

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of)
GROVE FARM PROPERTIES, INC.)
To Amend the the Agricultural)
District Boundary into the Urban)
District for Approximately)
4.5 Acres Situated at Niumalu,)
Lihue, Kauai, Tax Map Key:)
3-3-03: por. 1)

DOCKET NO. A89-636

FINDINGS OF FACT,
CONCLUSIONS OF LAW,
AND DECISION AND ORDER

This is to certify that this is a true and correct
copy of the Decision and Order on file in the office
of the State Land Use Commission, Honolulu Hawaii.

JUN 09 1994

Date

by

Esther Land
Executive Officer

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CONCLUSIONS OF LAW, AND DECISION AND ORDER

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FINDINGS OF FACT,
CONCLUSIONS OF LAW, AND DECISION AND ORDER

GROVE FARM PROPERTIES, INC., a Hawaii corporation ("Petitioner"), filed a Motion to Approve a Portion of Increment II Lands for Incremental Redistricting from Agricultural to Urban Classification and to Clarify Location of Parcel 12 of Increment II Lands ("Motion"), on December 3, 1993, pursuant to chapter 205, Hawaii Revised Statutes ("HRS") and, section 15-15-78, Hawaii Administrative Rules, ("HAR").

The Land Use Commission ("Commission") having heard and examined the testimony, evidence, and arguments of counsel presented during the hearing, the Petitioner's Proposed Findings of Fact, Conclusions of Law and Decision and Order, and the Stipulation Regarding Findings of Fact, Conclusions of Law, and Decision and Order, and the record herein, hereby makes the following findings of fact and conclusions of law:

FINDINGS OF FACT

PROCEDURAL MATTERS

1. On February 16, 1989, Petitioner filed a Petition to reclassify approximately 605 acres of land from the Agricultural District to the Urban District.

2. On June 30, 1989, the Commission issued its Decision and Order and reclassified a portion of the lands that are the subject of LUC Docket No. A89-636 consisting of approximately 480 acres in the Lihue-Puhi Project District, from the Agricultural District to the Urban District ("Increment I").

3. In its Decision and Order, the Commission provided for the incremental redistricting of approximately 116.775 acres ("Increment II") upon a prima facie showing that the Petitioner had substantially completed improvements within Increment I in accordance with Petitioner's development plan.

4. On December 3, 1993, Petitioner filed its Motion to: (a) approve the redistricting of a small portion of Increment II lands (identified as Parcel 12) in advance of the redistricting of the balance of Increment II lands from the Agricultural District to the Urban District as permitted under the Decision and Order, and (b) to clarify the Decision and Order insofar as it affects the location of that portion of Increment II lands identified as Parcel 12 in the Decision and Order. The Motion provided affidavits, and other documentation in support of Petitioner's representations that Petitioner has

substantially completed off-site and on-site improvements within Increment I in accordance with Petitioner's development plan.

5. A prehearing conference was held on January 21, 1994 in Honolulu, Hawaii with representatives of the Petitioner, County of Kauai Planning Department, and Office of State Planning present.

6. The Commission conducted a hearing on the Petition on February 24, 1994, at Lihue, Kauai pursuant to notice published on December 27, 1993, in the Garden Island and the Honolulu Advertiser, a newspaper of general circulation.

7. The Commission received no letters of comment on the Motion. Public testimony, that sought clarification on the Motion, was received from Mr. Donald Heacock at the hearing.

8. No requests for intervention were filed.

DESCRIPTION OF AREA

9. Parcel 12 is approximately 4.5 acres in area, and is located at Lihue and Puhi, Kauai, adjacent to the southerly side of Nuhou Road, near the intersection of Nuhou Road and Halehaka Road, and is further identified as Tax Map Key: 3-3-03: portion 01. Parcel 12 is encircled by and contiguous to the existing Urban District at Puhi and Lihue.

10. Grove Farm Company, Incorporated, Petitioner's parent corporation, is the fee owner of Parcel 12. Petitioner has a proprietary interest in Parcel 12 and has been authorized to seek the requested boundary amendment.

PROPOSAL FOR RECLASSIFICATION

11. Petitioner's request to reclassify Parcel 12 was necessitated by unforeseen public health and safety concerns that have arisen in connection with the closure of the Halehaka Landfill. As contemplated under LUC Docket No. A89-636, and the subsequent County of Kauai Zoning Ordinance (PM-206-90) applicable to Increment I lands, Petitioner intended to utilize the former Halehaka Landfill site after it was closed by the County of Kauai to construct a portion of the golf course component of the Increment I lands. However, after the County of Kauai ceased active operation of the landfill site in 1991, it determined that the use of the closed landfill site for a portion of the golf course was not advisable.

12. Petitioner has agreed to various plan refinements for the project, including the relocation of a portion of the golf course off of the Halehaka landfill site to an alternate area. Petitioner has reconfigured its development plan to facilitate the County of Kauai's closure of the landfill site and concern for the public's health and safety, and to maintain a contiguous 18 hole golf course.

13. Petitioner's refinement of its development plan resulted in a reduction of lands originally slated for golf course development and required redesign of portions of the course and development areas. To facilitate the County of Kauai's closure of the landfill site, a portion of Parcel 12 of Increment II lands, slated for multi-family development, had to

be incorporated into the redesigned golf course. The site for the Parcel 12 development was relocated slightly westward of its original location.

14. The relocated Parcel 12 site, as described on the Petitioner's Exhibit F, submitted with the Motion, is planned to be developed for multi-family residential purposes, with expected density of 12 to 15 units per acre, but not to exceed 20 units per acre, the planned county zoning. Petitioner has represented that it expects to immediately seek the zoning of the relocated Parcel 12 site.

15. The Decision and Order filed on June 30, 1989 stated that Petitioner would develop 45 units on Parcel 12 (density of 10 units/acre). Petitioner has represented that the total number of multi-family units to be developed on the relocated Parcel 12 will not be less than 45 units.

16. Given that all infrastructure improvements necessary to permit the development of the relocated Parcel 12 will be constructed concurrently with the development of the Puako Subdivision (identified as Parcel 11 of Increment I lands), which is currently underway, and which is expected to be completed within five years after the incremental redistricting of Parcel 12, Petitioner has represented that it will not delay the development of the relocated Parcel 12.

INCREMENTAL DISTRICTING

17. Petitioner is in the process of developing Increment I and has substantially completed significant

off-site and on-site improvements within Increment I in accordance with Petitioner's development plan.

18. The schedule for redistricting to Urban of the remainder of Increment II lands as addressed in the Decision and Order, dated June 30, 1989, will remain unaffected by this Findings of Fact, Conclusions of Law and Decision and Order.

COUNTY AND STATE POSITION ON MOTION

19. The County of Kauai Planning Department and the Office of State Planning have represented that they are in support of the Motion.

CONFORMANCE WITH COASTAL ZONE MANAGEMENT OBJECTIVES AND POLICIES

20. Although Parcel 12 is within the Coastal Zone Management Area, it is not located within the Special Management Area. The Motion is in general compliance with chapter 205A, HRS.

RULING ON PROPOSED FINDINGS OF FACT

Any of the proposed findings of fact submitted by any of the parties to this proceeding not adopted 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 shall be deemed or construed as a conclusion of law; any finding of fact herein improperly designated as a conclusion of law shall be deemed or construed as a finding of fact.

CONCLUSIONS OF LAW

Pursuant to chapter 205, HRS and the Hawaii Land Use Commission Rules, under chapter 15-15, HAR, this Commission finds upon a clear preponderance of evidence that the incremental redistricting from Agricultural to Urban classification of Parcel 12 of Increment II, consisting of approximately 4.5 acres of land situate at Lihue and Puhi, Kauai, Hawaii, Tax Map Key No.: 3-3-03: portion of parcel 1, subject to the conditions in the Order, is reasonable, nonviolative of section 205-2, HRS, and is consistent with the Hawaii State Plan as set forth in chapter 226, HRS.

This Commission also concludes that the remainder of the lands within Increment II as designated in the Findings of Fact, Conclusions of Law, and Decision and Order dated June 30, 1989 filed in this docket are not affected by these Findings of Fact, Conclusions of Law, and Decision and Order.

ORDER

IT IS HEREBY ORDERED that a portion of Increment II lands, consisting of approximately 4.5 acres being the subject of LUC Docket Number A89-636 filed by Petitioner Grove Farm Properties, Inc., a Hawaii corporation, situate at Lihue and Puhi, Kauai, Hawaii, Tax Map Key No.: 3-3-03: portion of parcel 1, and approximately identified on Exhibit A attached hereto and incorporated by reference herein, is hereby reclassified, from the Agricultural District to the Urban District, and that the State Land Use District Boundaries are

amended accordingly subject to conditions imposed in the Findings of Fact, Conclusions of Law, and Decision and Order, filed in this docket on June 30, 1989, and the following additional condition:

15. Petitioner shall file an amendment to its Declaration of Land Use Commission Conditions (filed on June 14, 1990 with the Bureau of Conveyances as Document No. 90-088395) with the Bureau of Conveyances or Land Court of the State of Hawaii, as applicable. Said amendment shall reflect the 4.5 acres reclassified by this Decision and Order and specify that said acreage shall also be subject to the conditions stated in the Commission's Decision and Order filed on June 30, 1989 in this docket.


IT IS FURTHER ORDERED that the resiting of Parcel 12 and its current proposed development as represented herein by Petitioner, shall be and is hereby approved by this Commission.

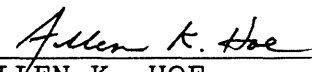
DOCKET NO. A89-636 - GROVE FARM PROPERTIES, INC.

Done at Honolulu, Hawaii, this 9th day of June 1994,
per motion on June 2, 1994.

LAND USE COMMISSION
STATE OF HAWAII


By 
JOANN N. MATTSON
Chairperson and Commissioner

By 
TRUDY K. SENDA
Vice Chairperson and Commissioner

By 
ALLEN K. HOE
Commissioner

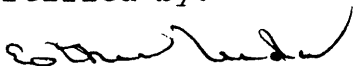
By (absent)
LLOYD F. KAWAKAMI
Commissioner

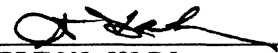
By (absent)
EUSEBIO LAPENIA, JR.
Commissioner

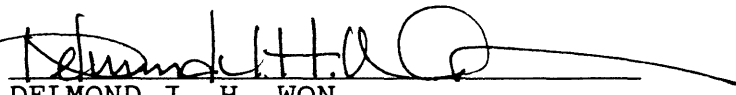
By 
RENTON L. K. NIP
Commissioner

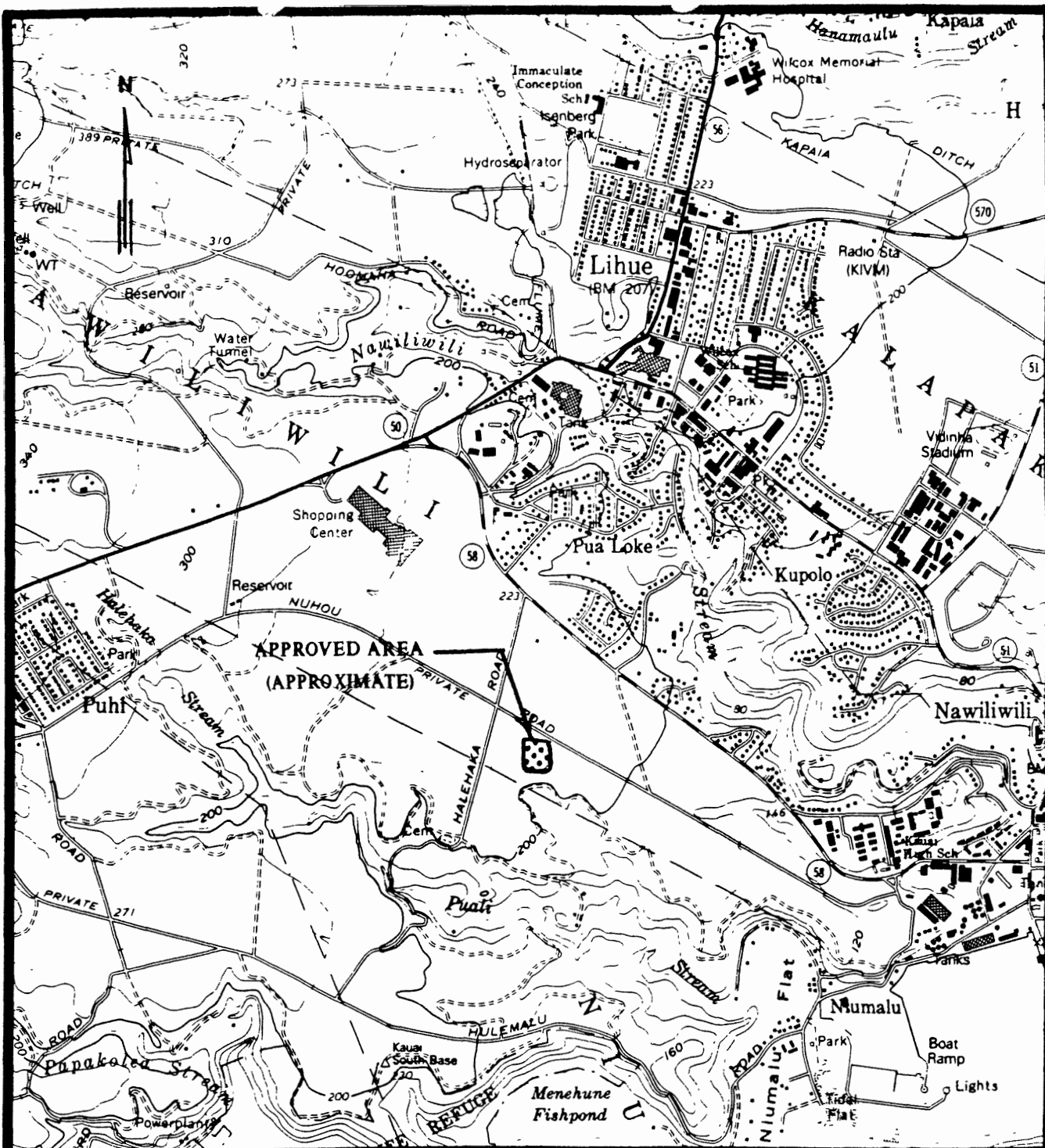
Filed and effective on
June 9, 1994

Certified by:


Executive Officer

By 
ELTON WADA
Commissioner

By 
DELMOND J. H. WON
Commissioner



DOCKET NO. A89-636 GROVE FARM PROPERTIES, INC.

LOCATION MAP

TAX MAP KEY: 3 - 3 - 03: por 01

PUHI, LIHUE, KAUAI

SCALE: 1" = 2000 ft. ±

