

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
 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

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 STATE OF HAWAII

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FINDINGS OF FACT,

CONCLUSIONS OF LAW, AND DECISION AND ORDER

KAONOULU RANCH, a Hawaii limited partnership, ("Petitioner"), filed a Petition for District Boundary Amendment on July 6, 1994, a First Amendment to the Petition on August 4, 1994, and a Second Amendment to the Petition on October 21, 1994, (cumulatively "Petition"), pursuant to chapter 205, Hawaii Revised Statutes, ("HRS"), and chapter 15-15, Hawaii Administrative Rules ("HAR") to amend the Land Use District Boundary to reclassify approximately 88 acres of land at Kaonoulu, Makawao-Wailuku, Maui, Hawaii, specifically identified as Tax Map Key Nos. 2-2-02: portion of 15 and 3-9-01: 16 ("Property" or "Petition Area") from the Agricultural District to the Urban District, to develop a 123 lot commercial and light industrial subdivision ("Project"). The Land Use Commission ("Commission") having examined the testimony and evidence presented during the hearing, having heard the arguments of counsel, and having reviewed Petitioner's Proposed Findings of

Fact, Conclusions of Law, and Decision and Order, the Office of State Planning's Response to the Petitioner's Proposed Findings of Fact, Conclusions of Law, and Decision and Order, the County of Maui Planning Departments' Stipulation to Petitioner's Proposed Findings of Fact, Conclusions of Law, and Decision and Order, and the record herein, hereby makes the following findings of fact, conclusions of law, and decision and order:

FINDINGS OF FACT

PROCEDURAL MATTERS

1. The Petition for District Boundary Amendment was filed with the Commission on July 6, 1994. A First Amendment to Petition for Land Use District Boundary Amendment was filed with the Commission on August 4, 1994. A Second Amendment to Petition for Land Use District Boundary Amendment was filed with the Commission on October 21, 1994.

2. The Commission conducted a prehearing conference on October 11, 1994, at the Old Federal Building, 335 Merchant Street, Conference Room 238, Honolulu, Hawaii, with representatives of the Petitioner, and the Office of State Planning ("OSP"), present, and at which time the parties exchanged exhibits and witness lists. The County of Maui Planning Department ("County") was not present.

3. The Commission held a public hearing on November 1, 1994 upon notice published on September 12, 1994 in the Honolulu Advertiser and the Maui News.

4. Entering appearances at the hearing were B. Martin Luna, Esq. and Gilbert Coloma-Agaran, Esq. for Petitioners, Gary

W. Zakian, Esq. and Ann Cua for the County of Maui, and Rick Eichor, Esq. and Lorene Maki for the OSP, State of Hawaii.

5. The County supported the Petition and filed a statement of Position of the Maui County Planning Department on September 9, 1994. The County also filed Testimony of the Maui County Planning Department in support of the Petition with conditions on October 11, 1994.

6. The Office of State Planning supported the Petition and filed a Statement of Position of the Office of State Planning in Support of the Petition with conditions on September 1, 1994. The Office of State Planning also filed Testimony of the Office of State Planning in Support of the Petition with conditions on October 20, 1994.

7. No written or oral public testimony was received.

8. No requests for intervention were filed.

DESCRIPTION OF PROPERTY

9. Petitioner is a Hawaii limited partnership having its principal place of business in Wailuku, Maui, Hawaii. The principals of the Petitioner are members of a family that has held the property for several generations.

10. Fee simple ownership of the Property is vested in the Petitioner.

11. The Property is located in Maui, consists of approximately 88 acres, and is identified for planning and regulatory purposes as a portion of the approximately 6,000 acres owned by Kaonoulu Ranch. The Property is specifically identified

as Tax Map Key Nos. 2-2-02: portion of parcel 15 and 3-9-01:
parcel 16.

12. The Property is located in the Kaonoulu ahupua'a, Wailuku and Makawao District, Island of Maui. From the intersection of Piilani Highway and Kulanihakoi Gulch, the Property boundary extends approximately 2,370 feet in a generally northerly direction following the east or mauka edge of the Piilani Highway right-of-way. The boundary of the Property then extends approximately 1,766 feet in an easterly or mauka direction. The boundary of the Property extends approximately 2,050 feet in a southerly direction to Kulanihakoi Gulch. The Property's boundary, along its southern extent, is approximately 1,660 feet following along the north edge of Kulanihakoi Gulch.

13. Portions of the Property are contiguous to existing urban areas and an existing light industrial area already in the State Urban District abuts the Property to the north. The light industrial uses clustered near Piilani Highway include a gasoline filling station, a commercial light-industrial complex, and a cold and self storage facility.

14. On the mauka or eastern side of the Property, there is a commercial nursery as well as broad expanses of vacant dry grassland which extend gradually higher in elevation to the Kula region. Kulanihakoi Gulch and vacant properties border the Property to the south. Lands further south include the Kihei Research and Technology Park and Silversword Golf Course. The Property is bounded on the makai or west side by Piilani Highway.

Further makai lies the Ka Ono Ulu Estates residential subdivision and the Maui Lu Resort.

15. The Property is vacant and is being used for cattle grazing. The Property is generally characterized by kiawe and buffelgrass.

16. The Property soils, under the Detailed Land Classification of the Land Study Bureau rated the Property's overall (master) productivity rating as "E", or very poorly suited for agricultural production. The Agricultural Lands of Importance to the State of Hawaii (ALISH) system, classifies all but a three acre area of the Property as Unclassified. The remaining three acres, located at the southwest corner of the Property, are classified as "Prime."

17. The Property consists of Waiakoa extremely stony silty clay loam, 3 to 25 percent slopes, eroded (WID2) and Alae sandy loam, 3 to 7 percent slopes (AaB).

18. The Property is gently sloping with an average gradient of 4.1 percent, and elevations ranging from approximately 31 feet to 124 feet above sea level.

19. Average rainfall distribution in the Kihei-Makena region varies from under 10 inches per year to 20 inches per year in the higher elevations. Winds average 10 to 15 miles per hour during the afternoons with slightly lighter winds during mornings and nights.

20. The Property is designated as Zone "C", an area of minimal flooding, by the Flood Insurance Rate Map.

PROPOSAL FOR RECLASSIFICATION

21. Petitioner proposes to develop the Property as the Kaonoulu Industrial Park, a 123-lot commercial and light industrial subdivision. Improved lots are proposed to be sold in fee simple or leased on a long-term basis. The size of the lots will range from approximately 14,000 square feet to 54,000 square feet.

22. The preliminary estimate for the cost of constructing the on-site and off-site infrastructure improvements is approximately \$19,929,995.00 in 1994 dollars.

23. Petitioner anticipates that the Project will be available for sales in the fourth quarter of 1996 and that the entire Project can be marketed by the year 2000, assuming the orderly processing of necessary land use approvals and avoidance of undue delays.

PETITIONER'S FINANCIAL CAPABILITY TO UNDERTAKE THE PROPOSED DEVELOPMENT

24. Petitioner's balance sheet as of December 31, 1993 reflects the total assets of \$3,884,568.00, which includes the Property, marketable securities and other assets. The balance sheet also indicates liabilities of \$3,884,568.00, which includes a mortgage loan, accounts payable, accrued expenses, and the partners' capital of \$908,952.

25. Petitioner has represented that it intends to either sell the equity in the project to a developer, enter into a joint venture to develop the property, or complete the development itself. Upon a sale of its equity interest to a

developer in the project, Petitioner has represented that it will commit to placing safeguards in the sales documents to assure that conditions for the boundary amendment are carried out.

STATE AND COUNTY PLANS AND PROGRAMS

26. The entire Property is located within the State Land Use Agricultural District as depicted on the State Land Use District Boundary Map, M-8 (Puu O Kali).

27. The proposed request to reclassify approximately 88 acres from the Agricultural District to the Urban District is in keeping with the following General Plan objective and policy:

Objective: To provide an economic climate which will encourage controlled expansion and diversification of the County's economic base.

Policy: Maintain a diversified economic environment compatible with acceptable and consistent employment.

28. The Property is located within the Kihei-Makena Community Plan region. The Property is designated Project District 3 by the existing Kihei-Makena Community Plan Land Use Map. A description of the project district is noted in the community plan as follows:

"(Kihei Mauka) approximately 88 acres. This project district is located mauka of Piilani Highway and north of Kulanihakoi Gulch.

A mixture of single family and multi-family uses are envisioned for this residential project district."

Areas adjacent to the Property are designated as SF (Single-Family), LI (Light Industrial), PD4 (Project District 4), PD5 (Project District 5), OS (Open Space), P (Preservation), and AG (Agriculture).

29. The County of Maui is currently in the process of comprehensively updating each community plan.

The Kihei-Makena Citizen Advisory Committee ("CAC") reviewed the Kihei-Makena Community Plan from May 1992 to December 1992 and formulated a recommendation memorandum to the Maui County Planning Department's Director ("Director"). Petitioner initially had proposed a revision to the description of Project District 3 envisioning a mix of industrial, residential, recreational and public amenities. The CAC recommended approval of this proposal.

30. The Director reviewed the CAC's recommendations and formulated his own recommendations. Based on the number of residential projects developed and proposed for this area, it was concluded that there was a need for additional employment centers, particularly for light industrial uses. The Director proposed amending the Property's existing community plan designation from Project District 3 to Light Industrial.

31. The Maui County Planning Commission ("Planning Commission") reviewed the package of recommendations to the Kihei-Makena Community Plan. The Planning Commission agreed with the Director's recommendation of a Light Industrial designation for the Petition Area. A public hearing was held in September 1993 with the entire set of recommendations being transmitted to the Maui County Council in January 1994. Maui County Council action on the proposed changes to the community plan is pending.

32. The Project would conform with the proposed Light Industrial designation for the Property. Light industrial uses

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

industrial development, resulting in the reduction of transportation and other costs. The Property is located along Piilani Highway, a two-lane, two-way State arterial highway. From its northern terminus with North/South Kihei Road, Piilani Highway extends to the Wailea-Makena region.

38. The adjacent light industrial park located to the north of the Project is composed of developed rental units marketed as building space. The 88 acre Petition Area would be subdivided and sold as individual parcels, providing businesses with the opportunity to purchase lots in fee simple and to build their own structures.

ECONOMIC IMPACTS

39. On a short-term basis, the Project will support construction and construction related employment. Over the long term, the Project will provide light industrial and commercial employment opportunities for Maui residents.

SOCIAL IMPACTS

40. South Maui's population is expected to expand nearly 30% between 1990 and the year 2000. The current resident population of the Kihei-Makena region is estimated at 15,365. The projected resident population for the years 2000 and 2010 are 19,885 and 24,514, respectively.

IMPACTS UPON RESOURCES OF THE AREA

41. The Project is not expected to have an adverse impact upon surrounding land uses.

42. The Petition Area is currently utilized for cattle grazing. The conversion of three acres of prime land is not

anticipated to have a significant impact on the existing operations of Kaonoulu Ranch or agricultural resources of the State.

43. The project is not expected to significantly impact any rare, threatened, or endangered flora or fauna. Some native plants species, such as pili grass, 'ilima, 'uhaloa and alena, occur on the site but are found commonly in similar communities throughout the State.

44. Petitioner has represented that the Project will not adversely affect adjoining properties and sedimentation hazards to coastal waters and downstream properties will be minimized. However, the Department of Health (DOH) commented that measures should be taken to minimize surface and groundwater contamination from the proposed industrial activities on the project site. According to DOH, the runoff from the project will enter Kulanihakoi Gulch and drain into the coastal waters of Kihei. Currently, water quality standards are exceeded in this water body and cannot be met unless non-point source pollution is controlled. Thus, the potential impacts, particularly cumulative, of urban development in this area on the quantity of stormwater runoff and the pollution of stream and ocean water resources are major concerns.

45. DOH and the Coastal Zone Management Program recommended that conditions be imposed to assure that stormwater runoff from the project site to Kulanihakoi Gulch from a 100-year storm will not exceed the present rate of the undeveloped project site.

46. Recreational facilities in close proximity to the Petition Area include the Silversword Golf Course, Kalama Park, Kalepolepo Park, the Kamaole Beach Parks, and numerous other beach parks along the Kihei coastline. The extent to which employees within the Project will reside in the Kihei-Makena region is not known; any impacts on recreational resources would be more appropriately addressed at the time of application of specific residential projects.

ARCHAEOLOGICAL RESOURCES

47. Petitioner submitted to the Department of Land and Natural Resources ("DLNR") a draft archaeological report by its consultant Xamanek Researches entitled Archaeological Inventory Survey, Data Recovery and Botanical Survey Report, Ka Ono Ulu Light Industrial Park, Kaonoulu Ahupua'a, Wailuku and Makawao Districts, Island of Maui, E.M. Fredericksen, W.M. Fredericksen, and D.L. Fredericksen (1994).

48. Twenty historic sites were identified in the Petition Area. DLNR concurred with the significance assessments and recommended treatments requiring no further archaeological work for nineteen of the twenty identified historic sites (50-10-3727 through -3745). The draft survey report recommended that the petroglyph site be either moved to a more secure location or incorporated into the landscaping. However, DLNR requested that additional information regarding the petroglyph site (50-10-3746) be provided prior to recommendation for final treatment.

49. Petitioner submitted a revised inventory survey report which was accepted by DLNR on September 1, 1994. The revised inventory survey report suggested two alternative preservation strategies for the petroglyph site: curating the petroglyph stone at the Maui Historical Society Bailey House Museum or displaying the stone within the ahupuaa of Kaonoulu, perhaps within the landscaping of the Property. DLNR recommended consideration of the second alternative only if a secure location for the stone can be guaranteed. The DLNR also recommended that to fully determine the effects of the Project on the petroglyph site, a more specific preservation plan for the site should be submitted.

50. On August 30, 1994, Petitioner moved the petroglyph to an existing garden at Kaonoulu Ranch headquarters in Kula, Maui, Hawaii, within the mauka portion of the Kaonoulu ahupua'a for preservation and maintenance. A primary concern in the relocation of the petroglyph was its safety and security. The petroglyph has been placed within a garden cared for by the Rice family and Kaonoulu Ranch employees. At the time the boulder containing the petroglyph was moved, the persons involved with its relocation had no knowledge that a DLNR approved preservation plan was required prior to its relocation.

51. At its new location a blessing was held. "[T]he Rice family, as managing partners of the Petitioner, felt that the boulder should be retained within the same ahupua'a as its original location."

52. Petitioner's consultant, Munekiyo & Arakawa, Inc., submitted an after-the-fact preservation plan to the State Historic Preservation Division for review. DLNR has indicated approval of the after-the-fact preservation plan for the interim preservation measures. However, approval of proposed long term measures is pending review by the DLNR.

53. Petitioner has represented that it will work with the Historic Preservation Division on a long-term preservation plan.

SCENIC AND VISUAL

54. The landscaping plan proposed for the Project will minimize the visual impacts of the proposed development on the Project's relatively long frontage along Piilani Highway. Design controls for setbacks will be imposed within the Project to further foster mitigation of visual impacts. The size and design of the individual lots provide relatively large areas so buildings can be constructed fairly deep in the lot to further minimize the visual impact of the Project from Piilani Highway. Petitioner has represented that site planning, architecture, landscape designs, signage and lighting will be addressed during the zoning process.

55. The 30 foot landscape setback will still allow widening of Piilani Highway without lessening the 30 foot setback along the frontage of the Kaonoulu Industrial Park project.

56. Landscaping materials and the irrigation system for the Project will apply County xeriscape principles and take into account Kihei's environs and water conditions.

ENVIRONMENTAL QUALITY

57. The Project will not significantly impact ambient noise conditions in the vicinity. Potential noise impacts include increased traffic volumes and construction activities. Heavy manufacturing and processing of raw materials will not be allowed in the Project. Mitigation measures include limiting construction activities to daylight working hours, and maximum setbacks.

58. The project will have no significant impacts on air quality. Project-related traffic will generate automotive emissions but are not expected to adversely impact local and regional air quality conditions. Petitioner has represented that dust control measures will be implemented during construction to minimize expected wind-blown emissions.

ADEQUACY OF PUBLIC SERVICES AND FACILITIES

59. The Petitioner believes that public services and facilities will be adequate to meet the demands of the Project.

SOLID WASTE DISPOSAL

60. The County's Department of Public Works and Waste Management ("DPWWM") recommended that Petitioner and its contractors implement solid waste reduction, re-use and recycling programs to reduce the amount of solid waste to be disposed of at the County landfill. DPWWM also recommended that alternative means of disposal of grubbed material and rock be utilized other than disposal at the County landfills. Finally, the DPWWM recommends that refuse collection be by a private collector.

61. Petitioner has represented that it will develop a solid waste management plan in coordination with the Solid Waste Division of DPWWM, that the Project will be serviced by a private refuse collection company, and that waste will be disposed of in the Central Maui landfill.

SCHOOLS

62. Educational facilities for the Kihei area include Kihei Elementary School which serves K-5 and Lokelani Intermediate School which serves 6-8. Public school students in grades 9 through 12 attend Baldwin High School in Wailuku. A second Kihei elementary school is proposed to be constructed and operated by 1996 for the Kihei area. Petitioner has represented that the extent to which employees within the Project will reside in the Kihei-Makena region is not known; any impacts on educational resources would be more appropriately addressed at the time of application of specific residential projects.

POLICE, FIRE PROTECTION AND HEALTH CARE FACILITIES

63. Police services are provided by the Kihei Patrol. The Police Department is headquartered at its Wailuku station.

64. Fire protection services are provided by the County's Department of Fire Control at its Kihei Station which is located on South Kihei Road approximately 2.6 miles from the Petition Area.

65. Maui Memorial Hospital, the only major medical facility on the island, services the Kihei-Makena region. Acute, general and emergency care services are provided by the 145-bed

facility. Medical and dental offices are located in the Kihei area to service the region's residents.

66. The Project is not anticipated to affect service capabilities of police, fire and emergency medical operations. The Project will not extend existing service area limits for emergency services.

ELECTRICITY AND TELEPHONE SERVICE

67. Electrical and telephone trunk lines will be extended underground across Piilani Highway to the Petition Area from Kaonoulu Street. The distribution system for these facilities will also be placed underground in accordance with the provisions of the Maui County Code.

HIGHWAYS AND ROADWAYS

68. The Project fronts the Piilani Highway, which is the primary arterial highway in the region. The Project may result in a decline of intersection conditions if mitigation measures are not implemented. Projected regional highway improvements either forecasted or planned and proposed roadway improvements by the Petitioner would mitigate the increase in traffic.

69. Primary access to the Property is proposed from Piilani Highway through a new segment of East Kaonoulu Street, within an 80-foot wide right of way, designed to accommodate five (5) eleven-foot (11') lanes of traffic. The four access roadways into the Project off of East Kaonoulu Street are proposed within a 64 foot right-of-way to accommodate four (4) ten-foot (10')

lanes. All other interior roadways will have a thirty-six (36) feet wide pavement section within a 60 foot right-of-way.

70. The proposed project would change the existing T-intersection of Piilani Highway and Kaonoulu Street to a cross intersection and alter the traffic demand in the vicinity of Kaonoulu Street. Left turn storage lanes and a deceleration lane for right turns would be required to the existing two-lane Piilani Highway to accommodate the proposed industrial subdivision. Improvements to accommodate traffic would also be required on the makai side of the Kaonoulu intersection, such as a conversion of the existing right turn only lane to a right turn and through option lane. This improvement would require striping, signage, and may require the removal and/or relocation of a small traffic island.

71. A road widening strip will also be provided along the westerly boundary of the project for future widening of Piilani Highway. Widening of the highway will not affect the landscaping setback planned for the frontage along Piilani Highway.

72. The DPWWM has indicated that a traffic signal should be installed at the intersection of the proposed subdivision and Piilani Highway to the satisfaction of DPWWM. DPWWM has also indicated that Petitioner should construct at a minimum all traffic road improvements stated in the Traffic Impact Analysis Report dated March 1994 for the year 2010 requirements. This would include the expected need to signalize at least one of the internal intersections within the Kaonoulu

Industrial Park. DPWWM also represented that the Petitioner provide a road widening lot wide enough to accommodate the anticipated road connection of the Kula-Kihei road through the subdivision to its connection with Piilani Highway.

73. A condition of the SMA approval for the Ka Ono Ulu Estates residential subdivision requires that they construct or install the traffic signals at the intersection of Kaonoulu Road and Piilani Highway upon 25% occupancy of that subdivision. The traffic generated by the Kaonoulu Industrial Park project by the year 2000 would also justify signalization at the intersection of the proposed subdivision and Piilani Highway.

74. Petitioner has represented that it will construct all streets within the industrial park to County standards in compliance with the comment by DPWWM that streets include concrete curbs and gutters, six foot sidewalks, and four feet wide planting strips, which improvements would be dedicated to the County upon completion.

75. Completed improvements to South Kihei Road, currently being undertaken, to expand the number of lanes, will help traffic conditions in the area of the Project.

76. Roadways connecting neighboring existing and future developments, and a frontage road system would result in less traffic on Piilani Highway, and would mitigate the need for additional intersections on the Highway.

WATER

77. Petitioner has represented that water for the Project will be provided by the domestic system servicing the

area and that the average daily demand for the Project is estimated to be approximately 429,500 gallons per day based on Department of Water Supply criteria of 6,000 gallons per acre per day.

78. Petitioner also represented that a new 12-inch line is proposed to be installed between Ohukai Road and the Project site. An easement would have to be obtained across land owned by Haleakala Ranch. A new distribution system would be installed within the subdivision streets to meet the required fire and domestic flow demands of the Project. Fire hydrants would be installed at appropriate intervals throughout the project. The existing 36-inch transmission line which extends diagonally across the Petition Area may be relocated within the subdivision street right-of-ways.

79. The County testified that the issue of water availability and required improvements could be reviewed in greater detail during the change of zoning process for the proposed project.

80. Petitioner's pro-rata share water source development and storage assessments are expected to be paid as part of the new County of Maui water meter fees.

81. Petitioner has been meeting with representatives of the Board of Water Supply, County of Maui, to participate in developing new water sources in north Waihee if necessary. On October 24, 1994, the Director of the Board of Water Supply, County of Maui, wrote:

Kaonoulu Ranch ha[s] agreed to assist the Board of Water Supply (BWS) in developing water, if negotiations with C. Brewer Properties, Inc. are not concluded by early 1995 when Brewer's pump installation permit expires. The assistance would be on the property the BWS has a land option position which will allow development of water without condemnation of property.

The Board of Water Supply concludes: "We feel that this assistance will satisfy the demands of the project."

WASTEWATER TREATMENT AND DISPOSAL

82. The Project when completed will generate an average flow of approximately 300,000 gallons per day of wastewater.

83. A new wastewater collection system will be installed within the subdivision streets to be connected by gravity lines to the existing sewer system located makai of Piilani Highway at the intersection of Kaiola and Kenolio Streets. Petitioner is willing to participate with the County and other users in upgrading the wastewater transmission treatment and reclamation facilities on an equitable pro-rata basis if necessary.

84. Petitioner has represented that there is a little over half a million gallon capacity left in the existing Kihei Wastewater Treatment Facility. The County's capacity ordinance for the allocation of commercial use is presently depleted. Petitioner has the option of going to the County Council to request the release of more capacity for commercial use. However, the expansion of the County wastewater facility by another 2 million gallons per day is expected to be completed by

late 1996, and will be adequate to handle the needs of the Kaonoulu Industrial Park. Based on this expansion, the County has represented that they will re-analyze its existing capacity ordinance.

DRAINAGE

85. The Property is designated Zone "C", an area of minimal flooding, by the Flood Insurance Rate Map.

86. Currently, runoff from lands mauka of the Property sheet flows through the Property by means of a natural drainageway. The drainageway discharges into Kulanihakoi Gulch approximately 1,200 feet downstream of the Petition Area.

87. The Project is expected to generate 228.8 cfs of on-site drainage volume, representing a net increase of approximately 168.3 cfs of surface runoff due to the proposed development.

88. The primary concern of the County is that no additional flows are added to Kulanihakoi Gulch to impact downstream properties.

89. Petitioner has represented that various erosion control measures will be in place during development of the Project. The Project will not adversely affect adjoining properties and sedimentation hazards to coastal waters and downstream properties will be minimized.

90. Petitioner has represented two options for on-site drainage improvements, neither of which will increase the runoff into Kulanihakoi Gulch. One option is to send all runoff generated from the individual lots to subsurface systems

constructed in each lot and buried in the parking lot; while runoff from the common areas of the Project, approximately 45 cfs, would be collected into a storm drain system and directed to Kulanihakoi Gulch. The other option is to build a detention basin offsite and mauka of the Project, on other property owned by the Petitioner to retain and release offsite runoff slowly while onsite runoff will flow directly into Kulanihakoi Gulch. The detention basin will be designed in a way that does not release the runoff flowing into Kulanihakoi Gulch from both offsite and the post-development project site beyond the current levels.

91. Petitioner proposes, as an off-site drainage improvement, construction of a concrete-lined diversion ditch along the easterly boundary of the Project site. The diversion ditch would intercept the off-site surface runoff which presently flows through the Project site and divert it around the Project site, where it will be discharged into Kulanihakoi Gulch as it is presently doing.

92. The drainage improvements will mitigate silt and maintenance of the system will be spelled out in the Covenants and Restrictions for the Project.

93. Petitioner has represented that it is willing to discuss its participation in improvements to Kulanihakoi Gulch.

94. The County has represented that it requires all development to contain runoff on site, and that the Petitioner's drainage plan will be subject to County review and will be required to meet all county requirements for drainage.

95. DPWWM commented that Petitioner should provide to DPWWM a copy of the approved water quality report including mitigation measures (acceptable to the Department of Health) which evaluated the quality of the storm water discharging into the ocean receiving waters and which includes a discussion on sediment and nutrient loadings at all drainage outlets.

CONFORMANCE TO APPLICABLE DISTRICT STANDARDS

96. The Project is proposed as an industrial park which would be sold in fee simple to purchasers or leased on a long-term basis. Uses are anticipated to primarily be light industrial and commercial uses oriented to serve the Kihei-Makena community.

97. The Project would provide needed commercial and light industrial business services in the region. The Project will provide additional job opportunities in an area with predominantly resort and service-oriented employment opportunities.

98. The Project is consistent with the current urban designation of the Property in the Kihei-Makena Community Plan, and the Planning Director's and Maui Planning Commission's light industrial urban designation in the recommended update of the Kihei-Makena Community Plan.

99. The Project would have a minimal impact on agriculture in the State.

100. Public services either exist or will be expanded to correspond with the projected needs of the Project.

101. The market analysis and the County recommendation indicates a significant need for the Project.

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

102. The Project supports and is consistent with the applicable objectives, policies and priority guidelines of the Hawaii State Plan and the State Functional Plans.

CONFORMANCE WITH COASTAL ZONE MANAGEMENT OBJECTIVES AND POLICIES

103. The Project is consistent with applicable objectives and policies of the Hawaii Coastal Zone Management Program.

104. Although the Property is within the State Coastal Zone Management Area, it is not within the Special Management Area established by the County of Maui pursuant to chapter 205A, HRS.

RULING ON PROPOSED FINDINGS OF FACT

Any of the proposed findings of fact submitted by any of the parties to this proceeding not adopted by the Commission by adoption herein, or rejected by clearly contrary findings of fact herein, are hereby denied and rejected.

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

CONCLUSIONS OF LAW

Pursuant to chapter 205, HRS, and the State Land Use Commission Rules, under chapter 15-15, HAR, this Commission finds upon the clear preponderance of the evidence that the reclassification of approximately 88 acres, which is the subject of this Petition, from the Agricultural District to the Urban District, subject to the conditions stated in the Order below, is reasonable, not violative of section 205-2, HRS and consistent with the Hawaii State Plan as set forth in chapter 226, HRS, and the Coastal Zone Management Program as set forth in chapter 205A, HRS.

ORDER

IT IS HEREBY ORDERED that the Property being the subject of Docket No. A94-706 by Kaonoulu Ranch consisting of approximately 88 acres situated at Kaonoulu, Makawao-Wailuku District, Island of Maui, and being more particularly described as Tax Map Key Nos. 2-2-02: portion of parcel 15 and 3-9-01: parcel 16, shall be and the same is hereby reclassified from the Agricultural District to Urban District, and the State Land Use District Boundaries are amended accordingly, subject to the following conditions:

1. The Petitioner shall obtain a Community Plan Amendment and Change in Zoning from the County of Maui.
2. Petitioner shall cooperate with the State Department of Health and the County of Maui Department of Public Works and Waste Management to conform to the program goals and

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

facilities and improvements to accommodate the proposed project. Water transmission facilities and improvements shall be coordinated and approved by the appropriate State and County agencies.

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

8. Petitioner shall fund the design and construction of its pro-rata share of drainage improvements required as a result of the development of the Property, including oil water separators and other filters as appropriate, and other best management practices as necessary to minimize non-point source pollution into Kulanihakoi Gulch, in coordination with appropriate state and county agencies, such as the following:

a. All cleaning, repairs and maintenance of equipment involving the use of industrial liquids, such as gasoline, diesel, solvent, motor oil, hydraulic oil, gear oil, brake fluid, acidic or caustic liquids, antifreeze, detergents, degreasers, etc., shall be conducted on a concrete floor, where roofed or unroofed. The concrete floor shall be constructed so as to be able to contain any drips or spills and to provide for the recovery of any spilled liquid. Water drainage from these concrete floors, if necessary, shall pass through a separator sump before being discharged.

b. All employees shall be instructed to immediately collect and contain any industrial liquid spills on the concrete floor and should be informed against discharging or spilling any

industrial liquids. Employees shall be instructed to prevent any industrial liquid spills onto the bare ground.

c. Barrels for the temporary storage of used oil or other industrial liquids shall be kept on a concrete surface. The surface shall be bermed to prevent the loss of liquid in the event of spills or leaks. The barrels shall be sealed and kept under shelter from the rain. (The Department of Labor and Industrial Relations' Occupational Safety and Health regulations, sections titled, "Housekeeping Standards" and "Storage of Flammable or Combustible Liquids," shall be followed, along with the local fire code.)

9. Should any human burials or any historic artifacts, charcoal deposits, or stone platforms, pavings or walls be found, the Petitioner shall stop work in the immediate vicinity and contact the State Historic Preservation District. The significance of these finds shall then be determined and approved by the Division, and an acceptable mitigation plan shall be approved by the Division. The Division must verify that the fieldwork portion of the mitigation plan has been successfully executed prior to work proceeding in the immediate vicinity of the find. Burials must be treated under specific provisions of Chapter 6E, Hawaii Revised Statutes.

10. A long term preservation plan for the petroglyph stone (Site 50-10-3746) that was removed from the project area shall be reviewed and approved by the State Historic Preservation Division. Long term preservation measures shall be implemented within 60 days after final approval of the preservation plan.

11. Petitioner shall contribute its pro-rata share to a nearshore water quality monitoring program as determined by the State Department of Health and the State Division of Aquatic Resources, Department of Land and Natural Resources.

12. Petitioner shall implement effective soil erosion and dust control methods during construction in compliance with the rules and regulations of the State Department of Health and the County of Maui.

13. Petitioner shall create a buffer zone between lands designated as SF (Single-Family) by the County's Kihei-Makena Community Plan and industrial uses on the Property to mitigate impacts between future residential activities and the proposed industrial development.

14. In the event Petitioner sells its interest in the Project, Petitioner shall subject the Property to deed restrictions to run with the land which shall require the successors and assigns to comply with the terms and conditions set forth in the Commission's Decision and Order.

15. 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.

16. 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.

17. Petitioner shall timely provide without any prior notice, annual reports to the Commission, the Office of State 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 include written documentation from each State and County agency responsible, indicating that the terms of the condition(s) are progressing satisfactorily or have been completed to the satisfaction of the agency. The annual report shall be submitted in a form prescribed by the Executive Officer of the Commission.


18. Petitioner shall record the conditions imposed herein by the Commission with the Bureau of Conveyances pursuant to Section 15-15-92 Hawaii Administrative Rules.


19. Within seven (7) days of the issuance of the Commission's Decision and Order for the subject reclassification, Petitioner shall (a) record with the Bureau of Conveyances a statement that the Property is subject to conditions imposed herein by the Land Use Commission in the reclassification of the Property; and (b) shall file a copy of such recorded statement with the Commission.

20. The Commission may fully or partially release the conditions provided herein as to all or any portion of the Property upon timely motion and upon the provision of adequate assurance of satisfaction of these conditions by the Petitioner.

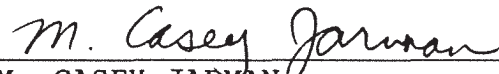
Done at Honolulu, Hawaii, this 10th day of February 1995,
per motion on February 2, 1995.


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. MATTSO
Commissioner

By (absent)
RENTON L. K. NIP
Commissioner

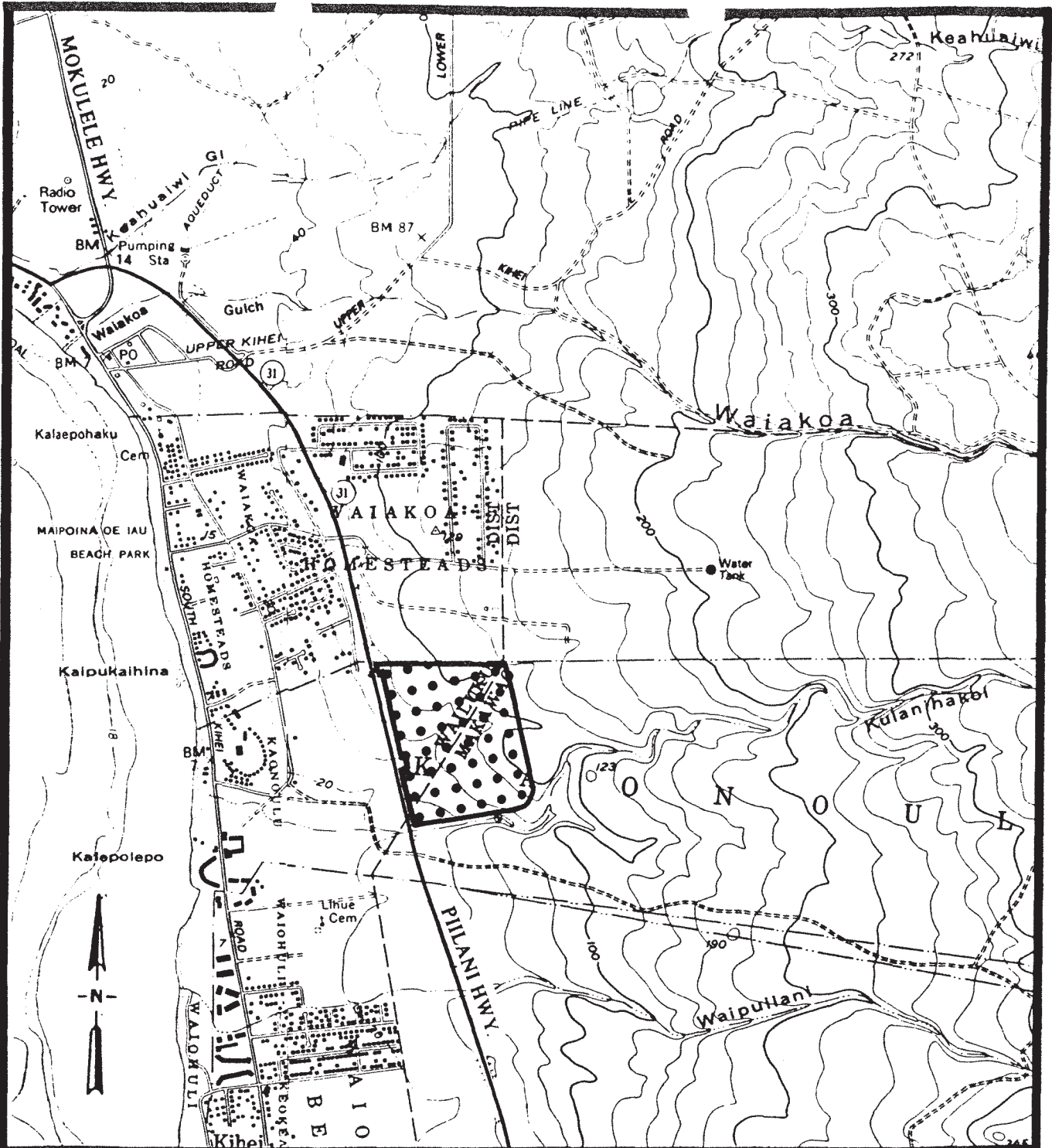
By 
TRUDY K. SENDA
Commissioner

Filed and effective on
February 10, 1995

Certified by:


Executive Officer

By 
ELTON WADA
Commissioner



LOCATION MAP

DOCKET NO. A94-706 / KAONOULU RANCH

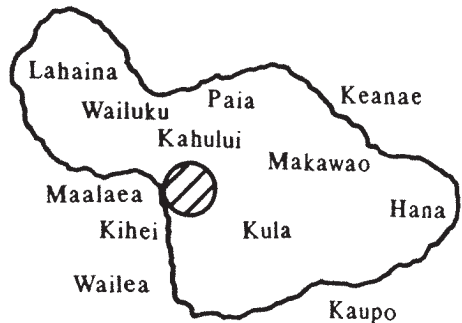
TAX MAP KEY: 2-2-02: por. 15 & 3-9-01: 16

KAONOULU, MAKAWAO-WAILUKU, MAUI



APPROVED AREA

SCALE: 1" = 2,000 ft. ±



MAUI

BEFORE THE LAND USE COMMISSION

STATE OF HAWAII

In the Matter of the Petition of) DOCKET NO. A94-706
)
KAONOULU RANCH) CERTIFICATE OF SERVICE
)
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)
)
)
)

CERTIFICATE OF SERVICE

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

GREGORY G.Y. PAI, PH.D., Director
Office of State Planning
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Honolulu, Hawaii 96811-3540

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CERT. GUY A. HAYWOOD, ESQ.
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Office of the Corporation Counsel
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Wailuku, Hawaii 96793

CERT. B. MARTIN LUNA, ESQ., Attorney for Petitioner
Carlsmith Ball Wichman Murray Case & Ichiki
2200 Main Street, Suite 400
Wailuku, Hawaii 96793-1086

DATED: Honolulu, Hawaii, this 10th day of February 1995.



ESTHER UEDA
Executive Officer