

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of)
THE LUSK COMPANY) DOCKET NO. A88-624
To Amend the Conservation Land)
Use District Boundary into the)
Urban Land Use District for)
Approximately 26.445 acres at)
Waiiau, Ewa, Island of Oahu, City)
and County of Honolulu, State of)
Hawaii, Tax Map Key No.:)
9-8-02: Portion of Parcel 3)

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LAND USE COMMISSION
HAWAII

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

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In the Matter of the Petition of) DOCKET NO. A88-624
THE LUSK COMPANY) THE LUSK COMPANY
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Approximately 26.445 acres at)
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Hawaii, Tax Map Key No.:)
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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 May 20, 1988 and an amendment to petition on November 7, 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 26.445 acres of land situate at Waiiau, Ewa, Oahu, City and County of Honolulu, State of Hawaii, Tax Map Key Number: 9-8-02: Portion of Parcel 3 (hereinafter referred to as the "Property"), from the Conservation 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' 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 May 20, 1988, Petitioner filed a petition for amendment of district boundaries and an environmental impact statement (EIS).

2. By order dated June 29, 1988, the Commission accepted Petitioner's EIS and accepted the Petition for filing as of June 21, 1988.

3. On September 26, 1988, a prehearing was conducted at the Commission's office.

4. On October 12 and 13, 1988, the Commission conducted a hearing on the petition pursuant to notice published in the Honolulu Star-Bulletin, a newspaper of general circulation, on September 2, 1988.

5. On November 4, 1988, Petitioner filed a Motion to File an Amended Petition For Amendment of District Boundaries and Reclassification From Conservation to Urban to increase the size of the Property from 26 acres to approximately 26.445 acres.

6. On December 27, 1988, the Commission filed an order approving Petitioner's motion to amend petition.

7. On January 10, 1989, the Commission conducted a hearing on the amended petition pursuant to notice published in the Honolulu Star-Bulletin on December 8, 1988.

8. The Land Use Commission did not receive any requests for intervention.

9. The Commission allowed Darrell Lau, Charles Khim, Gilbert Doles, Alvin Kort representing Stanley Ambo, Mark Yoshida, Robley Smith and Robert Silva to testify as public witnesses on October 12, 1988.

10. The Commission accepted into evidence the written statements from public witnesses Mary L. Faller, Jean St. John, and Robert Silva on January 10, 1989.

DESCRIPTION OF THE PROPERTY

11. The Property comprises approximately 26.445 acres of land situate at Waiiau, Ewa, Oahu, City and County of Honolulu, State of Hawaii and is more particularly described as Tax Map Key No. 9-8-02: portion of parcel 3.

12. The Property is located at the end of Kaahumanu Street and is bounded to the north by Punanani Gulch, to the south by Waiiau Gulch, to the west by the Wailuna III residential project, and to the east by Conservation District land.

13. The Property is owned in fee by the Trustees of the Bishop Estate and leased to Oahu Sugar Company, with the lease expiring in 1990. Petitioner has acquired development rights to the Property.

14. The Property was formerly used for agricultural purposes, first for sugarcane cultivation, and later as a

macadamia nut orchard. Presently it is being used for grazing cattle and horses.

15. Hawaiian Electric Company has an easement over the Property for a 138 kilovolt electrical transmission line.

In addition, the Board of Water Supply has an access and utility easement over the Property to its reservoir located mauka of the Property.

16. A portion of the Property located on the ridge crest is relatively flat and a portion of the Property is an unnamed gulch which will be filled by Petitioner to create a reasonably flat area.

17. Said gulch is approximately 7 acres in size and 50 feet in depth. This gulch serves as a natural drainageway which begins near the center of the Property and extends across the Property to the northwest corner. The gulch then curves in a southerly direction along the Property's western boundary where it merges with Punanani Gulch.

18. Elevation of the Property is generally between 550 and 750 feet above sea level.

19. Sixty percent of the Property is estimated to be 20% or less in slope, while approximately 40% of the Property has a slope of more than 20%. Approximately 30% of the Property is estimated to exceed 30% slope.

20. The United States Department of Agriculture (USDA) Soil Conservation Service (SCS) Soil Survey Report for

the Islands of Kauai, Oahu, Maui, Molokai, and Lanai identifies the soils on the Property as Manana silty clay loam (MoC) 6 to 12% slopes; Manana silty clay loam (MoD2) 12 to 25% slopes; and Helemano silty clay (HLMG) 30 to 90% slopes.

21. The Manana soil series consist of well-drained soils on uplands that are gently sloping to steep, at elevations ranging from 500 to 1,200 feet.

22. Helemano soil is found on steep to extremely steep sides of V-shaped gulches, at elevations ranging from 500 to 1,200 feet. These soils are susceptible to sliding.

23. Thirty-five percent of the Property contains the MoC type soils found in the western portion of the Property; another 35% contains MoD2 soils found in the eastern side of the Property; and 30% contains Helemano soils found in the gulch area of the Property.

24. The characteristics of these soils are summarized as follows:

	Permeability	Runoff	Erosion Hazard
MoC	Moderately rapid	Medium	Moderate
MoD2	--	Rapid	Severe
HLMG	Moderately rapid	Medium to very rapid	Severe to very severe

25. According to the State Department of Agriculture's Agricultural Lands of Importance to the State of Hawaii (ALISH) classification system, the Property is classified as "prime" and "other important" agricultural land.

26. Median annual rainfall for the Property and general area is approximately 50 inches.

27. 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

28. Petitioner proposes to develop the fourth and final increment (referred to as Wailuna IV) of the existing Wailuna residential development located on Kaahumanu Street. The first two increments, containing 328 apartment units and 127 single-family units, have been completed and are occupied. The third increment, with 170 single-family units, is currently under construction.

29. Wailuna IV will consist of 180 single-family residential condominium units. The 1,500-square-foot units will be sited on 4,000-square-foot minimum condominium lots.

30. Approximate density will be 7 units per acre and a typical unit will consist of 3 bedrooms and 2 baths.

31. Petitioner proposes to construct a recreational facility on the Property to be incorporated into the existing Wailuna Recreation Association.

32. Petitioner indicates that Wailuna IV is targeted to families within the upper moderate income to high income brackets. 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.

33. Petitioner indicates the intended market will be all of Oahu with special attention given to prospective purchasers from Pearl City and its environs. Purchasers will be step-up buyers moving from ownership of a small unit to a larger one or persons purchasing a unit for the first time.

34. Petitioner proposes to commence construction of the development, after receiving governmental approvals, by 1991 and complete occupancy thereof by 1993.

35. Petitioner estimates total cost for the development of Wailuna IV to be approximately \$27 million (1987 Dollars). The grading, construction of the roads, utilities, utility company charges and the Board of Water Supply facility charges are estimated at \$4.5 million dollars.

PETITIONER'S FINANCIAL CAPABILITY
TO UNDERTAKE THE PROPOSED DEVELOPMENT

36. 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, 1987 and 1986, lists assets of \$710,794,000 and \$547,073,000, respectively, and liabilities of \$582,869,000 and \$463,494,000, respectively. Minority and partnership interests are listed as \$44,314,000 and \$42,535,000, respectively, and stockholders' equity as \$83,611,000 and \$41,044,000, respectively.

37. The comparative balance sheet for Lusk Hawaii, for the period ending October 31, 1987 and 1986, lists assets of \$22,523,561 and \$24,698,607, respectively, and liabilities of \$24,342,699 and \$25,420,763, respectively. Division equity is listed as \$1,819,138 and \$722,156, respectively.

STATE AND COUNTY PLANS AND PROGRAMS

38. The Property is currently designated with the State Land Use Conservation District as reflected on Land Use District Boundary Map O-9, Waipahu.

39. The Property is designated by the Board of Land and Natural Resources in the General (G) Subzone of the Conservation Land Use District.

40. Section 13-2-14 of the Administrative Rules of the Department of Land and Natural Resources (DLNR), Conservation Districts, states that the objective of this subzone is to designate open space where specific conservation uses may not be defined, but where urban use would be premature, and that the boundaries for the G subzone shall encompass lands with topography, soils, climate, or other related environmental factors that may not be normally adaptable or presently needed for urban, rural, or agricultural use.

41. The Property is identified on the City and County of Honolulu's Primary Urban Center Development Plan as Preservation.

42. The Property is presently zoned P-1 Preservation.

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

NEED FOR THE PROPOSED DEVELOPMENT

44. The Property is in the City and County of Honolulu's Primary Urban Center. It adjoins Petitioner's other developments in the area.

45. Petitioner indicates it has successfully developed three adjoining increments, Wailuna I, II and III, totalling 626 units in the past 4 years.

46. Petitioner's market analyst, Environmental Capital Managers, Inc. (ECMI), prepared a market study for the proposed Wailuna IV.

ECMI indicates that Census Tracts 73 through 82, which includes the Property, experienced a population growth rate of 2.0 percent for the 1970-1980 period. However, for the primary market area, Census Tracts 73 through 95, which includes Ewa and Central Oahu, the population grew at approximately 4.1 percent from 1970 to 1980.

47. 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. ECMI also indicates that the primary urban center which is projected to grow at 0.4 percent annually, will account for 29 percent of the estimated island-wide population growth.

48. The Department of General Planning of the City and County of Honolulu projects a need for 24,000 additional units in the Primary Urban Center by year 2005.

49. A news release from the Office of the Governor on February 4, 1988 (No. 88-013) indicates that there presently is a housing shortage of some 22,000 affordable housing units Statewide, and that if no action is taken, the shortage of the critical affordable housing market will grow to some 64,000 units by the year 2000. The news release further indicates that the total projected production of affordable housing units up to the year 2000 is approximately 15,000 units, which would indicate a total affordable housing shortfall of approximately 49,000 units in the year 2000. The Office of State Planning points out that the manner in which Petitioner intends to provide for affordable housing units is not clearly addressed.

IMPACT UPON RESOURCES OF THE AREA

Topographic Concerns

50. In order to prepare the site for the proposed development, Petitioner intends to cut portions of the ridge, fill the on-site gulch, and grade the Property to accommodate the proposed residential uses. The proposed site preparation indicates that the topographical modification to be made to the Property would be substantial.

51. The Office of State Planning (OSP) is concerned that major topographical modification of the Property, in the manner proposed, may have serious implications for public

safety. Given the physical characteristics of the site (e.g., terrain, slope, soil properties), and the proposed site preparation activities (e.g., extensive cutting, filling, grading), residential development of the project site could--in the long-term--result in such hazards as landslides, subsidence and flooding.

52. OSP indicates that without adequate controls, the potential adverse effects of modifying the existing topography for residential uses could result in damaging earth movements to future homes built upon the Property as well as existing residences immediately downslope of the Property. This may result in litigation and mandatory compensation to the future or existing homeowners.

Air and Aural Quality

53. Petitioner identifies direct air quality impacts resulting from the proposed project as follows: short-term dust emissions during the construction phase; and carbon monoxide and nitrogen dioxide emissions from the increased traffic generated.

54. Petitioner states that control measures will be utilized to mitigate the short-term dust emissions during the construction phase.

55. Petitioner indicates that State of Hawaii Air Quality Standards could be exceeded near the intersections of Kaahumanu Street with Moanalua Road and Kamehameha Highway under present peak hour traffic conditions and worst case

meteorological dispersion conditions. By 1993, the anticipated project completion date, decreased carbon monoxide emissions from newer individual vehicles coupled with a relatively low traffic growth rate in this area will still yield projected worst case levels at these two intersections that are lower than present levels, but still higher than allowable standards, with or without the additional traffic from Wailuna IV. The regional scale air pollution impact of Wailuna IV traffic is estimated to be minimal.

56. The State Department of Health (DOH) states that the proposed project will not cause, but rather will contribute to said exceedances. Due to the potential exceedances, the mitigating actions to be implemented should be discussed further and a monitoring program be initiated to verify that the State standards, in fact, will not be exceeded.

57. Petitioner's Traffic Noise Study for the Proposed Wailuna IV Project, indicates that the increase in noise levels attributable to the proposed development along Kaahumanu Street is expected to be less than 0.3 Ldn south of Komo Mai Drive, and greater than 1.2 Ldn north of Komo Mai Drive.

58. Petitioner states that "because traffic volume and noise level increases along Kaahumanu Street are predicted to be small or result in total noise levels below Federal Housing Administration/Housing and Urban Development standards, traffic noise mitigations are not necessary for mitigating noise impacts".

59. Petitioner further states that the short-term noise impacts resulting from construction vehicles and activities will be mitigated by adhering to Department of Health rules.

Water Resources

60. Petitioner's water resource consultant, Gordon L. Dugan, prepared a study on the impacts of the proposed project upon the receiving waters of East Loch, Pearl Harbor. The study indicates that there will be increases in the concentration of nitrogen, phosphorus and suspended solids during low level storms but decreases during high level storms. In addition, increases in constituent loads could also result from construction activities and recommends that strict erosion control measures be adhered to.

61. Petitioner believes that the proposed project is not expected to adversely affect groundwater.

Flora and Fauna

62. The Property has been disturbed for some time, first by sugar cultivation, and later by a macadamia nut orchard and grazing.

63. Vegetation on site is composed of plants such as broomsedge grassland, Christmas berry and guava that are associated with an abandoned field.

64. There are no native animals on the Property. Ten species of introduced birds, including the Japanese white eye,

cardinals and the Bulbul, were observed. There was also evidence of feral pigs on site.

65. There are no rare or endangered plants or animals on the project site.

Historic and Archaeological Resources

66. The area has been extensively disturbed, mainly by bulldozer activity.

67. Petitioner's archaeological consultant concludes that the only features encountered were recent and no other remains of archaeological sites were encountered. No sites of historical significance were found in the subject area. No further archaeological work is recommended for the project area.

Recreational Resources

68. Petitioner will provide a recreational facility on the Property. Each of Petitioner's three prior developments have recreational facilities maintained by the Wailuna Recreation Association. The facility to be constructed on the Property will be likewise maintained by the Wailuna Recreation Association and any purchaser of houses in the development (Wailuna IV) will be able to use any of said facilities.

69. Petitioner proposes to comply with the provisions of the City and County of Honolulu Park Dedication Ordinance requirements.

Agricultural Resources

70. The Property will not involve lands presently classified or used for cultivation and therefore no significant impacts to agricultural resources are anticipated.

ADEQUACY OF PUBLIC SERVICES AND FACILITIES

Highway and Roadway Facilities

71. The Property is served by Kaahumanu Street which is approximately two miles long starting from Kamehameha Highway. Petitioner proposes to extend Kaahumanu Street into the Property.

72. Major thoroughfares which intersect with Kaahumanu Street are Kamehameha Highway, Moanalua Road and Komo Mai Drive; all are signalized intersections.

73. Traffic on the local roadways and the regional highway system would increase with the development of Wailuna IV, but the project generated traffic would not have a significant adverse effect on traffic conditions.

74. Petitioner's traffic impact study indicates that traffic generated by the project would only affect the Kamehameha Highway/Kaahumanu Street intersection during the afternoon peak hour by decreasing the level of service from C to D on a scale of A to F, A being the highest level of service. This level of service, however, may remain at C by changing the signal timing at the Kamehameha Highway intersection.

Petitioner's traffic impact study indicates that the makai-bound through and right movements at the intersection of Kaahumanu and Moanalua Road would experience Level of Service "E" in the morning peak hour.

75. Petitioner states that while the project would add traffic to the regional highway system, this impact can be minimized, to some extent, by the planned addition by the State Department of Transportation of a sixth lane in each direction on the H-1 Freeway between the Waiiau and Halawa interchanges.

Water Service

76. The present water system was designed for higher density development and is adequate for the project. The existing Waiiau Reservoir is located at the 850-foot elevation and is proposed to serve the project.

77. The existing Waiiau Reservoir is presently maintained and operated by the Board of Water Supply and was designed for a total average daily demand of 705,000 gallons per day (gpd). It has a present daily demand of 480,000 gpd.

78. The project is estimated to have an average demand of 90,000 gpd.

79. Petitioner will request the Board of Water Supply for source allocation and will pay the applicable facility charge to the Board of Water Supply during project development.

Wastewater Treatment and Disposal

80. The existing municipal wastewater system is presently adequate to accommodate the conveyance, treatment and disposal of the estimated average daily sewage generated by the project of 72,000 gallons per day.

81. An existing underground 8-inch sanitary sewer extends to the upper end of Kaahumanu Street at the boundary of the project site. Sewage collected by the pipeline is conveyed by existing municipal sewer mains to the wastewater pump station in lower Pearl City. It is then pumped to the Honouliuli Wastewater Treatment Plant with the effluent discharged by outfall into the Pacific Ocean.

82. The expansion of the Honouliuli Wastewater Treatment Plant is planned for construction commencing 1991. Petitioner proposes to pay its proportionate share or assessment as established by the City and County of Honolulu for the expansion of said treatment plant.

Drainage

83. The project is approximately two miles northeast of East Loch, Pearl Harbor. Twenty-three acres of the storm waters from the project site drain into Punanani Gulch and three acres into the Waiiau Gulch, eventually draining into Pearl Harbor.

84. Storm water from the project site is minimal as Punanani Gulch serves as the drainage area of 1300 acres and Waiiau Gulch is the drainage area for 3000 acres.

85. Construction of an underground pipe system with catch basins on the street will direct the runoff from the waters falling on the project site. Waters would be discharged into Punanani Gulch and Waiiau Gulch. On site drainage improvements will be designed in accordance with applicable City and County of Honolulu standards.

86. Any drainage study required by the City and County of Honolulu will be made by Petitioner.

Solid Waste Disposal

87. Solid waste pickup will be collected by the Department of Public Works, Division of Refuse Collection and Disposal of the City and County of Honolulu, or by a private refuse collection service.

Schools

88. The project area is served by Waimalu Elementary School, Aiea Intermediate School and Aiea High School. Petitioner will coordinate with the Department of Education to accommodate any increase resulting from the development.

89. Petitioner would pay its fair share toward school facilities.

Medical Services and Health Care Facilities

90. Medical and health care facilities are currently available in Pearl City, Aiea, Moanalua and Waipahu with emergency services provided by Kaiser Moanalua Hospital.

Police and Fire Protection

91. The Pearl City police station, located at 1100 Waimano Home Road, Pearl City, Hawaii, will provide service to this area. Petitioner believes that this project will not affect the level of police services for this area.

92. Existing fire protection facilities and services are adequate to service the development. The primary facility providing fire protection services to the project will be the Waiiau fire station. The existing Aiea and Pearl City stations will serve as back up to the Waiiau fire station.

Energy and Utilities

93. Energy/utility facilities necessary for the project will be planned and coordinated with the appropriate agencies and public utilities.

94. The existing Waiiau-Koolau-Pukele 138 kilovolt line and the Waiiau-Wahiawa and Waiiau-Koolau 138 kilovolt lines are all in proximity of the development. Discussions with the Hawaii Electric Company for future services will be coordinated prior to and during the development.

SOCIAL AND ECONOMIC IMPACTS

95. The project will contribute approximately 18 million dollars in private authorizations over a two year period. Short term employment for approximately 50 persons in the construction field will be available.

96. Petitioner believes that this development will provide 180 homes to accommodate approximately 450-500 persons

located near employment centers in the City and County of Honolulu.

CONFORMANCE TO URBAN DISTRICT STANDARD

97. The Property meets the standards applicable in establishing boundaries of the Urban District set forth in Section 15-15-18 of the Commission's Rules in that:

- a. The Property as developed by Petitioner will be "City like" in character with a concentration of 180 homes with a population of 450-500 persons on approximately 26.445 acres when completed.
- b. The project is approximately 8 miles from downtown Honolulu and in close proximity to other employment center such as Pearl Harbor, Honolulu International Airport, Hickam Air Base, Pearl City, Mililani Town, and Wahiawa.
- c. Petitioner believes that the development is economically feasible and that 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 subject property is contiguous to lands developed by Petitioner into a condominium residential community.

f. 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 the Primary Urban Center.

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

98. OSP questions the conformance of the project to the following standard:

15-15-18(3) It shall include lands with satisfactory topography and drainage and reasonably free from the danger of floods, tsunami, unstable soil conditions, and other adverse environmental effects.

99. 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 450-500 persons into the Wailuna/Pearl City 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 180 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 226-15 Objectives and Policies for Facility Systems - Solid and Liquid Wastes.

An existing sanitary sewer line extends to the project boundary which has sufficient capacity to serve the project. Petitioner is

willing to pay its fair share toward the expansion of the existing Honouliuli Wastewater Treatment Plant.

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

There is adequate water available for the project. The existing Waiiau Reservoir has sufficient capacity to serve the project. Petitioner shall pay the applicable facility charges to the Board of Water Supply.

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

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

CONFORMANCE WITH COASTAL ZONE POLICIES AND OBJECTIVES

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

RULING ON PROPOSED FINDINGS OF FACT

Any of the proposed 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 26.445 acres situate at Waiiau, District of Ewa, Island of Oahu, City and County of Honolulu, State of Hawaii, identified as Tax Map Key No. 9-8-02: Portion of 3 and approximately shown on Exhibit A attached hereto and incorporated herein by reference, from the Conservation District to the Urban District for a residential development, subject to the conditions in the Order, is reasonable, nonviolative of Section 205-2, Hawaii Revised Statutes as amended, 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 26.445 acres, being the subject of this Docket No. A88-624 by The Lusk Company, situate at Waiiau, Ewa, Island of Oahu, City and County of Honolulu, State of Hawaii, identified as Oahu Tax Map Key Number: 9-8-02: Portion of 3,

and approximately identified on Exhibit "A", attached hereto and incorporated by reference herein, for reclassification from the Conservation District to the Urban District, shall be and is hereby approved subject to the following conditions:

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

A. Petitioner shall contribute the sum of \$1,100,000.00 to the Housing Finance and Development Corporation, State of Hawaii, for the development of affordable housing programs.

B. The aforesaid sum be paid in two installments:

(1) \$550,000.00 upon acquiring the building permit for the construction of the first house in the project, and

(2) \$550,000.00 upon sale of the first house.

C. 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.

3. A drainage study, acceptable to the City and County of Honolulu, shall be provided by the Petitioner to

assess both off-site and on-site drainage impacts associated with the proposed project.

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

5. Petitioner shall provide water source transmission to service the subject project.

6. Petitioner shall provide its pro rata share for police, park, and fire facilities, to the satisfaction of the City and County of Honolulu. Petitioner shall also provide its pro rata share for school facilities as may be required by and to the satisfaction of the State Department of Education.

7. 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.

8. Petitioner shall provide vehicular access through the subject property to the mauka Conservation District lands for public safety and public utility purposes.

9. Petitioner, and any of its successors and assigns, shall inform by way of deed for each prospective purchaser of residential property of possible physical hazards resulting from the topographical alterations of the property caused by the developer.

Language will be included which will release and discharge the State of Hawaii or any subdivision thereof from any and all liability relating to its decision which is based upon the Petitioner's expert testimony and representations, and shall be mutually arrived at between the Petitioner and the State within one week and subject to this Commission's approval.

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

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

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

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

DOCKET NO. A88-624 - THE LUSK COMPANY

Done at Honolulu, Hawaii, this 24th day of April 1989,
per motions on March 9, 1989 and April 14, 1989.

LAND USE COMMISSION
STATE OF HAWAII

By *Renton L. K. Nip*
RENTON L. K. NIP
Chairman and Commissioner

By *Allen Y. Kajioka*
ALLEN Y. KAJIOKA
Commissioner

By *Toru Suzuki*
TORU SUZUKI
Commissioner

By *Allen K. Hoe*
ALLEN K. HOE
Commissioner

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

By *Sharon R. Himeno*
SHARON R. HIMENO
Commissioner

Filed and effective on
April 24, 1989

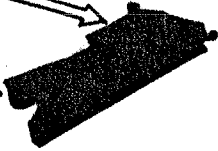
Certified by:

Esther Lusk
Executive Officer

By *J. P. Tacbian*
TEOFILO PHIL TACBIAN
Commissioner

By *Frederick P. Whittemore*
FREDERICK P. WHITTEMORE
Commissioner

APPROVED AREA



STREET

KAHUMANU

H-1 FREEWAY

MOANALUA ROAD

KAMEHAMEHA HIGHWAY

SEA

A88-624 / THE LUSK CO.

T.M.K.: 9-8-02' portion of 3
WAI AU, EWA, OAHU

SCALE: 1" = ±1500'

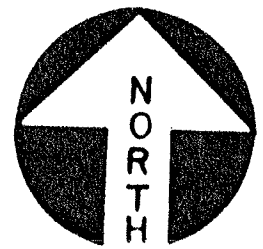


EXHIBIT "A"

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of) DOCKET NO. A88-624
THE LUSK COMPANY)
To Amend the Conservation Land)
Use District Boundary into the)
Urban Land Use District for)
Approximately 26.445 acres at)
Waiau, Ewa, Island of Oahu, City)
and County of Honolulu, State of)
Hawaii, Tax Map Key No.:)
9-8-02: Portion of Parcel 3)

CERTIFICATE OF SERVICE

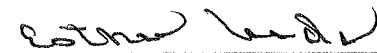
I hereby certify that a copy of the Findings of Fact, Conclusions of Law and Decision and Order was served upon the following by either hand delivery or depositing the same in the U. S. Postal Service by certified mail:

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
Kaito & Ishida
C.R. Kendall Building
888 Mililani Street, PH
Honolulu, Hawaii 96813

DATED: Honolulu, Hawaii, this 24th day of April 1989.


ESTHER UEDA
Executive Officer

DOCKET NO. A88-624 - THE LUSK COMPANY

A copy of the Land Use Commission's Findings of Fact, Conclusions of Law, and Decision and Order was served upon the following by regular mail on April 24, 1989.

MR. GEORGE K. HOUGHTAILING
Planning Consultant and Civil Engineer
700 Bishop Street
Suite 608
Honolulu, Hawaii 96813