

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of)
GAMLON CORPORATION)
To Amend the Land Use District)
Boundary of Approximately 173.66)
Acres, Identified by Tax Map Key)
No. 7-6-21: 4, 9, 10, 11, 12, 13,)
15, 16 and 17 at Holualoa First)
and Second, North Kona, Hawaii)
from the Agricultural District to)
the Urban District)
_____)

DOCKET NO. A83-549
GAMLON CORPORATION

LAND USE COMMISSION
STATE OF HAWAII
FEB 10 10 18 AM '89

ORDER APPROVING MOTION TO EXTEND TIME TO COMPLETE
SUBSTANTIAL DEVELOPMENT OF INCREMENT I AND TO APPLY
FOR INCREMENTAL REDISTRICTING OF INCREMENT II

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of)	DOCKET NO. A83-549
GAMLON CORPORATION)	GAMLON CORPORATION
To Amend the Land Use District)	
Boundary of Approximately 173.66)	
Acres, Identified by Tax Map Key)	
No. 7-6-21: 4, 9, 10, 11, 12, 13,)	
15, 16 and 17 at Holualoa First)	
and Second, North Kona, Hawaii)	
from the Agricultural District to)	
the Urban District)	

ORDER APPROVING MOTION TO EXTEND TIME TO COMPLETE
SUBSTANTIAL DEVELOPMENT OF INCREMENT I AND TO APPLY
FOR INCREMENTAL REDISTRICTING OF INCREMENT II

Gamlon Corporation, a Hawaii corporation (hereinafter referred to as "Petitioner"), filed its Motion to Extend Time to Complete Substantial Development of Increment I and to Apply for Incremental Redistricting of Increment II on November 16, 1988 in accordance with Hawaii Land Use Commission Rules Subsections 15-15-70, 15-15-78 and 15-15-94.

The State Land Use Commission (hereinafter the "Commission"), having considered Petitioner's memorandum, supplemental memorandum and testimony, and having received no objections from the Office of State Planning or the County of Hawaii Department of Planning, hereby makes the following findings of fact, conclusion of law and decision and order:

Background

1. By Decision and Order issued January 26, 1984, the Commission redistricted approximately 124.66 acres from the

Agricultural District to the Urban District at Holualoa First and Second, North Kona, Hawaii. This area was referred to in the Decision and Order as Increment I of Petitioner's proposed residential development.

2. The Decision and Order also approved the remaining area of Petitioner's residential development, referred to as Increment II, consisting of approximately 49 acres for incremental districting from the Agricultural District to the Urban District pursuant to State Land Use District Regulation 6-2.

3. Concerning the timing for redistricting of Increment II, the Decision and Order states:

"...that redistricting from the Agricultural to the Urban District will be granted upon receipt of an application by Petitioner for redistricting of Increment II, and upon a prima facie showing by Petitioner that it has substantially completed the on-site and off-site improvements within Increment I, in accordance with Petitioner's development plan as indicated above, within five years of the date of this Order, including but not limited to partial satisfaction of the condition A below, to the extent of the number of lots to be developed in Increment I and full satisfaction of condition B below."

4. Thus, Petitioner was allowed a period of five years to apply for redistricting of Increment II, during which time Petitioner was expected to make "substantial completion of the onsite and offsite improvements within Increment I."

5. The five year period expires on January 26, 1989 and Petitioner states that it will not be able to make the required prima facie showing of substantial completion.

6. The purpose of the present motion is to obtain the Commission's approval to allow an additional five years to substantially complete Increment I and apply for redistricting of Increment II.

Position of the County and the State

7. The Planning Department of the County of Hawaii supports said motion. The Office of State Planning did not have any objections to Petitioner's motion.

Petitioner's Efforts Towards Development of Increment I

8. Petitioner provided the following information regarding its efforts since January 1984 toward development of Increment I:

a. On January 16, 1984, Petitioner filed an application for change of zone with the Planning Department of the County of Hawaii. The rezoning application requested RS-15 (single-family residences; 5,000 sq. ft. land area per dwelling unit) zoning and RM-5 (multi-family residential) zoning.

The County of Hawaii granted the rezoning by Ordinance 84-23 which was later amended by Ordinance 84-42 and by Ordinance 88-4.

b. On March 26, 1985, subdivision applications were filed with the Planning Department of the County of Hawaii. An amended subdivision application for the single-family residential portion RS-15 was filed with the Planning Department on April 16, 1985. The subdivision plans for County Increment IA and IB have received final approval.

c. Except for final approval from the State Department of Transportation regarding the construction and signalization of the major intersection leading to the Petition area and off-site drainage system makai of the Property, Petitioner has obtained all the needed approvals to begin construction on the single-residence sections of Increment I.

d. Petitioner has spent approximately \$300,000 for the civil engineering studies for the entire Petition area. The engineering studies are completed subject to any changes required by the State Department of Transportation.

e. Petitioner has spent approximately \$1.4 million dollars to purchase water commitments from the Department of Water Supply, County of Hawaii. The Department of Water Supply, County of Hawaii, reviewed and approved the master plan for the RS-zoned parcel and the first increment of the RM-zoned parcels.

9. With regard to Conditions A and B of the Decision and Order, Petitioner has achieved the following:

a. Condition A - Housing. Petitioner is prepared to give an RM-5 parcel of land with density exceeding 50 units to the Department of Housing and Community Development, County of Hawaii for an elderly housing project, in compliance with the affordable housing requirement.

b. Condition B - Archaeological Assessment. Petitioner has consulted with and accepts the decision of the

Historic Preservation Officer of the Department of Land and Natural Resources, and with the County's Historic Office, Department of Planning. All required field work and studies were completed in 1986.

Tasks Remaining Prior to Application for Increment II

10. Petitioner states that the additional tasks needed to complete substantial development of Increment I and the projected time frames required to complete the tasks are as follows:

a. Obtain Department of Transportation, State of Hawaii, approval of plan for construction and signalization of intersection from the main feeder road into the subdivision. Projected time frame: Dependent upon negotiations with other parties and State Department of Transportation.

b. Develop an integrated drainage system subject to Department of Public Works, County of Hawaii and Department of Transportation, State of Hawaii, approval. Projected time frame: Dependent upon resolution of drainage problems on lower adjoining property not owned by Petitioner.

c. Resolving County-owned drainage rights-of-way. Projected time frame: Dependent upon approval of drainage way system for the area.

d. Prepare for and request bids for construction of Roadway A, the Kuakini Highway/Lako Street Intersection, and Unit IA of the Subdivision; review bids and award contracts; obtain necessary performance bonds.

Projected time frame: 4 months from final approval of subdivision, roadway and drainage plans.

e. Substantially complete development of roadways, site improvements for area designated IA on County subdivision plans.

Projected time frame: 9 months from contract award.

11. Petitioner believes it has made good faith efforts to develop Increment I, has achieved significant project milestones, but must await decision which are not within its sold control, and that good cause exists to grant Petitioner an additional five years to December 13, 1993 to complete substantial development of Increment I and submit an application for redistricting of Increment II.

CONCLUSIONS OF LAW

The Commission finds upon a preponderance of evidence that pursuant to Chapter 205, Hawaii Revised Statutes, as amended, the Rules of Practice and Procedure and Section 6-3 of the District Regulations of the Land Use Commission, Petitioner has made a good faith effort towards development of Increment I, and that an extension of time of five years to substantially complete Increment I is reasonable and non-violative of Section 205-2, Hawaii Revised Statutes, and Section 6-3 of the Commission's District Regulations.

ORDER

IT IS HEREBY ORDERED that Petitioner's motion for an extension of time of five years to complete Increment I and to

apply for redistricting of Increment II is approved, and
Petitioner is granted an extension of time to not later than
December 13, 1993, to substantially complete Increment I and to
apply for redistricting of Increment II.

DOCKET NO. A83-549 - GAMLON CORPORATION

Done at Honolulu, Hawaii, this 10th day of February 1989,
per motions on January 10, 1989 and February 7, 1989.

LAND USE COMMISSION
STATE OF HAWAII

By *Renton L. K. Nip*
RENTON L. K. NIP
Chairman and Commissioner

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

By *Frederick P. Whittemore*
FREDERICK P. WHITTEMORE
Commissioner

By *Allen Y. Kajioka*
ALLEN Y. KAJIOKA
Commissioner

Filed and effective on
February 10, 1989

Certified by:

Ethel Leida
Executive Officer

By *Allen K. Hoe*
ALLEN K. HOE
Commissioner

By *Toru Suzuki*
TORU SUZUKI
Commissioner

By *J. P. Tacbian*
TEOFILO PHIL TACBIAN
Commissioner

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of) DOCKET NO. A83-549
GAMLON CORPORATION)
To Amend the Land Use District)
Boundary of Approximately 173.66)
Acres, Identified by Tax Map Key)
No. 7-6-21: 4, 9, 10, 11, 12, 13,)
15, 16 and 17 at Holualoa First)
and Second, North Kona, Hawaii)
from the Agricultural District to)
the Urban District)

CERTIFICATE OF SERVICE


I hereby certify that a copy of the Order Approving Motion to Extend Time to Complete Substantial Development of Increment I and to Apply for Incremental Redistricting of Increment II 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. DUANE KANUHA, Planning Director
Planning Department, County of Hawaii
25 Aupuni Street
Hilo, Hawaii 96720

CERT. KARL K. KOBAYASHI, ESQ., Attorney for Petitioner
Carlsmith, Wichman, Case, Mukai & Ichiki
2200 Pacific Tower, 1001 Bishop Street
Honolulu, Hawaii 96813

DATED: Honolulu, Hawaii, this 10th day of February 1989.



ESTHER UEDA
Executive Officer