

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of)	DOCKET NO. A84-585
MAUI ECONOMIC DEVELOPMENT BOARD,)	
INC.)	MAUI ECONOMIC DEVELOPMENT
)	BOARD, INC.
To Reclassify Approximately 300)	
Acres of Land Currently in the)	
Agricultural District into the)	
Urban District at Kihei, Maui,)	
Hawaii, Tax Map Key: 2-2-02:)	
Portion of Parcel 42)	
_____)	

FINDINGS OF FACT,
CONCLUSIONS OF LAW AND
DECISION AND ORDER

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of)	DOCKET NO. A84-585
MAUI ECONOMIC DEVELOPMENT BOARD,)	
INC.)	MAUI ECONOMIC DEVELOPMENT
)	BOARD, INC.
To Reclassify Approximately 300)	
Acres of Land Currently in the)	
Agricultural District into the)	
Urban District at Kihei, Maui,)	
Hawaii, Tax Map Key: 2-2-02:)	
Portion of Parcel 42)	
_____)	

FINDINGS OF FACT,
CONCLUSIONS OF LAW AND
DECISION AND ORDER

MAUI ECONOMIC DEVELOPMENT BOARD, INC., a Hawaii non-profit corporation, (hereinafter "Petitioner"), filed this petition on November 9, 1984, pursuant to Chapter 205, Hawaii Revised Statutes, and the Rules of Practice and Procedure and District Regulations of the Land Use Commission, State of Hawaii, to amend the land use district boundaries for approximately 300 acres of land, Maui Tax Map Key 2-2-02: portion of parcel 42, (hereinafter the "Property") situate at Kihei, Island and County of Maui, State of Hawaii, from the Agricultural District to the Urban District. The Land Use Commission (hereinafter the "Commission"), having heard the evidence presented on this matter and having considered the full record as presented in Docket No. A84-585, hereby makes the following Findings of Fact, Conclusions of Law and Decision and Order:

FINDINGS OF FACT

PROCEDURAL HISTORY

1. The Commission conducted the hearing on this petition on January 30, 1985, pursuant to notices published in the Maui News and Honolulu Advertiser on December 28, 1984.

2. The Commission permitted Wayne Hedani and Gregory Kauwe to testify as public witnesses on January 30, 1985.

DESCRIPTION OF THE PROPERTY

3. The Property is situate at Waiohuli and Keokea, Kihei, Maui, and more specifically, east (mauka) of Piilani Highway, and north of the existing Kihei sewage treatment plant. The Property abuts Waipuilani Gulch on its northern side and Keokea Gulch on its southern boundary.

4. The Property is presently undeveloped and used for cattle grazing by its fee owner, Haleakala Ranch Company.

5. On November 9, 1984, Petitioner entered into an option agreement with Haleakala Ranch Company to purchase the Property, and Petitioner has negotiated a development agreement with Arroyo Development Corporation, a California corporation authorized to do business in Hawaii, on November 7, 1984, to develop and purchase the Property from Petitioner.

6. The property slopes to the west at a rate of approximately five percent. Elevation ranges between 100 and 200 feet above sea level.

7. The average annual rainfall for the Kihei area is 13.8 inches.

8. The United States Department of Agriculture (USDA) Soil Conservation Service Soil Survey classifies soils of the Property as Waiakoa extremely stony silty clay loam, 3 to 25 percent slopes, eroded (WID2).

The Waiakoa series consists of well-drained soils and occur on the uplands of the Island of Maui. Waiakoa extremely stony silty clay loam, 3 to 25 percent slopes, eroded, exhibits medium runoff and severe erosion hazard. In most areas 50 percent of the surface layer has been removed by erosion. These soils are used for pasture and wildlife habitat.

The USDA Soil Conservation Service Soil Survey classifies the soil's capability as "VIIIs" indicating that these soils have very severe limitations that reduce the choice of plants, require very careful management, or both.

9. The University of Hawaii Land Study Bureau's Detailed Land Classification report for the Island of Maui classifies the Property as class "E", indicating that lands are very poor for agricultural use.

10. The Property is not classified under the State Department of Agriculture's Agricultural Lands of Importance to the State of Hawaii (ALISH) classification system.

11. The Federal Insurance Administration's Flood Insurance Study for the Island of Maui designates the Property as "Zone C", an area of minimal flooding.

PROPOSAL FOR DEVELOPMENT

12. Petitioner proposes to develop a 300-acre Research and Technology Park (hereinafter the "Park") in two increments of 150 acres each on the Property. Each increment will include access roads, water, sewer and electrical services and consist approximately of 25 lots sized between 2 and 10 acres.

13. Petitioner proposes to sell to Arroyo Development Corporation (hereinafter "Arroyo") all of the initial 150 acres of the Property to be developed in the first phase. Arroyo will in turn proceed with the subdivision of the Property.

Petitioner will cause Arroyo to either sell in fee or lease lots to businesses engaged in technology and research activities or engaged in necessary support activities.

14. Petitioner proposes to develop the Park as a low-rise, low density facility, including extensive landscaping to create an attractive campus-like setting.

15. Petitioner will exercise control of the proposed Park by establishing design guidelines, standards for the subdivision, monitoring Arroyo or any subsequent developers of the Property, in the development and sale of lots, and by monitoring subsequent owners in construction and operation of their businesses in the Park.

16. Petitioner will implement and record these controls as covenants, conditions and restrictions that run with the Property to ensure that design and quality standards are met by Arroyo and the purchasers of the individual lots.

17. Petitioner projects construction of the First Increment to start in 1985 and be completed by 1986. Petitioner anticipates that both Increments would be developed within a 10 to 15 year period.

18. The Petitioner estimates cost for the development, to be assumed by Arroyo, will be \$9,531,643 for the First Increment and \$8,128,846 for the Second Increment in 1984 dollars as follows:

Cost Breakdown for
Proposed Development

<u>Description</u>	<u>First Increment</u>	<u>Second Increment</u>
<u>Onsite</u>		
General Site Work	\$2,086,800	\$2,058,300
Roadway	1,563,550	1,646,600
Drainage	531,750	600,100
Water	1,114,980	1,123,960
Sewer	557,500	561,000
Electrical, Telephone	-	-
CATV (Community Antenna Television)	912,000	768,000
Landscaping (Entry Road Only)	140,000	100,000
	<hr/>	<hr/>
SUBTOTAL (Onsite)	\$6,906,580	\$6,857,960
 <u>Offsite</u>		
Roadway	-	\$ 318,400
Water	\$1,560,150	-
Sewer	198,400	213,500
	<hr/>	<hr/>
SUBTOTAL (Offsite)	\$1,758,550	\$ 531,900
	<hr/>	<hr/>
TOTAL	\$8,665,130	\$7,389,860
10% Contingency	866,513	738,986
	<hr/>	<hr/>
TOTAL INCLUDING CONTINGENCY	\$9,531,643	\$8,128,846

PETITIONER'S FINANCIAL CAPABILITY TO UNDERTAKE THE
PROPOSED DEVELOPMENT

19. Petitioner is a Hawaii non-profit corporation whose role is to act as the catalyst for the development of the Park. Actual development of the Park and development costs will be assumed by Arroyo.

20. Petitioner, through its developer selection process, verified with the Bank of Hawaii that Arroyo is financially capable of carrying out the proposed project. Furthermore, petitioner will cause Arroyo, under its development agreement, to bond the infrastructure for the First Increment.

STATE AND COUNTY PLANS AND PROGRAMS

21. The Property is classified as Agricultural on the State Land Use District Map and will abut, on its western boundary, urban land recently approved for a golf course under Land Use Commission Docket No. A84-576 - Haleakala Greens Corp.

22. The County of Maui, in its Kihei General Plan map adopted on December 5, 1975, presently designates the Property as Agriculture. The proposed Kihei-Makena Community Plan designates the Property as Project District 6 (R&TP).

Maui County zoning of the Property is Agriculture with a 2-acre minimum lot size. Development of the Park will require adoption of an appropriate amendment to the County Zoning Ordinance. The Maui County Council is presently reviewing a draft ordinance for the Park which includes performance standards and regulations for permitted uses.

23. The Property is not situate in the County Special Management Area.

NEED FOR THE PROPOSED DEVELOPMENT

24. The State Department of Planning and Economic Development (DPED), in its Hawaii High Technology Development Plan, (HTDP), estimates that the international high technology market will grow from the current \$800 million level to \$6 billion by 1990.

Maui's economy is based on the pineapple, sugar and the tourism industries. Because pineapple and sugar industries in Hawaii have been declining in recent years, there is a need to diversify the County's economy in order to provide a more stable economic base.

25. DPED, in its report "Expanding Hawaii's Electronic Industry", estimates that 1,000 jobs and \$50 million in annual sales revenues could be generated in the local electronics industry within the next five years. Of these 1,000 jobs, approximately 700 would be for engineers, skilled assemblers and technicians.

26. The Hawaii High Technology Development Corporation (HTDC), established by the State Legislature in 1983, encourages the growth of high technology industry throughout the State and at the proposed development location on the Property.

IMPACT UPON RESOURCES OF THE AREA

27. Agricultural Resources. Petitioner does not anticipate that the reclassification of the Property will have significant adverse effects upon agricultural activities or

resources of the area. The state Department of Agriculture indicates that there is no known productive agricultural uses of the Property, and that the Property does not meet the generally understood definitions of important agricultural land.

28. Historical/Archaeological Resources. The State Department of Land and Natural Resources (DLNR), by letter dated October 17, 1984, indicated to Petitioner that the proposed development does not occur on historic properties that are listed on the Hawaii Register or the National Register of Historic Places, or that have been determined eligible for inclusion on the National Register of Historic Places. However, the DLNR indicated that there is a good probability that cultural resources relating to the State's prehistory may be present and unrecorded.

Petitioner will conduct an archaeological reconnaissance survey of the Property prior to the start of any construction activity and submit a copy of the survey to the DLNR for review and comment.

29. Flora and Fauna. Petitioner does not believe the proposed development will significantly adversely impact any rare or endangered flora and fauna. Environment Impact Study Corporation conducted a survey of Haleakala Ranch properties adjacent to Kihei School and makai of Piilani Highway and found the primary vegetation type to be grassland scattered with Kiawe. The same survey found the following fauna: barred dove, northern cardinal, mynah, house sparrow, Japanese white-

eye, spotted munia, dog, cat, mongoose, and mice. No rare or endangered birds or mammals were observed.

30. Visual. Petitioner believes that any visual impact from the Park would be mitigated by the proposed golf course of Haleakala Greens Corp. along the highway.

31. Air Quality. Petitioner expects air quality at the Property to be reduced due to an increase in vehicular traffic to the area. Pollutants from the Park users would be controlled by careful screening of potential users by Petitioner.

32. Noise. Petitioner anticipates an increase in noise level at the Property due to more vehicular traffic and user activity in the Park. Petitioner does not expect the noise increase to be a significant adverse impact on existing nearby urban uses because the proposed golf course and park landscaping will act as a buffer.

ADEQUACY OF PUBLIC SERVICES AND FACILITIES

33. Water. Petitioner estimates the proposed Park will have an average water demand of 635,000 gallons per day (GPD) and a maximum daily water demand of 950,000 GPD for potable and landscaped irrigation use.

Petitioner proposes to use the Central Maui Water System with a source capacity of about 8.5 million GPD in providing potable water source to the proposed development.

34. Petitioner proposes to use sewage effluent from the Kihei Sewage Treatment Plant (STP) to irrigate the landscaped areas which will reduce maximum daily water usage by 400,000

gallons.

The State Department of Health indicates the use of treated effluent from the Kihei Sewage Treatment Plant for landscape irrigation may pose a health risk to surrounding residents.

Petitioner will comply with all State Department of Health and Environmental Protection Agency regulations applicable to the use of treated secondary sewage effluent for irrigation.

35. Petitioner proposes to develop a new 1.0 million GPD storage reservoir located above existing reservoirs in Kihei to be connected to the Central Maui transmission line if effluent is not used for irrigation.

Petitioner will secure the required approvals from the County Department of Water Supply and pay for all charges in providing water to the proposed development.

36. Sewage Treatment and Disposal. Petitioner estimates the proposed Park will generate approximately 210,000 GPD of wastewater to be disposed of by the Kihei STP, located south of the Property. The Kihei STP has a design capacity of 4.0 million GPD with current flows fluctuating between 2.1 and 3.3 million GPD.

37. Solid and Industrial Waste Disposal. Solid and industrial wastes from the proposed R&TP will be collected by private disposal firms and disposed at the County sanitary landfill at Waikapu, located approximately 11 miles north of the Property. Petitioner will cause the disposal of industrial

wastes to comply with Federal and State approved disposal methods.

38. Drainage. Petitioner states that runoff from lands east (mauka) of the proposed Park sheet flows across the Property and is conveyed across Piilani Highway through drainage culverts ranging between 54 to 90 inches in diameter.

Petitioner will ensure the amount of runoff from the proposed Park will not be greater than the existing volume from contributory flows into the coastal lowlands and flood plain by constructing retention basins to contain and control the rate of runoff, landscape to increase the percolation and absorption rate, and use subsurface retention systems consisting of large diameter perforated pipes buried under parking lots or open spaces in each lot.

39. Roadway and Highway Services and Facilities. Petitioner will provide access to the proposed Park from Piilani Highway at Lipoa Street and from a location three-fourths of a mile south of Lipoa Street. The Lipoa Street main entry road will be a 100 foot wide divided highway with a landscaped median strip and appropriate turn lanes. The second access road would be approximately 60 feet wide.

40. Warren S. Unemori Engineering, in its traffic impact report for the proposed development, concluded that traffic generated by the proposed project will not adversely impact the traffic capacity of Piilani Highway.

41. Petitioner will or will cause developer Arroyo to coordinate and construct all improvements relating to

access from Piilani Highway with the appropriate State and County agencies.

42. Police and Fire Fighting Services. Maui County will provide police service from the police substation in the Kihei Community Center.

Maui County will provide fire fighting service from the Kihei Fire Station located on Kihei Road next to Kalama Park. The Fire Department indicates that proposed Park would decrease the fire hazard of the Property.

CONTIGUITY OF THE PROPOSED DEVELOPMENT

43. Petitioner's proposed development will abut the recently approved Urban District for the Haleakala Greens Corp. golf course and be proximate to the Kihei urban area on the makai side of Piilani Highway.

CONFORMANCE TO THE HAWAII STATE PLAN

44. Petitioner's proposed development conforms with the following goals, objectives and policies of the Hawaii State Plan, Chapter 226, Hawaii Revised Statutes:

- Sec. 6(a)(1) Increased and diversified employment opportunities to achieve full employment, increased income and job choice, and improved living standards for Hawaii's people.
- Sec. 6(a)(2) A growing and diversified economic base that is not overly dependent on a few industries.
- Sec. 10(a) Planning for the State's economy with regards to potential growth activities shall be directed towards achievement of the objective of development and expansion of potential growth activities that serve to increase and diversify Hawaii's economic base.

Sec. 10(b)(2) Expand Hawaii's capacity to attract and service international programs and activities that generate employment for Hawaii's people.

Sec. 10(b)(8) Provide public incentives and encourage private initiative to attract new industries that will support Hawaii's social, economic, physical, and environmental objectives.

STANDARDS FOR DETERMINING DISTRICT BOUNDARIES

45. Petitioner's proposed development will represent an urban environment characterized by "city-like" concentrations of people, structures, streets and urban level of services.

46. Petitioner's proposed Park would expand an existing employment center on Maui and is proximate to existing infrastructure necessary to service the project.

47. The Property exhibits satisfactory topography and drainage and is reasonably free from the danger of floods, tsunami and unstable soil conditions and other adverse environmental effects.

48. The Property will be contiguous to a recently approved Urban District proposed by Haleakala Greens Corp. for golf course use.

49. Petitioner's proposed development is consistent with the objectives of the Hawaii State Plan and the County General Plan to develop new industries in the State and on Maui.

INCREMENTAL DISTRICTING

50. Full urban development of the Property cannot reasonably be completed within five years from the date of the Commission's approval of the redistricting. Petitioner's

proposed schedule reflects development in two increments. The First Increment in five years and the Second Increment within 10 to 15 years of the Commission's approval.

RULING ON PROPOSED FINDINGS OF FACT

51. Any of the proposed findings of fact submitted by the Petitioner or the other parties not adopted by the Commission herein, or rejected by clear contrary findings of fact herein, are hereby denied and rejected.

CONCLUSIONS OF LAW

Pursuant to Chapter 205, Hawaii Revised Statutes, as amended, and the Rules of Practice and Procedure and District Regulations of the State Land Use Commission, the Commission finds upon a preponderance of evidence that the reclassification of all of the lands in the First Increment consisting of approximately 150 acres of land from the Agricultural District to the Urban District at Kihei, Island of Maui, State of Hawaii, and identified by Maui Tax Map Key: 2-2-02: portion of Parcel 42, for a research and technology park, subject to the conditions stated in the Order below, conforms to the standards established in the State Land Use District Regulations, is reasonable and non-violative of Section 205-2, Hawaii State Plan, as set forth in Chapter 226, Hawaii Revised Statutes, as amended.

The Commission further concludes that although full development of the lands within the Second Increment cannot be reasonably completed within five years from the date of the

Commission's decision on this matter, reclassification of the lands within the Second Increment, consisting of approximately 150 acres, from the Agricultural to the Urban District and amendment of the Land Use District Boundaries to permit the development of the Second Increment, subject to the conditions stated in the Order below, is reasonable, non-violative of Section 205-2, Hawaii Revised Statutes, and is consistent with the Hawaii State Plan, as set forth in Chapter 226, Hawaii Revised Statutes, as amended. Therefore, incremental redistricting of the lands within the Second Increment of the Petitioner's development is reasonable and warranted.

ORDER

IT IS HEREBY ORDERED that the lands within the First Increment of the Petitioner's development plan, comprising of approximately 150 acres, Maui Tax Map Key: 2-2-02: portion of 42, situate at Kihei, Island and County of Maui, more particularly identified on the map which is attached hereto as Exhibit A and incorporated herein, shall be reclassified from the Agricultural to the Urban classification and the District Boundaries are amended accordingly.

IT IS ALSO HEREBY ORDERED that the lands within the Second Increment of the Petitioner's development plan, comprising approximately 150 acres, more particularly identified as Maui Tax Map Key: 2-2-02: portion of 42, situate at Kihei, Island and County of Maui, and more particularly identified on the map attached hereto as Exhibit A and incorporated herein,

shall be approved for incremental districting pursuant to State Land Use District Regulation 6-2, and that redistricting from the Agricultural to the Urban classification will be granted upon receipt of an application by Petitioner and a prima facie showing that there has been a substantial completion of the off-site and on-site improvements within the First Increment in accordance with the Petitioner's development plan.

IT IS FURTHER ORDERED that the reclassification and incremental districting of the subject property shall be subject to the following conditions:

1. Prior to any construction activity, Petitioner shall cause an archaeological reconnaissance survey of the Property to be conducted by a qualified archaeologist and shall submit copies of the completed survey report to the Historic Sites Office of the State Department of Land and Natural Resources for review and comment.
2. Petitioner shall make roadway and traffic improvements to the Lipoa Street/Piilani Highway intersection at the time it is deemed necessary due to increased traffic flow because of the golf course and research and technology park, as determined in consultation with the State Department of Transportation, with the Petitioner sharing equally in the expense of such improvements with the developer of the golf course.

3. Petitioner shall develop the Property as an industrial park for high technology users. High technology means emerging industries which are technology-intensive, including but not limited to electronics and biotechnology.
4. Petitioner shall develop a secondary irrigation water source which can be utilized for turf and landscape irrigation, in the event the primary water system exceeds established safety levels.

These conditions may be fully or partially released by the Commission as to all or any portion of the Property, upon timely motion and provision of adequate assurance of satisfaction of these conditions by the Petitioner or its developer.

DOCKET NO. A84-585 - MAUI ECONOMIC DEVELOPMENT BOARD, INC.

Done at Honolulu, Hawaii, this 15th day of July,
1985, per motions on April 16, 1985 and June 18, 1985.

LAND USE COMMISSION
STATE OF HAWAII

By *T. P. Tacbian*
TEOFILO PHIL TACBIAN
Vice Chairman and Commissioner

By *Winona Rubin*
WINONA RUBIN
Commissioner

By *Everett Cuskaden*
EVERETT CUSKADEN
Commissioner

By *Frederick P. Whittemore*
FREDERICK WHITTEMORE
Commissioner

By *Robert Tamaye*
ROBERT TAMAYE
Commissioner

By *Toru Suzuki*
TORU SUZUKI
Commissioner

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of) DOCKET NO. A84-585
)
MAUI ECONOMIC DEVELOPMENT BOARD,) MAUI ECONOMIC DEVELOPMENT
INC.) BOARD, INC.
)
To Amend the Agricultural Land Use)
District Boundary into the Urban)
Land Use District for approximately)
300 acres at Kihei, Maui, Tax Map)
Key: 2-2-02: Portion of 42)
_____)

CERTIFICATE OF SERVICE

I hereby certify that a copy of the Land Use Commission 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:

KENT M. KEITH, Director
Department of Planning and Economic Development
State of Hawaii
250 South King Street
Honolulu, Hawaii 96813

TOSH ISHIKAWA, Planning Director
Planning Department
County of Maui
200 South High Street
Wailuku, Hawaii 96793

B. MARTIN LUNA, Attorney for Petitioner
Ueoka & Luna
2103 Wells Street
P. O. Box H
Wailuku, Hawaii 96793

DATED: Honolulu, Hawaii, this 15th day of July, 1985.



ESTHER UEDA
Executive Officer

DOCKET NO. A84-585 - MAUI ECONOMIC DEVELOPMENT BOARD, INC.

A copy of the Land Use Commission's Decision and Order was served upon the following by regular mail on July 15, 1985.

EVERETT KANESHIGE, Deputy Attorney General
Department of the Attorney General
State Capitol, 4th Floor
Honolulu, Hawaii 96813

H. RODGER BETTS, Corporation Counsel
Office of the Corporation Counsel
County of Maui
200 South High Street
Wailuku, Hawaii 96793

HALEAKALA RANCH COMPANY
P. O. Box 428
Makawao, Hawaii 96768