



BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of
GAMLON CORP.

DOCKET NO. A83-549

For Amendment of District
Boundary and Reclassification
of Certain Lands Situated at
North Kona, County, Island
and State of Hawaii

FINDINGS OF FACT, CONCLUSIONS OF LAW
AND DECISION AND ORDER

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GAMLON CORP.)
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North Kona, County, Island)
and State of Hawaii.)
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FINDINGS OF FACT, CONCLUSIONS OF LAW
AND DECISION AND ORDER

Petitioner, GAMLON CORP., a Hawaii corporation, filed the Petition in the above-captioned matter 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 lands consisting of approximately 173.66 acres, identified as Tax Map Key Nos. 7-6-21:4, 9, 10, 11, 12, 13, 15, 16 and 17 (hereinafter referred to as "subject property") situated in the ahupua'a of Holualoa First and Second, North Kona, County, Island and State of Hawaii, from the Agricultural to the Urban District. The Land Use Commission, having heard and examined the testimony and evidence during the public hearing held on September 8, 1983, in Kailua-Kona, Hawaii, and having considered the entire record filed in this docket, hereby makes the following findings of fact and conclusions of law.

FINDINGS OF FACT

PROCEDURAL MATTERS

1. On May 9, 1983, Gamlon Corp. (hereinafter referred to as "Petitioner") filed this Petition to amend the Agricultural District boundary at Holualoa First and Second, North Kona, County, Island and State of Hawaii, to reclassify the subject property into the Urban District.

2. The Land Use Commission (hereinafter referred to as "Commission") held a public hearing on this Petition on September 8, 1983, in the Resolution Room, Kona Hilton Hotel, Kailua-Kona, Hawaii, pursuant to notice of hearing published in the Honolulu Advertiser and the Hawaii Tribune Herald on August 3, 1983.

3. The Commission received one timely request for intervention on July 20, 1983 from Elizabeth Ann Stone on behalf of the Honest Environmental Citizen's Against Progress, and denied the request in the absence of Ms. Stone at the hearing. The Commission received two untimely requests to appear as public witnesses from James Sogi representing Mr. and Mrs. Roy Nagle, property owners in the area, Maile Akimeseu, representing the Friends of Kamo Point, Inc., and permitted them to testify as public witnesses.

DESCRIPTION OF SUBJECT PROPERTY

4. The subject property is located mauka of Kuakini Highway approximately 2.6 miles south of the Palani Road - Kuakini

Highway intersection in Kailua-Kona, Hawaii. The subject property is bordered by vacant, undeveloped lands to the north and generally to the east, by the Kalani Sunset, Leilani Sunset, and Kainana Subdivisions to the south, and by the old Kailua-Keauhou Middle Road to the west.

5. With the exception of an undivided interest in five acres of Tax Map Key No. 7-6-21: 17, which is owned in fee simple by Hawaii Preparatory Academy, Kalott Properties N.V., a Netherland-Antilles corporation, a wholly-owned subsidiary of Petitioner, owns all of the subject property. Petitioner holds an option to purchase the subject property from Kalott Properties N.V. Hawaii Preparatory Academy and Kalott Properties N.V. have authorized Petitioner to file this Petition.

6. Hawaii Tax Map Keys Nos. 7-6-21: 14, 18 and 19 are within the general boundary of the subject property but are not being considered for reclassification as a part of this Petition. Parcel 18, owned by the County of Hawaii and the Dillingham Investment Corporation, and Parcel 19, owned by the County of Hawaii, are an existing and proposed drainage way for the Holualoa School and Horseshoe Bend streams. Parcel 14 is owned by John P. Ellbogen.

7. On August 23, 1982, the State of Hawaii instituted an eminent domain action against Kalott Properties, N.V. to condemn a portion of Tax Map Key Nos. 7-6-21, parcels 13 (.578 acres) and 16 (2.202 acres) for the Kuakini Highway realignment

project. As of the date of the public hearing, final judgment had not been entered in this action.

8. The subject property is currently leased to and utilized by the Palani Ranch for cattle grazing under a month-to-month lease.

9. The United States Department of Agriculture's 1973 Soil Conservation Service Soil Survey Map of Island of Hawaii, classifies the soil of the subject property as being in the Punaluu series and an extremely rocky peat. Permeability is moderately rapid, runoff is slow, and erosion hazard is slight.

10. The elevation of the subject property ranges from 350 feet to 700 feet at its mauka boundary. The slope generally ranges from 6% to 20%.

11. Vegetation on the subject property is composed of almost entirely exotic specimens, with Koa-haole the dominant species. The subject property does not support any plant life considered rare, threatened or endangered. Several native species and exotic species common to Kona and found throughout the State also grow on the subject property.

12. Approximately 75% of the subject property is located within the defined boundaries of the Holualoa drainage basin. The Federal Insurance Administration has designated two portions of the subject property adjacent to the both sides of the

Horseshoe Bend and Holualoa School intermittent streams in Flood Zone "A," which is defined as areas susceptible to a 100-year flood, in the Flood Insurance Rate Maps for the Island of Hawaii.

PROPOSAL FOR DEVELOPMENT

13. With the exception of the five acres owned by the Hawaii Preparatory Academy, Petitioner proposes to develop a single-family and multi-family residential subdivision on the subject property. Petitioner intends to develop approximately 500 residential units of which 215 would be single-family residential units and 285 would be multi-family residential units.

14. Petitioner proposes to build the single-family residential units on approximately 103 acres, with each unit having a minimum lot size of approximately 15,000 sq. ft. The Petitioner estimates that single-family density will be at approximately 2.1 units per acre.

15. Petitioner proposes to build multi-family townhouse residential units on approximately 65 acres at an estimated density of RM-8.0 (1 unit per 8,000 feet of land area) or 4.4 units per acre.

16. Petitioner proposes to use the Holualoa School Stream as a boundary between the single-family units (to the south) and the multi-family units (to the north).

17. Petitioner intends to market 25% to 50% of the single-family units as house/lot packages and 50% to 75% as lot-only sales. Petitioner intends to market the multi-family units as residential, as opposed to resort, townhouse, condominiums.

Pursuant to the County of Hawaii's incremental zoning requirements, Petitioner is required to construct dwellings on at least 25% of the lots in its first phase proposed residential subdivision in order to obtain rezoning of second phase.

18. Petitioner estimates that it will sell the vacant house lots for approximately \$70,000 (1983 dollar) and three- and four-bedroom house/lot packages for \$150,000 (1983 dollar). The multi-family units will range in price from \$90,000 to \$180,000 (1983 dollar).

19. Petitioner has agreed in principle to work jointly to provide housing opportunities for low- and medium-income residents. Petitioner proposes to cooperate with State and County housing agencies in order to offer ten percent of the lots and house and lot packages at prices that will enable residents to qualify for Federal- or State-assisted housing loan programs.

20. Hawaii Housing Authority (HHA) feels that approximately 10% of the housing units should be affordable by low and moderate income families.

21. HHA recommends that a condition be included to assure that 10% of the units will be affordable to low and

moderate income families, as determined by the County of Hawaii and HHA.

22. The Draft Kona Regional Plan estimates that approximately 40% of the households in Kona are currently facing some kind of housing problem which ranges from the household paying too large a percentage of its income for housing, living in substandard or unsafe housing, living in a crowded household or combinations thereof.

23. Petitioner estimates construction costs for on-site and off-site improvements to be approximately \$35 million (1983 dollar). This estimate includes major drainage improvements, road construction, site preparation, and labor and materials.

24. Petitioner estimates that Phase 1 and 2 can be completed within 8 1/2 years from the date of the Commission's approval of this Petition.

25. Petitioner is a wholly-owned subsidiary of Blue Chip Corporation, a Japan corporation. Petitioner holds approximately \$14 million of investment property free of any mortgages and can use said property to finance the proposed project. If necessary, Blue Chip Corporation will provide any additional funds needed to complete the project.

STATE AND COUNTY PLANS

26. The subject property is situated within the State Land Use Agricultural District. It is contiguous to urban classified lands to the south which have been developed for low density

residential uses (Kalani Sunset, Leilani Sunset, and Kainana Subdivisions). To the west, the Kailua-Keauhou Middle Road (40 foot right-of-way), which is in the Agricultural District, separates the subject property from adjoining Agricultural and Urban Districts. Lands to the north are designated Agricultural. Lands to the east are designated Rural.

27. The County of Hawaii General Plan Land Use Pattern Allocation Guide (LUPAG) map designates most of the subject property as "Alternate Urban Expansion" and a small area as "Low Density Urban." The two stream beds and adjacent areas are designated as "Flood Plains."

28. The draft Kona Regional Plan prepared by the County of Hawaii's Planning Department recommends that the subject property be developed for low density residential (RES-4, 4 units per acre), and moderate density residential (RES-10, 10 units per acre) uses. Petitioner's proposed project is consistent with the draft Kona Regional Plan.

29. The Kailua-Honalo Urban Zone Map (Ordinance No. 74, 1967) zones the entire subject property as "Unplanned" with a minimum lot size of five acres. Petitioner must obtain a rezoning of the subject property.

30. The subject property is not situated within either the Special Management Area or the boundaries of the Kailua Village Special District.

NEED FOR GROWTH AND DEVELOPMENT

31. The draft Kona Regional Plan poses three growth alternatives for Kona with corresponding population forecasts for the period 1980-2000. The population projections to the year 2000 are as follows: Alternative I: 33,200; Alternative II: 39,400; and Alternative III: 46,300.

32. Using these population projections and the anticipated decline in household size, the draft Kona Regional Plan indicates future new housing requirements at between 5,240 to 9,915 units or a production rate of 262 to 496 units per annum for Kona.

33. In addition, 1,580 units will reach obsolescence by the year 2000 and will need to be replaced. Petitioner's consultant assumes 40% of the above enumerated housing units reaching obsolescence will not be repaired.

34. Using the draft Kona Regional Plan's estimates of new housing units required and the obsolescence factor developed by Petitioner's consultant, the total number of new housing units needed for Kona ranges from 5,872 to 10,547 units.

35. Petitioner's market study of 32 existing residential subdivisions of ten or more units in the North Kona area (as defined geographically by the market study) identified a total of 4,580 existing residential lots. Of that total, 2,352 or 51% of the lots have houses built on them and contribute to the existing

housing stock. The balance of 2,228 lots or 49% are vacant. In addition, only 345 vacant lots are for sale.

36. If all the existing vacant lots counted in the market study become available for housing by the year 2000, the current available inventory of finished lots represents between 21% and 38% of the projected need.

37. Petitioner's market study estimates that 80% of the housing units needed for Kona will be built in the area studied by Petitioner (hereinafter referred to as "study area"), which encompasses the Kailua-Kona-Keauhou segment of the draft Kona Regional Plan prepared by the County of Hawaii's Planning Department. This amounts to between 4,698 to 8,437 units.

IMPACTS ON THE RESOURCES OF THE AREA

Agricultural Resources

38. The State Department of Agriculture does not place the subject property in any of its important agricultural land categories in its ALISH Maps for North Kona.

39. The Land Study Bureau's Detailed Land Classification Map for the Island of Hawaii indicates that two land types, D293 and E295, are distributed across the subject property. The D and E ratings indicate that the land is poorly or very poorly suited for agricultural activities.

40. Although the subject property is currently used for cattle grazing, it does not have a high capacity for intensive

agricultural use. Approximately 24 to 30 head of cattle are located on the subject property.

41. The draft Kona Regional Plan, which was developed in consultation with farmers and governmental agencies concerned with agricultural activities, recommends that the subject property be used for residential purposes.

Archaeological Resources

42. Cultural Surveys Hawaii conducted an archaeological reconnaissance in January of 1983. It discovered 47 archaeological sites on the subject property, some of which are merely remnants.

43. Based on preliminary observations, none of the sites discovered are historically significant except for research purposes. Petitioner will conduct further archaeological work as recommended by Cultural Surveys Hawaii, the State of Hawaii and the County of Hawaii.

Recreational Resources

44. Petitioner intends to develop a private recreation area for residents of the proposed development.

PUBLIC SERVICES AND FACILITIES

Fire Fighting and Police Services

45. The County of Hawaii will provide police service from the Kona District Headquarters located in Captain Cook. Fire protection service will be provided by the County from its Kailua Fire Station located on Palani Road.

Schools

46. Students from the proposed project will attend the Kealakehe Elementary and Intermediate School (Grades K-8) and the Konawaena High School (Grades 9-12). The opening of the Kahakai Elementary School in September, 1982, which has a capacity of 670 students, alleviates the overcrowding at Kealakehe Elementary and Intermediate School. The Kealakehe and Kahakai school facilities are expected to meet the needs of the growing North Kona population for the next seven (7) years. The DOE plans to construct additional school facilities at the Kealakehe Intermediate School and the Konawaena High School during the late 1980's in order to meet the needs of the residents of Petitioner's and other developments during the next 10-year period.

Electrical Utilities Services

47. Hawaii Electric & Light Company, Inc. and Hawaiian Telephone Company lines serve the area. Petitioner will provide all necessary service connection and transmission lines necessary to transmit electricity and other utilities to the development as may be required by applicable state and county regulations.

Water

48. Petitioner does not have a water commitment from the Board of Water Supply for this project, but Petitioner is a participant in the Kona Source Agreement I with the County development of Water Supply and other developers for development of new

domestic water sources in Kona. Petitioner has paid \$125,000 as a contribution for its prorata share for 500 water units.

49. Should the exploratory activities conducted pursuant to the water agreement prove successful, Petitioner will execute a subsequent water source development agreement II and the Board of Water Supply will issue water commitments issued to participating developers, including Petitioner.

Drainage

50. Although approximately 75% of the subject property lies in the defined boundaries of the Holualoa Drainage Basin, intermittent flooding is limited to the Horseshoe Bend and the Holualoa School Streams. Petitioner will build and dedicate to the County of Hawaii all drainage facilities recommended in the Drainage Master Plan for the North Kona Flood Control Project within the boundaries of the subject property.

51. Properties located makai of the subject property (below Kuakini Highway) to the coastline have received various development approvals conditioned on the requirement that development of these projects may not commence unless the developers implement their portion of the drainage facilities recommended in the Drainage Master Plan for the North Kona Flood Control Project.

52. The development of the subject property and properties located makai of the subject property will result in a

continuous drainage system from the mauka boundary of the subject property to the ocean.

Sewage Treatment and Disposal Services

53. Petitioner proposes to dispose of sewage waste generated by the single-family residential area by individual cesspools. Petitioner proposes that the multi-family residential area will be served by private treatment plants.

54. Petitioner shall design and construct all sewage treatment facilities to satisfy the requirements specified in Chapter 38, Public Health Regulations, State of Hawaii.

Solid Waste Disposal Services

55. The County of Hawaii does not provide refuse collection service. Petitioner will require purchasers to haul refuse to the Kona Sanitary Land Fill or make arrangements with commercial disposal services. The landfill, which serves the North and South Kona districts, is located about four miles north of Kailua Village off of Queen Kaahumanu Highway.

56. The existing land fill has a life expectancy of approximately 10 years. The County of Hawaii is planning to install a refuse shredding facility to alleviate problems.

Roadway and Highway Services

57. The State Department of Transportation has approved two accesses from the proposed project to Kuakini Highway. Petitioner proposes to connect present north/south lateral road

system, specifically Kilohana, Leilani, and Pualani Streets to the proposed internal roadway system for the development. The lateral connections and intersection improvements would provide safer and more convenient ingress and egress to Kuakini Highway for residents of these adjacent subdivisions.

58. Petitioner anticipates that traffic generated by the proposed project should be mitigated by the completion of the Kuakini Highway realignment project which is already under construction by the State of Hawaii and which State expects to complete before the proposed project is completed.

CONTIGUITY OF DEVELOPMENT

59. The subject property is contiguous to an Urban District to the south which has been developed for low density residential uses (Kalani Sunset, Leilani Sunset, and Kainana Subdivisions). The Kailua-Keauhou Middle Road (40 foot right-of-way) separates the subject property from an existing Urban District along part of the subject property's makai (west) boundary.

COMPLIANCE WITH STANDARDS FOR DETERMINING DISTRICT BOUNDARIES

60. The character of the area is "city like" due to the adjacent residential subdivisions located to the south of the subject property. In addition, proposed commercial development by Dillingham Investment Corporation on lands between Kuakini Highway and the subject property further amplify the "city like" character of the area.

61. The subject property is centrally located to established employment centers. It is only 2 1/2 miles south of Kailua Village and 4 miles north of the Keauhou resort community. Dillingham Investment Corporation has proposed to construct a shopping center and medical center on nearby land already designated for commercial use.

62. Although the development of the subject property for residential use will not create permanent employment opportunities, the development of this project at a cost of \$35 million will provide short-term employment opportunities for persons associated with the construction and real estate industries.

63. Reclassification of the subject property is reasonably necessary to accommodate urban growth projected for the North Kona area.

64. The subject property does not have any adverse geographic or topographic constraints which will hinder or endanger the proposed development. The proposed project will be designed and constructed to be reasonably free from the danger of floods, tsunami, unstable soil conditions, and other adverse environmental effects.

65. The proposed development will not result in "spot" urban development because an existing Urban District which has been developed for low-density residential uses is located adjacent

to the subject property on the south and a Rural District, which permits the development of residential housing on half acre lots, is contiguous to the subject property on its east (mauka) boundary.

66. Petitioner will install all on-site utility lines, roads, sewage disposal, and water systems at no cost to the state or county governments. Petitioner will also construct and dedicate to the County of Hawaii a major drainage facility within the boundaries of its property.

COMPLIANCE WITH THE HAWAII STATE PLAN

67. Petitioner's proposed project is consistent with the Hawaii State Plan's objectives and policies relating to population, the economy (general), and housing.

INCREMENTAL DISTRICTING

68. Petitioner cannot complete full urban development of the subject property within five years from the date of the Commission's approval of the redistricting; Petitioner proposes to develop the property in two increments, encompassing 5 years and 3 1/2 years. Petitioner will substantially complete development of the first 124.660 acre increment, consisting of the makai portion of the single-family residential area, all of the multi-family area, and all infrastructure systems within five years. The second increment consisting of the mauka portion of the single-family residential area, totalling 49 acres, is scheduled for completion within 3 1/2 years thereafter. The descriptions of Increment I and Increment II of Petitioner's proposed development

are illustrated on the map attached hereto as Exhibit A and incorporated herein by reference. Petitioner cannot start development on the second increment until development on all on-site and off-site improvements within Increment I have been substantially completed.

RULING ON PROPOSED FINDINGS OF FACT

The Land Use Commission hereby rejects any of the proposed findings of fact submitted by the Petitioner or the other parties not already ruled upon by adoption herein, or rejected by clearly contrary findings of fact herein.

CONCLUSIONS OF LAW

Pursuant to Chapter 205, Hawaii Revised Statutes, as amended, and the Rules of Practice and Procedure and District Regulations of the Land Use Commission, State of Hawaii, the Commission concludes that the reclassification of all of the lands within Increment I, consisting of approximately 124.660 acres (as shown on Exhibit A attached hereto), from the Agricultural to the Urban District and amendment of the land use district boundary to permit the development of Increment I is reasonable, in conformity with Section 205-2, Hawaii Revised Statutes, and is consistent with the Hawaii State Plan as set forth in Chapter 226, Hawaii Revised Statutes, as amended, and the District Regulations of the Land Use Commission.

The Commission further concludes that although full development of the lands within Increment II (as shown on Exhibit A attached hereto) cannot be reasonably completed within five years from the date of the Commission's decision on this matter, reclassification of the lands within Increment II, consisting of approximately 49 acres, from the Agricultural to the Urban District and the amendment of the land use district boundary to permit the development of Increment II is reasonable, in conformity with Section 205-2, Hawaii Revised Statutes, and is consistent with the Hawaii State Plan, as set forth in Chapter 226, Hawaii Revised Statutes, as amended, and the District Regulations of the Land Use Commission. Therefore, incremental redistricting of the lands within Increment II of Petitioner's development is reasonable and warranted.

DECISION AND ORDER

IT IS HEREBY ORDERED that the lands within Increment I of Petitioner's development plan of the subject property, consisting of 124.660 acres, as depicted in Exhibit A attached hereto and incorporated herein by reference, situated in the ahupua'a of Holualoa First and Second, North Kona, County, Island and State of Hawaii, shall be and the same is hereby reclassified from the Agricultural to the Urban District, and the district boundaries are amended accordingly.

IT IS ALSO HEREBY ORDERED that the lands within Increment II of Petitioner's development plan of the subject property/consisting of approximately 49 acres, as depicted in Exhibit A attached hereto and incorporated herein by reference, situated in the ahupua'a of Holualoa First and Second, North Kona, County, Island and State of Hawaii, shall be and the same are hereby approved for incremental development pursuant to State Land Use Commission's District Regulation 6-2, and 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.

IT IS FURTHER HEREBY ORDERED that the reclassification and incremental districting of the subject property shall be subject to the following conditions:

A. Petitioner shall provide housing opportunities for low and moderate income Hawaii residents prior to assigning or transferring (except by way of mortgage or assignment as security)

its interest in the subject property, by offering for sale, on a preferential basis, on its own or in cooperation with either or both the Hawaii Housing Authority or the County of Hawaii, ten percent (10%) of the lots or house and lots to be developed on the subject property, to residents of the State of Hawaii of low and moderate family income as determined by the Hawaii Housing Authority or County of Hawaii from time to time. The preferential lots or houses and lots shall be offered for sale at prices not exceeding prices that enable such purchasers to qualify for and obtain state-assisted financing (i.e., Act 105 or Hula Mae) or federally-insured or assisted financing (i.e., FHA Section 245 program) intended to encourage home ownership by low and moderate income families; and

B. In making the ultimate decision as to whether a historical or archaeological site is significant enough to warrant preservation, the Petitioner shall consult with and accept the decision of the Historic Preservation Officer of the Department of Land and Natural Resources; and

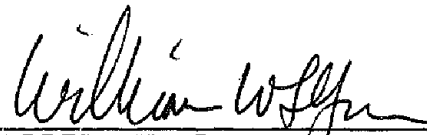
C. Petitioner shall submit annual progress reports to the Commission, Department of Planning and Economic Development, and Hawaii County Planning Department as to its progress in satisfying these conditions; and

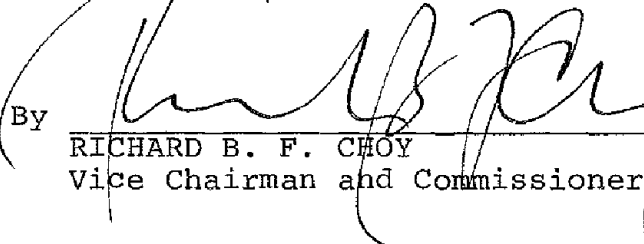
D. These conditions may be fully or partially released by the Commission as to all or any portion of the subject properties upon timely motion and provision of adequate assurance of satisfaction of these conditions by the Petitioner.


DOCKET NO. A83-549 - GAMLON CORP..

Done at Honolulu, Hawaii, this 13th day of December,
1983, per motions on December 1, 1983 and December 13, 1983.

LAND USE COMMISSION
STATE OF HAWAII

By 
WILLIAM W. L. YUEN
Chairman and Commissioner

By 
RICHARD B. F. CHOY
Vice Chairman and Commissioner

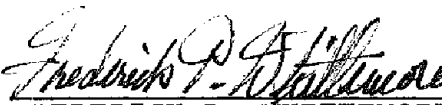
By 
LAWRENCE F. CHUN
Commissioner

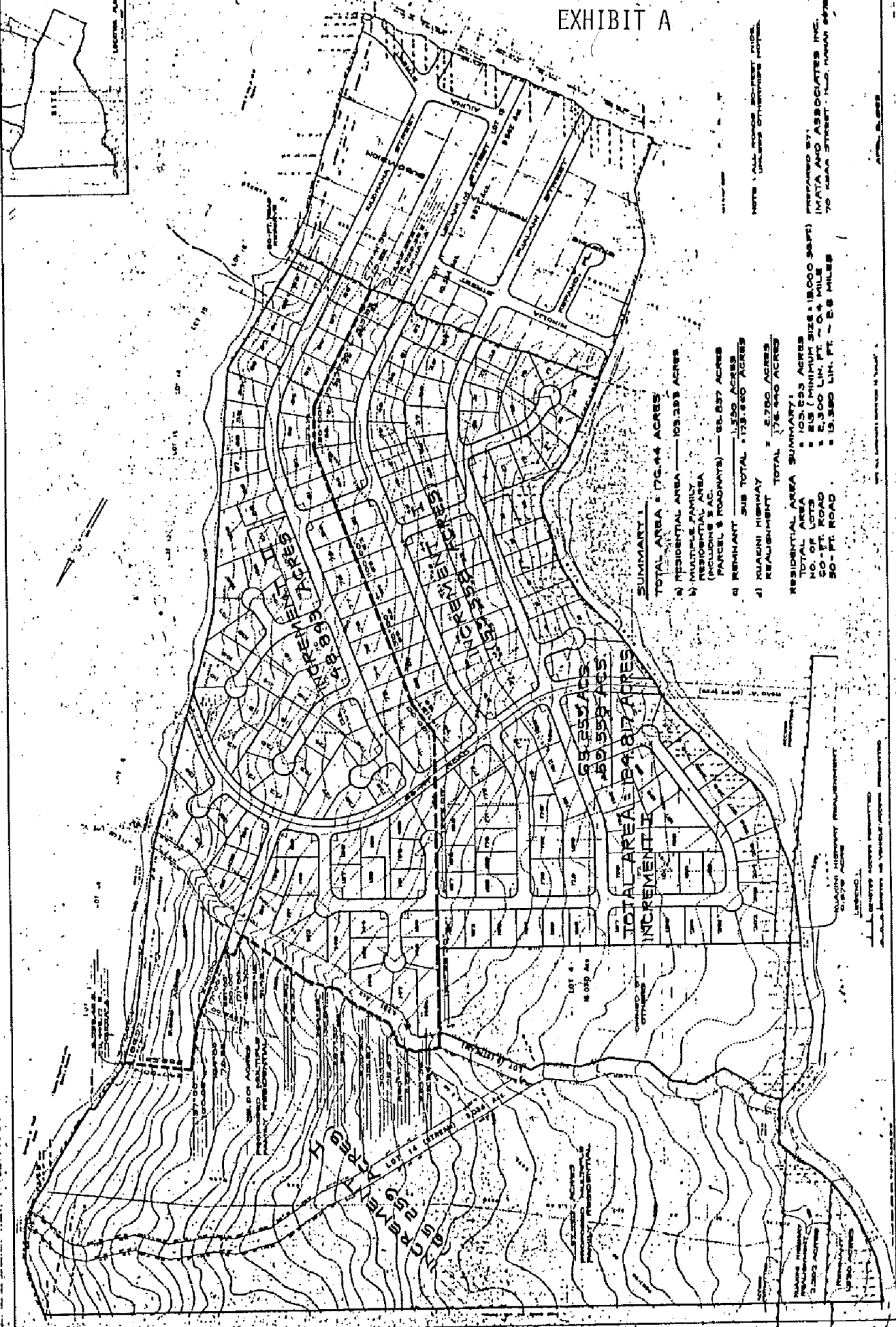
By 
SHINSEI MIYASATO
Commissioner

By 
WINONA E. RUBIN
Commissioner

By 
TEOFILO PHIL TACBIAN
Commissioner

By 
ROBERT S. TAMAYE
Commissioner

By 
FREDERICK P. WHITTEMORE
Commissioner



SUMMARY 1

TOTAL AREA	176.44 ACRES
a) RESIDENTIAL AREA	105.285 ACRES
b) MULTIPLE FAMILY RESIDENTIAL AREA (INCLUDING 2 AC PARCEL & ROADWAYS)	68.837 ACRES
c) REMNANT	1.350 ACRES
d) MOUNTAIN HIGHWAY REALIGNMENT	2.780 ACRES
TOTAL	176.440 ACRES

RESIDENTIAL AREA SUMMARY:

TOTAL AREA	105.285 ACRES
NO. OF LOTS	243 (MINIMUM SIZE: 18,000 SQ FT)
50-FT. ROAD	2,300 LIN. FT. - 0.4 MILES
50-FT. ROAD	15,380 LIN. FT. - 0.3 MILES

NOTE: ALL DIMENSIONS SHOWN UNLESS OTHERWISE NOTED.

PREPARED BY:
MATA AND ASSOCIATES INC.
700 KALAM STREET, HUD, HAWAII 96701

DATE: 10/15/70

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of)
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GAMLON CORP.) DOCKET NO. A83-549
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For Amendment of District Boundary) GAMLON CORP.
and Reclassification of Certain)
Lands Situated at North Kona, County,)
Island and State of Hawaii)
_____)

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:

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

SIDNEY FUKU, Planning Director
Planning Department
County of Hawaii
25 Aupuni Street
Hilo, Hawaii 96720

RICHARD G. MACMILLAN
KARL K. KOBAYASHI
The Queen Street Building
345 Queen Street, Suite 800
Honolulu, Hawaii 96813

DATED: Honolulu, Hawaii, this 26th day of January, 1984.


GORDAN Y. FURUTANI
Executive Officer

DOCKET NO. A83-549 - GAMLON CORPORATION

A certified copy of the Land Use Commission's Decision and Order was served to the following by regular mail on January 26, 1984.

ANNETTE CHOCK, Deputy Attorney General
Department of the Attorney General
State Capitol, 4th Floor
Honolulu, Hawaii 96813

STEPHEN MENEZES, Corporation Counsel
Office of the Corporation Counsel
County of Hawaii
25 Aupuni Street
Hilo, Hawaii 96720

CARL WILLIS, President
GAMLON CORPORATION
733 Bishop Street, Suite 2150
Honolulu, Hawaii 96813

AGREEMENT

FEB 0 3 1995

This Agreement made this 7th day of December, 1992, by and between GAMREX, INC. (GAMREX), a Hawaii corporation, whose address is Century Square, Suite 903, 1188 Bishop Street, Honolulu, Hawaii 96813, and the COUNTY OF HAWAII, a municipal corporation of the State of Hawaii ("County"), through its County Housing Agency ("CHA"), whose address is 25 Aupuni Street, Hilo, Hawaii 96720.

WITNESSETH:

WHEREAS, GAMREX is the owner of land at Holualoa 1 and 2, North Kona, Hawaii, identified as TMK: (3)7-6-21: 4, 9-13, and 15-17 (the "subject property"); and

WHEREAS, on December 13, 1983, the State Land Use Commission (SLUC) approved the reclassification of the subject property from an Agricultural to an Urban district; and

WHEREAS, Condition A of the SLUC reclassification required that 10 percent of the lots or house and lots to be developed on the subject property be offered to residents of the State of low and moderate income; and

WHEREAS, the County Council adopted Ordinance Nos. 84-23, 84-42, 88-4, 90-62, and 91-96, which rezoned the subject property for single-family and multiple-family residential uses; and

WHEREAS, Condition J of Ordinance 84-23 requires that housing opportunities for Hawaii residents shall be provided in

accordance with the condition imposed by the State Land Use Commission. The number of units and manner in which they are to be provided shall meet with the approval of the Hawaii County Housing Agency; and

WHEREAS, GAMREX desires to satisfy Condition J of Ordinance 84-23 and Condition A of the Decision and Order dated December 13, 1983, by conveying title to 12.004 acres of land located at Holualoa, North Kona, Hawaii, identified as TMK: 7-6-24: 25, to the County; and

WHEREAS, the Interim Housing Policy for the County, contained in CHA Resolution No. 65, states that contributions of developable property may be accepted to satisfy employee/affordable housing requirements; and

WHEREAS, Resolution No. 65 further states that the amount of land required will be determined by an assessment of the value (by appraisal) of that contribution measured against the projected in-lieu fee value that would otherwise have been required.

NOW, THEREFORE, the parties hereby agree that Condition J of Ordinance 84-23 shall be satisfied upon the following terms and conditions:

1. GAMREX shall convey the 12.004-acre parcel, identified as TMK: 7-6-24: 25, to the County on or before December 31, 1993.

2. An appraisal of the 12.004-acre parcel was done in July 1992, and the property value was appraised at \$1,450,000. In addition, GAMREX is credited for expenditures including a topographical survey, prorated costs for engineering studies and drainage improvements, archaeological survey, appraisal, and 62 water commitments, for a total contribution of \$1,795,372.
3. The ten percent affordable housing requirement for GAMREX is to address the low- and moderate-income target group (those families earning less than 80 percent of the median family income). The in-lieu fee for this low-end target group is \$26,700/affordable unit. The in-lieu contribution of \$1,795,372 is equivalent to 67.24 affordable units ($\$1,795,372 \div \$26,700$). The 67.24 affordable housing unit credits will allow GAMREX to construct 672 market units ($67.24 \div .10 = 672$).
4. The 67.24 affordable housing credits will not be awarded until the 12.004-acre parcel is conveyed to the County and all required drainage improvements from Kupuna Street to the mauka boundary of the subject property are constructed and approved by the County Department of Public Works.

5. This agreement shall be filed with the Land Court of the State of Hawaii or the Bureau of Conveyances, whichever is applicable, and shall be noted on the Certificate of Title and Transfer Certificate of Title for the subject property, if applicable. Upon full satisfaction of the terms of this agreement, the County shall execute a release of this agreement in a form sufficient for filing at the Land Court or recording at the Bureau of Conveyances, whichever is applicable, and shall deliver such release to GAMREX.
6. In the event of a default arising out of or in connection with this agreement, the non-defaulting party shall be entitled to have and recover from the defaulting party reasonable attorneys' fees and costs. If a party commences an action against the other party arising out of or in connection with this agreement, the prevailing party shall be entitled to have and recover from the losing party reasonable attorneys' fees and costs of suit.

IN WITNESS WHEREOF, the parties have caused this agreement to be executed as of the day and year first above written.

RECOMMEND APPROVAL:

Brian T. Nishimura
BRIAN T. NISHIMURA
Housing Administrator
Office of Housing and
Community Development

Date: 12/3/92

APPROVED AS TO FORM
AND LEGALITY:

Steven H. King
Deputy Corporation Counsel

Date: 12-4-92

GAMREX, INC.
a Hawaii corporation

By Carl W. Willis
CARL W. WILLIS
Its President

HAWAII COUNTY HOUSING
AGENCY

By Harry S. Ruddle
HARRY S. RUDDLE
Its Chairman

COUNTY OF HAWAII

By Lorraine R. Inouye
LORRAINE R. INOUE
Its Mayor

IN WITNESS WHEREOF, the parties have caused this agreement to be executed as of the day and year first above written.

RECOMMEND APPROVAL:

GAMREX, INC.
a Hawaii corporation

BRIAN T. NISHIMURA
Housing Administrator
Office of Housing and
Community Development

By *Carl W. Willis*
CARL W. WILLIS
Its President

Date: _____

HAWAII COUNTY HOUSING
AGENCY

APPROVED AS TO FORM
AND LEGALITY:

By _____
HARRY S. RUDDLE
Its Chairman

Deputy Corporation Counsel

COUNTY OF HAWAII

Date: _____

By _____
LORRAINE R. INOUE
Its Mayor

STATE OF OKLAHOMA)
) ss
COUNTY OF TULSA)

On December 4, 1992 before me, the undersigned, a Notary Public, personally appeared Carl W. Willis, personally known to me to be the person who executed this document and acknowledged to me that he executed the same as his free and voluntary act and deed.

Tammy L. Nightengale
Tammy L. Nightengale, Notary Public

My commission expires: 03/24/94

AGREEMENT

- 5 -

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V.A.I. - 11

STATE OF HAWAII)
)
COUNTY OF HAWAII)


SS:

On this 4th day of December, 1992, before me personally appeared LORRAINE R. INOUE, to me personally known, who, being by me duly sworn, did say that she is the Mayor of the COUNTY OF HAWAII, a municipal corporation of the State of Hawaii; that the seal affixed to the foregoing instrument is the corporate seal of said County of Hawaii; that the foregoing instrument was signed and sealed in behalf of the County of Hawaii by authority given to said Mayor of the County of Hawaii by Section 5-1.3(g) of the County Charter, County of Hawaii (1991), as amended; and said LORRAINE R. INOUE acknowledged said instrument to be the free act and deed of said County of Hawaii.

Jean Verne
Notary Public, State of Hawaii
My Commission expires: 11/1/93

STATE OF HAWAII)
) SS:
COUNTY OF HAWAII)

On this 7th day of December, 1992, before me personally appeared Harry S. Ruddle, known to be the person described in and who executed the foregoing instrument and acknowledged that he executed the same as his free act and deed.



Notary Public, State of Hawaii

My commission expires: 9/14/96

BEFORE THE LAND USE COMMISSION

OF THE STATE OF HAWAII

In the Matter of the Petition of)
)
 GAMLON CORP.)

DOCKET NO. A83-549

For Amendment of District)
Boundary and Reclassification)
of Certain Lands Situated at)
North Kona, County, Island)
and State of Hawaii)
)

FINDINGS OF FACT, CONCLUSIONS OF LAW
AND DECISION AND ORDER

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of) DOCKET NO. A83-549
GAMLON CORP.)
For Amendment of District)
Boundary and Reclassification)
of Certain Lands Situated at)
North Kona, County, Island)
and State of Hawaii.)

FINDINGS OF FACT, CONCLUSIONS OF LAW
AND DECISION AND ORDER

Petitioner, GAMLON CORP., a Hawaii corporation, filed the Petition in the above-captioned matter 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 lands consisting of approximately 173.66 acres, identified as Tax Map Key Nos. 7-6-21:4, 9, 10, 11, 12, 13, 15, 16 and 17 (hereinafter referred to as "subject property") situated in the ahupua'a of Holualoa First and Second, North Kona, County, Island and State of Hawaii, from the Agricultural to the Urban District. The Land Use Commission, having heard and examined the testimony and evidence during the public hearing held on September 8, 1983, in Kailua-Kona, Hawaii, and having considered the entire record filed in this docket, hereby makes the following findings of fact and conclusions of law.

FINDINGS OF FACT

PROCEDURAL MATTERS

1. On May 9, 1983, Gamlon Corp. (hereinafter referred to as "Petitioner") filed this Petition to amend the Agricultural District boundary at Holualoa First and Second, North Kona, County, Island and State of Hawaii, to reclassify the subject property into the Urban District.

2. The Land Use Commission (hereinafter referred to as "Commission") held a public hearing on this Petition on September 8, 1983, in the Resolution Room, Kona Hilton Hotel, Kailua-Kona, Hawaii, pursuant to notice of hearing published in the Honolulu Advertiser and the Hawaii Tribune Herald on August 3, 1983.

3. The Commission received one timely request for intervention on July 20, 1983 from Elizabeth Ann Stone on behalf of the Honest Environmental Citizen's Against Progress, and denied the request in the absence of Ms. Stone at the hearing. The Commission received two untimely requests to appear as public witnesses from James Sogi representing Mr. and Mrs. Roy Nagle, property owners in the area, Maile Akimeseu, representing the Friends of Kamo Point, Inc., and permitted them to testify as public witnesses.

DESCRIPTION OF SUBJECT PROPERTY

4. The subject property is located mauka of Kuakini Highway approximately 2.6 miles south of the Palani Road - Kuakini

Highway intersection in Kailua-Kona, Hawaii. The subject property is bordered by vacant, undeveloped lands to the north and generally to the east, by the Kalani Sunset, Leilani Sunset, and Kainana Subdivisions to the south, and by the old Kailua-Keauhou Middle Road to the west.

5. With the exception of an undivided interest in five acres of Tax Map Key No. 7-6-21: 17, which is owned in fee simple by Hawaii Preparatory Academy, Kalott Properties N.V., a Netherland-Antilles corporation, a wholly-owned subsidiary of Petitioner, owns all of the subject property. Petitioner holds an option to purchase the subject property from Kalott Properties N.V. Hawaii Preparatory Academy and Kalott Properties N.V. have authorized Petitioner to file this Petition.

6. Hawaii Tax Map Keys Nos. 7-6-21: 14, 18 and 19 are within the general boundary of the subject property but are not being considered for reclassification as a part of this Petition. Parcel 18, owned by the County of Hawaii and the Dillingham Investment Corporation, and Parcel 19, owned by the County of Hawaii, are an existing and proposed drainage way for the Holualoa School and Horseshoe Bend streams. Parcel 14 is owned by John P. Ellbogen.

7. On August 23, 1982, the State of Hawaii instituted an eminent domain action against Kalott Properties, N.V. to condemn a portion of Tax Map Key Nos. 7-6-21, parcels 13 (.578 acres) and 16 (2.202 acres) for the Kuakini Highway realignment

project. As of the date of the public hearing, final judgment had not been entered in this action.

8. The subject property is currently leased to and utilized by the Palani Ranch for cattle grazing under a month-to-month lease.

9. The United States Department of Agriculture's 1973 Soil Conservation Service Soil Survey Map of Island of Hawaii, classifies the soil of the subject property as being in the Punaluu series and an extremely rocky peat. Permeability is moderately rapid, runoff is slow, and erosion hazard is slight.

10. The elevation of the subject property ranges from 350 feet to 700 feet at its mauka boundary. The slope generally ranges from 6% to 20%.

11. Vegetation on the subject property is composed of almost entirely exotic specimens, with Koa-haole the dominant species. The subject property does not support any plant life considered rare, threatened or endangered. Several native species and exotic species common to Kona and found throughout the State also grow on the subject property.

12. Approximately 75% of the subject property is located within the defined boundaries of the Holualoa drainage basin. The Federal Insurance Administration has designated two portions of the subject property adjacent to the both sides of the

Horseshoe Bend and Holualoa School intermittent streams in Flood Zone "A," which is defined as areas susceptible to a 100-year flood, in the Flood Insurance Rate Maps for the Island of Hawaii.

PROPOSAL FOR DEVELOPMENT

13. With the exception of the five acres owned by the Hawaii Preparatory Academy, Petitioner proposes to develop a single-family and multi-family residential subdivision on the subject property. Petitioner intends to develop approximately 500 residential units of which 215 would be single-family residential units and 285 would be multi-family residential units.

14. Petitioner proposes to build the single-family residential units on approximately 103 acres, with each unit having a minimum lot size of approximately 15,000 sq. ft. The Petitioner estimates that single-family density will be at approximately 2.1 units per acre.

15. Petitioner proposes to build multi-family townhouse residential units on approximately 65 acres at an estimated density of RM-8.0 (1 unit per 8,000 feet of land area) or 4.4 units per acre.

16. Petitioner proposes to use the Holualoa School Stream as a boundary between the single-family units (to the south) and the multi-family units (to the north).

17. Petitioner intends to market 25% to 50% of the single-family units as house/lot packages and 50% to 75% as lot-only sales. Petitioner intends to market the multi-family units as residential, as opposed to resort, townhouse, condominiums.

Pursuant to the County of Hawaii's incremental zoning requirements, Petitioner is required to construct dwellings on at least 25% of the lots in its first phase proposed residential subdivision in order to obtain rezoning of second phase.

18. Petitioner estimates that it will sell the vacant house lots for approximately \$70,000 (1983 dollar) and three- and four-bedroom house/lot packages for \$150,000 (1983 dollar). The multi-family units will range in price from \$90,000 to \$180,000 (1983 dollar).

19. Petitioner has agreed in principle to work jointly to provide housing opportunities for low- and medium-income residents. Petitioner proposes to cooperate with State and County housing agencies in order to offer ten percent of the lots and house and lot packages at prices that will enable residents to qualify for Federal- or State-assisted housing loan programs.

20. Hawaii Housing Authority (HHA) feels that approximately 10% of the housing units should be affordable by low and moderate income families.

21. HHA recommends that a condition be included to assure that 10% of the units will be affordable to low and

moderate income families, as determined by the County of Hawaii and HHA.

22. The Draft Kona Regional Plan estimates that approximately 40% of the households in Kona are currently facing some kind of housing problem which ranges from the household paying too large a percentage of its income for housing, living in substandard or unsafe housing, living in a crowded household or combinations thereof.

23. Petitioner estimates construction costs for on-site and off-site improvements to be approximately \$35 million (1983 dollar). This estimate includes major drainage improvements, road construction, site preparation, and labor and materials.

24. Petitioner estimates that Phase 1 and 2 can be completed within 8 1/2 years from the date of the Commission's approval of this Petition.

25. Petitioner is a wholly-owned subsidiary of Blue Chip Corporation, a Japan corporation. Petitioner holds approximately \$14 million of investment property free of any mortgages and can use said property to finance the proposed project. If necessary, Blue Chip Corporation will provide any additional funds needed to complete the project.

STATE AND COUNTY PLANS

26. The subject property is situated within the State Land Use Agricultural District. It is contiguous to urban classified lands to the south which have been developed for low density

residential uses (Kalani Sunset, Leilani Sunset, and Kainana Subdivisions). To the west, the Kailua-Keauhou Middle Road (40 foot right-of-way), which is in the Agricultural District, separates the subject property from adjoining Agricultural and Urban Districts. Lands to the north are designated Agricultural. Lands to the east are designated Rural.

27. The County of Hawaii General Plan Land Use Pattern Allocation Guide (LUPAG) map designates most of the subject property as "Alternate Urban Expansion" and a small area as "Low Density Urban." The two stream beds and adjacent areas are designated as "Flood Plains."

28. The draft Kona Regional Plan prepared by the County of Hawaii's Planning Department recommends that the subject property be developed for low density residential (RES-4, 4 units per acre), and moderate density residential (RES-10, 10 units per acre) uses. Petitioner's proposed project is consistent with the draft Kona Regional Plan.

29. The Kailua-Honalo Urban Zone Map (Ordinance No. 74, 1967) zones the entire subject property as "Unplanned" with a minimum lot size of five acres. Petitioner must obtain a rezoning of the subject property.

30. The subject property is not situated within either the Special Management Area or the boundaries of the Kailua Village Special District.

NEED FOR GROWTH AND DEVELOPMENT

31. The draft Kona Regional Plan poses three growth alternatives for Kona with corresponding population forecasts for the period 1980-2000. The population projections to the year 2000 are as follows: Alternative I: 33,200; Alternative II: 39,400; and Alternative III: 46,300.

32. Using these population projections and the anticipated decline in household size, the draft Kona Regional Plan indicates future new housing requirements at between 5,240 to 9,915 units or a production rate of 262 to 496 units per annum for Kona.

33. In addition, 1,580 units will reach obsolescence by the year 2000 and will need to be replaced. Petitioner's consultant assumes 40% of the above enumerated housing units reaching obsolescence will not be repaired.

34. Using the draft Kona Regional Plan's estimates of new housing units required and the obsolescence factor developed by Petitioner's consultant, the total number of new housing units needed for Kona ranges from 5,872 to 10,547 units.

35. Petitioner's market study of 32 existing residential subdivisions of ten or more units in the North Kona area (as defined geographically by the market study) identified a total of 4,580 existing residential lots. Of that total, 2,352 or 51% of the lots have houses built on them and contribute to the existing

housing stock. The balance of 2,228 lots or 49% are vacant. In addition, only 345 vacant lots are for sale.

36. If all the existing vacant lots counted in the market study become available for housing by the year 2000, the current available inventory of finished lots represents between 21% and 38% of the projected need.

37. Petitioner's market study estimates that 80% of the housing units needed for Kona will be built in the area studied by Petitioner (hereinafter referred to as "study area"), which encompasses the Kailua-Kona-Keauhou segment of the draft Kona Regional Plan prepared by the County of Hawaii's Planning Department. This amounts to between 4,698 to 8,437 units.

IMPACTS ON THE RESOURCES OF THE AREA

Agricultural Resources

38. The State Department of Agriculture does not place the subject property in any of its important agricultural land categories in its ALISH Maps for North Kona.

39. The Land Study Bureau's Detailed Land Classification Map for the Island of Hawaii indicates that two land types, D293 and E295, are distributed across the subject property. The D and E ratings indicate that the land is poorly or very poorly suited for agricultural activities.

40. Although the subject property is currently used for cattle grazing, it does not have a high capacity for intensive

agricultural use. Approximately 24 to 30 head of cattle are located on the subject property.

41. The draft Kona Regional Plan, which was developed in consultation with farmers and governmental agencies concerned with agricultural activities, recommends that the subject property be used for residential purposes.

Archaeological Resources

42. Cultural Surveys Hawaii conducted an archaeological reconnaissance in January of 1983. It discovered 47 archaeological sites on the subject property, some of which are merely remnants.

43. Based on preliminary observations, none of the sites discovered are historically significant except for research purposes. Petitioner will conduct further archaeological work as recommended by Cultural Surveys Hawaii, the State of Hawaii and the County of Hawaii.

Recreational Resources

44. Petitioner intends to develop a private recreation area for residents of the proposed development.

PUBLIC SERVICES AND FACILITIES

Fire Fighting and Police Services

45. The County of Hawaii will provide police service from the Kona District Headquarters located in Captain Cook. Fire protection service will be provided by the County from its Kailua Fire Station located on Palani Road.

Schools

46. Students from the proposed project will attend the Kealakehe Elementary and Intermediate School (Grades K-8) and the Konawaena High School (Grades 9-12). The opening of the Kahakai Elementary School in September, 1982, which has a capacity of 670 students, alleviates the overcrowding at Kealakehe Elementary and Intermediate School. The Kealakehe and Kahakai school facilities are expected to meet the needs of the growing North Kona population for the next seven (7) years. The DOE plans to construct additional school facilities at the Kealakehe Intermediate School and the Konawaena High School during the late 1980's in order to meet the needs of the residents of Petitioner's and other developments during the next 10-year period.

Electrical Utilities Services

47. Hawaii Electric & Light Company, Inc. and Hawaiian Telephone Company lines serve the area. Petitioner will provide all necessary service connection and transmission lines necessary to transmit electricity and other utilities to the development as may be required by applicable state and county regulations.

Water

48. Petitioner does not have a water commitment from the Board of Water Supply for this project, but Petitioner is a participant in the Kona Source Agreement I with the County development of Water Supply and other developers for development of new

domestic water sources in Kona. Petitioner has paid \$125,000 as a contribution for its prorata share for 500 water units.

49. Should the exploratory activities conducted pursuant to the water agreement prove successful, Petitioner will execute a subsequent water source development agreement II and the Board of Water Supply will issue water commitments issued to participating developers, including Petitioner.

Drainage

50. Although approximately 75% of the subject property lies in the defined boundaries of the Holualoa Drainage Basin, intermittent flooding is limited to the Horseshoe Bend and the Holualoa School Streams. Petitioner will build and dedicate to the County of Hawaii all drainage facilities recommended in the Drainage Master Plan for the North Kona Flood Control Project within the boundaries of the subject property.

51. Properties located makai of the subject property (below Kuakini Highway) to the coastline have received various development approvals conditioned on the requirement that development of these projects may not commence unless the developers implement their portion of the drainage facilities recommended in the Drainage Master Plan for the North Kona Flood Control Project.

52. The development of the subject property and properties located makai of the subject property will result in a

continuous drainage system from the mauka boundary of the subject property to the ocean.

Sewage Treatment and Disposal Services

53. Petitioner proposes to dispose of sewage waste generated by the single-family residential area by individual cesspools. Petitioner proposes that the multi-family residential area will be served by private treatment plants.

54. Petitioner shall design and construct all sewage treatment facilities to satisfy the requirements specified in Chapter 38, Public Health Regulations, State of Hawaii.

Solid Waste Disposal Services

55. The County of Hawaii does not provide refuse collection service. Petitioner will require purchasers to haul refuse to the Kona Sanitary Land Fill or make arrangements with commercial disposal services. The landfill, which serves the North and South Kona districts, is located about four miles north of Kailua Village off of Queen Kaahumanu Highway.

56. The existing land fill has a life expectancy of approximately 10 years. The County of Hawaii is planning to install a refuse shredding facility to alleviate problems.

Roadway and Highway Services

57. The State Department of Transportation has approved two accesses from the proposed project to Kuakini Highway. Petitioner proposes to connect present north/south lateral road

system, specifically Kilohana, Leilani, and Pualani Streets to the proposed internal roadway system for the development. The lateral connections and intersection improvements would provide safer and more convenient ingress and egress to Kuakini Highway for residents of these adjacent subdivisions.

58. Petitioner anticipates that traffic generated by the proposed project should be mitigated by the completion of the Kuakini Highway realignment project which is already under construction by the State of Hawaii and which State expects to complete before the proposed project is completed.

CONTIGUITY OF DEVELOPMENT

59. The subject property is contiguous to an Urban District to the south which has been developed for low density residential uses (Kalani Sunset, Leilani Sunset, and Kainana Subdivisions). The Kailua-Keauhou Middle Road (40 foot right-of-way) separates the subject property from an existing Urban District along part of the subject property's makai (west) boundary.

COMPLIANCE WITH STANDARDS FOR DETERMINING DISTRICT BOUNDARIES

60. The character of the area is "city like" due to the adjacent residential subdivisions located to the south of the subject property. In addition, proposed commercial development by Dillingham Investment Corporation on lands between Kuakini Highway and the subject property further amplify the "city like" character of the area.

61. The subject property is centrally located to established employment centers. It is only 2 1/2 miles south of Kailua Village and 4 miles north of the Keauhou resort community. Dillingham Investment Corporation has proposed to construct a shopping center and medical center on nearby land already designated for commercial use.

62. Although the development of the subject property for residential use will not create permanent employment opportunities, the development of this project at a cost of \$35 million will provide short-term employment opportunities for persons associated with the construction and real estate industries.

63. Reclassification of the subject property is reasonably necessary to accommodate urban growth projected for the North Kona area.

64. The subject property does not have any adverse geographic or topographic constraints which will hinder or endanger the proposed development. The proposed project will be designed and constructed to be reasonably free from the danger of floods, tsunami, unstable soil conditions, and other adverse environmental effects.

65. The proposed development will not result in "spot" urban development because an existing Urban District which has been developed for low-density residential uses is located adjacent

to the subject property on the south and a Rural District, which permits the development of residential housing on half acre lots, is contiguous to the subject property on its east (mauka) boundary.

66. Petitioner will install all on-site utility lines, roads, sewage disposal, and water systems at no cost to the state or county governments. Petitioner will also construct and dedicate to the County of Hawaii a major drainage facility within the boundaries of its property.

COMPLIANCE WITH THE HAWAII STATE PLAN

67. Petitioner's proposed project is consistent with the Hawaii State Plan's objectives and policies relating to population, the economy (general), and housing.

INCREMENTAL DISTRICTING

68. Petitioner cannot complete full urban development of the subject property within five years from the date of the Commission's approval of the redistricting; Petitioner proposes to develop the property in two increments, encompassing 5 years and 3 1/2 years. Petitioner will substantially complete development of the first 124.660 acre increment, consisting of the makai portion of the single-family residential area, all of the multi-family area, and all infrastructure systems within five years. The second increment consisting of the mauka portion of the single-family residential area, totalling 49 acres, is scheduled for completion within 3 1/2 years thereafter. The descriptions of Increment I and Increment II of Petitioner's proposed development

are illustrated on the map attached hereto as Exhibit A and incorporated herein by reference. Petitioner cannot start development on the second increment until development on all on-site and off-site improvements within Increment I have been substantially completed.

RULING ON PROPOSED FINDINGS OF FACT

The Land Use Commission hereby rejects any of the proposed findings of fact submitted by the Petitioner or the other parties not already ruled upon by adoption herein, or rejected by clearly contrary findings of fact herein.

CONCLUSIONS OF LAW

Pursuant to Chapter 205, Hawaii Revised Statutes, as amended, and the Rules of Practice and Procedure and District Regulations of the Land Use Commission, State of Hawaii, the Commission concludes that the reclassification of all of the lands within Increment I, consisting of approximately 124.660 acres (as shown on Exhibit A attached hereto), from the Agricultural to the Urban District and amendment of the land use district boundary to permit the development of Increment I is reasonable, in conformity with Section 205-2, Hawaii Revised Statutes, and is consistent with the Hawaii State Plan as set forth in Chapter 226, Hawaii Revised Statutes, as amended, and the District Regulations of the Land Use Commission.

The Commission further concludes that although full development of the lands within Increment II (as shown on Exhibit A attached hereto) cannot be reasonably completed within five years from the date of the Commission's decision on this matter, reclassification of the lands within Increment II, consisting of approximately 49 acres, from the Agricultural to the Urban District and the amendment of the land use district boundary to permit the development of Increment II is reasonable, in conformity with Section 205-2, Hawaii Revised Statutes, and is consistent with the Hawaii State Plan, as set forth in Chapter 226, Hawaii Revised Statutes, as amended, and the District Regulations of the Land Use Commission. Therefore, incremental redistricting of the lands within Increment II of Petitioner's development is reasonable and warranted.

DECISION AND ORDER

IT IS HEREBY ORDERED that the lands within Increment I of Petitioner's development plan of the subject property, consisting of 124.660 acres, as depicted in Exhibit A attached hereto and incorporated herein by reference, situated in the ahupua'a of Holualoa First and Second, North Kona, County, Island and State of Hawaii, shall be and the same is hereby reclassified from the Agricultural to the Urban District, and the district boundaries are amended accordingly.

IT IS ALSO HEREBY ORDERED that the lands within Increment II of Petitioner's development plan of the subject property/consisting of approximately 49 acres, as depicted in Exhibit A attached hereto and incorporated herein by reference, situated in the ahupua'a of Holualoa First and Second, North Kona, County, Island and State of Hawaii, shall be and the same are hereby approved for incremental development pursuant to State Land Use Commission's District Regulation 6-2, and 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.

IT IS FURTHER HEREBY ORDERED that the reclassification and incremental districting of the subject property shall be subject to the following conditions:

A. Petitioner shall provide housing opportunities for low and moderate income Hawaii residents prior to assigning or transferring (except by way of mortgage or assignment as security)

its interest in the subject property, by offering for sale, on a preferential basis, on its own or in cooperation with either or both the Hawaii Housing Authority or the County of Hawaii, ten percent (10%) of the lots or house and lots to be developed on the subject property, to residents of the State of Hawaii of low and moderate family income as determined by the Hawaii Housing Authority or County of Hawaii from time to time. The preferential lots or houses and lots shall be offered for sale at prices not exceeding prices that enable such purchasers to qualify for and obtain state-assisted financing (i.e., Act 105 or Hula Mae) or federally-insured or assisted financing (i.e., FHA Section 245 program) intended to encourage home ownership by low and moderate income families; and

B. In making the ultimate decision as to whether a historical or archaeological site is significant enough to warrant preservation, the Petitioner shall consult with and accept the decision of the Historic Preservation Officer of the Department of Land and Natural Resources; and

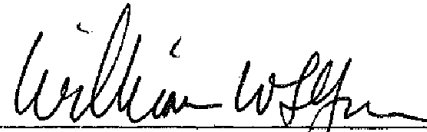
C. Petitioner shall submit annual progress reports to the Commission, Department of Planning and Economic Development, and Hawaii County Planning Department as to its progress in satisfying these conditions; and

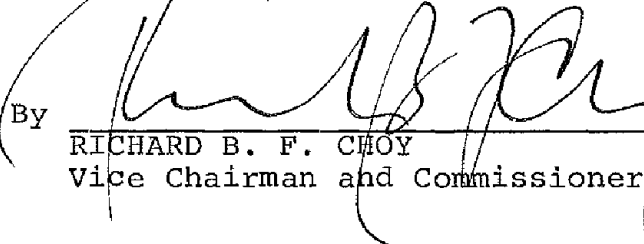
D. These conditions may be fully or partially released by the Commission as to all or any portion of the subject properties upon timely motion and provision of adequate assurance of satisfaction of these conditions by the Petitioner.


DOCKET NO. A83-549 - GAMLON CORP.


Done at Honolulu, Hawaii, this 13th day of December,
1983, per motions on December 1, 1983 and December 13, 1983.

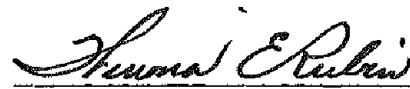
LAND USE COMMISSION
STATE OF HAWAII

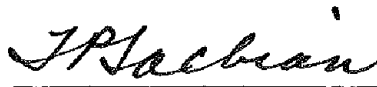
By 
WILLIAM W. L. YUEN
Chairman and Commissioner

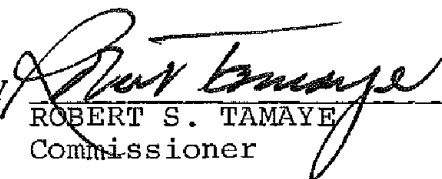
By 
RICHARD B. F. CHOY
Vice Chairman and Commissioner

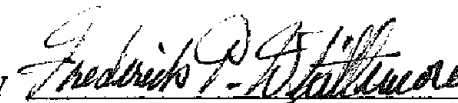
By 
LAWRENCE F. CHUN
Commissioner

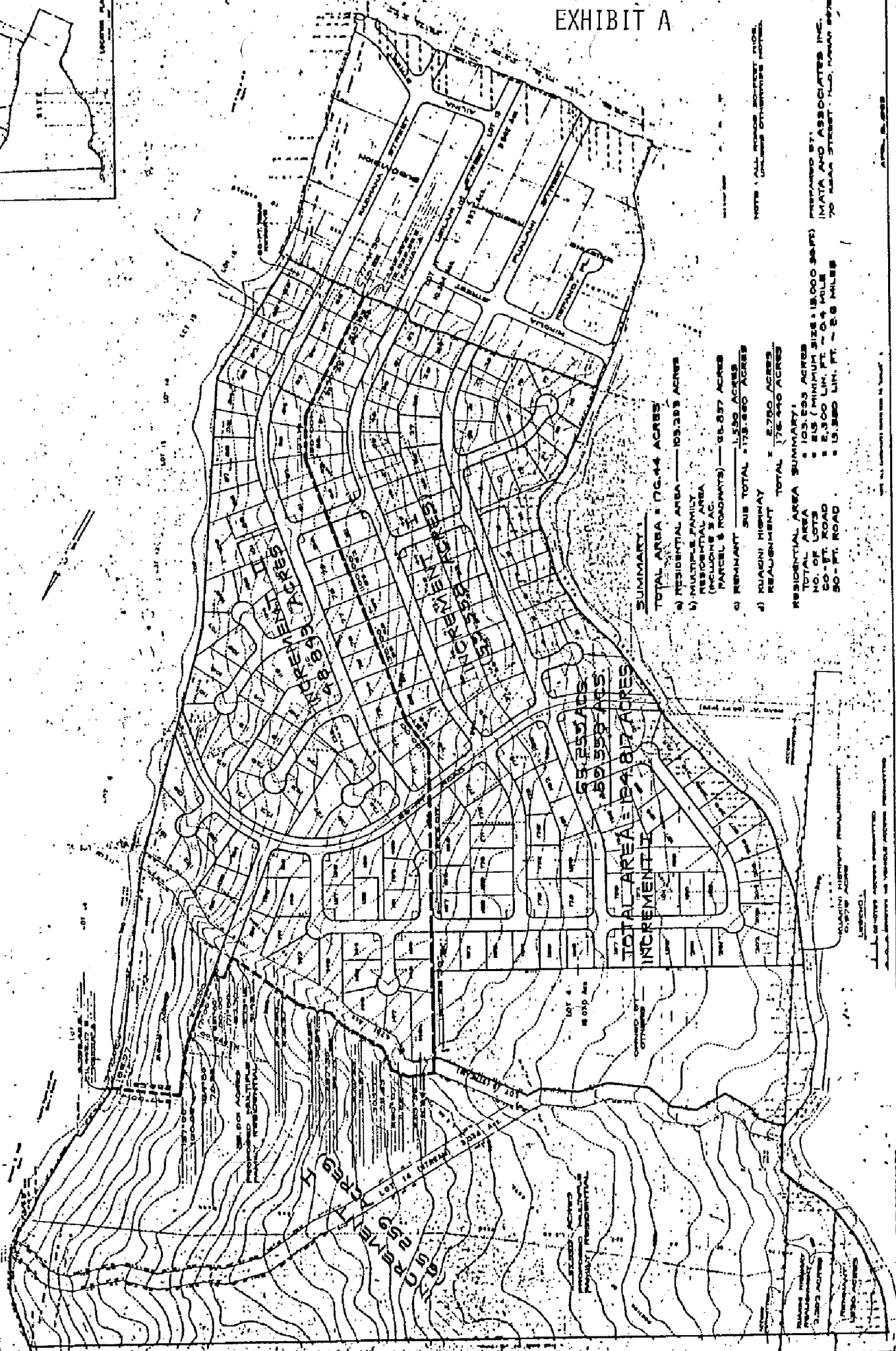
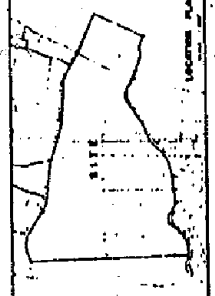
By 
SHINSEI MIYASATO
Commissioner

By 
WINONA E. RUBIN
Commissioner

By 
TEOFILO PHIL TACBIAN
Commissioner

By 
ROBERT S. TAMAYE
Commissioner

By 
FREDERICK P. WHITTEMORE
Commissioner



NOTE: ALL ROADS SHOWN ARE UNLESS OTHERWISE NOTED.

RESIDENTIAL AREA SUMMARY:
 TOTAL AREA = 109.289 ACRES
 NO. OF LOTS = 215 (MINIMUM SIZE: 18,000 SQ. FT.)
 CO-PT. ROAD = 2,300 LIN. FT. - 0.4 MILES
 50-FT. ROAD = 1,580 LIN. FT. - 0.3 MILES

SUMMARY 1

- TOTAL AREA = 176.44 ACRES
- RESIDENTIAL AREA = 109.289 ACRES
- MULTIPLE FAMILY RESIDENTIAL AREA (INCLUDES 2 AC PARCEL & ROADWAYS) = 68.837 ACRES
- REMANANT SUB TOTAL = 1,530 ACRES
- REMAINING HIGHWAY = 2,780 ACRES
- REASUREMENT TOTAL = 176.440 ACRES

SUMMARY 2

- TOTAL AREA = 109.289 ACRES
- NO. OF LOTS = 215 (MINIMUM SIZE: 18,000 SQ. FT.)
- CO-PT. ROAD = 2,300 LIN. FT. - 0.4 MILES
- 50-FT. ROAD = 1,580 LIN. FT. - 0.3 MILES

PREPARED BY: MATA AND ASSOCIATES, INC. 700 HARRIS STREET, HUDON, MASSACHUSETTS

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of)
)
GAMLON CORP.) DOCKET NO. A83-549
)
For Amendment of District Boundary) GAMLON CORP.
and Reclassification of Certain)
Lands Situated at North Kona, County,)
Island and State of Hawaii)
_____)

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:

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

SIDNEY FUKU, Planning Director
Planning Department
County of Hawaii
25 Aupuni Street
Hilo, Hawaii 96720

RICHARD G. MACMILLAN
KARL K. KOBAYASHI
The Queen Street Building
345 Queen Street, Suite 800
Honolulu, Hawaii 96813

DATED: Honolulu, Hawaii, this 26th day of January, 1984.


GORDAN Y. FURUTANI
Executive Officer

DOCKET NO. A83-549 - GAMLON CORPORATION

A certified copy of the Land Use Commission's Decision and Order was served to the following by regular mail on January 26, 1984.

ANNETTE CHOCK, Deputy Attorney General
Department of the Attorney General
State Capitol, 4th Floor
Honolulu, Hawaii 96813

STEPHEN MENEZES, Corporation Counsel
Office of the Corporation Counsel
County of Hawaii
25 Aupuni Street
Hilo, Hawaii 96720

CARL WILLIS, President
GAMLON CORPORATION
733 Bishop Street, Suite 2150
Honolulu, Hawaii 96813

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of)
GAMREX, INC.)

DOCKET NO. A83-549

GAMREX, INC.

To Amend the Agricultural Land)
~~Use District Boundary into the~~)
Urban Land Use District for)
Incremental Redistricting of)
Increment II For Approximately)
49 Acres of Land at North Kona,)
County, Island and State of Hawaii,)
Tax Map Key No.: (Third Division))
7-6-21:15 and portions of 4, 9,)
10, 11 and 17.)

LAND USE COMMISSION
STATE OF HAWAII
MAY 10 11 27 AM '93

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

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of)	DOCKET NO. A83-549
)	
GAMREX, INC.)	GAMREX, INC.
)	
To Amend the Agricultural Land)	
Use District Boundary into the)	
Urban Land Use District for)	
Incremental Redistricting of)	
Increment II For Approximately)	
49 Acres of Land at North Kona,)	
County, Island and State of Hawaii,)	
Tax Map Key No.: (Third Division))	
7-6-21:15 and portions of 4, 9,)	
10, 11 and 17.)	
)	

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

GAMREX, INC., a Hawaii corporation, as successor in interest to Kalott Properties, Inc. and Gamlon Corp., (hereinafter "Petitioner") filed on June 4, 1992, a Motion to Approve Redistricting of Increment II, pursuant to Chapter 205, Hawaii Revised Statutes, (hereinafter "HRS") and Section 15-15-78, Hawaii Administrative Rules, (hereinafter "Commission Rules"), to amend approximately 49 acres of land in the Agricultural District to the Urban District at North Kona, County, Island and State of Hawaii, Tax Map Key No. (Third Division) 7-6-21:15 and portions of parcels 4, 9, 10, 11 and 17 (hereinafter "Increment II"), and comprising the second increment of lands described in the Land Use Commission's (hereinafter "Commission") Decision and Order dated

December 13, 1983, (hereinafter "Order") in the Petition by Gamlon Corp. in this docket. The Commission, having heard and examined the testimony, evidence and argument of the parties, the Petitioner's Proposed Findings of Fact, Conclusions of Law, and Decision and Order, and the parties' stipulation filed thereto, ~~does hereby make the following Findings of Fact,~~ Conclusions of Law, and Decision and Order.

FINDINGS OF FACT

PROCEDURAL MATTERS

1. The Motion to Approve Redistricting of Increment II and Memorandum in Support of Motion was filed on June 4, 1992, by Petitioner to reclassify Increment II, consisting of approximately 49 acres of land in the Agricultural District to the Urban District for certain land situated at North Kona, County, Island and State of Hawaii.

2. On June 12, 1992, Petitioner filed a Motion to Approve Change of Name of Petition from Gamlon Corp. to Gamrex, Inc.

3. On August 3, 1992, Petitioner filed its List of Witnesses and List of Exhibits, together with Exhibit Nos. 1 through 5. These exhibits were subsequently withdrawn by Petitioner.

4. A prehearing conference was held on August 11, 1992, at the conference room of the Department of Business, Economic Development and Tourism, 11th Floor, Central Pacific Plaza, 220 South King Street, in Honolulu with the Petitioner

and the Office of State Planning present. The County of Hawaii Planning Department was not present. At the prehearing conference, witness and exhibit lists, and exhibits were exchanged among the parties present.

5. On August 19, 1992, Petitioner filed its Supplemental Memorandum in Support of Motion to Approve Redistricting of Increment II.

6. On August 19, 1992, Petitioner filed its Revised List of Witnesses, Revised List of Exhibits, and Exhibit Nos. 1 to 16.

7. On August 27, 1992, Petitioner filed a Motion to Continue Motion to Approve Redistricting of Increment II.

8. The Commission held a hearing on August 27, 1992, at the Kamakahonu Ballrooms, King Kamehameha Kona Beach Hotel, Kailua-Kona, Hawaii pursuant to notice published in the Honolulu Advertiser, Hawaii Tribune-Herald and West Hawaii Today on July 17, 1992. At the hearing, the Commission approved Petitioner's Motion to Approve Change of Name of Petition and Petitioner's Motion to Continue Motion to Approve Redistricting of Increment II.

9. On January 21, 1993, Petitioner filed its Second Revised List of Witnesses, Second Revised List of Exhibits, and Exhibit Nos. 17 to 20.

10. On January 21, 1993, Petitioner filed its Second Supplemental Memorandum in Support of Motion to Approve Redistricting of Increment II.

11. On January 28, 1993, Petitioner filed its Third Revised List of Witnesses, Third Revised List of Exhibits, and Exhibit Nos. 21 and 22.

12. The Commission held a continued hearing on the Motion to Approve Redistricting of Increment II on January 28, 1993, at the Kamakahonu Ballrooms, King Kamehameha Kona Beach Hotel, Kailua-Kona, Hawaii.

DESCRIPTION OF PROPERTY

13. The subject property was approved for incremental districting by the Commission's Order dated December 13, 1983, and consists of approximately 173.66 acres, at North Kona, County, Island and State of Hawaii, Tax Map Key Nos. (Third Division) 7-6-21:4, 9, 10, 11, 12, 13, 15, 16 and 17 (hereinafter the "Property").

14. Increment I, approved by the Commission's Order dated December 13, 1983, consists of approximately 124.66 acres (hereinafter "Increment I"), and Increment II consists of approximately 49 acres.

15. The Property is bound to the north by undeveloped lands, the south by the Kalani Sunset, Leilani Sunset and Kainana Subdivisions, the west by the old Kailua-Keauhou Middle Road, and the east by the Iolani Subdivision. Increment II is generally located in the eastern portion of the Property.

16. The Property is owned in fee by Petitioner.

17. By Order dated December 13, 1983, the Commission reclassified from the Agricultural District to the Urban

District on an incremental basis approximately 124.66 acres of land comprising Increment I. Pursuant to Section 15-15-78 of the Commission Rules, and the above-mentioned Order dated December 13, 1983, Petitioner may apply to reclassify Increment II from the Agricultural District to the Urban District upon a prima facie showing by Petitioner that it has substantially completed the on and off site improvements within Increment I, in accordance with the approved development plan for Increment I.

18. On November 16, 1988, Petitioner filed a Motion to Extend Time to Complete Substantial Development of Increment I and to Apply for Incremental Districting of Increment II with the Commission.

19. The Commission approved the Motion to Extend Time to Complete Substantial Development of Increment I and to Apply for Incremental Districting of Increment II per motion on January 10, 1989 and subsequently by Decision and Order dated February 10, 1989. The time limit was extended until December 13, 1993.

IMPROVEMENTS COMPLETED WITHIN INCREMENT I

20. After Increment I was reclassified to the Urban District by the Commission by its Order dated December 13, 1983, the following approvals affecting Increment I have been processed by the County of Hawaii:

a. County of Hawaii incremental zoning approval pursuant to County of Hawaii Ordinance Nos. 84-23, 84-42, 88-4, 90-62 and 91-96 ("Zoning Ordinance").

b. County of Hawaii's final subdivision approval for County of Hawaii Subdivision Units I-A and I-B which consists of single-family residential areas in Increment I. Petitioner has also received County of Hawaii preliminary subdivision approval for County of Hawaii Subdivision Unit I-C.

21. The on-site improvements which have been substantially completed or in progress to date within Increment I are as follows:

a. Improvements for Units I-A and I-B. All infrastructure improvements, including roads, water system, electrical system, and telephone transmission system, within the portion of Increment I which comprises County of Hawaii Subdivision Units I-A and I-B have been completed.

b. Improvements for Unit I-C. Roads and utilities are partially completed within County of Hawaii Subdivision Unit I-C.

c. Drainage system for multi-family residential area. The construction of the drainage system for the multi-family residential areas has been delayed because:

(a) Petitioner did not control the lands below Queen Kaahumanu Highway which the County of Hawaii determined were needed to complete the portion of the Holualoa drainage system running through Petitioner's property; and (b) the County of Hawaii has

required Petitioner to participate in certain flood studies and improvements for the area below Queen Kaahumanu Highway. In June of 1989, Petitioner completed the purchase of a 12-acre parcel (Tax Map Key No. (Third Division) 7-6-24:25) located west (makai) of Queen Kaahumanu Highway, at a cost of

\$1,000,000 to resolve a problem concerning the construction of its portion of the Holualoa drainage system which portion runs mainly through the multi-family residential areas within Increment I. All flood studies have been completed and have been submitted to the County of Hawaii Department of Public Works, which will submit them to the Federal Emergency Management Agency (hereinafter "FEMA"). Upon approval by FEMA, Petitioner will be permitted to construct its portion of the Holualoa drainage system. After completion of the drainage system, the County of Hawaii will permit construction of the infrastructure improvements within the multi-family residential areas within Increment I.

d. Drainage System for Unit I-C. Petitioner, in connection with adjacent landowners and the County of Hawaii, have completed a study for the drainage system, which affects only a small portion of County of Hawaii Subdivision Unit I-C. After approval by the FEMA, the drainage system which affects Unit I-C will be completed and Petitioner will complete the infrastructure improvements within Unit I-C. After completion of such improvements, all of the infrastructure improvements

within the single-family areas within Increment I will have been completed.

e. Infrastructure Improvements for Multi-Family Residential Area Within Increment I. The water system master plan for the area requires Petitioner to develop the water system and other infrastructure improvements within Increment II prior to development of infrastructure improvements in the multi-family residential areas within Increment I.

f. Model Homes and Recreation Center. Petitioner has completed eight model homes and a recreation center within Increment I.

22. The off-site improvements which have been substantially completed or in progress to date within Increment I are as follows:

a. Petitioner has completed construction of the main access road from Kuakini Highway to the project which is the Lako Street extension. Petitioner has also completed construction of the Lako Street/Kuakini Highway intersection.

b. Off-Site Drainage. Petitioner has submitted drainage plans for the 12-acre parcel of land located west (makai) of Queen Kaahumanu Highway (Tax Map Key No. (Third Division) 7-6-24:25) and these plans are currently being reviewed by the County of Hawaii Department of Public Works and FEMA. Petitioner is also participating in flood (HEC2) studies for the area west (makai) of the 12-acre parcel and these

studies have been submitted to the County of Hawaii Department of Public Works and FEMA.

23. Total costs, including on and off-site improvement costs, expended by Petitioner is approximately \$20,000,000.

24. Due to the existing water system for the area, Petitioner cannot construct any additional water system and other infrastructure improvements in Increment I without urban districting of Increment II and cannot proceed with further development of the multi-family residential areas within Increment I without such urban redistricting of Increment II.

25. The County of Hawaii will allow Petitioner to construct the water system and other infrastructure improvements within Increment II subject to subsequent adjustments, realignments, or other revisions to such infrastructure improvements as may be required by the County of Hawaii zoning and subdivision process.

26. Petitioner has already commenced preparation of plans for the construction of infrastructure improvements within Increment II in order that it can proceed with such construction without delay if the Commission approves Petitioner's request for redistricting of Increment II.

27. Based on the aforesaid findings, and the findings in the Commission's Order filed December 13, 1983 in this docket, the proposed reclassification of Increment II conforms with the following objectives, policies and priorities of the

Hawaii State Plan provided under HRS §§226-19(a)(1),
226-19(b)(1), and 226-19(b)(3).

28. The Commission, by Order dated December 13, 1983,
imposed the following conditions on the reclassification and
incremental districting of the Property:

A. Petitioner shall provide housing opportunities for
low and moderate income Hawaii residents prior to assigning or
transferring (except by way of mortgage or assignment as
security) its interest in the subject property, by offering for
sale, on a preferential basis, on its own or in cooperation
with either or both the Hawaii Housing Authority or the County
of Hawaii, ten percent (10%) of the lots or house and lots to
be developed on the subject property, to residents of the State
of Hawaii of low and moderate family income as determined by
the Hawaii Housing Authority or County of Hawaii from time to
time. The preferential lots or houses and lots shall be
offered for sale at prices not exceeding prices that enable
such purchasers to qualify for and obtain state-assisted
financing (i.e., Act 205 or Hula Mae) or federally-insured or
assisted financing (i.e., FHA Section 245 program) intended to
encourage home ownership by low and moderate income families
(hereinafter "Condition A"); and

B. In making the ultimate decision as to whether a
historical or archaeological site is significant enough to
warrant preservation, the Petitioner shall consult with and
accept the decision of the Historic Preservation Officer of the
Department of Land and Natural Resources (hereinafter
"Condition B"); and

C. Petitioner shall submit annual progress reports to
the Commission, Department of Planning and Economic
Development, and the Hawaii County Planning Department as to
its progress in satisfying these conditions (hereinafter
"Condition C").

29. Petitioner has addressed Condition A by entering
into an agreement with the County of Hawaii Housing Department
providing for conveyance of the 12-acre parcel, Tax Map Key No.
(Third Division) 7-6-24:25, to the County of Hawaii, in
satisfaction of the affordable housing requirement.

30. Petitioner has addressed Condition B by receiving approval of its archaeological report from the State Historic Preservation Division of the Department of Land Natural Resources.

31. Petitioner has addressed Condition C by submission of Exhibit A to its Second Supplemental Memorandum filed January 21, 1993, which the Commission accepted as Petitioner's Annual Report for 1992, and having filed previous annual reports with appropriate parties.

RULING ON PROPOSED FINDINGS OF FACT

Any of the proposed findings of fact submitted by the Petitioner or 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 finding of fact should be deemed or construed as a conclusion of law; any finding of fact herein improperly designated as a conclusion of law should be deemed and construed as a finding of fact.

CONCLUSIONS OF LAW

Pursuant to Chapter 205, HRS, and the Commission Rules including Section 15-15-78 thereof, the Commission finds upon a preponderance of evidence that the incremental redistricting of lands within Increment II of the Property, and approximately shown on Exhibit A attached hereto and incorporated herein by reference, consisting of approximately 49 acres of land situate

at North Kona, County, Island and State of Hawaii, identified as Tax Map Key No. (Third Division) 7-6-21:15 and portions of parcels 4, 9, 10, 11 and 17 from the Agricultural District to the Urban District, subject to the additional conditions provided in this Order, conforms to the standards established in the Commission Rules including Section 15-15-78 relating to incremental districting, is reasonable, non-violative of Section 205-2, HRS, and is consistent with the Hawaii State Plan as set forth in Chapter 226, HRS.

DECISION AND ORDER

IT IS HEREBY ORDERED that the lands within Increment II of the Property, consisting of approximately 49 acres situate at North Kona, County, Island and State of Hawaii, more particularly identified by Tax Map Key No. (Third Division) 7-6-21:15 and portions of parcels 4, 9, 10, 11 and 17 and approximately shown in Exhibit A attached hereto and incorporated herein, for incremental redistricting from the Agricultural District to the Urban District shall be and the same is hereby approved, and the district boundaries are amended accordingly, subject to the following additional conditions:

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

2. Petitioner shall give notice to the Commission of any intent to sell, lease, assign, place in trust, or otherwise voluntarily alter the ownership interests in the Property, prior to development of the Property.

3. Petitioner shall provide annual reports to the Land Use Commission, the Office of State Planning, and the County of Hawaii Planning Department in connection with the status of the subject project and the Petitioner's progress in complying with the conditions imposed.

4. The Land Use 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.


5. Petitioner shall record the conditions imposed by the Commission with the Bureau of Conveyances pursuant to Section 15-15-92, Hawaii Administrative Rules.

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


DOCKET NO. A83-549 - GAMREX, INC., a Hawaii corporation

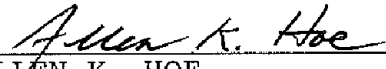
Done at Honolulu, Hawaii, this 10th day of May 1993,
per motion on April 29, 1993.

LAND USE COMMISSION
STATE OF HAWAII

By 
ALLEN Y. KAJIOKA
Chairman and Commissioner

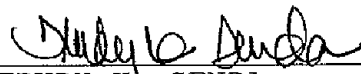
By (absent)
KAREN S. AHN
Vice Chairperson and Commissioner

By 
JOANN N. MATTSON
Vice Chairperson and Commissioner

By 
ALLEN K. HOE
Commissioner

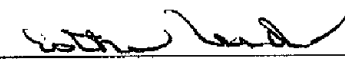
By (absent)
EUSEBIO LAPENIA, JR.
Commissioner

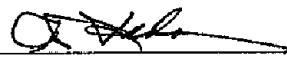
By (absent)
RENTON L. K. NIP
Commissioner

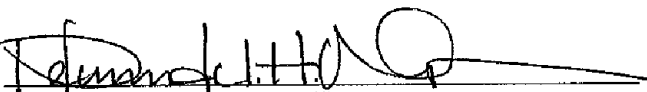
By 
TRUDY K. SENDA
Commissioner

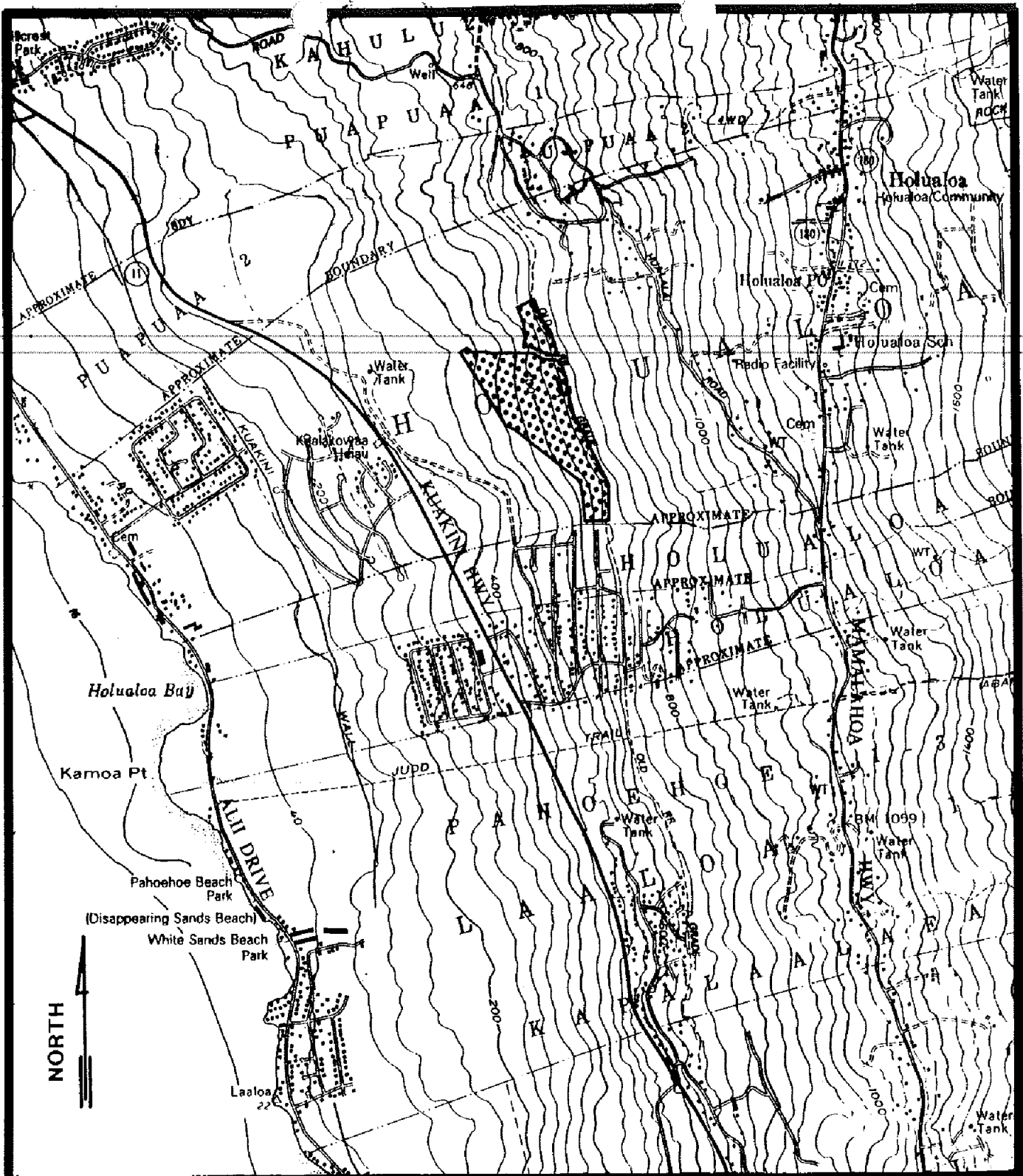
Filed and effective on
May 10, 1993

Certified by:


Executive Officer

By 
ELTON WADA
Commissioner

By 
DELMOND J. H. WON
Commissioner



DOCKET NO. A83 - 549 / GAMREX, INC.,

a Hawaii Corporation

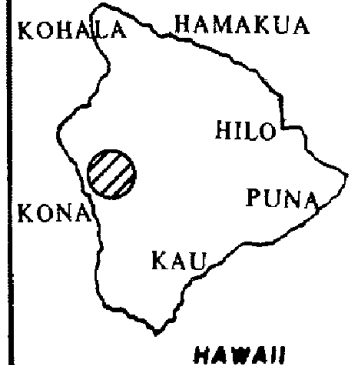
LOCATION MAP

TAX MAP KEY: 7-6-21: por. 4, por. 9,
por. 10, por. 11, por. 17 & 15

HOLUALOA 1ST & 2ND, NORTH KONA, HAWAII

SCALE: 1" = 2,000 ft. ±

 APPROVED AREA
(INCREMENT II)



BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of)	DOCKET NO. A83-549
GAMREX, INC.)	GAMREX, INC.
To Amend the Agricultural Land)	
Use District Boundary into the)	
Urban Land Use District for)	
Incremental Redistricting of)	
Increment II For Approximately)	
49 Acres of Land at North Kona,)	
County, Island and State of Hawaii,)	
Tax Map Key No.: (Third Division))	
7-6-21:15 and portions of 4, 9,)	
10, 11 and 17.)	

CERTIFICATE OF SERVICE


I hereby certify that a copy of the Findings of Fact, Conclusions of Law, and 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:

HAROLD S. MASUMOTO, Director
Office of State Planning
P. O. Box 3540
Honolulu, Hawaii 96811-3540

CERT. VIRGINIA GOLDSTEIN, Planning Director
Planning Department, County of Hawaii
25 Aupuni Street
Hilo, Hawaii 96720

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

DATED: Honolulu, Hawaii, this 10th day of May 1993.



ESTHER UEDA
Executive Officer

William P. Kenoi
Mayor



Susan K. Akiyama
Housing Administrator

Anne M. Bailey
Assistant Housing Administrator

COUNTY OF HAWAII
Office of Housing and Community Development

50 Wailuku Drive • Hilo, Hawaii 96720 • (808) 961-8379 • Fax (808) 961-8685
KONA: 74-5044 Ane Keohokalole Highway • Kailua-Kona, Hawaii 96740
(808) 323-4305 • Fax (808) 323-4301

July 10, 2015

REC'D JUL 13 2015


TO: Sidney M. Fuke
Planning Consultant
121 Waiānuenu Avenue, Suite 212
Hilo, Hawaii 96720

FROM: Susan K. Akiyama
Housing Administrator

**SUBJECT: KONA VISTAS, LLC
REQUEST FOR PERFORMANCE
TMK: (3)7-6-024:025**

The Office of Housing and Community Development (OHCD) respectfully requests the developer's performance in accordance with their Agreement dated June 20, 2005 and with our previous discussions in which Kona Vistas, LLC has agreed to turn over approximately 12-acres to the County. Under Chapter 11-5(a)(5), they may convey to the County, or at the County's direction to a non-profit entity, which is the preferred method of satisfaction. After checking with our Corporation Counsel, Kona Vistas, LLC cannot use excess affordable housing credits to satisfy their obligation under Condition A of the State Land Use Commission Decision and Order dated December 13, 1983.

A copy of the Seventh Amendment to Agreement is enclosed for your convenience. Please call Alan Rudo at (808) 961-8379 if you have questions or need additional information. Thank you.



Susan K. Akiyama
Housing Administrator

Encl.



EQUAL HOUSING OPPORTUNITY
"HAWAII COUNTY IS AN EQUAL OPPORTUNITY"

Kona Vistas LLC
1188 Bishop St. Suite 903
Honolulu HI 96813

September 30, 2015

Susan Akiyama, Housing Administrator
County of Hawaii
Office of Housing and Community Development
50 Wailuku Drive
Hilo, Hawaii 96720

RE: Your letter to Sid Fuke dated July 10, 2015

Dear Susan,

Hello, I hope you are well. I am sorry this response took some time to get back to you, it took a while before the letter was received by us and we needed to consult with the parties we are selling the properties referenced to.

We are in the process of selling our land holdings in Kona, including the referenced properties for the affordable housing obligation fulfillment at Tax Map Keys 3/7-6-024:025; 112 & 113 totaling about 12 acres, to a development group led by Roland Higashi, Robert Williams and Richard Wheelock. It is my understanding that they have been in touch with your office in regards to these matters.

With the cooperation and consent of the Roland Higashi group, Kona Vistas LLC is prepared to Deed directly to the County of Hawaii or their designated non-profit entity the three properties totaling approximately 12 acres at Tax Map Keys 3/7-6-24:025; 112 & 113 in November of 2015.

In order to complete this transfer, we respectfully request written confirmation to us and the Roland Higashi group that this conveyance will satisfy in full the affordable housing obligations as outlined in the Seventh Amendment to Agreement dated June 20, 2005 regarding Tax Map Keys 3/7-6-21:004; 009-013; and 015-017 (some of these TMK's have been further subdivided), which satisfies Condition A of the State Land Use Commission Decision and Order dated December 13, 1983 as well as Condition J of Ordinance 84-23 and Condition K of Ordinance 02-131.

Please provide us with this written confirmation at your earliest convenience, as well as the name of your designated non-profit entity and we will proceed to have the Deed drafted and prepared for the Conveyance.

Thank you for your attention to this matter.

Yours Truly,

A handwritten signature in black ink, appearing to read 'Shigeko Endo', with a horizontal line extending to the right from the end of the signature.

Shigeko Endo, Member

CC: Roland Higashi, Robert Williams, & Richard Wheelock via email to Richard Wheelock
Alan Rudo via email

William P. Kenoi
Mayor



Susan Akiyama
Housing Administrator

Anne M. Bailey
Assistant Housing Administrator

County of Hawai'i
Office of Housing and Community Development

50 Wailuku Drive • Hilo, Hawai'i 96720 • (808) 961-8379 • Fax (808) 961-8685
KONA: 74-5044 Ane Keohokalole Highway • Kailua-Kona, Hawai'i 96740
(808) 323-4305 • Fax (808) 323-4301

October 7, 2015


Shigeko Endo
Kona Vistas LLC
1188 Bishop Street, Suite 903
Honolulu, Hawai'i, 96813

SUBJECT: CONFIRMATION REQUEST DATED SEPTEMBER 30, 2015

Dear Shigeko Endo,

This letter confirms that the conveyance of the three parcels totaling about 12 acres, identified by Tax Map Keys: (3) 7-6-024:025, 112 & 113, to the County of Hawai'i or our designated non-profit, will fully satisfy Condition A of the State Land Use Commission Decision and Order dated December 13, 1983, Condition J of Ordinance 84-23 and Condition K of Ordinance 02-131.

Upon conveyance, the Office of Housing and Community Development will notify the respective agency of Kona Vista's satisfaction. If you have any questions, contact Alan Rudo at 808-961-8379.


Susan K. Akiyama
Housing Administrator

C. Sidney Fuke



EQUAL HOUSING OPPORTUNITY
"HAWAII COUNTY IS AN EQUAL OPPORTUNITY
PROVIDER AND EMPLOYER"

Harry Kim
Mayor

Wil Okabe
Managing Director

Barbara J. Kossow
Deputy Managing Director



Neil S. Gyotoku
Housing Administrator

Duane Hosaka
Assistant Housing Administrator

County of Hawai'i
Office of Housing and Community Development

1990 Kino'ole Street, Suite 102 • Hilo, Hawai'i 96720 • (808) 961-8379 • Fax (808) 961-8685
Existing Housing: (808) 959-4642 • Fax (808) 959-9308
Kona: (808) 323-4300 • Fax (808) 323-4301

October 31, 2019

Via Electronic and U.S. Mail

Robert Williams
Kona Three LLC
181 Kalaniana'ole Street
Hilo, Hawaii 96720-4703
e-mail: rwilliams@clarkhawaii.com

RE: Affordable Housing Agreement with Kona Three LLC

Dear Mr. Williams:

After careful consideration of the record between the County of Hawai'i (County) and Kona Three LLC, the Office of Housing and Community Development (OHCD) has concluded that no affordable housing agreement exists between the two parties, and a new agreement must be developed and signed by the owners and the County before the Kona Vistas project in Kailua-Kona may move forward.

The June 27, 2005 agreement between former owners Kona Vistas LLC and the County would have turned over about 12 acres, identified as TMKs 7-6-24:25; 112 and 113 to satisfy Condition J of County Ordinance 84-23, and Condition A of the State Land Use Commission Decision and Order, dated Dec. 13, 1983. That agreement, contingent upon completion of drainage improvements, was executed on December 7, 1992 and was amended seven times until it ultimately expired almost 13 years ago on December 31, 2006.

The OHCD is willing to negotiate an affordable housing agreement with Kona Three LLC, but no longer believes acquiring TMKs 7-6-24:25; 112 and 113 are in the best interests of the taxpayers. Kona Three LLC is offering to convey this parcel and with it, the responsibility of building affordable homes to a third party. This offer is unacceptable to the County as it would free Kona Three LLC to pursue the development of hundreds of market-price homes without any guarantee the third party will be able to develop affordable homes.



Robert Williams
October 31, 2019
Page 2

Therefore, Kona Three LLC should reveal how it will satisfy requirements of 10 percent affordable for the development of the completed increment of 210 homes. The County also believes that since there is no affordable housing agreement in place, any agreement with Kona Three LLC must comply with the current requirement of 20 percent affordable to meet the requirements of Chapter 11 of the County Code. Should Kona Three LLC build 465 new homes, at the current rate, 93 of the units must be offered as affordable.

In the spirit of moving forward and based on 465 total units, the OHCD will agree to allow construction of 114 affordable units on any of the undeveloped TMKs discussed in this letter, including TMKs 7-6-24:25; 112 and 113, as allowed by law. The OHCD will also require that one affordable unit be built and occupied for every four market-value units built and occupied. Kona Three LLC may also satisfy any new agreement in part or entirety by purchasing excess affordable housing credits. The OHCD is also willing to entertain offers by Kona Three LLC.

Should you have any questions, please call me at (808) 961-8379.

Very Truly Yours

A handwritten signature in black ink, appearing to read "Neil S. Gyotoku".

NEIL S. GYOTOKU
Housing Administrator

This is a copy of Bureau of Conveyances
Document No. A-00600287, and / or
Land Court Document No. _____
affecting Certificate of Title No. _____
recorded on 1/25/2022 at 8:01 o'clock AM.
TITLE GUARANTY OF HAWAII, INCORPORATED

LAND COURT

REGULAR SYSTEM

Return by Mail () Pickup () To:

Office of Housing and Community Development
1990 Kino'ole St., Suite 102
Hilo, Hawai'i 96720

TG: Accom

TGE: Accom
DEBRA N. TOMONO

TITLE OF DOCUMENT:

AFFORDABLE HOUSING AGREEMENT

PARTIES TO DOCUMENT:

COUNTY: COUNTY OF HAWAII, a municipal corporation of the State of Hawai'i,
whose address is 1990 Kino'ole Street Suite 102, Hilo, Hawai'i 96720

DEVELOPER: Kona Three LLC, a Hawai'i limited liability company, whose address is
101 Hualalai Street, Hilo, Hawai'i 96720

Affects TMK (3) 7-6-021:016 and (3) 7-6-021:017

Document contains 14 pages.

AFFORDABLE HOUSING AGREEMENT

AKS/MP
JL/MP

This Affordable Housing Agreement (“Agreement”) is made and effective this 10th day of January, 202~~1~~ (the “Effective Date”), by and between **KONA THREE LLC**, a Hawai‘i limited liability company, (the “Developer”), whose place of business and mailing address in the State of Hawai‘i is 101 Hualālai Street, Hilo, Hawai‘i 96720, and the **COUNTY OF HAWAI‘I**, a municipal corporation of the State of Hawai‘i, (the “County”), whose principal place of business and mailing address is 25 Aupuni Street, Hilo, Hawai‘i 96720.

RECITALS

WHEREAS, the Developer proposes to develop 450 residential units on approximately 68.836 acres of real property located at Hōlualoa, North Kona, Island, County and State of Hawai‘i on Tax Map Key (TMK) Nos. (3) 7-6-021:016 and (3) 7-6-021:017, herein after called the “Kona Three Project” and more particularly described in Exhibit A attached hereto and made a part of; and

WHEREAS, the Developer proposes to satisfy the Kona Three Project affordable housing requirements, along with additional requirements for Gamlon Corp. (“Original Project Developer”) through the acquisition of affordable housing credits in accordance with Hawai‘i County Code (“HCC”) Section 11-5(a)(7); and

WHEREAS, on December 13, 1983, the State Land Use Commission (“LUC”) of the State of Hawai‘i amended the Agricultural Land Use District Boundary into the Urban Land Use District Boundary of approximately 173.66 acres of property, which included the Kona Three Project, subject to Condition “A”, which provided for the development of affordable housing as follows:

1. Petitioner shall provide housing opportunities for low and moderate income Hawai‘i residents prior to assigning or transferring (except by way of mortgage or assignment as security) its interest in the subject property, by offering for sale, on a preferential basis, on its own cooperation with either or both the Hawaii Housing Authority or the County of Hawai‘i, ten percent (10%) of the lots or houses and lots to be developed on the subject property, to residents of the State of Hawai‘i of low and moderate family income as determined by the Hawaii Housing Authority or County of Hawai‘i from time to time. The preferential lots or houses and lots shall be offered for sale at prices not exceeding prices that enable such purchasers to qualify for and obtain state -assisted financing (i.e., Act 105 or Hula Mae) or federally insured or assisted financing (i.e., FHA Section 245 Program) intended to encourage homeownership by low- and moderate-income families

WHEREAS, on May 15, 1984, Change of Zone Ordinance 84-23 became effective, amending the lands from Unplanned (U) to Single Family Residential (RS-15) and Multiple Family Residential (RM-5) for the then TMK Nos. (3) 7-6-021:004, (3) 7-6-021:009 through 013, and 7-6-021:015 through 017, subject to Condition “J”, which provides for the development of affordable housing as follows:

J. Housing opportunities for Hawaii residents shall be provided in accordance with the condition imposed by the State Land Use Commission. The number of units and manner in which they are to be provided shall meet with the approval of the Hawaii County Housing Agency[.]

WHEREAS, the Original Developer developed and sold two hundred and fifteen (215) units within the original project area of 173.66 acres, and provided no affordable housing units in this development phase; and

WHEREAS, the Developer proposes that the Kona Three Project will consist of four-hundred and fifty (450) residential units on approximately 68.836 acres; and

WHEREAS, Chapter 11, HCC, Section 11-5(a)(7) provides that the affordable housing requirements can be satisfied by obtaining excess credits from another developer pursuant to HCC Section 11-15; and

WHEREAS, the OHCD has confirmed its willingness to consent to such an assignment of excess housing credits for the Developer's intended purpose; and

WHEREAS, the Developer has confirmed its willingness to comply with the ten percent (10%) requirement imposed by the State Land Use Boundary Amendment and Rezoning Ordinance for the entire property consisting of approximately 173.66 acres, satisfying the C requirements for a combined total of 665 residential units; and

WHEREAS, Chapter 11, Article 1 of the Hawai'i County Code, relating to Affordable Housing Policy, authorizes the Mayor, the County of Hawai'i Office of Housing and Community Development ("OHCD") or their duly authorized representative, to enter into this Agreement with the Developer to perform one or any combination of the options for satisfaction of the affordable housing requirements contained in Hawai'i County Code Section 11-5; and

NOW, THEREFORE, in consideration of the mutual covenants in this Agreement, and pursuant to Chapter 11, Article 1 (Affordable Housing) of the Hawai'i County Code ("Chapter 11"), the parties hereby agree as follows:

1. The Developer shall provide proof and OHCD shall verify excess credits are valid. Upon the closing of the Developer's purchase of the 67 excess housing credits which are verified by OHCD, the Developer will be entitled to use said housing credits to satisfy the affordable housing requirements for the entire project including, Gamlon Corp's Original Development Project of 215 units and the Kona Three Project consisting of a maximum of 450 residential units/lots, pursuant to the following: HCC, Chapter 11, Article 1 (Affordable Housing Policy).

2. Upon the closing of the Developer's purchase of the 67 excess housing credits, a full Release of this Agreement and any other appropriate documentation reasonably required by the parties related to the satisfaction of the affordable housing requirements for this 450 residential unit Kona Three Project shall be executed by the parties hereto and recorded by the Developer with the Bureau of Conveyances, or with the Land Court of the State of Hawaii, as applicable, with Developer paying all costs of recordation.
3. In the event the Developer builds more than 450 residential units, Developer shall obtain the required credits to satisfy the affordable housing requirement for the additional units.
4. This Agreement supersedes all other agreement and understandings (whether oral or written) made heretofore or contemporaneously herewith by the parties on the subject matter hereof. The provisions of this Agreement may not be modified, altered, or changed except by another written instrument executed by the parties hereto.
2. This Agreement shall run with the land and shall be binding upon and inure to the benefit of the parties hereto, and their respective successors and assigns. This Agreement shall be recorded against the title to the Affordable Housing Site by the Developer at the Bureau of Conveyances or with the Land Court of the State of Hawai'i as applicable, within thirty (30) days after being fully executed by the parties. The parties agree to take such actions and execute whatever other documents as are reasonably necessary to effectuate and carry out the intent of this Agreement. As provided in Paragraph 2, above, upon Developer's purchase of the 67 excess housing credits, the parties shall execute and record a full Release of this Agreement along with any other appropriate documentation.
3. Notices. All notices to be given pursuant to this Agreement shall be in writing and shall be deemed given when mailed by certified or registered mail, return receipt requested, to the parties hereto at the addresses set forth below, or to such other place as a party may from time to time designate in writing.

To the County:

Housing Administrator
Office of Housing and Community Development
1990 Kino'ole Street, Suite 102
Hilo, Hawai'i 96720

To the Developer:

Kona Three LLC
101 Hualālai Street
Hilo, Hawai'i 96720

ATTN: Roland Higashi

The OHCD and the Developer may, by notice given hereunder, designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent.

4. The Developer agrees, if applicable, that it will take all actions necessary to effect amendment of this Agreement as may be necessary to comply with amendments to HCC Chapter 11, and all applicable rules, regulations, policies, procedures, rulings, or other official statements pertaining to Chapter 11.
5. This instrument may be executed in two or more counterparts, and when all counterparts have been executed, each counterpart shall be considered an original but when assembled shall constitute one and the same instrument and shall have the same force and effect as though all of the signatories had executed a single signature page. Any unexecuted duplicate pages may be omitted from the assembled original document.
6. The parties agree that no party shall be deemed to be the drafter of this Agreement, and further that in the event this Agreement is ever construed by a court of law, such court shall not construe this Agreement or any provisions of this Agreement against any party as the drafter of this Agreement.
7. This agreement shall be recorded with the State of Hawaii Bureau of Conveyances, and a true and correct copy shall be provided to the County of Hawaii Office of Housing & Community Development within 30 days.
8. This Agreement shall be governed and construed in accordance with the laws of the Third Circuit Court of the State of Hawai'i.

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK.]

SIGNATURE PAGE FOLLOWS

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IN WITNESS WHEREOF, the parties hereto have executed this AGREEMENT as of the day and year first written above.

DEVELOPER:

Kona Three LLC,
a Hawai'i limited liability company

By: Robert G. Williams
Name: Robert G. Williams
Title: Treasurer of Kona Three LLC and
Manager of OIP, LLC, a Hawai'i limited
liability company and member of Kona Three LLC

Date:

COUNTY:

COUNTY OF HAWAII,
a municipal corporation of the State of Hawai'i

By: Lee E. Lord
Name: LEE E. LORD
Title: Managing Director

Date: 1/10/22

RECOMMEND APPROVAL:

Susan K. Kunz
Susan K. Kunz
Housing Administrator

Date: 12/27/21

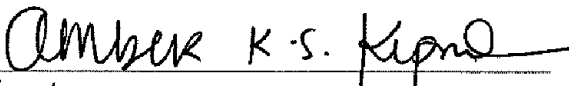
**APPROVED AS TO FORM
AND LEGALITY:**

Michael Kelle
Deputy Corporation Counsel

Date: 01/07/22

STATE OF HAWAI'I)
)
COUNTY OF HAWAI'I) SS.

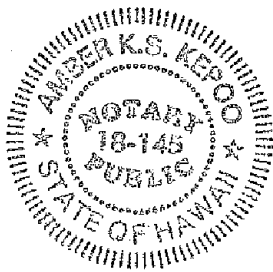
On this 10th day of January, 2022, before me personally appeared LEE E. LORD, to me personally known, who, being by me duly sworn, did say that he is the Managing Director of the County of Hawai'i, a municipal corporation of the State of Hawai'i, that the foregoing instrument was signed on behalf of the County of Hawai'i by authority given to said Mayor of the County of Hawai'i by Sections 5-1.3 and 13-13 of the County Charter, County of Hawai'i (2018), as amended, and assigned by the Mayor to the Managing Director pursuant to Section 6-1.3(h) of the County Charter; and said LEE E. LORD acknowledged said instrument to be the free act and deed of said County of Hawai'i.

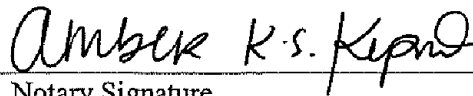

Signature

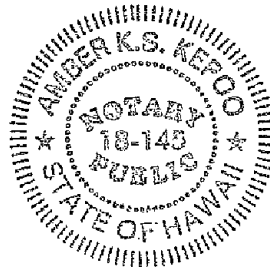
AMBER K.S. KEPOO
Print or Type Name

Notary Public, State of Hawai'i

My Commission Expires: 04/01/22

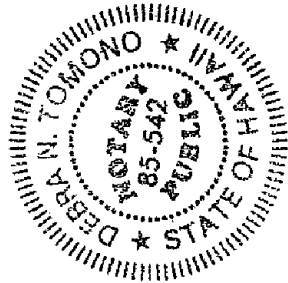


NOTARY CERTIFICATION	
Doc. Date: <u>01/10/22</u>	No. of Pages: <u>7</u>
Notary Name: <u>AMBER K.S. KEPOO</u> <u>Affordable Housing</u>	Third Circuit
Doc. Description: <u>Agreement</u>	
 <u>01/10/22</u>	
Notary Signature	Date



STATE OF HAWAI'I)
) SS.
COUNTY OF HAWAI'I)

On 12/21/2021, before me appeared Robert G Williams to me personally known, who, being by me duly sworn, did say that he is the Treasurer of KONA THREE LLC; that the instrument was signed on behalf of KONA THREE LLC by authority of its member(s); and acknowledged said instrument to be the free act and deed of said company.



Debra N. Tomono

Debra N. Tomono

Print Name

Notary Public, State of Hawai'i

My commission expires: EXPIRATION: October 17, 2022

NOTARY CERTIFICATION	
Doc. Date: <u>undated</u>	No. of Pages: <u>14</u>
Notary Name: <u>Debra N. Tomono</u>	
Doc. Description: <u>AFFORDABLE HOUSING AGREEMENT, TMKs (3) 7-6-021:016 and (3) 7-6-021:017</u>	Circuit: <u>3rd</u>
<u>Debra N. Tomono</u> Notary Signature	<u>12/21/2021</u> Date

EXPIRATION: October 17, 2022

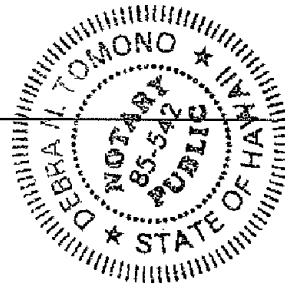


EXHIBIT A
[Property Description]

EXHIBIT "A"

All of that certain parcel of land (being portion(s) of the land(s) described in and covered by Royal Patent Number 4475, Land Commission Award Number 7713, Apana 43 to Victoria Kamamalu and a portion of Royal Patent 8217, Land Commission Award 3360 to John P Muna) situate, lying and being at Holualoa 1 and 2, District of North Kona, Island and County of Hawaii, State of Hawaii, being LOT 2, and thus bounded and described:

Beginning at the southwest corner of this parcel of land, being also the northwest corner of Lot 15 (Stream) and along the northeasterly side of Hawaii Belt Road, F.A.P. Route 11 Project No. 11A-03-69, the coordinates of said point of beginning referred to Government Survey Triangulation Station "KAILUA", being 9,837.83 feet south and 9,057.80 feet east, thence running by azimuths measured clockwise from true South:

- | | | | |
|-----|--------------|----------|---|
| 1. | 152° 22' 30" | 95.69 | feet along Hawaii Belt Road, F.A.P. Route 11 Project No. 11A-03-69; |
| 2. | 139° 59' 30" | 20.75 | feet along same; |
| 3. | 99° 48' 30" | 35.07 | feet along same; |
| 4. | 154° 11' | 597.05 | feet along same; |
| 5. | 240° 28' 30" | 2,903.35 | feet along the remainder of Royal Patent 4475, Land Commission Award 7713, Apana 43 to Victoria Kamamalu; |
| 6. | 255° 18' | 17.97 | feet along same; |
| 7. | 311° 55' | 219.92 | feet along the remainder of Royal Patent 4475, Land Commission Award 7713, Apana 43 to Victoria Kamamalu (Lot 2-A); |
| 8. | 331° 14' 15" | 143.36 | feet along same; |
| | | | Thence along Lot 14 (Stream) for the next thirteen (13) courses, the direct azimuth and distances being: |
| 9. | 96° 54' | 67.99 | feet; |
| 10. | 112° 56' | 86.79 | feet; |
| 11. | 90° 53' | 56.48 | feet; |
| 12. | 69° 49' | 76.70 | feet; |
| 13. | 46° 39' | 114.37 | feet; |

14.	51° 06'	83.31	feet;
15.	76° 01'	139.84	feet;
16.	51° 29'	175.76	feet;
17.	66° 32'	91.49	feet;
18.	44° 49'	170.06	feet;
19.	25° 59'	247.57	feet;
20.	37° 21'	124.60	feet;
21.	31° 20' 30"	825.56	feet;

Thence along Lot 15 (Stream) for the next ten (10) courses, the direct azimuth and distances being:

22.	37° 01'	57.76	feet;
23.	66° 24'	138.13	feet;
24.	44° 01'	114.46	feet;
25.	67° 01'	134.84	feet;
26.	102° 13'	107.13	feet;
27.	69° 30'	139.97	feet;
28.	31° 40'	114.38	feet;
29.	88° 52'	64.98	feet;
30.	114° 04'	60.22	feet;
31.	77° 28'	132.01	feet to the point of beginning and containing an area of 37.936 acres, more or less.

TOGETHER WITH Easements "C", "D", "E" and "F" for roadway and utility purposes, as described in QUITCLAIM DEED dated September 4, 1987, and recorded in the Bureau of Conveyances of the State of Hawaii in Liber 21356 Page 36; and SUBJECT TO the terms and provisions contained therein.

LOT 1-A

Land situated approximately 100 feet Westerly of 'o Place at Holualoa 1st and 2nd, North Kona, Island and County of Hawaii, State of Hawaii.

Being portions of:

Lot 1;

Royal Patent 8217, Land Commission Award 3660 to John P. Munn; and

Royal Patent 4475, Land Commission Award 7713, Apana 43 to V. Kamamalu.

Beginning at an angle on the Easterly boundary of this parcel of land, being also the Northwesterly corner of Lot 18-G-1 of this subdivision and a point on the Westerly boundary of Lot 1-A-1, the coordinates of said point of beginning referred to Government Survey Triangulation Station "KAILUA (NORTH MERIDIAN)" being 9,233.63 feet South and 11,607.67 feet East and running by azimuths measured clockwise from True South:

- 1. 39° 41' 16" 271.61 feet along Lot 18-G-1 of this subdivision and along the remainder of Royal Patent 4475, Land Commission Award 7713, Apana 43 to V. Kamamalu to a point;

Thence, for the next ten (10) courses following along Lot 22 (Stream) (County of Hawaii) (Holualoa Drainageway) and along the remainder of Royal Patent 4475, Land Commission Award 7713, Apana 43 to V. Kamamalu:

- 2. 95° 15' 205.20 feet to a point;
- 3. 96° 50' 273.37 feet to a point;

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LOT 1-A

- | | | | |
|-----|----------|--------|------------------|
| 4. | 74° 55' | 132.84 | feet to a point; |
| 5. | 107° 39' | 54.73 | feet to a point; |
| 6. | 90° 53' | 191.87 | feet to a point; |
| 7. | 129° 17' | 96.53 | feet to a point; |
| 8. | 80° 07' | 71.22 | feet to a point; |
| 9. | 53° 36' | 104.76 | feet to a point; |
| 10. | 83° 27' | 205.32 | feet to a point; |
| 11. | 84° 08' | 104.72 | feet to a point; |

Thence, for the next three(3) courses following along Lot 14 (Stream) (County of Hawaii) (Horseshoe Bend Drainageway):

- | | | | |
|-----|--------------|--------|---|
| 12. | 211° 20' 30" | 783.45 | feet along the remainder of Royal Patent 4475, Land Commission Award 7713, Apana 43 to V. Kamamalu to a point; |
| 13. | 217° 21' | 127.42 | feet along the remainders of Royal Patent 4475, Land Commission Award 7713, Apana 43 to V. Kamamalu and Royal Patent 8217, Land Commission Award 3660 to John P. Munn to a point; |
| 14. | 205° 59' | 243.59 | feet along the remainders of Royal Patent 4475, Land Commission Award 7713, Apana 43 to V. Kamamalu and Royal Patent 8217, Land Commission Award 3660 to John P. Munn to a point; |

Thence, for the next ten (10) courses following along Lot 14 (Stream) (County of Hawaii) (Horseshoe Bend Drainageway) and along the remainder of Royal Patent 4475, Land Commission Award 7713, Apana 43 to V. Kamamalu :

- | | | | |
|-----|----------|--------|------------------|
| 15. | 224° 49' | 148.80 | feet to a point; |
| 16. | 246° 32' | 87.91 | feet to a point; |
| 17. | 231° 28' | 170.64 | feet to a point; |
| 18. | 256° 01' | 140.06 | feet to a point; |
| 19. | 231° 06' | 98.89 | feet to a point; |
| 20. | 226° 39' | 104.41 | feet to a point; |

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#06931.9

LOT 1-A

21.	249° 49'	53.22	feet to a point;
22.	270° 55'	33.64	feet to a point;
23.	292° 58'	83.57	feet to a point;
24.	276° 54'	90.29	feet to a point;
25.	354° 02'	55.41	feet along Lot 2-A and along the remainder of Royal Patent 4475, Land Commission Award 7713, Apana 43 to V. Kamamalu to a point;
26.	21° 41' 50"	8.60	feet along Lot 2-C and along the remainder of Royal Patent 4475, Land Commission Award 7713, Apana 43 to V. Kamamalu to a point;
27.	389° 37' 20"	20.09	feet along Lot 2-C and along the remainder of Royal Patent 8217, Land Commission Award 3660 to John P. Munn to a point;
28.	5° 07' 20"	44.89	feet along Lot 2-C and along the remainder of Royal Patent 8217, Land Commission Award 3660 to John P. Munn to a point;
29.	355° 00'	65.72	feet along Lot 12 and along the remainder of Royal Patent 8217, Land Commission Award 3660 to John P. Munn to a point;

Thence, for the next five (5) courses following along the remainder of Royal Patent 4475, Land Commission Award 7713, Apana 43 to V. Kamamalu:

30.	3° 05'	265.06	feet along Lot 11 and Lot 10 to a point;
31.	77° 08'	20.55	feet along Lot 10 to a point;
32.	4° 39'	203.73	feet along Lot 10 and Lot 9 to a point;
33.	347° 02'	187.60	feet along Lot 1-A-3 to a point;
34.	337° 00'	317.65	feet along Lot 1-A-3, Lot 1-A-2 and Lot 1-A-1 to the point of beginning and containing an area of 29.762 Acres.

SUBJECT, HOWEVER, to Zone X (areas determined to be outside the 0.2% annual chance floodplain), Zone XS (X Shaded) (areas of 0.2% annual chance flood; areas of 1% annual chance flood with average depths of less than 1 foot or with drainage areas less than 1 square

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Page 3 of 4

mile; and areas protected by levees from 1% annual chance flood), Zone AE (special flood hazard areas subject to inundation by the 1% annual chance flood, BFE determined), Zone AEF (special flood hazard areas subject to inundation by the 1% annual chance flood, floodway areas in ZONE AE. The floodway is the channel of stream plus any adjacent floodplain areas that must be kept free of encroachment so that the 1% annual chance flood can be carried without increasing the BFE), as per Flood Insurance Rate Map (F.I.R.M.) Community-Panel Number 155166 0852 F, revised September 29, 2017.

TOGETHER WITH, Easement "AU-2" for Access and Utility Purposes over and across Lot 18-G-1 of this subdivision and being more particularly described by the attached description.

ALSO TOGETHER WITH, existing Easements "C", "C-1", "D" and "D-1" for Road and Utility Purposes as previously recorded at the Bureau of Conveyances in Honolulu, Hawaii in Liber 21336 Page 36.

ALSO TOGETHER WITH, existing Easement "F" for Road and Utility Purposes as previously recorded at the Bureau of Conveyances in Honolulu, Hawaii in Liber 21336 Page 36 and Document Number 2004-086915.



 Boundary  Boundary