

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of)
WEST MAUI VENTURE GROUP)
To Amend the Agricultural Land Use)
District Boundary into the Urban)
Land Use District for approximately)
37.742 acres at Lahaina , Maui,)
Hawaii; Tax Map Key No. (II))
4-5-10: 7)
_____)

DOCKET NO. A94-710
FINDINGS OF FACT,
CONCLUSIONS OF LAW, AND
DECISION AND ORDER

LAND USE COMMISSION
STATE OF HAWAII
AUG 29 7 45 AM '95

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

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of)	DOCKET NO. A94-710
WEST MAUI VENTURE GROUP)	FINDINGS OF FACT,
To Amend the Agricultural Land Use)	CONCLUSIONS OF LAW, AND
District Boundary into the Urban)	DECISION AND ORDER
Land Use District for approximately)	
37.742 acres at Lahaina , Maui,)	
Hawaii; Tax Map Key No. (II))	
4-5-10: 7)	

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

WEST MAUI VENTURE GROUP, a Hawaii limited partnership ("Petitioner"), filed a Petition for Land Use District Boundary Amendment on November 15, 1994, and a First Amendment to Petition for Land Use District Boundary Amendment on February 1, 1995, (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 and reclassify approximately 37.742 acres of land at Lahaina, Maui, Hawaii, specifically identified as Tax Map Key No. (II) 4-5-10:7 ("Property" or "Petition Area") from the Agricultural District to the Urban District to develop a 49 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 Petitioner's Proposed Findings of Fact, Conclusions of Law, and Decision and Order, Maui County Planning Department's Response to Petitioner's Proposed Findings of Fact, Conclusions of Law, and Decision and Order, Petitioner's First Amended Proposed Findings of Fact, Conclusions of Law, and Decision and Order, and Maui County Planning Department's Stipulation to Petitioner's First Amended Proposed Findings of Fact, Conclusions of Law and Decision and Order, and the Office of State Planning's Response to Petitioner's First Amended Proposed Findings of Fact, Conclusions of Law and Decision and Order and the record herein, does hereby make the following findings of fact, conclusions of law, and decision and order:

FINDINGS OF FACT

PROCEDURAL MATTERS

1. The Petition for Land Use District Boundary Amendment was filed with the Commission on November 15, 1994, and a First Amendment to Petition for Land Use District Boundary Amendment was filed with the Commission on February 1, 1995.

2. The Commission conducted a prehearing conference on February 7, 1995, at the Old Federal Building, 335 Merchant Street, Conference Room 238, Honolulu, Hawaii, with representatives of Petitioner, the Office of State Planning ("OSP") and the County of Maui Planning Department ("County"), present, and at which time, the parties exchanged exhibits and witnesses lists.

3. The Commission held a public hearing on February 23, 1995, commencing at 10:30 a.m. at the Kaanapali

Ballroom, Maui Marriott Hotel, 100 Nohea Kai Drive, Lahaina, Maui, Hawaii, upon notice published on December 29, 1994, in the Honolulu Advertiser and the Maui News.

4. Entering appearances at the hearing were Eric T. Maehara, Esq., Attorney for Petitioner, Gary W. Zakian, Esq. and Ann Cua for the County of Maui, and James F. Nagle, Esq., Abe Mitsuda and Lorene Maki for OSP.

5. The County supported the Petition with conditions and filed a Statement of Position of the Maui County Planning Department on January 13, 1995. The County also filed Testimony of the County of Maui Planning Department in support of the Petition with conditions on January 31, 1995.

6. OSP supported the Petition and recommended conditional approval in its Statement of Position filed on January 13, 1995. OSP also filed Testimony in Support of the Petition with conditions on February 10, 1995.

7. No written or oral public testimony was received.

8. No requests for intervention were filed.

9. The Commission held an action meeting on this matter on April 18, 1995, commencing at 10:00 a.m. at King Kamehameha's Kona Beach Hotel, Kailua-Kona, Hawaii.

10. At the Commission meeting on April 18, 1995, the Commission raised concerns regarding the Petitioner's conformance with criteria for reclassification as established by Chapter 205, HRS, and Chapter 15-15, HAR. In response to the Commission's concerns, Petitioner moved to reopen the hearing in this docket to provide additional evidence.

11. The County and OSP had no objections to the Motion.

12. On May 4, 1995, the Commission issued an Order Granting Petitioner's Motion to Reopen Hearing.

13. The Commission held a reopened hearing on June 23, 1995, at the Planning Department Hearing Room, County of Maui, First Floor, Kalani Pakui Building, 250 South High Street, Wailuku, Maui.

14. Entering appearances at the reopened hearing were Eric T. Maehara, Esq., Attorney for Petitioner; Gary Zakian, Esq., and Ann Cua for the County of Maui; and James Nagle, Esq., and Lorene Maki for OSP.

DESCRIPTION OF PROPERTY

15. Petitioner is a Hawaii limited partnership, having its principal place of business at 381 Huku Lii Place, Suite 202, Kihei, Maui, Hawaii. Petitioner was represented at the hearing by John Maxwell Kean, a general partner of Petitioner.

16. The fee simple ownership of the Property is vested in Petitioner which purchased the same from Pioneer Mill Company, Limited ("Pioneer Mill"), by Quitclaim Deed recorded at the Bureau of Conveyances on November 15, 1993.

17. The Property is located at Lahaina, Maui, Hawaii, and identified on the tax maps of the State of Hawaii as TMK (II) 4-5-10:7 and consists of approximately 37.742 acres. The Property is bordered on the south by the Kahoma Stream Flood Control Channel, to the north and the east by the Housing Finance and Development Corporation ("HFDC") Villages of Leialii Housing

Development Project, and to the west by vacant lands owned by the Hawaii Omori Corporation.

18. The Property is contiguous to the existing Urban District with the HFDC Villages of Leialii to the north and to the east of the Property, and the existing Urban District lands of the Hawaii Omori Corporation to the west of the Property.

19. The Property is currently leased to Pioneer Mill, and is used for sugarcane cultivation. Pioneer Mill will harvest the existing crop on or about the termination date of the lease, November 1995.

20. At present, there is no direct access to the Property from a public right-of-way; however, Petitioner intends to obtain access to the Property from Honoapiilani Highway over and across the property directly west and makai of the Property which is owned by Hawaii Omori Corporation. Discussions have been entered into and are continuing with Hawaii Omori Corporation with regard to the conditions and standards for this access.

21. The Property slopes downward in a westerly direction from an elevation of about 120 feet above mean sea level at its northeast corner to about 30 feet above mean sea level at its makai or westerly boundary. The Property slopes with a range of 6 to 12 percent.

22. According to the U.S. Department of Agriculture, Soil Conservation Service, the soils of the Property comprise of Wahikuli Very Stony Silty Clay, 3 to 7 percent slopes (WdB). The soil is on smooth, low uplands, with a dark reddish-brown silty

clay about 15 inches thick. As much as 3 percent of the surface is covered by stones. There may be small areas where stones cover 3 to 15 percent of the surface. Permeability is moderate. Runoff is slow, and erosion hazard is slight. The Property is also comprised of Wahikuli Stony Silty Clay, 7-15 percent slope (WcC). The soil is similar to Wahikuli Very Stony Silty Clay as described above; however, there are enough stones to hinder cultivation. Runoff is slow to medium and the erosion hazard is slight to moderate. The Property also contains Rock Land (rRK), made up of areas where exposed rock covers 25 to 90 percent of the surface.

23. Under the Detailed Land Classification-Island of Maui (University of Hawaii Land Study Bureau), about 16 percent of the Property has soils rated as "A", 40 percent rated "B", 33 percent rated "C", and 11% rated "E". The land soils are classified according to levels "A" through "E", with "A" representing the class of highest productivity and "E" the lowest.

24. According to the Agricultural Lands of Importance to the State of Hawaii (ALISH) classification system, the entire Property is classified as "Prime".

25. According to the U.S. Federal Emergency Management Agency's Flood Insurance Rate Map revised on September 6, 1989, the Property is located outside of the 100 year flood boundary. In addition, Petitioner has represented that the Kahoma Stream Flood Control Project is expected to mitigate any potential flood hazards.

PROPOSAL FOR RECLASSIFICATION

26. Petitioner proposes to develop the Property as the Lahaina Business Park, a 49 lot, more or less, commercial and light industrial subdivision, with improved lots proposed to be sold in fee simple or leased on a long term basis. The size of the lots will range from approximately 1/4 to 4+ acres.

27. The Project will be developed in two phases over a 10-year period. Phase I will bring to market 22 acres of net usable land ranging in size from 1/4 to 4+ acres, which will consist of a tenant mix that will accommodate both large and small businesses predominantly made up of automotive, flexible space, offices, retail users, and restaurants.

Phase II will commence once Phase I is substantially absorbed. Phase II will be developed on the southern side of the Property adjacent to the northern end of the Kahoma Flood Control Channel. Phase II will require the construction of a secondary roadway and consist of approximately 10 acres of net usable land for the development of lots ranging in size from 1/2 to 4+ acres. Because these lots will not be on the main access road running directly through the Project, it is anticipated that these lots would be more ideally suited for businesses needing less exposure, such as distribution centers, lumberyards, baseyards, storage facilities, and other such businesses.

However, based on subsequent discussions with the County Planning Department, Petitioner has reconsidered the direction of phasing of the Project such that it may actually phase it "horizontally" with portions of what was originally Phase I and

portions of what was originally Phase II in the makai westerly section of the Property being developed first as Phase I.

28. Petitioner has represented and the Commission finds that the area along the connector road of the Project would contain more of the commercial uses while the area along the south side along Kahoma Stream would be restricted to more industrial uses. Approximately seventy percent (70%) of the Property would be restricted to M-1 light industrial uses and the remaining thirty percent (30%) would be allowed to be commercial/industrial uses.

29. The preliminary estimate of the cost of constructing the offsite and onsite infrastructure improvements for the Project is approximately \$8,831,695.

30. Petitioner anticipates that the Project will be available for sales in the fourth quarter of 1996 and that the entire Project can be absorbed by the year 2008, assuming the orderly processing of the necessary land use approval requests and the avoidance of undue delay.

31. The County Planning Department has represented and the Commission finds that, at this time, an affordable housing requirement for the provision of employee housing generated by this Project will not be required.

PETITIONER'S FINANCIAL CAPABILITY TO
UNDERTAKE THE PROPOSED DEVELOPMENT

32. Petitioner's balance sheet as of August 31, 1994, reflects total assets of \$4,091,292 which includes the Property, receivables, and cash. The balance sheet also indicates

liabilities of \$4,091,292, which includes a note payable to First Hawaiian Bank and partners' equity.

33. Petitioner intends to finance the proposed cost of this development through a combination of conventional debt and equity financing. Petitioner anticipates that seventy-five percent (75%) of the estimated \$8,831,695 projected construction cost will be financed through debt financing and the remainder through equity contributed by the Petitioner. Petitioner has represented that discussions were held with First Hawaiian Bank, which has expressed a strong interest in working with Petitioner on the financing.

STATE AND COUNTY PLANS AND PROGRAMS

34. The Property is located within the State Land Use Agricultural District as depicted on the State Land Use District Boundary Map, M-2 (Lahaina).

35. The Property is currently designated on the County's Lahaina Community Plan as Agriculture; however, the West Maui Community Plan Update proposes a Light Industrial designation for the Property. (The name of the Lahaina Community Plan is proposed to be changed to the West Maui Community Plan, as part of the County's Community Plan update.) The update to the proposed West Maui Community Plan Update was approved by the Citizens Advisory Committee and the Maui Planning Commission and has been transmitted through the Mayor to the County Council. The Council will hold another public hearing before acting on the same.

36. Given the fact that the proposed Project is in accordance with the proposed West Maui Community Plan Update, which is recommended for approval by the Maui Planning Commission, Petitioner has represented and the Commission finds that the Project is also consistent with the General Plan.

37. The Property is presently zoned Agriculture by the County of Maui. Petitioner filed an Application for a Community Plan Amendment to the Lahaina Community Plan and an Application for a Change in Zoning with the Maui County Planning Department.

On May 9, 1995, the Maui County Planning Department held a public hearing for a Community Plan Amendment and a Change in Zoning Application for the Property from an Agricultural designation in the Lahaina Community Plan to an Industrial designation in the West Maui Community Plan and a change in zoning from Agriculture to M-1 Light Industrial.

38. The Petition Area conforms to the following objectives in the Hawaii State Plan: Section 226-6 Objectives and policies for the economy--in general.

(1) Increased and diversified employment opportunities to achieve full employment, increased income and job choice, and improved living standards for Hawaii's people.

(2) A steadily growing and diversified economic base that is not overly dependent on a few industries.

39. The Property is located outside the County Special Management Area.

40. The proposed Project is in general conformance with the policies and guidelines of the Coastal Zone Management Program.

NEED FOR THE PROPOSED DEVELOPMENT

41. Lahaina is one of the fastest growing residential areas in Maui with a population of approximately 15,600 residents or 16% of Maui's population. In addition, Lahaina has emerged as the strongest and largest visitor concentration outside of Waikiki with approximately 10,200 visitor units or 55% of Maui's total visitor units. This has created a critical mass of people and businesses, and supports the demand for industrial space in the immediate area of West Maui rather than in a centralized facility such as Wailuku or Kahului.

42. In contrast, industrial space in Lahaina is in very short supply. There are less than 14 acres of developed industrial land in Lahaina or just 4% of the total 359 acres of industrial land on the island of Maui. Accordingly, Lahaina has 16% of the total population and 55% of the total visitor units for the island of Maui, but just 4% of the total industrial land.

43. In addition to the Project, there are two other proposals in the West Maui area, one being the Hawaii Omori project which has been zoned M-1 Light Industrial for the past 15 or 20 years, with one phase completed and no immediate plans to develop a second 27 acre phase. The other site is the Rainbow Ranch parcel in Napili, consisting of approximately 9.7 acres which is, also not ready to start construction and is currently listed for sale. Petitioner has concluded that there is a

significant demand for industrial space in Lahaina and the supply of space is very tight.

44. The first 22 acres of the total development of the Project would be absorbed within 2 years of delivery and complete absorption of the total Project would occur by the year 2008.

ECONOMIC IMPACT

45. On a short term basis, the Project will provide construction employment for the development of lots and buildings. Petitioner has represented that no agricultural jobs will be lost as a result of the Project, however, in the long term, the Project is expected to employ 600 additional workers at build out and full occupancy.

46. It is anticipated that when the entire Project is built out and fully occupied by businesses, the total gross public revenues generated would be in excess of \$400,000,000 annually. This would have a significant impact upon increases in real property tax receipts, gross excise tax collections and other tax collections for the County of Maui and State of Hawaii.

SOCIAL IMPACT

47. Lahaina presently is one of the fastest growing residential areas on Maui. It has a population of 15,600 residents or 16% of the present population of the island of Maui. Further, it is anticipated that the region's population will increase by 35% in the next 15-year period with another 5,500 residents.

48. Petitioner has represented and the Commission finds that the HFDC is considering adding some commercial uses to its

Village 5 of its Villages of Leialii project and possibly shifting one of the golf holes of the proposed golf course near the Property. HFDC is also considering the possibility of putting a plant nursery in the general vicinity of the Property.

49. In a letter to the Maui Planning Commission from HFDC, dated May 5, 1995, HFDC expressed its support of Petitioner in its applications for the change in zoning; however, there were two areas of concern that were expressed being the need for Petitioner to insure that its main throughway would be wide enough to handle future HFDC traffic and that Petitioner's plans fit with HFDC's plans for its mauka development.

50. Petitioner has represented and the Commission finds that the Project will integrate with the existing residential area.

51. There are a number of examples found on Maui where industrial uses are found in close proximity to residential areas, such as the industrial area in Kahului and the Kahului Increments, the Wailuku Industrial District and the Kihei Gateway project. There are existing residences in close proximity to the Paia Sugar Mill, the Puunene Sugar Mill and Pioneer Mill.

In addition, the County of Maui's M-1 Light Industrial District is actually a mixed use ordinance which allows for a range of uses from B-1 Neighborhood Business through B-3, light industrial uses and also apartment or multi-family residential uses.

52. The types of residential neighborhoods which are found in close proximity to industrial uses on Maui range from

low middle income to upper middle income class residences and, accordingly, it is not expected that a light industrial subdivision will have any effect on land values in the area.

53. As a mitigative measure, any M-1 Light Industrial lot which would abut a single-family residential lot would be required to have a landscaped setback of ten (10) feet.

Each light industrial lot within the Property will have its own landscaped setbacks along with landscaping requirements within the parking areas requiring at least one large ground shade tree for every five parking stalls.

AGRICULTURAL IMPACTS

54. The Property is currently leased to Pioneer Mill and is used for growing sugarcane. The term of the lease expires November 1995. It is anticipated that Pioneer Mill will harvest the existing crop on or before the termination of the lease. Petitioner has represented and the Commission finds that the removal of the Property from agricultural use will not have any significant negative impact upon agricultural resources statewide or on the island of Maui.

55. Petitioner has represented and the Commission finds that the Property is surrounded by lands which are within the Urban District and the Property has become a remnant parcel in the context of the proposed development of surrounding lands and therefore it is not considered significant as an agricultural parcel.

56. Petitioner's agricultural economist represented and the Commission finds that the soils of the Petition Area are

tillable but shallow and very rocky and would not be high quality agricultural land.

57. Petitioner's agricultural economist represented and the Commission finds that the Property was sold after it became clear that it was going to become a remnant agricultural parcel as a result of the adjoining HFDC project and that the loss of this parcel would have a negligible impact on total sugar production by Pioneer Mill.

58. The withdrawal of 37.742 acres for the development of the Project would have no significant impact on the growth of diversified agriculture because the loss of these acres is an insignificant loss of agricultural lands.

59. Petitioner's agricultural economist represented and the Commission finds that, the Property is better than marginal land for agricultural purposes but is non-essential in terms of diversified agriculture because there are better lands available in better locations.

IMPACTS UPON RESOURCES IN THE AREA

60. The Property is bounded on its west or makai boundary by a cane haul road operated by Pioneer Mill. Petitioner has represented and the Commission finds that the proposed development will not negatively impact the use of this cane haul road.

61. According to Petitioner, there is a recorded easement for the cane haul road. Further, said easement contains language which does not allow the impediment of the cane haul

traffic or the obstruction or creation of a hazardous situation during construction and upon full development of the Property.

62. Concerns were raised by the County and OSP with regard to any potential impacts the proposed development may have on the existing operations of the Kaanapali Railroad. However, it was pointed out by Petitioner that the Kaanapali Railroad has a lease agreement with Hawaii Omori Corporation over whose lands the railroad tracks traverse. Contained in said lease are certain conditions or criteria for crossing the train tracks which Petitioner intends to abide by.

63. Petitioner agreed to do whatever is required by the County with regards to necessary railroad crossings.

64. The Maui County Planning Department is in contact with the Federal Railroad Communication Office to obtain a copy of their Federal Railroad Guidelines for Railroad Crossings to determine what requirements will be imposed on Petitioner to meet the concerns of the railroad company.

65. Existing irrigation and drainage ditches were initially identified within the Property. However, a physical inspection by Petitioner indicated that there are no irrigation ditches over or across the Property and any reference to ditches were probably remnants of old ditches which have been since abandoned.

66. The proposed Project is not expected to significantly impact any rare, threatened or endangered species of plants. The majority of the plants occurring on the Property are introduced or alien and none of the species are officially

listed as threatened or endangered species by the federal or state government, nor are any of them candidates proposed for such status.

67. A survey of the Property indicates that it is not expected to significantly impact any rare, threatened, or endangered fauna. No resident native birds were found on the Property and no endangered species of mammals, such as the Hawaiian hoary bat, were recorded. Further, no unusual or exceptional wildlife habitats were found on the Property.

68. The Department of Land and Natural Resources, State Historic Preservation Division, indicates that its records show no known historic sites on the Property. The Property has been under intensive cultivation for almost a century and also, certain areas along Kahoma Stream had been extensively altered by the recent construction of the Stream Flood Control Channel. Accordingly, it is not believed that the proposed light industrial project on the Property will have any effect on significant historic sites.

69. The Property is located on the Launiupoko system of the Lahaina aquifer sector, and in this area, fresh water is in contact with sea water, and the water table is the upper surface of the saturated aquifer layer. Petitioner has represented and the Commission finds that a potable water source is not located beneath the Property.

VISUAL AND SCENIC IMPACTS

70. The present visual character of the Property is characterized by the existing sugarcane cultivation which

provides a green backdrop to Lahaina town. However, the visual character of the Property will be changed from its present agricultural use to that of a light industrial park. Petitioner intends to provide a design standard which will be established to blend with the surrounding areas and backdrop. In addition, Petitioner has proposed a landscape plan which provides for a street tree planting plan and also the installation of a vegetation buffer zone along the north and east or mauka perimeter of the Property. Additionally, Petitioner will require covenants, conditions and restrictions ("CC&R") to run with the finished lots which will contain urban design standards to incorporate more landscape planting and also incorporate standards dealing with color, and lighting within the particular Project. The proposed buffer plan is for a 10 to 15 foot wide buffer containing vertical wiliwili plantings which could grow up as high as 40 feet.

71. Some concerns were raised with regard to the potential visual impacts of the industrial structures on the adjoining residential properties. It was proposed that in addition to the landscape planting and the buffer zones, consideration be given to replanning the layout or providing adequate setbacks to avoid negative impacts on the Leialii residential development.

72. Further concerns were raised with regard to extending the landscape buffer along the southerly boundary bordering the Kahoma Stream. This would prevent the area from becoming a litter site and could afford persons using the

proposed park, located to the south of Kahoma Stream, to have a view of vegetation as opposed to the industrial project.

73. Petitioner agreed to create a landscape buffer along the Kahoma Stream area as well as along the HFDC project site.

ENVIRONMENTAL QUALITY

74. Petitioner has represented and the Commission finds that upon completion of the Project, runoff into Kahoma Stream will not exceed the amount of flow that is presently going into Kahoma Stream.

75. The Project is not anticipated to have any long term significant impacts on ambient noise and/or air quality. During the construction phase, there will be short term impacts relative to dust and noise due to construction. Measures will be taken to mitigate those impacts. Further, as part of the development of the site, Petitioner plans to contain in its CC&Rs requirements to mitigate noise and dust, and impacts related to different kinds of chemical disposal.

ADEQUACY OF PUBLIC SERVICES AND FACILITIES

76. Petitioner has represented and the Commission finds that public services and facilities are either available or will be provided to meet the demands of the Project.

Solid Waste Disposal

77. Petitioner proposes a solid waste management plan which, among other things, will require that all clearing and grubbing material remain on the Project site and not be disposed in the County sanitary landfill. Said material would be used as

mulch on the site as much as possible or will be disposed of through a private composting company. Further, excavated material and rocks will be used as fill material during the development of the Property and excess material will be distributed to other construction sites needing fill. All existing scrap metal will be removed from the Property. Finally, all contractors and subcontractors will be required to submit a Solid Waste Management Plan to the developer as part of their contract. This solid waste management plan was found acceptable to the County.

Hazardous Waste

78. Petitioner's Preliminary Environmental Site Assessment recommended removal of a 55 gallon drum of unidentified contents and an unidentified white powder/ash from the Property.

Highways and Roadways

79. Petitioner proposes to access the Property with a road over and across the Hawaii Omori Corporation property, located to the west or makai of the Property. The roadway is proposed to be approximately 1,000 feet in length with an ultimate right-of-way of 88 feet. This right-of-way will accommodate 2 lanes of traffic in each direction, as well as a median for left turns. In addition, it will accommodate a 6 foot wide sidewalk on each side of the roadway within a 10 foot shoulder. This access road within the Property would be narrowed to a road right-of-way of 60 feet. All roads within the Property would have a 60 foot right-of-way.

80. In utilizing this access on Honoapiilani Highway, the existing "T" intersection at the Lahaina Cannery Mall driveway and Honoapiilani Highway would become a 4-legged intersection. Petitioner plans to provide an exclusive left turn lane in the south bound direction on Honoapiilani Highway and an exclusive right turn lane in the north bound direction on Honoapiilani Highway at the project access road. In addition, 3 outbound lanes from the project access road turning on to Honoapiilani Highway will be provided. The traffic signal timing and phasing would be modified or adjusted to accommodate this 4th leg to the intersection.

81. The proposed project access road terminates at a cul de sac at the east or mauka end of the Property. However, the update to the West Maui Community Plan proposes this access road continuing in an easterly or mauka direction through the adjoining HFDC project to the proposed Lahaina Bypass Highway. This "connector road" would serve to tie the proposed Lahaina Bypass Highway to the existing Honoapiilani Highway, servicing the HFDC project along with the proposed Project and the Hawaii Omori Corporation property. However, at the time of the traffic study for the proposed Project and the initial design of the Project, the designated connector roadway by HFDC was from the Lahaina Bypass Road through the existing Kapunakea Street which is slightly north of the proposed access road intersection with Honoapiilani Highway.

82. The Housing Finance Development Corporation (HFDC) has concerns regarding the flow and circulation of traffic within

the Petition Area and the adjacent Villages of Leiali'i. The County's proposed West Maui Community Plan Update indicates that a new mauka by-pass highway is proposed to be located mauka of the Petition Area and the HFDC project, the Villages of Leiali'i. The proposed Community Plan also indicates that a connector road between the Honoapiilani Highway and the proposed by-pass highway should be built through the Petition Area, in a west-east direction. The Petitioner did not study a traffic scenario allowing for the greater impacts of a connector roadway through the Petition Area. For the Villages of Leiali'i access to Honoapiilani Highway, HFDC is currently considering two possible alignments for the connector road; 1) a connector road located at Kapunakea Street (north of Petition Area); or 2) directly through the Petition Area.

83. The County has indicated that a traffic master plan for this development must be submitted and approved by the County prior to any subdivision of this parcel.

84. In consideration of the proposed West Maui Community Plan Update, Petitioner aligned its onsite access road such that it may be aligned with the proposed connector road as shown in the West Maui Community Plan Update. Petitioner expressed a willingness to provide an additional road widening lot for its access road upon request to the County in the event that the project access road becomes the connector road.

Water

85. The County of Maui Board of Water Supply has estimated the maximum daily water consumption for the proposed

Project by acreage according to the standards as approximately 300,000 gallons. However, Petitioner states that using the Department of Water Supply standard for industrial zoned land of 6,000 gallons per acre per day, the water demand for the Project will be 193,000 gallons per day. In addition, utilizing actual consumption rates of water on industrial zoned lands on Maui of 2,000 gallons per acre per day, the actual demand for the Project is 63,000 gallons per day.

86. Petitioner has represented and the Commission finds that the present water source development of the County in west Maui is comprised of 5 County wells, Napili Wells 1, 2 and 3 and Honokohau Wells A and B. In addition, approximately 1.0 million gallons of water per day is taken from the Honokohau irrigation ditch and about 1.5 million gallons per day is taken from another surface source at Lahainaluna. A new treatment plant was added to the irrigation ditch at Honokahau with a capacity of 2.5 million gallons per day. Further, a new treatment plant is planned for the Lahainaluna surface source with a capacity of 1.5 million gallons per day. In addition, two wells with a combined capacity of 1 million gallons per day have been developed approximately 1,100 feet above Wahikuli to service the HFDC project. Accordingly, it is anticipated that there will be sufficient water source development for the proposed Project.

87. Improvements to the transmission system in the area will include Petitioner installing approximately 2,000 linear feet of 12-inch line along Honoapiilani Highway from an existing line at Kapunakea Street into the Project. Petitioner is also

proposing to install within the Project 12-inch lines with fire hydrants spaced at 250 foot intervals.

Wastewater

88. County master plan standards for wastewater for industrial projects is 4,300 gallons per acre per day; however, based upon actual water consumption the requirement would be 1,600 gallons per acre per day. This would require a range from 50,000 to 137,000 gallons per day for the Project.

89. The Lahaina Treatment Plant has recently been expanded from 6.7 million gallons per day capacity to 9.7 million gallons per day capacity and Petitioner believes that this provides for adequate capacity for the Project. However, the County has not made any commitment for any allocation for wastewater treatment for the proposed Project at this time.

90. The County indicated that the developer will be required to fund any necessary offsite improvements to the wastewater collection system and pump stations. The developer may also be assessed impact fees for treatment plant expansion cost.

91. All lots in the proposed Project will be connected to a sewage collection system, consisting of a gravity system located within the Project which would be extended down to Honoapiilani Highway for about 1,000 feet. At Honoapiilani Highway, a 27 inch gravity line within the highway would take the wastewater toward north Kaanapali where the treatment plant is located.

Drainage

92. The present drainage pattern causes all run off to sheet flow across the site from the northeast corner to the southeast corner of the Property into Kahoma Stream.

93. Petitioner proposes to divert the offsite runoff from areas above the Property into the storm drain system to be installed within the roadway of the Project. With regard to onsite runoff, Petitioner is considering 2 options. The first option would require all runoff from each lot within the Property to be contained within said lot by directing the same into a subsurface system developed on each lot. This subsurface system would consist of large diameter perforated pipes, and once the water gets into the pipe, it would percolate into the ground. The other option would be to direct the onsite runoff through a storm drain system into a large detention basin located at the southwest corner of the Property creating a detention basin in that corner and releasing its contents slowly into Kahoma Stream. In either case, the net result would be that the runoff into Kahoma Stream at any given time once the Project is on line would not exceed the amount of flow that is presently going into Kahoma Steam.

94. All lots or businesses contained within the Project which deal with industrial liquids would be required to conduct such activities on concrete surfaces. Further, runoff from such surfaces would first be directed through an oil separator sump so that the oil and water would be separated. The water would then be directed into the subsurface system and would either be

released into the storm drain system or contained within the subsurface system. Individual lot owners will be required to install these oil/water separators. The requirements that these separators be provided will be enforced by the CC&Rs.

Schools, Parks, Recreational Facilities

95. The proposed Project is a light industrial development without any residential component, and is not anticipated to have any negative impact on schools, parks or other recreational facilities. Petitioner notes that the adjacent Leialii project at complete build out will provide six (6) new baseball fields, one (1) new softball field, one (1) new gymnasium/recreation center, two (2) recreational buildings and an 18 hole golf course.

Police, Fire Protection and Health Care Facilities

96. Within approximately a mile and a half from the Property, at the Lahaina Civic Center, there exist police, fire and emergency health facilities. Further medical facilities, such as the Maui Medical Group and Kaiser Clinic are located in Lahaina town.

97. The State Department of Defense, Office of the Director of Civil Defense and the County Civil Defense Agency recommend that a civil defense warning siren be required at the site.

Electricity and Telephone Service

98. There is a 69 KVA high voltage transmission line along the westerly boundary of the Property. In addition, there are overhead electrical and telephone distribution lines on

Honoapiilani Highway. Power and telephone service will be brought into the Property from Honoapiilani Highway by way of underground trunk lines. The entire distribution system within the Project site would also be underground.

CONFORMANCE TO APPLICABLE DISTRICT STANDARDS

99. The Property is contiguous to the Urban District along its east, north and west boundaries. However, reclassification of the Petition Area would result in a strip of land in the Agricultural District adjacent to the northwestern corner of the Property.

100. The proposed Project is consistent with the proposed West Maui Community Plan Update and has been recommended for light industrial use by the Citizens Advisory Committee, the Maui Planning Department and the Maui Planning Commission.

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

102. Petitioner's Market Analysis and the County indicate a need for the Project.

103. The proposed Project is consistent with the General Plan for the County of Maui.

CONFORMANCE WITH THE GOALS, OBJECTIVES AND POLICIES AT THE HAWAII STATE PLAN; RELATION WITH APPLICABLE PRIORITY GUIDE-LINES AND FUNCTIONAL PLANS

104. The Project supports and is consistent with the applicable objective, policies and priority guidelines of the Hawaii State Plans and the State Functional Plans relating to employment and economic diversification.

CONFORMANCE WITH COASTAL ZONE MANAGEMENT

OBJECTIVES AND POLICIES

105. The Property is not within the Special Management Area established by the County of Maui pursuant to Chapter 205 A, HRS; however, the Property is consistent with the policies and guidelines of the Hawaii Coastal Zone Management Program.

RULING ON PROPOSED FINDINGS OF FACT

Any of the proposed findings of fact submitted by any of the parties to these proceedings 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, Chapter 15-15, HAR, this Commission finds upon the clear preponderance of the evidence that the reclassification of approximately 37.742 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. A94-710 by West Maui Venture Group, consisting of approximately 37.742 acres of land, situate at Lahaina, Maui, Hawaii, and being more particularly described as Tax Map Key No. (II) 4-5-10:7 and identified on Exhibit "A", attached hereto and incorporated herein by reference, shall be and the same is hereby reclassified from the Agricultural District to the Urban District, and the State Land Use District Boundaries are amended accordingly, subject to the following conditions:

1. Petitioner shall implement effective soil erosion and dust control measures during construction to the satisfaction of the State Department of Health and County of Maui.

2. Petitioner shall cooperate with the State Department of Health and the County of Maui to conform to the program goals and objectives of the Integrated Solid Waste Management Act Chapter 342G, Hawaii Revised Statutes.

3. Petitioner shall participate in the funding and construction of adequate wastewater transmission and disposal facilities on a pro-rata basis, as determined by the State Department of Health and the County 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 coordinated with HFDC, and accepted by the State Department of Transportation and the County of Maui.

Petitioner shall work with HFDC and submit a traffic master plan, including a scenario with the connector roadway and necessary roadway setbacks in relation to the Petition Area and the HFDC property (Villages of Leiali'i), for the review and approval by the State Department of Transportation and the County of Maui. Petitioner shall coordinate and consult with HFDC on the location and road right-of-way for the proposed connector road.

6. In the event HFDC and Petitioner agree on the relocation of the connector road through the Property, Petitioner shall provide and dedicate the ultimate road right of way width on the subject Property for the connector roadway leading to the Lahaina Bypass Highway as determined by the State Department of Transportation and the County Department of Public Works and Waste Management.

7. In the event that the connector road is relocated through the Property, Petitioner shall prepare an amended traffic impact analysis, as may be deemed appropriate by the State Department of Transportation and the County of Maui.

8. Petitioner shall fund and construct adequate potable and non-potable water source, storage, and transmission facilities and improvements to accommodate the proposed project

as determined by the appropriate State and County agencies, or shall be subject to assessments for the same by the County.

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

10. 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 through covenants running with the land, shall require the implementation of other best management practices as necessary to minimize non-point source pollution into Kahoma Flood Control Channel, 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).

11. Should any human burials or any historic artifacts, charcoal deposits, or stone platforms, pavings or walls be found, Petitioner shall stop work in the immediate vicinity and contact the State Historic Preservation Division. 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, HRS.

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

13. Petitioner shall insure that the proposed project will not negatively impact the use of the cane haul road or the Kaanapali Railroad.

14. Petitioner shall initiate sound attenuation measures as determined by the State Department of Health.

15. A landscape buffer shall be established along the north and east boundaries of the Property abutting the Leialii residential project and along the south boundary of the Property abutting the Kahoma Stream to aid in the control of litter and the general aesthetics of the surrounding area.

16. Petitioner shall obtain a Community Plan Amendment and Change in Zoning from the County of Maui prior to development of the Property.

17. Petitioner shall develop covenants, conditions and restrictions ("CC&R") to run with the finished lots which include, but are not limited to the following:

a. requirements and standards to mitigate noise, dust and impacts related to various chemical disposal, oil disposal, hazardous waste disposal (especially with regard to small quantity generators), and other such mitigative measures;

b. urban design standards to minimize the visual/aesthetic impact of the development through landscaping, color schemes, lighting, building setbacks/staggering, and other such mitigative measures;

c. and, if appropriate, standards for the construction of drainage structures on individual lots which also include, but are not limited to oil/water separators.

18. Petitioner shall work with the appropriate state, county and federal agencies to remove a 55-gallon drum of unidentified contents and an unidentified white powder/ash from the Property prior to the commencement of development.

19. A mixture of retail commercial and light industrial uses shall be proposed for each phase of development.

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

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

22. 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 be submitted in a form prescribed by the Executive Officer of the Commission.

23. 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 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.

24. 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 Petitioner.

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

DOCKET NO. A94-710 - WEST MAUI VENTURE GROUP

Done at Honolulu, Hawaii, this 29th day of August 1995,
per motion on August 25, 1995.

LAND USE COMMISSION
STATE OF HAWAII

By Allen K. Hoe
ALLEN K. HOE
Chairperson and Commissioner

By Eusebio Lagnia, Jr.
EUSEBIO LAGNIA, JR.
Vice Chairperson and Commissioner

By Rupert K. Chun
RUPERT K. CHUN
Commissioner

By M. Casey Jarman
M. CASEY JARMAN
Commissioner

By Lloyd F. Kawakami
LLOYD F. KAWAKAMI
Commissioner

By Merle A. K. Kelai
MERLE A. K. KELAI
Commissioner

By Joann N. Mattson
JOANN N. MATTSON
Commissioner

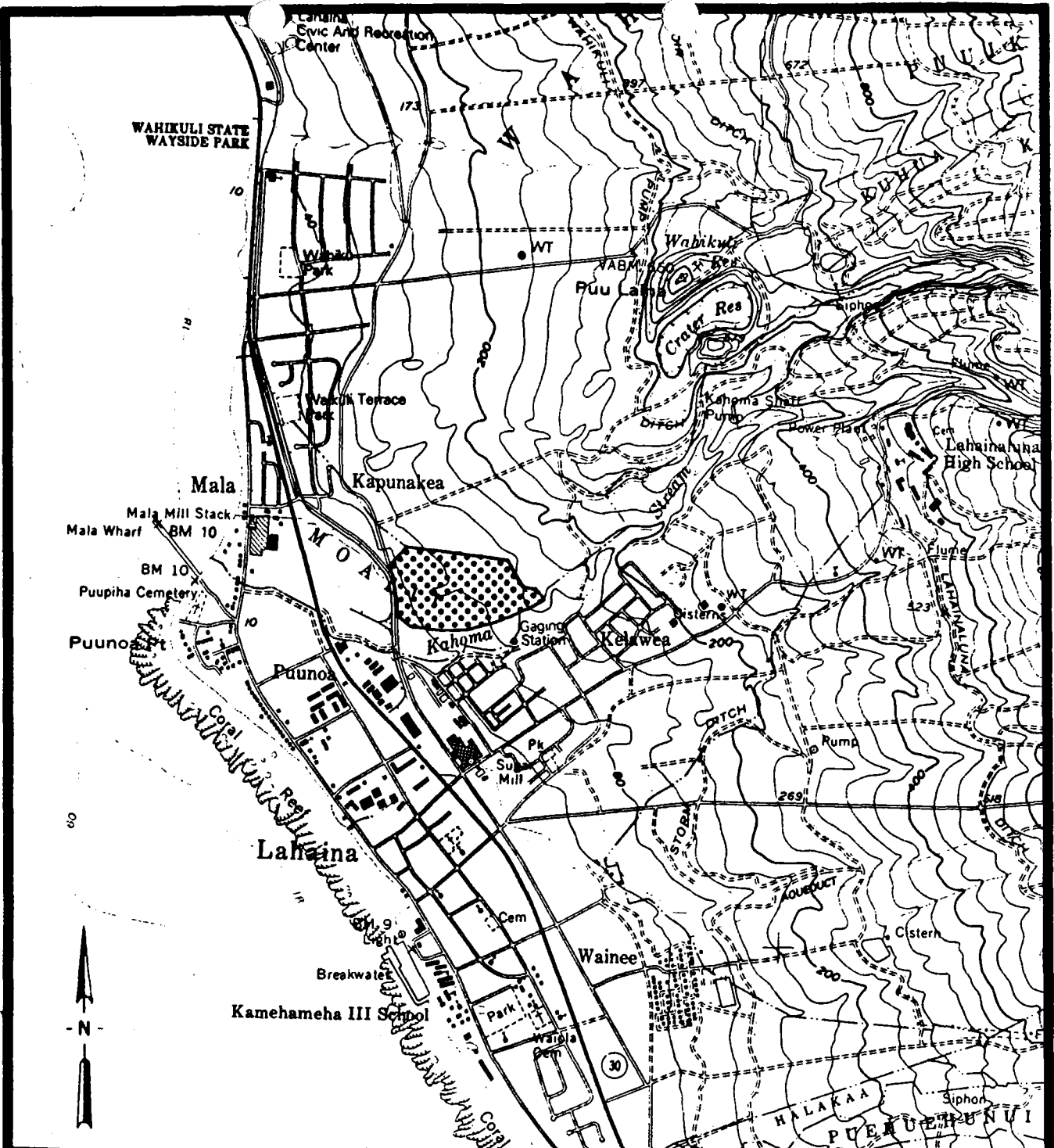
By Trudy K. Senda
TRUDY K. SENDA
Commissioner

By (absent)
ELTON WADA
Commissioner

Filed and effective on
August 29, 1995

Certified by:

Esther Lueder
Executive Officer



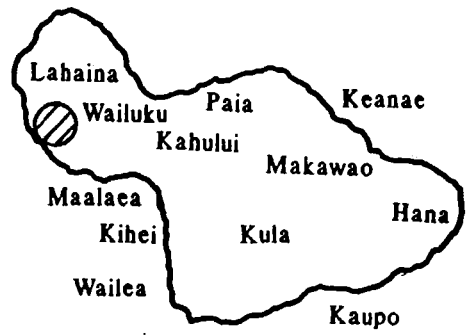
LOCATION MAP

DOCKET NO. A94-710 /
 WEST MAUI VENTURE GROUP
 TAX MAP KEY: 4-5-10: 7
 LAHAINA, MAUI

SCALE: 1" = 2,000 ft.±



APPROVED AREA



MAUI

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of)	DOCKET NO. A94-710
WEST MAUI VENTURE GROUP)	CERTIFICATE OF SERVICE
To Amend the Agricultural Land Use)	
District Boundary into the Urban)	
Land Use District for approximately)	
37.742 acres at Lahaina , Maui,)	
Hawaii; Tax Map Key No. (II))	
4-5-10: 7)	

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
P. O. Box 3540
Honolulu, Hawaii 96811-3540

CERT. DAVID W. BLANE, Planning Director
Planning Department, County of Maui
250 South High Street
Wailuku, Hawaii 96793

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

CERT. ERIC T. MAEHARA, Attorney for Petitioner
Grosvenor Center, Mauka Tower
737 Bishop Street, Suite 2700
Honolulu, Hawaii 96813

DATED: Honolulu, Hawaii, this 29th day of August 1995.



ESTHER UEDA
Executive Officer