

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of)
)
KAMAAINA EIGHT, a Hawaii General)
Partnership)
)
To Amend the Conservation Land Use)
District into the Urban Land Use)
District for Approximately 42 Acres)
and to Amend the Agricultural Land)
Use District into the Urban District)
for Approximately 28 Acres at)
Kohanaiki, North Kona, Hawaii,)
Tax Map Key No.: 7-3-09: 15)
)

DOCKET NO. A91-665
KAMAAINA EIGHT,
a Hawaii General
Partnership

LAND USE COMMISSION
STATE OF HAWAII
APR 6 1 58 PM '92

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

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In the Matter of the Petition of)	DOCKET NO. A91-665
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KAMAAINA EIGHT, a Hawaii General Partnership)	KAMAAINA EIGHT,
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To Amend the Conservation Land Use District into the Urban Land Use District for Approximately 42 Acres and to Amend the Agricultural Land Use District into the Urban District for Approximately 28 Acres at Kohanaiki, North Kona, Hawaii, Tax Map Key No.: 7-3-09: 15)	
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FINDINGS OF FACT,
CONCLUSIONS OF LAW, AND DECISION AND ORDER

Kamaaina Eight, a Hawaii General Partnership (hereinafter "Petitioner"), filed a Petition for a Land Use District Boundary Amendment on February 14, 1991, pursuant to Chapter 205 of the Hawaii Revised Statutes, as amended (hereinafter "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 42 acres from the Conservation Land Use District and approximately 28 acres from the Agricultural Land Use District to the Urban Land Use District totalling approximately 70 acres situate at Kohanaiki, North Kona, Hawaii, identified by Tax Map Key No. 7-3-09: 15 (hereinafter "Property").

The State Land Use Commission (hereinafter "Commission"), having heard and examined the testimony, evidence and arguments 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 February 14, 1991. The Petition included an environmental assessment as required by Section 343-5(a)(7), HRS, as amended.

2. On March 12, 1991, and by Order dated April 8, 1991, the Commission required Petitioner to prepare an Environmental Impact Statement, (hereinafter "EIS") pursuant to Section 343-5(c), HRS, as amended.

3. On August 12, 1991, Petitioner filed a metes and bounds description and map (Exhibits 6, 7, & 8), which further defined the Property as 41.412 acres in the Conservation District and 28.964 acres in the Agricultural District. The total area of the Property is 70.376 acres. The Conservation District land is the makai portion of the Property and the Agricultural District land is the mauka portion.

4. By Order dated November 6, 1991, the Commission accepted Petitioner's Final Environmental Impact Statement

(hereinafter "FEIS"). Petitioner's petition for Land Use Boundary Amendment was accepted for filing as of October 24, 1991.

5. A prehearing conference was held on December 17, 1991, at the Conference Room of the Department of Business, Economic Development, and Tourism, on the 11th Floor, Central Pacific Plaza, 220 South King Street, Honolulu, Hawaii at which time the parties exchanged exhibits and lists of witnesses.

6. The Commission held a public hearing on the Petition at the Kamehameha Ballroom, Kona Surf Resort and Country Club, 78-128 Ehukai Street, Kailua-Kona, Hawaii on January 9, 1992. The hearing was held pursuant to notices published in the Honolulu Advertiser, West Hawaii Today, and the Hawaii Tribune-Herald on November 21, 1991.

7. On April 11, 1991, the Commission received a timely written statement from Elizabeth Ann Stone. On December 27, 1991 the Commission received an untimely written statement from Gregory Mooers of Nansay Hawaii, Inc. Both documents were admitted by the Commission.

8. Lee Sugai, Stanley Tomono and Mahealani Pai testified as public witnesses at the hearing.

DESCRIPTION OF THE PROPERTY

9. The Property is located at Kohanaiki, District of North Kona, Island and County of Hawaii. The Property is mauka of Queen Kaahumanu Highway, approximately five (5) miles north of Kailua-Kona.

10. The Property is bound to the south by vacant Urban District land on which a golf course is planned. Directly across Queen Kaahumanu Highway is the proposed entrance to the Kohanaiki Resort Community which will include two hotels, single and multi-family housing, marina, support housing, commercial facilities and golf course. The land immediately north of the Property is owned by Richard D. Lee Trust and is in the Conservation and Agricultural Districts. These lands are presently vacant and there are no known planned uses for the Lee Trust Lands.

11. Within two miles south of the Property are two light industrial areas. The Kaloko Industrial Park is approximately 2,000 feet south of the Property and the light industrial area owned by Robert S. McClean is approximately 1-1/2 mile south of the Property. The Keahole Airport, the Natural Energy Laboratory of Hawaii and the Hawaii Ocean Science Technology Park are located approximately one and one-half miles to the north of the Property.

12. The proposed Kaloko National Historic Park is located on the makai side of Queen Kaahumanu Highway beginning approximately 2,000 feet south of the Property.

13. The Property is elongated in shape, roughly a parallelogram extending 7,500 feet mauka from Queen Kaahumanu Highway, and is only 400 to 500 feet wide.

14. The Property ranges in elevation from approximately 60 feet at the mauka border of Queen Kaahumanu

Highway to approximately 475 feet in the eastern portion of the Property. Slopes within the Property are generally less than 10 percent.

15. The Property is owned in fee by the Petitioner and is presently vacant.

16. The mean annual temperature in the Kohanaiki area is approximately 75 degrees Fahrenheit with relatively small daily and seasonal variation. Winds are normally northeast trades.

17. The U.S. Department of Agriculture Soil Conservation Service (hereinafter "SCS"), Soil Survey Report for the Island of Hawaii indicates that the Property consists of A'a lava flows (rLV) and Pahoehoe lava flows (rLW).

18. The Land Study Bureau (hereinafter "LSB"), Detailed Land Classification, Island of Hawaii, rates the soil productivity of the Property as "E".

19. The Flood Insurance Rate Map (FIRM) prepared by the U.S. Army Corps of Engineers, designates the Property within Zone X (areas outside of the 500 year floodplain).

20. Access to the Property is possible from Queen Kaahumanu Highway.

21. Petitioner is registered to do business in the State of Hawaii with its principal place of business and mailing address at 73-4354 Mamalahoa Highway, Kailua-Kona, Hawaii 96740.

PETITIONER'S PROPOSED USE OF THE PROPERTY

22. Petitioner proposes to develop a commercial/light industrial subdivision consisting of 25 individual lots ranging in size from 2 to 3 or more acres for immediate commercial operations and to meet the industrial activity needs of the future property owners (hereinafter "Project"). Petitioner intends to provide alternative light industrial properties from which suppliers of products and services can readily serve the existing, under construction, and planned resort/residential projects in the North Kona and South Kohala Districts.

23. Some of the Kamaaina Eight partners plan to relocate their present businesses to the Property.

24. The remaining lots will be sold or leased as improved, partially graded parcels which will be further developed by new owners or lessees.

25. The proposed Project will include the necessary infrastructural improvements, including an internal roadway system, potable water, drainage improvements and electrical power stub-outs for the complete development of the commercial/light industrial subdivision. The main access to the Property is proposed via a mid-level arterial road which would bisect the Property via the 310 foot elevation. Another connecting road is proposed between the 200 to 225 foot elevation.

26. Petitioner anticipates Project development costs to be \$13,000,000 for highway intersection, roadways, drainage, water, electrical, and communication infrastructure.

27. The Project is a single phase project with all necessary infrastructure to be put in place once final approvals are received from the County. It is anticipated that the improvements will be completed over a period between one and two years.

PETITIONERS' FINANCIAL CAPABILITY
TO UNDERTAKE THE PROPOSED DEVELOPMENT

28. Petitioner's statement of assets and liabilities as of November 30, 1990, lists total assets at \$582,155.42, including \$82,641.06 in savings, checking and prepaid insurance, \$498,783.84 in property and equipment and \$730.52 in other assets.

29. Petitioner proposes to either develop the Property using its resources and those of its individual members' businesses and that of a financial institution, or to locate a developer who would be willing to develop the Property in return for a portion of the Property for their own purposes.

STATE AND COUNTY PLANS AND PROGRAMS

30. The makai 41.412 acres of the Property are situated within the State Land Use Conservation District and the mauka 28.964 acres of the Property are situated within the State Land Use Agricultural District as reflected on Land Use District Boundary Map H-2 (Keahole Point).

31. The Property is currently designated "Urban Expansion" by the County of Hawaii General Plan Land Use Pattern Allocation Guide (LUPAG) Map. The development of the proposed Project would be consistent with the Hawaii County General Plan.

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

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

34. The County of Hawaii's Keahole to Kailua Development Plan (hereinafter "K to K Plan"), designates the Property for Urban Expansion and Residential 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.

35. The West Hawaii Regional Plan prepared by the Office of State Planning calls for development of two "sub-regional" plans in which more detailed land planning and planning for infrastructural systems are to occur, one of these subregional plans is generally consistent with the K to K Plan. The Property is within said designated area.

NEED FOR THE PROPOSED DEVELOPMENT

36. An updated market study dated January 11, 1991 was conducted for the Petitioners by the Hallstrom Appraisal Group, Inc. Based on the report, market trends are toward strong demand levels for finished space and sites and "muted" supply levels. There have been no major offerings of finished developable light industrial lots since the Kaloko Industrial Park. The increasing expansion of the visitor industry in West Hawaii will require increased light industrial and commercial development to support the new population and to service resort operations. The existing supply of 25 finished acres in the Keahole to Kailua corridor equates to approximately two years of market demand needs. The industrial land sector is and will continue strong in West Hawaii, with a need for additional acreage in the inventory over the short-term. While large amounts of finished space has been built over the past several years, market demand for commercial development and zoned sites in the region remains high.

37. Based on Petitioner's FEIS there will be a shortage of industrial lands over the next two to four years and a substantial demand for commercial space within the next 18 years. The proposed Project would offer new and existing businesses a central location to support planned resort and residential developments in the area. It is estimated that the proposed industrial lots will be absorbed within 36 to 45

months after the subdivision is completed at a fee simple selling price of \$12 to \$18 per square foot.

ECONOMIC AND SOCIAL IMPACTS

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

39. The proposed Project will respond to increases in the population and will have an insignificant impact on the population. The use of the Property for light industrial, commercial and service-related purposes will contribute to the diversification of the economic base and will provide needed space in the short-term.

40. Population is forecasted to increase to between 78,000 persons and 99,000 persons by the year 2005. Resident population is estimated to increase by nearly 60,000 by the end of the year 2010. Petitioner contends that the Project will not significantly impact future population growth since it is intended to meet light industrial or commercial needs of the West Hawaii residents.

41. The Project is expected to generate about 704 jobs using the Urban Land Institute calculations for industrial employment. Indirect long-term jobs are estimated to be 1,150.

42. The Project is not expected to have a significant effect on the social characteristics of the Project area.

IMPACTS UPON RESOURCES IN THE AREA

Agricultural Resources

43. The State Department of Agriculture's (hereinafter "DOA") Agricultural Lands of Importance to the State of Hawaii (ALISH) system does not classify the Property.

44. DOA has reviewed the Petition and in a memorandum dated April 11, 1991 states, "the approval of the petitioners request will not adversely affect the agriculture resources of the area nor the plans, programs, and activities of the Department."

Flora

45. No flora study was conducted on the Property.

46. The Property is likely to contain similar vegetation as adjacent property such as fountain grass (Pennisetum setaceum), kiawe (Prosopis pallida) and Natal Red-top (Rhynchelytrum repens), 'Ilimia (Sida fallax) and 'uhaloa (Waltheria indica var. americana).

47. Botanical studies of neighboring properties have demonstrated the lack of habitat for threatened or endangered plants. None of the above listed plants are included in the U.S. Department of the Interior, Fish and Wildlife Services' proposed endangered and threatened species plant list. Given the Property's similar climate, elevation and soil types, it is

unlikely that the Property contains plants that are threatened or endangered.

Fauna

48. No fauna study was performed on the Property.

49. Fauna on the subject Property is likely to include species common to Hawaii composed primarily of exotic birds. Feral mammals could frequent the Property. The possibility exists that cave dwelling insects may be present in the lava tubes on the Property, such as the wolf spider (Lycosa Howarthi), blind cricket (Cacnemobius varius), the linyphild spider (Brigone stygius), and earwig (Anisolabis howarthi).

50. It is expected that the overall Project will result in negligible impacts, if any, on the wildlife in the area.

Archaeological and Cultural Resources

51. An archaeological surface reconnaissance was performed on the Property by Archaeological Consultants of Hawaii. No surface features were found to be present on the subject Property. No cultural material was observed in any of the seven caves found on the Property.

52. The possibility exists that cultural features may be located in subsurface lava tubes whose entrances are located outside of the Property. It is likely that heavy grading equipment will break through the thin lava crust, thereby exposing these tubes.

53. Petitioner proposes to have an archaeological team on call during grading operations to investigate any subsurface features that may be found. Construction activities would be curtailed should significant cultural features be found.

Groundwater Resources

54. The Property is considered to be part of the Kiholo Aquifer system, which watershed elevations range from 4,800 feet to mean sea level. The aquifer is composed of brackish water decreasing in salinity in the mauka direction. A brackish basal lens underlies the Property. Due to the high concentrations of chlorides, the groundwater beneath the Property is not suitable as a potable water source. The Property is situated at an elevation below the Underground Injection Control line which is the boundary set by the Department of Health to delineate areas of watershed recharge.

Water Quality

55. After full development of the Property, surface run-off would increase due to paved and roofed surfaces. The light industrial use of the Property could include activities which produce contaminants which could leach into the groundwater. The flow of the groundwater is seaward and discharge occurs as a highly diffuse and a highly mixed flow along the entire shoreline from Kailua Village to Keahole Point.

56. Localized run-off will be caused by grading and road construction on the Property. Appropriate wastewater

treatment will be required and properly constructed drainfields should ensure that the Project will have little or no significant impact on the brackish lens. Residential cesspools and agricultural activities mauka of the Property have not contributed to an increase in nitrogen or phosphorus in the brackish lens.

57. To decrease the impacts to the ground and coastal waters the Petitioner proposes to incorporate mitigative measures as part of the Project. Surface run-off will be directed to treatment facilities and disposed of through dry wells. The dry wells would be located within the Project's primary road right-of-way. Dry wells would be 20 feet deep and capable of percolating approximately six to eight cubic feet of water per second. The dry wells would be spaced approximately 750 feet apart and percolate the surface groundwater generated by the surface roadway and adjoining lot. Improvement plans will be incorporated to accommodate the drainage generated by each lot. Grease and oil traps will be installed to absorb suspended materials.

Scenic and Visual Resources

58. The Property is directly mauka of Queen Kaahumanu Highway, extending 7,500 feet while being only 400 to 500 feet wide. The Property rises from an elevation of 60 feet at Kaahumanu Highway to an elevation of 475 feet in the mauka area.

59. The site conditions cause the Property to be visible from Queen Kaahumanu Highway, areas along the coast, and Mamalahoa Highway.

60. From Queen Kaahumanu Highway, the landscape is dominated by black and brown lava in the foreground with the slopes of Hualalai occupying the predominant mauka view. The Property and the surrounding area are characterized by barren lava flows with sparse vegetation.

61. Driving from Keahole Airport to Kailua-Kona, one encounters a number of developments along the roadway corridor, including the Kaloko Industrial Park, Honokohau Harbor entrance, the McClean light industrial property, and the structures located within the Kona Industrial Subdivision.

62. The Property would contain light industrial buildings and two 0.3 million gallon reservoir tanks (17 feet high, 31 feet diameter). The reservoir tank located at the 325 foot elevation would be visible from the highway along with structures in the light industrial development.

63. In order to decrease the amount of visual impacts, Petitioner proposes to create a 50-foot wide landscape buffer mauka of the Kaahumanu Highway right-of-way and to landscape the water tank site. The preferred concept of development is to implement larger lots with sloping banks which would decrease the need for retaining walls and excessive terracing.

64. Future building structures within the development would be designed to blend in with the terrain as much as possible. Restrictions should be imposed upon future users of lots to adhere to architectural and development standards.

Noise

65. The existing aural quality of the Property is dominated by motor vehicle traffic movement along Queen Kaahumanu Highway, and to a limited degree, by natural factors.

66. The proposed Project is expected to result in higher noise levels due to increased levels of vehicular traffic and light industrial activities. Presently, the Property is geographically removed from residential areas and is not expected to create a disturbance in the surrounding area.

67. Future developments around the mauka section of Property include a residential community and golf course. Petitioner's proposed Project should be compatible with these future projects if mitigative measures are implemented.

Air Quality

68. The proposed Project is not expected to have any impact on the climate or meteorology of the Project area or region. Structures would not be tall enough to significantly affect existing wind patterns; and any new landscaping that might be planted around future facilities is not expected to be great enough to significantly affect temperature or rainfall patterns.

69. The proposed Project is an "indirect source" of air pollution as defined in the Federal Clean Air Act of 1977. The principal source of short-term air quality impact will be construction activity. Increased volumes of traffic and operation of machinery on the Property may also increase the amounts of dust and vehicular emissions. In order to reduce and control the level of dust, Petitioner will implement control measures, such as watering. Long-term impacts associated with vehicular emissions are not expected to be sufficiently great to cause State or Federal air quality standards to be violated.

70. Petitioner intends to employ dust control measures during the construction period. All light industrial activities within the Project site would be required to comply with all Federal, State and County environmental protection rules and regulations.

ADEQUACY OF PUBLIC SERVICES AND FACILITIES

Highways and Roadway facilities

71. Queen Kaahumanu Highway borders the Property's western boundary. Queen Kaahumanu Highway is presently a two-lane State highway with a variable right-of-way width. At the Property, the right-of-way is 300 feet.

72. The State Department of Transportation (hereinafter "DOT") is planning to expand this highway to a six-lane, limited-access highway with two lane frontage roads on both sides. Completion of this expanded highway system will

occur after the Property has reached full development. Therefore, until this highway expansion is implemented, Petitioner's EIS proposes short-term mitigation measures.

73. Access to the Property would be provided by a fully channelized intersection from a permitted area off Queen Kaahumanu Highway within the highway right-of-way. Individual parcels in the Property would be serviced by a main arterial road. A potential easement across the Property exists at the 360 foot elevation, to accommodate a mid-level arterial road, which has been described in the K to K Plan.

74. A Traffic Impact Assessment Report (hereinafter "TIAR") was prepared by Pacific Planning & Engineering, Inc. dated June 1989. It concludes that the proposed development is not expected to have a significant impact on Queen Kaahumanu Highway when fully occupied in 1999.

75. Three hundred eighty-four vehicle trips in the AM peak hour and 622 vehicle trips in the PM peak will be generated to and from the Property after the development is fully occupied.

76. The TIAR suggests that the proposed intersection for the Property with Queen Kaahumanu Highway be fully channelized with left turn storage lanes for safety and to maximize roadway capacity at each approach. Deceleration and acceleration lanes are also recommended, due to the high speed of traffic on this stretch of highway. In the future when

traffic volumes increase in the area, the TIAR suggests that the intersection of the Project access road and Queen Kaahumanu Highway be signalized.

77. All development regarding access to the Property should be coordinated with the State Department of Transportation, Highways Division and the County Department of Public Works, to assure that traffic flow and safety on Queen Kaahumanu Highway is maintained.

Drainage

78. Petitioner proposes to utilize drywells and additional drainage improvements to mitigate the effects of surface runoff and contamination of the groundwater lens.

79. Wastewater and surface runoff treatment and disposal facilities will be designed, engineered and constructed in compliance with applicable Federal, State and County rules and regulations. The design of the facilities will take into account the types of activities that might occur at the proposed Project, as well as appropriate groundwater environmental protection requirements.

Water Service

80. The North Kona potable water system is supplied by five deep wells and one inclined shaft at Kahalu'u and Holualoa. Additional wells are currently in the drilling and test stages at Kahalu'u and Kalaoa. Present output capacity is 9 to 11 million gallons per day.

81. The Property is not serviced by an approved public or private potable water transmission system.

82. Petitioner has obtained an agreement with the Hawaii County Department of Water Supply committing 30 units (18,000 gallons per day) of potable water at a cost of \$54,000 for the proposed Project. This commitment would be sufficient to meet the needs of the first phase of the proposed Project.

83. Two 0.3 million gallon concrete reservoirs will be located on the Property, one at approximately the 325 foot elevation, the other at approximately the 570 foot elevation.

84. At build-out, potable water needs of the Project are estimated by the County Department of Water Supply to total 166,000 gallons per day. Currently, Petitioner is seeking an agreement with the County for a joint development of a water source in the Hualalai area, mauka of the Property. The joint agreement between the County and Petitioner for the development of a water source is contingent upon State Land Use Commission approval for the Boundary Amendment.

Wastewater Treatment and Disposal

85. The Property is not served by a public wastewater disposal system.

86. Petitioner proposes to initially use private septic tanks and leach fields meeting State and County requirements to dispose of sewage waste. Once the West Hawaii wastewater treatment and disposal plant is completed, Petitioner plans to connect to this facility at its own expense.

87. Wastewater generated from activities at proposed Project build-out is estimated to range between 24,640 gallons per day to 40,250 gallons per day, based on 35 gallons per person per day.

88. In a memo dated August 30, 1991, the State of Hawaii Department of Health (hereinafter "DOH") offered the following comments regarding wastewater disposal:

"It has been determined that the project is located within the proposed noncritical wastewater disposal area, as determined by the Hawaii County Wastewater Advisory Committee. The Department of Health concurs with the proposed method of wastewater treatment and disposal which utilizes on-site individual septic tanks and leach fields. Domestic wastewater disposal by means of this method of on-site wastewater system is acceptable, provided that the wastewater system meets all the applicable requirements of the Department of Health Administrative Rules, Chapter 11-62, Wastewater Systems."

89. DOH further recommended that Petitioner establish a commitment to be a part of the regional or sub-regional wastewater system.

Solid Waste Disposal

90. Solid wastes will be collected and disposed of by private contractors in approved County disposal sites. Refuse generated in the vicinity of the Project is currently transferred to the landfill at Kealakehe.

91. Solid waste anticipated to be generated by the Project at build-out is estimated to range from 4,928 to 8,050 pounds per day. The Kealakehe landfill (which is nearing capacity) will be used for disposal until the planned landfill

site 15 miles north of Keahole Airport at Puuwaawaa becomes operational.

Police and Fire Services

92. Police and fire protective services are located at stations immediately north (Kealakehe Police Station) and south (Kailua Fire Station) of the Property.

93. The proposed Project is not expected to create significant impacts to the level of police and fire protection services. Petitioner indicates that it is possible to arrange for a private security system on the Property. Fire protection water would be available through the proposed construction of reservoirs on the Property.

Electric and Telephone Services

94. Hawaii Electric Light Company (hereinafter "HELCO") currently maintains an overhead transmission line along the mauka side of Queen Kaahumanu Highway.

95. An electrical substation is probably necessary to accommodate the Project and could be located either on or off-site. Detailed engineering studies to be completed include analysis of the appropriate size and location of the substation. Establishment of the substation would be performed in coordination with HELCO and the developers of the adjacent properties.

96. The proposed Project is expected to consume 8-10 watts per square foot for light industrial uses and 12 watts per square foot for commercial uses. The total amount of power

estimated to be required by the Property would be 9,500 kilowatts. Electrical power to individual parcels would be provided through underground stub-outs.

97. Telephone service to the Property would be provided by the existing pole line on the mauka side of Queen Kaahumanu Highway. The proposed Project will not greatly affect the regional telephone system.

Schools

98. Due to the nature of the proposed Project, it is not expected to have any requirement for public school services.

COMMITMENT OF STATE FUNDS AND RESOURCES

99. It does not appear that the proposed Project will result in any unreasonable commitment of State funds or resources.

CONFORMANCE TO APPLICABLE URBAN DISTRICT STANDARDS

100. Based upon 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.

101. The proposed Project will be located near existing and planned commercial, light industrial, recreational, and residential centers of trading and employment.

102. The market study indicates significant demand for the proposed Project.

103. The Property is in proximity to existing and proposed basic services such as transportation systems, water, sanitation, police and fire protection, and sewers. The North Kona sewer system is planned to be extended to the Property.

104. There are adequate areas adjacent to the Property for possible future urban expansion.

105. The Property has satisfactory topography and drainage and is reasonably free from the danger of floods, tsunami, unstable soil conditions and other adverse environmental effects.

CONFORMANCE WITH THE HAWAII STATE PLAN

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

Section 226-6 (a) "Planning for the State's economy in general shall be directed toward achievement of the following objectives:"

Section 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."

Section 226-6 (a)(2) "A steadily growing and diversified economic base that is not overly dependent on a few industries."

107. 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

108. The proposed development of the Property is not anticipated to adversely affect the ocean or shoreline. With the mitigative measures proposed by Petitioner, the proposed reclassification of the Property is consistent with the objectives and policies of the Coastal Zone Management Program, Chapter 205A, HRS, as amended.

INCREMENTAL DISTRICTING

109. Petitioner anticipates that the infrastructure, which includes all waterlines necessary to distribute water to future tenants of the lots will be installed in one increment. It anticipates the improvements will be completed over a period of between one and two years. Petitioner anticipates that the proposed Project would be absorbed within 36-45 months after the completion of the subdivided lots. Incremental districting therefore is not required.

RULING ON STIPULATED AND PROPOSED FINDINGS OF FACT

Any of the proposed stipulated findings of fact submitted by the 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.

Any Conclusion of Law herein improperly designated as a Finding of Fact shall be deemed or construed as a Conclusion of Law; any Finding of Fact herein improperly designated as a Conclusion of Law should be deemed or construed as a Finding of Fact.

CONCLUSIONS OF LAW

Pursuant to Chapter 205, HRS, as amended, and the Commission Rules, the Commission finds upon a preponderance of the evidence that the reclassification of approximately 70.376 acres of land, consisting of approximately 41.412 acres in the Conservation Land Use District and approximately 28.964 acres in the Agricultural Land Use District, to the Urban Land Use District, for a commercial/light industrial subdivision situated at Kohanaiki, District of North Kona, Island and County of Hawaii, State of Hawaii, identified by Hawaii Tax Map Key No. 7-3-09:15, conforms to the standards for establishing Urban Boundaries, is reasonable, non-violative of Section 205-2, HRS, as amended, and is consistent with the policies and criteria established pursuant to Sections 205-16, 205-17 and 205A-2, HRS, as amended, and the Hawaii State Plan as set forth in Chapter 226, HRS, as amended.

ORDER

IT IS HEREBY ORDERED that the Property, consisting of approximately 70.376 acres, (approximately 41.412 acres located in the Conservation District and 28.964 acres in the

Agricultural District) situated at Kohanaiki, District of North Kona, Island and County of Hawaii, State of Hawaii, Tax Map Key No. 7-3-09:15, as approximately shown on Exhibit "A" attached hereto and incorporated herein by reference, shall be and is hereby reclassified from the Conservation and Agricultural Districts to the Urban District and the State Land Use Boundaries are amended accordingly.

IT IS FURTHER ORDERED that the reclassification and redistricting 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. The Petitioner shall further ensure that the proposed light industrial uses be screened from passing motorists and the adjacent lands, by landscaping improvements along the Property's western, northern, and southern boundaries.

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 and maintain ocean water quality to the satisfaction of the State Department of Health.

4. Petitioner shall provide the necessary water source and transmission facilities to serve the proposed Project.

5. Petitioner or purchasers of lots on the Property shall fund and construct the necessary wastewater disposal improvements for the Property for hook-up to a municipal sewer system as determined by the State Department of Health when applicable.

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

7. Petitioner shall develop and maintain, to the extent required by the State Department of Health, 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 program with the Natural Energy Laboratory of Hawaii and the Hawaii Ocean and Science Technology Park. This program shall be submitted for review to the State Department of Health.

8. Petitioner shall provide an archaeological survey and a historic preservation mitigation plan for the treatment of all significant historical sites before and during

all grading, digging, or other earthworking phases of the Project acceptable to the State Historic Preservation Division of the Department of Land and Natural Resources for all on-site historical sites.

9. Petitioner shall immediately stop work on the impacted area and contact the State Historic Preservation Division 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.

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

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

12. Petitioner shall formulate and implement approved design methods on the Property to prevent visual impacts created by excessive terracing.

13. Petitioner shall develop the Property in substantial compliance with representations made to the Land Use 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 Land Use 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 the development of the Property.

15. Petitioner shall provide annual reports to the Land Use Commission, Office of State Planning, and the County of Hawaii Planning Department in connection with the status of the subject Property 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 the Petitioner.

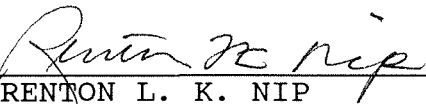
17. Petitioner shall record the conditions imposed by the Commission with the Bureau of Conveyances pursuant to Title 15, Chapter 15, Section 92, Hawaii Administrative Rules.


18. Within 7 days of the issuance of the Commission's Decision and Order for the subject reclassification, Petitioner shall (a) record with the Bureau of Conveyances, a Statement to the effect that the Property is subject to conditions imposed by the Land Use Commission in the reclassification of the Property, and (b) shall file a copy of such recorded statement with the Commission.

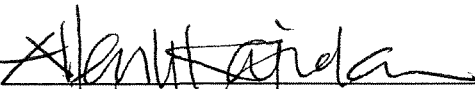
DOCKET NO. A91-665 - KAMAAINA EIGHT, A HAWAII PARTNERSHIP


Done at Honolulu, Hawaii, this 6th day of April 1992,
per motion on March 19, 1992.


LAND USE COMMISSION
STATE OF HAWAII

By 
RENTON L. K. NIP
Chairman and Commissioner


By 
ALLEN K. HOE
Vice Chairman and Commissioner

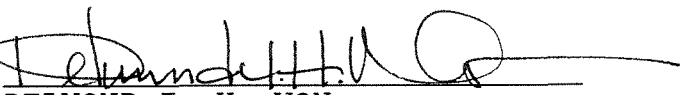
By 
ALLEN V. KAJIOKA
Vice Chairman and Commissioner

By 
KAREN S. AHN
Commissioner

By 
EUSEBIO LAPENA, JR.
Commissioner

By 
JOANN N. MATTSON
Commissioner

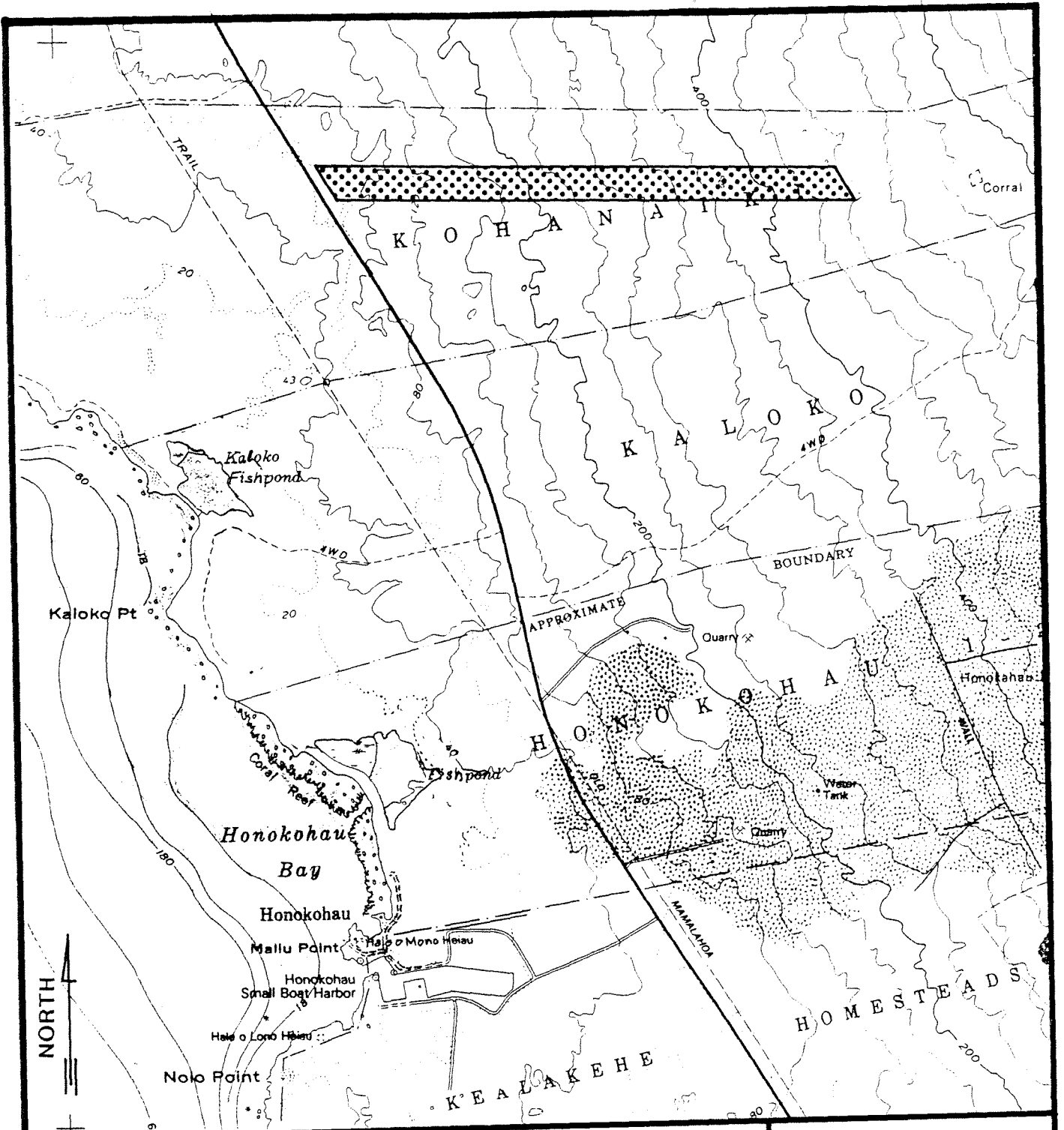
By 
ELTON WADA
Commissioner

By 
DELMOND J. H. WON
Commissioner

Filed and effective on
April 6, 1992

Certified by:


Executive Officer



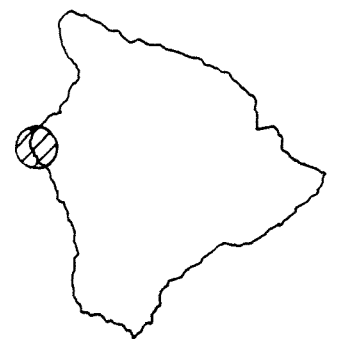
DOCKET NO.: A91-665 / KAMAAINA EIGHT,
A HAWAII PARTNERSHIP

LOCATION MAP

TAX MAP KEY: 7-3-09: 15
KOHANAIKI, NORTH KONA, HAWAII
SCALE: 1" = 2,000 ft. ±

 APPROVED AREA

EXHIBIT "A"



HAWAII

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of)
) DOCKET NO. A91-665
KAMAAINA EIGHT, a Hawaii General)
Partnership) KAMAAINA EIGHT,
) a Hawaii General
) Partnership
To Amend the Conservation Land Use)
District into the Urban Land Use)
District for Approximately 42 Acres)
and to Amend the Agricultural Land)
Use District into the Urban District)
for Approximately 28 Acres at)
Kohanaiki, North Kona, Hawaii,)
Tax Map Key No.: 7-3-09: 15)
_____)

CERTIFICATE OF SERVICE

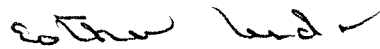
I hereby certify that a copy of the Findings of Fact, Conclusions of Law, and Decision and Order was served upon the following by either hand delivery or depositing the same in the U. S. Postal Service by certified mail:

HAROLD S. MASUMOTO, Director
Office of State Planning
P. O. Box 3540
Honolulu, Hawaii 96811-3540

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

CERT. ROBERT D. TRIANTOS, ESQ., Attorney for Petitioner
Carlsmith, Ball, Wichman, Murray,
Case, Mukai, & Ichiki
P. O. Box 1720
Kailua-Kona, Hawaii 96745

DATED: Honolulu, Hawaii, this 6th day of April 1992.



ESTHER UEDA
Executive Officer