BEFORE THE LAND USE COMMISSION

OF THE STATE OF HAWAII

In the Matter of the Petition of HONOKAA SUGAR COMPANY For the Reclassification of Certain Lands situated at Honokaa, Island of Hawaii	))))))))	DOCKET NO. A75-404

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.

July 5, 1978 by _____
Date Executive Officer

DECISION AND ORDER ON
MOTION TO MODIFY CONDITION

BEFORE THE LAND USE COMMISSION

OF THE STATE OF HAWAII

In the Matter of the Petition of HONOKAA SUGAR COMPANY For the Reclassification of Certain Lands Situated at Honokaa, Island of Hawaii	)	DOCKET NO. A75-404

DECISION AND ORDER ON
MOTION TO MODIFY CONDITION

On Motion made by Honokaa Sugar Company on May 11, 1978, pursuant to Part VII, Section 7-4 of the Land Use District Regulations and Part VII, Section 7-3, and Part III, Section 3-13 of the Rules of Practice and Procedure of the Land Use Commission to modify and amend Condition No. 3, at Page 7 of the Land Use Commission's Decision and Order dated May 28, 1976, and the Commission having heard oral argument on May 11, 1978 and having duly considered the entire record in this matter, and good cause having been shown by the Petitioner, now makes the following findings of fact and conclusions of law.

FINDINGS OF FACT

1. In 1974 in Docket No. H74-1, 65 acres of land owned by the Petitioner were reclassified from Agricultural to Urban by this Commission.

2. In 1976 in Docket No. A75-404, approximately 42 acres of land owned by the Petitioner, situated mauka of the 65 acres reclassified in H74-1 and above the improved

Mamalahoa Highway, were reclassified from Agricultural to Urban by this Commission.

3. In both Dockets, Petitioner proposed to develop the subject lands into residential lots for sale primarily to its current and future employees and pensioners.

4. As a condition to reclassification of the approximately 42 acres reclassified to Urban in A75-404, this Commission ordered that:

> "Development phasing should occur in the direction makai to mauka, thereby insuring that lands above the improved Mamalahoa Highway will remain in cane as long as feasible, subject to crop cycling and development plans and other conditions of economy."

5. The Petitioner plans to continue growing sugarcane on portions of the subject lands while the subdivision of these lands into residential lots is being completed in order to insure that the subject lands will remain in agricultural use as long as is feasible. The sugarcane harvested from the subject lands has to be hauled downhill, resulting in hauling through the makai phase of the subdivision should development phasing occur in the direction makai to mauka. Hauling sugarcane through a residential area is noisy and dusty for the occupants, especially since the Petitioner operates on a schedule of 24 hours a day and 7 days a week.

6. No motion or memorandum in opposition to the Petitioner's Motion was filed by the Hawaii County Planning Department or the Department of Planning and Economic Development, State of Hawaii, who were orginally admitted as parties in this Docket. Furthermore, no appearance at the hearing was made by the Hawaii County Planning Department. No objection to the Motion was made by the Department of Planning and Economic

Development, State of Hawaii at the hearing on the Motion.

CONCLUSIONS OF LAW

1. The required Notices of Motion were served upon each of the necessary parties in this matter, to-wit: the Hawaii County Planning Department and the Department of Planning and Economic Development, State of Hawaii.

2. The Land Use Commission may modify or amend any condition imposed on the granting of a boundary amendment upon showing of good cause pursuant to Part VII, 7-4 of its District Regulations and Part VII, 7-3 of its Rules of Practice and Procedure.

3. The Petitioner has shown good cause for Condition No. 3, at page 7 of the Decision and Order of the Land Use Commission in Docket No. A75-404 dated May 28, 1976, to be modified as requested in the Motion of the Petitioner.

ORDER

1. The Motion of the Petitioner in Docket No. A75-404 is hereby granted.

2. Condition No. 3, at page 7 of this Commission's Decision and Order dated May 28, 1976 is hereby modified and amended to read as follows:

> "Development phasing should occur in the direction mauka to makai, thereby insuring that lands will remain in cane as long as feasible, subject to crop cycling and development plans and other conditions of economy."

DATED at Honolulu, Hawaii this 3rd day of July, 1978, by Motion passed by the Commission at Honolulu, Hawaii, on May 11, 1978.

LAND USE COMMISSION
STATE OF HAWAII

C. W. DUKE, Chairman and Commissioner

SHINICHI NAKAGAWA, Vice Chairman and Commissioner

JAMES CARRAS, Commissioner

COLETTE MACHADO, Commissioner

SHINSEI MIYASATO, Commissioner

GEORGE PASCUA, Commissioner

CAROL WHITESELL, Commissioner

EDWARD YANAI, Commissioner

BEFORE THE LAND USE COMMISSION

OF THE STATE OF HAWAII

In the Matter of the Petition of HONOKAA SUGAR COMPANY, for the reclassification of certain lands situated at Honokaa, Island of Hawaii	DOCKET NO. A75-404

CERTIFICATE OF SERVICE

I hereby certify that a copy of the Decision and Order on Motion to Modify Condition was served upon the following by either hand delivery or depositing the same in the U. S. Postal Service by certified mail:

HIDETO KONO, Director
Department of Planning & Economic Development
250 South King Street
Honolulu, Hawaii 96813

MAURICE KATO, Deputy Attorney General
Department of Attorney General
4th Floor, State Capitol
Honolulu, Hawaii 96813

SIDNEY FUKE, Planning Director
Hawaii Planning Deparment
25 Aupuni Street
Hilo, Hawaii 96720

STEPHEN BESS, Corporation Counsel
Office of the Corporation Counsel
25 Aupuni Street
Hilo, Hawaii 96720

E. M. BUSH, Land Administrator
Theo. H. Davies & Co., Ltd.
P. O. Box 3020
Honolulu, Hawaii 96802

Dated: Honolulu, Hawaii, this 5th day of July, 1978.

GORDAN Y. FURUTANI
Executive Officer
Land Use Commission