

DOCKET NO./PETITIONER: SHOW CAUSE HEARING KAONOULU RANCH.

PARTY: COUNTY OF MAUI

LIST OF WITNESSES

NAME/ORGANIZATION/POSITION (List in Order of Appearance)	TO BE QUALIFIED AS A WITNESS IN:	SUBJECT MATTER	WRITTEN TESTIMONY (Yes or No)	EXHIBIT NUMBER(S)	LENGTH OF DIRECT
William Spence, Planning Director, County of Maui or his Representative	Planning & Land Use	County's Position, planning, land use, overall project analysis	Yes	1	25 Minutes
Ann Cua, Land Use Planning Supervisor	Planning and Land Use	Planning	Yes	1	15 Minutes

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LAND USE COMMISSION
STATE OF HAWAII
2012 OCT 15 A 9:08

DOCKET NO./PETITIONER: SHOW CAUSE HEARING AS TO HONUUA'ULA PARTNERS, LLC

PARTY: COUNTY OF MAUI

LIST OF EXHIBITS

EXHIBIT NUMBER	DESCRIPTION	PARTY: OBJECTIONS	ADMIT
1	Testimony of the Maui Planning Department		
2	County of Maui's Request for Official notice		
3	Condition 19 in Docket No. A03-739		
4	Maui Island Plan 2012 Map - Director's Proposed Amendments		
5	Resume for William Spence, Director of Planning		
6	Resume for Ann Cua, Current Planning Division Supervisor		

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2012 OCT 15 A 9:02

LAND USE COMMISSION
STATE OF HAWAII



WILLIAM R. SPENCE
Director of Planning
Department of Planning
County of Maui
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BEFORE THE LAND USE COMMISSION

STATE OF HAWAII

In the Matter of the Petition of

KAONOULU RANCH

To Amend the Agricultural Land Use District Boundary into the Urban Land Use District for approximately 88 acres at Kaonoulu, Makawao-Wailuku, Maui, Hawaii; Tax Map Key Nos. 2-2-02: por. of 15 and 3-9-01:16

DOCKET NO. A94-706

DEPARTMENT OF PLANNING,
COUNTY OF MAUI'S TESTIMONY;
CERTIFICATE OF SERVICE
Order to Show Cause Hearing

Date: November 1, 2012

DEPARTMENT OF PLANNING, COUNTY OF MAUI'S TESTIMONY

The Planning Department ("Department") hereby submits its written testimony for the Order to Show Cause Hearing on the above matter.

I. POSITION

The State Land Use Commission on August 24, 2012 granted an Order to Show Cause limited to the issue of whether there has been a failure to perform according to the conditions imposed by the Decision and Order of February 10, 1995 in the above docket. The specific conditions in question are condition No. 5 which deals with local and regional roadway improvements, and Condition No. 15 relating to substantial compliance with representations made to the Land Use Commission (LUC). It is the

EXHIBIT " 1 "

Department's position that there has been no breach in conditions in as much as the proposal to build a shopping center on the property does not conflict with representations made by the landowner to the LUC. In addition, there is no condition in the LUC's 1995 decision and order restricting any of the uses that are allowed by County zoning.

In addition, on September 17, 2012, Honuaula Partners, LLC ("Honuaula") filed a Motion requesting that the Commission bifurcate this docket to separate out the portion of the Project proposed for affordable apartment use. In that document, Honuaula represented that it would move to amend the 1995 Decision and Order as to the parcel owned by Honuaula, and that no construction of any affordable housing units will occur unless and until the Commission grants a motion to amend. The Department supported the Bifurcation Motion, which is not scheduled to be heard until November 15, 2012. Honuaula has represented that it will not develop the affordable housing use until a motion to amend is granted. The Department maintains its position, expressed earlier in this docket, that apartment uses are not prohibited by the 1995 Decision and Order. Honuaula's representation that it will not develop the Honuaula property until a motion to amend is granted further indicates that Honuaula is not currently in violation of any portion of the 1995 Decision and Order, as it has essentially agreed to a stay of the development of that property at this time.

II. ANALYSIS OF CONDITIONS 15 AND 5

A. Intervenor's Have Not Shown That Condition Fifteen (15) Of the 1995 D & O Related To Development Of The Property In Substantial Compliance With Representations Made To The Commission Has Been Breached.

Intervenor's contend that condition 15 of the 1995 D & O has been breached by

(1) the anticipated use of the petition area for affordable apartments units, and (2) the anticipated use of the petition area for commercial shopping center purposes. A review of the record in this docket, however, reveals that any future use of the property for such purposes are entirely consistent with the representations made to the Commission during the approval process.

1. Petitioner Represented That The Property Could Be Used As Allowed, Without Limitation, By The Light Industrial Zoning In Place At The Time Of The Boundary Reclassification.

A review of the record in this docket reveals that the petitioner disclosed that the property could be used in any manner permitted by Maui County's light industrial zoning classification. The petitioner anticipated that the property would be sold or leased to third parties, and that those parties would operate the property in accordance with the zoning. The Petition included a copy of Maui County's M-1 light industrial and B-1, B-2 and B-3 business zoning ordinances as part of a "Market Feasibility Study and Economic Report." See Exhibit "B" to County's Request for Official Notice (Excerpts from Petition Exhibit 5)¹. The project is referred to as a "commercial and light industrial" development throughout the 1995 D&O. The business district ordinances were included because the County's M-1 Light Industrial District allows any use permitted in the Light Industrial District. Id. "Apartment houses" are listed as permitted uses in the Light Industrial District. Id.

The broad range of uses permitted by the M-1 zoning was recognized by the Commission. Numerous questions were asked by Commissioners about the uses

¹ The Department's "Request for Official Notice" that was filed with the Department's Response to Movant's Motion for order to Show Cause is listed as Exhibit "2" in the County's Exhibit List. The exhibits in the Request for Official Notice are referenced throughout this document.

allowed in the Light Industrial District in order to understand what may eventually be built on the site. A review of the questions and responses demonstrates that the Commission was fully informed of the potential uses for the project and that such uses would be based on the zoning for the property. The petitioner's market feasibility expert, Lloyd Sodetani, faced questions from Commissioner Kajioka as follows:

Commissioner Kajioka: Lloyd, it appears in terms of permitted uses within a light industrial it appears to be pretty broad. B1, B2, B3 districts permitted uses . . . Even apartment houses are permitted use in light industrial.

A: Right.

Q: In other words, we could have a preponderance of retail and service type establishments in this.

A: That's a possibility but I would say that the light industrial entities would probably be more likely to be located in a project like this rather than the commercial entities as described.

Q: But there's no way you can stop them.

A: That's true. But I think the market will dictate that too.

Request for Official Notice, Exhibit C (November 1, 1994 Transcript pp. 105-106). Mr. Sodetani explained that while he did not anticipate predominantly commercial use, there was no restriction on permitted uses for this project, and that the market would ultimately dictate what was built within the standards of the zoning. Id. 106-108.

Similarly, the petitioner's civil engineer, Warren Unemori was asked about the uses on the property by Deputy Corporation Council Gary Zakian:

Mr. Zakian: Are you aware of the types of various commercial or light industrial activities that are tentatively planned or considered to take place in this area?

Mr. Unemori: No, I'm not familiar. I don't think the developer knows just what type of development, the tenants that might be within the projects.

Id. , p. 33.

The record further shows that the Maui County Department of Planning and then-Director Brian Miskae recognized the broad range of uses allowed in M-1 zoning. Mr. Miskae explained during his testimony that to address this issue he would need to seek action from the County's legislative branch, the Maui County Council, to amend the M-1 zoning ordinance. Id. p. 139. Further, Director Miskae testified that apartments were permitted uses in the Light Industrial district. Id. p. 140.

2. Maui County's Industrial Zoning Districts Allow and Have Historically Allowed Commercial and Apartment Uses, and Such Uses Are Common Within Industrial Districts

In order for the Commission to better understand the uses allowed in the Light Industrial zoning district, and therefore this project, some historical background may be helpful. In approximately 1960, Maui County adopted a "Euclidian" zoning regime which is perhaps the oldest and most common zoning schemes used in the country. A common trait of this zoning is that uses are "stacked" or tiered" into progressively intense land use zonings. Uses thought to be less intense or intrusive are permitted in the more intense zoning categories because they are thought to be compatible.

Under this regime, Maui County industrial districts (including M-2 Heavy Industrial) allow, as of right, all of the commercial uses (retail, office, etc.) contained in the Maui County business districts, B-1, B-2 and B-3. "Apartment houses" are also listed as an outright permitted use. These different uses are stacked or tiered within the M-1 light industrial district because they are thought to be compatible with the light industrial uses.

In 1960, when the zoning code was adopted, the island's population was about 37,000 and the economy centered around agriculture and related industries. The County zoned a considerable amount of land in support of the primary economic engine. In Kahului alone we have approximately 385 acres of M-1 light industrial zoning, but only 57 acres of B-1, B-2, or B-3 Business zoning.

The demand for light industrial uses shifted to commercial uses as the economy changed away from agriculture to tourism and other businesses. The demand also changed as the population grew from 37,000 in 1960 to approximately 140,000 in 2010. The M-1 zoning allowed the flexibility for change with the economy. As a result of the above zoning regime and history, a very large portion of Maui's light industrial lands have converted to commercial uses.

At the present time, the vast majority of Maui's major commercial centers (including malls) are located on both light and heavy industrial zoned lands:

- Queen Ka`ahumanu Center (Kahului and the island's largest mall)
- Maui Mall (Kahului)
- Maui Marketplace (Kahului)
- Wailuku Town Center
- Lahaina Cannery
- Lahaina Gateway
- Haiku Cannery
- Haiku Marketplace
- Pauwela Cannery

This is not an exhaustive list. A significant number of smaller shopping centers are also located on heavy or light industrial zoned land. In addition, virtually all of the land on Maui with these zoning classifications is intermixed with uses that would be considered commercial and industrial. Traditional light industrial uses such as warehousing, trucking facilities and lumber yards are found adjacent to office buildings, retail, service establishments, and restaurants.

In addition, there are a considerable number of apartment units on land that is zoned for light industrial uses:

- Iao Parkside (Wailuku) 480 individually owned, affordable units
- Ali'i Koa Apartments – (Wailuku) 20 rental units
- Approximately 92 other units along Lower Main in Wailuku located next to or above commercial and light industrial uses
- Kahului Town Terrace – 72 low-income rental units
- Opukea – (Lahaina) 114 predominantly affordable units

A review of this information reveals that there is nothing unusual about shopping malls or apartment houses being located on light industrial land. Maui County has treated our M-1 District essentially as a default business district, as well as an apartment district.

In Docket 94-706, by virtue of placing it in the Urban District (and without any conditions to limit commercial uses), the LUC authorized the County to control the uses thereon by its own zoning codes and practices.

Maui's legislative body zoned the properties M-1 Light Industrial, a district that can only be applied in the State Urban District. Though during the zoning process

recommendations were made to limit commercial uses, the County Council chose not to do so. As a result, the zoning was granted without limitation.

3. No Limitations On The Percentage Of Commercial vs. Light Industrial Uses Were Placed On The Project By Either The Land Use Commission Or The Maui County Council.

While the Department does not dispute that the Commission has the authority impose conditions that are more restrictive than county zoning in certain cases, such conditions must be stated with an "ascertainable certainty". Lanai Company, Inc. v. Land Use Commission, 105 Hawai'i 296, 314, 97 P.3d 372, 390 (2004). Hawaii Revised Statutes § 205-2(b) states: "Urban districts shall include activities or uses as provided by ordinances or regulations of the county within which the urban district is situated."

It is undisputed that in its 1995 D & O, the Land Use Commission did not include any express conditions limiting the permitted uses available to the land owner. The Commission's D & O noted that the Department would "request" that the County Council place appropriate limitations on the commercial use of the property. Request for Official Notice, Exhibit A (Finding of Fact 34).

Despite being aware of the broad range of uses available to the project in the M-1 district, as well as the potential to limit such uses by condition, the Commission opted not to place any use restrictions on the property. Based on the record, including the testimony of the Maui County Planning Director and Finding of Fact No. 34, the Commission left the decision whether to limit permitted uses to the Maui County Council as part of its zoning review. This approach was entirely reasonable because, as Director Miskae told the Commission, use limitation conditions had been considered at

the zoning level in past cases. Request for Official Notice, Exhibit C (Transcript p. 139). By virtue of placing this property in the Urban District without any express conditions to limit commercial uses, the LUC authorized the County to control the uses thereon by the County's own zoning codes and conditions.

During the Change in Zoning and Community Plan Amendment process, the County's Planning Department did, in fact, recommend a zoning condition that would have limited the commercial uses of the project. See Request for Official Notice, Exhibit D (Excerpt from Maui Planning Department's Recommendation for the Maui Planning Commission, p. 11).

The condition proposed by Maui's Planning Department read as follows:

That seventy percent (70%) of the net property to be developed shall be leased or sold as restricted to uses permitted in the M-1 Light Industrial District, under Maui County Code, Title 19, Chapter 19.24, excluding the uses permitted in the B-1, B-2 and B-3 Business District. Id.

Also in its recommendation to the Commission, the Planning Department provided examples of three other light industrial projects where a similar limitation of commercial uses was proposed. See Id. pp. 10-12. In two of those projects, a limitation was adopted in some form, while in the other, no limitations were imposed.

Ultimately, the Planning Commission did not recommend a condition limiting uses in the Kaonoulu project, opting instead for the following discretionary language:

That the applicant shall use its best efforts in attracting traditional light industrial uses and shall consider locating these on the perimeter and focus non-industrial uses on the major traffic corridors.

Request for Official Notice, Exhibit E (9/20/98 transmittal to Council, p. 3).

The Maui County Council considered the Maui Planning Commission's

recommendation, as well as the Planning Department's proposed condition, but the Council ultimately chose to grant the change in zoning request without imposing any conditions limiting the use of the property. Request for Official Notice, Exhibit F (Ordinance 2772 (1999)).

4. The Land Use Commission Has Placed Express Conditions Limiting Commercial Uses In Light Industrial Zoned Lands That Were Not Present in This Docket.

In LUC Docket A03-739 for the Maui Business Park Phase II project, the Commission imposed the following express condition:

For a period of eight (8) years from the date of the County's approval of zoning for the Project a total of at least fifty percent (50%) of the Project acreage shall be (a) used and developed by Petitioner for non-retail, light industrial use and/or (b) sold or leased to and developed and used by third-party buyers for non-retail, light industrial use. For this same eight-year period, simultaneous with Petitioner's development or offer for sale or lease of the Property for retail use, Petitioner shall develop or offer for sale or lease an equal amount of acreage within the Property for non-retail light industrial use. The phrase "light industrial", as used in this paragraph, includes warehousing and distribution types of activity as well as compounding, assembly, or treatment of articles or materials with the exception of heavy manufacturing and processing of raw materials. It is the intent of this paragraph that at the end of the above-described eight-year period, to the extent that the Project is developed or in the process of being developed by Petitioner or any third party, no less than fifty percent (50%) of such development or development in process shall be for non-retail, light industrial purposes.

A true and correct copy of this condition is listed as Exhibit "3" in the County's

Witness List.

This condition provides clear instructions to the developer and the Department regarding the composition of the project, meeting the "ascertainable certainty" standard required by the Hawaii Supreme Court. In stark contrast, the conditions in the current

docket do not reference the project's required composition despite the Commission's knowledge that such conditions had been imposed at the zoning level. Absent this, it becomes impossible for the developer or the Department to determine what proportion of commercial vs. light industrial uses is allowed by law, where the zoning does not provide any such limitations.

5. Based On The Record And The Absence Of Any Express Condition Limiting The Use Of The Property, Intervenors Cannot Point To Any Conditions Or Representations That Have Been Breached.

Intervenors appear to contend that the project is limited solely to light industrial use, based upon the representations the land owner made to the Commission in 1994-1995. However, Intervenors cannot point to any conditions adopted by the Commission that limited the allowed uses on the property. Likewise, they do not cite to any representations in which the petitioner announced an intention to restrict the permitted uses for the property solely to light industrial. The petitioner's representative, Mr. Sodetani, testified that the ultimate use of the property would be dictated by the market as allowed by County zoning. Planning Director Miskae advised the Commission that the County's light industrial zoning ordinance would allow for a broad range of uses if not restricted by condition. After this testimony, it was abundantly clear to the Commission that it would have to impose conditions in its decision and order, or the County would have to change its zoning ordinance, in order to limit commercial, apartment or other allowed uses on the property. Yet neither the Commission nor the duly-elected County Council chose to take any such action.

The Commission chose not to impose a use limitation condition when it granted the District Boundary Amendment in 1995. Now, in 2012, the Commission may not

retroactively impute such a condition. To do so would not only alter the Commission's 1995 D & O, but would also conflict with the legislative decision of the Maui County Council not to limit the uses for this particular property.

B. Intervenor's Have Not Shown That Condition Five Of The Order Related To Traffic Improvements Has Been Breached.

Intervenor's claim that Condition 5 of the 1995 D & O, related to traffic, has been violated. However, that condition does not contain a timing requirement and requires ongoing coordination with the County and State Department of Transportation ("DOT"). Intervenor's express concern regarding the construction of a "frontage" road.

Condition five of the Order states in full:

"5. Petitioner shall fund, design and construct necessary local and regional roadway improvements necessitated by the proposed development in designs and schedules accepted by the State Department of Transportation and the County of Maui. Petitioner shall provide traffic signals at the intersection of Piilani Highway and Kaonoulu Street, and shall submit a warrant study in coordination with the Department of Transportation. Petitioner shall also install a fence and appropriate screening, i.e. landscaping, etc., along the highway right-of-way in coordination with the State Department of Transportation. Petitioner shall provide for a frontage road parallel to Piilani Highway and other connector roads within the Petition area, in coordination with other developments in the area with the review and approval of the State Department of Transportation and the County of Maui."

Request for Official Notice, Exhibit A (Condition 5 to 1995 D&O).

The Project abuts the existing four lane Piilani Highway and proposes to construct a portion of the Kihei-Upcountry Highway bisecting the property that is anticipated to be under the jurisdiction of the State of Hawaii, Department of Transportation. It is the Department's understanding that there are ongoing discussions between the Developers and the State Department of Transportation with respect to the

specific traffic improvements required for the Project, which include an updated TIAR. Because the roadways abutting this project are all controlled (or will be controlled) by the State Department of Transportation, the Department defers to the State with respect to the traffic improvements required for this Project based on this condition.

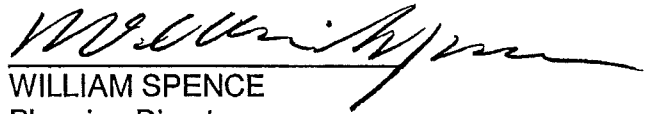
III. CONCLUSION

A careful review of the record of the Land Use Commission's 1995 action in this docket reveals that the landowner made significant representations to the LUC as to the many different land uses that could be developed on the property once placed in the State Urban District and zoned Light Industrial. These representations do not conflict with the current owner's proposal to build a shopping center on the property. Likewise, the record reveals that neither the Commission nor the Maui County Council imposed any specific restrictions on the property with respect to any of the uses allowed by County zoning.

Moreover, the only activity that has occurred on the property to date is the issuance of County grading permits.

Therefore, County respectfully requests the Commission find that there has been no breach in conditions of the 1995 D&O in the Petition of Kaonoulu Ranch.

DATED: Wailuku, Maui, Hawaii, October 11, 2012


WILLIAM SPENCE
Planning Director

BEFORE THE LAND USE COMMISSION

STATE OF HAWAII

In the Matter of the Petition of

KAONOULU RANCH

To Amend the Agricultural Land Use District Boundary into the Urban Land Use District for approximately 88 acres at Kaonoulu, Makawao-Wailuku, Maui, Hawaii; Tax Map Kay Nos. 2-2-02: por. Of 15 and 3-9-01:16

DOCKET NO. A94-706

CERTIFICATE OF SERVICE

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing document was duly served on October 11, 2012, upon the following parties, by depositing same in the U.S. Mail, postage prepaid, at their last known addresses:

	METHOD OF SERVICE		
	<u>Mail</u>	<u>Hand Delivery</u>	<u>E-Mail</u>
DANIEL ORODENKER Executive Director Land Use Commission P.O. Box 2359 Honolulu, Hawaii 96804 E-mail: daniel.e.orođenker@dbedt.hawaii.gov	X		X
TOM PIERCE ESQ. P.O. Box 798 Makawao, Hawaii 96768 E-mail: tom@mauilandlaw.com	X		X
Attorney for Intervenors Maui Tomorrow Foundation, Inc., South Maui Citizens For Responsible Growth, and Daniel Kanahele			

	METHOD OF SERVICE		
	<u>Mail</u>	<u>Hand Delivery</u>	<u>E-Mail</u>
JONATHAN H. STEINER, ESQ. McCorriston Miller Mukai MacKinnon P.O. Box 2800 Honolulu, Hawaii 96803 E-mail: steiner@m4law.com	X		X
Attorney's for Pi'ilani Promenade North, LLC And Pi'ilani Promenade South, LLC and Honua'ula Partners LLC			
JOHN S. RAPACZ ESQ. P.O. Box 2776 Wailuku, Hawaii 96793 E-mail: rapacz@hawaii.rr.com	X		X
Attorney's for Pi'ilani Promenade North, LLC And Pi'ilani Promenade South, LLC and Honua'ula Partners LLC			
JESSE K. SOUKI, ESQ. Director, Office of Planning State of Hawaii P.O. Box 2359 Honolulu, Hawaii 96804 E-mail: jesse.k.souki@dbedt.hawaii.gov	X		X
BRYAN YEE, ESQ. Deputy Attorney General Department of the Attorney General 425 Queen Street Honolulu, Hawaii 96813 E-mail: bryan.c.yee@hawaii.gov	X		X
Attorney for State Office of Planning			
MICHAEL HOPPER Deputy Corporation Counsel Department of the Corporation Counsel County of Maui 200 South High Street Wailuku, Hawaii 96793 E-mail: Michael.Hopper@co.maui.hi.us			X

DATED: Wailuku, Hawaii, October 11, 2012.



WILLIAM SPENCE
Planning Director
Maui Planning Department



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Corporation Counsel
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Attorneys for Respondent
Department of Planning,
County of Maui

BEFORE THE LAND USE COMMISSION
STATE OF HAWAII

In the Matter of the Petition of
KAONOULU RANCH

DOCKET NO. A-94-706

REQUEST FOR OFFICIAL NOTICE

To Amend the Agricultural Land Use District Boundary into the Urban Land Use District for approximately 88 acres at Kaonoulu, Makawao-Wailuku, Maui, Hawaii; Tax Map Key Nos. 2-2-02: por. of 15 and 3-9-01:16

REQUEST FOR OFFICIAL NOTICE

Pursuant to HAR § 15-15-63(k)¹ and § 91-10(4), Hawaii Revised Statutes²,

Respondent Department of Planning, County of Maui ("County") hereby requests

¹ HAR § 15-15-63(k) reads as follows: "The commission may take official notice of matters as may be judicially noticed by the courts of the State of Hawaii. Official notice may also be taken of generally recognized technical or scientific facts within the commission's specialized knowledge when parties are given notice either before or during the hearing of the material so noticed and afforded the opportunity to contest the facts so noticed."

² HRS § 91-10(4) reads as follows: "Agencies may take notice of judicially recognizable facts. In addition, they may take notice of generally recognized technical or scientific facts within their specialized knowledge; but parties shall be notified either before or

this Commission to take official notice of the following documents and their contents as follows:

1. Relevant pages from the Land Use Commission's Findings of Fact, Conclusions of Law and Decision and Order Dated February 10, 1995, Docket A94-706, a copy of which is attached hereto as Exhibit "A".

2. Relevant pages from Petitioner's Market Feasibility Study and Economic Report, originally referenced as Exhibit 5 of Petitioner's Petition in Docket A94-706, a copy of which is attached hereto as Exhibit "B".

3. Relevant Pages of the transcript of the November 1, 1994 hearing in Docket A94-706, copy of which is attached hereto as Exhibit "C".

4. Relevant pages from Maui Planning Department's Recommendation for the Maui Planning Commission Meeting on August 25, 1998, Docket CIZ 980013, a copy of which is attached hereto as Exhibit "D".

5. A transmittal from the County of Maui's Department of Planning to the Maui County Council, dated September 20, 1998, regarding CIZ 980013, a copy of which is attached hereto as Exhibit "E".

6. Maui County Ordinance No. 2772, effective May 25, 1999, a copy of which is attached hereto as Exhibit "F".

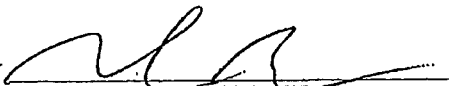
Several exhibits are provided in excerpt form to facilitate the Commission's review. The County presumes that documents filed with the Land Use

during the hearing, or by reference in preliminary reports or otherwise, of the material so noticed, and they shall be afforded an opportunity to contest the facts so noticed[.]"

Commission in this docket are available to the Commission in their entirety as a matter of record; however, the County can provide documents in full if requested.

DATED: Wailuku, Maui, Hawaii, July 12, 2012.

PATRICK K. WONG
Corporation Counsel
Attorney for Respondent
Department of Planning,
County of Maui

By 
MICHAEL J. HOPPER
JANE E. LOVELL
Deputies Corporation Counsel

BEFORE THE LAND USE COMMISSION

STATE OF HAWAII

In the Matter of the Pétition of)
KAONOULU RANCH)
To Amend the Agricultural Land Use)
District Boundary into the Urban)
Land Use District for)
approximately 88 acres at)
Kaonoulu, Makawao-Wailuku,)
Maui, Hawaii; Tax Map Key Nos.)
2-2-02: por. of 15 and 3-9-01:16)

DOCKET NO. A94-706

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

This is to certify that this is a true and correct
copy of the Decision and Order on file in the office
of the State Land Use Commission, Honolulu Hawaii.

FEB 10 1995

Date

by

[Signature]
Executive Officer

FINDINGS OF FACT,

CONCLUSIONS OF LAW, AND DECISION AND ORDER

LAND USE COMMISSION
STATE OF HAWAII
FEB 10 11 45 AM '95

EXHIBIT " A "

include warehousing, light assembly, and service and craft-type industrial operations.

33. The Property is not zoned by the County of Maui. The Maui County Planning Department has an application for change of zoning filed by the Petitioner. The application will be scheduled for Planning Commission review only if Urban State Land Use Classification is granted by the Land Use Commission and a Light Industrial designation is granted for the Property by the Maui County Council on the Kihei-Makena Community Plan map.

34. The Maui County Planning Department represented that they will request that the Maui County Council condition any change of zoning with appropriate limitations on commercial uses allowable under the County light industrial zoning ordinance as was done with Kahului Industrial Park.

35. The Property is located outside of the County's Special Management Area ("SMA").

NEED FOR THE PROPOSED DEVELOPMENT

36. Petitioner has represented that the Project will provide new employment opportunities for Maui residents and will serve the needs of the Kihei-Makena region. There is a shortage of commercial and light industrial space for businesses servicing the Kihei-Makena region. Given the growth anticipated for the Kihei region, Petitioner believes that businesses will increasingly prefer to locate in Kihei rather than in Maui's urban core.

37. Petitioner has represented that the Property presents a convenient location for future commercial and light

objectives of the Integrated Solid Waste Management Act, Chapter 342G, Hawaii Revised Statutes.

3. Petitioner shall contribute its pro-rata share to fund and construct adequate wastewater treatment, transmission and disposal facilities, as determined by the State Department of Health and the County of Maui Department of Public Works and Waste Management.

4. Petitioner shall fund and construct adequate civil defense measures as determined by the State and County Civil Defense agencies.

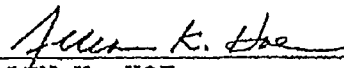
5. Petitioner shall fund, design and construct necessary local and regional roadway improvements necessitated by the proposed development in designs and schedules accepted by the State Department of Transportation and the County of Maui. Petitioner shall provide traffic signals at the intersection of Piilani Highway and Kaonoulu Street, and shall submit a warrant study in coordination with the Department of Transportation. Petitioner shall also install a fence and appropriate screening, i.e. landscaping, etc., along the highway right-of-way in coordination with the State Department of Transportation. Petitioner shall provide for a frontage road parallel to Piilani Highway and other connector roads within the Petition area, in coordination with other developments in the area with the review and approval of the State Department of Transportation and the County of Maui.


6. Petitioner shall fund and construct adequate potable and non-potable water source, storage, and transmission

DOCKET NO. A94-706 - KAONOULU RANCH

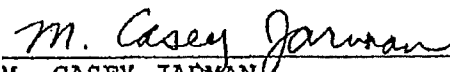
Done at Honolulu, Hawaii, this 10th day of February 1995,
per motion on February 2, 1995.

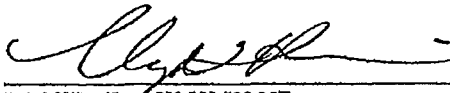
LAND USE COMMISSION
STATE OF HAWAII

By 
ALLEN K. HOE
Chairperson and Commissioner

By 
ALLEN Y. KAJIOKA
Vice Chairperson and Commissioner

By (absent)
EUSEBIO LAPENIA, JR.
Vice Chairperson and Commissioner

By 
M. CASEY JARMAN
Commissioner

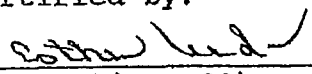
By 
LLOYD F. KAWAKAMI
Commissioner

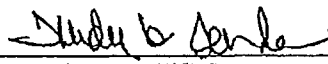
By 
JOANN N. MATTSON
Commissioner

By (absent)
RENTON L. K. NIP
Commissioner

Filed and effective on
February 10, 1995

Certified by:


Executive Officer

By 
TRUDY K. SENDA
Commissioner

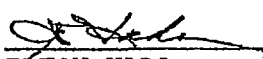
By 
ELTON WADA
Commissioner

Exhibit 5

**Market Feasibility Study
and Economic Report**

EXHIBIT " B "

- 2) Hub of the business and government centers.
- 3) Close proximity to ports (Kahului Harbor and Airport).

Factors which would cause relocation or creation of branches:

- 1) Population/business shift.
- 2) Higher cost of doing business in existing location.
- 3) More efficient and cost effective distribution system to service and support customers.

CURRENT MARKET CONDITIONS :

Although 1992-93 were considered to be stagnant in the real estate industry, the last quarter of 1993 generally showed signs of rejuvenation in real estate sales with continued interest by purchasers in January, 1994.

Sales activities have been prevalent in the residential market with sparse sales in commercial and industrial properties. The increased activity in the residential properties are attributed to extremely low mortgage interest rates and a significant reduction in real estate values.

Residential property values have declined 40% to 60% within the last three years in the resort areas on Maui. The values in the Wailuku, Kahului and Upcountry areas have also declined, however, these areas were not as drastic as the resort areas (15% to 20%).

Sales activities for business (commercial and industrial) properties have not had any significant changes during the last three years. Demand for such fee simple properties have decreased which may be an indication of the low inventory of business properties available for sale. On the other hand, leasehold business properties, primarily office and retail space, are in abundance.

The higher rents commanded by retail and office spaces during 1988-90 have had a downward adjustment, with an average decrease of 10% to 15% below its peak.

PERMITTED USES:

The permitted uses of M1 (light industrial) zoning provided by the existing County of Maui Codes allow for services or supplying communities, producing or manufacturing goods as provided under B1, B2, B3, and M1 zoning (see attached Exhibit "A"). Current codes also provide for minimum lot sizes, height limitations of improvements and

yard requirements. The M1 zoning would be most appropriate for the area with regard to uses, minimum lot size, height limitations and yard requirements; contiguously having similar uses and improvements of the adjacent (Kihei Commercial Center) development.

NEIGHBORHOOD CONDITIONS AND NEEDS:

This Project Assessment Report clearly provides an evaluation of existing conditions in the surrounding area. Further elaboration of the conditions will identify the need of more business/ light industrial land uses in the very near future.

At the extreme south end of the Kihei, Wailea, Makena Community, the high concentration of luxury residences, resort hotels, condominiums, shopping and recreational facilities has developed into a mecca for tourism. North and adjacent to the resort area are single family and multi family dwellings primarily occupied by those who are employed at resort complexes. Continuing in a northerly direction between Piilani Highway and the ocean, there are a mixture of dwellings, mini shopping malls, condominiums (both long term rentals and resort operations) and various small business operations. These residents and small businesses also support or are supported mainly by tourism.

The focal point of South Maui appears to be in the vicinity of Lipoa Street from Piilani Highway to Kihei Road within a half a mile radius from its midpoint. The concentration of activities and development planned for that area are extensive which would require supporting services to be close by.

The proposed Kaonoulu Industrial Park is ideally located to provide such support conveniently for existing requirements in Wailea and Makena; to existing businesses along South Kihei Road; and to support the community for proposed developments planned by the government and private industry.

Northerly of the subject property is a twenty-four (+/-) acre light industrial complex which is approximately two-thirds developed. It is anticipated that the balance of the project will be completely developed within the next year or two. Except for approximately two acres of undeveloped light industrial zoned land along Maalaea Small Boat Harbor, the existing twenty-four acres of light industrial property is the only light industrial development available in South Maui.

South Maui's population is anticipated to expand more than any

EXHIBIT "A"

B-1 NEIGHBORHOOD BUSINESS DISTRICT

Permitted Uses: Within the B-1 district, the following uses shall be permitted:

- A. Barber or beauty shops;
- B. Baker goods stores;
- C. Book, stationery or gift stores;
- D. Candy stores;
- E. Churches;
- F. Day care centers and nurseries;
- G. Delicatessen stores;
- H. Drugstores;
- I. Florist shops;
- J. Grocery stores and meat markets;
- K. Ice cream or snack counters;
- L. Laundromats;
- M. Liquor stores (package only);
- N. Gasoline retailing, provided it is owned and operated as an adjunct to a neighborhood store; and provided further, that no servicing, repairing, storing, washing, or maintenance of vehicles will be permitted on the premises;
- O. Other similar retail businesses or service establishments which supply commodities or perform services primarily for residents of the surrounding neighborhood; provided, however, such uses shall be approved by the commission as conforming to the intent of this title;
- P. One single-family dwelling per lot, provided the lot is sufficiently large to prove a lot area six thousand square feet for the dwelling after the area for the business, parking and other accessory areas for the business have been subtracted; or living and sleeping quarters for a single family constructed above the ground floor of the business building.

B-2 COMMUNITY BUSINESS DISTRICT

Permitted Uses: Within the B-2 district, the following uses shall be permitted:

1. Any use permitted in a B-1 neighborhood business district;

however, no living or sleeping quarters shall be permitted in any detached accessory building or structure on the same lot;

2. Amusement enterprises; including billiard or pool halls;
3. Antique shops;
4. Apartment and apartment-hotels;
5. Art galleries;
6. Auctioneer establishments;
7. Auditoriums and theaters;
8. Automobile parking lots and/or buildings;
9. Automobile parts stores;
10. Automobile service stations, with or without auto repairing, provided all auto-repairing operations are conducted in enclosed buildings; and provided further, that tire rebuilding or battery manufacturing shall not be permitted within this district;
11. Automobile upholstery shops;
12. Awning or canvas shops;
13. Banks;
14. Baseball or football stadiums and other sport activities and amusements;
15. Bath houses, commercial (plunge);
16. Baths, Turkish and the like; including masseurs;
17. Block-printing establishments;
18. Bowling alleys;
19. Business offices and agencies;
20. Catering establishments employing not more than five persons;
21. Charity relief organizations;
22. Clinics, medical or dental;
23. Custom dressmaking or millinery shops;
24. Dance halls;
25. Dancing and hula studios;
26. Dressmaking shops;
27. Dry goods and/or department stores;
28. Equipment rental and sales yards;
29. Feed stores;
30. Gymnasiums;
31. Haberdasheries and women's apparel shops;
32. Hardware and garden supply stores;
33. Hotels;
34. Ice cream and milk manufacturing plants employing not

- more than twenty-five persons;
35. Jewelry stores or fine arts shops, including interior decorating;
 36. Libraries;
 37. Marinas;
 38. Miniature golf courses;
 39. Museums;
 40. Music conservatories or music studios;
 42. Nurseries (flowers or plants); provided, that all incidental equipment and supplies, including fertilizers and empty cans are kept within enclosed buildings;
 43. Nursing and convalescent homes;
 44. Parcel delivery stations;
 45. Pet shops, not involving the treatment or boarding of animals;
 46. Photo studios;
 47. Physical culture studios;
 48. Plumbing shops within wholly enclosed buildings and employing not more than five persons;
 49. Printing, lithography or publishing shops;
 50. Private clubs or fraternal organizations;
 51. Private schools or business colleges;
 52. Professional and financial buildings;
 53. Public parking areas;
 55. Religious, benevolent, and philanthropic societies;
 56. Restaurants, cafes or bars, including drive-ins;
 57. Sanitariums;
 58. Shoe stores;
 59. Sign-painting shops within wholly enclosed buildings and employing not more than five persons;
 60. Skating shops;
 61. Tailor shops;
 62. Trade schools;
 63. Used car lots, provided all repair and maintenance is conducted within a wholly enclosed building;
 64. Mortuaries, subject to the approval of the commission;
 65. Warehouses and yards which are adjunct to, and part of, the operation of the permitted uses listed above may be permitted by the commission, provided such uses are determined to conform to the intent of this article, and subject to such terms and conditions as may be warranted. Such uses shall be conducted wholly within a completely

enclosed building or within an area enclosed on all sides by a solid fence or wall at least six feet in height; and provided, that no goods materials, or objects shall be stacked higher than the fence or walls so erected.

66. Any other retail businesses or commercial enterprises which are similar in character of rendering sales of commodities or performance of services to the community and not detrimental to the welfare of the surrounding area; provided, however, that such uses shall be approved by the commission as conforming to the intent of this article.

B-3 CENTRAL BUSINESS DISTRICT

Permitted Uses: Within the B-3 district, there shall be permitted any use permitted in a B-1 district and B-2 community business district, with the following exceptions:

- A. Living or sleeping quarters in any detached accessory buildings or structure on the same lot;
- B. Automobile repair shops and garages;
- C. Automobile painting or steam cleaning;
- D. Automobile upholstery shops;
- E. Awning or canvas stores;
- F. Equipment rental and sales yards;
- G. Hatcheries;
- H. Lumber yards;
- I. Machine shops;
- J. Plumbing shops;
- K. Storage buildings and warehouses (separate from main building):
- L. Storage yards;
- M. Trucking and truck stores;
- N. Used car lots.

M-1 LIGHT INDUSTRIAL DISTRICT

Permitted Uses: Within the M-1 district, no building, structure or premises shall be used and no building or structure hereafter erected, structurally altered, replaced, or enlarged except for one or more of the following uses:

1. Any use permitted in a B-1, B-2, or B-3 district; provided,

however, that no building, structure or portion thereof shall be hereafter erected, converted, or moved onto any lot in a M-1 district for dwelling purposes, including hotels and motels, except living quarters used by watchmen or custodians of industrial used property;

2. Animal kennels;
3. Carpet cleaning plants;
4. Cold storage plants;
5. Commercial laundries;
6. Craft, cabinet and furniture manufacturing;
7. Assembly of electrical appliances, radios and phonographs including the manufacture of small parts such as coils, condensers, crystal holders and the like;
8. Farm implement sales and services;
9. General food, fruit and vegetable processing storage;
10. Ice cream and milk producing, manufacturing and storage;
11. Laboratories--experimental, photo or motion picture, film or testing;
12. Light and heavy equipment and product display rooms, storage and service;
13. Machine shop or other metal working shop;
14. The manufacture, compounding or treatment of articles or merchandise from the following previously prepared materials; aluminum, bone, cellophane, canvas, cloth, cork, feathers, felt, fiber, fur, glass, hair, horn, leather, plastics, precious or semi-precious metals or stones, shell, tobacco and wood;
15. The manufacture, compounding, processing, packing or treatment of such products as candy, cosmetics, drugs, perfumes, pharmaceuticals, toiletries, and food products except the rendering or refining of fats and oils;
16. The manufacture, dyeing and printing of cloth fabrics and wearing apparel;
17. The manufacturing of musical instruments, toys, novelties and rubber and metal stamps;
18. Manufacture of pottery and figurines or other similar ceramic products;
19. Milk bottling or central distribution stations;
20. Plumbing shops having more than five employees;
21. Poultry or rabbit slaughter incidental to a retail business on the

same premises;

22. Radio transmitting and television stations; provided, that towers are of the self-sustaining type without guys;

23. Replating shop;

24. Retail lumber yard including mill and sash work, except that mill and sash work shall be conducted within a completely enclosed building;

25. Small boat building;

26. Soda water and soft drink bottling and distribution plants;

27. Tire repair operation including recapping and retreading;

28. Vocational and trade schools giving general instruction as prescribed by the State Department of Education;

29. Warehouse, storage and loft buildings;

30. Wearing apparel manufacturing;

31. Wholesale business, storage buildings; non-explosive goods and warehouses;

32. Apartment houses.

The above uses are to be conducted wholly within a completely enclosed building; or within an area enclosed on all sides except the front of the lot, by a solid fence or wall or cyclone fence at least six feet in height.

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STATE OF HAWAII
LAND USE COMMISSION

ACTION)	PAGE
A94-708 Office of State Planning, State of Hawaii (Hawaii))	4
HEARING)	
A94-706 KAONOULU RANCH (Maui))	7

NOV 10 2 47 PM '94
LAND USE COMMISSION
STATE OF HAWAII

Taken on November 1, 1994 at Nahele Room, Sandalwood Clubhouse, 2500 Honoapi'ilani Highway, Waikapu, Hawaii commencing at 9:35 a.m.

BEFORE: HOLLY M. HACKETT, RPR, CSR #130
Notary Public, State of Hawaii

EXHIBIT " C "

1 A Probably a mile.

2 Q Or less?

3 A Yes, plus or minus.

4 MR. LUNA: I have no other questions.

5 MR. CHAIRMAN: All right. County?

6 MR. ZAKIAN: Thank you, Mr. Chairman. We just have
7 a few questions for Mr. Unemori.

8 CROSS-EXAMINATION

9 BY MR. ZAKIAN:

10 Q First of all, Mr. Unemori, with regard to the
11 drainage infrastructure considerations, it's proposed by the
12 applicant that this project will ultimately be developed as a
13 commercial, light industrial type of subdivision?

14 A Yes.

15 Q Are you aware of the types of various commercial or
16 light industrial activities that are tentatively planned or
17 considered to take place in this area?

18 A No, I'm not familiar. I don't think the developer
19 knows just what type of development, the tenants that might be
20 within the projects.

21 Q With regard to the either drainage plan that would
22 be implemented by the applicants are there any measures
23 presently in place or under consideration that would address
24 the issues of oils or toxic chemicals or things of that nature
25 should a spill occur and be transported into the drainage

1 mini malls and in these shopping centers will probably remain
2 where they're located. If not, if they're forced to move they
3 will probably move to other business owned locations with a
4 greater visibility.

5 There might be a few like a hair dresser might move
6 into this development, a restaurant to service the employees
7 as I mentioned earlier who are working in that would be
8 employed in that project. If there is any move it would not
9 be anything major or anything excessive.

10 COMMISSIONER WADA: One final question. As far as
11 this proposed project would you say that this is the first of
12 its kind with respect to industrial park as far as the concept
13 for Maui with this type of landscaping?

14 THE WITNESS: Definitely. The only comparison that
15 I think that would come close to this would be the mill yard
16 with some landscaping but not even close to this. The streets
17 are narrow there and also at Wailuku industrial park. And I
18 think the width of these streets are that being proposed here
19 will accommodate the traffic concerns that they're
20 experiencing in these other existing projects.

21 COMMISSIONER WADA: Thank you. No other questions.

22 MR. CHAIRMAN: Commissioner Kajioka?

23 COMMISSIONER KAJIOKA: Lloyd, it appears in terms
24 of permitted uses within a light industrial it appears to be
25 pretty broad. B1, B2, B3 districts permitted uses. I'm also

1 kind of surprised how it seems to contradict one other aspect
2 of the ordinances. Even apartment houses are permitted use in
3 light industrial.

4 THE WITNESS: Right.

5 COMMISSIONER KAJIOKA: In other words, we could
6 have a preponderance of retail and service type establishments
7 in this.

8 THE WITNESS: That's a possibility but I would say
9 that the light industrial entities would probably be more
10 likely to be located in a project like this rather than the
11 commercial entities as described.

12 COMMISSIONER KAJIOKA: But there's no way you can
13 stop them.

14 THE WITNESS: That's true. But I think the market
15 will dictate that too. I think most of the businesses that we
16 looked at under B1, 2, and 3, if you look around, have located
17 themselves in shopping centers and office buildings, medical
18 buildings, medical facilities, et cetera. The more, those in
19 the light industrial categories tend to stick in the
20 industrial parks, light industrial parks. Granted, you will
21 have a few, as I mentioned, hair dresser, restaurant or some
22 catering service probably okazu, something to service these
23 people, probably even a branch of a bank would be located
24 within a light industrial complex.

25 And that's all to complement the employees and the

1 community and thus changed his focus.

2 I think what's important here is to maybe address
3 Commissioner Kajioka's question with respect to the large
4 number of uses that are permitted in the light industrial.

5 The community plans have provided for an additional
6 land use district called business industrial. This would be
7 an all encompassing land use district that would allow a full
8 range of businesses and industrial land uses. We intend to
9 amend our light industrial district ordinance that would then
10 restrict the use to light industrial. Pending those changes
11 we have asked the county council to include as a zoning
12 condition to an A&B industrial project in a certain percentage
13 of their project be dedicated strictly to light industrial and
14 a small portion be allowed for multiple use both industrial
15 and commercial.

16 We would intend to ask the county council to do the
17 same thing with this project if in fact the Commission grants
18 the Urban District designation. We're not sure of the ratio
19 yet but we would intend a portion of the project could
20 accommodate retail and industrial, probably a larger portion
21 of the project, maybe the back portion away from the highway
22 may in fact provide simply for light industrial.

23 We feel there's a need for long term market in the
24 area considering the number of residential projects in the
25 pipeline. This may in fact address the traffic situation as

1 well in that, hopefully, employees and customers will be drawn
2 from the Kihei area rather than from afar.

3 Question: Other than that I don't think I have anything
4 further to add other than what we have in our testimony Mr.
5 Chairman.

6 MR. ZAKIAN: No other questions, Mr. Chairman.

7 MR. CHAIRMAN: Petitioner? Mr. Miskae, we would
8 like to thank you for acknowledgement of our achievements in
9 solving Maui's housing crisis.

10 MR. MISKAE: Maybe I missed something here!

11 COMMISSIONER KAJIOKA: I notice you have apartment
12 permitted use with light industrial.

13 THE WITNESS: We have an ordinance that is,
14 perhaps, probably 30 years old. We have land uses that
15 probably people don't even know what they are anymore in our
16 ordinance. That's one of the major projects I have to try and
17 get cleaned up. In all likelihood we would remove apartments
18 from the industrial district.

19 MR. CHAIRMAN: We were just pleased by your
20 statement that housing is not a crisis in Kihei. Not as bad.

21 MR. MISKAE: Not as bad. (Laughter)

22 MR. CHAIRMAN: Okay. Thank you. OSP?

23 MR. EICHOR: Mr. Chairman, we submitted extensive
24 testimony as Exhibit number 1. And with your permission we
25 will rest on that. Mr. Mitsuda is here and available to

CERTIFICATE

1
2 STATE OF HAWAII)
3 CITY AND COUNTY OF HONOLULU) SS.

4
5 I, HOLLY HACKETT, RPR, CSR #130, Notary Public,
6 State of Hawaii, do hereby certify;

7 That on November 1, 1994, there appeared before me
8 the witnesses who testified in the hearing contained herein;

9 That the testimony contained herein was reported by
10 machine shorthand and computer translated under my personal
11 supervision; that the foregoing represents, to the best of my
12 ability, a true and correct copy of the proceedings had in the
13 foregoing matter.

14 I further certify that I am not counsel for any of
15 the parties hereto, nor in any way interested in the outcome
16 of the causes named in the caption.

17 DATED: Honolulu, Hawaii, this 8 day of

18 November, 1994.

19
20
21 Holly M. Hackett
22 HOLLY M. HACKETT, RPR, CSR #130
23 Notary Public, State of Hawaii
24 My commission expires: 12/19/96
25

BEFORE THE MAUI PLANNING COMMISSION
COUNTY OF MAUI
STATE OF HAWAII

In the Matter of the Application of)
) Docket CIZ 980013
MR. HENRY RICE,)
KAONOULU RANCH COMPANY, LTD.,) KAONOULU INDUSTRIAL PARK
) (ATC)
to Obtain a Change in Zoning from the)
County Agricultural District to the)
M-1 Light Industrial District for the)
Kaonoulu Industrial Park Project, a Light)
Industrial Subdivision and Related)
Improvements on Approximately 88 Acres)
of Land at TMK 3-9-01: 16 and)
2-2-02: portion of 15, Kihei, Maui, Hawaii)

Maui Planning Department's Recommendation
for the
Maui Planning Commission Meeting on
August 25, 1998

Change In Zoning
a:\kaonociz.rec

Department of Planning
County of Maui
250 S. High Street
Wailuku, Maui, Hawaii 96793

EXHIBIT " D "

The Maui Planning Commission held a public hearing on the Kihei-Makena Community Plan Update in September 1993. The Commission's recommendations were transmitted to the County Council in January 1994.

The Maui County Council approved the adoption of the Kihei-Makena Community Plan in March 1998.

The proposed project conforms with the Light Industrial designation identified in the updated Community Plan. Light industrial uses include warehousing, light assembly, service and craft-type industrial operations.

4. The property is presently zoned Agriculture by the County of Maui. The applicant is requesting that the property be zoning M-1 Light Industrial. The M-1 Light Industrial Zoning District (Chapter 19.24, Maui County Code) permits, in addition to industrial type uses, uses in the B-1, B-2 and B-3 Business Districts. The Planning Department has previously gone on record as being concerned with light industrial subdivisions becoming merely additional commercial space and has tried to impose conditions on zoning applications to require that a percentage of the net property to be developed be leased or sold as restricted to uses permitted in the M-1 Light Industrial District, under Maui County Code, Title 19, Chapter 19.24, excluding the uses permitted in the B-1, B-2, and B-3 Business District.

The most recent project where the Planning Department recommended this similar type of condition was for the Lahaina Business Park Light Industrial Subdivision in 1995. In this particular change in zoning application, the Planning Department recommended:

"That seventy percent (70%) of the net property to be developed shall be leased or sold as restricted to uses permitted in the M-1 Light Industrial District, under Maui County Code, Title 19, Chapter 19.24, excluding the uses permitted in the B-1, B-2 and B-3 Business District."

Both the Planning Commission and the County Council did not support the Planning Department's recommendation. (Exhibit 30)

In A&B's Kahului Industrial Park Expansion Project (now developed as the Maui Marketplace), the Planning Department and Planning Commission recommended a condition that read: (Exhibit 31)

"That at least 80% percent of the project shall be set aside for light industrial uses and no more than 20% of the project for

commercial or other business uses."

The County Council in its approval of the Change in Zoning request amended the above condition to read: (Exhibit 32)

"That the Declarant shall comply with its representation that no more than fifty percent (50%) of the lots developed in Phase 1A shall be leased for commercial uses, that is for uses permissible (pursuant to the M-1 Light Industrial District) under Title 19, Chapters 19.16, 19.18 and 19.20 of the Maui County Code and no more than twenty percent (20%) of the lots developed in Phase 1B shall be leased for commercial uses, that is for uses permissible (pursuant to the M-1 Light Industrial District) under Title 19, Chapters 19.16, 19.18 and 19.20 of the Maui County Code, provided that this condition (Number 5) shall terminate and have no force and effect upon commencement of construction, that is, notice to proceed, for either the airport access road or the widening of Dairy Road to four lanes."

The Rainbow Ranch, Napili Trade Center project in which M-1 Light Industrial Zoning (conditional zoning) became effective on January 7, 1992, includes the following condition:

"That at least 80% of the project shall be set aside for light industrial uses and not more than twenty percent (20%) of the project for commercial or other business uses."

This project, however, has never been developed.

The Planning Department is recommending that the following condition be imposed on this change in zoning application:

"That seventy percent (70%) of the net property to be developed shall be leased or sold as restricted to uses permitted in the M-1 Light Industrial District, under Maui County Code, Title 19, Chapter 19.24, excluding the uses permitted in the B-1, B-2 and B-3 Business District."

When looking a few of the newly developed light industrial subdivisions such as the Mill Yard Subdivision in Wailuku, A&B's Kahului Industrial Park Expansion (Maui Marketplace), and the Kihei Gateway Plaza Light Industrial Subdivision (directly north of the proposed project), the reality is that these light industrial

subdivisions have been occupied predominantly by commercial uses. In the case of the Kihei Gateway Plaza which is the only light industrial subdivision in Kihei, existing uses include, Gas Express, a Discount Golf Shop, a church, offices, clothing shops, restaurants, a fitness facility, a cold storage facility, and other retail shops.

The ability for retail users to pay less to occupy space in an industrial district has made industrial space less available for true industrial uses such as warehousing facilities and construction baseyards. They have thus resorted to locating themselves to the Agricultural District.

AGRICULTURE

The project site is currently utilized for cattle grazing. The site is part of the expansive dry lowland area extending up to the Kula region. Vegetation in this area consists primarily of buffel grass. Additional species include kiawe, 'uhaloa, 'illma and koa haole.

The Detailed Land Classification of the Land Study Bureau rates the overall productivity rating as "E", or very poorly suited for agricultural production. The State Agricultural Lands of Importance to the State of Hawaii system (ALISH) classifies all but a three (3) acre area at the Southwest corner of the Property as unclassified. The three acres at the southwest corner of the property is classified "PRIME". The property is part of an approximately 6,000 acre parcel owned by the applicant, Kaonoulu Ranch and used for cattle pasture.

ARCHAEOLOGICAL, HISTORIC AND CULTURAL RESOURCES

An archaeological inventory study was completed for the subject property in 1994 by Xamanek Researches (Erik M. Fredericksen, Walter M. Fredericksen and Demaris L. Fredericksen). The study identified twenty historic sites (50-10-3727 through 3746), including eight stone piles or cairns, two enclosures, three sets of parallel alignments, an erosion wall, five surface midden/lithic scatters, and a petroglyph. The parallel alignments and one of the enclosures were determined to be of post-contact period construction. Three sites, including two cairns and the erosion control wall were determined to be of post-contact period construction. The surface midden deposits, one enclosure, and the petroglyph were determined to be of pre-contact period use, representing temporary habitation and a marker. Subsurface testing was conducted at eight sites, including two stone piles, a cairn, both enclosures, and three of the surface midden deposits. Subsurface cultural deposits were identified at two of the surface midden deposits. In both cases, these deposits occurred only in the upper 10 cm of soil.

LINDA LINGLE
Mayor

LISA M. HOYEN
Director

DONALD A. SCHNEIDER, II
Deputy Director



CLAYTON I. YOSHIDA
Planning Division

AARON H. SHINMOTO
Zoning Administration and
Enforcement Division

'98 SEP 24 10:19

COUNTY OF MAUI
DEPARTMENT OF PLANNING

September 20, 1998

Honorable Linda Lingle
Mayor, County of Maui
200 South High Street
Wailuku, Hawaii 96793

Handwritten signature and date: 9/23/98

For transmittal to:

Honorable Patrick Kawano, Council Chair
and Members of the Maui County Council
200 South High Street
Wailuku, Hawaii 96793

Dear Council Chair Kawano and Members:

RE: Change in Zoning from the County Agricultural District to the M-1 Light Industrial District for 88 Acres of Land at TMK: 3-9-1:16 and 2-2-02:Portion of 15, by Kaonoulu Ranch, a Hawaii Limited Partnership, Kihei, Island of Maui, Hawaii (CIZ 980013)

The Maui Planning Department (Department) is transmitting for your review and action the above-referenced application.

Briefly, the applicant is requesting a Change in Zoning from the County Agricultural District to the M-1 Light Industrial District to develop a light industrial subdivision where improved lots are proposed to be sold in fee simple to interested purchasers. Conceptual site studies reflect a mixture of lots (approximately 123 lots) ranging in size from approximately 10,000 square feet to about 3.0 acres. Depending on market conditions, lot density within the subdivision may be adjusted to provide a broader mixture of lots.

Roadway and drainage improvements are proposed to service the project. Access to the project will be from Piilani Highway through a new segment of East Kaonoulu Street, within a 112-foot wide right-of-way. Main entry roadways to the

EXHIBIT " E " .

Honorable Linda Lingle
For transmittal to:
Honorable Patrick Kawano, Council Chair
and Members of the Maui County Council
September 20, 1998
Page 2

subdivision from East Kaonoulu Street are proposed within a 64-foot right-of-way, while interior roadways are proposed within a 60-foot right-of-way. A concrete lined diversion channel, proposed to be constructed mauka of the property, directs runoff to Kulanihako'i Gulch which is located south of the subject property.

On August 25, 1998, the Maui Planning Commission (Commission) conducted a public hearing on the Change in Zoning Application. At the hearing, no one testified on the project. A letter of support from the Kihei Community Association was presented by the applicant's consultant. In addition, the Planning Department received a letter of support from Star Market and a letter of concern from Doyle Betsill of Betsill Brothers Construction, Inc. regarding drainage.

After due deliberation, the Commission voted to recommend approval of the Change in Zoning, subject to several amendments to the Department's Recommendation. The Commission deleted Condition Nos. 1-5 as proposed by the Planning Department and recommended the following four (4) conditions:

1. That the applicant shall participate in intersection improvements, which includes, but is not limited to traffic signals and turning lanes to the satisfaction of the Department of Transportation (DOT). The applicant is encouraged to explore opportunities of cost share arrangements with adjacent developers. (Recommended by DOT.)
2. That water conservation measures shall be incorporated into the design and operations of the industrial project. (Recommended by the Department of Water Supply.)
3. That the applicant shall design its landscape irrigation system to accommodate future connection to the County's effluent reuse system. (Recommended by the Planning Commission.)
4. That the design guidelines for this project be reviewed by the Planning Department. (Recommended by the Planning Commission.)

Honorable Linda Lingle
For transmittal to:
Honorable Patrick Kawano, Council Chair
and Members of the Maui County Council
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Page 3

In addition, the Commission recommended that the County Council consider the following recommendations:

1. That the applicant shall use its best efforts in attracting traditional light industrial uses and shall consider locating these on the perimeter and focus non-industrial uses on the major traffic corridors.
2. That the applicant shall work with the Kihei Community Association and South Maui Heritage Corridor to tie-in the bike path system with that proposed by the South Maui Heritage Corridor, as defined in the Kihei-Makena Community Plan.
3. That the applicant shall explore the use of more natural materials for the drainageway instead of man-made materials such as concrete.

Inasmuch as County Council approval is required for the request, the Department respectfully transmits the subject application to the Council for consideration.

Accordingly, please find enclosed the following:

1. Original Draft Ordinance;
2. Change in Zoning Map No. 573;
3. Planning Department's Recommendation Report;
4. Planning Department's Report, including Agency Comments and letters received up until August 10, 1998;
5. Additional letters received after August 10, 1998;
6. Letter dated August 25, 1998 from Michael Munekiyo, Project Manager, requesting a correction to the name of the applicant along with supporting documents;


Honorable Linda Lingle
For transmittal to:
Honorable Patrick Kawano, Council Chair
and Members of the Maui County Council
September 20, 1998
Page 4

7. Findings of Fact, Conclusions of Law, and Decision and Order of the State Land Use Commission in the Reclassification of the subject property from the State Agricultural District to the State Urban District (effective date - February 10, 1995); and
8. Change in Zoning Application.

Please note that the minutes for the August 25, 1998 meeting have not been finalized. Upon adoption of the minutes by the Commission, the Department will transmit the document to the Council.

Thank you for your cooperation. Should further clarification be necessary, our office is available for assistance.

Sincerely,


for: LISA M. NUYEN
Director of Planning

LMN:ATC:cmh
Enclosures

c: Clayton Yoshida, AICP, Planning Program Administrator
Ann Cua, Staff Planner
Michael Munekiyo, Munekiyo, Arakawa & Hiraga, Inc.
Henry Rice, Kaonoulu Ranch, a Hawaii Limited Partnership
B. Martin Luna, Esq.
J. P. Schmidt, Corporation Counsel
Project File
General File
(S:\all\ann\kaonoulu.trs)

ORDINANCE NO. 2772 27 1999

BILL NO. 27 (1999)

A BILL FOR AN ORDINANCE TO CHANGE ZONING FROM
THE AGRICULTURAL DISTRICT TO THE M-1 LIGHT INDUSTRIAL
DISTRICT (CONDITIONAL ZONING) FOR PROPERTY SITUATED
AT KAONOULU, MAKAWAO-WAILUKU, MAUI, HAWAII

BE IT ORDAINED BY THE PEOPLE OF THE COUNTY OF MAUI:

SECTION 1. Pursuant to Chapter 19.510, Maui County Code, a change in zoning from the Agricultural District to the M-1 Light Industrial District is hereby granted for property situated at Kaonoulu, Makawao-Wailuku, Maui, Hawaii, and identified for real property tax purposes by Tax Map Key Nos. 3-9-1:16 and 2-2-02:portion of 15, comprised of approximately 88 Acres, and as more particularly described in Exhibit "A", which is attached hereto and made a part hereof, and by Land Zoning Map No. L-573, which is on file in the Office of the County Clerk of the County of Maui, and which is by this reference made a part hereof.

SECTION 2. Pursuant to Section 19.510.050, Maui County Code, the zoning established by this ordinance is subject to the conditions set forth in Exhibit "B", which is attached hereto and made a part hereof, and the Unilateral Agreement and Declaration for Conditional Zoning, which is attached hereto and made a part hereof as Exhibit "C".

SECTION 3. This ordinance shall take effect upon its approval.

APPROVED AS TO FORM
AND LEGALITY:

Kelly A. Cairns
KELLY A. CAIRNS
Deputy Corporation Counsel
County of Maui
S:\CLERICAL\JN\ORD\3-9-1-16.C12

EXHIBIT " F "

- [] BUDGET
- [] CDBG
- [] CIVIL DEFENSE
- [] FINANCE
- [] FIRE
- [] HUMAN CONCERNS
- [] LIQUOR CONTROL
- [] OED
- [] PARKS
- [] PERSONNEL
- [] PLANNING
- [] POLICE
- [] PROSECUTORS
- [] PUBLIC WORKS
- [] WATER SUPPLY
- [] CHUN
- [] HAYASHI
- [] INOKUMA
- [] KAWAMURA
- [] MISKAE
- [] NEMOTO
- [] SUYAMA

EXHIBIT "B"

CONDITIONS

1. That the applicant shall participate in intersection improvements, which includes but is not limited to, traffic signals and turning lanes to the satisfaction of the Department of Transportation (DOT). The applicant is encouraged to explore opportunities of cost share arrangements with adjacent developers.
2. That water conservation measures shall be incorporated into the design and operations of the industrial project.
3. That the applicant shall design its landscape irrigation system to accommodate future connection to the County's effluent reuse system.
4. That the design guidelines for this project be reviewed by the Planning Department.

BEFORE THE LAND USE COMMISSION

STATE OF HAWAII

In the Matter of the Petition of

KAONOULU RANCH

To Amend the Agricultural Land Use District Boundary into the Urban Land Use District for approximately 88 acres at Kaonoulu, Makawao-Wailuku, Maui, Hawaii; Tax Map Kay Nos. 2-2-02: por. Of 15 and 3-9-01:16

DOCKET NO. A94-706

CERTIFICATE OF SERVICE

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing document was duly served on July 12, 2012, upon the following parties, by depositing same in the U.S. Mail, postage prepaid, at their last known addresses:


	METHOD OF SERVICE		
	<u>MAIL</u>	<u>HAND DELIVERY</u>	<u>E-MAIL</u>
DANIEL ORODENKER, ESQ. Executive Director Land Use Commission P. O. Box 2359 Honolulu, HI 96804	X		
TOM PIERCE, ESQ. P. O. Box 798 Makawao, Hawaii 96768 E-mail address: tom@mauilandlaw.com	X		X

Attorney for Movants Maui Tomorrow Foundation, Inc., South Maui Citizens For Responsible Growth, and Daniel Kanahele

	METHOD OF SERVICE		
	<u>MAIL</u>	<u>HAND DELIVERY</u>	<u>E-MAIL</u>
JONATHAN H. STEINER, ESQ. McCorriston Miller Mukai MacKinnon P. O. Box 2800 Honolulu, Hawaii 96803 E-mail address: steiner@m4law.com	X		X
JOHN S. RAPACZ, ESQ. P. O. Box 2776 Wailuku, Hawaii 96793 E-mail address: rapacz@hawaii.rr.com	X		X
Attorneys for Pi'ilani Promenade North, LLC and Pi'ilani Promenade South, LLC			
BRYAN C. YEE, ESQ. Deputy Attorney General Department of the Attorney General 425 Queen Street Honolulu, HI 96813 Attorney for State Office of Planning	X		X

DATED: Wailuku, Hawaii, July 12, 2012.

PATRICK K. WONG
Corporation Counsel
Attorney for County of Maui
Department of Planning

By 
MICHAEL J. HOPPER
JANE E. LOVELL
Deputies Corporation Counsel

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

07/11/29

In The Matter Of The Petition Of)
)
A&B PROPERTIES, INC., A Hawai'i)
Corporation)
)
To Amend The Agricultural Land Use District)
Boundary Into The Urban Land Use District)
For Approximately 138.158 Acres Of Land At)
Kahului, Maui, Hawai'i, Tax Map Key Nos:)
3-8-01: Por. 2, 3-8-06: Por. 4, And 3-8-79: Por. 13)

DOCKET NO. A03-739

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

DEPT OF PLANNING
COMMUNITY DEVELOPMENT
MAR 29 PM 2:29

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

This is to certify that this is a true and correct
copy of the document as filed in the office of the
State Land Use Commission, Hawaii.

MAR 28 2014

Date

Secretary/Officer

Anthony J. Kelly

EXHIBIT " 3 "

utilizing trees and shrubbery shall be constructed along the entire proposed collector road (Hookele Street Extension) to soften the visual impact of the buildings along the road. (Wailuku-Kahului Community Plan Update).

17. **Dual Water System.** Petitioner shall evaluate the feasibility of developing a dual water system for the Project, utilizing non-potable water for landscape irrigation purposes.

18. **Energy Conservation.** Petitioner shall implement energy conservation measures such as the use of solar energy and solar heating and incorporate such measures into the Project.

19. **Project Composition.** For a period of eight (8) years from the date of the County's approval of zoning for the Project a total of at least fifty percent (50%) of the Project acreage shall be (a) used and developed by Petitioner for non-retail, light industrial use and/or (b) sold or leased to and developed and used by third-party buyers for non-retail, light industrial use. For this same eight-year period, simultaneous with Petitioner's development or offer for sale or lease of the Property for retail use, Petitioner shall develop or offer for sale or lease an equal amount of acreage within the Property for non-retail, light industrial use. The phrase "light industrial", as used in this paragraph, includes warehousing and distribution types of activity as well as compounding, assembly, or treatment of articles or materials with the exception of heavy manufacturing and processing of raw materials. It is the intent of this paragraph

that at the end of the above-described eight-year period, to the extent that the Project is developed or in the process of being developed by Petitioner or any third party, no less than fifty percent (50%) of such development or development in process shall be for non-retail, light industrial purposes.

20. **Compliance with Representations to the Commission.** Petitioner shall develop the Property in substantial compliance with the representations made to the Commission. Failure to so develop the Property may result in reversion of the Property to its former classification, or change to a more appropriate classification.

21. **Notice of Change to Ownership Interests.** 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, prior to development of the Property.

22. **Annual Reports.** Petitioner shall timely provide without any prior notice, annual reports to the Commission, the Office of Planning, and the County of Maui Planning Department in connection with the status of the subject project and Petitioner's progress in complying with the conditions imposed herein. The annual report shall be submitted in a form prescribed by the Executive Officer of the Commission.

23. **Release of Conditions.** The Commission may fully or partially release the conditions provided herein as to all or any portion of the Property upon

ADOPTION OF ORDER

The undersigned Commissioners, being familiar with the record and proceedings, hereby adopt and approve the foregoing ORDER this 18th day of March, 2004. This ORDER and its ADOPTION shall take effect upon the date this ORDER is certified and filed by this Commission.

Done at Kihei, Maui, Hawai'i, this 18th day of March, 2004,
per motion on March 18, 2004.

APPROVED AS TO FORM

Russell A. Suzuki
Deputy Attorney General

LAND USE COMMISSION
STATE OF HAWAII

By Lawrence N.C. Ing
LAWRENCE N.C. ING
Chairperson and Commissioner

By P. Roy Catalani
P. ROY CATALANI
Vice-Chairperson and Commissioner

By Bruce A. Coppa
BRUCE A. COPPA
Vice-Chairperson and Commissioner

By ABSENT
PRAVIN DESAI
Commissioner

By [Signature]
KYONG-SU IM
Commissioner

By [Signature]
ISAAC FIESTA, JR.
Commissioner

By [Signature]
STEVEN LEE MONTGOMERY
Commissioner

Filed and effective on
MAR 25 2004

By ~~[Signature]~~
~~RANDALL H. SAKUMOTO~~
~~Commissioner~~

Certified by:

[Signature]
ANTHONY CHING

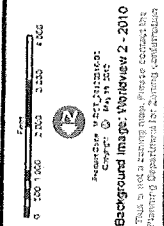
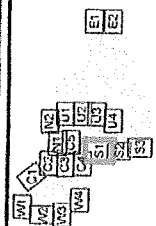
By [Signature]
PETER YUKIMURA
Commissioner



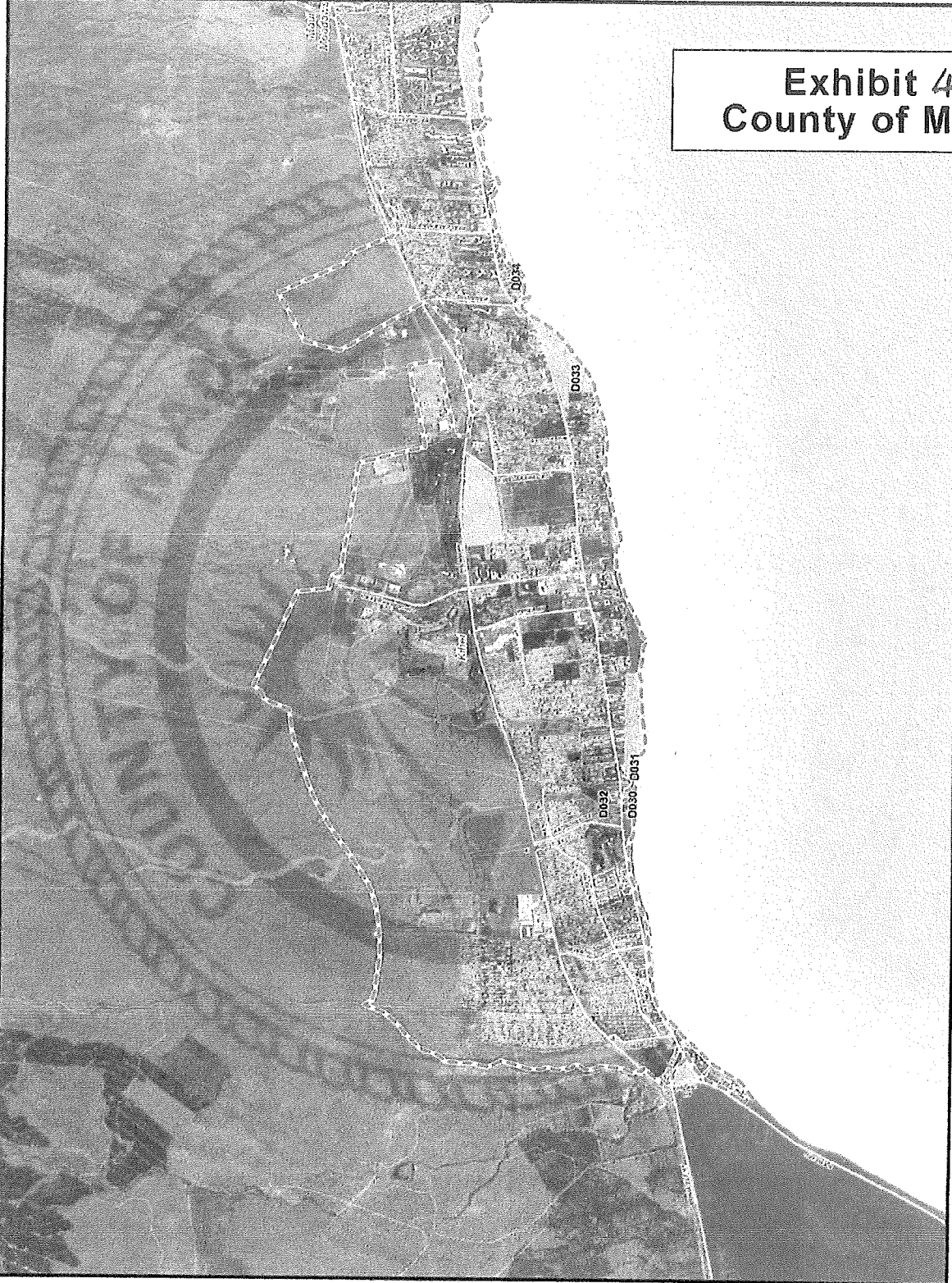
**Maui Island Plan
2012 Director's
Proposed
Amendments
North Kihei
S1**

Legend

- Parcels 2011
- Primary Road
- 2010 Directed Growth Boundaries
- Urban
- Country Town
- Rural Service Center
- Rural Residential
- 2010 Protection Areas
- Greenbelt
- Greenway
- Regional Park
- Preservation
- Sensitive Lands
- TDR Sending Area
- Director's Proposed Amendments
- Growth Boundary Change
- Protection Area Change
- Combined Area Change



PREPARED BY:
 Long Range Planning Division
 Department of Planning
 County of Maui
 200 South High Street
 Wailuku, Hawaii 96793



**Exhibit 4
County of Maui**



**William Spence, Planning Director
Maui Planning Department
250 South High Street, Wailuku, Hawaii 96793
(808) 270-7735**

Planning Director, January 2011 to Present

As Planning Director, I am the chief planning officer for Maui County and am the technical advisor to the mayor, council, and planning commissions on all planning related matters.

The Planning Director has the authority to prepare, administer, and propose amendments to zoning ordinances and maps, and to enforce the same. The Director also proposes revisions to the general and community plans.

I am also the administrative head of the Planning Department, which is comprised three divisions, Long Range, Current, and Zoning and Enforcement. I am responsible to staff the Maui, Molokai, and Lanai planning commissions, the Cultural Resources Commission, Urban Design Review Board, Maui Redevelopment Agency, and the Hana Advisory Committee. My office also attends and advises the County Council's General Plan, Planning, and Land Use Council committees. The department has 64 employees.

The William Spence Company, 2002 to December 2010.

As an independent consultant, I primarily worked with private landowners to obtain discretionary approvals or legislative actions. The applications that I wrote and processed varied widely in complexity, from basic Special Management Area assessments, to compound approvals for multi-million dollar facilities or housing projects. I worked closely with other professionals such as attorneys, engineers, or architects, as well as multiple government agencies.

Maui Planning Department, Senior Staff Planner, 1992 to 2002.

As a staff planner, I was responsible for a number of multi-year, regional projects that resulted in passing legislation. All of the projects required independent research and analysis using socio-economic or other data, mapping, and other sources of information. All of them involved multiple presentations and hearings before public-interest groups, citizen committees, planning commissions, and the Maui County Council:

- Interim Rezoning. There were three projects to rezone approximately 1,800 properties from the Interim zoning district to an appropriate district in accordance with the community plan designations.
- Community Plan Revisions. I staffed the Makawao-Pukalani-Kula, Paia-Haiku, and Molokai plans, from the initial citizen advisory committee, to planning commission and through the County Council.
- Upcountry Greenways Masterplan. This project was to identify and map a system of public recreational paths through the Upcountry area.

I was also responsible for virtually every type of discretionary permit or legislative action within the Maui Planning Department, including SMA permits, Land Use Commission and County special permits, Conditional Permits, and Changes in Zoning. Two applications involved extensive contested case hearings.

Myra Frank and Associates, Associate Planner, 1990 to 1992, Los Angeles, CA.

As an associate planner, I performed technical environmental analysis for various public works or public facilities as well as regional planning projects. Most of my work involved cumulative and project specific air quality analysis.

Formal Education – Bachelor of Science in Urban and Regional Planning, School of Environmental Design, California State Polytechnic at Pomona, graduated 1990.

Affiliations - American Planning Association (APA) since 1987, former board member of Art Maui, and the Hui Noeau Visual Art Center.



**Ann Molina Cua
Maui County Planning Department
250 South High Street
Wailuku, Maui, Hawaii 96793**

EDUCATION

August 1979 to May 1983
University of Hawaii - College of Arts and Sciences, Hilo, Hawaii
Bachelors Degree in Business Administration specializing in Management

WORK EXPERIENCE

**Planner VI, Current Planning Division Supervisor, January 1, 2011 - Present
Maui Planning Department**

Duties included planning, coordinating and supervising the work of up to 13 planners. Also represented the Planning Department at State and County Boards, Commissions and Council meetings. Organized orientation workshops for the Planning Commissions and County Council. Conducted presentations on the planning process at public and private schools, and for community groups. Researched and analyzed major land use and development applications. Prepared reports, recommendations and made presentations to various Boards and Commissions. Responsible for personnel matters of planners that I supervise.

**Deputy Planning Director, May 1, 2010 - December 31, 2010
Maui Planning Department**

General duties included assisting the Planning Director with operations of the Department. Specific duties included representing the Planning Department at Maui Planning Commission and County Council meetings as well other board and commission meetings. Also responsible for personnel matters. Related duties included processing of major permit applications.

**Planner VI, Current Planning Division Supervisor, November 6, 2006 - April 30, 2010
Maui Planning Department**

Duties included planning, coordinating and supervising the work of up to 13 planners. Also represented the Planning Department at State and County Boards, Commissions and Council meetings. Organized orientation workshops for the Planning Commissions and County Council. Conducted presentations on the planning process at public and private schools, and for community groups. Researched and analyzed major land use and development applications. Prepared reports, recommendations and made presentations to various Boards and Commissions. Responsible for personnel matters of planners that I supervised.

Planner V, Senior Planner, March 1991 - April 2010
Maui Planning Department

Duties included research and analysis of major land use and development permit applications. Prepared reports, recommendations and made presentations to various Boards and Commissions. Represented the Planning Department at State and County Boards, Commissions and Council meetings. Conducted presentations on the planning process at public and private schools, and for community groups.

Planner IV, Planner, March 1990 - March 1991
Maui Planning Department

Duties included research and analysis of land use and development permit applications. Prepared reports, recommendations and made presentations to various Boards and Commissions.

Planner III, Planner, February 1989 - March 1990
Maui Planning Department

Duties included research and analysis of land use and development permit applications. Prepared reports, recommendations and made presentations to various Boards and Commissions

Coastal Management Coordinator, October 1983 - February 1989
Maui Planning Department

Processed minor land use and development permits. Assisted in the preparation of quarterly financial reports for the Planning Department as required by the State Coastal Management Program.

BEFORE THE LAND USE COMMISSION

STATE OF HAWAII

In the Matter of the Petition of

KAONOULU RANCH

To Amend the Agricultural Land Use District Boundary into the Urban Land Use District for approximately 88 acres at Kaonoulu, Makawao-Wailuku, Maui, Hawaii; Tax Map Key Nos. 2-2-02: por. of 15 and 3-9-01:16

DOCKET NO. A94-706

CERTIFICATE OF SERVICE
RE: DEPARTMENT OF
PLANNING, COUNTY OF MAUI'S
WITNESS LIST, LIST OF
EXHIBITS AND EXHIBITS

CERTIFICATE OF SERVICE RE: COUNTY OF MAUI, DEPARTMENT OF PLANNING'S WITNESS LIST, LIST OF EXHIBITS AND EXHIBITS

I HEREBY CERTIFY that a true and correct copy of the County of Maui's Witness List, List of Exhibits and Exhibits were duly served on October 11, 2012, upon the following parties, via e-mail, and depositing same in the U.S. Mail, postage prepaid, at their last known addresses:

	METHOD OF SERVICE		
	<u>Mail</u>	<u>Hand Delivery</u>	<u>E-Mail</u>
DANIEL ORODENKER Executive Director Land Use Commission P.O. Box 2359 Honolulu, Hawaii 96804 E-mail: daniel.e.orođenker@dbedt.hawaii.gov	X		X

TOM PIERCE ESQ. P.O. Box 798 Makawao, Hawaii 96768 E-mail: tom@mauilandlaw.com	X		
--	---	--	--

Attorney for Intervenors Maui Tomorrow
Foundation, Inc., South Maui Citizens
For Responsible Growth, and Daniel Kanahele

2012 OCT 15 A 9:06
X
LAND USE COMMISSION
STATE OF HAWAII

	METHOD OF SERVICE		
	<u>Mail</u>	<u>Hand Delivery</u>	<u>E-Mail</u>
JONATHAN H. STEINER, ESQ. McCorriston Miller Mukai MacKinnon P.O. Box 2800 Honolulu, Hawaii 96803 E-mail: steiner@m4law.com	X		X
Attorney's for Pi'ilani Promenade North, LLC And Pi'ilani Promenade South, LLC and Honua'ula Partners LLC			
JOHN S. RAPACZ ESQ. P.O. Box 2776 Wailuku, Hawaii 96793 E-mail: rapacz@hawaii.rr.com	X		X
Attorney's for Pi'ilani Promenade North, LLC And Pi'ilani Promenade South, LLC and Honua'ula Partners LLC			
JESSE K. SOUKI, ESQ. Director, Office of Planning State of Hawaii P.O. Box 2359 Honolulu, Hawaii 96804 E-mail: jesse.k.souki@dbedt.hawaii.gov	X		X
BRYAN YEE, ESQ. Deputy Attorney General Department of the Attorney General 425 Queen Street Honolulu, Hawaii 96813 E-mail: bryan.c.yee@hawaii.gov	X		X
Attorney for State Office of Planning			
MICHAEL HOPPER Deputy Corporation Counsel Department of the Corporation Counsel County of Maui 200 South High Street Wailuku, Hawaii 96793 E-mail: Michael.Hopper@co.maui.hi.us			X

DATED: Wailuku, Hawaii, October 11, 2012.

PATRICK K. WONG
Corporation Counsel
Attorney for Department of Planning,
County of Maui

By 
MICHAEL J. HOPPER
Deputy Corporation Counsel