

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of)
)
KEAUHOU INVESTMENT COMPANY and)
KONA COAST PROPERTIES, LTD.,)
A JOINT VENTURE)
)
To Amend the Agricultural Land Use)
District Boundary into the Urban)
Land Use District for Approximately)
44.3 Acres at Pahoehoe 2nd, District)
of North Kona, County of Hawaii,)
State of Hawaii, Tax Map Key No.:)
7-7-08: portion of 21)
)

DOCKET NO. A86-605
KEAUHOU INVESTMENT
COMPANY and KONA COAST
PROPERTIES, LTD., A
JOINT VENTURE

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LAND USE COMMISSION
STATE OF HAWAII

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

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FINDINGS OF FACT,
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AND DECISION AND ORDER

Keauhou Investment Company and Kona Coast Properties, Ltd., a Joint Venture (hereinafter the "Petitioner"), filed this boundary amendment Petition on June 30, 1986, and an amendment to the Petition on August 28, 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 44.3 acres of land, Hawaii Tax Map Key 7-7-08: portion of 21, situate at Pahoehoe 2nd, District of North Kona, County of Hawaii, from the Agricultural District to the Urban District (hereinafter the "Property"). The Land Use Commission (hereinafter the "Commission"), having heard and examined the testimony, evidence, and arguments of counsel presented during

the hearing, and the stipulated proposed findings of fact, and conclusions of law submitted by the parties, hereby makes the following findings of fact, conclusions of law, and decision and order:

FINDINGS OF FACT

PROCEDURAL MATTERS

1. On August 29, 1986, Petitioner filed an amendment to the petition which deleted parcel 23 of TMK: 7-7-08 consisting of approximately 0.15 acres and a 600 square foot portion of parcel 21 of TMK 7-7-08.

2. The Commission held the hearing on this Petition on November 6 and 7, 1986 in Kailua-Kona, Hawaii, pursuant to notice published in the Hawaii Tribune Herald and the Honolulu Advertiser on September 22, 1986.

3. The Commission allowed Joseph Vierra, representing Lucille Kingman, to testify as a public witness.

4. The Commission did not receive any petitions to intervene in this proceeding.

DESCRIPTION OF THE PROPERTY

5. The Property is located on the West coast of the Island of Hawaii, approximately three miles north of the Keauhou resort area and three miles south of Kailua-Kona. It is bounded by Kuakini Highway on the East and Alii Drive on the West. The proposed Alii Drive realignment, also known as the Alii Highway, passes through the makai portion of the Property.

6. The Property, which is vacant of any structures, has been used intermittently for cattle grazing. No recent agricultural activities have occurred on the Property.

7. The Property rises from an elevation of approximately 12 feet above sea level at the makai end to an elevation of approximately 450 feet above sea level at the mauka end. Slopes range from two to 30 percent.

8. The Property and surrounding areas have a temperate climate and an average annual rainfall of approximately 40 inches.

9. According to the United States Department of Agriculture Soil Survey maps, the Property is classified as being type rKED Kaimu soil series and rPYD Punalu'u series.

The Kaimu series are well-drained soils, thin and organic. They are found on uplands at an elevation ranging from near sea level to 1,000 feet. They receive from 40 to 60 inches of annual rainfall. Kaimu extremely stony peat (rKED) exhibits 6 to 20 percent slopes, rapid permeability and slow runoff. The erosion hazard is slight. In a representative profile, the surface layer is very dark brown extremely stony peat about 3 inches thick and is underlain by fragmental Aa lava. According to the Soil Conservation Service, this soil is not suitable for cultivation. However, small areas are used for pasture, macadamia nuts, papaya and citrus fruits. This soil is found on the lower half of the Property.

The Punaluu series consists of well-drained thin organic soils over pahoehoe lava bedrock. They are found at elevations ranging from near sea level to 1,000 feet and receive from 60 to 90 inches of rainfall annually. Punaluu extremely rocky peat (rPYD) exhibits slopes of 6 to 20 percent. A profile surface layer is black peat about 4 inches thick which is underlain by pahoehoe lava bedrock. The peat is rapidly permeable while the lava is very slowly permeable, although water moves rapidly through the cracks. Runoff is slow and the erosion hazard is slight. This soil is used for pasture. This soil is found on the mauka portion of the Property.

10. According to the Land Study Bureau, Detailed Land Classification, almost all of the Property has a soil classification rating of E, indicating that it has marginal potential for agricultural crop production. A small portion of the Property near Kuakini Highway is rated C.

11. According to the State Department of Agriculture's Agricultural Lands of Importance to the State of Hawaii (ALISH) maps, approximately 25 percent of the Property immediately makai of Kuakini Highway is classified as "other important" agricultural land. The remainder is not classified.

12. According to the Flood Insurance Rate Map (FIRM), a small area on the makai portion of the Property is classified Zone "A" (Area of 100-year flooding). The majority of the Property, however, is classified Zone "C" (Area of minimal

flooding). The Property is not within the tsunami inundation area.

13. The Property is owned by the Petitioner and will be developed by the Petitioner or its assigns.

PROPOSAL FOR RECLASSIFICATION

14. Petitioner proposes to develop multiple and single family residential units. Petitioner, however, has no plans to construct homes within the single family residential area.

15. The multiple residential units will be constructed on approximately 20.5 acres of land on the lower portion of the Property. The single family residential lots, consisting of approximately 16 acres, will be developed on the mauka portion of the Property.

16. Petitioner proposes to utilize cluster plan development or planned unit development concepts to create 6,000 to 8,000 square foot sized single family residential lots.

17. Petitioner proposes to develop the Property in phases:

- Phase I:.....92 multiple residential units
- Phase II:.....139 multiple residential units
- Phase III:.....79 single family units

18. Petitioner proposes to design units to range between two and three stories high and to locate units to maximize the coastal views.

19. The multi-family buildings will consist of approximately 70 to 80 percent two bedroom models having

approximately 1500 square feet of gross area divided between 1200 and 1250 feet of interior area, the remainder being lanai. The remaining 20 to 30 percent will consist of one bedroom units ranging from 900 to 1,000 square feet, of which 75 to 80 percent will comprise living area.

20. Petitioner proposes to sell one bedroom units at a price range of \$130,000 to \$175,000, and two bedroom units at a price range of \$160,000 to \$225,000, based on 1986 dollars.

21. The single family lots will be sold at a price range of \$60,000 to \$100,000 per lot, based on 1986 dollars.

22. Petitioner also proposes three recreational complexes; two within the multiple residential area and one within the single family residential area. Petitioner proposes to include in the recreational complexes, a swimming pool, tennis courts, and possibly a small clubhouse.

23. Petitioner estimates the proposed project's preliminary engineering cost to be \$6.6 million (1986 dollars) including on-site and off-site electrical, water, roadway, sewer and other infrastructural improvements. The breakdown by Phases would be \$1,750,000 for Phase I, \$2,560,000 for Phase II, and for the final single family residential area the cost would be \$2,290,000.

24. Petitioner's timetable and phases for development contemplates obtaining the appropriate County zoning and Special Management Area permits in late 1987 or early 1988. The project could start six months after obtaining the

necessary permits, and be completed within five years thereafter. Phase I of the Project could be completed within two years after commencement of the Project; Phase II could be completed one year after completion of Phase I; and Phase III could be completed two years subsequent to the completion of Phase II.

PETITIONER'S FINANCIAL CAPABILITY
TO UNDERTAKE THE PROPOSED DEVELOPMENT

25. Keauhou Investment Company, partner to the joint venture, has submitted a balance sheet dated March 31, 1986, which lists total assets of \$1,544,762.05, Note Payable to Partner in the sum of \$75,000.00 and Partners' Capital of \$1,469,762.05. Moreover, the total combined net worth of the individual partners exceeds \$11,000,000.

26. Kona Coast Properties, Ltd., the remaining partner, has submitted a balance sheet dated May 31, 1986, which lists total assets of \$1,534,983, advances from stockholders in the sum of \$995,446 and stockholders' equity of \$540,000 and deficit of \$463.

27. To substantiate its financial capability to undertake the proposed project, Petitioner submitted a letter from Rainier International Bank to the Commission stating that Mr. William Chan, a Principal Shareholder of Kona Coast Properties, Ltd., was known to the bank and that the bank was "prepared to make a credit facility up to \$2,000,000 . . . for the purpose of providing finance for the development."

Petitioner also submitted a letter from the Overseas Union Bank, Ltd. to the Commission that certified that Mr. C. H. Wong and Mr. Wilson Tai, two of the Principal Shareholders of Kona Coast Properties, Ltd.,

"are persons of substantial means and good financial standing and they have ample private resources to provide the said Company with all necessary funds which may be required for the development.... [W]e would consider most favorably granting against securities provided by the abovementioned shareholders such sums of money to the extent of \$4,000,000."

Petitioner will permit local investors to participate in the development of this Project.

STATE AND COUNTY PLANS AND PROGRAMS

28. The Commission designates the Property within the State Land Use Agricultural District as reflected on Land Use District Boundary Map H-8.

29. The County of Hawaii's General Plan Land Use Pattern Allocation Guide (LUPAG MAP) designates the Property as Orchards/Alternate Urban Expansion. This designation allows urban development and residential uses on the Property provided that applicable goals, policies, and standards of the General Plan can be met.

30. The Kona Regional Plan's Land Use Concept Map designates a portion of the Property makai of the proposed Alii Highway as RES-6 (6 units per acre), while the mauka area is designated RES-4 (4 units per acre).

31. The County zoning designation is Unplanned (U).

32. The entire Property is situate within the County Special Management Area (SMA).

NEED FOR THE PROPOSED DEVELOPMENT

33. The Hallstrom Appraisal Group, Inc. (hereinafter "Hallstrom"), Petitioner's market analyst, has concluded that a need for the proposed project exists. Hallstrom's study determined that:

- a. The single family lots could achieve selling prices of \$60,000 to \$100,000 per lot, and under present market conditions, 15 to 25 lots could be anticipated to be sold annually.
- b. The multi-family units would conservatively be absorbed by the market at the rate of 20 to 25 units per year.

34. Hallstrom also conditioned its market projections on a number of factors and recommendations to Petitioner as to the nature and quality of the proposed development.

Hallstrom's recommendations are as follows:

- a. A mixed use of the subject property, combining multifamily (condominium) and single-family lot development would be highly preferable to full development of either (or alternative) use types.
- b. The units should be built incrementally in phases with each phase containing less than 50 units. This would limit the capital investment necessary at any given time.
- c. The multi-family dwelling units should be located in the makai portion of the property and total 200 to 250 units.
- d. The units should be built in pods or buildings of 12 to 20 units, and these buildings should be three stories or less to maximize the coastal views.
- e. The unit mix should be 70 to 80 percent two bedroom models with the remainder being one bedroom units. The

two bedroom units should have approximately 1500 square feet of gross area divided between 1200 and 1250 feet of interior area, with the remainder consisting of lanai. Petitioner's market consultant also recommended that the one bedroom units be in the range of 900 to 1,000 square feet, of which 75 to 80 percent should be living area.

f. A strong amenity package, which might include a swimming pool or pools, whirlpool, tennis and clubhouse, is essential to the project's success. A recreational "pod" should be placed within each phase of the development.

g. The quality of the development should be superior, although not luxury class. One bedroom units would be marketed in the range of \$130,000 to \$175,000 and two bedroom units in the range of \$160,000 to \$225,000.

h. The single family residential lots should be developed in a single phase in the extreme mauka portion of the project. The development concept should integrate the single family and multi-family dwellings into a unitized community which would share in community services, costs, recreational benefits, and beach access. The square footage of the single family lots is adequate in light of the project's open space and amenity packages.

35. Hallstrom was of the opinion that with the exception of the Keauhou Kona Resort, no other project in the Kailua to Keauhou coastal corridor boasts the aforementioned features and for that reason, the subject project "could achieve a viable market share."

ECONOMIC IMPACTS

36. The project is expected to have some positive economic impact to the area and region by providing both short-term and some limited long-term employment in the construction and visitor industries. At the same time, the project will not involve the removal of an on-going or active economic use of the Property.

IMPACTS UPON RESOURCES OF THE AREA

Agricultural Resources

37. The State Department of Agriculture does not expect the proposed project to have no adverse effect on agriculture resources of the State of Hawaii.

Flora and Fauna

38. The proposed project will have no significant impact on native vegetation or native terrestrial vertebrate species. No rare, threatened or endangered species was found on the Property.

Archaeological/Historical Resources

39. An archaeological reconnaissance survey of the Property was conducted by Paul H. Rosendahl, Ph.D., Inc. during November, 1985. A total of 44 sites and site complexes were identified within the project area. The sites identified included components of a dry land agriculture system, the Kona field system, as well as the typical kinds of habitation sites, stepping stone trails, probable burial sites, and one site that has been tentatively identified as most likely being a heiau site.

40. Petitioner will implement the following in accordance with the archaeologist's recommendations:

a. Further archaeological work in the form of intensive survey will be undertaken for 42 sites.

b. An aboriginal ceremonial site or heiau, Site No. 6991, will be preserved and integrated into the project.

c. That portion of the Great Wall of Kuakini which is located outside the proposed Alii Highway right-of-way will be preserved and integrated into the project.

d. The relocation of any burials will be done in a manner consistent with State regulations.

Ground Water Resources

41. The area in question has been designated by the State in their underground injection control program (State DOH Underground Control Maps, Chapter 23) as an area in which drywells and cesspools may be constructed. Petitioner's engineering consultant, Mr. Edward K. Harada, testified that the injection of flood waters into drywells, which will be utilized by Petitioner on the project site to control drainage, poses no threat of contamination of the ground waters for the reason that the State and the County have determined that the development of future domestic water wells will not occur in this region.

Recreational, Scenic, and Cultural Resources

42. The subject property is located in close proximity to the Disappearing Sands Beach Park and the County's Pahoehoe Park. Petitioner plans to offer a strong recreational amenity package on the Property which will include recreational facilities on each of the project's three major phases, or development areas, and adverse impacts on existing recreational resources are anticipated to be minimal.

43. The overall design plan stresses open spaces and the maintenance of view plains. Views to the ocean from Kuakini Highway will not be obstructed by the construction of single family residences on the mauka portion of the Property. A well designed entrance, adequate landscaping setback, and the building setback will present a pleasing appearance and ensure the preservation of view plains to the mountains for persons traveling on Alii Drive.

Coastal/Aquatic Resources

44. The Property is not located directly along the coastline, and the nearest constructed building will be about 200 feet from the coast. Petitioner's engineering consultant testified that runoff from the drainage system is not expected to adversely affect the quality of coastal waters.

45. Certain areas of the Property will be landscaped. The usage of fertilizers and pesticides for the proposed development is not expected to adversely affect the quality of nearby coastal waters.

ENVIRONMENTAL QUALITY:

Noise

46. Increased noise levels are expected to result from construction activities on the Property. Noise generated will be in compliance with the State Department of Health's regulations governing noise.

Air Quality

47. Construction activity on the Property may produce short-term air quality impacts, such as increases in vehicular emissions from increased and slower traffic on Alii Drive and the production of dust caused by clearing, grading, trenching, and related on-site work. The impacts can be minimized through the use of ameliorative measures, such as the use of sprinklers and equipment that complies with proper air and noise pollution regulations.

48. Petitioner believes there will be potential long-term impacts on air quality, resulting from additional traffic generated by residents of the development. Petitioner anticipates that units in the development will be sold to persons utilizing the dwellings as primary residences (and hence working) and second home purchasers. Not all of the additional traffic generated by the development will occur at peak traffic hours, and any adverse effects on air quality should be less noticeable.

ADEQUACY OF PUBLIC SERVICES AND FACILITIES

Highway and Roadway Facilities

49. Alii Drive is a two-lane county road which provides a coastal connection between Kailua-Kona and Keauhou.

50. The proposed Kailua to Keauhou road, a two lane County highway, known as Alii Highway, will bisect the makai third of the Property. This highway is expected to be

completed within the next four years, relieving congestion on Kuakini Highway and Alii Drive.

51. A traffic study done by M & E Pacific, Inc., states that although the project would increase traffic onto Alii Drive, with the introduction of Alii Highway at the conclusion of the construction of Phase I of the project, there will be a diversion of traffic from Alii Drive to Alii Highway, which would decrease traffic on Alii Drive by approximately 30 percent.

52. Petitioner proposes to construct an overpass to link the portions of the project which would be separated by Alii Highway.

53. Petitioner does not contemplate direct access from the project to Kuakini Highway.

Water Service

54. The project site is located within the limits of the Department of Water Supply's North Kona System, which is supplied by four wells and a shaft at Kahaluu. Water is transmitted through a series of water mains to Kuakini Highway and to Alii Drive. An eight-inch main connecting to an existing eight-inch main in Alii Drive will serve Phase I. Phases II and III will be served by an eight-inch main connecting to an existing 12-inch main along Kuakini Highway.

55. Petitioner has secured a commitment from the Water Commission of the County of Hawaii for 310 residential units,

in the amount of 0.1860 million gallons per day, pursuant to its participation in the Kona Water Agreement.

56. Petitioner estimates that there is sufficient water from the existing water system to serve this project.

Wastewater Disposal

57. The Property is not served by the County's municipal sewage system. While a connection system is proposed for this area, it is unlikely that such a system will be constructed in the immediate future.

58. Petitioner proposes to construct an on-site sewage treatment system consisting of a pipe collection system to transport sewage to a private package treatment plant. The treated effluent will be disposed of by injection wells and the sludge removed by tank trucks at regular intervals. Petitioner proposes that the package treatment plant would be temporary and that the entire sewer system will eventually be connected to the municipal system upon the implementation of the planned sewer improvements by the County. In response to concerns of an adjacent property owner, Petitioner proposes to relocate the proposed sewage treatment plant to a site depicted on Petitioner's Exhibit No. 17. A representative of the adjacent property owner indicated that this relocation would satisfy their concerns.

59. Since the project area falls outside of the State Department of Health's designated "no-pass" zone, no adverse

impacts are expected to the nearshore coastal waters or underground sources of drinking water.

Drainage

60. The Property is situate on a ridge above the Kaumalumu Drainageway. Very little runoff is currently generated with most of the rainfall percolating into the ground. There are no existing drainage improvements on the site.

61. Petitioner proposes to construct a swale-inlet-culvert system to channel runoff generated in the single-family portion of the development. Curbs and gutters are proposed to direct runoff to drywell type catch basins within the road right-of-way. The lower portion of the single family development would utilize a pipe culvert system to discharge overflow from the catch basins into a drainage system within the intermediate roadway.

62. Petitioner believes that open spaces surrounding the multi-family units would provide an area for the percolation of sheetflow runoff. Drywells and ponding areas would be used as a means of disposing some of the runoff onsite.

63. Petitioner proposes to install drainage improvements in the flood hazard area of the Property to reduce flooding or to design and locate buildings above the flood elevation in conformance with the requirements of Chapter 22 of the Hawaii County Code.

Solid Waste Disposal

64. There is no government operated pickup service for solid waste disposal within the County of Hawaii. Solid waste generated by the proposed development would have to be disposed at an approved disposal site by private haulers.

Schools

65. Public Schools serving the area include Kahakai Elementary (K-5), Kealakehe Intermediate (6-8), and Konawaena High (9-12).

66. According to the State Department of Education, "Kahakai Elementary, Kealakehe Intermediate and Konawaena High Schools are at capacity." Additional classrooms may be required to accommodate growth at the subject schools.

Police and Fire Protection

67. Fire protection is provided by the fire stations at Kailua-Kona and Captain Cook. Police services are available from the district station at Captain Cook and a satellite station in Kailua-Kona.

Electricity and Telephone Services

68. Electrical and telephone services are available to the Property without adversely affecting existing facilities.

CONFORMANCE TO APPLICABLE DISTRICT STANDARDS

69. The Property is bounded by urban type uses. Single and multiple-family uses, plus a restaurant, are all situated within a 200 foot radius of the Property. The Property is generally contiguous to properties within the Urban

District on the northern side, and specifically contiguous to Urban-designated properties on its makai and southern boundaries. The Property therefore fits into the category of lands characterized by "city-like" concentrations of people, structures, streets, urban level of services and other related land uses.

70. The major communities of Kailua and Keauhou are located no more than four miles away. Basic services are available in those areas, including water, electricity, police and fire protection, medical services, and schools. The Property is therefore properly in proximity to centers of employment and basic services.

71. The project is economically feasible.

72. The Property does not have any adverse geographic or topographic constraints which would hinder or endanger the proposed Project, nor is it susceptible to drainage problems, or unstable soil conditions. A small portion of the makai end of the Property is located within the flood hazard area. However, mitigative measures such as constructing the proposed building above the flood level, or deferring construction until such time as permanent drainage measures can be provided will be utilized.

73. The proposed development is consistent with the land use objectives of the County General Plan. The General Plan designates this area for Alternate Urban Expansion, which would allow developments of this nature and density.

74. The proposed development will not contribute to the scattered development of North Kona. It is within an area set aside by the County for urbanization. It is already well served by public facilities and services. As such, it will not necessitate unreasonable public investment to support it.

CONFORMANCE WITH THE GOALS, OBJECTIVES AND POLICIES OF THE HAWAII STATE PLAN; RELATIONSHIP WITH APPLICABLE PRIORITY DIRECTIONS AND FUNCTIONAL PLANS

75. Petitioner's proposed project is consistent with the following objectives of the Hawaii State Plan (Chapter 226, HRS):

a. Objectives and policies for the economy, specifically, those relating to increased employment opportunities and improved living standards (Section 6(a)(1)), and policies striving to achieve a sustained level of construction activities (Section 6(b)(6)), and promotion of economic activities (Section 6(b)(11)).

This project is relevant to these policies and objectives since it will provide both short term and long term employment. Construction and construction-related jobs will be created, and some amount of tourism-related jobs will be created upon completion of this project. The project would be done tastefully from a design standpoint, and a minimal interruption of the coastal areas would occur. A heiau would be integrated within the project, and together with the nonobstrusive design of the units, they would enhance and protect our historic resources.

b. Objectives and policies relating to the physical environment, such as the protection of rare or endangered plant or animal life, preservation of significant historic resources, and promotion of visual enjoyment of the mountain and ocean (Sections 11(b)(6) and 12(b)(3)).

The Property has no rare or endangered plant or animal life. The major historic features are being preserved and integrated into the project,

and view planes to the ocean are being kept by virtue of locating the single-family units on the mauka end of the project.

c. Objectives and policies relating to public facilities and infrastructure (Section 14(a)).

The necessary infrastructure to serve this development will be provided. Water is available, and the appropriate internal water system will be provided. Access to the Property will be developed and staged in accordance with the requirements of the County. A sewer system for the entire project will be constructed in conformance with State and County Public Health requirements.

d. Objectives and policies relating to housing, such as increasing housing choices for low-income, moderate-income, and gap-group households (Section 19(b)(2)); and the provision of housing in suitable environments where they would be accessible to public services and in close proximity to places of employment (Section 19(b)(5)).

Petitioner proposes to offer housing opportunities to low-moderate and gap-group households by either developing or contributing to the development, a number of housing units equal to ten percent of the units to be developed on the Property.

CONFORMANCE WITH COASTAL ZONE MANAGEMENT
OBJECTIVES AND POLICIES

76. The Property falls within the County of Hawaii's Special Management Area District. The proposed development is within the Coastal Zone Management Area, established by Chapter 205A, Hawaii Revised Statutes, and the County Planning Commission's Rule No. 9 relating to Special Management Area.

77. The project conforms to the following Coastal Zone Management Objectives and Policies:

a. Recreational Resources (Section 2(b)(1)): The project does not abut the shoreline and should not

have any direct adverse impact on shoreline recreational opportunities. No coastal access will be affected by this project.

b. Historic Resources (Section 2(b)(2)): Measures will be taken by Petitioner to minimize any potentially adverse impact to the area's historical resources.

c. Scenic and Open Space Resources (Section 2(b)(3)): The topography of the Property, the placement of the single family dwellings on the mauka end of the Property, the design of the multifamily units, and the observance of setbacks will result in no significant interruption of existing coastal views.

d. Coastal Ecosystems (Section 2(b)(4)): The distance of the project from the shoreline, and Petitioner's utilization of acceptable methods of disposing of sewage will minimize any potentially adverse impacts to the coastal ecosystems of this region.

e. Economic Uses (Section 2(b)(5)): The project will have some positive economic impact to the area and region by providing both short-term and some limited long-term employment in the construction and visitor industries. The project will not involve the removal of an on-going and/or active economic use of the Property.

f. Coastal Hazards (Section 2(b)(6)): The Property is not situate within the tsunami hazard area on the Federal Flood Insurance Rate Maps. While a portion of the makai end of the Property is situated within the flood hazard area, there are appropriate mitigative measures than can be taken to allow the use of that portion of the property.

g. County General Plan and Related Codes: The Project is consistent with the General Plan Land Use Pattern Allocation Guide map and the General Plan document. It also generally comports to the guidelines of the Kona Regional Plan.

RULING ON STIPULATED PROPOSED FINDINGS OF FACT

Any of the stipulated 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

Pursuant to Chapter 205, Hawaii Revised Statutes, the Rules of Practice and Procedure and Section 6-1 of the District Regulations of the Land Use Commission, the Commission concludes that the reclassification of the subject property, being approximately 44.3 acres of land situate at Pahoehoe 2nd, County of Hawaii, State of Hawaii, from the Agricultural District to the Urban District and the amendment of the State Land Use district Boundaries to permit the proposed development is reasonable, nonviolative of Section 205-2, Hawaii Revised Statutes, and is consistent with the Hawaii State Plan as set forth in Chapter 226, Hawaii Revised Statutes, as amended, and the District Regulations of the Land Use Commission.

ORDER

IT IS HEREBY ORDERED that the subject property consisting of approximately 44.3 acres, identified by Hawaii Tax Map Key 7-7-08 portion of parcel 21, situate at Pahoehoe 2nd, County of Hawaii, State of Hawaii, and more approximately described in "Exhibit A" attached hereto and incorporated herein by reference, shall be and the same is hereby reclassified from the Agricultural District to the Urban District, and the District Boundaries are amended accordingly, subject to the following conditions:

1. The Petitioner shall provide housing opportunities for low and moderate income Hawaii residents by developing a housing rental program, or offering for sale, or providing a cash distribution to either the Hawaii Housing Authority or County of Hawaii, or any combination thereof, meeting with the approval of either the Hawaii Housing Authority or County of Hawaii. The amount of units shall be equal to ten percent (10%) of residential units to be developed on the project area. The definition of low and moderate income families' income shall be determined by standards promulgated by the Hawaii Housing Authority and the County of Hawaii from time to time.

2. Petitioner shall design and construct a drainage system which will either contain development runoff within the Property or, if channelized to the ocean, minimize adverse impacts on nearshore ecosystems and Class AA water.

3. Petitioner shall fund the design and construction of highway improvements for access to the Property and any other improvements fronting the Property as may be required by the County of Hawaii or by the State Department of Transportation.

4. Petitioner shall design, locate and construct the private sewage treatment plant as may be required by the County of Hawaii and the State Department of Health so as to minimize adverse impacts on the adjoining properties.

5. 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.

6. 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. A86-605 - KEAUFHOU INVESTMENT COMPANY & KONA COAST
PROPERTIES, LTD.

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

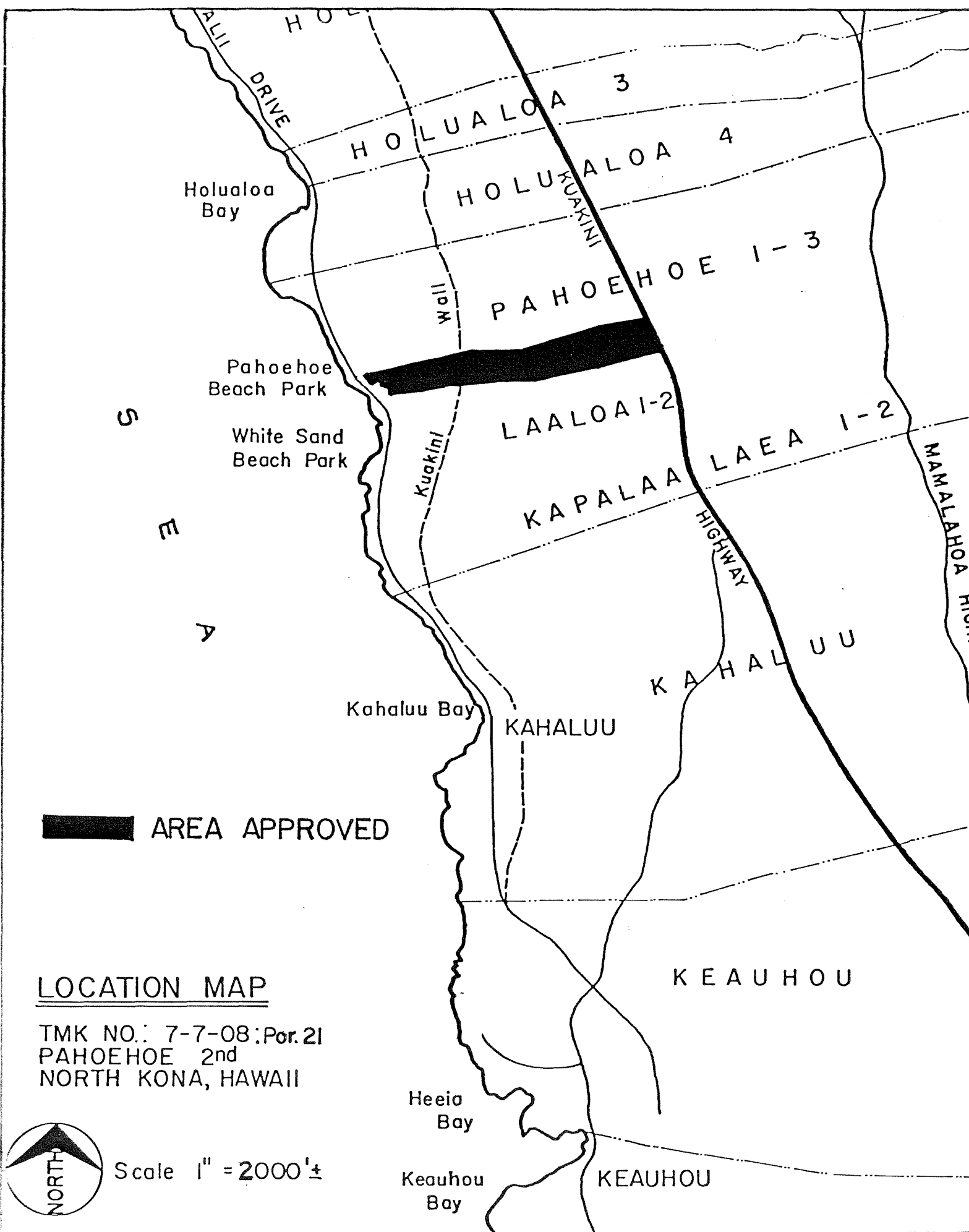
By *Richard B. F. Choy*
RICHARD B. F. CHOY
Commissioner

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

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

By *Toru Suzuki*
TORU SUZUKI
Commissioner

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



AREA APPROVED

LOCATION MAP

TMK NO.: 7-7-08:Por.21
 PAHOEHOE 2nd
 NORTH KONA, HAWAII



Scale 1" = 2000' ±

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of)	DOCKET NO: A86-605
))
KEAUHOU INVESTMENT COMPANY AND)	KEAUHOU INVESTMENT COMPANY
KONA COAST PROPERTIES, LTD., A)	AND KONA COAST PROPERTIES,
JOINT VENTURE)	A JOINT VENTURE
))
To Amend the Agricultural Land Use)	
District Boundary into the Urban)	
Land Use District for Approximately)	
44.3 Acres at Pahoehoe 2nd, District)	
of North Kona, County of Hawaii,)	
State of Hawaii, Tax Map Key No.:)	
7-7-08: portion of 21)	
)	

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
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

T. DAVID WOO, JR., Attorney for Petitioner
Suite 801, Melim Building
333 Queen Street
Honolulu, Hawaii 96813

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



ESTHER UEDA, Executive Officer

DOCKET NO. A86-605 - KEAUHOU INVESTMENT COMPANY AND KONA COAST
PROPERTIES, LTD., A JOINT 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
Department of the Attorney General
465 South King Street, Room 200
Honolulu, Hawaii 96813

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

SIDNEY FUKU, Planning Consultant
100 Pauahi Street, Suite 212
Hilo, Hawaii 96720

HOWARD T. CHANG, Esq.
Chang, Mui, Chang & Chock
Suite 1250, Central Pacific Plaza
220 South King Street
Honolulu, Hawaii 96813-4542