

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

In the Matter of the Petition of )  
A & B PROPERTIES, INC. )  
To Amend the Agricultural Land Use )  
District Boundary into the Urban )  
Land Use District for Approximately )  
212 Acres of Land at )  
Spreckelsville, Wailuku, Island and )  
County of Maui, State of Hawai'i, )  
TMK No. 3-8-01: portion 7 )  
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DOCKET NO. A98-725  
FINDINGS OF FACT,  
CONCLUSIONS OF LAW, AND  
DECISION AND ORDER

LAND USE COMMISSION  
STATE OF HAWAII  
1998 JUL 14 A 7:54

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

A&B Properties, Inc. ("Petitioner"), a Hawai'i corporation, filed this Petition for District Boundary Amendment on June 25, 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 Boundary by reclassifying approximately 212 acres of land from the State Land Use Agricultural District into the State Land Use Urban District at Spreckelsville, Wailuku, Island of Maui, County of Maui, State of Hawai'i, identified as Tax Map Key No. 3-8-01: portion 7 ("Property" or "Petition Area") for development of a planned residential community to include single-family residential, park, and golf course uses.

The Land Use Commission ("Commission"), having heard and examined the testimony, evidence and argument of the parties,

both written and oral, presented during the hearing held on October 8, 1998, and March 18, 1999; and having reviewed Petitioner's Proposed Findings of Facts, Conclusions of Law, and Decision and Order; the responses of the Office of Planning and the County of Maui Planning Department ("Maui Planning Department") to Petitioner's Proposed Findings of Fact, Conclusions of Law, and Decision and Order; and the record herein, hereby makes the following findings of fact, conclusions of law, and decision and order:

#### FINDINGS OF FACT

##### PROCEDURAL MATTERS

1. On June 25, 1998, Petitioner filed a Petition for District Boundary Amendment ("Petition") with the Commission to reclassify approximately 212 acres of land from the State Land Use Agricultural District to the State Land Use Urban District at Spreckelsville, Island of Maui, County of Maui, State of Hawai'i. The Petition was accepted as a proper filing on July 20, 1998.

2. On August 24, 1998, the Office of Planning filed Statement Of Position Of The Office Of Planning In Support Of The Petition, recommending approval of the Petition with conditions. On August 31, 1998, the Office of Planning filed Testimony Of The Office Of Planning In Support Of The Petition.

3. On August 27, 1998, the Maui Planning Department filed Position Of The Maui Planning Department, which recommended denial of the Petition based upon the designation of the Property under the current Wailuku-Kahului Community Plan ("Community

Plan") but reserved the right to support the reclassification once the revised Community Plan was adopted.

4. On September 17, 1998, a prehearing conference was conducted in Conference Room 405 of the Leiopapa A Kamehameha Building, 235 South Beretania Street, in Honolulu, Hawai'i, with representatives of Petitioner, the Office of Planning, and the Maui Planning Department present.

5. On September 17, 1998, the Maui Planning Department filed Maui Planning Department's Motion To Continue Hearing And Related Commission Deadlines Or, In The Alternative, To Defer Final Decision On Petition ("Motion to Continue"). Petitioner filed its opposition to the Motion to Continue on September 28, 1998.

6. On October 8, 1998, the Commission conducted a hearing on this Petition at its meeting in Waikapu, Maui, pursuant to a public notice published in the Honolulu Star-Bulletin and The Maui News on July 29, 1998. The Commission had taken a field trip to the Property in the morning of October 8, 1998.

7. Entering appearances at the October 8, 1998 hearing were Benjamin M. Matsubara, Esq., and Stanley M. Kuriyama for Petitioner; Brian Moto, Esq., and Bill Medeiros for the Maui Planning Department; and Ann Ogata-Deal, Esq., Abe Mitsuda, and Judith Henry for the Office of Planning.

8. The Maui Planning Department withdrew its Motion to Continue upon agreement by the Parties that the County of Maui

would be permitted to present its case in chief at the continued hearing on this Petition.

9. On October 8, 1999, the following persons appeared and testified as public witnesses:

Janet Lewis, Esq.  
Rene Sylva  
Lucienne de Naie  
Madelyn D'Enbeau, Esq.

10. No requests for intervention were filed.

11. Based on the agreement by the Parties, the October 8, 1998, hearing on the Petition was continued to January 21, 1999, at which time the Maui Planning Department filed its Motion To Continue A&B Properties, Inc. Petition For Reclassification Of Lands seeking to continue the hearing from January 21, 1999, to a date not earlier than March 15, 1999.

12. On January 21, 1999, due to a lack of quorum, the hearing on the Petition was deferred to February 25, 1999. On February 25, 1999, the Commission granted the Maui Planning Department's Motion To Continue A&B Properties, Inc. Petition For Reclassification Of Lands.

13. On March 12, 1999, the Commission issued its Order Granting Planning Department's Motion To Continue A&B Properties, Inc. Petition For Reclassification Of Lands.

14. On March 12, 1999, Petitioner filed A&B Properties, Inc.'s Motion To Amend Petition For District Boundary Amendment Re: Description Of Subject Property, seeking to amend the boundary of the Petition Area to allow for the relocation of

the proposed neighborhood park from the mauka boundary of the Property to a site along Hana Highway.

15. On March 15, 1999, the Maui Planning Department filed its Revised Position Of The Maui Planning Department ("Revised Position"), which recommended approval of the Petition as a logical expansion of the Urban District in the region.

16. On March 18, 1999, the Commission resumed its hearing on the Petition. Entering appearances were Benjamin M. Matsubara, Esq., and Stanley M. Kuriyama for Petitioner; Kelly A. Cairns, Esq., and John E. Min for the Maui Planning Department; and Ann Ogata-Deal, Esq., Abe Mitsuda, and Judith Henry for the Office of Planning.

17. On March 18, 1999, and by a written Order issued on April 16, 1999, the Commission granted A&B Properties, Inc.'s Motion To Amend Petition For District Boundary Amendment Re: Description Of Subject Property.

18. On March 18, 1999, the Commission also approved Maui Planning Department's Stipulation To Permit Maui Planning Department To File Revised Position Statement, filed March 18, 1999.

19. On March 18, 1999, the Commission closed the hearing on the Petition.

20. On April 13, 1999, Petitioner filed A&B Properties, Inc.'s Motion For Correction Of Transcript Of Proceedings Held On March 18, 1999.

21. On April 26, 1999, the Maui Planning Department filed Maui Planning Department's Statement Of No Position To A&B

Properties, Inc.'s Motion For Correction Of Transcript Of Proceedings Held On March 18, 1999, Filed On April 13, 1999.

22. On June 22, 1999, Petitioner filed Petitioner A&B Properties, Inc.'s Motion For Extension Of Time On Action Meeting On Petition.

23. On June 25, 1999, the Commission granted A&B Properties, Inc.'s Motion For Correction Of Transcript Of Proceedings Held On March 18, 1999, and denied Petitioner A&B Properties, Inc.'s Motion For Extension Of Time On Action Meeting On Petition due to its failure to receive the required six affirmative votes.

24. On June 25, 1999, the Commission deferred action on the Petition to July 8, 1999.

#### DESCRIPTION OF THE PROPERTY

25. The Property is located at Spreckelsville, Wailuku, Island and County of Maui, State of Hawai'i. The Property consists of approximately 212 acres, and is specifically identified as Tax Map Key No. 3-8-01: portion 7.

26. The Property is located in the northeastern corner of the Wailuku District. The Wailuku District serves as the County of Maui's commercial, industrial, and government center, and includes Kahului Harbor and Kahului Airport.

27. The Property is generally rectangular in shape, extending approximately 4,800 linear feet lengthwise along Hana Highway, and about 1,800 linear feet mauka of the road. The northern boundary is separated from Spreckelsville by Hana

Highway. The southern, eastern, and western boundaries of the Property are adjacent to sugarcane fields.

28. The Property is currently in sugarcane cultivation and has been in sugarcane cultivation for over the past 100 years.

29. The Property is situated approximately one-half mile from the town of Pa'ia, two miles east of Kahului Airport, approximately five miles from the urban center of Kahului, and approximately eight miles from the civic center of Wailuku.

30. The Property is owned by A & B-Hawaii, Inc. ("A&B"), a Hawai'i corporation, which in turn is a wholly-owned subsidiary of Alexander & Baldwin, Inc., a Hawai'i corporation. A&B, through its division, Hawaiian Commercial and Sugar Company ("HC&S"), cultivates sugarcane on the Property.

31. Petitioner is a wholly-owned subsidiary of A&B, and has been authorized by A&B to submit the Petition as set forth in the authorization letter dated October 20, 1997.

32. The elevation of the Property ranges from 15 feet to 70 feet above mean sea level.

33. The average overall slope of the Property is approximately 2 percent from the northern edge along Hana Highway to the southern boundary.

34. The average rainfall during the past four years has been about 2.52 inches, varying between 1.5 to 3.7 inches per year. Annual temperatures vary between 65 degrees to 85 degrees in this area.



PROPOSAL 135. According to the United States Department of Agriculture Soil Conservation Service, the Property consists of five soil types:

	<u>Acres</u>
EaA Ewa silty clay loam, 0 to 3 percent slopes	21.1
MuA Molokai silty clay loam, 0 to 3 percent slopes	64.2
MuB Molokai silty clay loam, 3 to 7 percent slopes	92.0
PpA Pulehu silty loam, 0 to 3 percent slopes	8.4
IaA Iao silty clay, 0 to 3 percent slopes	<u>26.3</u>
TOTAL	212.0

36. The Land Study Bureau's Detailed Land Classification system classifies the Property's productivity rating as "A," which reflects the Property's current use for sugarcane cultivation under irrigated conditions.

37. The Agricultural Lands of Importance to the State of Hawai'i ("ALISH") (1977) system classifies the entire Property as "Prime Agricultural Land."

38. According to the flood insurance rate map prepared by the Federal Emergency Management Association Federal Insurance Flood Map, the Property is located within "Zone C" ("area of minimal flooding"), and is not considered to be in a flood plain area. The Petition Area lies outside of the tsunami inundation zone.

39. The Petition Area does not include Kailua Gulch.

45. The primary market for the lots and house and lot packages will be Maui residents.

46. Based on the median household income (\$53,000) established by the U.S. Department of Housing and Urban Development for Maui in 1997, home prices for the 140 percent to 160 percent median income category would range from approximately \$245,000 to \$280,000. Although sales prices cannot be predicted with certainty at this stage of the planning process, it is expected that 65 percent of the homes would be priced to be affordable to persons earning below 160 percent of median income.

47. The total cost of the Project is estimated at \$72.6 million (1998 dollars), summarized as follows:

Soft Costs (Planning, Engineering, Marketing, Real Estate Sales)	\$ 7.5 million
Site Construction Costs	\$ 23.8 million
Vertical (Home) Construction Costs	\$ 41.3 million
<b>Project Total</b>	<b>\$ 72.6 million</b>

48. Petitioner's proposed development timetable, besides this Petition, includes submitting applications for approvals and permits from the County of Maui within the following timeframes:

Community Plan Amendment	1998/1999
Zoning Change	12 months after Community Plan amendment
Subdivision Approval (including preparation of construction plans)	18 months after zoning change
Building/grading permits	3 months after construction plan approval

49. Construction phasing of the proposed land uses will likely respond to market demand and logical extensions of required infrastructure. Preliminary market indicators project the proposed 400 units to be absorbed within six to eight years of completion.

50. Final determination of densities, development timetable, and projected costs will be identified during the entitlement review process, design and engineering phase, and as market conditions evolve.

PETITIONER'S FINANCIAL CAPABILITY  
TO UNDERTAKE THE PROPOSED DEVELOPMENT

51. Petitioner's 1997 balance sheet and income statement reflect Petitioner's pre-tax income in 1997 of \$16.6 million, total assets of \$94.4 million, and shareholder's equity of \$80.4 million.

52. Petitioner intends to finance the development of the Property from internally generated funds.

STATE AND COUNTY PLANS AND PROGRAMS

53. The Property is currently within the State Land Use Agricultural District, as shown on the Commission's State Land Use District Boundary Map, M-7 (Paia).

54. The Property is located within the County of Maui's Wailuku-Kahului Community Plan area. Land use designations in the Project vicinity include Single-Family Residential, Park, Agriculture, and Open Space. The Property itself is designated Agriculture.

55. The Property is zoned Agriculture (as designated on Land Zoning Map No. 12 - Lower Spreckelsville and Surrounding Areas). The adjacent zoning makai of Hana Highway and the Property is Residential (R-3), Agriculture, and Interim for the existing Spreckelsville community.

56. Petitioner intends to seek a zoning designation change from "Agriculture" to "R-1" Residential under the County of Maui zoning ordinances, although "R-0" zoning could be sought for limited areas of the Project, and "PK-4" Golf Course Park District.

57. The Wailuku-Kahului Citizen Advisory Committee, Maui Planning Department, and the Maui Planning Commission have all recommended that the Petition Area be designated for Single-Family Residential and Park (golf course) use in the Community Plan update.

58. The update of the Wailuku-Kahului Community Plan is currently under review by the Planning Committee of the Maui County Council. Final adoption of the revised Wailuku-Kahului Community Plan is anticipated within the current calendar year.

59. The Property does not lie within the County of Maui's Special Management Area.

#### NEED FOR THE PROPOSED DEVELOPMENT

##### Residential Market

60. Petitioner's market consultants, RE<sup>2</sup> and Mikiko Corporation, prepared a market assessment report in March 1998 to analyze the existing and projected housing demand for the Project's 400 units. The study identified planned projects and

projected the absorption of these units based on a number of factors, such a population growth, housing supply, home prices, and location.

61. By the year 2010, based on projected housing demand and supply conditions, the island of Maui could need between 900 to 1,200 more housing units than are currently planned. Based on comparable developments, an absorption period of approximately six to eight years (4 to 5 homes per month) is projected for the proposed development.

62. The Property has good locational amenities and, in comparison to similar developments, the Project offers lot sizes and a product density appropriate to the marketplace. Additionally, the homes and lots may be associated with the expansion of the MCC membership.

#### Golf Course Market

63. Based on the projected demand for MCC membership, sufficient demand is anticipated to support the proposed MCC golf expansion at Project buildout. The expansion of the golf course to a full 18 holes is also expected to enhance marketability of the residential units and enhance the values of the existing golf course operations and lands.

#### ECONOMIC IMPACTS

64. Petitioner's market consultants, RE<sup>2</sup> and Mikiko Corporation, also prepared an economic and fiscal impact assessment for the proposed Project in March 1998. All aspects of the proposed Project will produce design and construction employment opportunities during the construction phases.

Approximately \$31 million is estimated to be spent on the design and construction of the subdivision infrastructure. An additional \$41 million is estimated to be spent on the construction of homes. These figures represent a substantial infusion of capital into Maui's economy.

65. The current real property taxes allocated to the area planned for single-family use is currently estimated at \$430 per year. After adjustments for homeowners' exemptions on the single-family homes and the current level of property taxes paid at the Property, the Project is anticipated to generate approximately \$130,000 in net new property tax revenues by time of the first home completions in 2003, rising to about \$480,000 per year indefinitely after Project stabilization in 2014 (1998 dollars).

66. Additional operating revenues accruing to the State are expected to derive principally from general excise tax revenues from development costs. In total, net operating revenues to the State are estimated to amount to some \$240,000 in 2003, and then stabilize at about \$240,000 per year by 2014, in 1998 dollars.

67. Net fiscal benefits of the Project are anticipated to exceed additional operating expenses for the County of Maui by about \$370,000 annually and be slightly less than additional operating expenses for the State (under \$100,000 annually).

68. The Project is anticipated to generate significant construction employment over the development period. Development completion under the plan is estimated to require nearly 570

person-years of construction labor from 2001 to 2013. This could represent an annual average of about 64 person-years between 2001 and 2003, the period of greatest construction activity, diminishing to about 55 from 2004 to 2008, and 20 person-years from 2009 to 2013. While the majority of these person-years would occur onsite, many others, such as the professional services and administrative positions related to construction, are likely to be primarily located offsite.

69. In addition to construction-related positions, the Project is anticipated to support permanent jobs as facilities are completed and occupied. Direct operational jobs are projected to stabilize at about 38 positions. These new employment opportunities would include jobs related to the expanded MCC and to residential home sales and maintenance.

70. Total employment associated with construction of the Project, including induced and indirect positions, could total about 1,530 person-years over the 2001 to 2013 projection period.

#### SOCIAL IMPACTS

71. In 1990, the Wailuku-Kahului region had 32,816 people. This figure is expected to grow to 40,119 in the year 2000 and 47,597 in the year 2010. The average annual growth rate is approximately 1.8 percent. Average household size in 1990 was 3.24 persons per household. Household size is expected to decline over the years to approximately 3.03 persons per household in the year 2010.

72. Presently, no one resides within the Petition Area. Development of the Property into a golf course expansion and residential area will add to the residential population of the Wailuku District. Residential population of the Project is expected to grow to about 1,130 persons. The majority of these new residents (85 percent plus or 961 persons) are expected to be current Maui residents. The remaining residents are expected to come from off-island.

#### IMPACTS UPON RESOURCES OF THE AREA

##### Agricultural Resources

73. On the island of Maui, A&B has designated 53,000 acres of its 69,000 acres for agriculture or pasture use. The balance of 16,000 acres are in conservation use.

74. Of the 53,000 acres, HC&S cultivates sugarcane on approximately 35,000 acres. Another 2,000 acres of the 53,000 acres are leased out for various diversified agricultural uses, and approximately 6,300 acres are leased out for pasture purposes. The remaining lands are unused.

75. In addition to the 35,000 acres under sugarcane cultivation, HC&S's operation includes an additional 1,200 acres of former pineapple lands leased from C. Brewer and another 1,300 acres leased from the State of Hawai'i. In total, HC&S has approximately 37,000 acres devoted to sugarcane production on the island of Maui.

76. HC&S is the largest sugar plantation in the State, producing approximately 60 percent of the total production of sugar in the State. HC&S has about a thousand employees, making



it the second largest private employer in the County of Maui. In 1997, HC&S paid \$32.4 million in total wages and benefits.

77. Since 1990, HC&S has been adding acreage to its sugarcane operations at a much faster rate than it has withdrawn, or plans to withdraw, land for development purposes. During this period, HC&S has added over 2,000 acres in newly cultivated lands while withdrawing fewer than 200 acres for development by Petitioner or third parties.

78. A&B foresees putting an additional 500 acres into sugarcane production over the next five-year time horizon, thereby increasing further the net amount of land to be devoted to sugarcane cultivation.

79. In addition to expanding its operations, A&B has also invested heavily in its agricultural business. In the last 10 years, A&B has invested over \$74 million in capital to support and enhance HC&S's operations. This money was spent on new equipment, creating new fields to farm, conversion to drip irrigation, compliance with environmental laws, as well as in research and development to increase the yield per acre by use of improved cane varieties, improved processing and operations, disease control, and developing new uses for cane byproducts. Keeping HC&S as efficient and productive as possible requires continued investment in new equipment, technology, and research and development.

80. In expanding its sugarcane operations, A&B has invested \$2 to \$3 million in improving the 1,200 acres leased from C. Brewer and an additional 300 acres in a joint effort with

## Flora and Fauna

85. A biological survey of the Property was conducted by Kenneth M. Nagata in May 1997. The Property consists almost exclusively of alien (non-native) species.

86. Much of the land in the region has been either urbanized or planted in sugarcane. Very little of the original vegetation remains. Aside from sugarcane, the only other vegetation type is a koa-haole thicket, which grows along the intermittent stream located outside of the Property. No native plant communities were found.

87. Within the sugarcane fields of the Property, there were individuals of koa-haole, castor bean, nut grass, radiate fingergrass, fir-leaved celery, and peria. Along the cane roads and on cane rock piles are species such as pualele, spiny amaranth, Mexican poppy, fir-leaved celery, *Boerhavia coccinea*, nut grass and radiate fingergrass, peria, Spanish needle, Flora's paint brush, pigweed, Natal redtop, castor bean, koa-haole, Japanese tea, Guinea grass, koali, and various spurges.

88. Only two indigenous native species were found to occur in small numbers on rockpiles on the Petition Area. These are koali (*Ipomoea indica*) and 'ilima (*Sida fallax*). In addition, three possibly indigenous native species were recorded: kukaepua'a (*Digitaria setigera*), black nightshade or popolo (*Solanum americanum*), and 'uhaloa (*Waltheria indica*). All native species found are common lowland species. Overall, native plants represent an insignificant segment of the vegetation in the

Petition Area. No rare, endangered, or threatened plant species occur in the Petition Area.

89. During the biological survey conducted in 1997, no mammals were observed; however, there is a strong probability that mongoose, mice, and one or more species of rats occur within the Property. The Property has been under sugarcane cultivation for many years and is not considered a suitable habitat for native birds. Eight species of birds were observed on or near the Property: barred dove, lace-neck dove, Kentucky cardinal, Indian gray francolin, black-headed mannikin, Ricebird, common mynah, and Japanese white-eye. All the birds on the Property are introduced species and are common field or game birds.

90. The proposed Project will have no impact on any threatened or endangered native flora or fauna.

#### Archaeological and Historic Resources

91. Cultural Surveys Hawaii, Inc., conducted an archaeological inventory survey of the Property, which included a field inspection on May 20, 1997, and a historic background research of the Property. The scope of work for this study was developed in coordination with the Historic Preservation Division of the State of Hawai'i Department of Land and Natural Resources to satisfy State and County requirements for an inventory survey level of archeological investigation.

92. The proposed Project is over a thousand feet inland of the shore and does not contain any sandy beach or dune deposits.

93. The Property has been under continuous sugarcane cultivation for over 100 years.

94. A single historic site was encountered during the archaeological inventory survey, outside of the Project's boundary. This site consists of an old well and modern pumping equipment still being used by the plantation, and a mortar and stone tower adjacent to the well. The well site is located east of the Property.

95. Field-stone clearing mounds in the Petition Area were determined to be the result of field clearing for cane planting and there is no evidence of their being pre-historic in age or of historic use for other purposes. The former railroad as shown on historic maps is presently a cane-haul road through the Petition Area, but no remnants of the former railway are located on the ground. No other archaeological remains were observed on any open ground of the intra-field roads or clearing mounds.

96. No further archaeological work is recommended, based on the absence of any impact to archaeological, cultural, or historic resources in the Petition Area. The potential as a cultural resource of the former railroad to yield information has been realized through the recording of the railroad location on maps and its history in publication. Similar historical data for the well and pump stations are maintained by A&B.

97. Cultural Surveys Hawaii, Inc., also prepared a Hawaiian Traditional Customs and Practices Impact Assessment, dated March 1998, to evaluate the effects that the proposed

Project may have on the traditions and customs of native Hawaiians. The study examined the history of land title and use within the Petition Area and within the ahupua'a of Wailuku. Particular attention was given to any possible issues of burials, trails, battle grounds, heiau and sacred sites, and native hunting and gathering practices.

98. Hawaiian burial sites are present northeast of the Property. The draft Archeological Inventory Survey Report (Folk et al. 1998) identifies no burials within the Petition Area.

99. An 1893 Map of Spreckelsville Plantation references the "Road to Paia" which probably followed the alignment of the Alaloa ("Long Road"), a road said to have been built in the sixteenth century and stretching around much or all of the island of Maui. The 1893 map indicates that the Alaloa lies approximately 200 meters makai of the present Hana Highway, seaward of the present Petition Area.

100. Mauka-makai routes are not as well-defined or documented as coastal routes. There is the possibility of a historical mauka-makai trail alignment up Kailua Gulch east of the Petition Area.

101. At least three great battles were fought in the Wailuku Ahupua'a, but none of these is believed to have taken place anywhere near the Property.

102. There is no evidence of traditional hunting within the Petition Area.

103. Four species of native plants known to have been used by Hawaiians exist within the Property. Kaoli, 'ulaloa, and

popolo were used medicinally and 'ilima was used for adornment. They are not abundant within the Property, and there is no evidence that such plants were ever harvested from the Property.

104. It is unlikely that there are any native Hawaiian rights customarily and traditionally exercised for subsistence, cultural, or religious purposes associated with the Petition Area that could be regarded as consistent, significant, or reasonable and which would require protection or regulation under Article XII, Section 7, of the Hawai'i State Constitution.

105. Hallett H. Hammatt, Ph.D, president of Cultural Surveys Hawaii, Inc., personally contacted persons from the Hawaiian community who were knowledgeable of the Petition Area as requested in comments submitted by the Office of Hawaiian Affairs ("OHA"), dated July 27, 1998. Dr. Hammatt contacted Messrs. Charles Keau and Les Kuloloio who are both recognized authorities regarding traditional and customary practices and discussed the contents of his report with them.

106. Mr. Keau was identified in OHA's letter as one of the persons from the Hawaiian community who should be contacted. Mr. Keau is a life-long resident of the island of Maui and is familiar with the Property and surrounding areas. Mr. Keau is also on the Historic Preservation Board of OHA.

107. Mr. Kuloloio was not identified in OHA's letter, but was raised in the area surrounding the Property. His recollection is that the Property has been in sugarcane all his life. Mr. Kuloloio advised Dr. Hammatt that he was not familiar with any heiau or sacred areas near the Petition Area.

108. Both Messrs. Keau and Kuloloio advised Dr. Hammatt that they were not aware of any religious or spiritual customs or practices taking place on the Property.

109. Petitioner also wrote to the other members of the Hawaiian community identified in OHA's July 27, 1998, letter, which included Linda Kawai'ono Delaney, Daviana McGregor, Dana Naone Hall, and Akoni Akana regarding the Property. None of these community members responded to Petitioner's inquiry regarding any traditional Hawaiian uses specific to the Property.

#### Groundwater Resources

110. The Petition Area is located in the Pa'ia system of the Central Aquifer Sector. The groundwater source for the Central Maui water system is from three source wells located in the Waihe'e system of the Wailuku Aquifer Sector.

111. According to the State Department of Health ("DOH"), the Petition Area is located below the State's Underground Injection Control line. As such, the underlying groundwater is not considered a potential source of potable water.

#### Recreational and Scenic Resources

112. Primary recreational opportunities in the Petition area are associated with ocean and coastal-based recreation. Due to the predominant strong tradewinds, the Pa'ia region is internationally known as a prime windsurfing area. Presently, the County of Maui provides parking and restroom facilities at Ho'okipa Beach Park (2.6 miles east) and nearby Baldwin Park (makai of Hana Highway and adjacent to the MCC golf course).

113. Kanaha Beach Park (2.5 miles west) and Spreckelsville Beach (0.3 miles north) also provide beach access in the region. Kanaha Beach Park is maintained by the County of Maui and is another popular windsurfing site and swimming site for children. The park beach areas are also used by fishermen, limu pickers, and picnickers. Facilities at the park include restrooms, showers, barbecue grills, picnic tables, and paved parking lots.

114. Spreckelsville Beach stretches for over two miles along the coast, beginning at West Spreckelsville near the end of Old Stable Road and ending at the MCC. This shoreline is broken into a series of short beaches and, like Kanaha Beach Park, is popular with windsurfers, fishermen, and divers. The most popular area is "Stables," which is located near the intersection of Hana Highway and Spreckelsville Beach Road.

115. Other recreational facilities in the region are provided by the Pa'ia Community Center, Haiku Park and Community Center, and Kaupakalua Park.

116. None of these recreational facilities are expected to be adversely impacted by the Project.

117. An approximately five-acre neighborhood park is planned to provide for the active and passive recreational needs of the Project residents. The park will be located along Hana Highway on relatively level lands.

118. The sloping nature of the Property allows ocean views from many lots. Distant views are of Haleakala and the West Maui Mountains.



### Coastal/Aquatic Resources

119. The Property is located approximately 1,000 feet inland from the nearest shoreline, and is not within the Special Management Area established by the County of Maui. The Project is not expected to have any adverse impact on any coastal/aquatic resources.

### ENVIRONMENTAL QUALITY

#### Noise

120. A Noise Assessment Study was prepared by D.L. Adams Associates, Ltd., dba Darby & Associates, to assess noise impacts to and from the Project. Ambient noise levels throughout the Petition Area range from approximately 46 to 49 dBA (A-weighted decibels), which is typical for an urban residential area.

121. The future (2020) traffic noise level increases due to the Project are predicted to be less than or equal to 1 dB. A traffic noise level increase of this magnitude should not be perceptible to the residents near the roadway and is, therefore, not considered to be significant.

122. The residential area will be set back a distance of 400 feet or greater from Hana Highway. It is not anticipated that traffic noise will have an impact on the residents. The Project setback provides for road widening should Hana Highway be expanded from two to four-lanes.

123. The Project construction noise will be relatively short-term and will comply with DOH noise regulations. During Project construction, the dominant noise source is anticipated to

be earth moving equipment. Construction noise may impact nearby existing residential areas but will be confined to daytime only and should be relatively short-term. Required DOH permit conditions for construction activities will mitigate construction noise.

124. Aircraft day-night equivalent noise levels, Ldn, associated with the current conditions of Kahului Airport will be within the acceptable noise limits of 60 dBA at the Petition Area according to the Noise Exposure maps of FAR PART 150 for the airport. The Project can be designed to stay clear of the Kahului Airport's 60+ dBA noise contours. Due to the proximity of the Petition Area to Kahului Airport, noise disclosures will be included in sales documents.

125. The Project was designed to stay within the acceptable noise levels by using the State's projected plans for the extended airport runway. The Project was also planned to take into consideration changes in wind patterns that could cause changes in the flight patterns.

126. Noise from ground maintenance activities relating to the expanded 18-hole golf course could impact the proposed residences; however, these activities are transient and for short periods during the daytime hours only (e.g., mowing of greens and fairways).

#### Air Quality

127. The winds in the Petition Area are predominantly trade winds. Wind frequency data for Kahului Airport show the annual prevailing wind direction for this area of Maui is

northeast (16.6 percent) and east northeast (12.9 percent) at 13 knots, or approximately 15 miles per hour.

128. B.D. Neal & Associates prepared an Air Quality Impact Assessment (Revised) dated December 30, 1998, which examined the potential air quality impacts associated with the traffic generation for the Project. State and national standards regarding air quality will be within acceptable limits.

129. Petitioner will adopt a dust control plan in compliance with section 11-60.1-33, HAR, regarding fugitive dust.

130. Any pesticides, herbicides or other agricultural chemicals used will be applied in a manner that prevents offsite drift of spray material.

131. HC&S harvests its sugarcane every two years. In an effort to mitigate impacts to its neighbors, HC&C considers weather forecasting when burning the cane. Currently, HC&S places high priority to exploring alternatives to cane burning, such as "green harvesting" around homes and condominiums which might be directly affected.

132. Due to the surrounding agricultural activities, written disclosures regarding these activities will be provided to potential buyers of the residential units.

133. Due to the distance of the Pa'ia Sugar Mill from the Property, no impacts to air quality are anticipated. Also, both the short-term impact related to construction and the increase in traffic are not anticipated to have a significant impact on the Property.

#### Water Quality

134. Surface water quality will be maintained through a program of soil erosion control measures, implementation of best management practices during Project construction, and adherence to DOH's recommended guidelines for all golf courses in Hawai'i.

135. Offsite and onsite storm runoff will be retained and will evaporate or infiltrate into the ground. Some of this runoff will probably reach the brackish groundwater underlying the Property but should have no detrimental effect on any aquifer resources.

136. In the long term, the development of the golf course and the residential use of the Property will decrease erosion.

#### ADEQUACY OF PUBLIC SERVICES AND FACILITIES

##### Highway and Roadway Facilities

137. Julian Ng, Incorporated, prepared a traffic impact analysis report dated November 1997 to evaluate the impact of the Project and to identify any roadway improvements that may be needed because of the Project.

138. The proposed Project will convert the existing unsignalized "T"-intersection at Nonohe Place to a cross intersection and add a new "T"-intersection on Hana Highway approximately 2,900 feet to the east. The primary access to the residential development would be from the extension of Nonohe Place, with secondary access provided by a central collector road from the new intersection.

139. The two Project roadways will be collector streets with 56-foot-wide right-of-ways. All other internal roads will

be minor streets with 44-foot-wide right-of-ways. All roads will be designed and constructed to current County standards. The new intersections from the Project to Hana Highway will be designed and constructed to the Department of Transportation ("DOT") standards. All roadways will be dedicated to the County of Maui.

140. The traffic impacts of the Project and the roadway improvements needed to support the Project traffic demands were identified assuming that the Project traffic is in addition to the growth in traffic that was forecasted as part of the Maui Long-Range Land Transportation Plan (1997), a joint effort of the DOT, Maui Planning Department, and the Department of Public Works and Waste Management (DPWWM"). Future peak hour traffic conditions on the two-lane Hana Highway would be described as Level of Service ("LOS") E without the Project traffic. With the addition of Project traffic, highway conditions remain at LOS E; the Project is not expected to change the future LOS on the existing two-lane highway. The Maui Long-Range Transportation Plan identifies the widening of Hana Highway from two to four lanes. With or without the proposed Project, Hana Highway should be widened to four lanes to accommodate future peak hour traffic demands.

141. If Hana Highway is not widened, the intersection at Nonohe Place would require and would meet warrants for signalization. If signalized, peak hour conditions at the intersection would be LOS D or better.

142. The left turn movements out of the secondary central Project collector onto the highway westbound toward

Kahului would have long delays and poor LOS; however, traffic signals would not be warranted at this intersection. Some diversion of left turn traffic to the signalized intersection at Nonoho Place would result in less delays at the new intersection.

#### Water Service

143. The County of Maui Department of Water Supply ("DWS") serves the Spreckelsville area with an existing 8-inch cast iron and 12-inch ductile iron waterlines along Hana Highway. These pipelines have adequate capacity to serve this development.

144. In 1975, Petitioner, together with Wailea Development Company, Inc.; Hawaiiana Investment Company, Inc. (a subsidiary of C. Brewer); and Seibu Real Estate Company, Ltd., formed the Central Maui Source Joint Venture ("Joint Venture") to develop potable water sources for their future projects in the Central Maui and Kihei-Makena regions. Petitioner holds a 21 percent interest in the water source developed by the Joint Venture.

145. The Joint Venture has drilled and developed three wells with a total capacity of 13.5 million gallons per day ("MGD"). The water from these wells is derived from the I'ao Aquifer. These source wells have been dedicated to the County of Maui and are being operated and maintained by DWS. Based upon the installed pumping capacity of 13.5 MGD, Petitioner's allocation is approximately 2.8 MGD.

146. Other sources of water for this system include the 10 MGD Mokuhaui well, the 1 MGD I'ao Tunnel, and the Kepaniwai and Waiehu wells. Existing transmission lines of various sizes

transmit the water to the Spreckelsville/Pa'ia system. The water storage tanks that serve the system are located in Wailuku.

147. The DWS requires that new residential developments base their water systems on a demand factor of 600 gallons per unit per day. The average daily demand for the proposed 400 units will therefore be approximately 0.24 MGD.

148. The source requirement for the Project could be met by using a portion of the 2.8 MGD allocated to Petitioner by the Joint Venture. To date, the actual use of Petitioner's share of water has been approximately 0.8 MGD. There is enough remaining in Petitioner's allocation to serve this Project.

149. The storage requirement for the Project will be equal to 1,000 gallons per lot under the DWS standards. This amounts to a storage facility having a minimum capacity of 400,000 gallons of water. Since there is no storage capacity for any new development in Central Maui, a new tank may have to be built for this Project.

150. A new storage tank, if required, will have to be at an approximate elevation of 165 feet above sea level or higher in order to provide adequate water pressure to the Project. A&B owns land mauka of the Petition Area on which a tank could be built.

151. The onsite distribution system will be connected to the existing 12-inch waterline adjacent to the Petition Area along Hana Highway. The onsite system will be designed and constructed consistent with the standards of the DWS. Upon

completion, all water system improvements will be dedicated to DWS.

152. Irrigation water for the golf course will be supplied from irrigation wells to be developed either onsite or offsite. This water will be brackish but should be able to sustain the grass and landscaping on the golf course, and also the landscaping along the roadways. No potable water is planned to be used to irrigate the golf course.

#### Wastewater Disposal

153. The sewage system for this area consists of an existing County 15-inch gravity sewer line located along Hana Highway at Nonohe Place, at the west end of the Property's northern boundary. There is also an existing 10-inch sewer force main along Hana Highway. The sewage collected from this existing system is transmitted to the existing Wailuku-Kahului Wastewater Reclamation Facility for treatment.

154. The typical residential unit is expected to produce 100 gallons per capita per day ("GPCD") of sewage flow. The DOH currently requires the sewage treatment facilities base their capacity on an assumed flow of 400 gallons per residential unit per day. Applying this rate to 400 residential units, an estimated sewage flow of 160,000 gallons per day will be generated from the Project.

155. Sewage within the Project will be collected by a conventional gravity sewer system that will be connected to the existing 15-inch sewer line at Hana Highway and Nonohe Place. The onsite and offsite sewer systems will be built to the



standards of the DPWWM and will be dedicated to the County of Maui upon completion.

156. The 7.9 MGD Wailuku-Kahului Wastewater Reclamation Facility presently has the capacity to treat flows from the Project.

#### Drainage

157. Storm water runoff on the Property sheet flows towards Hana Highway. The majority of the storm runoff is confined on the Property because of an existing berm along portions of the highway right-of-way and because Hana Highway is higher than adjacent lands within the Petition Area. An existing berm also prevents runoff from entering Kailua Gulch on the eastern boundary of the Property. Runoff from a localized area of the Property flows through an 18-inch drainage culvert crossing Hana Highway and ultimately flows into the MCC golf course.

158. After development of the Project, the peak runoff rates generated onsite during a 100-year storm is calculated to be 287 cubic feet per second ("cfs"), an increase of 136 cfs under existing agricultural conditions.

159. Peak runoff will be dampened by routing the runoff through the golf course. The impact of runoff from the Project will be incorporated in the mitigative measures of overall drainage master plan for the golf course.

160. The onsite drainage improvements required to handle runoff from the development will consist of catch basins, manholes, drain pipes, and culverts within the roadway system.

The onsite underground drainage system for the residential areas will discharge directly into the proposed golf course. The drainage systems will be designed in accordance with the County of Maui Code and will follow the criteria identified in the approved drainage master plan.

161. No significant amount of offsite water runoff will impact the Property due to planned perimeter berming just outside the southern and western boundaries of the Property. This will provide a barrier preventing any offsite runoff from entering the Property. The offsite runoff will be confined to ponding on the sugarcane fields adjacent to the development where the standing water will percolate through the soil or evaporate. The ponding is not expected to last long enough to create a mosquito problem.

#### Solid Waste Disposal

162. The proposed Project will generate solid waste during construction and after development. Construction wastes will primarily consist of vegetation, rocks, and debris resulting from clearing and grubbing the site at the onset of construction.

163. The typical range of per capita solid waste generation from a municipal source (residential and commercial) is 2.0 to 5.0 pounds per capita per day (lb/capita/day). Municipal solid waste generation from the proposed Project is estimated to be 2.2 tons/day based on an average per capita generation rate of 4.0 lb/capita/day. The solid waste composition is expected to be typical for a municipal source.

164. Solid waste from the golf course shall be managed in a manner that does not create a nuisance. Whenever possible,

composting of green wastes for subsequent use as a soil conditioner or mulching material will be utilized. The composting and reuse shall be confined to the golf course properties to eliminate the necessity for offsite transport of the raw or processed material. In addition, during construction the applicant will utilize locally-produced compost and soil amendments whenever available.

165. It is anticipated that refuse generated by the single-family residential development will be collected by DPWWM. The proposed Project will be a new generator of solid waste. Generation of construction wastes will be a short-term impact. The contractor will be required to remove all debris from the Property to mitigate the environmental impact.

166. Solid waste will be collected by the DPWWM and disposed of at the County of Maui-owned and operated Central Maui Sanitary Landfill located in Pu'unene. Construction work to expand the landfill has been started and the County of Maui has indicated there will be adequate capacity for additional solid waste, including this Project, for the next five years. With the planned expansion of the next cell, the landfill will have the capacity for the projected solid waste for an additional 10 years. The landfill could be expanded in the future on adjacent lands of the rock quarry currently being mined by Ameron, Inc.

#### Schools

167. The Property is within the Kahului-Wailuku school district, which has 11 elementary schools and five high schools.

168. Existing public schools that serve the area around the Petition Area include Lihikai Elementary, Maui Waena Intermediate, and Maui High Schools. According to the Department of Education ("DOE"), the 1997-1998 school year capacities of these schools were 1,035, 991, and 1,771 students, respectively. Enrollments during the 1997-1998 school year were 1,035, 948, and 1,734 students, respectively.

169. The DOE estimates that the Project would generate 88 elementary school, 38 intermediate school, and 42 high school-aged children. If the projected number of school aged children from the proposed Project are added to current enrollments, the elementary school would be at the over capacity condition and the high school would be just over capacity condition.

170. Although the Project would contain students of elementary, intermediate, and high school age, the primary purchasers of homes in the Project will be families who already live on Maui. To the extent that these families move into the Project from other parts of Maui or the State, this will result in a corresponding reduction in enrollment in other DOE facilities.

171. The DOE has requested that the Commission include a fair-share contribution for school facilities as part of its approval.

#### Police and Fire Protection

172. The Property is near the boundary of the Kahului and UpCountry service districts. Depending on the time of day,

response time fluctuates between five and fifteen minutes. The Project is not anticipated to reduce response times or overall service.

173. Fire service to the Petition Area is provided by the Pa'ia Fire Station (approximately 1 mile away) and by the main fire station in Kahului (approximately 5 miles away). Recent upgrades at Dairy Road provide an Engine Company and a Rescue Company to the existing fire protection services. It is not anticipated that the Project will reduce response times or overall service.

174. A Rapid Deployment Team ("RDT"), which is recognized by the DOH and is a part of an advisory committee to the Director of the Department, has been developed on Maui. The purpose of the RDT is to rapidly deploy trained medical personnel and disaster emergency medical supplies to the scene of a mass casualty incident within the County of Maui. The RDT has four resources available for the transfer of RDT members and/or patients to appropriate medical care facilities on Maui or O'ahu. These resources include ambulances, private vans with police escort, fixed wing aircraft, and helicopters.

#### Electricity, Telephone, and Cable Services

175. Maui Electric Company, Limited ("MECO"), provides power to Spreckelsville and Pa'ia. Overhead transmission lines run along Hana Highway fronting this Project. MECO has sufficient capacity to provide electric power to the proposed Project. An underground distribution system located within the

roadway rights-of-way is planned according to MECO standards and will be operated and maintained by MECO.

176. GTE Hawaiian Telephone Company will provide service to the proposed Project. Telephone lines will be installed underground and operated and maintained by GTE.

177. TCI of Hawaii, Inc., will provide cable TV service. The cable lines will also be installed underground and operated by TCI of Hawaii, Inc.

178. There is no siren coverage in the area. The State Department of Civil Defense recommends that a siren simulator be purchased and installed inside the facility.

CONFORMANCE TO THE URBAN DISTRICT STANDARDS

179. Pursuant to section 205-17(2), HRS, and section 15-15-77(b)(2), HAR, reclassification of the Property conforms with the Urban District standards set forth in section 15-15-18, HAR, as amended, for determining the boundaries for the Urban District:

a. The Property is contiguous to existing urban areas which contain "city-like" concentrations of people, structures, streets, and urban levels of service. Lands north of the Property are classified within the Urban District under the State Land Use District Classification, are designated Park and Single Family in the Community Plan, and are zoned "Agriculture" and "Residential" under the County of Maui Zoning Ordinances. These lands are developed with residential homes, a nine-hole golf course, and a County park.

b. The Project is in close proximity to various centers of trading and employment, including lower Pa'ia town (1/2 mile), Kahului Airport (2 miles), Pu'unene (4 miles), Kahului (5 miles), and Wailuku (8 miles).

c. The Property is, or upon the completion of necessary offsite and onsite infrastructure will be, adequately serviced by schools, parks, wastewater, solid waste disposal, drainage, water and transportation systems, public utilities, and police and fire protection.

d. The proposed reclassification will provide sufficient reserve for foreseeable urban growth.

e. The Property consists of satisfactory topography, drainage and soil conditions, and is free from the danger of flood, tsunami, seismic hazards, volcanic activity and unstable soil conditions, and is not affected by other adverse environmental conditions that would render it unsuitable or inappropriate for the proposed Project.

f. The Property is contiguous with or in close proximity to existing urban areas and is appropriate for urban expansion. It has been recommended for single-family residential and park (golf course) use in the County of Maui's currently pending update of the Community Plan, by the Wailuku-Kahului Citizens Advisory Committee, Maui Planning Department, and Maui Planning Commission.

g. The Property is adjacent to an existing residential community and will not contribute toward scattered spot urban development. Petitioner will develop or arrange for

all additional infrastructure required to service the proposed Project, and public infrastructure and support services will not be unreasonably burdened by or require any unreasonable investment as a result of the proposed Project.

h. The Property does not consist of lands having a slope of 20 percent or more.

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

180. Pursuant to section 205-17(1), HRS, and section 15-15-77(b)(1), HAR, the Commission has determined that the reclassification of the Property conforms to the Hawai'i State Plan, chapter 226, HRS, as amended, with respect to the following objectives and policies:

- a. (1) Section 226-5(b)(1): Manage population growth statewide in a manner that provides increased opportunities for Hawai'i's people to pursue their physical, social, and economic aspirations while recognizing the unique needs of each county.
- (2) Section 226-5(b)(3): Promote increased opportunities for Hawai'i's people to pursue their socio-economic aspirations throughout the islands.

The urbanization of the Property would provide lands for future housing and economic opportunities for the residents of the State in conformance with existing State and County land use policies.

- b. (1) Section 226-5(b)(2): Encourage an increase in economic activities and employment opportunities on the Neighbor Islands consistent with community needs and desires.



- (2) Section 226-6(a)(1): Increased and diversified employment opportunities to achieve full employment, increased income and job choice, and improved living standards for Hawai'i's people.
- (3) Section 226-6(a)(2): A steadily growing and diversified economic base that is not overly dependent on a few industries.

Development of this Project will create housing and recreational opportunities, stimulate the economy during the construction period, and enhance County of Maui revenue from a significant increase in real property taxes.

The total Hawai'i employment associated with the Project, based on site construction costs of \$23.8 million and approximately \$41.3 million for housing construction, could total 1,530 person-years, including induced and indirect positions, over the 2001 to 2013 year construction time period. In addition to the construction-related positions, the Project will support permanent jobs as facilities are completed and occupied. Direct operational jobs are projected to stabilize at about 38 positions. These new employment opportunities could include jobs related to the expanded MCC, and to residential home sales and maintenance. The majority of such jobs could be expected to be located onsite and within the MCC.

- c. (1) Section 226-11(a)(2): Effective protection of Hawai'i's unique and fragile environmental resources.
- (2) Section 226-11(b)(3): Take into account the physical attributes of areas when planning and designating activities and facilities.

- (3) Section 226-11(b)(8): Pursue compatible relationships among activities, facilities and natural resources.

The Petition Area contains satisfactory topography, drainage, and is reasonably free from the danger of floods, tsunami, unstable soil conditions, and other adverse environmental effects.

No unique or fragile environmental resources will be impacted by this Project. The location of the Project on disturbed lands, near an existing urban area (Spreckelsville), and near available infrastructure was taken into account when designing the proposed Project.

- d. (1) Section 226-1(b)(1): Promote the presentation and restoration of significant natural and historic resources.
- (2) Section 226-12(b)(4): Protect those special areas structures and elements that are an integral and functional part of Hawai'i's ethnic and cultural heritage.
- (3) Section 226-12(b)(5): Encourage the design of developments and activities that complement the natural beauty of the islands.

The Project will have no effect on archaeological or historic resources nor does the Property contain any native Hawaiian cultural or religious resources.

The proposed Project is generally consistent with the intent of the County of Maui's General Plan. The plan envisions a community that is fully integrated into its natural setting,

based on available site attributes suitable for the uses proposed.

- e. (1) Section 226-13(b)(2): Promote the proper management of Hawai'i's land and water resources.
- (2) Section 226-13(b)(3): Promote effective measures to achieve desired quality in Hawai'i's surface ground and coastal waters.
- (3) Section 226-13(b)(6): Encourage design and construction practices that enhance the physical qualities of Hawai'i's communities.
- (4) Section 226-13(b)(7): Encourage urban developments in close proximity to existing services and facilities.

The proposed Project will not impact land and water resources and will be designed to retain all increases in runoff from existing conditions onsite.

The Project is consistent with the existing character of the adjacent community and will add a park and additional golf opportunities. Design controls will ensure a high quality residential setting with an open space character.

- f. (1) Section 226-19(b)(1): Effectively accommodate the housing needs of Hawai'i's people.
- (2) Section 226-19(b)(3): Increase home ownership and rental opportunities and choices in terms of quality, location, cost, densities, style, and size of housing.
- (3) Section 226-19(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.

- (4) Section 226-19(b)(7): Foster a variety of lifestyles traditional to Hawai'i through the design and maintenance of neighborhoods that reflect the culture and values of the community.

The proposed Project will provide a range of homes, with amenities such as a golf course and park, in a desirable location, near the Wailuku-Kahului urban core (employment, shopping, parks and beaches).

Components of the Project are planned to blend into its natural setting as well as its built setting. It is located adjacent to an existing community and golf course, and will add to the existing sense of community and foster cohesiveness.

- g. Section 226-23(b)(6): Assure the availability of sufficient resources to provide for future cultural, artistic and recreational needs.

The proposed Project will add to recreational resources as it includes a park and a golf course expansion.

- h. (1) Section 226-103(a): Priority guidelines to stimulate economic growth and encourage business expansion and development to provide needed jobs for Hawaii's people and achieve a stable diversified economy.
- (2) Section 226-104(a)(1): Encourage planning and resource management to insure that population growth rates throughout the State are consistent with available and planned resource capacities and reflect the needs and desires of Hawai'i's people.
- (3) Section 226-104(b): Priority guidelines for regional growth distribution and land resource utilization.

- (4) Section 226-106(8): Give higher priority to the provision of quality housing that is affordable for Hawaii's residents and less priority to development of housing intended primarily for individuals outside of Hawaii.

The requested reclassification of the Petition Area is reasonable and appropriate given (1) its location in relation to immediately adjacent lands which are in the Urban District; (2) the proximity of the Property to existing urban, commercial, industrial, and residential uses and employment centers; (3) the recommended Single-Family and Park designations of the Property in the Community Plan update; and (4) the market demand for the residences to be developed on the Property.

181. Pursuant to section 205-17(1), HRS, and section 15-15-77(b)(1), HAR, the Commission has determined that the reclassification of the Property conforms to the following functional plans:

- a. State Housing Functional Plan

The Project directly supports the Housing Functional Plan because it will provide additional housing opportunities for residents of Maui and the State of Hawai'i.

- b. State Agriculture Functional Plan

Development of this Project will remove 212 acres from sugarcane production. However, given the strong demand for urban lands with existing or developable infrastructure, the potential benefits from the urbanization of the subject property are considered to outweigh the loss of the

potential agricultural production, especially given the large inventory of available agricultural lands. These lands represent a logical expansion of residential land uses, because of their proximity to existing and planned urban areas and the proximity of infrastructure. It is anticipated that there will be no significant impact on the availability of land for diversified agriculture and no impact on the economic viability of sugarcane cultivation.

From a State-wide perspective, the proposed Project would not adversely affect the growth of diversified agriculture based on the vast amount of agricultural land in the State that has been or is scheduled to be freed from sugar and pineapple production due to plantation closings and reductions in operations.

c. State Recreation Functional Plan

The Project includes the development of a park and a new 9-hole golf course. The residents of this Project will have ready access to nearby Baldwin Park and various other public beaches and parks that provide beach access, picknicking, and playing fields.

d. State Employment Functional Plan

The goals and objectives of the Employment Functional Plan will be satisfied through the creation of employment during the construction, marketing, and sales phases of the Project. The total cost of the Project, estimated at \$72.6 million, will provide a significant infusion of capital into Maui's economy. Total employment associated with

construction of the Project, including induced and indirect positions, could total about 1,530 person-years over the 2001 to 2013 projection period.

182. Pursuant to section 205-17(3), HRS, and section 15-15-77(b)(3), HAR, the Commission has determined that the reclassification of the Property conforms to the following areas of State concern:

- (a) Preservation or maintenance of important natural systems or habitats;
- (b) Maintenance of valued cultural, historical, or natural resources; and
- (c) Maintenance of other natural resources relevant to Hawai'i's economy, including, but not limited to, agricultural resources.

The development of the Property will have no significant adverse effects upon agricultural, natural, environmental, recreational, scenic, historic, or other resources of the area.

- (d) Commitment of State funds and resources.

Petitioner will be providing or arranging for the necessary onsite and additional offsite improvements for the proposed Project. Only minimal impacts upon State funds and resources are anticipated.

- (e) Provisions for employment opportunities and economic development.

The proposed Project will generate increased short-term direct and indirect employment during and after construction, and will have a minimal impact on employment at HC&S (no job loss). Total employment associated with

construction of the Project, including induced and indirect positions, could total about 1,530 person-years over the 2001 to 2013 projection period. Wages and salaries paid to those directly employed in the Project's development and operations are expected to peak at an annual average of about \$2.63 million from 2004 to 2008, when there is still considerable construction activity ongoing, and stabilize at about \$0.77 million by 2014, when the construction wages are essentially gone, in 1998 dollars.

- (f) Provisions of housing opportunities for all income groups, particularly low, low-moderate, and gap group

Based on 1998 dollars, house and lot sales price are projected to range from \$220,000 to \$350,000. Based on median household income (\$53,600) established by the United States Department of Housing and Urban Development for Maui in 1997, it is anticipated that approximately a third of the homes would be priced to be affordable to persons in the 100 percent to 120 percent of median income category, a third would be priced for persons in the 120 percent to 140 percent of median income category, and the final third would be priced above the 140 percent of median income category.

183. Pursuant to section 15-15-77(b)(4), HAR, the proposed Project is generally consistent with the intent of the County of Maui's General Plan. The plan envisions a community that is fully integrated into its natural setting, based on available site attributes suitable for the uses proposed.



184. Pursuant to section 205-17(4), HRS, and section 15-15-77(b)(5), HAR, Petitioner has made the following representations and commitments:

a. Petitioner is willing to coordinate the development of the golf course with the DOT in terms of planning for the golf course to ensure that the golf course and the roadway improvements were jointly planned.

b. Petitioner is willing to enter into an avigational easement with the State which would cover any portion of the Property within the 55 Ldn line.

c. Petitioner is willing to proceed through the zoning process in pursuing the development of the Project.

d. Petitioner is willing to consider concerns that might be raised regarding planning for the park as this Project proceeds through the Community Plan process and zoning process.

e. Petitioner is willing to use indigenous and water conserving plants and turf and incorporate the same into the proposed golf course and related Project common area landscape plantings.

f. Petitioner is willing to consider the use of buffers or fences in the area adjacent to Kailua Gulch to provide a measure of safety to residents as well as to mitigate adverse impacts from the Project upon Kailua Gulch.

185. Pursuant to section 15-15-77(b)(5), HAR, the Commission has determined that Petitioner has the necessary

economic ability to carry out the representations and commitments relating to the proposed Project.

186. Pursuant to section 15-15-77(6), HAR, the Commission has determined that the removal of 212 acres from the Agricultural District (A) will not substantially impair actual or potential agricultural production in the vicinity of the Property, the County of Maui nor the State; and (B) is reasonably necessary for urban growth.

CONFORMANCE WITH COASTAL ZONE MANAGEMENT OBJECTIVES AND POLICIES

187. The Property is located within the Coastal Zone Management Area but is not within the Special Management Area as both are defined in chapter 205A, HRS. Based on the nature and scope of the proposed Project, the Project should have no impact on the Coastal Zone Management Area, and is consistent with various objectives and policies of the Coastal Zone Management Program, as set forth in chapter 205A, HRS.

188. The Property is not located along the shoreline or next to any beaches. Drainage basins within the Property will capture onsite drainage generated by the Project, and wastewater generated by the Project will be collected, treated, and disposed of by the County of Maui's wastewater treatment system. There are no important archaeological, cultural, historic, or biological resources within the Petition Area. The Project will not block or impair any views or vistas from or to the shoreline and thus helps to preserve the scenic values of the coastal zone. The location of the proposed Project away from the coast will preserve coastal ecosystems from adverse impacts. Development of

the Project will provide needed housing facilities in a location suitable for residential development. The Property is not located in an area subject to tsunami, storm waves, stream flooding erosion and subsidence, or pollution. The Property is located within flood "Zone C" ("area of minimal flooding"), and its development will require no extraordinary grading or cutting of the land.

189. The proposed Project is not expected to be subject to any coastal hazards or have any significant impact on any coastal recreational resources, historic resources, scenic and open space resources, coastal ecosystems, beaches or marine resources, in accordance with the objectives and policies described in sections 205A-2(b)(1), (2), (3), (4), (6), (9), and (10), HRS, and sections 205A-2(c)(1), (2), (3), (4), (6), (9), and (10), HRS.

#### INCREMENTAL DISTRICTING

190. The Project is intended to be completed within ten years from the date of the Commission's action.

#### RULING ON PROPOSED FINDINGS OF FACT

Any of the proposed findings of fact submitted by Petitioner or the other parties to this proceeding 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 proposed reclassification of the Property, consisting of approximately 212 acres of land in the State Land Use Agricultural District at Spreckelsville, Wailuku, Island and County of Maui, State of Hawai'i, identified as Tax Map Key No. 3-8-01: portion 7, 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. A98-725 filed by Petitioner A & B Properties, Inc., a Hawai'i corporation, consisting of approximately 212 acres of land at Spreckelsville, Island and County of Maui, State of Hawai'i, identified as Tax Map Key No. 3-8-1: portion 7, and approximately shown on Exhibit "A", attached hereto and incorporated by reference herein, shall be and is hereby reclassified from the State Land Use Agricultural District to the State Land Use Urban District, and the State land use district boundaries shall be amended accordingly, subject to the following conditions:

1. Petitioner shall provide affordable housing opportunities for 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 its fair-share 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 Petitioner obtaining approval for County zoning.

3. Petitioner shall fund and construct adequate wastewater transmission and disposal facilities for the proposed development, as determined by the County of Maui Department of Public Works and Waste Management ("DPWWM") and 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 DPWWM. Should the Project connect to the proposed Pa'ia Bypass,

then Petitioner shall participate in the design, acquisition and/or development of the bypass, as appropriate.

5. Petitioner, developer and/or landowners of the affected properties 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, developers and/or landowners of the affected properties 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 DOH. Petitioner shall notify all prospective buyers of property of the potential odor, noise and dust pollution resulting from surrounding Agricultural District land. Petitioner shall notify all prospective buyers of property that the Hawai'i Right-to-Farm Act, Chapter 165, HRS, limits the circumstances under which pre-existing farm activities may be deemed a nuisance.

8. Petitioner shall ensure that the proposed Project will not adversely impact the use of cane haul roads and

irrigation ditches or adversely impact the continued agricultural operation of adjoining sugarcane cultivation areas.

9. 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 DOH, Natural Resources Conservation Service of the U.S. Department of Agriculture, and County agencies.

10. 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 with and approved by appropriate State and County agencies. Petitioner shall coordinate with the Department of Water Supply and provide the necessary information to facilitate the inclusion of the Project in the Water Use and Development Plan.

11. Petitioner shall provide buffer strips to mitigate adverse impacts from the agricultural activities in the surrounding area. Petitioner shall provide appropriate buffer strips to mitigate adverse impacts on the subject development area from surrounding agricultural activities as determined during the County zoning process.

12. Petitioner shall develop and implement Golf Course Management Measures pertaining to grading, site preparation, nutrients, pest control, and irrigation to the satisfaction of the Clean Water Branch, State Department of Health.

13. Petitioner, where feasible, will use indigenous and water conserving plants and turf and incorporate the same into the golf course and related Project common area landscape planting.

14. Petitioner will consider the use of buffers or fences in the area adjacent to Kailua Gulch to provide a measure of safety to the Project residents as well as to mitigate adverse impacts from the proposed development on Kailua Gulch.

15. Petitioner shall obtain an amendment to the Wailuku-Kahului Community Plan in order to redesignate the Petition Area to the proposed residential and park (golf course) uses.

16. The Petition Area shall not be developed for the purposes represented by this Petition until such time as the Property is properly zoned for the respective residential, golf course and park use; and shall not bypass the county zoning process.

17. The lands within the Petition Area shall be used in accordance with all applicable Agricultural zoning ordinances as long as the Property remains zoned Agriculture.

18. Petitioner shall reserve a setback on its properties from Haleakala Highway to and including the subject property for the future widening of Hana Highway, to be dedicated to the DOT when needed. Petitioner shall coordinate the development of the golf course with the DOT, and the plans and documents for the golf course shall reflect the future roadway widening, as appropriate, to attest to that the golf course and



roadway improvements were jointly planned. The performance of Petitioner's obligations under this condition including the value of the land subject to any setback, shall be taken into full account in determining Petitioner's obligations under other conditions imposed by this Order.

19. The developer and/or landowner of the subject Property shall grant to the State of Hawai'i, if requested by the State, an avigation (right of flight) and noise easement for portions of the Subject Property at or greater than the 55 Ldn line and in the form prescribed by the State of Hawai'i Department of Transportation.

20. Petitioner shall develop the Property in substantial compliance with the representations made to the Land Use 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.

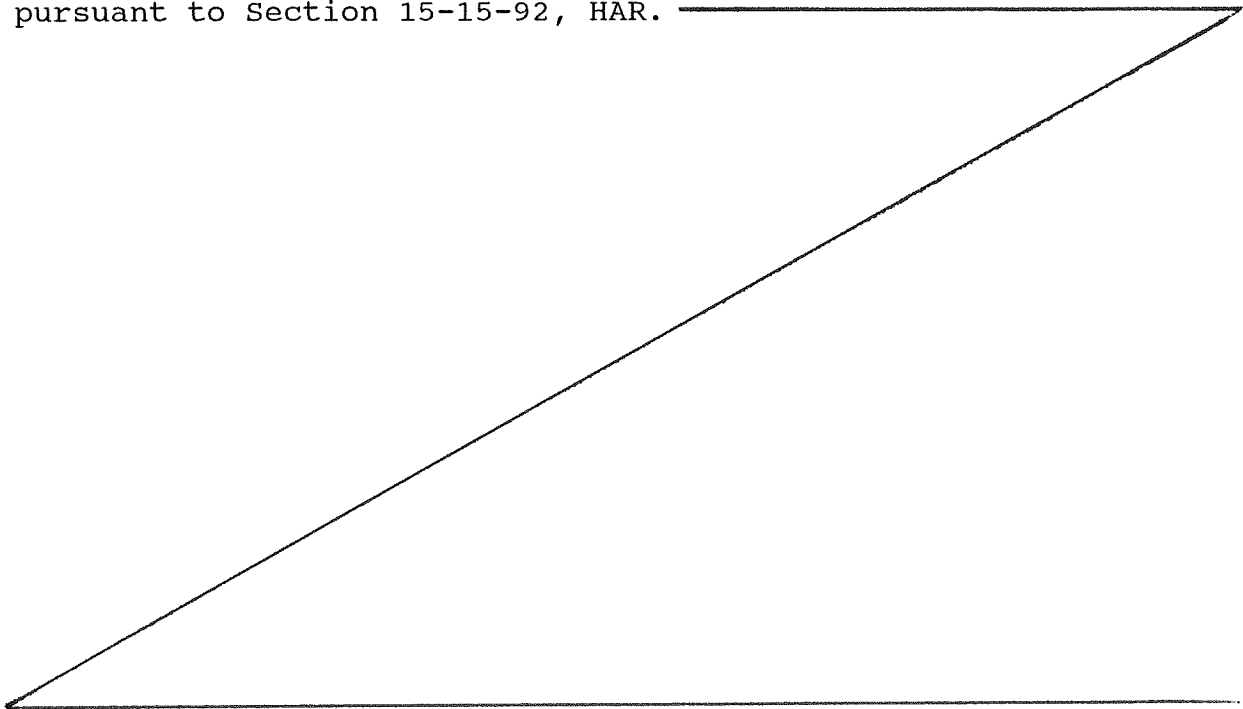
21. Petitioner shall give notice to the Land Use Commission of any intent to sell, lease, assign, place in trust, or otherwise voluntarily alter the ownership interests in the Property, prior to development of the Property.

22. Petitioner shall timely provide without any prior notice, annual reports to the Land Use 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 Land Use Commission.

23. The Land Use 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.

24. Within seven (7) days of the issuance of the Land Use 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 Land Use Commission.

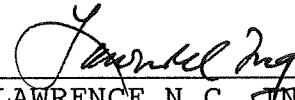
25. Petitioner shall record the conditions imposed herein by the Land Use Commission with the Bureau of Conveyances pursuant to Section 15-15-92, HAR.




Done at Honolulu, Hawai'i, this 14th day of July 1999,  
per motion on July 8, 1999.


LAND USE COMMISSION  
STATE OF HAWAI'I

By \_\_\_\_\_ (excused)  
MERLE A. K. KELAI  
Chairperson and Commissioner

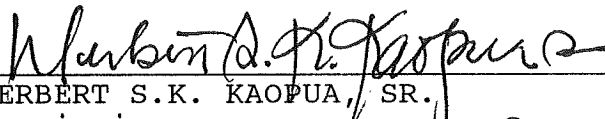
By   
LAWRENCE N.C. ING  
Vice Chairperson and Commissioner

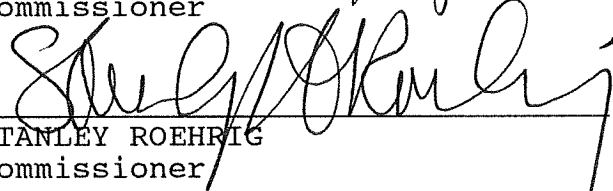
By \_\_\_\_\_ (excused)  
P. ROY CATALANI  
Commissioner


By   
PRAVIN DESAI  
Commissioner

By   
ISAAC FIESTA, JR.  
Commissioner

By \_\_\_\_\_ (opposed)  
M. CASEY JARMAN  
Commissioner

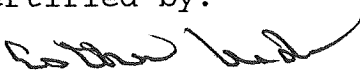
By   
HERBERT S.K. KAOPUA, SR.  
Commissioner

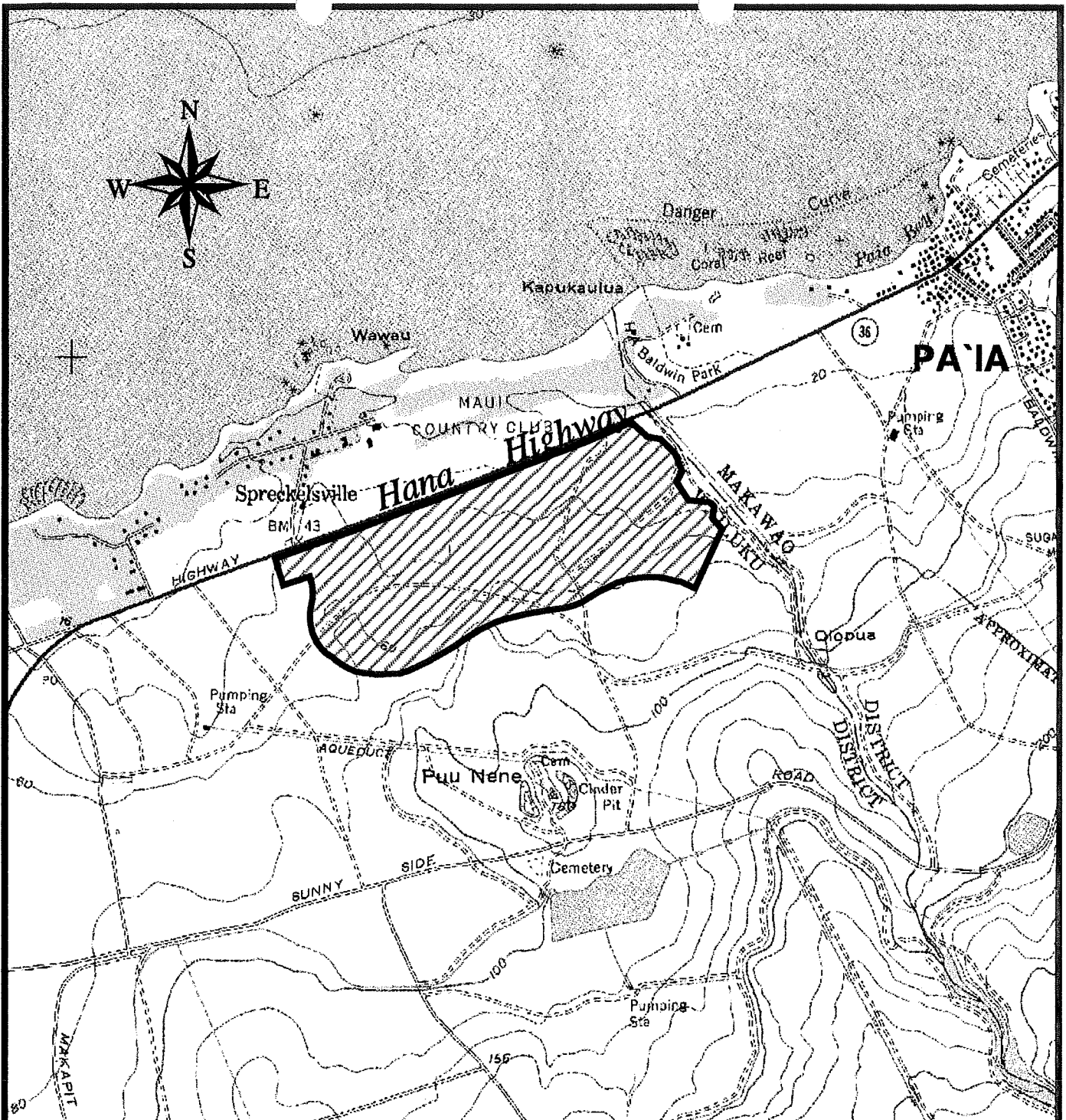
By   
STANLEY ROEHRIG  
Commissioner

By   
PETER YUKIMURA  
Commissioner

Filed and effective on  
July 14, 1999

Certified by:

  
Executive Officer



**A98-725 / A&B PROPERTIES, INC.,**

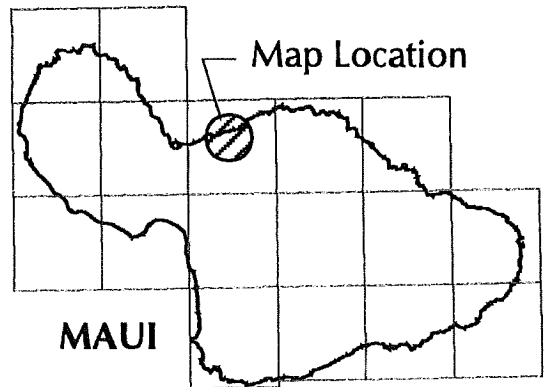
**a Hawai'i Corporation**

**LOCATION MAP**

TAX MAP KEY No.: 3-8-01:  
 portion 7  
 SPRECKELSVILLE, WAILUKU,  
 ISLAND AND COUNTY OF MAUI,  
 STATE OF HAWAII

 APPROVED AREA

**EXHIBIT "A"**



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

In the Matter of the Petition of )  
A & B PROPERTIES, INC. )  
To Amend the Agricultural Land Use )  
District Boundary into the Urban )  
Land Use District for Approximately )  
212 Acres of Land at )  
Spreckelsville, Wailuku, Island and )  
County of Maui, State of Hawai'i, )  
TMK No. 3-8-01: portion 7 )  
\_\_\_\_\_ )

DOCKET NO. A98-725  
CERTIFICATE OF SERVICE

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. DAVID W. BLANE, Director  
Office of Planning  
P. O. Box 2359  
Honolulu, Hawaii 96804-2359


CERT. JOHN E. MIN, Director of Planning  
Planning Department, County of Maui  
250 South High Street  
Wailuku, Hawaii 96793

CERT. JAMES B. TAKAYESU, ESQ.  
Corporation Counsel  
Office of the Corporation Counsel  
County of Maui  
200 South High Street  
Wailuku, Hawaii 96793

CERT. BENJAMIN MATSUBARA, ESQ., Attorney for Petitioner  
Matsubara Lee & Kotake  
888 Mililani Street, Ste. 800  
Honolulu, Hawaii 96813

CERT. Stanley M. Kuriyama, Executive Vice President  
A & B Properties, Inc.  
P.O. Box 3440  
Honolulu, Hawaii 96801-3440

DATED: Honolulu, Hawaii, this 14th day of July 1999.

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