

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of)
HUEHUE RANCH)
To Amend the Conservation Land)
Use District Boundary into the)
Urban Land Use District for)
Approximately 667 Acres at Kukio,)
North Kona, Hawaii, State of)
Hawaii, Tax Map Key Nos.:)
7-2-04: 16 and Portion of 5)

DOCKET NO. A86-603

HUEHUE RANCH

JAN 28 10 06 AM '87
LAND USE COMMISSION
STATE OF HAWAII

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

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FINDINGS OF FACT, CONCLUSIONS OF LAW
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Huehue Ranch, a Hawaii general partnership (hereinafter referred to as "Petitioner") filed this Petition on May 22, 1986, and an amendment to the Petition on October 1, 1986, pursuant to Section 205-4, Hawaii Revised Statutes, and the Rules of Practice and Procedure of the Land Use Commission, State of Hawaii, to amend the land use district boundaries of approximately 667 acres of land situate at Kukio, North Kona, Hawaii, and State of Hawaii, Hawaii Tax Map Key Nos.: 7-2-04:16 and 7-2-04:portion of 05 (hereinafter referred to as the "Property") from the Conservation District to the Urban District for a resort community with residential, recreational and commercial facilities. The Land Use Commission (hereinafter "Commission"), having heard the evidence presented on this matter and having considered the full record as

presented in Docket No. A86-603, and the recommendation of the Hearing Officer in his report to the Commission as presented on December 16, 1986, in Kona, Island of Hawaii, hereby makes the following findings of fact, conclusions of law and decision and order:

FINDINGS OF FACT

PROCEDURAL MATTERS

1. Huehue Ranch filed its Petition for Land Use District Boundary Amendment on May 22, 1986.
2. On June 3, 1986, the County of Hawaii Planning Department (hereinafter the "County") accepted Huehue Ranch's Environmental Impact Statement for a General Plan Amendment.
3. On August 4, 1986, as per motion of July 8, 1986, the Commission filed its Decision and Order accepting Petitioner's Final Environmental Impact Statement.
4. On October 1, 1986, Petitioner filed an amendment to Petition to withdraw approximately 8.39 acres from consideration located approximately along the Property's southwestern coastline at Kikaua Point due to a dispute over ownership of said area with the State of Hawaii.
5. The Commission received one timely request for intervention from Elizabeth Ann Stone which was denied by Order filed on October 10, 1986.
6. The Commission conducted a prehearing conference on September 26, 1986 at which time the parties exchanged exhibit lists and witness lists.

7. The Hearing Officer, Commission Vice-Chairman Frederick P. Whittemore and duly authorized by the Commission, conducted hearings on the Petition on October 7 and 8, 1986, at Kailua-Kona, Hawaii, pursuant to notice published in the Hawaii Tribune Herald and the Honolulu Advertiser on August 27, 1986.

8. Dennis Haserot, Jim Higgins and Gerry Rott testified as public witnesses. Written statements were received from Ted Newstrom and Douglas Blake.

DESCRIPTION OF THE PROPERTY

9. The Property is located approximately six miles north of Keahole airport and one mile south of Kona Village Resort. Lands to the south and west of the Property are owned by the State of Hawaii and are presently vacant. Lands to the north and east are owned by Bishop Estate and are leased to Kaupulehu Developments.

10. Elevations on the Property ranges from the shoreline to approximately 600 feet above sea level. The Queen Kaahumanu Highway (hereinafter the "Highway") bisects the Property at about the 200 foot elevation creating parcel 16 on the mauka side of the Highway (mauka parcel) and parcel 5 on the makai side of the Highway (makai parcel).

11. The Property is owned in fee simple by Kaloko Land Corporation, a Hawaii corporation, William L. Davis and Elizabeth D. Rogers. Petitioner is the Property's manager.

A portion of land, approximately 8.39 acres, subject of the amendment to the Petition filed on October 1, 1986, was

deleted from the petitioned area due to a dispute of ownership with the State of Hawaii. However, the Department of Planning and Economic Development (hereinafter the "DPED") has stated that the exact location of the disputed area has not been determined and may include additional areas.

12. The Property consists mainly of rough lava land and supports minimal dry land vegetation concentrated on the mauka portion. The Property's coastal area is characterized by several stretches of white sand beach followed by a low-lying sand dune and a dense thicket of kiawe trees. The Property contains one of the few sandy beaches in North Kona.

13. The central makai portion of the Property contain a series of anchialine ponds that are fringed by a dense grove of coconut trees. These ponds total approximately three acres.

14. The Property is composed primarily of aa and pahoehoe lava flows. The Land Study Bureau and the Department of Agriculture's Agricultural Lands of Importance to the State of Hawaii classification systems both designate the Property as having little agricultural use or value.

15. Slopes on the Property range from 10 to 20 percent.

16. Temperatures on the coastal portions of the Property vary between 75 and 85 degrees Fahrenheit, with a mean annual temperature of about 78 degrees Fahrenheit.

Rainfall in the coastal area averages seven to eight inches annually.

17. Existing facilities on the makai parcel include a small wooden cottage and out-house with a cesspool.

Access to the makai parcel is presently controlled by guards at the common access entry pavilion that also regulate traffic to and from the neighboring Kona Village Resort and the lands of Kaupulehu. Lateral access along the Property's coastline is unrestricted.

18. Muheenui cinder cone, which is located on the southern corner of the mauka parcel, is currently being quarried for cinder.

19. The Property's coastal areas are designated Zone V15 or Coastal High Hazard Areas by the U.S. Army Corps of Engineers Flood Insurance Rate Maps. The base flood elevation is approximately nine feet above mean sea level with areas of potential 100-year flooding ranging from 75 to 400 feet inland from the shoreline. The remainder of the Property has been designated Zone C, an area of minimal flooding.

20. The Property is adjacent to the northwest rift zone of the Hualalai volcano and has been rated "DE" by the U.S. Geological Survey, an area subject to moderate to high risk from volcanic hazards.

PROPOSAL FOR DEVELOPMENT

21. Petitioner proposes to develop a resort community with visitor and residential lodging and recreational and commercial facilities. Petitioner proposes to situate the resort hotel complex along the coastal portions of the Property

and proposes the inland portions to contain a mixture of multi-family and single-family residences interspaced with fairways for an 18-hole golf course.

22. Petitioner proposes the resort complex to include one or two hotels containing approximately 900-1,350 first-class hotel units, a shoreline promenade, a beach club, a health club, and a tennis center. Petitioner proposes to integrate the anchialine ponds and significant archaeological sites into the resort complex to provide visitors with opportunities to understand and appreciate Hawaiian culture and ecology. Hotels will be setback from the shoreline to provide open space for a shoreline promenade, preservation of shoreline views, and a buffer against tsunami hazards.

23. Petitioner proposes to locate higher priced low to medium density condominiums along open space corridors provided by the golf course fairways. Petitioner proposes to construct approximately 800 to 2,000 condominium units ranging in size from 600 to 700 square feet for a typical studio unit, to 1,500 to 1,700 square feet for a typical three-bedroom unit.

Petitioner proposes to market condominiums on the mauka parcel to primary homeowners at prices starting from \$150,000 in 1985 dollars. Condominiums in the makai parcel will be marketed to second homeowners and vacationers at prices ranging from \$200,000 to \$400,000 in 1985 dollars.

24. Petitioner proposes to construct 800 resort residential lots with approximately 150 lots on the makai

parcel and approximately 450 to 650 lots on the mauka parcel. Petitioner proposes to market the resort residential lots to second homeowners, retirees, primary homeowners and investors. Lots will range in size from 10,000 to 25,000 square feet, and be sold at prices ranging from approximately \$70,000 to \$260,000 in 1985 dollars.

25. Petitioner proposes to incorporate an 18-hole golf course on the Property. Petitioner also proposes to develop a driving range, a shoreline park and beach club, a tennis center, an equestrian center, and community park.

26. Petitioner proposes to develop a commercial village to include various retail and food establishments on approximately six acres on the makai parcel located close to the Highway.

27. Petitioner projects that it will obtain all necessary governmental approvals to begin construction of the first hotel by 1989 with completion in 1991. A majority of the condominiums and residential lots, golf course, club house, driving range, beach club, tennis facilities and a portion of the commercial center are also planned for the initial phase of development.

28. Petitioner estimates infrastructure costs for the first phase of the project will be \$44,166,000 and construction costs for site preparation, support facilities, construction of the proposed resort, residential and recreational facilities will be \$469,000,000 in 1985 dollars.

PETITIONER'S FINANCIAL CAPABILITY
TO UNDERTAKE THE PROPOSED DEVELOPMENT

29. Petitioner's balance sheet as of March 31, 1986, lists total assets of \$27,787,861 and total liabilities of \$27,787,861.

30. William Lloyd Davis, Elizabeth Davis Rogers and Kaloko Land Corp. are the general partners of Petitioner. The Davis family, who has a combined net worth in excess of \$100,000,000, will be responsible for master planning the proposed project, arranging the financing program including offering the Property as collateral, and for managing the overall development of the Property.

31. Morgan Stanley, Petitioner's financial advisor and exclusive agent, has concluded that the proposed resort presents an extremely attractive opportunity for a variety of investors, and it is confident that development financing can be arranged and suitable partners can be found to implement the proposed project.

STATE AND COUNTY PLANS AND PROGRAMS

32. The Property is designated Conservation in the State Land Use District Boundary Maps H-1 Makalawena and H-6 Kiholo.

33. The County General Plan designates the Property along the coastline as Open and the remainder of the Property as Conservation. Petitioner has filed an amendment to the

General Plan for Intermediate Resort designation of the Property.

34. The majority of the Property is within the State Land Use Conservation District General Use Subzone. The shoreline portion of the Property is within the Resource Subzone. The objective of the General Use Subzone is to designate open space where specific conservation uses may not be defined, but where urban uses would be premature. The objective of the Resource Subzone is to develop, with proper management, areas to ensure the sustained use of the natural resources of those areas.

35. Portions of the Property makai of the Highway are within the County's Special Management Area.

36. The County zoning designation for the Property is Open. The objective of this zone is to encourage development such as a golf course or park, to buffer an otherwise incompatible land use or district, or to preserve a valuable scenic vista or an area of historical significance.

NEED FOR THE PROPOSED DEVELOPMENT

37. Petitioner's market consultant, John Child and Company, Inc. (JC&C), prepared a market report for the proposed project. JC&C anticipates the island of Hawaii to emerge as one of the state's major destination resort areas. JC&C projects that within the next 20 years, of all visitors to the State, approximately 30% of westbound visitors and 9% of eastbound visitors will visit the Island of Hawaii. This could

result in a total of nearly 2,000,000 visitors to the Island of Hawaii by the year 2005.

38. Based on the projected number of incoming visitors, Petitioner estimates the average daily demand for hotel and condominium units on the island to increase from about 3,400 units in 1985 to 13,000 units by 2005. Petitioner projects the current and planned supply of hotel units will exceed demand until 1990 and projects market support for 4,500 to 6,100 new units for 1991 to 2005. Petitioner anticipates that by the time necessary governmental approvals are obtained and construction is completed, demand for the proposed hotel units would exist.

39. Petitioner estimates its proposed hotel project will capture about 15 percent of the island market for additional hotel units and increase to 20 percent by the year 2005.

40. Petitioner believes the proposed first-class resort hotel would not be subject to the competition anticipated between the island's luxury class resorts over the next several years because the proposed hotel would attract lower budget travelers who desire South Kohala's resort region and associated amenities.

Average first-class room rates for comparable hotels in the island ranged from \$58 to \$69 in 1984.

41. Petitioner's proposed resort will offer unique activities such as the proposed Sport Performance Orthopedic

Rehabilitation and Training fitness program, horseback riding, and game bird shooting.

42. Petitioner believes its 18-hole golf course is crucial to the overall development since it provides an essential recreational amenity, open space and adds value to the condominiums and residences that will be located along the fairways.

43. JC&C also projected that condominium sales on the Island of Hawaii will increase due to the projected increase in visitor arrivals to the State. JC&C projected market support for the proposed condominiums at the Property based on increased visitor arrivals and a capture rate of about 10% to 20% over a 15-year period as follows:

Projected Market Support for
Condominium Unit Development at Kukio Beach Resort

1991 to 2005

	<u>Required units(1)</u>	
	<u>Low</u>	<u>High</u>
1991 - 1995	200	300
1996 - 2000	375	500
2001 - 2005	<u>375</u>	<u>500</u>
Total	<u>950</u>	<u>1,300</u>

(1) Additional in period, not cumulative.

44. JC&C also prepared a market assessment for resort residential lots for the proposed project as follows:

Projected Market Support for Residential
Lot Development at Kukio Beach Resort

1991 to 2005

	Projected sales absorption(1)					
	Mauka lots(2)		Makai lots(3)		Total	
	<u>Low</u>	<u>High</u>	<u>Low</u>	<u>High</u>	<u>Low</u>	<u>High</u>
1991 - 1995	100	150	150	150	250	300
1996 - 2000	125	150	--	--	125	150
2001 - 2005	<u>125</u>	<u>175</u>	<u>--</u>	<u>--</u>	<u>125</u>	<u>175</u>
Total	<u>350</u>	<u>475</u>	<u>150</u>	<u>150</u>	<u>500</u>	<u>625</u>

(1) Additional in period, not cumulative.

(2) Lots to be located on the mauka side of Queen Kaahumanu Highway. Assuming competitive pricing, recreational amenities and typical lot sizes of 15,000 to 25,000 square feet.

(3) Lots to be located on the makai side of Queen Kaahumanu Highway. Assuming total inventory of about 150 lots on makai side of property and typical lot sizes of 10,000 to 12,000 square feet.

45. Petitioner believes other planned resorts in the region will have a beneficial impact upon the proposed resort as they will provide a critical population mass and provide major advertising and promotion for the region to draw visitors to the area.

46. Petitioner pointed out that sales of comparable resort lots and condominium units are directly related to prevailing economic conditions and interest rates which affect the market for investment purchases which is a major segment of the potential purchasers of this project.

47. Petitioner proposes to develop the first hotel of about 350 to 450 rooms by 1995 and the second hotel of about 300 to 400 rooms and a 150 to 350 room addition to the first hotel between 2001 and 2005. Petitioner's development schedule is detailed as follows:

Proposed Development Schedule
for Kukio Beach Resort

1991 to 2005

	<u>Additional</u>			<u>Cumulative</u>
	<u>1991- 1995</u>	<u>1996- 2000</u>	<u>2001- 2005</u>	<u>1991- 2005</u>
Hotel units	350-450	300-400	150-350	800-1,200
Condominium units	275-360	400-525	275-415	950-1,300
Residential lots				
Mauka	140-200	150-175	60-100	350-475
Makai	<u>150</u>	<u>-</u>	<u>-</u>	<u>150</u>
Subtotal	<u>290-350</u>	<u>150-175</u>	<u>60-100</u>	<u>500-625</u>
Total units	<u>915-1,160</u>	<u>850-1,100</u>	<u>485-865</u>	<u>2,250-3,125</u>

IMPACT UPON RESOURCES OF THE AREA

Agriculture

48. The Land Study Bureau's overall master productivity rating for the Property is Class "E", or very poor and the Property is not classified by the State Department of Agriculture's Agricultural Lands of Importance to the State of Hawaii (ALISH) classification system.

49. Petitioner states the Property has minimal agricultural potential due to the overall lack of soil and rainfall on the Property.

Flora and Fauna

50. Char and Associates conducted a botanical reconnaissance of the Property in 1984 and concluded that four vegetation zones are present on the Property: 1) the upland area which is dominated by fountain grass and lama trees; 2) the mid-zone area which contains pockets of primarily introduced species; 3) the pond fringe vegetation area consisting of native species such as hala, milo and loulu palm; and 4) the coastal strand which is dominated by kiawe and several other native species.

51. No threatened or endangered plant species were observed on the Property.

52. Petitioner proposes to incorporate wherever possible, native plants into the resort's landscaping.

53. Petitioner prepared a field survey of the Property's fauna and concluded that endangered bird species that frequent the ponds include the Hawaiian stilt and the Hawaiian duck. The endemic Hawaiian owl is known to range throughout the Kona area from sea level to the 8,000 foot elevation. Several indigenous, non-endangered migratory species such as the golden plover, 'ulilu, and ruddy turnstone, may be seasonally found in the area. The area also contains several introduced land birds, rodents, and possibly wild donkeys.

54. Petitioner believes that preservation of the anchialine ponds by integration with the resort facilities will

maintain the existence of wetland habitats for the endangered Hawaiian duck and Hawaiian stilt.

Anchialine Ponds

55. Petitioner's marine biologist, William Brewer, conducted a study of the Property's anchialine ponds and nearshore marine environment and found a series of anchialine ponds encompassing approximately three acres in the central makai portion of the Property. The ponds range in size from less than one square meter to approximately fifty square meters. The absolute transparency of the pond waters suggest that the ponds are well flushed by tidal fluctuations.

56. The ponds serve as habitats for a small red shrimp (Halocardina rubra), a red alpheid shrimp (Metabetaeus lohena), a larger soft shelled shrimp (Palaemon debilis), several species of small snails, prawns (Macrobrachium grandimanus and Macrobrachium lar), dragonfly nymphs, and mullet. The red alpheid shrimp is a potential candidate as an endangered species, according to the U.S. Fish and Wildlife Service.

57. Petitioner intends to preserve and integrate the cluster of ponds into the Property's landscaping as a distinctive and unique natural feature and will not fill or alter the pond complex.

58. Petitioner believes that development in areas adjacent to the ponds will not have any significant adverse effect on the ponds. Changes in water quality may occur, however, pond biota are not expected to be affected due to the

tidal fluctuations which regularly flush the ponds, and the euryhaline nature of the species and their ability to thrive in a broad range of salinities. William Brewer pointed out that in similar resort situations where anchialine ponds are present, i.e. the Mauna Lani Resort, increased nutrient levels in the pond water ranging from a 70 to 100 percent, do not appear to have negative impacts on pond flora and fauna.

59. Petitioner proposes to implement a pond management plan very similar to the management plan that has been implemented for the ponds at the Waikoloa resort development. Included in this plan is a forty foot buffer zone for areas adjacent to the pond which would provide an adequate setback to protect the ponds from adverse impacts.

Coastal Resources

60. The Property fronts Kukio Bay and Beach. Marine life in the nearshore coastal environment consists of diverse species of fish and a relatively low diversity of corals and algae species. The abundance of large specimens of several fish species suggests that Kukio Bay is not subject to frequent fishing.

61. The State Department of Health classifies nearshore coastal waters as Class AA. The objective of this class is that these waters remain in their natural pristine state as nearly as is possible.

62. Petitioner will design drainage improvements to avoid direct discharge into the nearshore coastal waters.

Archaeological/Historical Resources

63. Dr. Paul Rosendahl conducted a reconnaissance survey of the Property in 1985. The survey report included descriptions of sites from the field survey, as well as a historical documentary research and ethnographic study through interviews with former residents of the area.

64. Dr. Rosendahl's reconnaissance survey included a 100% aerial reconnaissance by helicopter of open, treeless lava terrain; ground coverage by walk-on survey, including a 100% coverage of the coastal area fronting the Property and extending approximately 1000 feet inland; and 100% coverage of selected inland areas. Approximately 25% of the Property was covered by ground survey.

65. The reconnaissance survey identified a total of 69 sites within the Property. Of these, 34 sites had been previously recorded, and 35 sites were newly identified. The range of features and sites identified included habitation features, burial caves, foot trails, aquaculture sites, petroglyphs, a possible ceremonial complex, boundary walls, and sites of undetermined function. The archaeological study concluded that the sites appear to be, for the most part, of limited to moderate significance.

66. Site D21-12, a possible heiau complex, and site D21-24, a pond complex, were found to be significant. Petitioner will preserve these sites and incorporate them into the resort master plan. Petitioner will also preserve burial

sites if possible, otherwise these burials will be relocated according to Department of Health rules.

67. The State Historic Preservation Officer has reviewed and approved of Petitioner's proposed mitigation plan for archaeological sites on the Property, and has determined that this plan allows for no significant adverse impacts to historic sites.

Visual Impacts

68. Petitioner's proposed development will alter the natural vistas of the Property and the surrounding lava flows. Petitioner proposes a buffer zone along Queen Kaahumanu Highway. All structures will be designed to assure no significant adverse visual or aesthetic impacts.

Air and Aural Quality

69. Petitioner anticipates increased carbon monoxide emissions in the area as a result of increased traffic. Adverse impacts are anticipated to be mitigated by prevailing winds.

70. Construction activity will temporarily increase the amount of suspended dust in the area. Dust control measures will be implemented to reduce airborne particulate dissemination resulting from heavy equipment operations and earthmoving activities.

71. Petitioner anticipates an increase in traffic noise due to increased usage of Queen Kaahumanu Highway. Adequate roadway setbacks and other noise attenuation measures

will be integrated into the project design to mitigate aural impacts.

Natural Hazards

72. The Island of Hawaii is seismically active and is in Seismic Zone III of the County's Uniform Building code. Petitioner will design structures on the Property to withstand earthquakes of at least 8 on the Modified Mercalli Intensity Scale, in accordance with the standards of the Uniform Building Code in Earthquake Zone III.

73. Petitioner will setback resort facilities that are located within the 100-year tsunami area. Facilities will be flood-proofed and constructed according to county and federal standards.

74. Petitioner will conduct an engineering study of the pit crater that is located northwest of Muheenui cinder cone, prior to conducting any construction activity within that vicinity.

ADEQUACY OF PUBLIC SERVICES AND FACILITIES

Transportation

75. Queen Kaahumanu Highway is a two-lane, limited access, high speed state highway with a capacity of approximately 2,000 vehicles per hour. Current traffic volumes are low relative to the capacity of the Highway, and the Highway, in the vicinity of the Property, provides a level of service "A" at all times of the day.

76. Petitioner estimates the proposed resort will generate an average of 24,100 vehicle trips per day at project completion. The capacity of the Highway is adequate to handle this projected volume, at level of service "C" or better, until the year 2000.

77. Petitioner proposes to retain the existing access point for the Kona Village Resort as its entrance to the makai portion of the Property. Access to the mauka portion of the Property will be immediately across the Highway, and will coincide with an existing private ranch road.

78. Petitioner will construct a fully channelized intersection at the access points to the resort. These improvements will conform to the Department of Transportation's recommendations. All interior roadways will be built to county standards.

Water Service

79. There are no developed potable water systems on the Property or in the vicinity.

80. Petitioner projects average daily water demand at the proposed resort at full buildout to be 1.96 million gallons per day (mgd) for domestic water and 1.52 mgd for irrigation water. Petitioner proposes to construct and maintain a private water supply system. Treated wastewater from the resort will be used for irrigation purposes.

81. Petitioner has constructed an exploratory well in the vicinity of Huehue Ranch at the 1500' elevation. Pump

tests have shown the source to be of potable quality with estimated capacity of 150 gallons per minute (gpm).

82. Petitioner proposes to construct four potable water wells above the 1000' elevation or four brackish water wells at the 400' to 500' elevation on ranch properties or on adjacent lands to accommodate projected water needs at the Property.

83. Petitioner will provide the necessary infrastructure and maintenance in the system.

Wastewater

84. There is no public wastewater system serving the Property. The nearest system is the county's Kailua-Kona system. Petitioner proposes to construct and maintain a private wastewater treatment and disposal system.

85. Petitioner estimates average daily wastewater flow at full buildout assuming 100% hotel occupancy, to be 1.17 mgd. Treated wastewater will be utilized to irrigate the golf course and landscaped areas. Petitioner will comply with Department of Health standards to prevent health hazards from occurring due to the use of the wastewater for irrigation purposes.

86. Petitioner does not anticipate significant adverse impacts of wastewater infiltration on anchialine pond environments due to the ponds' high degree of flushing and natural filtering properties of the underlying geology.

Drainage

87. Surface run-off on the Property is limited due to the scarcity of rainfall in the area and the highly porous ground conditions.

88. Petitioner proposes to construct drainage improvements, where necessary, including earth swales, dry wells, retention basins, seepage pits and siltation basins to create sufficient percolation capacity to preclude surface run-off from reaching the shoreline.

Solid Waste

89. The North Kona area is served by the county's Kealakehe landfill site. The County is presently planning to construct a new landfill site at Puu Anahulu, approximately 10 miles north of the Property.

90. Petitioner estimates the proposed resort to generate 4.9 to 6.9 tons of solid waste per day at full occupancy at full buildout.

91. Petitioner proposes to remove solid wastes generated at the proposed resort, including the by-products generated by the sewage treatment plant, by private refuse collectors to be transported to county disposal facilities.

Electrical and Communication Services

92. Hawaii Electric Light Company currently runs electrical transmission lines across the Property at the 440' elevation.

93. Petitioner will dedicate a site to Hawaii Electric Light Company for a new substation. Petitioner will pay for the cost to construct the new substation, and will dedicate easements for the distribution system.

Police and Fire Services

94. The nearest police and fire services are located in Kailua-Kona with an approximate response time of 15 minutes to the Property.

95. The Kohala Coast Resort Association has offered to fund the construction of a new fire station located within the Mauna Lani Resort, which is located approximately 17 miles north of Kukio.

96. Petitioner anticipates potential expenses for additional police and fire services will be offset by the significant revenues that the proposed project will generate for the county.

School Facilities

97. The State Department of Education has estimated that the proposed resort could generate 70 to 200 public school students. Additional classroom space and staff are projected for Kealakehe Elementary-Intermediate and Konawaena High Schools which currently serve the Property to accommodate additional student enrollment.

98. Petitioner anticipates revenues generated by the proposed resort will offset the costs of providing additional school facilities.

Recreational Resources

99. Recreational resources at the Property include the white sand beaches that are utilized for sunbathing and picnicking, and the nearshore coastal waters that are utilized for swimming, fishing, surfing, snorkeling and spear fishing. Access to the coastal area is currently restricted at the entry pavilion located near Queen Kaahumanu Highway. Access to the Property along the coastline from adjacent lands to the north and south is unrestricted.

100. Petitioner proposes to provide a public paved vehicular access and adequate parking from Queen Kaahumanu Highway to a location near to the shoreline that will be determined during more detailed site development planning stages. Petitioner will provide a pedestrian path to connect the parking area to the shoreline. Petitioner also proposes to provide a shoreline path for lateral access from the northern to the southern boundaries of the Property.

101. Petitioner will finalize its public access plan at the time of submission of its Special Management Area Permit application.

102. Petitioner will provide amenities such as a restroom, outdoor shower, benches, trash containers, landscaping and lighting along the shoreline area. Petitioner also proposes to provide special use paths with interpretive signage to anchialine ponds and historic sites near the shoreline.

103. Petitioner will not restrict public use of shoreline areas and the proposed community park in the mauka parcel.

104. In addition to opening up the shoreline area to the public, Petitioner proposes to provide new recreational resources as follows: an 18-hole golf course, driving range, clubhouse, shoreline park, beach club, tennis center, equestrian center, and a community park.

SOCIAL AND ECONOMIC IMPACT

Housing

105. Petitioner anticipates that housing demand generated by the in-migration of a portion of the construction employees will be absorbed by existing condominium and single-family units that are available in the short-term rental market of the region.

106. Petitioner projects a demand of approximately 120 to 160 affordable housing units generated by operational employees of the project at full buildout. This projected demand will be due to in-migrating, nonmanagerial, direct operational employees at the resort earning less than \$30,000 per year.

107. Petitioner will provide affordable housing opportunities for employees of the resort in accordance with the County of Housing and Community Development recommendation in concert with the Housing Element of the General Plan.

Employment

108. Petitioner's proposed project will generate short-term employment during construction, and long-term employment during the operation of the resort, recreational and commercial facilities. Petitioner estimates direct construction employment to be about 2,700 to 3,600 person-years for full buildout of project. Petitioner further estimates that the project could generate 6,600 to 8,700 person-years of direct, indirect, and induced employment opportunities during the construction phase.

109. Petitioner estimates the proposed resort will generate approximately 1,500 to 2,100 direct employment opportunities and approximately 1,330 to 1,740 indirect and induced full-time jobs for the operation of the resort at full build out.

Fiscal Impact

110. Petitioner estimates the proposed project will generate \$6,200,000 to \$8,800,000 annual revenues to the state at full buildout and approximately \$1,700,000 to \$2,400,000 in expenditures to the state.

111. Petitioner estimates annual net revenues for the county would be approximately \$2,700,000 to \$3,600,000.

112. Petitioner believes that the estimated revenue to expenditure ratio for the county of 3 to 1, and for the state, 3.7 to 1, will be sufficient to pay for necessary school and

park improvements and to provide all services normally provided by the government.

INCREMENTAL DISTRICTING

113. Petitioner anticipates obtaining all necessary governmental approvals by 1989. Construction of infrastructure and development of the initial phase of the project is estimated to take two years. Initial development includes construction of the golf course, one hotel, a majority of the multi-family residences and single-family lots, the clubhouse, driving range, beach club, tennis facilities and a portion of the commercial center. A majority of the infrastructure development would also be developed including the water source, water transmission and distribution system, sewage treatment plant, sewage treatment pump stations and ponds, electrical substation, electrical and communications distribution lines, highway and intersection improvements, golf cart under pass and major on-site roadways.

114. Petitioner believes that due to the linear configuration of the Property, the proposed golf course should be developed first to allow the resort to compete with other hotels offering similar amenities.

115. Petitioner believes incremental reclassification of the Property would adversely affect the ability of the Petitioner to market and obtain financing for the proposed project.

CONFORMANCE WITH HAWAII STATE PLAN AND FUNCTIONAL PLANS

116. The project conforms to the objectives, policies and priority directions of the Hawaii State Plan Chapter 226, HRS and Functional Plans as follows:

- a. Provides adequate shoreline setbacks and beach access.

No structures will be located in the County's setback area. Petitioner will provide public access to the shoreline, adequate public parking and other public amenities in the shoreline area.

- b. Preserves and enhances significant scenic, historic, and cultural sites.

Significant archaeological sites will be preserved, and further archaeological work will be conducted where appropriate.

- c. Protects rare or endangered plant and animal species.

The anchialine ponds provide a feeding area for several endangered birds, and provide habitats for a potentially endangered shrimp. Petitioner will not alter or fill these ponds, and will be developing a management plan for the ponds in consultation with the Department of Land and Natural Resources, the County Planning Department and other appropriate governmental agencies.

- d. Protects surface, ground and coastal water quality.

Petitioner will avoid direct discharge into the nearshore coastal waters. Potable groundwater sources will be protected from potential wastewater disposal and irrigation practices

through compliance with the Department of Health underground Injection Control Permit and the Safe Drinking Water Permit regulations.

- e. Reduces threat to life from erosion, flooding, tsunamis, earthquakes, and other natural or man-made induced hazards and disasters.

Threats from erosion, flooding, lava flow and subsidence hazards are minimal. Tsunami hazards will be mitigated through adequate shoreline setbacks and flood-proofing measures. Earthquake hazards will be mitigated through proper structural design.

- f. Provides wastewater reclamation as a means to conserve water.

Treated wastewater effluent will be used to irrigate the golf course and landscaped areas, thereby reducing overall water demands for the resort.

CONFORMANCE TO STATE LAND USE DECISION MAKING CRITERIA

117. Petitioner's proposed project conforms with the Land Use Decision Making Criteria set forth in Section 205-17 of the Hawaii Revised Statutes, as amended:

"(1) The extent to which the proposed reclassification conforms to the applicable goals, objectives, and policies of the Hawaii State Plan and relates to the applicable priority guidelines of the Hawaii State Plan and adopted functional plans."

The project conforms with the State Plan and Functional Plans.

"(2) The extent to which the proposed reclassification conforms to the applicable district standards."

Applicable district standards are given in Section 2-2 of the Land Use District Boundary Regulations:

"(2)(b)(1) It shall take into consideration the following specific factors...Proximity to centers of trading and employment facilities except where the development would generate new centers of trading and employment."

The Property is adjacent to the Urban District on which a significant employment center in the region, the Kona Village Resort, is located. The project is located twelve miles from the region's major employment center, Kailua-Kona. The project is estimated to generate 6,100 to 8,000 person-years of direct, indirect and induced employment opportunities during the operational phase of the project.

"(2)(b)(2) Substantiation of economic feasibility by the petitioner."

Petitioner believes the proposed resort presents an attractive investment opportunity and is confident that development financing can be arranged for implementing the proposed resort. Petitioner also predicts that sufficient demand for the project will exist by the time the project is completed.

"(2)(c) Lands included shall be those with satisfactory topography and drainage that are reasonably free from the danger of floods, tsunami and unstable soil conditions and other adverse environmental effects."

The Property is suitable for development due to its level topography. Petitioner proposes to mitigate all other natural hazards.

"(2)(d) In determining urban growth for the next ten years, or in amending the boundary, lands contiguous with existing urban areas shall be given more consideration than non-contiguous lands, and particularly when indicated for future urban use on State or County General Plans."

The proposed reclassification is an expansion of the Kona Village-Kaupulehu Urban District. Kaupulehu is identified in the State Tourism Functional Plan Technical Reference Document as an area designated for resort development.

"(2)(e) It shall include land in appropriate locations for new urban concentrations and shall give consideration to areas of urban growth as shown on the State and County General Plans."

The natural amenities of the site and the Property's close proximity to Keahole Airport and Kailua-Kona make the Property an excellent location for a resort. Petitioner has filed a petition to amend the General Plan to designate the Property as Intermediate Resort.

"(2)(g) It shall not include lands, the urbanization of which will contribute towards scattered spot urban development, necessitating unreasonable investment in public supportive services."

Petitioner proposes to provide private support systems where public systems are not available.

"(3) The impact of the proposed reclassification on the following areas of state concern: (a) Preservation or maintenance of important natural systems or habitats; (b) Maintenance of valued cultural, historical, or natural resources; (c) Maintenance of other natural resources relevant to Hawaii's economy, including, but not limited to, agricultural resources; (d) Commitment of state funds and resources; (e) Provision for employment opportunities and economic development; (f) Provision for housing opportunities for all income groups, particularly the low, low-moderate, and gap groups."

Petitioner will preserve and develop a management plan for the anchialine ponds. Significant archaeological resources will be preserved. Soils on the Property have low agricultural potential capabilities. Development of the project will not

require any state funds or resources. The project will provide substantial employment opportunities and will stimulate regional economic development. The Petitioner will provide affordable housing opportunities to mitigate demands that the proposed project may place on the region's housing supply.

CONCLUSIONS OF LAW

Pursuant to Chapter 205, Hawaii Revised Statutes, as amended, and the Rules of Practice and Procedure and District Regulations of the State Land Use Commission, the Commission finds upon a preponderance of evidence that the reclassification of a portion of the Property which is the subject of the Petition filed by Huehue Ranch in Docket No. A86-603, consisting of approximately 666.5 acres of land located at Kukio, North Kona, Hawaii, State of Hawaii, Tax Map Key Nos.: 7-2-04: portion of 5 and 7-2-04:16, from the Conservation District to the Urban District for resort, residential, multi-family, commercial and recreational purposes, subject to the conditions stated in the Order as set forth herein, conforms to the standards established in the State Land Use District Regulations, is reasonable and non-violative of Section 205-2, Hawaii Revised Statutes, the Hawaii State Plan Chapter 226 HRS, and Sections 205-16 and 205-17, Hawaii Revised Statutes, as amended.

The Commission further concludes that reclassification of the remaining balance of the Property of approximately 0.5 acres consisting of that portion of the Property which is the

subject of dispute as to ownership between the State and the Petitioner, identified as Hawaii Tax Map Key No.: 7-2-04: portion of 5, would not conform to the standards established by the State Land Use Commission Rules and Regulations, and would be violative of Chapter 205 Hawaii Revised Statutes.

ORDER

IT IS HEREBY ORDERED that a portion of the Property, consisting of approximately 666.5 acres and subject of this Docket No. A86-603 filed by Huehue Ranch, situate at Kukio, North Kona, Hawaii, State of Hawaii and identified as Hawaii Tax Map Key No.: 7-2-04: 16 and portion of parcel 5, and approximately identified on Exhibit A attached hereto and incorporated by reference herein, for reclassification from the Conservation District into the Urban District, shall be and hereby is approved subject to the following conditions:

1. Petitioner shall provide housing opportunities for low and moderate income Hawaii residents and for employees employed on the Property by constructing and offering for sale or rent, on a preferential basis on its own or in cooperation with either or both the Hawaii Housing Authority and the County of Hawaii, within or without the Property, a number of residential units not less than ten percent (10%) of the residential units to be developed on the Property to residents of Hawaii and/or employees employed on the Property of low or moderate income as determined by the Hawaii Housing Authority or County of Hawaii from time to time or by contributing to the

development of such housing without the Property. The preferential residential units shall be offered for sale at prices that would enable such purchasers to qualify for and obtain State-assisted financing (e.g. Act 105 or Hula Mae) or Federally-insured or assisted financing (e.g. FHA, Section 245 Program) intended to encourage home ownership by low and moderate income families or employees.

2. Petitioner shall prepare a traffic analysis study and shall fund the design and construction of highway improvements for access to the Property and any other improvements as may be required by the State Department of Transportation.

3. Petitioner shall develop a full service hotel on the Property in conjunction with the recreational and residential projects in order to assure greater employment opportunities.

4. Petitioner shall provide at least one mauka to makai public access from the Queen Kaahumanu Highway to the shoreline and a continuous trail along the seaward boundary of the Property, which trail shall be available to the public for recreational use. No distinction shall be made between the public and hotel guests. Petitioner shall provide space for parking at a location reasonably close to the shoreline for the mauka-makai access(es) and shall coordinate plans for shoreline access with the Department of Land and Natural Resources and the County of Hawaii.

5. Petitioner shall establish a pond management plan for the anchialine pond complex in coordination with the Department of Land and Natural Resources, the County of Hawaii, and other appropriate agencies. The anchialine pond management plan shall include provisions for a buffer zone of no less than forty feet in width measured from the edge of the anchialine pond basin area to the outer edge of the buffer zone.

6. The 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.

7. Petitioner shall establish a monitoring program of water quality and faunal assemblages in coordination with the Department of Land and Natural Resources and the County of Hawaii Planning Department. In the event of any deleterious event that may affect the pond ecology, Petitioner shall immediately implement remedial and corrective actions in consultation with the Department of Land and Natural Resources and the County of Hawaii Planning Department.

8. 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.

IT IS ALSO HEREBY ORDERED that reclassification of the remaining balance of the Property, consisting of approximately

0.5 acres of land, situate at Kukio, North Kona, Hawaii, State of Hawaii and identified as Hawaii Tax Map Key No.: 7-2-04: portion of parcel 5 and also approximately identified on Exhibit A attached hereto and incorporated herein shall be and is hereby denied and this remaining balance of the Property shall remain in the Conservation District.

DOCKET NO. A86-603 - HUEHUE RANCH

Done at Honolulu, Hawaii, this 28th day of January 1987,
per motions on December 16, 1986 and January 13, 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 *Lawrence F. Chun*
LAWRENCE F. CHUN
Commissioner

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

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

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

By *Everett L. Cuskaden*
EVERETT L. CUSKADEN
Commissioner

By *Toru Suzuki*
TORU SUZUKI
Commissioner

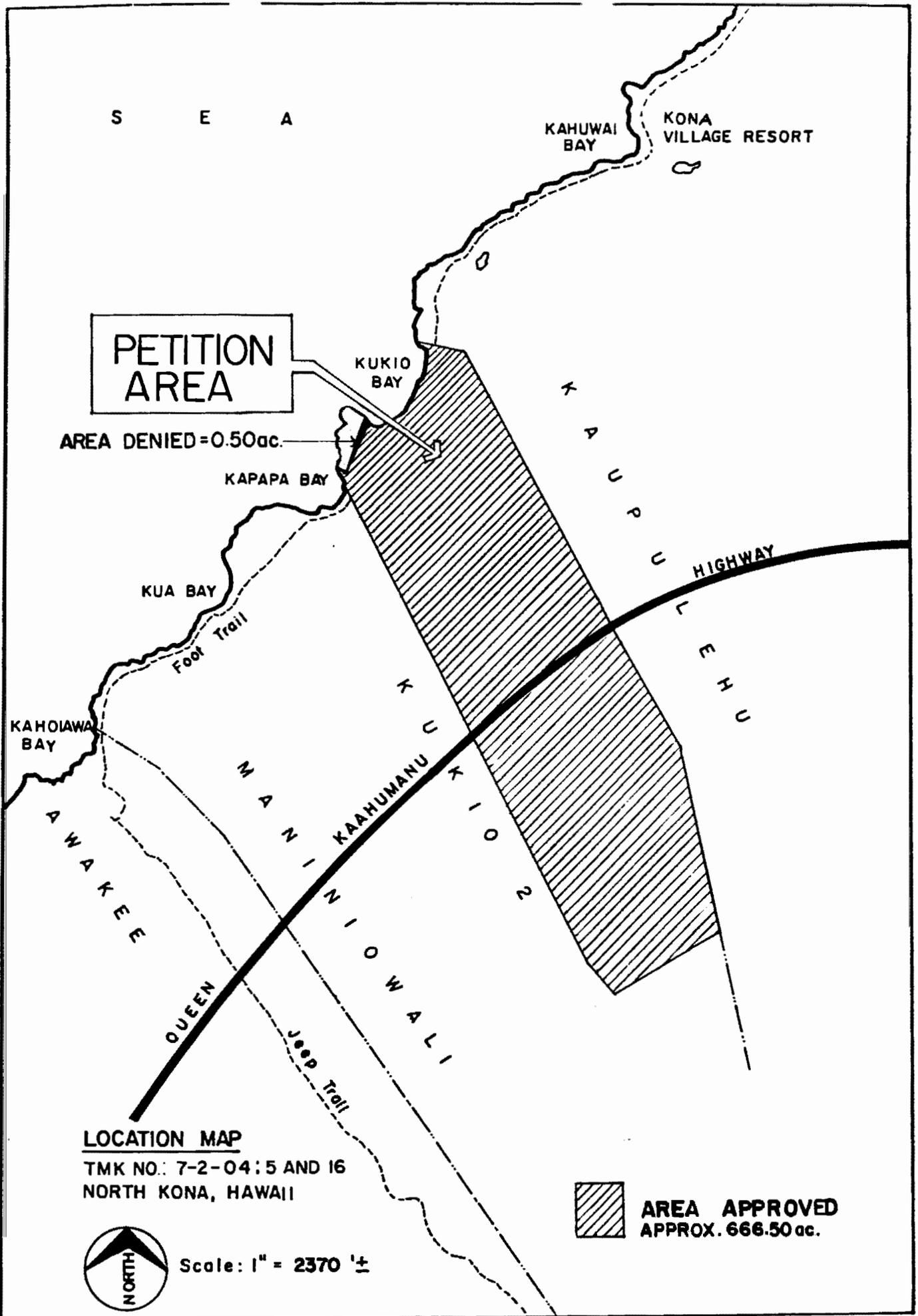


EXHIBIT A

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of)
HUEHUE RANCH) DOCKET NO: A86-603
To amend the Conservation Land Use)
District Boundary into the Urban)
Land Use District for Approximately)
667 Acres at Kukio, North Kona,)
Hawaii, State of Hawaii, Tax Map)
Key Nos.: 7-2-04: 16 and Portion)
of 5)

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:

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

TAKEYAMA and SULLIVAN, Attorneys for Petitioner
ROY Y. TAKEYAMA, ESQ.
JAN NAOE SULLIVAN, ESQ.
1188 Bishop Street, Suite 3404
Honolulu, Hawaii 96813

Dated: Honolulu, Hawaii, this 28th day of January 1987.



ESTHER UEDA, Executive Officer

DOCKET NO. A86-603 - HUEHUE RANCH

A copy of the Land Use Commission's Decision and Order was served upon the following by regular mail on January 28, 1987.

EVERETT KANESHIGE, Deputy Attorney General
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