

Stoner

BEFORE THE LAND USE COMMISSION

OF THE STATE OF HAWAII

In the matter of the Petition

of

C. Earl Stoner, Jr., on behalf of S & F  
Land Company, Inc.

To Amend the Land Use District  
Boundary of Approximately 51.946 acres  
of land in the Agricultural District to the  
Urban District at Waikapu, Wailuku,  
Island of Maui, State of Hawai'i, Tax  
Map Key Nos.: 3-8-005: 019 and 038.

) DOCKET NO. A96-717  
)  
) DECISION AND ORDER  
) APPROVING APPLICATION FOR  
) INCREMENT II FOR  
) INCREMENTAL REDISTRICTING  
) FROM AGRICULTURAL TO  
) URBAN CLASSIFICATION; and  
)  
) ORDER AMENDING CONDITION  
) No. 20 OF THE DECISION AND  
) ORDER DATED NOVEMBER 13,  
) 1996  
)

**DECISION AND ORDER APPROVING APPLICATION FOR INCREMENT II  
FOR INCREMENTAL REDISTRICTING FROM AGRICULTURAL TO  
URBAN CLASSIFICATION; and ORDER AMENDING CONDITION No. 20  
OF THE DECISION AND ORDER DATED NOVEMBER 13, 1996**

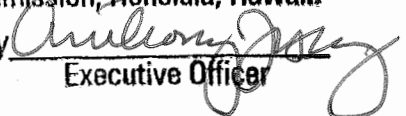
This is to certify that this is a true and correct  
copy of the document on file in the office of the  
State Land Use Commission, Honolulu, Hawaii.

JUN 13 2005

Date

by

Executive Officer



BEFORE THE LAND USE COMMISSION

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Boundary of Approximately 51.946 acres	)	
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**DECISION AND ORDER APPROVING APPLICATION FOR INCREMENT II FOR  
INCREMENTAL REDISTRICTING FROM AGRICULTURAL TO URBAN  
CLASSIFICATION; and ORDER AMENDING CONDITION No. 20 OF THE  
DECISION AND ORDER DATED NOVEMBER 13, 1996**

C. Earl Stoner Jr., on behalf of S & F Land Company ("Petitioner") filed its Application to Approve Incremental Redistricting from Agricultural to Urban Classification (the "Application") and Motion to Amend Condition No 20 of the Commission's Decision and Order (the "Motion"); Verification; Exhibits A-C; Affidavit of Publication for Notice of Hearing; and Certificate of Service, on April 11, 2005, pursuant to § 15-15-78, Hawaii Administrative Rules ("HAR"). The Application requested the incremental redistricting of the State Land Use District Boundaries for

approximately 11.056 acres of land situated at Waikapu, Wailuku, Island of Maui, State of Hawai'i, and designated by Tax Map Key No.: 3-8-005: portion of 019, as specified on the metes and bounds map received by the Commission on April 19, 2005 ("Increment II"). The Motion requested a modification to the requirement that Petitioner request a zoning change to light industrial to a requirement that Petitioner request a zoning change to heavy industrial.

## PROCEDURAL MATTERS

### **INCREMENTAL REDISTRICTING**

On April 16, 1996, Petitioner filed an Application For District Boundary Change Reclassification of 51.946 acres of land from the Agricultural District to the Urban District ("Petition"), designated by Tax Map Key Nos.: 3-8-005: por. 1, 19, 22 and 38 ("Petition Area") with the Commission. The Petition was accepted as a complete filing on May 22, 1996.

On July 26, 1996, the Commission conducted a hearing on the Petition, pursuant to notice published on June 6, 1996 in the Maui News and Honolulu Advertiser. No written or oral public testimony was received. No request for intervention was filed. On July 26, 1996, the hearing on the Petition was closed.

On November 13, 1996, the Commission filed its Findings of Fact, Conclusions of Law, and Decision and Order on Docket No. A96-717 (the "Decision and Order"). The

Decision and Order imposed 26 Conditions of Approval. Of said Conditions of Approval, Condition No. 20 provides as follows:

"20. The property subject of the Petition will be subject to incremental redistricting and Parcel 1C totaling 11.056 acres more or less shall be withheld from formal redistricting until (a) substantial completion of improvements for parcels 1A and 1B; (b) submittal by Petitioner to Maui County for Zoning Change from agricultural to light industrial for parcel 1C; and (c) approval from the County Department of Land Use and Codes for processing of said change by the Planning Department."

On April 11, 2005, Petitioner filed its Application, which requested the incremental redistricting from the Agricultural District to the Urban District for parcel 1C, consisting of 11.056 acres.

On April 14, 2005, a prehearing conference was held of the Application. In attendance were Petitioner, the County of Maui Department of Planning ("County") (both via teleconference) and the Office of Planning, Department of Business Economic Development & Tourism ("OP").

On April 19, 2005, Petitioner filed a full-sized metes and bounds map of the Petition Area signed and stamped by Bruce R. Lee, licensed professional land surveyor. The metes and bounds map further clarified Increment II as being 10.714 total acres of land (consisting of 9.811 acres of useable land and 0.903 acres of a ditch maintenance easement), designated by Tax Map Key No.: 3-8-005: portion of 19.

On April 27, 2005, Petitioner filed its Exhibit D.

On April 29, 2005, County filed its Testimony in support of the Application, Certificate of Service, List of Witnesses, and List of Exhibits.

On May 3, 2005, OP filed its Testimony in support of the Application, Certificate of Service, Exhibit 2, List of Witnesses, and List of Exhibits.

On May 5, 2005, the Commission conducted a hearing on the Application in Makena, Maui, Hawaii, pursuant to notice published on April 5, 2005 in the Maui News and Honolulu Star-Bulletin. No written or oral public testimony was received. No request for intervention was filed.

On May 5, 2005, Petitioner filed its Exhibits E and F.

During the hearing, the Petitioner stated that the Commission should favorably consider the Application given the presentation of prima facie evidence of the completion of onsite and offsite improvements as specified in the Decision and Order. Petitioner through the Application, Exhibits A-F, and oral testimony, described the completion of the following improvements:

- In May 2005, the Petitioner completed the widening of a segment of Mokulele Highway to four lanes fronting the Petition Area and completed the signalization of the intersection at the entry gate access road.
- Petitioner has also replaced the fencing along the Petition Area's frontage on Mokulele Highway with a 6-foot tall chain link fence and removed a

roadway service strip, which was not needed for access to the Petition Area.

- All offsite water improvements and onsite improvements necessary to service the Petition Area were completed in 2001 and 2002, in accordance with the County Department of Water Supply. Petitioner recently completed the remaining small extension of fire service transmission infrastructure for the final rear lot area consisting of approximately 250 lineal feet of 8-inch pipe and one hydrant.
- All offsite water improvements to include approximately 1-½ miles of 12-inch cast iron transmission line and hydrants fronting the Petition Area were completed in April 2005. All onsite improvements, including 8-inch cast iron fire line with hydrants at necessary intervals to meet County requirements, were completed in April 2005.
- All septic systems necessary for improvements to the Petition Area were completed in May 2002.
- All surface drainage facilities were completed in March 2003.
- Petitioner has fenced or blocked-off by physical obstructions any access to the gulch from the Petition Area.

After receiving an oral affirmation from the Petitioner that the Petitioner had no objections to the County's written testimony and position regarding Condition No. 20, County stated no objections to Petitioner's Application and Motion.

After questioning the Petitioner on matters regarding Conditions Nos. 3, 7, and 13, OP stated no objections to Petitioner's Application and Motion.

After discussion and deliberation by the Commissioners, a motion was made and seconded to accept Petitioner's Application to approve incremental redistricting.

There being a vote tally of 6 ayes, 0 nays, and 3 absent, the motion carried.

On May 5, 2005, the hearing on the Application was closed.

On May 17, 2005, Petitioner filed its proposed Findings of Fact, Conclusions of Law, and Decision and Order.

#### **MOTION TO AMEND CONDITION NUMBER 20**

On May 5, 2005, Petitioner's Motion came on for hearing before this Commission in Makena, Maui, Hawaii, with appearances by the Petitioner, the County and OP.

The Motion requested that Condition No. 20 of the Decision and Order be amended to read as follows:

"20. The property subject of the Petition will be subject to incremental redistricting and Parcel 1C totaling 11.056 acres more or less shall be withheld from formal redistricting until (a) substantial completion of improvements for parcels 1A and 1B; (b) submittal by Petitioner to Maui County for Zoning Change from agricultural to heavy industrial for parcel 1C; and (c) approval from the County Department of Land Use and Codes for processing of said change by the Planning Department."

The County stated no objections to the Motion and noted that Maui County is in need of lands suitable for heavy industrial uses. OP stated no objections to the Motion.

After discussion and deliberation by the Commissioners, a motion was made and seconded to amend Condition Number 20 to read as follows:

"20. The property subject of the Petition will be subject to incremental redistricting and Parcel 1C totaling 11.056 acres more or less shall be withheld from formal redistricting until (a) substantial completion of improvements for parcels 1A and 1B; (b) written verification from the County of Maui Planning Department is received by the Land Use Commission confirming that the Petitioner has submitted an application for a change in zoning from Agricultural to Heavy Industrial for parcel 1C; (c) written verification from the County of Maui Planning Department is received by the Land Use Commission that the aforementioned change in zoning application is deemed complete by the County of Maui Planning Department.

There being a vote tally of 6 ayes, 0 nays, and 3 absent, the motion carried.

The LUC, having considered the entire record on this matter, hereby makes the following decision and order.

### **DECISION AND ORDER**

IT IS HEREBY ORDERED that Increment II being the subject of LUC Docket No. A96-717, filed by Petitioner, C. Earl Stoner Jr., on behalf of S & F Land Company, Inc., consisting of approximately 10.714 acres of land in the State Land Use Agricultural District at Wakapu, Wailuku, County of Maui, State of Hawaii, identified as Tax Map Key No.: 3-8-005: portion 019 (refer to Exhibit A), is hereby reclassified into the State



Land Use Urban District, and the State Land Use District Boundaries are amended accordingly, subject to the conditions of approval set forth herein.

Having duly considered Petitioner's Motion, the oral and written arguments presented by the parties, and further representations made during the hearing, and a motion having been made and seconded at a hearing on May 5, 2005, in Makena, Maui, Hawaii, and the motion having received the affirmative votes required by section 15-15-13, HAR, this Commission hereby ORDERS that Condition No. 20 of the Decision and Order dated November 13, 1996, be amended to read as follows:

"20. The property subject of the Petition will be subject to incremental redistricting and Parcel 1C totaling 11.056 acres more or less shall be withheld from formal redistricting until (a) substantial completion of improvements for parcels 1A and 1B; (b) written verification from the County of Maui Planning Department is received by the Land Use Commission confirming that the Petitioner has submitted an application for a change in zoning from Agricultural to Heavy Industrial for parcel 1C; (c) written verification from the County of Maui Planning Department is received by the Land Use Commission that the aforementioned change in zoning application is deemed complete by the County of Maui Planning Department.


All other conditions of the Decision and Order dated November 13, 1996, shall remain in full force and effect.

### ADOPTION OF ORDER

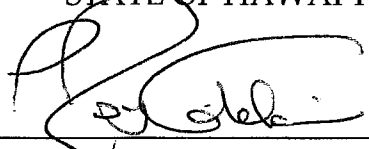
The undersigned Commissioners, being familiar with the record and proceedings, hereby adopt and approve the foregoing ORDER this 13th day of June, 2005. This ORDER and its ADOPTION shall take effect upon the date this ORDER is certified and filed by this Commission.


Done at Honolulu, Hawai'i, this 13th day of June, 2005, per motion on May 5, 2005.

APPROVED AS TO FORM

  
Deputy Attorney General

LAND USE COMMISSION  
STATE OF HAWAII

By   
P. ROY CATALANI  
Chairperson and Commissioner

By   
RANDALL SAKUMOTO  
Vice-Chairperson and Commissioner

By (absent)  
STEVEN LEE MONTGOMERY  
Vice Chairperson and Commissioner

By Isaac Fiesta Jr.  
ISAAC FIESTA, JR.  
Commissioner

By Michael D. Formby  
MICHAEL D. FORMBY  
Commissioner

By (absent)  
KYONG SU IM  
Commissioner

By Lisa M. Judge  
LISA M. JUDGE  
Commissioner

Filed and effective on  
JUN 13 2005

By Ransom A. K. Piltz  
RANSOM A. K. PILTZ  
Commissioner

Certified by:

Anthony J. H. Ching  
ANTHONY J. H. CHING

By (absent)  
PETER YUKIMURA  
Commissioner

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Island of Maui, State of Hawai'i, Tax	)	
Map Key Nos.: 3-8-005: 019 and 038.	)	

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the Decision and Order Approving  
Application for Increment II for Incremental Redistricting from Agricultural to Urban  
Classification; and Order Amending Condition No. 20 of the Decision and Order dated  
November 13, 1996 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.        LAURA THIELEN, Director  
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              Honolulu, Hawaii 96804-2359

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