

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of)
MSM & ASSOCIATES, INC.)
To Amend the Agricultural Land Use)
District Boundary into the Urban Land)
Use District for approximately 181)
acres at Oneula, Ewa, Oahu, TMK: 9-1-12:)
7, 8, 9, 11, 12, 13, 16, 17, and Portion)
of 5)
_____)

DOCKET NO. A83-558
MSM & ASSOCIATES, INC.

DECISION AND ORDER

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OF THE STATE OF HAWAII

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MSM & ASSOCIATES, INC.)	DOCKET NO. A83-558
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FINDINGS OF FACT, CONCLUSIONS OF LAW
AND DECISION AND ORDER

MSM & Associates, Inc., a Colorado Corporation, duly qualified to do business in the State of Hawaii (hereinafter "Petitioner") filed this Petition on October 7, 1983, pursuant to Chapter 205, Hawaii Revised Statutes, and the Rules of Practice and Procedure of the Land Use Commission, State of Hawaii, to amend the land use district boundary for approximately 181 acres of land, Tax Map Key 9-1-12: Parcels 7, 8, 9, 11, 12, 13, 16, 17, and portion of parcel 5 (hereinafter "Subject Property") situate at Oneula, Ewa, Island of Oahu from the Agricultural District to the Urban District. The Land Use Commission (hereinafter "Commission"), having heard the evidence presented on this matter and having considered the full record as presented in Docket No. A83-558, hereby makes the following Findings of Fact, Conclusions of Law and Decision and Order.

PROCEDURAL MATTERS

1. The Commission conducted hearings on this petition on January 17 and 18, 1984, February 1, 1984, and March 7, 1984 pursuant to notices published in the Honolulu Star Bulletin on December 9, 1983, January 23, 1984, and February 27, 1984.

2. Captain P. O'Connor (who was represented by Bruce Arnold), Harry K. Ching, and Charles "Dick" Beamer testified as public witnesses.

3. Pursuant to Section 205-4(e)(1), Hawaii Revised Statutes, the Department of Planning and Economic Development, State of Hawaii, and the Department of General Planning, City and County of Honolulu, were parties to the proceeding.

4. On January 30, 1984, Petitioner withdrew its appeal pending in the Hawaii Supreme Court in State of Hawaii, Department of Planning and Economic Development vs. MSM & Associates, Inc. et al, Supreme Court No. 9445, from the Circuit Court's reversal of the Commission's 1981 reclassification of the Subject Property.

DESCRIPTION OF SUBJECT PROPERTY

5. The Subject Property is located at the southern edge of the Honouliuli Plain, on the leeward side of Oahu, between Barbers Point Naval Air Station and the community of Ewa Beach.

6. The Trustees under the will and of the Estate of James Campbell, (hereinafter "Campbell Estate") are the current fee owners of the Subject Property. MSM & Associates, Inc. entered into an agreement with Campbell Estate dated April 1, 1979, to acquire in fee and develop 707.6 acres of land including the Subject Property at Oneula, Ewa. MSM & Associates, Inc. also

has additional rights to purchase and develop another 389.3 acres of land abutting this 707.6 acre area.

7. The topography of the Subject Property is basically flat, rising gently from sea level to an elevation of approximately 20 feet at its mauka boundary.

8. Annual rainfall on the Subject Property ranges between 15 and 20 inches. The U. S. Army Corps of Engineers, in its map of Flood Prone areas, classifies the makai portion of the Subject Property as being subject to tsunami inundation.

9. Campbell Estate leases approximately 85 acres of the Subject Property to Oahu Sugar Company, Limited for the production of sugarcane. Approximately 96 acres of the Subject Property are uncultivated at the present time and approximately nine lessees use approximately 42 acres for egg and poultry production.

10. The State Department of Agriculture has classified approximately one acre of the Subject Property as "Prime Agricultural Land" and approximately 85 acres of the Subject Property, generally the areas leased to Oahu Sugar Company, Limited, as "Other Important Agricultural Land" in its Agricultural Lands of Importance to the State of Hawaii classification system.

11. The Land Study Bureau in its "Detailed Land Classification - Island of Oahu" classifies soils of the Subject Property as "B77i" - 85 acres; "E-115" - 84 acres; and Urban - 12 acres. "B77i" soils are non-stony, moderately deep, well drained soils with an overall productivity rating of "B," generally suitable for sugarcane cultivation and located in the areas leased to Oahu Sugar Company, Limited. E-115 soils are rocky, shallow, non-expanding, well-drained soils with an overall productivity rating of "E," generally unsuitable for cultivation.

12. The United States Department of Agriculture Soil Conservation Service in its Soil Survey report for Oahu, classifies soils of the Subject Property as Coral Outcrop (CR) - approximately 96 acres; and the balance as Lualualei-Fill Land (Fd).

a. Coral Outcrop consists of coral or cemented calcareous sand. These soils have a capability classification of VIIIs, and have very severe limitations that restrict their use for wildlife habitat or recreation. This land type is used for military installations, quarries, and urban development. Vegetation is sparse and consists of kiawe, koa haole, and fingergrass.

b. Fill Lands consist mostly of areas filled with bagasse and slurry from sugar mills. Few areas are filled with material from dredging and from soil excavations. These materials are dumped and spread over marshes, low-lying areas along the coastal flats, coral sand, coral limestone, or areas shallow to bedrock. This land type is used mostly for the production of sugarcane.

PROPOSAL FOR RECLASSIFICATION

13. Petitioner proposes to develop the Subject Property and the 707.6 acre area into a marina community to be known as "Ewa Marina." Petitioner proposes to construct a marina, residential and commercial development on approximately 1,100 acres in two phases. A map of the Marina is attached hereto as Exhibit A and incorporated herein. The first phase, consisting of the 707.6 acre area (which includes the Subject Property) and an additional 19.9 acres of park lands acquired by Petitioner from Campbell Estate and located in the 389.3 acre area, totals approximately 727.5 acres (hereinafter "Project Area"). The second phase, excluding the 19.9 acre park lands from

the 389.3 acre area, totals approximately 369.4 acres. Petitioner's total development program for the 727.5 acre of first phase and the 369.4 acre of second phase (together hereinafter "Planning Area") are summarized as follows:

<u>Land Uses</u>	<u>Phase I Project Area</u>	<u>Phase I and Phase II Planning Area</u>
Waterways and Marina	98.0 acres	110 acres
Residential	476.0 acres	825 acres
Commercial	2.0 acres	35 acres
Schools	---	20 acres
Public Facility	53.0 acres	---
Roads, Streets and Utilities	46.5 acres	83 acres
Parks	24.5 acres	27 acres
Preservation	27.5 acres	---
Total	727.5 acres	*1100 acres

*This figure was arrived at by rounding off the land use acreages for the entire Planning Area.

14. Petitioner proposes to use the Subject Property for the following uses:

<u>Land Uses</u>	<u>Subject Property</u>
Residential	154.7 acres
Marina	17.0 acres
Roads	<u>9.3 acres</u>
Total	181.0 acres

15. Petitioner proposes to develop marina and waterway systems for public use, creating about 8.5 miles of water frontage, and 2,500 boatslips, 500 of which will be for a commercial marina. Petitioner must obtain a Shoreline Management Permit from the City Department of Land Utilization, a Conservation District Use Permit from the State Board of Land and Natural

Resources, and a Permit from the U. S. Army Corps of Engineers in order to construct the marina. Petitioner estimates that it will complete dredging for the marina 18 months after obtaining all permits.

16. Petitioner proposes to develop portions of the Planning Area and sell the remaining portions to other developers who, together with Petitioner may develop approximately 7,200 housing units to be built on about 825 acres over 15 years, at an average rate of approximately 480 units per year. Petitioner proposes to construct all types of units ranging from low density, detached single-family units to medium and high density multi-family units. Petitioner proposes to sell ten percent or 720 units at prices affordable by low and moderate income residents.

17. Petitioner also proposes to develop commercial facilities to be known as the Ewa Marina Village, which will include restaurants, retail space, and marina-oriented businesses.

18. Petitioner proposes to develop the Project Area in 26 separate parcels. Petitioner estimates that construction of the entire marina, infrastructure, and mass grading will be completed within a 5-year period.

19. Petitioner estimates that fee simple residential units will range in price from \$70,000 to \$400,000 in 1983 dollars. Petitioner proposes to offer low-moderate income housing, comprising 10 percent of the total residential development, at prices to range between \$70,000 and \$90,000.

20. Petitioner estimated the cost of the proposed development of the total 1,100-acre Planning Area to be \$572,100,000.

21. Petitioner proposes that the marina include two (2) major public boat launching facilities, one adjacent to Oneula Beach Park which will extend into the marina entrance basin and the other boat ramp and hoist adjacent to

the commercial marina to support the dry storage and maintenance facilities. Petitioner proposed that the marina be a "full service" facility, providing the necessary space for cranes to take boats off the water; fuel docks; repair facilities; boat dealership; off water storage areas; and marine supply establishments.

PETITIONER'S FINANCIAL CAPABILITY TO UNDERTAKE THE PROPOSED PROJECT

22. Petitioner proposes to serve as the master developer for the Ewa Marina by acquiring the property, providing basic infrastructure including roads, utilities, marina and related amenity systems and selling the finished parcels to builders. Petitioner estimates the cost to develop the entire Ewa Marina Project in 1983 dollars to be:

<u>Item</u>	<u>Costs for Entire Ewa Marina Planning Area</u>
Infrastructure:	
Roads, Utilities	19,400,000
Marina and Waterways	15,600,000
Residential	518,400,000
Commercial	15,400,000
Schools and Parks	<u>3,300,000</u>
Total	\$572,100,000

Of the development costs, \$15,200,000 represents the estimated cost of land acquisition and \$15,400,000 represents the estimated cost of design and engineering fees, program management, real property taxes during the construction period and contingencies.

23. Petitioner estimates that its maximum cash requirement at any one time will be approximately \$20,000,000. Petitioner's unaudited Balance Sheet, Statement of Revenue and Expenses, and Accumulated Deficit as of June 30, 1983, shows Petitioner's total assets to be \$3,900,217, its total liabilities to be \$4,095,760, including a negative stockholders' equity of \$195,543.

24. Petitioner entered into a development and construction agreement on April 19, 1983 with Grant E. Marsh, a resident of the State of Colorado doing business as Turnmar Development Company. Turnmar shall provide construction management and construction and development consultation to Petitioner regarding the Ewa Marina Project in exchange for approximately \$2,000,000 of Petitioner's stock. Turnmar Development Company was or is currently involved in commercial developments in Colorado, Arizona and Utah in excess of a billion dollars. Mr. Marsh's net worth in 1982 was approximately \$82,000,000.

CONFORMANCE WITH STATE AND COUNTY PROGRAMS

25. The development of the proposed Ewa Marina Community, including the 181 acre Subject Property conforms to the following sections of the State Plan:

Objectives and Policies for the Physical Environment--Land, Air and Water Quality

Section 226-23(b) (7) Encourages urban developments in close proximity to existing services and facilities.

The Subject Property is contiguous to existing development at Ewa Beach along Papipi Road. Services and facilities are existent in the immediate area. The primary access, Fort Weaver Road has been widened to four lanes from Farrington Highway to Renton Road.

Objective and Policies for Socio-Cultural Advancement--Leisure

Section 226-23(b) (2) Provide a wide range of activities and facilities to fulfill the recreation needs of all diverse and special programs.

Section 226-23(b) (5) Ensure opportunities for everyone to use and enjoy Hawaii's recreational resources.

Petitioner proposes to dedicate approximately 17 acres of recreational waterways to be built on the Subject Property along with internal greenbelt systems for public bicycle and pedestrian use.

The greenbelt systems will include recreational amenities such as tot lots, tennis courts, ball fields, etc., as well as areas for passive recreational use located to take advantage of scenic vistas.

Economic Implementing Actions

Section 226-103(f) (1) Promote a consistent and stable level of construction activity.

Petitioner proposes to develop Planning Area over a 15-year period, creating 9,900 job opportunities within the construction industry throughout the Phase I development period.

Population Growth and Distribution Implementing Actions

Section 226-104(a) (4) Seek to provide for adequate housing to meet the needs of Hawaii's people without encouraging an additional influx of people.

Petitioner proposes to offer a cross section of housing opportunities in a permanent resident community to be developed on the Subject Property.

26. The Commission has classified the 181 acres comprising the Subject Property in the State Land Use Agricultural District. The Commission has classified the remaining 707.6 acre portion of the Project Area including lands surrounding the Subject Property in the State Land Use Urban District. The Commission has also classified the 389.3-acre balance including the 19.9 acre proposed park of the Project Area in the Agricultural District.

27. The City and County of has classified the entire Subject Property as Urban Fringe in the City and County's General Plan.

28. The City and County of Honolulu designated the 707.6 acre area, including the Subject Property, as the "Ewa Marina Special Area" in the Ewa Development Plan. The City and County has created this "Special Area" to encourage a mixture of Residential, Low Density Apartment, Medium Density Apartment, Commercial, Public Facility (including a marina), Park, and Preservation (waterway and flood control) uses.

29. The City and County of Honolulu has zoned the 389.3 acre portion of the Planning Area AG-1 (Agricultural) District.

30. The Subject Property is not within the County's Special Management Area, however, portions of the Planning Area along the coastline are within the Special Management Area.

CONFORMANCE WITH THE GENERAL PLAN OF THE CITY AND COUNTY OF HONOLULU

31. Development of the Subject Property will further conform with the achievements of the following policies of the amended General Plan of the City and County of Honolulu by adding about 4,550 new residents from the Subject Property to the projected population of the Ewa District by the Year 2000. This projected increase in population is within the population distribution policy which proposes increasing the Ewa Development Plan's Area's share of the Year 2000 islandwide population of 917,000 to 9-10% of the total or approximately 82,600 to 91,700. The 1980 population of the Ewa Development Plan Area was approximately 46,900 and the proposed major new developments for the Ewa Development Plan Area have a combined population of approximately 12,000.

Population

Policy 4 - Seek a Year 2000 distribution of Oahu's residential population which would be in accord with the following table:

DISTRIBUTION OF RESIDENTIAL POPULATION

<u>Location</u>	<u>% of Year 2000 Islandwide Population</u>
Primary Urban Center	47.5 - 52.5%
Ewa	9.0 - 10.0%
Central Oahu	12.8 - 14.2%
East Honolulu	6.2 - 6.8%
Koolaupoko	12.4 - 13.6%
Koolauloa	1.3 - 1.5%
North Shore	1.6 - 1.8%
Waianae	4.2 - 4.6%
	<u>95.0 - 105.0%</u>

Housing

Objective C - To provide the people of Oahu with a choice of living environments which are reasonably close to employment, recreation, and commercial centers and which are adequately served by public utilities.

Policy 3 - Encourage residential development near employment centers.

The Subject Property's proximity to job centers such as Campbell Industrial Park, Barber's Point Deep Draft Harbor as well as Pearl Harbor, Hickam Air Force Base, and Honolulu International Airport support Objective C and Policy 3.

NEED FOR THE PROPOSED DEVELOPMENT

32. The Petitioner estimates the annual demand for new housing on Oahu for the period 1980 through 2000 to be as presented in Table I on the following page.

TABLE I

PROJECTED DEMAND FOR NEW HOUSING
CITY AND COUNTY OF HONOLULU 1983 - 2000

	<u>1983</u>	<u>1985</u>	<u>1990</u>	<u>1995</u>	<u>2000</u>
Total Population in Households	749,200	763,600	802,800	841,500	871,500
Potential Occupied Dwelling Units	240,836	248,119	267,947	287,521	302,695
	<u>1983-85</u>	<u>1985-90</u>	<u>1990-95</u>	<u>1995-2000</u>	
Incremental Demand for New Housing, Based Upon Growth/Household Formation Factors	7,283	19,828	19,574	15,174	
Plus: Allowance for Vacancy	219	594	587	455	
Plus: Replacement of Obsolete Units	<u>1,300</u>	<u>3,250</u>	<u>3,250</u>	<u>3,250</u>	
Total Increase in Housing Demand by Period	8,802	23,672	23,411	18,879	
Annual Requirement by Period					
1980-85	4,401				
1985-90		4,734			
1990-95			4,682		
1995-2000				3,375	

33. Petitioner proposes to construct 4,850 residential units on the Project Area in the first phase of the Ewa Marina project. Therefore, Petitioner predicts there will be sufficient housing demand to absorb units for Petitioner's proposal to construct Phase I of the 727.5 acre Project Area.

34. Petitioner proposes to construct and market approximately 500 to 550 or more units per year.

35. The Petitioner is willing, as a condition of reclassification, to offer at least 10 percent of the proposed residential units for sale to low and moderate income families at affordable prices as determined by the City and County of Honolulu and/or the Hawaii Housing Authority. The State Hawaii Housing Authority stated that low-moderate income housing should range in price from \$55,000 to \$70,000 in today's dollars.

36. The total estimated demand for Oahu for boat berths/moorings as expressed by boat registrations, dealer inventories and documented boats is currently 3,186. The Oahu demand has been growing at the rate of 150 berths/moorings per year. The total number of boats moorings on water on Oahu has increased by only 414 since 1974, an indication that facility supply has lagged behind growth in facility demand. Petitioner believes the Ewa Marina will be able to offer 1,500 public slips or 40 percent of the total projected slip demand.

37. The City and County of Honolulu's "Draft Long Range Plan for Beach Parks and Beach Right-of-Ways" recommended that the existing Oneula Beach Park be expanded along the shoreline to the east and west to envelop upon beachfront parcels and their immediate adjacent parcels.

38. Petitioner estimates that the development of the Ewa Marina Project will create at least 790 permanent full-time jobs.

IMPACT UPON RESOURCES OF THE AREA

39. The on-shore and off-shore areas adjacent to the Planning Area are used for fishing, diving, surfing and limu collection. The construction of this Ewa Marina Project, with extensive dredging for the 98-acre marina, could adversely impact these resources and could also affect the sandy beaches by shifting sands or currents.

40. In constructing the marina, Petitioner proposes to move top soil from areas to be excavated. Petitioner will excavate material lying above the water level by bulldozers, and will excavate areas below the water level by dragline. Petitioner may blast isolated hard rock formations. Petitioner proposes to excavate the interior basin before opening it to the sea. Petitioner proposes to dredge the ocean entrance to the marina with a cutter-head, hydraulic pipeline dredge. Petitioner proposes to leave a lip on the seaward edge of the reef after dredging to preclude "fines" from continually being washed to sea and create additional turbidity. Petitioner will create a "silt containment curtain" or reduce the rate of dredging to further reduce turbidity. Petitioner proposes to dispose of material in an on-site diked disposal area and return water will be in a settling basin until it meets State standards of 25 milligrams per liter.

41. Petitioner proposes to construct two jetties approximately 500 to 700 feet long along the entrance channel to protect the marina from waves penetrating the basin and to prevent littoral drift from shoaling the channel. Since the dredging of the entrance channel and construction of the jetties will be done in nearshore waters, disturbance of the bottom sediments and dumping of jetty rock will cause a local increase in turbidity.

42. Petitioner believes that sources of water pollution in the Ewa Marina will be pollutants from the boats, storm runoff and groundwater

infiltration. Petitioner proposes to initiate additional studies of heavy metal pollution from boats after further discussions with the U. S. Army Corps of Engineers, the Environmental Protection Agency and the Pollution Investigation Control Branch of the State Department of Health.

43. Petitioner predicts that the total runoff volume during a severe 8-inch rainstorm would amount to about half the total volume of water in the marina. This huge volume of fresh water entering the ocean at a point source would have an adverse impact on ocean organisms such as local fish and limu.

44. Petitioner believes the increase in turbid low-saline and enriched water flushing out of the channel from the marina will reduce the number and species of fish which currently reside in the area. But Petitioner believes this water mass would be expected to remain in the nearshore area which may further depress coral growths and reduce feeding and habitat availability. The waterways could provide habitat for introduced exotics which frequently become dominant in estuarine waters.

45. There are six surfing sites near the Subject Property: Officers, Coves, Sand Tracks, Hau Bush and Shark Country. A navigation channel to the proposed marina cannot be placed through this area without destroying the Sand Tracks site. Petitioner proposes to compensate by creating a new surf site by properly designing the entrance channel to simulate the Ala Moana Bowl surf site.

46. The shoreline between Barbers Point and Pearl Harbor is composed of exposed beach rock and Ewa limestone with occasional small beaches and pocket beaches. The shoreline between Ewa Beach and Oneula Beach contains the best sandy beach in the area.

47. Both DPED in its report on Petition and the City and County of Honolulu in its Ewa Marina Special Area Ordinance recommended that the

shoreline property from the existing Oneula Beach Park eastward to Ewa Beach, remain open to a depth of 100 feet through a setback ordinance and be dedicated to future public recreational use.

Agricultural Resources

48. Oahu Sugar Company, Limited must remove 413 acres from sugarcane cultivation (including the 86 acres within the Subject Property) prior to the proposed development. Removal of this acreage will not have significant adverse effects on the economic viability of the Oahu Sugar Company, Limited.

49. In 1982, Amfac, Inc., parent company of Oahu Sugar Company, Limited, announced that it would reduce the acreage of its plantation from 18,000 acres to 13,000 acres by 1984, by not replanting 3,000 acres after its 1982 harvest and another 2,000 acres after its 1983 harvest.

50. Plan Inc., an egg producing operation, currently leases 12 acres on a month-to-month basis from the Campbell Estate in the Project Area on which it maintains a 40,000 egg layer facility. Plan Inc. has indicated that it prefers to relocate within the Ewa district.

Historical/Archaeological Resources

51. No one has conducted scientific archaeological excavations in the general area of Oneula, Puuloa, or Ewa Beach. Petitioner knows of very few archaeological sites in the area and assumes most have been destroyed. No archaeological sites in the entire Ewa region have been permanently preserved and protected for public and scientific use. Petitioner has agreed to take the following actions recommended by the State Department of Land and Natural Resources:

- Record location of and make detailed maps of all archaeological sites in the area, including natural features such as sinkholes, water sources, and vegetation.

- Take photographic and descriptive recordings of all sites.
- Salvage and excavate of all sites in the area, including sinkholes.
- Coordinate all archaeological study in the project area with the State Historic Preservation Office.
- Submit two copies of the final report describing the results of investigations to the State Historic Preservation Office, including original photographs.
- Currate all artifacts removed with the State Historic Preservation Office or an acceptable scientific, educational institution such as the Bishop Museum

Compatibility with Adjoining Land Uses

Barbers Point Naval Air Station

52. The western boundaries of the Subject Property is approximately 5,000 feet from the Barbers Point Naval Air Station (BPNAS).

53. The Subject Property is not within the Air Installations Compatible Use Zone (AICUZ) for Naval Air Station Barbers Point. However, a portion of the Subject Property is within the 60 or greater Ldn contour.

54. The proposed boundary amendment is compatible with the land use recommendations contained in the Department of the Navy instruction on the AICUZ program. Both arrival and departure routes from Barbers Point Naval Air Station impact the western section of the Planning Area. Navy operations may create single event noise occurrences in the Subject Property of the Planning Area that may be annoying to some people.

Honolulu International Airport

55. The Subject Property is located approximately five miles west of the boundaries of the Honolulu Airport. Development of the Subject Property

may result in resident complaints regarding aircraft noise because noise originating from aircraft operations at Honolulu International Airport will impact the Subject Property.

56. The Honolulu International Airport and Environs Master Plan Study of June 1981, recommends strong consideration be given to enacting a truth-in-sale ordinance for noise-sensitive areas and that the Honolulu International Airport study recommends that the developer install sound attenuation on residential units that are subjected to noise contours greater than 60 Ldn. Petitioner has agreed to place a noise disclosure covenant in each residential deed of the Ewa Marina Community to make future residents aware of potential impacts from aircraft noise.

ADEQUACY OF PUBLIC SERVICES AND FACILITIES

Roadway and Highway Services and Facilities

57. Fort Weaver Road is currently the primary route for automobile ingress and egress to and from the Ewa Beach area. The City and County has widened Fort Weaver Road to four lanes up to Renton Road, but does not plan to make necessary and further improvements up to the Subject Property.

58. Petitioner plans to create direct access to the Subject Property directly from Papipi Road and future additional access via the primary interior circulation system for Ewa Marina Community.

59. Petitioner's consultant, PRC Voorhees, prepared a two-phase traffic analysis for the Ewa Marina Community. In Phase I, PRC Voorhees analyzed traffic to be generated assuming the completion of 4,850 dwelling units and 150,000 square feet of retail shopping area. In Phase II, PRC Voorhees analyzed traffic to be generated assuming completion of an additional 2,350 units.

60. In making its traffic analysis, PRC Voorhees assumed that a second four-lane highway along a north-south corridor, designed to interstate standards, in addition to Fort Weaver Road would be completed prior to the commencement of Phase II.

61. Petitioner will finance and construct the necessary improvements to Fort Weaver Road, including road widening, if its proposed development precedes the availability of public funding.

Water Service

62. Residents of the proposed Ewa Marina Community will require approximately 2.8 million gallons per day of water for Phase I when completed. Residents of the remainder of the Planning Area will require an additional 1.4 mgd upon completion of Phase II development, for a total water demand of 4.2 million gallons per day including residential, commercial, recreational, educational, firefighting and irrigation requirements.

63. Petitioner will construct an on-site water distribution system and will participate in underwriting the cost of an off-site water distribution system on a pro rata basis.

64. The Subject Project is within the Pearl Harbor Groundwater Control Area, administered by the Department of Land and Natural Resources. The Pearl Harbor groundwater basin supplies water to Ewa, the leeward coast and portions of Honolulu. The State Department of Land and Natural Resources has determined that the basal water is at a critical level and that it must not approve any additional withdrawals from the Pearl Harbor Groundwater Control Area.

65. In view of this shortage of water resources, the Board of Water Supply of the City and County of Honolulu has proposed implementation of a dual water system for the Ewa area which uses potable water for domestic use

and brackish water for irrigation and fire protection. A dual water system increases the potential for cross-connection of the two systems and, therefore, increases the danger of contamination of the potable water system through backflow or backpressure. The Board of Water Supply believes the proposed system would reduce the demand for potable water by approximately 40%.

66. Campbell Estate has proposed that water previously allocated to Oahu Sugar Company, Limited for lands withdrawn from sugarcane cultivation be reallocated to the proposed Ewa Marina Community. The Board of Land and Natural Resources has not approved this proposal.

Sewerage Treatment and Disposal

67. The Ewa Beach sewer system can accommodate wastewater from only 24 percent of the number of homes to be constructed on 186 acres of R-6 zoned land within the Project Area.

68. Petitioner proposes to build a sewer collection and transmission line and pumping system to pump all sewage generated by the Ewa Marina Community to the Honouliuli Wastewater Treatment Plant for processing. This treatment plant is located approximately one mile mauka of the Project Area. The City and County has designed the Honouliuli Wastewater Treatment Plant to have sufficient capacity to treat sewage from all current and future developments between Makakilo and Halawa, including all of the proposed Ewa Marina Community.

69. The City and County has not completed construction of the Honouliuli Wastewater Treatment Plant. The treatment plant presently removes the solids from the wastewater and discharges the untreated effluent via its deep ocean outfall pipe.

Flood Control/Storm Drainage

70. The Subject Property is located within the Kaloi Gulch flood plain and is an integral part of the overall Ewa Marina Community Flood Control System. Petitioner proposes to collect most of the storm water and related sedimentation from Kaloi Gulch in a four acre retention basin to be constructed mauka of the Subject Property. Petitioner will drain overflow runoff from the Project Area into the Marina and proposes to construct settling basins designed for 100 year storm flows.

71. The Federal Insurance Administration in its Flood Insurance Study for Oahu has designated the Subject Property in Zone D or area of undetermined but possible flood hazards.

72. Petitioner is also considering developing a golf course to serve as a retention basin in Phase II of Petitioner's development, contingent upon Petitioner acquiring the development rights for the remaining balance of the Planning Area.

Schools

73. Petitioner's consultant estimates that development of the Subject Property will generate the following student enrollment:

<u>School</u>	<u>Grade</u>	<u>Approximate Enrollment</u>
Ewa Beach Elementary	K-6	50-200
Ilima Intermediate	7-8	30-50
Campbell	9-12	50-100

The State Department of Education has agreed that students generated by this development can be accommodated with existing and planned classroom facilities at the respective schools.

CONCLUSIONS OF LAW

Pursuant to Chapter 205, Hawaii Revised Statutes, the Rules of Practice and Procedure and the State Land Use District Regulations of the Land Use Commission, the Commission concludes that the Petitioner's request to reclassify approximately 181 acres from the Agricultural District to the Urban District at Oneula, Ewa, City and County of Honolulu, Island of Oahu for the purpose of developing the Ewa Marina Community be approved based on the following conditions stated below.

ORDER

IT IS HEREBY ORDERED that the property which is the subject of the Petition of MSM and Associates, Inc., in Docket No. A83-558, comprised of approximately 181 acres, situated at Oneula, Ewa, Oahu, Hawaii, and identified as Tax Map Key 9-1-12, Parcels 7, 8, 9, 11, 12, 13, 16, 17 and a Portion of 5, and more particularly identified on the map which is attached hereto as Exhibit A and incorporated herein, shall be and is hereby reclassified from the Agricultural District to the Urban District and the State Land Use District Boundaries are hereby amended accordingly subject to the following conditions:

1. Petitioner shall adequately maintain the proposed siltation basins and water system to meet State Department of Health water quality standards.
2. Petitioner shall provide public access to the marina waterway and ocean shoreline and recorded as part of an easement with relevant State or County agencies.
3. Petitioner shall finance and implement all on-site and off-site sewer, water and roadway improvements as required by relevant

City and State agencies, including but not limited to a 21" diameter sewer force main line from the Subject Property to the Honouliuli Wastewater Treatment Plant or to a portion of such larger diameter as may be necessary to treat and process sewer for the Planning Area related to the MSM development.

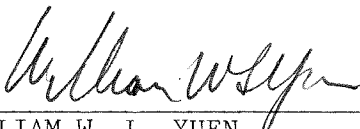
4. On or before one year from the date of filing of the decision and order approving this petition, Petitioner shall furnish this Commission with certification issued by the Board of Land and Natural Resources that Petitioner has right to withdraw sufficient freshwater from the Pearl Harbor Groundwater Control Area as may be necessary for development of the Ewa Marina Community.
5. Petitioner shall provide housing opportunities for low and moderate income Hawaii residents by offering for sale, on a preferential basis on its own or in cooperation with either or both the Hawaii Housing Authority and the City and County of Honolulu, ten percent (10%) of the residential units to be developed on the 727 acre Project Area to residents of the State of Hawaii of low or moderate family income as determined by standards promulgated by the Hawaii Housing Authority and City and County of Honolulu from time to time. The preferential residential units shall be offered for sale at prices not exceeding prices that enable such purchasers to qualify for and obtain State-assisted financing (e.g. Act 105 or Hula Mae) or Federally-insured or assisted financing (e.g. FHA Section 245 program) intended to encourage home ownership by low and moderate income families.

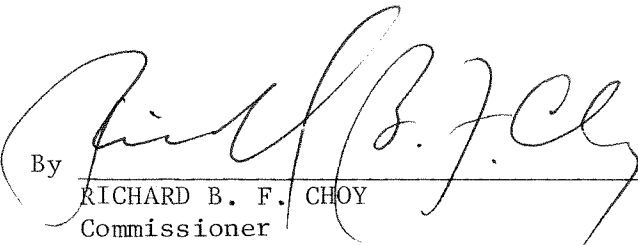
6. That Petitioner apply sound attenuation measures on all residential units that are subject to noise contours greater than 60 Ldn. The Petitioner shall insure that a noise covenant, Exhibit B, attached hereto and incorporated herein by reference similar in form to be placed on each residential deed.
7. That Petitioner not permit residential development within the Barbers Point Naval Air Station aircraft Accidental Potential Zone (APZ).
8. That Petitioner set back all structures a minimum distance of 100 feet from the waterway and shoreline. This Commission may impose lesser setbacks upon design, review and approval by the City and County Department of Land Utilization (Section 2, Urban Design Principles and Controls for Ewa, 2.c. (12) of Part II, Ordinance No. 83-26 as amended on June 8, 1983).
9. The Petitioner shall petition the Land Use Commission to reclassify the lands actually developed for the marina waterways to the Conservation District within two years of completion of the marina.
10. The Petitioner shall provide annual reports to the Land Use Commission regarding its progress in developing the Subject Property and satisfying these conditions.
11. The Commission may fully or partially release these conditions as to all or any portion of the subject properties upon timely motion and the provision of adequate assurance of satisfaction of these conditions by Petitioner.


DOCKET NO. A83-558 - MSM & ASSOCIATES, INC.


Done at Honolulu, Hawaii, this 20th day of September, 1984
per motions on June 12, 1984 and September 5, 1984.

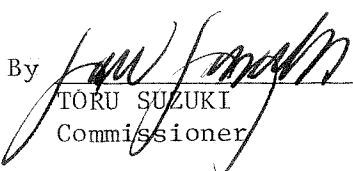
LAND USE COMMISSION
STATE OF HAWAII

By 
WILLIAM W. L. YUEN
Chairman and Commissioner

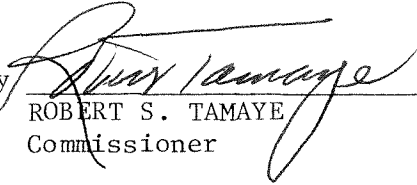
By 
RICHARD B. F. CHOY
Commissioner

By 
LAWRENCE F. CHUN
Commissioner

By 
WINONA E. RUBIN
Commissioner

By 
TORU SUZUKI
Commissioner

DOCKET NO. A83-558 - MSM & ASSOCIATES, INC.

By 
ROBERT S. TAMAYE
Commissioner


By 
FREDERICK P. WHITTEMORE
Commissioner

EXHIBIT B

DECLARATION OF COVENENTS

KNOW ALL MEN BY THESE PRESENTS:

WHEREAS, _____,
hereinafter referred to as the "DECLARANT", is the owner of that certain real property more fully described in Exhibit "A" attached hereto and by reference made a part hereof;

WHEREAS, said real property is located within an area of potential exposure to aircraft noise as defined in Land Use Guidance Chart I, Airport-Land Use Compatibility Planning, AC 150/5050-6, U. S. Department of Transportation, Federal Aviation Administration, December 30, 1977 and said property may, on occasion, be subject to day-night average sound levels as defined therein and other forms of disturbances;

WHEREAS, Declarant's decision to utilize said property for urban uses may subject the users thereof to various effects which may result from the use and operation of government airports in the vicinity thereof, e.g., the Honolulu International Airport and the Barbers Point Naval Air Station.

NOW, THEREFORE, in full acknowledgment of the stated potential for noise, fumes, soot, smoke, vibration and other intrusions from aircraft using the government airports, existing or to be built, in the area, and in order to induce the withdrawal of any objection to the urban use of the land by the State of Hawaii Department of Transportation, said Declarant covenants and agrees as follows:

1. That the said Declarant hereby releases and shall not file any claim, action or lawsuit for any kind of relief, legal or equitable, against the City and County of Honolulu, the State of Hawaii, the Federal Government or any agency or employee thereof or any person or legal entity using the aforesaid government airports or any other government airport, existing or to be built, for costs or damages resulting from noise, fumes, soot, smoke, vibration or any other forms of disturbances caused by the establishment or operation of any government airport, existing or to be built, or by any aircraft, now known or hereafter used or operating to, from or at the aforesaid government airports or any other government airports existing or to be built;

2. That the Declarant shall indemnify, forever hold harmless and defend the City and County of Honolulu, the State of Hawaii and Federal governments and the users of the aforesaid government airports and any other government airports, existing or to be built, from any and all liability resulting from said noise, fumes, soot, smoke, vibration and any other incidences of flight or other users of government airports affecting the aforesaid real property;

3. That this Declaration shall be recorded or filed with the Bureau of Conveyances of the State of Hawaii by _____, included in any conveyance or other disposition of the said real property by Declarant or its successors or assigns, and shall be deemed to be covenants running with the land and as such shall be binding upon the Declarant and its successors and assigns, whether said covenants are included in conveyancing or other dispository documents or not.

DATED: Honolulu, Hawaii, _____

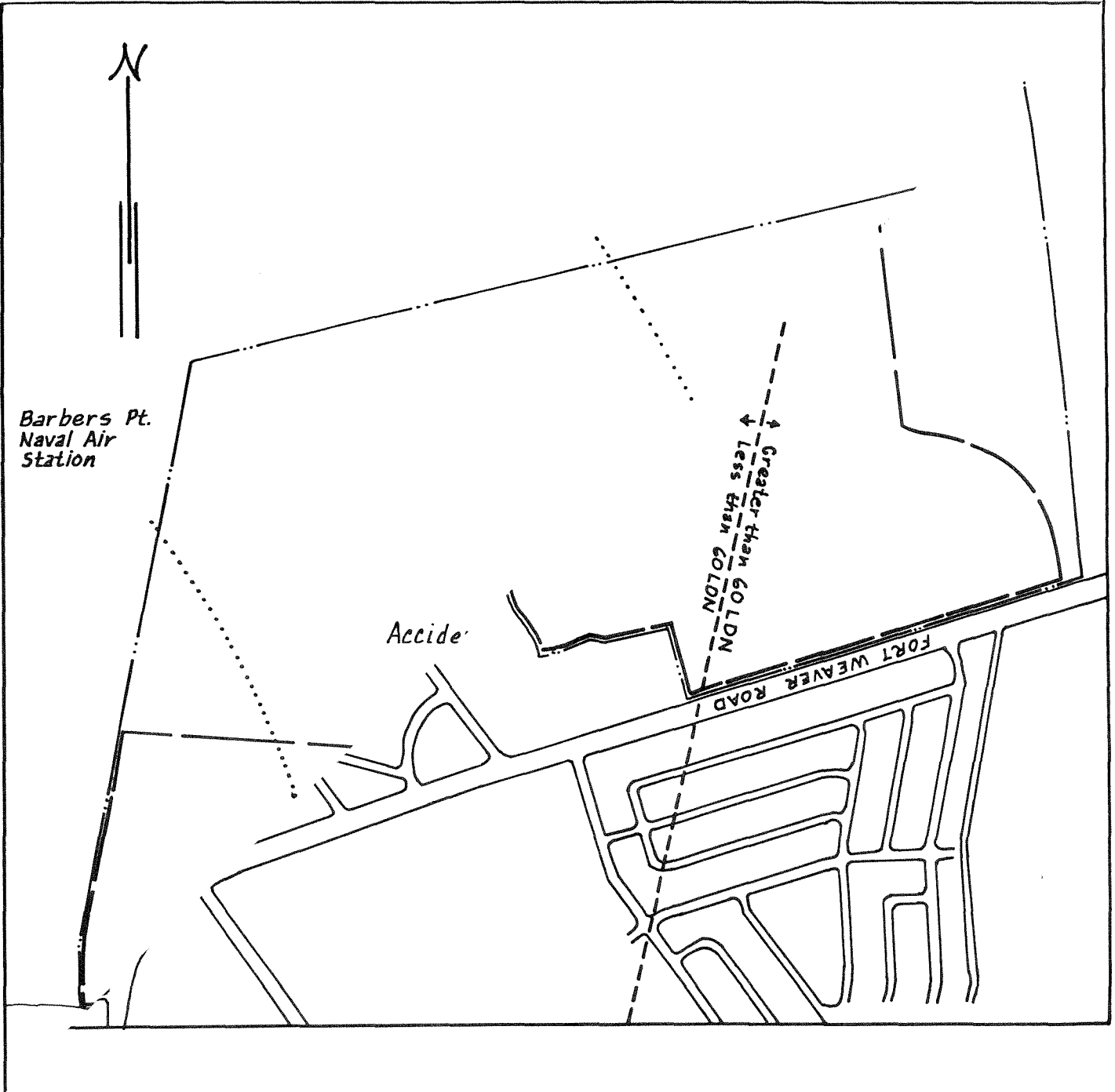


Barbers Pt.
Naval Air
Station

Accide

Greater than 60 LDN
Less than 60 LDN

FORT WEAVER ROAD



BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of)
MSM & ASSOCIATES, INC.) DOCKET NO. A83-558
To Amend the Agricultural Land Use) MSM & ASSOCIATES, INC.
District Boundary into the Urban)
Land Use District for approximately)
181 acres at Oneula, Ewa, Oahu,)
TMK 9-1-12: 7, 8, 9, 11, 12, 13, 16,)
17, and Portion of 5)

CERTIFICATE OF SERVICE

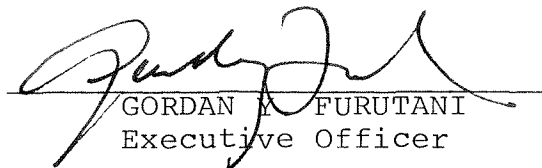
I hereby certify that a copy of the Land Use Commission's Decision and Order was served upon the following by either hand delivery or depositing the same in the U. S. Postal Service by certified mail:

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

WILLARD T. CHOW, Chief Planning Officer
Department of General Planning
City and County of Honolulu
650 South King Street
Honolulu, Hawaii 96813

HARRY S. Y. KIM, Esq.
810 Richards Street, Suite 605
P. O. Box 2032
Honolulu, Hawaii 96813

DATED: Honolulu, Hawaii, this 21st day of September, 1984.


GORDAN A. FURUTANI
Executive Officer

DOCKET NO. A83-558 - MSM & ASSOCIATES, INC.

A certified copy of the Land Use Commission's Decision and Order was served by regular mail to the following on September 21, 1984:

ANNETTE CHOCK, Deputy Attorney General
Department of the Attorney General
State Capitol, 4th Floor
Honolulu, Hawaii 96813

GARY SLOVIN, Corporation Counsel
Department of the Corporation Counsel
City and County of Honolulu
3rd Floor, City Hall
Honolulu, Hawaii 96813

WALTER K. TAGAWA, President
MSM & Associates, Inc.
33 South King Street, #410
Honolulu, Hawaii 96813

MICHAEL MCELROY, Director
Department of Land Utilization
650 South King Street
Honolulu, HI 96813