate its actions with the Department of Health, the Department of Transportation, and appropriate County agencies.

8. Petitioner shall inform each prospective purchaser of residential property of possible noise impact from Barbers Point Naval Air Station and Honolulu International Airport or other sources and will provide covenants in the deed to such purchaser wherein such purchaser, its successors and assigns, will release and discharge the State of Hawaii and the City and County of Honolulu from all liability, and provide that such purchaser, its successors and assigns, will not file suit against the State of Hawaii and the City and County of Honolulu on account of, or resulting from, any inconvenience, disturbance and/or injury due to aircraft and other vehicular traffic noise in the area affecting such purchaser or their property. Such covenants shall run with the land.

9. 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.

10. Petitioner shall immediately stop work 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, pavings or walls be encountered during the project's development.

11. Petitioner shall provide annual reports to the Land Use Commission, The Office of State Planning and the City and County of Honolulu Department of General Planning in connection with the status of the Project and Petitioner's progress in complying with the conditions imposed.

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

13. 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 subject Property covered by the approved Petition, prior to development of the Property.

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.

Done at Honolulu, Hawaii, this 20th day of November 1989,
per motions on November 2, 1989 and November 3, 1989.

LAND USE COMMISSION
STATE OF HAWAII

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

By _____ (absent)
LAWRENCE F. CHUN
Vice Chairman and Commissioner

By _____ (absent)
SHARON R. HIMENO
Commissioner

By Allen K. Hoe
ALLEN K. HOE
Commissioner

By Allen Y. Kajioka
ALLEN Y. KAJIOKA
Commissioner

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

By James M. Shinno
JAMES M. SHINNO
Commissioner

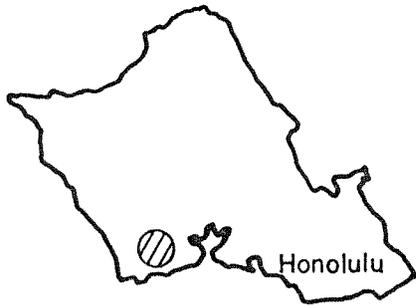
By Elton Wada
ELTON WADA
Commissioner

By Frederick P. Whittemore
FREDERICK P. WHITTEMORE
Commissioner

Filed and effective on
November 20, 1989

Certified by:

Esther Lueder
Executive Officer



OAHU

MAKAKILO
CITY

H-1 Fwy.

Farrington Hwy.

A88-628 / THE LUSK CO.

T.M.K.: 9-1-16: por. 4
HONOULIULI, EWA, OAHU, HAWAII
SCALE: 1" = 2000'



APPROVED AREA

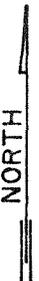
Waimanalo Rd.

Renton Rd.

Hanson Rd.

BARBERS
NAVAL AIR

POINT
STATION



BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of) DOCKET NO. A88-628
THE LUSK COMPANY) THE LUSK COMPANY
To Amend the Agricultural Land)
Use District Boundary into the)
Urban Land Use District for)
Approximately 76.851 acres at)
Honouliuli, Ewa, Island of Oahu,)
City and County of Honolulu,)
State of Hawaii, Tax Map Key)
No. 9-1-16: Portion of Parcel 4)
_____)

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. DONALD A. CLEGG, Chief Planning Officer
Department of General Planning
City and County of Honolulu
650 South King Street
Honolulu, Hawaii 96813

CERT. LINCOLN J. ISHIDA, ESQ., Attorney for Petitioner
PH, C.R. Kendall Building
888 Mililani Street
Honolulu, Hawaii 96813

DATED: Honolulu, Hawaii, this 20th day of November 1989.



ESTHER UEDA
Executive Officer