

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition)
)
 of)
)
 LANIHAU CORPORATION)
)
 To Amend the Agricultural)
 Land Use District Boundary to)
 Reclassify Approximately)
 25.783 Acres at Kailua, Kona,)
 Island of Hawaii into the)
 Urban Land Use District)
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DOCKET NO. A79-471

DECISION AND ORDER

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

The above-captioned land use boundary amendment proceeding was initiated by the petition of LANIHAU CORPORATION 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 Boundary of certain land consisting of approximately 25.783 acres and identified by Tax Map Key 7-5-04: portion of parcel 7, (hereinafter referred to as the "subject property") situated at Kailua, Kona, Island of Hawaii, from the Agricultural District to the Urban District. The Land Use Commission, having heard the evidence presented on the matter during the hearing held on May 20, 1980 and May 21, 1980 in Kailua, Kona, Hawaii, and having duly considered the record in this Docket, the proposed findings of fact and conclusions of law, and the comments to the proposed findings of fact and conclusions of law, hereby makes the following findings of fact and conclusions of law.

FINDINGS OF FACT

PROCEDURAL MATTERS

1. The petition was filed on December 20, 1979, by LANIHAU CORPORATION ("Petitioner"), as holder of an option to lease the subject property, requesting the Land Use Commission ("Commission") to amend the Agricultural District Boundary at Kailua, Kona, Island of Hawaii by reclassifying the subject property into the Urban District, certificate of service of the petition being attached thereto. The Petitioner has since exercised the said option and is now a holder of a leasehold interest in the subject property under a 75-year lease.

2. KKI, Inc., a Hawaii corporation, is the owner of the fee simple interest in the subject property and authorized the Petitioner to submit the petition aforesaid.

3. Dillingham Corporation, a Hawaii corporation, by virtue of an initial right of first refusal to sublease the subject property from the Petitioner for the purpose of developing the subject property as part of a regional shopping center and by a subsequent agreement to sublease pursuant thereto, has an interest in the subject property. To the extent of its interest in the subject property, Dillingham Corporation joined in the petition aforesaid.

4. Notice of the hearing scheduled for May 20, 1980, at 10:00 a.m. in the Resolution Room, Kona Hilton Hotel, Kailua, Kona, Hawaii, was published in the Hawaii Tribune Herald and the Honolulu Advertiser on April 10, 1980, and served by mail on the parties.

5. On April 25, 1980, an application for intervention by the Trustees of Liliuokalani Trust and Hart Management Co.

("Intervenors") was received by the Commission. The application for intervention was timely filed under Rule of Practice and Procedure 6-7.

6. On May 5, 1980, an informational memorandum relating to the application for intervention was filed by the Petitioner and received by the Commission. The informational memorandum did not request any action on the part of the Commission.

7. On May 20, 1980, the Intervenors' application for intervention was heard. By motion duly passed on said date, the application for intervention was accepted by the Commission, and the Intervenors were granted leave to intervene as parties to the petition.

8. A request to appear as a public witness was received by the Commission from Henslee F. Towill. The request was timely filed with the Commission. Henslee F. Towill, having been permitted to be heard, failed to appear as a public witness at any time during the hearing of the petition on May 20, 1980 and May 21, 1980.

DESCRIPTION OF THE SUBJECT PROPERTY

9. The subject property is located at Kailua, Kona, Island of Hawaii; consists of approximately 25.783 acres, and is identified by Tax Map Key 7-5-04: portion of parcel 7, Third Taxation Division.

10. The subject property is situated approximately 1000 feet southeast of the junction of Palani Road and Queen Kaahumanu Highway. It is makai of the proposed extension of Queen Kaahumanu Highway and mauka of the existing Kuakini Highway.

11. The lay of the subject property slopes toward the ocean at an average gradient of approximately 5%. Elevations range between 40 and 170 feet above sea level.

12. The soils of the subject property consist of the Punaluu/rPYD series. This series is generally described as Pahoehoe lava bedrock covered in places by a thin layer of soil material of less than 10 inches. The soils, which are formed by volcanic ash, basic igneous rock, and organic matter, are well drained and have moderately rapid to rapid permeability. Runoff over this series is slow and the erosion hazard of the soil is slight.

13. The average annual rainfall for the Kailua-Kona area where the subject property is located is about 25 inches. The rainfall pattern for that area unlike the rest of the island is generally drier during the winter months and wet during the summer months. The average monthly temperature for the North Kona area ranges from 72°F in the coolest month to 77°F in the warmest month, with the lowest and highest temperatures of record being 54°F and 93°F respectively.

PROPOSAL FOR DEVELOPMENT

14. By agreement between Dillingham Corporation and the Petitioner, Dillingham Corporation has agreed to sublease the subject property and to lease an additional parcel of approximately 14 acres adjoining the subject property from the Petitioner. Dillingham Corporation proposes to develop the subject property and the adjoining 14-acre parcel into a regional shopping center. The shopping center is "regional" in nature because of the large area it serves although academically it is classified in the nature of a "community"

shopping center in terms of the gross leaseable area and the population it intends to serve.

15. Dillingham Corporation also holds an option to acquire from third parties an additional 3-acre parcel, more or less, adjoining the subject parcel, which 3-acre parcel Dillingham Corporation proposes to include as part of the regional shopping center development with a modified site plan if the acquisition thereof is negotiated to conclusion. The proposed regional shopping center will abut those lands on which First Hawaiian Bank and a post office are now located at the southwesterly corner of Palani Road and the proposed Queen Kaahumanu Highway extension. The shopping center has been designed so that there will be direct access from the shopping center to the bank and post office which have been included by design as integral parts and amenities of the shopping center.

16. The proposed regional shopping center will contain approximately 376,000 square feet of gross leasable area and is designed to provide a variety and depth of shopping goods comparable to a central business district. Three major department stores, a major pharmacy and drug store, a restaurant and a supermarket are planned for the shopping center as well as 50 or 60 smaller shops which will offer a variety of clothing, housewares, prescription and non-prescription drugs, shoes, jewelry, gifts, groceries and food service. Approximately 1863 parking spaces will be provided. The allocation of the land area and building floor area for the intended uses are as follows:

SITE AREA PROGRAM

Total Site Area (43.17 acres) ^a	1,880,485 S.F.
Future Expansion Area (3.75 acres) -	163,500 S.F.
Landscaping Allowance -	188,500 S.F.
Connector Road -	<u>100,200 S.F.</u>
Net Site Area	1,428,285 S.F.
Pad Area	407,125 S.F.

BUILDING PROGRAM

	GLA (S.F.)
1. Market 1-level	30,000
2. Drugstore 1-level	15,000
3. Department Store 1 2-level ^b	100,000
4. Department Store 2 1-level	40,000
5. Department Store 3 1-level	62,000
Subtotal:	<u>247,000</u>
6. Mall Shops 1-level	82,500
Total Shopping Center:	<u>329,500</u>
7. Restaurant and Office 1-level	16,200
Subtotal:	<u>345,700</u>
8. Home Center 1-level	<u>30,000</u>
Total Complex:	375,700

PARKING PROGRAM

<u>Shopping Center</u>	
Required (at 5/1000 S.F.)	1648 spaces
Provided	1650 spaces
<u>Restaurant and Office</u>	
Required (at 1/100 S.F. of serving/dining area and 1/500 S.F. for office)	54 spaces
Provided	54 spaces
<u>Home Center</u>	
Required (at 5/1000 S.F.)	150 spaces
Provided	159 spaces
TOTAL REQUIRED	1852 spaces
TOTAL PROVIDED	1863 spaces

a - subject to survey verification

b - includes 50,000 S.F. future level 2

17. Dillingham Corporation proposes to develop the shopping center in two phases. The first phase will be the development of the adjoining 14-acre parcel which is already within the State Land Use Urban District and is zoned by the County of Hawaii as Commercial General. The second phase will include the development of the subject property.

18. The proposed shopping center will have multiple accesses, being two access points from Palani Road and two access points from Kuakini Highway. Also proposed is an access to the proposed Queen Kaahumanu Highway extension, approval for which must yet be applied for with the State Department of Transportation.

19. It is estimated that the proposed shopping center can be completed within a 5-year period. The first phase is estimated for completion at about March 1983, and the projected completion for the second phase is May 1983.

20. The proposed shopping center project is expected to cost approximately \$41,000,000 as follows:

Land Acquisition	\$ 1,500,000
On-Site Costs	1,900,000
Buildings	<u>37,600,000</u>
	\$41,000,000

The first phase of the development will cost around 20 to 22 million dollars, and the remainder of the total cost is allocated for phase two.

STATE AND COUNTY PLANS

21. The subject property is in the State Land Use Agricultural District.

22. The State Tourism Functional Plan (draft dated January 1980) identifies North Kona as a designated resort

region on the Island of Hawaii. The said Functional Plan draft defines North Kona as covering an area which includes the subject property.

23. The Land Use Pattern Allocation Guide Map of the County of Hawaii General Plan designates the subject property for High Density Urban Development; thus the proposed district boundary amendment is consistent with the said Land Use Pattern Allocation Guide Map. Commercial uses may be permitted within the High Density designated area, provided that the applicable goals, policies, and standards of the General Plan can be met.

24. The subject property is situated within the Kailua Village Special District, the Design Plan for which was established by Hawaii County Ordinance No. 217 adopted July 7, 1976 and which Design Plan designated the subject property for commercial uses.

25. Resolution No. 603 adopted by the Hawaii County Council on May 7, 1980 states "that until the completion of the Queen Kaahumanu Highway extension, the Kuakini Highway Corridor projects, and the Kahaluu Water Distribution System (Phase I and II), changes of land use and development shall conform to the Kailua Village Design Plan and high density uses and developments on the periphery or outside of the designated boundaries of the Kailua Village Design Plan be de-emphasized."

26. The current Hawaii County Zoning designation for the subject property is Agricultural 1-acre (A-1a).

27. The subject property is not within the Hawaii County Special Management Area.

NEED FOR GROWTH AND DEVELOPMENT

28. The primary market area that the proposed shopping center is intended to service includes North Kona,

South Kona, North Kohala and South Kohala, and which comprise most of the western portion of the County of Hawaii. It is estimated that in 1979 there were 25,349 permanent residents in the market area, and there is no regional shopping center to serve that market area at the present time. Based on a standard of the number of square feet per leasable space per person, the resident population of the market area appears to support the development of the proposed shopping center.

29. A need for a regional shopping center as proposed by Dillingham Corporation also appears indicated from the retail sales per person reported for the County of Hawaii. Total retail sales reported for 1976 for the State of Hawaii was estimated at \$3,946,500,000 with a population of 883,500 residents (including military and dependents). The following table reflects a retail sales figure per person within the State and the Counties:

	<u>Population Estimate</u>	<u>Retail Sales</u>	<u>Retail Sales Per Person</u>
State of Hawaii	883,500	\$3,946,500,000	\$4,467
City/County of Honolulu	716,300	3,416,100,000	4,769
County of Maui	57,200	205,100,000	3,585
County of Kauai	33,900	102,300,000	3,018
County of Hawaii	76,200	223,000,000	2,926

The County of Hawaii is last in retail sales per person in the State even though it maintains the second highest population of all counties in the State. The above schedule based on 1976 figures indicates an outflow of retail sales from the County of Hawaii or a potential unserved market based on a per person retail sales expenditure which outflow and unserved market could be retained and accommodated by the development of a regional shopping center located at a suitable site in West Hawaii.

30. The demand for a regional shopping center is further indicated by the interest of the prospective tenants who conduct their own evaluation of the market place to determine the need for their respective services and goods.

31. Stores which have indicated interest in becoming tenants in the shopping center by submitting letters of intent to Dillingham Corporation include:

Liberty House
Woolworth
J. C. Penney
Times Market
Sure Save Market
Ben Franklin
Pay N' Save (Home Center)
Kinney Shoe Store
Zales
ABC Drugs

32. The Hawaii County Planning Department believes that economic market conditions today justify a regional shopping center or at least additional retail/office space in West Hawaii.

IMPACTS ON RESOURCES OF THE AREA

Agricultural Resources

33. Based on the Detailed Classification of the Land Study Bureau, the subject property has been classified as type 285 with an Overall Master Productivity Soil Rating of "E". This soil classification is defined as being very poorly suited for agricultural purposes or commercial forestry production.

34. The subject property is currently being used for intermittent grazing. The current lessee of the subject property under a month to month tenancy, has stated that he will not suffer undue hardship by the termination of the pasture lease.

35. The subject property is not classified within the three categories of "Prime", "Unique", or "Other Important"

agricultural lands on maps delineating Agricultural Lands of Importance to the State of Hawaii published by the Hawaii State Department of Agriculture.

36. The State Department of Agriculture has stated that the subject property is unsuitable for intensive agricultural activity and that it has no objection from the standpoint of the preservation of agricultural lands to the proposed use thereof for shopping center purposes.

Water Resources

37. The source of water for the proposed shopping center on the subject property is the Kahaluu Shaft which has an estimated current capacity of about 6 million gallons per day ("mgd").

38. Current water usage in the North Kona Water District, of which the subject property is a part, and served by the Kahaluu Shaft, is approximately 2.7 mgd. Water is currently conveyed from the Kahaluu Shaft to Kailua and the project site by 8- and 12-inch transmission mains. A 20-inch main is planned to replace the existing 8-inch main. The development of the 20-inch main is identified as the Kuakini Transmission Project.

39. Based on design criteria proposed by the Hawaii County Department of Water Supply, the water demand for the proposed shopping center is estimated at 68,000 gallons per day or .068 mgd.

40. A commitment for water service for the proposed shopping center has been issued by the Hawaii County Department of Water Supply pending the completion of the Kuakini Transmission Main Project, Phase I, Job No. 8-HW-48. The contract for Phase I of the said project has been awarded with the notice to

proceed being granted in February 1980, and the scheduled completion of Phase I projected February 1981.

41. While the water commitment contains an expiration date of January 15, 1981 (prior to scheduled completion of Phase I), an extension may be granted for good cause shown.

Natural Resources

42. The natural vegetation on the subject property consists of koa haole, Christmas berry, guinea grass, natal redtop, and sand burr, which are commonly found on the western side of the Island of Hawaii. All of the wildlife observed in the project area are "introduced" species that are found on each of the major islands. Consequently, the development of the subject property for urban uses will not endanger any fauna or botanic species existing in the Kona area.

43. Situated approximately 0.2 miles makai of the subject property is Kailua Bay, which is classified as Class B waters by the Hawaii State Department of Health. Uses permitted in Class B waters include small boat harbors, commercial fishing, and recreation. Because of the subject property's distance from Kailua Bay, no adverse effects to the bay are anticipated from the development of the proposed shopping center.

44. The potable water sources for the North Kona area are from wells located in Kahaluu, approximately 5 miles from the subject property. Because of its distance from the wells, the proposed shopping center should have no adverse effects on the fresh water resources for Kona.

45. There are no perennial streams or lakes in the vicinity of the subject property.

46. The subject property is characterized as rolling pasture land overrun with koa haole, Christmas berry, grass,

and undergrowth. The site has no topographic features of scenic value, and, because of its tilted, saucerlike features, construction of low-relief structures on the site should not block the seaward view planes from the lands above the project.

47. The completion of the extension of Queen Kaahumanu Highway will provide a definite separation between the subject property and the forested area on the mauka side of the extension. The shopping center complex will be landscaped according to the landscape guidelines established in the Hawaii County's Kailua Village Design Plan, dated July 1976, to insure a compatible relationship between the proposed shopping center and the surrounding urban areas.

48. The impact on air quality from the emission created by the traffic, including the traffic generated by the proposed shopping center, at the Palani-Kuakini intersection is relatively negligible compared to Hawaii Kai and Waikiki. The impact does not exceed the Federal limitation standards for air quality, and the probability as to how often it will exceed the State limitation standards is estimated as .2 of 1% of the time as compared to Hawaii Kai and Waikiki where it exceeds 15% and 10% of the time, respectively.

Historic Resources

49. There are no registered historical sites within the subject property. The Hawaii State Department of Land and Natural Resources, Historic Sites, Section, stated that a review of its records indicate the presence of some archaeological sites on the subject property.

50. An archaeological reconnaissance survey of the subject property was conducted by Mr. Lloyd J. Soehren for

Petitioner, in February 1977, and based on Mr. Soehren's findings, no sites of historical or archaeological significance exist on the subject property. The survey describes 18 archaeological features, mostly gravesites, and recommends that further study thereof be made prior to destruction or relocation as the case may be.

51. Dillingham Corporation has represented that it will cause to have conducted a follow-up archaeological survey to determine whether any of the artifacts or sites identified by the Soehren survey should be preserved or relocated to another site and whether the shopping center must be designed around artifacts to be preserved. Dillingham will do whatever is necessary to preserve or salvage those archaeological sites found from this follow-up survey.

PUBLIC SERVICES AND FACILITIES

Firefighting Services

52. A new fire station is located just mauka of the subject property along Palani Road. Both fire protection and rescue services are provided from this station. According to the Hawaii County Fire Department, the Kailua Kona fire station is adequately equipped to provide fire protection to the development of the proposed shopping center.

Police Services

53. A county police station is situated along Hualalai Road, approximately 0.5 miles from the subject property and is available to service the proposed development on the subject property.

Utility Services

54. Power for the Island of Hawaii is provided by Hawaii Electric Light Company, Inc. (HELCO). Power is generated

at the Hilo power plant and is transmitted to various substations throughout the island. The subject property will be serviced by the Kailua substation, which is the main substation for this area. A network of 12 KV underground and overhead power lines presently exist within the roadways. There is sufficient power to service the proposed development on the subject property.

55. Hawaiian Telephone Co. (Hilo) service is available and will be provided to the proposed development on the subject property.

56. Gas lines have been installed by Hilo Gas Company in Kuakini Highway and Palani Road in the vicinity of the proposed development. The existing 4-inch lines are adequate to service the subject property.

Sewage Treatment and Disposal Services

57. Wastewater flows generated within the proposed shopping center will be accommodated by the North Kona sewer system. Serving the North Kona area is a 1.0 mgd secondary treatment facility using the activated sludge process. Effluent from the plant is discharged into injection wells drilled within the plant site. The present average flows to the plant amount to approximately 0.55 mgd. An existing 18-inch interceptor sewer line traverses the property upon which the shopping center will be developed. The capacity of this interceptor sewer is 2.6 mgd. The existing 18-inch interceptor sewer line was sized to include flows from the subject property.

58. Wastewater flows anticipated from the proposed shopping center is estimated at 68,000 gpd. This quantity is based on the assumption that all the water used at the shopping center will enter the sewer system.

59. The present flow to the treatment plant amounts to approximately 0.55 mgd, leaving approximately 0.4 mgd of unused treatment capacity available for use. Based on these flows and flows committed to other proposed developments, the existing treatment facility is capable of treating the small flows (0.068 mgd) generated within the shopping center.

60. The Hawaii County Department of Public Works has issued a sewer commitment for 68,000 gallons per day sewage flow for the proposed shopping center. The sewer commitment is conditioned upon (i) construction of the shopping center starting by January 1981 and (ii) aid from the developer in financing of the interim plant expansion of the Kailua Sewage Treatment Plant in the event additional flow is generated from the shopping center.

Water Services

61. The source of water for the subject property is the Kahaluu Shaft which has an estimated capacity of about 6 mgd. (PET EX 5: 5) The Hawaii County Department of Water Supply has committed to provide water for the proposed shopping center, pending the completion of the Kuakini Transmission Main Project Phase I, Job No. 8-HW-48. Completion date of this project is anticipated by February 27, 1981.

Roadway and Highway Services and Facilities

62. There will be multiple accesses to enter the proposed shopping center. From Palani Road there are two major access points for which there are existing curb cuts and median cuts along Palani Road. The County of Hawaii, in planning for Palani Road in 1973, acknowledged and contemplated access to a planned unit development shopping center on Petitioner's 11-acre parcel which is a portion of the 14-acre parcel adjoining the

subject property. From Kuakini Highway there is a major access point from the proposed Henry Street which is designed to connect Kuakini Highway to the proposed Queen Kaahumanu Highway extension. Another access point from Kuakini Highway to the proposed shopping center is the existing Ololi Street, the improvement for which is required in connection with the rezoning and development of the 14-acre parcel adjoining the subject property. Any one of the access points is connected to every other access point by way of the traffic circulation pattern within the proposed shopping center. The multiple accesses provide alternative traffic routes through the shopping center so as to avoid the use of Palani-Kuakini intersection.

63. Although the Hawaii State Department of Transportation has commented that no access from the proposed Queen Kaahumanu Highway extension (also known as Kuakini Highway Realignment) will be permitted, no formal application for approval of such an access has yet been made based on the latest site plan which provides for a relief road connecting Kuakini Highway to the proposed Queen Kaahumanu Highway extension and serving to alleviate traffic congestion at the Kuakini-Palani intersection. Dillingham Corporation intends to request for such an access. The Chief Engineer of the County of Hawaii stresses the need to connect Kuakini Highway to the proposed Queen Kaahumanu Highway extension and suggests that even a "right in/out onto Queen Kaahumanu would be better than no connection."

64. The traffic generated by the development of the proposed shopping center will affect three transportation corridors: Queen Kaahumanu Highway, Palani Road and Kuakini Highway. The additional traffic from the proposed project

affecting Queen Kaahumanu Highway can be adequately accommodated. The stretch of Palani Road between Queen Kaahumanu Highway and Kuakini Highway is, subject to some minimal modifications, also adequate to serve the proposed project. The additional traffic poses a concern of traffic overload at the Palani-Kuakini intersection and along Kuakini Highway.

65. There are certain regional highway improvement plans that will also alleviate the increased traffic generated by the proposed project. These improvement plans include the Queen Kaahumanu Highway extension (also known as Kuakini Highway Realignment) which is currently scheduled by the State for construction commencement in 1983 and anticipated for completion in 1985 or 1986, 2 to 3 years after the regional shopping center may be fully developed, as proposed by the Petitioner. The completion of the Queen Kaahumanu Highway extension will replace Kuakini Highway as the by-pass highway in getting traffic in and out of the entire Kona region thereby relegating Kuakini Highway into a lesser traversed street to serve local traffic demands. The County of Hawaii has initiated action to improve a section of Kuakini Highway by setting aside \$600,000.00 for improvements to what is commonly known as the Kuakini corridor which is that stretch of highway between the Kuakini-Palani intersection and Kuakini-Hualalai intersection. Construction of the Kuakini corridor improvements is planned to commence by the end of 1980 with an estimated completion 10 or 12 months thereafter. The need for certain other improvements is indicated along Kuakini Highway and Palani Road such as signalization, an extra lane and additional right of way, the details of which will be taken up later by the County at an appropriate time.

CONTIGUITY OF DEVELOPMENT TO URBAN AREAS AND FACILITIES

66. The subject property is located south of, and is contiguous to, parcels of land in the Urban District including the 14-acre parcel to be developed with the subject property which 14-acre parcel is already zoned by the County of Hawaii as Commercial General. Thus, it is an extension of an area already set aside or committed for commercial development. The subject property is approximately 200 feet north of a residential housing area, and it has access to Kuakini Highway, a major highway, the makai side of which abuts the resort core of the Kailua Village. The aforesaid 14-acre parcel, which is contiguous to the subject parcel and zoned commercial, abuts Palani Road immediately north of which are parcels of land in the Urban District and which are being used for small shopping center, apartment and industrial purposes.

67. Hook up to the County systems for water and sewer service to the subject property is readily available.

POTENTIAL FOR EMPLOYMENT OPPORTUNITIES

68. The development of the proposed shopping center will favorably impact upon the potential for employment in the Kona area. It is estimated that the proposed project will generate employment for approximately 1000 to 1200 people.

STANDARDS FOR DETERMINING DISTRICT BOUNDARIES

69. The subject property is located within an area characterized by "city-like" concentrations of people, structures, streets, urban level of services and other related land uses.

70. The subject property is adjacent to the existing trading and employment areas of the Kailua Village.

71. The subject property is located in close proximity to basic services such as water and sewer facilities, police and fire protection, electrical and telephone utilities, and public transportation.

72. The subject property has satisfactory topography, drainage, and soil conditions. The topography of the subject property slopes toward the ocean at an average gradient of approximately 5% with elevations ranging between 40 and 170 feet above sea level. The soils, which are formed by volcanic ash, basic igneous rock and organic matter are well drained and have moderately rapid to rapid permeability. Runoff over this series is slow and the erosion hazard of the soil is slight. The subject property is outside the tsunami zone.

73. The lands, of which the subject property is a part, proposed for the shopping center are desirable and suitable for a shopping center. Liberty House has given to Dillingham Corporation a letter of intent to become a tenant in the shopping center if the shopping center is developed, and has expressed a preference for this site because it is adjacent to the bank and post office, is located across the street from a strip shopping center, and has the potential to attract trade from the walking traffic. The schematic grading plan for the proposed shopping center appears to support the feasibility of this site for a shopping center.

74. The Land Use Pattern Allocation Guide Map of the County of Hawaii General Plan designates the area of the subject property for High Density Urban Development. This area was designated to its present classification by the Hawaii County Council during the recently conducted Revision Program

of The General Plan (Ordinance No. 456, adopted July 16, 1979). The report prepared by the Planning Department on The General Plan Revision Program (November 21, 1978) stated, in part, the following:

As Kona's economy continues to expand, the need to accommodate future urban related uses such as industrial and residential becomes important. It is also critical that a specific commercial center to service the region's needs be generally identified. Failure to do so would make it more conducive to have a random pattern of commercial areas without any centralized core. Accordingly, in reviewing growth patterns and existing and future transportation systems, it was concluded that the Palani Road/Queen Kaahumanu area would be most suitable for High Density Urban uses. The presence of a major shopping center, a proposed commercial office/retail development on the Ka'u end of Palani Road and a fire station provide the basis for this commercial core.

The "commercial office/retail development" which the report refers to is that which is proposed on the existing commercially zoned 14-acre parcel aforesaid owned by Petitioner.

75. The subject property is located within the Kailua Village Special District and according to the Kailua Village Design Plan (Ordinance No. 217 adopted July 7, 1976) the subject property is recognized and designated for commercial uses. The reclassification of the subject property to an Urban District is consistent with the intent of Hawaii County Council Resolution No. 603.

76. The urbanization of the subject property for use as part of the proposed shopping center together with the aforesaid adjoining 14-acre parcel does not contribute to scattered urban development nor necessitate unreasonable investment in public supportive services. The Planning Commission, in its report recommending rezoning of the said 14-acre parcel to General Commercial, observed as follows:

"3. That the Land Use and Commercial elements of the General Plan also state that commercial facilities shall be developed in areas adequately served by essential services and other infrastructures. These areas shall also be allocated with respect to places of employment, shopping facilities, educational, recreational and cultural facilities. It is felt that the granting of the change of zone request at its particular location is warranted as the area is adjacent to and within the walking distance to the principal employment and existing commercial areas of Kailua. The areas are also provided with all necessary utilities and services. Thus, with the provision of these essential infrastructures, it is determined that the requests also complement those stated policies of the General Plan."

77. The Dillingham Corporation, as the developer of the proposed shopping center, has the financial stability and experience to develop, construct and operate the proposed project and to obtain the necessary financing therefor. Since 1960, Dillingham Corporation has developed approximately 19 shopping centers including the Ala Moana Center on Oahu and the Kaahumanu Center on Maui.

78. The State Department of Planning and Economic Development finds from its analysis that the proposed boundary amendment from Agricultural to Urban is consistent with the Interim Statewide Land Use Guidance Policies and the Commission's standards for determining Urban Districts and recommends that Petitioner's request for the proposed boundary amendment be approved.

79. The Hawaii County Planning Department finds from its analysis that the approval of Petitioner's request for the proposed boundary amendment will not be violative of Chapter 205, Section 205-2 HRS, nor will it be inconsistent with the Commission's Regulations, The General Plan, the State Plan, and the Interim Statewide Land Use Guidance Policies and

recommends that Petitioner's request for the proposed boundary amendment be approved. The Hawaii County Planning Department has also noted that if the proposed boundary amendment is approved, the Hawaii County intends to require certain information and improvements, among others, in conjunction with the processing of any rezoning requests. These may include, but not be limited to, the following:

1. A comprehensive historical management or similar program for the preservation, salvage, etc., of the historical sites and archaeological remains on the subject property.
2. The provision of detailed drainage studies and subsequent improvements.
3. The provision of water improvements as may be required by the County Department of Water Supply.
4. The compliance with the requirements of the appropriate State and County agencies relative to sewage disposal.
5. The provision of certain roadway improvements.

RULING ON PROPOSED FINDINGS

Any of the proposed findings of fact submitted by the Petitioner or the other parties 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 State Land Use Rules of Practice and Procedure and District Regulations, the Commission concludes that the reclassification of the subject property situated at Kailua, Kona, Island of Hawaii, more particularly identified as Tax Map Key No. 7-5-04: portion of parcel 7, consisting of approximately 25.783 acres from the Agricultural to the Urban District and amendment of Land Use District Boundaries accordingly to permit a commercial development including the proposed development of a shopping center is reasonable, will not violate Section 205-2, HRS, and is consistent with the Interim Statewide Land Use Guidance Policies established pursuant to Section 205-16, HRS, and by State Land Use District Regulation 6-1.


ORDER

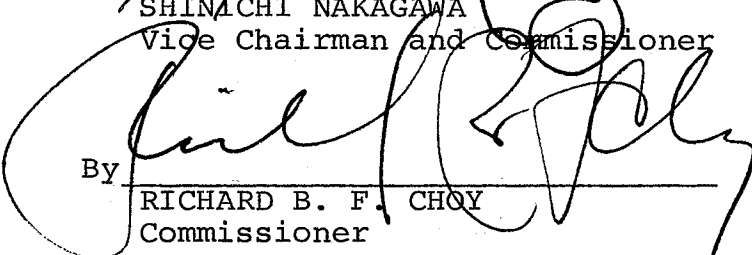
IT IS HEREBY ORDERED that the property which is the subject of the Petition by LANIHAU CORPORATION in Docket No. A79-471, consisting of approximately 25.783 acres, and more particularly identified as Tax Map Key No. 7-5-04: portion of parcel 7 at Kailua, Kona, Island of Hawaii be reclassified from Agricultural to the Urban District.

DONE at Honolulu, Hawaii, this 9th day of December, 1980, upon motion heard and duly carried by the Commission on September 16, 1980, in Honolulu, Hawaii.

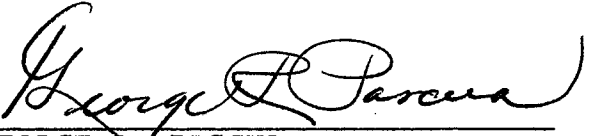
LAND USE COMMISSION
STATE OF HAWAII

By 
C. W. DUKE
Chairman and Commissioner


By 
SHINICHI NAKAGAWA
Vice Chairman and Commissioner

By 
RICHARD B. F. CHOY
Commissioner

By 
SHINSEI MIYASATO
Commissioner

By 
GEORGE R. PASCUA
Commissioner

By 
CAROL B. WHITESELL
Commissioner

By 
EDWARD K. YANAI
Commissioner

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition)
)
 of)
)
 LANIHAU CORPORATION to Amend)
 the district boundary of)
 property situated at Kailua,)
 Kona, Hawaii)
)
)

DOCKET NO. A79-471

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
250 South King Street
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
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CORPORATION COUNSEL
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JAMES T. FUNAKI, Attorney for Petitioner
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Honolulu, Hawaii 96813

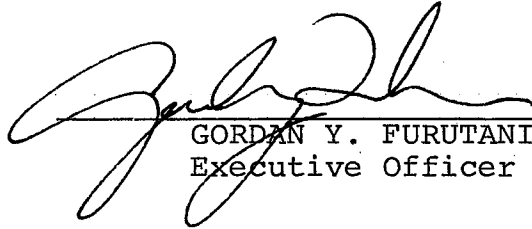
MICHAEL R. MARSH, Attorney for Intervenors
Trustees of Liliuokalani Trust and
Hart Estate Management Company
1100 First Hawaiian Bank Building
Honolulu, Hawaii 96813

MAUKA LAND, INC.
c/o Arthur Young and Company
P. O. Box 2201
Honolulu, Hawaii 96805

KKI, Inc.
c/o Arthur Young and Company
P. O. Box 2201
Honolulu, Hawaii 96805

CLARENCE NAKAHARA
P. O. Box 337
Kailua-Kona, Hawaii 96740

DATED: Honolulu, Hawaii, this 16th day of December, 1980.



GORDAN Y. FURUTANI
Executive Officer