

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of)	
)	
McBRYDE SUGAR COMPANY,)	DOCKET NO. A76-411
LIMITED)	
)	
For the Reclassification of)	
Certain Lands situated at Eleele,)	
Island of Kauai.)	
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DECISION AND ORDER

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DECISION AND ORDER

This matter, being a proceeding pursuant to Section 205-4 of the Hawaii Revised Statutes, to consider a Petition to Amend District Boundaries and reclassify from Agricultural to Urban approximately 103 acres of land situated at Eleele, Island of Kauai, was heard by the Commission at Lihue, Kauai, on May 12, 1976. McBryde Sugar Company, Limited, Kauai County Planning Department, and the Department of Planning and Economic Development, State of Hawaii, were admitted as parties in this Docket. The Commission, having duly considered the record in this Docket, the proposed Findings of Fact, Conclusions of Law, and Decision and Order submitted by the Petitioner, hereby makes the following findings of fact and conclusions of law.

FINDINGS OF FACT

1. Petitioner is a wholly-owned subsidiary of

Alexander & Baldwin, Inc., both Hawaii corporations, and is the fee simple owner of the real property proposed herein for reclassification (herein "subject property"). The subject property is located at Eleele, Kauai, and is identified by Tax Map Key 2-1-01:10. The total area of Parcel 10 is 222.16 acres, and the area proposed for reclassification is approximately 103 acres. The subject property is located mauka (north) of, and borders upon, Ulaula Road and the existing Eleele residential subdivision. It is bounded by the Hanapepe River to the north and northwest, cane lands to the northeast, and by Kaunualii (State) Highway to the east and southeast.

2. The subject property, presently planted in sugarcane, is within the Agricultural Land Use District and is contiguous to the Urban Land Use District, which includes the existing Eleele Subdivision (primarily single-family residential) and Eleele Elementary School to the southwest, and the R-4 and R-10 County-zoned parcels to the southeast. The contiguous area to the north-northeast is within the Agricultural Land Use District.

3. The Kauai General Plan, adopted by the County of Kauai in 1971, designates the entire area of the subject property for residential and park uses. The proposed Hanapepe-Eleele Community Development Plan (1974), which will update the General Plan, preserves those designated uses for the subject property. County of Kauai zoning for the property is agriculture.

4. The subject property is located at approximately the 160-foot to 300-foot elevation, and is relatively flat with slopes averaging four-five percent. The USDA Soil Conservation Service Soil Survey Report for the area indicates that the property consists of three (3) soil types:

(i) Makaweli silty clay loam, 0 to six percent slopes (MgB). Permeability is moderate, runoff is slow, and erosion hazard is slight. This soil is used for irrigated sugarcane and pasture. Capability classification is IIe, if irrigated, and IVe, if non-irrigated; sugarcane group 1; pasture group 2.

(ii) Makaweli silty clay loam, six to 12 percent slopes (MgC). Runoff is medium and erosion hazard is moderate. This soil is used for sugarcane, pasture and homesites. Capability classification is IIIe, if irrigated, and IVe, if non-irrigated; sugarcane group 1; pasture group 2.

(iii) Lihue gravelly silty clay, 0 to eight percent slopes (LIE). Similar to Lihue silty clay, 0 to eight percent slopes, except that it contains ironstone-gibbsite pebbles and has bright colors in the B horizon. The subsoil, more than 48" thick, is dark-red, reddish-brown, compact silty clay with subangular blocky structure, and is slightly acid to neutral; substratum is soft, weathered rock. Surface area is strongly acid. This soil is used for sugarcane, pasture and homesites. Capability classification is IIe, if irrigated or non-irrigated; sugarcane group 1; pineapple group 5;

pasture group 5; woodland group 5.

Rainfall in the area of the subject property is approximately 30 inches per year.

5. In accordance with the Kauai General Plan, the proposed Hanapepe-Eleele Community Development Plan, and appropriate County zoning, Petitioner proposes to develop the subject property as a residential subdivision of single-family lots for the low and moderate income markets, which will total between 400-450 lots over a seven-year development period. The phased development of the property will occur from south to north, according to a rough estimate of project phasing, as follows:

<u>PHASE</u>	<u>YEAR</u>	<u>NO. UNITS</u>	<u>TOTAL UNITS</u>
1	1977	22-25	22-25
2	1978	110-125	132-150
3	1979	85-100	195-250
4	1980	45-50	255-300
5	1981	45-50	305-350
6	1982	45-50	355-400
7	1983	45-50	400-450

Subject to County zoning and subdivision approval, the house-lots and related on-site improvements will occupy approximately 89 acres of the subject property, with the balance acreage of approximately 14 acres being put to park use. On-site improvements will include grading, drainage, water distribution, sewer lines, sewers and power. Off-site improvements will include water and sewer connections, and drainage. The Developer of the property will be A & B Properties, Inc. (a

wholly-owned subsidiary of Alexander & Baldwin, Inc.), which has an option to purchase said property from Petitioner.

6. There are undeveloped, State-owned Urban District lands in the upper Hanapepe Heights area under the jurisdiction, control and management of the Department of Land and Natural Resources which are designated in the Kauai General Plan for single-family residential use. However, the Department has no plans to develop these lands at the present time. Other urban lands currently being developed for multi-family use, though not to their full potential, are located in the Port Allen area.

7. As to sewers, the subject property is located within the County-designated service area of the Hanapepe Wastewater System for Hanapepe and Eleele. The existing system in Eleele is raw sewage disposal to the ocean of an estimated 100,000 gallons per day, and serves a sewered population of a little over 800 people in the Eleele Subdivision, plantation camp housing, the Eleele shopping center, the HHA housing project, and Port Allen. However, presently under construction is the first phase of a new sewer system for the Hanapepe/Eleele area, which system, when eventually completed in all phases, will have a total capacity of 1.4 million gallons per day. The first phase system now under construction includes a force main, pumping system, and a sewer treatment plant with a design capability of handling 400,000 gallons per day. After satisfying existing sewer demands, the first phase sewer

system will have a reserve capacity available for new developments, including that proposed for the subject property. This reserve capacity is estimated at between 50,000 to 100,000 gallons per day. Based upon the County's formula of 400 gallons per unit per day, as a sewer service requirement, that reserve capacity will probably accommodate between 25% to 50% of the houselots proposed for the subject property. Barring any unforeseen delay, the first phase system should be completed sometime in July or August, 1977. To enable the development of additional houselots to proceed beyond the capacity of the first phase sewer system, the County's Department of Public Works would require the Developer to install dry sewer lines. In addition, cesspools must be dug for each houselot until such time as a hookup may be made to a new or expanded system.

8. As to domestic water service, the existing privately-owned McBryde Domestic Water System can adequately serve most of the proposed residential development of the subject property, which is included within the General Plan for Domestic Water (Report No. R40), as adopted by the County of Kauai Water Department. For service to the Eleele area, including the subject property, the system includes: (i) a deep well source and shaft, located on the east bank of the Hanapepe River; (ii) two 550 gpm deep well pumps; (iii) three smaller pumps; (iv) two 400,000 gallon-capacity steel tanks, located at elevation 310 feet; and (v) transmission lines, including a 12-inch cast iron main serving the Eleele Sub-division and Port Allen communities. Existing, average daily demand upon the entire McBryde system (including Wahiawa)

is approximately 500,000 GPD. Based upon the County's formula, for required domestic water service of 500 gallons per unit per day, multiplied by a peak-day factor of 1.5, the proposed residential development of the subject property will create a new demand of 337,500 GPD. Existing and new demand will, therefore, total approximately 837,500 GPD, well within the storage and effective pumping capacity of the McBryde System of 1.2 MGD; although, due to limitations on head (i.e., pressure), it is estimated that 135 houselots above elevation 225 feet could not be immediately serviced without further improvements to the system. However, because of development phasing from south to north, those lots will not be developed until 1981 or thereabouts, at which time, in conjunction with the Kauai Water Department, arrangements can be made to adequately serve those lots. There have occasionally been problems of maintaining the water quality of the system, but a solution to this problem can be worked out with the County of Kauai Water Department. Specific compliance with Water Department requirements will be addressed when subdivision requests are made.

9. Surface waters from the subject property, as developed, will be drained into the McBryde irrigation system, an existing McBryde reservoir, and the existing Eleele drainage system consisting of drainage ditch and a culvert which Petitioner proposes to enlarge. The drainage flow schematic is shown in Petitioner's Exhibit 1, in evidence,

at p. E14-46. In his evaluation of drainage, the County Engineer, Mr. Akira Fujita, has indicated that although existing drainage facilities within the Eleele subdivision are inadequate and could not accommodate storm discharge from the proposed development, that residents in the area have cited flooding problems, and the County's Eleele Park has frequently been inundated by storm runoff, the matter of drainage can be worked out with the developer and should not be a detriment to a granting of subject land use change.

10. As to natural hazards, the subject property is not within any tsunami or flood zone, and is reasonably free from unstable soil conditions.

11. No significant adverse environmental effect is expected to result from the proposed residential development. Although there are some trees in the surrounding area and wild life one would expect to find in sugarcane fields, there are no known endangered specie of plant or animal life which would be displaced by the development. Since the property has been devoted to cane cultivation, no recreational resources will be eliminated; instead, the proposed development will create, in addition to a park, scenic overlooks to view the Hanapepe River Valley. There are no known sites of archaeological or historic significance on the property.

12. The displacement of sugarcane by the proposed development will not have any significant adverse effect upon the agricultural activity of Petitioner, inasmuch as the addition, in 1974, of leased, high quality agriculture lands

already planted in cane from Grove Farm has increased Petitioner's total lands in cane production from 5,893 acres to 13,136 acres, of which total the subject property represents less than one percent (1.0%). In accordance with Petitioner's plan to phase out its plantation housing in camps 2, 3, and 7, approximately 31 additional acres of land occupied by such housing will be put into cane production when the phase-out is completed. Other lands of Petitioner not planted in cane total some 16,617 acres, some of which are spread out over the Island. Portions of those lands are devoted to reservoir and road use, and/or are leased out for other uses, and/or are within the Conservation District. Petitioner's planting schedule over a three-year period calls for 43 new acres of cane to be planted in 1976, 100 acres in 1977, and 20 acres in 1978, or a total of 163 acres by the end of 1978. For the foregoing reasons, reclassification of the subject property will not substantially impair actual or potential agricultural production in the vicinity.

13. Available public services and other facilities in close proximity to the subject property consist of Eleele Elementary School (adjacent), intermediate and high schools (7.0 miles), hospital (7.0 miles), police station (7.0 miles), fire station (2.0 miles), Port Allen boat docks (1.0 mile), beach (2.0 miles), baseball field (.3 miles), Hanapepe parks (1.0 mile), and Eleele shopping center (.5 miles).

14. Conservative estimates of housing demand in the Hanapepe-Eleele area, based upon statistics provided

from both government and non-government sources, indicate an immediate need (1975-1976) of 449 dwelling units and a long-range need thereafter (1977-1983) of 318 units, or a total of 767 dwelling units by 1983. The sources for these estimates include the Kauai Office of Housing Administrator, Hanapepe-Eleele Development Plan, McBryde Sugar Company, and the ILWU.

15. The proposed development will initially provide houselots for McBryde Sugar Company workers and pensioners in conjunction with Petitioner's plan to phase out its plantation-owned camp housing involving some 115 occupied dwelling units. These inhabitants will be encouraged to purchase houselots in the development, and, together with others, are included in the following priority system, pursuant to which the sale of houselots will be conducted:

(i) Priority I. (a) Qualified McBryde Sugar Company employees and pensioners, and other A & B, Inc. employees presently living in McBryde-owned housing on Kauai, who do not own a lot, and who would be owner-occupants (these purchasers will be entitled to purchase lots at a reduced or discounted price to be established by A & B Properties, Inc., the Developer); and (b) Employees and pensioners of A & B, Inc. or any of its divisions or subsidiaries who are Kauai residents, who do not own their home or land suitable for (in the Developer's opinion) or zoned for residential use, and who would be owner-occupants.

(ii) Priority II. Kauai residents who live in Kauai voting precincts 4, 5 and 6 adjacent to, or within the surrounding area of, the subject property, who do not own

their own home or land suitable for (in the Developer's opinion) or zoned for residential use, and who would be owner-occupants. (Olokele employees in plantation camp housing at Kaumakani are within voting precinct 4.)

(iii) Priority III. Kauai residents, who do not own their own home or land suitable for (in the Developer's opinion) or zoned for residential use, and who would be owner-occupants.

(iv) Priority IV. Employees and pensioners of A & B, Inc., its divisions and subsidiaries, who own their homes, who are relocating to Kauai, and who would be owner-occupants.

(v) Priority V. Other individuals who own their own home, who are relocating to Kauai, and who would be owner-occupants.

(vi) Priority VI. All other individuals.

16. Houselots in the proposed development will be sold in fee simple, and will average 7,100-7,900 square feet in size. The planned density of the development is between four and four and one-half units per acre. However, Petitioner has represented that if the market demand for housing in the area indicates a need for more small-sized (i.e., 6,000+ square feet) lots, two or more phases of the subdivision may be developed to include such smaller-sized lots, subject to County approval.

17. The Developer's (i.e., A & B Properties, Inc.) estimate of development costs, lot prices, gross revenues

from lot sales, discounts to Priority I(a) purchasers and profit are based on 1975 dollars, which it has indicated must be adjusted, and will be influenced, by a projected inflation rate of 8.0% to 12.0%, compounded annually. On the basis of those dollars, estimated gross revenues after discounts are \$6,843,000, and estimated total development costs are \$6,308,000, would yield the Developer an estimated profit of \$445,000 or 6.0% of gross revenues before discounts.

18. Several factors will improve the financial ability of prospective purchasers in the low and moderate income scale to buy houselots in the proposed subdivision. These factors include, among others: Farmers Home Administration (subsidized interest) loans; smaller size lots; and discounts to Priority I(a) buyers. As to the annual income of prospective buyers, the ILWU survey of McBryde and Olokele plantation employees (195 out of 255 respondents) shows that based on 1974 Income Tax Returns, approximately 20 or 10% reported incomes in excess of \$16,200; 58 or 30% in the range of \$10,700 to \$16,200; and 117 or 60% below \$10,700. Petitioner's Exhibit 1, at p. 8 (citing the Hanapepe-Eleele Community Development Plan Technical Report, (1974) by MKGKY), shows a median family income range of \$8,984 to \$9,100 for the Hanapepe-Eleele area, as compared to a County and State average of \$9,946 and \$11,554. The written testimony herein of the State Department of Planning and Economic Development shows median family income for the area to be between \$7,750 and \$9,680.

19. To prevent or discourage speculative purchases

of houselots, and to insure the sale of houselots to prospective buyers according to the indicated priority system and market demands, the Petitioner intends anti-speculation controls, including buy-back provisions (among others), which will be imposed by way of Declaration of Conditions, Limitations, Covenants and Restrictions. In addition, to preserve and enhance property values and insure health, safety, architectural harmony and amenity for prospective buyers, restrictive covenants imposing site, architectural and other standards will be implemented. These covenants are subject to modification appropriate for the development. In the planning of the development, including the review of covenants appropriate for the same, the Petitioner has agreed to consult with potential buyers as an organized and representative group, particularly with reference to those persons who fall within Priorities I and II for preference as purchasers.

20. The subject property is not within the shoreline setback area or the coastal zone (special) management area established by law.

21. In that the project proposes to provide housing for low and moderate income families and housing for plantation employees, the State Department of Planning and Economic Development has no objections to the proposed reclassification of the subject property.

22. The County of Kauai Planning Department has no serious objections and, for the following reasons,

recommends approval of the proposed reclassification:

(i) The area of the subject property is a logical direction for urban growth;

(ii) It will serve as an inventory of houseslots for a basically local market;

(iii) The residential area proposed would help meet the housing needs of the growing employment centers at Poipu and perhaps Barking Sands; and

(iv) The Petitioner's stated intent to address the problem of uncontrolled speculation through covenants and restrictions; the understanding that Alexander & Baldwin, Inc., has had considerable success in preventing speculation in residential developments on Maui; and the hope that similar success can be achieved in the development of the subject property.

23. Substantial progress in the overall development of the subject property, as proposed, will occur within a period of five (5) years; and the Developer, A & B Properties, Inc., does have the financial ability to undertake the full costs of development.

24. From a review of the Petition herein vis-à-vis the Kauai General Plan, the proposed Hanapepe-Eleele Community Development Plan, and the policies and criteria under the Interim Statewide Land Use Guidance Policy, the proposed reclassification appears to be reasonable.

25. Upon the foregoing, the proposed development appears to be economically feasible and should provide a sufficient reserve for urban growth in the Hanapepe-Eleele Urban District during the next ten (10) years.

CONCLUSIONS OF LAW

Reclassification of the subject property, approximately 103 acres situated at Eleele, Island of Kauai, from Agricultural to Urban, and amendment of the District Boundaries accordingly to permit the proposed development, is reasonable, not violative of Section 205-2, HRS, and consistent with the interim policies and criteria established pursuant to Section 205-16.1, HRS, particularly subsection (5) thereof which provides, among other things, a preference for petitions which will provide needed housing accessible to existing or proposed employment centers, or assist in providing a balanced housing supply for all economic and social groups.

ORDER

IT IS HEREBY ORDERED:

That, subject to the condition that Petitioner substantially complies with the following representations made by the Petitioner during the course of the proceedings on his Petition for Amendment to District Boundaries, the property which is the subject of the Petition in this Docket No. A76-411, approximately 103 acres situated at Eleele, Island of Kauai, a portion of Parcel 10 identified by Tax Map Key 2-1-01, shall be and hereby is reclassified from Agricultural to Urban and the District Boundaries are amended accordingly:

1. That the subject property be developed by A & B Properties, Inc., a wholly-owned subsidiary of Petitioner, into a single-family residential subdivision of 400 to 450 lots of mixed sizes averaging from 7,100 to 7,900 square feet and yielding a density of four to four and one-half units per acre on approximately 89 acres of the subject property, provided that in case market demand indicates a need for more smaller-sized lots, appropriate zoning therefor may be sought, and provided further, that approximately 14 acres of the subject property, or so much thereof as shall finally be determined by the County, shall be set apart for park dedication to the County.

2. That consistent with federal and state laws bearing upon nondiscrimination in real property transactions, the development be intended for local residents in the low and moderate income categories and/or in accordance with the priority system provided in Condition 4, and that the Developer use its best efforts to deliver houselots within the ability of the low and moderate income buyer to finance the purchase of such lots, as well as the construction of dwellings thereon. To this end, the Developer is encouraged to cooperate with government housing agencies or coordinators and to assist buyers in obtaining available government subsidized or other appropriate financing.

3. That the Developer offer discounts to McBryde Sugar Company employees and pensioners and other A & B, Inc. employees presently living in McBryde camp housing on Kauai,

who do not own a lot, and who would be owner-occupants; which discounts will be somewhere in the neighborhood of 30% depending upon actual development costs.

4. That the Developer extend priorities for the purchase of lots according to the following six-category system:

- (i) Priority I: (a) Qualified McBryde Sugar Company employees and pensioners and other A & B, Inc. employees, presently living in McBryde-owned housing on Kauai, who do not own a lot, and who would be owner-occupants; and (b) Employees and pensioners of A & B, Inc. or any of its divisions or subsidiaries who are residents of Kauai, who do not own their own home or land suitable for (in the Developer's opinion) or zoned for residential use, and who would be owner-occupants.
- (ii) Priority II. Kauai residents who live in Kauai voting precincts 4 (where Olokele Plantation-Kaumakani Camp is located), 5, and 6 adjacent to, or within the surrounding area of, the subject property, who do not own their own home or land suitable for (in the Developer's opinion) or zoned for residential use, and who would be owner-occupants.
- (iii) Priority III. Kauai residents, who do not own their own home or land suitable for (in the Developer's opinion) or zoned for residential use, and who would be owner-occupants.
- (iv) Priority IV. Employees and pensioners of A & B,

Inc., its divisions and subsidiaries, who own their home, who are relocating to Kauai, and who would be owner-occupants.

- (v) Priority V. Other individuals who own their home, who are relocating to Kauai, and who would be owner-occupants.

- (vi) Priority VI. All other individuals.

5. That the Developer condition the sale of lots upon Anti-Speculation Provisions, which provisions shall take the form of a Declaration of Conditions, Limitations, Covenants and Restrictions filed with the Bureau of Conveyances, and which may be modified upon agreement of the Developer and the Director of Planning Department of the County of Kauai, and which shall essentially provide that:

- (i) The purchaser must complete construction of a dwelling on the lot and must occupy the same within two years from date of deed or 18 months from date the lot is available for construction, whichever period is longer (the "Construction Period").
- (ii) The purchaser must sign a sworn statement that he will own and personally occupy the lot for residential use until a specified date, which date will be six years from the date of final subdivision approval by the County (the "Restriction Period").
- (iii) If within the six-year Restriction Period the purchaser attempts to transfer the lot voluntarily or involuntarily (other than by will or intestate

succession) to a person other than an immediate family member (i.e., a lineal descendant of the purchaser either by blood or adoption, a parent, grandparent, spouse and brother or sister), or fails to complete house construction during the Construction Period, or fails to occupy the lot for the six-year Restriction Period, A & B and the County of Kauai shall have the first and second right (exercisable at their option), respectively, to purchase the lot, together with improvements, if any.

- (iv) A & B may specifically enforce compliance with the foregoing restriction by appropriate court action; or alternatively, within 60 days of A & B's or the County's notice to the purchaser of the breach of restrictions and exercise of right to purchase, the purchaser must deliver a title deed for the agreed or established purchase price. But A & B at its discretion, may waive, delay or modify enforcement of the restrictions for hardship or other reasons, and such waivers, delays or modifications are not to be unreasonably withheld.
- (v) The purchase price to A & B or the County is the sum of: (a) the original purchase price, and (b) the purchaser's cost of improvements as determined by agreement or arbitration, plus actual equity investment, a specified compound interest on actual cash investment (including mortgage

fees and other closing costs), cash equity investment, and actual cash expenditure for improvements.

- (vi) If neither A & B nor the County exercises its rights of enforcement or purchase within 45 days from notice or knowledge of the breach, then the purchaser shall be free of such rights, although A & B's or the County's failure to exercise its rights in a particular instance does not constitute a waiver of such rights in any other instance.
- (vii) Any subsequent owner of a lot who acquires the same from either the original purchaser, A & B, or the County, must hold the lot subject to the terms of the Declaration for and during the six-year Restriction Period.
- (viii) If within 180 days from first advertisement of lots for sale, there are more lots available than qualified buyers, then the anti-speculation provision of the Declaration is deemed to be no longer necessary and is terminated, and A & B is free to sell to any and all applicants free of the Declaration; provided, that for applications received within the 180-day period, the priorities and lot selection procedures as established in the Declaration will continue.
- (ix) At the conclusion of the six-year Restriction Period, and without further action by any party, the provisions of the Declaration will terminate except

with respect to actions commenced within the said Restriction Period. Alternatively, the Declaration may be sooner terminated if at any time within the six-year Restriction Period A & B and the County determine that its anti-speculation purpose has been served and is no longer necessary; the termination to be evidenced by a document filed in the Bureau of Conveyances.

- (x) The provisions of the Declaration will be subject and subordinate to the lien of any mortgage for the purchase of lots and construction of improvements thereon.

6. That the Developer condition the sale of lots upon architectural and structural restrictions, which restrictions shall also take the form of a Declaration of Conditions, Limitations, Covenants and Restrictions attaching to and running with the land filed with the Bureau of Conveyances, and which may also be modified upon agreement of the Developer and the Director of the Planning Department of the County of Kauai, and which shall essentially provide for:

- (i) The use of new materials would be required for all construction; and no quonset huts, trailers, shacks, or second-hand houses will be permitted on the property.
- (ii) A minimum floor area and maximum number of occupants will be established for all dwelling units.
- (iii) Unsightly storage of materials on the property will

be prohibited.

- (iv) Maintenance and repair standards will be established.
- (v) Vacant parcels must be kept in a clean and neat condition and free of trash and debris.
- (vi) No resubdivision of a lot will be permitted.
- (vii) The use of the property and all construction thereon will otherwise comply with all applicable laws of the State and County.

7. That any modification of the foregoing anti-speculation, architectural and structural restrictions upon the agreement of the Developer and the Director of the Planning Department of the County of Kauai shall be in writing and filed with the Land Use Commission and with the Bureau of Conveyances as an amendment to the Declaration of Conditions, Limitations, Covenants and Restrictions attaching to and running with the land.

8. That the Petitioner and Developer involve potential buyers in the planning of the proposed development, particularly buyers who fall within Priorities I and II entitling them to first preference as purchasers.

9. That the Petitioner make its best effort to phase out the plantation-housing camps 2, 3 and 7 and recover the lands upon which they are situated, approximately 31 acres, to agricultural use, i.e., the production of sugar-cane.

10. That Petitioner make substantial progress on the proposed development within five (5) years from the date of this Order, and that sale of lots begin immediately

upon completion of each phase of the development.

Done at Honolulu, Hawaii, this 8th day of
November, 1976, by motion passed by the Commission
on October 14, 1976, in Kahului, Maui.

LAND USE COMMISSION,
STATE OF HAWAII

Eddie Tangen
EDDIE TANGEN
Chairman and Member

Stanley Sakaguchi
STANLEY SAKAGUCHI
Vice Chairman and Member

JAMES CARRAS
Member

Charles Duke
CHARLES DUKE
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MITSUO OURA
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CAROL WHITESELL

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Member