

SMOLENSKI & WOODDELL

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Attorneys for Petitioner

BEFORE THE LAND USE COMMISSION  
OF THE STATE OF HAWAII

JAN 23 5 05 PM '91  
LAND USE COMMISSION  
STATE OF HAWAII

In the Matter of the Petition of	)	DOCKET NO. A89-643
	)	
ROBERT S. McCLEAN AS TRUSTEE	)	ROBERT S. McCLEAN AS
OF THE ROBERT S. McCLEAN TRUST	)	TRUSTEE OF THE
	)	ROBERT S. McCLEAN
To reclassify approximately 89.527	)	TRUST
acres of land currently in the	)	
Conservation and Agricultural	)	MOTION TO AMEND PETITION
Districts into the Urban District at	)	FOR LAND USE DISTRICT
Honokohau, North Kona, Hawaii for	)	BOUNDARY AMENDMENT;
industrial uses and general urban	)	MEMORANDUM IN SUPPORT
expansion.	)	OF MOTION; EXHIBIT "A";
	)	VERIFICATION
Tax Map Key No.: 7-4-08: 26	)	
7-4-08: 49	)	

MOTION TO AMEND PETITION FOR LAND USE DISTRICT BOUNDARY AMENDMENT

Robert S. McClean, as Trustee of the Robert S. McClean Trust, Petitioner herein, hereby moves the Land Use Commission of the State of Hawaii to allow Petitioner to amend its Petition for Land Use District Boundary Amendment, filed herein on June 13, 1989, to reflect the following:

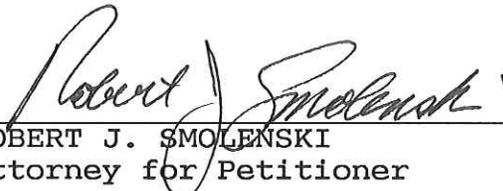
1. Change the name of the Petitioner from Robert S. McClean, as Trustee of the Robert S. McClean Trust, to McClean Honokohau Properties, a Hawaii limited partnership.

[CERTIFICATE OF SERVICE]

2. Correct the description of the acreage of the subject property being requested to be redistricted to the Urban District, from 74.605 acres originally listed in Conservation in the original Petition to 72.40 acres, and from 14.922 acres originally listed in Agricultural in the original Petition to 17.127 acres.

This Motion is filed pursuant to Section 15-15-70 of the Hawaii Land Use Commission Rules and is based upon the Memorandum in Support of Motion attached hereto.

DATED: Honolulu, Hawaii, January 23, 1991.

  
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ROBERT J. SMOLENSKI  
Attorney for Petitioner

BEFORE THE LAND USE COMMISSION  
OF THE STATE OF HAWAII

In the Matter of the Petition of	)	DOCKET NO. A89-643
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ROBERT S. McCLEAN AS TRUSTEE	)	ROBERT S. McCLEAN AS
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To reclassify approximately 89.527	)	TRUST
acres of land currently in the	)	
Conservation and Agricultural	)	MEMORANDUM IN SUPPORT
Districts into the Urban District at	)	OF MOTION; EXHIBIT "A"
Honokohau, North Kona, Hawaii for	)	
industrial uses and general urban	)	
expansion.	)	
	)	
Tax Map Key No.: 7-4-08: 26	)	
	)	
7-4-08: 49	)	
	)	

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MEMORANDUM IN SUPPORT OF MOTION

This Memorandum is submitted in support of the motion of Petitioner Robert S. McClean, Trustee of the Robert S. McClean Trust, to amend its Petition herein to reflect the present ownership of the subject property by McClean Honokohau Properties, a Hawaii limited partnership, and to correct the acreage descriptions of the property contained in the Conservation and Agricultural districts.

The subject property was conveyed by Warranty Deed dated May 21, 1990 from Robert S. McClean, Trustee of the Robert S. McClean Trust, Grantor, to Robert S. McClean, Grantee, a copy of which has been submitted as Petitioner's Exhibit 12 herein. The subject property then was transferred by Warranty Deed dated May 21, 1990 from Robert S. McClean, Grantor, to McClean Honokohau Partners, Grantee, a copy of which has been submitted as Petitioner's Exhibit 13-A herein. Exhibit 13-A incorrectly

reflected the name of the limited partnership, and this was corrected by the Correction Deed from Robert S. McClean, Grantor, to McClean Honokohau Properties, Grantee, dated November 6, 1990, a copy of which has been submitted as Petitioner's Exhibit 13-B.

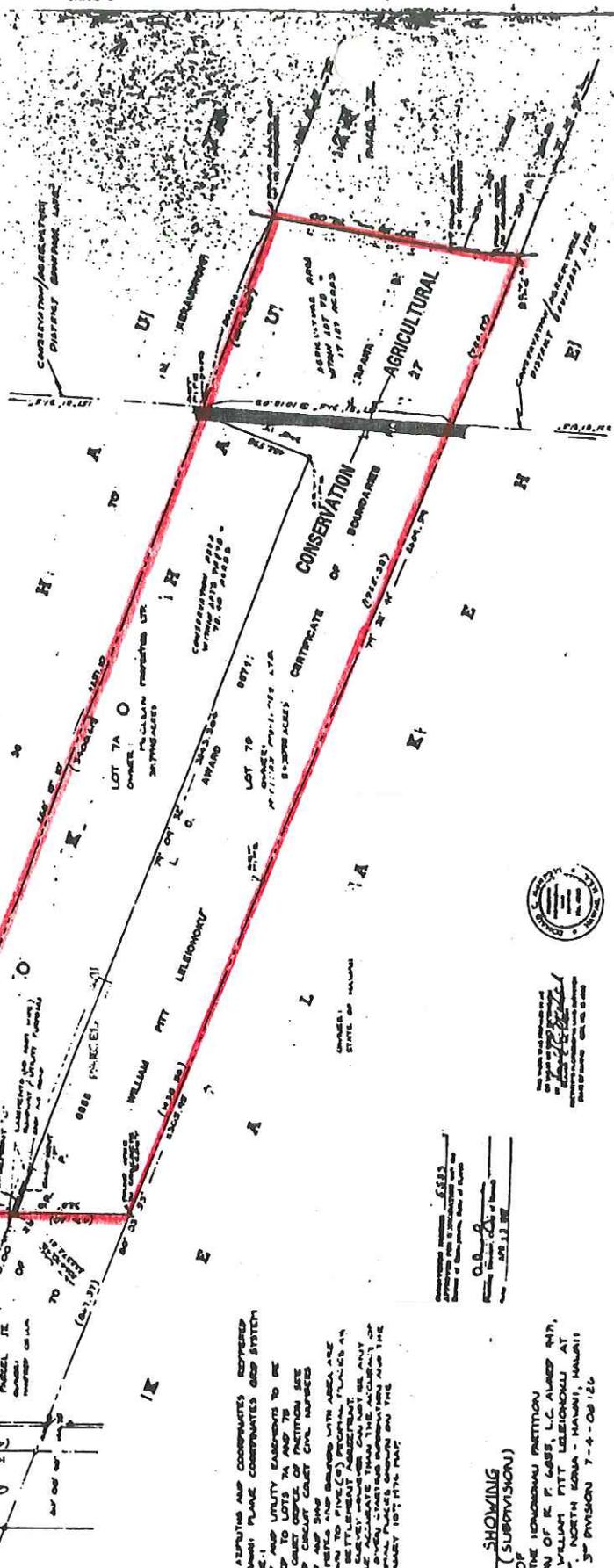
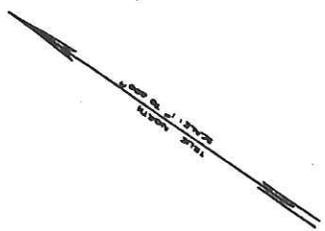
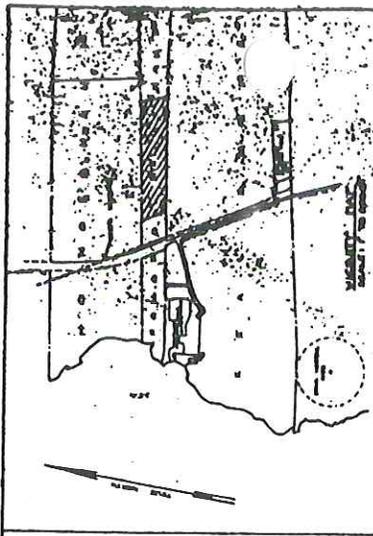
The Financial Statement of McClean Honokohau Properties, a Hawaii limited partnership, dated May 1, 1990, has been submitted as Petitioner's Exhibit 14. As appears from the Financial Statement, Robert S. McClean, Trustee, has transferred the subject property to a family limited partnership in which he, as Trustee of the Robert S. McClean Trust, is the sole general partner and a 42 percent limited partner. The remaining limited partners are trusts for the children and grandchildren of Robert S. McClean and Jeannette B. McClean. As a result, Robert S. McClean, as Trustee of the Robert S. McClean Trust, remains the person who is in control of the subject property, and the person who will manage the proposed development of the subject property. The foregoing transfer was done for tax and estate planning considerations.

The original Petition listed 74.605 acres in Conservation and 14.922 acres in Agricultural. However, there was uncertainty as to the district boundary, and in Boundary Interpretation No. 90 51, a copy of which is attached as Exhibit "A" to this memorandum, it was determined that there are 72.40 acres in Conservation and 17.127 acres in Agricultural, as set forth in Boundary Interpretation No. 90 51.

Based upon the foregoing, Petitioner requests that the Motion to Amend Petition for Land Use District Boundary Amendment be granted.

DATED: Honolulu, Hawaii, January 23, 1991.

  
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ROBERT J. SMOLENSKI  
Attorney for Petitioner



- NOTE:
- 1) ALL REPUTING AND COORDINATES REFERRED TO HEREIN PLANE COORDINATES GRID SYSTEM
  - 2) ROAD AND UTILITY EASEMENTS TO BE APPLIED TO LOTS 7A AND 7B
  - 3) THE GUEST COPIES OF PARTITION SETS FOR LOTS 7A AND 7B SHALL BE IDENTICAL TO THE ORIGINALS
  - 4) THE SETBACKS AND BOUNDARIES WITH AREA ARE GIVEN TO FIVE (5) DECIMAL PLACES AS THE SETTLEMENT AGREEMENT PROVIDES AS MORE ACCURATE THAN THE ACCURACY OF THE SURVEYING INSTRUMENTS AND THE JOURNALS OF THE SURVEYOR AND THE JOURNAL OF THE MAP AND THE

**PLAN SHOWING PARTITION (SUBDIVISION) OF**

PARCEL 388 OF THE HONOLULU PARTITION BEING A PART OF E. F. GARR, L.C. ALIEN 417, APANA 9 TO WILLIAM PITT LELEKOHU AT HONOLULU 2, NORTH KONA - HAWAII, HAWAII TAI MAP KEY, 3<sup>RD</sup> DIVISION 7-4-08 126

PREPARED FOR:  
MULLEN EARTH PROPERTIES, INC.  
P.O. BOX 3030  
KAILUA - KONA, HAWAII 98901

PREPARED BY:  
KONA SURVEYORS  
AND ENGINEERS  
KAILUA - KONA, HAWAII 98901



THE HONOLULU DISTRICT ENGINEER HAS REVIEWED THIS PLAN AND FINDS IT TO BE IN ACCORDANCE WITH THE REQUIREMENTS OF THE HONOLULU DISTRICT ENGINEERING DEPARTMENT.



25 1/2" x 36" 204  
MAY 2, 1988  
REVISED, SEPTEMBER 19, 1988  
2118

EXHIBIT "A"



CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Motion to Amend Petition for Land Use District Boundary Amendment; Memorandum in Support of Motion was served upon the following by depositing the same in the U. S. Postal Service by certified mail:

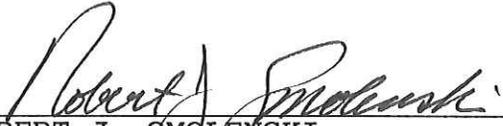
HAROLD S. MASUMOTO, Director  
Office of State Planning  
State Capitol, Room 410  
Honolulu, Hawaii 96813

NORMAN HAYASHI, Director  
Planning Department, County of Hawaii  
25 Aupuni Street  
Hilo, Hawaii 96720

FRED Y. FUJIMOTO, Chairman  
Planning Commission  
County of Hawaii  
25 Aupuni Street  
Hilo, Hawaii 96720

SANDRA PECHTER SCHUTTE, Esq.  
101 Aupuni Street, Suite 124  
Hilo, Hawaii 96720

DATED: Honolulu, Hawaii, January 23, 1991.

  
\_\_\_\_\_  
ROBERT J. SMOLENSKI  
Attorney for Petitioner