

BEFORE THE LAND USE COMMISSION  
OF THE STATE OF HAWAI'I

In the Matter of the Petition of )  
AMFAC/JMB HAWAII, INC. )  
To Amend the Agricultural Land Use )  
District Boundary into the Urban )  
Land Use District for Approximately )  
242 Acres of Land at Ka'anapali, )  
Maui, Hawai'i, Tax Map Key No.: )  
4-4-06: 13, 14, 1 (por.), 10 )  
(por.), 28 (por.) )

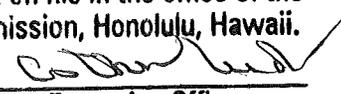
DOCKET NO. A90-658  
ORDER GRANTING MOTION TO  
FURTHER AMEND OR TO  
APPROVE OF PETITIONER'S  
SATISFACTION OF  
CONDITION NO. 1  
CONTAINED IN FINDINGS OF  
FACT, CONCLUSIONS OF  
LAW, AND DECISION AND  
ORDER DATED MARCH 18,  
1991, AS AMENDED

This is to certify that this is a true and correct  
copy of the document on file in the office of the  
State Land Use Commission, Honolulu, Hawaii.

MAR 08 2000

Date

by

  
Executive Officer

ORDER GRANTING MOTION TO FURTHER AMEND OR TO  
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CONTAINED IN FINDINGS OF FACT, CONCLUSIONS OF LAW,  
DECISION AND ORDER DATED MARCH 18, 1991, AS AMENDED

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STATE OF HAWAII  
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CONTAINED IN FINDINGS OF FACT, CONCLUSIONS OF LAW,  
DECISION AND ORDER DATED MARCH 18, 1991, AS AMENDED

On January 5, 2000, Amfac/JMB Hawaii, L.L.C., a Hawai'i limited liability company ("Movant"), successor by merger to Petitioner Amfac/JMB Hawaii, Inc., a Hawai'i corporation, filed a Motion To Further Amend Or To Approve Of Petitioner's Satisfaction Of Condition No. 1 Contained In Findings Of Fact, Conclusions Of Law, Decision And Order Dated March 18, 1991, As Amended ("Motion"), pursuant to sections 15-15-70 and 15-15-94, Hawai'i Administrative Rules.

Movant requested the Land Use Commission ("Commission") to amend and further restate original Condition Number 1 of this Commission's Findings of Fact, Conclusions of Law, and Decision and Order dated March 18, 1991 ("Decision and Order"), so as to apply to the entire Petition Area as follows:

- 1) Petitioner shall provide affordable housing opportunities for low, low-moderate and moderate income residents of the State of Hawaii under such terms and conditions as may be mutually agreeable between

Petitioner and the Director of Housing and Human Concerns of the County of Maui, in consultation with the Housing and Community Development Corporation of the State of Hawaii; provided, however, that if no agreement is reached between Petitioner and the Director of Housing and Human Concerns, Petitioner's obligations with respect to affordable housing shall be as originally provided in that certain Findings of Fact, Conclusions of Law and Decision and Order dated March 18, 1991, in Docket No. 90-658.

In the alternative, Movant requested this Commission to acknowledge and agree that the Agreement Regarding Affordable Housing dated November 5, 1999 ("Agreement") between the County of Maui and Movant satisfied original Condition No. 1 as it applied to that portion of the Petition Area identified as the Remnant Parcels<sup>1</sup>.

A Memorandum In Support of Movant's Motion ("Memorandum In Support") stated, among other things, that since the issuance of this Commission's previous Order Granting Petitioner's Amended Motion To Amend Findings Of Fact, Conclusions Of Law, And Decision And Order Dated March 18, 1991, on February 26, 1999 ("Order Granting Petitioner's Amended Motion")<sup>2</sup>, the County of Maui and Movant have entered into the Agreement wherein Movant will satisfy the County's affordable housing requirement, as expressed in Zoning Ordinance No. 2663, for the Remnant Parcels. The Memorandum In Support also stated that the Housing and Community Development Corporation of the State of Hawai'i ("HCDCH") had reviewed the Agreement and approved of the manner

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<sup>1</sup> The Remnant Parcels consist of approximately 16.05 acres, identified as TMK 4-4-06: por. 58, of the Petition Area.

<sup>2</sup> The Order Granting Petitioner's Amended Motion amended and restated Condition Number 1 as it applied to most of the Petition Area. The Commission retained the original Condition Number 1 for the Remnant Parcels.

in which Movant has satisfied or will satisfy the County's affordable housing conditions applicable to the Remnant Parcels.

On February 15, 2000, John Min, Planning Director, County of Maui, filed a letter stating that the Planning Department concurred that Movant has fulfilled the terms of Condition Number 1 relating to affordable housing through the execution and recordation of the Agreement, and that said Agreement acknowledged that it satisfied the affordable housing condition imposed by Zoning Ordinance No. 2663.

On February 16, 2000, the Office of Planning ("OP") filed the Office Of Planning's Position Regarding Petitioner's Motion To Further Amend Or To Approve Of Petitioner's Satisfaction Of Condition No. 1 Contained In Findings Of Fact, Conclusions Of Law, And Decision And Order Dated March 18, 1991, As Amended ("Position"). OP's Position stated that it had consulted with HCDCH, and that HCDCH was in agreement with the Motion.

The Motion came on for hearing before this Commission on February 17, 2000, in Honolulu, Hawai'i, with appearances by parties as noted in the minutes.

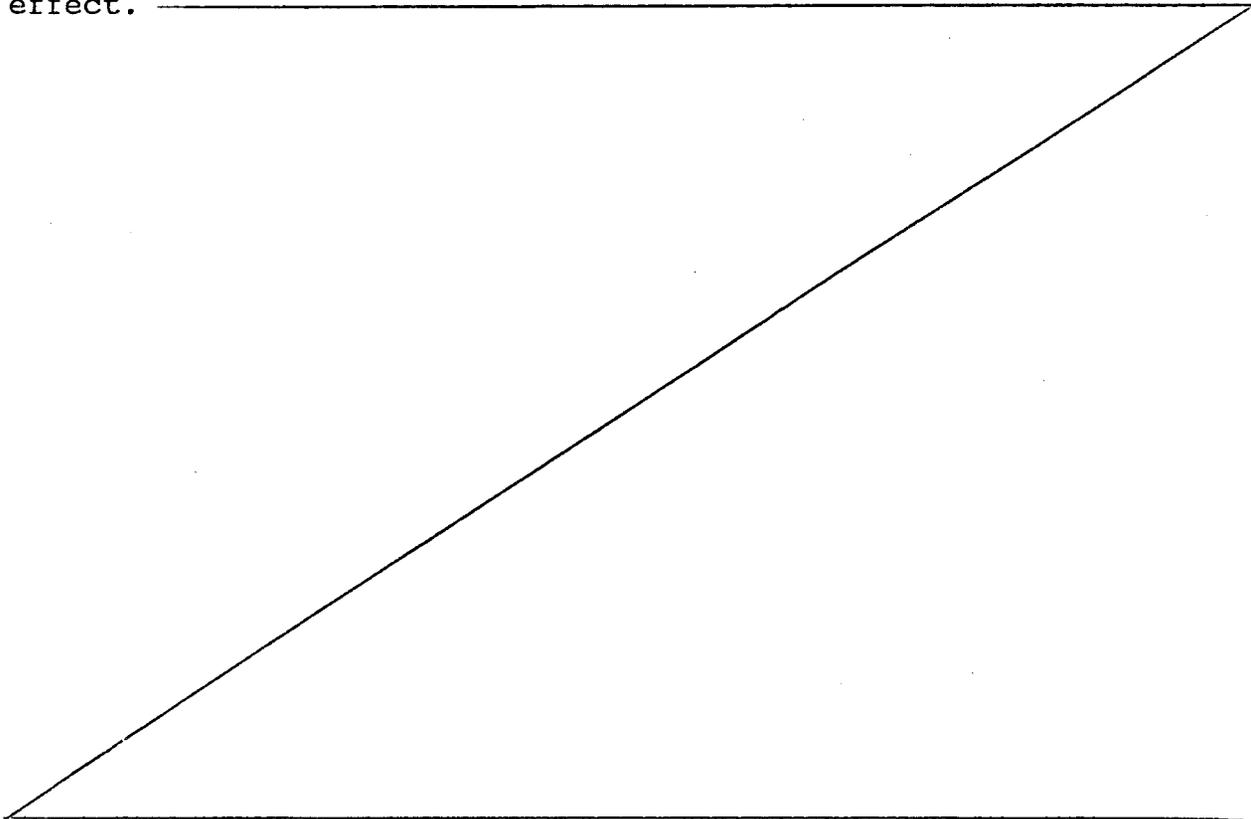
This Commission, having duly considered the Motion, the Memorandum In Support, the written and oral arguments presented by the parties in this proceeding, and good cause existing therefrom,

HEREBY GRANTS the Motion.

IT IS FURTHER ORDERED that original Condition Number 1 be amended and be made applicable to the entire Petition Area, including the Remnant Parcels, as follows:

- 1) Petitioner shall provide affordable housing opportunities for low, low-moderate and moderate income residents of the State of Hawaii under such terms and conditions as may be mutually agreeable between Petitioner and the Director of Housing and Human Concerns of the County of Maui, in consultation with the Housing and Community Development Corporation of the State of Hawaii; provided, however, that if no agreement is reached between Petitioner and the Director of Housing and Human Concerns, Petitioner's obligations with respect to affordable housing shall be as originally provided in that certain Findings of Fact, Conclusions of Law and Decision and Order dated March 18, 1991, in Docket No. A90-658.

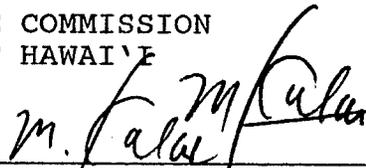
All other conditions to the Decision and Order filed on March 18, 1991, are hereby reaffirmed and shall continue in effect.



Docket No. A90-658 - AMFAC/JMB HAWAII, INC.

Done at Honolulu, Hawai'i, this 8th day of March 2000,  
per motions on February 17, 2000 and March 3, 2000.

LAND USE COMMISSION  
STATE OF HAWAII

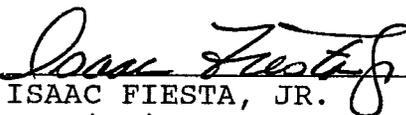
By   
MERLE A. K. KELAI  
Chairperson and Commissioner

By (absent)  
LAWRENCE N.C. ING  
Vice Chairperson and Commissioner

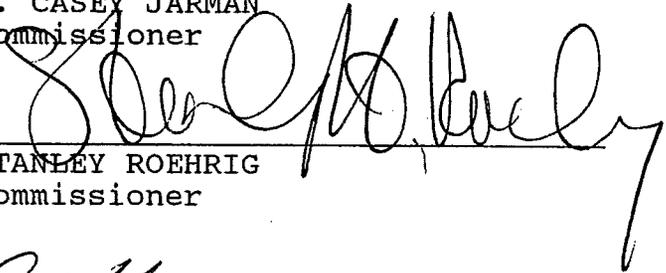
By   
P. ROY CATALANI  
Commissioner

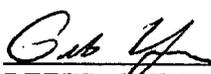
By (absent)  
BRUCE A. COPPA  
Commissioner

By (absent)  
PRAVIN DESAI  
Commissioner

By   
ISAAC FIESTA, JR.  
Commissioner

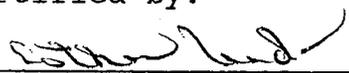
By (absent)  
M. CASEY JARMAN  
Commissioner

By   
STANLEY ROHRIG  
Commissioner

By   
PETER YUKIMURA

Filed and effective on  
March 8, 2000

Certified by:

  
Executive Officer

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4-4-06: 13, 14, 1 (por.), 10 )  
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DOCKET NO. A90-658  
CERTIFICATE OF SERVICE

CERTIFICATE OF SERVICE

I hereby certify that a copy of the Order Granting Motion to Further Amend or to Approve of Petitioner's Satisfaction of Condition No. 1 Contained in Findings of Fact, Conclusions of Law, and Decision and Order Dated March 18, 1991, As Amended was served upon the following by either hand delivery or depositing the same in the U. S. Postal Service by certified mail:

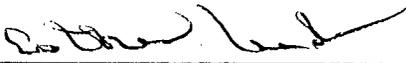
DEL. DAVID W. BLANE, Director  
Office of Planning  
P. O. Box 2359  
Honolulu, Hawaii 96804-2359

CERT. JOHN E. MIN, Director of Planning  
Planning Department, County of Maui  
250 South High Street  
Wailuku, Hawaii 96793

CERT. JAMES B. TAKAYESU, ESQ.  
Corporation Counsel  
Office of the Corporation Counsel  
County of Maui  
200 South High Street  
Wailuku, Hawaii 96793

CERT. STACEY FOY, ESQ., Attorney for Petitioner  
Case Bigelow & Lombardi  
737 Bishop Street, 26th Floor  
Honolulu, Hawaii 96813

DATED: Honolulu, Hawaii, this 8th day of March 2000.

  
ESTHER UEDA  
Executive Officer