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LAND USE COMMISSION  
STATE OF HAWAII  
Aug 25 1 21 PM '95

Attorneys for Petitioner GROVE FARM PROPERTIES, INC.

BEFORE THE LAND USE COMMISSION

OF THE STATE OF HAWAII

In the Matter of the Petition	)	
	)	
of	)	Docket A89-636
	)	
GROVE FARM PROPERTIES, INC.	)	
	)	
to Amend the Land Use District Boundary	)	
of Property Situated at Lihue, Island and	)	
County of Kauai, State of Hawaii.	)	
Tax Map Key No. (4) 3-3-01 (portion)	)	
	)	

**AMENDED AND RESTATED MOTION  
TO APPROVE INCREMENTAL REDISTRICTING OF THE BALANCE  
OF INCREMENT II LANDS  
FROM AGRICULTURAL TO URBAN CLASSIFICATION**

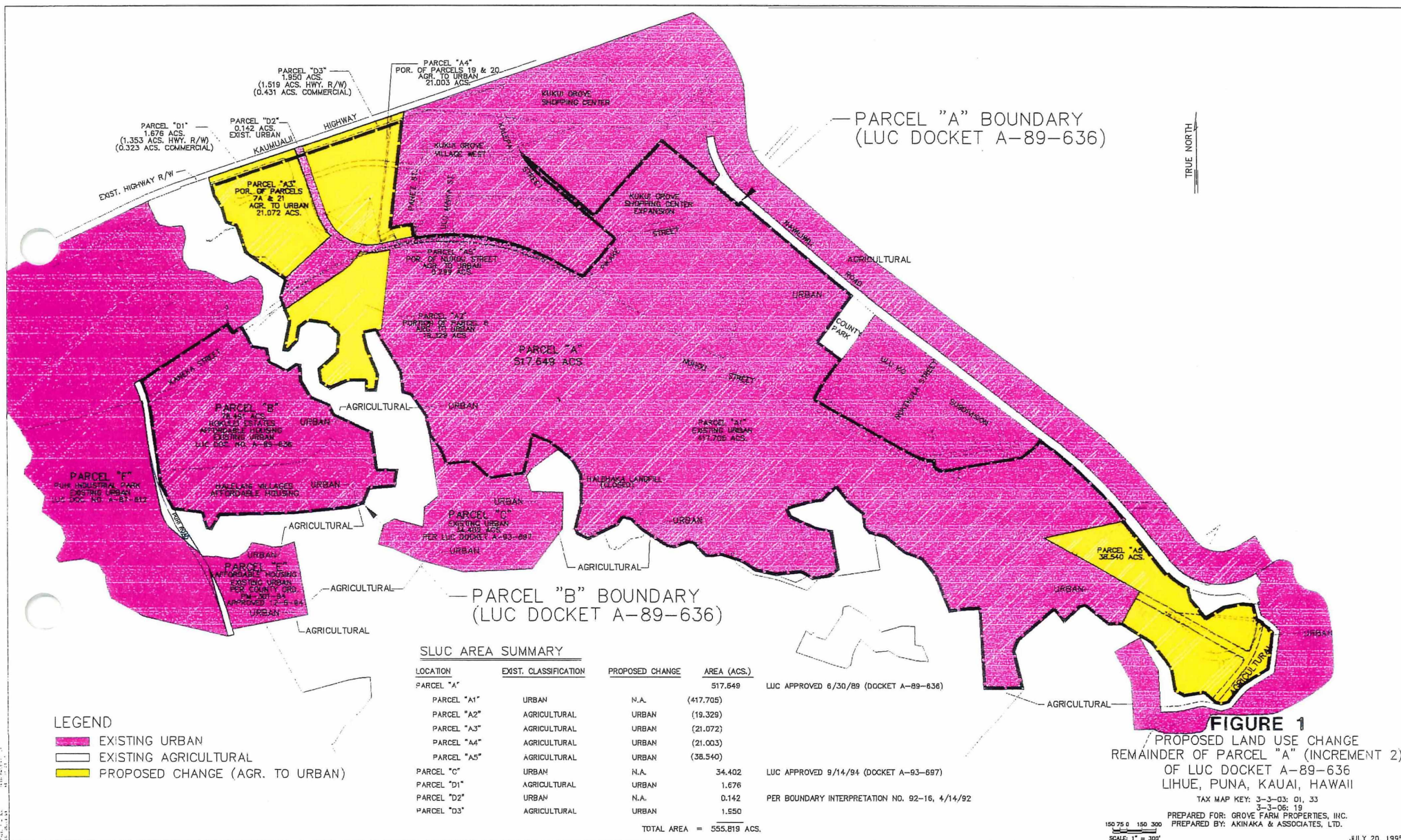
VERIFICATION

AMENDED AND RESTATED MOTION TO APPROVE  
INCREMENTAL REDISTRICTING OF THE BALANCE  
OF INCREMENT II LANDS  
FROM AGRICULTURAL TO URBAN CLASSIFICATION

Petitioner Grove Farm Properties, Inc., a Hawaii corporation, pursuant to Section 15-15-78 of the Hawaii Land Use Commission Rules, hereby amends and restates in its entirety its original Motion filed on July 31, 1995 (sometimes the "Original Motion") regarding the proposed redistricting of Increment II lands within the Puakea Project District. All references in this Motion to the various Exhibits and the Affidavit of Greg Kamm shall mean and refer to the Exhibits and the Affidavit attached and incorporated into the Original Motion.

Petitioner, on the basis of the Affidavit of Greg Kamm (Exhibit A) and in accordance with those certain Findings of Fact, Conclusions of Law and Decision and Order, dated June 30, 1989 (the "Decision and Order"), in the referenced docket ("Docket A89-636"), as the same may be amended pursuant to the Motion to Amend and Clarify Findings of Fact, Conclusions of Law and Decision and Order (the "Motion to Amend") filed by Petitioner in this Docket A89-636, moves the Land Use Commission of the State of Hawaii ("Commission") to approve the incremental redistricting from the Agricultural District to the Urban District of all the remaining Increment II lands of the Lihue-Puhi Project District graphically reflected in yellow on Figure 1 attached to this Amended and Restated Motion.

*The properties sought to be reclassified pursuant to this Motion are identified in the Decision and Order as Parcels 8, 17, 19, 20, 21, the makai one-half of Parcel 16, the mauka one-half of Parcel 7 (the non-urban portion of Parcel 7), and the right of way for Kaumualii Highway (the "Kaumualii Alignment Area"). These properties are shown on Exhibit B (Land Use Concept Plan Map) and also identified on Exhibit C (Proposed Land Use Change Map) attached to the Original Motion as Parcels A2, A3, A4, A5, D1 and D3.*



In support of this motion Petitioner alleges as follows:

1. This motion is brought because Petitioner has substantially completed improvements to Increment I lands and, in part, to implement a condition imposed by the Commission on the redistricting of Increment I lands and to facilitate an understanding reached between Petitioner and the State of Hawaii Department of Education (sometimes the "DOE") and the County of Kauai regarding the establishment of a school and park site in the Lihue-Puhi Project District (sometimes the "DOE Understanding"), as detailed in this Motion and the Affidavit of Greg Kamm, Vice President of Grove Farm Properties, Inc.

2. The Petitioner is represented by Case Myrdal Bigelow & Lombardi and Belles Graham Proudfoot and Wilson. All communications concerning this Motion are to be served on the Petitioner and the following authorized representative of Petitioner at the following addresses:

Petitioner: DAVID W. PRATT, President  
Grove Farm Properties, Inc.  
P.O. Box 2069  
Puhi Rural Branch  
Lihue, Kauai 96766

Authorized  
Representative: DENNIS M. LOMBARDI, ESQ.  
Case Myrdal Bigelow & Lombardi  
Grosvenor Center, Mauka Tower  
737 Bishop Street, Suite 2600  
Honolulu, Hawaii 96813

3. On June 30, 1989, the Commission, pursuant to its Decision and Order, reclassified lands identified as Increment I lands within the Lihue-Puhi Project District from the Agricultural District to the Urban District. (Pursuant to the Motion to Amend, Petitioner seeks to amend the Decision and Order to reflect the actual surveyed acreage within Increment I as being 491.838 acres and the actual surveyed acreage within Increment II as being 108.070 acres. To the extent Mr. Kamm's Affidavit

attached as Exhibit A to the Original Motion is inconsistent with the revised acreage, Petitioner respectfully amends the Affidavit to conform to the revised acreage.)

4. On April 14, 1994, the Commission, pursuant to its Order, redistricted a 4.5 acre portion of Increment II lands identified as Parcel 12, leaving 103.570 acres of Increment II lands for subsequent urbanization.

5. In the Decision and Order, the Commission also provided for the incremental redistricting of Increment II lands identified in the Decision and Order upon a *prima facie* showing that Petitioner has substantially completed improvements within Increment I in accordance with Petitioner's development plan. Increment I and Increment II lands are shown on Exhibit B attached to the Original Motion, which is a copy of the Land Use Concept Plan originally submitted with Docket A89-636. This exhibit depicts the general concept and layout of the development plan for the project and identifies the various parcels that are subject to the Commission's Decision and Order.

6. Petitioner has been actively engaged in complying with the conditions imposed by the Commission on the reclassification of Increment I of the Lihue-Puhi Project District. The scope of Petitioner's compliance effort is reflected in Petitioner's letter dated June 1, 1995, filed as its annual report to the Commission, a copy of which was attached as Exhibit D to the Original Motion.

7. As a condition to the reclassification of Increment I and the incremental redistricting of Increment II, the Commission required Petitioner to:

. . . pay its pro rata share for expansion of educational facilities by way of dedicating a site for such activities at a location within the project area and containing an area to be mutually agreed upon by the State Department of Education, but no more than 10 acres, provided the State Department of Education elects to obtain such a site prior to the zoning of the Property. See Decision and Order, Condition No. 7 at page 35 (the "DOE Condition").

8. To comply with the DOE Condition, Petitioner consulted with the DOE in advance of and during the zoning process and agreed to dedicate an approximate 10-acre school site to the DOE and an adjacent 5-acre park site to the County of Kauai located on the mauka portion of Parcel 7



(hereinafter referred to as "Parcel 7A") shown on the Land Use Concept Plan (Exhibit B) and identified as a portion of Parcel A3 on Exhibit C, which was not reclassified pursuant to the original Decision and Order. Petitioner's agreement to dedicate the Parcel 7A site required Petitioner to modify its original development plan, which contemplated use of Parcel 7A for the construction of multi-family housing. The DOE has now determined it appropriate to proceed with the dedication and development of the site for school purposes. Accordingly, Petitioner seeks reclassification of the site.

9. Petitioner also seeks the Commission's approval of the redistricting the balance of Increment II lands described in Docket A89-636 and identified on the Land Use Concept Plan as the remaining non-urban portion of Parcel 8-multi family, which now includes a portion of adjacent hole 12 of the Puakea golf course (Parcel A2 on Exhibit C), Parcels 19 and 20-general commercial (Parcel A4 on Exhibit C), Parcel 21-general commercial (portion of Parcel A2 on Exhibit C), and Parcel 17 and the makai one-half of Parcel 16 (Parcel A5 on Exhibit C). The current development of Parcels 8, 19, 20 and 21 is appropriate at this time because these parcels will share the same infrastructure improvements which Petitioner intends to install and construct to service Parcel 7A. Once the infrastructure improvements are in place for Parcel 7A, all of the necessary infrastructure improvements required for the development of Parcels 8, 19, 20 and 21 will also be in place. Additionally, the current redistricting of Parcels 8, 19, 20 and 21 is needed as is reflected in the Affidavit of Greg Kamm. Project infrastructure is also progressing toward Parcels 16 and 17 in the south-eastern portion of the Project District, and the development of those parcels will be appropriate once County zoning has been obtained. The proposed reclassification represents a logical extension of the adjacent existing urban area being developed by Petitioner as the Puakea Golf Course, the Puako and Pikake subdivisions, and the Kukui Grove Village West commercial center, which has been completed. For these reasons, it is not warranted to delay the urbanization of the balance of Increment II lands.

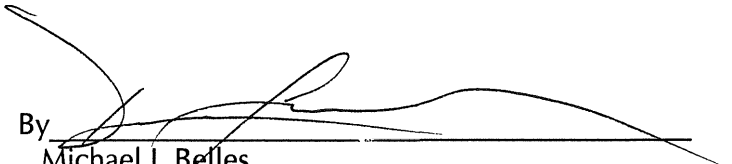
WHEREFORE, Petitioner respectfully requests that the Commission approve the reclassification from the Agricultural District to the Urban District of the portion of Increment II land described in this Motion, identified on Exhibit C (Proposed Land Use Change Map) as Parcel A2 (19.329 acres), Parcel A3 (21.072 acres), Parcel A4 (21.003 acres), Parcel A5 (38.54 acres), Parcel D1 (1.676 acres) and Parcel D3 (1.95 acres), all situate at Lihue-Puhi, Island and County of Kauai, State of Hawaii.

Dated: Honolulu, Hawaii, August 25, 1995.

GROVE FARM PROPERTIES, INC.

CASE MYRDAL BIGELOW & LOMBARDI  
BELLES GRAHAM PROUDFOOT & WILSON

By

  
Michael J. Belles  
Dennis M. Lombardi

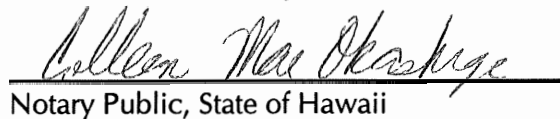
## VERIFICATION

Dennis M. Lombardi, the person named, being duly sworn, on oath deposes and says that he is one of the Attorneys for Grove Farm Properties, Inc., a Hawaii corporation, and as such is authorized to make this verification on behalf of Grove Farm Properties, Inc.; that he has read the foregoing Motion and knows the contents thereof and that the same are true to the best of his knowledge, information and belief.



Dennis M. Lombardi

Subscribed and sworn to before me  
this 25<sup>th</sup> day of August, 1995.



Colleen Mai Okazaki

Notary Public, State of Hawaii

My commission expires: 11/14/95

L.S.