

BEFORE THE LAND USE COMMISSION  
OF THE STATE OF HAWAII

In the Matter of the Petition of ) DOCKET NO. A91-671  
3521 CORP. ) 3521 CORP.  
To Amend the Agricultural Land Use )  
District Boundary into the Urban )  
Land Use District for Approximately )  
44.684 acres, at Kahana, Island )  
and County of Maui, State of )  
Hawaii, Tax Map Key No.: 4-3-01: )  
portion of 70 )  
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LAND USE COMMISSION  
STATE OF HAWAII

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

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FINDINGS OF FACT,  
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3521 Corp., a Hawaii corporation (hereinafter "Petitioner"), filed a Petition on August 9, 1991 and amendments to the Petition on September 30, 1991 and October 11, 1991, pursuant to Chapter 205, Hawaii Revised Statutes, as amended (hereinafter "HRS"), and Title 15, Subtitle 3, Chapter 15, Hawaii Administrative Rules, as amended (hereinafter "Commission Rules"), to amend the Land Use District Boundary to reclassify approximately 44.684 acres of land from the Agricultural Land Use District to the Urban Land Use District, at Kahana, Maui, Hawaii, identified as Tax Map Key No. 4-3-01: portion of 70 (hereinafter "Property") to develop a residential subdivision. The Land Use Commission (hereinafter "Commission"), having heard and examined the testimony, evidence, arguments presented during the hearings, the proposed stipulated findings of fact, conclusions of law,

and decision and order of the parties, and Petitioner's exception filed thereto, hereby makes the following findings of fact and conclusions of law:

FINDINGS OF FACT

PROCEDURAL MATTERS

1. Petitioner filed a Petition on August 9, 1991 to amend the Agricultural District at Kahana, Island and County of Maui, State of Hawaii, to reclassify approximately 44.684 acres of land into the Urban District for a single-family residential subdivision.

2. Petitioner filed amendments to the Petition on September 30, 1991 and October 11, 1991.

3. Petitioner is a Hawaii corporation whose principal place of business and mailing address is 505 Front Street, Suite 215, Lahaina, Maui, Hawaii 96761.

4. A prehearing conference was held on the Petition on May 6, 1992. At the prehearing conference, witness lists and exhibits were exchanged among the parties.

5. The Commission conducted hearings on November 21, 1991, May 28 and May 29, 1992 and October 29, 1992. The hearings were held pursuant to notices published in the Honolulu Advertiser and the Maui News on October 17, 1991.

6. On May 28, 1992, the Commission received into evidence written statements of Richard A. Cameron of Maui Land and Pineapple, William Nishibayashi of the Hawaii Carpenter's

Union, Foster H. Hull, Roger Vosika, Earl Kunkel, Byron Walters, Carol Oliver and Allen Harty. These letters were in favor of the Petition.

7. The Commission allowed David Chenoweth, Stephen Suyat, Herman Nascimento, Ronald Bentley, Dee Kelly, Bill Salawich, Foster Hull, Roger Vosika, James Gallagher and William Woods to testify as public witnesses on May 28, 1992. Said witnesses, except David Chenoweth, testified in favor of the Petition.

#### DESCRIPTION OF THE PROPERTY

8. The Property encompasses approximately 44.684 acres at Kahana, Maui, Hawaii.

9. The Property is located approximately eight miles north of Lahaina town on the mauka side of Honoapiilani Highway, and approximately 3,000 feet on the northern side of the Kapalua airstrip access road.

10. The Property is bound by Honoapiilani Highway to the west; by the Kahanaiki Stream to the north; by pineapple-cultivated fields to the east; and by the Kahana Nui subdivision to the south.

11. The Property was formerly used for sugarcane cultivation but has been dormant since 1986. The Property is presently vacant and undeveloped with shrubs, grasses, old sugarcane plants and scattered kiawe trees.

12. The Property is part of a 50-acre parcel conveyed to Petitioner in January 1991. The Property was subject to a

quiet title action between Maui Land and Pineapple Company and approximately 130 native Hawaiian families. In October 1990, as part of the court proceedings in the quiet title action, the Property was conveyed to the Kahana Hui Trust, composed of native Hawaiian claimants. The intent of the transfer was to provide the claimants with land adjacent to urban areas in order to make the Property available for sale for residential development and to provide a higher return to the native Hawaiian group. Following the settlement of over 80 tax liens, the Trust conveyed the land to Petitioner in January 1991.

13. The Property is owned by Petitioner.

14. The elevation of the Property ranges from 40 feet above mean sea level at the makai boundary to approximately 160 feet above mean sea level at the mauka boundary. The annual rainfall on the Property ranges from 30 to 40 inches.

15. The topography of the Property rises in elevation and provides for ocean and mountain views. The slope of the Property is approximately eight to ten percent.

16. The Soil Conservation Service soil survey identifies the soils of the Property as belonging to the Lahaina series (Lahaina silty clay, LaC). The permeability of this soil type is moderate; runoff is slow to medium and the erosion hazard is slight to moderate.

17. The Agricultural Lands of Importance to the State of Hawaii system classifies the Property as "Prime".

18. The Land Study Bureau rates the overall productivity of the Property as "A" and "B".

19. Flood Insurance Rate Maps indicate the Property is located within Zone C, areas of minimal flooding. The Property is outside the potential tsunami inundation limits as established by the Maui County Drainage Master Plan, 1977.

PROPOSAL FOR RECLASSIFICATION

20. The Property will be developed into approximately 200 lots for single-family residential use (hereinafter "Project"). A density of approximately 4.5 lots per acre is anticipated with a minimum lot size of 6,000 square feet.

21. The development of the Property is part of the development plan for the entire 50 acres acquired by Petitioner. A portion of the development plan (approximately 5.3 acres) has been processed through the County of Maui for community plan change, land use district boundary amendment (hereinafter "LUDBA") and zoning. The 5.3-acre portion of the development plan is proposed for a four-acre development for multi-family affordable housing and a 1.3-acre community park.

22. The 1.3-acre community park will be contiguous to the multi-family affordable component of the development plan and is intended to provide recreational opportunities in a green open area as part of the development plan.

23. The Project will include the construction of an internal roadway system including improvements to a portion of a cane haul road which is adjacent to Honoapiilani Road at the

western boundary of the parcel. The improvements include installation of sewer lines, water, drainage, electrical and telephone systems.

24. The intended market for the lots will be the existing Maui residents who desire to purchase the lots and construct their own single-family homes.

25. The intended market for the 200 proposed lots will be households seeking mid-priced units (prices below the luxury/high end range but above the affordable range). The lots are intended to be offered at market prices averaging approximately \$175,000 per lot.

26. The affordable housing component of the development plan will consist of 86 multi-family affordable units.

27. The development cost for the 50-acre development (excluding buildings) is estimated to range from approximately \$12M to \$19.8M. These costs relate primarily to infrastructure improvements such as roadways, grading, sewer and water systems, drainage and electrical and telephone systems.

Breakdown of Estimated Development Costs

Onsite -	\$9,803,000
Offsite -	\$3,400,850
Soft costs -	\$2,536,000

28. Petitioner expects to finalize the LUDBA for the Property in late 1992 or early 1993. A community plan change,

LUDBA and zoning for the affordable component of the development plan has already been accomplished.

29. Petitioner expects to apply for subdivision approval for the single-family lots in early 1993 while processing the zoning for the market housing. Petitioner expects to start construction in late 1993 and the subdivision improvements are projected to be completed some time in 1994.

PETITIONER'S FINANCIAL CAPABILITY TO UNDERTAKE  
THE PROPOSED DEVELOPMENT; ECONOMIC FEASIBILITY  
OF THE DEVELOPMENT

30. Petitioner's balance sheet shows total fixed assets including land and equipment as \$16.6M and total other assets at approximately \$191,000 for total assets of approximately \$16.8M. Petitioner's total liabilities as of June 30, 1991 were \$12.3M and owner's equity was approximately \$2.9M. Petitioner has received favorable responses for financing the subdivision from GECC Financial. Petitioner has undertaken other development projects within the United States and Canada and currently owns a commercial development at 505 Front Street in Lahaina. Petitioner presented evidence in support of the economic feasibility of the Project. Petitioner explained the feasibility of the affordable component of the development plan.

STATE AND COUNTY PLANS AND PROGRAMS

31. The Property is located within the State Land Use Agricultural District, as reflected on the State Land Use Official Map, M-1 (Honolua).



32. The County's community plan designates the Property for single-family residential use.

33. The site of the affordable housing component of the development plan has been zoned multi-family by the County of Maui and has been placed in the State Land Use Urban District by the County of Maui.

34. Zoning for the Property is currently agriculture.

35. The Property is not within the County's Special Management Area.

#### NEED FOR THE PROPOSED DEVELOPMENT

36. Currently, there exists approximately 40.9 acres of vacant, non-oceanfront, residentially zoned land in the Lahaina to Kapalua area. Of the 40.9 residentially zoned acres, 24.2 acres are composed of park land and are generally unsuitable for single-family residential development. The remaining 16.7 acres consist of 10.8 acres located south of the Property in Lahaina town and 5.9 acres in the Napili/Kahana/Mahinahina area. Of the 5.9 acres, approximately 2.6 acres could be developed into residential lots, but there are no plans for development. There are no plans for the 3.3 additional acres. There have been no subdivisions in the area for the last ten years.

37. There is a substantial amount of non-oceanfront land designated single-family residential on the Lahaina community plan but not as yet zoned residential and for which there are no current plans for development. Of the 354 acres

in the Lahaina community plan designated for single-family use, 70 acres are located at Kaanapali Resort and 240 acres are located south of the Project in Lahaina town. Approximately 20 acres are located at the Kapalua resort area in addition to two project districts for single family use within the Kapalua area. The remaining 24 acres are located in the vicinity of the Property. Of the 24 acres, ten acres are planned for development.

38. The population in Lahaina is expected to more than double for the 20-year period from 1990 to the year 2010. The resident population of Lahaina increased from 5,524 in 1970 to 14,400 in 1989, an increase of 160.7 percent over the 20-year period. The population for the Lahaina district is expected to increase by 4,384 from 1990 to 1995.

39. Based on the average household of 2.5 persons, the Lahaina district would require 1,754 new housing units over the five-year time frame, or an average of 350 housing units annually.

40. Approximately 5,800 single-family units are planned for development over the next decade to meet the substantial increase in population projected for the Lahaina district. The majority of these units would be priced in the affordable range and the luxury/high end range.

41. Most of the new units to come onto the market will be the affordable and luxury end category. There will be a significant scarcity of the mid-priced units. The only

projects to be developed in the mid-priced range are those planned by the State Housing Finance and Development Corp. The forecast for the market supply in the Project area is that a substantial number of affordable units will come on line as well as a substantial supply of luxury units. No units exist in the gap group market for which there is a significant pent-up demand.

42. It is expected that 200 lots in the mid-priced range will be absorbed in two to three years and that the Project would be available for marketing in 1994.

43. The Project as proposed is affordable for the market proposed. It is intended as affordable for families with income levels below 140 percent median income but who have pent-up equity and can upgrade their existing property by converting their equity to new upgraded property.

#### ECONOMIC IMPACTS

44. The proposed Project will generate employment during the construction of the subdivision improvements and housing units. Permanent employment opportunities will be generated by the maintenance requirements of both the private and public components of the Project.

45. The 50-acre development plan site has a prorated assessed value of approximately \$37,090. The county tax revenues will be significantly enhanced by the improvements of the site and the urbanization of the site.

46. On a short-term basis, construction costs for the basic infrastructure improvements will provide the State of Hawaii with significant income from general excise taxes and the revenue from the construction of houses will provide the state with additional gross excise tax revenues. Real property taxes to be collected by the county will be significant upon the construction of the Project.

#### SOCIAL IMPACTS

47. The proposed 50-acre development will help to alleviate the shortage of mid-priced housing in the Lahaina area of the County of Maui. The development will provide affordable housing opportunities for first time buyers and upgrade opportunities in the housing market for existing home buyers. The Project will provide economic employment opportunities during and after construction.

#### IMPACT ON THE RESOURCES OF THE AREA

##### Agricultural Resources

48. The Property has adequate soils and sunny conditions, but a supply of low cost water to irrigate the fields limits its agricultural potential.

49. The Property and surrounding fields were cultivated in sugarcane by Pioneer Mill Company under a lease from Maui Land & Pineapple Company. When the leases expired in the mid-1980's, Maui Land & Pineapple chose to farm the surrounding areas in pineapple rather than to continue to lease the land to Pioneer Mill Company. However, the Property was

not planted in pineapple because it was intended to be transferred to a group of native Hawaiians as part of a quiet title action in court and as a result the Property has been fallow since 1986.

50. The Project will not impact the existing or future sugar production operations since sugar is no longer grown on the Property. The 50-acre parcel is over two miles from the nearest Pioneer Mill Company field. The Property is too small and too isolated to farm sugarcane.

51. The Project will not have an impact on the existing pineapple operation since pineapple is not grown on the Property, nor has it been grown on the Property in recent history. Maui Land and Pineapple has stated that if the Property was available to them, that they would cultivate it in pineapple. However, the Property would add less than one-half of one percent of the land now available for pineapple for Maui Land and Pineapple. Consequently, if the Property was made available to Maui Land & Pineapple, there would be no measurable increase in production, revenues or employment.

52. The Project will not affect any diversified agriculture activity since none exists on the Property. The Project will not affect the availability of land for diversified agriculture because the Project will not increase or decrease the availability of land for diversified agriculture.

53. The area is suitable for subtropical crops which grow well in warmer and dryer areas of Hawaii but is unsuitable for those crops which require cooler climate conditions.

54. The Property does not offer any unique conditions for growing crops. Crops which can be grown on West Maui can be grown on other parts of the state such as Molokai.

55. The 50-acre development will not affect the growth of diversified agriculture. The 50-acre development plan site involves far too little land to affect the statewide growth of diversified agriculture.

56. The Department of Agriculture (hereinafter "DOA") indicated that the adverse impacts of urbanization upon an agricultural area extend beyond the use of the Property to be urbanized. DOA indicated that the proposed Project would be a significant intrusion of the Urban District into the area mauka of the Honoapiilani Highway.

57. DOA indicated that the Property once urbanized, will set precedent whereby adjacent landowners may seek to urbanize their lands, which in turn, threatens the integrity of the agricultural land resource of the region. On this premise, DOA opposed the application unless Petitioner can clearly demonstrate that approval of the Project represents an overriding public benefit.

#### Flora and Fauna

58. The vegetation on the Property consists of abandoned sugarcane fields with varying amounts of weedy

invasive species. Almost all of the plants on the Property are introduced species. The few native plants (considered "weedy natives") on the Property are indigenous species (found throughout the islands and elsewhere through the Pacific).

59. There are no sensitive native plant communities remaining on this Property. No officially listed threatened or endangered species exists on the Property; nor are there any proposed candidates for such status on the Property.

60. The Property has a typical assortment of introduced or alien bird species. Only one of the species observed, the Pacific Golden Plover, is native; the remaining species observed are all alien or introduced. No mammals were observed on the Property, but rats and mice are expected to be on the Property.

61. The development of the Project as proposed will not have a significant negative impact on the flora or fauna resources of the area.

#### Archaeological/Historical Resources

62. Petitioner's consultant, Joseph Kennedy, conducted an archaeological reconnaissance study of the Property in May 1990. In May 1992, the study was upgraded to an inventory level study.

63. The inventory level study provided an indepth study of the archaeological material. Subsurface testing was conducted which provided a determination of function, age,

settling patterns, predicted models of the materials and recommendations for further work.

64. From the initial study in May 1990, two sites were identified on the Property, a two-tiered platform and a single petroglyph.

65. As part of the May 1992 study, the archaeologist performed subsurface investigation in the form of a two meter square pit, excavated approximately in the center of the discovered structure. It was excavated by standard archaeological techniques, ten centimeter levels moving the dirt through a quarter inch of screen. It was determined that the two-tiered structure was a burial.

66. The archaeologist found nothing on the Property that would qualify to be registered in either the state register or the national register for historic sites. There will be no negative impact as a result of the development of the Project on any cultural, historic or archaeological resources in the area.

67. With regard to the burial site, there were two alternatives available: (1) establish a buffer zone as part of a preservation plan or (2) petition the burial counsel for the relocation of the burial.

68. It was highly unlikely that there were additional cultural or archaeological properties to be found within the Property.



69. Petitioner has agreed to create a buffer zone to preserve the referenced sites found on the Property.

Groundwater Resources

70. The source of water for the Project is the County's Alaeoa groundwater source which is located approximately one-half to three-quarters of a mile from the Property.

71. There will be a 12-inch water line constructed from lower Honoapiilani Highway to the Property and an eight-inch internal water system with fire hydrants in order to meet the fire code requirements for the Project.

72. The water demand requirements for the 50-acre development is approximately 255,000 gallons per day. For each residential lot, the water department standard of 600 gallons per lot creates a requirement of 120,000 gallons for the single-family subdivision. The affordable housing units (86 units) will require 560 gallons per unit per day for domestic water. The 1.3-acre park site will require 1,700 gallons per acre. The total water demand will be 170,000 gallons for "normal flow." Water demand is based upon a "peak flow" which is one-and-one-half times the "normal flow." This equates to 255,000 gallons of domestic water demand per day for the entire 50-acre development.

73. The fire flow requirements for the single-family residential development is 1,000 gallons per minute for a two-hour duration (1,000 gallons per minute for a two-hour

fire). The multi-family standard for fire flow is 2,000 gallons per minute for a two-hour duration. Consequently, the single-family residential component will need 120,000 gallons for its storage capacity and the multi-family component will need 240,000 gallons for its storage capacity.

74. The storage capacity requirement for the entire 50-acre development will equate to 495,000 gallons, approximately one-half million gallons.

75. The Alaeoa water source is an adequate water source for domestic water for the Project.

76. The Project as proposed will not have any significant negative impact on the water resources of the area.

#### Recreational/Scenic Resources

77. The visual character of the Property will be altered from vacant land to an improved residential area.

78. The proposed 50-acre development will provide a 1.32-acre park site. There are additional park sites and recreational facilities within the Kahana area such as Honokowai Park, Fleming Beach Park, Kaanapali and Kapalua beach parks, tennis courts and golf courses. There will be no significant negative impact from the Project on the existing recreational scenic or visual resources of the area.

79. Park space in the area is limited and the proposed park may not be sufficient for the needs of the new community. Additional park dedication may be required by the County of Maui during zoning.

## Coastal/Aquatic Resources

80. Recent algae blooms in the area nearshore waters are a critical concern to the West Maui Community and visitor industry.

81. Petitioner's consultant, Robert Tanaka, analyzed the storm runoff from the Property and adjacent lands flowing into Kahana Stream and into the ocean. Because there is an existing retention substation basin, Petitioner will direct most of its runoff (upper one-half of the Project) into that basin to catch silt before the silt flows into the ocean.

82. The lower half of the Project is below the existing siltation basin and consequently, Petitioner will be constructing a new siltation basin on the makai portion of the Property to catch silt before it flows into Kahana Stream.

83. No significant adverse impact is expected on aquatic resources provided silting basins are constructed to mitigate pollution from eroded soils that would impact nearshore waters.

## ENVIRONMENTAL QUALITY

### Noise

84. Petitioner provided an analysis concerning the impact of the Project on the noise environment of the area.

85. Construction noise from the development of the Project will create a temporary increase in noise levels in areas surrounding the Property. Mitigative measures will be used by Petitioner during construction.

86. Petitioner will provide a setback from the cane haul road fronting the Property on the makai side to create a landscape buffer to attenuate traffic noise from the highway and cane haul road. Landscape plantings like ice plant normally used along highways will be used to absorb the sounds.

87. On the mauka side of the Property, adjacent to the pineapple field, Petitioner will construct an interceptor ditch for a drainage way. Within this area, Petitioner will create a landscape buffer to mitigate the noise coming from the adjacent agriculture activities.

88. Petitioner's consultant, Ronald Darby, provided an analysis concerning the impact of aircraft noise on the Property.

89. The location of the Property is approximately 1,300 to 2,600 feet from the center line of the runway of the Kapalua Airport. Utilizing the federal EPA, HUD, Defense Department and other guidelines which normally allow 65 Ldn for residential use and the State of Hawaii Department of Transportation (hereinafter "DOT") airport division's guidelines, which recommend no residential use above 60 Ldn, the Property currently experiences an Ldn range from approximately 43 to 47 Ldn.

90. If the level of operations in the airport would quadruple, the Ldn level would be between 49 to 53 decimals Ldn over the Property and would still meet the DOT guidelines and even the long term EPA goal of 55 DB.

91. The Project will not be negatively impacted by aircraft noise from the West Maui airport as long as the airport does not increase in size, and the restrictions that are now in place are maintained.

#### Air Quality

92. Petitioner analyzed the impact of the Project on the air quality of the area. The development of the Property, as proposed by Petitioner, will not have any significant impact on the air quality of the area. Some air quality problems are anticipated during construction of the Project. Petitioner will use mitigative measures to control dust and soil erosion during construction.

93. The development of the proposed Project, changing the Property from vacant land to a residential area, will cause a nominal reduction in air quality. This reduction in air quality should not be substantial and should not be detrimental to the inhabitants of the area. The air quality should be comparable to the air quality existing in surrounding residential areas.

#### ADEQUACY OF PUBLIC SERVICES AND FACILITIES

##### Highway and Roadway Facilities

94. Access to the Project will be provided at two locations: "Project Road A" will connect Honoapiilani Highway across Hoohui Road, forming a cross intersection, and "Project Road B" will form a "T" intersection with Honoapiilani Highway.

95. Petitioner's traffic consultant conducted manual traffic counts and made field observations of the existing conditions. The consultant developed estimates of future traffic volumes without the Project by considering the growth in the traffic that would be traveling through the region as well as traffic generated by other nearby projects, such as Kahana Gateway, the Ritz Carlton and the Napili Shopping Center. The consultant estimated traffic generated by the Project to determine the future traffic conditions with the Project.

96. Results of the traffic analysis were as follows:

a) The Project, when completed, will have a slight impact on traffic operations at the intersection of Honoapiilani Highway and Hoohui Road. The Project will increase traffic delays slightly for traffic exiting and entering Hoohui Road.

b) Currently, the level of service (hereinafter "LOS") returning movements at Honoapiilani Highway and Hoohui Road intersection is "D" or better.

c) Without the Project, the LOS for returning movements will worsen. Drivers exiting Hoohui Road onto Honoapiilani Highway will experience very long delays (LOS F). There will also be very long delays (LOS E) on left turn movements onto Hoohui Road from Honoapiilani Highway.

d) With the Project, the LOS returning movements entering and exiting Hoohui Road will remain the same. The traffic exiting the Project will experience LOS F.

e) The intersection of Project Road B and Honoapiilani Highway will experience LOS E.

97. Petitioner's traffic consultant made the following recommendations in order to accommodate and minimize the traffic impacts from the Project:

a) Provide a left turn storage land on Honoapiilani Highway at the intersection of Honoapiilani Highway, Hoohui Road and Project Road A for left turns into the Project to minimize delays to traffic headed toward Lahaina;

b) Provide acceleration and deceleration lanes along Honoapiilani Highway at Project Roads A and B to minimize delays to highway traffic headed toward Kapalua;

c) For Project Road A, provide a shared lane for left and through movements and a separate right turn lane to reduce delays for right turn movements exiting the Project;

d) For Project Road B, provide only right turn movements into and out of the Project;

e) The intersection of Honoapiilani Highway and Hoohui Road and Project Road A should be signalized when warranted.

Petitioner intends to follow these recommendations.

98. The DOT has indicated that Petitioner should submit a schedule for a traffic signal warrant study and a traffic signal plan to the DOT for its review and approval. The DOT has also indicated that the access locations must be reevaluated to ensure that there are no conflicts with adjacent property owners. Further, the DOT has indicated that Petitioner should be required to participate on a pro rata basis on regional highway improvements.

99. If a traffic signal was installed at the intersection of Honoapiilani Highway, Hoohui Road and Project Road A, the flow on Honoapiilani Highway will incur some delay.

100. The County has indicated that Petitioner should consider pedestrian safety in crossing Honoapiilani Highway to the mauka commercial and recreational areas.

101. The County has further indicated that if Project Road A eventually serves more areas mauka of the Property, Petitioner should then reevaluate it as an "access controlled road".

#### Water Service

102. There is currently no water service available to the Property. Water service will be available to the Property from the existing county water system that serves the surrounding areas.

103. An off-site water transmission system will be connected to the existing water line on Lower Honoapiilani



Highway and the line will be brought along Hoohui Road and across Honoapiilani Highway to the Project.

104. The County's groundwater source is adequate for the purposes to serve the Project.

105. The maximum daily flow required for the 50-acre development is 255,000 gallons per day. The estimated fire flow requirements for the 50-acre development is 2,000 gallons per minute or 240,000 gallons for a two-hour fire. Storage requirements for the 50-acre development are estimated at 500,000 gallons.

106. Petitioner will provide all of the water requirements for the Project, including the necessary on-site and off-site improvements to ensure an efficient water supply for the Project.

107. The development of the Project as proposed will have no significant impact on the County's water service serving the area.

#### Wastewater Disposal

108. The Property is located within an area served by the Lahaina sewage treatment system.

109. Wastewater is collected by a system of gravity sewer lines and forced mains. Sewage is treated at the County operated Lahaina Wastewater Treatment facilities located three miles south of the Property.

110. The average sewer flow from the proposed 50-acre development is estimated at .154 million gallons per day (hereinafter "mgd"), with the peak flow estimated at .340 mgd.

111. Petitioner will take the sewage to the western corner of the subdivision where a lift station will be installed. Sewage will be pumped directly to the Lahaina Wastewater Treatment Plant along Honoapiilani Highway or along the existing Pioneer Mill cane haul road. Petitioner will construct its own sewer line to bring the sewage to the Lahaina Wastewater Treatment Plant.

112. An expansion of the Lahaina Wastewater Treatment Plant is necessary to accommodate the additional flows. The County of Maui is now in the process of expanding the Lahaina Wastewater Treatment facilities and the wastewater facilities are expected to be completed by the time the Project is ready for occupancy.

113. Petitioner will provide all of the wastewater requirements for the Project, including the necessary on-site and off-site improvements to ensure adequate wastewater service and treatment for the Project.

114. The Project as proposed will have no significant impact on the wastewater services for the area.

#### Drainage

115. The existing drainage runoff affecting the Project is generated by the Property itself and by the lands mauka of the Property.

116. The present drainage conditions are characterized by surface water sheet flow across the Property and into the adjoining lands into the Kahana Stream, a drainage way which abuts the northern boundary of the Property.

117. Runoff from 50 percent of the drainage area flows into Kahana Stream. This flow is discharged across Honoapiilani Highway. Runoff from the remaining 50 percent of the Property sheet flows in a makai direction toward Honoapiilani Highway and the cane haul road (located on the western boundary of the Property). Runoff then flows along the cane haul road in a northerly direction into Kahana Stream.

118. A series of interceptor ditches within Maui Land and Pineapple fields mauka of the Property intercepts much of the mauka runoff.

119. The existing storm runoff is calculated to be 71 cubic feet per second for a 100-year storm. The area mauka of the Property provides 25 cubic feet per second on a 100-year storm basis, and the Property itself contributes 46 cubic feet per second for a total of 71 cubic feet per second.

120. Petitioner will provide an interceptor ditch along the mauka boundary of the Property to divert the water directly into Kahana Stream and into a retention basin that exists adjacent to the Property.

121. Petitioner will provide an underground drainage system including catch basins within the roadway system to

capture the runoff into its underground conduit system. The underground conduit system will accommodate the runoff from the mauka half of the Project (50 percent of the 92 cfs) into the Kahana Stream above the existing retention basin.

122. The lower half of the Property will not be accommodated by the existing siltation basin. Petitioner will catch all of the lower half of the runoff into a roadway system and to direct the flow through underground conduits along the cane haul road into a second retention basin which will be constructed on the Property. Petitioner will be accommodating the remaining 46 cfs at a 100-year storm level into the second retention basin and bringing the flow from the second retention into the Kahana Stream below the existing retention basin.

123. Under the improved conditions, the total runoff will be 117 cfs (25 cfs off-site and 92 cfs on-site). On-site runoff will be captured on the mauka side and diverted into the existing siltation basin, and the 46 cfs will be captured by the conduits brought into the existing siltation basin. The drainage from the makai portion of the Property will be diverted into the underground system into the new retention basin.

124. The development of the Project as proposed will not have any negative impact on the storm drainage system serving the area. The storm drainage system will be improved by Petitioner's plan.

### Solid Waste Disposal

125. The Property is currently served by the County's refuse disposal system. Refuse is collected by the County and disposed of at one of the County's sanitary landfills.

126. Petitioner will submit a solid waste plan to the County of Maui for its approval. Petitioner will let the clearing and grubbing material decompose on the Property. No such material will be placed in the County sanitary landfill. Petitioner will utilize the County of Maui and private companies for refuse collection.

### Schools

127. The Property will be served by Kamehameha III Elementary School, Lahaina Intermediate School and Lahainaluna High School. All three schools are located seven-and-one-half to eight miles south of the Property.

128. The occupants of the Property is expected to be primarily existing Maui County residents. As such, no increase in demand for school facilities within the County will be created to any significant degree.

129. The State Department of Education (hereinafter "DOE") offered the following comments: (1) The 50-acre development will have a significant enrollment impact on public schools in the area; (2) The proposed single-family and multi-family units are projected to generate 101 students; and (3) Petitioner should contribute a fair share for the construction for the school facilities generated by the Project.

### Police and Fire Protection

130. The County Police Station and Fire Station are located at Lahaina Civic Center, approximately five-and-one-half miles south of the Property. The Napili Fire Station is located approximately one-half mile north of the Property.

131. The Project is not expected to unreasonably burden the police and fire services or facilities serving the Property or necessitate an unreasonable investment and facilities or support services or the commitment of state fund resources.

### Electrical and Telephone Service

132. Electrical and telephone services for the Project are available from existing overhead lines along Honoapiilani Highway.

133. To service the Project, Petitioner will bring the electrical lines from below Honoapiilani Highway underground, across the highway and into the Property.

134. The telephone system to serve the Project is available on Lower Honoapiilani Highway. Petitioner will extend the system along Hoohui Road across the highway into the Property.

135. The Project as proposed will have no unreasonable burden on the electrical or telephone services serving the Property nor will it necessitate any unreasonable investment in facilities or support services.

CONFORMANCE TO URBAN DISTRICT STANDARDS

136. The Property conforms to the standards applicable in establishing boundaries of the "U" Urban District boundaries as set forth in Section 15-15-18 of the Commission Rules:

a) The Property is immediately contiguous to an existing Urban District and is in close proximity to existing trading and employment centers. The Property is also in close proximity to lands characterized by "city-like" concentrations of people, structures, streets, urban level of services, and other related land uses.

b) Petitioner has demonstrated the need for additional housing, the need for sufficient reserve areas for urban growth, its capacity to financially undertake the Project and has demonstrated the economic feasibility of the Project.

c) The Property is in close proximity to existing basic services such as sewers, water, sanitation, schools, parks, and police and fire protection. In addition, Petitioner will participate in the improvement of existing infrastructure systems and to provide on-site infrastructure for the Project with connections to new and existing infrastructure systems.

d) The Property is reasonably free from the dangers of flood, tsunamis, unstable soil conditions, and other adverse environmental conditions. Petitioner will comply with all applicable State and County requirements for flood control and drainage.

e) The Property is designated for single-family residential development in the Lahaina Community Plan.

f) The Property is contiguous to and is a logical extension of existing urban areas and will not contribute toward scattered spot urban development.

CONFORMANCE WITH HAWAII STATE PLAN

137. The Project is consistent with the objectives, policies, and priorities of the Hawaii State Plan, Chapter 226, HRS, as follows:

a) Section 226-19, Objectives and Policies for Housing: The Project will help provide a spectrum of housing units and offer more choices to Maui residents. The Property is located adjacent to existing residential uses in already urbanized areas and is well suited to development for housing purposes. Adequate infrastructure and public services exist and reasonable improvements and upgrades will support the Project.

b) Section 226-7, Objectives and Policies for Agriculture: The Project will not limit the statewide growth of diversified agriculture. The impact of such loss on sugar, pineapple and diversified agricultural operations will be insignificant.

c) Section 226-13(b)(7), Objectives and Policies for the Physical Environment: The Property is located in close proximity to existing services and facilities.



d) Section 226-106, Objectives and Policies for Affordable Housing: The 50-acre development will provide a range of housing choices for income groups including low, moderate, and gap group income families and individuals.

e) Section 226-104, Objectives and Policies for Population Growth and Land Resources: The Project will encourage urban growth in areas where adequate public facilities are already available or can be provided with reasonable public expenditures.

CONFORMANCE WITH COASTAL ZONE MANAGEMENT OBJECTIVES AND POLICIES

138. The proposed reclassification of the Property for the Project conforms to the policies and objectives of the Coastal Zone Management program detailed in Chapter 205A, HRS.

RULING ON PROPOSED FINDINGS OF FACT

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

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

CONCLUSIONS OF LAW

Pursuant to Chapter 205 of the Hawaii Revised Statutes, as amended, and the Commission Rules, as amended, the Commission finds upon the preponderance of the evidence that the reclassification of the Property, consisting of approximately 44.684 acres from the Agricultural Land Use District into the Urban Land Use District at Kahana, Island and County of Maui, State of Hawaii, subject to the conditions stated in the Order, conforms to the standards for establishing the Urban District Boundaries, is reasonable, non-violative of Section 205-2, Hawaii Revised Statutes, as amended, and is consistent with Chapter 226, Hawaii Revised Statutes, as amended.

ORDER

IT IS HEREBY ORDERED that the Property, being the subject of this Docket No. A91-671 by 3521 Corp. consisting of approximately 44.684 acres, situated at Kahana, Island and County of Maui, State of Hawaii, identified as Tax Map Key Number: 4-3-01: portion of 70, and approximately identified in Exhibit "A" attached hereto and incorporated by reference herein, for reclassification from the Agricultural District to the Urban District, shall be and is hereby approved, and the State Land Use District Boundaries are amended accordingly, subject to the following conditions:

- ✓ 1. Petitioner shall provide affordable housing opportunities for low, low/moderate and gap group residents of

the State of Hawaii to the satisfaction of the State Housing Finance and Development Corporation in accordance with the Affordable Housing Guidelines, adopted by the Housing Finance and Development Corporation, effective July 1, 1992, as periodically amended. The location and distribution of the affordable housing or other provisions for affordable housing shall be under such terms as may be mutually agreeable among Petitioner, the State Housing Finance and Development Corporation and the County of Maui.

2. Petitioner shall inform all prospective purchasers of the proximity of the Property to an existing airport.

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

4. Petitioner shall preserve site T-1, and submit a detailed archaeological preservation plan for the platform (site T-1), which plan will be reviewed and approved by the State Historic Preservation Division, County of Maui Planning Department and the Maui/Lanai Islands Burial Council.

Petitioner shall immediately stop work on any impacted area and contact the State Historic Preservation Division should any archaeological resources such as artifacts, shell,

bones or charcoal deposits, human burials, or rock or coral alignments, paving or walls of historic or prehistoric significance be encountered during the development of the Property.

5. Petitioner shall fund, design and construct the necessary roadway improvements within the Project area to the satisfaction of the State Department of Transportation ("DOT") and the County of Maui.

Petitioner shall submit a schedule for a traffic signal warrant study and traffic signal plan for the State DOT's review and approval, and if required, shall fund and install traffic signals.

Petitioner shall address the impact of the cane haul road on the proposed Project and vice versa, as well as pedestrian safety for the crossing of Honoapiilani Highway to the makai commercial and recreational areas to the satisfaction of the Department of Public Works, County of Maui.

Petitioner shall reevaluate the roadway access locations in consultation with the State DOT to ensure that there are no conflicts with adjacent existing and proposed developments.

Petitioner shall submit construction plans for work within the State right-of-way to the State DOT Highway Division for review and approval. Required roadway improvements shall be constructed at no cost to the State and in accordance with all applicable State design standards and specifications.

6. Petitioner shall participate in the funding and construction of regional highway improvements, on a pro rata basis as determined by the State Department of Transportation.

7. Petitioner shall 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.

8. Petitioner shall not dispose of clearing and grubbing material at the County sanitary landfill. Petitioner shall submit a solid waste management plan acceptable to the County of Maui Department of Public Works.

9. Petitioner shall fund the development of the necessary water source, storage, and transmission facilities to provide an adequate supply of potable water to the Property.

10. Petitioner shall submit a final detailed drainage and erosion control plan to the State Department of Health and County of Maui Department of Public Works for review and approval. Petitioner shall provide verification that the grading and runoff water generated by the proposed Project will not have an adverse effect on the adjacent and downstream properties.

11. Petitioner shall implement effective soil erosion and dust control measures both during and after construction of the proposed Project, and shall contribute a pro rata share of funding for a nearshore water quality monitoring program to the satisfaction of the State Department of Health.

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

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

14. Petitioner shall participate in formulating and implementing an emergency preparedness and evacuation plan for the Project area, in consultation with County and State civil defense agencies.

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

18. The Land Use Commission may fully or partially release these conditions as to all or any portions of the

Property upon timely motion and upon the provision of adequate assurance of satisfaction of these conditions by Petitioner.

19. Within 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 to the effect that the Property is subject to conditions imposed 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. Petitioner shall record the conditions imposed by the Commission with the Bureau of Conveyances pursuant to Title 15, Chapter 15, Section 92, Hawaii Administrative Rules.

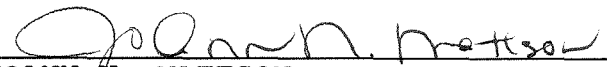
DOCKET NO. A91-671 - 3521 CORP.

Done at Honolulu, Hawaii, this 19th day of January 1993,  
per motion on January 13, 1993.

LAND USE COMMISSION  
STATE OF HAWAII

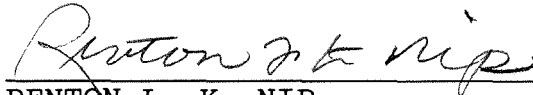
By (absent)  
ALLEN Y. KAJIOKA  
Chairman and Commissioner


By   
KAREN S. AHN  
Vice Chairman and Commissioner

By   
JOANN N. MATTSON  
Vice Chairman and Commissioner

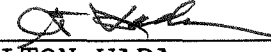
By (absent)  
ALLEN K. HOE  
Commissioner

By (absent)  
EUSEBIO LAPENIA, JR.  
Commissioner

By   
RENTON L. K. NIP  
Commissioner

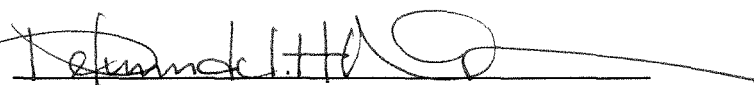
By   
TRUDY K. SENDA  
Commissioner

Filed and effective on  
January 19, 1993

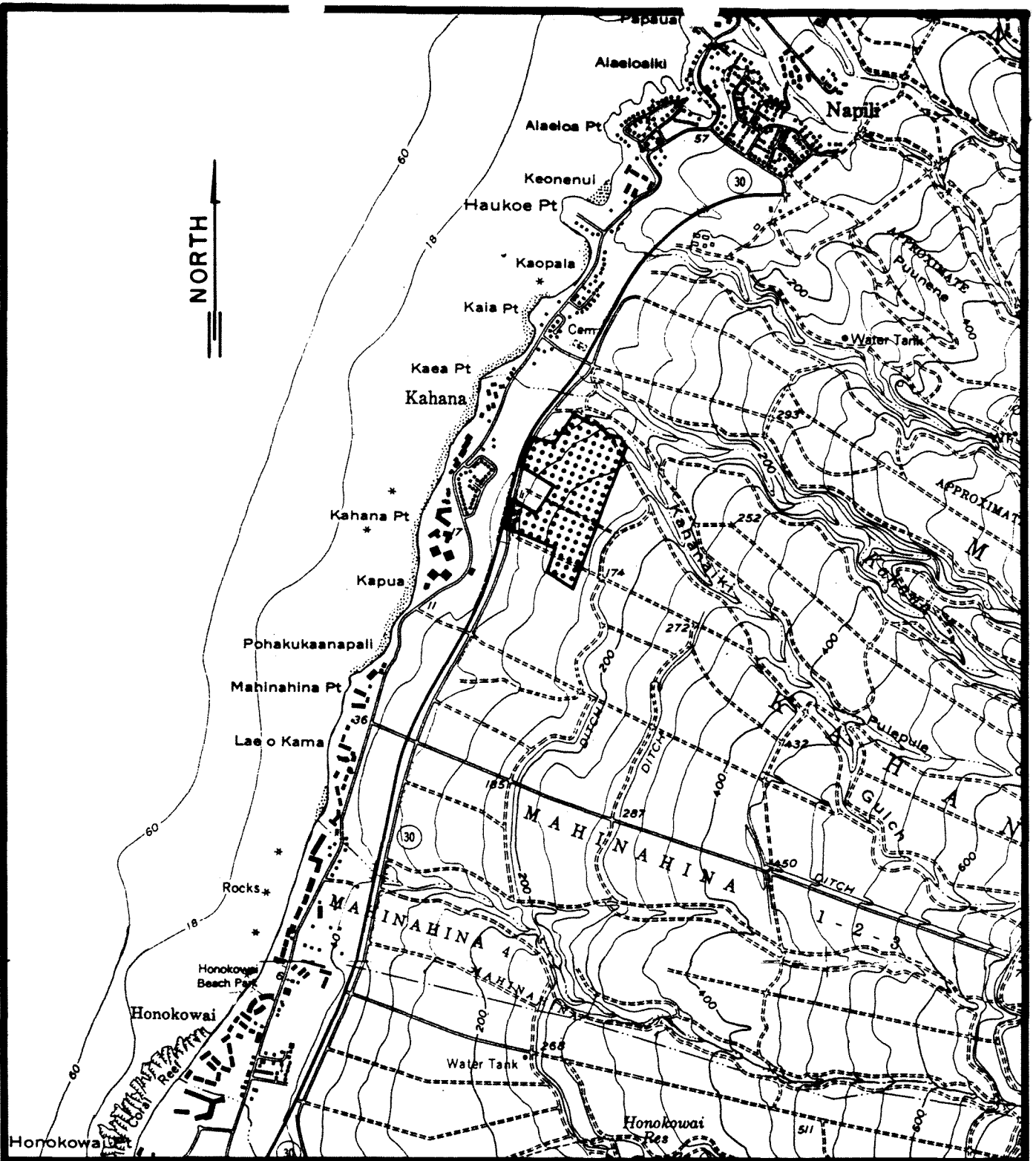
By   
ELTON WADA  
Commissioner

Certified by:

  
Executive Officer

By   
DELMOND J. H. WON  
Commissioner





DOCKET NO. A91 - 671 / 3521 CORP.

LOCATION MAP

TAX MAP KEY: 4 - 3 - 01: por. 70

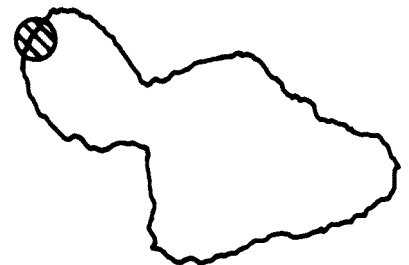
KAHANA, LAHAINA, MAUI

SCALE: 1" = 2,000 ft. ±



APPROVED AREA

EXHIBIT "A"



MAUI

BEFORE THE LAND USE COMMISSION  
OF THE STATE OF HAWAII

In the Matter of the Petition of ) DOCKET NO. A91-671  
3521 CORP. ) 3521 CORP.  
To Amend the Agricultural Land Use )  
District Boundary into the Urban )  
Land Use District for Approximately )  
44.684 acres, at Kahana, Island )  
and County of Maui, State of )  
Hawaii, Tax Map Key No.: 4-3-01: )  
portion of 70 )  
\_\_\_\_\_ )

CERTIFICATE OF SERVICE

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

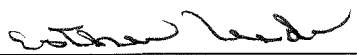
HAROLD S. MASUMOTO, Director  
Office of State Planning  
P. O. Box 3540  
Honolulu, Hawaii 96811-3540

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

CERT. GUY A. HAYWOOD, ESQ.  
Corporation Counsel  
Office of the Corporation Counsel  
County of Maui  
200 South High Street  
Wailuku, Hawaii 96793

CERT. PAUL R. MANCINI, ESQ., Attorney for Petitioner  
Case & Lynch  
33 Lono Avenue, Suite 470  
Kahului, Hawaii 96732

DATED: Honolulu, Hawaii, this 19th day of January 1993.

  
\_\_\_\_\_  
ESTHER UEDA  
Executive Officer