

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

In the Matter of the Petition of)
)
THE TRUSTEES UNDER THE WILL AND)
OF THE ESTATE OF JAMES CAMPBELL,)
DECEASED)
)
To Amend the Agricultural Land)
Use District Boundary into the)
Urban Land Use District for)
Approximately 20 Acres of Land)
at Honouliuli, 'Ewa, O'ahu,)
State of Hawai'i, Tax Map Key)
No. 9-1-69:9)
_____)

DOCKET NO. A98-726
FINDINGS OF FACT, CONCLUSIONS
OF LAW, AND DECISION AND
ORDER

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FINDINGS OF FACT,
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The Trustees Under The Will And Of The Estate Of James Campbell, Deceased, State of Hawai'i, acting in their fiduciary and not in their individual capacities, whose principal place of business and mailing address is 1001 Kamokila Boulevard, Kapolei, Hawai'i 96707 ("Petitioner"), filed a Petition for Land Use District Boundary Amendment on July 22, 1998, and a First Amended Petition for Land Use District Boundary Amendment on September 1, 1998, pursuant to chapter 205, Hawai'i Revised Statutes ("HRS"), and chapter 15-15, Hawai'i Administrative Rules ("HAR"), to amend the land use district classification of approximately 20 acres of land situate at Honouliuli, 'Ewa, O'ahu, State of Hawai'i, generally identified as Tax Map Key No. 9-1-69:9 ("Petition Area") from the State Land Use Agricultural District to the State Land Use Urban District for the proposed Laulani Commercial Center ("Project").

The Land Use Commission ("Commission"), having heard and examined the testimony, evidence and arguments of the parties presented during the hearing; and the Stipulated Proposed Findings of Fact, Conclusions of Law, and Decision and Order filed by the parties, does hereby makes the following findings of fact, conclusions of law, and decision and order:

FINDINGS OF FACT

PROCEDURAL MATTERS

1. Petitioner filed its Petition for Land Use District Boundary Amendment on July 22, 1998, and a First Amended Petition for Land Use District Boundary Amendment on September 1, 1998 (collectively "Petition").

2. The City Department of Planning and Permitting filed its Statement of Position of the Planning Department in Support of Petition on September 30, 1998.

3. The State of Hawai'i Office of Planning ("OP") filed its Statement of Position of the Office of Planning in Support of the Petition on October 8, 1998.

4. No petitions for intervention were received.

5. A prehearing conference was conducted on November 2, 1998, in Conference Room 405, Leiopapa A Kamehameha Building, 235 So. Beretania Street, Honolulu, Hawai'i which was attended by all the parties.

6. On November 17, 1998, the Commission issued its Stipulated Prehearing Order.

7. On November 17, 1998, Petitioner filed its Motion for Leave to File Second Amended List of Witnesses and Second Amended List of Exhibits.

8. A hearing on the Petition was held in Conference Room 405, Leiopapa A Kamehameha Building, 235 So. Beretania Street, Honolulu, Hawai'i, on November 19 and 20, 1998, pursuant to a public notice published on September 17, 1998, in the Honolulu Star-Bulletin.

9. On November 19, 1998, the Commission received into evidence letters from the following individuals dated November 19, 1998:

- a. State House Representative Paul T. Oshiro;
- b. State Senator Brian Kanno;
- c. Ben Kenui Flores;
- d. Blake D. McElheny;
- e. Adam C. Borrello;
- f. Jeff Malate; and
- g. Brandon Rai Mitsuda.

10. On November 19, 1998, the Commission received into evidence a memorandum dated September 2, 1998, from Timothy E. Johns, Commission on Water Resource Management.

11. On November 19, 1998, the Commission accepted public witness testimony from State House Representative Paul T. Oshiro and Adam C. Borrello.

12. On November 19, 1998, the Commission granted Petitioner's Motion for Leave to File Second Amended List of Witnesses and Second Amended List of Exhibits. On November 24,

1998, the Commission issued its Order Granting Petitioner's Motion for Leave to File Second Amended List of Witnesses and Second Amended List of Exhibits.

DESCRIPTION OF THE PETITION AREA

13. The Petition Area is situated at Honouliuli, 'Ewa, O'ahu, State of Hawai'i, and is generally identified as Tax Map Key No. 9-1-69:9 and consists of approximately 20 acres.

14. The Petition Area is surrounded by vacant grazing land, classified in the State Land Use Agricultural District.

15. Historically, the Petition Area was used for cultivating sugarcane. Since the last harvest of sugarcane took place in 1995, the Petition Area has been used for grazing cattle and a few horses under a month-to-month lease agreement with Ralph's Ranch.

16. The Petition Area is owned in fee by Petitioner.

17. Gentry Investment Properties ("Gentry") holds an option to purchase the Petition Area under a certain Third Amended and Restated Development Agreement. Gentry has authorized Petitioner to act on behalf of Gentry pursuant to the Petition.

18. The natural topography of the Petition Area is flat, with scattered mounds and depressions. Natural elevations range from a height of approximately 26 feet mean sea level at the northern corner of the site to approximately 23 feet mean sea level at the southern corner. Natural slopes range from flat to 5 percent, with an average slope across the site of about 0.2 percent in the north-south direction. The topographic features

of the Petition Area are typical of areas in the surrounding vicinity.

19. The climate of the Petition Area is also typical for the surrounding 'Ewa area, which is predominantly warm and dry. Average daily temperatures in the area range between 66 and 84 degrees Fahrenheit. The average annual rainfall for the 'Ewa plain is about 20 inches, with most rainfall occurring during the winter months.

20. The soils situated on the Petition Area consist of: (1) 'Ewa silty clay loam (EmA), moderately shallow, 0 to 2 percent, and (2) Mamala stony silty clay loam (MnC), 0 to 12 percent slopes. The 'Ewa silty clay loam covers about 1.3 acres of the Petition Area while Mamala stony clay covers the remaining 18.7 acres.

21. The Land Capability Grouping by the United States Department of Agriculture Soil Conservation Service ("SCS") rates soils according to eight levels, ranging from the highest classification level, I, to the lowest level, VIII. Assuming irrigation, Class IIe soils comprise about 6.5 percent of the Petition Area. Class II soils have moderate limitations that reduce the choice of plants, or require moderate conservation practices. The subclassification "e" indicates that the limitation is due to the risk of erosion. Class IIIs soils comprise about 93.5 percent of the Petition Area. Class III soils have severe limitations that reduce the choice of plants, require special conservation practices, or both. The subclassification "s" indicates that the limitation is due to

stoniness, unfavorable texture, shallowness, or low water-holding capacity. None of the soils are in Class I or Classes IV through VIII.

22. The Overall Productivity Rating by the University of Hawai'i Land Study Bureau rates soils according to five levels, with "A" representing the class of highest productivity and "E" the lowest. The entire Petition Area is rated "C."

23. The Agricultural Lands of Importance in the State of Hawai'i (ALISH) classification system by the SCS, University of Hawai'i College of Tropical Agriculture and Human Resources, and the State of Hawai'i, Department of Agriculture, classifies lands into three categories: (a) "prime" agricultural land which is land that is best suited for the production of crops because of its ability to sustain high yields with relatively little input and with the least damage to the environment; (b) "unique" agricultural land which is non-prime agricultural land that is currently used for the production of specific high-value crops; and (c) "other" agricultural land which is non-prime and non-unique agricultural land that is of importance to the production of crops. Approximately 11 percent of the Petition Area is rated "Prime," while 89 percent is rated "Other."

24. The Petition Area is designated Zone D by the Flood Insurance Rate Map, indicating an area in which flood hazards are undetermined. In addition, the Petition Area is not situated in an area which has been subject to inundation by a tsunami or a 100-year flood.

PROPOSAL FOR RECLASSIFICATION

25. Petitioner proposes to amend the land use district classification of the Petition Area from the State Land Use Agricultural District to the State Land Use Urban District for the Project.

26. The Project consists of a 138,000-square-foot community shopping center with associated parking. The shopping center is expected to house two major tenants, along with smaller retail stores and fast food/restaurant tenants. Tenants may typically include, but not be limited to, such establishments as: a supermarket, drug, variety or hardware stores, specialty shops, a bookstore, ice cream/yogurt parlors, clothing stores, hair salons, a video rental store, a veterinarian clinic, a pet store, a garden supply store, branch banks, and eating establishments.

27. Petitioner anticipates that all major infrastructure will be constructed within 18 months of obtaining all land use approvals. The preliminary cost of the Project is estimated to be approximately \$6,500,000 for on-site improvements and \$3,000,000 for off-site improvements. Total build-out costs are expected to be approximately \$24 million.

PETITIONER'S FINANCIAL CAPABILITY TO UNDERTAKE THE PROPOSED DEVELOPMENT

28. The Statement of Assets, Liabilities, Undistributed Income and Principal (December 31, 1997 and 1996) of Petitioner reflects total assets of \$588,310,891 for 1997, undistributed income of \$8,728,525, and principal of \$278,186,871. Liabilities, excluding undistributed income and

principal, were \$301,395,495. Net worth to the beneficiaries was then \$286,915,396. Petitioner intends to finance the development with its own funds or borrowed funds.

29. Gentry holds an option to develop the Petition Area. The Gentry Investment Properties Balance Sheets (December 31, 1997 and 1996) reflect total assets of \$99,249,100 for 1997. Liabilities, excluding partners' capital, were \$73,469,282. Net worth was \$25,779,818. If it develops the Project, Gentry will obtain financing through a financial institution or other capital source.

STATE AND COUNTY PLANS AND PROGRAMS

30. The Petition Area is located within the State Land Use Agricultural District as reflected on the Commission's official maps, O-6 ('Ewa) and O-10 (Pu'u'loa).

31. The Petition Area is within 1,823 acres of land in the 'Ewa region recommended for reclassification from the State Land Use Agricultural District to the State Land Use Urban District by the Office of State Planning ("OSP") in 1992 in its Five-Year Boundary Review.

32. The Petition Area is located within the 'Ewa fringe area on the County General Plan. The General Plan encourages development within the 'Ewa fringe area of the secondary urban growth center.

33. In the 1997 'Ewa Development Plan, the Petition Area is located within the 'Ewa Development Plan urban growth boundary. In addition, the Petition Area is programmed for development in the 'Ewa Development Plan Phase I urban expansion

period of 1997 to the year 2005. Further, the Petition Area is identified as a proposed community shopping center in the 'Ewa Development Plan.

34. Current zoning of the Petition Area is AG-2, General Agricultural District, under the City's Zoning Map No. 12 ('Ewa Beach-Iroquois Point). A petition for zone change is being concurrently pursued by Petitioner.

35. The Petition Area is located entirely outside the City's Special Management Area.

NEED FOR THE PROPOSED DEVELOPMENT

36. The Hallstrom Appraisal Group, Inc., prepared a market study dated January 1997. An updated study was completed in October 1998.

37. The current per capita demand in the Fort Weaver Road corridor area is about 300,000 square feet of neighborhood retail area. By 2020, the anticipated population increase will create a demand for about 700,000 square feet of commercial area. Currently, there is about 105,000 square feet of commercial space in the Fort Weaver Road corridor area.

38. It takes about 15,000 to 18,000 people in a trade area to support an anchor tenant such as a grocery store or a drug store. Based upon evidence from a trade area analysis, the Commission finds the Fort Weaver Road corridor area could support two to three large shopping centers, or roughly 300,000 square feet.

39. It takes 8,000 to 10,000 cars passing by each day to support one neighborhood shopping center. Thirty thousand

cars pass along the Fort Weaver Road corridor. Thus, the traffic volumes will support three shopping centers.

ECONOMIC IMPACTS

40. It is expected that the proposed development of the Petition Area will create employment opportunities during construction as well as upon completion of the Project. Construction employment is expected to average about 45 jobs, with total construction payroll being about \$2 million per year. At full development, on-site employment is projected to be about 410 jobs, with a payroll of about \$8.2 million per year.

41. It is estimated that the proposed development will increase net revenues for the State in the amount of approximately \$1.2 million from excise, payroll, and corporate taxes on construction activity, which will be spread over a two-year construction period, and approximately \$2.1 million per year from excise and corporate income taxes from the operation of the Project. No major costs due to increased State services are anticipated.

42. It is estimated that the proposed development will increase net revenues for the City in the amount of approximately \$300,000 per year from an increase in property taxes. No major costs due to increased City services are anticipated.

SOCIAL IMPACTS

43. Earthplan prepared a social impact assessment ("SIA") for the Project dated April 1997. Based upon evidence from the SIA, the Commission finds development of the Project is

consistent with public objectives for the 'Ewa region in three ways:

a. The Project's size and function are consistent with those outlined for the community commercial centers defined in the 'Ewa Development Plan;

b. The projections for on-site employment are well within the projections for the next few years; and

c. The increase in housing and residents will ensure that a labor supply will be available to support the Project throughout the life of the Project.

44. The Project is anticipated to have minimal short-term impacts on neighboring residential uses because the nearest residential community, Sun Terra, is buffered from the Petition Area by vacant land.

45. The Project is further expected to be compatible with long-term neighboring residential uses. The Project will provide choices and convenience for shopping and other needs. It will also serve as a potential employment base.

46. In community interviews, Earthplan found that the Project was viewed with mixed reaction with respect to nearby commercial uses. Some viewed the Project as negatively affecting the viability of existing establishments. The Project will be a part of the neighborhood transformation and the impacts from the Project are not significant as compared to the anticipated development at Ocean Pointe and in the City of Kapolei. These developments are of a much greater magnitude and will significantly alter the social, economic, and physical

environment of the region and the community identity of 'Ewa Beach.

47. Two mitigation measures were recommended: (1) the continuation of communications between Petitioner or developer with the community to address project-specific issues; and (2) the development of a long-range plan for 'Ewa Beach initiated by City planning officials to articulate the community's identity, to formulate community objectives, and to address issues.

IMPACTS UPON THE RESOURCES OF THE AREA

Agricultural Resources

48. Decision Analysts Hawaii, Inc., prepared an agricultural impact study dated December 1996.

49. The soils in the Petition Area are suitable for growing crops but are not of high quality. The soils tend to be stony and the soil level is relatively shallow at about eight inches deep. Also, there is difficulty obtaining water for the Petition Area now that sugarcane is gone.

50. The practical economic impact of removing the Petition Area from agriculture is that Ralph's Ranch will have 20 acres of land less to use for cattle and horse grazing. Currently, Ralph's Ranch uses approximately 700 acres of land on O'ahu, approximately 300 acres in 'Ewa, 300 acres in Kunia, and some land in Kahuku. Using the entire 700 acres, Ralph's Ranch grosses approximately \$3,000 per year. As such, removing 20 acres of land from that operation will be minimal.

51. In terms of the growth of diversified agriculture, removing 20 acres of agricultural land will be negligible since it is a relatively small amount of land compared to the well over 200,000 acres that have been released from sugar and pineapple production.

52. The growth potential of diversified agriculture is limited by the market of profitable crops rather than land supply.

53. The Petition Area has not been in intensive agricultural production for two years prior to the date of filing of the Petition since the last sugarcane crop was harvested in 1995.

Flora and Fauna

54. Char & Associates prepared a botanical survey of the Petition Area dated August 1991 and an updated site visit and letter report in August 1998. Based upon evidence from the botanical survey, the Commission finds the proposed development of the 20-acre Petition Area is not expected to have a significant negative impact on the botanical resources as the Petition Area is dominated by introduced or alien plants. The only native plants observed were the 'ilima and 'uhaloa. Both are indigenous and are widespread throughout the Hawaiian Islands and elsewhere in the Pacific. Further, none of the plants inventoried are currently listed on any endangered or threatened species list, or are proposed or a candidate for endangered or threatened species status.

55. With regard to landscaping, Char recommended the use of plants that are adapted to environments with sun and less water, known as xeriscaping plants. Char cited a number of xeriscape gardens utilizing dryland plants, including Halawa, the University of Hawai'i Hawaiian Studies Center, and the Kamehameha Schools Chapel. Petitioner intends to follow these recommendations.

56. Phillip L. Bruner prepared a study of the birds and mammals on the Petition Area dated July 9, 1991. The Petition Area has been disturbed and thus contains little habitat suitable for native birds. Alien species of birds dominate the fauna. There are no unique or special habitats critical to native birds and migrants. Similar habitat is found throughout this region of the island. The only endangered species that might on occasion forage in this area is the short-eared Owl (Pueo). This species is listed by the State of Hawai'i as endangered on O'ahu.

Archaeological/Historical Resources

57. The Bishop Museum prepared an archaeological inventory survey of the Petition Area in December 1993. No archaeological remains were found either on the surface or subsurface of the Petition Area.

Groundwater Resources

58. The Petition Area is situated in the Pu'uloa sector of the 'Ewa Caprock Aquifer, within the Pearl Harbor Aquifer Sector.

59. The additional potable water demand (about 60,000 gallons per day ("gpd") using a single delivery system) created by the Project is not anticipated to have an adverse impact on the sustainable yield of the Waipahu-Waiawa Aquifer System.

Recreational, Scenic, and Cultural Resources

60. Existing recreational facilities in the immediate vicinity of the Petition Area consist of golf courses and neighborhood parks. There are no recreational facilities present or recreational activities occurring on the Petition Area since it is privately-owned and leased for grazing activities. The Project will be developed as a commercial shopping center. Businesses located at this center are intended to serve the local 'Ewa community providing daily retail services and goods. Consequently, the Project will not place additional demands upon existing recreational facilities serving the immediate area because no increase in the resident population will occur. In addition, the Project will not reduce existing recreational facilities available to the public since there are none present on the Petition Area.

61. The Petition Area is essentially flat and contains no major land features of scenic value. Views of the Petition Area and surrounding area from Farrington Highway are very distant and have little visual significance due to the absence of noticeable land forms and other focal points. Presently, there are no public viewing points from the Petition Area since it is privately-owned and used for grazing activities.

62. In its archaeological study, Bishop Museum's objectives were to assess the potential for archaeological resources in the Petition Area and to facilitate interpretation of any cultural remains encountered during the reconnaissance survey. To meet these objectives, Bishop Museum performed a study of historical documents and literature regarding land use and occupation of the Petition Area prior to field work and then performed a walk-through inventory of the Petition Area to determine the presence or absence of any surface cultural remains. In doing so, Bishop Museum reviewed historical documents spanning the pre-contact period through the beginning of World War II. No cultural remains were found.

63. Cultural Surveys Hawaii interviewed members of the Hawaiian community as to the native Hawaiian traditional and customary practices in the vicinity of the Petition Area and found no evidence of the existence or practice of native Hawaiian gathering or access rights in the Petition Area. While the people interviewed recalled going to the beach, they had no memory of going to the Petition Area for access or gathering.

Coastal/Aquatic Resources

64. The Petition Area is not located along or in the immediate vicinity of the coastline and is well over a mile away from the 'Ewa Beach coastline. Development of the Project will not result in the unavoidable damage of coastal resources having significant recreational value in the 'Ewa Beach area. Minimizing non-point sources of pollutants and other water quality issues have been addressed in the City-approved drainage

master plan, which included the Petition Area, for the 'Ewa Makai-West development to protect the recreational value of coastal waters.

ENVIRONMENTAL QUALITY

Noise

65. Darby & Associates prepared a study of the noise impacts of the Project to the surrounding properties (with traffic forecasts to the year 2000) dated December 15, 1993 (updated December 20, 1996). The Project is not anticipated to cause any significant present or future adverse noise impacts in or around the Petition Area that cannot be mitigated. Specifically, traffic due to the Project will result in less than a tenth of a decibel increase in noise levels at the noise-sensitive areas surrounding the Project. Also, the aircraft noise impacts on the Petition Area were not above a level that would be incompatible with the Project. Further, noise from equipment, including air conditioning equipment, in particular, on buildings within the Project, could be mitigated by controlling the noise that travels to noise-sensitive areas. Moreover, construction noise, though temporary in nature, can be mitigated and will be controlled under a construction noise permit from the State Department of Health.

Air Quality

66. B.D. Neal & Associates prepared an air quality study for the Project dated December 1996. Based upon evidence from the air quality studies, the Commission finds potential short-term impacts on air quality consisted of dust from

construction activities and impacts that might be related to traffic disruption from traffic moving back and forth to the Petition Area, either from equipment or from personnel. Potential long-term impacts include automotive-related emissions that may exceed State carbon monoxide standards, primarily because of the assumed installation of a traffic signal adjacent to the Petition Area.

67. The following mitigation measures were suggested: (a) watering of the construction site; (b) lowering the speed limit on Fort Weaver Road; and (c) increasing the buffer zone between the sidewalks and the roadways in the area.

Water Quality

68. Development of the Petition Area will decrease the current amount of permeable surface and recharge from infiltration due to construction of paved surfaces for buildings, driveways, and parking lot. However, this change is expected to have minimal effect on the recharge processes associated with the 'Ewa Caprock Aquifer since on-site drainage will be collected by an on-site drainage system, which will consist of inlets, catch basins, and drain piping. An off-site drainage system will also be constructed, including pipings or channels, to the Kaloi channel. If necessary, a temporary retention/detention basin may be implemented if the downstream drainage improvements are not in place, and will remain until the downstream improvement capacities have been improved.

ADEQUACY OF PUBLIC SERVICES AND FACILITIES

Highway and Roadway Facilities

69. Pacific Planning & Engineering, Inc., prepared a report analyzing the traffic impacts both with and without the Project and the adequacy of the planned traffic improvements dated December 1996.

70. The Project will impact the existing T-intersection of Fort Weaver Road and the Hawai'i Prince Golf Club Access Road by the addition of a fourth leg directly across the golf club access road.

71. Mitigative measures suggested include acceleration and deceleration lanes on the main project entrance, as well as the right-turn-in, right-turn-out entrance, and a left-turn storage lane on Fort Weaver Road, northbound, going into the Project.

Water Service

72. Under a single water system, the demand for the Project is expected to be about 60,000 gpd. Using a dual system, the potable water component will be about 43,300 gpd and the non-potable component will be about 23,800 gpd.

73. The potable water needs of the Project will be met through the Board of Water Supply ("BWS") system. Potable water for the 'Ewa and 'Ewa Beach area is provided by the BWS's "228" potable water system. This system consists of water reservoirs and various sized transmission mains generally routed along Kunia Road and Fort Weaver Road. The water source for this system comes from wells located in the general vicinity mauka

(northwest) of the H-1 freeway at the Kunia Interchange. These wells consist of the Hoaeae Wells, Kunia Wells I and II, Honouliuli Wells, and Waipahu Wells I and II and are situated within the Waipahu-Waiawa Aquifer System.

74. Petitioner is a member of the 'Ewa Plain Water Development Corporation developing water system infrastructure to serve developments in the area. Consequently, appropriate coordination with the BWS will continue in determining needed facilities which includes applicable participation in the development of off-site improvements. Therefore, the additional potable water demand created by the Project should not have an adverse impact on the Hoaeae, Kunia, Waipahu, and Honouliuli Wells serving the water system and underlying Waipahu-Waiawa Aquifer System.

75. Non-potable water would be used for landscaping when appropriate sources become available. Non-potable water will be supplied through private wells, caprock wells, or if a non-potable source is not available, a request for an additional allocation will be made to the BWS.

Wastewater Disposal

76. The Project is anticipated to generate 60,000 gpd in wastewater. An underground collection system will be implemented by Petitioner to convey the wastewater to the City system.

77. Along with the collection system, a private sewage lift station may be constructed to convey the wastewater to a City pump station. The construction of the lift station will be

dependent upon the availability of gravity systems extending to the Petition Area. If a gravity system to the site is available, a gravity connection will be made to serve the Project.

78. The design and construction of these wastewater facilities have been and will continue to be coordinated with other developments in the area.

79. Under existing conditions, the additional 0.6 million gpd average wastewater flow from the Project should not have a significant effect on the capacity of the Honouliuli Wastewater Treatment Plant, especially since the capacity of the plant has been expanded.

Drainage

80. The Petition Area is part of the Kaloi Gulch watershed area that extends from the crest of the Waianae mountain range to the shoreline, encompassing approximately 11 square miles. Campbell Estate lands, State property, the City Department of Housing and Community Development's 'Ewa Villages, the Project, 'Ewa by Gentry, and Ocean Pointe by Haseko are all located within the watershed area.

81. Coordination of permanent and temporary improvements is continuing among the developers in the watershed area. Temporary improvements will be required for the developments due to the varying stages of development for each project.

82. There are no existing drainage improvements within the Petition Area. Runoff generated on-site and from the

surrounding Laulani drainage basin flows overland towards existing depressions or in a southerly direction.

83. Predicted runoff after development in a 10-year storm event is 80 cubic feet per second ("cfs"); in a 50-year storm event, 106 cfs; and in a 100-year storm event, 115 cfs.

84. It is anticipated that storm runoff from the Project will ultimately flow to a storm drain collection system of inlets, piping, and outlet structures that discharge into an improved Kaloi Gulch. The Kaloi Gulch improvements will be designed to accommodate the peak runoff from the watershed and will be implemented as part of the overall 'Ewa Makai-West/Laulani development. In the interim, runoff is planned to be collected and discharged into temporary retention/detention basins, minimizing the impact to downstream properties. The drainage system for the Project will be planned and designed in coordination with the overall 'Ewa Makai-West/Laulani development to facilitate connection to the permanent system in the future.

85. A drainage master plan for the Ewa Makai-West development was prepared and approved by the City in October 1996.

Solid Waste Disposal

86. The Project is anticipated to generate approximately one ton of waste per day. The solid waste will be collected by private disposal companies. The Project should have very little impact on solid waste facilities.

Schools

87. Since the Project will not provide housing, it is not expected to have a significant impact upon schools in the general vicinity of the Petition Area.

Police and Fire Protection

88. Police stations in the vicinity of the Petition Area include the Waipahu and Pearl City Police Stations. Progress on the new Kapolei station continues with the planning phase entering its final stages. The station would administer the Petition Area. Police protection in the area should be minimally impacted by the Project since the Project should not require much protection services. A letter from the Police Department, dated January 7, 1994, as part of the Final Environmental Assessment ("FEA") performed for the Project also determined that the Project was expected to have no significant impact on police services.

89. The Petition Area and surrounding 'Ewa community are serviced by the Honolulu Fire Department's Battalion 4 division. The nearest fire station to the Petition Area is the 'Ewa Beach Station with others in the vicinity consisting of the Makakilo, Waipahu, and new Kapolei stations. First alarm at the Petition Area is handled by the 'Ewa Beach and Waipahu Fire Stations, with the Makakilo Fire Station providing backup. The Project will inevitably increase the potential for fire protection services due to new building structures and gathering of people at the shopping center. However, this increase in possible demand is expected to have minimal impact on the

department's overall ability to provide fire protection services in the region. A letter from the department, dated January 4, 1994, as part of the FEA prepared for the Project determined that fire protection services provided by the 'Ewa Beach and Waipahu engine companies were adequate. Appropriate access for fire apparatus, water supply, and building construction will be constructed in conformance with existing codes and standards to further ensure that adequate fire protection services can be provided to the Project.

Electricity and Telephone Service

90. Electrical demand is expected to be about 15.4 million kilowatts per year and will be met by Hawaiian Electric Company ("HECO"). HECO has considered the Project and other developments in the 'Ewa area in planning for new facilities.

91. GTE Hawaiian Telephone has indicated that the Project can be served by their system.

COMMITMENT OF STATE FUNDS AND RESOURCES

92. Since additional state services required to support the Project are expected to be negligible, the Project will not result in any unreasonable commitment of State funds or resources.

CONFORMANCE TO APPLICABLE DISTRICT STANDARDS

93. The Petition Area is in a region which is characterized by city-like structures, streets, and an urban level of services and utilities. In the general vicinity of the Petition Area, various developments are planned for further urban development in accordance with the 'Ewa Development Plan.

94. The Project represents an appropriate and reasonable use of the Petition Area and is in close proximity to centers of trading and employment such as Pearl Harbor, Barbers Point Naval Air Station, Barbers Point deep draft harbor, Campbell Industrial Park, Kapolei Business Park, the City of Kapolei, and Ko Olina Resort.

95. The proposed use of the Petition Area as a commercial center will generate trade and employment.

96. The Project is in close proximity and has adequate access to basic services such as schools, parks, wastewater systems, solid waste disposal, drainage, water, transportation systems, public utilities, and police and fire protection.

97. There exists sufficient reserve areas for urban growth over the next ten years, at least, as indicated under the Kapolei area long-range master plan.

98. The Petition Area includes lands with satisfactory topography and drainage conditions and is reasonably free from dangers of flood, tsunami, unstable soil conditions, and other adverse environmental effects.

99. Although the Petition Area is not contiguous with existing urban areas, these contiguous areas are planned for development in the future as part of the long-range master plan for the 'Ewa region. State and City development plans have already designated both the Petition Area as well as contiguous areas for future development. The OSP's Five-Year Boundary Review recommended the Petition Area, as well as contiguous surrounding areas, for reclassification from the State Land Use

Agricultural District to the State Land Use Urban District to help meet O'ahu's projected demand for urban land. In addition, the City's 'Ewa Development Plan shows the Petition Area planned for development in the 1997 to 2005 timeframe. Finally, the Petition Area has been approved by the City Council and designated for commercial use on the 'Ewa Development Plan Land Use Map under Ordinance 96-06.

CONFORMANCE WITH THE GOALS, OBJECTIVES AND POLICIES
OF THE HAWAI'I STATE PLAN; RELATIONSHIP WITH
APPLICABLE PRIORITY GUIDELINES AND FUNCTIONAL PLANS

100. The reclassification of the Petition Area and the Project are generally consistent with the goals, objectives, and policies of the Hawai'i State Plan.

101. The Project will generate several hundred full-time retail as well as short-term construction-related jobs for residents of the 'Ewa region and island of O'ahu. With the State's economy shifting to a more service-oriented economy, the creation of more retail opportunities associated with the Project will further support this changing economic structure. The Project would also help to diversify the economy by providing existing and future residents residing in communities located along the Fort Weaver Road corridor with increased retail and service choices to meet their daily needs. (Sections 226-5(b)(1), 226-5(b)(3), 226-6(a)(1), 226-6(a)(2), 226-6(b)(3), 226-6(b)(6), 226-6(b)(10), HRS.)

102. The Petition Area is appropriately located along Fort Weaver Road, within close proximity to sewer lines, water

lines, and other infrastructure facilities routed along this road serving the region. (Section 226-13(b)(7), HRS.)

103. Infrastructure for the Project has been planned in coordination with other developers in the general vicinity to ensure sufficient facilities and resources for developments in the area, planned in consonance with State and City plans. This coordination includes the construction and funding of infrastructure facilities. A water master plan which includes the Petition Area as well as planned developments in the area will be prepared to address water system improvements. Coordination with government agencies and other developers in the region by Petitioner has occurred and is continuing to occur in an effort to address regional transportation improvements necessary due to the development of the 'Ewa region. These coordination efforts are reflected in the update of the 'Ewa Region Highway Transportation Master Plan, along with the future North-South Road. (Sections 226-5(b)(7), 226-14(b)(1), 226-14(b)(4), 226-16(b)(1), 226-17(b)(3), 226-17(b)(6), 226-104(a)(3), 226-104(b)(6), HRS.)

104. On-site infrastructure and utilities for the Project will be provided by Petitioner or the developer of the Project. (Section 226-104(b)(6), HRS.)

105. The Project is not expected to cause any significant impacts on natural resources or sensitive ecological systems. Appropriate studies have been undertaken to ensure the Petition Area's physical attributes are taken into consideration in the design and construction of the Project. Given the planned

development along the Fort Weaver Road corridor and 'Ewa region, the Project is compatible with existing and future facilities and activities occurring in the area. (Section 226-11(a)(1), 226-11(a)(2), 226-11(b)(3), 226-11(b)(8), 226-104(b)(2), HRS.)

106. The Project will promote recycling to reduce solid wastes. (Section 226-15(b)(2), HRS.)

107. The Project conforms to the State Functional Plans relating to agriculture and employment.

108. The State Agriculture Functional Plan recognizes that redesignation of lands to the State Land Use Urban District should be allowed upon a demonstrated change in economic or social conditions or where the requested redesignation will provide greater benefits to the general public than its retention in agriculture. The enormous contraction in plantation agriculture resulting in the supply of agricultural land exceeding projected demand constitutes a major change in economic and social conditions. Furthermore, the Project will provide economic benefits in terms of increased jobs, increased retail and service choices, and tax revenues to the State and City.

109. The Project will create short-term construction-related jobs and both full- and part-time jobs associated with businesses operating at the shopping center. These retail and service-related jobs will offer employment opportunities of various levels such as management and sales clerks. As a result, the Project will be generally consistent with the State Employment Functional Plan's objectives.

CONFORMANCE WITH COASTAL ZONE
MANAGEMENT OBJECTIVES AND POLICIES

110. The reclassification of the Petition Area generally conforms to the policies and objectives of the Coastal Zone Management Program, chapter 205A, HRS.

111. The Petition Area is located entirely outside of the City's Special Management Area and is well over a mile away from the 'Ewa Beach coastline. Water quality issues have been addressed in a City-approved drainage master plan and on-site best management practices will be implemented during construction activities in accordance with applicable permits. The Project will have minimal impact upon coastal recreational, historic, marine, beach, scenic and open space resources, and coastal ecosystems.

112. The Project is not located in a coastal hazard area subject to tsunami inundation or storm waves.

113. The Project is consistent with objectives and policies relating to public participation and managing development since considerable public participation and communication with reviewing agencies have occurred throughout the development of this Project.

CONFORMANCE WITH CITY PLANS AND POLICIES

114. The Project generally conforms to and is consistent with the applicable objectives and policies described under the City's 1992 General Plan to: (1) encourage development within the 'Ewa fringe areas and to direct commercial activity to the secondary urban center at Kapolei (Section I. Population,

Objective C, Policies 2 and 3; Section II. Objective A, Policy 1, and Objective G, Policies 1 and 2); (2) redirect commuter traffic flowing into the primary urban center by providing alternative employment centers outside of the existing urban core (Section V. Transportation and Utilities, Objective D, Policy 2); and (3) coordinate changes to the physical environment to ensure that new developments are timely, well designed, and appropriate for the areas for which they are located (Section VII. Physical Development and Urban Design, Objective A, Policy 2, Objective C, Policy 2, Objective D, Policy 1.)

115. The Project is consistent with the 1997 'Ewa Development Plan and the Petition Area has been designated for commercial use as a "Community Commercial Center."

116. Under the 'Ewa Development Plan Phasing Map, the Petition Area is located in the Phase 1 area identified for urban expansion from 1997 to 2005.

117. The present zoning for the Petition Area is AG-2 (General Agricultural District.) The 'Ewa Development Plan indicates that the appropriate zoning district for the Project is B-2. An application for rezoning in accordance with this designation has been submitted by Petitioner and is currently before the City Planning Commission.

INCREMENTAL DISTRICTING

118. Since Petitioner anticipates that all major infrastructure will be constructed within 18 months of obtaining all land use approvals and full development will be completed

within 10 years after the date of the Commission's approval, an incremental development plan is not necessary.

RULING ON PROPOSED FINDINGS OF FACT

Any of the proposed findings of fact submitted by Petitioner or other parties not already ruled upon by the Commission by adoption herein or rejected by clearly contrary findings of fact herein are hereby denied and rejected.

Any conclusion of law herein improperly designated as a finding of fact should be deemed or construed as a conclusion of law; any finding of fact herein improperly designated as a conclusion of law should be deemed or construed as a finding of fact.

CONCLUSIONS OF LAW

Pursuant to chapter 205, HRS, as amended, and the Hawai'i Land Use Commission Rules, under chapter 15-15, HAR, and upon consideration of the Land Use Commission decision-making criteria under section 205-17, HRS, this Commission finds upon a clear preponderance of the evidence that the reclassification of the Petition Area, consisting of approximately 20 acres of land in the State Land Use Agricultural District, at Honouliuli, 'Ewa, O'ahu, State of Hawai'i, identified as Tax Map Key No. 9-1-69:9, into the State Land Use Urban District, is reasonable, is not violative of section 205-2, HRS, and is consistent with the policies and criteria established pursuant to sections 205-16 and 205-17, HRS.

DECISION AND ORDER

IT IS HEREBY ORDERED that the Petition Area, which is the subject of this Docket No. A98-726 filed by Petitioner The Trustees Under The Will And Of The Estate Of James Campbell, Deceased, consisting of approximately 20 acres of land at Honouliuli, 'Ewa, O'ahu, State of Hawai'i, identified as Tax Map Key No. 9-1-69:9, and approximately shown on Exhibit "A" attached hereto and incorporated by reference herein, is hereby reclassified from the State Land Use Agricultural District to the State Land Use Urban District, and the State land use district boundaries are amended accordingly, subject to the following conditions:

1. Petitioner or landowners shall fund and construct adequate wastewater transmission and disposal facilities, as determined by the City and County of Honolulu Department of Public Works (DPW) and the State Department of Health (DOH).

2. Petitioner or landowners shall participate in the pro-rata funding and construction of local and regional transportation improvements and programs necessitated by the proposed development in designs and schedules accepted and determined by the State Department of Transportation, and the City and County of Honolulu Department of Transportation Services.

3. Petitioner or landowners of the affected properties shall fund and construct adequate civil defense measures as determined by the County and State Civil Defense agencies.

4. Should any previously unidentified burials, archaeological or historic sites such as artifacts, marine shell concentrations, charcoal deposits, or stone platforms, pavings or walls be found, Petitioner or landowners of the affected properties shall stop work in the immediate vicinity and the State Historic Preservation Division of the Department of Land and Natural Resources (SHPD) shall be notified immediately. Subsequent work shall proceed upon an archaeological clearance from the SHPD when it finds that mitigative measures have been implemented to their satisfaction.

5. Petitioner or landowners shall fund the design and construction of drainage improvements required as a result of the development of the Petition Area to the satisfaction of the State Department of Health, Natural Resources Conservation Service, and County agencies.

6. Petitioner or landowners shall participate in the funding and construction of adequate water source, storage, and transmission facilities and improvements to accommodate the proposed project. Water transmission facilities and improvements shall be coordinated and approved by appropriate State and County agencies. The County's Water Use and Development Plan shall be amended to reflect changes in water demand forecasts and in water development plans to supply the proposed project.

7. Petitioner or landowners shall provide a dual water system which includes facilities accommodating both potable and non-potable water. Non-potable water would be used for landscaping when appropriate sources become available. In

addition, water efficient landscaping would be used as appropriate to reduce the project's water demands.

8. Petitioner or landowners shall participate in an air quality monitoring program as specified by the State Department of Health.

9. Petitioner or landowners shall develop the Petition Area in substantial compliance with the representations made to the Commission. Failure to do so may result in reversion of the Petition Area to its former classification, or a change to a more appropriate classification.

10. Petitioner shall give notice to the Commission of any intent to sell, lease, assign, place in trust, or otherwise voluntarily alter the ownership interests in the Petition Area, prior to the development of the Petition Area.

11. Petitioner shall timely provide without any prior notice, annual reports to the Commission, the Office of State Planning, and the City and County of Honolulu Department of Planning and Permitting in connection with the status of the subject project and Petitioner's progress in complying with the conditions imposed herein. The annual report shall be submitted in a form prescribed by the Executive Officer of the Commission.

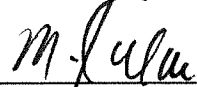
12. The Commission may fully or partially release the conditions provided herein as to all or any portion of the Petition Area upon timely motion and upon the provision of adequate assurance of satisfaction of these conditions by Petitioner.

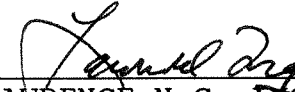
13. Within 7 days of the issuance of the Commission's Decision and Order for the subject reclassification, Petitioner shall (a) record with the Bureau of Conveyances a statement that the Petition Area is subject to conditions imposed herein by the Land Use Commission in the reclassification of the Petition Area, and (b) shall file a copy of such recorded statement with the Commission.


14. Petitioner or landowners shall record the conditions imposed herein by the Commission with the Bureau of Conveyances pursuant to Section 15-15-92, Hawai'i Administrative Rules.

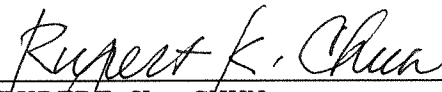
Done at Honolulu, Hawai'i, this 1st day of March 1999,
per motion on February 25, 1999.


LAND USE COMMISSION
STATE OF HAWAII

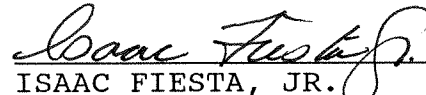
By 
MERLE A. K. KELAI
Chairperson and Commissioner

By 
LAWRENCE N.C. KING
Vice Chairperson and Commissioner

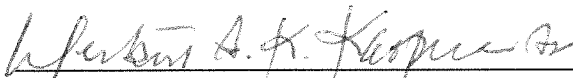
By 
P. ROY CATALANI
Commissioner

By 
RUPERT K. CHUN
Commissioner

By 
PRAVIN DESAI
Commissioner

By 
ISAAC FIESTA, JR.
Commissioner

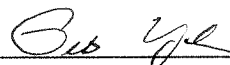
By (absent)
M. CASEY JARMAN
Commissioner

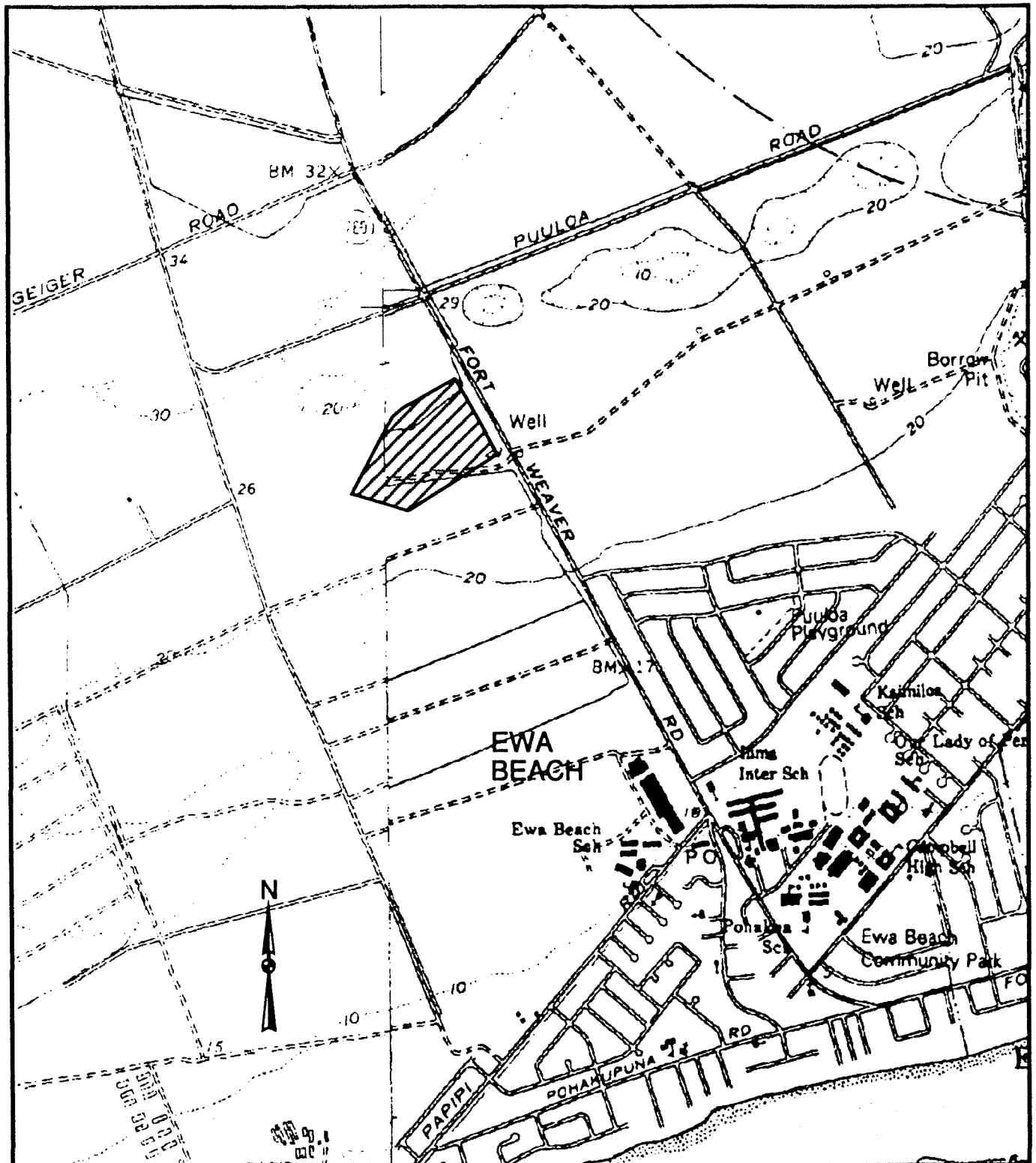
By 
HERBERT S.K. KAOPUA, SR.
Commissioner

Filed and effective on
March 1, 1999

Certified by:


Executive Officer

By 
PETER YUKIMURA
Commissioner

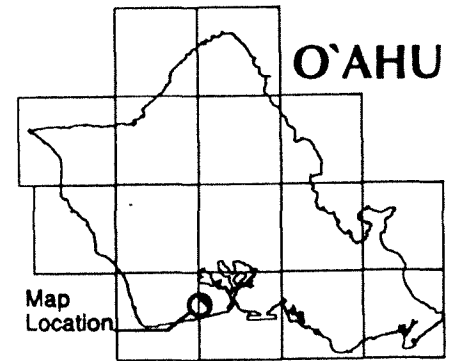


**A98-726 / THE TRUSTEES UNDER THE
WILL AND OF THE ESTATE OF
JAMES CAMPBELL, DECEASED**

LOCATION MAP

TAX MAP KEY: 9-1-69: 9
HONOLULI, 'EWA, O'AHU, STATE OF HAWAII

 APPROVED AREA
EXHIBIT "A"



Map Location

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

In the Matter of the Petition of) DOCKET NO. A98-726
)
THE TRUSTEES UNDER THE WILL AND) CERTIFICATE OF SERVICE
OF THE ESTATE OF JAMES CAMPBELL,)
DECEASED)
)
To Amend the Agricultural Land)
Use District Boundary into the)
Urban Land Use District for)
Approximately 20 Acres of Land)
at Honouliuli, 'Ewa, O'ahu,)
State of Hawai'i, Tax Map Key)
No. 9-1-69:9)
_____)

CERTIFICATE OF SERVICE

I hereby certify that a copy of the Findings of Fact, Conclusions of Law, and 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:

DEL. DAVID W. BLANE, Director
Office of Planning
P. O. Box 2359
Honolulu, Hawaii 96804-2359

CERT. JAN NAOE SULLIVAN, Director
Department of Planning and Permitting
City and County of Honolulu
650 South King Street
Honolulu, Hawaii 96813

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

DATED: Honolulu, Hawaii, this 1st day of March 1999.



ESTHER UEDA
Executive Officer