

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the matter of the Petition of)	DOCKET NO. BR93-690
)	
OFFICE OF STATE PLANNING,)	HEARING OFFICER'S
STATE OF HAWAII)	PROPOSED FINDINGS OF
)	FACT, CONCLUSIONS OF
To Amend the Agricultural Land)	LAW, AND DECISION AND
Use District Boundary into the)	ORDER
Conservation Land Use District)	
for Approximately 456 Acres at)	
Olomana, Kailua and Waimanalo)	
Ahupuaa, Koolaupoko, Island of)	
Oahu, State of Hawaii, Tax Map)	
Key Numbers: 4-1-08: por. 13;)	
4-1-10: por. 74 and por. 93; and)	
4-2-06: por. 2)	
)	

HEARING OFFICER'S PROPOSED FINDINGS OF FACT,
CONCLUSIONS OF LAW, AND DECISION AND ORDER

The Office of State Planning, State of Hawaii ("Petitioner"), filed a Petition for Land Use District Boundary Amendment on October 7, 1993, a First Amended Petition on January 18, 1994, and a Second Amended Petition on February 3, 1994, pursuant to sections 205-4 and 205-18, Hawaii Revised Statutes ("HRS"), and chapter 15-15, Hawaii Administrative Rules ("HAR"), to amend the State land use district boundaries by reclassifying approximately 456 acres of land in the Agricultural District situated at Olomana, Koolaupoko, Island of Oahu, State of Hawaii, identified as Tax Map Key Numbers of the First Division: 4-1-8: por. 13, 4-1-10: por. 74 and por. 93, and 4-2-6: por. 2 ("Property"), into the Conservation District.

The duly-appointed Hearing Officer of the Land Use Commission, State of Hawaii, having heard and examined the testimony, evidence and argument of counsel presented during the

hearings; and Petitioner's Proposed Findings of Fact, Conclusions of Law, and Decision and Order, hereby makes the following proposed findings of fact, conclusions of law, and decision and order:

FINDINGS OF FACT

PROCEDURAL MATTERS

1. On October 7, 1993, Petitioner filed a Petition for Land Use District Boundary Amendment ("Petition").

2. On January 18, 1994, Petitioner filed a First Amended Petition which amended the Petition acreage from 503 acres to 491 acres.

3. On January 18, 1994, Petitioner filed a Motion to Waive Requirement for Metes and Bounds Description ("Motion").

4. On February 3, 1994, Petitioner filed a Second Amended Petition which amended the Petition acreage from 491 acres to 456 acres.

5. No petitions for intervention were received by the Commission.

6. On February 3, 1994, a prehearing conference on the Petition was held at Honolulu, Hawaii, with the Hearing Officer and all parties in attendance. At the prehearing conference, the parties exchanged exhibits, exhibit lists, and witness lists.

7. On March 10, 1994, a hearing was held before the duly-appointed Hearing Officer, Benjamin M. Matsubara, Esq. ("Hearing Officer") pursuant to a public notice published in the Honolulu Star-Bulletin on January 14, 1994.

8. The Hearing Officer allowed Andrew Yanoviak to testify as a public witness.

9. On March 10, 1994, the Hearing Officer heard testimony from the parties on Petitioner's Motion. The Hearing Officer granted Petitioner's Motion. (LUC Finding, T. 3/10/94, p. 9, ln 5 - p. 14, ln 10.)

10. On April 5, 1994, an Order Granting Petitioner's Motion to Waive Requirement for Metes and Bounds Description was issued. (LUC Finding)

DESCRIPTION OF THE PROPERTY

General Characteristics

11. The Property consists of approximately 456 acres at Olomana and is comprised of two sections: 1) Petition Area 1a, consisting of approximately 171 acres, situated west of Kalaniana'ole Highway near Kailua; and 2) Petition Area 1b, consisting of approximately 285 acres, situated west of Kalaniana'ole Highway mauka of Waimanalo. (T. 3/10/94. P.7. L.16-24.; Petitioner's Exhibit C. P.3., P.5.; Petitioner's Exhibit 3A; Petitioner's Exhibit 3B Amended; Petitioner's Exhibit 4A; Petitioner's Exhibit 4B Amended)

12. The Property is entirely State-owned. (T. 3/10/94. P.19. L.4-25; P.20. L.1-16.; Petitioner's Exhibit 1. P.5.; Petitioner's Exhibit 2.; Petitioner's Exhibit SA; Petitioner's Exhibit 5B; Petitioner's Exhibit 5C Amended)

13. Petition Area 1a is adjacent to the existing Conservation District on its mauka boundary and extends down to

the 200-foot contour at its lowest point on the northern boundary. The northern boundary is adjacent to the Agricultural District and portions of the eastern boundary are adjacent to the Urban District. (T. 3/10/94. P.10. L.2-8.; P.10. L.15-17.; Petitioner's Exhibit 6A)

14. Petition Area 1b is adjacent to the existing Conservation District on its mauka boundary. The makai boundary generally follows the 200-foot contour and is adjacent to the Agricultural District. (T. 3/10/94. P.11. L.23-25.; P.12. L.1-2.; Petitioner's Exhibit 6A)

15. Petition Area 1a is situated on the northern slopes of Olomana. General slopes are approximately 16 percent and maximum slopes reach up to 50 percent. (T. 3/10/94. P.7. L.18-20.; Petitioner's Exhibit 1. P.11.)

16. Petition Area 1b is situated on the southeast slopes of Olomana above Waimanalo with general slopes of approximately 20 percent and maximum slopes up to 50 percent. (T. 3/10/94. P.7. L.19-21.; Petitioner's Exhibit 1. P.11.)

17. The Property has a mean annual rainfall amount of approximately 1,500 millimeters with January typically being the wettest month and June being the driest. Because of the orographic effect of the Koolau crest, rainfall increases rapidly as elevation increases. (Petitioner's Exhibit 1. P.11.)

18. Northeasterly tradewinds predominate during the period from April through November. During the winter months, warmer southerly winds are more common. The average temperature in

the Property is 75 degrees Fahrenheit. (Petitioner's Exhibit 1. P.11.)

19. The United States Department of Agriculture Soil Conservation Service's Soil Survey of Islands of Kauai, Oahu, Maui, Molokai, and Lanai, State of Hawaii ("SCS Soil Survey") classifies the soils within Petition Area 1a as follows:

- a. Helemano silty clay, 30 to 90 percent slopes (HLMG)
- b. Kaneohe silty clay loam, 30 to 65 percent slopes (KHMF)
- c. Kaneohe silty clay loam, 15 to 30 percent slopes (KHME)
- d. Alaeloa silty clay 15 to 35 percent slopes (AeE).
- e. Alaeloa silty clay, 40 to 70 percent slopes (ALF).
- f. Pohakupu silty clay loam, 8 to 15 percent slopes (PkC).

(Petitioner's Exhibit 1. P.12 through 15.; Petitioner's Exhibit 7A)

20. The SCS Soil Survey indicates that Petition Area 1b consists primarily of the following soil types:

- a. Alaeloa silty clay, 40 to 70 percent slope (ALF).
- b. Lolekaa silty clay, 15 to 25 percent slopes (LoD).
- c. Hanalei stony silty clay, 2 to 6 percent slopes (HoB).
- d. Hanalei silty clay, 2 to 6 percent slopes (HnB).
- e. Helemano silty clay, 30 to 90 percent slopes (HLMG).
- f. Alaeloa silty clay 15 to 35 percent slopes (AeE).

(Petitioner's Exhibit 1. P.15 through 17.; Petitioner's Exhibit 7A)

21. The University of Hawaii Land Study Bureau's Detailed Land Classification - Island of Oahu has given Petition Area 1a agricultural productivity ratings of C, D, and E. The ratings range from a high productivity rating of "A" to the lowest

productivity rating of "E." Petition Area 1b is given a productivity rating of E, indicating it is very poorly suited to agricultural productivity. (Petitioner's Exhibit 1. P.17.)

22. The majority of land in the Property is unclassified by the State Agricultural Lands of Importance to the State of Hawaii (ALISH) system. Small areas in both Petition Area 1a and 1b are classified as "Other Important Agricultural Land," which is defined as land other than "Prime" or "Unique" lands. There are two pockets of "Prime" agricultural land west of Olomana Ridge. (Petitioner's Exhibit C. P.6.; Petitioner's Exhibit 8A.)

23. The Flood Insurance Rate Map indicates that the Property is in an area of undetermined flood hazard (Zone D). (Petitioner's Exhibit 1. P.17.)

Existing Uses

24. Stanley E. Williams Jr. holds a State permit for pasture use on portions of Petition Area 1b. Hawaiian Electric Company maintains electrical lines in portions of Petition Area 1b. The City and County of Honolulu Department of Public Works maintains ditch improvements in Petition Area 1b. The State of Hawaii Office of Youth Services maintains two water tanks of 0.3 mg and 0.1 mg capacity in Petition Area 1a as well as some pasture use. There is also a dirt road leading to the water tanks. Other than these uses, the Petition Area is vacant and remains in its natural state. (T. 3/10/94. P.20. L.23-25.; Petitioner's Exhibit 9. P.9.)

PROPOSAL FOR RECLASSIFICATION

25. The Petition is based on a recommendation made by Petitioner in the report entitled State Land Use District Boundary Review, Oahu ("Boundary Review Report") prepared as part of the Five Year Boundary Review conducted by Petitioner. The Boundary Review Report recommends that the Property be reclassified to the Conservation District for protection of significant scenic resources. The proposed reclassification is a Priority 1 recommendation. (T. 3/10/94. P.16. L.20-25.; P.17. L.1-4.; Petitioner's Exhibit 1. P.1.; Petitioner's Exhibit 9. P.1.)

26. The purpose of the Five-Year Boundary Review was to conduct a comprehensive, statewide evaluation of State Land Use Districts. Based on this evaluation, certain areas currently outside of the Conservation District but containing conservation resources as defined in section 205-2(e), HRS, have been recommended for reclassification to the Conservation District. (Petitioner's Exhibit 9. P.1.)

27. The Petition involves the reclassification of State-owned lands and privately owned lands abutting the Property are not affected by the Petition. (LUC Finding)

28. The Office of Youth Services is planning to develop a water pipeline beginning in mid-1994. Portions of this pipeline would fall within the Property. This use would be allowed pursuant to Act 151, SLH 1991. In addition, replacement of the Office of Youth Services' water tanks may be needed at some future time.

There are no other known plans for future uses of the Property. (T. 3/10/94. P.20. L.23-25.; Petitioner's Exhibit 9. P.9 through 10.)

29. Existing uses of the Property will be allowed to continue as non-conforming uses pursuant to section 183-41(b), HRS, and Title 13, chapter 2, HAR. (T. 3/10/94. P.21. L.5-8.; Petitioner's Exhibit C. P.7.; Petitioner's Exhibit 9. P.9.)

PETITIONER'S FINANCIAL CAPABILITY
TO UNDERTAKE THE PROPOSED DEVELOPMENT

30. Pursuant to section 15-15-50(c)(8), HAR, Petitioner is a State agency and is not required to demonstrate financial capability. Moreover, no development of the Property other than the proposed water pipeline and possible replacement of water tanks by the Office of Youth Services is being proposed. (T. 3/10/94. P.27. L.18-20.; Petitioner's Exhibit C. P.7 through 8.)

STATE AND COUNTY PLANS AND PROGRAMS

31. The Property is located within the State Land Use Agricultural District as shown on the Commission's Official Maps, O-14 (Mokapu) and O-15 (Koko Head). (Petitioner's Exhibit 1. P.10.; Petitioner's Exhibit 9. P.11.)

32. Petitioner published the Boundary Review Report in 1992. The reclassification of the Property to the Conservation District is supported by this report. (T. 3/10/94. P.16. L.20-25.; P.17. L.1-4.; Petitioner's Exhibit 1. P.1.; Petitioner's Exhibit 9. P.1.)

33. The Property differs from the area recommended for reclassification in the Boundary Review Report due to slight adjustments made to the Property boundaries pursuant to the First

and Second Amended Petitions. (LUC Finding; T. 3/10/94, p. 17, lns 5-14)

34. The City and County of Honolulu designates Petition Area 1a as Public and Quasi-Public on the Koolaupoko Development Plan map. Petition Area 1b is designated Agricultural. (T. 3/10/94. P.26. L.14-17.; Petitioner's Exhibit C. P.9 through 10.; Petitioner's Exhibit 1. P.10.; Petitioner's Exhibit 9. P.22.)

35. The City and County of Honolulu has zoned the Property as AG-2. (Petitioner's Exhibit C. P.10.; Petitioner's Exhibit 1. P.10 through 11.; Petitioner's Exhibit 9. P.23.)

36. The Property does not lie within the Special Management Area as defined by the City and County of Honolulu. (Petitioner's Exhibit 1. P.32.)

NEED FOR THE PROPOSED RECLASSIFICATION

37. The Property is a vital component of the overall vista of Olomana. From most vantage points, the view of the well-known peak of Olomana is also a view of the Property. Development on the Property, therefore, would negatively impact upon all of Olomana, including those upper portions already in the Conservation District. Reclassification of the Property from the Agricultural District to the Conservation District is important to protect the quality of this significant scenic resource. (T. 3/10/94. P.17. L.23-25.; P.18. L.1-6.; Petitioner's Exhibit 1. P.1 through 3., 39.; Petitioner's Exhibit 9. P.11.)

ECONOMIC IMPACTS

38. The visitor industry is the State's leading industry and relies on Hawaii's scenic beauty and visual resources. The proposed reclassification will help to preserve the visual integrity of Olomana and in doing so protect the qualities that visitors come to Hawaii to enjoy. (Petitioner's Exhibit 1. P.24.; Petitioner's Exhibit 9. P.12.)

39. No economic activities will be displaced as a result of the Petition. Because the Petition requests reclassification to the Conservation District, the reclassification will not result in an increase in employment opportunities or economic development. (T. 3/10/94. P.21. L.5-8.; Petitioner's Exhibit 1. P.24., P. 27 through 28.)

SOCIAL IMPACTS

40. Reclassification of the Property will benefit society by protecting a valuable natural resource. (T. 3/10/94. P.17. L.15-22.; Petitioner's Exhibit 1. P.28.)

IMPACTS UPON RESOURCES OF THE AREA

Agricultural Resources

41. The soils of the Property are generally not suitable for agricultural production. Existing pasture uses will be allowed to continue as non-conforming uses. (Petitioner's Exhibit 1. P.23.; Petitioner's Exhibit C. P.7.; Petitioner's Exhibit 9. P.9., P.13.)

Floral and Fauna

42. The Petitioner reviewed The Nature Conservancy's Hawaii Heritage Program (HHP) database to determine the presence of rare or endangered plants and animals. Based on the Petitioner's review of the HHP database, no rare or endangered plant species are suspected to occur in the area.

The HHP database does identify the Federal and State endangered Hawaiian Hoary bat as occurring in the vicinity of Petition Area 1a. The Hawaiian Duck and Gallinule, which are also listed as endangered, have been identified in Petition Area 1b. (Petitioner's Exhibit 1. P.20.: Petitioner's Exhibit 9. P.13.)

43. The Property's flora and fauna populations will benefit from being placed into the Conservation District. Many of the threats to their habitats, including grading, urban developments, and pollution, will be greatly diminished in the Conservation District. (Petitioner's Exhibit 1. P.22 through 23.; Petitioner's Exhibit 9. P.13.)

Archaeological/Historical Resources

44. Much of the Property has not been surveyed for archaeological resources. The State Historic Preservation Division has identified one site (Site 372) as Kukuipilau Heiau. This site is not in good condition as most walls have collapsed and only a few facings are intact. (Petitioner's Exhibit 1. P.21.; Petitioner's Exhibit 9. P.14.)

45. The significance criteria used by the State Historic Preservation Division that apply to this site are: 1) the site has

yielded, or is likely to yield, information important for research on prehistory or history; and 2) the site has important traditional cultural value to an ethnic group of the State. (Petitioner's Exhibit 1. P.22; Petitioner's Exhibit 9. P.14.)

46. Reclassification of the Property into the Conservation District will protect this and any other undiscovered sites from urban encroachment. (Petitioner's Exhibit 1. P.24.; Petitioner's Exhibit 9. P.14.)

Ground Water Resources

47. The Property falls within the Windward Aquifer Sector, Waimanalo system. This aquifer type is high level (fresh water not in contact with seawater), unconfined (the water table is the upper surface of the saturated aquifer), and occurs in dike compartments. (Petitioner's Exhibit 1. P.19.; Petitioner's Exhibit 9. P.14.)

48. Much of the rainfall in Windward Oahu filters through the surface to become groundwater. The primary means for protecting groundwater from pollution is the Underground Injection Control (UIC) program, Title 11, Hawaii Administrative Rules. The UIC governs the location, construction, and operation of injection wells. No wells in the vicinity of the Property are known to be contaminated.

(Petitioner's Exhibit 1. P.19.; Petitioner's Exhibit 9. P.14 through 15.)

49. The proposed action will reduce the risk of groundwater contamination by restricting the types of uses allowed

on the Property. (Petitioner's Exhibit 1. P.19.; Petitioner's Exhibit 9. P.15.)

Recreational Facilities

50. Recreational resources in the vicinity of the subject area include Maunawili Playground, Maunawili Elementary School, Pohakupu Park, Kailua High School, and Waimanalo District Park. (Petitioner's Exhibit 1. P.23.; Petitioner's Exhibit 9. P.15.)

51. The State Recreation Functional Plan recommends extending the Koolaupoko Trail from Waimanalo to Kaneohe beginning with the Maunawili segment. DLNR's Na Ala Hele Program is also working to develop horse trails in the area. (Petitioner's Exhibit 1. P.23.; Petitioner's Exhibit 9. P.15.)

52. The Functional Plan recommends that public access be increased to Olomana and Maunawili Falls and to Bellows Beach. (Petitioner's Exhibit 1. P.23.; Petitioner's Exhibit 9. P.15.)

53. The proposed reclassification would have minimal, if any, impact on recreational resources. (Petitioner's Exhibit 9. P.15.)

Scenic Resources

54. The basis of the Petition is protection of the scenic resources of Olomana. Reclassification of the Property to the Conservation District would favorably impact upon the Property's scenic resources. (T. 3/10/94. P.17. L.15-22.; Petitioner's Exhibit 9. P.16.)

55. Olomana has been described in the Coastal View Study as being a part of the Waimanalo Viewshed because of its orientation with Kalaniana'ole Highway as viewed from the south. Viewed from this angle, Olomana is an integral component of the coastal setting. (T. 3/10/94. P.17. L.25.; P.18. L.1-6.; Petitioner's Exhibit 1. P.2.; Petitioner's Exhibit 9. P.16.)

56. Olomana is visible from several other key points in Windward Oahu. From the north, Olomana becomes visible immediately after exiting the Wilson Tunnel traveling in the Kaneohe direction. Through breaks in the vegetation, the peak can be viewed along Likelike Highway down to around the Castle Hills subdivision. (Petitioner's Exhibit 1. P.2.; Petitioner's Exhibit 9. P.16.)

57. A good point for viewing Petition Area 1a is south along Kalaniana'ole Highway just past the Castle junction. From the highway, motorists can see the subject area as a backdrop to the Women's Community Correctional Center. Further south along Kalaniana'ole Highway Petition Area 1b becomes visible. Waimanalo Ridge is clearly visible from the Olomana Golf Course and the Bluffs subdivision. (T. 3/10/94. P.17. L.25.; P.18. L.1-6.; Petitioner's Exhibit 1. P.2 through 3.; Petitioner's Exhibit 9. P.16.)

Cultural Resources

58. Most of the Property has not been surveyed for historical/archaeological resources. Reclassification will have a positive impact on cultural resources by minimizing possible disturbances to any historic and archaeological sites.

(Petitioner's Exhibit 1. P.21., P.24.; Petitioner's Exhibit 9. P.16 through 17.)

ENVIRONMENTAL QUALITY

Noise and Air

59. The Property is exposed to low noise levels. Noise in the vicinity of the property is primarily attributable to traffic on Kalaniana'ole Highway. (Petitioner's Exhibit 1. P.22.; Petitioner's Exhibit 9. P.17.)

60. Air quality in the vicinity of the Property is generally good. Automobile emissions are a potential source of air pollution, although tradewinds typically prevent these sources from significantly affecting air quality. (Petitioner's Exhibit 1. P.21.; Petitioner's Exhibit 9. P.17.)

Water Quality

61. Reclassification of the Property to the Conservation District will have a positive effect on the Property's hydrological conditions because urban development, which often accelerates runoff and erosion, will be restricted. The risk of groundwater contamination from residential or other urban uses is also greatly reduced for lands in the Conservation District. (Petitioner's Exhibit 1. P.22.; Petitioner's Exhibit 9. P.17.)

ADEQUACY OF PUBLIC SERVICES AND FACILITIES

62. The Petition does not propose any new uses for the Property. (T. 3/10/94. P.27. L.18-20.; Petitioner's Exhibit C. P.7.; Petitioner's Exhibit 9. P.17.)

63. The availability or adequacy of public services and facilities such as schools, sewers, parks, water, sanitation, drainage, roads, and police and fire protection will not be affected by the Petition. (Petitioner's Exhibit 1. P.27.; Petitioner's Exhibit 9. P.17 through 18.)

COMMITMENT OF STATE FUNDS AND RESOURCES

64. No significant long term commitment of State funds or resources is involved. The availability or adequacy of public services and facilities such as schools, sewers, parks, water, sanitation, drainage, roads, and police and fire protection will not be affected or unreasonably burdened by the proposed reclassification of the Property from the Agricultural District to the Conservation District. The public agency which would be impacted is the Department of Land and Natural Resources ("DLNR") since additional effort may be required to administer and enforce regulations in the newly added Conservation District lands. (T. 3/10/94. P.22. L.23-25.; P.23. L.1-17.; Petitioner's Exhibit 1. P.27.)

CONFORMANCE TO CONSERVATION DISTRICT STANDARDS

65. Both Petition Area 1a and Petition Area 1b are contiguous to the existing Conservation District. (T. 3/10/94. P.10. L.15-17.; P.11. L.23-25.; P.12. L.1-2.; Petitioner's Exhibit C. P.4 through 5.; Petitioner's Exhibit 1. P.3 through 5.; Petitioner's Exhibit 6A; Petitioner's Exhibit 9. P.2.)

66. Section 205-2(e), HRS, states that Conservation Districts shall include areas necessary for:

"...preserving scenic and historic areas...; open space areas whose existing openness, natural condition, or present state of use, if retained, would enhance the present or potential value of abutting or surrounding communities, or would maintain or enhance the conservation of natural or scenic resources..."

The Property is part of a significant scenic resource, contributing to the quality of life for both visitors and residents. (T. 3/10/94. P.17. L.15-22.; Petitioner's Exhibit 1. P.24 through 25.; Petitioner's Exhibit 9. P.18.)

67. Reclassification is in conformance with the following standards of the Conservation District set forth in Section 15-15-20, HAR:

Section 15-15-20 (4): It shall include lands necessary for the conservation, preservation, and enhancement of scenic, cultural, historic or archaeological sites and sites of unique physiographic or ecologic significance...

Section 15-15-20 (7): It shall include lands with topography, soils, climate, or other related environmental factors that may not be normally adaptable or presently needed for urban, rural, or agricultural use...

Section 15-15-20 (8): It shall include lands with a general slope of twenty percent or more which provide for open space amenities or scenic values... (T. 3/10/94. P.17. L.15-22.; Petitioner's Exhibit 1. P.25.; Petitioner's Exhibit 9. P.18 through 19.)

68. The Property includes lands necessary for the conservation and preservation of scenic Olomana. The topography, soils, and scenic value of the Property make it not normally adaptable for urban, rural, or agricultural use. (T. 3/10/94. P.18. L.19-20.; Petitioner's Exhibit 1. P.25.)

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

69. The proposed reclassification of the Property is generally consistent with the following objectives and policies of the Hawaii State Plan:

Section 226-11, HRS: Objectives and policies for the physical environment--land based, shoreline, and marine resources.

Section 226-11(a)(2), HRS: Effective protection of Hawaii's unique and fragile environmental resources.

Section 226-11(b)(1), HRS: Exercise an overall conservation ethic in the use of Hawaii's natural resources.

Section 226-12, HRS: Objectives and policies for the physical environment--scenic, natural beauty, and historic resources.

Section 226-12(a), HRS: Planning for the State's physical environment shall be directed towards achievement of the objective of enhancement of Hawaii's scenic assets, natural beauty, and multi-cultural/historical resources.

Section 226-12(b)(1), HRS: Promote the preservation and restoration of significant natural and historic resources.

Section 226-12(b)(3), HRS: Promote the preservation of views and vistas to enhance the visual and aesthetic enjoyment of mountains, ocean, scenic landscapes, and other natural features.

Section 226-12(b)(4), HRS: Protect those special areas, structures, and elements that are an integral and functional part of Hawaii's ethnic and cultural heritage.

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

Section 226-13(a)(2), HRS: (Objective) Greater public awareness and appreciation of Hawaii's environmental resources.

Section 226-13(b)(2), HRS: Promote the proper management of Hawaii's land and water resources.

Section 226-13(b)(8), HRS: Foster recognition of the importance and value of the land, air, and water resources to Hawaii's people, their cultures, and visitors. (T. 3/10/94.

P.18. L.7-10.; Petitioner's Exhibit 1. P.28 through 30.;
Petitioner's Exhibit 9. P.19 through 20.)

70. The proposed reclassification of the Property is generally consistent with the following priority guidelines of the Hawaii State Plan:

Section 226-104(b)(9), HRS: 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)(10), HRS: Identify critical environmental areas in Hawaii to include but not be limited to the following: ...open space and natural areas; and scenic resources.

Section 226-104(b)(12), HRS: Utilize Hawaii'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.

Section 226-104(b)(13), HRS: Protect and enhance Hawaii's shoreline, open spaces, and scenic resources.

(T. 3/10/94. P.18. L.7-10.; Petitioner's Exhibit 1. P.30 through 31.; Petitioner's Exhibit 9. P.20.)

71. The proposed reclassification of the Property is generally consistent with the following objective of the State Recreation Functional Plan:

Objective IV-A: Promote a conservation ethic in the use of Hawaii's recreational resources.

(Petitioner's Exhibit 1. P.31.; Petitioner's Exhibit 9. P.20 through 21.)

CONFORMANCE WITH COASTAL ZONE MANAGEMENT
OBJECTIVES AND POLICIES

72. The proposed reclassification of the Property will have a beneficial impact upon coastal resources by retaining the

Property in its natural vegetative state. (Petitioner's Exhibit 9. P.21.)

73. The Petition is in conformance with the following objectives and policies of the Coastal Zone Management Program:

Section 205A-2(b)(3), HRS: Scenic and open space resources;

(A) Protect, preserve, and, where desirable, restore or improve the quality of coastal scenic and open space resources.

Section 205A-2(c)(3), HRS: Scenic and open space resources;

(A) Identify valued scenic resources in the coastal zone management area.

(Petitioner's Exhibit 1. P.32.; Petitioner's Exhibit 9. P.21.)

RULING ON PROPOSED FINDINGS OF FACT

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

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

CONCLUSIONS OF LAW

Pursuant to chapter 205, HRS, and the Hawaii Land Use Commission Rules under chapter 15-15, HAR, and upon consideration of the Land Use Commission decision-making criteria under section

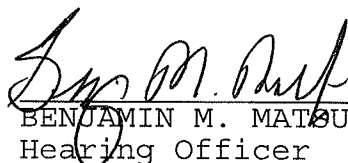
205-17, HRS, this Commission finds upon a clear preponderance of the evidence that the reclassification of the Property consisting of approximately 456 acres of land in the Agricultural District situated at Olomana, Koolaupoko, Island of Oahu, State of Hawaii, identified as Tax Map Key Nos. 4-1-8: por. 13, 4-1-10: por. 74 and por. 93, and 4-2-6: por. 2 into the Conservation District is reasonable, nonviolative of section 205-2, HRS, and is consistent with the Hawaii State Plan set forth in chapter 226, HRS.

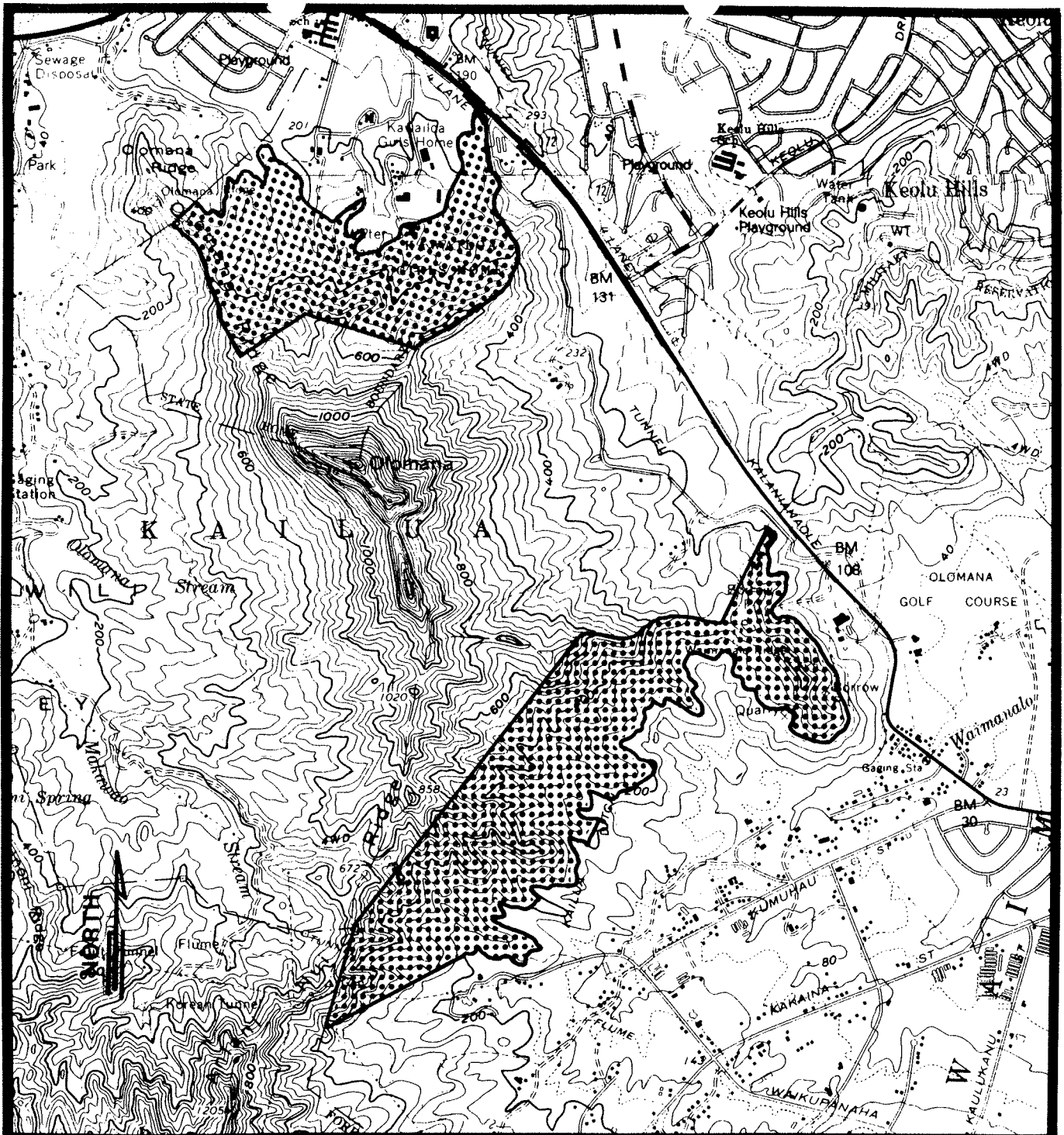
PROPOSED ORDER

IT IS HEREBY ORDERED that the Property, being the subject of this Docket No. BR93-690 by Petitioner Office of State Planning, State of Hawaii, consisting of approximately 456 acres of land in the Agricultural District situated at Olomana, Koolaupoko, Island of Oahu, State of Hawaii, identified as Tax Map Key Nos. 4-1-8: por. 13, 4-1-10: por. 74 and por. 93, and 4-2-6: por. 2, and approximately shown on Exhibit "A" attached hereto and incorporated by reference herein, is hereby reclassified into the State Land Use Conservation District, and that the State Land Use District Boundaries are amended accordingly, subject to the following condition:

Petitioner shall ensure that the Property is placed into the proper Conservation District Subzone by working with the Department of Land and Natural Resources in their determination of the proposed subzone.

Dated: Honolulu, Hawaii this 26th day of April 1994.


BENJAMIN M. MATSUBARA
Hearing Officer



LOCATION MAP

BR93-690 / OFFICE OF STATE PLANNING,
STATE OF HAWAII

T.M.K. : 4-1-08: por. 13, 4-1-10: por. 74, por. 93,
& 4-2-06: por. 2

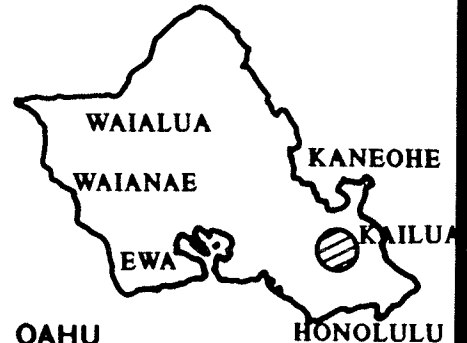
OLOMANA, KAILUA-WAIMANALO, KOOLAUPOKO, OAHU

SCALE: 1" = 2,000 ft. ±



APPROVED AREA

KAHUKU



OAHU

HONOLULU

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of) DOCKET NO. BR93-690
)
OFFICE OF STATE PLANNING,) CERTIFICATE OF SERVICE
STATE OF HAWAII)
)
To Amend the Agricultural Land)
Use District Boundary into the)
Conservation Land Use District)
for Approximately 456 Acres at)
Olomana, Kailua and Waimanalo)
Ahupuaa, Koolaupoko, Island of)
Oahu, State of Hawaii, Tax Map)
Key Numbers: 4-1-08: por. 13;)
4-1-10: por. 74 and por. 93; and)
4-2-06: por. 2)
_____)

CERTIFICATE OF SERVICE

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

HAROLD S. MASUMOTO, Director
Office of State Planning
State of Hawaii
P.O. Box 3540
Honolulu, Hawaii 96811-3540
Attention: Ms. Mary Lou Kobayashi

RICK J. EICHOR, ESQ.
Department of the Attorney General
State of Hawaii
425 Queen Street
Honolulu, Hawaii 96813

ROBIN FOSTER, Chief Planning Officer
Planning Department
City and County of Honolulu
650 South King Street
Honolulu, Hawaii 96813

DATED: Honolulu, Hawaii, this 26th day of April 1994.

A handwritten signature in cursive script, appearing to read "Ben M. Matsubara", written in black ink.

BENJAMIN M. MATSUBARA, ESQ.
Hearing Officer