

ORIGINAL

BEFORE THE LAND USE COMMISSION

OF THE STATE OF HAWAII

In The Matter Of The Petition Of)	DOCKET NO. A03-739
)	
A&B PROPERTIES, INC., A Hawai'i)	
Corporation)	FINDINGS OF FACT,
)	CONCLUSIONS OF LAW, AND
)	DECISION AND ORDER
To Amend The Agricultural Land Use District)	
Boundary Into The Urban Land Use District)	
For Approximately 138.158 Acres Of Land At)	
Kahului, Maui, Hawai'i, Tax Map Key Nos:)	
3-8-01: Por. 2, 3-8-06: Por. 4, And 3-8-79: Por. 13)	
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FINDINGS OF FACT, CONCLUSIONS OF LAW,
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A&B PROPERTIES, INC., a Hawai'i corporation ("Petitioner"), filed a Petition For District Boundary Amendment ("Petition") on May 30, 2003, pursuant to chapter 205, Hawai'i Revised Statutes ("HRS"), and chapter 15-15, Hawai'i Administrative Rules ("HAR"), to amend the State land use district boundary to reclassify approximately 138.158 acres of land at Kahului, Maui, Hawai'i identified as:

1) Tax Map Key Nos: 3-8-01: 2 (portion) and 3-8-06: 4 (portion), consisting of 105.822 acres ("Petition Area A"), and 2) Tax Map Key No: 3-8-79: 13 (portion), consisting of 32.336 acres ("Petition Area B") (collectively "Property" or "Petition Area"), from the

State Land Use Agricultural District to the State Land Use Urban District for a light industrial complex ("Project" or "Maui Business Park Phase II").

The Land Use Commission of the State of Hawai'i ("Commission"), having heard and examined the testimony, evidence and arguments of counsel presented during the hearing; the proposed findings of fact, conclusions of law, and decision and order filed by Petitioner; the responses of the State Office of Planning ("OP") and the County of Maui ("County"); and the subsequent partial stipulation among the parties, hereby makes the following findings of fact, conclusions of law, and decision and order:

FINDINGS OF FACT

PROCEDURAL MATTERS

1. On May 30, 2003, Petitioner filed the Petition.
2. On July 1, 2003, Petitioner filed the First Amended Affidavit Of Service Of Petition For Land Use District Boundary Amendment And Certificate Of Service.
3. On July 1, 2003, Petitioner filed the First Amended Affidavit Of Sending Of Notification Of Petition Filing And Certificate Of Service.
4. On July 1, 2003, Petitioner filed the Certificate Of Service Of Petition For District Boundary Amendment Upon Maui Pineapple Company, Ltd.

5. By letter dated July 3, 2003, the Executive Officer of the Commission deemed the Petition a proper filing as of July 1, 2003.
6. On July 25, 2003, OP filed the Statement Of Position Of The Office Of Planning In Support Of The Petition.
7. On July 29, 2003, Petitioner filed an Errata To The Petition For District Boundary Amendment Filed May 30, 2003 (Accepted For Processing On July 1, 2003).
8. On August 25, 2003, the Commission received a written request from Daniel Grantham of the Maui Sierra Club to register a speaker from the Maui Sierra Club at the Commission's hearing on the Petition.
9. On August 28, 2003, a prehearing conference was conducted in Conference Room 405 of the Leiopapa A Kamehameha Building, 235 South Beretania Street, 4th Floor, in Honolulu, Hawai'i, with representatives of Petitioner, OP, and County.
10. On September 4, 2003, the Commission considered the Petition at its meeting in Wailea, Maui, Hawai'i. Entering appearances were Benjamin M. Matsubara, Esq., Daniel Yasui, and Rick Stack for Petitioner; Jane E. Lovell, Esq., and Clayton Yoshida for the County; and John W.K. Chang, Esq., Abe Mitsuda, and Mary Alice Evans for OP.

11. The following individuals provided public testimony: Daniel Grantham, Rob Parsons, Herb Squires, and Ralph Johansen.

12. Following the public testimony, the Commission conducted a hearing on the Petition pursuant to a public notice published on August 1, 2003, in the Honolulu Star-Bulletin and Maui News.

13. On September 5, 2003, the Commission continued the hearing on the Petition, and Sally Raisbeck provided public testimony.

14. On September 18, 2003, the Commission continued the hearing on the Petition, and the following individuals provided public testimony: Steven Bronstein, Richard Mayer, Craig Henderson, Daniel Grantham, Lance Holter, Sally Raisbeck, Sean Lester, and Lucienne deNaie.

15. On September 19, 2003, the Commission continued the hearing on the Petition, at which time it entered into the record a letter from Isaac Davis Hall, Esq. The hearing on the Petition was closed on September 19, 2003.

16. On December 5, 2003, the Commission met in Honolulu, Hawai'i, to consider the Petition. At the meeting, Jeff Mikulina provided public testimony. The Commission subsequently deferred action on the Petition.

DESCRIPTION OF PETITION AREA

17. The Petition Area is located in Kahului, Maui, Hawai'i consisting of approximately 138.158 acres, and is identified by: Tax Map Key Nos: 3-8-06: 4 (portion), 3-8-01: 2 (portion), and 3-8-79:13 (portion).

18. Petition Area A is bound to the west by Pu'unene Avenue; to the north by Maui Business Park Phase IB, a large retention basin area, and the State-owned right-of-way for the proposed Kahului Airport Access Road; to the northeast by Hana Highway; and to the southeast and the south by canefields.

19. Petition Area B is bound to the west by Hana Highway; to the northwest by the parcels owned by K-Mart and Costco; to the north by Haleakala Highway; and to the south and southeast by the State-owned right-of-way for the proposed Kahului Airport Access Road.

20. The Department of Transportation of the State of Hawai'i ("DOT") has stated its intent to reserve lands south of Hana Highway in Petition Area A to accommodate future expansion of Kahului Airport operations, including a possible runway extension to allow greater capacity and safety.

21. Under one of the DOT's planning options, the primary runway at Kahului Airport would be extended to 9,600 feet.

22. The DOT is also evaluating alternative runway extension lengths including 9,200 feet and 8,500 feet.

23. To accomplish the 9,600 feet extension, the DOT would need to acquire approximately four acres of land in fee simple for approach lights and navigation aids and establish a runway protection zone over an area of approximately 45 acres, a portion of which is located within Petition Area A, in accordance with Federal Aviation Administration ("FAA") rules and regulations. An aviation easement is federally mandated. The FAA requires that the airport owner either own the runway protection zone or have it under its control. The aviation easement also pertains to the right of flight and impacts associated with the flight such as noise and vibration and occasionally some fumes.

24. The runway protection zone contains a portion in the center, which is called the object-free extension area where there should be limited land use (i.e., no obstructions penetrating upwards or permanent structures).

25. The runway protection zone may contain more uses than the object-free extension area, but the runway protection zone may not contain facilities where there is public assembly. Warehouses, parking, and light industrial uses are permitted within the runway protection zone. Petitioner must submit FAA Form 7460-1, Notice of Proposed Construction or Alteration, to the FAA's Hawai'i District Office, for their review and approval of proposed structures. The FAA conducts an air space evaluation to ensure that there are no obstructions to air travel.

26. The Kahului Airport Expansion may be constructed and completed within the next five years assuming decisions on the runway length are made. The most immediate requirement is terminal improvements in light of the new security requirements, post 9/11. Then there are near term projects specifically for cargo apron, alien species inspection, additional fuel storage, and lease lots. Certainly proceeding with the expansion project is a function of getting discretionary FAA money grants.

27. Currently, the Petition Area is predominantly sugarcane fields or fallow fields.

28. Fee simple ownership of the Petition Area is vested in Alexander & Baldwin, Inc. ("A&B"), whose principal place of business is 822 Bishop Street, Honolulu, Hawai'i, 96813.

29. A&B has authorized Petitioner to submit the Petition and to develop the Petition Area as set forth in its written authorization dated May 27, 2003.

30. The U.S.D.A. Soil Conservation Service's *Soil Survey of the Islands of Kauai, Oahu, Maui, Molokai, and Lanai* (1972) classifies the soils of the Petition Area. Petition Area A consists of 'Ewa Silty Clay Loam (EaA), Waiakoa Very Stony Silty Clay Loam (WgB), and Moloka'i Silty Clay Loam (MuB). Petition Area B consists of 'Ewa Silty Clay Loam (EaA), Moloka'i Silty Clay Loam (MuA), Moloka'i Silty Clay Loam (MuB), and Jaucas Sand, Saline (JcC). The Soil Conservation Service's Land Capability Grouping rates soil types according to eight levels, ranging from the highest

classification level, I, to the lowest level, VIII. With irrigation, the majority of the soils on the Petition Area are considered Class I, which consists of soils that have few limitations that restrict their use. Without irrigation, these soils are considered IVc. Class IV soils have very severe limitations that reduce the choice of plants, require very careful management practices, or both.

31. The University of Hawai'i Land Study Bureau's *Detailed Land Classification - Island of Maui*, classifies the Petition Area lands as both "A" and "E". This classification is based on a five-class productivity rating using the letters A, B, C, D and E, with "A" representing the highest class of productivity and "E" the lowest. Most of the Petition Area lands are classified as "A" with irrigation, and all of the Petition Area lands are classified as "E" without irrigation.

32. The Agricultural Lands of Importance to the State of Hawai'i (ALISH) system classifies the majority of the Petition Area as "Prime Agricultural Land". A small portion of Petition Area A is classified as either "Other Important Agricultural Land" or "Not Classified".

33. The elevation of the Petition Area ranges from 15 to 50 feet above sea level.

34. Slopes are approximately 0.30 to 1.70 percent in the Petition Area.

35. Annual rainfall normally amounts to approximately 20 inches in the Petition Area.

36. Normal temperatures in the Petition Area range from 79.2° F in August to 71.5° F in January. The annual average temperature is 75.5° F.

37. The Petition Area is within areas of minimal flooding in the Federal Flood Insurance Rate maps.

PROPOSAL FOR RECLASSIFICATION

38. Maui Business Park Phase II will provide approximately 179 acres of light industrial space in Maui's central commercial and business district in proximity to the island's primary airport and harbor. Maui Business Park Phase II encompasses the Petition Area and includes an additional approximately 33.561 acres of land that were part of the incremental reclassification to the Urban District under LUC Docket No. A88-634 (the total incremental acreage involved approximately 52.695 acres)¹ and approximately 7.281 acres of land that were already designated within the Urban District. Maui Business Park Phase II is divided into a North Project Area (approximately 38.217 acres) and a South Project Area (approximately 140.783 acres).

39. The South Project Area, which includes Petition Area A, will provide an estimated 75 lots, with lot sizes ranging from approximately 0.3 acres to 12 acres. The North Project Area, which includes Petition Area B, will provide an estimated 22 lots, with lot sizes ranging from approximately 0.3 acres to 3 acres.

¹ Petitioner intends to file a separate motion to redistrict the 33.561-acre portion of the incremental acreage, pursuant to section 15-15-78, HAR. Petitioner does not intend to redistrict the remaining approximately 19.134 acres of the increment, which will remain within the Agricultural District to serve as a drainage basin to accommodate stormwater discharge.

40. Estimated sales prices for lots range from \$460,000 to \$1,280,000 for lots 20,000 square feet ("SF") to 40,000 SF, \$920,000 to \$1,920,000 for lots 40,000 SF to 60,000 SF, and \$1,380,000 to \$2,560,000 for lots 60,000 SF to 80,000 SF plus.

41. Petitioner will extend Ho`okele Street to Hana Highway during the first increment of Maui Business Park Phase II construction.

42. The Project will not include any residential units. However, the Project may generate the need for affordable housing for employees of the Project. Petitioner previously dedicated lands to the County to address the affordable housing needs created by the development of Maui Business Park Phase I. Petitioner will have a study prepared to evaluate whether any additional housing needs are generated by employees of the Project. To the extent that the Project generates the need for affordable housing for employees of the Project, Petitioner will comply with all State and County laws and rules regarding the provision of such affordable housing.

43. It is estimated that the Project will bring approximately \$422 million in total direct development capital into Maui. Of that total amount, \$17.8 million is the estimated infrastructure costs and \$404.2 million is the estimated building construction costs.

44. Development and sales of Maui Business Park Phase II are projected to occur between 2005 and 2023. Before construction, permit processing is expected to take place between 2003 and 2005. Construction of the major infrastructure

is projected to occur between 2005 and 2013, which will result in the substantial completion of the Project.

PETITIONER'S FINANCIAL CAPABILITY TO UNDERTAKE THE PROPOSED DEVELOPMENT

45. Petitioner's financial statements as of December 31, 2002, reflect total assets of \$220,858,000, total liabilities of \$201,308,000, total shareholder's equity of \$19,550,000, and net income of \$8,407,000.

46. Petitioner intends to finance the development of the Project from internally generated funds.

STATE AND COUNTY PLANS AND PROGRAMS

47. The Petition Area is currently designated in the State Land Use Agricultural District, as reflected on the Commission's official maps, M-5 (Wailuku) and M-7 (Pa'ia).

48. The Wailuku-Kahului Community Plan (2002) designates the Petition Area as "Light Industrial".

49. The parcels on which Maui Business Park Phase II is located are currently zoned as follows: 1) Tax Map Key No: 3-8-01: 2 - Agricultural (portion), Interim (portion); 2) Tax Map Key No: 3-8-06: 4 - Agricultural (portion), Interim (portion), R-1 Residential (portion), M-2 Heavy Industrial (portion); and 3) Tax Map Key No: 3-8-79: 13 - Agricultural (portion), M-2 Heavy Industrial (portion).

50. The Project is not within the Special Management Area except for a portion of the North Project Area that contains Petition Area B.

NEED FOR THE PROPOSED DEVELOPMENT

51. The Hallstrom Group, Inc., prepared a report entitled "Market Study, Economic Impact Analysis, and Public Cost/Benefit Assessment of the Proposed Maui Business Park, Phase II" in April 2003. The demand for light industrial designated lands throughout Maui and in the Wailuku-Kahului study area is strong and indicative of a continuing modest sector up-cycle that is the product of the expanding island-wide economy, recovering real estate market, population/consumer growth, emerging entrepreneurship, low interest rates, the continued evolution from agrarian to urban land uses on Maui, and the wide spectrum of allowable uses permitted on light industrial zoned land.

52. It is forecasted that over the next two decades there will be demand for approximately 290 gross acres of additional light industrial lands beyond current levels (mid-point figure).

53. Currently, there are less than 10 acres of undeveloped lots in existing light industrial subdivisions and an estimated 20 acres of available (or proposed) competitive commercial sites. Recent industrial projects still in original sales have less than eight gross acres of lots remaining to be sold. Cumulatively, this available product represents one to three years of inventory.

54. Approximately 57 acres of further light industrial development is proposed in Central Maui, apart from the Project. Without further new industrial/commercial subdivision, the Central Maui business community will become significantly impaired before 2010.

55. It is projected that the Project will be fully absorbed within 12 to 18 years of being offered on the market.

SOCIO-ECONOMIC IMPACTS

56. During the 15-year building period of the Project, the number of worker/years created on- and off-site by the development will total 57,494 worker/years over the entire build-out timeframe, generating \$1.57 billion (2003 dollars) in total wages over the 15-year building period. Of this total, 2,418 worker/years (an annual average of 161.2 positions) are direct construction-oriented, 36,810 total (or 2,454 per year) are on-going business operating positions, and 16,427 are off-site worker requirements.

57. On a stabilized basis, after the completion of construction, the Project will generate approximately 7,801 permanent full-time employment positions, 5,522 directly related to on-site activities, and 2,280 indirect positions throughout the island. Annual wages on a stabilized basis are projected to be \$202.9 million (2003 dollars).

58. The Project is projected to have a net public benefit to the County of Maui during the 15-year building period in the amount of \$27,308,035 (2003 dollars), and an annual stabilized net public benefit to the County of Maui after the 15-year building period in the amount of \$3,002,375 (2003 dollars).

59. The Project is projected to have a net public benefit to the State of Hawai'i during the 15-year building period in the amount of \$388,803,849 (2003 dollars), and an annual stabilized net public benefit to the State of Hawai'i after the 15-year building period in the amount of \$51,382,071 (2003 dollars).

60. In no year during the 15-year building period or stabilized operating period does either the State of Hawai'i or the County of Maui suffer a revenue shortfall due to the Project.

61. The Project will enhance the social mobility and well-being of Maui's population by providing direct and indirect short and long-term employment opportunities for the present and future residents of Maui, by generating increased State and County tax revenues, and contributing to the stability, diversity, and growth of local and regional economies.

IMPACTS UPON RESOURCES OF THE AREA

Agricultural Resources

62. Hawaii Commercial & Sugar Company ("HC&S"), a division of A&B, is currently cultivating sugarcane on approximately 140 acres within Petition

Area A. HC&S is also growing an experimental crop of dryland taro on approximately five acres. HC&S has over 37,000 acres in sugarcane cultivation in Central Maui.

63. Since 1990, A&B has added approximately 2,100 acres of land into its sugarcane cultivation, and has withdrawn approximately 200 acres of land from its sugarcane cultivation for development purposes.

64. Since 1990, A&B has invested approximately \$120 million of capital into its sugarcane cultivation operations for the purpose of maintaining and sustaining its sugarcane cultivation operations as well as research and development relating to increasing yields of existing agricultural crops.

65. The Project is not expected to have any significant impact on agriculture on Maui or the State of Hawai'i based upon the reduction of sugarcane lands that would result from the Project in comparison to the total sugarcane acreage cultivated by HC&S. In addition, the large amount of acreage released from plantation agriculture on Maui and statewide since the late 1960s provides ample land for diversified agriculture.

Flora and Fauna

66. Char & Associates prepared a botanical survey for the Project dated January 2003. A total of 67 plant species were inventoried on the Project site. Of this total, 64 species were introduced or alien species. The only native species observed were the `ilima (*Sida fallax*), popolo (*Solanum americanum*), and `uhaloa (*Waltheria indica*).

None of the plants inventoried on the Petition Area is a threatened and endangered species or a species of concern. The Project is not expected to have a significant negative impact on the botanical resources of the Petition Area or the general region.

67. Phillip L. Bruner, Environmental Consultant, prepared an avifaunal and feral mammal field survey for the Project dated May 2, 2003. No native seabirds were recorded during the survey nor were any expected at the Petition Area. No native land birds were found on the survey. The Hawaiian Owl, also known as the Short-eared Owl or Pueo (*Asio flammeus sandwichensis*), is the only native land bird that might occur in the Petition Area. Pueo are listed by the State of Hawai'i as endangered on O'ahu but not on Maui. All other native land birds on Maui would typically be found at much higher elevations. No native waterbirds were tallied on the survey. The absence of wetland habitat on the Petition Area limits the value of these lands for waterbirds. The only migratory shorebird found on the survey was the Pacific Golden-Plover (*Pluvialis fulva*). A total of 16 plover were counted over the course of the survey. The only other migratory shorebird that might utilize the same habitat as the plover is the Ruddy Turnstone (*Arenaria interpres*). None was recorded in the survey. Neither of these two migratory shorebirds is listed as threatened or endangered. A total of 13 species of introduced birds were tallied on the survey. None of these species is listed as threatened or endangered.

68. Two cats (*Felis catus*) and four Small Indian Mongoose (*Herpestes auropunctatus*) were seen on the survey. No rats or mice were recorded but undoubtedly occur in the area. The endangered Hawaiian Hoary Bat (*Lasiurus cinereus semotus*) was not found despite extensive use of the Ultrasound Detector.

69. The Project will alter the existing habitats. This will result in a change in the kinds of birds and their relative abundance at the Petition Area.

70. Bird nesting or occupation in any drainage retention basins serving the Petition Area would become bird attractants and can become a safety hazard to aircraft operations.

71. The larvae of the endangered Blackburn's sphinx moth are sometimes found on tree tobacco plants, which were identified in the Petition Area during the botanical survey. To ensure that the Project does not adversely impact any Blackburn's sphinx moths that may be present on the tree tobacco shrubs, A&B submitted a plan of action to the U.S. Fish and Wildlife Service ("USFWS") detailing steps for the removal of the tobacco trees. The USFWS has reviewed this plan and indicated in writing that the USFWS agrees that the implementation of the measures proposed by A&B is unlikely to result in violations of section 9 of the Endangered Species Act.

Archaeological/Historical/Cultural Resources

72. Aki Sinoto of Aki Sinoto Consulting, the consulting archaeologist for the Project, contacted the Department of Land and Natural Resources, State Historic Preservation Division ("DLNR-SHPD"), regarding the Project. Based on past archaeological surveys of the Petition Area and the surrounding area and the historical use of the site for sugarcane cultivation, the DLNR-SHPD determined that the Petition Area is not likely to contain archaeological resources and that an additional archaeological survey of the Petition Area is not necessary. Petitioner will comply with all State of Hawai'i and County of Maui laws and rules regarding the preservation of archaeological and historic sites should any be found during construction.

73. Aki Sinoto Consulting prepared a cultural impact assessment for the Project dated May 2003. The cultural impact assessment follows the methodology and protocol as set forth by the Office of Environmental Quality Control's *Guidelines for Assessing Cultural Impacts* (November 19, 1997) in meeting section 343-2 (recently amended by Act 50), HRS.

74. Informant interviews were conducted for the assessment and included interviews of Mr. and Mrs. George and Mabel Ito and Mr. William Kanekoa.

75. Mr. and Mrs. George and Mabel Ito, ages 86 and 82, respectively, worked and lived on the plantations. Based on his interview with Mr. Ito, Mr. Sinoto found that new jobs were needed for the young people of Maui. Based on his interview

with Mrs. Ito, Mr. Sinoto found that the Project should be visually attractive for both the residents and visitors.

76. Mr. William Kanekoa also worked for the plantation, but he is knowledgeable about native Hawaiian medicinal plants. Based on his interview with Mr. Kanekoa, Mr. Sinoto found that there were no Hawaiian plants in the Petition Area, and that the area was subject to flooding.

77. In an informal conversation between Mr. Sinoto and Mr. Sam Ka`ai, a long-time resident of Pukalani, Maui, and a well-known contemporary authority on Hawaiian cultural practices, Mr. Sinoto found that it was unlikely Hawaiians would have built anything in the Petition Area because it was located in a flood-plain.

78. There appears to be no special affinities to the Petition Area for native Hawaiians or any other ethnic group. The individuals interviewed felt that growth and expansion were necessary for Kahului, but there was a common concern regarding the visual impact of the Project.

79. It does not appear that the Project will have any adverse effect to native Hawaiian traditional and customary rights exercised in the Petition Area which would require protection under Article XII, Section 7, of the Hawai`i State Constitution.

Groundwater Resources

80. Petition Area is underlain by a thin, saline brackish water lens. It is not over a potable water aquifer as it is located below the Underground Injection

Control line, which establishes the boundary between non-drinking water aquifers and underground sources of drinking water. The Petition Area also is not within the Wellhead Protection Area established for the County of Maui Central System service area. The Maui Department of Water Supply ("DWS") established the Wellhead Protection Program to prevent contamination of groundwater wells.

Recreational and Scenic Resources

81. There are several recreational facilities, parks, and open spaces in the Wailuku-Kahului area, including the Kahului Community Center and Park. As the Project will not have any resident population, it is not anticipated that the Project will adversely impact the existing facilities or create the need for additional facilities.

82. As part of the Project, Ho`okele Street will be extended to Hana Highway during the first increment of construction of the Project. The extension will include a landscaped berm with trees and shrubbery to soften the visual impact of the buildings along the road, except where ingress/egress or other improvements mandated by engineering safety standards are required. The alignment of Ho`okele Street will maintain a view corridor toward Haleakala. Landscaping will also be provided along portions of the Project adjacent to the proposed Kahului Airport Access Road. The Project will incorporate design standards, including a unified streetscape planting theme and program, underground utilities, and low-impact lighting. Open parking areas will include landscaping. Petitioner is committed to participating in a joint effort

with the community and the appropriate governmental agencies to create a new landscaped gateway to Maui for residents and visitors.

ENVIRONMENTAL QUALITY

Noise

83. D.L. Adams Associates, Ltd., prepared an environmental noise impact assessment for the Project dated May 2003. The Petition Area is exposed to a significant amount of aircraft noise from the Kahului Airport. The Petition Area is exposed to an average annual day-night aircraft noise level ("Ldn") between 50 and 75 dBA.

84. Commercial or manufacturing uses are consistent with the DOT, Airports Division, land use compatibility guidelines without restrictions for those areas within the Petition Area between the 55 and 65 Ldn contours. For structures located on portions of the Petition Area that lie between 65 and 75 Ldn contours, mitigation measures will be required and may include air conditioning, avoiding the use of jalousie windows, double or triple glazing of windows, designing walls and roofs with sufficiently high sound transmission loss, and/or providing acoustical gasketing on exterior doors into noise sensitive areas. Petitioner will through covenants running with the land ensure that all required mitigation measures are implemented.

85. The various construction phases of the Project may generate significant amounts of noise. In cases where construction noise exceeds, or is expected

to exceed the State's "maximum permissible" property line noise levels, a permit must be obtained from the State Department of Health ("DOH"). Petitioner will through covenants running with the land ensure that any required DOH permits are obtained.

86. The increase in traffic noise level due to the Project development is not considered significant and is not expected to adversely impact the Petition Area or surrounding areas.

87. Noise at the property line from on-site equipment must be at a level of 70 dBA or less during daytime and nighttime hours in order to be within the State's maximum permissible sound limit. If on-site equipment exceeds this limit, mitigation in the form of barriers, enclosures, and silencers should be included in the design. Petitioner will through covenants running with the land ensure that all required mitigation measures are implemented.

Air Quality

88. B.D. Neal & Associates prepared an air quality study for the Project dated May 2003. The major potential short-term air quality impact of the Project will occur from the emission of fugitive dust during construction. Dust mitigation measures include i) watering unpaved work roads at least twice daily on days without rainfall; ii) using windscreens and/or limiting the area that is disturbed at any given time; iii) employing mulching or chemical soil stabilizers; iv) covering dirt hauling trucks when traveling on roadways; v) engaging in routine road cleaning and/or in a tire washing

program; vi) paving of parking areas and establishing of landscaping early in the construction schedule; and vi) monitoring dust at the Project boundary during construction. Petitioner and/or all future owners or lessees will implement all required mitigation measures for fugitive dust.

89. During construction, emissions from engine exhausts will occur from both on-site construction equipment and from vehicles traveling to and from the Project. Increased vehicular emissions due to disruption of traffic by construction equipment and/or commuting construction workers can be alleviated by moving equipment and personnel to the site during off-peak traffic hours. Petitioner and/or all future owners or lessees will ensure that all mitigation measures to alleviate increased vehicular emissions are implemented.

90. Long-term impacts on air quality in the Petition Area due to emissions from motor vehicle traffic generated by the Project should be minimal, and mitigation measures are probably unnecessary and unwarranted.

91. Any long-term impacts on air quality due to indirect emissions from supplying the Project with electricity will likely be insignificant based on the relatively small magnitudes of these emissions. Nevertheless, indirect emissions from electrical demand by the Project could likely be reduced by incorporating energy-saving features into the design. These features could include using i) solar water heaters; ii) designing building space so that window positions maximize indoor light without

unduly increasing indoor heat; iii) using landscaping where feasible to provide afternoon shade to cut down on the use of air conditioning; iv) installing insulation and double-glazed doors to reduce the effects of the sun and heat; v) providing movable, controlled openings for ventilation at opportune times; and vi) installing automated room occupancy sensors. Petitioner will through covenants running with the land ensure that energy-saving features are implemented into the design of the Project.

92. Sufficient detail is not available at this time describing the facilities that may be located within the Project to perform any quantitative impact assessment, however, before any air pollution source can be built in this State, an application must be submitted to the DOH for a permit to construct the facility, and detailed information concerning any air pollution emissions will need to be provided in the application. Petitioner and/or all future owners or lessees will comply with the requirement to submit the necessary application with the requisite information to the DOH.

Water Quality

93. Operations within the Project will adhere to Federal, State, and County regulations regarding the handling, use, and storage of petroleum products, chemicals, and other potential pollutants. These regulations require the establishment of appropriate systems to contain spills and prevent potential pollutants from leaching into the ground and flowing into the storm drainage system.

ADEQUACY OF PUBLIC SERVICES AND FACILITIES

Highways and Roadway Facilities

94. Phillip Rowell and Associates prepared a traffic impact analysis report ("TIAR") for the Project dated May 19, 2003. The purpose and objectives of the TIAR were to: a) document the traffic characteristics of the proposed Project; b) document the impact of the proposed Project, especially the impacts of a new roadway on traffic conditions along Dairy Road between Pu`unene Avenue and Hana Highway; c) determine the optimum location for the intersection of "Proposed Collector Road" along Hana Highway; and d) identify and assess potential mitigation measures.

95. The following intersections are in the study area and were analyzed in the TIAR: Dairy Road at Pu`unene Avenue, Dairy Road at Pakaula Street, Dairy Road at Hukilike Street, Dairy Road at Maui Marketplace South Drive, Dairy Road at Maui Marketplace Drive, Dairy Road at Alamaha Street, Dairy Road at Hana Highway, Dairy Road at Kele Street, Dairy Road at Haleakala Highway, Haleakala Highway at Costco Drive A, Pu`unene Avenue at Ho`okele Street, Ho`okele Street at Pakaula Street, and Pakaula Street at Walmart/Home Depot Driveway.

96. The year 2020 was used as the design year for the Project. Background traffic projections were prepared for 2020 conditions without the Project to establish a base condition for assessing the impacts of the proposed Project. Future traffic growth consists of both ambient background growth and traffic from other

proposed projects in the study area. The background growth rate used for the TIAR was 1.6 percent. Krispy Kreme Doughnut Shop, Airport Hotel, Costco Expansion, and Dairy Road Retail Center were identified as related developments.

97. For the purposes of the TIAR, it was assumed that the Project would be 25-percent retail and 75 percent light industrial.

98. The DOT typically designs its roadways for peak hours in the morning or afternoon and that capacity needs generally determine the roadway design. If there is a more spatial need throughout the day, then the percentage mix of retail and light industrial use might not have much of an impact on the DOT's roadway design.

99. It was estimated that the Project will generate 1,698 trips during the morning peak hour and 3,642 trips during the afternoon peak hour.

100. Several roadway improvements will be required as either mitigation measures or to comply with recommendations of the *Maui Long-Range Land Transportation Plan*. Those improvements are listed below:

A. The *Maui Long-Range Land Transportation Plan* recommended that Hana Highway be widened between Ka`ahumanu Avenue and the eastern intersection with Haleakala Highway. This improvement is needed between Dairy Road and the proposed Ho`okele Street extension to provide capacity to accommodate projected 2020 background traffic volumes.

B. A driveway serving Zone D² should be provided along the north side of Hana Highway at the approximate location of the Airport Access Road. Traffic movements should be restricted to right turns in and right turns out only. This roadway would reduce the traffic along Dairy Road between Hana Highway and Haleakala Highway and would provide an alternate route for traffic into and out of Costco.

C. The intersection of Hana Highway at Ho`okele Street should be signalized. Double left turns into and out of the Project will be required.

D. The westbound approach of Haleakala Highway at Dairy Road should be modified so that the middle lane may be used as either a through lane or a left turn lane.

101. The final recommendations of the TIAR are:

A. Construct Ho`okele Street between Pakaula Street and Hana Highway concurrent with the first increment.

B. Widen Hana Highway between Dairy Road and the new intersection with Ho`okele Street from four to six lanes.

C. A second driveway serving Zone D should be provided along the north side of Hana Highway at the approximate location of the future Airport Access Road.

² For purposes of performing the traffic impact analysis, Petition Area A was divided into three zones: Zone A, B, and C. Petition Area B was designated Zone "D."

D. Separate traffic impact studies should be performed as the Project-develops to determine when the traffic signals are warranted. The Project may not develop to the maximum potential that was used in the TIAR.

102. The proposed Airport Access Road was not included in the TIAR analysis because i) there was no specific timetable for the Airport Access Road at the time of the TIAR; ii) there was a desire to not underestimate the impact of the Ho`okele Street extension, and iii) the phasing plan of the Airport Access Road construction was unknown. The access point on Hana Highway from the proposed Ho`okele Street extension needs to be evaluated by the DOT. The exact location has not been approved. An evaluation of the spatial separation from the Airport Access Road needs to be looked at. To implement the Airport Access Road, the DOT will need to close Dairy Road right at Pakaula Street, creating a T intersection. This would need to be signalized. Also, no direct access to the Airport Access Road and along Hana Highway from Area B will be approved to reserve the right-of-way for future development of the intersection/interchange with Hana Highway.

103. As of September 19, 2003, the construction of the Airport Access Road was a part of the DOT's three-year capital improvement program, also known as the Statewide Transportation Improvement Plan.

104. The plans for the Airport Access Road are 50 percent complete, and it is anticipated that the construction contract for the Airport Access Road will be issued within three years.

105. The construction of the Airport Access Road will provide a benefit to traffic flow in the area of the Project.

106. It is the normal process to update traffic impact analyses as significant roadway improvements, like the Airport Access Road, are built or developed in the area.

107. Petitioner will update the TIAR to take into account the Airport Access Road and to address the impact of different percentages of retail versus non-retail uses on the Project. The TIAR will also be revised to address concerns raised by the DOT regarding certain methodologies, assumptions, and analyses contained in the TIAR.

Water Service

108. The Kahului industrial area is served by the DWS system. The source of water for this system is the Waihe'e Wells, which were developed by the Central Maui Joint Venture (of which Petitioner is a member) and dedicated to the Board of Water Supply ("BWS").

109. The Petition Area is located in the Central Maui Service Area that is served by water from the 'Iao and Waihe'e Aquifers. On July 21, 2003, the Commission

on Water Resource Management ("CWRM") designated the 'Iao Aquifer as a Groundwater Management Area ("GMA"). New groundwater use permits are subject to the availability of groundwater determined by sustainable yield and existing water use permits. The Waihe'e Aquifer will be designated as a GMA by the CWRM if water levels at the Kanoa test hole drop below 6 feet above mean sea level on an annual moving average basis. As a result, the DWS has stopped issuing advance water meter reservations. The DWS is taking steps to protect the long-term viability and sustainability of the 'Iao and Waihe'e Aquifers by developing new sources, emphasizing groundwater and watershed protection, and promoting water conservation.

110. Petitioner had originally planned to utilize its remaining Central Maui Source Joint Venture allocation of the developed capacity of the Waihe'e Wells for the Project. However, the DWS has requested that Petitioner either i) develop and dedicate surface water collection, transmission, treatment and storage systems of adequate quantity and quality to serve the Project and construct treatment, transmission, storage, and distribution facilities in an amount sufficient to serve the Project according to system standards to be dedicated to the DWS or ii) develop new groundwater sources outside of the 'Iao or Waihe'e Aquifers.

111. Based upon the State System Standard of 6,000 gallons per day ("GPD") per acre, the required potable water supply would be 0.86 million gallons per

day ("MGD") based upon the Project's net (approximately 80-percent of the Project's 179 gross acres) acreage.

112. As an alternative to groundwater use for the potable water needs for the Project, Petitioner intends to develop a potable water source by utilizing surface waters flowing in the Waihe'e and Spreckels Ditches.

113. The Waihe'e and Spreckels Ditches run generally from north to south above and through Wailuku Town (Waihe'e and Spreckels, respectively).

114. Over the last 10 years, A&B's share of the flow rate in the Waihe'e and Spreckels Ditches has averaged nearly 42 MGD (22.7 MGD in the Waihe'e Ditch and 19.2 MGD in the Spreckels Ditch).

115. Sufficient flow from the Waihe'e Ditch and/or the Spreckels Ditch could be appropriately treated to produce a potable supply for the Project.

116. The location of the Waihe'e and Spreckels Ditches, the land ownership of A&B, the location of the DWS's water system infrastructure, and the DWS's experience in operating surface water treatment plants make treatment of the ditch water for potable use a particularly feasible alternative.

117. With the Hopoi Chute connection from the Waihe'e Ditch to the Waiale Reservoir, there are three possible raw water sources for a treatment plant located near to the reservoir. In addition to taking water from the Hopoi Chute, water could be withdrawn directly from Spreckels Ditch or Waiale Reservoir.

118. A&B's land ownership would allow it to construct a water treatment plant to use one or more of these surface water sources and deliver it into the Central Maui System at a location which would enable the DWS to supply the Project.

119. The DWS has extensive experience in operating both membrane filtration plants and conventional treatment plants in compliance with requirements of the Environmental Protection Agency's Safe Water Treatment Rule and Interim Enhanced Safe Water Treatment Rule.

120. The DWS currently operates plants at Kamaole Weir using water from East Maui Irrigation's Wailoa Ditch, Pi'iholo on the Lower Kula system, Olinda on the upper Kula system, the 'Iao Plant using 'Iao Stream water, and at Mahinahina above Lahaina using water from Maui Land & Pineapple's Honokohau Ditch.

121. The DWS has the staff with the necessary operator certifications to run treatment plants to produce potable water.

122. It is estimated that it would take approximately two years to get this alternative water source and its associated treatment system online, and cost approximately \$2 million to \$3 million to construct.

123. The proposed development and treatment of surface waters flowing from the Waihe'e and Spreckels Ditches will provide approximately twice the potable water requirement for the Project. Any excess potable water not needed for the Project will constitute a public benefit for the County.

124. The Kahului industrial area is served by the DWS system. When A&B developed Maui Business Park Phase I, a 12-inch waterline was installed in Dairy Road and extended to Pakaula Street. There is an existing stub-out of this waterline at Ho`okele Street and Pakaula Street. The water system for Petition Area A will be extended from the 12-inch waterline in Ho`okele Street at Pakaula Street. The water system will be designed to the DWS standards and dedicated to them upon completion.

125. For Petition Area B, there is an existing 12-inch waterline in Dairy Road and Keolani Place that serves the Airport Industrial development, including Kmart and Costco. There also is a 16-inch waterline in Keolani Place that goes to the Kahului Airport. A 3-inch waterline in Haleakala Highway serves the former Central Power Plant area. A new 12-inch waterline will be installed in Haleakala Highway from the intersection of Dairy Road and Keolani Place to Kulena Street for the Airport Industrial Subdivision III. This waterline will be extended from that point to serve Petition Area B. The proposed water system improvement will be designed to the DWS standards and dedicated to the BWS.

Wastewater Disposal

126. The County's existing wastewater system services the Kahului industrial area. The Wailuku-Kahului Wastewater Reclamation Facility ("WKWWRP") is located on Amala Place near Kanaha Beach. This facility has a capacity of 7.9 MGD of which an estimated 7 MGD has been allocated for existing and projected flows.

127. With respect to Petition Area A, a 16-inch sewerline extension was connected to the Alamaha Street sewage pump station ("SPS") when Maui Business Park Phase I-A and I-B were developed. This line extension terminates as an 8-inch line on Ho`okele Street, near Pu`unene Avenue. The force main from Alamaha SPS flows to the Kahului SPS on Hana Highway. Flows from this SPS are then pumped to the WKWWRF.

128. The estimated sewage to be generated by Petition Area A will be approximately 0.23 MGD, based on a flow rate of 1,600 gallons per acre per day for light industrial uses. Sewage from the area west of the drainage retention basin will flow into the existing 8-inch sewerline in Ho`okele Street at Pakaula Street. These flows will go through existing lines in Maui Business Park Phases I-A and I-B into the Alamaha Street system. The remaining sewage for Petition Area A will be serviced by a new 12-inch sewerline in Haleakala Highway from Dairy Road to Petition Area B.

129. With respect to Petition Area B, there are existing 8-inch and 18-inch sewerlines that service the Airport Industrial area, including Costco and Kmart. Sewage in these lines flows down to the Airport Triangle SPS located on Kele Street. This SPS and all sewerlines that are connected to it are owned and maintained by A&B. The 6-inch force main from this SPS is connected to the County's system at Alamaha Street and Papa Place. Sewage then flows to the Alamaha SPS, Kahului SPS, and finally to the WKWWRF for treatment.

130. The estimated sewage that will be generated by Petition Area B will be approximately 0.05 MGD, based on a flow rate of 1,600 gallons per acre per day. Sewage will flow into the same new 12-inch sewerline in Haleakala Highway that will receive Petition Area A sewage, and then continue to the Airport Triangle SPS. Sewage will then flow to the proposed Hana Highway force main and to the Kahului SPS. Sewage from this pump station flows through a force main to the WKWWRf. The proposed sewage system will be designed to County standards.

Drainage

131. The estimated runoff from Petition Area A is 293 cubic feet per second ("CFS"). The two existing drainage basins near Wal-Mart have an estimated combined capacity of 80-acre-feet. The estimated flow volume into these basins, with existing Maui Business Park Phase I-B and build-out of Petition Area A, will be approximately 48-acre-feet for a 100-year, 24-hour storm. Therefore, there will be adequate capacity for the flows from Petition Area A.

132. Earth berms will be constructed along the southerly boundary of Petition Area A to retain offsite runoff within the sugarcane fields. Existing HC&S ditches in the canefields will also divert a portion of the offsite flows from Petition Area A.

133. The estimated runoff from Petition Area B is 61 CFS. Retention basins will be constructed to retain the 100-year, 24-hour storm. Another option would

be to have retention basins on each developed lot with capacities to retain onsite generated runoff.

134. Earth berms will be constructed along the southerly boundary to keep offsite runoff from flowing onto Petition Area B.

Solid Waste Disposal

135. The Project's solid waste will be collected by private waste collection companies or by the County's Solid Waste Division and hauled to the Central Maui Landfill for disposal. The landfill has adequate capacity to accommodate waste through the year 2020. A&B has been cooperating with the County to increase the area at this landfill for their future expansion plans.

Schools

136. Schools within Kahului include Maui High, Maui Waena Intermediate, Kahului Elementary, and Lihikai Elementary. As the Project will not have any resident population, it is not anticipated that the Project will adversely impact the existing school facilities or create the need for additional facilities.

Police and Fire Protection

137. Police services in the Kahului area are provided by the Maui County Department of Police Headquarters located at 55 Mahalani Street in Wailuku, approximately three miles from the Project. Kahului is within the uniformed patrol division that is served by approximately 115 uniformed patrol officers and other

personnel. It is estimated that the annual additional police enforcement cost to the County on a stabilized basis after buildout of the Project will be \$422,800.

138. The Kahului Fire Station is located on Dairy Road adjacent to Maui Business Park Phase I. In 2002, there were approximately 33 firefighters and other personnel in the Kahului District. The estimated additional annual fire protection cost to the County after buildout of the Project is \$201,600.

Medical Services

139. Maui Memorial Hospital, located between Wailuku and Kahului, is the only major medical facility on the island of Maui. Acute, general, and emergency care services are provided by the 194-bed facility. The estimated annual additional emergency medical response cost to the County on a stabilized basis after buildout of the Project is \$104,000.

Electricity and Telephone Service

140. The estimated electrical demand for the Petition Area is approximately 2 megawatts. Line extensions from the existing electrical system will provide power to the Project. Maui Electric Company's ("MECO") Kahului and Ma'alaea Plants generate sufficient electricity to provide services to the Project. The estimated time to build MECO's proposed Waena Plant, located on Pulehu Road, will be approximately five years. MECO's Kanaha Substation, located at the corner of Hana Highway and Dairy Road, will serve the Project.

141. The underground electrical system for the Project will be designed to MECO's standards. The Kanaha Substation has room to expand if required by this or other developments.

142. Telephone and cable television systems will be extended to the Petition Area from their existing systems at Phase I of the Maui Business Industrial Park and Airport Industrial Park. The underground systems will be designed to current standards and the developer will cooperate with these utilities in expanding their services to the Petition Area.

COMMITMENT OF STATE FUNDS AND RESOURCES

143. The Project will not generate the need for schools, social programs, and many other governmental services. In addition, major offsite infrastructure items, such as highways and water and sewer mains, are already in place or will be provided privately. State of Hawai'i costs from the Project include highway frontage work, health inspections of food service establishments, and other oversight duties. These costs are estimated annually to be \$250,000, increasing to a stabilized level as the Project is built out.

144. Petitioner will participate in the funding, design, and construction of its fair share of all infrastructural improvements required as a result of the Project. Government costs incurred as a result of the Project are not expected to exceed the revenues derived by the State of Hawai'i.

CONFORMANCE TO URBAN DISTRICT STANDARDS

145. The Petition Area is adjacent to lands characterized by “city-like” concentrations of people, structures, streets, urban levels of services, and other related land uses. The Petition Area is situated adjacent to existing urban uses and is proximately located to centers of trading and employment including Maui’s primary airport and harbor facilities, business centers, the existing Maui Business Park Phase I, and the Kahului industrial area.

146. The Petition Area is, or upon completion of necessary offsite and onsite infrastructure will be, adequately serviced by wastewater systems, solid waste disposal, drainage, water, transportation systems, public utilities, and police and fire protection.

147. The Petition Area is located in an area with sufficient reserve for foreseeable urban growth.

148. The Petition Area consists of satisfactory topography, drainage and soil conditions, is free from the danger of flood, tsunami and unstable soil conditions, and is not affected by any other adverse environmental conditions that would render it unsuitable or inappropriate for the Project.

149. The Petition Area is consistent with the objectives and policies of the General Plan of the County of Maui 1990 Update and is designated by the Wailuku-Kahului Community Plan (2002) for light industrial use.

150. The Petition Area is in an appropriate area for new urban concentration, as it represents an expansion of an existing urban center.

151. The Petition Area will not contribute toward scattered spot urban development. Petitioner will develop or arrange for all additional infrastructure required to service the Project, and public infrastructure and support services will not be unreasonably burdened by or require any unreasonable investment as a result of the Project.

152. The Petition Area does not consist of lands having a slope of 20 percent or more.

CONFORMANCE WITH THE GOALS, OBJECTIVES AND POLICIES OF THE
HAWAI'I STATE PLAN; RELATIONSHIP WITH APPLICABLE PRIORITY
GUIDELINES AND FUNCTIONAL PLANS

153. The reclassification of the Petition Area and the proposed development of the Project are in general conformance with the following goals, objectives, policies and priority guidelines of the Hawai'i State Plan, Chapter 226, HRS, including the following:

Section 226-4 State goals

Section 226-4(1): "A strong, viable economy, characterized by stability, diversity, and growth, that enables fulfillment of the needs and expectations of Hawai'i present and future generations."

Section 226-4(2): "A desired physical environment, characterized by beauty, cleanliness, quiet, stable natural systems, and uniqueness, that enhances the mental and physical well-being of the people."

Section 226-4(3): "Physical, social, and economic well-being, for individuals and families in Hawai'i, that nourishes a sense of community responsibility, of caring, and of participation in community life."

The Project will contribute to the attainment of the three goals by: 1) providing direct and indirect short and long-term employment opportunities for the present and future residents of Maui; 2) generating increased State and County tax revenues; 3) contributing to the stability, diversity, and growth of local and regional economies; and 4) minimizing the impact to the physical environment of the Petition Area.

Section 226-5 Objective and policies for population

Section 226-5(b)(1): "Manage population growth statewide in a manner that provides increased opportunities for Hawai'i's people to pursue their physical, social, and economic aspirations while recognizing the unique needs of each county."

Section 226-5(b)(2): "Encourage an increase in economic activities and employment opportunities on the neighbor islands consistent with community needs and desires."

Section 226-5(b)(3): “Promote increased opportunities for Hawai`i’s people to pursue their socio-economic aspirations throughout the islands.”

Section 226-5(b)(7): “Plan the development and availability of land and water resources in a coordinated manner so as to provide for the desired levels of growth in each geographic area.”

The Project will provide long-term economic and employment opportunities for the population of Maui. Providing additional light industrial space will promote increased opportunities for people to pursue their economic aspirations through employment and creation of new businesses.

The Petition Area is designated for light industrial uses on the Wailuku-Kahului Community Plan.

Section 226-6 Objectives and policies for the economy – in general

Section 226-6(a)(1): “Increased and diversified employment opportunities to achieve full employment, increased income and job choice, and improved living standards for Hawai`i’s people.”

Section 226-6(a)(2): “A steadily growing and diversified economic base that is not overly dependent on a few industries, and includes the development and expansion of industries on the neighbor islands.”

Section 226-6(b)(3): “Seek broader outlets for new or expanded Hawai`i business investments.”

Section 226-6(b)(6): “Strive to achieve a level of construction activity responsive to, and consistent with, state growth objectives.”

Section 226-6(b)(8): “Encourage labor-intensive activities that are economically satisfying and which offer opportunities for upward mobility.”

Section 226-6(b)(9): “Foster greater cooperation and coordination between the government and private sectors in developing Hawai`i’s employment and economic growth opportunities.”

Section 226-6(b)(11): “Maintain acceptable working conditions and standards for Hawai`i’s workers.”

Section 226-6(b)(13): “Encourage businesses that have favorable financial multiplier effects within Hawai`i’s economy.”

Section 226-6(b)(16): “Foster a business climate in Hawai`i—including attitudes, tax and regulatory policies, and financial and technical assistance programs—that is conducive to the expansion of existing enterprises and the creation and attraction of new business and industry.”

The Project will provide increased light industrial space on Maui, which, when occupied by businesses, will provide increased employment opportunities. While specific businesses within the Project have not been determined, it is expected, with the proximity to the island’s main commercial area and primary harbor and airport facilities, that businesses will range from essential local services to national or

multinational companies looking for a presence on Maui. This will lead to broader outlets for new or expanded Hawai'i investments, increased and diversified employment opportunities, increased income and job choice, and improved living standards for Maui's residents. It is also expected that this increased mix of businesses on Maui will lead to a steadily growing and diversified economic base that is not overly dependent on a few industries. Development and construction of the Project will also provide construction-related employment over the course of the Project's build-out.

Section 226-13 Objectives and policies for the physical environment – land, air, and water quality

Section 226-13(b)(7): "Encourage urban developments in close proximity to existing services and facilities."

The Project is situated adjacent to major urban lands of similar uses, is consistent with the Wailuku-Kahului Community Plan (2002), and is a logical extension of the adjacent and nearby light industrial areas that serve as Maui's primary center of commerce and industry.

Section 226-103 Economic priority guidelines

Section 226-103(a)(1): "Priority guidelines to stimulate economic growth and encourage business expansion and development to provide needed jobs for Hawai'i's people and achieve a stable and diversified economy:

(1) Seek a variety of means to increase the availability of investment capital for new and expanding enterprises.

(A) Encourage investments which:

- (i) Reflect long term commitments to the State;
- (ii) Rely on economic linkages within the local economy;
- (iii) Diversify the economy;
- (iv) Reinvest in the local economy;
- (v) Are sensitive to community needs and priorities; and
- (vi) Demonstrate a commitment to provide management opportunities to Hawai`i residents.”

Section 226-103(a)(8): “Provide public incentives and encourage private initiative to develop and attract industries which promise long-term growth potentials and which have the following characteristics:

(A) An industry that can take advantage of Hawai`i’s unique location and available physical and human resources.

(B) A clean industry that would have minimal adverse effects on Hawai`i’s environment.

(C) An industry that is willing to hire and train Hawai'i's people to meet the industry's labor needs at all levels of employment.

(D) An industry that would provide reasonable income and steady employment."

Section 226-103(f)(1): "Encourage the development, demonstration, and commercialization of renewable energy sources."

The Project will assist in meeting the above stated guidelines by providing the physical space on Maui to allow for new businesses and investment. Potential industries and businesses that may locate in the Project include those: 1) attracted because of Hawai'i's unique location and available physical and human resources; 2) that would have minimal adverse impacts on Hawai'i's environment; 3) that are willing to hire and train Hawai'i's people to meet the industry's labor needs; and 4) that would provide reasonable income and steady employment. The Project will also aid in the attainment of energy-related guidelines through implementation of energy conservation measures including the use of low-impact lighting and alternative energy sources, including the use of solar energy to heat water.

Section 226-104 Population growth and land resources priority guidelines

Section 226-104(a)(1): "Encourage planning and resource management to insure that population growth rates throughout the State are consistent with available and planned resource capacities and reflect the needs and desires of Hawai'i's people."

Section 226-104(a)(2): "Manage a growth rate for Hawai'i's economy that will parallel future employment needs for Hawai'i's people."

Section 226-104(a)(3): "Ensure that adequate support services and facilities are provided to accommodate the desired distribution of future growth throughout the State."

Section 226-104(b)(1): "Encourage urban growth primarily to existing urban areas where adequate public facilities are already available or can be provided with reasonable public expenditures, and away from areas where other important benefits are present, such as protection of important agricultural land or preservation of lifestyles."

Section 226-104(b)(9): "Direct future urban development away from critical environmental areas or impose mitigating measures so that negative impacts on the environment would be minimized."

Section 226-104(b)(12): "Utilize Hawai'i's limited land resources wisely, providing adequate land to accommodate projected population and economic growth

needs while ensuring the protection of the environment and the availability of the shoreline, conservation lands, and other limited resources for future generations.”

With Maui’s growing population and economy there is a current and future demand for increased light industrial space, which will be partially filled by the Project. In addition, the area of the Project is designated “Light Industrial” on the Wailuku-Kahului Community Plan (2002), which is a reflection of the needs and desires of the community. The Project will provide employment opportunities in parallel with future employment needs and will ensure that support services and facilities are provided to accommodate the desired distribution of future growth on Maui.

The Project is contiguous with the existing urban area of greater Kahului and is a logical extension of the adjacent and nearby light industrial areas that serve as Maui’s primary centers of commerce and industry. Existing public facilities are near to the Project, and Petitioner will provide the required on-site infrastructure, such as internal roads and water and sewer lines. In addition, because of its proximity to Maui’s main commercial area and primary harbor and airport facilities, the Petition Area is appropriate for the light industrial uses that are being proposed.

The Petition Area is not a critical environmental area nor is it shoreline, conservation, or important agricultural lands that are needed for diversified agriculture. Proper mitigating measures, such as adhering to civil engineering standards and

implementing best management practices, will be undertaken to ensure negative impacts on the environment are minimized.

154. The reclassification of the Petition Area generally conforms to the Employment Functional Plan.

CONFORMANCE WITH COASTAL ZONE MANAGEMENT OBJECTIVES AND POLICIES

The proposed reclassification of the Petition Area generally conforms to the objectives and policies of the Coastal Zone Management Program, chapter 205A, HRS. The Project is not coastal dependent and is located inland from the coast. As such, the Project will not adversely impact any coastal ecosystems, beaches, or marine resources. No views or vistas from or to the shoreline will be impaired. The dominant view from the Project will be of Haleakala. Ho`okele Street, the primary collector street through the South Project Area, will be aligned to provide views of Haleakala, and will include a landscaped berm using trees and shrubbery to soften the visual impact of the buildings along the road. The Petition Area is within areas of minimal flooding. Grading and other site improvements will comply with the requirements of the Federal Flood Insurance Program and all State and County laws. Drainage facilities within the Petition Area will be adequately planned and constructed, and wastewater generated by the Project will be collected, treated, and disposed of in accordance with all applicable statutes, ordinances, and regulations. Operations within the Project will

adhere to Federal, State, and County regulations regarding the handling, use, and storage of petroleum products, chemicals, and other potential pollutants.

RULING ON PROPOSED FINDINGS OF FACT

Any of the proposed findings of fact submitted by Petitioner or the other parties to this proceeding 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 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.

CONCLUSIONS OF LAW

1. Pursuant to chapter 205, HRS, and the Commission Rules under chapter 15-15, HAR, and upon consideration of the Commission decision-making criteria under section 205-17, HRS, this Commission finds upon a clear preponderance of the evidence that the reclassification of the Petition Area, consisting of approximately 138.158 acres of land at Kahului, Maui, Hawai'i, identified as Tax Map Key Nos: 3-8-01: 2 (portion), 3-8-06: 4 (portion), and 3-8-79: 13 (portion), from the State Land Use Agricultural District to the State Land Use Urban District, for the development of the Project, and subject to the conditions in the Order below, conforms to the standards for establishing the Urban District boundaries, is reasonable, not violative of section 205-2,

HRS, and is consistent with the policies and criteria established pursuant to sections 205-16 and 205-17, HRS.

2. Article XII, Section 7, of the Hawai`i Constitution requires the Commission to protect native Hawaiian traditional and customary rights. The State reaffirms and shall protect all rights, customarily and traditionally exercised for subsistence, cultural, and religious purposes and possessed by ahupua`a tenants who are descendants of native Hawaiians who inhabited the Hawaiian Islands prior to 1778, subject to the right of the State to regulate such rights.

3. Based on past archaeological surveys of the Petition Area and the surrounding area and the historical use of the site for sugarcane cultivation, the Petition Area is unlikely to contain archaeological resources. Should any resources be found during construction, Petitioner will comply with all State and County laws and rules regarding the preservation of archaeological and historic sites.

4. A cultural impact assessment was prepared for the Project. There appears to be no special affinities to the Petition Area for native Hawaiians or any other ethnic group.

5. Article XI, Section 1, of the Hawai`i Constitution requires the State to conserve and protect Hawai`i's natural beauty and all natural resources, including land, water, air, minerals, and energy sources, and to promote the development and

utilization of these resources in a manner consistent with their conservation and in furtherance of the self-sufficiency of the State.

6. There are no threatened and endangered species of flora and fauna or species of concern in the Petition Area. The larvae of the endangered Blackburn's sphinx moth are sometimes found on Tree tobacco plants, which are present in the Petition Area. Petitioner submitted a plan of action to the USFWS detailing the steps to remove the tobacco trees. The USFWS subsequently reviewed the plan and agreed that implementation of the proposed measures is unlikely to result in violations of section 9 of the Endangered Species Act.

7. The ambient air quality of the Petition Area will be impacted in the short term by fugitive dust and emissions from engine exhausts during construction of the Project. Petitioner will implement all required mitigation measures for fugitive dust and exhaust emissions.

8. The Project's long-term impacts to air quality will be minimal, and mitigation measures are probably unnecessary and unwarranted.

9. Energy-saving features will be incorporated into the design of the Project to minimize any indirect emissions from electrical demand.

10. Petitioner will incorporate landscaping into the Project to minimize any visual impact of the buildings.

11. Petitioner intends to develop a potable water source for the Project by utilizing surface waters flowing in the Waihe`e and Spreckels Ditches instead of groundwater sources.

12. Article XI, Section 3, of the Hawai`i Constitution requires the State to conserve and protect agricultural lands, promote diversified agriculture, increase agricultural self-sufficiency, and assure the availability of agriculturally suitable lands.

13. The Project will not have a significant impact on agriculture in Maui or in the State as the reduction of sugarcane lands by the development of the Project is minimal in comparison to the total sugarcane acreage cultivated by HC&S. The large amount of acreage released from plantation agriculture statewide also provides ample land for diversified agriculture.

14. Article XI, Section 7, of the Hawai`i Constitution states that the State has an obligation to protect the use of Hawai`i's water resources for the benefit of its people.

15. As an alternative to obtaining water from the Waihe`e Wells, the Project will obtain potable water by utilizing surface waters flowing in the Waihe`e and Spreckels Ditches. Sufficient flow from the ditches could be treated to adequately meet the needs of the Project.

DECISION AND ORDER

IT IS HEREBY ORDERED that the Petition Area, consisting of approximately 138.158 acres of land in the State Land Use Agricultural District at Kahului, Maui, Hawai`i, identified as Tax Map Key Nos: 3-8-01: 2 (portion), 3-8-06: 4 (portion), and 3-8-79: 13 (portion), and approximately shown on Exhibit "A" attached hereto and incorporated by reference herein, shall be and is hereby reclassified to the State Land Use Urban District, and the State land use district boundaries shall be amended accordingly.

Based upon the findings of fact and conclusions of law stated herein, it is hereby determined that the reclassification of the Petition Area will not significantly affect or impair the preservation or maintenance of natural systems and habitats or the valued cultural, historical, agricultural, and natural resources of the area.

IT IS HEREBY FURTHER ORDERED that the reclassification of the Petition Area from the State Land Use Agricultural District to the State Land Use Urban District shall be subject to the following conditions:

1a. **Housing Study.** Within one hundred eighty days (180) of this decision and order, the Petitioner shall complete and submit to and for the approval of the Commission, with copies to the Department of Planning, the Department of Housing and Human Concerns and the Office of Planning, a housing study that addresses the following:

- i. The impact the Project will have on the current labor force;
- ii. The type of employee/affordable housing demands that will be created by the Project;
- iii. Any employee/affordable housing policy adopted and in place by the County for commercial and industrial developments;
- iv. The proposed mitigation measures to alleviate the impact on both the labor market and the employee/affordable housing situation, including, but not limited to, the acreage, siting, timing, type of housing and eligibility for the employee/affordable housing project and the identity of potential developers and recipient of land to be contributed and conveyed by Petitioner for affordable/employee housing (collectively, the “Proposed Mitigation Measures”); and
- v. Recommendations and timeframe for implementing any applicable county housing policy (in place at the time of this study) or requirements and/or the Petitioner’s proposed mitigation measures, including the minimum contribution of land described in Condition 1b immediately herein below (collectively, the “Proposed Timeline”).

The reclassification of the Petition Area, as described in this Decision and Order, shall be subject to the further condition of Petitioner' s compliance with the Proposed Mitigation Measures and Proposed Timeline, as modified and/or approved by the Commission (the "Approved Mitigation Measures and Timeline").

1b. **Minimum Contribution of Land by the Petitioner.** In compliance and consistent with the Approved Mitigation Measures and Timeline, Petitioner shall contribute, no later than one (1) year after any Maui County zoning approval authorizing the use of the Property for light industrial and/or commercial use, to the County of Maui or a non-profit housing entity or other appropriate entity, a minimum of ten (10) acres of land useable for residential development within the Central Maui region reasonably acceptable to the County of Maui towards development of employee/affordable housing or satisfy such more stringent employee/affordable housing requirements for the Project as may be imposed by the Maui County Council. The Approved Mitigation Measures and Timeline shall be an obligation of the recipient of the land conveyed for affordable housing purposes, as memorialized in the conveyance document from the Petitioner to such recipient.

2. **Water Facilities.** Petitioner shall participate in the funding and construction of adequate water source, storage and transmission facilities and improvements or remit applicable fees for water source, storage and transmission facilities and improvements to accommodate projected water usage generated by the

Project. Water facilities and improvements, including adequate storage facilities, should surface water sources be developed, or the payment of applicable fees, shall be coordinated and approved by the County of Maui, Department of Water Supply and, if applicable, the Commission on Water Resources Management of the Department of Land and Natural Resources. Adequate water source shall be made available prior to the issuance of any occupancy permits for buildings developed on the Property.

3. **Aircraft Operations.** Petitioner shall implement procedures to address notification and liability issues which arise from the potential adverse impacts from noise, right of flight, emissions, vibrations and other incidences of aircraft operations upon the present and future Owners and future lessees or occupants of the Property resulting from the adjacent Kahului Airport operations. The following covenant shall encumber the Property and be included in any transfer of any interest in the Property.

“The Property is located in the vicinity of Kahului Airport, a commercial airport, and each Owner is aware that there is a likelihood of noise from aircraft passing overhead or nearby and other potential adverse impacts from other incidence of aircraft operation. Each Owner hereby assumes the risk of any potential adverse impacts from such noise, right of flight, emissions, vibrations or other incidents of aircraft operations upon the Owner’s lot or uses thereon. Each Owner shall be responsible for

appropriate mitigation measures to address the abovementioned potential adverse impacts. Each Owner shall indemnify and hold harmless Declarant and the State of Hawaii from and against all claims, liability and losses that arise out of noise, right of flight, emissions, vibrations and other incidences of aircraft operations, unless such claim, liability or loss arises out of the State of Hawaii's willful misconduct in the operation of Kahului Airport or violating any applicable federal, state or county requirement governing aircraft safety and noise abatement measures, in which case, the indemnification of the State of Hawaii will be inapplicable."

4. FAA Form 7460-1, Notice of Proposed Construction or Alteration.

Petitioner shall impose a covenant encumbering the Property and be included in any transfer of any interest in the Property requiring the submittal of Federal Aviation Administration (FAA) Form 7460-1, Notice of Proposed Construction or Alteration, to the FAA's Hawaii District Office when or if required under applicable FAA Regulations with a copy to DOT's Airports Division.

5. Runway Protection Zone. Petitioner acknowledges that a portion of Petition Area A overlaps the runway protection zone (hereinafter "RPZ") for a proposed extension of the Kahului Airport runway of up to 9,600 feet in length, as further described in the State Office of Planning's Exhibits Nos. 9 and 10 and the

testimony of DOT Airports Division witness Benjamin Schlapak. Petitioner agrees to restrict uses in the RPZ to light industrial, parking, roadway and other infrastructure uses that do not entail the congregation of people, provided all such uses are approved by the Federal Aviation Administration. This restriction on uses within the RPZ shall automatically terminate if the State Department of Transportation (DOT) does not attain all governmental approvals for the extension of the Kahului Airport runway within a period of five (5) years from the date of the Commission's decision and order.

Notwithstanding the foregoing, and for good cause shown, the Commission may grant an extension of time for the DOT if DOT during such five-year period has been using its best efforts, in good faith, to attain all governmental approvals for the extension of the Kahului Airport runway. The size of the RPZ shall be adjusted if the runway length sought by the DOT is less than 9,600 feet. Should the DOT desire to acquire an easement or the fee simple interest in the RPZ, the fair market value of the land shall be based on its current Agricultural District classification and present zoning designation by the County of Maui provided that: a) the acquisition occurs within a period of five (5) years from the date of the Commission's decision and order; and b) the DOT during such five-year period has been using its best efforts, in good faith, to attain all governmental approvals for the extension of the Kahului Airport runway.

6. **Traffic Impact Analysis Report.** Prior to obtaining County zoning, Petitioner shall revise or supplement its traffic impact analysis report (hereafter TIAR)

dated May 2003 to the satisfaction of the DOT. The TIAR shall identify the impact of Petitioner's project on the transportation system and recommend any required mitigation measures. Conditions and assumptions reflected in the TIAR shall be developed in consultation with DOT, including but not limited to, various proportions of retail and light industrial uses to be developed at the Property, plans for the proposed airport access road, permitted accesses, trip generation rates, and traffic projections. Petitioner shall obtain the DOT's prior written approval of the final TIAR and Petitioner may not proceed with the development of Petitioner's project unless and until the DOT approves the TIAR. As development occurs within the Property, the TIAR shall be revised or supplemented as may be requested and required by the DOT. Petitioner shall be responsible for constructing, implementing and/or contributing its fair share of the cost of those improvements or mitigation measures as recommended or required by the TIAR and as dictated by the actual proportion of light industrial and retail uses developed at the Property. The TIAR shall also address the impact to County of Maui roadways and shall be submitted to the County of Maui, Department of Planning for the County's review and consideration in the zoning approval process.

7. **Regional Transportation Improvements.** Petitioner shall contribute Petitioner's fair share of the cost of regional transportation improvements in the area, as such fair share shall be determined by the DOT based on appropriate transportation planning methodologies to establish a rational nexus.

8. **Best Management Practices.** The Petitioner shall coordinate with the County of Maui, the State Department of Land and Natural Resources and the State Department of Health to establish Best Management Practices to contain spills, and prevent materials associated with light industrial uses such as petroleum products, chemicals, and other pollutants from leaching or draining into the ground or the storm drain system.

9. **Hazardous Materials.** Storage and/or disposal of hazardous materials shall be approved by the State Department of Health prior to their establishment on the subject Property.

10. **Wastewater Facilities.** Petitioner shall provide a sewer impact study to the County Department of Public Works and Environmental Management evaluating the wastewater system requirements for the Project. Petitioner shall fund and develop, as required by the County of Maui and the State Department of Health, wastewater transmission and treatment facilities to accommodate the additional wastewater generated by the Project.

11. **Drainage.** Petitioner shall fund, design and construct any drainage system improvements required to mitigate the additional runoff resulting from the project without creating adverse effects on adjacent and downstream properties. The master drainage plan for Maui Business Park shall be constructed to mitigate the additional runoff resulting from this development.

12. **Aircraft Operation Hazards.** Petitioner shall fund and implement a program to control any bird nesting or occupation and any insect, pest or wildlife infestation, in any drainage retention basins serving the Property to minimize the hazards to aircraft operation, as deemed necessary by the DOT.

13. **Provisions of the Hawai'i Right to Farm Act.** Petitioner shall inform all prospective occupants of possible odor, noise, and dust pollution resulting from adjacent Agricultural Districts lands, and that the Hawaii Right-to-Farm Act, Chapter 165, HRS, limits the circumstances under which preexisting farming activities may be deemed a nuisance.

14. **Solid Waste.** Petitioner shall develop a Solid Waste Management Plan in conformance with the Integrated Solid Waste Management Act, Chapter 342G, HRS. The Plan shall be approved by the County of Maui and shall address the need to divert the maximum amount of waste material caused by the development away from the County's landfills.

15. **Visual Analysis.** That as part of its zoning application submittal, the Petitioner shall submit a visual analysis study for the location of the Hookele Street Extension emphasizing the maintenance of a "view corridor" toward Haleakala.

16. **Visual Impacts.** That as part of its zoning application, the Petitioner shall submit design guidelines with renderings on how a landscaped aesthetic visual corridor along all adjacent highways and how a landscaped berm

utilizing trees and shrubbery shall be constructed along the entire proposed collector road (Hookele Street Extension) to soften the visual impact of the buildings along the road. (Wailuku-Kahului Community Plan Update).

17. **Dual Water System.** Petitioner shall evaluate the feasibility of developing a dual water system for the Project, utilizing non-potable water for landscape irrigation purposes.

18. **Energy Conservation.** Petitioner shall implement energy conservation measures such as the use of solar energy and solar heating and incorporate such measures into the Project.

19. **Project Composition.** For a period of eight (8) years from the date of the County's approval of zoning for the Project a total of at least fifty percent (50%) of the Project acreage shall be (a) used and developed by Petitioner for non-retail, light industrial use and/or (b) sold or leased to and developed and used by third-party buyers for non-retail, light industrial use. For this same eight-year period, simultaneous with Petitioner's development or offer for sale or lease of the Property for retail use, Petitioner shall develop or offer for sale or lease an equal amount of acreage within the Property for non-retail, light industrial use. The phrase "light industrial", as used in this paragraph, includes warehousing and distribution types of activity as well as compounding, assembly, or treatment of articles or materials with the exception of heavy manufacturing and processing of raw materials. It is the intent of this paragraph

that at the end of the above-described eight-year period, to the extent that the Project is developed or in the process of being developed by Petitioner or any third party, no less than fifty percent (50%) of such development or development in process shall be for non-retail, light industrial purposes.

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

21. **Notice of Change to Ownership Interests.** Petitioner shall give notice to the Commission of any intent to sell, lease, assign, place in trust, or otherwise voluntarily alter the ownership interests in the Property, prior to development of the Property.

22. **Annual Reports.** Petitioner shall timely provide without any prior notice, annual reports to the Commission, the Office of 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 herein. The annual report shall be submitted in a form prescribed by the Executive Officer of the Commission.

23. **Release of Conditions.** The Commission may fully or partially release the conditions provided herein 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 Petitioner.

24. **Notice of Imposition of Conditions.** Within 7 days of the issuance of the Commission's Decision and Order for the subject reclassification, Petitioner shall (a) record with the Bureau of Conveyances a statement that the Property is subject to conditions imposed herein by the Land Use Commission in the reclassification of the Property, and (b) shall file a copy of such recorded statement with the Commission.

25. **Recordation of Conditions.** Petitioner shall record the conditions imposed herein by the Commission with the Bureau of Conveyances pursuant to Section 15-15-92 Hawai'i Administrative Rules.

ADOPTION OF ORDER

The undersigned Commissioners, being familiar with the record and proceedings, hereby adopt and approve the foregoing ORDER this 18th day of March, 2004. This ORDER and its ADOPTION shall take effect upon the date this ORDER is certified and filed by this Commission.

Done at Kihei, Maui, Hawai'i, this 18th day of March, 2004,
per motion on March 18, 2004.

APPROVED AS TO FORM

Russell A. Suzuki
Deputy Attorney General

LAND USE COMMISSION
STATE OF HAWAII

By Lawrence N.C. Ing
LAWRENCE N.C. ING
Chairperson and Commissioner

By P. Roy Catalani
P. ROY CATALANI
Vice-Chairperson and Commissioner

By Bruce A. Coppa
BRUCE A. COPPA
Vice-Chairperson and Commissioner

By ABSENT

PRAVIN DESAI
Commissioner



By _____

KYONG-SU IM
Commissioner

By Isaac Fiesta

ISAAC FIESTA, JR.
Commissioner

By Steven Lee Montgomery

STEVEN LEE MONTGOMERY
Commissioner

Filed and effective on
MAR 25 2004

By ~~RANDALL F. SAKUMOTO~~

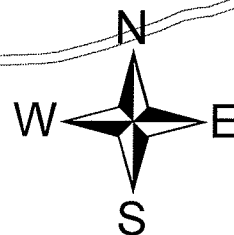
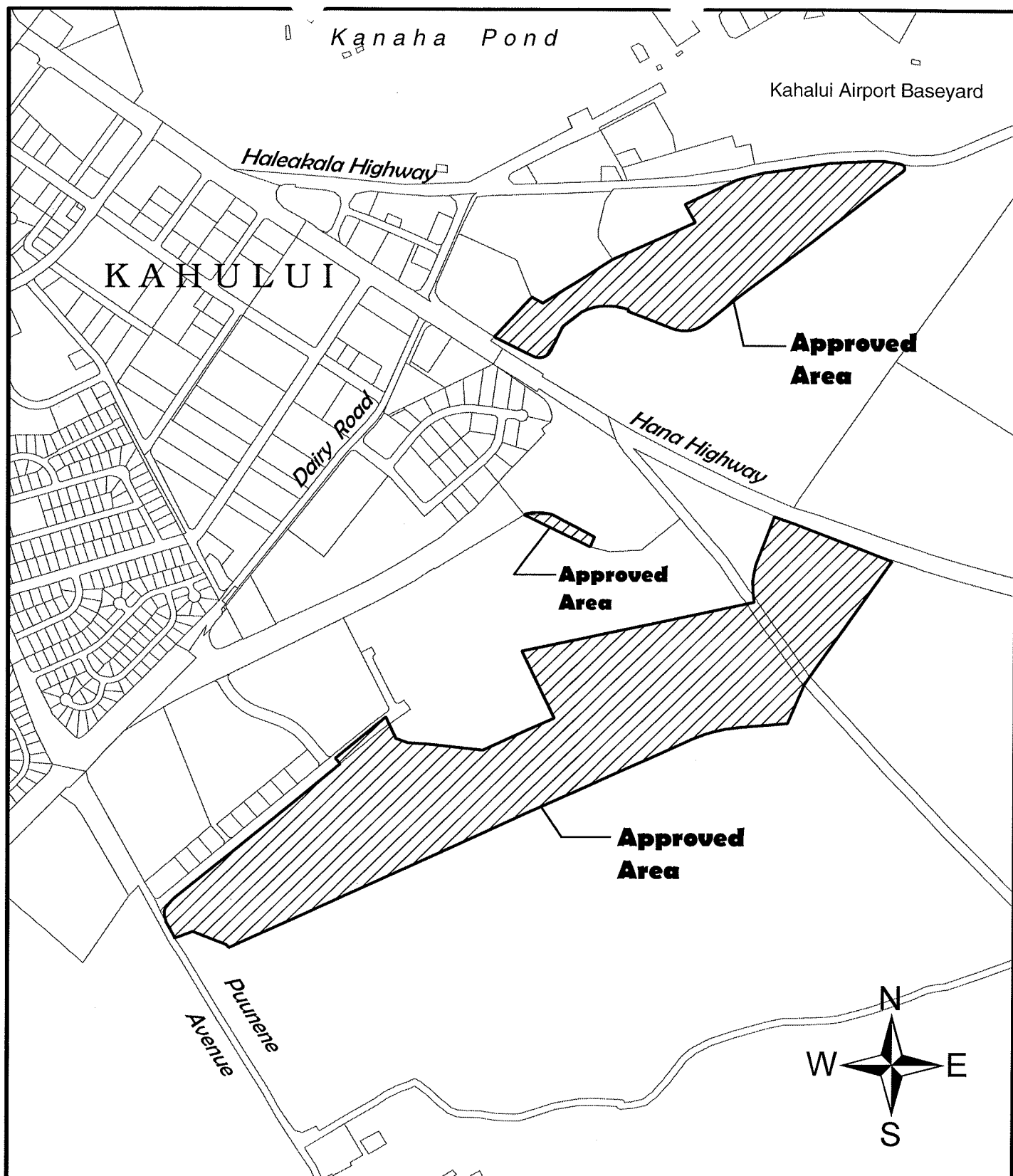
~~RANDALL F. SAKUMOTO~~
~~Commissioner~~

Certified by:

Anthony Chung
ANTHONY CHUNG

By Peter Yukimura

PETER YUKIMURA
Commissioner



A03-739 A&B PROPERTIES, INC.,

A Hawai'i Corporation

Map Location

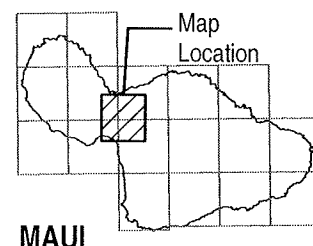
Tax Map Key Nos: 3-8-01: por. 2, 3-8-06: por. 4, &

3-8-79: por. 13

Kahului, Maui, Hawai'i

Scale: 1"=1,000 ft.

EXHIBIT "A"



BEFORE THE LAND USE COMMISSION

OF THE STATE OF HAWAII

In the matter of the Petition)	DOCKET NO. A03-739
)	
of)	CERTIFICATE OF SERVICE
)	
A & B PROPERTIES, INC., A Hawai'i)	
Corporation)	
)	
To Amend the Agricultural Land Use)	
District Boundary into the Urban Land)	
Use District for Approximately 138.158)	
Acres of Land at Kahului, Maui, Hawai'i,)	
Tax Map Key Nos: 3-8-01: Por. 2, 3-8-06:)	
Por. 4, and 3-8-79: Por. 13)	
)	

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 regular or certified mail as noted:

DEL. MARY LOU KOBAYASHI
 Office of Planning
 P. O. Box 2359
 Honolulu, Hawaii 96804-2359

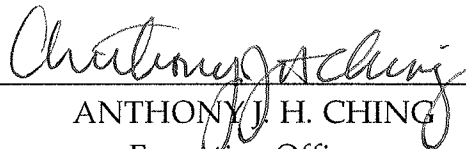
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Dated: Honolulu, Hawaii, MAR 25 2004.



ANTHONY J. H. CHING
Executive Officer