

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition)
)
 of)
)
 GROVE FARM COMPANY,)
 INCORPORATED, for a Petition)
 to Amend the District Boundary)
 of Property, situate at Lihue,)
 Island and County of Kauai,)
 State of Hawaii)
)
 _____)

DOCKET NO. A78-438

DECISION AND ORDER

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DECISION

This matter, being a proceeding pursuant to Section 205-4, Hawaii Revised Statutes, as amended, to consider a Petition to amend District Boundaries and reclassify from Agricultural to Urban 61 acres of land situate at Lihue, Island and County of Kauai, State of Hawaii, was heard by the Land Use Commission in Lihue on August 15, 1978. The mandatory parties admitted to the proceedings were Petitioner Grove Farm Company, Incorporated, the Planning Department of the County of Kauai, and the Land Use Division of the State of Hawaii, Department of Planning and Economic Development.

The Commission, after having duly considered the testimony given, the evidence presented, the Petitioner's proposed findings of fact and conclusions of law, and the files and records in this Docket, hereby makes the following findings of fact and conclusions of law.

FINDINGS OF FACT

DESCRIPTION OF THE SUBJECT PROPERTY:

1. The Petitioner, Grove Farm Company, Incorporated, is a Hawaii corporation, with its principal place of business at 3-1850 Kaunualii Highway, Puhi, Kauai, Hawaii. Its mailing address is Puhi Rural Station, Lihue, Hawaii, 96766.

2. The land which is the subject of this Petition is owned in fee simple by Petitioner, is situate at Lihue, Kauai, at the Southwesterly side of the Kaunualii Highway and Nawiliwili Road junction, Tax Map Key 3-3-3: portion of parcels 1 and 2, and contains an area of 61 acres. The subject area is gently sloping land with no visible rock outcrops.

3. The natural drainage slope is in the South-easterly direction from Kaunualii Highway towards Nawiliwili Road. Surface runoff will be collected by drain inlets and conveyed by underground conduits across Nawiliwili Road to existing gullies. The average rainfall is 50 inches per year. The elevation of the land is + 240 feet above sea level. The area is not susceptible to natural hazards and is removed from tsunami inundation.

4. The Land Study Bureau of the University of Hawaii classified the subject area as 411 with an overall productivity rating of "B" in a five-step system of A, B, C, D, and E, with A being the representation of highest productivity land and E the lowest.

5. The State of Hawaii, Department of Agriculture has advised that the soils on the property are highly suitable for the cultivation of sugarcane. The soils meet the criteria necessary to qualify as "Prime Agricultural Land" under the

classification system adopted by the Board of Agriculture in January, 1977.

6. The U.S. Soil Conservation Service has classified the soils as LhB: Lihue Series, dark reddish brown, silty clay, 0 to 8 percent slope. The shrink-swell potential is classified as moderate. The corrosivity of the soil is classified as low for uncoated steel and moderate for concrete, which is suitable for the proposed development.

PROPOSAL FOR RECLASSIFICATION:

7. The present Land Use classification for the subject area is "Agriculture" and the land is currently in sugarcane. The Petitioner is seeking a reclassification to the "Urban District" classification and proposes to develop a commercial center which will entail the development of a multi-phase regional, mall-type shopping center, of approximately 280,000 square feet retail store space, plus parking for 1,650 vehicles, landscaping and other common areas. The number of parking spaces exceeds the County requirements for a shopping center. Office buildings and miscellaneous, related commercial uses as well as future church use are planned on the periphery. A landscaped mall will be provided in the center of the complex with ample pedestrian amenities to satisfy the shoppers' need and create a pleasant environment for shopping, eating, entertainment and leisure.

8. Both the on-and off-site improvement work can begin immediately following receipt of land use and zoning approvals, and construction completed in approximately one and one-half years to allow a full opening of the shopping center in the fall of 1981.

9. The total cost of the construction will be approximately \$15,000,000.

10. The commercial spaces will be leased to major retailers currently operating in the State of Hawaii and to a number of Kauai merchants who have expressed interest in operating from the proposed shopping center. The rental charges to tenants will be competitive to market rentals for comparable commercial properties on Kauai.

11. Petitioner's Financial Statement attached to the Petition and the testimony of Mr. David P. Pratt, President of Grove Farm Company, Incorporated, indicate that Petitioner has the financial capacity and the ability to undertake and to complete the project.

STATE AND COUNTY PLANS:

12. The Land Use District Map K-11, Lihue, Kauai, shows the subject property to be in the Agricultural District.

13. This property containing 61 acres is a portion of a total area of approximately 610 acres currently designated Project District on the General Land Use Plan for the County of Kauai. The recently adopted Lihue Development Plan, of which a purpose is to update and modify the General Plan after an intensive study of the Lihue District, recommends that the subject area be developed in accordance with a master plan for Petitioner's lands. Included in the list of proposed uses in Petitioner's master plan is a commercial area as well as single and multiple family residential, industrial, school, park and open space areas. The Lihue Development Plan recommends that future urban expansion of Lihue be primarily towards Puhi and Nawiliwili with provisions for growth also at Hanamaulu.

14. The present County of Kauai zoning on this property is Agriculture District (A).

NEED FOR GROWTH AND DEVELOPMENT:

15. Several major retailers have indicated their interest to Petitioner in writing. Evidence of this interest has been submitted as Petitioner's Exhibits 3 through 14.

16. HRT, Ltd., has plans for a 131,000 square foot shopping center in Lihue, Kauai.

17. Petitioner's Exhibit 15, "Kauai Retail Market Analysis," dated August 4, 1978, indicates that the market area retail potential is sufficient to absorb both HRT's and the proposed shopping center as early as 1982, and no later than 1985, and by 1985 additional demand will occur. Exhibit 15 concludes that the proposed regional shopping center is both feasible and needed to satisfy effective Kauai and Lihue market area consumer demand.

18. The proposed shopping center and other new retail development in Lihue will benefit Kauai consumers. The competition from new business activity will necessitate redirection and create new challenges and opportunities for existing Lihue businesses, but the market expansion is expected to accompany the development of the center will represent an opportunity for businesses which relocate there to grow and expand. The removal of a large share of retail activity from downtown Lihue represents a potential short-term rental loss to existing retail property owners and the long-range opportunity to redevelop the downtown into a financial, service and governmental office center.

19. The Petition for the proposed shopping center was supported by the following organizations and individuals:

- a. Pua Loke Community Association of Lihue, Kauai, made up of more than 130 members, represented by its President, Mr. Wallace Tasaka.
- b. Carpenter's Union, Local 745, Kauai Division, with approximately 300 members, represented by its Business Agent, Mr. Kazuya Kuboyama.
- c. Kauai Chamber of Commerce, comprised of 320 members, represented by its President, Mr. Wallace Otsuka, Jr.
- d. Puhi Community Association, represented by its President, Mr. Robert Girald.
- e. Mrs. Yuriko Tasaka, representing the Citizens' Advisory Committee to the Planning Commission for the Lihue Development Plan.
- f. Mr. Shizuo Doi, Executive Vice President of Star Markets, Limited.
- g. Mr. Norman Adams, Executive Vice President of Longs Drug Stores.

IMPACTS ON RESOURCES OF THE AREA:

20. Petitioner was in sugar production between the years 1865 and 1974, and had 10,000 acres of land in sugar cultivation, of which 7,800 acres were owned in fee and 2,200 acres were leased from the Knudsen Trusts. Upon termination of its sugar production, Petitioner leased 5,000 acres of its lands to McBryde Sugar Company and 2,800 acres of its lands

to The Lihue Plantation Company. Both of these leases are for a period of 21 years. The lease from the Knudsen Trusts for the 2,200 acres with 21 years remaining was assigned to McBryde Sugar Company. The leasing and assignment by the Petitioner of its former sugar lands as aforesaid have strengthened and improved the operations of both The Lihue Plantation Company and the McBryde Sugar Company.

21. The lease to The Lihue Plantation Company of the 2,800 acres, of which the subject 61-acre parcel is a part, provides for optional, yearly withdrawal of 25 acres by the Petitioner on a cumulative basis, for a minimum withdrawal of 434 acres. To date, no withdrawals under this provision have been made, and presently Petitioner has no plans for additional withdrawals of land from sugar production.

22. The Lihue Plantation Company presently has 17,383 acres under sugar cultivation. The withdrawal of 61 acres for the proposed shopping center will have negligible impact on the total production and on the overall profitability of The Lihue Plantation Company.

23. Thirty-six (36) acres of the subject property contained in tax parcel 3-3-3: 2 is currently under agricultural dedication as of July 1, 1974, under Agricultural Dedication Petition No. K-7AA. When Petitioner inquired about withdrawing the agricultural dedication of the 36 acres, it was informed by the State of Hawaii, Department of Taxation that such withdrawal may best be accomplished by having the land use changed to urban. Petitioner intends to seek withdrawal of the agricultural dedication upon approval of its Petition.

24. At the time Petitioner leased its lands for sugar production to The Lihue Plantation Company with rights of withdrawal as aforesaid, the lessee had knowledge of Petitioner's development plans for the approximately 610 acres currently designated Project District on the General Land Use Plan for the County of Kauai, of which said subject property containing 61 acres is a part.

25. The Lihue Plantation Company has other areas of land to replace the land which may be withdrawn from sugar production. These other areas which were difficult to irrigate by means of surface irrigation because of uneven terrain can now be economically cultivated by drip irrigation.

26. There are no known historic or archaeological sites on the subject property. As this area has been in continuous agricultural use for sugarcane cultivation, there is no endangered fauna or flora on the property.

27. The shopping center will be lowrise, consisting of one-story buildings, will be substantially set back from Kaunualii Highway and will not affect the view of the Haupū Mountain range.

28. The shopping center will create new leisure and recreational facilities in the area where none exists.

PUBLIC SERVICES AND FACILITIES:

29. The source of water and storage capacity will be adequate to accommodate the planned commercial needs of the project, which is estimated to be 400 gallons of water per minute. In May of this year, the Kauai County Water Department had plans to drill three production wells on the Kilohana

slopes. The exploratory drillings for all three of these wells have since been successfully completed. Each of these wells is capable of producing 250 gallons of water per minute for a total of 750 gallons per minute beginning 1980.

30. Another well is being constructed at Lihue Grammar School which will produce an additional 150 gallons of water per minute for the Lihue area. This well is expected to begin producing in six months.

31. At the present time, there is no competing demand for the 400 gallons of water per minute needed for the proposed project as described in the findings of fact number 29.

32. The County's 18-inch water transmission line is at the intersection of Haleko Road and Kaumualii Highway. A 16-inch water transmission line of approximately 2,400 feet to the project site will need to be installed, which Petitioner is willing to do at its cost.

33. Kauai Electric, a division of Citizens Utilities Company, will be able to furnish the necessary electrical power to the proposed development.

34. Telephone and gas services to the proposed development will also be readily available.

35. On-site security will be provided by private firms working in cooperation with the Kauai County Police Department.

36. The shopping center will be designed to meet or exceed fire code requirements. The Lihue Fire Station on Rice Street will be providing mobile pump units in case of emergencies.

37. The Wilcox Elementary School, Kauai High School and Kauai Community College are located close to the project

site. The proposed development will have no effect on the schools as far as contributing towards their enrollment is concerned.

38. The Kauai County sewer system is presently limited in the vicinity of Nawiliwili Road. A private disposal system meeting State Department of Health standards and requirements will be installed and maintained by Petitioner at its cost.

39. Refuse and garbage collection will be contracted to local firms, thereby not adding any burden to County of Kauai services.

40. During the construction phase, the project will result in employment of about 500 workers.

41. Upon completion of the project, it is estimated that a total of 670 jobs will become available as a result of the shopping center.

42. Development of the project will put the property to a significantly higher use, resulting in a substantial increase in assessed valuation, and further result in increased revenues to the County of Kauai and State of Hawaii.

43. Petitioner's Exhibit 16, "A Traffic Study for the Grove Farm Shopping Center and Office Park", dated August 8, 1978 indicates that the proposed shopping center would have relatively minor impact on p.m. peak hour traffic with the implementation of certain remedial actions, such as speed-change lanes and left-turn lanes. It is estimated that the new traffic attracted to the shopping center during the p.m. peak hour would be about 6 percent of the total forecast traffic traveling toward the shopping center. Although there

is a potential for congestion on Kaumualii Highway on both ends of the development, the traffic estimates would still fall below the maximum capacity level of the roadway.

SCATTERIZATION AND CONTIGUITY OF DEVELOPMENT:

44. The subject property is adjacent to an existing Urban District. It is separated from the Urban District by Nawiliwili Road, which is the present line of demarcation between the State Land Use Agricultural District and the Urban District.

45. The subject property is within an area designated on the Kauai County's General Plan as Project District, will not contribute towards scattered urban development, and will maximize use of the existing public services and facilities.

STANDARDS FOR DETERMINING DISTRICT BOUNDARIES:

46. The Petitioner is willing to observe all applicable Federal, State and County statutes, laws, ordinances, rules and regulations.

CONCLUSIONS OF LAW

1. The reclassification of 61 acres of land from agricultural to urban is reasonably necessary to accommodate growth and development to-wit:

- a. The reclassification is in conformity with the Kauai General Plan and the Lihue Development Plan, which show future planned urban expansion to be designated toward the area of the subject property. Furthermore,

the subject property is included in an area which the Lihue General Plan designates specifically as a Project District for commercial use.

- b. Petitioner's Exhibit 15 (Kauai Retail Market Analysis dated August 4, 1978) shows that the retail market area demand potential is great enough to absorb the retail space to be provided by the proposed shopping center, in addition to other retail growth planned between 1978 and 1985, including the HRT shopping center. Moreover, by 1985, additional demand for commercial retail space will occur.
- c. Major retailers have indicated interest in obtaining retail floor space in the proposed shopping center. Several community associations representing homeowners who reside in the vicinity of the proposed shopping center, and the Chamber of Commerce have testified as to the desirability of having a shopping center on the subject property.

2. The development of the proposed shopping center would not have any significant adverse effects upon the natural, environmental, recreational, scenic or historic resources of the area. The topography and drainage characteristics of the subject property makes it suitable for the proposed development, and it is free from the danger of floods, tsunami, unstable soil conditions, and other adverse effects.

Although the subject property has a high capacity for intensive agricultural use and is presently in sugarcane cultivation, the reclassification of the subject property of 61 acres of agricultural land will have little impact on Lihue Plantation's total sugarcane production or overall profitability. The subject 61 acres of land withdrawn from agricultural cultivation can be now replaced with lands formerly unproductive, but which can now be economically irrigated by Lihue Plantation.

3. Adequate basic public services and facilities including electricity, telephone, gas, sanitation, and police and fire protection are available. Water source and storage capacity will be adequate when four (4) new wells are in production by 1980. The Petitioner will have to install a new water transmission line to the subject property from the existing water line at Hale Kapu Road and Kaunualii Highway. Sewage transmission facilities are not available in the area of the subject property, but the Petitioner, at its own cost, will install and maintain a private sewage treatment and disposal system complying with government standards.

Automobile highway capacity is adequate to absorb the traffic to be generated by the proposed shopping center, and although there is a potential for traffic congestion, this situation would exist even without the proposed shopping center. The Petitioner will be required to provide remedial measures including speed-change lanes and left-turn lanes.

4. The subject property is adjacent to the Lihue urban district, makes maximum use of existing services and facilities, and the subject property is in an area designated

for future urban expansion of Lihue. Therefore, the reclassification of the subject property will not contribute to scattered, spot, urban development.

5. The proposed shopping center when completed will generate approximately 670 permanent jobs, and is therefore entitled to preference for permanent employment.

6. The economic feasibility of the proposed shopping center has been substantiated by Petitioner's Exhibit Number 15 (Kauai Retail Market Analysis).

7. The subject property is in an area designated for future urban use on the Kauai General Plan and the Lihue Development Plan, and is shown for commercial uses in the Project District designation of the Lihue Development Plan.

8. Reclassification of the subject property from agricultural to urban and amendment of the district boundaries accordingly to permit the proposed shopping center is reasonable and not violative of Section 205-2, Hawaii Revised Statutes, and is consistent with the Interim Statewide Land Use Guidance policies.

ORDER

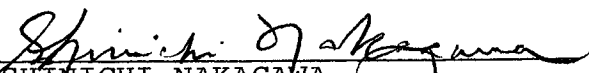
IT IS HEREBY ORDERED:

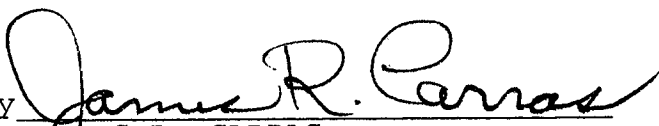
That the property which is the subject of the Petition in this Docket No. A78-438, containing 61 acres situated in Lihue, Kauai, at the Southwesterly side of the Kaunualii Highway and Nawiliwili Road junction, identified by Tax Map Key 3-3-3: portion of parcels 1 and 2, shall be and hereby is reclassified from Agricultural to Urban and the District Boundaries are amended accordingly.

DONE at Kahului, Maui, Hawaii, this 11th day
of January, 1979, by Motion passed by the Commission on
October 19, 1978, in Honolulu, Hawaii.

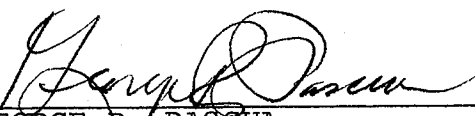
LAND USE COMMISSION
State of Hawaii

By 
C. W. DUKE
Chairman and Commissioner

By 
SHINICHI NAKAGAWA
Vice Chairman and Commissioner

By 
JAMES R. CARRAS
Commissioner

By 
SHINSEI MIYASATO
Commissioner

By 
GEORGE R. PASCUA
Commissioner

By 
CAROL B. WHITESELL
Commissioner

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the Land Use
Commission's 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:

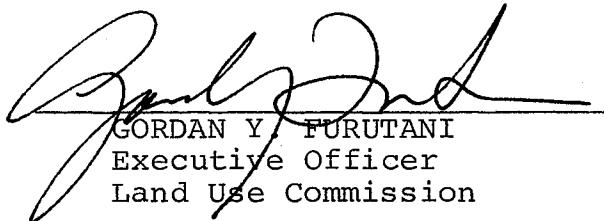
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DAVID W. PRATT, PRESIDENT
Grove Farm Company, Incorporated
Puhi Rural Station
Lihue, Kauai, Hawaii 96766

DATED: Honolulu, Hawaii, this 12th day of January, 1979.


GORDAN Y. FURUTANI
Executive Officer
Land Use Commission