

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of)	DOCKET NO. A90-657
A & B PROPERTIES, INC.)	A & B PROPERTIES, INC.
To Amend the Agricultural District)	
Boundary Into the Urban District)	
for Approximately 70.725 Acres at)	
Kuau, Maui, Hawaii, Tax Map Key)	
Nos.: 2-5-05: Portion of 21)	

LAND USE COMMISSION
STATE OF HAWAII
DEC 19 7 19 PM '90

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

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A & B PROPERTIES, INC., a Hawaii corporation (hereinafter "Petitioner"), filed a Petition on June 29, 1990 (hereinafter referred to as "Petition"), pursuant to chapter 205, Hawaii Revised Statutes ("HRS"), as amended, and title 15, subtitle 3, chapter 15, Hawaii Administrative Rules, as amended (hereinafter "Commission Rules"), to amend the Land Use District Boundary to reclassify approximately 70.725 acres of land from the Agricultural Land Use District to the Urban Land Use District, at Kuau, Maui, Hawaii, identified as Tax Map Key No. 2-5-05: portion of 21 (hereinafter "Property") in order to develop a residential subdivision. The Land Use Commission (hereinafter "Commission") having heard and examined the testimony, evidence, and arguments presented during the hearings, the proposed findings of fact, conclusions of law, and decision and order of the parties, and exceptions filed

thereto, hereby makes the following findings of fact and conclusions of law:

FINDINGS OF FACTS

PROCEDURAL MATTERS

1. The Petition was filed on June 29, 1990 by Petitioner to amend the Agricultural District at Kuau, Island of Maui, County of Maui, to reclassify approximately 70.725 acres of land into the Urban District for a single-family residential subdivision and community park uses.

2. A prehearing conference was held on the Petition on September 7, 1990. At the prehearing conference witness lists and exhibits were exchanged among the parties.

3. The Commission conducted hearings on Thursday, September 27 and Friday, September 28, 1990, pursuant to notice published in the Honolulu Advertiser and the Maui News on August 15, 1990.

4. A petition to intervene was filed by Elizabeth Ann Stone on August 21, 1990, and was considered by the Commission during the hearing held on September 27, 1990. Ms. Stone failed to appear at the hearing and the Commission, after reviewing the record and for good cause appearing therefrom, denied the petition to intervene by Order dated October 17, 1990.

5. The Commission allowed Mr. James Smith, Mr. Hugh Starr, Mr. Jack Thompson, Ms. Sally Raisbeck, Ms. Sanchia

Foiles, Mr. William Tavares, Mr. Glen Shepherd and Ms. Diane Shepherd to testify as public witnesses on Thursday, September 27, 1990.

6. The Commission received into evidence on September 27, 1990, the written statements of Rick Medina, Councilmember of the Maui County Council, Sally Raisbeck, and Jim Smith.

DESCRIPTION OF THE PROPERTY

7. The Property is identified as Tax Map Key Number 2-5-05: portion of 21 containing approximately 70.725 acres of land at Paia, Kuau, Island and County of Maui, State of Hawaii. The property consists of three parcels.

8. The Property is located east of Paia in Kuau, on the northern side of the island of Maui. The Property is bounded by Hana Highway and two areas with single family residences to the north, sugarcane fields to the south, a former sugarcane field (the site of a future single family residence subdivision, the Makana Subdivision) to the west, and Holomua Road to the east. The Property is contiguous to the Urban Land Use District on its western and most of its northern boundaries.

9. The southern boundary of the Property is contiguous with the designated right of way for the proposed Paia bypass road.

10. The Property is currently under sugarcane cultivation.

11. The Property is owned in fee simple by A & B Hawaii, Inc., a Hawaii corporation, with its principle place of business at 822 Bishop Street, Honolulu, Hawaii. Petitioner is a fully owned subsidiary of A & B Hawaii, Inc. A & B Hawaii, Inc. is a fully owned subsidiary of Alexander & Baldwin, Inc.

12. Elevations on the Property range from 20 feet above mean sea level near the northern end of the property to 110 feet near the southern end of the property. The average elevation is approximately 75 feet above mean sea level with most of the Property being between 40 to 100 feet.

13. Topography of the Property can be described as generally sloping from south to north with an average slope from 5% to 9%. Natural waterways run through the site at three locations near the central portion of the Property. (OSP 4)

14. Average rainfall in the area is 31.3". Rainfall data from the Hawaiian Commercial and Sugar Company's Paia Station between 1987 and 1989 reflects that annual rainfall varied from 34" to 43".

15. According to the U.S. Soil Conservation Service (hereinafter "SCS"), the predominant soil types on the Property consist of Iao silty clay (24.6% of the area, or approximately 16.9 acres), Paia silty clay (74.4% of the area, or approximately 51.1 acres). These soils are well drained and have moderate to rapid permeability; runoff is slow to medium and erosion hazard is slight to moderate.

16. The SCS classification system rated soils of the Property as IIe and IIIe, with "I" being the highest classification level and "VIII" the lowest. The subclassification "e" designates risk of erosion.

17. The Land Study Bureau (LSB) classification identifies approximately 91.8% of the soils in the Property as Class "A," with the remaining 8.2% as Class "B. Class "A" representing the highest productivity area and Class "E" as the lowest productivity rating.

18. The Agricultural Lands of Importance to the State of Hawaii (ALISH) system classifies all the soil of the Property as "Prime" agricultural land.

19. The majority of the Property falls within flood zone "C" which is designated on the "Flood Insurance Rate Maps" for the County of Maui as an area of minimal flooding. Approximately 2 acres of Parcel "C" falls within the flood zone "A" which is designated as an area of 100 year flooding.

PETITIONER'S PROPOSED USE OF THE PROPERTY

20. Petitioner plans to develop the Property in two phases. Phase I will consist of parcels identified as "A" and "B." Parcel A contains approximately 31.819 acres. It will be developed into 137 single-family residential lots and will be sold at market prices. Parcel "B" contains approximately 16.783 acres. It will be developed into a minimum of 63 lots providing 126 duplex units. The Parcel "B" component will be

marketed as an affordable housing project. A community park of approximately two acres will connect Parcels "A" and "B." Although the current development plan for Parcel "B" contemplates duplex development for the property, the Petitioner will explore various alternatives in order that development of Parcel "B" will produce units not only affordable, but also well designed with quality, good taste and appropriate safeguards for purchasers and the County of Maui. There will be appropriate buy-back covenants with the County of Maui to ensure that the units will remain as part of the County's inventory of affordable housing. Petitioner will work with the County of Maui to explore the planned development process, a zero lot line development plan, and various scenarios for lot size reduction. The development program will attempt to produce a house and lot package with projected target prices affordable to low moderate income and moderate income residents of Maui.

21. Phase II embodies Parcel "C" which is approximately 22 acres in size and is intended to be developed into 96 residential lots to be sold at market prices.

22. The preliminary lot sizes and densities for the development are as follows:

<u>Parcel</u>	<u>No. of Units</u>	<u>Range of Lot Sizes</u>	<u>Ave. Lot Size</u>	<u>Density</u>
A	137	6,000-12,000 sf	6,830 sf	4.6 lots per acre

<u>Parcel</u>	<u>No. of Units</u>	<u>Range of Lot Sizes</u>	<u>Ave. Lot Size</u>	<u>Density</u>
B	126	7,500-9,200 sf	7,840 sf	7.5 units per acre
C	96		6,800 sf	4 lots per acre

23. Petitioner has proposed to provide both market and affordable housing units which will help to alleviate Maui's continuous shortage of residential units. Sixty percent of the units to be developed within Parcel "A" and "B" will be marketed at affordable prices and either 60% of the units to be developed on Parcel "C" will be marketed at affordable prices or Petitioner will enter into an agreement with the County of Maui to provide an off-site housing project (possible at Haliimaile) in order that an amount equal to at least 60% of the units to be developed on Parcel "C" will be marketed at affordable prices.

24. The Haliimaile lands are owned by A & B Hawaii, Inc. and are located in the State Agricultural District.

25. It is estimated that the cost of the required on-site and off-site improvements for the proposed development is \$10.7 million dollars in 1990 dollars. This cost does not include infrastructure costs for the Haliimaile site.

26. It is estimated that the approval and permit process will take approximately twenty months and that construction of the subdivisions will be completed in approximately ten months from the date of issuance of the

building permits. As a result, the project completion date is scheduled for late 1993 or early 1994.

PETITIONER'S FINANCIAL CAPABILITIES

27. Petitioner has submitted a balance sheet as of December 31, 1989, listing total assets at \$35,842,310.56, total liabilities at \$6,014,117.28, and total stockholders' Equity at \$29,828,193.28.

28. A & B Properties, Inc., developer of the project, is a subsidiary of A & B Hawaii, Inc., which in turn is a subsidiary of Alexander and Baldwin, Inc. Petitioner's Exhibit 9, entitled "Alexander & Baldwin, Inc., 1989 Annual Report" lists total revenues for 1989 at \$846,000,318 and a net income of \$202,708,000. Total assets are estimated at \$1,139,449,000. Shareholders' equity for 1989 was \$605,056,000. Petitioner maintains that they have the financial capability to undertake and complete the proposed development.

NEED FOR THE PROPOSED DEVELOPMENT

29. Petitioner's Exhibit 2, entitled "Market Study", indicated that there is a shortfall of housing on Maui in the range of 800 to 900 units per year and that current total unmet housing needs are estimated at about 7,500 units for Maui. The market study states that the supply of housing has not kept pace with the growth of population and also indicated "that approximately 1,300 single-family residential house lots (or house and lot packages) have been marketed in major subdivision

during the past 14 years in the Wailuku-Kahului area, which is about 8 miles west of the subject area."

30. Petitioner's market expert indicated that all subdivisions in the area have been sold out and there have been no single-family residential units offered for sale in the Paia-Kuau area for many years. The market expert further indicated that the proposed project will probably be absorbed by market demand prior to completion of construction. In a worst case scenario the project would be sold out within 1-1/2 years of completion.

STATE AND COUNTY PLANS AND PROGRAMS

31. The Property is located within the State Land Use Agricultural District, as reflected on Land Use District Boundary Map M-7 (Paia).

32. Development of the Property for single-family, duplex and community park use is consistent with the Paia-Haiku Community Plan for the County of Maui. According to the Paia-Haiku Community Plan, the single-family land use category provides for single-family and duplex dwellings.

33. County zoning for the Property is Agricultural.

34. The Property lies within the Special Management Area, as administered by the County of Maui Department of Planning and the Planning Commission.

ECONOMIC IMPACT

35. Petitioner anticipates that the development of the Property as proposed will have both direct and indirect

positive impacts on the Maui economy. The proposed project will help alleviate the severe shortfall in housing in the County of Maui. It would also provide employment opportunities during construction. On a short term basis, assuming the \$10.7 million construction cost for the basic infrastructure, the development will provide the State of Hawaii with income in excess of \$400,000 in gross excise taxes and assuming the revenue from the construction of houses falls between \$25-\$30 million dollars, this would provide the State with gross excise taxes in excess of \$1 million dollars. The real property taxes to be collected by the County of Maui would be approximately \$283,000 per year upon the construction of the project. The project would also provide affordable housing opportunities for first-time homebuyers and upgrade opportunities in the housing market for existing homebuyers.

RESOURCES OF THE AREA

Agricultural Resources

36. Petitioner's economic analyst, Dr. Bruce Plasch of Decision Analysts Hawaii, Inc., prepared a report evaluating the impact of the project on diversified agriculture and Hawaiian Commercial & Sugar Company (HC&S).

37. The direct impact of the proposed Kuau residential project on HC&S would be that 80 acres of land would be removed from sugarcane production. The affected land (1) is of good agricultural quality in that it has high-quality

soils and moderately good climatic conditions, (2) produces average yields, and (3) is close to the Paia Mill.

38. The decrease in HC&S production and revenues as a result of this Kuau project would be a reduction of 0.2 percent. HC&S will still have more than 35,500 acres of cane land and remain the largest sugar plantation in the state.

39. The location of the proposed project will not cause any logistical difficulties to the plantation because the project is on the edge of the plantation next to an urban area. Currently the existing sugarcane fields on the Property are difficult to farm because of the existing urban areas protruding into the plantation and also because the urban areas are directly downwind of the cane. Because of adjacent urban lands, the plantation cannot burn the cane prior to harvest.

40. With regard to labor requirements, the proposed development will reduce unemployment by one field job and one mill job. However, given the fact that the plantation is short of labor, no layoffs of employees are anticipated.

41. The State Department of Agriculture (DOA) stated in its letter to OSP dated September 6, 1990 that it "does not foresee significant impacts on the agricultural resources of the area should this proposal be approved. However, the new homeowners should be apprised that existing agricultural activities in the surrounding vicinity may constitute a pre-existing farming activity, and as such, are protected by

the Hawaii Right-to-Farm Act (Chapter 165, HRS) which limits the circumstances under which normal farming activities may be deemed to be a nuisance.."

42. The proposed development will not adversely affect any existing diversified agricultural operation nor will the proposed project significantly change the potential growth of diversified agriculture on Maui or within the County of Maui or the State. The viability of diversified agriculture will not be affected as a result of the development of the project.

Flora

43. According to the botanical survey conducted by Char and Associates, there are no listed, proposed or candidate threatened and endangered flora or plant species found on the Property. Plants and vegetation on the Property involve sugarcane and weedy species associated with cultivated plants. Development of the Property will not have any significant negative impacts on the vegetation and plant life found on the Property or on the surrounding areas.

44. Petitioner's Exhibit 8, prepared by Dr. Andrew Berger, reflects that there are no endemic species located on the Property. No significant impact on the biological resources of the area is anticipated. There is no rare fauna situated within the Property. Development of the Property as proposed will not have any adverse impact on the wildlife of the area.

Historical and Archaeological Resources

45. Petitioner's consultant, William H. Folk II of Cultural Surveys Hawaii conducted an archaeological reconnaissance of the approximately 69 acres of land proposed for residential development.

46. The surface reconnaissance of the study area revealed no archaeological sites. However, two (2) buried archaeological deposits located during the construction of the Paia sewer system may extend beneath Hana Highway into the proposed development area. These sites, identified by Hawaii State site numbers 50-50-05-1782 and 50-50-05-1780, are buried cultural layers with associated features, midden and charcoal.

47. Petitioner's consultant stated that it is unlikely that any other sites remain in the cultivated fields and roads. Due to the dry environment and remoteness of constant water supply such as Maliko Gulch it is deemed improbable that Hawaiian settlement occupied any areas other than the shoreline. Evidence of dry land farming associated with any coastal settlements is most likely obliterated by 80 to 100 years of sugarcane cultivation creating a vertical plow zone exceeding one meter in depth.

48. Petitioner's consultant concludes that archaeological monitoring is recommended during grading or trenching along the mauka side of Hana Highway, specifically adjacent to sites 1780 and 1782. Aside from these two small areas archaeological resources will not be further impacted by

the proposed development of the study area and archaeological monitoring is not necessary for the remainder of the project area. If however, any finds are discovered during construction, work should stop and an archaeologist from the State Historic Preservation Office should be consulted before work proceeds.

Groundwater Resources

49. The source of water for the Paia-Kuau area is located in Waihee. The potable water for the development will be drawn from existing wells located in Waihee and developed through the Central Maui Joint Venture 9 (the Joint Venture) or through other water sources to be developed by the Petitioner. The Joint Venture consists of A & B Properties, Inc., Wailea Development Company, Inc., C. Brewer Properties, Seibu, and Wailea Development Company, Inc. The Joint Venture has developed 13.5 million gallons per day (mgd) of a total projected 19 million gallon source development which total had been agreed upon between the parties. Petitioner has been allocated 4/19ths of the water developed from the Joint Venture.

50. Recently, hydrologists have indicated that the sustainable yield of the Waihee aquifer is approximately 20 million gallons per day and, as a result, the County of Maui, Department of Water Supply, has established an 18 million gallons per day limit from this aquifer. As a result of this, the Joint Venture will not be able to develop additional water from this aquifer.

51. Under the 4/19ths allocation, Petitioner has been allocated 2.8 million gallons per day. Of this 2.8 million gallons Petitioner has used approximately 400,000 gallons per day on existing development. As part of the sale of Maui Lani, Petitioner allocated 430,000 gallons to that development. Consequently, there currently exists approximately 1.97 million gallons of the water allocation from the Joint Venture available to Petitioner for its future developments.

52. Petitioner has entered into a second Joint Venture with three other developers in order to explore new water sources in East Maui. This second Joint Venture seeks to develop a total of 6.6 million gallons of water per day. Of this amount Petitioner's allocation is projected to be 2.5 million gallons per day.

53. A preliminary engineering report has been completed and the Joint Venturers are currently studying the feasibility of pursuing the new East Maui water sources.

54. Under the two source Joint Ventures, Petitioner's allocation would be approximately 4.5 million gallons per day. Petitioner has projected its water needs for future projects to the year 2000 and estimates that it will need approximately 2.7 million gallons per day for projects up to the year 2000.

Scenic and Visual Resources

55. The Property overlooks prime beach front property on the northern coast of Maui. Views towards the coast from the Property include the presence of existing single-family

residences, two-story apartment complexes, and a restaurant, all makai of the Property.

56. Driving east-bound from Kahului Airport along Hana Highway into Kuau, one encounters a variety of land uses, including Maui Country Club golf course, Baldwin Park, single-family residential lots, and public/quasi-public facilities.

57. West of the Property is Paia Town, a country-like community of small stores and shops. From the Property, major view planes extend from the northwest slope of Mt. Haleakala toward the Pacific Ocean which offers a popular windsurfing beach (Hookipa Beach Park) along with other beach activities. Windsurfing is predominant on this beach and may be observed from certain parts of the property and Hana Highway.

Recreational Resources

58. Existing recreational facilities in the vicinity of the Property include Hookipa Beach Park (1 mile east), Baldwin Park (1.6 miles west), Kanaha Beach Park (7 miles west) as well as shoreline and beach access opportunities throughout the north Maui coastline. Surfing, windsurfing, and swimming are popular recreation activities at the beach across Hana Highway from the Property.

Petitioner's development plan includes a 1.9 acre community park between Parcels "A" and "B".

59. At the hearing, the County of Maui presented the Hookipa Park Concept Master Plan dated July 29, 1987. The plan

would involve the realignment of Hana Highway. The realignment would involve the gain of about 35 acres or so for the park from the existing 12 acres. In the plan, additional parking could be provided. The County currently has about \$1 million of the \$2 million to perform various park improvements at Hookipa Park.

60. The County of Maui feels that there is a need for more active park space for the new residents of the project. The County also feels that there is a need for Alexander & Baldwin as the major landowner in the area to be sensitive to the proposed expansion and open upgrading of Hookipa Park.

ENVIRONMENTAL QUALITY

Coastal Water Quality

61. Beach activities (i.e. surfing, windsurfing, swimming) are popular recreational activities at the beach across Hana Highway from the Property that rely heavily on coastal water quality.

62. Petitioner's consultant represents that the quantity of drainage water that will be added as a result of the project to existing flows is relatively small and that runoff from the developed subdivision would not be any more contaminating than what is going into the ocean at the present time, which is basically silt from the canelands. The storm drain will serve to alleviate negative impacts on the ocean water quality.

Noise

63. Petitioner provided an analysis concerning the impact of the proposed development on the noise environment of the area. The analysis projected Ldn contour lines relating to the Kahului airport. The analysis concluded that the development of the Property as proposed by Petitioner will not be significantly impacted by the noise environment of the area.

64. Construction noise from development of the Project will contribute to a temporary increase in noise levels in areas surrounding the Property. Mitigative measures will be used by Petitioner.

Air Quality

65. Petitioner analyzed the impact of the proposed development on the air quality of the area. The analysis concluded that development of the Property, as proposed by Petitioner, would not have any significant impact on the air quality of the area.

66. Some air quality problems are anticipated during construction of the project. Petitioner plans to use mitigative measures to control dust and soil erosion.

ADEQUACY OF PUBLIC SERVICES AND FACILITIES

Highways and Roadways

67. The Property is located along the mauka side of Hana Highway which serves as the primary arterial between Kahului and Hana. Hana Highway currently has a pavement width of approximately 22 feet. The intersection, nearest to the

project site, is Hana Highway and Holomua Road, located northeast of the project site. A separate left turn lane on Hana Highway is not provided at this intersection.

68. The roadway configuration plan to serve the project connects the existing Hana Highway with a series of interior streets. These would involve minor streets with a 44' right-of-way; the main collector roads to Hana Highway will be 56' or 60' wide, based on the County's requirements.

69. Petitioner's traffic consultant, Randall S. Okaneku, assessed the traffic impacts resulting from the development of the Property. The traffic assessment established the existing traffic conditions in the vicinity of the project; projected traffic in the area without the proposed project; estimated the number of trips generated from the project; superimposed the site generated traffic over the future traffic conditions; analyzed the traffic impacts resulting from the project's traffic; and recommended improvements that would mitigate those impacts resulting from the development of the proposed project.

70. The traffic assessment concluded that during existing a.m. peak hour, the left turn movement from Baldwin Avenue to Kahului bound Hana Highway operates at a level of service "F." During p.m. peak hours, this left turn movement operates at a level of service "E." Hana Highway, in the vicinity of the proposed project, operates at 57% of its capacity during both the a.m. and p.m. peak hours.

71. The traffic assessment estimated that Parcels "A," "B" and "C" of the proposed subdivision would generate additional traffic exiting the project during a.m. peak hours and entering the project during p.m. peak hours. The site-generated traffic is expected to increase traffic on Hana Highway, west of Paia, by 16.3% during the a.m. peak hours and by 17.9% during the p.m. peak hours.

72. After development of the project, Hana Highway will operate at 83% of capacity in the vicinity of the project, increased from 76%. During the p.m. peak hours, the left turn from Parcel "A" access road is expected to operate at level of service "E." Parcel "A" access road will maintain a reserved capacity of 75 vehicles per hour. The traffic assessment concluded that the projected peak hour conditions were not sufficient to warrant traffic signals.

73. Petitioner's traffic assessment recommended improvements needed even without the project going forward. These include signalization of Hana Highway and Baldwin Avenue and an exclusive left turn lane on inward bound Hana Highway at Baldwin Avenue. The traffic consultant indicated these improvements were now being implemented by the Department of Transportation, State of Hawaii. The improvements would also include an exclusive right turn lane on outward bound Hana Highway at Baldwin Avenue.

74. The traffic consultant recommended that with development of the project the Parcel "B" access road be

relocated to the southwest to maximize sight distance to the left. He also recommended grading the existing earth embankment on the southwest corner of Hana Highway and Holomua Road to provide adequate sight distance.

75. The traffic consultant concluded that the development of the Property as proposed would not have any significant impact on the traffic in the project's vicinity. He indicated the recommendations presented in his report would provide safe ingress and egress to the proposed site and the highway improvements being studied by the State Department of Transportation and the County of Maui would accommodate the long range needs of the region.

76. The State Department of Transportation made the following comments about the proposed project:

- a. Signalize the intersection of Hana Highway and Baldwin Avenue.

- b. Construct an exclusive left-turn lane on west bound Hana Highway at Baldwin Avenue.

- c. Construct an exclusive right-turn lane on west bound Hana Highway at Baldwin Avenue.

- d. Relocate the proposed access road to Parcel B further to the southwest to maximize the line of sight from the Parcel B Access Road toward the northeast direction on Hana Highway.

e. Grade the earth embankment on the southwest corner of the intersection of Hana Highway and Holomua Road to provide adequate sight distance in the southwest direction.

f. If a design analysis warrants, the developer should construct left-turn lanes on Hana Highway at each of the project's accesses based upon sight distance requirement, i.e., between advancing traffic and left turning vehicles in the through lane.

g. Hana Highway between Mama's Fish House and Hookipa Park should be realigned.

h. At a minimum, Hana Highway should be widened to include 12-foot wide traffic lanes and 6-foot wide shoulders.

i. Land should be dedicated to the State for future highway widening or realignment.

j. Connections to Hana Highway should be spaced at least 1,200 feet apart. Left-turn lanes along Hana Highway should be provided at all intersections.

k. Connections to Hana Highway should be spaced at least 1,200 feet apart. Left-turn lanes along Hana Highway should be provided at all intersections.

l. Installation of pedestrian walkways and bikeways should be considered.

m. Parcel C may only have one direct access to Hana Highway.

n. The developer shall bear the costs for all required roadway and intersection improvements.

o. Plans for construction work within the State Highways right-of-way should be submitted for DOT's review and approval.

p. The Petitioner should participate in the funding and construction of such regional traffic improvements, on a pro-rata basis, as determined by the State Department of Transportation.

77. The Paia bypass proposal, shown in the Paia-Haiku Community Plan, is an alternative being considered under the State's long-range highway plans for the area. There are no definite plans for construction of the bypass road at this time.
Water

78. The existing water source for the project will be drawn from wells located in Waihee and developed by the Central Maui Water Source Joint Venture. The existing storage tanks are located in Wailuku and Upper Paia. There are various sized twelve inch, eight inch, six inch, and four inch lines in Hana Highway. The existing water system is owned and maintained by the County of Maui.

79. Petitioner has calculated water demand requirements to accommodate development of the Property. Petitioner has utilized the County standard demand of 600 gallons per day per unit. Under this calculation, for Parcel "A" at 137 units, the demand calculation is 82,200 gallons per day; for Parcel "B" at 126 units, the demand calculation is 75,600 gallons per day, and for Parcel "C" the demand

calculation is 57,600 per day, for a total demand for the entire project of 215,400 gallons per day.

80. Petitioner has committed to provide all of the water requirements for the development, including the necessary on-site and off-site improvements to assure an efficient water supply for the proposed development.

Wastewater

81. Petitioner's proposed development, calculated at the standard 400 gallons per unit per day (as imposed by the County of Maui), will generate 143,600 gallons per day of wastewater for the entire project.

82. Petitioner proposes to construct a wastewater system in conjunction with the development of the project. The system will involve additional STP capacity for Wailuku/Kahului STP and an additional Central Maui wastewater plant.

83. Petitioner has entered into a Joint Venture with C. Brewer Properties, Maui Lani and the County of Maui to construct new wastewater improvements for the region.

84. The design capacity of the existing treatment plant for Wailuku/Kahului is 6 million gallons per day. Of this capacity, the County of Maui has indicated that 300,000 gallons per day currently exist as remaining and available capacity. The County of Maui is currently working on improvements to the STP to increase the design capacity of the existing plant to 6.8 million gallons per day.

85. In addition to this expansion, a joint venture comprised of Petitioner, C. Brewer Properties and Maui Lani, has agreed to finance an additional 1.1 million gallons of capacity to the existing plant. This will allow the plant to treat approximately 7.9 million gallons of wastewater per day. Of the additional 1.1 million gallons, Petitioner has been allocated 343,000 gallons per day. This additional capacity of 1.1 million gallons per day is an interim measure until a new Central Maui wastewater treatment plant is constructed. Petitioner is pursuing an agreement with other Joint Venturers to finance the design of a new Central Maui facility. An agreement to implement the new facility is currently being drafted. The parties have agreed to pay their pro rata share for the new Central Maui sewage treatment plant.

86. The new Central Maui plant (Phase 1) will be designed to treat 7 million gallons of wastewater per day. Of this amount, Petitioner will be allocated 1.72 million gallons per day and will pay for this allocation as its pro rata share for the project.

87. Petitioner has committed to provide wastewater requirements for the development by providing the necessary wastewater improvements, both on-site and off-site to insure adequate wastewater services for the proposed development.

Drainage

88. Runoff from the Property occurs from two contributing drainage basins mauka of the Property. These have

been identified as Basin "A" and Basin "B." Hydrologic calculations prepared for a 100 year 24 hour storm estimates a peak storm runoff into the project site of 2,027 cfs and 505 cfs from Basin "A" and "B" respectively. The Property currently produces runoff at a rate of 49 cfs. The surface runoff from a portion of the project site in Basin "A" is concentrated near the eastern portion of the site and flows to Hana Highway. Near the eastern portion, the runoff flows into a depressed area just mauka of the highway, and then flows across the highway to the ocean. Runoff from the middle area flows into a catch basin on Hana Highway, then through a 30" culvert crossing Hana Highway and into a grass swale in a residential lot to the ocean. Surface runoff from the remainder of the project site and Basin "B" flows to Hana Highway, concentrating at two low areas, one where a 24" culvert carries the runoff across Hana Highway into a sugarcane field where the runoff continues to the ocean. The other low area, east of the first area, flows into a gulch, running south to north, carrying portions of the flow from Basin "B." Flow from the gulch runs into an 18" culvert crossing Hana Highway where the runoff is deposited into a grass swale located in a residential lot then it continues into the ocean.

89. Storm runoff currently is limited to 49 cfs for all of the Property. In a developed state, runoff will be approximately 120 cfs. For Parcel "A," runoff will be increased by approximately 55 cfs; for Parcel "B," 28 cfs and

for Parcel "C," 37 cfs. The net increase in the developed state (from the existing state) is approximately 71 cfs.

90. To mitigate the flow caused by increased runoff, the project will intercept on-site runoff as well as the storm drainage flow from drainage Basins "A" and "B." The flows will be collected by a system of drainage catch basins. The runoff then will be piped across Hana Highway and drainage facilities will be provided as necessary to take the flow to the ocean.

Solid Waste Disposal

91. The existing solid waste landfill is located at the county's Camp Five landfill located on Pulehu Road. The County is currently designing the second phase of this landfill which will be adequate to service the project.

Schools

92. According to the petition, the Property will be served by the following schools: Paia Elementary School (grades K through 5), Kalama Intermediate School (grades 5 through 8), and Maui High School (grades 9 through 12).

93. The State Department of Education (DOE) offered the following comments:

1. Paia Elementary has adequate facilities to accommodate the projected growth requirement of three classrooms.

2. Kalama Intermediate is already operating beyond capacity and would not be able to accommodate the growth due to limited campus size and a projected increase of 416

students by 1995. Despite a plan to build additional classrooms in the next six years, the subject development would create the need for two more classrooms. The DOE cannot assure the availability of classroom space when the development is completed.

3. A new high school is planned in Upcountry, Maui, which should be able to accommodate the growth in grades 9-12 if it is completed on schedule in September, 1994.

4. Additional funding will be required from the Legislature to meet the classroom requirements of this development.

DOE requests the County of Maui place a requirement for the developer to contribute a fair share of the infrastructure costs at all affected schools.

Police and Fire Protection

94. The Property is currently served by 24-hour police patrol stationed out of the Wailuku-Kahului headquarters (9 miles), which also serves Haiku, Makawao, and Spreckelsville. Starting in the summer of 1990, the town of Paia will also be served by a motorcycle patrol officer.

95. Fire protection is provided by the Paia Fire Station located on Hana Highway (1 mile away with a response time estimated to be under 1 minute) as well as from the main station in Wailuku (9.5 miles). The Paia Station is currently being upgraded and new facilities are being developed at Dairy

Road (6 miles away) which will add a full compliment Ladder and Reserve Company to serve the area.

Electric and Telephone Service

96. Petitioner states that on-site distribution systems will be constructed underground and that the existing generation and transmission facilities of Maui Electric Co. are adequate to service the proposed project.

COMMITMENT OF STATE FUNDS AND RESOURCES

97. The development of the subject property as proposed by the Petitioner should not have a negative impact on the governmental resources. Petitioner has committed to provide its (pro rata) fair share to minimize the impacts upon the State and County facilities directly arising from impacts related to the approval of the proposed project.

Conformance to Urban District Standards

98. Based on the findings previously stated, the Property generally conforms to the standards applicable in establishing the boundaries of the "U" Urban District boundaries as set forth in section 15-15-18 of the Commission Rules:

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

b. Petitioner has demonstrated the need for additional housing and its capacity to financially undertake the Project.

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

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

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

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

Conformance with Hawaii State Plan

99. Based on the findings as previously stated, the proposed development is consistent with the objectives, policies, and priorities of the Hawaii State Plan, chapter 226, HRS, as follows:

a. Section 226-19, Objectives for Housing: The proposed development will help provide a spectrum of housing units and offer more choices to Maui residents.

The Property is located adjacent to existing residential uses in already urbanized areas and is well suited to development for housing purposes. Adequate infrastructure and public services exist with reasonable improvements and upgrades to support the development.

b. Section 226-7, Objectives for Agriculture: The development will cause a loss of "Prime" agricultural lands, but will not limit the Statewide growth of diversified agriculture. The impact of such loss on HC&S operations will not be significant.

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

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

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

Conformance with Coastal Zone Management Objectives and Policies

100. The proposed reclassification of the Property for the development of the project conforms to the policies and objectives of the Coastal Zone Management program detailed in Chapter 205A, Hawaii Revised Statutes, as amended.

RULING ON PROPOSED FINDINGS OF FACT

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

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

CONCLUSIONS OF LAW

Pursuant to Chapter 205 of the Hawaii Revised Statutes, as amended, and the Commission Rules, as amended, the Commission finds upon the preponderance of the evidence that the reclassification of the Property, consisting of approximately 70.725 acres from the Agricultural Land Use District into the Urban Land Use District at Kuau, Island and County of Maui, State of Hawaii, subject to the conditions stated in the Order, conforms to the standards for establishing

the Urban District Boundaries, is reasonable, non-violative of section 205-2, Hawaii Revised Statutes, and is consistent with chapter 226, Hawaii Revised Statutes, as amended.

ORDER

IT IS HEREBY ORDERED that the Property, being the subject of this Docket No. A90-657 by A & B Properties, Inc., consisting of approximately 70.725 acres, situated at Kuau, Island and County of Maui, State of Hawaii, identified as Tax Map Key Number: 2-5-05: portion of 21, and approximately identified in Exhibit "A" attached hereto and incorporated by reference herein, for reclassification from the Agricultural District to the Urban District, shall be and is hereby approved, and the State Land Use District Boundaries are amended accordingly, subject to the following conditions:

1. Petitioner shall provide affordable housing opportunities for residents of the State of Hawaii by offering for sale or lease a number of units equal to at least thirty (30%) of the residential units in the petition area at prices which families with an income range of up to one hundred twenty percent (120%) of the County of Maui's median income can afford, and a number of units equal to at least thirty percent (30%) of the residential units in the petition area at prices which families with an income range of one hundred twenty to one hundred forty percent (120%-140%) of the County of Maui's median income can afford. Specifically, all affordable units shall be constructed in the petition area.

This condition may be fulfilled through construction and distribution of units in the petition area or through other projects under such terms as may be mutually agreeable, between the Petitioner, the Housing Finance and Development Corporation of the State of Hawaii, and the County of Maui.

This condition may also be fulfilled, with the approval of the Housing Finance and Development Corporation and the County of Maui, through construction of rental units to be made available at rents which families in the specified income ranges can afford.

In addition, Petitioner may obtain the special credit, as determined by the Housing Finance and Development Corporation and the County of Maui, for the provision of ten percent (10%) or more of the total units of housing affordable to persons with incomes less than eighty percent (80%) of Maui's median income and for the provision of housing for special needs groups, as determined by the Housing Finance and Development and the County of Maui. With the special credit, the minimum percentage of affordable housing which would be provided by the Petitioner would be fifty percent (50%).

If the special credit option is chosen, the Petitioner shall provide the affordable housing units in the following distribution as deemed to be acceptable by the County of Maui and the State Housing Finance and Development Corporation:

<u>Target Income Group</u>	<u>Percentage of Total Units</u>	
50% of median or less	3%	
70% of median or less	4%	10%
80% of median or less	3%	
90% of median or less	6%	
100% of median or less	8%	20%
120% of median or less	6%	
125% of median or less	6%	
130% of median or less	8%	20%
140% of median or less	6%	

Insofar as possible, the Petitioner shall implement this affordable housing requirement concurrently with the completion of market priced units for the residential project. If the project is phased as planned, then the affordable units for that phase shall be provided concurrently with the market priced units for the phase. The determination of median income, as the term is used in this condition, shall be based on median income figures published by the United States Department of Housing and Urban Development at the time that construction of such units is commenced.

2. Petitioner shall prepare, or participate in the preparation of a regional traffic impact study to address all traffic impacts resulting from this Project as well as other A & B projects in the Paia-Kuau area such as the Makana subdivision in coordination with the State Department of Transportation and the County of Maui. The traffic impact study should specifically address the benefits if any that a collector road approximating the route of the Paia bypass road

would have on the traffic flow on Hana Highway in the Kuau-Paia areas. The study should also examine the road improvements needed at Hookipa Park.

3. Petitioner shall participate in the funding and construction of local and regional transportation improvements on a pro rata fair share basis as determined by the regional traffic impact study and the State Department of Transportation and the County of Maui.

Such traffic improvements shall include but not be limited to:

- a. The signalization of the intersection between Hana Highway and Baldwin Avenue
- b. At minimum, Hana Highway should be widened to include 12-feet wide traffic lanes and 6-feet wide shoulders.
- c. Hana Highway between Mama's Fish House and Hookipa Park should be realigned.
- d. Installation of pedestrian walkways and bikeways should be considered.
- e. Parcel C may have only one direct access to Hana Highway.

4. Petitioner shall prepare a drainage and erosion control plan and shall fund and construct the necessary drainage improvements and maintain ocean water quality to the standards of the State Department of Health.

5. Petitioner shall provide the necessary water source and transmission facilities to service the proposed project.

6. Petitioner shall pay its fair share (on a pro rata basis) to expand or improve the existing Wailuku/Kahului Wastewater Treatment Plant and/or route the wastewater to be generated by the proposed project to the proposed new Central Maui Wastewater Treatment Plant to the standards of the County of Maui, Department of Public Works and the State Department of Health. Petitioner shall also participate in the funding of the proposed new Central Maui Wastewater Treatment Plant and required transmission lines.

7. Petitioner shall inform all prospective occupants of the Hawaii Right-to-Farm Act, chapter 165, Hawaii Revised Statutes, which limits the circumstances under which pre-existing farming activities may be deemed a nuisance.

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

9. Petitioner shall provide its pro rata fair share for police, fire, park, and solid waste disposal resulting from the development as may be required by and to the satisfaction of and as agreed upon with the County of Maui.

10. Based on traffic projections of residents of planned A & B projects in the Paia-Haiku area utilizing the Hookipa Park facilities, A & B shall contribute their pro rata

fair share toward the Hookipa Park expansion project as determined by the County of Maui.

11. Petitioner shall immediately stop work and contact the State Historic Preservation Office should any archaeological resources such as artifacts, shell, bone, or charcoal deposits, human burial, rock or coral alignments, pavings or walls be encountered during the project's development. Should any sites be found, Petitioner shall formulate an archaeological mitigation plan approved by the State Historic Preservation Division.

12. Petitioner shall participate in an air quality monitoring program as may be agreed upon with the State Department of Health.

13. Petitioner shall implement effective soil erosion and dust control measures during all phases of the development.

14. Petitioner shall fund and install the necessary number of emergency siren units within the Property to the satisfaction on the Maui Civil Defense Agency and the State Department of Defense.

15. 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 interest in the Property prior to development of the Property.

16. Petitioner shall provide annual reports to the Land Use Commission, the Office of State Planning, and the County of Maui, Planning Department in connection with the

status of the subject project and Petitioner's progress in complying with the conditions imposed.

17. Petitioner shall develop the Property in substantial compliance with representations made to the Land Use Commission in obtaining the reclassification of the Property. Failure to so develop may result in reclassification of the Property to its former land use classification.

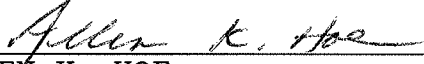
18. The Land Use Commission may fully or partially release these conditions as to all or any portions of the Property upon timely motion and upon the provision of adequate assurance of satisfaction of these conditions by Petitioner.

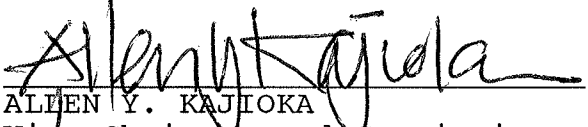
19. In the event that Petitioner sells its interest in the project, Petitioner shall subject the Property to deed restrictions to run with the land which shall require the successors and assigns to comply with the terms and conditions set forth in the Commission's Decision and Order.

Done at Honolulu, Hawaii, this 19th day of December 1990,
per motion on December 13, 1990.

LAND USE COMMISSION
STATE OF HAWAII

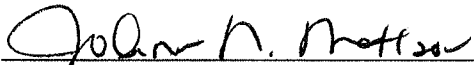
By ABSENT
RENTON L. K. NIP
Chairman and Commissioner

By 
ALLEN K. HOE
Vice Chairman and Commissioner

By 
ALLEN Y. KAJIOKA
Vice Chairman and Commissioner


By 
KAREN S. AHN
Commissioner

By ABSENT
EUSEBIO LAPENIA, JR.
Commissioner


By 
JOANN N. MATTSON
Commissioner

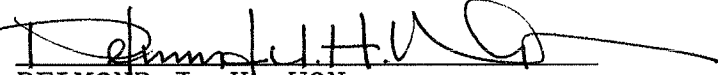
Filed and effective on
December 19, 1990

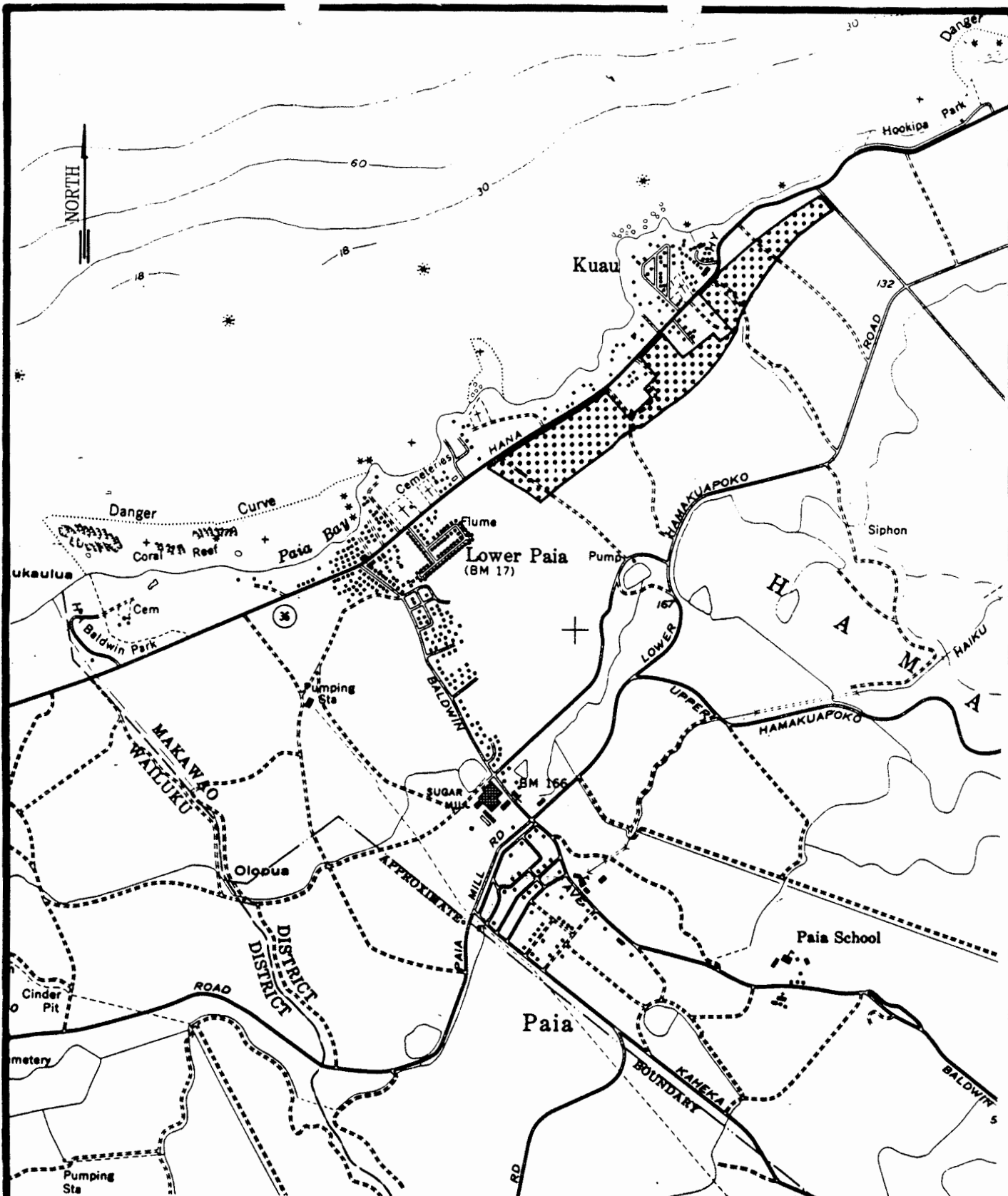
Certified by:


Executive Officer

By ABSENT
JAMES M. SHINNO
Commissioner

By 
ELTON WADA
Commissioner

By 
DELMOND J. H. WON
Commissioner



LOCATION MAP

A90-657/A & B PROPERTIES, INC.

TAX MAP KEY: 2-5-05: por. 21

KUAAU AND PAIA, HAMAKUAPOKO, MAUI

SCALE: 1" - 2,000 ft. ±



APPROVED AREA

EXHIBIT "A"

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of)	DOCKET NO. A90-657
A & B PROPERTIES, INC.)	
To Amend the Agricultural District)	A & B PROPERTIES, INC.
Boundary Into the Urban District)	
for Approximately 70.725 Acres at)	
Kuau, Maui, Hawaii, Tax Map Key)	
Nos.: 2-5-05: Portion of 21)	
_____)	

CERTIFICATE OF SERVICE

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


HAROLD S. MASUMOTO, Director
Office of State Planning
State Capitol, Room 410
Honolulu, Hawaii 96813

CERT. CHRISTOPHER L. HART, Planning Director
Planning Department, County of Maui
200 South High Street
Wailuku, Hawaii 96793

CERT. GLENN KOSAKA, ESQ.
Corporation Counsel
Office of the Corporation Counsel
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200 South High Street
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CERT. PAUL MANCINI, ESQ., Attorney for Petitioner
Case and Lynch
33 Lono Avenue, Suite 470
Kahului, Hawaii 96732

DATED: Honolulu, Hawaii, this 19th day of December 1990.



ESTHER UEDA
Executive Officer