

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of)
)
CAMBRIDGE PACIFIC, INC.) DOCKET NO. A81-524
)
To Amend the State Land Use District)
Boundaries by Reclassifying 65 acres)
of land from Conservation to Urban,)
and 65 acres of land from Urban to)
Conservation, at Ka'upulehu, North)
Kona, Island and County of Hawaii;)
identified by Tax Map Key 7-2-03:)
Portions of Parcel 1)

DECISION AND ORDER

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OF THE STATE OF HAWAII

In the Matter of the Petition of)
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CAMBRIDGE PACIFIC, INC.) DOCKET NO. A81-524
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To Amend the State Land Use District) FINDINGS OF FACT,
Boundaries by Reclassifying 65 acres) CONCLUSIONS OF LAW,
of land from Conservation to Urban,) DECISION AND ORDER
and 65 acres of land from Urban to)
Conservation, at Ka'upulehu, North)
Kona, Island and County of Hawaii;)
identified by Tax Map Key 7-2-03:)
Portions of Parcel 1)
)

FINDINGS OF FACT, CONCLUSIONS OF LAW,
DECISION AND ORDER

This land use boundary amendment proceeding was initiated by the Petitioner, CAMBRIDGE PACIFIC, INC., pursuant to Chapter 205, Hawaii Revised Statutes, and the Rules of Practice and Procedure of the Land Use Commission, State of Hawaii, to amend the land use district boundaries of the above-captioned lands (hereinafter referred to as the "subject properties"), and the Land Use Commission, (hereinafter referred to as the "Commission"), having heard and examined the testimony, evidence, argument of counsel, the proposed findings of fact and conclusions of law, presented at the hearing, hereby makes the following findings of fact and conclusions of law.

FINDINGS OF FACT

PROCEDURAL MATTERS

1. CAMBRIDGE PACIFIC, INC. (hereinafter referred to as the "Petitioner"), filed its Petition on December 8, 1981, to amend the Land Use District Boundary Map of the subject properties, situated at Ka'upulehu, North Kona, Hawaii, from Urban to Conservation of approximately 65 acres of land, and from Conservation to Urban of approximately 65 acres of land (TMK 7-2-03: Portions of Parcel 1).

2. The Land Use Commission held a hearing on the Petition on February 25, and 26, 1982, at the Kona Hilton, in Kailua, Kona, Hawaii, pursuant to a notice published on January 22, 1982, in the Honolulu Advertiser and the Hawaii Tribune Herald.

3. The Commission denied the request of the Office of Hawaiian Affairs to intervene as a party, but William Tagupa, its Cultural Staff Officer, was allowed to testify as a public witness.

4. On June 8, 1982, the Commission denied the Petition by Huehue Ranch to reopen the hearing and allow its intervention as a party to the proceeding.

DESCRIPTION OF THE SUBJECT PROPERTIES AND ADJACENT LANDS

5. The Petitioner, a Hawaii corporation, is the Lessee, and the Estate of Bernice Pauahi Bishop is the Lessor and fee simple owner of the subject properties.

6. The subject properties are located approximately 10 miles north of Ke-ahole Airport and makai of the Queen Kaahumanu Highway.

7. The subject properties are described as Area A-1, Area A-2 and Area B in Exhibit A attached hereto and incorporated by reference herein. The Petitioner desires to reclassify Areas A-1 and A-2 from the Urban District to the Conservation District; and Area B from the Conservation District to the Urban District. Area A-1, which contains approximately 54.800 acres, is situated immediately north of the existing Kona Village Resort, and Area A-2, which contains approximately 10.262 acres, is situated immediately to the east. Area B, which contains approximately 65.000 acres, is situated about one mile north of the Kona Village Resort. Area A, which contains approximately 247.821 acres is the site of the existing Kona Village Resort.

8. The subject properties are lying fallow and consist

of flat barren lava lands (Aa or Pahoehoe).

9. Area B (Northern Site), on which the Petitioner proposes to construct a hotel-condominium, is situated on the 1801 lava flow. This area is characterized by very rough, relatively fresh Aa lava. There is a small amount of vegetation present, but no soil. Slope in this area is gentle, averaging less than 5%.

10. Drainage is good on subject properties as the lava absorbs all moisture immediately upon receiving it. There are no major drainage channels on subject properties. The Preliminary Flood Insurance Study for the Island of Hawaii prepared by the Federal Insurance Administration designates the area mauka of the shoreline as Zone C -- area of minimal flooding.

11. The subject properties consist of coastal areas subject to tsunami flood hazards. These areas are designated Zone VII or Coastal High Hazard Areas under the Preliminary Flood Insurance Study for the Island of Hawaii prepared by the Federal Insurance Administration.

PROPOSAL FOR DEVELOPMENT

12. In 1974, the Commission classified approximately 318 acres containing the existing Kona Village Resort and abutting lands in the Urban District. The existing Kona Village Resort facilities occupy only about 65 acres, so there is sufficient acreage available for further urban development if Hawaii County changes its zoning designation.

13. In order to maintain the integrity and isolated atmosphere of the existing Kona Village Resort, Petitioner proposes to build additional resort facilities on the separate 65-acre Area B. The Petitioner proposes to develop a low-rise hotel condominium complex of approximately 350 one- and two-bedroom units in 18 unit clusters. To offset this 65-acre Conservation-to-Urban reclassification, Petitioner proposes than an equivalent

65 acres, "Area A-1" and "Area A-2," remain undeveloped and be reclassified from the Urban District into the Conservation District. The project will include a central building to house the common facilities such as the registration desk, restaurants, hotel-related commercial space and management offices. Recreational amenities will include a swimming pool and tennis courts.

14. Petitioner estimates the cost of on-site and off-site improvements at approximately \$62.6 million, as follows:

Queen Kaahumanu Access	\$ 500,000
Roads & Survey	1,900,000
Water Distribution & Source	2,500,000
Electric Substation & Transmission	575,000
Survey & Planning	140,000
Sewage Disposal	600,000
Telephone	150,000
Landscaping & Ponds	1,520,000
Architects, Engineering, Legal	320,000
Contingency, Overhead, Project Management, Bonding	1,205,000
Interior Site Services	<u>700,000</u>
Sub-Total	\$10,110,000
Unit Construction Costs	\$38,500,000
Amenities	1,000,000
Selling & Marketing Costs	6,000,000
Land Cost	<u>7,000,000</u>
TOTAL	<u>\$62,610,000</u>

15. The Petitioner proposes to submit the project to a horizontal property regime as a financial device only. The hotel rooms will be offered for sale to investors as condominium units at prices ranging from \$250,000 to \$300,000 per unit (in 1981 dollars). The Petitioner anticipates establishing a rental

pool and renting the units as hotel rooms.

16. The Petitioner proposes to complete development of the proposed project within five years of Land Use Commission approval.

17. The Petitioner has introduced evidence of its financial ability to complete the proposed development.

STATE AND COUNTY PLANS AND PROGRAMS

18. The subject properties are classified by the State and County as follows:

<u>Areas</u>	<u>Use District</u>	<u>County General Plan</u>	<u>County Zoning</u>
A-1	Urban	Intermediate Resort	Open
A-2	Urban	Intermediate Resort	Open
B	Conservation	Intermediate Resort	Conservation/Open

19. The County General Plan "Intermediate Resort Area" designation portends development of the lands at Ka-upulehu located makai of the Queen Kaahumanu Highway (including the subject properties) as a self-contained resort destination with a maximum of 1,500 hotel rooms, residential units, recreational amenities, and all other basic and support facilities.

20. Area A-1, Area A-2, and Area B are all within the Coastal Zone Management Special Management Area (SMA).

21. The State Department of Land and Natural Resources classifies Area B as a "Resource Subzone" and "General Subzone" within the Conservation District.

22. Development of the proposed hotel-condominium in Area B will require a change in County zoning from "Open" to "Resort Hotel."

NEED FOR GROWTH AND DEVELOPMENT

23. Within the past decade (1970-1980), the annual

visitors to the State of Hawaii increased from 1,747,000 to 3,925,000. During the same decade, annual visitors to the Island of Hawaii increased from 445,000 to 763,000. This represents growth of approximately 125% for the State as a whole, and approximately 71% growth for the Island of Hawaii.

24. In 1971, there were approximately 2,479 hotel rooms in West Hawaii. In 1981, the number of hotel rooms in West Hawaii has increased to 3,886 rooms or 57% growth over the decade.

25. Tourism is expected to accelerate in the Kona area in the 1980s. The State Tourism plan indicates that the Kona destination resort area which includes Ka'upulehu will be one of the main regions of visitor industry growth during the 1980s. State and County of Hawaii planning objectives and policies channel tourism growth to planned destination resort areas such as Ka'upulehu where Kona Village Resort and where the proposed development will be built.

26. A market study prepared for the Petitioner by Daly and Associates, Inc., concludes that the proposed 350-unit hotel-condominium project is needed and can be absorbed in the market because the average market absorption rate for resort condominiums in the area has been 350-390 units per year.

27. Petitioner anticipates that the absorption rate for the proposed development will be higher than for other projects because of the project's unique location and its management as a hotel.

28. Petitioner proposes to sell units in the proposed development to previous guests of the Kona Village Resort. Petitioner states that many have expressed a desire to purchase or invest in the proposed hotel-condominium resort units because they appreciate the Kona Village concept and setting.

29. The Petitioner estimates that the proposed development will have substantial economic impact on Hawaii County and Kona in general. The proposed project will generate permanent

employment for approximately 250 to 350 persons and at least 200 employees will be employed during the construction stage. Completion of the project will increase real property tax revenues.

IMPACTS ON RESOURCES OF THE AREA

Agriculture

30. Subject properties are currently lying fallow and are not suitable for agricultural use.

31. Soils on subject properties are practically non-existent. The Land Study Bureau of the University of Hawaii, in its 1965 "Detailed Land Classification - Island of Hawaii," rated the soil of subject properties as Class E, which is very poorly suited for agricultural use.

32. Subject properties have not been classified in the State Department of Agriculture's Agricultural Lands of Importance to the State of Hawaii (ALISH) Map.

33. Reclassification of Area B to Urban will not adversely affect the agricultural resources of North Kona.

Natural Resources

34. There are no rare or endangered flora that need to be preserved on the subject properties.

35. The Hawaiian (Hoary) bat has been observed foraging in the area, but development on Area B should not adversely affect this highly mobile endangered species. There are no other rare or endangered animals on subject properties.

Coastal Resources

36. A West Hawaii Reef Study team survey found diverse and abundant fish fauna near the proposed project site. Petitioner proposes that development will not involve any direct physical or chemical modifications to the nearshore environment.

Historical/Archaeological Resources

37. Bishop Museum conducted an archaeological reconnaissance survey in April 1981, which relocated seven sites previously recorded by Lloyd Soehren (1963) and found four additional unrecorded sites.

38. Bishop Museum recommended that another reconnaissance survey was unnecessary but that salvage excavation should be undertaken to recover data regarding chronology, function, and possible associations of the sites prior to the occurrence of construction or any impact.

Scenic Resources

39. The Petitioner proposes to construct the hotel buildings in a kipuka and will surround them with extensive landscaping in order that no structures will adversely mar the view from the Queen Kaahumanu Highway to the ocean.

Recreational Resources

40. The Petitioner proposes to develop intensive on-site recreational facilities for use by the hotel guests such as guided hikes to archaeological sites, swimming, snorkling, fishing, sailing, tennis courts, and beach equipment.

41. Presently, there is no public access to the shoreline. The Petitioner proposes to construct a road from Queen Kaahumanu Highway the shoreline just north of Area B to permit public access to the ocean, and also proposes to provide shoreline amenities and facilities.

ADEQUACY OF PUBLIC SERVICES AND FACILITIES

Roadway and Highway Facilities

42. Area B is presently undeveloped and inaccessible except by foot or by four-wheel-drive vehicle. The Petitioner

proposes to construct a new 200 foot channelized intersection at the highway, centrally located to provide access to both the existing Kona Village Resort and the proposed hotel-condominium project on Area B.

43. State Highways Division traffic counts taken in April, 1980, show that the 24-hour traffic on Queen Kaahumanu Highway in the vicinity of Kona Village Resort is approximately 1,400 vehicles per day. The AM peak hour traffic is 100 vehicles per hour both directions; and PM peak hour traffic is 133 vehicles per hour both directions.

44. The Petitioner's traffic counts taken in July and August, 1981 indicate that the Kona Village Resort average AM peak hour traffic is 30 vehicles and PM peak hour traffic is 33 vehicles.

45. The Petitioner anticipates that the projected traffic counts assuming completion of the proposed development will be 105 vehicles in the AM peak hour and 140 vehicles in the PM peak hour. The traffic generated by the proposed development will not adversely impact traffic at Queen Kaahumanu Highway.

Public Schools

46. Public schools serving Ka'upulehu include Kealakehe Elementary School and Konawaena High School. The State Department of Education estimates that the proposed development will not adversely affect the public school system.

Fire and Police Services

47. Kona Village Resort provides its own security and emergency services using three fire and security vehicles and 9 security personnel. The equipment and program have been approved by the Hawaii County Fire Department. The Petitioner proposes to extend the fire and security protection services to incorporate the proposed development on Area B, in order that

existing public police and fire protection services will not be impacted.

Telephone and Electrical Services

48. Hawaii Electric Light Company does not presently provide electrical services to Ka'upulehu. Kona Village Resort provides its own electricity by using two 500 KVA generators.

49. The Petitioner proposes to extend electricity service to the proposed development by constructing a substation from the existing HELCO 69 KV transmission line located mauka of Queen Kaahumanu Highway.

50. Hawaiian Telephone Company has recently increased the capacity of the Kona Village Resort telephone system to handle future connections needed in the proposed development.

Sewage Disposal

51. Hawaii County does not provide sewage system service in the project vicinity. The Kona Village Resort disposes its sewage by providing secondary treatment system for some of the units while other units are still on individual wastewater treatment units.

52. Petitioner proposes to construct a secondary sewage treatment plant with a 75,000 gpd capacity on the site to treat the estimated 70,000 gpd liquid sewage that the proposed development is expected to generate. Petitioner proposes to use treated sewage effluent for irrigation purposes.

Solid Waste

53. All solid waste from the proposed development will either be used for compost at the nursery or trucked to the Kealakehe Landfill by private refuse collectors.

Water

54. There is no public water system available to serve the proposed development. The existing Kona Village Resort obtains its water from two private wells located at the 480 feet elevation on property owned by the Petitioner. The water source for Ka'upulehu is the extensive basal groundwater lens which underlies most of the Island of Hawaii.

55. The Petitioner has drilled and developed a new well located at an elevation of approximately 1,344 ft. on its mauka lands. The water drawn from the new well meets the standards of the Federal Safe Drinking Water Act.

56. Petitioner's consultants, Fukunaga & Associates, Inc., estimate that the proposed hotel-condominium will require approximately 400 gpd per unit, or approximately 140,000 gpd for domestic purposes. Petitioner's consultants, conclude that the new well has enough capacity and its source is large enough to serve the proposed development. The Petitioner's new Ka'upulehu well is located approximately four miles inland, so construction of the proposed hotel on Area B will not contaminate the groundwater source.

57. Petitioner will develop a new water distribution and storage system to service the existing and proposed development at its own expense. No public funds will be used, and the impact on Hawaii County water sources, or on water distribution and water storage facilities will be minimal.

Drainage

58. Draft Flood Insurance Rate Map designates subject properties mauka of the shoreline as an area of minimal flooding (Zone C).

59. Erosion during construction and subsequent operation of the resort will be minimal. No major drainage improvements will be necessary because all of the on-site soils

have extremely high permeability. Petitioner intends to line all landscaping ponds and other water retention depressions as necessary to prevent leakage.

AFFORDABLE HOUSING

60. Petitioner is willing to construct or assist in paying the cost of providing housing units for sale or rental to its employees at prices they can afford and/or to families of low and moderate income.

STANDARDS FOR DETERMINING DISTRICT BOUNDARIES

61. Although subject property (Area B) is not contiguous to an Urban District, it is in close proximity to the Urban amenities of Kona Village Resort, and will function as though it is contiguous to Kona Village Resort in that infrastructural improvements for water, electricity, telephone, and the access and internal road system will be a part of the system serving the existing resort.

62. The proposed development will have a positive economic impact because it will generate permanent employment for approximately 250-350 persons and temporary employment for at least 200 persons during the construction stage. Projected tax revenues from real property taxes will be substantially increased.

63. The Petitioner has the financial ability and capacity to construct and complete the proposed development.

64. The proposed hotel-condominium development conforms to the Hawaii County General Plan which designates the Ka'upulehu area, in which subject properties are located, as an Intermediate Resort Area.

65. The proposed development will make maximum use of existing private services and facilities. Police and fire protection, electrical and telephone services, schools, sewage

and solid waste disposal system are readily available.

66. The Petitioner will make improvements to increase public access to subject property (Area B) and the shoreline by constructing a roadway at Petitioner's own expense.

67. It is no longer practicable to continue classification of Area B within the Conservation District because its urbanization is necessary to promote the resort destination goals and objectives of the Hawaii State Plan and the General Plan of the County of Hawaii. Removing Area A-1 and Area A-2 from the Urban District will offset the change of Area B into the Urban District, and is practicable because Area A-1 and Area A-2 are not needed for urban uses at this time nor in the foreseeable future, and reclassification into the Conservation District will assure preservation of these lands as beneficial open space.

RULINGS ON PROPOSED FINDINGS

Any of the proposed findings of fact submitted by Petitioner or other party to this proceeding not already ruled upon by the Land Use Commission by adoption herein, or rejected by clearly contrary findings of fact herein, are hereby denied and rejected.

CONCLUSIONS OF LAW

Pursuant to Chapter 205, Hawaii Revised Statutes, and the Rules of Practice and Procedure and District Regulations of the State Land Use Commission, the Commission finds upon the clear preponderance of the evidence that the boundary amendments as proposed do conform to the standards established for the Urban and Conservation Districts by the State Land Use District Regulations, is reasonable, and is not 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.

DECISION AND ORDER

IT IS HEREBY ORDERED that the property which is the subject of the petition of Cambridge Pacific, Inc. in Docket Number A81-524, consisting of approximately 65 acres of land situate at Ka'upulehu, North Kona, Island and County of Hawaii, State of Hawaii, identified by Hawaii Tax Map Key 7-2-03: Portion of 1, and more particularly described as "Area B" on Exhibit A attached hereto, shall be and hereby is reclassified from the Conservation District to the Urban District; and 65 acres of land situate at Ka'upulehu, North Kona, Island and County of Hawaii, State of Hawaii, identified by Hawaii Tax Map Key 7-2-03: Portions of 1, and more particularly described as "Area A-1" and "Area A-2" on Exhibit A attached hereto, shall be and hereby is reclassified from the Urban to the Conservation District, and the Land Use District Boundaries are hereby amended accordingly, subject to the following conditions:

A. Petitioner shall provide housing opportunities for employees of the Kona Village Resort and/or the hotel to be constructed on the subject "Area B" in any one or combination of the following manners prior to assigning or transferring (except by way of mortgage or assignment as security) its interest in the subject properties:

1. To construct, either on Area B or on other Urban land to be acquired by the Petitioner, a number of residential units for sale or rental to employees of the Kona Village Resort and/or the hotel to be constructed on Area B at the prices or rentals affordable by said employees, and of a size standard equivalent to Federal Housing Administration

Minimum Property Standards, equal to ten percent (10%) of the number of condominium apartments or hotel rooms to be constructed on Area B; or

2. To pay to the Hawaii Housing Authority or County of Hawaii, for use in a housing assistance fund or for the benefit of employees of the Kona Village Resort and/or the hotel to be constructed on Area B, or low and moderate income residents of the State of Hawaii, a sum determined by the Hawaii Housing Authority or County of Hawaii to be equal to the cost of acquiring land for, developing and constructing a number of residential units equal to ten percent (10%) of the number of condominium apartments or hotel rooms to be constructed on Area B; and

B. Petitioner shall provide access from Queen Kaahumanu Highway to the shoreline, for public recreational purposes along the entire length of shoreline owned, leased or controlled by Petitioner and its successors, and assigns, the location and form of said easements to be approved and accepted by the County of Hawaii.

These conditions may be fully or partially released by the Commission as to all or any portion of the subject properties upon timely motion and provision of adequate assurance of satisfaction of these conditions by the Petitioner.

Docket No. A81-524 - CAMBRIDGE PACIFIC, INC.

Done at Honolulu, Hawaii, this 12th day of August,
1982, per motions on June 8, 1982 and July 15, 1982.

LAND USE COMMISSION
STATE OF HAWAII

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

By *Richard B. F. Choy*
RICHARD B. F. CHOY
Vice Chairman and Commissioner

By *Shinsei Miyasato*
SHINSEI MIYASATO
Commissioner

By *Winona E. Rubin*
WINONA E. RUBIN
Commissioner

By *Teofilo Phil Tacbian*
TEOFILO PHIL TACBIAN
Commissioner

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

By *Frederick Whittemore*
FREDERICK WHITTEMORE
Commissioner

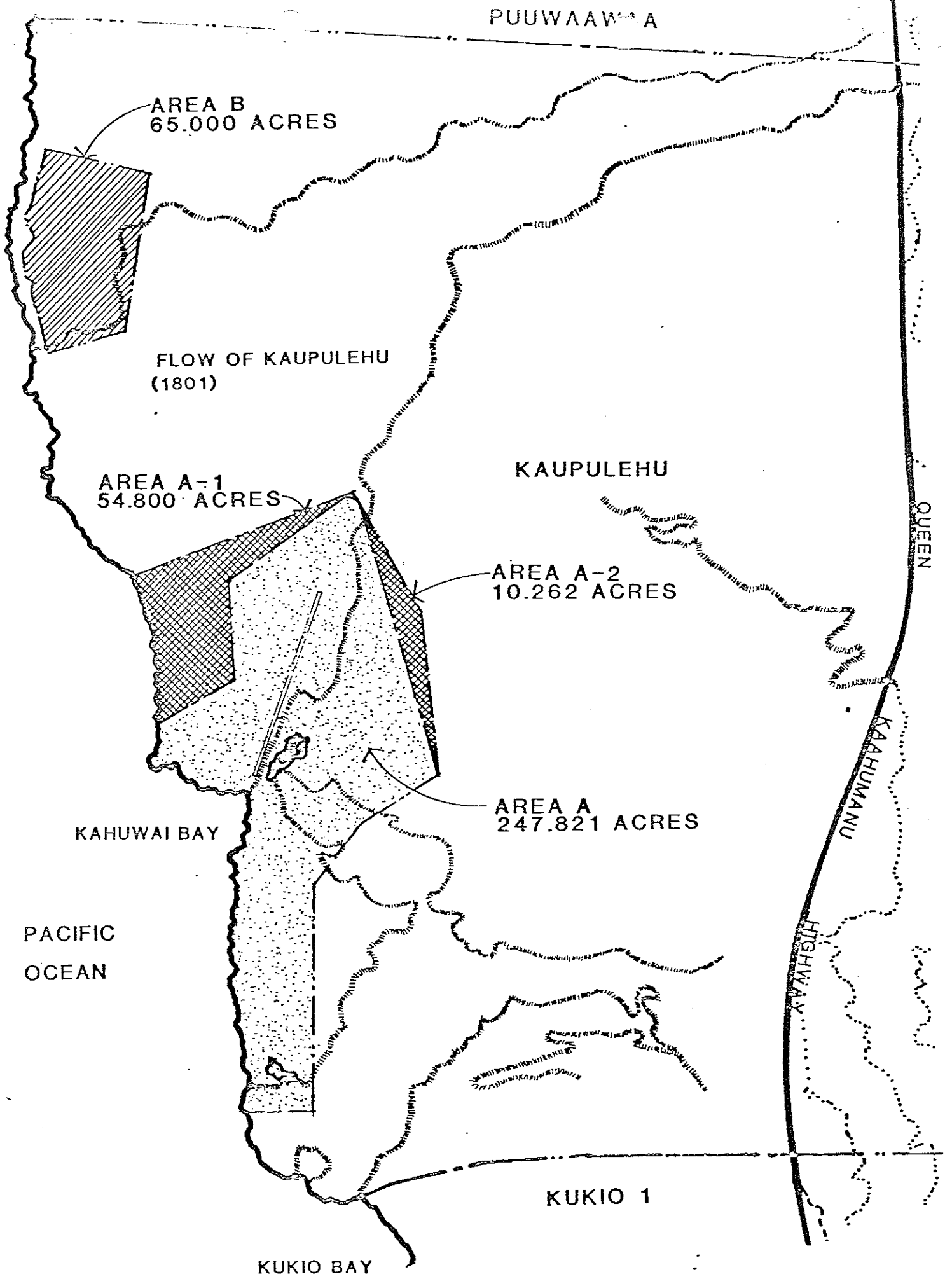


EXHIBIT A

A81-524 - CAMBRIDGE PACIFIC, INC.

TMK 7-2-03: Portions of Parcel 1

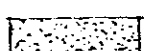
LEGEND



CONSERVATION TO URBAN

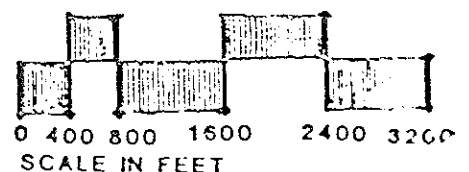
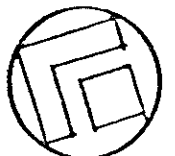


URBAN TO CONSERVATION



URBAN / NO CHANGE

KA'UPULEHU, NORTH KONA
ISLAND OF HAWAII



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identified by Tax Map Key 7-2-03:)
Portions of Parcel 1)
_____)

CERTIFICATE OF SERVICE

I hereby certify that a copy of the Land Use Commission's 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:

HIDETO KONO, Director
Department of Planning & Economic Development
State of Hawaii
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Honolulu, Hawaii 96813

ANNETTE CHOCK, Deputy Attorney General
Department of Attorney General
Capital Investment Building
Penthouse, 850 Richards Street
Honolulu, Hawaii 96813

SIDNEY FUKU, Planning Director
Planning Department
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Hilo, Hawaii 96720

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Office of the Corporation Counsel
County of Hawaii
25 Aupuni Street
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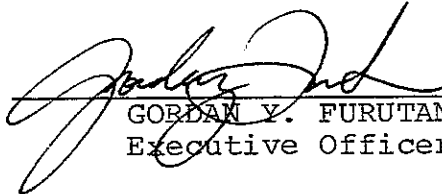
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DOCKET NO. A81-524 - CAMBRIDGE PACIFIC, INC.

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Suite D-120 Hualalai Center
75-170 Hualalai Road
Kailua-Kona, Hawaii 96740

DATED: Honolulu, Hawaii this 12th day of August, 1982.



GORDAN Y. FURUTANI
Executive Officer