

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAI'I

In the Matter of the Petition of)
)
STANFORD S. CARR DEVELOPMENT)
CORPORATION, a Hawai'i corporation)
)
To Amend the Agricultural Land Use)
District Boundary into the Urban)
Land Use District for Approximately)
24.267 Acres of Land at Wailuku,)
Island and County of Maui, State of)
Hawai'i, TMK 3-4-30: por. 19, por.)
20, and por. 23)
_____)

DOCKET NO. A98-724
FINDINGS OF FACT,
CONCLUSIONS OF LAW, AND
DECISION AND ORDER

LAND USE COMMISSION
STATE OF HAWAII
DEC 9 1 14 PM '98

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

STANFORD S. CARR DEVELOPMENT CORPORATION, a Hawai'i corporation ("Petitioner"), filed a Petition for Land Use District Boundary Amendment on April 14, 1998, and a First Amendment to Stanford S. Carr Development Corporation's Petition for District Boundary Amendment on June 3, 1998, pursuant to chapter 205, Hawai'i Revised Statutes ("HRS"), and chapter 15-15, Hawai'i Administrative Rules ("HAR"), to amend the State land use district boundaries by reclassifying approximately 24.267 acres of land from the State Land Use Agricultural District into the State Land Use Urban District at Wailuku, Island and County of Maui, State of Hawai'i, identified as Tax Map Key No. 3-4-30: por. 19, por. 20, and por. 23 ("Petition Area" or "Property") for a single-family residential subdivision. The Land Use Commission ("Commission"), having heard and examined the testimony, evidence and arguments presented during the hearing; Petitioner's Proposed

Findings of Fact, Conclusions of Law, and Decision and Order; the responses of the Office of Planning ("OP") and the County of Maui Planning Department ("Planning Department") to Petitioner's Proposed Findings of Fact, Conclusions of Law, and Decision and Order; and Petitioner's reply to OP's response, does hereby make the following findings of fact, conclusions of law, and decision and order:

FINDINGS OF FACT

PROCEDURAL MATTERS

1. Petitioner filed a Petition for Land Use District Boundary Amendment on April 14, 1998, and a First Amendment to Stanford S. Carr Development Corporation's Petition for District Boundary Amendment on June 3, 1998 (collectively "Petition").

2. Petitioner, Stanford S. Carr Development Corporation, is a Hawai'i corporation, whose business and mailing address is 745 Fort Street, Suite 2110, Honolulu, Hawai'i 96813. Petitioner is wholly owned by Stanford S. Carr, a resident of the State of Hawai'i.

3. On July 9, 1998, OP filed the Office of Planning's Statement of Position in Support of the Petition.

4. On July 21, 1998, the Planning Department filed the Maui Planning Department's Statement of Position in Support of the Petition.

5. No petitions to intervene were filed by third parties in this proceeding.

6. On August 20, 1998, the Commission held a prehearing conference which was attended by the parties.

7. On September 10, 1998, the Commission held a hearing on the Petition pursuant to public notices published on June 25, 1998, in the Honolulu Star-Bulletin and the Maui News.

8. At the hearing, the following documents were received into evidence:

a. Memorandum from Don Hibbard, State Historic Preservation Division, Department of Land and Natural Resources ("SHPD/DLNR"), to Esther Ueda, Executive Officer, Commission, dated July 1, 1998;

b. Memorandum from Timothy E. Johns, Deputy Director, Commission on Water Resources Management ("CWRM"), DLNR, to Esther Ueda, Executive Officer, Commission, dated July 30, 1998, with attached memo dated March 17, 1998, from Edwin T. Sakoda, Acting Deputy Director, CWRM, to Dean Uchida, Administrator, Land Division, DLNR;

c. Letter from the Law Offices of Douglas J. Sameshima to the Commission, dated September 9, 1998;

d. Letter from Mark Beauchamp, Building Contractor, to Esther Ueda, Executive Officer, Commission, dated September 9, 1998;

e. Letter from Eric T. Maehara to Brian Funai and Glen Fujimoto, B.G. Equipment, dated September 9, 1998;

f. Letter from George Funai, B.G. Equipment Rental & Leasing, to the Commission, dated September 10, 1998;

g. Letter from Tammy Ventura, Lite Electric, to the Commission, dated September 10, 1998; and

h. Complaint by the Yahata Corporation et al. vs. Stanford S. Carr Development Corporation, Civil No. 98-3955-09, filed on September 8, 1998.

DESCRIPTION OF PETITION AREA

9. The Petition Area is located in Wailuku, Island and County of Maui, State of Hawai'i, consisting of approximately 24.267 acres, and is identified by Tax Map Key No. 3-4-30: por. 19, por. 20, and por. 23. The Petition Area is located just off of Lower Main Street and is bounded by the Millyard Industrial Park to the west, I'ao Stream to the northwest, I'ao Parkside (a multi-family residential development) to the east, and a mixed use area comprised of single-family residential units, office buildings, and light industrial uses to the south.

10. The Petition Area is owned in fee by Wailuku Parkside, LLC, a Hawai'i limited liability company, whose principals are SCD International and Northstar Hawaiian Development. Petitioner is the authorized agent of the fee owner to file and process this Petition.

11. The Petition Area was used for growing seed cane for fifty years and has been fallow since November 1986.

12. The Petition Area lies within the elevation of 140 feet above mean sea level ("MSL") and rises to 160 feet above MSL, sloping gently upwards from east to west at an average slope of 5 percent.

13. Along the northern side of the Petition Area runs I'ao Stream. Flood control levees associated with the stream are located along the northern boundary of the Petition Area.

14. The soil characteristics of the Petition Area consists of soils classified as I'ao Cobbly Silty Clay at 0 to 3 percent slopes, with some portions containing Pulehu Cobbly Clay Loam with 0 to 3 percent slopes. The I'ao series soil consists of well-drained soils that are located on valley fill and alluvial fans. Permeability is moderately slow, runoff is medium, and erosion hazard is slight to moderate. The Pulehu series consist of well- drained soils on alluvial fans, stream terraces, and basins. Permeability is moderate, runoff is slow, and erosion hazard is slight.

15. All the Petition Area is classified as Class B lands based upon the 1967 Land Study Bureau Detailed Land Classification system. Further, the Petition Area is designated as Prime Agricultural land under the Agricultural Lands of Importance to the State of Hawai'i ("ALISH") system.

PROPOSAL FOR RECLASSIFICATION

16. Petitioner proposes to develop a fee simple, single-family residential development of approximately 118 to 119 single-family residences on lots ranging from sizes of 6,500 square feet to 10,000 square feet. A 1.4-acre park is also proposed. The development is to be called Wailuku Parkside. Homes are planned in three model types, including 3-bedroom, 2-bath units; 3-bedroom, 2½-bath units; and 4-bedroom, 2½-bath units.

17. The proposed sales prices for the units will be from \$185,000 to \$260,000 (in 1998 dollars), which are affordable to families earning between 100 and 140 percent of the median

income for the County of Maui. The intent of this project is to provide entry level affordable housing to Maui first-time homebuyers.

18. The proposed development is expected to occur over a 2-year period. Initially, Petitioner anticipated beginning construction in October 1998, marketing by January 1999, and selling out the project by mid-2000.

19. The total cost for the development of the proposed project is approximately \$22,000,000 (in 1998 dollars).

PETITIONER'S FINANCIAL CAPABILITY TO UNDERTAKE THE PROPOSED DEVELOPMENT

20. Petitioner is the authorized agent of the fee owner of the Property, Wailuku Parkside, LLC, which will be developing the Property.

21. The financial statement of the fee owner, Wailuku Parkside, LLC, shows total assets of \$2,013,914.46 and total current liabilities of \$565.20 with a total equity of \$2,013,349.26. The Property was purchased with cash and in order to finance the cost of development, the landowner will either provide additional equity as required by a federal insured lending institution for conventional financing or utilize other types of project financing such as pension funds financing.

22. Concerns have been raised by several individuals regarding Petitioner's financial capability to carry out the proposed development based on Petitioner's alleged failure to meet certain financial obligations for services and/or goods

rendered in connection with other projects developed by Petitioner.

STATE AND COUNTY PLANS AND PROGRAMS

23. The Petition Area is in the State Land Use Agricultural District, as reflected on the Commission's official map, M-5 (Wailuku).

24. The Petition Area is currently designated for light industrial (22.748 acres) and open space (1.519 acres) uses under the existing Wailuku-Kahului Community Plan.

25. The zoning designations for the Petition Area are as follows: Agricultural (A) 21.690 acres, M-1 light industrial (M-1) 2.5 acres, and R-1 Residential (R-1) .072 acres.

26. Petitioner is presently processing a Community Plan Amendment and Change in Zoning application for the Petition Area before the Planning Department, Planning Commission, and County Council. On August 11, 1998, the Maui Planning Commission held a public hearing on the Community Plan Amendment and Change in Zoning applications and voted to recommend the approval with conditions of said applications to the Maui County Council.

27. The Petition Area is not located within the County Special Management Area.

NEED FOR THE PROPOSED DEVELOPMENT

28. Maui County has recently outperformed the State in terms of personal income growth, employment trends, and visitors market trends. Between the years of 1995 and 1997, the number of employed persons in the County of Maui grew by 2,650, or 2.1

percent per annum. In like manner, County visitor arrivals have increased 2 percent annually.

29. Since 1990, the island of Maui's population grew at a rate of 2.4 percent per annum and is projected to continue to increase at the rate of 1.9 percent per year to 2002. As a result of this population growth and average household size decline, it is anticipated that the island of Maui will see a 2 percent annual increase in the number of households, which would represent 3,800 new households needing housing over a 5-year period from 1997 to the year 2002.

30. Based upon further market analysis, the project is projected to realize sales averaging about five units per month initially and increasing to seven to eight units per month within a year. Based upon an estimate that marketing could begin in January 1999, this would lead to a sellout of the 118-119 units by mid-2000.

ECONOMIC IMPACTS

31. The proposed single-family residential and park development will provide short-term construction related and real estate sales related jobs in its development stages. While the proposed single-family residential development will provide relatively little permanent employment opportunities, it will require repair and maintenance services and will provide associated business opportunities.

SOCIAL IMPACTS

32. The County Department of Housing and Human Concerns has determined that Petitioner's proposed selling prices

are affordable to families earning between 98.22 percent to 131.66 percent of Maui County's median annual income based on the 1998 HUD established median family income of \$55,500, a prevailing interest of 7.75 percent for a 30-year fixed rate mortgage loan with zero discount points, 5 percent down payment, 33 percent housing expenses to income ratio, and a \$150 monthly allowance for the buyers' customer trust fund.

33. The proposed project will add to the single-family housing inventory for Wailuku town and is an alternative housing type to the nearby I'ao Parkside multi-family project. It is anticipated that the new housing units will provide opportunities for residents to move upwards in the housing market to single-family homeownership.

IMPACT UPON RESOURCES IN THE AREA

Agricultural Resources

34. The Petition Area is classified B under the Land Study Bureau and Prime under the ALISH system; however, due to the fact that the Petition Area is relatively small, surrounded on three sides by urban development and separated from other agricultural lands by the I'ao Stream channel, it is not anticipated that the removal of these lands from the State Land Use Agricultural District should represent a significant loss of agricultural land for the island of Maui. The conversion of 24.267 acres out of a total of approximately 246,370 acres classified within the State Land Use Agricultural District on the island of Maui represents the removal of less than .01 percent of the total agricultural lands on the island of Maui and an even

lesser percentage of the approximately 1,935,305 acres classified within the State Land Use Agricultural District in the State of Hawai'i.

Flora and Fauna

35. The flora and fauna on the Property primarily consists of exotic species commonly found throughout the island and the State. None of the biota observed or presumed to be normally present on the Property is rare, threatened, or endangered. Further, the entire Property appears to have been heavily impacted by prior mechanical disturbance of the land and it is presumed that the Property does not serve as a habitat for any rare, threatened, or endangered biota.

36. The U.S. Fish and Wildlife Service expressed concern with regard to the potential impacts of the project to migratory seabirds from residential lighting and utilities. Petitioner states that all of the utility lines in the subdivision will be underground in accordance with County standards and that street lighting will be oriented in a down rather than up position and shall follow U.S. Fish and Wildlife Service guidelines.

Archaeological and Historical Resources

37. Scientific Consultants Services, Inc., undertook an archaeological inventory survey of the Petition Area, which included subsurface testing comprising of 40 backhoe trenches being excavated.

38. The subsurface testing resulted in no cultural deposits being present in any of the trench excavations due to

prior mechanical disturbance of the soil. While the presence of lo'i and related soil stratigraphy was expected, the lack of any subsurface deposits supports the disturbed nature of the Petition Area. Since no cultural deposits of any kind was discovered, further development of the Petition Area would appear to have no significant impact to any known historic sites and no further archaeological study is needed.

39. In a letter dated June 17, 1998, the SHPD/DLNR expressed some concern with regard to any ground altering construction within 50 meters of the Lower Main Street right-of-way and recommended archaeological monitoring for any ground-altering construction within 50 meters of the right-of-way. Petitioner informed SHPD/DLNR that the Petition Area does not border Lower Main Street and accordingly, by memorandum dated July 1, 1998, to Esther Ueda, Executive Officer, Commission, the SHPD/DLNR removed the monitoring recommendation and found that the proposed undertaking will have no effect on significant historic sites.

Groundwater Resources

40. Water for Wailuku in Central Maui is provided by deep wells at Mokuhan in I'ao Valley and in Upper Waiehu. These wells draw water from the basal lens referred to as the I'ao Aquifer.

41. The development of the Petition Area would require a potable water source from the Central Maui water system which in turn spans the I'ao Aquifer and the Waihe'e Aquifer. The I'ao

Aquifer has a sustainable yield of 20 million gallons per day ("mgd") and the Waihe'e Aquifer has a sustainable yield of 8 mgd.

42. The 12-month moving average for pumping the I'ao Aquifer has gone below the 20 mgd sustainable yield. The newly developed North Waihe'e wells are pumping on a 12-month moving average basis just under 3 mgd, so approximately one quarter of the 8 million gallons sustainable yield limit for the Waihe'e Aquifer system is being tapped.

43. The Commission on Water Resource Management ("CWRM") recommended coordination with the County of Maui to incorporate this project into the County's Water Use and Development Plan. The CWRM also pointed out that the water supply source for this project has been overpumped beyond the sustainable yield of the I'ao Aquifer until recently, and the CWRM will designate the aquifer as a water management area if the 12-month moving average for pumpage exceeds 20 mgd. If the aquifer is designated, all groundwater withdrawals to the purveyor would be subject to water use permits. The service and aquifer system area would be subject to a declaration of a water shortage or a water emergency.

Recreational/Scenic Resources

44. There are several parks in the Wailuku region that provide recreational opportunities for the community. The nearest park facility is located at Papohaku Park, near the I'ao Parkside project, which contains the Wailuku Community Center and athletic fields.

45. Petitioner proposes to dedicate approximately 1.4 acres within the Petition Area to the County for park use, as approved by the Department of Parks and Recreation, which dedication would exceed the County park dedication requirements. Said park shall be graded, grassed, and irrigated.

46. The Petition Area is surrounded by urbanized areas and accordingly, the proposed project will not impact the scenic and visual resources of the area. Design guidelines will be adhered to in the development to ensure adequate screening and setbacks as well as compatibility of building materials.

47. The Planning Department and Maui Planning Commission recommended to the County Council that Petitioner participate, when and if, a visioning workshop regarding development of a greenway along the I'ao Stream corridor and other multi-use trails in the area is convened by Na Ala Hele and/or representatives of the Department of Planning, Department of Public Works and Waste Management, and the Department of Parks and Recreation and other agencies and organizations. Petitioner is committed and willing to participate in such a workshop.

ENVIRONMENTAL QUALITY

Air Quality

48. Short-term impacts from fugitive dust will likely occur during the project construction phase. Petitioner proposes watering during construction which will largely mitigate dust emissions. The Department of Health will require adequate measures to control dust during construction.

Noise

49. The project is not expected to generate any significant long-term noise that cannot be mitigated. During construction, equipment will be used in accordance with accepted standards and during daylight hours to mitigate potential noise impacts.

Water Quality

50. The U.S. Fish and Wildlife Service expressed concern with the potential siltation and non-point contaminants that may make their way into the I'ao Stream drainage during construction of the Property and after the area has been developed into single-family residences. The project development proposes to protect water quality and mitigate potential soil erosion with measures such as grassing of graded areas, watering to reduce fugitive dust emissions, and the use of an onsite retention basin during and after construction.

ADEQUACY OF PUBLIC SERVICES AND FACILITIES

Highway and Roadway Facilities

51. Access to the Petition Area will be through Eha Street, which is a major collector roadway presently configured as a 2-lane roadway with median left turn lanes.

52. A Traffic Impact Assessment Study ("TIAS") was prepared by Parsons Brinckerhoff Quade & Douglas, Inc. The proposed development is anticipated to generate a total of 97 vehicles per hour ("vph") during the morning peak hour and 131 vph during the afternoon peak hour.

53. The TIAS also analyzed 5 intersections in the area which could be impacted by the proposed development. Within the timeframe for completion of the proposed development, all intersections surrounding the proposed development would operate well during the peak hour periods. The proposed development would not have significant traffic impacts in the study area.

54. In the year 2010, there is a potential need for improvements along Imi Kala Street which could require signalization of the intersection with Mill Street if certain regional connections were made, such as a long-range plan for a connection from Kahekili Highway down across I'ao Stream to Imi Kala Street. If such a connection occurs, the induced regional traffic in the corridor could require a traffic signal; however, this would not be due to the proposed development itself.

55. Petitioner is willing and committed to opening the Eha Street extension to traffic from Waena Street to Imi Kala Street prior to the issuance of any grading or building permits for the Wailuku Parkside project. Petitioner expects that the Eha Street extension would be open by the end of this year.

56. The current tax map of the Property indicates that a portion of land extends onto the Eha Street extension. There was an agreement between C. Brewer Homes, Inc., and the landowner, the Chong Family, to exchange this land for a similar area located further mauka at the time the extension was put in. The land exchange has not yet been finalized. This portion of the extension is planned to be dedicated to the County of Maui.

Water Service

57. C. Brewer Homes, Inc., participated in the development of the Waiehu Heights water source and in the installation of water lines from this source to Wailuku Industrial Park, I'ao Parkside, the Millyard, and the Petition Area. C. Brewer Homes, Inc., is also a partner in the Central Maui Source Development Joint Venture which developed water sources in upper Waiehu; current three well capacity is 13.8 mgd. C. Brewer Homes, Inc., is entitled to 21.05 percent or 2.9 mgd of this water and has agreed to assign that portion of its water commitments necessary to service the proposed project to the landowner and developer, Wailuku Parkside, LLC. The two wells presently serving the Petition Area, the Waiehu Heights water source, have a combined pumping capacity of 3.6 mgd.

58. The Department of Water Supply ("DWS") recently developed two new deep wells in North Waihe'e. These wells, with a pumping capacity of approximately 1.0 mgd each, are currently drawing water from the heretofore undeveloped North Waihe'e Aquifer and pumping it into the Central Maui system at Waihe'e Village. With the completion of the new 24-inch transmission line and the one million gallon storage reservoir and pumping facility now under construction in North Waihe'e, water will be pumped from the North Waihe'e Aquifer to the Central Maui system in Upper Waiehu, supplementing water being drawn from the I'ao Aquifer sources.

DWS is also planning to drill two additional wells in North Waihe'e. These wells are expected to be completely operational and productive sometime in the year 2000 or 2001.

59. The proposed project would require 73,700 gallons per day ("gpd") upon completion. Domestic, fire, and irrigation calculations will be reviewed in detail during the development process. The project would be serviced by the Central Maui system. There is currently adequate capacity in the Central Maui system for the proposed project and no moratorium is currently in effect. Nevertheless, Petitioner is advised that the timing of the project may be affected with possible delays until new sources can be brought on-line. Water availability will be determined at the time of application for meter or meter reservation.

60. DWS has advised that Petitioner would likely be required to participate in or construct a storage tank to service the project. The County is already completing a 3 million gallon storage tank at Mokuhau, next to the Mokuhau wells.

61. There is presently a 12-inch water line in Eha Street and another 12-inch water line in Lower Main Street. The distribution system for the proposed project will be connected to both of these lines.

Wastewater Disposal

62. Based upon an average of 350 gpd per lot, the proposed development will generate approximately 42,000 gpd of wastewater.

63. The wastewater for the project will be handled by an existing 10-inch interceptor line in Eha Street and an existing 12-inch line along the south boundary of the Petition Area. Further, the Kahului wastewater reclamation facility has unused capacity to accommodate the project.

64. The County Department of Public Works and Waste Management has commented that the Waste Management Reclamation Division cannot insure that wastewater system capacity will be available for the project, that the developer would be required to pay an assessment fee for treatment plant expansion cost and finally, that the developer would be required to fund any necessary offsite improvements to the collection system and wastewater pump stations.

Drainage

65. Presently, the Petition Area has runoff of approximately 33 cubic feet per second ("cfs"). In addition, there is approximately 76 cfs coming onto the Property from Lower Main Street. Said offsite and onsite runoff is directed into a 66-inch drainage system that proceeds through I'ao Parkside and is discharged into I'ao Stream 1,250 feet northeast of the Petition Area. In addition, there is also another 28 cfs coming off of an existing residential area to the west of the Petition Area. This runoff along with the Petition Area on the northside of Eha Street is directed into the storm drain system within Eha Street.

66. Post development runoff from the project for a 50-year recurrent rainfall is estimated to be about 67 cfs.

Approximately 59 cfs of this onsite runoff will be directed into the existing storm drain system that runs through Phase IV of I'ao Parkside. This system was designed to handle onsite post development flow from the area south of Eha Street and also the offsite runoff from Lower Main Street and the residential subdivision above the project. The remaining 8 cfs of onsite surface runoff will be intercepted by the existing storm drain system on Eha Street Extension, which also ties into the storm drain system for I'ao Parkside. Based on the available drainage improvements in the project vicinity, there will be no adverse drainage-related impacts to downstream or surrounding properties.

Solid Waste Disposal

67. The proposed project will result in the generation of solid waste during construction which will have a short-term impact. The contractor will be required to remove all solid waste from the Property to mitigate the environmental impact. The developer will work with Maui County Solid Waste Division in developing a waste management plan for construction related waste.

68. It is estimated that the solid waste generated by the completed development will be approximately 1,397 pounds per day based upon an average per capita generation rate of 4.0 pounds per capita per day. It is anticipated that the waste generated by the completed development will be collected by the County Solid Waste Division and disposed of at the Central Maui Sanitary Landfill. The County does not anticipate any adverse impacts on solid waste facilities.

Schools

69. The proposed project will generate approximately 25 elementary, 11 intermediate, and 12 high school students. The schools to be impacted include Wailuku Elementary School, which is presently operating under capacity, and I'ao Intermediate and Baldwin High Schools, which are operating over capacity.

70. Petitioner has agreed to contribute a fair share assessment of \$100,300 or \$850 per unit for the development of additional school facilities.

Police and Fire Protection

71. The County of Maui Police Department headquartered at Mahalani Drive will provide service to the proposed development. Further, fire prevention and protection services are available through the existing Wailuku Fire Station at the corner of Main Street and Kinipopo Street and by the main fire station in Kahului.

72. As part of the improvement of Eha Street, all utilities, including electrical, telephone, and cable television ducts were installed in Eha Street to service the proposed development.

Civil Defense

73. The Department of Defense, Office of the Director of Civil Defense ("CD"), indicates that the proposed development is not within an area currently covered by existing warning devices (sirens and simulators). The CD recommends that the developer install a solar powered siren in the development to alert the residents of an impending or actual event that

threatens the subdivision. This siren must be compatible with the existing siren system for Maui County.

COMMITMENT OF STATE FUNDS AND RESOURCES

74. All public services and facilities such as schools, parks, wastewater systems, solid waste disposal, drainage, water, transportation systems, public utilities, and police and fire protection, are or will be available and adequate for the proposed development and/or none of the public agencies providing such services or facilities would be unreasonably impacted by the proposed development. The proposed development will not necessitate an unreasonable investment in public infrastructure or support services or commitment of State funds or resources.

CONFORMANCE WITH THE URBAN DISTRICT STANDARDS

75. The proposed reclassification of the Petition Area is in general conformance to the standards of the State Land Use Urban District, as set forth in section 15-15-18, HAR, as follows:

- (1) It shall include lands characterized by "city-like" concentrations of people, structures, streets, urban level of services and other related land uses.

The Petition Area lies within Wailuku, an existing urbanized area with residential, commercial, and industrial uses.

- (2) It shall take into consideration the following specific factors:

- A. Proximity to centers of trading and employment except where the development would generate new centers of trading and employment.

The project will be adjacent to the existing Millyard and Wailuku Industrial Park, as well as near existing business, commercial, and industrial areas in Wailuku and Kahului.

B. Availability of basic services such as schools, parks, wastewater systems, solid waste disposal, drainage, water, transportation systems, public utilities, and police and fire protection.

The Petition Area is contiguous to an existing urbanized area and related basic services. The project is located within an existing urban area and all of the essential public services are presently in close proximity to accommodate project requirements. By developing an "infill" project surrounded by existing urban uses, existing infrastructure can be more efficiently utilized as compared to scattered unplanned growth. Consequently, the project will present minimal impact on public facilities and services to current uses.

C. Sufficient reserve areas for foreseeable urban growth. The Petition Area is surrounded on three sides by urban development and is an appropriate site for urban expansion of the Wailuku urban area, given the potential for infill and the current unmet demand for affordable-priced housing. This area has long been planned for urban uses by the County of Maui.

- (3) It shall include lands with satisfactory topography, drainage, and reasonably free from the danger of any flood, tsunami, unstable soil condition, and other adverse environmental effects.

The Petition Area has an average slope of less than 5 percent. Onsite and offsite drainage flows can be easily

accommodated within the project's storm drainage system. The soils within the Petition Area are generally stable and well-drained. Because of prior flood control improvements to the adjacent I'ao Stream bank, the Petition Area is protected from the danger of floods and is not subject to tsunami inundation.

- (4) Lands contiguous with existing urban areas shall be given more consideration than non-contiguous land and particularly when indicated for future urban use on state or county general plans.

The Petition Area is contiguous on three sides with the State Urban Land Use District and is designated for urban use on the Wailuku-Kahului Community Plan.

- (5) It shall include lands in appropriate locations for new urban concentrations and shall give consideration to areas of urban growth as shown on the state and county general plans.

The Petition Area is an infill area surrounded by urban uses. In addition, the Wailuku-Kahului Community Plan designates the Petition Area for predominantly light industrial, dominantly multi-family use. Petitioner is presently applying to change the designation in the Wailuku-Kahului Community Plan to single-family use.

- (6) It may include lands which do not conform to the standards in paragraphs (1) to (5).
 - (A) when surrounded by or adjacent to existing urban development; and
 - (B) only when those lands represent a minor portion of this district.

The proposed project conforms the paragraphs (1) to (5) and is surrounded by or adjacent to existing urban development and represents a minor portion of this district.

- (7) It shall not include lands, the urbanization of which will contribute toward scattered spot urban development, necessitating unreasonable investment in public infrastructure or support services.

The urbanization of the Petition Area will not constitute spot development and will not require unreasonable public sector investment, infrastructure, and public services.

- (8) It may include lands with a general slope of twenty percent or more if the Commission finds that those lands are desirable and suitable for urban purposes and that the design and construction controls, as adopted by any federal, state, or county agency, are adequate to protect the public health, welfare and safety, and the public's interests in the aesthetic quality of the landscape.

The Petition Area does not contain any slopes greater than 20 percent.

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

76. The proposed reclassification of the Petition Area generally conforms to the following goals, objectives, priorities, and policies of the Hawai'i State Plan, as defined in chapter 226, HRS:

§226-5 (b) (3) Promote increased opportunities for Hawaii's people to pursue their socio-economic aspirations throughout the islands.

§226-6 (a) (1) Increased and diversified employment opportunities to achieve full employment, increased income and job choice, and improved living standards for Hawaii's people.

The proposed Wailuku Parkside project provides for single-family residential land uses with approximately 118 to 119

units and a 1.4-acre park. Development of these land uses will increase employment and economic opportunities for Hawai'i's people both during and after project construction.

With implementation of the proposed plan, the project development will offer short-term, construction related employment by contributing to the overall level of construction activity.

- §226-11 (a) (2) Effective protection of Hawaii's unique and fragile environmental resources.
- §226-11 (b) (2) Ensure compatibility between land-based and water-based activities and natural resources and ecological systems.
- §226-11 (b) (3) Take into account the physical attributes of areas when planning and designing activities and facilities.
- §226-11 (b) (6) Encourage the protection of rare or endangered plant and animal species and habitats native to Hawaii.
- §226-11 (b) (8) Pursue compatible relationships among activities, facilities, and natural resources.

Physical, environmental, and cultural attributes of the Property were surveyed prior to preparation of the proposed project. There are no known unique or fragile environmental resources associated with the Petition Area. Most natural features on the Petition Area have been modified in the past by previous agricultural activities.

Implementation of proposed mitigation measures for the project will ensure continued protection of the land through better control of runoff and erosion, and reduced water,

pesticide, and fertilizer use than under past agricultural conditions.

§226-13 (b)(7) Encourage urban developments in close proximity to existing services and facilities.

The Petition Area is contiguous to urban developments and is located in close proximity to existing services and facilities. All necessary infrastructure either exists or will be provided by Petitioner as the project is developed.

§226-15 (a)(1) Maintenance of basic public health and sanitation standards relating to treatment and disposal of solid and liquid wastes.

There are adequate wastewater allocations at existing County wastewater facilities to accommodate all projected flows associated with project development. Petitioner intends to comply with the County assessment for expansion of the County wastewater treatment facility. Solid wastes will be transferred to the designated solid waste disposal facilities on Maui.

§226-16 (a) Planning for the State's facility systems with regard to water shall be directed towards achievement of the objective of the provision of water to adequately accommodate domestic, agricultural, commercial, industrial, recreational, and other needs within resource capacities.

§226-16 (b)(1) Coordinate development of land use activities with existing and potential water supply.

Potable water will be provided by the County's distribution system. Sufficient water allocation is available.

§226-19 (a)(1) Greater opportunities for Hawaii's people to secure reasonably priced, safe, sanitary, and livable homes located in suitable environments that satisfactorily accommodate the needs and desires of families and individuals.

§226-19 (a) (2) The orderly development of residential areas sensitive to community needs and other land uses.

- (b) (1) Effectively accommodate the housing needs of Hawaii's people.
- (b) (3) Increase homeownership and rental opportunities and choices in terms of quality, location, cost, densities, style, and size of housing.
- (b) (5) Promote design and location of housing developments taking into account the physical setting, accessibility to public facilities and services, and other concerns of existing communities and surrounding areas.

The proposed project is a single-family residential development anticipated to appeal to families who are already established on the island of Maui, and particularly to those who have ties to the Central Maui area. A significant share of buyers could also be first-time homeowners.

The project is located in close proximity to basic services such as schools, parks, wastewater systems, solid waste disposal, drainage, water, transportation systems, public utilities, and police and fire protection, as well as various centers of trading and employment in Wailuku and Kahului.

By providing additional housing choices to residents of Maui, housing opportunities for Hawai'i's people will be expanded in terms of quality, location, cost, densities, style, and size of housing.

§226-104 Population growth and land resources

- (b) (1) Encourage urban growth primarily to existing urban areas where adequate public facilities are already

available or can be provided with reasonable public expenditures, and away from areas where other important benefits are present, such as protection of important agricultural land or preservation of lifestyles.

- (b) (6) Seek participation from the private sector for the cost of building infrastructure and utilities, and maintaining open spaces.

The development of the Petition Area will accommodate projected population growth and address the demand for new housing. This new development will occur where adequate public facilities are available or can be provided by Petitioner.

- (b) (10) Identify critical environmental areas in Hawaii to include but not be limited to the following: watershed and recharge areas; wildlife habitats (on land and in the ocean); areas with endangered species of plants and wildlife; natural streams and water bodies; scenic and recreational shoreline resources; open space and natural areas; historic and cultural sites; areas particularly sensitive to reduction in water and air quality; and scenic resources.

No critical potable groundwater resources or recharge areas are associated with the Petition Area. No significant impacts to wildlife or rare or endangered species of flora and fauna are anticipated.

Grading and erosion control plans will be prepared in accordance with applicable County ordinances and will be designed to avoid any discharge of dredged or fill material into the waterway of I'ao Stream.

- (b) (12) Utilize Hawaii's limited land resources wisely, providing adequate land to accommodate projected population and economic growth needs while ensuring the protection of the environment and the

availability of the shoreline, conservation lands, and other limited resources for future generations.

Existing services and infrastructure have been incorporated into the design of the project to more efficiently utilize already existing infrastructure facilities. No development which could negatively impact the shoreline, conservation lands, or other limited resources is proposed.

The proposed project will be constructed according to market demand. All infrastructure that requires improvement or expansion as a result of project implementation will be provided by Petitioner. Approval of the reclassification of the Property will provide the Urban land necessary to accommodate projected population and economic growth needs while ensuring the protection of the environment.

77. The proposed reclassification of the Petition Area is in general conformance to the Housing, Agriculture, and Transportation Functional Plans.

CONFORMANCE OF THE COUNTY OF MAUI WAILUKU-KAHULUI COMMUNITY PLAN AND GENERAL PLAN

78. The current Wailuku-Kahului Community Plan designates most of the Petition Area for light industrial use with a portion of open space. The County of Maui is currently in the process of updating the Wailuku-Kahului Community Plan and the Planning Department and Planning Commission earlier recommended to the County Council that the Petition Area in the Wailuku-Kahului Community Plan designated for multi-family uses.

Petitioner has presently filed an application for a Community Plan Amendment designating the Petition Area for a single-family residential use. The Planning Department and Planning Commission have reviewed the application and following public hearing have recommended to the Maui County Council that the Petition Area be designated for single-family residential use on the Wailuku-Kahului Community Plan.

79. The proposed development of the Petition Area generally conforms to the General Plan of the County of Maui by addressing the following themes and policies:

1. Provide for needed residential housing;
2. Encourage Land Use methods that will provide a continuous balanced inventory of housing types in all price ranges;
3. Provide or require adequate physical infrastructure to meet the demands of present and planned future affordable housing needs;
4. Encourage the construction of housing in a variety of price ranges and geographic locations;
5. Develop facilities that will meet the different recreational needs of the various communities.

80. Petitioner is willing and is committed to construct required infrastructural improvements for water, sewers, drainage, and roadway/traffic, as determined by the appropriate County agencies to mitigate impacts resulting from the proposed development.

CONFORMANCE WITH COASTAL ZONE MANAGEMENT OBJECTIVES AND POLICIES

81. The proposed reclassification of the Petition Area is in general conformance with the Coastal Zone Management

Program, Chapter 205-A, HRS, in the areas of recreational resources, historical/cultural resources, scenic and open resources, coastal ecosystems, economic uses, coastal hazards, management development, public participation, beach protection and marine resources.

RULING OF STIPULATED AND PROPOSED FINDINGS OF FACT

Any of the stipulated or proposed findings of fact submitted by 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, HRS, and the Hawai'i Land Use Commission Rules, under chapter 15-15, HAR, and upon consideration of the Land Use Commission decision-making criteria under section 205-17, HRS, this Commission finds upon a clear preponderance of the evidence that the reclassification of the Property, consisting of approximately 24.267 acres of land in the State Land Use Agricultural District at Wailuku, Island and County of Maui, State of Hawai'i, identified as Tax Map Key No. 3-4-30: por. 19, por. 20, and por. 23, into the State Land Use Urban District, is reasonable, non-violative of section 205-2,

HRS, and is consistent with the policies and criteria established pursuant to sections 205-16 and 205-17, HRS.

DECISION AND ORDER

IT IS HEREBY ORDERED that the Property, which is the subject of this Docket No. A98-724 filed by Petitioner Stanford S. Carr Development Corporation, a Hawai'i corporation, consisting of approximately 24.267 acres of land at Wailuku, Island and County of Maui, State of Hawai'i, identified as Tax Map Key No. 3-4-30: por. 19, por. 20 and por. 23, and approximately shown on Exhibit "A" attached hereto and incorporated by reference herein, is hereby reclassified from the State Land Use Agricultural District to the State Land Use Urban District, and the State land use district boundaries are hereby amended accordingly, subject to the following conditions:

1. Petitioner shall provide affordable housing opportunities for low, low-moderate, and gap group income residents of the State of Hawai'i to the satisfaction of the County of Maui. The County of Maui shall consult with the State Housing and Community Development Corporation of Hawai'i prior to its approval of Petitioner's affordable housing plan. The location and distribution of the affordable housing or other provisions for affordable housing shall be under such terms as may be mutually agreeable between Petitioner and the County of Maui.

2. Petitioner shall contribute to the development, funding, and/or construction of public school facilities as determined by and to the satisfaction of the State Department of

Education (DOE). Petitioner and the DOE shall submit a written agreement on this matter prior to the Petitioner obtaining approval for county zoning.

3. Petitioner shall fund and construct adequate wastewater transmission and disposal facilities, as determined by the County of Maui Department of Public Works and Waste Management and the State Department of Health (DOH).

4. Petitioner shall participate in the pro-rata funding and construction of local and regional transportation improvements and programs necessitated by the proposed development in designs and schedules accepted and determined by the State Department of Transportation and the County of Maui Department of Public Works and Waste Management.

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

6. Should any previously unidentified burials, archaeological or historic sites such as artifacts, marine shell concentrations, charcoal deposits or stone platforms, pavings, or walls be found, Petitioner shall stop work in the immediate vicinity and the State Historic Preservation Division of the Department of Land and Natural Resources (SHPD) shall be notified immediately. Subsequent work shall proceed upon an archaeological clearance from the SHPD when it finds that mitigative measures have been implemented to their satisfaction.

7. Petitioner shall participate in an air quality monitoring program as specified by the State DOH.

8. Petitioner shall fund the design and construction of drainage improvements required as a result of the development of the Petition Area to the satisfaction of the State Department of Health, U.S. Fish and Wildlife Service, and County agencies.

9. Petitioner shall participate in the funding and construction of adequate water source, storage, and transmission facilities and improvements to accommodate the proposed project. Water transmission facilities and improvements shall be coordinated and approved by appropriate State and County agencies. Petitioner shall request that the appropriate County agency amend the County's Water Use and Development Plan to reflect changes in water demand forecasts and changes in water development plans to supply the proposed project.

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

11. Petitioner shall give notice to the Commission of any intent to sell, lease, assign, place in trust, or otherwise voluntarily alter the ownership interest in the Petition Area, prior to development of the same.

12. Petitioner shall timely provide without any prior notice, annual reports to the Commission, the Office of Planning, and the County of Maui Planning Department in connection with the status of the subject project and Petitioner's progress in complying with the conditions imposed herein. The annual report

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

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

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

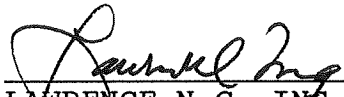
15. Petitioner shall record the conditions imposed herein by the Commission with the Bureau of Conveyances pursuant to Section 15-15-92, Hawai'i Administrative Rules.

16. Petitioner shall submit to the Commission evidence of financial commitment for the project prior to development of the project.

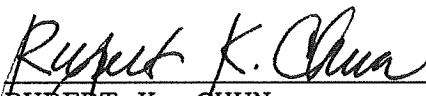
Done at Honolulu, Hawai'i, this 9th day of December 1998,
per motion on December 3, 1998.


LAND USE COMMISSION
STATE OF HAWAII

By 
MERLE A. K. KELAI
Chairperson and Commissioner

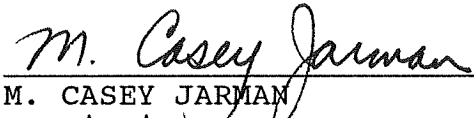
By 
LAWRENCE N.C. ING
Vice Chairperson and Commissioner

By _____ (absent)
P. ROY CATALANI
Commissioner

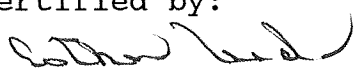
By 
RUPERT K. CHUN
Commissioner

By 
PRAVIN DESAI
Commissioner

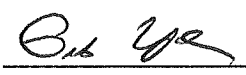
By _____ (absent)
ISAAC FIESTA, JR.
Commissioner

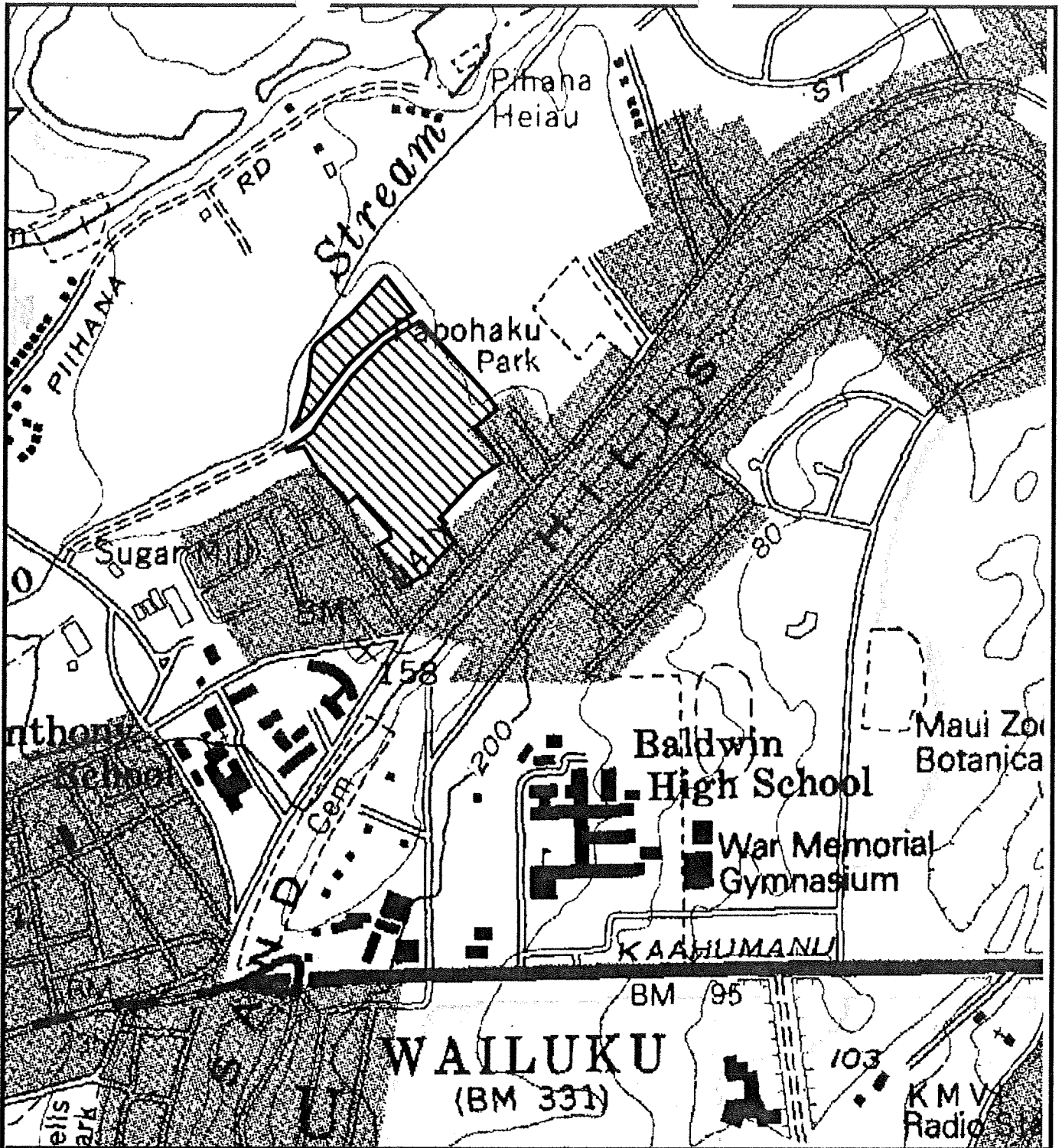
By 
M. CASEY JARMAN
Commissioner

Filed and effective on
December 9, 1998

Certified by:

Executive Officer

By _____ (absent)
HERBERT S.K. KAOPUA, SR.
Commissioner

By 
PETER YUKIMURA
Commissioner



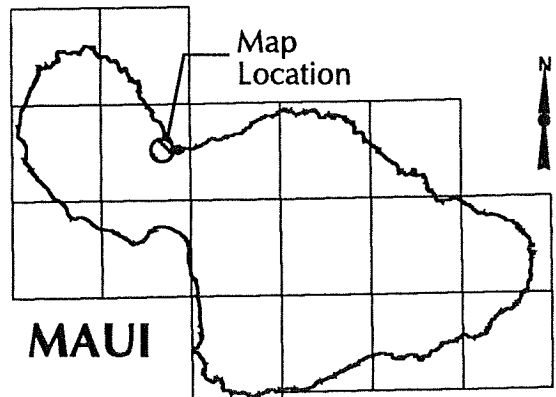
**A98-724 / STANFORD S. CARR
DEVELOPMENT CORPORATION,
a Hawai'i corporation**

LOCATION MAP

TMK: 3-4-30: por. 19, por. 20, and por. 23
WAILUKU, ISLAND AND COUNTY OF MAUI,
STATE OF HAWAI'I

☐ APPROVED AREA

EXHIBIT "A"



MAUI

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAI'I

In the Matter of the Petition of)	DOCKET NO. A98-724
)	
STANFORD S. CARR DEVELOPMENT)	CERTIFICATE OF SERVICE
CORPORATION, a Hawai'i corporation)	
)	
To Amend the Agricultural Land Use)	
District Boundary into the Urban)	
Land Use District for Approximately)	
24.267 Acres of Land at Wailuku,)	
Island and County of Maui, State of)	
Hawai'i, TMK 3-4-30: por. 19, por.)	
20, and por. 23)	
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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:

DEL. BRADLEY J. MOSSMAN, Director
 Office of Planning
 P. O. Box 2359
 Honolulu, Hawaii 96804-2359

CERT. LISA M. NUYEN, Director of Planning
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 Office of the Corporation Counsel
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CERT. ERIC T. MAEHARA, ESQ., Attorney for Petitioner
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CERT. STANFORD S. CARR
Stanford S. Carr Development Corp.
745 Fort Street, Suite 2110
Honolulu, Hawaii 96813

DATED: Honolulu, Hawaii, this 9th day of December 1998.



ESTHER UEDA
Executive Officer