

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of)
)
C. BREWER PROPERTIES, INC.,)
A HAWAII CORPORATION)
)
To Amend the Agricultural Land)
Use District Boundary into the)
Urban Land Use District for)
Approximately 24.318 acres at)
Waikapu, Wailuku, Maui, State)
of Hawaii, Tax Map Key No.:)
3-5-04: Portion of 25)
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DOCKET NO. A89-639
C. BREWER PROPERTIES,
INC., A HAWAII
CORPORATION

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ORDER ACCEPTING AND ADOPTING THE
RECOMMENDATION OF HEARING OFFICER

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THE PETITION

This matter came on for consideration on October 19, 1989 at the meeting of the Land Use Commission (hereinafter "Commission") of the State of Hawaii held in Kihei, Maui, Hawaii. Appearing for the Petitioner was Eric Maehara; for the Department of Planning, County of Maui, were Haunani Lemn and Colleen Suyama; and for the Office of State Planning were Karen Yamamoto and Counsel John Anderson. Hearing Officer Benjamin M. Matsubara was present. No exceptions to the hearing officer's report were filed.

Following closing arguments by the parties, the Commission, after careful review of the hearing officer's report and recommendations, the arguments of the parties, the record and files herein, with good cause existing and upon motion duly passed,

HEREBY accepts the recommendations of the hearing officer. Accordingly, the Commission hereby adopts the findings of fact, conclusions of law and order as follows:

THE PETITION

This matter arises from a Petition for an amendment to the Hawaii Land Use Commission District Boundaries which was filed on April 18, 1989, and First Amendment to Petition filed on May 16, 1989, pursuant to Section 205-4 of the Hawaii Revised Statutes, as amended, and Subchapter 6, of the Hawaii Land Use Commission Rules by C. BREWER PROPERTIES, INC., A HAWAII CORPORATION, (hereinafter referred to as "Petitioner"). The petition seeks to amend the designation of approximately 24.318 acres of land, situate at Waikapu, Wailuku, Island and County of Maui, State of Hawaii, identified as Maui Tax Map Key No.: 3-5-04: Portion of Parcel 25 (hereinafter referred to as "Property") from the Agricultural District to the Urban District.

PURPOSE OF THE PETITION

Petitioner has requested a boundary amendment from Agricultural to Urban to develop a 124 lot single family residential subdivision to be offered as finished lots, house and lot packages, or a combination thereof (also referred to as the "Project"). Sixty percent of the proposed residential units will be offered at prices affordable to low, low-moderate, and moderate income Hawaii residents. Forty percent of the proposed development will be offered at market prices.

PROCEDURAL MATTERS

The hearing on the Petition was conducted on August 4, 1989, in Wailuku, Maui, pursuant to notice published on June 23, 1989 in the Honolulu Advertiser and the Maui News, newspapers of general circulation. Petitioner was represented by Eric Maehara, Esq. of Foley, Maehara, Judge, Nip & Chang; the County of Maui was represented by Haunani S.Y. Lemn, Esq. and Colleen Suyama; and the Office of State planning was represented by John Anderson, Esq., Deputy Attorney General, Abe Mitsuda and Karen Yamamoto.

On August 4, 1989, the Hearings Officer allowed Sanchia Foiles representing Sally Raisbeck of the Maui Affordable Housing Alliance and Robert Johnson to testify as public witnesses. The Hearings Officer also accepted into evidence the written statements of Sanchia Foiles and Elizabeth Ann Stone and color photos and other documentation submitted by Robert Johnson.

The following witnesses presented testimony:

Petitioner:

David Blane	Vice-President, C. Brewer, Inc.
Michael Terry	Principal and partner, Phillips, Brandt, Reddick & Associates
Warren Unemori	Civil engineer, Warren S. Unemori Engineering, Inc.
Julian Ng	Parsons, Brinkerhoff, Quade & Douglas, Inc.
Ann Bouslog	Peat, Marwick, Main & Co.

County of Maui:

Colleen Suyama	Staff Planner, Planning Department
Eassie Miller	Waste Management Division Chief, Department of Public Works

Office of State Planning

Karen Yamamoto	Staff Planner, Land Use Division
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POSITION OF THE PARTIES

The County of Maui - Approval with five conditions as follows:

"1. That sixty (60) percent of the housing units shall be for the affordable housing target income groups in accordance with the County of Maui's Housing Program.

"2. That the petitioner shall obtain the appropriate Single Family Residential Zoning from the County of Maui.

"3. That the development of the proposed subdivision shall be in conjunction with the completion of the new Central Maui Wastewater Treatment Facility and collection system to the new site.

"4. That the petitioner shall participate in offsite roadway improvements including but not limited to the installation of a traffic signal at the Honoapiilani Highway/Waiko Road intersection, the future development of an alternate route through Waikapu Town or widening of Honoapiilani Highway to a four-lane highway, and construction of a second access north of the proposed subdivision.

"5. That potential owners or renters of the proposed subdivision lots shall be advised through disclosure statements or restrictive covenants of the potential adverse impacts that may be associated with the adjacent operations of piggeries and pineapple cultivation (i.e. odors, noise, vector problems, dust, pineapple bugs, etc.)."

The Office of State Planning - Approval with conditions as follows:

"1. The Petitioner shall provide housing opportunities for low, low-moderate, and moderate income residents of the State of Hawaii by offering for sale or lease a number of units equal to at least thirty percent (30%) of the residential units in the petition area at prices which families with an income range of up to one hundred twenty percent (120%) of the County of Maui's median income can afford, and a number of units equal to at least thirty percent (30%) of the residential units in the petition area at prices which families with an income range of one hundred twenty to one hundred forty percent (120%-140%) of the County of Maui's median income can afford.

This condition may be fulfilled through construction of units in the petition area or in the adjoining Urban Area or through other projects, under such terms as may be mutually agreeable, between Petitioner and the Housing Finance and Development Corporation of the State of Hawaii.

This condition may also be fulfilled, with the approval of the Housing Finance and Development Corporation and the County of Maui, through construction of rental units to be made available at rents which families in the specified income ranges can afford.

In addition, Petitioner may obtain the special credit, as determined by the Housing Finance and Development Corporation, for the provision of housing affordable to persons with very low incomes (those earning less than fifty percent (50%) of the County of Maui's median income) and for the provision of housing for special needs groups, as determined by the Housing Finance and Development Corporation.

Insofar as possible, the Petitioner shall implement this affordable housing requirement concurrently with the completion of market priced units for the residential project. The determination of median income, as the term is used in this condition, shall be based on median income published by the United States Department of Housing and Urban Development at the time that construction of such housing units is commenced.

"2. The Petitioner shall participate in the funding and construction of transportation improvements necessitated by the proposed development and identified by the State Department of Transportation. The Petitioners shall submit construction plans, including drainage calculations and traffic signal phasing designs to the Department of Transportation for review and approval.

"3. The Petitioner shall not divert surface water runoff onto Honoapiilani Highway.

"4. The Petitioner shall route the wastewater to be generated by the proposed project to the proposed new Central Maui Wastewater Treatment Plant to the satisfaction of the County of Maui, Department of Public Works and the State Department of Health. The Petitioner shall also participate in the funding of the proposed wastewater treatment plant and required transmission lines.

"5. The Petitioner shall inform all prospective occupants of a) possible odor pollution resulting from the piggeries adjacent to the petition area, b) possible pineapple bug nuisance from the pineapple fields adjacent to the petition area, and c) the Hawaii Right-to-Farm Act, Chapter 165, Hawaii Revised Statutes, which limits the circumstances under which pre-existing farming activities may be deemed a nuisance.

"6. The Petitioner shall provide its pro rata share for school facilities as may be required by and to the satisfaction of the State Department of Education.

"7. The Petitioner shall provide its pro rata share for police, fire, park, and solid waste disposal as may be required by and to the satisfaction of the County of Maui.

"8. The Petitioner shall immediately stop work and contact the State Historic Preservation Office should any archaeological resources such as artifacts, shell, bone, or charcoal deposits, human burial, rock or coral alignments,

pavings or walls be encountered during the project's development.

"9. Petitioner shall develop the Property in substantial compliance with representations made to the Land Use Commission in obtaining the reclassification of the Property.

"10. The Petitioner shall give notice to the Land Use Commission of any intent to sell, lease, assign, place in trust, or otherwise voluntarily alter the ownership interest in the subject property covered by the approved petition, prior to development of the Property."

With respect to OSP's proposed Condition Number Four, OSP indicates that it would concur with the County of Maui's position on wastewater management provided Petitioner ultimately connects its proposed development to and participates in the funding of the proposed Central Maui Wastewater Treatment Facility.

FINDINGS OF FACT

The Commission, having duly considered the record in this docket, the testimony of the witnesses and the evidence introduced herein, makes the following findings of fact:

DESCRIPTION OF THE PROPERTY

1. The Property is located approximately two miles south of Wailuku town. It is adjacent to the existing Waikapu Village, at the northwest corner of the intersection of Honoapiilani Highway and Waiko Road. The Property is bounded

on the north by Agricultural District lands; on the east by the Honoapiilani Highway; on the south by Waiko Road; and on the west by the existing residential area of Waikapu Village.

Waihee Ditch bisects the Property from north to south.

2. The Property is presently planted in pineapple.

3. There are three (3) existing piggeries (Rogers Pig Farm, Yamaoka Pig Farm and Vida Pig Farm) located immediately adjacent to the Property.

4. The reclassification request excludes a small portion of Agricultural Districted lands abutting the Property on its northwestern boundary. Approval of the Petition would create a noncontiguous Agricultural District of approximately 3.75 acres of land surrounded by the Urban District of Waikapu Village.

5. Petitioner's First Amendment to the Petition states that "said pocket of land in the Agricultural District was deleted from the subject petition due to the uncertainty of title with regard to the same. In the event that said title questions are resolved and the Petitioner is found to have clear title to said lands, a subsequent petition to reclassify the same from the Agricultural to the Urban District will be filed in the future".

6. The elevation of the Property ranges from 420 feet to 550 feet above mean sea level, sloping upward from east to west at an average rise of 18 percent.

7. The average annual mean temperature for the subject area is 78 degrees Fahrenheit.

8. Annual rainfall within the subject area varies from 20 to 40 inches.

9. The United States Department of Agriculture Soil Conservation Service, Survey of the Islands of Kauai, Oahu, Maui, Molokai, and Lanai (Soil Survey) indicates that the Property contains the following soils: Iao Clay, 3 to 7 percent slopes (IcB), Iao Cobbley Silty Clay, 3 to 7 percent slopes (IbB), and Wailuku Silty Clay, 3 to 7 percent slopes (WvB). The Soil Survey indicates that the Iao Soil Series consists of well-drained soils on valley fill and alluvial fans. These soils developed in alluvium derived from basic igneous rock. They are nearly level to moderately sloping. These soils are used for sugarcane. Small acreages are used for pasture and homesites.

10. The Wailuku Soil Series consists of well-drained soils on alluvial fans on the island of Maui. These soils developed in alluvium derived from weathered basic igneous rock. They are gently to moderately sloping. These soils are used for sugarcane, pasture, and homesites.

11. According to Petitioner, the Agricultural Lands of Importance to the State of Hawaii (ALISH) classification system classifies the Property as "prime land".

12. Petitioner indicates that in terms of productivity ratings based on the 1967 Land Study Bureau Soil

Classifications, the Property contains approximately 24 acres of class "A" agricultural land.

13. The Department of the Army, U.S. Army Engineer District, Honolulu, indicates that according to the Flood Insurance Study for Maui County dated June 1, 1981, the Property is designated in Zone C, an area of minimal flooding.

DESCRIPTION OF PROPOSED DEVELOPMENT

14. Petitioner's original proposal was for the development of 145 fee simple residential lots. Lot sizes would range between 4,000 and 8,000 square feet.

15. At the August 4, 1989 hearing, Petitioner stated the actual capacity of the Property was 124 lots with a minimum lot size of 6,000 square feet.

16. Petitioner indicates that the proposed subdivision would be offered as improved lots with the required infrastructure, house and lot packages, or a combination thereof.

17. Petitioner proposes that sixty percent of the proposed units would be offered to low, low-moderate, and moderate income Hawaii residents as house and lot packages. Ten percent of the Project would be sold at prices affordable to families that have incomes up to 80 percent of the county's median income, 20 percent of the Project would be sold at prices affordable to families that have incomes up to 120 percent of the county's median income, and 30 percent of the

project would be sold at prices affordable to families that have incomes up to 140 percent of the county's median income.

The remaining 40 percent of the Project would be offered at market prices as vacant lots or house and lot packages.

18. Petitioner proposes to mitigate the impact of Waihee Ditch, which bisects the Property, by installing a chain-link fence backed up by a planted hedge to improve visual quality and possibly a jogging path adjacent to the Waihee Ditch.

Petitioner also indicates a possibility that the ditch could be covered by a culvert.

19. The Project is scheduled to be completed within three years. Petitioner provided the following development timetable:

<u>Tasks/Approvals Required</u>	<u>Start</u>	<u>Completion</u>
1. State Land Use Petition for Boundary Amendment from Ag. to Urban/LUC approval	April 1989	September 1989
2. County Zoning - Rezoning from Interim Zone to R-1/Planning Commission and County Council Approvals	September 1989	March 1990
3. Subdivision Approval (Preliminary and Final)	March 1990	March 1991
4. Construction of Improvements	March 1991	March 1992
5. Sale of Lots/Units	March 1992	---

20. Petitioner projects that the Project's infrastructure construction costs are approximately \$4,900,000. Petitioner provided a summary of estimated infrastructure construction costs as follows:

General site work	\$ 350,000
Roadway	725,000
Drainage	800,000
Water system	800,000
Sewer system	925,000
Electrical, CATV, Telephone, Misc.	825,000
Landscaping (street trees)	<u>30,000</u>
Total estimated infrastructure	4,455,000
10% contingency	<u>445,000</u>
Total estimated cost	<u>\$4,900,000¹</u>

¹The total estimated cost includes infrastructure costs for development of the kuleana lands to the west which Petitioner proposes to add 20 lots upon settlement of title to these lands.

21. Petitioner indicates that the above total estimated costs excludes costs to upgrade sewage treatment and disposal facilities, planning and legal costs and housing construction costs.

PETITIONER'S FINANCIAL CAPABILITY
TO UNDERTAKE THE PROPOSED DEVELOPMENT

22. Petitioner's financial statements (Exhibit D) include an unaudited consolidated balance sheet as of December 25, 1988, and an unaudited statement of earnings for the 12 months ended December 25, 1988. The unaudited consolidated balance sheet lists Petitioner's total assets at \$55,575,000, and total current and other liabilities at \$14,244,000 and total stockholders' equity at \$41,331,000.

STATE AND COUNTY PLANS AND PROGRAMS

23. The Property is designated within the State Land Use Agricultural District as reflected on the Commission's Land Use District Boundary Map, M-5, Wailuku.

24. Petitioner believes that the Project conforms to the objectives of the General Plan of the County of Maui as follows:

Land Use Objective 1: To use the land within the county for the social and economic betterment of the county's residents.

Environmental Objective 1: To preserve and protect our unique and fragile environmental resources.

Urban Design Objective 1: To see that all developments are well designed and are in harmony with their surroundings.

Public Utility and Facilities Objective 1: To provide public utilities which will meet community needs.

25. The Wailuku-Kahului Community Plan designates the Property for single family residential use.

26. The Property is not designated within the Maui County Special Management Area.

NEED FOR THE PROPOSED PROJECT

27. Petitioner's Residential Market Assessment for the Proposed Waikapu Village Expansion (Appendix D of Petitioner's Exhibit B) indicates that by the year 2010, even with the proposed residential units, the housing demand is expected to exceed the estimated housing supply by approximately 28 percent in the market area. The market

assessment defines the Property's primary market area as Wailuku-Kahului, and its secondary market area as Northeast Maui and Kihei-Makena. The cumulative housing demand in the market area is estimated at 15,900 units for 1985 to 2010. The estimated housing supply, which consists of all known completed and proposed residential projects--including the proposed Project and the Petitioner's other proposed projects in the Wailuku area--is projected at 11,400 units. With these demand and supply figures, there would be an unmet housing demand of approximately 4,500 units by the year 2010.

28. In support of its estimated housing projections, Petitioner's market assessment indicates that the economy of Maui has experienced strong expansion in recent years, with gross business receipts increasing by approximately 9 percent annually.

The market assessment indicates that the fastest growing sector of the economy has been tourism with visitor expenditures increasing by approximately 19 percent over the 1982 to 1987 period. Retail and construction industries in Lahaina, Kihei and Wailea have been stimulated by the growth in visitor arrivals and hotel occupancies.

Agriculture has also grown, with sugar and pineapple production showing an increase in value of about 4 percent annually, and macadamia nuts and flowers having grown at about 10 percent annually.

29. In terms of employment, the market assessment anticipates the following increases for Maui County:

1. Total employment is anticipated to increase from about 51,300 jobs in 1990 to 78,500 jobs in 2010.
2. Employment in manufacturing and agriculture is expected to remain flat.
3. Hotel jobs, other services and those in the trade category are anticipated to continue as the largest areas of employment.
4. The continued emphasis on service sector employment is also indicated by expected growth rates in categories such as banking, finance, government and transportation, communications and utilities and other services.
5. Much of the growth in employment, with the exception of that in the agriculture, construction, hotel, and some other service jobs, is expected to be centered in the Wailuku-Kahului area. Thus, this area is expected to remain as the major government and commercial area on Maui.

30. According to the market assessment, the Maui County resident population is estimated to be 96,800 residents by 1990, and 145,200 residents by 2010, a compounded annual growth rate of 2.0 percent per year. The market assessment further indicates that the island of Maui population is projected to increase to around 87,100 persons by 1990 and

130,700 persons by 2010 and that population for the market areas is projected at about 61,000 persons by 1990 and 88,900 persons by 2010.

31. In conclusion, the market assessment indicates that the potential supply of 11,400 units could be created to meet the expected demand for 15,900 units by 2010. If all projects were developed at proposed levels, most housing demand in the market areas from 1990 to 2000 could be met with unmet housing demand of 4,500 units emerging by 2010.

The market assessment further states that the proposed housing units could be fully absorbed between 1991 and 1995.

IMPACTS UPON THE RESOURCES OF THE AREA

Agricultural Resources

32. Petitioner indicates that the island of Maui contains approximately 252,000 acres in the State Land Use Agricultural District and that the Property comprises of approximately one one-hundredth of a percent (0.1%) of the island's Agriculture District Lands.

In addition, the proposed boundary change will cause a loss of less than four one-hundredths of a percent (0.4%) of Maui's ALISH "Prime land".

33. Petitioner believes that in terms of present-day socio-economic conditions, the benefits of the proposed urbanization outweigh the loss of agricultural lands. The loss of the twenty four acres of agricultural land from

pineapple production will not curtail Wailuku Agribusiness Co., Inc.'s overall productivity level.

Wailuku Agribusiness Co., Inc. proposes to put into production more than 500 acres of recently fallowed lands within the next year or two.

34. However, the State Department of Agriculture (DOA) indicates that while the subject site's acreage of prime agricultural land is small in comparison to the acreage in ALISH "Prime" designation on Maui, the cumulative impact of incremental losses can adversely affect the arable land resource.

35. The Office of State Planning and the County of Maui Planning Department raised concerns regarding impacts between existing pig farms and other agricultural activities associated with pineapple production and future residents of the Project.

36. Petitioner proposes to disclose to prospective purchasers, in its sales contracts, that there are existing agricultural activities including the adjacent piggeries surrounding the subject Property. Petitioner also agrees with the concept of deed restrictions and waivers to address concerns relating to the adjacent piggeries.

Petitioner is also prepared to lease to pig farmers, other agricultural lands at lower prices to accommodate pig farmers should encroaching urbanization threaten piggery operations.

Archaeological/Historic Resources

37. Petitioner indicates that a walk-through examination and surface archaeological reconnaissance was conducted for the Property. The archaeological consultant notes that there were no previously recorded historic sites on the Property, nor any record of previous archaeological work being performed on the site.

38. The walk-through survey found no features of cultural value on the Project site. The archaeological consultant also notes that the presence of any features of cultural value on the Property would be unlikely due to the historic agricultural uses of the land. However, a search of land award records revealed that the Property once contained several lo'i, or flooded taro patches, and a cluster of houses on or near the eastern boundary of the Land Court Award Number (LCAw) 5280.

39. According to Petitioner's archaeological consultant, the record of house sites in association with taro fields is unique from an archaeological perspective. As a result, the consultant recommended that a systematic subsurface testing program be conducted along the eastern boundary of LCAw 5280 in order to determine the presence or absence of subsurface remnants of the house clusters that may be located in this area.

40. In March 1989, subsurface testing was conducted with trench excavations performed at six (6) sites in the

Project. No cultural material were observed in any of the six trenches.

Flora and Fauna

41. Petitioner indicates that the Project site has been under sugarcane cultivation for over 100 years. As this past agricultural use of the site has completely altered the original character of the area, any suitable or unique habitats for rare and endangered plant or animal species would not be found within the Project site.

Scenic and Visual Resources

42. Petitioner believes that the development of the Property will not negatively impact the visual quality of the region and will visually integrate with the surrounding residential area. Residential structures that are typically implemented on R-1 subdivision lots are small in scale and will have little impact on the overall scenic visual quality of the Maui isthmus.

43. Petitioner proposes to retain a line of trees and the existing bank along Honoapiilani Highway.

In addition, Petitioner proposes to plant oleander, hibiscus or other plants if the existing trees are not sufficient to mitigate visual impacts.

44. Furthermore, Petitioner proposes to retain existing trees along Waiko Road to provide an entrance feature and landscaping along Waihee Ditch.

Air and Aural Quality

45. Petitioner anticipates short-term ambient air quality impacts to the vicinity of the Property from site preparation and construction activities.

Petitioner intends to implement mitigating measures, such as dust abatement and erosion control measures, to minimize these impacts.

Petitioner believes that long-term impacts on air quality due to increased traffic will be minimal.

ADEQUACY OF PUBLIC SERVICES AND FACILITIES

Highway and Roadway Services and Facilities

46. Petitioner indicates that Honoapiilani Highway, a two-lane State highway serving traffic between Wailuku and West Maui, forms the eastern boundary of the Property. The two-lane Waiko Road is the main east-west roadway in Waikapu serving existing residences and connects with Kuihelani Highway approximately one mile to the east. The existing approaches from Waiko Road at the intersection of Waiko Road and Honoapiilani Highway are controlled by stop signs and are all single lanes.

Petitioner proposes to provide two access points from Waiko Road; one below and the second above Waihee Ditch.

47. The Project is estimated to generate the following traffic volumes:

	<u>Number of Vehicle Trips</u>
Average weekday	1,460
AM Peak Hour	109
Inbound	29
Outbound	80
PM Peak Hour	146
Inbound	92
Outbound	54

48. Petitioner's traffic consultant proposes the following measures to mitigate increased traffic volumes along Waiko Road and at its intersection with Honoapiilani Highway:

- 1) Widen Waiko Road along the project frontage near Honoapiilani Highway so that a third lane can be provided. Relocate the westbound lane to the widened portion on the north side, and stripe a separate eastbound left turn lane at Honoapiilani Highway. The existing eastbound lane would become a shared lane for through movements and right turns onto the highway toward Lahaina.
- 2) Install traffic signals at the intersection when demand volumes on a Waiko Road approach exceed available capacities. Alternatively, provide a second access to the highway farther north to distribute traffic from the west side, thereby reducing the demand at the Waiko Road approach.
- 3) Provide stop signs at the project connections to Waiko Road; align one of the project roadways

directly opposite Kilihoe Place (Waikapu Homesites) to create a cross intersection.

49. Petitioner proposes the following traffic mitigation measures:

- 1) Widening of the pavement and installing a left-turn lane for southbound traffic on Honoapiilani Highway, turning east (makai) on Waiko Road.
- 2) Improving Waiko Road to County Collector roadway standards.
- 3) Creation of two makai or eastbound lanes and one mauka or westbound lane on Waiko Road at the intersection with Honoapiilani Highway.

50. Petitioner's traffic impact assessment report indicates that traffic volumes on the Honoapiilani Highway have increased with Maui's growth; a review of highway volumes from traffic counts taken in recent years by the State Department of Transportation, Highways Division, indicates that peak hour highway volume has increased at an average rate of approximately five percent per year.

51. The traffic impact assessment report indicates that with the Project, traffic conditions on the two-lane Honoapiilani Highway will remain at LOS E, with volume-to-capacity ratios increasing slightly. Assuming no improvements to the unsignalized intersection, eastbound capacity would be exceeded by the traffic demand in year 1992 during the AM Peak

Hour. The westbound approach would remain at LOS D, while conditions in the PM Peak Hour at both stop-controlled approaches would change from LOS D to LOS E. Left turns from the highway would still be made with minimal delay, or LOS A, in both peak hours. Creation of a left-turn lane on Honoapiilani Highway to accommodate traffic turning mauka onto Waiko Road. (To be designed and installed by the developers of Waikapu Homesites on Waiko Road.)

Water Service

52. Petitioner indicates that the sources for the County water system in Waikapu are deepwells located in Iao Valley at the 358 foot elevation level. These wells extend down into the Iao aquifer near sea level. Deepwell pumps lift the water from sea level into a control tank located at the well site. Water is then conveyed by gravity through a series of 24 and 18 inch lines to a three million gallon reservoir near Waiale Road. Water is then pumped up to a 300,000 gallon reservoir in Wailuku Heights. The existing water system in Waikapu consists of a 116,000 gallon open reservoir and approximately 3,000 feet of four (4) inch line on Waiko Road.

53. The projected average daily water demand for the Project is 90,000 gallons. Maximum storage requirement for the Project is approximately 150,000 gallons.

54. Petitioner proposes to cost share with the County of Maui for a new twelve-inch waterline along Waiko Road from the Wailuku Heights subdivision to Honoapiilani Highway.

Petitioner believes the new waterline should be sufficient to service the Property.

In addition, the required 150,00 gallons of storage capacity will require a new storage reservoir.

Wastewater Treatment and Disposal

55. Petitioner projects that the proposed Project will generate between 55,000 to 65,000 gallons of wastewater daily when fully developed. This flow will be collected by an internal gravity system and directed into the existing (Maui Tropical Plantation) gravity system. The Maui Tropical Plantation is served by a force main and gravity sewer line installed by developers, C. Brewer Properties and Maui Tropical Plantation Partnership. This transmission system conveys sewage from the plantation project site to the County gravity system at Waiale Road. From the County system at Waiale Road, sewage is conveyed along Main Street to a pump station at Pakakalo then to the Kahului Sewage Treatment Plant located north of Kahului Airport at Kanaha Bird Sanctuary.

56. The existing Wailuku-Kahului Wastewater Treatment Plant is nearing its 6.0 million gallon per day (MGD) capacity. According to the recommendations of the County Department of Public Works, sewage flows from the Project shall be routed to the proposed new Central Maui Wastewater Treatment Plant. In the event that no ordinance prevents the Project's connection to the County sewerage system and that there is available sewage capacity at the existing Kahului Wastewater

Treatment Plant when the Project's building permits are issued, the sewage may be directed to the Kahului Wastewater Treatment Plant until the new treatment plant is operational. The existing collection and transmission system shall be analyzed by the Petitioner for adequacy prior to directing the Project's sewage flows to the Kahului Wastewater Treatment Plant.

57. Due to the capacity problem at the existing wastewater facility, the State Department of Health has recommended that the Petition not be approved until such time that the County of Maui completes its Kahului wastewater expansion plans and begins to implement the plan.

58. The Office of State Planning indicates that it has no objections to allowing Petitioner's Project to connect to the existing Kahului Wastewater Treatment Plant, subject to existing capacity, provided that the Project will ultimately connect its wastewater transmission system to the new Central Maui Wastewater Treatment Plant.

59. Petitioner has indicated that if there is insufficient capacity at the Kahului Wastewater Treatment Plant for the Project, Petitioner may proceed with construction of homes but the occupancy thereof will be delayed until additional capacity is available.

60. Petitioner represents it has joined with the County of Maui, Alexander and Baldwin, and developers of the Maui Lani project to study alternative solutions for providing

additional treatment capacity, including the construction of a new wastewater treatment and disposal facility near Puunene.

Drainage

61. Waihee Ditch bisects the Property in a north to south direction approximately 600 feet mauka of Honoapiilani Highway. Approximately 13 acres of the Project is located above this ditch. Runoff from this area, estimated to be about 20 cubic feet per second (cfs), presently sheet flows into this ditch and is conveyed to Waikapu Stream located on the south side of Waiko Road. Runoff from the cultivated lands below Waihee Ditch flows onto Honoapiilani Highway and is conveyed across the highway through a 24 inch culvert. Present runoff from this 11 acres is estimated to be about 14 cfs. Thus, the current runoff from the Property totals 34 cfs.

62. Petitioner estimates the proposed Project will increase runoff by 56 cfs for a total of 90 cfs. As a mitigation measure, Petitioner proposes to install an internal storm drain system consisting of catch basins, storm drain manholes and drainlines and directed into Waikapu Stream approximately 1,750 feet makai of Honoapiilani Highway. Alternatively, flows may be directed into the existing irrigation reservoir (Reservoir 6) 700 feet below Honoapiilani Highway. This alternative would be subject to approval of Wailuku Agribusiness Co., Inc. which owns and maintains the reservoir.

Schools

63. With respect to public education, the Department of Education (DOE) indicates that based on the original 145 single family homes proposed, the student enrollment impact is estimated as follows:

<u>School</u>	<u>Grade</u>	<u>Approximate Enrollment</u>
Wailuku Elementary	K - 6	36 - 58
Iao School	7 - 8	9 - 22
Baldwin High	9 - 12	15 - 29

64. DOE further indicates that all schools in this service area are at capacity and the DOE cannot assure the timely availability of classrooms to accommodate the Project.

Police and Fire Protection

65. Petitioner indicates that police service is currently dispatched from the Police Department's headquarters located in Wailuku at the intersection of Kaahumanu Avenue and Mahalani Street, a distance of approximately four miles from the Property. Petitioner will apprise the Police Department of the progress of the Project so that adequate protection can be provided to future residents.

66. Regarding fire protection, Petitioner indicates that the Project would be served by the existing Wailuku Fire Station at the corner of Main and Kinipopo Streets. Petitioner believes the existing fire station can adequately serve the proposed development.

Electrical and Telephone Service

67. According to Petitioner, overhead electrical and telephone distribution lines are in place, along both Waiko Road and Honoapiilani Highway. Petitioner believes these facilities will be able to accommodate the power and communication needs for the Project. Electrical service to the Property would be provided by Maui Electric Company (MECO).

68. Petitioner will work with Hawaiian Telephone Company to determine the project communication needs and solutions.

Solid Waste Disposal

69. Petitioner indicates that solid waste disposal will be provided by county solid waste disposal vehicles.

CONTIGUITY OF THE PROPOSED RECLASSIFICATION

70. The Property is bounded along its eastern boundary by the Honoapiilani Highway, which borders Agricultural Land Use District lands beyond. The Property is contiguous to the Agricultural Land Use District along its northern boundary, and to the Urban Land Use District along most of its western, and all of its southern boundaries.

CONFORMANCE WITH THE HAWAII STATE PLAN

71. The proposed reclassification conforms to the Hawaii State Plan, Chapter 225, HRS, objective and policies as follows:

226-19(a)(1) "Planning for the State's socio-cultural advancement with regard to housing shall be

directed towards achievement of...greater opportunities for Hawaii's people to secure reasonably priced, safe, sanitary, livable homes located in suitable environments that satisfactorily accommodate the needs and desires of families and individuals."

Section 226-19(b) states that "to achieve the housing objectives, it shall be the policy of this State to:

- (1) Effectively accommodate the housing needs of Hawaii's people.
- (2) Stimulate and promote feasible approaches that increase housing choices for low-income, moderate-income, and gap-group households.
- (3) Increase homeownership and rental opportunities and choices in terms of quality, location, cost, densities, style, and size of housing".

CONFORMANCE WITH THE STATE LAND USE COMMISSION RULES

72. The proposed reclassification conforms with the State Land Use Commission Rules pertaining to standards for determining the Urban District Boundaries.

CONFORMANCE TO COASTAL ZONE POLICIES AND OBJECTIVES

73. The proposed reclassification of the Property for development of the Project conforms to the policies and objectives of the Coastal Zone Management, Chapter 205A, Hawaii Revised Statutes, as amended.

CONCLUSIONS OF LAW

Pursuant to Chapter 205, Hawaii Revised Statutes, as amended, and the Commission Rules, the Commission finds upon the preponderance of evidence that the reclassification of the Property, consisting of approximately 24.318 acres of land situate at Waikapu, Wailuku, County of Maui, State of Hawaii, from the Agricultural District to the Urban District and an amendment to the district boundary accordingly, subject to the conditions in the Order, is reasonable and non-violative of Section 205-2 of the Hawaii Revised Statutes, as amended.

ORDER

IT IS HEREBY ORDERED:

That the Property which is the subject of this Petition Docket No. A89-639 by C. Brewer Properties, Inc., a Hawaii Corporation, consisting of approximately 24.318 acres of land situate at Waikapu, Wailuku, County of Maui, State of Hawaii, identified as Maui Tax Map Key Number: 3-5-04: portion of 25, and approximately identified on Exhibit A, attached hereto and incorporated by reference herein, shall be and hereby is reclassified from the Agricultural District to the Urban District and the district boundaries are amended accordingly, subject to the following conditions:

1. Petitioner shall provide housing opportunities for low, low-moderate, and moderate income residents of the State of Hawaii by offering for sale or lease a number of units equal to at least thirty percent (30%) of the residential units

in the petition area at prices which families with an income range of up to one hundred twenty percent (120%) of the County of Maui's median income can afford, and a number of units equal to at least thirty percent (30%) of the residential units in the petition area at prices which families with an income range of one hundred twenty to one hundred forty percent (120%-140%) of the County of Maui's median income can afford.

This condition may be fulfilled through construction of units in the petition area or in the adjoining Urban Area or through other projects, under such terms as may be mutually agreeable, between Petitioner and the Housing Finance and Development Corporation of the State of Hawaii.

This condition may also be fulfilled, with the approval of the Housing Finance and Development Corporation and the County of Maui, through construction of rental units to be made available at rents which families in the specified income ranges can afford.

In addition, Petitioner may obtain the special credit, as determined by the Housing Finance and Development Corporation, for the provision of housing affordable to persons with very low incomes (those earning less than fifty percent (50%) of the County of Maui's median income) and for the provision of housing for special needs groups, as determined by the Housing Finance and Development Corporation.

Insofar as possible, the Petitioner shall implement this affordable housing requirement concurrently with the

completion of market priced units for the residential project. The determination of median income, as the term is used in this condition, shall be based on median income published by the United States Department of Housing and Urban Development at the time that construction of such housing units is commenced.

2. Petitioner shall participate in the funding and construction of transportation improvements necessitated by the proposed development and identified by the State Department of Transportation. The Petitioners shall submit construction plans, including drainage calculations and traffic signal phasing designs to the Department of Transportation for review and approval.

3. Petitioner shall not divert surface water runoff onto Honoapiilani Highway.

4. Petitioner shall route the wastewater to be generated by the proposed Project to the proposed new Central Maui Wastewater Treatment Plant in accordance with requirements of the County of Maui, Department of Public Works and the State Department of Health. Until the proposed new Central Maui Wastewater Treatment Plant is operational, Petitioner may direct sewage from the Project to the Kahului Wastewater Treatment Plant provided there is no ordinance preventing the Project's connection to the County sewerage system and there is available sewage capacity at the existing Kahului Wastewater Treatment Plant as determined by the County of Maui Department

of Public Works, when building permits are issued for the project.

5. Petitioner, and any of its successors and assigns, shall inform each prospective purchaser of residential property by way of disclosure statements, restrictive covenants and/or deed covenant of a) possible odor pollution resulting from the piggeries adjacent to the petition area, b) possible pineapple bug nuisances from the pineapple fields adjacent to the petition area, and c) the Hawaii Right-to-Farm Act, Chapter 165, Hawaii Revised Statutes, which limits the circumstances under which pre-existing farming activities may be deemed a nuisance.

6. Petitioner shall provide its pro rata share for school facilities as may be required by and to the satisfaction of the State Department of Education.

7. Petitioner shall provide its pro rata share for police, fire, park, and solid waste disposal as may be required by and to the satisfaction of the County of Maui.

8. Petitioner shall immediately stop work and contact the State Historic Preservation Office should any archaeological resources such as artifacts, shell, bone, or charcoal deposits, human burial, rock or coral alignments, pavings or walls be encountered during the project's development.

9. Petitioner shall develop the Property in substantial compliance with representations made to the Land

Use Commission in obtaining the reclassification of the Property.

10. Petitioner shall give notice to the Land Use Commission of any intent to sell, lease, assign, place in trust, or otherwise voluntarily alter the ownership interest in the subject property covered by the approved petition, prior to development of the Property.

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

12. The Commission may fully or partially release these conditions as to all or any portion of the Property upon timely motion, and upon the provision of adequate assurance of satisfaction of these conditions by the Petitioner.

Done at Honolulu, Hawaii, this 28th day of November 1989,
per motion on October 19, 1989.

LAND USE COMMISSION
STATE OF HAWAII

By _____ (conflict)
RENTON L. K. NIP
Chairman and Commissioner

By Lawrence F. Chun
LAWRENCE F. CHUN
Vice Chairman and Commissioner

By _____ (conflict)
SHARON R. HIMENO
Commissioner

By Allen K. Hoe
ALLEN K. HOE
Commissioner

By Allen Y. Kajioka
ALLEN Y. KAJIOKA
Commissioner

By Eusebio Lapenia, Jr.
EUSEBIO LAPENIA, JR.
Commissioner

By James M. Shinno
JAMES M. SHINNO
Commissioner

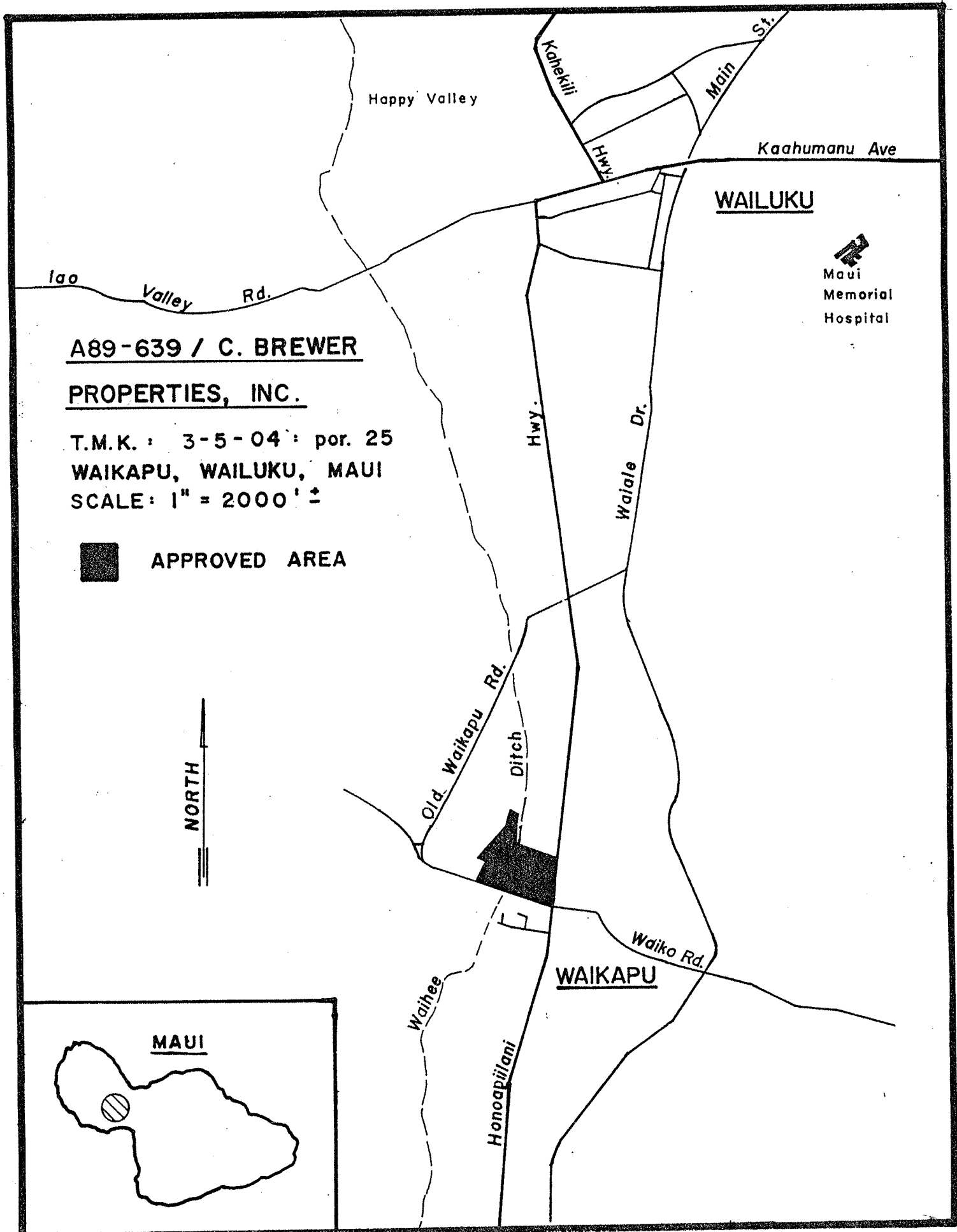
Filed and effective on
November 28, 1989

Certified by:

Elton Wada
Executive Officer

By Elton Wada
ELTON WADA
Commissioner

By _____ (absent)
FREDERICK P. WHITTEMORE
Commissioner



A89-639 / C. BREWER

PROPERTIES, INC.

T.M.K. : 3-5-04 : por. 25

WAIKAPU, WAILUKU, MAUI

SCALE: 1" = 2000' ±

■ APPROVED AREA

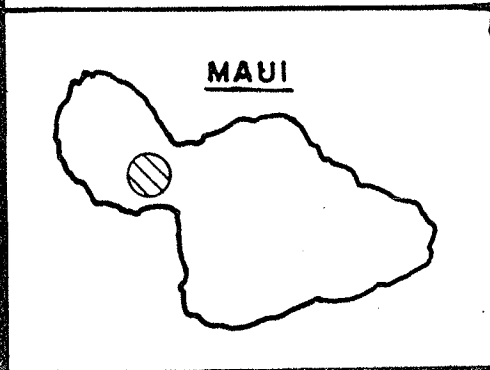


EXHIBIT "A"

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of) DOCKET NO. A89-639
)
C. BREWER PROPERTIES, INC.,)
A HAWAII CORPORATION) C. BREWER PROPERTIES,
) INC., A HAWAII
) CORPORATION
)
To Amend the Agricultural Land)
Use District Boundary into the)
Urban Land Use District for)
Approximately 24.318 acres at)
Waikapu, Wailuku, Maui, State)
of Hawaii, Tax Map Key No.:)
3-5-04: Portion of 25)
_____)

CERTIFICATE OF SERVICE

I hereby certify that a copy of the Order Accepting and Adopting the Recommendation of Hearing Officer was served upon the following by either hand delivery or depositing the same in the U. S. Postal Service by certified mail:

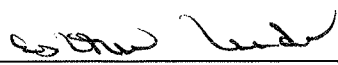
HAROLD S. MASUMOTO, Director
Office of State Planning
State Capitol, Room 410
Honolulu, Hawaii 96813

CERT. CHRISTOPHER L. HART, Planning Director
Planning Department, County of Maui
200 South High Street
Wailuku, Hawaii 96793

CERT. GLENN KOSAKA, ESQ.
Corporation Counsel
Office of the Corporation Counsel
County of Maui
200 South High Street
Wailuku, Hawaii 96793

CERT. ERIC MAEHARA, ESQ, Attorney for Petitioner
Foley, Maehara, Judge, Nip & Chang
2700 Grosvenor Center
737 Bishop Street
Honolulu, Hawaii 96813

DATED: Honolulu, Hawaii, this 28th day of November 1989.



ESTHER UEDA
Executive Officer