

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of)
)
McCLEAN HONOKOHAU PROPERTIES,)
a Hawaii Limited Partnership)
)
To Amend the Land Use District)
Boundary to Reclassify Approxi-)
mately 89.527 acres of land in the)
Conservation and the Agricultural)
Districts to the Urban District)
at Honokohau, North Kona, Hawaii,)
Tax Map Key Nos.: 7-4-08: 26 and)
49)
_____)

DOCKET NO. A89-643

MCCLEAN HONOKOHAU
PROPERTIES, a Hawaii
Limited Partnership

This is to certify that this is a true and correct
copy of the Decision and Order on file in the office
of the State Land Use Commission, Honolulu Hawaii.

APR 16 1991

Date

by

Ethelinda
Executive Officer

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

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

Robert S. McClean as Trustee of the Robert S. McClean Trust ("Petitioner"), filed a Petition for Land Use District Boundary Amendment on June 13, 1989, and an amendment to Petition for Land Use District Boundary Amendment on January 23, 1991, (hereinafter collectively referred to as "Petition"), pursuant to Chapter 205 of the Hawaii Revised Statutes, as amended ("HRS"), and the Hawaii Land Use Commission Rules, Title 15, Subtitle 3, Chapter 15, Hawaii Administrative Rules, as amended (hereinafter "Commission Rules"), to amend the land use district boundary to reclassify approximately 89.527 acres of land, situate at Honokohau, North Kona, Hawaii, identified by Tax Map Key Nos. 7-4-08:26 and 49 (hereinafter "Property"), from the Conservation and the Agricultural Districts to the Urban District.

The Petition was submitted in compliance with a condition imposed by the Board of Land and Natural Resources in its approval of Conservation District Use Permit Number HA-12/18/85-1873, which required the submission of a petition to the Land Use Commission (hereinafter "Commission") to redesignate a 3.5 acre facility on the Property "to another zoning district more appropriate for the type of use."

The Commission, having heard and examined the testimony, evidence and argument of counsel presented at the hearings, and the parties' Proposed Findings of Fact, Conclusions of Law, and Decision and Order, and exceptions filed thereto, hereby makes the following findings of fact:

FINDINGS OF FACT

PROCEDURAL MATTERS

1. Petitioner filed a Petition for Land Use District Boundary Amendment on June 13, 1989. The Petition included an environmental assessment as required by Section 343-5(a)(7), HRS.

2. On July 13, 1989, and by Order filed on August 3, 1989, the Commission required Petitioner to prepare an Environmental Impact Statement, pursuant to Chapter 343, HRS.

3. By Order dated May 10, 1990, the Commission accepted Petitioner's Final Environmental Impact Statement and accepted Petitioner's Petition for Land Use District boundary Amendment for filing as of April 23, 1990.

4. On September 5, 1990, a petition to Intervene was filed by Isemoto Contracting Co. Ltd., SJA Partnership, and March E. Taylor (hereinafter "Intervenor"). On September 27, 1990 and by Order filed on October 17, 1990, the Commission granted the Petition to Intervene.

5. A prehearing conference was held on September 25, 1990, at the Commission's office, Room 104, Old Federal Building, 335 Merchant Street, Honolulu, Hawaii.

6. The Commission held a public hearing on the Petition at the Kahaluu Room, Keauhou Beach Hotel, 78-6740 Alii Drive, Kailua-Kona, Hawaii on October 11, 1990. The hearing was held pursuant to notices published on August 21, 1990, in the Honolulu Advertiser and the Hawaii Tribune Herald. James S. Greenwell, President of Lanihau Management Corporation and Vice President of Palani Ranch Company, Inc., testified as a public witness. Upon Petitioner's motion, the hearing was continued to the first available date after the Commission's hearing on the Petition of the Housing Finance and Development Corporation, State of Hawaii (hereinafter "HFDC") (LUC Docket No. A90-660).

The Commission continued its public hearing on the Petition at the Kamehameha Ballrooms, Kona Surf and Country Club, 78-128 Ehukai Street, Kailua-Kona, Hawaii, on January 24 and 25, 1991. The Commission admitted an untimely written statement received on October 22, 1990, from Elizabeth Ann Stone.

7. On January 23, 1991, Petitioner filed a motion to amend the Petition to change the name of the Petitioner from Robert S. McClean, as Trustee of the Robert S. McClean Trust, to McClean Honokohau Properties, a Hawaii Limited Partnership; and to correct the acreage of the Property being requested to be redistricted from the Conservation to the Urban District, from 74.605 acres to 72.40 acres, and from the Agricultural to the Urban District from 14.922 acres to 17.127 acres. Petitioner's motion to amend the Petition was granted by the Commission at the hearing on January 24, 1991 by order issued on March 27, 1991.

DESCRIPTION OF THE PROPERTY

8. The Property is located at Honokohau, District of North Kona, Island of Hawaii, approximately three miles north of Kailua-Kona, four miles south of Keahole Airport, and approximately 1,000 feet mauka of the Queen Kaahumanu Highway and is east-northeast of the Honokohau Small Boat Harbor.

9. The Property is bounded on the north by vacant land in the Conservation and Agricultural Districts owned by Lanihau Partners, and on the south by land in the Urban District owned by HFDC, which is proposed to be developed for the Kealakehe Planned Community (Lai'opua). The adjacent 9.9 acre parcel of land owned by Intervenors, is in the Urban District and is being developed for light industrial use.

10. Existing uses on the Property are a ready-mix plant, quarry, rock crushing plant, aggregate storage and

repair facilities operated by West Hawaii concrete; equipment storage and parking; a concrete testing lab; office parking; and boat storage and repair. These uses are pursuant to two Conservation District Use Permits from the Department of Land and Natural resources. Approximately 30 acres of the Property have been heavily graded or excavated. The remainder is in its natural state, covered by a'a and pahoehoe lava flows.

11. The Property is owned by Petitioner, McClean Honokohau properties, a Hawaii limited partnership, of which the Robert S. McClean Trust is the general partner, and trusts for Robert S. McClean and his family members are the limited partners.

12. The Property ranges in elevation from approximately 85 feet at the makai boundary, to 350 feet at the mauka property line. Average slope is 7.0 percent with a range of 0 to 25 percent. The average annual rainfall is 25 inches.

13. The Soil Survey Report published by the United States Department of Agriculture Soil Conservation Service ("SCS") designates the Property as Pahoehoe and A'a lava flows.

14. According to the Flood Insurance Rate Map (FIRM) prepared by the U.S. Army Corps of Engineers, the Property is located within Zone X (areas outside of the 500-year floodplain).

15. Access to the Property is from Queen Kaahumanu Highway by a road on a 60-foot wide easement, half of which is

on the Intervenor's property and half on the Lanihau Partner's property.

PROPOSAL FOR RECLASSIFICATION

16. Petitioner proposes to develop the Property in two phases. Increment I, consisting of approximately 45.5 acres, is proposed to be developed as follows:

<u>Use</u>	<u>Acreage</u>
Production and sale of concrete products and aggregates.	4 Acres
Production of quarry products on an interim basis, to be replaced with light industrial uses, such as equipment storage, light manufacturing, contractor storage, and similar light industrial uses.	7 Acres
Equipment, truck and bus storage, sale and repair.	3 Acres
Automotive center with automotive sales, service and repair.	6 Acres
Nursery, if effluent from the new sewer treatment plant is available and feasible; otherwise light industrial uses such as warehouses; equipment sales, storage.	5 Acres
Retail lumber sales, hardware, light manufacturing of lumber products.	8.5 Acres
Boat storage, construction, repair, sales.	5 Acres
Self-storage.	2 Acres
Office and contractor storage.	3 Acres
Roads and utilities.	<u>2 Acres</u>
Total	45.5 Acres

17. Increment II, consisting of approximately 44 acres, is proposed for light industrial uses, and some commercial and office uses. Approximately 30 acres is proposed to be developed for office and commercial uses such as fast food, gas station, neighborhood commercial center, financial services and professional offices. The balance of Increment II is proposed to be developed for light industrial uses similar to those of Phase I.

18. Petitioner is requesting that the Commission approve the boundary amendment of the Property on an incremental basis, with the second increment being subject to performance on the first increment.

19. Petitioner projects development costs for on-site road, water, sewer, electrical, telephone, cable TV and street lighting of approximately \$4,967,000 for Increment I and approximately \$2,022,000 for Increment II.

PETITIONER'S FINANCIAL CAPABILITY
TO UNDERTAKE THE PROPOSED DEVELOPMENT

20. Petitioner submitted a balance sheet as of May 1, 1990, listing total assets of \$2,120,952, total liabilities of \$826,991, and a net worth of \$1,293,961.

21. Petitioner estimates that the cash flow generated from three family corporations and from the project itself will be sufficient to pay for the infrastructure on the Property without outside financing and without encumbering the Property.

Petitioner proposes to use the Property to finance the construction of buildings and to pay any impact fees.

STATE AND COUNTY PLANS AND PROGRAMS

22. The makai 72.40 acres of the Property is located within the State Land Use Conservation District and the mauka 17.127 acres is located in the State Land Use Agricultural District, as reflected on Land Use District Boundary Map H-2 (Keahole Point).

23. The Hawaii County General Plan Land Use Pattern Allocation Guide (LUPAG) Map designates the area in which the Property is located as "Urban Expansion." The Urban Expansion designation "Allows for a mix of high density, medium density, low density, industrial and/or open designations in areas where new settlements may be desirable, but where the specific settlement pattern and mix of uses have not yet been determined."

24. The Property is zoned Open and Unplanned by the County of Hawaii.

25. The Property is not within the Special Management Area ("SMA") of the County of Hawaii.

26. The County's proposed Keahole to Kailua Development Plan (hereinafter "K to K Plan") designates the Property for Limited Industrial and Urban Expansion uses. Urban expansion areas include sites suitable for urban uses although the exact nature of these uses cannot be determined at this time. The K to K Plan calls for the urbanization of

substantial portions of the area in which the Property is located, including the Property itself, and the installation of infrastructure to support this level of development.

27. The Office of State Planning's (hereinafter "OSP") West Hawaii Regional Plan proposes two sub-regional planning areas, one of which is generally consistent with the K to K Plan area.

NEED FOR THE PROPOSED DEVELOPMENT

28. The market study, prepared by Petitioner's consultant, The Hallstrom Appraisal Group, Inc., in December, 1990, concludes that Increment I of the proposed development should be absorbed within three years of initial offering, and Increment II should be absorbed in up to eight years if the K to K Plan is implemented. The market study also states that the increase in population and economic activity in West Hawaii will create substantial demand for industrial and commercial uses during the coming decade.

ECONOMIC AND SOCIAL IMPACTS

29. Development of the Property will be complementary to and provide services for the urban expansion in the area between Kailua-Kona and Keahole Airport, new employment opportunities will be created as development occurs on the Property, and the proposed development is viewed as part of the growth that will occur in response to the expansion of tourism in the area.

30. The proposed development will respond to increases in population and will have an insignificant impact on population. The use of the Property for light industrial and commercial and service-related purposes will contribute to the diversification of the economic base and will provide needed space in the short-term for light industrial operations which require larger parcels of land and open storage areas.

IMPACTS UPON RESOURCES OF THE AREA

Agricultural Resources

31. The Land Study Bureau's (LSB) Overall Master Productivity Rating for the agricultural use of the soil on the Property is Class "E" or very poor.

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

Flora and Fauna

33. On 29 October 1990, a botanical survey of the Property was conducted by Petitioner's botanical consultant, Kenneth M. Nagata, to determine whether any native plant communities or endangered plant species existed on the Property. The general vegetation on the Property consists of grass and scrublands dominated by fountain grass and koa-haole. These two species comprise more than 80% of the total vegetational cover. No native plant communities are found on the Property. The few native species that are present occur as widely scattered individuals in moderate to very small

numbers. All are common lowland species which can be found in similar habitats throughout the State. Native species represent an insignificant component of the vegetation on the Property. No official or unofficial endangered plant species were found on the Property.

34. The presence on the Property of mammals such as the mongoose, house mouse, black rat, polynesian rat, and feral cat is possible. Bird surveys conducted in the area have indicated the presence of at least two endangered species, including the Hawaiian stilt, which is known to be present in the pond areas along the Koloko and Honokohau coastline, and the Hawaiian owl, which is known to be present in upland areas such as those of the Property. Because the Property is arid with no bodies of water and few trees, development of the Property will not impose a significant impact to the endangered bird populations in this region.

Archaeological/Historic Resources

35. Petitioner's archaeological consultant, Paul H. Rosendahl, Ph.D., Inc., conducted an archaeological inventory survey of the Property in late 1989. During the survey, 54 sites were newly identified, and eight previously identified sites were relocated and were redesignated as six sites, for a total of 60 identified sites. One of the previously identified sites (Site 13181) was listed on the State Inventory of Historic Places ("SIHP"). All other sites (59) were assigned SIHP numbers during this survey.

Among the 60 sites identified on the Property, 14 are assessed as having information value that has been mitigated during the survey, and no further work is determined necessary. Further data collection only is recommended for 36 sites, which appear to have value only for information content. Further data collection and a provisional recommendation of preservation "as is" are recommended for nine sites to determine whether they are burial sites. One site is assessed as significant for information content and for cultural value as a transportation route. Further data collection is recommended for this site.

Ground Water Resources

36. Petitioner's consultant, Belt Collins & Associates, in its Hydro-Geologic Impact Assessment dated January 19, 1990, states that the wastewater discharged from cesspools and disposal wells on the Property will influence the receiving groundwater's chemistry, particularly with localized increases in the concentration of certain inorganic constituents. However, the concentrations of contaminants in groundwater near the shoreline will be relatively low, and the contaminants will be rapidly dissipated after mixing into nearshore waters. The Hydro-Geologic Impact Assessment concludes that contaminants from the wastewater on the Property are likely to be discharged into Honokohau Harbor, but are unlikely to travel as far enough north to reach Aimakapa Fishpond.

37. OSP is concerned that the wastewater and industrial waste disposal may adversely affect groundwater and coastal water quality, especially at the Honokohau Harbor, and may act as a sink point into which most introduced contaminants are likely to be discharged. OSP is also concerned about the impact of the proposed project upon the Kaloko-Honokohau National Historical Park.

Recreational, Scenic, Cultural Resources

38. The continuation of the storage, construction, repair and maintenance of boats and other marine-related activities, and the potential sale of boats and related marine products, will support opportunities for ocean recreation activities.

39. The Property is situated 1,000 feet mauka of the Queen Kaahumanu Highway. Development within the Property will be lowrise in character, and is not expected to interfere substantially with existing views from the highway corridor or from mauka residential areas. The industrial park project will be fully landscaped, particularly on the Kealakehe side to eliminate and/or mitigate any visual impact on the Kealakehe residential areas as they are developed.

40. Petitioner is willing to work with HFDC to provide a landscaping buffer between the Property and the Kealakehe Planned Community in order to mitigate the visual impacts of the proposed development.

41. The National Park Service has acquired 650 acres of land directly makai and to the northwest of the Property with the intent of developing a National Historic Park, the primary purpose of which would be the preservation of the Hawaiian culture. Petitioner states that its proposed development is consistent with the overall development pattern of the region if views, air, aural and ground water quality are maintained.

Coastal/Aquatic Resources

42. Petitioner's water quality, marine ecology and anchialine pond ecology consultant, Dr. David A. Ziemann, prepared an Anchialine Pond Impact Assessment and testified that ponds located in the Kaloko and Honokohau areas, including both Kaloko and Aimakapa fishpond, are outside the region of potential impact of sanitary wastes and surface runoff. Only Honokohau Small Boat Harbor and anchialine ponds in the Maliu and Kealakehe areas are located within the envelope of potential impact from the proposed light industrial development project. Petitioner states that there is little likelihood of significant environmental impact on the nearshore marine waters or anchialine ponds within the envelope as long as facilities to handle and collect industrial waste are properly maintained according to Federal, State and County regulations, and the area is ultimately hooked into a municipal sewage system.

ENVIRONMENTAL QUALITY

Noise

43. Noise generated from the project will primarily result from truck and heavy equipment activity. This will be mitigated by landscaping and other buffering. Petitioner's conceptual plan is to locate the mauka-makai road on the Kealakehe side of the Property with smaller parcels of approximately one acre adjacent to Kealakehe. The small parcels will be developed to minimize any noise generation. Heavier industrial uses will be located on the north side of the Property on the larger size lots.

Air Quality

44. According to Petitioner's EIS, a limited amount of air pollution is generated by quarrying activities and vehicular traffic associated with operations of West Hawaii Concrete. Blasting at the quarry site, which occurs about once a week when operations are underway, creates dust pollution for brief periods. Cement dust at the batching plant is controlled at the point of transfer from the trucks to a hopper within a bag house which is regulated by a permit from the State Department of Health. Other potential sources of pollution are controlled by frequent spraying.

45. The impact from dust created by the quarry operation will be incompatible with the residential use on the neighboring Kealakehe Planned Community, and Petitioner will

phase out the quarry use within an appropriate time table established by the Office of State Planning and the County.

ADEQUACY OF PUBLIC SERVICES AND FACILITIES

Highway and Roadway Facilities

46. The major public roadway serving the Property is the Queen Kaahumanu Highway, which is a two lane state arterial highway approximately 1,000 feet west of the Property. The Queen Kaahumanu Highway has a 300-foot wide right-of-way in this area. There is an existing two-lane paved quarry access road from Queen Kaahumanu Highway over an easement, which serves as the only access to the Property at this time.

47. The proposed Kealakehe Parkway is being planned on the adjacent HFDC Kealakehe lands and is expected to connect the Queen Kaahumanu Highway and the Mamalahoa Highway (or Palani Road). This proposed road is currently in the preliminary design stage.

48. It is anticipated that the Kealakehe Parkway will tie into the Queen Kaahumanu Highway via a grade separated interchange and will be one of the primary access focal points for this region. A mid-level arterial is proposed to run parallel to the Queen Kaahumanu Highway. This roadway would be an integral part of the circulation system within the proposed K to K Plan area. The exact alignment of the proposed mid-level arterial is not yet determined but is anticipated to run in the vicinity of the upper portions of the Property.

49. According to preliminary plans submitted with HFDC's Kealakehe Planned Community State Land Use Boundary Amendment request (LUC Docket A90-660), the Kealakehe Parkway would lie approximately 800 feet south of the Property.

50. Petitioner proposes to initially maintain the current access from Queen Kaahumanu Highway and to later connect with the Kealakehe Parkway when that road is constructed. Petitioner also proposes to construct a north-south road segment which is identified as the Mid-Level road through the upper portion of the Property.

51. Petitioner's transportation engineering consultant, Bryant Terry Brothers, conducted a traffic study for Petitioner's project and found, that presently, an estimated 150 vehicles use the access road on a weekday, with approximately 40 to 45 vehicles using the access road during the morning and afternoon peak hours.

52. Petitioner's consultant projected that by 1995, without Petitioner's project, but including Intervenors' project, traffic volume on the access road would increase to 76 and 81 vehicles during the morning and afternoon peak hours, respectively.

53. Petitioner's consultant estimated that full development of Increment I in 1995 would generate a total of 2,285 vehicle trips on a typical weekday and development of Increment II would generate a total of 9,335 vehicle trips on a typical weekday.

54. Petitioner's consultant concluded that the existing 20-foot wide paved access road to the property provides sufficient capacity for Petitioner's Increment I, and the planned roadways within Petitioner's proposed development, and the planned regional roadways in the vicinity, should be sufficient to provide the capacity needs through 2010.

Water Service

55. The Property is presently provided with water from a 12-inch water main along Queen Kaahumanu Highway, by means of a two-inch meter and a two-inch service lateral line extending from the Highway along the quarry access road mauka to the Property. Petitioner's current water consumption is approximately 33,000 gallons per day.

56. Projected water requirements for Increment I are approximately 55,000 gallons per day and for Increment II approximately 126,000 gallons per day.

57. Petitioner's consultant, Donald Chung stated that the existing two inch water line will provide more than sufficient water for development of Increment I of the project, subject only to any valid limitation on water use that may be applied by the Department of Water Supply. Eventually, Petitioner intends to connect to the waterline coming down Kealakehe Parkway on the adjacent HFDC Kealakehe Planned Community project.

58. The County Department of Water Supply has stated that ". . .the Department's existing water system facilities

cannot support the proposed subdivision at this time. Extensive improvements and additions, including source, storage, transmission, booster pump, and distribution facilities must be constructed. Currently, sufficient funding is not available and no time schedule is set."

59. Petitioner proposes to continue to utilize the existing two-inch water line to provide water to Increment I until such time that a reservoir, being constructed by the State Department of Transportation at the 325 foot elevation, is available for use as part of the County water system.

60. The Department of Transportation reservoir is being constructed primarily for fire protection purposes and secondarily to provide domestic water for the Honokohau Harbor, which is makai of the Property. Petitioner's consultant stated there is no confirmation that the reservoir would either be conveyed to the County or that it would be available to provide water to the Property.

61. Development of Increment II is dependent upon the construction of a reservoir by the State at the 595-foot elevation. This reservoir has not yet been designed or planned for the development.

62. Petitioner has discussed future water resources and requirements with the Department of Water Supply, and Petitioner was told the Department is in the process of drilling three new wells, and the State is drilling two new wells, mauka of the Property. Petitioner has confirmed to the

Department of Water Supply that Petitioner is willing to pay its fair share of the cost to develop and distribute water for the Honokohau area.

Wastewater Disposal

63. There is presently no municipal sewer system in the vicinity of the Property. The proposed Kealakehe Sewage Treatment Plant ("Kealakehe STP") is now under construction to the south and makai of the Property. The adjacent Kealakehe Planned Community will be installing sewer lines for that development which will tie into the Kealakehe STP.

64. The proposed development on the Property will generate approximately 5,000 to 6,000 gallons of wastewater per day for Increment I and 148,000 gallons of wastewater per day for Increment II.

65. The State Department of Health ("DOH") recommends "that the project connect to or have provisions to connect to the new Kealakehe STP. Although there are other wastewater disposal alternatives, the Department of Health advocates connection to a regional municipal wastewater system. This recommendation is made in light of the Department requesting the Kealakehe Planned Community to also sewer its development and connect to the Kealakehe STP."

66. Petitioner proposes to install cesspools for the initial development with eventual hookup to the Kealakehe STP. Petitioner has indicated that dry sewer lines will be installed within the Property at the appropriate time.

Drainage

67. The Property is not within a designated flood plain or coastal high hazard area shown on the Flood Insurance Rate Map (FIRM).

68. Petitioner proposes to install a series of drywells to handle on-site drainage in accordance with the requirements of the County of Hawaii Department of Public Works.

Solid Waste Disposal

69. The existing Kealakehe landfill serving North and South Kona is nearing capacity and is planned to be closed in 1992. The proposed West Hawaii landfill would have to be completed and ready for operation before the closing of the Kealakehe landfill.

70. A transfer station is located at the Kealakehe landfill site and is approximately 4,000 feet south of the Property.

Schools

71. Due to the nature of Petitioner's proposed development, it is not expected to have any requirement for public school services.

Police and Fire Protection

72. Police protection is available from the Kealakehe Police Station, located 4,000 feet south of the Property.

73. The Kailua-Kona fire station is located on Palani Road above the Queen Kaahumanu Highway intersection, approximately 2.3 miles from the Property.

Emergency Services

74. Emergency ambulance services are provided by DOH. Advanced life support ambulance units are located at the Lucy Henriques Medical Center in Waimea, the Kailua-Kona Fire Station and at the Captain Cook Fire Station. The Kona Hospital houses a basic life support ambulance unit and the Kailua-Kona Fire Station is equipped for offshore emergencies.

Electricity and Telephone Service

75. Hawaii Electric Light Company (HELCO) maintains a 69 KV transmission line with a power line corridor paralleling the mauka side of the Queen Kaahumanu Highway. At the present time, HELCO does not service the Property. All electricity on the Property is supplied by generators. Petitioner anticipates that electricity will be available to the Property within the next year.

76. Telephone service is presently available to the Property.

COMMITMENT OF STATE FUNDS AND RESOURCES

77. Given Petitioner's commitment to pay its fair share of various off-site infrastructure facilities for the proposed development, it does not appear that the proposed development will result in any unreasonable commitment of State funds or resources.

CONFORMANCE TO APPLICABLE URBAN DISTRICT STANDARDS

78. Based on the findings previously stated, and the evidence and testimony adduced at the hearing, the Property

meets the standards applicable in establishing boundaries of the Urban District as set forth in Section 15-15-18 of the Commission Rules and the decision-making criteria for boundary amendments as set forth in Section 15-15-77 of the Commission Rules.

79. Lands surrounding the Property to the west (Intervenors' property), and to the south (HFDC Kealakehe Planned Community) are in the Urban Land Use District. The 130-acre Urban Land Use District containing the Kaloko Light Industrial Subdivision is within a mile north of the Property. The Honokohau area, makai of Queen Kaahumanu Highway is also in the Urban Land Use District.

CONFORMANCE WITH THE HAWAII STATE PLAN

80. The proposed reclassification is generally consistent with the objectives and policies of the Hawaii State Plan, Chapter 226, HRS, for the economy in general. The relevant objectives are as follows:

- Sec. 226-6(a) Planning for the State's economy in general shall be directed toward achievement of the following objectives:
- Sec. 226-6(a)(1) Increased and diversified employment opportunities to achieve full employment, increased income and job choice, and improved living standards for Hawaii's people.
- Sec. 226-6(a)(2) A steadily growing and diversified economic base that is not overly dependent on a few industries.

81. The Petition is generally consistent with the objectives and policies of the Hawaii State Plan for population. The relevant policies are as follows:

- Sec. 226-5(b)(2) Encourage an increase in economic activities and employment opportunities on the Neighbor Islands consistent with community needs and desires.
- Sec. 226-5(b)(3) Promote increased opportunities for Hawaii's people to pursue their socio-economic aspirations throughout the islands.

82. The proposed reclassification would provide a location for business enterprise and employment which should offer diversity to the residents of West Hawaii in terms of jobs and services.

CONFORMANCE TO COASTAL ZONE MANAGEMENT OBJECTIVES AND POLICIES

83. The proposed development of the Property is not anticipated to adversely affect the ocean or the shoreline, and the proposed reclassification of the Property is consistent with the objectives and policies of the Coastal Zone Management Program, Chapter 205A, HRS.

INCREMENTAL DISTRICTING

84. Full development of the Property cannot reasonably be completed within five years after the date of the final County zoning approval for the Property. However, Petitioner's proposed schedule of development in two increments, each encompassing a five-year period, appears reasonable and feasible.

85. Petitioner will substantially complete development of Increment I, consisting of approximately 45.5 acres within five years, and Increment II, consisting of approximately 44.02 acres within five years thereafter.

RULING ON PROPOSED FINDINGS OF FACT

Any of the proposed findings of fact submitted by Petitioner or other parties to this proceeding 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 shall be deemed and construed as a conclusion of law; and any finding of fact herein improperly designated as a conclusion of law shall be deemed and construed as a finding of fact.

CONCLUSIONS OF LAW

Pursuant to Chapter 205, Hawaii Revised Statutes, as amended, and the Commission Rules, the Commission finds upon a clear preponderance of the evidence that the reclassification of Increment I consisting of approximately 45.5 acres of land within the Property, situated at Honokohau, North Kona, Island and County of Hawaii, State of Hawaii, from the Conservation District to the Urban District to permit the development of Increment I, conforms to the standards for establishing Urban Boundaries, is reasonable, non-violative of Section 205-2, HRS, and is consistent with the policies and criteria established

pursuant to Sections 205-16, 205-17 and 205A-2, HRS, and the Hawaii State Plan as set forth in Chapter 226, Hawaii Revised Statutes, as amended.

The Commission further concludes that although full development of the lands within Increment II cannot be reasonably completed within five years from the date of final County zoning approval for the Property, reclassification of the lands within Increment II consisting of approximately 44.02 acres of land from the Conservation and the Agricultural Districts to the Urban District to permit the development of Increment II, conforms to the standards for establishing Urban Boundaries, is reasonable, non-violative of Section 205-2, HRS, and the Hawaii State Plan as set forth in Chapter 226, Hawaii Revised Statutes, as amended, and is consistent with the policies and criteria established pursuant to Sections 205-16, 205-17 and 205A-2, HRS. Therefore, incremental redistricting of the lands within Increment II of the Petitioner's development is reasonable and warranted.

ORDER

IT IS HEREBY ORDERED that the lands within Increment I of the Petitioner's development plan for the Property, consisting of approximately 45.5 acres, situated at Honokohau, North Kona, Island and County of Hawaii, State of Hawaii, identified by Hawaii Tax Map Key Number: 7-4-08: portion of 26 and portion of 49, as approximately shown in Exhibit "A" attached hereto and incorporated herein by reference, shall be

and hereby is reclassified from the Conservation District to the Urban District and the State Land Use District Boundaries are amended accordingly.

IT IS FURTHER ORDERED that the lands within Increment II of the Petitioner's development plan of the Property, consisting of approximately 44.02 acres, situated at Honokohau, North Kona, Island and County of Hawaii, State of Hawaii, identified by Hawaii Tax Map Key Number: 7-4-08: portion of 26 and portion of 49, as approximately shown in Exhibit "A" attached hereto and incorporated herein by reference, shall be and the same are hereby approved for incremental development pursuant to Commission Rule 15-15-78, and that redistricting from the Conservation and the Agricultural Districts to the Urban District will be granted upon receipt of an application by Petitioner for redistricting of this second increment upon a prima facie showing that Petitioner has made substantial completion of the onsite and offsite improvements within Increment I, in accordance with the Petitioner's development plan as indicated above, within five years from the date of this Order.

IT IS FURTHER ORDERED that the reclassification and incremental districting of the Property shall be subject to the following conditions:

1. Petitioner shall ensure that a buffer area along the boundary of the Property be constructed to maintain the visual integrity from the Queen Kaahumanu Highway. Petitioner

shall further ensure that the proposed light industrial uses be screened from passing motorists, the Kaloko-Honokohau National Historic Park, and the adjacent Kealakehe lands, by landscaping improvements along the petition area's western, northern and southern boundaries. Petitioner shall prepare a plan for a buffer along the southern boundary with the Kealakehe lands, which shall be submitted to and approved by the Housing Finance Development Corporation. Petitioner shall properly maintain the approved landscaping improvements.

2. Petitioner shall participate in the funding and construction of local and regional transportation improvements on a pro rata basis as determined by the State Department of Transportation.

3. Petitioner shall prepare a drainage and erosion control plan and shall fund and construct the necessary drainage improvements to control drainage within the Property and to maintain ocean water quality to the satisfaction of the State Department of Health.

4. Petitioner shall contribute its pro rata share of the cost to develop and distribute water to Petitioner's proposed project, together with other public and private property owners in the area.

5. Petitioner shall fund and construct the necessary waste-water disposal improvements on the subject property for eventual hook-up to a municipal sewer system as determined by the State Department of Health.

6. Petitioner shall coordinate with the County of Hawaii and the State Department of Health to establish appropriate systems to contain spills and prevent material associated with light industrial uses, such as petroleum products, chemicals, solvents or other pollutants, from leaching into the storm drainage systems and adversely affecting the groundwater and coastal waters.

7. Petitioner shall fund its pro rata share for electrical facilities as determined by the Hawaii Electric Light Company (HELCO).

8. Petitioner shall immediately stop work on the impacted area 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, paving or walls be encountered during the project's development.

9. Petitioner shall provide its pro rata share for police, fire, park, and solid waste disposal as may be required by and to the satisfaction of the County of Hawaii.

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

11. The Petitioner shall implement effective soil erosion and dust control measures during all phases of the development.

12. Petitioner shall develop and maintain on-site facilities to insure that the nearshore, offshore and deep ocean waters remain in pristine condition. Petitioner shall also participate in a water quality monitoring system as may be required by the State Department of Health.

13. Petitioner shall develop the Property in substantial compliance with representations made to the Commission in obtaining the reclassification of the Property. Failure to so develop may result in reclassification of the property to its former land use classification.

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

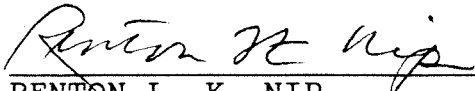
15. Petitioner shall provide annual reports to the Commission, the Office of State Planning and the County of Hawaii Planning Department in connection with the status of the subject project and the Petitioner's progress in complying with the conditions imposed.

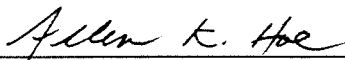
16. The Land Use Commission may fully or partially release these conditions as to all or any portion of the Property upon timely motion and upon the provision of adequate assurance of satisfaction of these conditions by Petitioner.

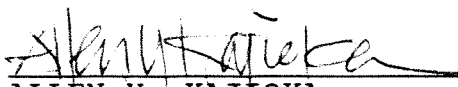
DOCKET NO. A89-643 - McCLEAN HONOKOHAU PROPERTIES, A HAWAII
LIMITED PARTNERSHIP, FKA ROBERT S. McCLEAN
AS TRUSTEE OF THE ROBERT S. McCLEAN TRUST

Done at Honolulu, Hawaii, this 16th day of April 1991,
per motion on April 11, 1991.

LAND USE COMMISSION
STATE OF HAWAII

By 
RENTON L. K. NIP
Chairman and Commissioner


By 
ALLEN K. HOE
Vice Chairman and Commissioner

By 
ALLEN Y. KAJIOKA
Vice Chairman and Commissioner

By 
KAREN S. AHN
Commissioner

By (absent)
EUSEBIO LAPENIA, JR.
Commissioner

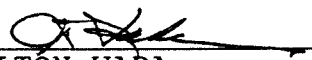
By 
JOANN N. MATTSO
Commissioner

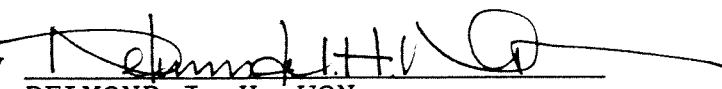
By 
JAMES M. SHINNO
Commissioner

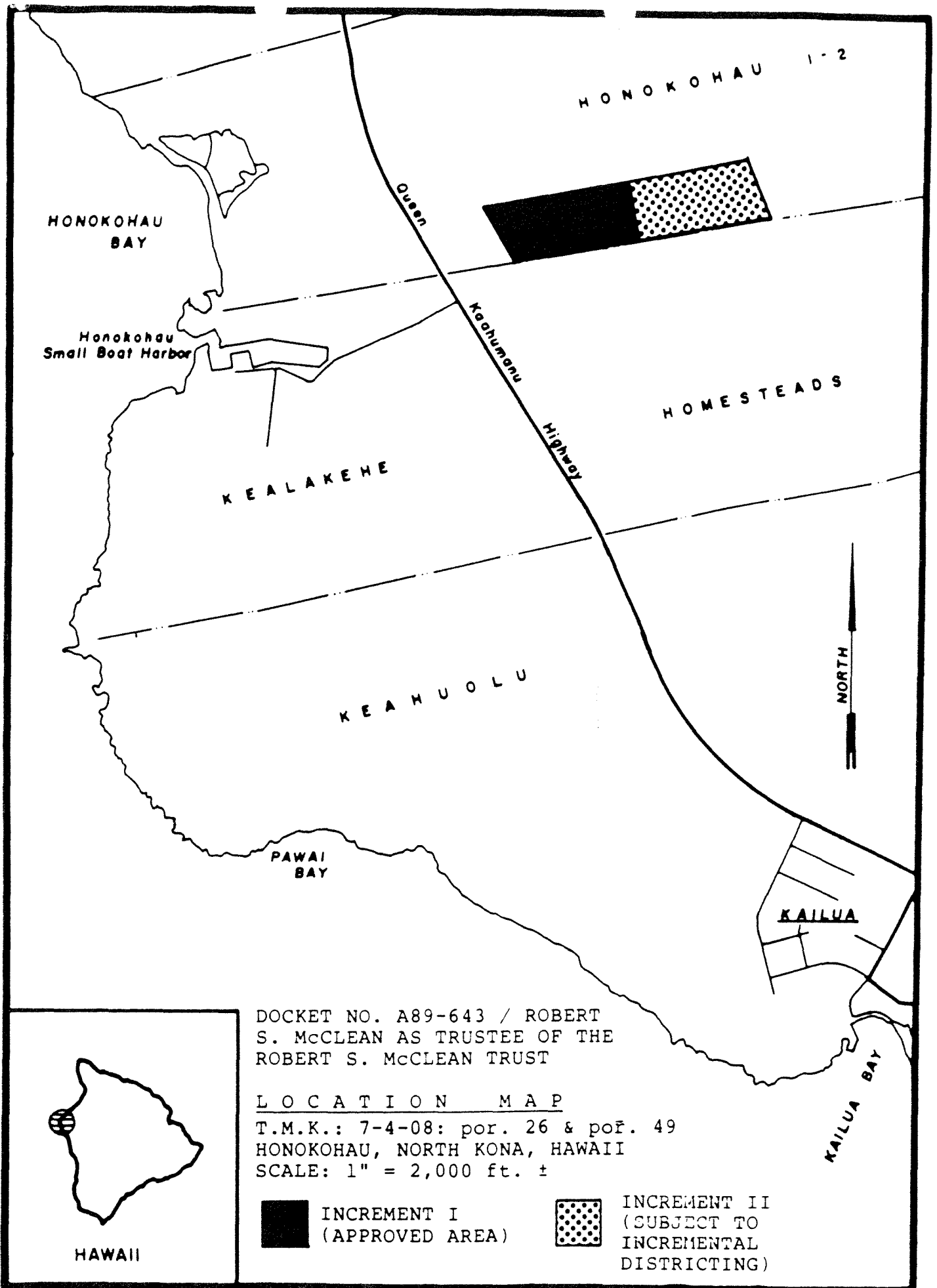
Filed and effective on
April 11, 1991

Certified by:


Executive Officer

By 
ELTON WADA
Commissioner

By 
DELMOND J. H. WON
Commissioner




DOCKET NO. A89-643 / ROBERT
 S. McCLEAN AS TRUSTEE OF THE
 ROBERT S. McCLEAN TRUST

LOCATION MAP

T.M.K.: 7-4-08: por. 26 & por. 49
 HONOKOHAU, NORTH KONA, HAWAII
 SCALE: 1" = 2,000 ft. ±

 INCREMENT I
 (APPROVED AREA)

 INCREMENT II
 (SUBJECT TO
 INCREMENTAL
 DISTRICTING)

HAWAII

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of)	DOCKET NO. A89-643
)	
McCLEAN HONOKOHAU PROPERTIES,)	McCLEAN HONOKOHAU
a Hawaii Limited Partnership)	PROPERTIES, a Hawaii
)	Limited Partnership
To Amend the Land Use District)	
Boundary to reclassify approxi-)	
mately 89.527 acres of land in the)	
Conservation and the Agricultural)	
Districts to the Urban District)	
at Honokohau, North Kona, Hawaii,)	
Tax Map Key Nos.: 7-4-08: 26 and)	
49)	
)	

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. NORMAN K. HAYASHI, Planning Director
Planning Department, County of Hawaii
25 Aupuni Street
Hilo, Hawaii 96720

CERT. ROBERT J. SMOLENSKI, ESQ., Attorney for Petitioner
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841 Bishop Street
Honolulu, Hawaii 96813-3970

CERT. SANDRA PECHTER SCHUTTE, ESQ., Attorney for Intervenor
101 Aupuni Street, Suite 124
Hilo, Hawaii 96720

DATED: Honolulu, Hawaii, this 16th day of April 1991.



ESTHER UEDA
Executive Officer