

PURPOSE OF THE MOTION

The Petitioner is requesting by its Motion the redesignation of a portion of the Second Increment of the Kaloko Light Industrial Subdivision for roadway use.

THE HEARING

The hearing on this Motion was conducted on January 31, 1986, in Kailua, Kona, Hawaii, pursuant to notice published on December 20, 1985 in the Hawaii Tribune Herald and the Honolulu Advertiser. Petitioner was represented by Gary T. Okamoto of Wilson, Okamoto & Associates; The County of Hawaii was represented by Albert Lono Lyman, County of Hawaii Planning Director; and The Department of Planning And Economic Development was represented by Deputy Attorney General Everett Kaneshige. The following witness presented by the parties testified:

Petitioner:

Kazuo Omiya representing T.S.K., Associates.

POSITION OF THE PARTIES

The County of Hawaii - no position. The Department of Planning and Economic Development - approval.

APPLICABLE REGULATIONS

Standards for determining the Petitioner's request for approval of a portion of the second increment into the

Urban District is found under Part VI, Rule 6-2 of the State Land Use Commission's District Regulations. Said regulation provides in pertinent part that:

6-2 INCREMENTAL DISTRICTING

- (1) Petitioners submitting applications for redistricting to Urban shall also submit proof that development of the premises in accordance with the demonstrated need therefor will be accomplished within 5 years from the date of Commission approval. In the event full urban development cannot reasonably be completed within such period, the petitioner shall also submit a schedule for development of the total of such project in increments, each such increment to be completed within no more than a 5-year period.
- (2) If it appears to the Commission that full development of the total premises cannot reasonably be completed within 5 years and that the incremental development plan submitted by the petitioner is reasonable, and if the Commission is satisfied that all other pertinent criteria for redistricting the premises or part thereof to Urban are present, then the Commission shall redistrict to Urban only that portion of the premises which the petitioner plans to develop first and upon which it appears that total development can reasonably be completed within 5 years. At the same time, the Commission will indicate its approval of the future redistricting to Urban of the total premises requested by the petitioner, or so much thereof as shall be justified as appropriate therefor by the petitioner, such approval to indicate a schedule of incremental redistricting to Urban over successive periods not to exceed 5 years each.

- (3) Upon receipt of an application for redistricting to Urban of the second and subsequent increments of premises for which previous approval for incremental development has been granted by the Commission, substantial completion of any offsite and onsite improvements of the urban development, in accordance with the approved incremental plan, of the preceding increment redistricted to Urban will be prima facie proof that the approved incremental plan complies with the requirements for boundary amendments.

FINDINGS OF FACT

The Land Use Commission, having duly considered the record in this Docket, and the record in Docket A84-566, the testimony of the witnesses and the evidence introduced herein makes the following findings of fact:

1. The Land Use Commission, State of Hawaii, by its Decision and Order dated July 7, 1981, in Docket No. A80-482, approved the reclassification from the Conservation District to the Urban District of the First Increment of the Kaloko Light Industrial Subdivision. The First Increment consisting of approximately 130.10 acres in the western portion of the property, included the lands in Phase 1 and Phase 2 of Petitioner's development plan. The Second Increment, consisting of the remaining 110.36 acres of land in Phase 3 and Phase 4 situated to the north and east of the First Increment was approved for incremental redistricting. In its Decision and Order, the Commission stated in Findings of Fact No. 21 that:

"As part of the development of the proposed light industrial subdivision, Petitioner shall construct a portion of a new mauka-makai roadway (Kaloko roadway) within an 80-foot right-of-way which roadway [sic] will extend from Mamalahoa Highway to Queen Kaahumanu Highway. Plans for other portions of the Kaloko roadway have already been approved by the Hawaii County Planning Department.

2. Petitioner's Motion to redesignate 8.5 acres of the Second Increment to construct the mauka-makai roadway also contributes to the fulfillment of a condition of approval in the Commission's Decision and Order for Docket No. A84-566 (Takemasa International, Inc.). The Commission's approval in Docket No. A84-566 resulted in the reclassification of approximately 190 acres of land situated northeast of the subject property from the Agricultural to the Urban District for a golf course. The Commission's Decision and Order in Docket No. A84-566, dated February 28, 1985, provided that the reclassification was subject to two conditions, one of which provided as follows:

"Petitioner shall construct an all-weather connecting road to the County of Hawaii standards from the Queen Kaahumanu Highway to the mauka boundary of lands owned by Petitioner mauka of the subject property, within a time schedule to be established by the County of Hawaii."

3. Petitioner has represented that the mauka-makai roadway will be constructed within an 80-foot wide right-of-way and will extend from Queen Kaahumanu Highway in an alignment through the light industrial subdivision, and will eventually extend northward abutting the golf course, and connect with the roadway through the existing Urban District (A80-486 Y.O. Limited Partnership, and Kona Heavens Subdivision) to Mamalahoa Highway. The Petitioner has further represented that construction plans have been completed for the section of the mauka-makai roadway within the Second Increment of the light industrial subdivision and that said plans have been approved by the County of Hawaii Department of Public Works.

4. The Petitioner has also, to date, completed:

a) The first segment of the mauka-makai roadway, including the channelized intersection improvements to Queen Kaahumanu Highway, and

b) Construction of on-site and off-site improvements for Phase 1 of the First Increment of the light industrial subdivision.

5. Based on a review of the Motion, and the evidence adduced at the hearing and the provisions of Chapter 205 of the Hawaii Revised Statutes and the State Land Use Commission's Rules of Practice and Procedure and District Regulations, the Department of Planning And Economic Development, State of Hawaii has recommended that the redesignation of the property be approved because the request is reasonable and does not alter the Commission's Findings of Fact, Conclusions of Law and Decisions and Orders. Additionally, the Petitioner will still be subject to the incremental districting of the remaining 101.86 acres pursuant to State Land Use District Regulation 6-2 and the conditions as reflected in the Commission's Decision and Order in Docket No. A84-566 issued on February 28, 1985.

CONCLUSION OF LAW

Granting of the Petitioner's Motion redesignating property consisting of approximately 8.5 acres, situate at Kaloko, North Kona, Island and County of Hawaii, State of Hawaii, is reasonable and non-violative of Section 6-2 of the Land Use Commission's Rules of District Regulations.

ORDER

IT IS HEREBY ORDERED:

That Petitioner's Motion to Redistrict Mauka-Makai Roadway Portion of the Second Increment in Docket No. A80-482 consisting of approximately 8.5 acres of land situate at Kaloko, North Kona, Island and County of Hawaii, State of Hawaii is hereby granted.

DOCKET NO. A80-482 - T.S.K. ASSOCIATES

Done at Honolulu, Hawaii, this 15th day of May
1986, per motions on March 11, 1986 and May 14, 1986.

LAND USE COMMISSION
STATE OF HAWAII

By *T. P. Tacbian*
TEOFILO PHIL TACBIAN
Chairman and Commissioner

By *Frederick P. Whittemore*
FREDERICK P. WHITTEMORE
Vice Chairman and Commissioner

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

By *Richard B. F. Choy*
RICHARD B. F. CHOY
Commissioner

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

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

By *Toru Suzuki*
TORU SUZUKI
Commissioner

By *Lawrence F. Chun*
LAWRENCE F. CHUN
Commissioner

K O H A N A I K I

Kalo ko
Fish pond

K A L O K O

EXHIBIT A

Queen

Kaahumanu

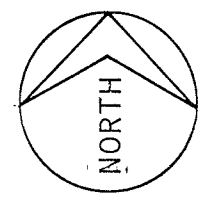
Highway

H O N O K O H A U

 AREA RECLASSIFIED TO URBAN

LOCATION MAP

TMK NO. 7-3-51: PORTION 1
KALOKO, NORTH KONA, HAWAII



Scale: 1" = 1000'

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of)
T.S.K., ASSOCIATES) DOCKET NO. A80-482
To Amend the Conservation Land Use)
District Boundary to Reclassify)
Approximately 240.46 Acres at)
Kaloko, North Kona, Island and)
County of Hawaii, into the Urban)
Land Use District)

CERTIFICATE OF SERVICE


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

KENT M. KEITH, Director
Department of Planning and Economic Development
State of Hawaii
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Honolulu, Hawaii 96813

ALBERT LONO LYMAN, Planning Director
Planning Department
County of Hawaii
25 Aupuni Street
Hilo, Hawaii 96720

KAZUO OMIYA, Vice President
TSA International, Limited
Suite 901A
1150 South King Street
Honolulu, Hawaii 96814

DATED: Honolulu, Hawaii, this 15th day of May 1986.


ESTHER UEDA
Executive Officer

DOCKET NO. A80-482 - T.S.K., ASSOCIATES

A copy of the Land Use Commission's Decision and Order was served upon the following by regular mail on May 15, 1986.

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