

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of)
)
NORTH KONA DEVELOPMENT GROUP,)
a Hawaii limited partnership)
)
To Amend the Conservation Land)
Use District Boundary into the)
Urban Land Use District for)
Approximately 388.057 Acres, at)
Manini'owali/Kuki'o 2, North Kona,)
Island, County and State of)
Hawaii, Tax Map Key No.: 7-2-04:)
portion of 17)
_____)

DOCKET NO. A92-677

NORTH KONA DEVELOPMENT
GROUP, a Hawaii limited
partnership

LAND USE COMMISSION
STATE OF HAWAII
MAR 5 7 43 AM '93

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

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

NORTH KONA DEVELOPMENT GROUP, a Hawaii limited partnership (hereinafter "Petitioner"), filed a Petition for Land Use District Boundary Amendment (hereinafter "Petition"), pursuant to Chapter 205, Hawaii Revised Statutes, as amended (hereinafter "HRS"), and the Hawaii Land Use Commission Rules Title 15, Subtitle 3, Chapter 15, Hawaii Administrative Rules, as amended (hereinafter "Commission Rules"), to amend the Land Use District Boundary to reclassify approximately 388.057 acres of land situate at Manini'owali/Kuki'o 2, North Kona, Island, County and State of Hawaii, identified as Tax Map Key No.: 7-2-04: portion of 17, from the Conservation District to the Urban District (hereinafter "Property").

The Land Use Commission of the State of Hawaii (hereinafter "Commission"), having reviewed and examined the

testimony, evidence and argument of the parties and/or counsel for the parties presented during the hearings, the parties' Proposed Stipulated Findings of Fact, Conclusions of Law and Decision and Order, with exceptions by the County of Hawaii Planning Department and the Office of State Planning (hereinafter "OSP") filed thereto, and Petitioner's responses to the OSP's exceptions, hereby makes the following findings of fact and conclusions of law:

FINDINGS OF FACT

PROCEDURAL MATTERS

1. On May 12, 1992, Petitioner filed a Petition for Land Use District Boundary Amendment.

2. On May 20, 1992, Petitioner filed an Addendum to Petition for Land Use Boundary Amendment to submit additional background information on Petitioner and on the acceptance of the Environmental Impact Statement that was prepared for the Property.

3. On June 23, 1992, the Commission issued its Findings of Fact, Conclusions of Law and Decision and Order Accepting an Environmental Impact Statement for a State Land Use District Boundary Amendment, relative to this Petition.

4. On July 1, 1992, Petitioner filed an Amendment to Certificate of Service to insert Kua Bay Beach Estates Association of Owners, Mark Van Pernis, et al., Philip D. Gray, et al., and the Department of Land and Natural Resources of the

State of Hawaii (hereinafter "DLNR"), as additional parties onto the certificate.

5. On September 8, 1992, a prehearing conference was conducted at which time the parties exchanged exhibits and lists of witnesses.

6. The Commission held hearings on the Petition on September 24 and 25, 1992 and November 12, 1992, pursuant to notice published on August 10, 1992, in the Honolulu Advertiser, the Hawaii Tribune-Herald and the West Hawaii Today.

7. On September 24, 1992, the Commission heard public testimony in support of the Petition from the following: Mr. Peter Lindsey, on behalf of Mr. Benjamin Saguibo, Business Manager, Hawaii Labor Union Local 368 AFL-CIO; Mr. Carl Carlson, as an individual; Mr. Fred Duerr, General Manager, Kona Village Resort; Ms. Heather Cole, on behalf of Mr. Roger Harris, Vice President, PIA, Kona Limited Partnership; Mr. Al Inoue, General Manager, Huehue Ranch Associates L.P. Also testifying as a public witness was Mr. Mark Van Pernis. The Commission noted the receipt of written testimony submitted by Ms. Hanna Springer, Mr. Eugene Gregory and Mr. Michael Tomich. Mr. Keith Wallis also submitted written testimony on September 24, 1992. The Commission subsequently received written statements from Mr. Keith Wallis on September 29, 1992, Mr. Roger Harris on September 30, 1992, and Mr. Norman Piianaia on October 28, 1992.

DESCRIPTION OF THE PETITION AREA

8. The Property is located in West Hawaii in the North Kona District. The Property is makai of Queen Ka'ahumanu Highway, approximately four miles to the north of Keahole Airport. The Property is roughly rectangular in shape and is located approximately 1,000 feet mauka from the shoreline.

9. The Property is covered with lava and slopes gently from approximately 60 feet above mean sea level (hereinafter "msl") to 250 feet msl at the border of Queen Ka'ahumanu Highway, approximately 3,600 feet inland. Natural features on the Property include a small unnamed pu'u at the northern end of the Property, and vegetation consisting of kiawe thickets and fountain grass on approximately one-half of the Property.

10. The Property is currently vacant except for a portion of an unimproved dirt road extending mauka-makai from Queen Ka'ahumanu Highway leading to the Kua Bay area. This road is normally passable only by four-wheel drive vehicles.

11. The Property is owned in fee simple by Petitioner, a Hawaii limited partnership. Petitioner is affiliated with Davidson Communities, a residential developer based in San Diego, California.

12. Petitioner acquired the Property in May 1991 through a land exchange with the State of Hawaii. The Property was exchanged for adjacent coastal land to the south at Awake'e. Of primary importance to the State, in supporting the

land exchange, was the implementation of the State's proposed seven-mile shoreline park in this region. The seven-mile park will extend from Kakapa Bay at Manini'owali to the Keahole Point area. This park will contain undeveloped open space, and will include the coastal areas of Manini'owali, Awake'e, Makalawena and Mahaiula. Substantial park facilities are currently being developed at Mahaiula, which provides the largest sandy beach area in the park. Modest State park facilities are planned at Kua Bay. The State's Na Ala Hele Trail and Access Advisory Group is establishing its Ala Kahakai Demonstration Trail along this section of the coast.

13. The Property is subject to numerous conditions which were imposed during the land exchange process and incorporated into the Land Patent Award as perpetual easements and covenants. The conditions are summarized as follows: the prohibition of structures within the 400-foot wide zone running mauka of the seaward boundary of the Property; the prohibition of hotel or condominium or apartment offering timesharing on the Property; the required preservation of a portion of the designated landmark of Pu'u Kuili and the small pu'u located at the northern end of the Property; the provision of continuous public use of the existing vehicular and utility access to Kua Bay; the provision of a 60-foot wide easement from Queen Ka'ahumanu Highway to Kua Bay for vehicular access and utilities; the requirement that in the event the Property is developed as proposed, Petitioner shall develop a public

roadway from Queen Ka'ahumanu Highway to the Kua Bay area and construct public park facilities (In the event the State constructs these improvements, and the improvements satisfy any of Petitioner's public access requirements which may be imposed by the Commission and/or the County of Hawaii, Petitioner shall reimburse the State in an amount not to exceed \$2,500,000.00); the requirement that in the event Petitioner develops a water system at the Property, the State shall have the right to connect to the water system and use the water at no cost and expense to the State; and the use and enjoyment of the Property shall not be in support of any policy of discrimination based on race, creed, sex, color, national origin, or physical handicap.

14. The Property is bound on the east by the Queen Ka'ahumanu Highway. The land mauka of the highway is vacant and is owned by the State of Hawaii. To the south is the Awake'e ahupua'a that is owned by the State, and a portion of the newly acquired Awake'e land previously owned by Petitioner. This land is presently vacant but is being integrated into the State's planned regional shoreline park. To the west is a 1,000-foot strip of coastal land that is owned by the State. This coastal strip is part of the State's planned regional shoreline park. To the north are the urban-designated resort areas of Kuki'o 1, Kona Village and Kaupulehu. The adjacent land, owned by Huehue Ranch, will be developed into resort, resort residential and golf course

uses. The resort development will also extend to the Huehue land located mauka of the Queen Ka'ahumanu Highway.

PROPOSAL FOR RECLASSIFICATION

15. Petitioner has proposed to develop a residential community with recreational amenities including a golf course and tennis facility (hereinafter "Project") on the Property. Due to the physical location of the Property and the encumbrances that were imposed on the Property through the land exchange process, the golf course will be setback approximately 1,000 feet from the shoreline, and residences will be setback approximately 1,400 feet from the shoreline.

16. The Project includes approximately 900 to 1,100 residential units. It is anticipated that approximately 70 percent of the units will be single-family homes and 30 percent will be multi-family units. A range of low to medium residential densities of between four to 12 units per acre are planned, with a projected mix of 150 single-family homes, 550 attached homes, and 300 condominiums.

17. The master plan delineates preservation areas for natural and archaeological resources on the Property including a small cinder cone, sections of a historic trail, and burials.

18. Petitioner will develop infrastructure facilities to support the development including an internal circulation roadway network, a wastewater treatment and disposal system, a potable water supply and fire protection system, and a non-potable water irrigation system.

19. Petitioner will participate in providing its fair share of affordable housing in relation to the development of the proposed Project. Petitioner proposes to pay an in-lieu fee for affordable housing or construct affordable units at an off-site location.

20. The proposed golf course will utilize a design approach which integrates the play areas of the course into the natural setting. Portions of the course will be designed with a target style - in particular, those areas extending through the makai section of the Property fronting the State park area.

21. As part of its development, and in fulfillment of the conditions of its land exchange, Petitioner has proposed to develop a public access road that extends from an off-site connection at Queen Ka'ahumanu highway at the existing jeep road to Awake'e, passes within the Property around the north side of Pu'u Kuili, and curves to the north on the State portion of Manini'owali to access Kua Bay. Petitioner has also proposed to develop parking and beach park facilities for the State park area fronting the Property.

22. The preliminary order of magnitude costs for the proposed Project, including on-site construction costs for the residential units and golf course, is estimated to be \$485,900,000.

23. Construction of the first phase of residential units, off-site water source development, initial on-site infrastructure and the golf course is expected to take place

from 1994 through 1998. Additional residential construction will continue through two subsequent development phases, with build-out anticipated to take place by the year 2005.

PETITIONER'S FINANCIAL CAPABILITY
TO UNDERTAKE THE PROPOSED DEVELOPMENT

24. Petitioner's Balance Sheet, dated December 31, 1991, and the 1991 Annual Report for Coscan Development Corporation (partner in Davidson/Coscan Partners, managing partner of Petitioner), evidence that Petitioner has the experience and financial capability to undertake the proposed development.

STATE AND COUNTY PLANS AND PROGRAMS

25. The Property is currently located within the State Land Use Conservation District, as reflected on the State Land Use Official Maps, H-1 (Makalawena) and H-6 (Kiholo). Approximately 376 acres lie within the general Subzone designation, with the remaining 12 acres designated as Resource Subzone.

26. The Property is designated as Conservation/Open area on the County General Plan and the Land Use Pattern Allocation Guide (hereinafter "LUPAG") Map. Petitioner has requested amendments to the General Plan to change the General Plan Land Use section to include the Property as an urban center, and to amend the LUPAG Map to designate the Property as an Urban Expansion area. The County of Hawaii Planning Department is recommending approval of the proposed amendments.

27. The OSP's West Hawaii Regional Plan established four resort Destination Nodes in this region. One of the established nodes is adjacent to and on the Property - the Kona Village/Kaupulehu, Huehue Ranch node.

28. The County of Hawaii zoning maps currently designate the Property as Open. The entire Property is located within the Special Management Area.

NEED FOR THE PROPOSED DEVELOPMENT

29. The demand for housing units in West Hawaii is estimated to be approximately 1,439 units per year. The proposed Project will fulfill a portion of this demand by tapping into the residential, second home and retirement markets which eventually cluster around resort communities. The Project will target a broader spectrum of the market than other planned developments in this area by emphasizing larger unit sizes with a makai orientation and access to golf and tennis amenities.

30. Based on market mixes achieved at other comparable developments, and based on the characteristics of the Property and the proposed Project, the market for the homes is expected to be principally composed of older families. It is anticipated that approximately 75 percent of the households will be composed of primary residents, and 25 percent will be composed of secondary residents.

31. The proposed Project is anticipated to capture between ten to 20 percent of the resort-home and up-scale

residential home markets in West Hawaii, and is projected to be absorbed in approximately a ten-year period.

32. Based on various growth scenarios ranging from zero to five percent population and visitor growth rates, it is estimated that the County of Hawaii has a demand for 14 to 50 additional golf courses. The County's unmet demand is also indicated by observations that existing courses are operating at maximum or overcapacity and that green fees are escalating. The South Kohala, North Kona and South Kona regions are expected to account for the bulk of the residential development and visitor facility expansion through the year 2010. Growth in golf demand is expected to continue not only because of increased population growth, but also due to the increasing popularity of the sport.

33. The County of Hawaii currently has 11 golf courses with another nine under construction and an additional 26 courses in various stages of planning. Based upon Petitioner's marketing expert estimates, only half of those in the planning stage will actually be built due to problems with financing, physical constraints of site development and obtaining government permit approvals.

34. The demand for golf at the proposed Project is anticipated due to the Project's location within the high growth Kona region, the golf course's proximity to the target market of the proposed residential community whose homeowners

are likely to be high frequency golfers, and the course's location adjacent to the Kaupulehu/Kona Village/Kuki'o resort node.

ECONOMIC IMPACTS

35. Based upon Petitioner's marketing expert estimates, the proposed Project will generate approximately 120 full-time jobs by Project completion in 2006. A total of approximately 700 direct and indirect jobs are anticipated to be generated during the construction phase of the Project.

36. Upon completion of the proposed Project, net revenues to the State and County are estimated to be \$3.4 million and \$5.5 million per year, respectively. Total revenues accruing to the State during the construction phase of the Project are expected to be \$36.1 million.

SOCIAL IMPACTS

37. The proposed Project could increase the population by between 2,000 and 2,230 persons. Based upon the State estimates, the West Hawaii population could reach 79,000 persons in 2005. According to the estimated build-out schedule, the proposed Project will therefore account for three percent of the projected population of West Hawaii.

38. The proposed Project will be a compatible extension of the Kona Village/Kaupulehu/Huehue resort destination node. In addition, the Project will have a compatible relationship with the Awake'e wilderness park south

of the Property. The development of the beach park at Manini'owali will open up the area to more residents, result in permanent vehicular access for the public, clean up the area, and discontinue destruction of the terrain by four-wheel vehicles.

39. The proposed Project will add approximately 150 very low density single-family residential units, 550 low density single-family residential units, and 300 multi-family residential units to the county's housing supply. In addition, Petitioner will provide or contribute towards the development of affordable housing in this region pursuant to State and County requirements.

40. The area's current lifestyle may be characterized into four categories: agriculture/rural, retirement communities, resort workers, and executive/professionals. The proposed Project will help provide residential and affordable housing, employment and recreational opportunities for the projected population increase in the area. In addition, because the Property is buffered by State lands to the south, west and east, and adjoins the existing resort node to the north, the potential for additional urban proposals in this area is negligible. From a regional context, this Project can help reduce the pressure for urbanizing some of the better agricultural lands in South Kohala and South Kona.

IMPACTS UPON RESOURCES OF THE AREA

Agricultural Resources

41. Four soil types are found on the Property: pahoehoe lava flows (rLW), cinder land (rCL), rock land (rRO), and a'a lava flows (rLV). According to the U.S. Department of Agriculture, soils on the Property have been determined as not suitable for agricultural use. The development of the Project is not anticipated to have an impact on commercial agriculture, since none presently exists on the site, nor is it likely to ever exist given the semi-arid climatic conditions and sparse pockets of soil.

Flora

42. Botanical surveys of the Property were conducted by Char and Associates. The majority of the area surveyed was covered by fountaingrass (Pennisetum setaceum) with scattered kiawe trees. On the mauka portion of the Property, vegetation was sparse with shrubs and subshrubs including 'ilima (Sida fallax), 'uhaloa (Waltheria indica), and a'ali'i (Dodonaea viscosa) found in depressions or on the pahoehoe outcroppings among the a'a flow.

43. No endemic or rare and endangered species were found on the Property, but two candidate endangered species, the pololei fern (Ophioglossum concinnum) and the tree 'ohai (Sesbania arborea) have been collected from adjacent areas. There is little likelihood that the Project will impact any of these plant species.

Fauna

44. Field surveys for the presence of avifaunal and feral mammals in the area were conducted by Philip Bruner. The Property supports the normal array of exotic birds one would expect to find in this type of environment in Hawaii - the most abundant being the Zebra Dove (Geopelia striata), Yellow-billed Cardinal (Paroaria capitata), and Yellow-fronted Canary (Serinus mozambicus). Feral cats, goats, and the Indian mongoose (Herpestes auropunctatus) were all recorded in the survey.

45. No threatened or endangered wildlife species were found on the Property. No significant impact is expected to occur to any wildlife species within the Property.

Historical/Archaeological Resources

46. An investigation of archaeological and historical features was conducted on the Property by the Applied Research Group, Bishop Museum, from March through May 1991. A total of 25 archaeological sites, composed of 1,313 features (mostly small pits), were recorded, mapped, and their spatial relationships determined. Of these, 1,191 features are pits in the pahoehoe. Other types of features recorded include lava tube shelters, overhang shelters, C-shape structures, enclosures, modified outcrops, cairns, trails, modified crevices, cupboards, terraces, lava sinks, rock mounds, platforms, and a wall. Test excavations were conducted in six features and provided information on the nature and function of

the sites. Results from available radiocarbon dates, together with information from previous archaeological research in the area indicate that the Property was occupied between A.D. 1020-1280 and A.D. 1729-1808.

47. Sites recommended by Petitioner's archaeologist for in-situ preservation include - portions of Site 5337, segments of a mauka-makai trail; Site 5338, feature 402, a burial; selected features of Site 5338, including pits and temporary habitation features; Site 5339, feature 146, a burial; Site 5348, features 1-3, a lava tube system containing burials; Site 5352, feature 2, a burial; and pending outcome of further testing, Site 5355, features 1 and 2 if found to be shrines. Data recovery is recommended for the remaining 19 sites. A detailed cultural resource management plan will be submitted and will include preservation and data recovery plans.

48. Petitioner's archaeologists are recommending that the major mauka-makai trail be preserved intact from the makai State parcel up to the proposed park on Petitioner's land use plan near the small pu'u. The remainder of the trail is not recommended for preservation. Portions of this trail actually disappear in places and an alternate and more clearly demarcated pedestrian access could be provided to connect up with the intact segment of the trail which would be preserved.

49. In the opinion of Petitioner's archaeologist, the best beneficial application of historic preservation for the existing trail will be to maintain an intact segment from

the coastal area to the small park that is proposed on the Property. There a representative sample of the intermediate zone type sites and features, geological formations and the trail can be preserved and presented in a fairly pristine context.

Recreational and Scenic Resources

50. The most prominent natural feature along the highway near the Property is the Pu'u Kuili cinder cone at Awake'e which rises to 342 feet above msl. Generally, the view from the highway approaching the Property from the south is obstructed by the rise in the topography and Pu'u Kuili. From the highway approaching from the north, one can directly overlook the northeastern quadrant of the Property, and experience a distant view of the makai portion of the Property. Views from locations makai of the Property are presently of the barren lava and small cinder cone at the northern end of the Property. From Manini'owali Beach at Kua Bay, the Property is not visible due to a ridge which begins at the makai Property boundary.

51. Replacing the barren lava landscape in many areas will be a low to medium density residential development planned around a golf course and preservation areas. Due to topographic conditions, few structures will be visible from most locations on the State lands makai of the Property. The golf course will integrate natural lava and landscaped areas.

Petitioner will incorporate landscaping that will serve to shield or buffer off-site views of the completed Project.

52. Based upon Petitioner's preliminary view study of views from areas makai of the Property, existing land forms and vegetation will limit the views of structures at the new community to only the upper portions of some structures through small sectors of the mauka view panorama. From the beach, virtually no structures will be noticeable. Major factors which eliminate potential visual impacts are the prevailing low angle line-of-sight and the fact that the closest residential structure will be at a distance of approximately 1,500 feet, which is the equivalent of five football field lengths.

53. The proposed Project will create new recreational and park facilities. On-site facilities include an 18-hole golf course, golf driving range, tennis center, and park. The golf course will be available at specified days and times for public play at daily-fee rates, including kama'aina rates for Hawaii residents, and will help to reduce the existing shortage of golf facilities.

54. Ocean and beach recreation users will benefit from Petitioner's Project or contribution to the development of the new shoreline park on the State's coastal lands that are located makai of the Property. An improved public access road to Manini'owali Beach, along with restroom facilities and other amenities, will be made available to the public.

ENVIRONMENTAL QUALITY

Noise

55. A noise study for the proposed Project was conducted by Darby & Associates. Potential noise generators including construction activities, Project generated traffic, golf course maintenance equipment operations, clubhouse and tennis center activities, and stationary equipment operation were evaluated. Potential impacts from off-site developments were also considered.

56. Existing noise sources affecting the Property include the highway and jet aircraft approaching Keahole airport. The Property is outside the noise constraint zone established around the airport.

57. An increase in noise levels will be caused by construction activities over a short-term period. Over the long-term, noise generated by the activities associated with the Project will include vehicles and maintenance equipment. Long-term activities at the Property will not generate adverse noise levels at the neighboring park and residential areas.

Air Quality

58. A study of existing air quality and projected air quality impacts associated with the proposed Project was conducted by Barry D. Neal. In the short-term, construction equipment will generate typical fuel combustion emissions as well as some dust. In the long-term operation of the Project, vehicle emissions from resident traffic to and from the Project

will be generated. Long-term vehicle emissions could be responsible for slight increases in carbon monoxide levels at the Project entrance during peak traffic period. Carbon monoxide levels are anticipated to be well-within established limits set by the State Department of Health.

59. Proper construction equipment maintenance and construction site watering will minimize construction period effects on air quality. Long-term air emissions from vehicle traffic will be minimized by the proper design of the Project entrance connection with the highway. Queen Ka'ahumanu Highway is planned to eventually be upgraded to a limited access roadway thereby further reducing air quality effects of vehicles associated with the Project.

Groundwater and Ocean Water Resources

60. Oceanit Laboratories, Inc. conducted studies of potential impacts from the proposed Project on groundwater and marine resources in the area. Potential impacts from the Project could result from increased nitrogen levels, increased chloride levels, or the introduction of pesticides through the golf course uses on the Property.

61. Even under worst case scenarios, increased nitrate levels due to the proposed Project are anticipated to fall below the health advisory limits for drinking water. Since Petitioner will utilize mixed treated wastewater for irrigation purposes, there will be an estimated five percent

increase in chlorides in the groundwater. Since the water beneath the Property is nonpotable water, anticipated increases in nitrate and chloride levels are negligible and are not anticipated to negatively impact groundwater resources.

62. Impacts from pesticides will depend upon the soil type, thickness, organic content, as well as application rates and conditions. Under typical conditions with two percent organic topsoil of 18-inch thickness, the leachate that will enter the aquifer will contain such low levels of pesticides that it will be within the health advisory limits for drinking water.

63. The proposed Project will be subject to mitigation measures contained in the Department of Health's 12-point program for new golf courses, which will monitor pesticide impacts from the proposed Project. An Integrated Pest Management (hereinafter "IPM") program will be instituted to minimize the frequency and amounts of pesticides being applied at the golf course. In addition, the following mitigative measures will be implemented: a computerized irrigation system will be used to measure evaporation and properly schedule irrigation applications, slow-release nitrogen fertilizers will be applied, waste bunkers and swales will be utilized to capture much of the storm water runoff, a well-qualified Certified Golf Course Superintendent will manage the golf course, and Pest Management Practices will be

implemented. Groundwater monitoring will also be implemented as a precautionary measure, and periodic monitoring and testing of the pond waters and nearshore ocean waters will be conducted.

64. The predicted maximum nitrogen concentration from the proposed Project is within the range of natural groundwater conditions. With the proper soil thickness and organic content, and the proposed IPM and monitoring programs, it is not anticipated that the proposed Project will negatively impact the marine environment.

ADEQUACY OF PUBLIC SERVICES AND FACILITIES

Highway and Roadway Facilities

65. A traffic impact study was prepared by the Traffic Management Consultant. Queen Ka'ahumanu Highway currently operates at Level of Service (hereinafter "LOS") D. The AM peak hour occurs between 6:30 a.m. and 7:30 a.m. The PM peak hour occurs between 3:15 p.m. and 4:15 p.m. By the year 2006, traffic on Queen Ka'ahumanu Highway is expected to increase by more than 80 percent over existing conditions and is anticipated to operate at LOS E during peak hours.

66. The proposed Project will generate 525 vehicles per hour (hereinafter "vph") during the AM peak hour, and 724 vph during the PM peak hour. At Project build-out, the Queen Ka'ahumanu Highway will continue to operate at LOS E during peak hours. As mitigating measures, Petitioner's traffic consultant recommended the following: constructing an exclusive

left turn lane on the north bound highway at the Project access road, constructing right turn deceleration and acceleration lanes on the south bound highway at the Project access road, installing traffic signals on the highway at the Project access road when they become warranted. The intersection of the highway and the Project access road, under signalized conditions, will operate at under capacity conditions during the AM peak hour and near capacity conditions during the PM peak hour. Petitioner intends to follow these recommendations.

67. The State Department of Transportation (hereinafter "DOT") is in the process of developing a master plan for Queen Ka'ahumanu Highway. The master plan will widen the existing highway from Kailua to Kawaihae to a four-lane divided freeway, and will contain grade separated interchanges at major intersections and a frontage road system. The highway improvement is likely to occur in phases. The first increment, between Kailua-Kona and the Keahole Airport, is scheduled for completion in 1997. It is anticipated that the proposed Project will be combined with the neighboring development accesses at an interchange to be located in the vicinity of these developments.

68. The four-lane widening that is being planned for Queen Ka'ahumanu Highway will accommodate traffic generated by this Project at its buildout. With the widening, the highway will operate at a LOS A during both peak hours of traffic.

Water Service

69. The proposed Project will be serviced by a dual water system consisting of potable water for human consumption and non-potable water for irrigation. Existing water systems in the vicinity of the Property include the Kona Village and Huehue Ranch improvements. Additional water systems have been proposed in the vicinity.

70. The Kiholo aquifer system which will service the proposed Project has an estimated sustainable capacity of 14 million gallons per day (hereinafter "mgd"). Existing pumpage from the aquifer amounts to 150,000 gallons per day (hereinafter "gpd") for Kona Village. Presently approved developments amount to 5.45 mgd or approximately 39 percent of the estimated sustainable capacity.

71. The proposed Project has a calculated average daily demand of .43 mgd of potable water, and 0.95 mgd of non-potable water for irrigation.

72. Petitioner will utilize the reverse osmosis desalinization process to produce potable water. To create the needed water, approximately two times the amount, or 861,200 gpd of brackish water is required. The by-product water from this process, which will amount to approximately 430,000 gpd, will then be used in irrigation after being blended with less saline water. Approximately 291,200 gpd of treated effluent will also be blended with non-potable brackish well water for

irrigation. Combined together, treated wastewater and by-product water will provide 721,200 gpd for irrigation use.

73. Petitioner's water consultant recommended that a series of wells be developed on the State land mauka of Queen Ka'ahumanu Highway at approximately the 600-foot elevation to draw brackish water for subsequent irrigation use or desalinization. Water pumped from makai lands in the vicinity of the Property could be used directly for irrigation, or blended with treated effluent, depending upon the chloride levels. The chloride level is anticipated to be approximately 1,000 mg/l at the recommended 600-foot elevation. These chloride levels may be low enough to be used directly for irrigation. The chloride level of brackish water from wells on the Property will be expected to be approximately 1,500 to 2,500 mg/l, and will need to be treated to be used for irrigation purposes. Petitioner intends to follow this recommendation.

74. A 1 mgd desalinization facility is proposed for this Project. The size of this facility is relatively small and it is anticipated that given the available technology, cost competitive water can be provided.

Wastewater

75. The proposed Project is estimated to generate approximately 290,000 gallons per capital day of wastewater. The Property is not within reasonable range of an existing

public sewer system. Petitioner therefore will treat and dispose of wastewater generated on the Property through private on-site facilities.

76. An on-site wastewater treatment plant is planned for a site near the Property's northeastern corner. Gravity sewers and force mains will be used to convey the wastewater to the treatment plant. Advanced secondary treatment is proposed for this facility, to allow for use of effluent for irrigation purposes.

Drainage System

77. The geologic formation on the Property is generally composed of highly permeable rocks of the Hualalai volcanic series. This condition, coupled with the low rainfall amounts and intensities in this area, result in virtually no surface water runoff from this Property.

78. The development of paved areas and roofs on the Property will increase surface water runoff. It is estimated that during the worst conditions at full development, stormwater runoff will increase five times - from 13.8 acre-feet to 67.2 acre-feet.

79. The proposed Project will direct stormwater flows to the golf course, open spaces and eventually to drywells for percolation. In areas to be developed, new drainage patterns will direct stormwater runoff through grass swales and detention basins, and eventually to the many drywells that will

be located throughout low spots on the Property. These improvements will maintain nearshore water quality by preventing stormwater runoff from reaching the shoreline.

Solid Waste Disposal

80. The proposed Project will generate approximately seven tons of solid waste per day. Refuse will be hauled away by a private contractor to a County landfill.

81. When the County's landfill at Kealakehe reaches capacity, a new landfill site proposed at Pu'uanahulu is scheduled for opening in 1993. The new site is expected to serve the needs of the area for many years.

Schools

82. The North Kona District is served by three public schools and two private schools. The major public school for the region is Konawaena, located in the Captain Cook area. Two new schools are planned for the area.

83. Based upon the State Department of Education estimates, approximately 135 students will be added to the local schools as a result of the proposed Project. The proposed Project is anticipated to generate less students due to the anticipated age of residents residing within the Project.

Police and Fire Protection

84. Police protection is provided by the Hawaii County Police Department in Kealakehe, approximately seven miles south of the Property. The proposed Project will be

served by a private security force, eliminating the need for expanded patrols of County police.

85. The Hawaii County Fire Department will provide fire protection services to the Project out of the Kailua-Kona station, with an approximate response time of 15 minutes.

Electricity and Telephone Services

86. Existing electrical service in the surrounding area is provided by Hawaii Electric Light Company (hereinafter "HELCO") via a 69-KV overhead transmission line located approximately 3,000 feet mauka of the Queen Ka'ahumanu Highway. HELCO is currently planning to install a new switching station within the area of the proposed Project. In recent years there have been periodic brownouts and blackouts on the Island of Hawaii. To prevent further rolling blackouts of distribution currents, HELCO plans to install a 20.8 megawatt combustion turbine in Puna in 1992 and another 20.8 megawatt combustion turbine in West Hawaii in 1994.

87. The peak demand for the proposed Project is approximately 4.215 megawatts. The Project is not expected to adversely affect the regional or island-wide power supply due to the timing of the Project implementation with the HELCO's development of additional power generating facilities.

Health Care Services

88. The Kona Hospital, with 61 licensed beds, is nearest to the Property. In long-range plans, major changes for the hospital system of the northern and western portions of

the Island of Hawaii are anticipated. The West Hawaii Regional Health Center will be near the Property in the Keahole area. This center will contain 120 beds, of which 90 will be for acute care and 30 will be swing beds.

CONFORMANCE TO URBAN DISTRICT STANDARDS

89. The Property meets the standards applicable for determining the boundaries for the Urban district as set forth in Chapter 205-17, HRS, as amended and Section 15-15-18 of the Commission Rules.

90. The Property is adjacent to the existing Kaupulehu/Kona Village/Kuki'o resort node. These adjacent developments are in various stages of development and/or operation and are anticipated to be significant employment centers.

91. Petitioner has explained the economic feasibility of the proposed Project through the financial information submitted (Pet. Ex. 4; Pet. Ex. 5), and the market projections contained in the market study.

92. The Property is either in proximity to, or will be providing as part of its development, basic services such as sewers, transportation systems, water, sanitation, schools, parks and police and fire protection.

93. The Property is unique due to the development constraints that were imposed during the land exchange process. The proposed Project is tailored to meet those constraints and

provides for a development that is intended as primary residences for a majority of its homeowners.

94. The Property is suitable for the proposed uses and is reasonably free from adverse natural hazards and other adverse environmental affects.

95. The Property is contiguous with the urban lands of the adjacent Kuki'o Beach Resort. The Property is adjacent to the existing Kaupulehu/Kona Village/Kuki'o resort node.

96. The Property does not contain any habitat for rare or endangered flora or fauna.

97. Archaeological resources have been inventoried on the Property and significant sites will be data recovered or preserved in accordance with the DLNR and the County of Hawaii. All burials on the Property will be preserved.

98. There are no agricultural uses related to the Property. As part of its proposed Project, Petitioner will participate in the planning and construction of the portion of the State's shoreline park that fronts the Property. The development of the proposed Project and this park will open new shoreline and beach areas to both residents and visitors.

99. No significant State or County expenditures are anticipated for infrastructure development, facilities or services. It is estimated that State and County revenues generated by the Project will amount to approximately 3.5 times the operating expenditures incurred by the State and County, after full development.

100. The proposed Project is expected to generate approximately 295 direct construction jobs annually during the construction period. At build-out, the Project is expected to generate approximately 120 full-time equivalent direct operational jobs. It is estimated that an additional 60 jobs will be created indirectly as a result of the Project. At full development, it is estimated that the State and County will derive net revenues of approximately \$3.4 million and \$5.5 million, respectively, from the proposed Project.

101. Petitioner is committed to providing or contributing towards the development of affordable housing in this region in conjunction with the development of the proposed Project.

102. Petitioner is committed to following through with improvements and mitigative measures that are related to the Project. Many of these commitments are already contained in the document that conveyed the Property to Petitioner, and are obligations that run with the land.

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

103. The urban designation of the Property is in conformance with the Hawaii State Plan and the overall theme, goals, objectives and priority guidelines for the future long-range development of the State. The Project supports and is consistent with several of the State Plan objectives and policies.

104. In conformance with Section 226-5, Policies (b) (1), and (b) (2), the increased demand for labor caused by development of the Project will indirectly contribute to local population growth as State of Hawaii residents living outside of the County migrate to take advantage of increased employment opportunities. The mix of residential and golf course land uses in the Property will contribute long-term employment opportunities, government revenue generation, additional recreational resources, an increased housing stock, and moderate population growth in the area.

105. In conformance with Section 226-6, Policies (a) (1) and (a) (2), the proposed Project is expected to generate approximately 295 full-time operational jobs upon completion. The jobs expected to be generated from the construction and operation of the development should help to create new jobs in West Hawaii. The projected average annual personal income from direct employment is estimated at \$2.9 million between 1994 and 2006. The income generated from the proposed Project should raise the standard of living for some West Hawaii residents, as well as contribute to business revenues in the area.

106. In conformance with Section 226-11, Policies (a) (1), (a) (2), (b) (1), (b) (3), (b) (4), (b) (6), (b) (8) and (b) (9), the Property is characteristic of other North Kona/South Kohala land situated inland from the coastline. The Project has been designed with consideration of the natural features on the Property and, where possible, their

preservation. The compatible mixture of uses and activities will provide ample opportunity for the residents and public to enjoy and learn of the natural resources of the Property.

107. In conformance with Section 226-12, Policies (a), (b) (1), (b) (2), (b) (3), (b) (4) and (b) (5), Petitioner is working with the DLNR, Historic Preservation Division, concerning the treatment of 25 archaeological sites on the Property. Scenic views and open space will be maintained and enhanced. The developed aspects of the proposed residential community will be designed to complement the aesthetics of the West Hawaii region.

108. In conformance with Section 226-14, Policy (b) (1), Section 226-15, Policy (b) (1), Section 226-16, Policies (b) (1), (b) (3) and (b) (6), Petitioner has proposed a private wastewater treatment system for the Project which will adequately treat the wastewater generated by the Project without reliance upon existing County facilities. The system will generate treated wastewater effluent which will be diluted and reused as irrigation water for the golf course. The potable and non-potable water needs of the Project are within the available capacities of the aquifer.

109. In conformance with Section 226-17, Policy (b) (1), the proposed Project will connect into the improved transportation network of the State as it develops. Petitioner's proposed Project is planned to be connected to

Queen Ka'ahumanu Highway via an interchange and frontage road system in the vicinity of the Property. Petitioner will participate and coordinate with the other developers of the adjacent resort node for the development of the planned highway interchange.

110. In conformance with Section 226-18, Policies (a)(1), (a)(2), (c)(1) and (c)(3), Petitioner's proposed Project will be designed to use efficient light sources, daylighting design, energy efficient pumps, and will schedule use of industrial loads during off-peak hours whenever possible to conserve energy. The use of solar energy for several components of the Project are also being considered.

111. In conformance with Section 226-19, Policies (a)(1), (a)(2), (b)(1), (b)(3) and (b)(5), the proposed Project will increase the County of Hawaii's housing supply. Petitioner will also develop or participate in the development of affordable housing off-site.

112. In conformance with Section 226-23, Policies (a), (b)(2), (b)(4) and (b)(5), Petitioner's proposed Project will include a golf course, driving range, clubhouse and other community facilities on the site. Recreational facilities are anticipated to include a practice putting green, a swimming pool, tennis courts, and landscaped gardens.

113. In conformance with Section 226-103, Priority Guideline (e)(2), Petitioner will develop a dual water system

for its potable and non-potable water requirements. Brackish water wells are planned to be developed, as well as a desalination plant for the production of potable water. Non-potable water will be drawn from these wells for irrigation of the golf course and other landscaping purposes.

114. In conformance with Section 226-104, Priority Guidelines (a)(1), (a)(2) and (a)(3), Petitioner's proposed Project is appropriately timed to parallel future employment needs in the region. Adequate support services and facilities already exist or can be reasonably provided.

115. In conformance with Section 226-104, Priority Guidelines (b)(1), (b)(2), (b)(9), (b)(10), (b)(12) and (b)(13), Petitioner's proposed Project will encourage decentralizing growth from Oahu to appropriate areas on the Neighbor Islands. The Property has no agricultural value, is contiguous to existing urban land, contains no critical environmental resources and is not located on the shoreline. Petitioner's proposed planned development of brackish water wells, desalinization plant and dual potable and non-potable water distribution system, in addition to water conservation measures, will contribute towards the regional goals of water conservation.

116. In conformance with Section 226-104, Priority Guideline (b)(6), Petitioner will build necessary infrastructure, such as highway channelization and left-turn

lanes, on-site roadways, potable and irrigation water supply systems, wastewater treatment and disposal system and drainage and erosion control systems.

117. The proposed Project complies with and supports several of the objectives, policies and actions of the State Tourism Functional Plan.

118. In conformance with Objective II.A., the proposed Project will be compatible with the neighboring resort developments in the Kaupulehu/Kona Village/Kuki'o Resort Node. The proposed golf course will provide an additional recreational alternative for the neighboring resorts, while the residential units will provide housing opportunities.

119. In conformance with Policy II.A.7., Action II.A.7.c., Action II.A.7.h. and Policy III.A.1., Petitioner will contribute towards the development of the State park at Kua Bay in conjunction with the Division of State Parks. The DLNR's coastal demonstration trail, Ala Kahakai, will be linked to a trail segment leading to the small pu'u on the Property.

120. The proposed Project complies with and supports several of the policies and implementing actions of the State Housing Functional Plan.

121. In conformance with Policies A(2), (A)(2)(c) and (A)(3), Petitioner's proposed Project will provide approximately 900 to 1,100 single-family detached and condominium type housing units. Petitioner will build market

homes on the Property and will also develop or participate in the development of affordable housing off-site.

122. The proposed Project complies with and supports several of the policies and implementing actions of the State Transportation Functional Plan.

123. In compliance with Policy I.A.2, Implementing Action I.A.2.a., Policy II.A.2., Implementing Action II.A.2.a., and Policy III.A.2., Petitioner will develop an interim channelized intersection at Queen Ka'ahumanu Highway at its Project access until the DOT and the County of Hawaii Department of Public Works determine the location of the proposed grade separated interchange and the timing of the proposed widening of Queen Ka'ahumanu Highway. Petitioner will fund and construct the improvements.

124. The proposed Project complies with and supports several of the policies and implementing actions of the State Conservation Lands Functional Plan.

125. In conformance with Policy IIC(2), Implementing Action IIC(2)a, Implementing Action IIC(2)e, Policy IID(1), Policy IID(3), Implementing Action IID(3)a and Implementing Action IID(3)b, through the land exchange with Petitioner, the State acquired the Awakee property and furthered its goal of developing a shoreline wilderness park along the North Kona coast, from Keahole Point to Kua Bay. An ancient shoreline trail is also included within this shoreline park area owned by the State.

126. The proposed Project complies with and supports the policies, implementing actions and objectives of the State Recreation Functional plan.

127. In conformance with Policy I-A(1), Implement Action I-A(1)a and Policy II-A(3), Petitioner will participate in the development of public facilities at Kua Bay in conjunction with State Parks Division in addition to developing the proposed Project.

128. In conformance with Objective II-B, Policy II-B(1) and Implementing Action II-B(1)a, Petitioner sponsored a Coastline/Nearshore Recreation Workshop to assist the DLNR in its planning for the beach park at Manini'owali. Participants representing Kona and South Kohala community groups including citizens with physical disabilities, environmental organizations, recreation professionals and government agencies shared ideas and information regarding planning considerations for the shoreline from Kikaua Point to Mahai'ula, with an emphasis on Manini'owali Beach at Kua Bay.

CONFORMANCE WITH COASTAL ZONE MANAGEMENT OBJECTIVES AND POLICIES

129. The proposed Project complies with and supports several of the following objectives of the Hawaii Coastal Zone Management Program.

130. In compliance with historic resources objectives, a comprehensive archaeological inventory survey has been done for the Property. Recommendations for data recovery,

preservation, and interpretive development will be reviewed by the State Historic Preservation Office. Appropriate actions will be taken to preserve significant resources.

131. In compliance with scenic and open space resource objectives, the Property includes undisturbed open spaces around the periphery of golf fairways, along the highway setback, and at the cinder cone; an 18-hole golf course; a driving range; tennis center; and a park.

132. In compliance with coastal ecosystems objectives, the Property is located over 1,000 feet from the shoreline. Storm water runoff will be controlled on the Property through the use of drywells and golf course turf areas. There will be negligible off-site runoff generated by the Project due to the extreme porosity of the soil. The groundwater seepage at the shoreline will have little potential for creating adverse water quality effects on the ocean. Mitigative measures include the incorporation of an IPM Plan and the utilization of slow-release nitrogen fertilizers to minimize potential impacts.

133. In compliance with coastal hazard objectives, the Property is located over 1,000 feet from the shoreline and is outside of the 100-year and 500-year flood hazard areas as defined by the Federal Emergency Management Agency, Flood Insurance Rate Map. Stream flooding of residential areas will not occur on the Property, nor will the Property be affected by storm waves or tsunamis.

INCREMENTAL DISTRICTING

134. It is anticipated that the proposed Project will not be substantially completed within five years after the date of final county zoning approval. Petitioner's request to reclassify the entire Property to the Urban district is appropriate at this time as major commitments regarding financing and construction of on and off-site infrastructure for the entire development will be required during the initial five year period.

RULING ON PROPOSED FINDINGS OF FACT

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

Any conclusion of law herein improperly designated as a findings of fact should be deemed or construed as a conclusion of law, any findings of fact herein improperly designated as a conclusion of law should be deemed or construed as a finding of fact.

CONCLUSIONS OF LAW

Pursuant to Chapter 205 of the Hawaii Revised Statutes, as amended, and the Hawaii Land Use Commission Rules, the Commission finds upon a preponderance of the evidence that the reclassification of the Property consisting of approximately 388.057 acres from the Conservation Land Use

District into the Urban Land Use District at Manini'owali/Kuki'o 2, North Kona, Island, County and State of Hawaii, subject to the conditions stated in the Order, for a residential community, including a golf course and tennis facility conforms to the standards for establishing the Urban Boundaries, is reasonable, non-violative of Section 205-2, Hawaii Revised Statutes, as amended, and is consistent with the Hawaii State Plan as set forth in Chapter 226, Hawaii Revised Statutes, as amended, and conforms to the Hawaii Land Use Commission Rules.

ORDER

IT IS HEREBY ORDERED that the Property, being subject of this Docket No. A92-677 by Petitioner NORTH KONA DEVELOPMENT GROUP, a Hawaii limited partnership, consisting of approximately 388.057 acres, situate at Manini'owali/Kuki'o 2, North Kona, Island, County and State of Hawaii, and identified as Tax Map Key No.: 7-2-04: portion of 17, 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 is hereby approved, and the State Land Use District Boundaries are amended accordingly, subject to the following conditions:

1. Petitioner shall provide affordable housing opportunities for low-low/moderate and gap group residents of the State of Hawaii to the satisfaction of the State Housing Finance and Development Corporation in accordance with the

Affordable Housing Guidelines, adopted by the Housing Finance and Development Corporation, effective July 1, 1992, as periodically amended. The location and distribution of the affordable housing or other provisions for affordable housing shall be under such terms as may be mutually agreeable among Petitioner, the State Housing Finance and Development Corporation and the County of Hawaii.

2. Petitioner shall immediately stop work on the impacted area and contact the Historic Preservation Division, State Department of Land and Natural Resources, should any archaeological resources such as artifacts, shell, bones or charcoal deposits, human burials, or rock or coral alignments, paving or walls of historic or prehistoric significance be encountered during the development of the Property.

3. Petitioner shall preserve at least 5 historic sites (all or a portion of the mauka-makai trail as determined by the Department of Land and Natural Resources and 4 burial sites), and archaeologically data recover the remaining sites, provided that if any remaining site is established as a shrine, its disposition shall be determined by the State Department of Land and Natural Resources. A detailed preservation plan (scope of work) and archaeological data recovery plan (scope of work) shall be approved by the State Department of Land and Natural Resources prior to the work. The detailed preservation plan shall include acceptable buffer zones around the sites,

interim protection measures during construction, and long-term management measures (e.g., public access, trails, interpretative sign design and text, maintenance). The buffer zones and interim protection measures shall be approved and implemented prior to construction. The archaeological data recovery plan shall be executed prior to construction. The State Department of Land and Natural Resources shall verify in writing the successful execution of both plans.

4. Petitioner shall fund, design, and construct the necessary roadway improvements to the satisfaction of the State Department of Transportation and the County of Hawaii.

a. Petitioner shall submit construction plans for work within the State highway right-of-way for review and approval by the State Department of Transportation.

b. Petitioner shall participate in the funding and construction of off-site transportation improvements necessitated by the proposed development of the Property.

c. In the event that the County of Hawaii adopts an impact fee ordinance for transportation improvements, the requirements set forth in condition 4 herein, shall be satisfied to the extent that the cost of any specific traffic improvement is also included in the County's impact fee computation.

5. Petitioner shall provide its fair share for school facilities necessitated by the proposed development, as required by the State Department of Education.

6. Petitioner shall implement effective soil erosion and dust control measures both during and after construction to the satisfaction of the State Department of Health.

7. Petitioner shall fund and construct adequate civil defense measures as determined by the State and County of Hawaii civil defense agencies.

8. Petitioner shall make available adequate golf tee times at affordable rates for public play to State of Hawaii residents.

9. Petitioner shall fund and construct adequate wastewater transmission and disposal facilities, as determined by the State Department of Health and the County of Hawaii Department of Public Works.

10. Petitioner shall comply with the "Twelve (12) Conditions Applicable to All New Golf Course Developments", prepared by the State Department of Health dated January 1992 (Version 4), as amended.

11. Petitioner shall engage the services of a qualified golf course superintendent to oversee the irrigation of the golf course and application of fertilizers, pesticides and herbicides to the golf course within the Property and who shall be qualified in the application of fertilizers, pesticides and herbicides on those areas.

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

13. Petitioner shall cooperate with the State Department of Health and the County of Hawaii Department of Public Works to conform to the program goals and objectives of the Integrated Solid Waste Management Act, Chapter 342G, Hawaii Revised Statutes.

14. Petitioner shall monitor coastal water quality, and develop and implement a program to identify major areas of groundwater introduction into the marine environment, in consultation with the State Department of Health.

15. Petitioner shall fund the development of the necessary water source, storage, and transmission facilities to provide an adequate supply of potable water to the Property.

16. Petitioner shall fund the design and construction of drainage improvements required as a result of the development of the Property to the satisfaction of the County of Hawaii Department of Public Works and the State Department of Land and Natural Resources.

17. Petitioner shall develop the Property in substantial compliance with the representations made to the Commission. Failure to so develop the Property may result in reversion of the Property to its former classification, or change to a more appropriate classification.

18. 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 visible commencement of construction on the Property.

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

Adequate assurance of satisfaction may be evidenced by execution of a certificate of satisfaction in recordable form stating that such condition has been satisfied, in whole or in part. The Office of State Planning will certify for itself and all state departments and agencies, and the County of Hawaii Planning Department will certify for itself and all county departments and agencies. Any other party to the boundary amendment proceeding may be asked to indicate whether they concur in the certification of satisfaction.

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

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


Property, and (b) shall file a copy of such recorded statement with the Commission.

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

DOCKET NO. A92-677 - NORTH KONA DEVELOPMENT, a Hawaii limited partnership

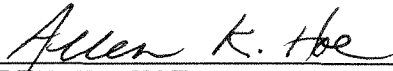
Done at Honolulu, Hawaii, this 5th day of March 1993, per motion on February 25, 1993.

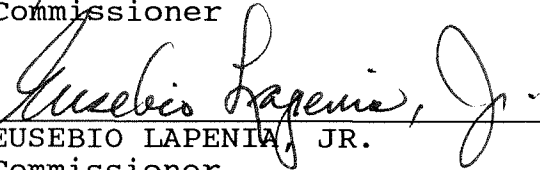
LAND USE COMMISSION
STATE OF HAWAII

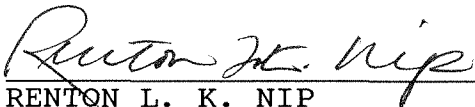
By 
ALLEN Y. KAJIOKA
Chairman and Commissioner

By (absent)
KAREN S. AHN
Vice Chairman and Commissioner

By (absent)
JOANN N. MATTSON
Vice Chairman and Commissioner


By 
ALLEN K. HOE
Commissioner

By 
EUSEBIO LAPENIA, JR.
Commissioner

By 
RENTON L. K. NIP
Commissioner


By (absent)
TRUDY K. SENDA
Commissioner

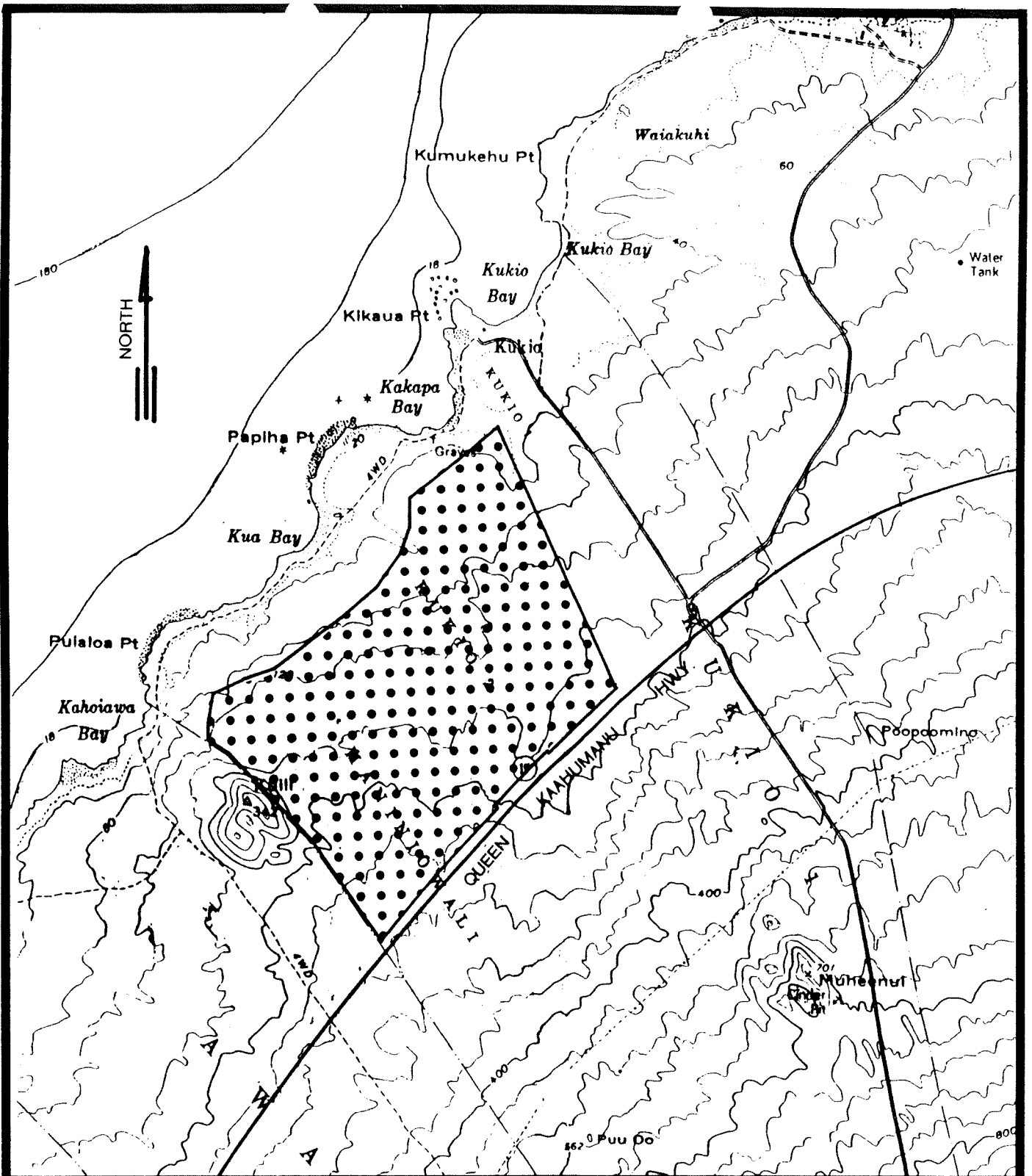
Filed and effective on
March 5, 1993

By 
ELTON WADA
Commissioner

Certified by:


Executive Officer

By 
DELMOND J. H. WON
Commissioner



DOCKET NO.: A92 - 677 NORTH KONA DEVELOPMENT
 GROUP, a Hawaii Limited Partnership
LOCATION MAP

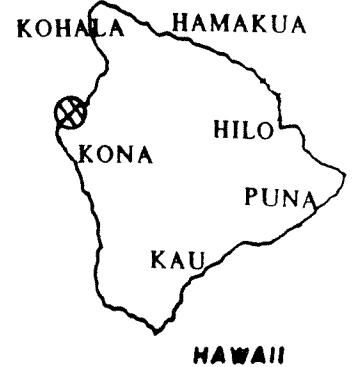
TAX MAP KEY: 7 - 2 - 04: por. 17

MANINI' OWALI - KUKI' O 2ND, NORTH KONA, HAWAII

SCALE: 1" = 2,000 ft. ±



APPROVED AREA



BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of) DOCKET NO. A92-677
)
NORTH KONA DEVELOPMENT GROUP,) NORTH KONA DEVELOPMENT
a Hawaii limited partnership) GROUP, a Hawaii limited
) partnership
)
To Amend the Conservation Land)
Use District Boundary into the)
Urban Land Use District for)
Approximately 388.057 Acres, at)
Manini'owali/Kuki'o 2, North Kona,)
Island, County and State of)
Hawaii, Tax Map Key No.: 7-2-04:)
portion of 17)
_____)

CERTIFICATE OF SERVICE

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


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

CERT. VIRGINIA GOLDSTEIN, Planning Director
Planning Department, County of Hawaii
25 Aupuni Street
Hilo, Hawaii 96720

CERT. JAN N. SULLIVAN, ESQ., Attorney for Petitioner
Takeyama & Sullivan
Suite 1411, Century Square
1188 Bishop Street
Honolulu, Hawaii 96813

CERT. NORTH KONA DEVELOPMENT GROUP
Attention: Michael Hands
2877 Kalakaua Avenue, Suite G.F.1
Honolulu, Hawaii 96815

DATED: Honolulu, Hawaii, this 5th day of March 1993.



ESTHER UEDA
Executive Officer