

BEFORE THE LAND USE COMMISSION

OF THE STATE OF HAWAII

In The Matter Of The Petition Of:) DOCKET NO. A05-755
)
HALE MUA PROPERTIES, LLC) ORDER GRANTING PETITIONER'S
) MOTION TO AMEND CAPTION
To Amend the Land Use District) AND FINDINGS OF FACT,
Boundary Of Certain Lands Situated at) CONCLUSIONS OF LAW, AND
Waiehu, Island of Maui, State of Hawai'i,) DECISION AND ORDER FILED
Consisting Of 240.087 Acres from the) FEBRUARY 12, 2007
Agriculture and Rural Districts to the)
Urban District, Tax Map Key No. 3-3-002:)
001 (por.).)
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ORDER GRANTING PETITIONER'S MOTION TO AMEND FINDINGS OF FACT,
CONCLUSIONS OF LAW, AND DECISION AND ORDER FILED FEBRUARY 12, 2007
AND CAPTION

This is to certify that this is a true and correct copy of the document on file in the office of the State Land Use Commission, Honolulu, Hawaii.

AUG 16 2007

Date

by


Executive Officer

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ORDER GRANTING PETITIONER'S MOTION TO AMEND FINDINGS OF
FACT, CONCLUSIONS OF LAW, AND DECISION AND ORDER FILED
FEBRUARY 12, 2007 AND CAPTION

The Land Use Commission ("Commission"), having examined the Motion To Amend Findings Of Fact, Conclusions Of Law, And Decision And Order filed February 12, 2007 and Caption (the "Motion") filed by Hale Mua Properties, LLC ("Petitioner") on April 20, 2007, and the Office of Planning's Statement of No Opposition to Petitioner's Motion filed on May 1, 2007, and upon consideration of the matters discussed therein, at its meeting of July 26, 2007 in Kahului, Maui, hereby makes the following findings.

The metes and bounds description of the Reclassified Area, prepared in compliance with Condition No. 18 of the Decision and Order by registered land surveyor Edgardo V. Valera, Licensed Professional Land Surveyor (State of Hawaii Certificate No. 5076), shows that the Reclassified Area more accurately consists of 116.177 acres, instead of 117.293 acres. Furthermore, the metes and bounds map of the Denied Area prepared by Edgardo V. Valera, more accurately consists of 122.004 acres, instead of 120.888 acres. Pursuant to the Motion, the Decision and Order should be amended to reflect the area of the Denied Area as 122.004 acres of the Petition Area, consisting of 115.855 acres in the State Land Use Agricultural District and 6.149 acres in the State Land Use Rural District. The Decision and Order should also be amended to reflect the area of the Reclassified Area to be 116.177 acres. The amended acreages should be reflected in Findings of Fact 50, 101, 102, 103, 131 and 232 Conclusion of Law 1 and 2, and the Decision and Order of the original Decision and Order document. The caption in the subject docket has been amended to reflect the corrected acreage.

ORDER

Having duly considered the written arguments presented by Petitioner and the Office of Planning, and the motion to grant Petitioner's Motion having received the affirmative votes required by section 15-15-13, HAR, this

Commission hereby GRANTS Petitioner's Motion, and amends the original

Decision and Order as follows:

1. Finding of Fact 102 is amended to read in its entirety as follows:

102. The Project's 19 large lots represent approximately 122.004 acres of the Petition Area, with approximately 115.855 acres in the State Land Use Agricultural District and approximately 6.149 acres in the State Land Use Rural District.

2. Finding of Fact 103 is amended to read in its entirety as follows:

103. The Project's 238 affordable units and 209 market-priced residential lots represent approximately 116.177 acres of the Petition Area, all of which are within the State Land Use Agricultural District.

3. Finding of Fact 131 is amended to read in its entirety as follows:

131. The location of the Petition Area, coupled with the demand for affordable housing in the County of Maui, outweighs the impact on agriculture in the County of Maui and the State of Hawai'i. The loss of productive agricultural land associated with the development of the Project is not expected to be significant as the reclassification of the Petition Area's 240.087 acres would represent a reduction of only 0.1 percent of the lands designated agricultural on the island of Maui.

4. Finding of Fact 242 is amended to read in its entirety as follows:

242. Reclassification of the area underlying the proposed 238 affordable units and the proposed 209 market-priced residential lots, consisting of approximately 116.177 acres of the Petition Area, from the State Land Use Agricultural District to the State Land Use Urban District will allow for the development of the Project consistent with the 201G Approval and will not contribute to scattered spot urban development given the Petition Area's location adjacent to existing urban development and close proximity to the towns of Wailuku and Waihee.

Conclusion of Law 1 is amended to read in its entirety as follows:

1. Pursuant to chapter 205, HRS and chapter 15-15, HAR, the LUC finds upon the clear preponderance of the evidence that the reclassification of a portion of the Petition Area, consisting of approximately 116.177 acres from the State Land Use Agricultural District to the State Land Use Urban District for the development of 238 affordable units and 209 market-priced residential lots, situated at Waiehu, Island of Maui, State of Hawai'i, identified as Tax Map Key No. 3-3-002:031 (por.), upon the conditions set forth in this Decision and Order, is reasonable, conforms to the standards for establishing the State Land Use Urban District boundaries, is consistent with the Hawai'i State Plan as set forth in chapter 226, HRS, is not violative of section 205-2, HRS, and is consistent with the policies and criteria established pursuant to sections 205-16, 205-17, and 205A-2, HRS.

Conclusion of Law 2 is amended to read in its entirety as follows:

2. The reclassification of the Project's 19 large lots, consisting of approximately 120.004 acres, from the State Land Use Agricultural District to the State Land Use Urban District is not reasonable.

The first, second and third paragraphs of the Decision and Order are amended in their entirety to read as follows:

IT IS HEREBY ORDERED that the reclassification request for the Project's 19 large lots, representing 120.004 acres of the Petition Area, consisting of 115.855 acres in the State Land Use Agricultural District, and approximately shown on Exhibit "A" attached hereto and incorporated by reference herein, is DENIED.

IT IS HEREBY FURTHER ORDERED that a portion of the Petition area, consisting of approximately 116.177 acres in the State Land Use Agricultural District for the development of 238 affordable units and 209 market-priced residential lots (the "Reclassified Area"), situated at Waiehu, Island of Maui, State of Hawai'i, identified as Tax Map Key No. 3-3-002:031 (por.), 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.

Based upon the findings of fact and conclusions of law stated herein, it is hereby determined that the reclassification of approximately 116.177 acres of the Petition Area for the development of 238 affordable units and 209 market-priced residential lots will not significantly affect or impair the preservation or maintenance of natural systems and habitats or the valued cultural, historical, agricultural, and natural resources of the area.

The caption of this docket is amended to read as follows:

To Amend the Land Use District Boundary Of Certain Lands Situated at Waiehu, Island of Maui, State of Hawai'i, Consisting Of 238.181 Acres from the Agricultural and Rural Districts to the Urban District, Tax Map Key No. 3-3-002:001(por.).


All other findings of fact, conclusions of law, and conditions in the original Decision and Ordered issued on February 12, 2007 are affirmed and continue in full force and effect.

ADOPTION OF ORDER

The undersigned Commissioners, being familiar with the record and proceedings, hereby adopt and approve the foregoing ORDER this 16th day of August, 2007. This ORDER and its ADOPTION shall take effect upon the date this ORDER is certified and filed by this Commission.

Done at Honolulu, Hawai'i, this 16th day of August, 2007, per motion on July 26, 2007.


APPROVED AS TO FORM


Deputy Attorney General

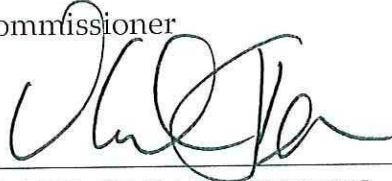
LAND USE COMMISSION
STATE OF HAWAII

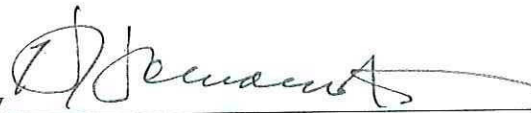
By Lisa M. Judge
LISA M. JUDGE
Chairperson and Commissioner

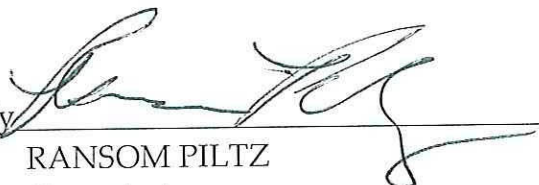
By (absent)
MICHAEL FORMBY
Vice-Chairperson and Commissioner


By 
DUANE KANUHA
Vice-Chairperson and Commissioner

By 
THOMAS CONTRADES
Commissioner

By 
VLADIMIR PAUL DEVENS
Commissioner

By 
HOWARD HAMAMOTO
Commissioner

By 
RANSOM PILTZ
Commissioner

By 
NICHOLAS W. TEVES, JR.
Commissioner

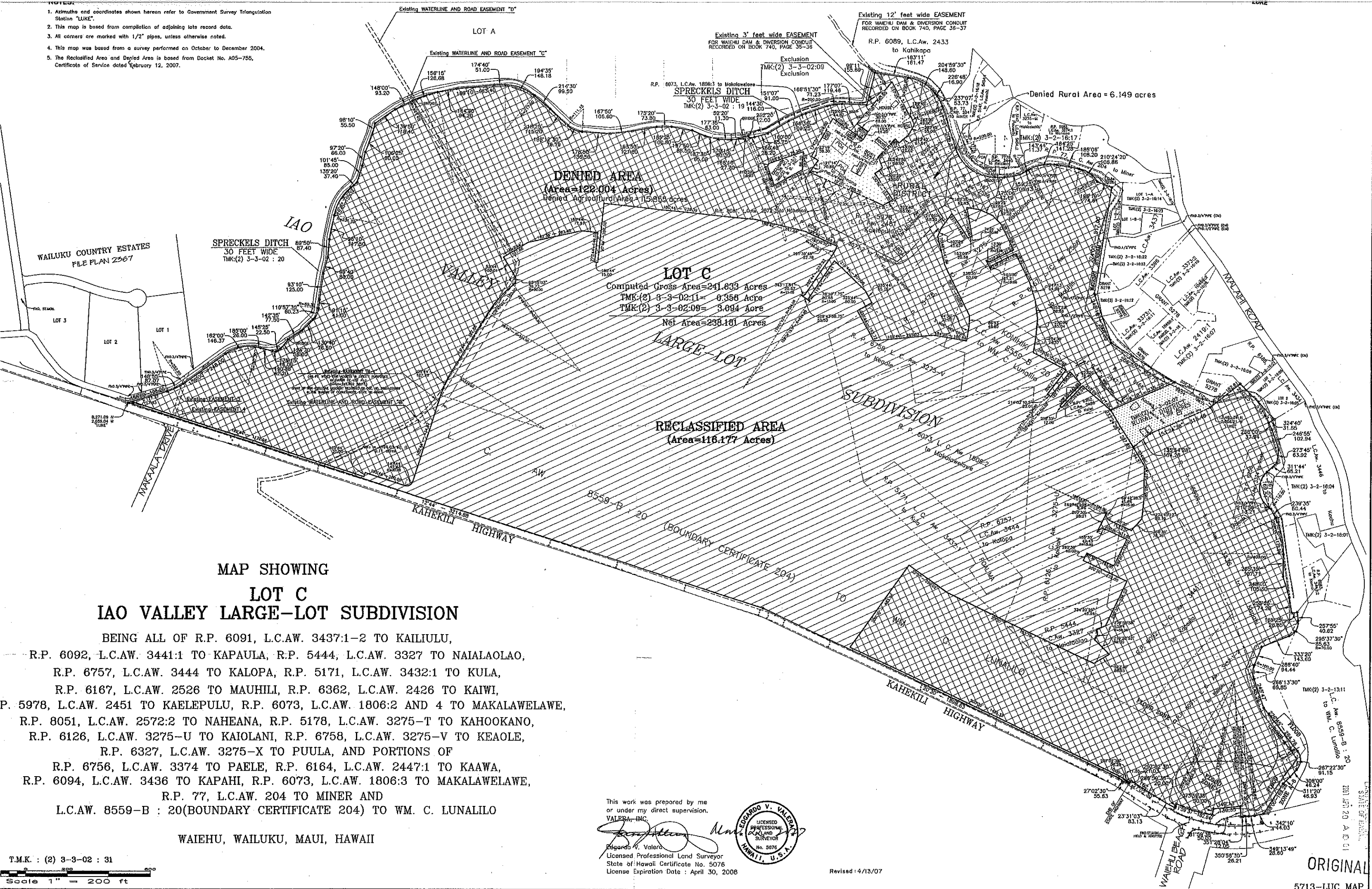
Filed and effective on:
AUG 16 2007

By (absent)
REUBEN S.F. WONG
Commissioner

Certified by:


ANTHONY J. H. CHING

- NOTES:**
1. Azimuths and coordinates shown herein refer to Government Survey Triangulation Station "LUKE".
 2. This map is based from compilation of adjoining lots record data.
 3. All corners are marked with 1/2" pipes, unless otherwise noted.
 4. This map was based from a survey performed on October to December 2004.
 5. The Reclassified Area and Denied Area is based from Docket No. A05-755, Certificate of Service dated February 12, 2007.



**MAP SHOWING
LOT C
IAO VALLEY LARGE-LOT SUBDIVISION**

BEING ALL OF R.P. 6091, L.C.A.W. 3437:1-2 TO KAILIULU,
 R.P. 6092, L.C.A.W. 3441:1 TO KAPAULA, R.P. 5444, L.C.A.W. 3327 TO NAIALAOLAO,
 R.P. 6757, L.C.A.W. 3444 TO KALOPA, R.P. 5171, L.C.A.W. 3432:1 TO KULA,
 R.P. 6167, L.C.A.W. 2526 TO MAUHILI, R.P. 6362, L.C.A.W. 2426 TO KAIWI,
 R.P. 5978, L.C.A.W. 2451 TO KAELEPULU, R.P. 6073, L.C.A.W. 1806:2 AND 4 TO MAKALAWELAWA,
 R.P. 8051, L.C.A.W. 2572:2 TO NAHEANA, R.P. 5178, L.C.A.W. 3275-T TO KAHOOKANO,
 R.P. 6126, L.C.A.W. 3275-U TO KAIOLANI, R.P. 6758, L.C.A.W. 3275-V TO KEAOLE,
 R.P. 6327, L.C.A.W. 3275-X TO PUULA, AND PORTIONS OF
 R.P. 6756, L.C.A.W. 3374 TO PAELE, R.P. 6164, L.C.A.W. 2447:1 TO KAAWA,
 R.P. 6094, L.C.A.W. 3436 TO KAPAHU, R.P. 6073, L.C.A.W. 1806:3 TO MAKALAWELAWA,
 R.P. 77, L.C.A.W. 204 TO MINER AND
 L.C.A.W. 8559-B : 20(BOUNDARY CERTIFICATE 204) TO WM. C. LUNALILO

WAIHEHU, WAILUKU, MAUI, HAWAII

This work was prepared by me or under my direct supervision.
EDGARDO V. VALERA, INC.
 Edgardo V. Valera
 Licensed Professional Land Surveyor
 State of Hawaii Certificate No. 5076
 License Expiration Date : April 30, 2008



Revised: 4/13/07

T.M.K. : (2) 3-3-02 : 31
 Scale 1" = 200 ft

ORIGINAL

5713-LUC MAP
 EXHIBIT "A"

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To Amend the Land Use District)
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Agriculture and Rural Districts to the)
Urban District, Tax Map Key No. 3-3-002:)
001 (por.).)
)
_____)

CERTIFICATE OF SERVICE

I hereby certify that a copy of the Order Granting Petitioner's Motion to Amend Caption and Findings of Fact, Conclusions of Law, and Decision and Order filed February 12, 2007 was served upon the following by either hand delivery or depositing the same in the U. S. Postal Service by regular or certified mail as noted:

DEL. MARY LOU KOBAYASHI
Office of Planning
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Honolulu, Hawaii 96804-2359

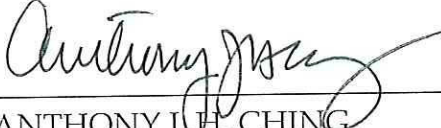
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Dated: Honolulu, Hawaii, AUG 16 2007.


ANTHONY J.H. CHING