BEFORE THE LAND USE COMMISSION

OF THE STATE OF HAWAII

In the Matter of the Petition of	DOCKET NO. A88-620
KOHALA JOINT VENTURE	KOHALA JOINT VENTURE
To Amend the Agricultural Land Use District Boundary into the Urban Land Use District for Approximately 1,288 Acres of Land at Kahua and Waika, North Kohala, Island of Hawaii, State of Hawaii, Tax Map Key Numbers: 5-9-01:Portion of 10; 5-9-09: Portion of 54 (Road Parcel); 5-9-10:31 through 55 (inclusive), 57, 58, 60, Portion of 56; and 5-9-11:1	

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

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In the Matter of the Petition of KOHALA JOINT VENTURE To Amend the Agricultural Land Use District Boundary into the Urban Land Use District for Approximately 1,288 Acres of Land at Kahua and Waika, North Kohala, Island of Hawaii, State of Hawaii, Tax Map Key Numbers: 5-9-01:Portion of 10; 5-9-09: Portion of 54 (Road Parcel); 5-9-10:31 through 55 (inclusive), 57, 58, 60, Portion of 56; and 5-9-11:1	DOCKET NO. A88-620 KOHALA JOINT VENTURE

FINDINGS OF FACT,
CONCLUSIONS OF LAW,
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Kohala Joint Venture, a registered Hawaii partnership (hereinafter referred to as "Petitioner"), filed a Petition on January 29, 1988, pursuant to Section 205-4, Hawaii Revised Statutes (HRS), as amended, and Title 15, Subtitle 3, Chapter 15, Hawaii Administrative Rules, as amended (hereinafter "Commission Rules") to amend the Land Use District Boundary to reclassify approximately 1,288 acres of land situate at Kahua and Waika, North Kohala, Island of Hawaii, State of Hawaii, Hawaii Tax Map Key Numbers 5-9-01: Portion 10; 5-9-09: Portion 54 (Road Parcel); 5-9-10: 31 through 55 (inclusive), 57, 58, 60 and Portion 56; and 5-9-11:1 (hereinafter referred to as the "Property:) from the Agricultural District to the Urban District to develop a residential community. The Land Use

Commission (hereinafter "Commission") having heard and examined the testimony and evidence presented during the hearings, and having considered the parties' stipulated findings of fact, conclusions of law, and decision and order, hereby makes the following findings of fact:

FINDINGS OF FACT

1. The Commission conducted hearings on the Petition on May 10, 1988, May 11, 1988, and July 14, 1988, pursuant to notice published in the Hawaii Tribune Herald and the Honolulu Advertiser on March 31, 1988.

2. The Commission allowed Bob Hoffman, Clinton Taylor, David Palmer, Rollin Olson, Virginia Karpovich, Susan Wells Fischer, William Graham, Craig Bishop, Mike Luce, Evelyn Bly, Roger Lopes James, Anne Marie Kraus, Martin Kraus, Carolyn Pomeroy, John Broussard, and Robert Knot to testify as public witnesses.

3. The Commission accepted into evidence timely written testimonies from Virginia Karpovich, David L. Palmer, Bill Graham, Craig Bishop, Susan Wells Fischer, Roger Lopes James, and Kohala Estates Community Association.

The Commission also accepted into evidence untimely written testimonies from Bob Hobbman, Clinton Taylor, Rollin Olson, Mike Luce, Frank Ishii, Robert E. Bethea, Henry Williams, Ann and Virgil Place, Kelly Pomeroy, Carolyn Pomeroy, William S. Adams and Esther S. Adams, Helga Buol and Werner Buol, Vincent and Marylynne Caruzo, Samuel L. Dazzo, Bahman

Guyuorn, Maurice H. Katz, Matthew Lanin, Ranch O'Kern, Walter Schilling, Tony J.A. Tyson, John A. Broussard, William and Sandra Stucky, Mr. and Mrs. Edward Orlowski, Concerned Kohala Ranch Property Owners, Harry J. Gallagher, Donald F. MacFeeley, Anne Marie Kraus, Arthur and Joan Schwartz, and John A. Broussard and Carolyn Pomeroy.

4. The Commission received no petitions to intervene.

DESCRIPTION OF PROPERTY

5. The Property, which is approximately three miles north of Kawaihae, lies north of and adjacent to the northern boundary of the South Kohala District. The Property is generally located approximately half way between Kohala Mountain Road and Akoni Pule Highway. The community of Waimea is located 9 miles to the southeast and the community of Hawi is located 11 miles to the north.

6. Projects I (which is divided into two separate divisions), II and III are located within the surrounding area as follows:

a. The northern division of Project I lies to the northeast and abuts the Kohala Mountain Road and a portion of the Property's mauka boundary. The remaining division of Project I lies to the southwest and abuts Akoni Pule Highway and the northern portion of the Property's makai boundary.

b. Projects II and III, which forms a contiguous area, also lies to the northeast and abuts the

remaining portion of the Property's mauka boundary adjacent to the northern division of Project I.

7. The existing agricultural lots of the Kohala Estates Subdivision also lies makai of the Property and abut the Akoni Pule Highway, the southern boundary of the southern division of Project I, and the southern portion of the Property's makai boundary.

In addition, lands to the northwest of Projects II and III are owned by the State of Hawaii and lands to the southeast of the Kohala Estates Subdivision, the Property and the northern division of Project I are controlled by the Department of Hawaiian Home Lands, State of Hawaii.

8. Petitioner owns the Property in fee and has obtained from all necessary parties who hold an interest in the Property their consent to apply for the land use district boundary amendment.

9. The Property is used for grazing under a pasture lease to Kahua Ranch.

10. Site elevations on the Property range from 900 feet at the makai boundary to 1500 feet above sea level at the mauka boundary and the overall average gradient is 10 percent.

11. The Property receives an average of approximately 10 to 15 inches of rainfall annually.

12. The Property is rated overall master productivity rating "E" by the Land Study Bureau on a scale of "A" to "E", "E" being the lowest rating.

13. The Property is not classified under the State Department of Agriculture's Agricultural Lands of Importance to the State of Hawaii classification system.

14. The U.S. Department of Agriculture Soil Conservation Service (SCS) identified two different land or soil types on the Property. They are Kawaihae (rocky and very fine sandy loam) and Puu'paa (extremely stony and very fine sandy loam). The SCS rates the Property as crop capability VII which indicates that the Property's soil has very severe limitations which make it unsuitable for cultivation.

15. According to the U.S. Army Corps of Engineers Flood Insurance Rate Maps (FIRM), no flood or tsunami inundation zones are known to exist on the Property.

PROPOSAL FOR DEVELOPMENT

16. Petitioner proposes to develop a master planned residential community of approximately 3,000 homes with support facilities and recreational amenities. Petitioner also proposes to develop portions of the Property into an office/ business park and to include a shopping village, a civic center, community facilities, a golf course, a health spa/ tennis club, a recreational/equestrian center, a nature park, and an elementary school/playground site.

17. The proposed land uses for proposed project are as follows:

Land Use	Approximate Acreage
Residential	730
Retirement Facility	15
Shopping Village	25
Office/Business Park	40
Civic Center	6
Community Facilities	10
Golf Course	180
Health Spa/Tennis Club	10
Recreational/Equestrian Center	35
Nature Park	13
Elementary School/Playground	10
Open Space/Buffer and Windbreak/Roads	206
Waste Water Treatment Facility	5
Maintenance	3
TOTAL	1,288

Source: DBED Exhibit No. 1

18. Petitioner proposes the residential community to consist of approximately 2,100 single-family housing units and approximately 900 multiple-family housing units. Petitioner also proposes to develop up to approximately 287,000 square feet of leasable office space by and through the year 2004.

19. Petitioner proposes to develop a shopping facility, with approximately 190,000 to 250,000 square feet of leasable floor area including a supermarket, junior department store, drug store, ancillary office space, restaurants and movie theaters, in order to provide basic market needs for residents of the surrounding communities.

The Department of Business and Economic Development (hereinafter "DBED") recommends that components of the proposed

shopping facility be planned and coordinated with the Department of Hawaiian Home Lands ("DHHL") to complement and support a proposed commercial center located on adjacent DHHL property as proposed in the "Kawaihae Plan" as adopted by the Hawaiian Homes Commission.

20. Petitioner also proposes to develop a golf course, health spa/tennis facility and recreational complex.

21. Petitioner proposes to provide sufficient land for the development of satellite government offices on the Property which may include a police station annex, fire station, community center for government satellite offices, and a health care facility.

22. Petitioner proposes to establish a low impact development by locating higher density land uses within the core of the Property. Petitioner believes that this land use strategy will provide a natural buffer between the proposed residential community and the surrounding agricultural areas.

23. Petitioner's development schedule calls for the development of necessary infrastructure, including a sewage treatment facility, water wells, and water distribution system, along with an 18-hole golf course and health spa/tennis club, during the first phase of development which is projected to occur between 1990 and 1994. Along with the infrastructure and recreational amenities, approximately 840 single-family housing units and 360 multi-family housing units along with a portion

of the office, business, and park space are proposed for development during the same period.

During the second phase of development, Petitioner proposes to develop major portions of the proposed shopping village and recreational/equestrian center and approximately 770 additional single-family housing units and 330 additional multi-family housing units. In addition, Petitioner would convey to government sufficient lands necessary for an elementary school.

24. By the end of the third phase or approximately the year 2004, Petitioner plans to have completed the construction of the shopping village, leasable floor area for the office/business park, and to have completed its health care facility, social hall/community theater and retirement facility.

25. Petitioner indicates that if feasible, Petitioner may participate in the joint development of infrastructure with DHHL.

26. Petitioner estimates the cost to develop the proposed project to be more than $500,000,000 in 1986 dollars. This estimate includes the cost for the housing units, shopping facilities, office park, golf course and all infrastructure.

PETITIONER'S FINANCIAL CAPABILITY TO UNDERTAKE THE PROPOSED DEVELOPMENT

27. Petitioner is a joint venture consisting of Hudson-Kohala, Inc., a Delaware corporation qualified to do

business in Hawaii and Oxford-Kohala, Inc., a Hawaii corporation.

28. As of June 30, 1987, Kohala Joint Venture listed total assets of $38,024,100.00.

29. Petitioner proposes to finance the proposed development through borrowed funds and/or a possible joint venture with a financial institution and/or independent developers. Initial sales revenues will be used to finance subsequent development phases. Petitioner intends to retain control of the proposed project throughout the course of its development.

STATE AND COUNTY PLANS AND PROGRAMS

30. The Property is designated within the State Land Use Agricultural District as reflected on the Commission's Official Map H-14, Kawaihae.

31. The Hawaii County General Plan Land Use Allocation Guide (LUPAG) map designates the Property as Extensive Agriculture.

32. The Property is currently zoned A-20a or Agricultural with a minimum 20-acre lot size.

33. The North Kohala Community Development Plan (CDP) Land Use Concept Maps adopted by the Hawaii County Council by way of resolution in 1986 recommends the Kohala Ranch area for small scale agricultural use. The North Kohala CDP also recognizes the need for an increase in the supply of available

urban land and suggests the approach of clustering allowable density on an agricultural parcel into a concentrated residential area.

34. The Property is not located within the Special Management Area of the County of Hawaii.

NEED FOR THE PROPOSED DEVELOPMENT

35. Petitioner's market consultant, Peat Marwick Main & Company (PMM), prepared a market assessment for the proposed project.

36. PMM projects that by the end of the year 2004, there will be a demand for approximately 7,400 new residential units in the Kohala-Kona area. PMM indicates that this projection is a result of the combined growth in the visitor industry in the West Hawaii region, including South Kohala and Kona, and the growth in research and applied technology industry and diversified agriculture.

37. PMM estimates that approximately 29 percent to 34 percent of this regional future housing demand may be absorbed by the proposed development during the next 15 to 20 years.

38. In addition, PMM estimates that a secondary market which includes independent households consisting of self-employed, semi-retired and retired individuals and second-homeowners may generate a demand for approximately 2,170 housing units for the Kohala-Kona area. PMM projects of this total, the proposed project may absorb approximately 430 to 550

housing units of the market for independent households and between 260 and 300 additional housing units for second-home-owners.

39. PMM also concludes that the proposed residential community at full build-out, residents of surrounding areas and visitors could generate a demand for approximately 200,000 square feet of retail space.

40. PMM further projects there will be a demand for office parks or high technology parks of about 250,000 to 275,000 square feet. This projected demand is anticipated to be supported by local and regional users over the next 20 years.

Affordable Housing

41. The U.S. Department of Housing and Urban Development establishes the 1988 median income for a family of four in the County of Hawaii at $28,800. The State Housing Finance and Development Corporation (HFDC) targets affordable housing to include families earning up to 140 percent of the area's median income and below.

PMM projects that by 1995, approximately 50 percent of newly created jobs will be filled from the off-island labor pool.

PMM also anticipates that much of the housing demand generated by the new residents will originate from the employment center of Kohala and North Kona.

42. PMM provided a breakdown of housing demand by household income for West Hawaii as follows:

Projected Housing Demand
by Income Bracket
1987 - 2004
(1987 Dollars)

	Housing units in West Hawaii(1)					
	Additional				Cumulative	
Gross household income	1989	1994	1999	2004	Total	%
Up to $7,000	50	168	223	147	588	8
$7,000 to 10,999	44	147	195	129	515	7
$11,000 to 14,999	44	147	195	129	515	7
$15,000 to 21,999	95	315	419	276	1,105	15
$22,000 to 28,999	95	315	419	276	1,105	15
$29,000 to 36,999	95	315	419	276	1,105	15
$37,000 to 50,999	95	315	419	276	1,105	15
$51,000 to 72,999	63	210	279	184	736	10
$73,000 and up	50	168	223	147	588	8
TOTAL	631	2,100	2,791	1,840	7,362	100%

(1) Includes resort-related and applied technology-related housing segments for West Hawaii. The households in the independent and second-home market segments are projected to have gross income above the median income.

Source: Petitioner's Exhibit No. 5

43. Petitioner proposes to provide 300 low-income units priced at $70,000 or below within the Property to mitigate the affordable housing need.

44. In its memorandum dated March 14, 1988 to the State Department of Business and Economic Development (DBED), the HFDC commented on the proposed project as follows:

> "Much of the housing demand in West Hawaii is attributable to planned and proposed resort development. The County of Hawaii estimates that

in 1984, 81 percent of the resort employee households earned less than $40,000; with the average income being $25,700. Based upon this estimate, we believe that a much larger portion than the proposed 10 percent (300 affordable units) should be provided in the proposed project. We also believe that a continuum of affordable housing opportunities should be provided. This would include single family and multi-family units for a range of housing consumers from the lower-income or elderly renter to the gap group homebuyer. This would enable families to move up to larger, higher-priced homes within the planned community as their incomes and housing requirements increase."

45. Petitioner proposes that it meet the demand for affordable housing in accordance with an agreement or plan agreeable to State and County housing agencies.

46. Based on the physical, agronomic and environmental characteristics of the Property, Petitioner's agricultural consultant, Peter Garrod, concludes that the Property is only suitable for grazing.

Petitioner states that in terms of animal carrying capacity, it would take at least 30 acres of the Property to support one mature beef animal for one year, or no more than 40 head of cattle could be supported by the entire Property.

According to Garrod, the beef industry in Hawaii has been stagnant for the past decade. The industry is presently facing a declining per capita demand for beef and declining real price for beef. The Hawaii ranchers have been losing their market to imports from the mainland, New Zealand, and Australia. Any future expansion in the industry will be based on the use of intensive grazing cell techniques and improved feedlot facilities. Neither of these changes, if they occur, will significantly increase the demand for grazing lands such as found on the project site.

47. In their comments of March 16, 1988, the Department of Agriculture (DOA) indicates that the air-dry forage production is relatively poor at approximately 700 to 1,400 pounds per acre/year. DOA also states, "According to a representative of Kahua Ranch, the loss of pasture use on the site of the proposed residential community is expected to have minimal impact on their ranch operation."

48. Chapter 165 of the Hawaii Revised Statutes limits the conditions under which an existing agricultural activity can be considered a nuisance by the residents of urban areas. DBED recommends that prospective occupants of the proposed project be informed of potential agricultural impacts and that the Hawaii Right-to-Farm Act, Chapter 165, HRS, limits the circumstances under which pre-existing farming activities may be deemed a nuisance.

Groundwater and Off-Shore Water Resources

49. Groundwater sources have been successfully developed at Waikoloa, Lalamilo and by the Petitioner at Kohala Ranch. Petitioner indicates that a relatively thick fresh water lens was recently discovered with an acceptable chloride content for potable water purposes. Petitioner has previously drilled two wells with another two wells planned to coincide with the needs of the proposed project.

50. Due to the limited nature of the existing groundwater data base, the sustainable yield of the acquifer has not been determined.

51. Petitioner does not anticipate that the proposed development will have a significant adverse effect on the groundwater or off-shore marine environment. Petitioner proposes to monitor the use of herbicides and pesticides on the golf course and other landscaped areas.

Drainage

52. Four major drainage gulches are located on the Property. As a result of on-site drainage improvements and other methods of dealing with additional drainage requirements created by the development (such as drainage culverts and sedimentation basins), Petitioner believes that drainage leaving the project site after completion of the development will not be greater than presently exists.

53. Petitioner will be required to satisfy the standards of the County of Hawaii's Department of Public Works and the Soil Conservation Service for flood and erosion control.

Flora

54. A floral survey of the project site was conducted for the Petitioner by Char and Associates. A total of 102 plant species were recorded of which 22 were native. The report also described three vegetative areas, mixed grass pasturelands, buffel grass/kiawe pasturelands and gulch vegetation as follows:

a) The mixed-grass pasturelands are confined to the area primarily above the 1,275-foot elevation on soil classified under the Puu Paa series.

b) The buffel grass/kiawe pasturelands occupy approximately 75 percent of the project site and occur primarily below the 1,275-foot elevation on soil classified under the Kawaihae series.

c) Vegetation in the upper gulch areas consist primarily of grasses and shrubs. Abundant sandalwood and aakia and a few scattered kiawe are notably present. Kiawe is more abundant in the lower gulches.

55. No officially listed or proposed endangered or threatened plant species were found on the Property. However, one candidate for endangered species, the tree ohai (Sesbania arborea) was found in a small colony near the Property's makai boundary.

56. The consultant recommends that the planned uses near the location of the tree ohai colony be adjusted to reduce the impact on the species and as an alternative that the ohai may be incorporated with the landscaping. Further, that smaller ohai plants and other started from seeds be established in several colonies in the planned nature park. Other native species found on the project site could also be included in the park.

57. The consultant further recommended that disturbance of the gullies and gulches during construction should be minimized and base areas grassed as soon as possible to prevent soil loss and further gully formation.

Fauna

58. Petitioner's wildlife consultant, Philip Bruner, conducted a survey of animal and bird life at the Property in December of 1986. The field survey confirmed the presence of a typical mix of exotic, indigenous and migratory bird species, mongoose and dogs. It is estimated that mice, rats, feral goats, pigs and cats are also likely to be found at the site on occasion.

59. No threatened or endangered species were encountered, and no evidence of such species being at the Property was found.

60. Only one indigenous species, a single pair of Elepaio (Chesiempis sandwichensis), was sighted in a ravine in the lower section of the project area. While this species is

not endangered or threatened, evidence indicates their population is on a decline. Petitioner proposes to preserve in as natural a state as possible the habitat of the ravines and gulches in order to maintain important foregoing and refuge areas for birds, including the Elepaio, and further that the planned nature park be developed to create a habitat similar to that found in the area.

Historical/Archaeological Resources

61. An archaeological reconnaissance was conducted by Petitioner's archaeological consultant, Cultural Surveys Hawaii, in March of 1987. The Property was found to be essentially devoid of archaeological sites with the exception of thirteen features of both prehistoric and historic origin, including ahu sites, agricultural terraces, shelters, burials, and trails. With the exception of major gulches, complete ground coverage was obtained of the Property.

62. Two of these features were small but significant site complexes probably of prehistoric age, with shelter and terrace features within them. The discovery of two rock shelters in the Pohakuloa Gulch indicates that as yet undiscovered similar sites may occur in the unsurveyed portion of the gulches.

63. The consultant recommends that further surveys be conducted in the unexamined portions of the gulches.

64. Two trails, the Puu Hue-Kawaihae Road and the Kawaihae-Kahua Trail cross the Property.

65. Petitioner proposes to conduct further study and testing of the significant prehistoric site complexes and to conduct further surveys in the gulch areas. In order to mitigate impacts of the proposed development, the Petitioner proposes to conduct data recovery of any significant archaeological features in the project area or to create preserves of such areas, in accordance with the State of Hawaii's and County of Hawaii's recommendations. Petitioner also proposes to maintain larger gulch areas as preserves so that no impact from development would result.

Visual Resources

66. In general, the natural visual resources of the Kohala and North Kona region are the thirty-five miles of shoreline from Kiholo Bay to Upolu Point and the four mountains of Mauna Kea, Hualalai, Mauna Loa and Kohala Mountain. Located on the southwestern flank of Kohala Mountain, the proposed residential community will encompass less than 2 percent of the mountain's side which is exposed to the North Kona and southern South Kohala region. Overall the planned development will create a density of 2.3 units per acre, representing a very low development profile with landscaping planned to blend with the surrounding environment.

67. The Property is also located approximately 1.6 miles from Akoni Pule Highway and approximately 2.9 miles from Kohala Mountain Road. Petitioner states that because of the

intervening topographic variations, only minimal, if any, visual contact will be made with the residential community from both the coastal and mountain highways.

68. Petitioner believes that while visual contact may be more evident from properties in close proximity to the project site, the proposed development will include a landscaped buffer around the built-up areas of the community with the location of the larger residential lots on the perimeter of Project IV, with smaller residential lots and multi-units in the interior of the project site. Petitioner anticipates that this plan will reduce the visual impact of the site from both adjacent communities and surrounding areas.

Air Quality

69. Existing air quality in the region is excellent most of the time. The worst air pollution episodes experienced in Hawaii County have resulted from periodic volcanic eruptions rather than factors associated with urbanization.

70. Petitioner projects that short-term air quality impact will result from construction activity, including an increase in automotive pollutant concentrations leading to the project area and in the vicinity of the development site. Petitioner will employ adequate dust control measures meeting County standards during construction in order to mitigate adverse effects on surrounding residential and commercial areas.

71. Petitioner states that the principal source of long-term air quality impact will consist of automotive

emissions due to increased traffic associated with the proposed development. However, due to the project's overall low population density and anticipated maximum, peak hour traffic volume of 1,100 in 2004, Petitioner believes that long-term air quality will not be significantly impacted, and none of the above pollutants are expected to exceed State and Federal standards.

Noise Impact

72. Present noise levels in the vicinity of the proposed development are relatively low due to the rural character of the existing development. With increased development it is expected that noise levels will rise from the existing rural levels.

73. Short-term noise level increases will result from grubbing and grading operations. Construction of low-rise residential units proposed will not constitute a very noisy operation. Petitioner proposes mitigation measures such as mufflers and other noise suppressors to be used, and construction periods will be limited to daylight hours.

74. The principal source of long-term noise level increase will be due to additional traffic associated with the development. However, Petitioner believes that common traffic noise generated by the development will be significant and will be low compared to noise levels in typical urban areas, due to the low density character of the proposed community.

ADEQUACY OF PUBLIC SERVICES AND FACILITIES

Water Service

75. No estimate of total water requirements for the proposed project was provided by Petitioner. DBED estimates approximately 1.5 million gallons per day (MGD) will be needed for the project.

76. The County of Hawaii does not have a public water system to serve the Property. At the 1460 foot elevation is Petitioner's water well and back-up well, each with the capability of pumping 700 gallons per minute (gpm) or of producing one million gallons per day. This water supply serves Kohala Ranch Project I, Kohala Estates, a few nearby residences along Kohala Mountain Road and future development site located at Kohala Makai by way of a 12 inch waterline running along Kohala Ranch Road.

77. The proposed development will require expansion of the existing system, including the addition of three operating wells each with a 700 gpm pump, two storage tanks of 2.5 million gallons and 500,000 gallons, pressure breakers, transmission lines and service laterals. The additional wells would be located within the Property and at the 1460 foot elevation. Petitioner anticipates that the existing water source beneath Kohala Ranch can supply the water needs to all proposed or existing uses at Kohala Ranch, including the Property and existing off-site commitments. Petitioner will

conduct additional tests to verify and determine full potential capacity of said water source.

78. Petitioner proposes to construct wells, storage facilities and distribution system to be, when completed, turned over the the Kohala Ranch Water Company for ownership, operation and maintenance.

79. The Department of Hawaiian Homes Lands (DHHL) has received an appropriation of $1,680,000 for the exploration and development of a domestic water system in Kawaihae to be conducted by the Department of Land and Natural Resources. DHHL has discussed the possible integration of the respective water systems with the Petitioner to further expedite the development of this area.

80. DBED recommends that shared water source development should be investigated to reduce costs and to maximize the efficiency of water use.

Sewage Treatment and Disposal

81. Petitioner proposes to construct a central sewage system consisting of gravity lines, force mains, lift stations and an approximately 1.8 million gallon per day on-site wastewater treatment facility meeting government standards. Petitioner proposes that the subsequent ownership and maintenance will be under the jurisdiction of an autonomous utility company created by Petitioner.

82. Petitioner proposes to use treated effluent for irrigation of the proposed golf course, and it is estimated

that when the wastewater treatment facility is operating at or near its capacity, the generated effluent would be sufficient to accommodate all of the irrigational requirements of the golf course.

83. DBED recommends that, if spray irrigation is to be used, Petitioner should establish buffer zones, or drip irrigation along the fringe in the vicinity of residential areas.

DBED also recommends that the separation of potable and non-potable water systems should be clearly distinguishable.

Roadway and Highway Services and Facilities

84. All traffic entering the Property will need to enter or leave the Property through Kohala Ranch Road, which runs in a mauka-makai direction. The makai entrance to Kohala Ranch is from the Akoni Pule Highway, and the mauka entrance to the Ranch is from the Kohala Mountain Road.

85. The Akoni Pule Highway is currently classified as operating at a level of service "B" (stable flow, but presence of other users begins to be noticeable), on a scale from "A" to "F". The Kohala Mountain Road is also currently classified as operating at a level of service "B". However, during the majority of the time, both Akoni Pule Highway and Kohala Mountain Road presently operate at level of service "A".

86. Petitioner's traffic analysis indicates that for the Kohala Mountain Road through the year 2004, even with projected traffic from Kohala Ranch and other sources, level of

service "D" will not be obtained, and that the level of service would not be higher than "B" or "C" throughout the project's development on Kohala Mountain Road. The Petitioner's analysis further indicates that for level of service for the Akoni Pule Highway by the Year 2004, projected traffic, including that generated by the proposed Kohala Ranch Projects will reach level "D" or "E", but that level of service "F" (beyond road capacity) will not be attained.

87. The cumulative traffic volume generated from regional developments, is projected to exceed capacity of Queen Kaahumanu Highway by the year 2004. Other regional roadways at or over capacity will be Mamalahoa Highway north of Lindsey Road, and Palani Road. Without the Kohala Ranch development, Queen Kaahumanu Highway would only reach capacity levels in the vicinity of Palani Road.

88. Petitioner proposes traffic improvements as follows: 1) relocation of the existing security station at the makai entrance to allow freer flow through the project entrance, 2) expand the channelized intersection at the Kohala Mountain Road entrance to Kohala Ranch when warranted by increased traffic, and 3) future construction of any intersection improvements at the entrances to Kohala Ranch as required in cooperation with the appropriate State agency.

89. Petitioner indicates that regional intersections will also require improvements by the year 2004 at the Queen

Kaahumanu Highway/Kawaihae Road, Queen Kaahumanu Highway/Palani Road and Queen Kaahumanu Highway/Keahole Airport intersections.

90. Petitioner indicates that the proposed roadways within the Property will be maintained by Petitioner or a community association to be formed.

91. Kohala Ranch Road, which has a right of way 80 feet in width and a 24 foot wide pavement, is the main access through Kohala Ranch projects I and IV. It is a two-lane agricultural standard roadway with graded shoulders, no curbs and gutters.

92. Petitioner states that questions concerning additional improvements to the Kohala Ranch Road will be resolved through the County's rezoning and/or subdivision process.

93. All roadways within the existing development are owned and maintained by the Kohala Ranch Community Association.

94. Kohala Joint Venture excepted and reserved in its favor as an appurtenance to the Property, and its other adjacent lands, an easement over, under, and across the roadway lots for roadway and access purposes in connection with the subdivision and development of the Property, and its other adjacent lands, as reflected in the First Amended Declaration of Covenants, Conditions and Restrictions filed with the Assistant Registrar of the Land Court of the State of Hawaii on January 13, 1986.

Schools

95. Public schools serving the North Kohala/South Kohala Districts include Waimea Elementary and Intermediate School (Public School Grades K to 9) and Kohala High and Elementary School located in Hawi (Public School Grades K to 12). Private Schools serving the area include Hawaii Preparatory Academy (Grades K to 12) and Parker School (Grades 7 to 12).

96. Kohala High and Elementary School is the only public school in North Kohala and the only formal public educational institution which can serve the Property.

97. The Department of Education (DOE) estimates in their letter of March 4, 1988, that the 3,000 dwelling units of Project IV will generate approximately 200-400 new students above the current levels. DOE concludes that "the impacted school will require legislative appropriation on a timely basis to accommodate the development."

98. Petitioner is proposing to set aside (in reserve) at least one site for transfer or conveyance to the Department of Education for an elementary school. Petitioner is also willing to work with the Department of Education to accommodate any additional enrollment demand requirements.

99. DBED has recommended that an elementary school site be provided at no cost to the satisfaction of the Department of Education.

Electrical and Telephone Services

100. The existing overhead 12 kilovolt transmission line from Kawaihae serves the adjoining Kohala Estates and Kohala Ranch Project I. The transmission line, operated and maintained by Hawaii Electric Light Co., Inc., presently connects with a 7.5 megawatt transformer located in Kohala Estates. Service lines from the transformer then distribute power to the two subdivisions.

101. Development of the Property will require upgrading the existing electrical system to accommodate the proposed project to approximately 20 megavolt amperes. The existing 12 kilovolt line is planned to be replaced with a 69 kilovolt line originating from the substation in Kawaihae and with the 7.5 megawatt transformer to be supplemented with a new 10 megawatt transformer.

102. Telephone lines are also available to the project site through the same utility corridor as the existing power lines. A telephone switching station operated by the Hawaiian Telephone Company is located along Queen Kaahumanu Highway near Kawaihae.

Solid Waste

103. Petitioner anticipates that solid waste generated from the proposed project will be disposed of at the Kona landfill or at new County operated landfills.

Health Care Facilities

104. Petitioner proposes to include in the planned community center a site for a medical facility which would provide out-patient services as well as emergency out calls.

Fire/Police Services

105. Existing police and fire stations in Waimea and Kapaau are approximately 12 miles from Kohala Ranch. A recently completed fire station at the Mauna Lani Resort is also located approximately 12 miles from the project site.

106. Petitioner proposes a civic center or public facility site complex that would include a site for a fire station and possibly a police sub-station, if necessary. Site requirements and conveyance of a new fire station site or police sub-station site would be coordinated with the fire department and police department of the County of Hawaii.

107. DBED has recommended that a site or sites for police and fire facilities be provided at no cost, to the satisfaction of the County of Hawaii.

Parks and Recreation

108. In South Kohala there are two County parks in Waimea and Spencer Beach Park at Kawaihae. State owned facilities include Hapuna Beach Park and the Wailea Bay park area.

109. In North Kohala, County park facilities include Kamehameha Park, Keokea Park, Kapaa Park, and Mahukona Park.

110. Petitioner proposes to comply with County park requirements by providing 33 acres of recreational/equestrian uses, a 13-acre nature park, a 4-acre playground, a 10-acre tennis club/health spa complex, and a 170-acre 18 hole golf course.

111. Petitioner projects the total number of direct operational jobs projected for all facilities to be 465 by the year 1994, 1015 by the year 1999 and 1475 by the year 2004. The total number of indirect and induced jobs created by operation of the development facilities would involve a total of 1053 state-wide jobs, of which 425 indirect and induced jobs would be created on the Island of Hawaii and 628 jobs created on other islands in the State.

112. Petitioner estimates that construction jobs created over a 15-year period would number approximately 350 annually, with the highest employment period being during the 1990 to 1994 period.

113. Total government tax revenues associated with construction, including general excise taxes and personal income taxes, are estimated to be $70,700,000.

CONFORMANCE TO STATE URBAN LAND USE DISTRICT STANDARDS

114. Petitioner's proposed reclassification conforms to the following State Urban Land Use District Standards stated in Section 15-16-18 of the Commission Rules as follows:

1) "(1) It shall include lands characterized by 'city-like' concentrations of people, structures, streets, urban level of services and other related land uses;"

While the project site is not currently characterized as 'city-like', reclassification of the property will permit the development of a well planned residential community with support facilities and services.

2) "(2) It shall take into consideration the following specific factors:

(A) Proximity to centers of trading and employment except where the development would generate new centers of trading and employment,"

While the proposed reclassification is not contiguous to an existing urban district, it is proximate to urban areas located at Kawaihae and Waimea.

3) "(B) Substantiation of economic feasibility by the petitioner;

4) "(C) Proximity to basic services such as sewers, transportation systems, water, sanitation, schools, parks, and police and fire protection;"

The public services and facilities are available or will be made available to service the Property. Petitioner proposes to develop additional water, sewage, power and traffic facilities on its own or in conjunction with utility companies.

5) "(3) It shall include lands with satisfactory topography and drainage and reasonably free from the danger of floods, tsunami, unstable soil conditions, and other adverse environmental effects;"

The Property will have satisfactory drainage, is outside of the dangers of flooding or tsunami zones, does not

have unstable soil conditions, and is reasonably free from other adverse environmental effects.

6) "(4) In determining urban growth over the next ten years, or in amending the boundary, land contiguous with existing urban areas shall be given more consideration than non-contiguous land, and particularly when indicated for future urban use on state or county general plans;"

The proposed development, while not contiguous with existing urban areas, is indicated for future urban use on the County's proposed general plan and Land Use Pattern Allocation Guide map amendment currently under comprehensive review.

CONFORMANCE WITH THE HAWAII STATE PLAN

115. The proposed reclassification conforms to the following goals of the Hawaii State Plan:

1) HRS Section 226-4:
"(1) A strong, viable economy, characterized by stability, diversity, and growth, that enables the fulfillment of the needs and expectations of Hawaii's present and future generations."

Petitioner's proposed development will create and enhance employment and economic opportunities for Hawaii's residents. The development will provide employment both during and after construction.

2) HRS Section 226-4:
"(2) A desired physical environment, characterized by beauty, cleanliness, quiet, stable natural systems, and uniqueness, that neigh the mental and physical well-being of the people.

(3) Physical, social, and economic well-being, for individuals and families in Hawaii, that nourishes a sense of community responsibility, of caring, and of participation in community life."

The comprehensively planned self-contained community is expected to foster a sense of involvement and responsibility among residents of the proposed development. The development of a community or civic center along with a shopping village should create a core of community activity.

116. The proposed reclassification conforms to the following objectives and policies of the Hawaii State Plan:

1) HRS Section 226-5 Objectives and Policies for Population.

The proposal will provide increased opportunities for Hawaii's people to pursue their physical, social and economic aspirations in conjunction with the unique needs to be created by anticipated growth in West Hawaii region.

2) HRS Section 226-6 Objectives and policies for the economy - in general. and HRS Section 22-10 Objectives and policies for the economy - potential growth activities.

The proposed development will increase and diversify employment opportunities, increase economic job choice, and should help improve the standard or quality of living for Hawaii's people.

RULING ON PROPOSED FINDINGS OF FACT

Any of the stipulated proposed findings of fact submitted by the parties not already ruled upon by the Commission by adoption herein, or rejected by clearly contrary findings of fact herein, are hereby denied and rejected.

CONCLUSIONS OF LAW

Pursuant to Chapter 205, Hawaii Revised Statutes, as amended, and the Commission Rules, the Commission finds upon a preponderance of the evidence that the reclassification of approximately 1,288 acres from the Agricultural to the Urban District at Kahua and Waika, North Kohala, Island of Hawaii, State of Hawaii, subject to the conditions in the Order, is reasonable and not violative of Section 205-2, Hawaii Revised Statutes and is consistent with the Hawaii State Plan as set forth in Chapter 226, HRS, as amended.

ORDER

IT IS HEREBY ORDERED that the Property, consisting of approximately 1,288 acres, being the subject of this Docket No. A88-620 by Kohala Joint Venture, situate at Kahua and Waika, North Kohala, Hawaii, and identified as Hawaii Tax Map Key Nos. 5-9-01:portion 10, 5-9-09:portion 54 (Road Parcel), 5-9-10:31-55 (inclusive), 57, 58, 60, and portion 56, and 5-9-11:1, and approximately identified on Exhibit "A" attached hereto and incorporated by reference herein, for reclassification from the Agricultural District to the Urban District, shall be approved subject to the following conditions:

1. The affordable housing requirement shall be satisfied as follows:

A. The Petitioner shall provide housing opportunities for low, low-moderate, and moderate income Hawaii

residents by offering for sale at least ten percent (10%) of the units at prices which families with an income range below 80% of Hawaii County median income can afford, twenty percent (20%) of the units at prices which families with an income range of 80 to 120 percent of Hawaii County's median income can afford and thirty percent (30%) of the units which families with an income range of 120 to 140 percent of Hawaii County's median income can afford. This condition may be fulfilled with the approval of the State Housing Finance and Development Corporation and the County of Hawaii through projects, under such terms as may be mutually agreeable, between Petitioner and the Housing Finance and Development Corporation or other appropriate County or State governmental agency. This condition may also be fulfilled, with the approval of the Housing Finance and Development Corporation and the County of Hawaii, through the construction of rental units to be made available at rents which families in the specified income ranges can afford.

B. The affordable housing requirements may also be satisfied in a manner that meets with the approval of the County of Hawaii and the State Housing Finance and Development Corporation. Said requirements shall take into consideration affordable on-site or off-site housing units or cash payments or other in lieu contributions that satisfy the then current housing needs, or other necessary or desirable community or infrastructural facilities as determined above.

2. Petitioner shall coordinate its project planning with the Department of Hawaiian Home Lands and County of Hawaii Planning Department with respect to urban design, as well as infrastructural and service systems.

3. The Petitioner shall participate in the funding and construction of transportation improvements at project access points as identified by the State Department of Transportation. The Petitioner shall also participate in the funding and construction of other on-site and off-site transportation improvements necessitated by the proposed development and in designs and schedules accepted and coordinated with the State Department of Transportation and the Department of Hawaiian Home Lands, provided that the extent of the Petitioner's participation shall not exceed Project IV's share of the increased community traffic impacts in the region; and provided further, that in the event the County adopts an impact fee for transportation improvements, the foregoing requirements shall not include or double-count the cost of any specific traffic improvements which may also be included in the County's impact fee computation.

4. The Petitioner shall fund and develop the necessary measures to obtain the required water for the proposed Project IV development.

5. A drainage study, acceptable to the County of Hawaii shall be provided by the Petitioner to assess both

off-site and on-site drainage impacts associated with the proposed project.

6. The Petitioner shall provide at no cost a site or sites for police, park, and fire facilities, to the satisfaction of the County of Hawaii, and shall also provide at no cost, a site for an elementary school as may be required by and to the satisfaction of the State Department of Education.

7. The Petitioner shall provide an archaeological survey acceptable to the State Historic Sites Section of the Department of Land and Natural Resources and the County of Hawaii Planning Department. This survey shall include an assessment of how the proposed drainage system will impact archaeological sites known to exist within the proposed project boundaries, and on adjacent properties as applicable. The Petitioner shall also provide professional archaeological monitoring of the project site during all grading, digging, or other earthworking phases of project development. Should any archaeological resources such as artifacts, shell, bone, or charcoal deposits, human burial, rock or coral alignments, pavings or walls be encountered during the project's development, the Petitioner shall immediately stop work and contact the State Historic Site Section and County of Hawaii Planning Department.

8. The Petitioner shall inform all prospective occupants of possible odor, noise, and dust pollution resulting

from surrounding agricultural operations, and that the Hawaii Right-To-Farm Act, Chapter 165, Hawaii Revised Statutes, limits the circumstances under which pre-existing farming activities may be deemed a nuisance.

9. The Petitioner shall provide an analysis of the commercial and office park proposals as they relate to proposed commercial and industrial uses at Kawaihae and the Department of Hawaiian Home Lands' master plan for the area. The analysis shall be submitted with any subsequent application for County land use approvals for the proposed commercial and office park uses.

10. The Petitioner shall submit an application for approval of the proposed project through the County of Hawaii's rezoning process.

11. 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 property covered by the approved petition, prior to development of the property.

12. Petitioner shall develop the property in substantial compliance with representations made to the Land Use Commission in obtaining the reclassification of the property.

13. Petitioner shall provide annual reports to the Land Use Commission, the Department of Business and Economic

Development and the County of Hawaii Planning Department in connection with the status of the project and Petitioner's progress in complying with the conditions imposed.

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

DOCKET NO. A88-620 KOHALA JOINT VENTURE

Done at Honolulu, Hawaii, this 10th day of November 1988, per motions on September 29, 1988 and October 27, 1988.

LAND USE COMMISSION
STATE OF HAWAII

By _____
LAWRENCE F. CHUN
Vice Chairman and Commissioner

By _____
FREDERICK P. WHITTEMORE
Commissioner

By _____
TORU SUZUKI
Commissioner

By _____
ROBERT S. TAMAYE
Commissioner

By _____
ALLEN K. HOE
Commissioner

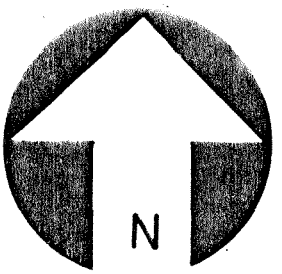
By _____
ALLEN Y. KAJIOKA
Commissioner

By _____
TEOFILO PHIL TACBIAN
Commissioner

By _____
RENTON L. K. NIP
CHAIRMAN and Commissioner

A88-620
KOHALA JOINT VENTURE

EXHIBIT "A"



SCALE: 1"=±2000'

LOCATION MAP

T.M.K. NO.: 5-9-01: POR. 10
5-9-09: POR. 54 (ROAD PARCEL)
5-9-10: 31-55, 57,58,60, POR. 56
5-9-11: 01

KAHUA AND WAIKA, NORTH KOHALA, HAWAII

APPROVED AREA

BEFORE THE LAND USE COMMISSION

OF THE STATE OF HAWAII

In the Matter of the Petition of KOHALA JOINT VENTURE To Amend the Agricultural Land Use District Boundary into the Urban Land Use District for Approximately 1,288 Acres of Land at Kahua and Waika, North Kohala, Island of Hawaii, State of Hawaii, Tax Map Key Numbers: 5-9-01:Portion of 10; 5-9-09: Portion of 54 (Road Parcel); 5-9-10:31 through 55 (inclusive), 57, 58, 60, Portion of 56; and 5-9-11:1	DOCKET NO. A88-620 KOHALA JOINT VENTURE

CERTIFICATE OF SERVICE

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

HAROLD S. MASUMOTO, Director
Office of State Planning
State Capitol, Room 410
Honolulu, Hawaii 96813

CERT. ALBERT LONO LYMAN, Planning Director
Planning Department, County of Hawaii
25 Aupuni Street
Hilo, Hawaii 96720

R. BEN TSUKAZAKI, ESQ., Attorney for Petitioner
Menezes, Tsukazaki & Yeh
100 Pauahi Street, Suite 204
Hilo, Hawaii 96720

DATED: Honolulu, Hawaii, this 10th day of November 1988.

ESTHER UEDA
Executive Officer

DOCKET NO. A88-620 - KOHALA JOINT VENTURE

A copy of the Land Use Commission's Findings of Fact, Conclusions of Law, and Decision and Order was served upon the following by regular mail on November 10, 1988.

MR. HARRY H. OTSUJI
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Honolulu, Hawaii 96813

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