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BEFORE THE LAND USE COMMISSION

OF THE STATE OF HAWAII

In the matter of the Petition	)	DOCKET NO. A00-732
	)	
of	)	FINDINGS OF FACT,
	)	CONCLUSIONS OF LAW, AND
TSA CORPORATION	)	DECISION AND ORDER FOR A
	)	STATE LAND USE DISTRICT
To Amend the Land Use District	)	BOUNDARY AMENDMENT;
Boundary of Certain Lands situated at	)	
Kaloko, North Kona, Island of Hawaii,	)	EXHIBIT A
State of Hawai`i, consisting of	)	
approximately 102.016 acres, Tax Map	)	
Key: 7-3-051: portion of 060, from the	)	
Conservation District to the Urban	)	
District	)	

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**FINDINGS OF FACT, CONCLUSIONS OF LAW, AND DECISION  
AND ORDER FOR A STATE LAND USE DISTRICT BOUNDARY AMENDMENT**

TSA CORPORATION formerly dba TSA INTERNATIONAL, LIMITED

("Petitioner" or "TSA") filed a Petition For Land Use District Boundary Amendment on May 22, 2000, and the First Amendment Of Petition for Land Use District Boundary Amendment on November 17, 2000, pursuant to Section 205-3.1(c) and 205-4, Hawaii Revised Statutes ("HRS"), and Chapter 15-15, Hawaii Administrative Rules ("HAR"), to amend the State land use district boundary by reclassifying approximately 102.016 acres of land situated at Kaloko, North Kona, Island, County and State of Hawai`i, and designated by Tax Map Key No:(3) 7-3-051: portion of 060 ("Petition Area" or

“Property”), from the Conservation Land Use District to the Urban Land Use District for the development of Phases III and IV of the Kaloko Industrial Park (“Petition” or “Project”).

The Land Use Commission (“Commission” or “LUC”), having considered the entire record on this matter, hereby makes the following findings of fact, conclusions of law and decision and order.

## **FINDINGS OF FACT**

### **PROCEDURAL MATTERS**

1. Petitioner filed its Petition For Land Use District Boundary Amendment on May 22, 2000, to reclassify approximately 102.272 acres of the Petition Area from the State Land Use Conservation District to the State Land Use Urban District for Phases III and IV of the Kaloko Industrial Park.

2. On May 22, 2000, Petitioner filed Exhibits 1 through 6. Exhibit 1 consisted of the Draft Environmental Assessment (“DEA”) for the Property, filed pursuant to Chapter 343, HRS, and Section 15-15-50, HAR.

3. The Office of Planning, Department of Business and Economic Development and Tourism, State of Hawaii (“OP”) filed its “Statement of the Office of Planning As to Whether The Anticipated Effects Discussed in Petitioner’s Draft Environmental Assessment To Reclassify Approximately 102.3 Acres of Land Currently

in the Conservation District into the Urban District Constitutes A “Significant Effect” Pursuant to 343, HRS” on June 14, 2000.

4. The County of Hawaii (“County”) filed a facsimile copy of the “County of Hawaii Planning Department’s Comment On The Petitioner’s Draft Environmental Assessment” on June 15, 2000.

5. On June 15, 2000, the LUC required Petitioner to file an Environmental Impact Statement (“EIS”) pursuant to its Order Requiring Petitioner to Prepare an Environmental Impact Statement issued on July 26, 2000.

6. LUC filed Petitioner’s Environmental Impact Statement Preparation Notice (“EISPN”) with the Office of Environmental Quality Control, Department of Health, State of Hawaii (“OEQC”) on June 26, 2000 for publication in the OEQC Environmental Notice on July 8, 2000.

7. LUC filed Petitioner’s DEIS with OEQC on August 10, 2000, for publication in the Environmental Notice on August 23, 2000.

8. Petitioner filed its “First Amendment Of Petition For Land Use District Boundary Amendment;” Verification; Exhibits 7 – 13; Certificate of Service on November 17, 2000. The amended petition clarified the acreage of the Petition Area to 102.016 acres and corrected the TMK No to (3) 7-3-051: portion of 060. Exhibit 7 consisted of Petitioner’s Final Environmental Impact Statement (“FEIS”).

9. On November 17, 2000, the LUC accepted Petitioner's FEIS pursuant to its "Findings of Fact, Conclusions of Law, and Decision and Order Accepting An Environmental Impact Statement For A State Land District Boundary Amendment" issued on December 15, 2000.

10. On December 11, 2000, a Notice of Hearing on the Petition was published in *Midweek*, which scheduled the commencement of the hearings on March 8 – 9, 2001.

11. On January 18, 2001, the OP filed its Statement of Position.

12. On January 22, 2001, Petitioner filed its Exhibits 14 through 23.

13. On January 30, 2001, an Application to Intervene, dated January 26, 2001, was filed by Kaloko-Honokohau National Historical Park ("KAHO" or "National Park"), National Park Service, U.S. Department of Interior ("Intervenor" or "NPS").

14. On February 12, 2001, OP filed its Exhibit 1.

15. On February 22, 2001, a Prehearing Conference was conducted pursuant to Section 15-15-57, HAR.

16. NPS filed its Exhibits 1 through 20.

17. On February 23, 2001, the Acting Executive Officer of the LUC issued the Prehearing Conference Order, which established a schedule for the mutual exchange of exhibits and identification of witnesses for all parties at the hearing scheduled for March 8-9, 2001.

18. On February 26, 2001, the County filed its Position Statement in support of TSA's Petition.

19. On February 28, 2001, Petitioner filed its Exhibits 24 through 41.

20. On February 28, 2001, County filed its Exhibits 1 through 3.

21. On February 28, 2001, NPS filed its Exhibit 21.

22. On March 8, 2001, the hearing for the Petition commenced. The LUC granted the following: Intervenor status to NPS pursuant to its "Order Granting Intervenor Status to KAHO" issued on March 19, 2001<sup>1</sup>; and Petitioner's oral motion for change of Petitioner's name from "TSA International, Limited" to "TSA Corporation" pursuant to its "Order Granting Motion For Change of Petitioner's Name."

23. Petitioner filed its Exhibits 42 through 44.

24. OP filed its Exhibits 2 through 5.

25. Public witness testimony was received by Lance Wilhelm, Kiewit Pacific Company, in support of the Petition.

26. The following witnesses provided oral and/or written testimony on behalf of Petitioner: Hideki Hayashi, TSA President and Secretary; and Rodney Funakoshi, Wilson Okamoto & Associates, Inc.

27. A site visit was conducted on KAHO.

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<sup>1</sup> The Commission granted Intervenor status to KAHO based on the National Park Service's concerns of potential contamination of groundwater and surface water quality generated from the project and its impacts to anchialine ponds and fishponds located in the park and nearby coastal waters.

28. At the Commission's hearing on March 9, 2001, the following provided oral and/or written testimony on behalf of the Petitioner: Alan Haun, Haun & Associates; Winona Char, Char & Associates; James E. Hallstrom, The Hallstrom Group, Inc.; and Ulalia Woodside and Dennis Shiu, Wilson Okamoto & Associates, Inc.

29. On April 2, 2001, Petitioner filed the following: "Petitioner's Motion for Issuance of Subpoena to Thierry M. Work, Administrative Subpoena" and Certificate of Service; and "Petitioner's Motion for Issuance of Subpoena to Richard E. Brock" and Certificate of Service. The LUC issued the respective subpoenas on April 11, 2001.

30. On April 3, 2001, Petitioner filed the following: its "Motion to Correct Transcript Of Hearings On March 8 and 9, 2001;" and its Exhibits 44 through 46. The LUC issued its "Order Granting Petitioner's Motion to Correct Transcript of Hearings on March 8 and 9, 2001," on June 19, 2001.

31. On April 10, 2001, a Second Prehearing Conference was conducted for the hearing scheduled for May 31, 2001 and June 1, 2001.

32. On April 27, 2001, the Acting Executive Officer of the LUC issued the Second Prehearing Conference Order, which established the scheduling for the mutual exchange of exhibits and other documents amongst the parties.

33. The following additional witnesses, upon the behest of the Commission, were identified for the hearing:

County's witnesses to address issues of wastewater improvement district, solid waste disposal, and affordable housing; and

OP's witnesses to address Hawaii's Implementation Plan for Polluted Runoff Control, Coastal Zone Management Program.

34. On May 2, 2001, NPS filed its amended Exhibit 21 and Exhibit 25A.

35. On May 3, 2001, Petitioner filed its Exhibits 7.F1, 11.A, 47, 47A, 47B, 47C, 49, 50, and 52 through 54.

36. On May 4, 2001, via facsimile, the County filed its Exhibits 7 through 11.

37. On May 7, 2001, NPS filed its Exhibit 26.

38. On May 8, 2001, NPS filed its amended Exhibit 25-A.

39. On May 24, 2001, Petitioner filed "Petitioner's Response To Intervenor Kaloko-Honokohau National Historical Park's Summary of Expert Witness Testimony."

40. On May 25, 2001, NPS filed its Exhibit 27.

41. On May 31 to June 1, 2001, the hearings resumed. The Commission approved NPS's oral motion to allow Nicole Walthall, Esq. to appear as counsel for Intervenor pursuant to its "Order Granting Intervenor's Motion for Legal Representation" issued on June 19, 2001.

42. The County filed its original and requisite copies of Exhibits 7 through 11.



43. OP filed its Exhibits 6 through 9.

44. The following provided oral and/or written testimony on behalf of the Petitioner: Hideki Hayashi, TSA President and Secretary; Pete Pascua, Wilson Okamoto & Associates, Inc.; Tom Nance, Tom Nance Water Resource Engineering; Dr. Thierry M. Work, United States Geological Survey (“USGS”) and Dr. Richard Brock (Petitioner’s subpoenaed witnesses); Dr. Steven J. Dollar, Marine Research Consultants; Masanobu R. Fujioka, Masa Fujioka & Associates; and Reginald E. David, Rana Productions, Ltd.

45. On June 22, 2001, a Third Prehearing Conference was conducted, for the continuation of the hearings scheduled for July 18 and 19, 2001 and August 23 and 24, 2001.

46. On June 22, 2001, County filed its Exhibits 12 and 13.

47. On June 29, 2001, the Executive Officer of the LUC issued the Third Prehearing Conference Order which set forth the following prehearing requirements:

a. All parties shall direct expert witness testimony and subsequent respective cross examinations in alignment with the parties’ groundwater issues, which shall not preclude the discussion of other relevant groundwater related issues by any of the parties;

b. The County shall present its case at the hearing scheduled for

July 18 and 19, 2001, with the exception to the parties' groundwater issues, that will include its witnesses relating to housing, traffic, and general plan issues;

c. OP shall present its case at the hearing scheduled for July 18 and 19, 2001, with the exception to the parties' groundwater issues, that will include witnesses relating to transportation and archaeological resources;

d. Petitioner's expert witness on fauna shall present its case at the hearing scheduled for August 23 and 24, 2001; and

e. Discussion of the parties' groundwater issues shall resume and be completed at the hearing scheduled for August 23 and 24, 2001.

48. On June 26 and July 2, 2001, Petitioner filed respectively, "Petitioner's Motion to Correct Transcript of Hearings On May 31 and June 1, 2001" and "Petitioner's Amended Motion to Correct Transcript of Hearings On May 31 and June 1, 2001."

49. On July 10, 2001, Petitioner filed its Exhibits 55 through 60.

50. On July 16, 2001, the County filed its Exhibit 14.

51. On July 18 and 19, 2001, the hearings continued. The Commission denied Petitioner's Amended Transcript Correction Motion pursuant to its "Order Denying Petitioner's Amended Motion to Correct Transcript of Hearings On May 31 and June 1, 2001" issued on August 13, 2001.

52. The following provided oral and/or written testimony on behalf of the

County: Kiran Emler, Department of Public Works, County of Hawaii (“DPW”); and Norman Hayashi, Planning Department, County of Hawaii.

53. The following provided oral and/or written testimony on behalf of OP: Abe Mitsuda, OP; Ross Cordy, State Historic Preservation Division, Department of Land and Natural Resources, State of Hawaii; and Stanley Tamura, Highways Division, Department of Transportation, State of Hawaii.

54. The following provided oral and/or written testimony on behalf of Intervenor: Geraldine Bell and Stanley Cruise Bond, KAHO; and David Kahelemauna Roy, Jr., Kaloko-Honokohau Advisory Commission.

55. On August 23 and 24, 2001, the hearings continued.

56. Public witness testimony was received by Lunakanawai Hauanio expressing concerns of impacts generated by development upon cultural and native Hawaiian resources.

57. The following provided oral and/or written testimony on behalf of Petitioner: Dr. Richard Brock; Tom Nance; Dr. Steven J. Dollar; and Reginald David.

58. The following provided oral and/or written testimony on behalf of the County: Peter Boucher and Kiran Emler, DPW; and Edwin Taira, Office of Housing and Community Development, County of Hawaii.

59. The following provided oral and/or written testimony on behalf of OP:

Dennis Tulang, Wastewater Branch, Department of Health, State of Hawaii; and Susan Miller, Coastal Zone Management Program, OP.

60. The following provided oral and/or written testimony on behalf of Intervenor: Michael Thalhamer, PSOMAS.

61. On September 7, 2001, Petitioner filed its Exhibits 61 and 62.

62. On September 26, 2001, NPS filed its Exhibits 28 and 29.

63. On October 1, 2001, Petitioner filed its Exhibit 63.

64. On October 2, 2001, Petitioner filed its Exhibit 64.

65. On October 2, 2001, NPS filed its Exhibits 6A, 30, 31, and 32.

66. On October 3, 2001, NPS filed its Exhibits 33 through 37.

67. On October 3 and 4, 2001, the hearings continued.

68. Masanobu R. Fujioka provided oral and/or written testimony on behalf of Petitioner.

69. The following provided oral and/or written testimony on behalf of OP: Chauncey Hew, Groundwater Pollution Control Section, Safe Drinking Water Branch, Department of Health, State of Hawaii; and Denis Lau, Clean Water Branch, Department of Health, State of Hawaii.

70. The following provided oral and/or written testimony on behalf of

Intervenor: Roy Irwin, National Park Service, U.S. Department of the Interior;

Dr. Delwyn Oki, USGS; and Eric Guinther, AECOS Incorporated.

71. Petitioner withdrew its Exhibit 63.

72. On October 22, 2001, OP filed its "Office of Planning's Motion to Extend Time;" and Memorandum of Support.

73. On October 29, 2001, County filed its "County of Hawaii's Statement of No Objection to the Office of Planning's Motion to Extend Time."

74. On October 30, 2001, Petitioner filed its Exhibits 65 through 72.

75. On October 31, 2001, OP filed its Exhibit 10.

76. On November 1 and 2, 2001, the hearings concluded.

77. NPS filed its Exhibits 22A and 38.

78. Public witness testimony was received by Mahealani Pai expressing concerns of impacts from the proposed project upon the cultural and natural resources at KAHO.

79. The following provided oral and/or written testimony on behalf of Petitioner: Tom Nance and Dr. Steve J. Dollar.

80. The following provided oral and/or written testimony on behalf of Intervenor: Eric Guinther; Dr. Paul Haberstroh, University of Hawaii at Hilo, State of Hawaii; Dr. David Foote, Biological Research Division, USGS; Sallie Beavers, KAHO;

Bryan Harry, Pacific Island Support Office, National Park Service, U. S. Department of the Interior; and Dr. Marie Morin, Fish and Wildlife Service, U.S. Department of the Interior.

81. The LUC approved the “Office of Planning’s Motion to Extend Time” pursuant to its “Order Granting Office of Planning’s Motion to Extend Time” issued on November 15, 2001.

82. Petitioner withdrew its Exhibits 67, 69 and 70.

83. The LUC ruled that Petitioner’s Exhibits 66, 68 and 72 would not be allowed into evidence.

84. On November 15, 2001, NPS filed its Exhibit 39.

#### **DESCRIPTION OF THE PETITION AREA**

85. Petitioner is the fee owner of the Petition Area. Petitioner submitted corporate documents evidencing the merger of Kobayashi Development & Construction, Inc. with and into Takamasa International, Inc. that lead to the formation of TSA International, Limited. On February 28, 2001, Petitioner filed a Notice of Name Change from TSA International, Limited to TSA Corporation, which the Commission approved pursuant to its Order Granting the Motion To Change Petitioner’s Name issued on April 10, 2001.

86. Petitioner is a Hawaii corporation incorporated in 1979, and licensed to do

business within the State of Hawaii, with its business and mailing address at 1441 Kapiolani Boulevard, Suite 1905, Honolulu, Hawaii 96814. Petitioner owns or has owned various properties in Hawaii, including Phases I and II of the Kaloko Industrial Park. It is also involved in various real estate management and investment activities in Hawaii.

87. Petitioner proposed the development of Phases III and IV of the existing Kaloko Industrial Park for light industrial, business and commercial uses.

88. The Petition Area is situated at Kaloko, North Kona, County of Hawaii, State of Hawaii, and designated as TMK No: (3) 7-3-051: portion of 060. A metes and bounds description of the Petition Area was submitted pursuant to Boundary Interpretation Number 00-21 dated November 14, 2000.

89. The Petition Area is situated on lands within the State Land Use Conservation District.

90. Phases I and II of the Kaloko Industrial Park consisting of 85 lots within 130.1 acres were reclassified from the Conservation District to the Urban District pursuant to the Commission's Findings of Fact, Conclusions of Law, and Decision Order for LUC Docket No. A80-482/T.S.K. Associates issued on May 14, 1981. The reclassification also included incremental districting for a proposed Phase III and IV provided there was substantial completion of on-site and off-site improvements for the

first two phases within five (5) years of the approval for reclassification. Since these improvements could not be completed within this timeframe, the property has remained in the Conservation District.

91. An approximately 8.5-acre roadway parcel was reclassified from the Conservation District to the Urban District in May 1986 by the Land Use Commission pursuant to the Commission's Findings of Fact, Conclusions of Law, and Decision and Order issued on May 15, 1986. This roadway parcel led to the development of Hina Lani Street, a two-way, two-lane collector road that provides a mauka-makai connection between Queen Kaahumanu Highway and Mamalahoa Highway that traverses along the northern boundary of the Petition Area. Subsequent completion of the proposed Increment II could not be completed within the required timeframe, and the remainder of this property remained in the State Land Use Conservation District.

92. The Petition Area is presently vacant and undeveloped. The site consists of large, barren masses of pahoehoe and *aa* lava and is overgrown with scrub vegetation consisting mostly of koa haole and fountain grass.

93. Adjacent to the west of the Petition Area are Phases I and II of the Kaloko Industrial Park, consisting of 85 lots and includes industrial and business establishments such as light manufacturing, warehousing and distribution operations, and a Costco Wholesale facility.



94. Located approximately 0.4 mile west of the Petition Area, makai of Queen Kaahumanu Highway is the Kaloko-Honokohau National Historical Park. The 1,160-acre park was established in 1978, pursuant to Public Law 95-625, November 10, 1978, and is administered by the U.S. National Park Service. KAHO contains extensive natural and cultural resources, such as fishponds, wetlands and archaeological sites.

The defined purpose of the park was to: "...provide a center for the preservation, interpretation and culture, and to demonstrate historic land use patterns as well as provide needed resources for the education, enjoyment, and appreciation of such traditional native Hawaiian activities and culture by local residents and visitors..."

The fundamental purpose of the National Park System is to conserve park resources and values, and restore and resurrect the park's cultural and natural resources.

The Commission granted Intervenor status to NPS pursuant to its "Order Granting Intervenor Status to KAHO" issued on March 19, 2001.

95. Adjacent to the north of the Petition Area is a privately-owned undeveloped parcel consisting of approximately 1,530 acres. Petitioner disclosed to the Commission that the MID Corporation, a subsidiary of TSA, is the owner of the parcel.

96. The Kohanaiki Business Park, a 26-lot light industrial development, is located approximately 0.5 mile north of the Petition Area.

97. To the north approximately 3 miles from the Petition Area is the Kona International Airport at Keahole operated by the State Department of Transportation, Airports Division. Immediately west (makai) of the Airport is the Natural Energy Laboratory of Hawaii (NELH), a publicly funded research facility. The Hawaii Ocean and Science Technology Park (HOST) is located adjacent to and south of the Airport. Mauka of the Airport and Queen Kaahumanu Highway is the State-developed Keahole Agricultural Park.

98. Adjacent to the south of the Petition Area, is a 337-acre parcel owned by Lanihau Partners L.P., on which quarrying operations are currently being conducted upon a 261.7-acre portion operated by West Concrete Industries. The landowner is currently seeking a State Land District Boundary Amendment from the State Land Use Conservation District to the Urban District for the development of the Kaloko-Honokohau Business Park, which will include a mixture of light industrial and commercial uses and to allow the retention and expansion of the existing quarry and quarry-related uses. Approximately 0.5 mile south of the Petition Area is the 26-lot Honokohau-Mauka Business Park, a light industrial development. Further south of the Petition Area and makai of Queen Kaahumanu Highway are the State Department of Transportation, Harbors Division's 450-slip Honokohau Small Boat Harbor and the

County's Kealakehe Wastewater Treatment Plant ("WWTP"), located approximately 1.1 mile and 1.5 miles from the Petition Area, respectively.

99. The State-developed Villages of La'i'opua project, subject of LUC Docket A90-660/HFDC, is located approximately 0.9 mile southeast of the Petition Area. When fully developed, the project will include residential units, elementary and high school, commercial areas, parks, churches/day care, a golf course, and archaeological and botanical preserves.

100. Further south, approximately 1.6 miles from the Petition Area, the Queen Liliuokalani Trust is planning to develop some 546 acres near the intersection of Palani Road and Queen Kaahumanu Highway. The project, subject of LUC Docket No. A89-646/Liliuokalani Trust, was granted State Land Use District reclassification from the Agricultural and Conservation Districts to the Urban District in 1991.

101. Further south, approximately 3.4 miles from the Petition Area, is Kailua-Kona town which is the major commercial and business hub of the region.

102. East or mauka of the Petition Area are a number of residential developments located in the vicinity of Mamalahoa Highway. These include Kona Palisade, Kona Acres, Kona Coastview, Kona Wonder View, and Kona Highlands to the north/northeast; Kona Heavens to the east; and, Kealakehe Homesteads, Kona Chocho Estates, Kona Macadamia Acres, and Queen Liliuokalani Village to the southeast.

103. The Petition Area is in close proximity to public transportation systems, utilities and services. Queen Kaahumanu Highway is located approximately 0.4 mile mauka of the site, while Mamalahoa Highway is located approximately 3 miles mauka. The County's Puu Anahulu Landfill is approximately 18 miles to the north. Police and fire protection services for the Petition Area are available at facilities located approximately 2 miles to the south and 3.5 miles to the southeast, respectively. The nearest schools are located approximately 1.9 miles southeast of the site and a variety of parks are available in the project vicinity. Infrastructure and utilities will largely be an extension of the existing Kaloko Industrial Park.

104. The Petition Area occupies an area of relatively uniform slope, ranging from 5 to 8 percent. Elevations range from approximately 170 feet above mean sea level (MSL) along the site's western boundary to 300 feet above MSL along the eastern boundary.

105. The Flood Insurance Rate Map (FIRM) of the U.S. Federal Emergency Management Agency (FEMA) identified the Petition Area as lying within Zone X, areas determined to be outside the 500-year flood plain, and is not subject to coastal hazards such as tsunami inundation.

106. The natural drainage system of the Petition Area consists of rainfall percolating through the layers of very porous lava to the ground-water table. There are

no definable streams or natural drainage ways within or in the immediate vicinity of the Petition Area.

107. The Island of Hawaii is susceptible to seismic activities originating in fault zones under and adjacent to it. Two fault zones have been identified in the Kona region, the Kealakekua and Kaloko faults, both located in South Kona. The Hawaii County Code relating to the Uniform Building Code (1991 edition) was amended in July 1999 to upgrade the seismic zone for the Island of Hawaii from Zone 3 to Zone 4. The rating system is based on a scale of 1 to 4, with a rating of 4 having the highest risk associated with seismic activity. The Hawaii County Building Code requires that all new structures be designed to resist forces to seismic Zone 4 standards.

108. According to the volcanic hazard zones map for the Island of Hawaii prepared by the USGS, the Petition Area is in Zone 4. The zones are ranked from 1 through 9 based on the probability of coverage by lava flows, with Zone 1 being the highest hazard and Zone 9 being the lowest. The lava flow hazard for Zone 4 is attributed to Hualalai, one of three volcanoes, which have been active in historic times on the Island of Hawaii. About 5 percent of the area within Zone 4 was covered by lava since 1800, and less than 15 percent of the area was covered by lava in the last 750 years. In this zone, frequency of eruptions is lower than on Kilauea and Mauna Loa and flows typically cover large areas.

109. The soil capability class rating for both aa and pahoehoe lava is VIII, indicating that the soils have severe limitations that make them unsuited for cultivation and commercial plants, and restrict their non-urban use largely to pasture, woodland, wildlife, water supply, and aesthetic purposes.

110. The U.S. Department of Agriculture Natural Resources Conservation Service classifies the soil in the Petition Area as pahoehoe lava flows (rLW) and aa lava flows (rLV). None of the land within the Petition Area has been identified as "Important Agricultural Land" under the *Agricultural Lands of Importance in the State of Hawaii* (ALISH) system. According to the *Detailed Land Classification – Island of Hawaii* prepared by the University of Hawaii Land Study Bureau, the Petition Area is classified as "E", or very poorly suited for agricultural productivity.

## **PROPOSAL FOR RECLASSIFICATION**

111. The Kaloko Industrial Park, Phases I and II, consisted of 85 lots within 130.1 acres, provided industrial fee simple lands for wholesale merchants, light manufacturers, and others seeking such space in West Hawaii.

112. The Kaloko Industrial Park has been fulfilling the need for a light industrial subdivision in the growing region of North Kona. This region has grown from a 1980 population of 13,748 to a current population exceeding 26,000. The existing Kaloko Industrial Park has provided many new jobs and public resources to the region.

113. The proposed development will allow for light industrial and industrial-commercial mixed uses within a fee-simple subdivision. The site would be mass graded with all necessary infrastructure provided, including roadways, water, sewer, drainage, electrical, and communications systems.

114. The intended uses in Phases III and IV of the Kaloko Industrial Park include light industrial, business and commercial uses consistent with the existing light industrial uses in the developed Phases I and II. Approximately 66 acres will be designated for light industrial use and 36 acres will be designated for industrial-commercial mixed use. Examples of uses permitted under these zoning designations include:

Light Industrial and Industrial–Commercial Mixed-Use:

- automobile sales and rentals
- car washing facilities
- home improvement centers
- automobile service stations
- plant nurseries
- restaurants

Light Industrial:

- utility facilities, public and private
- lumberyards and building material yards
- heavy equipment sales
- Industrial-Commercial Mixed Use:
  - business services
  - retail establishments
  - schools (photography, art, music, dance)

**DEVELOPMENT TIMETABLE**

115. Development of the project was anticipated to be completed within eighteen months of receiving County subdivision approval, exclusive of the individual lot improvements to be undertaken by the respective property owners and/or tenants.

**PETITIONER'S FINANCIAL CAPABILITY**

116. Petitioner intends to finance the proposed development through a combination of conventional financing and property sales. Based on Petitioner's previous experience with Phases I and II, it is estimated that approximately \$6,000,000 may be required to complete construction of the proposed subdivision improvements.



117. As to the financing for the property, Petitioner intends to finance the project from sales proceeds out of Phase II sales for the development of the Petition Area.

118. If necessary, Petitioner will borrow construction funds from a financial institution by securing a mortgage on the Petition Area. Mortgaging the Petition Area is feasible because in January 2000, Petitioner bought back the notes and mortgages encumbering the Petition Area and the remaining Phase II lots. It is Petitioner's intent that these remaining mortgages will be removed in the near future. Thus, the Petition Area and the remainder of the Phase II lots are essentially free and clear of any monetary liens.

119. Petitioner represented that its financial condition is stable as reflected by the balance sheet and income statement submitted to the Commission.

## **STATE AND COUNTY PLANS AND PROGRAMS**

### **State Land Use District**

120. The Petition Area is in the State Land Use Conservation District, and the proposed reclassification is in general conformance to §15-15-18 (1) to (8) of the Land Use Commission rules, standards for determining "U" Urban District boundaries.

121. The Property will be zoned and developed for light industrial use, and industrial-commercial mixed use and is located close to other industrial uses.

122. The West Hawaii Regional Plan (WHRP) addresses areas of concern, which require State attention in order to most effectively meet the region's present and emerging needs. The goals of the WHRP include the need to ensure that new development does not adversely impact agricultural resource activities; aquacultural resource activities; the quality of the aquifer; the quality of the nearshore waters (including anchialine ponds); the quality of offshore and deep ocean waters; the quality of the air; and the watersheds. Landowners and developers within these subregional planning areas would face similar infrastructure problems including the availability of water, roads and sewers. The Petition area is included within a larger area that was recommended for reclassification from the State Land Use Conservation District to the State Land Use Urban district during the State's Five-Year Boundary Review in 1992.

### **General Plan Designation**

123. The General Plan Land Use Pattern Allocation Guide Map designates the Petition Area as Industrial.

124. The County of Hawaii is proposing to change the General Plan designation for properties adjacent to KAHO from "urban" to "open."

125. The proposed project is in general conformance with the following elements of the Hawaii County General Plan: economic; flood control and drainage; historic sites; natural resources and shoreline protection; land use and industrial; and

for the additional elements pursuant to the County of Hawaii General Plan Revision Program: environmental quality and utilities.

### **Keahole to Kailua Development Plan**

126. The *Keahole to Kailua Development Plan* (“K to K Plan”) was adopted by resolution by the Hawaii County Council in April 1991. The K to K Plan intended to serve as an implementing tool for the County General Plan and be a flexible guide for the future growth and development of an area of approximately 17,000 acres in the North Kona District extending from the Kau ahupuaa to the north, Mamalahoa Highway to the east, Palani Road and Kailua Village to the south, and the shoreline to the west.

The proposed project is consistent with the “Urban Expansion” and “Limited Industrial” designations for the Petition Area.

The K to K Plan included a proposed network of arterial and collector roads, especially a lateral collector identified as “Main Street” running parallel to Queen Kaahumanu Highway from Kealakehe Parkway. Kamanu Street, a primary collector road which traverses in a north-south direction from Hina Lani Street parallel to Queen Kaahumanu Highway, will be extended approximately 350 feet to the south boundary of the Property.

## **County of Hawaii Zoning**

127. The Petition Area is zoned Open District according to the Hawaii County Zoning Code.

A zone change will be requested to reclassify the Petition Area from Open District to ML, Limited Industrial District (approximately 66 acres) and MCX, Industrial-Commercial Mixed District (approximately 36 acres).

## **County of Hawaii Special Management Area**

128. The Petition Area is located outside the boundaries of the County's Special Management Area ("SMA") and is therefore not subject to the SMA Use Permit.

## **NEED FOR THE PROPOSED DEVELOPMENT**

129. Following an extended period of low activity in the early to mid-1990s, the West Hawaii economy and industrial real estate sector have shown substantial recovery and growth since late 1996, with particular strength over the past nine months. The actual number of lots absorbed in 1999 far outpaced the finished space land requirement.

130. Two projects in the nearby vicinity of the Petition Area, the Kaloko Industrial Park, Phase II (35 one-acre lots) and Kohanaiki Business Park (26 one- to five-acre lots), sold more than 80 percent of their available inventory during 1999, indicating a continuing demand for additional lots.

131. The region has absorbed some 240.2 gross acres of industrial lands through 1999, averaging 8.9 acres annually since 1979.

132. There is currently an estimated 5.5 percent vacancy rate of industrial floor space in the regional market. This is the lowest availability of space since 1991, and the lowest vacancy rate since 1990. Recently, absorption of available space quickened significantly, with the vacancy rate dropping by more than 1.5 points in the last quarter of 1999.

133. The existing in-place supply of industrial/business land in the Keahole to Kailua-Kona corridor, which includes the Petition Area, will be sufficient to meet market demands for another three or four years. After that time, additional developments will be required if the sector is to maintain an appropriate demand/supply balance. The recent offerings at the Kaloko Industrial Park, Phase II and Kohanaiki Business Park developments, while serving to fill pent-up demand occurring during the past decade, are almost fully absorbed. While there are large acreage of industrial additions proposed in the region, virtually all would have to be developed in a timely manner to meet demand levels.

134. Based on historic and prevailing market trends, and the anticipated movements in the West Hawaii industrial/business sector, it is estimated that it will

take from 8 to 10 years of marketing and exposure time to successfully absorb the 82 subdivided lots of the subject project.

## **ECONOMIC IMPACTS**

135. Petitioner prepared a market study and economic analysis for the proposed project. The proposed development will be a significant source of employment for the region, during both construction and operation.

136. The development phase of the Kaloko Industrial Park Phases III and IV (including subdivision, lot improvements and initial business operations) will generate some 29,018 "worker years" of direct employment on the Big Island, paying \$874 million in total wages and more than \$200 million in local business profits over a 15-year build-out period (including infrastructure and finished buildings). The end-user businesses and building maintenance will create an additional 4,197 permanent jobs in the regional economy and \$124.5 million in yearly wages on a stabilized basis. The businesses and their employees will, in turn, infuse nearly \$300 million annually in purchases, receipts and expenditures into other West Hawaii businesses and suppliers.

137. At the time of rezoning the Permit Area, the Petitioner will be required to do an affordable housing analysis as a County condition of approval.

138. Industrial parks are traditionally a major source of net revenue for governmental coffers, weighing the costs of providing public services to the project versus the tax benefits provided by it through property, income and sales taxes.

## **SOCIAL IMPACTS**

139. The 1990 per capita income of \$13,169 for County households was below that of the other counties in the State. The 1990 per capita income for North Kona was \$17,497. The County's Median Household income and Median Family income were \$29,712 and \$33,186 respectively. North Kona's Median Household income and Median Family income were \$35,364 and \$39,329 respectively.

140. According to Chapter 11 of the County code, the qualifying income limit for a family of four to qualify for affordable housing is 140 percent of the family median income in Hawaii or \$63,000.

141. The median family income for a family of four, according to the United States Department of Housing and Urban Development ("HUD") and the census is \$45,000.

142. Kona workers commute from South Kona, Kau, Hamakua and Hilo because they cannot find housing units in Kona within HUD income guidelines.

143. Studies have shown that there is a shortage of affordable housing in Kona.

144. The last study on affordable housing in the Kona area was completed in 1997. At that time it was determined that there was not enough affordable housing.

145. The County has approximately 270 acres in Waikoloa that was intended for housing, but the County got out of the housing business.

146. The County did not go forward with the housing plans for Waikoloa because infrastructure requirements would require a new water well, a new electrical substation and a permanent sewer treatment plant. Without cost sharing the County could not carry the burden of developing the parcel. The County gave the land to the State and the State paid the County for the infrastructure costs.

## **IMPACTS UPON RESOURCES OF THE AREA**

### **Agricultural Resources**

147. The Petition Area consists of lands classified as very poorly suited for agricultural productivity. The U.S. Department of Agriculture Natural Resources Conservation Service classified the soil in the Petition Area as pahoehoe lava flows (rLW) and *aa* lava flows (rLV). None of the land within the Petition Area has been identified as "Important Agricultural Land" under the *Agricultural Lands of Importance in the State of Hawaii* (ALISH) system. According to the *Detailed Land Classification – Island of Hawaii* prepared by the University of Hawaii Land Study Bureau (LSB), the Petition Area is classified as "E", or very poorly suited for agricultural productivity.