

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of)	DOCKET NO. A89-642
)	
C. BREWER PROPERTIES, INC.)	C. BREWER PROPERTIES,
)	INC.
To Amend the Agricultural Land)	
Use District Boundary into the)	
Urban District For Approximately)	
626 Acres Situate at Wailuku and)	
Piihana, Maui, Hawaii, Tax Map)	
Key Nos.: 3-5-01: Portion 01,)	
Portion 17; 3-4-07:02; 3-3-01:33,)	
39, and Portion 16; 3-4-32:10,)	
18 and Portion 01)	
)	

JAN 30 11 20 AM '90
LAND USE COMMISSION
STATE OF HAWAII

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

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of)	DOCKET NO. A89-642
)	
C. BREWER PROPERTIES, INC.)	C. BREWER PROPERTIES,
)	INC.
To Amend the Agricultural Land)	
Use District Boundary into the)	
Urban District For Approximately)	
626 Acres Situate at Wailuku and)	
Piihaha, Maui, Hawaii, Tax Map)	
Key Nos.: 3-5-01: Portion 01,)	
Portion 17; 3-4-07:02; 3-3-01:33,)	
39, and Portion 16; 3-4-32:10,)	
18 and Portion 01)	
)	

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

C. BREWER PROPERTIES, INC., a Hawaii corporation (hereinafter referred to as the "Petitioner"), filed a Petition on May 16, 1989 (hereinafter referred to as the "Petition"), pursuant to Chapter 205, Hawaii Revised Statutes, as amended (hereinafter cited as "HRS"), and the Hawaii Land Use Commission Rules, Title 15, Subtitle 3, Chapter 15, Hawaii Administrative Rules, as amended (hereinafter cited as the "Commission Rules"), to amend the land use district boundary to reclassify approximately 626 acres of land comprising of two (2) separate non-contiguous parcels of real property situated in the Wailuku District, Island and County of Maui, State of Hawaii, which are designated in the Wailuku-Kahului Community plan for the County of Maui as Project District No. 3,

comprising of approximately 547 acres (hereinafter referred to as the "Wailuku Project District"), and Project District No. 2, comprising of approximately 79 acres (hereinafter referred to as the "Piikahana Project District") and are further described on the tax maps of the State of Hawaii as follows: Wailuku

Project District, comprising of Tax Map Key Numbers:

(2) 3-5-01: portion of 01 and portion of 17, and 3-4-07:02; and Piikahana Project District, comprising of Tax Map Key Numbers:

(2) 3-3-01:33, 39 and portion of 16, and 3-4-32:10, 18 and portion of 01 (hereinafter both project districts being sometimes collectively referred to as the "Property"), from the Agricultural District to the Urban District to permit the development of two residential communities providing for a variety of residential unit types along with required amenities to serve said developments. The Land Use Commission of the State of Hawaii (hereinafter referred to as the "Commission"), having heard and examined the testimony, evidence and argument of counsel presented during the hearings and the parties' proposed findings of fact, conclusions of law, and decision and order, hereby makes the following findings of fact:

FINDINGS OF FACT

PROCEDURAL MATTERS

1. Petitioner filed a Petition for amendment of district boundaries on May 16, 1989.

2. A prehearing was conducted on October 17, 1989 at the Commission's office.

3. The Commission held hearings on the Petition on November 2 and 3, 1989, pursuant to notices published in the Honolulu Advertiser and the Maui News, newspapers of general circulation, on September 21, 1989.

4. The Commission permitted Petitioner to amend its Petition at the hearing on November 2, 1989, to include an approximately two-acre rectangular parcel situate in the northern portion of the Wailuku Project District, Maui Tax Map Key No.: 3-5-01:portion 1, and thereby increasing the Property to a total of approximately 626 acres and the Wailuku Project District to a total area of approximately 547 acres.

5. The additional parcel of approximately two-acre presently contains an irrigation incline shaft, irrigation pumps, and supporting electrical transformers.

6. A petition to intervene was filed by Elizabeth Ann Stone on October 12, 1989, and was considered by the Commission during the hearing held on November 2, 1989. Ms. Stone failed to appear at the hearing and the Commission, after reviewing the record and good cause appearing therefore, denied the petition to intervene.

7. Sally Raisbeck, Co-Chair of the Maui Affordable Housing Alliance was permitted to testify as a public witness on November 2, 1989.

8. The Commission received into evidence on November 2, 1989, the written statements of Elizabeth Ann

Stone, Sheila Ludwig, Executive Director of the Maui Chamber of Commerce and Lynn Britton of the Maui Hotel Association.

DESCRIPTION OF THE PROPERTY

9. The Property consists of two (2) separate non-contiguous parcels of real property situate in the Wailuku District, Island and County of Maui.

10. The Wailuku Project District is situated at the base of the West Maui Mountains adjacent to and south of Wailuku Town, straddling both the west and east sides of Honoapiilani Highway. It is contiguous on its northerly and easterly boundaries to the Urban District of Wailuku Town; on its southerly boundary to the Agricultural Land Use District; on its westerly boundary to the Urban District of the Wailuku Heights residential subdivision; and on its northwesterly boundary to the Agricultural Land Use District. The present Waiale agricultural road borders its easterly boundary. Portions of the Wailuku Project District are cultivated in pineapple which will be phased out as development occurs.

11. The physiography of the Wailuku Project District finds that the District slopes upward from east to west, with the minimum elevation on the site being approximately 220 feet above mean sea level and the maximum elevation of approximately 750 feet above mean sea level. Slopes vary from less than five percent (5%) in the lower portions of the site to approximately eighteen percent (18%) in the northwestern portion. The

District includes three irrigation ditches, Waihee, Iao, and Kama, which run from north to south. The Hopoi Reservoir is also located within the District.

12. The Piihana Project District is situated to the north of Wailuku Town extending from the intersection of Kahekili Highway and Piihana Road extending north along the east side of Kahekili Highway. Along its easterly boundary, it is contiguous to the existing Urban District and the Waiehu Planned Development subdivision developed by the State of Hawaii Housing Finance and Development Corporation and the Waiehu Heights subdivision to the south of said former subdivision. Portions of the Piihana Project District are presently cultivated in macadamia nut orchards which will be phased out as development occurs.

13. The physiography of the Piihana Project District finds that the District gradually slopes in a northeasterly direction until it reaches the Waiehu sand hill where elevation increases approximately 90 feet, from 230 feet to 320 feet above mean sea level at the highest point of the hill. The lowest elevation is approximately 150 feet above mean sea level. The majority of the site to be developed has slopes of less than five percent (5%), while the sand hill has slopes of twenty to fifty percent (20%-50%). Spreckles Ditch runs through the property and an irrigation reservoir is located within the District.

14. The Property is identified by the following Tax Map Key numbers:

<u>Property Area</u>	<u>Maui Tax Map Key Numbers</u>	<u>Approximate Area in Acres</u>
Wailuku Project District	3-5-01: portion of 01 and portion of 17; 3-4-07:02	±547
Piihaha Project District	3-3-01: portion of 16, 33 and 39; 3-4-32:10, 18, and a portion of 01	±79

15. The Property, which consists of approximately 626 acres, is owned in fee simple by an affiliate of Petitioner, Wailuku Agribusiness Co., Inc., formerly known as Wailuku Sugar Co., Inc. Both Petitioner and Wailuku Agribusiness Co., Inc. are subsidiaries of C. Brewer and Company, Ltd.

16. By letter dated April 21, 1989, Wailuku Agribusiness Co., Inc. authorized Petitioner to submit the Petition to the Commission for reclassification of the Property.

17. The United States Department of Agriculture (USDA) Soil Conservation Service, Soil Survey of Islands of Kauai, Oahu, Maui, Molokai, and Lanai, State of Hawaii (December 1973), classifies the soils within the Property as follows:

a. Wailuku Project District: The Wailuku Project District contains two soil types, Wailuku Silty Clay and Iao Clay. Both series consist of well-drained soils on gently sloping alluvial fans. Approximately twenty percent

(20%) of the site is comprised of the Wailuku series with the remaining eighty percent (80%) of the Iao series.

Wailuku Silty Clay consists of a surface layer which is dark reddish-brown silty clay with a depth of approximately 12 inches. The soil is slightly acid to medium acid in the surface layer and slightly acid in the subsoil. This soil is moderate in permeability and suitable for agricultural and urban land uses.

Iao Clay consists of a surface layer which is dark brown clay with a depth of approximately 15 inches. The soil is neutral in the surface layer and subsoil and is found on this project site on slopes of seven to fifteen percent (7%-15%). This soil is suitable for agricultural and urban uses.

b. Piihana Project District: The Piihana Project District contains three general soil series, Pulehu, Iao, and Puuone. These soil series consist of excessively drained soils on low uplands and developed in material derived from coral and seashells.

Pulehu Cobbly Clay Loam consists of a surface layer which is dark brown cobbly clay loam about 21 inches thick. The soil is neutral in the surface layer and mildly alkaline below the surface layer. Permeability is moderate. Runoff is slow, and the erosion hazard is no more than slight. These soils are suitable for agricultural and urban uses.

Iao Clay consists of a surface layer which is dark brown clay with a depth of approximately 15 inches. The soil is neutral in the surface layer and subsoil and is found on this project site on slopes of three to seven percent (3%-7%). This soil is suitable for agricultural and urban uses.

Iao Cobbly Silty Clay has a profile like that of Iao Clay, except for the texture of the surface layer and the content of the cobblestones. The soil is suitable for agricultural and urban uses.

Puuone Sand consists of a surface layer which is grayish-brown calcareous sand about 20 inches thick. This soil is suitable for urban uses.

18. Maui contains approximately 251,267 acres of land classified as agricultural which encompasses fifty-four percent (54%) of the total land area. The Property encompasses 626 acres of agricultural land, less than one percent (0.2%) of Maui's agricultural land.

19. The State Department of Agriculture's Agricultural Lands of Importance to the State of Hawaii (ALISH) classification system classifies approximately 547 acres of the Wailuku Project District and approximately 45 acres of the Piihaha Project District as "Prime" and the remaining approximately 34 acres of the Piihaha Project District as "Other Important Lands."

20. In terms of the productivity rating, based on the 1967 Land Study Bureau soil classifications, the subject areas

contain 1.39 percent (1.39%) of Maui's total Class A land and 1.12 percent (1.12%) of the total Class B. The Wailuku Project District includes approximately 472 acres of Class A lands and 75 acres of Class B lands while the Piihana Project District includes approximately 64 acres of Class B lands and 15 acres of Class E lands.

21. The Flood Insurance Rate Map (June 1981) prepared by the U.S. Army Corps of Engineers designates the Property as Flood Zone C, an area of minimal flooding.

DESCRIPTION OF THE PROPOSED DEVELOPMENT

22. Petitioner proposes to develop approximately 3,000 housing units on the Property (hereinafter referred to as the "Project") to provide housing opportunities for low, low-moderate and moderate income Hawaii residents by offering for sale approximately twenty percent (20%) of the units at prices which families with an income range below eighty percent (80%) of Maui County's median income can afford; fifteen percent (15%) of the units which families with an income range of eighty percent to one hundred twenty percent (80%-120%) of Maui County's median income can afford; and fifteen percent (15%) of the units which families with an income range of one hundred twenty percent to one hundred forty percent (120%-140%) of Maui County's median income can afford. Petitioner may opt to fulfill a portion of the affordable housing requirements through the rental of said units to be made available at rents which families in the specified income ranges can afford, as

determined and defined by the Housing Finance and Development Corporation standards. The balance of the Project will be developed at market prices.

23. Petitioner proposes that the affordable housing units be distributed as follows between the project districts: one hundred percent (100%) affordable housing units in the Piihana Project District and thirty-seven and one-half percent (37.5%) affordable housing units in the Wailuku Project District, with the remaining units in the Wailuku Project District to be offered at market prices.

24. Petitioner explains that their proposed affordable housing allocation and distribution is a result of both the increase in State affordable housing requirements and the physiographic characteristics of the project districts.

25. Based upon socio-economic concerns, Maui County proposes that Petitioner's housing allocation be distributed to provide sixty (60) more affordable housing units in the Wailuku Project District and sixty (60) less affordable housing units in the Piihana Project District.

26. The State Housing Finance and Development Corporation (HFDC) also expressed concern regarding the Petitioner's proposed high concentration of affordable housing in the Piihana Project District and proposed that the affordable housing units be equally distributed between the project districts such that fifty percent (50%) of the units developed in each of the project districts are affordable.

27. Petitioner commits to continue working with the HFDC and the County of Maui to resolve the differences over the allocation and distribution of affordable housing units to be provided, to be mutually agreeable between the Petitioner, the HFDC, and the County of Maui.

28. Petitioner will offer either finished lots, house and lot packages, or a combination thereof.

29. The proposed development of the Property will encourage the use of a variety of residential unit types and arrangements including, duplex, fourplex, zero lot line, cluster, single family detached, and garden apartments.

30. Petitioner proposes to develop the Wailuku Project District into a complete residential community, containing a mix of single and multi-family units, which will be supported by a community center, parks, an open space system, and a school.

a. The Wailuku Project District will include the following land uses:

<u>Use</u>	<u>Gross Acres</u>	<u>% of Land Total</u>
Residential (including single and multi-family uses and roads):	400	73.4
Parks and Open Space (Pedestrian Paths and Drainage):	112	20.1
School (Elementary):	10	1.8
Community Center	5	1.0
Commercial Center	20	3.7
Total:	547 acres	100.00

31. Approximately 2,400 housing units are envisioned for the Wailuku Project District, resulting in an average density of 4.4 units per acre.

32. Petitioner proposes to develop the Piihana Project District into a residential district, containing single and multi-family units, integrated with an open space system.

33. The Piihana Project District will include the following land uses:

Use	Gross Acres	% of Land Total
Residential:	65	82.3
Public Use:	1	1.3
Parks, Open Space, buffer zones (Developable)	<u>13</u>	<u>16.4</u>
Total:	79 acres	100.00

34. Approximately 600 housing units are envisioned for the Piihana Project District, resulting in an average density of 7.6 units per acre.

35. Petitioner projects that the Property will be developed over a ten to fifteen year period, with a specific development timetable dependent upon market conditions and cyclical fluctuations in demand.

36. Petitioner estimates that the necessary governmental approvals can be obtained in approximately two years which would enable construction to begin in late 1991 or early 1992, all major infrastructure completed within the first five years and subsequently, an estimated completion date of 10-12 years.

37. Petitioner estimates the preliminary order-of-magnitude costs for the infrastructure (excluding unit construction) to be approximately \$92,730,000 and construction cost for housing and related improvements to be approximately \$400,000,000 in 1989 dollars. The infrastructure cost estimate includes the following:

<u>Cost Item</u>	<u>Project District</u>	
	<u>Wailuku</u>	<u>Piihaha</u>
General	\$ 9,800,000	\$ 1,100,000
Roadway	12,200,000	3,100,000
Water System	9,300,000	1,700,000
Sewer System	16,200,000*	2,300,000
Drainage System	9,900,000	1,700,000
Electrical Telephone & Cable	9,600,000	1,300,000
Landscaping	<u>5,500,000</u>	<u>600,000</u>
Total Estimated Costs	\$72,500,000	\$11,800,000
10% Contingency	<u>7,250,000</u>	<u>1,180,000</u>
GRAND TOTAL	\$79,750,000	\$12,980,000

*assumes sewage treatment plant site at Puunene

PETITIONER'S FINANCIAL CAPABILITY
TO UNDERTAKE THE PROPOSED DEVELOPMENT

38. The unaudited consolidated balance sheet of Petitioner as of December 25, 1988, lists total assets at \$55,575,000, total current and other liabilities at \$14,244,000 and total stockholders' equity at \$41,331,000. The unaudited consolidated statement of earnings as of December 25, 1988, lists Petitioner's total sales and revenues as \$8,679,000, while total cost of sales and revenues is listed as \$9,315,000, resulting in earnings from continuing operations before income

taxes at \$(636,000). With total provision for income taxes of \$(244,000), Petitioner's net earnings for the 12 month period ending December 25, 1988, are listed at \$(392,000).

39. Petitioner is a subsidiary of C. Brewer and Company, Ltd., one of the largest land owners in the State. Petitioner represents that the proposed development will have the combined financial backing of both Petitioner and its parent company, C. Brewer and Company, Ltd.

STATE AND COUNTY LAND PLANS AND PROGRAMS

40. The Property is located within the State Agricultural Land Use District, as reflected on Land Use District Boundary Map M-5, Wailuku.

41. The Property is not located within the Maui County Special Management Area (SMA) as defined in Chapter 205A, Hawaii Revised Statutes.

42. The Wailuku Project District and the Piihana Project District are currently designated on the Wailuku-Kahului Community Plan respectively as Wailuku Project District No. 3 and Piihana Project District No. 2.

43. Both project districts are in general compliance with the objectives of said Community Plan. The number of units and densities proposed for each Project District, however, are inconsistent with the provision of said Community Plan. For the Wailuku Project District, 2,000 units with an average density of 5.1 units per acre are recommended. For the

Piihaha Project District, 390 units with an average density of 6 units per acre are recommended.

44. The increase in density arises from Petitioner's effort to accommodate the policies and need for affordable housing within the objective of creating a quality residential development.

45. Both project districts are in compliance with the objectives of the General Plan for the County of Maui.

NEED FOR THE PROPOSED DEVELOPMENT

46. Petitioner's market consultant, Peat Marwick Main & Co. (Peat Marwick), prepared a residential market assessment for the Project.

47. Led by the visitor industry, the economy of Maui has experienced strong expansion in recent years with gross business receipts increasing by approximately nine percent (9%) annually. The fastest growing sector of the economy has been tourism with visitor expenditures increasing by approximately nineteen percent (19%) over the 1982 to 1987 period.

48. Agriculture on Maui is in a transition period. The maturation of sugar and pineapple production is indicated by an increase in value of about four percent (4%) annually over the past six years. Diversified agriculture products such as macadamia nuts and flowers are becoming increasingly important, and have grown about ten percent (10%) annually.

49. Projected employment trends for Maui County developed by the State Department of Business and Economic

Development (DBED) find that total employment is anticipated to increase from about 51,300 jobs in 1990 to about 78,500 jobs in 2010. Employment in manufacturing and agriculture is expected to remain flat. 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, which is expected to remain the major government and commercial area on Maui.

50. Forecasts developed by DBED project that the resident population for Maui County will grow at more than moderate rates in the future with an estimated 1990 population of 96,800 residents to increase to 145,200 residents by 2010.

51. Peat Marwick estimates the housing demand for the market area from 1990 to 2010 to be as follows:

	<u>1990</u>	<u>1995</u>	<u>2000</u>	<u>2005</u>	<u>2010</u>	Cumulative total
Estimated market area households	<u>21,180</u>	<u>24,010</u>	<u>27,180</u>	<u>29,365</u>	<u>32,075</u>	
Total incremental housing unit demand	3,290	3,090	3,440	2,425	2,965	15,930
Annual average	660	620	690	480	590	610

52. Peat Marwick projects that known completed or proposed residential projects in the Central Maui market area will provide about 2,800 housing units by 1990, 2,900 units between 1990 and 1995, and an additional 2,600 units from 1995 to 2000 for a total of 8,300 units. When combined with the 3,000 units proposed by the Project, a potential supply of

11,400 units could be created to meet the expected demand for 15,900 units by 2010. The resulting unmet housing by the year 2010 would be approximately 4,500 units.

53. Analysis of the market area by Peat Marwick indicates that the housing units provided by the Project could be fully absorbed between 1991 and 2010.

IMPACT ON RESOURCES OF THE AREA

Agricultural Resources

54. Petitioner's economic analyst, Dr. Bruce Plasch of Decision Analysts Hawaii, Inc., prepared a report evaluating the impact of the Project on agriculture.

55. The development of the Property would result in the residential development of approximately 626 acres of agricultural land, 40 acres of which are presently in pineapple cultivation and 49 acres in macadamia nut cultivation. The remainder of the land was former sugarcane land which now lies fallow.

56. Wailuku Agribusiness Co., Inc. has approximately 4,700 acres, excluding the Project, available for agricultural use.

57. Wailuku Agribusiness Co., Inc. currently has approximately 1,800 acres under pineapple cultivation with plans to expand pineapple cultivation to 2,200 acres by next year.

58. Wailuku Agribusiness Co., Inc. has identified their lands situated near Maalaea and Waikapu as providing the

additional 400 acres to be put into production, of which approximately 40 acres are in substitution for the land currently in production in the Wailuku Project District.

59. The 40 acres of pineapple land in the Wailuku Project District comprise approximately two percent (2%) of the total pineapple acreage farmed by Wailuku Agribusiness Co., Inc. on Maui and approximately one-tenth of one percent (0.1%) of the total pineapple land farmed in the State.

60. Dr. Plasch concludes that removal of the 40 acres of pineapple land would have an inconsequential impact on pineapple production on Maui and in the State as a whole and would not cause a loss of jobs.

61. The 49 acres of macadamia nut land in the Piihaha Project District comprises approximately three percent (3%) of the total macadamia nut acreage farmed by Wailuku Agribusiness Co., Inc. on Maui and approximately two-tenths of one percent (0.2%) of the total macadamia nut land farmed in the State.

62. Wailuku Agribusiness Co., Inc. currently has approximately 1,800 acres under macadamia nut cultivation with a long term fifteen-year contract to an outside buyer.

63. Dr. Plasch concludes that removal of the 49 acres of macadamia nut land would have an inconsequential impact on macadamia production on Maui and in the State as a whole and would not cause a loss of jobs.

64. Development of the Project will eliminate the possibility of using the Property for diversified agriculture.

65. Dr. Plasch concludes that although the two project districts have soils that are rated as potentially productive, other agronomical conditions make the area poorly suited for most crops that are commonly grown commercially in Hawaii and involve far too little land to affect the Statewide growth of diversified agriculture.

66. Dr. Plasch advances four reasons in support of his conclusion: (1) an extensive amount of agricultural land and water in the State has been freed from sugar and pineapple production due to past plantation closings and reductions in operations--about 100,000 acres including announced reduction plans--and most of this land has favorable soil ratings and remains available for diversified-agriculture activities; (2) given the existence of unprofitable sugar operations, a very real possibility exists that additional land and water will be freed from sugar production; (3) some--if not most--of the sugar operations would make their land available for profitable replacement crops to the extent that such crops are available; and (4) when compared to the available supply, a very small amount of land and water is required to grow proven and promising diversified agriculture crops in order to achieve a realistic level of Statewide food and animal-feed self-sufficiency, and to increase exports.

67. The State Department of Agriculture (DOA) states that one of its long-range concerns is the displacement of productive agricultural land with non-agricultural uses but is

also simultaneously well aware and supportive of the need to develop affordable housing for Hawaii's residents.

68. The opportunities for housing, in particular affordable housing, created by the Project are an overriding public interest.

Historic and Archaeological Resources

69. Petitioner's archaeological consultant, Joseph Kennedy of Archaeological Consultants of Hawaii, Inc., conducted a surface archaeological reconnaissance of both the Wailuku Project District and the Piihaha Project District.

70. The surface reconnaissance of the Wailuku Project District revealed no surface archaeological sites and a very poor likelihood of subsurface remains due to the plow zone conditions brought forth by previous heavy agricultural activity. No further archaeological work was recommended to be done for the Wailuku Project District.

71. Petitioner's archaeological consultant conducted both a surface and subsurface reconnaissance of the Piihaha Project District which revealed two archaeological sites within the District. Such sites are identified in the archaeological report as PH2 and PH3 and consist respectively of a stone marker and a back-filled terrace structure.

72. Petitioner is coordinating with the State Department of Land and Natural Resources (DLNR) for the creation and implementation of a preservation plan to protect

the two identified surface archaeological sites within the Piihana Project District both during and after construction.

73. Results of the subsurface archaeological investigation of the Piihana Project District, consisting of 48 hand-drilled auger stations, were completely negative.

74. DLNR has questioned the adequacy of the subsurface testing performed on the Piihana Project District.

75. Petitioner has further agreed to an expansion of subsurface testing throughout the entire Piihana Project District and will conform with the mitigation plans as may be required by the State Historic Preservation Office.

Ground Water Resources

76. The primary potable water source for Central Maui is found in the West Maui Mountains. This primary source floats on sea water and lies seaward of dike-impounded water.

77. The basal water table begins at an elevation of 1 foot above mean sea level (MSL) near the coast and rises at an average of 1.5 and 2.5 feet per mile for the first two to three miles inland. The basal water table ends four to five miles inland at an elevation of about 30 feet above MSL.

78. Recharge of basal water occurs primarily by underflow of high level water (i.e. dike or perched water). Recharge also occurs to a minor degree by rainfall and irrigation water percolation.

79. Dike water is found at elevations ranging from 700 feet to 3,500 feet above MSL.

Coastal Ecosystems

80. Petitioner's consultant represents that the Project is not anticipated to have any adverse impacts on coastal ecosystems. Storm runoff from the Wailuku Project District will be discharged into Iao Stream, the principal urban drainage way serving Wailuku. Storm runoff from the Piihana Project District will be discharged into Iao Stream and Waiehu Stream, which drains a large portion of the macadamia nut fields west of Kahekili Highway.

81. There are no unique marine or coastal habitat areas located near the Waiehu Stream or Iao Stream outlets.

82. The Hawaii Coastal Zone Management Program expressed concern over the increase in volume of storm runoff that would be generated by the Project as well as the quality of the storm runoff and recommends Petitioner provide additional information on storm runoff and its impacts on receiving waters.

83. Petitioner indicates that it is willing to do such a study and abide by any mitigative measures, if required.

Recreational and Scenic Resources

84. Existing parks in the area consist of Wells Park, Papohaku Park/Wailuku Community Center, Maui Central Park, Iao Valley State Park, and the War Memorial Complex.

85. Petitioner proposes to develop and dedicate approximately 110 acres of parks and open space as well as a community center within the Wailuku Project District.

86. Petitioner proposes to develop and dedicate approximately 13 acres of parks, open space and buffer zones within the Piihana Project District.

Flora and Fauna

87. Petitioner's biological consultant, Dr. Marvin Miura of Environment Impact Study Corp., conducted a biological reconnaissance of the Property and concluded that the majority of the plants and animals observed within the Property are exotic species, none of which can be considered rare, threatened, or endangered.

88. Dr. Miura concluded that the Property has been previously disturbed by agricultural activity and does not provide suitable habitats for many endemic species of plants and animals. No significant impacts to the flora and fauna are expected from the development of the Property.

ENVIRONMENTAL QUALITY

Noise Quality

89. Construction noise from development of the Project will contribute to a temporary increase in noise levels in areas surrounding the Property.

90. Petitioner will comply with the standards and guidelines of the State Department of Health to mitigate impacts on ambient noise levels.

91. Primary noise generators after completion of the Project will be motor vehicles from both within the Project and travelling on roads and highways adjacent to the Project.

Petitioner proposes to attenuate traffic noise by using landscaping and berm buffers.

92. The State Department of Transportation has determined that neither of the Project Districts are within the 60 average day-night noise level (LDN) flight contour of the Kahului Airport aircraft traffic.

Air Quality

93. Increased vehicular traffic during construction of the Project may temporarily affect, though not significantly, the ambient air quality in the vicinity of the Property, including the surrounding residential areas and along adjacent roads.

94. Petitioner proposes to implement mitigating measures in conformance with local grading and erosion control measures to minimize air quality problems.

95. After construction, localized impacts are anticipated, particularly at major intersections, resulting from an increased number of vehicles entering the area. It is anticipated, however, that such impacts will not be significant.

ADEQUACY OF PUBLIC SERVICES AND FACILITIES

Highways and Roadways

96. Petitioner's traffic consultant, Parsons Brinckerhoff Quade & Douglas, Inc. (PBQD), prepared traffic impact studies for the Wailuku Project District and the Piihaha Project District.

97. Petitioner indicates the following with respect to the Wailuku Project District:

a. Access into the District is currently provided by: (1) Honoapiilani Highway - bisecting the site in a north/south direction, and (2) Waiale Drive - defining the eastern boundary of the District, also in a north/south direction. Kuikahi Road establishes the District's southern boundary with a generally east/west orientation.

b. According to PBQD's study, the Honoapiilani Highway northbound left turn movement onto Kuikahi Road, and the Kuikahi Road left turn movement onto Honoapiilani Highway currently incurs little or no delay at Level of Service (LOS) "A" during both a.m. and p.m. peak hours. The Kuikahi Road left turn movement onto Honoapiilani Highway, however, experiences very long delays at LOS "E." PBQD states, however, that adequate capacity is available at this intersection for existing volumes. Honoapiilani Highway south of Kuikahi Road currently operates at a LOS "D" during both a.m. and p.m. peak hours.

c. PBQD projects that future conditions even without the proposed Wailuku Project District would require signalization at the Honoapiilani Highway/Kuikahi Road intersection by the year 2000. By the year 2010, LOS without the proposed District would result in LOS "E" during the morning peak hour and "B" during the afternoon peak hour. With

traffic signals in the year 2000, a LOS of "C" is projected during the a.m. peak hour, and "A" during the p.m. peak hour. Honoapiilani Highway south of Kuikahi Road would experience LOS "E" by the year 2000.

d. Traffic projections based on completion of the Wailuku Project District indicate significant cumulative increases in area-wide traffic volume resulting from a proposed diversion of Waiale Drive and construction of Maui Lani. Waiale Drive would be extended from its present terminus and turn west to meet Honoapiilani Highway across from the existing Kuikahi Road intersection. Reassignment of Maui Lani's traffic to Waiale Drive, thereby providing Maui Lani's only access to Honoapiilani Highway, will significantly increase Honoapiilani Highway traffic above existing levels.

By the year 2000, the Honoapiilani Highway/Kuikahi Road intersection will require additional lanes and signalization to accommodate the connection of the Waiale Drive extension. With the described improvements, LOS "D" is expected by the year 2000. Signalization of the Waiale Drive intersection to serve as the Maui Lani access road will be warranted at approximately fifty-five percent (55%) buildout of the Wailuku Project District.

The proposed new cross-intersection of Road A and Road D with Honoapiilani Highway will require signalization by the year 2000. With signals, this

intersection will operate as LOS "C" in the morning and LOS "D" in the afternoon. At this intersection, projected LOS should remain at "C" and "D" through the year 2010.

In the year 2010, Honoapiilani Highway between Kuikahi Road/Waiale Drive and Road A/Road D, should have four through lanes and a median for left turn lanes. These additional lanes will be needed on Honoapiilani Highway upon completion of sixty-five percent (65%) of the Wailuku Project District. Honoapiilani Highway south of Kuikahi Road will remain only at "E."

e. PBQD concludes that traffic volumes on the Honoapiilani Highway have been increasing independent of any development in the immediate vicinity of the Project.

f. PBQD recommends the following improvements to provide the necessary capacity for the projected traffic volumes:

(1) Signalization of those cross-intersections with Honoapiilani Highway created by the Project's roadway system, i.e. Kuikahi Road, Road A, and Road D (as designated on Petitioner's Exhibit P-8);

(2) Widening of the Honoapiilani Highway to four lanes through the District and the creation of full turn lanes; and

(3) Extension of Waiale Drive from its present terminus to connect with Honoapiilani Highway.

98. Piihana Project District:

a. Access into the District is by Kahekili Highway along the District's western boundary and Piihana Road along the District's eastern boundary. Kahekili Highway ties into the street system in the Happy Valley area of Wailuku, as the fourth leg of an intersection formed by Kahekili Highway, Market Street, Mokuhau Street, and Piihana Road. Kahekili Highway extends north to Waiehu Beach Road, and to the communities of Waiehu and Waihee. Market Street extends south through Happy Valley, into downtown Wailuku. Mokuhau Road runs west, serving the residential area in Happy Valley. Piihana Road extends east, and serves a smaller residential area.

Mill Street is a collector street between the Market Street/Happy Valley and the Lower Main Street areas of Wailuku.

b. Current conditions at the intersections of Market Street/Mill Street and Kahekili Highway/Piihana Road/Market Street/Mokuhau Road reflect that at the intersection of Market and Mill Streets, the Market Street left turn into Mill Street experiences little or no delay at LOS "A" during the a.m. and p.m. peak hour. The Mill Street left turn operates at LOS "D" while the right turn is at LOS "A" during both peak hours. Vehicles desiring to turn left from Market to Mill Streets may create small back-ups during the peak hours, because of the heavy opposing through movements. Delays, however, are short as back-ups dissipate very rapidly.

At the Kahekili Highway, Piihana Road, Market Street, and Mokuahau Road intersection, the left turns from Kahekili Highway and Market Street incur little or no delay at LOS "A" during the a.m. and p.m. peak hours. The Mokuahau Road approach also experiences LOS "A" conditions during these hours. The Piihana Road approach operates at LOS "A" in the a.m. peak hour and at LOS "B" in the p.m. peak hour.

c. Future traffic conditions without the District are expected to remain at LOS "A" at the Kahekili Highway/Piihana Road/Market Street/Mill Street intersection for all approaches except for the Piihana Road approach, which would operate at LOS "C" and "D" during the a.m. and p.m. peak hours, respectively. North of the District, Kahekili Highway would continue to serve highway traffic volumes at highway LOS "C."

At the Market Street and Mill Street intersection, LOS "A" conditions would continue to prevail for the Market Street left turn in the a.m. peak hour; however, the LOS would drop from "A" to "B" for the p.m. peak hour. Mill Street right turns would remain at LOS "A" for the a.m. peak hour but would drop to LOS "C" in the p.m. peak hour.

d. With the proposed District, the capacity of an unsignalized Market and Mill Street intersection would be exceeded during the p.m. peak hour. Increased traffic volumes on Market Street would not permit sufficient gaps to serve the

traffic approaching on Mill Street at an unsignalized intersection.

At an unsignalized intersection of Market Street, Mokuau Road, Kahekili Highway and Piihana Road, delays for Piihana Road traffic may be longer at LOS "E" in the a.m. and p.m. peak hours. Signalization could improve these levels of service, but greater delays would result for the majority of intersection users approaching from Market Street or Kahekili Highway.

Traffic attempting to turn onto Market Street at other intersections and driveways between Piihana Road and Mill Street can expect longer delays because of the increased traffic on Market Street. Peak hour demands at these locations, however, are not expected to exceed capacities.

Three new intersections would be created on Kahekili Highway by the proposed District. These unsignalized T-intersections would have stop sign controls on traffic exiting the District; highway traffic would not be stopped. Except at the Piihana Road, LOS "D" or better would be experienced by the District traffic.

e. PBQD recommends the following improvements to provide the necessary capacity for the projected traffic volumes:

(1) Signalization of the intersection of Market Street and Mill Street;

(2) Stop-controls, such as stop signs and stop bars, placed at each of the District's roadway approaches to Kahekili Highway so that Kahekili Highway maintains the traffic right-of-way; and

(3) As an alternate path for District traffic, Imi Kala Street be extended to Piihana Road.

99. Concerning the proposed traffic improvements, the State Department of Transportation had the following comments:

a. Wailuku Project District:

(1) All intersection improvements recommended for the proposed Road A/Road D connection with Honoapiilani Highway shall be the responsibility of the Petitioner, including a commitment to install the traffic signals at the proposed Road A/Road D intersection when warranted. Improvements must include adequate storage and deceleration lengths for right and left turn auxiliary lanes.

(2) The recommended improvements for full District buildout of widening Honoapiilani Highway between the proposed Road A/Road D intersection and the proposed Kuikahi Road/Waiale Drive intersection should be implemented by the Petitioner. The Petitioner should also be committed to installing traffic signals and intersection improvements at the proposed Kuikahi Road/Waiale Drive intersection at Honoapiilani Highway when warranted as well as the extension of Waiale Drive to Honoapiilani Highway.

b. Piihana Project District:

(1) Projected traffic including the District is estimated in Figure 4 (Future with Project) of the Study to increase from nineteen percent (19%) to forty-seven percent (47%) on the south leg of the Market and Mill Street intersection. The increased traffic can be expected to impact the road system along Market Street. Therefore, the traffic impact study should include a LOS analysis for the intersections of Market Street with Vineyard Street and Main Street with Wells Street. Recommendations for mitigating traffic impacts at these intersections should also be discussed where applicable.

100. The State Department of Transportation and the County of Maui Department of Public Works share concerns that PBQD's discussion and evaluation of regional traffic considerations is inadequate and did not address the full development of both project districts.

101. Petitioner is willing to prepare, or participate in the preparation of, a regional traffic impact study to address all traffic impacts resulting from the Project. Petitioner is also willing to participate on a pro rata share basis in the funding and construction of regional traffic improvements identified by, and to the satisfaction of DOT and the County of Maui.

Water Service

102. The Central Maui area is serviced by four water sources.

103. The primary source of potable water was developed by the Central Maui Water Transmission and Source (CMWTS) Development Joint Venture. C. Brewer and Company, Ltd. is a member of the CMWTS joint venture partnership.

104. To date, three wells with a total pumping capacity of approximately 13.4 million gallons per day (mgd) have been developed by CMWTS. Of this amount, C. Brewer and Company, Ltd. is entitled to 2.83 mgd.

105. Wells developed for Waiehu Heights in Waiehu serve as one of the four sources of water for the Central Maui area. In 1973, Wailuku Sugar Company, a subsidiary of C. Brewer and Company, Ltd., in partnership with Waiehu Heights Associates, developed two new wells in Waiehu which have a total pumping capacity of approximately 3.6 mgd.

106. Petitioner estimates that the Wailuku Project District will generate an average daily water demand of 1.17 mgd with a maximum daily demand of 1.76 mgd.

107. Petitioner estimates that the Piihaha Project District will generate an average daily water demand of 292,500 gallons per day (gpd) with a maximum daily demand of 438,750 gpd.

108. Petitioner represents that the allocation from the Waiehu Heights wells and the CMWTS joint venture will be made available to it for development of the Project.

109. The water allocations available to Petitioner are adequate to accommodate the water needs of the Project

110. Petitioner represents it will provide the necessary water source and transmission facilities to service the proposed Project.

Wastewater Disposal

111. The existing sewerage system for Wailuku is made up of a network of collector systems that eventually tie into the Kahului Wastewater Treatment Plant. The system is presently at or near capacity.

112. Existing sewer lines on the periphery of the Project are presently at or near capacity.

113. Petitioner indicates that within the Wailuku Project District:

a. All lots within the Wailuku Project District will be sewerred.

b. The average daily flow of wastewater that will be generated is estimated at 672,000 gpd.

c. Petitioner is currently working with the County of Maui and other developers to formulate alternatives of wastewater treatment and disposal.

d. Preliminary engineering investigations indicate the desirability of constructing a new sewage

treatment facility south of Kuihelani Highway, in the vicinity of Puunene.

e. Petitioner proposes that wastewater from the District will be collected by an internal collection system and directed to the proposed Puunene wastewater treatment site.

f. Petitioner will participate in the funding of the proposed new Puunene wastewater treatment facility and required transmission lines.

114. Petitioner indicates that within the Piihana Project District:

a. All lots within the Piihana Project District will be sewerred.

b. The average daily flow of wastewater that will be generated is estimated at 180,000 gpd.

c. Petitioner proposes that the southerly half of the District be served by a gravity collection system which will collect and convey flow to a new off-site interceptor that will be installed at the southeasterly corner of the District.

d. The new interceptor will consist of a gravity line and a pump station that will be installed in Wailuku Industrial Park, Phase II. This pump station will convey flow to the existing interceptor on Lower Main Street near Mamo Lane and on to the Kahului Wastewater Treatment Plant.

e. Petitioner proposes that the northerly half of the District be served by a new pump station to be installed

at the northerly end of the District which will convey flow to the gravity collection system in the southern half of the District.

f. Petitioner represents it will contribute its pro rata share to expand or improve the existing Kahului Wastewater Treatment Plant and/or route the wastewater to the proposed treatment plant in Puunene to the satisfaction of State and County agencies. Petitioner also represents it will participate in funding of the proposed treatment plant and required transmission lines.

Drainage

115. Petitioner indicates the following with respect to the Wailuku Project District:

a. Under existing conditions, part of the off-site flow and some of the on-site runoff from the former cane fields flow into Hopoi reservoir and three irrigation ditches. The remaining runoff is conveyed across Honoapiilani Highway through culverts down to the northeast corner of the Wailuku Project District on the west side of Waiale Road into the Spreckles Ditch.

b. The lower area of the District is designated a flood plain.

c. When Spreckles ditch overtops, the excess flow continues down toward Lower Main Street. Catch basins and drainlines on Lower Main Street then intercept and convey the runoff to Iao Stream.

d. On-site flow is expected to increase from 897 cubic feet per second (cfs) to 1161 cfs due to project development.

e. Petitioner proposes to improve the drainage capacity of the northeast corner of the District by the construction of four (4) detention basins to intercept off-site/on-site flows.

f. Three detention ponds are to be constructed on-site immediately mauka of Waihee Ditch and would be designed to receive all off-site runoff and most of the on-site flow from areas above Waihee Ditch.

g. Each detention pond is to be interconnected and to have a small drainline connected to the on-site drainage system below Waihee Ditch.

h. The fourth detention pond is to be constructed within the lower section of the District, east of Honoapiilani Highway to receive all on-site flow from the area below Waihee Ditch. A drainline will be installed between this point and the county storm drain located at the Waiale Road/Kaohu Street intersection.

i. Spillways will also be constructed at all detention ponds to convey excess flow into existing drainageways or irrigation ditches.

116. Petitioner indicates the following with respect to the Piihana Project District:

a. Under existing conditions, runoff from the northerly half of the District flows toward the Kahekili Highway/Waiehu Beach Road intersection. An existing 48-inch culvert crosses Waiehu Beach Road to convey this runoff into Waiehu Stream.

b. Petitioner proposes that on-site runoff will be collected by catch basins and directed into Waiehu Stream by means of an underground drainage system and the existing culvert across Waiehu Beach Road. The existing ditch that conveys off-site runoff into the District site will be rerouted to bypass the District and toward an existing agriculture diversion ditch located west of Kahekili Highway.

c. Under existing conditions, runoff from the southerly half of the District flows in a southeasterly direction toward Iao Stream.

d. The southeasterly edge of the District encroaches slightly into the Iao Stream flood control easement. Petitioner proposes to have this area filled above flood height when developed.

e. Runoff from the southerly half of the District will be collected and conveyed by an underground drainage system into Iao Stream at a point east or makai of the agricultural bridge.

117. Petitioner represents it will prepare a drainage and erosion control plan and fund and construct the necessary drainage improvements.

Schools

118. According to the State Department of Education (DOE), the development of the Project is expected to generate the following public school enrollment projections:

School	Grade	Wailuku	Piihana	Total
Wailuku Elementary	K - 5	290- 545	0	290- 545
Waihee Elementary	K - 5	0	75-140	75- 140
Iao Intermediate	6 - 8	150- 270	40- 75	190- 345
Baldwin High	9 -12	<u>185- 285</u>	<u>50- 80</u>	<u>235- 365</u>
Total:		625-1,100	165-295	790-1,395

119. DOE indicates that the existing schools are at capacity and cannot accommodate students expected to be generated by the Project.

120. Petitioner has designated a ten-acre school site in the Wailuku Project District for the development of an elementary school by DOE. Petitioner will continue to work with DOE on the specific requirements for school facilities, to be mutually agreeable to the Petitioner and DOE.

121. Baldwin High School is at capacity and cannot accommodate the enrollments projected. A new Upcountry high school is currently planned by DOE to open in September 1993 and the shifting of service boundaries should provide space to accommodate the projected enrollments from the Project.

122. DOE remains concerned about the possible future need of a school site within or near the Piihana Project District in the event that there is continued population growth in the Piihana area.

123. Petitioner has agreed to continue discussions with DOE regarding possible school improvements in the Piihana area including the expansion of Waihee Elementary and the designation of a ten-acre school site within the Piihana Project District.

124. Petitioner has also agreed to providing its pro rata share for school facilities as may be required by and to the satisfaction of the DOE.

Police and Fire Protection

125. Existing police and fire protection services provided by Maui County from its facilities located in Wailuku are in close proximity to the Property and will be adequate to service the needs of the proposed development.

126. Petitioner is providing a one acre site within its Piihana Project District for public use which may be utilized by the police and fire departments as a substation.

Electrical and Telephone Services

127. Electrical and telephone services will be provided to the Project by Maui Electric Company (MECO) and Hawaiian Telephone Company, respectively. Petitioner will coordinate with such companies in determining the Project's requirements.

Medical/Health Care Facilities

128. Maui Memorial Hospital located in Wailuku will be adequate to service the needs of the proposed development.

Solid Waste Disposal

129. The County of Maui provides for a landfill area within Central Maui located near Puunene.

130. The County of Maui recently completed a study which identified their long term solid waste disposal needs and that their current site at Puunene may reach its design capacity by 1994. The County is advancing their efforts to plan for future overall Maui County needs, including this Project.

RELATIONSHIP TO PUBLIC LAND USE PLANS, POLICIES AND REGULATIONS

Conformance to Urban District Standards

131. Based on the findings previously stated, the Property meets the standards applicable in establishing boundaries of the Urban District set forth in Section 15-15-18 of the Commission's Rules as follows:

a. The Wailuku Project District is adjacent and the Piihaha Project District in close proximity to the existing urban center of Wailuku. As such, both Project Districts are located near the commercial, industrial, and employment areas of Wailuku.

b. Petitioner has established the need for additional housing and has demonstrated its capacity to financially undertake the Project.

c. The Property is in close proximity to existing basic services such as sewers, water, sanitation, schools, parks, and police and fire protection. In addition,

Petitioner proposes to participate in the improvement of existing infrastructure systems and to provide on-site infrastructure for the Project with connections to new and existing infrastructure systems. Petitioner proposes to set aside lands for public development of an elementary school, parks, and an open space system.

d. The Property is of satisfactory topography and drainage and reasonably free from the danger of floods, tsunami and unstable soil conditions and other adverse environmental effects. Petitioner will comply with all applicable State and county requirements for flood control and drainage.

e. Both Project Districts are included on the Wailuku-Kahului Community Plan as approved by the Planning Commission and County Council.

f. Both Project Districts are contiguous to and are logical extensions of existing urban areas and will not contribute towards scattered spot urban development.

Conformance With Hawaii State Plan

132. Based on the findings as previously stated, the Project's proposed development is consistent with the objectives, policies, and priorities of the Hawaii State Plan, Chapter 226, HRS, as follows:

a. Section 226-19, Objectives for Housing: The proposed development will help provide a spectrum of housing units and offer more choices to Maui residents and will

recognize the financial capabilities of all income groups, including low, moderate, and gap group income families and individuals.

The Property is located adjacent to existing residential uses in an already urbanized area and is well suited to development for housing purposes. Adequate infrastructure and public services exist with reasonable improvements and upgrades to support the development. The Property is not located within a critical environmental area such as a flood-prone area or important wildlife habitat. The historic or cultural features within the Piihaha Project District will be protected.

b. Section 226-7, Objectives for Agriculture: The proposed development will cause a loss of "Prime" agricultural lands, but will affect only lands which are poorly suited for commercial production of most crops and will not limit the Statewide growth of diversified agriculture. The impact of such loss will be inconsequential on pineapple and macadamia nut operations on Maui and in the State as a whole.

c. Section 226-18, Objectives for Energy: The proposed development is largely contiguous to existing urban areas and provides for the logical expansion of Wailuku.

d. Section 226-17, Objectives for Transportation: The proposed roadway system is designed to serve the development efficiently, economically, and safely provide access to major community facilities.

Conformance with Coastal Zone Policies and Objectives

133. Based on the findings as previously stated, the proposed boundary amendment conforms to the policies and objectives of the Coastal Zone Management Program, Chapter 205A, Hawaii Revised Statutes, as amended.

Impact on Areas of Statewide Concern

134. The biological reconnaissance of the Property performed by Petitioner's consultant indicates that no native or endangered species exist within the Property.

135. The loss of prime agricultural land caused by the development of the Project and its negligible impacts on the pineapple and macadamia nut industry and diversified agriculture will be offset by the public benefits of affordable housing proposed by Petitioner.

136. The Project's intended market ranges from the low-moderate income category through the entire affordable housing market as well as including a portion of the housing units to be offered at market prices.

Incremental Districting

137. Petitioner states that it cannot substantially complete the Project within five years after the date of final county zoning approval. Petitioner believes that its request to reclassify the entire Property to the Urban District is appropriate at this time because the magnitude of the Project requires initial construction of infrastructure for the entire

Project prior to beginning on-site construction of the housing units, which construction of infrastructure is estimated to require approximately five years.

RULING ON PROPOSED FINDINGS OF FACT

Any of the proposed stipulated findings of fact submitted by the Petitioner and/or the other parties not already ruled upon by the Commission by adoption herein, or rejected by clearly contrary findings of fact herein, are hereby denied and rejected.

Any conclusion of law herein improperly designated as a finding of fact should be deemed or construed as a conclusion of law; any finding of fact herein improperly designated as a conclusion of law should be deemed or construed as a finding of fact.

CONCLUSION OF LAW

Pursuant to Chapter 205, Hawaii Revised Statutes, as amended, the Hawaii Land Use Commission Rules, as amended, the Commission finds upon the preponderance of the evidence that the reclassification of the Property consisting of approximately 626 acres from the Agricultural District to the Urban District at Wailuku, Island and County of Maui, subject to the conditions stated in the Order, conforms to the standards for establishing the Urban Boundaries, is reasonable, non-violative of Section 205-2 of the Hawaii Revised Statutes, and is consistent with the Hawaii State Plan as set forth in Chapter 226 of the Hawaii Revised Statutes, as amended.

ORDER

IT IS HEREBY ORDERED that the Property, being the subject of this Docket No. A89-642 by C. Brewer Properties, Inc., a Hawaii corporation, consisting of approximately 626 acres of land comprising of two (2) separate non-contiguous parcels of real property situated in the Wailuku District, Island and County of Maui of which the Wailuku Project District comprises approximately 547 acres, and the Piihana Project District comprises approximately 79 acres, and which are identified as Maui Tax Map Key Numbers: 3-5-01: portion of 01 and portion of 17; 3-4-07:02; 3-3-01: portion of 16, 33 and 39, and 3-4-32: portion of 01, 10, and 18; and approximately shown on Exhibit "A" attached hereto and incorporated by reference herein, for reclassification from the Agricultural District to the Urban District, shall be and hereby is approved and the State Land Use 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 by offering for sale or lease a number of units equal to at least thirty percent (30%) of the residential units in each of the Project Districts of the Property, 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 each of the Project Districts

of the Property, 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 and distribution of units in the Property or through other projects within the same Community Plan District as the Property, under such terms as may be mutually agreeable, between Petitioner and the Housing Finance and Development Corporation of the State and the County of Maui.

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 and the County of Hawaii, for the provision of more than ten percent (10%) of the total units of housing affordable to persons with incomes less than eighty percent (80%) of Maui's median income and for the provision of housing for special needs groups, as determined by the Housing Finance and Development Corporation and the County of Maui.

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 figures 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 prepare, or participate in the preparation of, a regional traffic impact study to address all traffic impacts resulting from the Project in coordination with the State Department of Transportation and the County of Maui.

Petitioner shall participate on a pro rata share basis in the funding and construction of regional transportation improvements identified by, and to the satisfaction of the State Department of Transportation and the County of Maui. The Petitioner shall also fund and construct the transportation improvements in the immediate vicinity, and necessitated by the proposed development as identified by, and to the satisfaction of, the State Department of Transportation and the County of Maui. In addition, the Petitioner shall submit all construction plans, traffic studies, and drainage reports, associated with the Project Districts to the State Department of Transportation and the County of Maui for review and approval.

3. Petitioner shall prepare a drainage and erosion control plan and shall fund and construct the necessary drainage improvements.

4. Petitioner shall provide the necessary water source and transmission facilities to service the Project.

5. Petitioner shall pay its pro rata share to expand or improve the existing Kahului Wastewater Treatment Plant and/or route the wastewater to be generated by the 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. Petitioner shall also participate in the funding of the proposed new wastewater treatment plant and required transmission lines.

6. Petitioner shall inform all prospective occupants of 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.

7. 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.

8. 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.

9. Petitioner shall perform further subsurface testing of the Piihaha Project District to the satisfaction of the State Historic Preservation Office. Petitioner shall also submit a mitigation plan to the State Historic Preservation Office for review and approval.

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.

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

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

12. 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 project and Petitioner's progress in complying with the conditions imposed.

13. C. Brewer Properties, Inc. shall enter into an Agreement with the Department of Hawaiian Home Lands (DHHL) that Petitioner shall take no action within four years of the date of said Agreement, on Petitioner's Piihana and Wailuku Project Districts, which will jeopardize the ability of DHHL to apply for or obtain an allocation of sewage treatment capacity from the County. Said Agreement shall be recorded within thirty (30) days of the effective date of the Commission's Decision and Order and shall run with the land.

14. In the event that Petitioner should sell its interest in its Piihana and Wailuku Project Districts, Petitioner shall subject the property to deed restrictions to run with the land which shall require the successors and assigns to comply with the terms and conditions set forth in the Commission's Decision and Order.

15. 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.

DOCKET NO. A89-642 - C. BREWER PROPERTIES, INC.

Done at Honolulu, Hawaii, this 30th day of January 1990,
per motions on December 14, 1989 and January 23, 1990.

LAND USE COMMISSION
STATE OF HAWAII

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

By Laurence 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
January 30, 1990

Certified by:

Robert Wada
Executive Officer

By Elton Wada
ELTON WADA
Commissioner

By Frederick P. Whittemore
FREDERICK P. WHITTEMORE
Commissioner


BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of)	DOCKET NO. A89-642
)	
C. BREWER PROPERTIES, INC.)	C. BREWER PROPERTIES,
)	INC.
To Amend the Agricultural Land)	
Use District Boundary into the)	
Urban District For Approximately)	
626 Acres Situate at Wailuku and)	
Piihanea, Maui, Hawaii, Tax Map)	
Key Nos.: 3-5-01: Portion 01,)	
Portion 17; 3-4-07:02; 3-3-01:33,)	
39, and Portion 16; 3-4-32:10,)	
18 and Portion 01)	
)	

CERTIFICATE OF SERVICE

I hereby certify that a copy of the Findings of Fact, Conclusions of Law, and Decision and Order was served upon the following by either hand delivery or depositing the same in the U. S. Postal Service by certified mail:

	HAROLD S. MASUMOTO, Director Office of State Planning 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 Grosvenor Center, Suite 2700 737 Bishop Street Honolulu, Hawaii 96813
DATED:	Honolulu, Hawaii, this <u>30th</u> day of January 1990.



ESTHER UEDA
Executive Officer