



BEFORE THE LAND USE COMMISSION  
STATE OF HAWAII

2011 NOV 15 P 1:48  
LAND USE COMMISSION  
STATE OF HAWAII

In The Matter Of The Petition Of	)	DOCKET NO. A96-717
	)	
C. EARL STONER, JR. ON BEHALF OF,	)	
S & F LAND COMPANY, INC.	)	ORDER GRANTING IN PART AND
	)	DENYING IN PART MOTION TO
To Amend The Agricultural Land Use	)	RELEASE CONDITIONS
District Boundary for approximately	)	
51.946 acres Into The Urban Land Use	)	CERTIFICATE OF SERVICE
District at Waikapū, Wailuku, Maui, State	)	
of Hawai'i, Tax Map Key Nos.: 3-8-05:	)	
001 (por.), 019, 022, and 038	)	
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	)	

ORDER GRANTING IN PART AND DENYING IN PART MOTION TO RELEASE  
CONDITIONS

CERTIFICATE OF SERVICE



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ORDER GRANTING IN PART AND DENYING IN PART MOTION TO RELEASE  
CONDITIONS

On February 12, 2009, C. Earl Stoner, Jr. ("Movant") filed a Motion to Release Conditions ("Motion") in this proceeding, pursuant to sections 15-15-70 and 15-15-94, Hawai'i Administrative Rules ("HAR").

On April 7, 2009, the State Office of Planning ("OP") filed The Office of Planning's Response to Petitioner's Motion to Release Conditions.

On April 8, 2011, Movant filed Request to Release Conditions materials to support its Motion.

On August 1, 2011, the County of Maui, Planning Department (“County”) filed its Response to the Petitioner’s Motion to Release Conditions Position of the Maui County Planning Department.

On October 13, 2011, OP filed Office of Planning’s Supplemental Response Supporting in Part and Opposing in Part Petitioner’s Motion to Release Conditions.

On October 21, 2011, Movant filed its Reply Memorandum in Support of Motion to Release Conditions.

On November 1, 2011, the Movant filed a fully executed Stipulation for Deletion of Certain Conditions of Motion to Release Conditions<sup>1</sup>; signed by Movant, County, and OP. The three parties were in agreement that Condition Nos. 1, 3-6, 9, 11, 14, 15, 17, 20-22, 24, and 25 should be released.

The Motion to Release Conditions was heard in Mākena, Maui, Hawai`i, on November 4, 2011. William Crockett, Esq., and C. Earl Stoner, Jr. and Robert Stoner appeared on behalf of Movant - S & F Land Company, Inc.; Bryan Yee, Esq., and Jesse Souki appeared on behalf of OP; and Michael Hopper, Esq., and William Spence appeared on behalf of the County.

At the hearing, Movant acknowledged the executed stipulated agreement amongst the parties to release certain conditions and presented information in support of releasing the remaining conditions not stipulated to by other parties. The County indicated that it had entered into the stipulation to release certain conditions but wishes to retain Condition Nos. 7, 8, 10, 12, 13, 23, and 26 because they constituted ongoing obligations of the Movant. OP indicated that it entered into the stipulated agreement but was opposed to release of Condition Nos. 2, 7, 8, 10, 12, 13, 16, 18, 19, 23, and 26, also arguing that they constituted ongoing obligations.

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<sup>1</sup> The Stipulation for Deletion of Certain Conditions, dated October 24, 2011, identifies agreement by all parties to release Condition Numbers 1, 3-6, 9, 11, 14, 15, 17, 20-22, 24, and 25.

After hearing argument of the parties, discussion, questioning, and deliberation by the Commissioners, a motion was made and seconded to grant in part and deny in part Movant's Motion to Release Conditions to specifically release Condition Nos. 1-6, 9, 11, 14, 15, 17, 18, 20-22, 24, and 25; and to retain Condition Nos. 7, 8, 10, 12, 13, 16, 19, 23, and 26. There being a vote tally of 5 ayes, 0 nay and 4 excused, the motion carried.

This Commission, having duly considered the Motion to Release Conditions filed by C. Earl Stoner, Jr. on behalf of S &F Land Company, Inc., the arguments and representations by the parties, the stipulated agreement entered into by all parties, and the record in this docket, hereby finds and concludes that C. Earl Stoner, Jr. on behalf of S &F Land Company, Inc., has supported its position for release of the following conditions: 1-6, 9, 11, 14, 15, 17, 18, 20-22, 24, and 25. Therefore, for good cause shown,

IT IS HEREBY ORDERED that the Motion to Release Conditions contained in the Findings of Fact, Conclusions of Law, and Decision and Order entered by the State Land Use Commission on November 13, 1996, and as modified on June 13, 2005<sup>2</sup>, filed by C. Earl Stoner, Jr. on behalf of S &F Land Company, Inc. be GRANTED IN PART AND DENIED IN PART.

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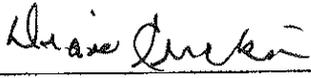
<sup>2</sup> Decision and Order Approving Application for Increment II for Incremental Redistricting from Agricultural to Urban Classification; and Order Amending Condition No. 20 of the Decision and Order dated November 13, 1996.

ADOPTION OF ORDER

The 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 15th day of November, 2011, per motion on November 4, 2011.

APPROVED AS TO FORM

  
\_\_\_\_\_  
Deputy Attorney General

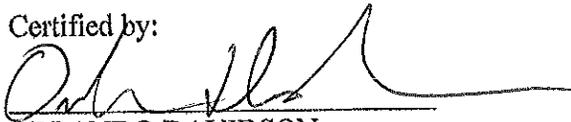
LAND USE COMMISSION  
STATE OF HAWAII

By   
\_\_\_\_\_  
LISA JUDGE  
Presiding Officer and Commissioner

Filed and effective on:

11/15/2011

Certified by:

  
\_\_\_\_\_  
ORLANDO DAVIDSON  
Executive Officer



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CERTIFICATE OF SERVICE

I hereby certify that a copy of the ORDER GRANTING IN PART AND DENYING IN PART MOTION TO RELEASE CONDITIONS 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:

CERTIFIED WILLIAM F. CROCKETT, Esq.  
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Wailuku, Hawai`i 96793  
ATTORNEY FOR MOVANT, C. EARL STONER, JR.

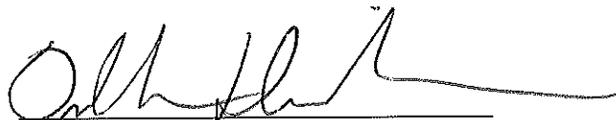
DEL.: JESSE K. SOUKI, Director  
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REGULAR MAIL: BRYAN C. YEE, Esq.  
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ATTORNEY FOR THE CITY AND COUNTY OF HONOLULU,  
DEPARTMENT OF PLANNING AND PERMITTING

Dated: Honolulu, Hawai'i, 11/15/2011.



ORLANDO DAVIDSON  
Executive Officer