BEFORE THE LAND USE COMMISSION

OF THE STATE OF HAWAII

In the Matter of the Petition of	)	DOCKET NO. A90-658
	)	
AMFAC/JMB HAWAII, INC.	)	AMFAC/JMB HAWAII, INC.
	)	
To Amend the Agricultural Land Use District Boundary into the Urban Land Use District for Approximately 242 acres, at Kaanapali, Maui, Hawaii, Tax Map Key No.: 4-4-06:13, 14, 1 (por.), 10 (por.), 28 (por.)	)	

LAND USE COMMISSION
STATE OF HAWAII
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FINDINGS OF FACT,
CONCLUSIONS OF LAW, AND DECISION AND ORDER

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In the Matter of the Petition of AMFAC/JMB HAWAII, INC. To Amend the Agricultural Land Use District Boundary into the Urban Land Use District for Approximately 242 acres, at Kaanapali, Maui, Hawaii, Tax Map Key No.: 4-4-06:13, 14, 1 (por.), 10 (por.), 28 (por.)	)	DOCKET NO. A90-658 AMFAC/JMB HAWAII, INC.

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

Amfac/JMB Hawaii, Inc., a Hawaii corporation (hereinafter "Petitioner"), filed a Petition on June 29, 1990, a First Amendment to Petition on September 14, 1990, and a Second Amendment to Petition on November 8, 1990, (hereinafter collectively referred to as "Petition"), pursuant to Chapter 205, Hawaii Revised Statutes, as amended ("HRS"), and Title 15, Subtitle 3, Chapter 15, Hawaii Administrative Rules, as amended (hereinafter "Commission Rules"), to amend the Land Use District Boundary to reclassify approximately 242 acres of land, situated at Kaanapali, Island and County of Maui, State of Hawaii, identified by Tax Map Key Nos. 4-4-06: 13, 14, portion of 1, portion of 10, and portion of 28 (hereinafter "Property"), from the Agricultural District to the Urban District to develop single family and estate residential lots.

The Land Use Commission (hereinafter "Commission"), having heard and examined the testimony, evidence and argument of the parties and/or counsel for the parties presented during the hearing, and the parties' Stipulated Proposed Findings of Fact, Conclusions of Law, and Decision and Order, and hereby makes the following findings of fact:

FINDINGS OF FACT

PROCEDURAL MATTERS

1. Petitioner filed a Petition for District Boundary Amendment on June 29, 1990, a First Amendment to Petition for District Boundary Amendment on September 14, 1990, and a Second Amendment to Petition for District Boundary Amendment on November 8, 1990.

2. A prehearing conference was conducted on November 19, 1990, on the 9th floor, Kamamalu Building, 250 South King Street, Honolulu, Hawaii.

3. The Commission held a public hearing on the Petition, as amended, at the Royal Lahaina Resort, Oahu Room, in Lahaina, Maui, on December 13 and 14, 1990. The hearing was held pursuant to notices published in the Honolulu Advertiser and Maui News on October 25, 1990.

4. On December 13, 1990, the Commission considered a petition to intervene filed by Elizabeth Ann Stone on October 22, 1990. Ms. Stone failed to appear at the hearing and the Commission, after reviewing the record and good cause appearing

therefrom, denied the petition to intervene. The Commission filed the Order Denying Petition for Intervention on December 21, 1990.

5. On November 23, 1990, the Commission received an untimely written statement from Elizabeth Ann Stone. On December 6, 1990, the Commission received an untimely written statement from Warren Watanabe, President of the Maui County Farm Bureau. On December 13, 1990, the Commission admitted both written statements into evidence.

DESCRIPTION OF THE PROPERTY

6. The Property is located at Kaanapali, Island and County of Maui, State of Hawaii, identified by Tax Map Key Nos. 4-4-06: 13, 14, portion of 1, portion of 10, and portion of 28.

7. The Property represents the second half of the Petitioner's "South Beach Mauka" project. The first half of the South Beach Mauka project is already within the Urban District.

8. The Property consists of two noncontiguous parcels. The larger parcel has been and is currently used for sugarcane cultivation except for approximately 71 acres which is already developed as a golf course. The smaller parcel has been and is currently used exclusively as a portion of this golf course.

9. Pioneer Mill Company and Amfac Property Investment Corp. are the owners in fee of the Property. Both companies are wholly-owned subsidiaries of the Petitioner. By letter dated

June 25, 1990, Pioneer Mill Company and Amfac Property Investment Corp. authorized Petitioner to submit the Petition to the Commission for reclassification of the Property. Railroads of Hawaii, Inc. is the grantee of certain easements on the Property and by letter dated July 16, 1990, Railroads of Hawaii, Inc. authorized Petitioner to submit the Petition for reclassification of the Property.

10. Elevation of the Property ranges from 25 feet above sea level at Honoapiilani Highway to approximately 200 feet above sea level at the mauka edge of the Property. Slopes throughout the Property range from 0 to 3 percent to 7 to 15 percent. Average annual rainfall in the area is between 15 to 18 inches. Average annual temperature in the nearby Lahaina area ranges from 71.5 degrees to 78 degrees Fahrenheit.

11. The United States Department of Agriculture's Soil Conservation Service (hereinafter "SCS"), Soil Survey of Islands of Kauai, Oahu, Maui, Molokai, and Lanai, identifies the soils within the Property as: Wahikuli Stony silty clay (WcC), Wahikuli silty clay (WbB), Molokai silty clay loam (MuB, Muc), and rough broken and stony land (rRS). The Wahikuli series consists of well drained soils developed in material weathered from basic igneous rock and are gentle to moderately sloping. The surface layer is a dark reddish-brown silty clay, about 15 inches thick, and is deposited over hard basic igneous rock. These soils are deep, of fine texture, well drained, and of moderate to good machine tillability. Overall, the soils on the

Property have moderate permeability with slow runoff and slight erosion hazard.

12. The Land Study Bureau Detailed Land Classification system ("LSB") ranks the soils of the Property as "A" (lands well suited for intensive agriculture), "B" (lands moderately suited for intensive agriculture), and "C" (lands with fair to marginal suitability for intensive agriculture). These productivity ratings are based on the land being irrigated. If irrigation water was not available, the LSB ratings would decline to "E" (very poorly suited for agriculture).

13. The Agricultural Lands of Importance to the State of Hawaii (ALISH) classification system has designated approximately 166 acres of the Property as "prime" agricultural land. These prime agricultural lands represent approximately 0.2 percent of the "prime" lands on Maui. The remainder of the Property is "unclassified", meaning that it is not considered "prime", "unique", or "other important agricultural land."

14. The Property is not susceptible to flooding or earthquakes. According to the Flood Insurance Rate Map (FIRM), the Property is located in flood Zone C, an area of minimal flooding. The Property is not located within the tsunami inundation zone. The island of Maui is classified as Zone 2 on the Seismic Risk Map of the United States for the purpose of structural design. This classification system is based on a scale of Zones 0 to 4, with Zone 4 having the highest seismic occurrence and danger.

PROPOSAL FOR RECLASSIFICATION

15. Petitioner proposes to develop the Property with approximately 240 residential lots surrounding the existing golf course to make optimum use of views and open space. All 240 lots are proposed for the larger of the two noncontiguous parcels. Of the 240 residential lots, Petitioner proposes to develop 26 as estate residential lots and the remaining 214 as single family residential lots. No new golf course development is proposed.

The 214 single family lots would be developed on approximately 106 acres and the proposed 26 estate residential lots would be developed on approximately 17 acres. Approximately 5 acres would be reserved for future development and the remaining acreage of the Property is comprised of the existing golf course.

16. The Petitioner proposes to construct a total of 324 low, low-moderate, and moderate income housing units for residents of the State of Hawaii on lands owned by Petitioner in Wainee, or through other projects, under such terms as may be mutually agreeable between Petitioner, the Housing Finance and Development Corporation of the State of Hawaii (hereinafter "HFDC") and the County of Maui.

Petitioner proposes to provide the 324 units so as to be affordable for persons earning the following percentages of the median income of the County of Maui:

Percentage of Median Income	Number of Units
50% or Less	14
50% to 70%	19
70% to 80%	14
80% to 90%	29
90% to 100%	38
100% to 120%	29
120% to 125%	54
125% to 130%	71
130% to 140%	56
TOTAL	324

17. It is anticipated that Petitioner shall bear all costs of constructing the on-site and off-site infrastructure improvements necessary for the Property and the proposed project will not require an unreasonable investment of public infrastructure costs.

18. The proposed reclassification would enable the completion of the South Beach Mauka project, which is an important part of Petitioner's overall Kaanapali Master Plan.

19. Following reclassification by the Commission of the Property from the Agricultural District to the Urban District, Petitioner will be required to resolve, with the County, any County zoning questions and obtain subdivision, building and grading permits and approvals from the County. Petitioner estimates that the lots will be subdivided and sold over a five year period, with actual construction on the lots occurring over a period of approximately 14 years, with full build out by the year 2004.

PETITIONER'S FINANCIAL CAPABILITY
TO UNDERTAKE THE PROPOSED DEVELOPMENT

20. Petitioner's financial statements as of December 31, 1989, reflect: total assets of $570,117,000.00, total liabilities of $541,153,000.00, total current assets (including cash, receivables, inventories and prepaid expenses) of approximately $80,358,000.00, and total stockholder's equity of $28,964,000.00.

STATE AND COUNTY PLANS AND PROGRAMS

21. The Property is located within the State Land Use Agricultural District as reflected on State Land Use District Boundaries Map M-2 Lahaina, Hawaii.

22. The Maui County General Plan sets forth the County's broad policies for its long-range development. It contains statements of general, social, economic, environmental, and design objectives. The Maui County General Plan policies are implemented through the district-specific Community Plans. The Lahaina Community Plan Land Use Map designates the Property for single family residential, park, and multi-family residential uses. The Community Plan does not designate any agricultural uses for the Property.

23. The property is identified as a R-3 Residential District on Land Zoning Map No. 9. This zoning map which covers the Kaanapali and the surrounding areas was adopted on May 11, 1961, prior to the creation of the State Land Use Commission on July 11, 1961. The County of Maui has sought clarification from

its Department of the Corporation Counsel regarding the zoning of the property. If it is determined that a change in zoning is required, the matter will be resolved during the subsequent review process by the County of Maui.

24. The Property is not located within the Special Management Area administered by the County of Maui.

NEED FOR THE PROPOSED DEVELOPMENT

25. Petitioner's marketing consultant, Hallstrom Appraisal Group, Inc., prepared a market study dated May 25, 1989, for the proposed development of the Property.

26. The study concluded that there is a strong demand for the proposed resort destination community. The statewide visitor market has shown prolonged growth beginning in 1982. Escalation of the tourist industry is anticipated at 3 to 5 percent annually. Since 1970, tourism on Maui has quadrupled. The increase in tourism serves as the foundation for the increasing demand for resort destination communities. The study concludes the single family lots being proposed could achieve present selling prices of $225,000 to $325,000 per lot, and the estate residential lots being proposed could achieve prices of $300,000 to $500,000 per lot. The study projected absorption levels of 80 single family house/estate lots per year, over the subject sales period, assuming commencement in 1991, resulting in a total marketing time frame of 4.3 years. The level of absorption would vary over the life of the development effort in

accordance with periodic economic cycles and the ability to place finished inventory on the market.

ECONOMIC IMPACTS

27. Petitioner projects that employment opportunities will be made available by the proposed development of the Property. The development will produce design and construction employment opportunities during the construction phases.

28. Petitioner anticipates that urbanization of the Property will not result in the termination of any employees from Pioneer Mill Company.

29. The proposed development is anticipated to increase annual wages generated from a low of $138,668 in 1992 to a high of $1,757,618 in 2004.

30. Real property taxes generated by the Property were estimated at a stabilized total of approximately $736,560 in the year 2004. Petitioner anticipates that Maui County will realize revenues ranging from $54,945 in 1991 to $736,560 per year by 2004, and over $5.6 million over the 14 year build out period. Petitioner anticipates that the State of Hawaii will receive from $236,890 to $1.9 million annually between 1991 and 2004, or $14.7 million over the 14 year build out period.

SOCIAL IMPACTS

31. The proposed development is situated adjacent to and is expected to obtain its purchasers from the established Kaanapali resort community. As such, it is anticipated that the

proposed development will have little or no impact on the surrounding resort community.

IMPACTS UPON RESOURCES IN THE AREA

Agricultural Resources

32. The impact of urbanization of the Property on Pioneer Mill Company's sugarcane operations would be to take out of cultivation approximately 60 to 80 acres of sugarcane. This reduction represents less than 1 percent of the land currently under sugarcane cultivation. The removal of the Property from cultivation would have a negligible impact on Pioneer Mill Company's operations and profits since the cost of farming the land and processing the sugarcane would be eliminated.

33. In addition to the above-mentioned proposed reduction of 60 to 80 acres of sugarcane, Pioneer Mill Company will also lose an additional 900 acres of sugarcane as a result of the Housing and Finance Development Corporation's Lahaina Planned Residential Development that is situated about 1/3 mile south of the Property. The loss of nearly 1,000 acres of sugarcane will reduce Pioneer Mill Company's sugar cultivation to approximately 6,000 acres. However, the lower acreage limit of Pioneer Mill Company is in the range of 3,000 to 4,000 acres and the economic viability of Pioneer Mill Company will not be threatened by the cumulative withdrawal of sugarcane acreage.

34. The Department of Agriculture has stated that the incremental losses of arable lands, if left uncontrolled, will

have a devastating and irreversible effect on the viability of agriculture and Pioneer Mill Company.

35. Pioneer Mill Company has considered alternative crops as a means of diversifying its operations. Currently, Pioneer Mill Company is conducting coffee-growing trials and expects to plant several hundred acres of coffee over the next 5 years should the trials and economic feasibility prove out.

36. Petitioner's consultant, Evaluation Research Consultants, prepared a study on the agricultural impacts of the proposed project dated May 31, 1990. The study found that the Property's 166 acres of sugarcane land represented approximately 0.24% of the 67,700 acres of sugarcane currently grown on Maui and about .06% of the 255,800 acres currently grown in the State of Hawaii. The study concluded that although the Property is productive agricultural land, taking the subject Property out of agriculture will not have a significant impact on the agricultural sector of Maui County or the State of Hawaii. The conclusion is based upon market parameters for sugar, the declining importance of the sugar industry, and the availability of similar lands elsewhere in the State of Hawaii.

Flora and Fauna

37. Petitioner's consultant, Char & Associates, prepared a botanical survey of the Property dated January 1989. That survey concluded that 1 percent of the plant species surveyed are endemic, and none of the native species inventoried at the site are officially listed or proposed to be listed as

endangered or threatened species. Because the site has been under cultivation for so long a period of time, there are no sensitive native plant communities remaining. The survey further concluded that the proposed development is not expected to have any significant negative impact on the Property's botanical resources. No restrictions or conditions to the development of the Property were recommended.

38. Petitioner's consultant, Phillip L. Bruner, prepared a study on the birds and mammals which may inhabit the property. No native birds or seabirds were found and no endangered species were observed. The report found that the change of habitat from sugarcane to residential may cause the numbers of Gray Francolin to decline in the area and cause such other bird populations such as the Pacific Golden Plover, Northern Cardinal, and Red-crested Cardinal to increase. Mongeese also may become less abundant on the Property because of their preference for a more brushy habitat. No restrictions, impediments or conditions to the development of the Property were recommended.

Archaeological/Historical Resources

39. Petitioner's consultant, Paul H. Rosendahl, Ph.D., Inc., prepared an archaeological reconnaissance of the Property, dated April 1990. Seven previously identified archaeological sites were found to exist, all were either on steep margins or near the bottoms of the major gulches on the Property. All seven sites were assessed as significant solely for information

content; all of the sites lacked cultural deposits, portable artifacts, and datable remains. The existing site documentation was seen as adequate preservation of the information values represented by these sites and as sufficient mitigation of any potential project effects. No further archaeological work was recommended for any of the seven sites. The study concluded that, though the possibility is remote, potentially significant unidentified cultural remains might be encountered in the course of development activities. In such an event it was recommended that immediate archaeological consultation occur.

Ground Water Resources

40. Petitioner's consultant, Dr. John Mink, testified that there is an ample water supply to service the proposed development.

41. Petitioner's consultant, Dr. John Mink, indicates that the groundwater sustainable yield from Honokohau Valley to Kanaha Valley in the Lahaina District is estimated at 33 million gallons per day (mgd). The total domestic water demand is projected at 18.7 mgd, and the total irrigation water demand is projected at 7 mgd, for a total water demand of 26 mgd. These supply and demand figures would leave a surplus of 7 mgd.

Recreational, Scenic, Cultural Resources

42. In West Maui there are 17 County parks and three State beach parks. The Kaanapali beaches, directly makai of the Property, provide swimming, diving, and other ocean-related

activities. The two 18-hole golf courses which presently occupy the South Beach Mauka project area also serve as recreational resources.

43. Petitioner's environmental assessment acknowledges the scenic resources of the Property, indicating that the South Beach Mauka site, as seen from Honoapiilani Highway, provides an impression of green, open space, as a result of the predominance of sugarcane fields and the golf course. Petitioner proposes such mitigative measures as compliance with all County ordinances regulating building heights bulk and setbacks; aesthetically pleasing architectural design, landscaping and site planning to preserve the sense of openness provided by the cane lands; and to maintain an open, park-like setting. The proposed development is not anticipated to unreasonably burden the public recreational services or facilities serving the Property provided Petitioner participates in his pro-rata share of park improvements that may be required by the County of Maui's Department of Parks and Recreation.

44. Petitioner does not anticipate that the proposed development of the Property will have significant adverse impact upon the recreational, scenic and cultural resources of the area.

Coastal Aquatic Resources

45. Petitioner does not anticipate that the proposed development of the Property will have significant adverse impact upon the coastal/aquatic resources of the area.

ENVIRONMENTAL QUALITY

Noise

46. Petitioner's consultant, Y. Ebisu & Associates, prepared a study on the noise impacts of the project dated May 1990. The study concluded that traffic noise impacts along Honoapiilani Highway resulting from project traffic were insignificant, and noise mitigation measures were not considered necessary. Both existing and projected future aircraft noise levels over the Property were sufficiently below land use compatibility criteria, and impacts from aircraft noise were not expected. Noise from construction work was found to be unavoidable. Petitioner's consultant recommended that the use of properly muffled construction equipment should be required on the job site and the State Department of Health construction noise limits and curfew times, applicable on Oahu, could be applied to the project.

47. Concern was raised by the State over operation of an existing canehaul road which boarders the Mauka boundary of the Property. Petitioner's Consultant pointed out that in the Lahaina Project, a minimum setback of 100 feet from the road centerline was used to meet FHA, HUD criteria of 65 Ldn. Petitioner's consultant stated that berming, walls, etc. would be possible ways to mitigate noise problems.

Air Quality

48. Petitioner's consultant, J. W. Morrow Environmental Management Consultant, prepared a study on the air quality

impacts of the project dated May 30, 1990. The study concluded that short-term impacts on air quality consisted of fugitive dust during the construction period. It was recommended that dust control be accomplished through frequent watering of unpaved roads and areas of exposed soil. The earliest possible landscaping of completed areas and paving of roadways will also assist in the reduction of dust. The study further concluded that long term air quality impact sources consisted of increased traffic, continued agricultural activities, electrical generation, solid waste disposal and pesticide use. The study indicated that carbon monoxide levels currently have the potential for exceeding the State but not the Federal 1-hour standard at the Kaanapali Parkway intersection during the p.m. peak traffic hours under "worst case" meteorology. Mitigative measures for any increased traffic included roadway improvements, and car pooling. Mitigation of agricultural activity included the close monitoring of meteorological conditions, notification of sugarcane burning to downwind residents, and required notification of sugarcane smoke exposure to prospective purchasers.

Water Quality

49. Petitioner's environmental assessment indicates that surface runoff drains into Hahakea Gulch, which borders the Property to the south, and into existing drainage lines and channels, then flows into the ocean at Black Point. Surface

runoff is not expected to have any adverse impacts to the existing coastal ecosystems.

ADEQUACY OF PUBLIC SERVICES AND FACILITIES

Highway and Roadway Facilities

50. Petitioner's consultant, Austin, Tsutsumi & Associates, prepared a report dated May 1990, analyzing the traffic to be generated from the proposed development. The study concluded that the total peak hour traffic volume that would be generated by the proposed project was less than the 100-trip threshold for which the Institute of Transportation Engineers (ITE) recommends the preparation of a traffic impact report. It was concluded that the proposed project because of the small volume of traffic generated, will have little or no adverse impact on traffic operations on Honoapiilani Highway, and therefore, no improvements to the existing roadway system were required as a result of the project.

51. Because of the normal growth factor and other proposed developments in West Maui, Petitioner's consultant recommended that the State Department of Transportation add a south bound approach lane at the intersection of Honoapiilani Highway, Kaanapali Parkway and Halelo Streets, and construct a two-lane Lahaina Bypass Road from Puamana to Honokowai.

52. Even though the anticipated traffic from the proposed project does not require improvements to the existing roadways, the Petitioner is willing to work with the Department of Transportation on the design of the Lahaina Bypass Road.

Water Service

53. Petitioner's engineering report prepared by Austin, Tsutsumi & Associates indicated that two new water wells are under construction and new storage and transmission facilities will be constructed to service the Property. The water system will be constructed in accordance with County standards.

54. Petitioner anticipates that there will be adequate water sources for the proposed development, and that the proposed water system will be adequate to serve the proposed development. Hydrologist, Dr. John Mink indicated that there is more than adequate ground water to meet the projected long term demands on the water system.

55. Petitioner will pay for the cost of developing the water source, storage facilities and water transmission and distribution systems for the proposed development, and therefore Petitioner does not anticipate that any public agencies providing water services or facilities will be unreasonably burdened by the proposed development, or that the proposed development will necessitate an unreasonable investment in public infrastructure support services or commitment of State funds or resources, or that the proposed water system will have any adverse impact upon any surrounding areas.

Wastewater Treatment and Disposal

56. Sewage service is provided by the Lahaina Sewage Treatment Plant which has a current capacity of 6.7 million gallons per day (mgd). Petitioner maintains a 3.16 mgd

allocation of the treatment plant's capacity under an agreement with the County for funding which it provided for the plant's expansion in the early 1980's. This allocation is sufficient to accommodate the total average daily flow (ADF) of 1.29 mgd expected upon completion of the proposed developments.

57. Based upon its prior agreement with the county, wherein the County reserved capacity for the Petitioner, the Petitioner anticipates that the present wastewater system will be adequate to service the proposed development; no public agencies providing wastewater services or facilities will be unreasonably burdened by the proposed development; the proposed wastewater system will not have any adverse impact upon any surrounding areas, and that the proposed wastewater system and wastewater requirements for the proposed development will not necessitate an unreasonable investment in public infrastructure or support services or commitment of State funds or resources.

Drainage

58. Petitioner's consultant, Austin, Tsutsumi & Associates, prepared a drainage report for the property. That report took into consideration all of the drainage from surrounding areas flowing onto the property. The study recommended a method of handling the drainage for the Property and Petitioner is prepared to accept and implement the recommendations set forth in the drainage study.

59. Petitioner's consultant concluded that the surface runoff will be conveyed into the Hahakea Gulch by off-site

interceptor channels. The earth-filled dams within the upper sections of the gulch have been effective in retaining and metering stormwater flow. This existing drainage scheme is to be maintained and enhanced. Improvements to the schemes will include strengthening the dams and increasing the retention facilities within the project wherever practical.

60. Petitioner's consultant does not anticipate that the drainage services or facilities in the area of the Property or the public agencies providing those services or facilities, will be unreasonably burdened by the proposed development, or that the proposed drainage for the proposed development will have any adverse impact upon the environment.

Solid Waste Disposal

61. Solid waste is currently disposed of at the Central Maui landfill, near Puunene, about 20 to 30 miles from Lahaina. The Central Maui landfill will be available in three phases: Phase I, which is currently in use (20 acres), is expected to be filled by the end of 1990. Construction of Phase II (15 acres) is expected to begin in April 1990 and is expected to be adequate through 1994-1995. Beyond that, expansion of the landfill or another site will be required.

62. County of Maui, Department of Public Works has commented that no clearing and grubbing material can be disposed of at the County landfill and that the Petitioner should submit a solid waste management plan acceptable to the Department.

Schools

63. DOE indicates the following enrollment impact on the area's schools:

Schools	Grades	Projected Students
King Kamehameha III Elementary	K-6	20-25
Lahaina Intermediate	7-8	8-12
Lahainaluna High	9-12	15-20

DOE indicates that the projections are based on a total of 583 units in the proposal. DOE comments that all schools in the area are operating at capacity and will require additional classrooms to accommodate additional growth. DOE cannot assure the availability of classroom space for the proposed development. Even if additional legislative funding is secured, DOE will have difficulty catching up with all the current shortages of classrooms on Maui. DOE will request that the County require the developer to contribute a fair share of school infrastructure costs if the petition is approved.

Police and Fire Protection

64. The Property will be served by a police station out of Lahaina, situated in Wahikuli, just south of the Property. The patrol area benefits from good response time and support vehicles. The proposed development is not anticipated to result in any unreasonable burden upon, or necessitate an unreasonable investment in, police services, facilities, or commitment of State funds or resources. There are plans to expand the Lahaina Police Station within the next two years.

65. Should the cumulative impact of other planned and proposed developments in West Maui increase the demand for police services, the Petitioner will cooperate with planning officials to ensure adequate police services are provided to the project.

66. The Property will be served by a fire station at the Lahaina Civic and Recreation Center, just south of the Property. A new Napili fire station has been planned for the area in 1991. The Property is considered to be a well-covered service area and the proposed development is not anticipated to result in any unreasonable burden upon, or necessitate an unreasonable investment in, fire services or facilities or commitment of State funds or resources.

Electricity and Telephone Service

67. Electricity will be provided to the Property by the Maui Electric Company system; both electrical and telephone facilities have adequate capacity to service the proposed development; and the proposed development is not anticipated to result in any unreasonable burden upon, or necessitate an unreasonable investment in, electrical or telephone facilities or services.

COMMITMENT OF STATE FUNDS OR RESOURCES

68. Given Petitioner's commitment to pay its pro rata share of various off-site and on-site infrastructure facilities for the proposed development, Petitioner does not anticipate that the proposed development will result in any unreasonable commitment of State funds or resources.

CONFORMANCE TO APPLICABLE URBAN DISTRICT STANDARDS

69. Based on the findings previously stated, and the evidence and testimony adduced at the hearing, the Property meets the standards applicable in establishing boundaries of the Urban District as set forth in Section 15-15-18 of the Commission Rules as follows:

a. The Property is located immediately adjacent to and is contiguous with lands which are located in the Urban District and which are zoned and used for residential purposes.

b. The proposed development represents an appropriate and reasonable use of the Property and is an appropriate location for urban concentration.

c. The Property is located in the immediate vicinity of the Kaanapali Resort.

d. Petitioner has evaluated the cost of developing the proposed project, has demonstrated its financial capacity to undertake the proposed development, and has determined that the development is economically feasible.

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

f. The majority of the Property is designated "Urban" under the County's General Plan, and Petitioner's proposed uses of the Property are compatible with this designation.

g. Petitioner's wholly owned subsidiary, Pioneer Mill Company's sugarcane operations will be reduced by approximately 60-80 acres which represent only a minor portion of the Agricultural District lands.

h. Given Petitioner's commitment to pay its pro rata share of the cost of various off-site and on-site infrastructure for the Property, the proposed development will not necessitate an unreasonable investment in public infrastructure or support services.

i. The urbanization of the Property will not substantially impair actual or potential agricultural production in the vicinity of the Property or in the County of the State.

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

70. The reclassification of the Property and the proposed development of the Property are in conformity with the State goals set forth in the Hawaii State Plan Section 226-4, HRS, the objectives set forth in Sections 226-5, 226-6, 226-7, 226-8, 226-10, 226-11, 226-12, 226-13 through 226-17, and 226-19, HRS, and numerous State policies set forth in Chapter 226, HRS, including, among others, the following:

Section 226-5 (2), H.R.S., which states, to encourage and increase economic activities and employment opportunities on the Neighbor Islands consistent with community needs and desires.

Section 226-6 (b)(1), H.R.S., which states, to expand Hawaii's national and international marketing, communication, and organizational ties, to increase the State's capacity to adjust to and capitalize upon economic changes and opportunities occurring outside the State.

Section 226-6 (b)(2), H.R.S., which states, to promote Hawaii as an attractive market for investment activities that benefit Hawaii's people.

Section 226-7 (a)(2), H.R.S., which states, to direct the State's agriculture towards continued growth and development of diversified agriculture throughout the State.

Section 226-8 (b)(3), H.R.S., which states, to improve the quality of existing visitor destination areas.

Section 226-11(a)(2), H.R.S., which states, to effective protection of Hawaii's unique and fragile environmental resources.

Section 226-13(b)(6), H.R.S., which states, to encourage design and construction practices that enhance the physical qualities of Hawaii's communities.

Section 226-13(b)(7), H.R.S., which states, to encourage urban development in close proximity to existing services and facilities.

Section 226-19(a)(2), H.R.S., which states, to direct the State's housing objectives towards the orderly development of residential areas sensitive to community needs and other land uses.

Section 226-19(b)(2), H.R.S., which states, to stimulate and promote feasible approaches that increase housing choices for low-income, moderate-income, and gap-group households.

INCREMENTAL DISTRICTING

71. Petitioner anticipates that the infrastructure improvements to the Property and the lot sales will be completed within 5 years after urbanization of the Property has been obtained and that full build-out of the homes on the property will be completed by the year 2004.

RULING ON STIPULATED AND PROPOSED FINDINGS OF FACT

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

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

CONCLUSIONS OF LAW

Pursuant to Chapter 205, HRS, and the Commission Rules, the Commission finds upon the preponderance of the evidence that the reclassification of the Property, consisting of approximately 242 acres identified by Tax Map Key Numbers 4-4-06: 13, 14, 1 (portion), 10 (portion), 28 (portion), situated at Kaanapali,

Island and County of Maui, State of Hawaii, from the Agricultural District to the Urban District, subject to the conditions stated in the order below, conforms to the standards for establishing Urban Boundaries, is reasonable, is not violative of Section 205-2, HRS, and is consistent with the policies and criteria established pursuant to Sections 205-16, 205-17 and 205A-2, HRS.

ORDER

IT IS HEREBY ORDERED that the Property, being the subject of this Docket No. A90-658, as amended, by Amfac/JMB Hawaii Inc., consisting of approximately 242 acres, situated at Kaanapali, Island and County of Maui, State of Hawaii, and identified by Tax Map Key Numbers 4-4-06: 13, 14, 1 (portion), 10 (portion), 28 (portion), and approximately shown on Exhibit "A" attached hereto and incorporated herein by reference, shall be and the same is hereby reclassified from the Agricultural District to the Urban District and the State Land Use District Boundaries are amended accordingly, subject to the following conditions:

1. Petitioner shall provide housing opportunities for low, low-moderate and moderate income residents of the State of Hawaii by offering for sale or lease a total of 324 units so as to be affordable for persons earning the following percentages of the median income of the County of Maui:

Percentage of Median Income	Number of Units
50% or Less	14
50% to 70%	19
70% to 80%	14
80% to 90%	29
90% to 100%	38
100% to 120%	29
120% to 125%	54
125% to 130%	71
130% to 140%	56
TOTAL	324

This condition may be fulfilled through construction of units either onsite or offsite under such terms and at locations as may be agreeable to the Housing Finance and Development Corporation of the State of Hawaii ("HFDC") and the County of Maui and subject to approval by the Land Use Commission. This condition may also be fulfilled, with the approval of HFDC and the County of Maui, through the construction of rental units and subject to approval by the Land Use Commission.

In addition, Petitioner may obtain a special credit, as determined by HFDC, for the provision of housing affordable to persons with low and very low incomes and for the provision of housing for special need groups, all as determined by and subject to the approval of HFDC.

Petitioner shall implement this affordable housing requirement prior to or concurrently with the completion of market priced units for the residential project. The determination of median income, as that term is used in this condition, shall be based upon the median income published by the

United States Department of Housing and Urban Development at the time that construction of such housing units commences.

2. Petitioner agrees with the State Department of Transportation that the by-pass road is the most efficient means of alleviating the West Maui traffic problem and shall pay Petition Area's pro-rata share for its design and construction. In satisfaction of this condition, the Petitioner shall work with the State Department of Transportation and enter into a development agreement to do the design of the Bypass Road. Petitioner shall not be responsible for the widening, improvements, or dedication of rights of way for Honoapiilani Highway. Petitioner shall also fund, design and construct the necessary roadway improvements within the Property to the satisfaction of the County of Maui, Department of Public Works, and the State Department of Transportation.

3. Petitioner shall comply with conditions 4, 5, 6, 7 and 8 of the environmental health concerns addressed in OSP's Exhibit 2, entitled, "Eight (8) Conditions Applicable to This New Golf Course Development," dated April 7, 1989 from the State Department of Health. Petitioner need not comply with conditions 1, 2 and 3 of the above-mentioned Exhibit 2 because Petitioner is not developing a new golf course, but rather has an existing golf course within the Property.

4. Petitioner shall prepare a drainage and erosion control plan and shall fund and construct the necessary drainage improvements and maintain ocean water quality to the satisfaction

of the State Department of Health and the County of Maui Department of Public Works.

5. Petitioner shall comply with applicable provisions of State Department of Health Administrative Rules, Title 11, Chapter 20, concerning Potable Water Systems, and shall provide the necessary water source, storage, and transmission facilities to service the proposed project.

6. Petitioner shall work out its agreement with the County of Maui to ensure that there is adequate capacity at the existing Lahaina Wastewater Treatment Plant for the proposed project and shall fund and construct transmission facilities to service the project.

7. Petitioner shall inform all prospective occupants of: a) possible odor, noise, and dust pollution resulting from surrounding agricultural operations, and b) the Hawaii Right-to-Farm Act, Chapter 165, Hawaii Revised Statutes, which limits the circumstances under which pre-existing farming activities may be deemed a nuisance.

8. Petitioner shall provide its pro rata share for school facilities as may be required by and to the satisfaction of the State Department of Education.

9. Petitioner shall participate in an air quality monitoring program as specified by the State Department of Health.

10. Petitioner shall provide its pro rata share for police, fire, park, and solid waste disposal as may be required by and to the satisfaction of the County of Maui.

11. Petitioner shall fund and install the necessary number of emergency siren units within the Property to the satisfaction of the Maui Civil Defense Agency and the State Department of Defense.

12. Petitioner shall implement effective soil erosion control and dust control measures during all phases of the development.

13. Petitioner shall immediately stop work and contact the State's Historic Preservation Office should any archaeological resources, such as artifacts, shell, bones, or charcoal deposits, human burial, or rock or coral alignments, paving or walls of historic or prehistoric significance be encountered during the development of the Property. Should any sites be found, the Petitioner shall formulate an archaeological mitigation plan approved by the State Historic Preservation Division.

14. Petitioner shall submit a solid waste management plan acceptable to the County of Maui's Department of Public Works and no clearing and grubbing material shall be disposed of within the County's sanitary landfill sites.

15. Petitioner shall participate in his pro rata share of park improvements as may be required by and to the satisfaction of the County of Maui's Department of Parks and Recreation.

16. Petitioner shall implement effective soil erosion control and dust control measures during all phases of the development.

17. Petitioner shall develop the Property in substantial compliance with the representations made to the Commission in obtaining the reclassification of the Property. Failure to so develop the Property may result in reversion of the Property to its former land use classification.

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

19. Petitioner shall provide annual reports to the Land Use Commission, the Office of State Planning, and the County of Maui, Planning Department in connection with the status of the subject project and the Petitioner's progress in complying with the conditions imposed.

20. The Land Use Commission may fully or partially release these conditions as to all or any portions of the Property upon timely motion and upon the provisions of adequate assurance of satisfaction of these conditions by Petitioner.

DOCKET NO. A90-658 - AMFAC/JMB HAWAII, INC.

Done at Honolulu, Hawaii, this 18th day of March 1991, per motion on March 12, 1991.

LAND USE COMMISSION
STATE OF HAWAII

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

By
ALLEN K. HOE
Vice Chairman and Commissioner

By
ALLEN Y. KAJIOKA
Vice Chairman and Commissioner

By
KAREN S. AHN
Commissioner

By
EUSEBIO LAPENIA, JR.
Commissioner

By (absent)
JOANN N. MATTSON
Commissioner

By (conflict)
JAMES M. SHINNO
Commissioner

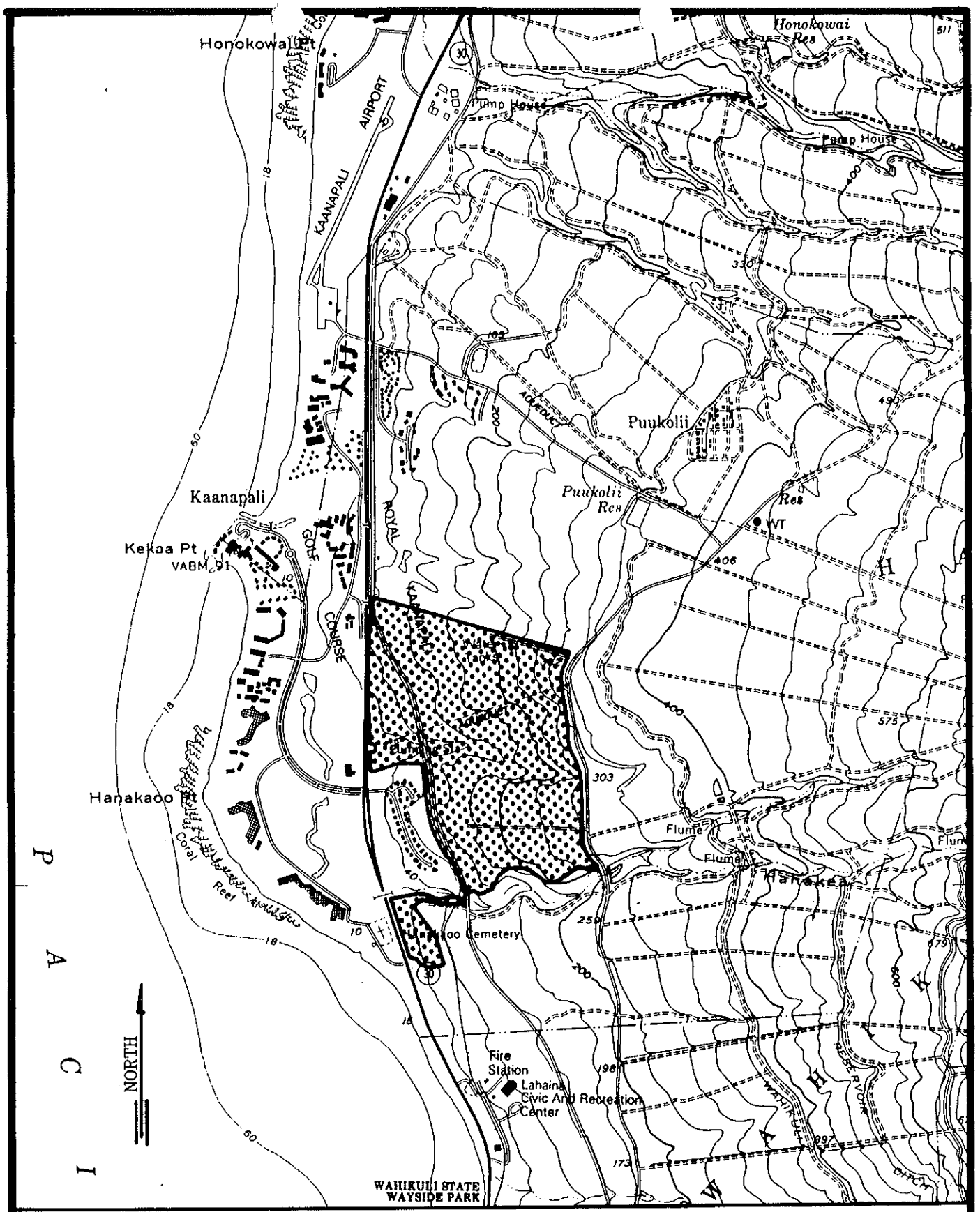
By
ELTON WADA
Commissioner

By
DELMOND J. H. WON
Commissioner

Filed and effective on
March 18, 1991

Certified by:

Executive Officer



L O C A T I O N M A P

DOCKET NO.: A90-658/AMFAC/JMB HAWAII, INC.

TAX MAP KEY: 4-4-06: por. 1, por. 10, 13, 14 & por. 28

HANAKAOO, KAANAPALI, LAHAINA, MAUI

SCALE: 1" = 2,000 ft. ±

APPROVED AREA

EXHIBIT A

BEFORE THE LAND USE COMMISSION

OF THE STATE OF HAWAII

In the Matter of the Petition of AMFAC/JMB HAWAII, INC. To Amend the Agricultural Land Use District Boundary into the Urban Land Use District for Approximately 242 acres, at Kaanapali, Maui, Hawaii, Tax Map Key No.: 4-4-06:13, 14, 1 (por.), 10 (por.), 28 (por.)	)	DOCKET NO. A90-658 AMFAC/JMB HAWAII, INC.

CERTIFICATE OF SERVICE

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

HAROLD S. MASUMOTO, Director
Office of State Planning
State Capitol, Room 410
Honolulu, Hawaii 96813

BRIAN MISKAE, Planning Director
CERT. Planning Department, County of Maui
250 South High Street
Wailuku, Hawaii 96793

CYRUS CHAN, ESQ.
Corporation Counsel
CERT. Office of the Corporation Counsel
County of Maui
200 South High Street
Wailuku, Hawaii 96793

BENJAMIN A. KUDO, ESQ., Attorney for Petitioner
CERT. Watanabe, Ing & Kawashima
5th Floor, Hawaii Building
745 Fort Street
Honolulu, Hawaii 96813

DATED: Honolulu, Hawaii, this 18th day of March 1991.

ESTHER UEDA
Executive Officer