

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

In the Matter of the Petition of)
)
THE LIHUE PLANTATION COMPANY,)
LIMITED, a Hawai'i corporation)
)
To Amend the Agricultural Land Use)
District Boundary for Approximately)
541.769 Acres and the Conservation)
Land Use District Boundary for)
Approximately 12.873 Acres into the)
Urban Land Use District at)
Hanama'ulu and Kalapaki, Island of)
Kaua'i, State of Hawai'i, Tax Map)
Key Nos. 3-6-02: por. 1, por. 4 &)
por. 20; 3-6-02: 17; 3-7-01: por.)
1; 3-7-02: por. 1 & por. 12; and)
3-7-03: por. 20)

DOCKET NO. A94-703
ORDER GRANTING MOTION TO
AMEND CONDITION NOS. 2
AND 7 OF THE HEARING
OFFICERS' PROPOSED
FINDINGS OF FACT,
CONCLUSIONS OF LAW, AND
DECISION AND ORDER DATED
NOVEMBER 22, 1995

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.

APR 12 1996 by [Signature]
Date Executive Officer

ORDER GRANTING MOTION TO AMEND CONDITION NOS. 2 AND 7 OF THE
HEARING OFFICERS' PROPOSED FINDINGS OF FACT, CONCLUSIONS OF LAW,
AND DECISION AND ORDER DATED NOVEMBER 22, 1995

LAND USE COMMISSION
STATE OF HAWAII
APR 12 8 25 AM '96

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OF THE STATE OF HAWAI'I

In the Matter of the Petition of)	DOCKET NO. A94-703
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THE LIHUE PLANTATION COMPANY,)	ORDER GRANTING MOTION TO
LIMITED, a Hawai'i corporation)	AMEND CONDITION NOS. 2
)	AND 7 OF THE HEARING
To Amend the Agricultural Land Use)	OFFICERS' PROPOSED
District Boundary for Approximately)	FINDINGS OF FACT,
541.769 Acres and the Conservation)	CONCLUSIONS OF LAW, AND
Land Use District Boundary for)	DECISION AND ORDER DATED
Approximately 12.873 Acres into the)	NOVEMBER 22, 1995
Urban Land Use District at)	
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ORDER GRANTING MOTION TO AMEND CONDITION NOS. 2 AND 7 OF THE
HEARING OFFICERS' PROPOSED FINDINGS OF FACT, CONCLUSIONS OF LAW,
AND DECISION AND ORDER DATED NOVEMBER 22, 1995

On February 12, 1996, The Lihue Plantation Company, Limited, a Hawai'i corporation ("Petitioner"), filed a Motion to Amend Condition Nos. 2 and 7 of the Hearing Officers' Proposed Findings of Fact, Conclusions of Law, and Decision and Order dated November 22, 1995 ("Motion"), pursuant to sections 15-15-70 and 15-15-94, Hawai'i Administrative Rules ("HAR").

Attached to the Motion was a Memorandum in Support of the Motion, which stated that Condition Numbers 2 and 7 of the Hearing Officers' Proposed Findings of Fact, Conclusions of Law, and Decision and Order dated November 22, 1995 ("Hearing Officers' Proposed Decision and Order"), be amended to reflect the two-tiered zoning process of the County of Kaua'i and to be

consistent with Condition Number 1 of the Hearing Officers' Proposed Decision and Order.

The Motion came on for hearing before this Commission on February 29, 1996, in Honolulu, Hawai'i. The Office of State Planning ("OSP") argued that it had no objections to the Motion. The County of Kaua'i Planning Department ("Planning Department") argued that it had no objections to the Motion and provided proposed language amending Condition Numbers 2 and 7.

This Commission, having considered the arguments presented by Petitioner, OSP, and the Planning Department in this proceeding and the record in this proceeding, and good cause existing therefrom,

IT IS HEREBY ORDERED that Condition Number 2 be amended as follows:

2. Petitioner shall provide its fair-share contribution for school facilities necessitated by the proposed Lihue-Hanamaulu Project, and for the benefit of the State Department of Education ("DOE"), as follows: Petitioner shall donate in fee simple, twelve (12) acres of off-site land in the Lihue district at Puhī, Kauai in an "as is" condition for an elementary school site. Agreement between Petitioner and the DOE as to the time of the conveyance(s) of the land(s) and the specific location of the twelve (12) acre site shall be obtained prior to the Petitioner applying for county zoning permits.

IT IS FURTHER ORDERED that Condition Number 7 be amended as follows:

7. Petitioner shall participate in the pro rata funding and construction of local and regional transportation improvements and programs including dedication of rights-of-way as determined by the State Department of Transportation ("DOT") and the County of Kauai. Agreement between the Petitioner and the DOT as to the level of funding and participation shall be obtained prior to the

Petitioner applying for county zoning permits or receiving final approval of any subdivision, whichever comes first.

All other conditions of the Hearing Officers' Proposed Decision and Order filed on November 22, 1995, and adopted by Order Adopting Hearing Officers' Proposed Findings of Fact, Conclusions of Law, and Decision and Order, as Amended, dated January 4, 1996, are hereby reaffirmed and shall continue in effect.

DOCKET NO. A94-703 - THE LIHUE PLANTATION COMPANY, LTD.

Done at Honolulu, Hawaii, this 12th day of April 1996,
per motion on February 29, 1996.

LAND USE COMMISSION
STATE OF HAWAII

By Allen K. Hoe
ALLEN K. HOE
Chairperson and Commissioner

By (absent)
TRUDY K. SENDA
Vice Chairperson and Commissioner

By Rupert K. Chun
RUPERT K. CHUN
Commissioner

By M. Casey Jarman
M. CASEY JARMAN
Commissioner

By Lloyd F. Kawakami
LLOYD F. KAWAKAMI
Commissioner

By Merle A. K. Kelai
MERLE A. K. KELAI
Commissioner

By (absent)
EUSEBIO LAPENIA, JR.
Commissioner

By Joann N. Mattson
JOANN N. MATTSON
Commissioner

By (absent)
ELTON WADA
Commissioner

Filed and effective on
April 12, 1996

Certified by:
[Signature]
Executive Officer

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

In the Matter of the Petition of) DOCKET NO. A94-703
)
THE LIHUE PLANTATION COMPANY,) CERTIFICATE OF SERVICE
LIMITED, a Hawai'i corporation)
)
To Amend the Agricultural Land Use)
District Boundary for Approximately)
541.769 Acres and the Conservation)
Land Use District Boundary for)
Approximately 12.873 Acres into the)
Urban Land Use District at)
Hanama'ulu and Kalapaki, Island of)
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1; 3-7-02: por. 1 & por. 12; and)
3-7-03: por. 20)
_____)

CERTIFICATE OF SERVICE

I hereby certify that a copy of the Order Granting Motion to Amend Condition Nos. 2 and 7 of the Hearing Officers' Proposed Findings of Fact, Conclusions of Law, and Decision and Order Dated November 22, 1995 was served upon the following by either hand delivery or depositing the same in the U. S. Postal Service by certified mail:

CERT. GREGORY G.Y. PAI, PH.D., Director
Office of State Planning
P. O. Box 3540
Honolulu, Hawaii 96811-3540

CERT. DEE CROWELL, Planning Director
Planning Department, County of Kauai
Suite 473, Building A
4444 Rice Street
Lihue, Hawaii 96766

CERT. HARTWELL H.K. BLAKE, ESQ.
County Attorney
Office of the County Attorney
County of Kauai
4444 Rice Street, #220
Lihue, Hawaii 96766

CERT. BENJAMIN A. KUDO, ESQ., Attorney for Petitioner
Dwyer Imanaka Schraff Kudo Meyer & Fujimoto
900 Fort Street Mall, Suite 1800
Honolulu, Hawaii 96813

DATED: Honolulu, Hawaii, this 12th day of April 1996.



ESTHER UEDA
Executive Officer