

BEFORE THE LAND USE COMMISSION  
OF THE STATE OF HAWAI'I

In the Matter of the Petition of )	DOCKET NO. A92-683
HALEKUA DEVELOPMENT CORPORATION, )	
a Hawai'i corporation )	AMENDED FINDINGS OF
)	FACT, CONCLUSIONS OF
To Amend the Agricultural Land Use )	LAW, AND DECISION AND
District Boundary into the Urban )	ORDER
Land Use District for Approximately )	
503.886 Acres of Land at Waikele )	
and Ho'ae'ae, 'Ewa, O'ahu, City and )	
County of Honolulu, Hawai'i, Tax )	
Map Key No. 9-4-02: 1, portion of )	
52, 70, and 71 )	

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

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STATE OF HAWAII  
OCT 1 8 38 AM '96

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AMENDED FINDINGS OF FACT,  
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Halekua Development Corporation, a Hawai'i corporation ("Petitioner"), filed a Petition for Land Use District Boundary Amendment on August 14, 1992, pursuant to chapter 205, Hawai'i Revised Statutes ("HRS"), and chapter 15-15, Hawai'i Administrative Rules ("HAR"), to amend the State land use district boundary by reclassifying approximately 504.865 acres of land situated at Waikele and Ho'ae'ae, 'Ewa, O'ahu, City and County of Honolulu, Hawai'i, identified as Tax Map Key No. 9-4-02: portion of 1 and portion of 52 ("Property" or "Petition Area"), from the State Land Use Agricultural District to the State Land Use Urban District.

The Land Use Commission of the State of Hawai'i ("Commission"), having reviewed and examined the testimony, evidence, and argument of the parties presented during the hearings; the Stipulated Proposed Findings of Fact, Conclusions

244. In compliance with economic uses objectives, the Project, especially the industrial area, will stimulate the regional, County, and State economies.

245. In compliance with coastal hazards objectives, the Project is not subject to inundation by coastal storm waves or tsunamis due to its inland location. A revised drainage master plan based on the revised plan for the Project will be submitted to the Department of Public Works.

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 finding of fact shall be deemed or construed as a conclusion of law; any finding of fact herein improperly designated as a conclusion of law shall be deemed or construed as a finding of fact.

CONCLUSIONS OF LAW

Pursuant to chapter 205, HRS, and the Hawai'i Land Use Commission Rules under chapter 15-15, HAR, and upon consideration of the Land Use Commission decision-making criteria under section 205-17, HRS, this Commission finds upon a clear preponderance of the evidence that the reclassification of the Property, consisting of approximately 503.886 acres of land located at Waikele and Ho'ae'ae, 'Ewa, O'ahu, City and County of Honolulu, Hawai'i, identified as Tax Map Key No. 9-4-02: 1, portion of 52,

70, and 71, from the State Land Use Agricultural District to the State Land Use Urban District, subject to the conditions hereinafter stated in the Order, is reasonable, conforms to the standards for establishing the urban district boundaries, is non-violative of section 205-2, HRS, and is consistent with the Hawai'i State Plan as set forth in chapter 226, HRS.

ORDER

IT IS HEREBY ORDERED that the Property, being the subject of this Docket No. A92-683 by Petitioner Halekua Development Corporation, a Hawai'i corporation, consisting of approximately 503.886 acres of land located at Waikele and Ho'ae'ae, 'Ewa, O'ahu, City and County of Honolulu, Hawai'i, identified as Tax Map Key No.: 9-4-02: 1, portion of 52, 70 and 71, and approximately identified on Exhibit "A" attached hereto and incorporated by reference herein, is hereby reclassified from the State Land Use Agricultural District into the State Land Use Urban District, and that the State land use district boundaries are amended accordingly, subject to the following conditions:

1. Petitioner shall provide affordable housing opportunities for low to moderate income residents of the State of Hawai'i to the satisfaction of the City and County of Honolulu. The location and distribution of the affordable housing and other provisions for affordable housing shall be under such terms as are mutually agreeable to the Petitioner and the City and County of Honolulu.

2. Petitioner shall fund, design, and construct the local and regional transportation improvements necessitated by

the proposed development, on a pro rata basis, and as determined and approved by the State Department of Transportation and the City and County of Honolulu, Department of Transportation Services, including without limitation the dedication of any rights-of-way to the State or County. Petitioner shall also be required to provide the following:

- A. All of the other improvements needed (which will not be provided by the Village Park and Royal Kunia, Phase I projects) to make Kunia Road a 4-lane highway with auxiliary lanes for both left and right turning movements (between Kunia Interchange and the northernmost boundary of Royal Kunia, Phase II) and a third northbound lane between Kunia Interchange and the north Kupuna Loop intersection.
- B. A report that analyzes the impact of the proposed Phase II project's traffic on the Kunia Interchange and evaluate alternatives that will mitigate the impacts.
- C. Plans for construction work within the State highway right-of-way must be submitted to DOT, Highways Division for review and approval.

Agreement by the State Department of Transportation on the level of funding and participation shall be obtained prior to the Petitioner applying for county zoning.

3. Petitioner, at no cost to the State, shall appoint a permanent transportation manager whose function is the formulation, use, and continuation of alternative transportation opportunities that would optimize the use of existing and proposed transportation systems. In the alternative, Petitioner may participate in a regional program for transportation management with other developers and/or landowners. This program shall address the transportation opportunities that would

optimize the use of existing and proposed transportation systems. Either option will continue to be in effect unless otherwise directed by the State Department of Transportation. The program for either option shall be reviewed and approved by the State Department of Transportation prior to implementation. The transportation manager or Petitioner shall conduct a yearly evaluation of the program's effectiveness and shall make a written report of its evaluation available to the State Department of Transportation for program review and modification, if necessary.

4. Petitioner shall monitor the traffic attributable to the proposed Project at on-site and off-site locations and shall undertake subsequent mitigative measures that may be deemed to be required by Petitioner, the State Department of Transportation, or the City and County of Honolulu. The mitigative measures shall be coordinated with and approved by the State Department of Transportation and the City and County of Honolulu.

5. Petitioner shall cooperate with the State Department of Health and the City and County of Honolulu Department of Public Works to conform to the program goals and objectives of the Integrated Solid Waste Management Act, Chapter 342G, Hawai'i Revised Statutes, in accordance with a schedule satisfactory to the Department of Health and the City and County of Honolulu.

6. Petitioner shall contribute to the development, funding, and/or construction of school facilities on a pro rata

basis as a result of the development on the Property, as determined by and to the satisfaction of the Department of Education (DOE). Agreement by DOE on the level of funding and participation shall be obtained prior to Petitioner applying for county zoning.

7. Petitioner shall coordinate with the Honolulu Board of Water Supply and the Department of Land and Natural Resources to obtain the required water for the project. In the event that water is not available from existing sources due to insufficient supply, Petitioner shall fund and develop the necessary water source, storage, and transmission systems and facilities.

8. Petitioner shall participate, on a pro rata basis, in the funding for construction and installation of appropriate civil defense measures as determined by State and City civil defense agencies.

9. Petitioner shall erect a chain link fence along the eastern boundary of the Property that is common with the Waikele Branch of Naval Magazine, Lualualei.

10. Petitioner shall clear and maintain the land situated within 20 feet of the eastern boundary of the Property, free of trees and vegetation taller than eight inches high.

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

12. Petitioner shall participate in the funding and construction of adequate wastewater treatment, transmission and disposal facilities, on a pro rata basis, as determined by the State Department of Health and the City and County Department of Public Works.

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

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

15. Petitioner shall provide notification to all owners and occupants of the Property of the potential odor, noise, and dust pollution resulting from surrounding Agricultural District lands, and that the Hawai'i Right-to-Farm Act, Chapter 165, Hawai'i Revised Statutes, limits the circumstances under which pre-existing farming activities may be deemed a nuisance.

16. Petitioner shall provide drainage improvements for the subject project and shall coordinate off-site improvements with adjoining landowners and developers, and/or other Federal, State, and City agencies.

17. Should any archaeological resources such as artifacts, shell, bone 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, Petitioner shall immediately stop work on the

impacted area and contact the Historic Preservation Division of the State of Hawai'i Department of Land and Natural Resources.

18. Petitioner shall obtain Development Plan approvals from the City and County of Honolulu within five (5) years from the date of this Order.

19. Petitioner shall convey the agricultural park to the State of Hawai'i, and provide off-site infrastructure to the agricultural park, pursuant to the terms of the Memorandum of Understanding dated March 30, 1993 entered into by Petitioner and the Department of Agriculture.

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

21. In reliance upon Petitioner's representation that it will develop the Project on his own and in its entirety, the Petitioner shall obtain the prior approval from the Land Use Commission before it can sell, lease, assign, place in trust, or otherwise voluntarily alter the ownership interest in the Property or Project covered by the approved Petition.

Petitioner shall request the prior approval from the Land Use Commission to alter the ownership interest in the Property or Project by filing a motion to request approval to alter ownership interest and supporting affidavits that will provide relevant information, including without limitation

(1) the name(s) and address(es) of the prospective owner(s) or real party(ies) in interest; (2) the reason for the alteration of ownership interest; (3) any information related to any proposed change in the representations made by Petitioner to the Commission and in its Petition filed pursuant to section 15-15-50, Hawai'i Administrative Rules, including without limitation any information pertaining to the financial capabilities of the prospective owner(s) to proceed with the Project as set forth in section 15-15-50(8); and, (4) a written acknowledgement and affirmation of the prospective owner(s) that the prospective owner(s) shall comply with all of the conditions in this Order.

22. Petitioner shall promptly provide without any prior notice, annual reports to the Land Use Commission, the Office of Planning, and the City and County of Honolulu Planning Department in connection with the status of the Project and Petitioner's progress in complying with the conditions imposed. The annual reports shall summarize: (1) Petitioner's progress in complying with the conditions imposed; and (2) changes to the Project as represented to the Land Use Commission. The annual report shall also include a written statement from each state and county agency affected by these conditions that Petitioner's representations in the annual report related to the respective state or county agency being affected is true and accurate.

23. The Land 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.

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 Planning will certify for itself and all state departments and agencies, and the City and County of Honolulu 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.

24. Within 7 days of the issuance of the Commission's Decision and Order for the subject reclassification, Petitioner shall (1) 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 (2) shall file a copy of such recorded statement with the Commission.

25. Petitioner shall record the conditions imposed by the Commission with the Bureau of Conveyances pursuant to Section 15-15-92, Hawai'i Administrative Rules.

DOCKET NO. A92-683 - HALEKUA DEVELOPMENT CORPORATION

Done at Honolulu, Hawaii, this 1st day of October 1996,  
per motion on September 12, 1996.

LAND USE COMMISSION  
STATE OF HAWAII

By (absent)  
TRUDY K. SENDA  
Chairperson and Commissioner

By Rupert K. Chun  
RUPERT K. CHUN  
Vice Chairperson and Commissioner

By Lawrence N.C. Ing  
LAWRENCE N.C. ING  
Commissioner

By M. Casey Jarman  
M. CASEY JARMAN  
Commissioner

By (absent)  
HERBERT S.K. KAOPUA, SR.  
Commissioner

By Lloyd F. Kawakami  
LLOYD F. KAWAKAMI  
Commissioner

By M. Kelai  
MERLE A. K. KELAI  
Commissioner

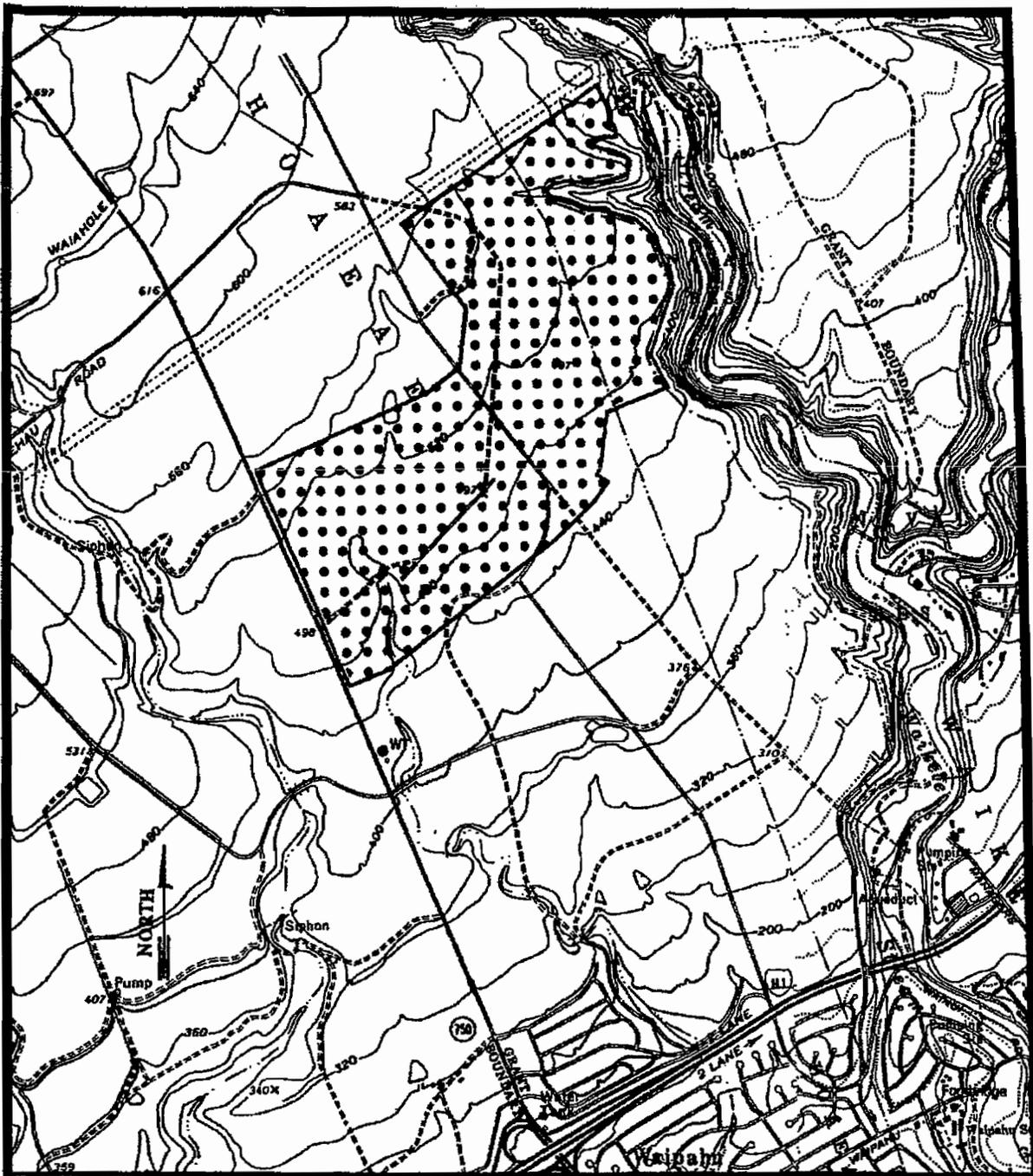
Filed and effective on  
October 1, 1996

Certified by:

[Signature]  
Executive Officer

By (absent)  
EUSEBIO LAPENIA, JR.  
Commissioner

By Joan N. Mattson  
JOAN N. MATTSON  
Commissioner



DOCKET NO. A92 - 683 / HALEKUA DEVELOPMENT CORPORATION, a Hawai'i Corporation

**LOCATION MAP**

TAX MAP KEY: 9-4-02 1, por. 52, 70, & 71

WAIKELE-HO'AE'AE, 'EWA, O'AHU, HAWAII



APPROVED AREA

SCALE: 1" = 2,000 ft. ±

