

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of)	DOCKET NO. A79-461
)	
KAMEHAMEHA DEVELOPMENT CORPORATION)	KAMEHAMEHA DEVELOPMENT
)	CORPORATION
To reclassify the Second Increment)	
of the subject docket from the)	
Agricultural Land Use District)	
into the Urban Land Use District)	
for approximately 227.97 acres at)	
Keauhou, North Kona, Hawaii, Tax)	
Map Key: 7-8-10: 85, Portion of 2,)	
Portion of 4 and Portion of 50)	
_____)	

FINDINGS OF FACT,
CONCLUSIONS OF LAW AND
DECISION AND ORDER

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FINDINGS OF FACT, CONCLUSIONS
OF LAW AND DECISION AND ORDER

Kamehameha Investment Corporation, a Hawaii corporation, formerly known as Kamehameha Development Corporation (hereinafter the "Petitioner"), filed on July 3, 1985, and amended on September 26, 1985, a motion to classify, pursuant to State Land Use District Regulation 6-2(3), approximately 227.97 acres of land at Keauhou, North Kona, Hawaii, identified as Hawaii Tax Map Key Nos.: 7-8-10: 85, portion 2, 4 and 50 (hereinafter the "Property"), comprising the Second Increment described in the Land Use Commission's (hereinafter the "Commission") Decision and Order dated August 5, 1980, in the Petition by Kamehameha Development Corporation in Docket No. A79-461 from the Agricultural District to the Urban District. The Commission, having heard and examined the testimony, evidence, and argument

of counsel presented during the hearing, and the proposed findings of fact, conclusions of law, and decision and order, hereby makes the following findings of fact, conclusions of law, and decision and order:

FINDINGS OF FACT

PROCEDURAL MATTERS

1. The Commission held a hearing on the Motion on November 5, 1985, in Keauhou, Kona, Hawaii, pursuant to notice published in the Honolulu Advertiser and the Hawaii Tribune-Herald on October 4, 1985.

2. No public witness testified on the Petition.

DESCRIPTION OF THE PROPERTY

3. The Trustees Under the Will and of the Estate of Bernice Pauahi Bishop Estate, deceased (the "Bishop Estate") own the Property in fee. The Bishop Estate owns one hundred percent of the capital stock issued and outstanding of Kamehameha Investment Corporation.

4. The Property abuts the makai side of Kuakini Highway where Kamehameha III Highway intersects Kuakini Highway and is mauka of Alii Drive east of Kahuluu Bay.

5. In its Decision and Order dated August 5, 1980, the Commission reclassified from Agricultural to Urban on an incremental basis 358.59 acres of land comprising the First Increment (the "First Increment"). Pursuant to State Land Use District Regulation 6-2, the Petitioner may apply to reclassify

the Second Increment from the Agricultural District to the Urban District upon a prima facie showing of substantial completion of the on-site and off-site improvements within the First Increment within five years of the filing of the Decision and Order.

IMPROVEMENTS COMPLETED WITHIN THE FIRST INCREMENT

6. Petitioner has completed the construction of 85 residential lots on Phase I of the Keauhou Estates subdivision. Petitioner is currently offering these lots for sale and approximately seven homes have been under construction or are already completed.

7. Petitioner has completed Kealii Street which extends from Kamehameha III Road to Kaluna Street.

8. Petitioner is currently constructing Kaluna Street, to serve as a major collector street in the First Increment. Petitioner expects to complete construction of Kaluna Street in December, 1985. Petitioner posted a bond for the completion of all construction improvements for Kaluna Street.

9. Petitioner has completed construction of nine holes of the golf course on a portion of the First Increment located makai of Keauhou Estates subdivision, which is now open for play.

10. Petitioner has completed construction of its off-site infrastructure for water, power and sewer lines for the construction of 72 condominium units on a site makai of Kaluna Street. The State Department of Commerce and Consumer Affairs has issued the preliminary public report for the proposed

condominium development, and Petitioner has commenced pre-selling the proposed condominium.

11. Petitioner has completed construction of other off-site infrastructure, including water and sewer lines for Phase II of the Keauhou Estates subdivision and has substantially completed construction of the off-site infrastructure for sites located mauka of Kealii Street and Kaluna Street for future residential units.

12. Petitioner has expended approximately \$20,000,000.00 for the construction of on-site and off-site improvements for the First Increment described in Findings of Fact Nos. 6-11.

CONFORMANCE WITH CONDITIONS IMPOSED UPON PETITIONER

13. The Commission imposed the following conditions on its reclassification of the First Increment:

- "1. That the Petitioner will include adequate buffer areas as indicated by the State Department of Land and Natural Resources in the immediate area around the Kahaluu Shaft Portal and other existing wells within this resort development so as to preserve their long-term viability as a major source of domestic water for the North Kona region.
- "2. That prior to any alteration of the subject property, the Petitioner shall have an archaeological survey conducted by a professional archaeologist, to identify the nature, location and value of all historic sites present on the subject property."

14. In order to satisfy Condition No. 1, Petitioner has designed a buffer area surrounding the Kahaluu Shaft Portal for the purpose of limiting uses within the area that might adversely

impact the water system. The proposed buffer area will consist of a 100-foot minimum setback area from the portal and a 500-foot setback area from the pump house and is approximately shown on Petitioner's Exhibit B Attachment 2 as the Water Reserve Park.

The Department of Land and Natural Resources has agreed to Petitioner's proposal for the buffer area.

15. In order to satisfy Condition No. 2, Petitioner retained Paul H. Rosendahl, Ph.D, Inc., to conduct an intensive archaeological survey and develop a cultural resource management plan for the entire Keauhou Resort area, including the Property. Petitioner has submitted the plan to the Department of Land and Natural Resources and the County of Hawaii for review.

RULING ON PROPOSED FINDINGS OF ACT

Any of the proposed findings of fact submitted by Petitioner or 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.

CONCLUSIONS OF LAW

The Commission finds upon a preponderance of prima facie evidence that pursuant to Chapter 205, Hawaii Revised Statutes, the Rules of Practice and Procedure and Section 6-2 of the District Regulations of the Land Use Commission, Petitioner has substantially completed construction of the off-site and on-site improvements comprising the First Increment of Petitioner's proposed development and concludes that the reclassification of

the Second Increment, also known as the Property, consisting of approximately 227.97 acres, identified as Hawaii Tax Map Key Nos.: 7-8-10: 85, portion of 2, portion of 4 and portion of 50, located at Keauhou, North Kona, Hawaii, which is the subject of the motion in Docket No. A79-461 by Kamehameha Development Corporation, for the development of the Second Increment of the Keauhou Resort conformed to the standards established in the State Land Use District Regulations, is reasonable and non-violative of Section 205-2, Hawaii Revised Statutes, and Section 6-2 of the Commission's District Regulations.

ORDER

IT IS HEREBY ORDERED that the Second Increment, also known as the Property, consisting of approximately 227.97 acres situate at Keauhou, North Kona, Hawaii, identified as Hawaii Tax Map Key Nos.: 7-8-10: 85, portion of 2, portion of 4, and portion of 50, and approximately shown on Exhibit A attached hereto and incorporated herein which is the subject of the motion for Docket No. A79-461 by Kamehameha Development Corporation, shall be and the same is hereby reclassified from the Agricultural District into the Urban District and the State Land Use District Boundaries are amended accordingly.

IT IS ALSO ORDERED that the incremental districting for the Second Increment be subject only to Condition No. 2 as imposed upon the Petitioner by the Commission's Decision and Order dated August 5, 1980, which condition provides as follows:

"2. That prior to any alteration of the subject property, the Petitioner shall have an archaeological survey conducted by a professional archaeologist, to identify the nature, location and value of all historic sites present on the subject property."

DOCKET NO. A79-461 - KAMEHAMEHA DEVELOPMENT CORPORATION

Done at Honolulu, Hawaii, this 31st day of January
1986, per motions on December 10, 1985 and January 15, 1986

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

By *Toru Suzuki*
TORU SUZUKI
Commissioner

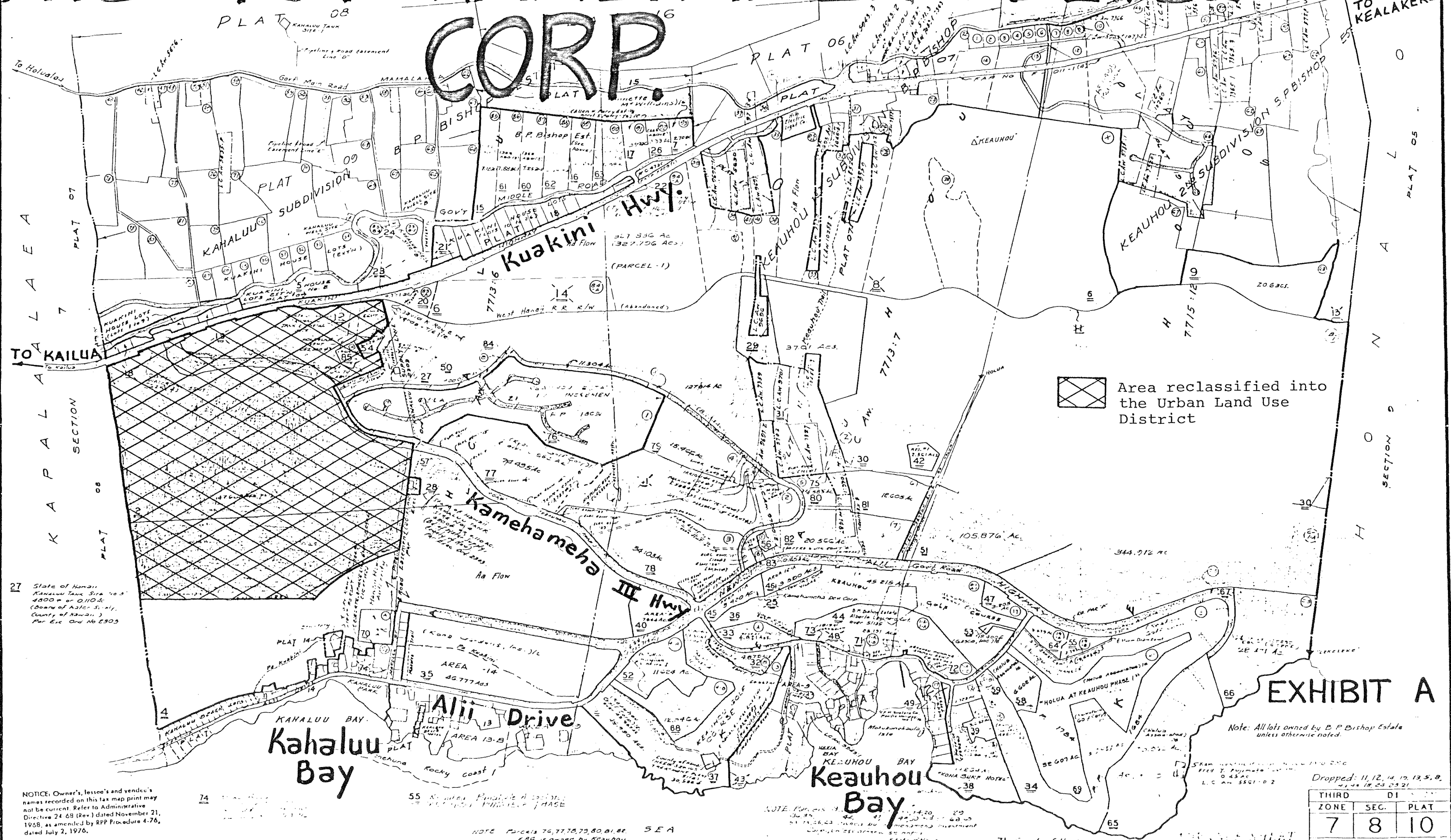
By *Winona E. Rubin*
WINONA E. RUBIN
Commissioner

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

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

A 79-461 KAMEHAMEHA DEVELOP

CORP.



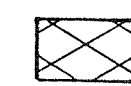
 Area reclassified into the Urban Land Use District

EXHIBIT A

Note: All lots owned by B. P. Bishop Estate unless otherwise noted.

27 State of Hawaii
Kahaluu Tax Site No. 3
4,000 sq ft 0.110 ac.
(County of Haleiwa, Hawaii)
Per. Exc. Ord. No. 2303

NOTICE: Owner's, lessee's and vendee's names recorded on this tax map print may not be current. Refer to Administrative Directive 24.68 (Rev.) dated November 21, 1968, as amended by RPP Procedure 4-76, dated July 2, 1976.

Dropped: 11, 12, 14, 15, 13, 5, 8, 11, 18, 23, 25, 21

THIRD	DI	PLAT
7	8	10

CONTAINING PARCELS
SCALE 1 in. = 600'

KAHALUU - KEAUHOU 1st, NORTH KONA, HAWAII

Second Increment.

PRINTED SEP. 12, 1976

1171
 Eng. No. 68
 Dec. 1972
 By: P.P. Bishop Estate Maps

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Portion of 4 and Portion of 50)
_____)

CERTIFICATE OF SERVICE


I hereby certify that a copy of the Land Use Commission 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:

KENT M KEITH, DIRECTOR
Department 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 T. FUNAKI, Attorney for Petitioner
Okumura Takushi Funaki & Wee
Grosvenor Center, Suite 1400
733 Bishop Street
Honolulu, Hawaii 96813

DATED: Honolulu, Hawaii, this 31st day of January 1986.



ESTHER UEDA
Executive Officer

DOCKET NO. A79-461 - KAMEHAMEHA DEVELOPMENT CORPORATION

A copy of the Land Use Commission's Decision and Order was served upon the following by regular mail on January 31, 1986.

EVERETT KANESHIGE, Deputy Attorney General
Department of the Attorney General
State Capitol, 4th Floor
Honolulu, Hawaii 96813

RONALD IBARRA, Corporation Counsel
Office of the Corporation Counsel
County of Hawaii
25 Aupuni Street
Hilo, Hawaii 96720