

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of)
KONA BEACH DEVELOPMENT VENTURE, L.P.) DOCKET NO. A86-599
To Amend the Conservation Land Use) KONA BEACH DEVELOPMENT
District Boundary into the Urban) VENTURE, L.P.
Land Use District for Approximately)
470.13 Acres at Kohanaiki, North)
Kona, Hawaii, State of Hawaii, Tax)
Map Key Nos.: 7-3-09: 3 and 16)
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FINDINGS OF FACT,
CONCLUSIONS OF LAW,
AND DECISION AND ORDER

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KONA BEACH DEVELOPMENT VENTURE, L.P., a Delaware limited partnership (hereinafter "Petitioner"), filed this petition on February 24, 1986, as amended by amendment filed on May 29, 1986, pursuant to Chapter 205, Hawaii Revised Statutes, and the Rules of Practice and Procedure of the Land Use Commission, State of Hawaii, to amend the land use district boundary for approximately 470.13 acres of land, Hawaii Tax Map Key Nos.: 7-3-09: 3 and 16, situate at Kohanaiki, North Kona, Island of Hawaii, State of Hawaii (hereinafter "Property"), from the Conservation District to the Urban District. The Land Use Commission (hereinafter "Commission"), having heard and examined the testimony, evidence and argument of counsel presented during the hearings, the stipulation for the proposed findings of fact and conclusions of law, and the proposed

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

FINDINGS OF FACT

PROCEDURAL MATTERS

1. The Commission conducted hearings on this petition on July 8, 1986, October 7, 1986, October 21 and 22, 1986 and November 6, 1986, pursuant to notices published in the Honolulu Advertiser and the Hawaii Tribune Herald on June 6, 1986.

2. The Commission allowed Virginia Isbell, Mark Van Pernis, Douglas Blake, Harry Foster and Dean Newstrom to testify as public witnesses.

3. The Commission allowed a letter from the United States Department of Interior, National Park Services, to be read into the record on October 21, 1986.

4. The Commission did not receive any request for intervention in this petition.

5. On November 13, 1986, the Commission filed its Decision and Order accepting Petitioner's environmental impact statement pursuant to Chapter 343 of the Hawaii Revised Statutes.

DESCRIPTION OF THE PROPERTY

6. The Property consists of approximately 470.13 acres of land located makai of the Queen Kaahumanu Highway along the shoreline of the Kohanaiki ahupua'a in the North Kona District on the west coast of the island of Hawaii. The Property is approximately two miles south of the Keahole

Airport, two miles north of Honokohau small boat harbor, and five miles north of Kailua, Kona.

7. The Property consists of open and unimproved lava land. Elevation of the Property ranges from sea level at the coastline to approximately 70 feet above mean sea level at Queen Kaahumanu Highway. The Property slopes gently with slopes ranging from zero to five percent.

8. The U.S. Soil Conservation Service classifies soil on the Property into three types: Pahoehoe lava, A'a lava and Punaluu extremely rocky peat with 6 to 20 percent slopes. The predominant soil type covering almost 70 percent of the Property is Pahoehoe lava. A fourth land type is the beach area which contains sand and gravel. The white sand beaches fronting the Property are comprised of coral and sea shells.

9. The climate of the North Kona area is semi-tropical and considered to be dry and arid with light rainfall. Average annual rainfall at Kailua-Kona is 25 inches. A high rainfall belt lies between 1,200 to 3,000 foot elevations on the leeward slopes of Hualalai and Mauna Loa. The Property is sheltered from the predominant tradewind system by the land masses of Mauna Kea, Hualalai and Mauna Loa. The prevailing pattern consists of onshore winds in the morning and early afternoon, returning to offshore breezes in the late afternoon and evening. The average annual temperature is 75 degrees Fahrenheit with an average high of 83 degrees Fahrenheit and an average low of 67 degrees Fahrenheit.

10. The Flood Insurance Rate Map designates and confines the coastal high hazard area (Zone V-15) to the Property's shoreline area. The 100-year flood zone boundary (Zone A-4) lies inland of the V-15 zone and between 200 and 1,000 feet inland of the shoreline. Base flood elevations range from 7 to 9 feet above mean sea level. The majority of the Property lies within Zone "C" which is an area of minimal flooding.

11. The Property is comprised of two parcels of land identified by Hawaii Tax Map Key Nos. 7-3-09: 3 and 7-3-09: 16. The parcel of land identified as Tax Map Key No. 7-3-09: 3, consisting of approximately 462.38 acres, is owned in fee simple by Walter F. Weldon, Jr., Norman L. Kasparson, E. J. Caldecott and James G. Degnan, as Trustees under Declaration of Trust, dated April 2, 1986. The parcel of land identified as Tax Map Key No. 7-3-09:16, consisting of approximately 7.752 acres, is owned in fee by State Mutual Life Assurance Company of America.

12. Christian Wolffer is the tenant under the ground leases covering the two parcels of land comprising the Property, and he is also the holder of the option agreements to purchase the two parcels from the fee owners. Christian Wolffer is the sole shareholder of Kona Beach Development Corporation, which is the general managing partner of the Petitioner, and holds the aforesaid ground leases and the options to purchase as the nominee of the Petitioner.

Christian Wolffer has authorized Petitioner to submit this petition.

13. The two parcels which comprise the Property are separated by a 30-foot wide strip of land which is a portion of the Mamalahoa Trail, also known as the King's Highway, owned by the State of Hawaii. Petitioner has applied to the State Department of Land and Natural Resources for the appropriate easement to cross the Mamalahoa Trail.

PROPOSAL FOR DEVELOPMENT

14. Petitioner proposes to develop the Property as an integrated intermediate-class resort. Under Petitioner's conceptual plan for the proposed project, the land uses for the Property are as follows:

<u>Land Use</u>	<u>Gross Acreage</u>	<u>Unit Count</u>
Resort Hotel:	62	700
Resort Condominium:	70	800
Residential:	73	200
Support Housing:	100	150
Golf Course:	170	
Clubhouse/Recreation Center:	8	
Resort Commercial:	6	
Marina Basin:	10	
Open Space/ Circulation:	61	
TOTALS:	<u>470</u>	<u>1,850</u>

Marina Village

The Marina Village will provide a primary focal point for the resort. Space for approximately 150 boats will be created in a man-made basin carved from the lava rock in a protected area south of Wawahiwaa Point. Surrounding the

approximately 10-acre marina basin will be the marina village within a mix of commercial and resort residential uses. Approximately 300 resort condominiums and 33,000 square feet of leasable commercial space are planned for this area.

Resort Village

Located between the two hotels and the main access to the Pine Trees Beach, the Resort Village will provide a focal mixing point between residents and guests of the Kohana-iki Resort and residents of the greater Kona community. Parking areas for beach-goers and shoppers will be incorporated into the village design.

Clubhouse Recreation Center

A third focus of activity will be at the clubhouse recreation center located inland at about the 50 foot elevation. The facility will serve as the principal activity center for land-based recreational amenities and will contain spas, weight rooms, indoor racket sport courts, and outdoor sports facilities such as tennis courts and swimming pools. The clubhouse will serve the needs of golfers as well, providing space for golf cart rental and pro shop. Jogging paths throughout the Property will originate from the clubhouse.

Resort Hotels

Two resort hotels providing approximately 700 rooms are planned for the Property's coastal area. The proposed hotels would be separated from each other by natural land features such as the anchialine ponds (some of which would be

incorporated into the hotel grounds), extensive landscaping, and the Resort Village Commercial area. The hotel sites are located on level ground approximately 400 to 600 feet inland from the shoreline.

Resort Condominiums

Approximately 800 resort condominiums are planned throughout the site in three different locations. One grouping is planned to front the coastal area adjacent to the northern border of the Property. A second cluster is planned to be located directly mauka of the resort hotels, located between the Resort Village and the clubhouse recreation center. A third grouping will be located within the Marina village proper. The average densities for the condominiums will vary from 10 units per acre along the golf course fairways to 14 units per acre within the Marina Village.

Fairway Homesites

Approximately 200 single family residential homesites will be developed in the upland areas of the site surrounded by golf course fairways. The average density for these parcels is estimated at 3 per acre. It is expected that these homesites will be purchased and developed as primary residences.

Support Housing

Approximately 150 apartments will be developed on a 10-acre site adjacent to the Marina Village for resort employees. The housing units will consist of a mix of studio and one bedroom apartments as it is expected that employees

with families will prefer to live off-site. These apartments may be either leased or sold in fee.

Golf Course

The 18-hole, par-72 championship course is a key recreational element of the development concept. In addition to its recreational amenity, the course will serve as the principal landscape element within the resort by providing a major green open space.

15. Petitioner proposes to incorporate the anchialine ponds into its proposed development as cultural and educational features.

16. Petitioner's proposed project was designed to achieve the following objectives:

a. The resort is planned to become an upscale active community, directed towards the emerging and lucrative middle-age visitor market as distinguished from existing West Hawaii resorts which were designed and developed for the older, established "carriage trade" market. The amenities and entertainment would be directed to the more physically active and more affluent younger market.

b. The resort is planned to become a major hub of activity for both the visitors that come and stay and for the residents of the Kona area.

17. Petitioner's preliminary estimates of off-site and on-site improvement costs (not including buildings) are as follows:

<u>System</u>	<u>Cost</u> (In millions of 1986 dollars)
Water	\$15.2
Sewer	\$10.0
Roadways	\$ 4.2
Drainage	\$ 3.9
Power/ Communications	\$ 2.0
Total	<u>\$35.3</u>

18. The proposed project will be phased to meet market demands and coincide with required infrastructure improvements. Build-out of the proposed project could occur within five years of receiving final government approvals to begin construction. Petitioner's proposed phasing and estimated timetable of the proposed project are as follows:

<u>Phase</u>	<u>Land Use</u>	<u>Units</u>	<u>Development Period After Final Government Approvals</u>
1A	Hotel Support Housing Golf Course Infrastructure	400	1A - completion within two years
1B	Hotel Resort Condos Support Housing Commercial Village Recreation Complex Infrastructure	300 470 50	1B - construction within three years
1C	Mixed Use Com'l Facilities Support Housing Marina Basin Infrastructure	330 50	1C - construction within three to four years
2	Fairway Homesites Infrastructure	200	2 - construction commencement within four years

PETITIONER'S CAPABILITY TO UNDERTAKE THE PROPOSED DEVELOPMENT

19. Petitioner's balance sheet listed total assets of \$1,497,914.00, and \$125,000.00 as total accounts payable and \$1,372,914.00 as partners capital. The balance sheet represents initial commitment for acquisition costs of leasehold and land purchase option and other start-up costs.

20. Petitioner is comprised of one general partner and ten limited partners. The general partner is Kona Beach Development Corporation, a Delaware corporation. Christian Wolffer is the sole shareholder, sole director and president of Kona Beach Development Corporation. The limited partners are as follows:

Theodore J. Forstmann

Aole Partners:

William Brian Little
Nicholas C. Forstmann

Vala Partners:

John A. Sprague
Henry M. O'Neill, Jr.
Steven B. Klinsky
Winston W. Hutchins

Peter C. Jaquith

Dr. Theodor Brendle

Vincent Bohlen

Edgar V. Bohlen

Matthias H. Kunheim

A Partnership comprised of:

Steve Novick
Charles Moss
Paul Thomas Cohen
John Leffler

Naomi Wolffer

21. The Bank of Hawaii, in its investigation of the financial capacities and creditworthiness of Christian Wolffer and the partners of the Petitioner indicate that ". . . Mr. Wolffer and his partners should have the ability to finance the infrastructure improvements for the Kohanaiki project and to attract other investors and operators to realize the master-plan development."

22. Christian Wolffer will be responsible and in charge of the overall development of the proposed project. He has had extensive experience for fifteen years in the business of developing, managing and financing real estate involving real property projects of considerable size and worth in major metropolitan areas in the United States and Canada, including New York, Boston, Atlanta, Toronto and Montreal.

STATE AND COUNTY PLANS AND PROGRAMS

23. The Property is located within the State Land Use Conservation District as reflected on Land Use District Boundary Map H-2 (Keahole Point, Hawaii).

24. The Hawaii County General Plan identifies the Property as Conservation with an Open designation along the coastline.

25. Petitioner has filed an application to amend the County of Hawaii General Plan Land Use Pattern allocation guide map from the Conservation designation to the Resort, Medium and Low Density Urban destinations.

26. The Property is situate within the County's Open (0) zoned district.

27. The Property is located within the County of Hawaii Special Management Area.

NEED FOR THE PROPOSED DEVELOPMENT

28. State and County projections forecast a demand for approximately 16,000 visitor units on the island of Hawaii by the year 2005.

29. The number of visitor units currently available on a transient basis in the County of Hawaii totaled 6,944 as of February 1985. A significant addition to that total will come with the completion of the 1,260-room Hyatt Regency scheduled for 1987. Currently, there are approximately 4,509 transient units available in North Kona, comprising 62.44 percent of the island's total inventory.

30. In 1984, 756,890 tourists stayed an average of 4.64 days on the island of Hawaii. The Stanford Research Institute estimates the visitor count on the island of Hawaii will increase to between 1.6 million and 2.5 million annually in the next 15 years. The County of Hawaii's projections also indicate similar estimates of 1.6 million to 2 million visitors annually by the year 2000.

31. Based on the number of visitors to the island of Hawaii anticipated by the year 2000, the minimum number of rooms needed would more likely approach 20,000 assuming that every room is filled to 100 percent occupancy every day of the year.

Assuming a 70% occupancy rate, the potential visitor unit demand would approximate 27,000 rooms by the year 2000 as compared to governmental forecast of 16,000 units.

32. According to a marina market study by The Hallstrom Appraisal Group, Inc., the demand for small boat improvements in West Hawaii far exceeds the existing and planned public facilities. An estimated 750 to 1,000 slips would be required over the next decade to ease anticipated demand. Currently, no existing resort in Hawaii has a boating marina within its community.

33. According to The Hallstrom Appraisal Group, Inc., the Petitioner's proposed 150 slips would be spoken for prior to the completion of the marina. If 250 or more slips were to be constructed, The Hallstrom Appraisal Group, Inc. concludes that all could be successfully filled within 18 months of completion of the marina.

34. The market study by The Hallstrom Appraisal Group, Inc. estimates absorption of the resort improvements from the date of market offerings as follows:

<u>Use</u>	<u>No. of Units</u>	<u>Absorption Period in Years</u>
Hotel	700	6- 8
Condominium	800	14-16
Commercial	20,000-35,000 Sq. Ft. Gross Leasable Area	3
Single Family Residential	Variable	10-15

35. Petitioner has entered into a letter of understanding with Intercontinental Hotels Corporation which letter expresses Intercontinental Hotels Corporation's intent to manage the two hotels proposed to be developed on the Property and to invest a certain amount of equity into the two hotels.

IMPACT UPON RESOURCES AND AREAS OF STATE CONCERN

Agricultural Resources

36. The University of Hawaii Land Study Bureau's overall master productivity rating for the Property is Class "E" or very poor.

37. The Property is not classified on the State Department of Agriculture's Agricultural Lands of Importance to the State of Hawaii (ALISH) map.

38. The U.S. Soil Conservation Service has classified the soils within the Property with Capability Class Rating of VIII which is defined as soils and land forms which have limitations that preclude their use for commercial plants.

Flora and Fauna

39. A botanical survey of the Property was conducted by Char and Associates, botanical and environmental consultants. The survey identified four vegetative types on the Property. A well developed strand vegetation community occurs along the coastal portion of the Property. Immediately inland, in the southern area of the project site, the Kiawe thicket form a closed to semi-open canopy on the pahoehoe lava. The pond vegetation occurs at the edges of or within the anchialine ponds

which are found along the coast. Scrub vegetation is dispersed roughly over 80 to 85% of the Property.

40. Within these vegetative areas, 73 vascular plant species were identified. Of these, 27 are native species, 18 being indigenous and 9 are endemic. One plant tentatively identified as a *Reynoldsia* species was found in the kiawe thicket. A species of this genus (*Reynoldsia sandwicensis*) is a candidate endangered or threatened species; however, the plant is located within a historic site and no development is planned for this site.

41. A terrestrial faunal survey of the Property was also conducted by Char and Associates. The faunal survey identified 13 bird species and 1 mammal. The most common bird species, the House Finch and Japanese White-eye, were found in the mangrove, Kiawe thicket and strand habitats. The mongoose was the only mammal seen during the survey.

42. The proposed development will alter the existing faunal habitats. Potential impacts to avifaunal habitats would be associated with development adjacent to the anchialine ponds. As mitigating measures, the Petitioner proposes to include pond buffer zones which would prohibit development near the ponds and will prevent undue disturbances by casual passers-by.

Anchialine Ponds

43. The coastline of the Property contains a series of anchialine ponds which constitute one of the larger

concentrations of relatively undisturbed ponds on the island of Hawaii. An impact analysis of the proposed development on the anchialine ponds resource was conducted in 1986 by O I Consultants, Inc. The impact analysis reported that a survey conducted by O I Consultants, Inc. in 1985 located a total of 56 ponds along the Property's coastline, 13 of which were not examined in a 1972 survey by Maciolek and Brock. A more recent survey in 1986 located 2 senescent anchialine ponds at the southern edge of the Property.

44. No physical intrusion into the individual anchialine ponds is being proposed by the Petitioner at the Property with the possible exception of the two small ponds located in the vicinity of the proposed marina basin. The disposition of these ponds will be determined pending the completion of detailed engineering and environmental analyses to be prepared pursuant to an Army Corps permit application for marina construction.

45. The Petitioner intends to prepare an anchialine pond management plan with the objective of preserving significant pond features and providing interpretive and education opportunities to the public. Ponds identified at the Property will be incorporated into the overall design of the resort. Care will be taken in the design of the on-site drainage plan to assure that no runoff is directed towards the pond areas. The waste water treatment plan recognizes the potential impact of related nutrient loading on the pond

resource and proposes a system that will minimize the potential impact.

46. According to David Alan Ziemann, Ph.D., of O I Consultants, Inc., the proposed development is not seen as posing any major potential impacts to the anchialine ponds, aside from the potential of one or two ponds being impacted by the construction of the proposed marina.

Near Shore Environment

47. The near shore waters off the Property are classified as "AA" waters by the State Department of Health. The objective of Class "AA" is that these waters remain in their natural pristine state as nearly as possible.

48. The near shore marine environment off the Property is not significantly different, either in species abundance, or diversity, from other areas of the western coast of the island of Hawaii. The endangered humpback whale and the threatened green sea turtle are known to occur off the Property coastline. According to Steven J. Dollar, Ph.D., marine research consultant, the proposed development would not affect fishing as it exists today.

49. Direct impacts to the near shore environment due to construction will be associated with the proposed marina. The entrance channel to the marina will be constructed by dredging a portion of the offshore area to a depth required for the passage of small boats. This dredging activity will remove some portion of the existing coral community and will also cause siltation.

50. Petitioner proposes to mitigate the impact of the marina construction by constructing the marina basin "in the dry" behind a shoreline berm which will not be removed until construction of the marina has been completed and sediment within the marina basin has had an opportunity to settle out of the water.

51. Construction of the marina would require a Corps of Engineers permit and a Federal Environmental Impact Statement as well as a supplemental impact statement under the requirements of Chapter 343, Hawaii Revised Statutes.

52. According to marine research consultant Steven J. Dollar, the marina construction would not cause any noticeable effect to the pristine quality of water in the nearshore environment where the Natural Energy Laboratory of Hawaii and the Hawaii Ocean Science and Technology Park conduct their activities.

Historical/Archaeological Resources

53. There have been several archaeological surveys of the Property over the years; the most recent being a full archaeological reconnaissance survey of the Property conducted by Paul H. Rosendahl, Ph.D. Inc., consulting archaeologist, in 1986.

54. The archaeological survey identified a total of 105 sites within the Property. Of these, 13 sites had been previously recorded, and 92 sites were newly identified. The range of sites included walled shelters, enclosures, cave

shelters, overhang shelters, walls, trails, walled pond, platforms, cairns, petroglyphs, straight and circular rock alignment, rock mound, filled depression, cleared pond and spring/well.

55. Of the 105 sites identified, 84 have been determined to be significant solely for their information content. Sufficient data were collected from 50 of the 84 sites during the survey. These 50 sites no longer contain endangered information and no further work is recommended. Additional data collection has been recommended for the remaining 34 sites.

56. Eleven of the sites are significant for their information content and potential cultural value as probable burial sites. The consulting archaeologist recommends either preservation of the sites or proper reburial of remains if burials are found.

57. Five of the sites are significant for their information content and their interpretive potential. The recommended treatment of these sites is to conduct further data collection and to develop the sites as interpretive locales.

58. Five of the sites are significant for information content, as a site-type example, and for their cultural value. Inplace preservation or some level of interpretive development is recommended for these sites.

59. All sites recommended for preservation will be preserved by Petitioner in accordance with the archaeological consultant's recommendations. Sites with significant

interpretive and cultural value will be managed under an archaeological resources management plan which will be formulated with the assistance of the State Historic Sites Office and the Hawaii County Planning Department.

60. Petitioner intends to follow the archaeological consultant's recommendations concerning future field work and continue to work closely on such matter with both the Hawaii County Planning Department and the State Historic Sites Office.

Recreational Resources and Access

61. Currently, the recreational resources of the Property are limited to the coastal areas which are accessible by way of an unimproved coastal trail and used by local fishermen, beachcombers, and persons frequenting the popular bathing and surfing area known as Pine Trees Beach.

62. Petitioner's proposed public access system within the proposed development would maintain the present coastal access as lateral pedestrian ways with two mauka-makai points of entry: one at the Pine Trees Beach area, and the other near the proposed marina. Vehicular use of the existing jeep trail along the shoreline will be prohibited.

Noise Quality

63. The primary source of noise originates from air traffic operations at and near the Keahole Airport, located approximately two miles north of the Property.

64. Keahole Point was selected as the site for the airport to replace the old Kona Airport because aircraft

approaches to the site were generally over water and over lands that were within the Conservation District. There were also only one or two people living in the area. These were ideal conditions for an airport.

65. The primary concern of the DOT, manager of the Keahole Airport facility, is the impact of aircraft noise on the proposed Kohanaiki Resort. Complaints and lawsuits originating from owners and users of the resort due to aircraft noise could limit the operational efficiency of Keahole Airport and adversely impact future plans for expansion.

66. Aircraft take-offs and landings at night have been the cause of complaints at other airports. Complaints may lead to a curfew being placed on the airport and eventually to a total restriction of night operations. This would be a disaster to Keahole Airport because night flights are a key to successful air cargo operations.

67. The DOT is in the process of developing a revised master plan for Keahole Airport. Included in this plan will be a detailed analysis of the aircraft noise impacts on the areas surrounding the airport.

68. The DOT recently let contracts to update the original 1971 Keahole Airport Master Plan and to prepare detailed noise studies of existing and projected aircraft operations. These studies are expected to take approximately one year to complete.

69. The DOT, in preparing its noise plan for the Property and the surrounding area, is guided by the Federal Aviation Administration Advisory Circular number 150/5050-6 entitled "Land Use Guidance Chart I: Airport Noise Interpolation" (Chart).

According to the FAA Chart, under Land Use Guidance Zone A, a Minimal Exposure Class with a day-night average sound level range of zero to 55 decibels, no special noise control considerations are suggested and areas which fall in this zone are clearly acceptable according to the Federal Department of Housing and Urban Development Noise Assessment Guidelines.

For Land Use Guidance Zone B, a Moderate Exposure Class with a day-night average sound level range of 55 to 65 decibels, land use noise controls should be considered.

70. In a highly urbanized environs such as Honolulu, where other non-aircraft noise sources can be higher than 60 Ldn, a compromise value of 60 Ldn is considered by the DOT Airports Division. The 60 Ldn is selected since it is midway between the unconditionally acceptable 55 Ldn and the conditionally acceptable 65 Ldn.

71. DOT had established suggested land use compatibility standards in aircraft noise exposure areas in 1981 under its Honolulu International Airport and Environs Master Plan Study. Under these standards, all land uses below the 60 Ldn contour are compatible. Between the 60 to 65 Ldn contour, residential land uses, mobile homes, transient lodgings and

public facilities such as schools, hospitals and nursing homes are compatible only when additional noise level reduction measures are incorporated into the design and construction.

72. It is possible to achieve the desirable 45 Ldn noise level within a building subject to 65 Ldn exterior noise levels and higher, but this means that the building must utilize much heavier construction than is typical in Hawaii. The building also could not have open windows and lanais for cross ventilation. The building would have to be air conditioned and of heavy construction in order to achieve a 45 Ldn interior noise level.

73. Petitioner proposes to apply sound attenuation measures on all residential units on the Property that are subject to noise contours greater than 60 Ldn and to include a noise covenant in the conveyances documents for such residential units.

74. The location of the noise contours projected for 1990 with respect to the Property has been located by DOT and shown on Exhibit A attached hereto and incorporated by reference herein.

75. Other sources of noise affecting portions of the Property are those caused by wave action crashing against the beaches and lava boulders and noise produced from vehicular traffic moving along the Queen Kaahumanu Highway.

Air Quality

76. Petitioner anticipates that temporary fugitive dust emissions from the construction activity will be sources of pollutants on the Property. Petitioner proposes to mitigate such fugitive dust emissions by watering of exposed areas and early landscaping.

77. Petitioner anticipates that the proposed project on the Property will have vehicular traffic characteristics and emission impacts similar to those of the Kaupulehu Resort, a project of like-size located north of the Keahole Airport. An air quality impact analysis for the Kaupulehu Resort had showed that at full build-out the increased emission would still be in compliance with federal and state standards.

Visual Impacts/Height Restrictions

78. The present landscape of the Property will be irretrievably altered from its present natural condition to one characterized by low-lying buildings, landscaped open space, internal roadways, marina harbor and related facilities, and an 18-hole golf course. Major buildings will be designed by Petitioner to minimize impacts to existing mauka-makai view corridors.

79. Due to its close proximity to Keahole Airport, development in a portion of the coastal area of the Property must conform to height restrictions as shown on the airport zoning map, by the State Department of Transportation (DOT), Airports Division.

Commitment of State Funds and Resources

80. Two areas of significant public expenditures in 1986 dollars associated with the proposed project would be for police and fire protection. The proposed project would require public expenditures of \$105,000.00 annually for police protection and \$252,000.00 annually for fire protection.

81. The proposed project is expected to generate some \$10,818,415.00 annually to public revenues in direct net tax benefits. This amount would be divided between \$5,719,425.00 to the County of Hawaii and \$5,098,990.00 to the State. This does not include the over \$4,000,000.00 annually in other tax revenues generated through economic multipliers in the community.

Employment Opportunities and Economic Development

82. Total employment growth is estimated at about 1,830 full-time equivalent positions at full build-out of the proposed project, including a total of 305 indirect/induced jobs.

83. Direct construction employment is estimated at about 2,000 full-time equivalent persons-years for total project build-out.

Housing Opportunities

84. Petitioner proposes to construct 150 employee housing units on the Property. Petitioner recognizes that additional housing may be necessary to meet employee housing demand generated by the proposed project. Petitioner has established contact with the Hawaii County Office of Housing and

Community Development and has expressed willingness to work with the County to explore assisted housing requirements.

ADEQUACY OF PUBLIC SERVICES AND FACILITIES

Water Resource and Service

85. The water demand for the proposed project on the Property is 0.7 million gallons per day (MGD) for the initial development phase which includes a 400-room hotel, clubhouse, staff of 645 persons and irrigation of 112 acres. At full build-out of the proposed project, the projected water demand is 2.0 MGD.

86. Groundwater resources in the Kona area have been estimated at 100 MGD by the Hawaii Water Resources Plan. The existing supply sources in the North Kona water system at Kahaluu with a cumulative safe capacity of 8.4 MGD are approaching capacity. Additional source and transmission facilities must be constructed to provide water for the proposed project.

87. Petitioner has examined four potential water development alternatives, the most probable of which is the development of a new water agreement wherein the County would be responsible for easement acquisition as well as the design, source development and operation. The funding of such a development would be provided by Petitioner or by a pool of developers of projects in the vicinity as the County may determine under the water agreement.

88. Petitioner's discussions with the Hawaii County Department of Water Supply indicate that adequate water supply can be made available to the proposed project if the Petitioner contributes to the cost of source and transmission facilities and shares in the cost of secondary impacts of resort development in water commitments.

Transportation Services and Facilities

89. The proposed project is estimated to generate about 500 vehicles per hour onto the Queen Kaahumanu Highway during the evening peak hour at full build-out.

90. The traffic capacity for Queen Kaahumanu Highway is estimated at 1,800 to 2,500 vehicles per hour per lane. According to the State DOT, current traffic volumes on the highway close to the Property indicate peak flows of 594 vehicles per hour.

91. The State DOT has stated that the access for the proposed project at Queen Kaahumanu Highway should be a channelized intersection in conformance with current standards of the State Highways Division and constructed by the Petitioner at no cost to the State.

Petitioner intends to implement the intersection improvement at its cost.

Sewage Treatment and Disposal

92. The engineering study for the Petitioner examined five alternative treatment systems for the proposed project. The alternative that would give the best advantage is a single

centralized treatment facility with a capacity of 0.46 MGD to treat the entire development.

93. Treated effluent will be used by Petitioner for golf course irrigation or other landscaped areas.

94. According to James Kumagai, Ph.D., of M & E Pacific, Inc., engineering consultant for Petitioner, most of the treated effluent used in irrigation will be evaportransported and about a fourth of the treated effluent will percolate to the groundwater without any impact to the near shore marina environment or the anchialine pond system.

95. Petitioner proposes to locate all wastewater pumping stations and treatment facilities as far from the anchialine ponds as practical. Pumping and treatment facilities would also be located above the 15 foot elevation to reduce the potential for groundwater contact.

Drainage

96. The change in land use proposed by the resort development on the Property will increase the amount of rainfall that is converted to surface runoff.

97. Petitioner proposes to prevent surface runoff from going into Kaloko Fishpond and the anchialine ponds through its drainage plan. The proposed drainage plan calls for the majority of the surface flow from resort development to be directed to ponding areas and dry wells within the golf course, with excess surface flow being discharged into the marina basin.

98. Petitioner believes runoff into the Kaloko Fishpond area will actually be reduced from the current 2,800 cubic feet per second to 2,700 cubic feet per second and this reduction in surface runoff will not represent a major potential source of change of the character of the Kaloko Fishpond.

Electrical and Telephone Services

99. Electrical and telephone services can be made available to the Property for the proposed project.

100. A requirement of 35 mva is estimated for the proposed project. A new substation, to be located mauka of Queen Kaahumanu Highway, would be required to handle this requirement and two 12.47 kv distribution lines would be required to run under the highway to the Property. An onsite substation will also be required for telephone service for the proposed site. Petitioner intends to contribute to the cost of both substations.

Police and Fire Protection

101. Police services are available from the police substation in Kailua-Kona. Planning is underway to move the regional Captain Cook police headquarters to a new 10-acre facility at Kealakehe, North Kona, located mid-way between the Property and Kailua-Kona.

102. Fire protection for the proposed project will be served by the Kailua-Kona station approximately five to seven miles from the Property.

Schools

103. Public schools serving the North Kona District are Kealakehe Elementary, Kealakehe Intermediate and Konawaena High School, which are operating at capacity. Additional classrooms will be required at the schools to accommodate growth.

104. Petitioner estimates a total of between 45 to 85 children may require public school education at full build-out of the proposed project.

105. The State Department of Education has stated that master plans for the schools are being revised in anticipation of projected future growth. A 12-classroom project is presently being designed at Kealakehe to accommodate increasing enrollment.

Health Care Facilities

106. The Kona Hospital located in Kealahou, Kona, is the nearest health care facility to the Property. The hospital is approaching capacity and funding request to accommodate additional beds is expected. Using a standard of 4 hospital beds per 1,000 residents, the proposed project at full build-out and operation would require the provision of about 17 additional hospital beds.

Solid Waste

107. There is no government pick-up service for solid waste disposal in the County of Hawaii. Solid waste generated from the proposed project can be accommodated at the Kailua-Kona landfill at Kealahou. A new 300-acre landfill site is being

planned by the County at Puu Anahulu to serve both North Kona and Kohala.

CONFORMANCE TO STATE LAND USE DISTRICT STANDARDS

108. The Property is contiguous to the Kaloko-Honokohau-Kealakehe Urban District. The northern Kaloko-Honokohau portion of that Urban District is privately-owned and the remaining southern Kealakehe portion is owned by the State of Hawaii. Existing urban development within the Kaloko-Honokohau-Kealakehe Urban District is the Honokohau Harbor which is owned and operated by the State. The proposed project is also adjacent, at its northern mauka corner, to a portion of the Hawaii Ocean and Science Technology Park Urban District.

109. The Kaloko-Honokohau urban areas are currently designated as a resort destination area under the State Tourism Plan Technical Reference document and the County General Plan and are not proposed as the area for the congressionally authorized National Park. Development of the subject Property as a resort would carry out the general intent of the State Tourism Plan and the County General Plan for a resort destination in the general vicinity of the Kaloko-Honokohau area.

110. Public services and facilities are available to service the Property or can be provided at reasonable costs to Petitioner.

Petitioner intends to develop the proposed project's on-site and off-site infrastructure relating to water, sewer, roadways, drainage and power.

111. Petitioner proposes to develop an integrated intermediate-class resort including two full-service hotels, marina, golf course, commercial shops, residential homes and condominiums, which would generate trade and employment.

112. Petitioner demonstrates sufficient financial stability and capacity to undertake and complete the proposed project.

CONFORMANCE WITH THE HAWAII STATE PLAN

113. The proposed reclassification to allow the proposed project conforms to the Hawaii State Plan, including the following goal, objective and policy:

Goal: "A strong, viable economy, characterized by stability, diversity, and growth, that enables the fulfillment of the needs and expectations of Hawaii's present and future generations." Hawaii Revised Statutes Section 226-4(1)

Objective: "Increased and diversified employment opportunities to achieve full employment, increased income and job choice, and improved living standards for Hawaii's people." Hawaii Revised Statutes Section 226-6(a)(1)

Policy: "Encourage an increase of economic activities and employment opportunities on the Neighbor Islands consistent with community needs and desires." Hawaii Revised Statutes Section 226-5(b)(2)

The Hawaii County economy has shifted from an economy dominated by agriculture to a more diversified economy with a significant service-oriented component. The visitor industry has played a vital and significant role in the diversification of the County's economy, particularly in the North Kona-South Kohala

districts. The proposed project will provide direct long-term employment for an estimated 1,525 residents and indirect employment for an additional 305 residents. Significant public benefit will accrue to both the County and the State in the form of net increased tax annual revenue estimated to be in excess of \$10 million per year.

RULING ON STIPULATED PROPOSED FINDINGS OF FACT

Any of the stipulated proposed findings of fact submitted by the parties not adopted by the Commission herein, or rejected by clear contrary findings of fact herein, are hereby denied and rejected.

CONCLUSIONS OF LAW

Pursuant to Chapter 205, Hawaii Revised Statutes, as amended, and the Rules of Practice and Procedure and District Regulations of the Commission, the Commission finds upon the preponderance of evidence that the reclassification of approximately 470.13 acres from the Conservation District into the Urban District at Kohanaiki, North Kona, Island and County of Hawaii, Tax Map Key Numbers: 7-3-09: 3 and 16, for resort, residential, commercial, golf course, and marina uses, subject to the conditions stated in the Order, conforms to the standards established in the State Land Use District Regulations, is reasonable and non-violative of Section 205-2, Hawaii Revised Statutes, and the Hawaii State Plan, as set forth in Chapter 226, Hawaii Revised Statutes, as amended.

ORDER

IT IS HEREBY ORDERED that the Property, consisting of approximately 470.13 acres, being the subject of this Docket No. A86-599 by Kona Beach Development Venture, L.P., situate at Kohanaiki, North Kona, Island and County of Hawaii, and identified as Hawaii Tax Map Key Numbers: 7-3-09: 3 and 16, for reclassification from the Conservation District to the Urban District, shall be and hereby is approved subject to the following conditions:

1. Petitioner shall provide housing opportunities for low and moderate income Hawaii residents and for employees employed on the Property by constructing and offering for sale or rent, on a preferential basis on its own or in cooperation with either or both the Hawaii Housing Authority and the County of Hawaii, within or without the Property, a number of residential units not less than ten percent (10%) of the residential units to be developed on the Property to residents of Hawaii and/or employees employed on the Property of low or moderate income as determined by the Hawaii Housing Authority or County of Hawaii from time to time, or by contributing to the development of such housing without the Property. The preferential residential units shall be offered for sale at prices that would enable such purchasers to qualify for and obtain State-assisted financing (e.g. Act 105 or Hula Mae) or Federally-insured or assisted financing (e.g. FHA Section 245

Program) intended to encourage home ownership by low and moderate income families or employees.

2. Petitioner shall provide public access from Queen Kaahumanu Highway to the shoreline. Petitioner shall provide space for parking stalls at the access(es). Petitioner shall maintain a continuous trail along the seaward boundary of the Property and such access shall be integrated with the shoreline trails on adjacent lands. The accesses shall be available to the public for recreational use. Petitioner shall coordinate plans for public access with the Department of Land and Natural Resources and the County of Hawaii.

3. Petitioner shall establish a pond management plan for the anchialine pond complex in coordination with the Department of Land and Natural Resources, the County of Hawaii, and other appropriate agencies. The anchialine pond management plan shall include provisions for a buffer zone of no less than forty feet in width measured from the edge of the anchialine pond basin area to the outer edge of the buffer zone.

4. Petitioner shall prepare preservation and data recovery plans for all significant historic sites which plans shall be submitted to the Department of Land and Natural Resources and the County of Hawaii Planning Department for their review and comment.

5. Petitioner shall develop and maintain on-site facilities such as sewage treatment plants, dry wells and ponding areas to insure that the nearshore, offshore and deep

ocean waters remain in pristine condition. Petitioner shall also develop and coordinate a monitoring system with the Natural Energy Laboratory of Hawaii and the Hawaii Ocean Science and Technology Park.

6. Petitioner shall provide a buffer area and develop and maintain a storm drainage system that does not adversely affect the existing wildlife habitat at Kaloko Fishpond in coordination with the Department of Land and Natural Resources, the U.S. Fish and Wildlife Service, the U.S. Park Service, and other appropriate agencies.

7. Petitioner shall grant to the State of Hawaii a noise easement in a form prescribed by the State Department of Transportation on any portion of the Property subject to noise levels exceeding 55 LDN as determined by the Department of Transportation noise contour map provided by the Department of Transportation for the year 1990. (see Exhibit A attached to this Decision and Order)

8. Petitioner shall apply sound attenuation measures on all residential units on the Property that are subject to noise levels greater than 60 LDN. Petitioner shall not construct residential or resort condominium development on any portion of the Property subject to noise levels greater than 65 LDN.

9. 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. A86-599 - KONA BEACH DEVELOPMENT VENTURE, L.P.

Done at Honolulu, Hawaii, this 30th day of January 1987,
per motions on January 13, 1987 and January 27, 1987.

LAND USE COMMISSION
STATE OF HAWAII

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

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

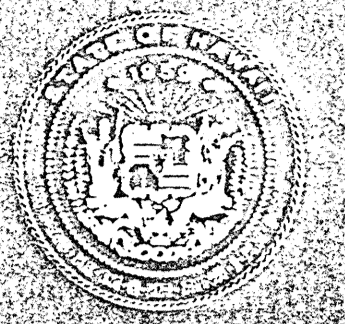
By *William W. Yuen*
WILLIAM W. L. YUEN
Commissioner

By *Toru Suzuki*
TORU SUZUKI
Commissioner

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

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

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



Airports Division
DEPARTMENT OF TRANSPORTATION
STATE OF HAWAII

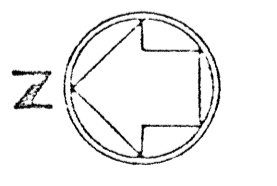
KEAHOLE AIRPORT MASTER PLAN

KEAHOLE AIRPORT, NORTH KONA, HAWAII

STATE PROJECT NO. AH2011-02
AIP PROJECT NO. 3-15-0008-03

1990 Ldn CONTOURS

LAND USE COMMISSION
STATE OF HAWAII
Jan 27 3 48 PM '87



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SCALE IN FEET

October 1986



EXHIBIT A



BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of)
KONA BEACH DEVELOPMENT VENTURE, L.P.) DOCKET NO. A86-599
To amend the Conservation Land Use)
District Boundary into the Urban)
Land Use District for Approximately)
470.13 Acres at Kohanaiki, North)
Kona, Hawaii, State of Hawaii, Tax)
Map Key Nos: 7-3-09: 3 and 16)
_____)

CERTIFICATE OF SERVICE


I hereby certify that a copy of the 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:

ROGER A. ULVELING, Director
Dept. of Planning and Economic Development
State of Hawaii
250 South King Street
Honolulu, Hawaii 96813

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

JAMES FUNAKI, ESQ.
Grosvenor Center, Suite 1400
733 Bishop Street
Honolulu, Hawaii 96813

Dated: Honolulu, Hawaii, this 30th day of January 1987.



ESTHER UEDA, Executive Officer

DOCKET NO. A86-599 - KONA BEACH DEVELOPMENT VENTURE

A copy of the Land Use Commission's Decision and Order was served upon the following by regular mail on January 30, 1987.

EVERETT KANESHIGE, Deputy Attorney General
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WALTER F. WELDON, JR., NORMAN L.
KASPARSON, E.J. CALDECOTT AND JAMES G.
DEGNAN, as Trustees under Declaration
of Trust dated April 2, 1968
c/o E. John Caldecott, Esq.
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Los Angeles, CA 90071

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