

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of)
THEODAVIES HAMAKUA SUGAR COMPANY)
To Amend the Land Use District)
Boundaries for Properties on the)
Island of Hawaii, at North Hilo)
in the Land Divisions of Kapehu)
2nd, Kaiwilahilahi, and Waipunalei;)
and at Hamakua in the Land Divisions)
of Opihilala, Ouhi, Pakiloa 1st and)
2nd, Kalua, and Waikoekoe)

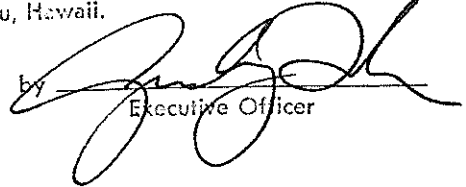
DOCKET NO. A82-531

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.

FEB 28 1983

Date

by  Executive Officer

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of)
THEODAVIES HAMAKUA SUGAR COMPANY)
To Amend the State Land Use)
District Boundaries as follows:)
AREA 1 To Amend the Agricultural)
and Conservation Land Use)
District Boundary to)
Reclassify Approximately)
27.24 Acres, TMK: 3-5-02:)
Por. 1 at Kapehu 2, North)
Hilo, Island and County of)
Hawaii into the Urban)
Land Use District.)
AREA 2 To Amend the Conservation)
Land Use District Boundary)
to Reclassify Approximately)
7+ Acres, TMK: 3-5-03: Por.)
35 at Kaiwilahilahi, North)
Hilo, Island and County of)
Hawaii, into the Urban Land)
Use District.)
AREA 3 To Amend the Agricultural)
and Conservation Land Use)
District Boundary to)
Reclassify Approximately)
10+ Acres, TMK: 3-6-04: Por.)
10 at Waipunalei, North Hilo,)
Island and County of Hawaii,)
into the Urban Land Use)
District.)
AREA 4 To Amend the Agricultural)
Land Use District Boundary to)
Reclassify Approximately 54+)
Acres, TMK: 4-3-03: 21 and)
Por. 18 at Opihilala, Hamakua,)
Island and County of Hawaii,)
into the Urban Land Use)
District.)
AREA 5 To Amend the Agricultural)
Land Use District Boundary to)
Reclassify Approximately 80+)
Acres, TMK: 4-5-01: Por. 2 at)
Ouhi to Kalua, Hamakua, Island)
and County of Hawaii, into the)
Urban Land Use District.)
AREA 6 To Amend the Agricultural Land)
Use District Boundary to)
Reclassify Approximately 10+)
Acres, TMK: 4-8-06: Por. 44 at)
Waikoekoe, Hamakua, Island and)
County of Hawaii, into the)
Urban Land Use District.)

DOCKET NO. A82-531
FINDINGS OF FACT,
CONCLUSIONS OF LAW,
DECISION AND ORDER

FINDINGS OF FACT,
CONCLUSIONS OF LAW, DECISION AND ORDER

This land use boundary amendment proceeding was initiated by the petition of THEODAVIES HAMAKUA SUGAR COMPANY, pursuant to Chapter 205, Hawaii Revised Statutes, and the Rules of Practice and Procedure of the Land Use Commission, State of Hawaii, to amend the land use district boundaries of the above-captioned lands (hereinafter referred to as "subject properties") and the Land Use Commission (hereinafter "Commission"), having heard the testimony and examined the evidence presented at the hearing on September 9 and 10, 1982, hereby makes the following findings of fact and conclusions of law:

FINDINGS OF FACT

PROCEDURAL MATTERS

1. THEODAVIES HAMAKUA SUGAR COMPANY filed this petition on April 6, 1982 to amend the Agricultural and Conservation District boundaries at Kapehu 2, Kaiwilahilahi and Waipunalei, North Hilo; Opihilala, Ouhi to Kalua, and Waikoekoe, Hamakua; Island and County of Hawaii, to reclassify approximately 188.2 acres into the Urban District.

2. The Commission held a hearing on September 9, 1982, in Honokaa, Hawaii, and September 10, 1982, in Hilo, Hawaii, pursuant to notice published August 6, 1982 in the Hawaii Tribune-Herald and the Honolulu Advertiser.

3. The Land Use Commission approved requests for intervention filed by the Honokaa Businessman's Association, the Honokaa Merchant's Association, and the ILWU Local 142, Unit 1106, and denied a request for intervention from Elizabeth Ann Stone. Ms. Stone was not present at the hearing.

4. Quentin Tomich, representing the Hamakua District Development Council, testified at the hearing as a public witness.

5. On September 9, 1982, the Commission determined that no significant environmental impacts would result from actions proposed by Petitioner in areas sought to be reclassified from Conservation to Urban and voted to file a negative declaration with the Environmental Quality Commission pursuant to Chapter 343, HRS.

DESCRIPTION OF THE SUBJECT PROPERTIES

6. The subject properties consist of six separate areas as follows:

a. Area 1 (Kapehu Camp)

The subject property consists of approximately 27.24 acres at Kapehu Camp, Kapehu 2, North Hilo, Hawaii, TMK: 3-5-02: por. 1. Elevation ranges from sea level to 310 feet above sea level at the highway. The land rises abruptly along the shoreline where a 200-foot cliff parallels the ocean. The average slope of the site is about 12% above the nearly vertical sea cliff. The U.S.D.A. Soil Conservation Service, Soil Survey Report dated December, 1973 classifies soils of the subject property as Ookala Silty clay loam (O₂C) with rough broken land (RB) in the surrounding gulches and cliffs. Under the Agricultural Lands of Importance to the State of Hawaii (ALISH) classification system, approximately one-half of the subject property is classified as prime Agricultural Lands. The remainder is unclassified.

b. Area 2 (Portion of Kekoa Camp)

The subject property consists of approximately 7 acres at Kaiwilahilahi, North Hilo, Hawaii, TMK: 3-5-03: 35 (por.). Elevation ranges from sea level to 280 feet at the existing urban district boundary. The land rises abruptly along the shoreline where a 250-foot cliff parallels the ocean. The average slope of the site is 12% above the nearly vertical cliff. The U.S.D.A. Soil Conservation Service, Soil Survey Report dated December, 1973 classifies soils of the subject property as rough broken land (RB). The subject property is not classified under the Agricultural Lands of Importance to the State of Hawaii (ALISH) classification system.

c. Area 3 (Waipunalei Camp)

The subject property consists of approximately 10 acres at Waipunalei, North Hilo, Hawaii, TMK: 3-6-04: 10 (por.). The elevation ranges from sea level to 360 feet above sea level at the highway. The land rises abruptly along the shoreline where a 200-foot cliff parallels the ocean. The average slope of the site is about 11% above the sea cliff. The U.S.D.A. Soil Conservation Service, Soil Survey Report dated December, 1973, classifies soils of the subject property as Ookala Silty clay loam (O.D) with rough broken land (RB) in the surrounding gulches and cliffs. The subject property is unclassified under the Agricultural Lands of Importance to the State of Hawaii (ALISH) classification system.

d. Area 4 (Paauilo Area)

The subject property consists of approximately 54 acres at Opihilala, Hamakua, Hawaii, TMK: 4-3-03: 21 and 18 (por.). The elevation ranges from 700 feet to 960 feet above sea level. Average slope of the site is about 12% in grade in the North Easterly direction. The U.S.D.A. Soil Conservation Service, Soil Survey Report dated December, 1973, classifies soils of the subject property as primarily Kukaiiau Silty clay loam (KuC). The Agricultural Lands of Importance to the State of Hawaii (ALISH) classification system classifies the subject property as Prime Agricultural Land, except for small portions along the Waipunahina Gulch which are unclassified.

e. Area 5 (Honokaa Area)

The subject property consists of approximately 80 acres at Ouhi to Kalua, Hamakua, Hawaii, TMK: 4-5-01: 2 (por.). The elevation ranges from 920 feet to 1,120 feet above sea level at Mamane Street. The average slope of the site is about 13% in grade. The U.S.D.A. Soil Conservation Service, Soil Survey Report dated December, 1973, classifies soils of the subject property as primarily Kukaiiau Silty clay loam (KuD). The Agricultural Lands of Importance to the State of Hawaii (ALISH) classification system classifies the subject property as Prime Agricultural Land.

f. Area 6 (Kukuihaele Area)

The subject property consist of approximately 10 acres at Waikoekoe, Hamakua, Hawaii,

TMK: 4-8-06:44 (por.). The elevation ranges from approximately 750 feet to 820 feet above sea level. The average slope of the site is about 7% with slopes over 30% in grade along gulches. The U.S.D.A. Soil Conservation Service, Soil Service Report dated December, 1973, classifies soils of the subject property as Paauhau Silty clay loam (PaC and PaD) in level areas and Paauhau Silty clay loam (PaE) in gulch areas. The Agricultural Lands of Importance to the State of Hawaii (ALISH) classification system classifies the subject property as Prime Agricultural Land and Other Lands of Agricultural Importance.

7. The subject properties are owned in fee by the Petitioner, THEODAVIES HAMAKUA SUGAR COMPANY.

8. The State land use district (SLUD) boundary amendments proposed by the Petitioner are summarized as follows:

<u>Area</u>	<u>Location</u>	<u>Existing SLUD</u>	<u>Acreage</u>	<u>Proposed SLUD</u>	<u>Acreage</u>
1	Kapehu Camp	Agricultural Conservation	18.2 9.0	Urban	27.2
2	Portion of Kekoa Camp	Conservation	7.0	Urban	7.0
3	Waipunalei Camp	Agricultural Conservation	2.5 7.5	Urban	10.0
4	Paauilo Area	Agricultural	54.0	Urban	54.0
5	Honokaa Area	Agricultural	80.0	Urban	80.0
6	Kukuihaele Area	Agricultural	10.0	Urban	10.0
TOTAL			188.2		188.2

9. Existing land uses of the subject properties include the following:

<u>Area</u>	<u>Location</u>	<u>Housing/Other Urban Uses (Acs)</u>	<u>Steep/Cliffs Gulches (Acs)</u>	<u>Ag Use (Acs)</u>	<u>Total Area (Acs)</u>
1	Kapehu Camp	7.2	6.0	14.0	27.2
2	Portion of Kekoa Camp	2.0	5.0	—	7.0
3	Waipunalei Camp	7.5	2.5	—	10.0
4	Paauilo Area	—	2.0	52.0	54.0
5	Honokaa Area	—	1.0	79.0	80.0
6	Kukuihaele Area	2.0	1.0	7.0	10.0
TOTAL		18.7	17.5	152.0	188.2

PROPOSAL FOR DEVELOPMENT

10. The Petitioner proposes to subdivide the subject properties into a total of 526 single family residential lots, varying in size from 6,000 to 10,000 square feet. The Petitioner plans to build apartments on a 2.5-acre area in Area 4 (Paauilo Camp) and to set aside a 1-acre lot in Area 6 (Kukuihaele Area) for the existing Community Service Center.

11. The selling prices for house-and-lot packages will be \$30,000 to \$70,000. The Petitioner proposes to sell lots with existing houses for \$30,000; to sell lots with relocated houses for \$37,000; and to sell lots with new houses for \$70,000.

12. The Petitioner proposes to sell the house-and-lot packages to employees and retirees of THEODAVIES HAMAKUA SUGAR COMPANY.

13. Total development costs are estimated at \$12,820,000.

14. The development will be accomplished in increments starting with the renovation of existing camp houses and houses to be relocated. Areas for new lots will be developed as the market demands.

15. The Petitioner will apply to the County to have existing camp areas designated as "Older Communities" in order to qualify for variances to road widths, lot sizes, and setbacks

under the zoning code, and to permit occupants to buy their current homes as house-and-lot packages.

16. The developments proposed for each area are as follows:

a. Area 1 (Kapehu Camp)

The Petitioner proposes to subdivide the 27.24+ acres into 54 lots. Petitioner proposes to designate thirty-two of these lots, varying in size from 6,000 to 7,000 square feet, for development under the "Older Community" development provisions of the County zoning code. The Petitioner will develop twenty-one 10,000 square feet lots, and one lot of 5+ acres for use by the community. Petitioner proposes to sell thirty-one of the 32 existing houses on the "Older Community Lots" and to relocate or demolish the remaining existing house. The Petitioner's proposed selling price is approximately \$30,000 for an as-is house and lot and about \$37,000 for lots with relocated houses. The Petitioner estimates the total cost for improvements at Kapehu Camp will be \$1,290,000, including the cost to relocate 22 homes to the site. Petitioner plans to complete the first increment within one year after the County grants subdivision approval. The Petitioner proposes to complete the second increment within two years following the completion of Increment I.

b. Area 2 (Portion of Kekoa Camp)

The Petitioner proposes to subdivide the 7+ acre lot into 12 lots as part of the 32-lot development of this camp. Petitioner proposes to designate

these lots which vary in size from 6,000 to 7,500 square feet under the "Older Community" development provisions of the County's zoning code. Petitioner proposes to sell each house and lot for approximately \$30,000. The Petitioner estimates that the total cost for the improvements at Kekoa Camp will be \$420,000. Petitioner proposes to complete the improvements within one year after subdivision approval is granted.

c. Area 3 (Waipunalei Camp)

The Petitioner proposes to subdivide this 10+ acre lot into 28 lots. Petitioner proposes to designate twenty of these lots which vary in size from 6,000 to 7,500 feet, under the "Older Community" development provisions of the zoning code. The eight other lots will be about 10,000 square feet in size. Petitioner will leave the steep slopes of the cliffs and gulches in open space. Petitioner proposes to sell the "Older Community" house and lots for approximately \$30,000 and to sell the 10,000 square feet lots with relocated homes for \$37,000. Petitioner estimates that the total cost for improvements at Waipunalei Camp will be about \$440,000, including the cost to relocate existing camp houses from other parts of the plantation. Petitioner plans to complete Increment I within one year after subdivision approval, and to complete Increment II within 2 years after completion of Increment I.

d. Area 4 (Paauilo Camp)

The Petitioner proposes to subdivide the 54+ acres

into 146 lots of 10,000 square feet and a 2.5 acre lot on which the Petitioner will build apartments. The Petitioner plans to build only new homes in this area. The Petitioner proposes to sell each house and lot for approximately \$70,000. The petition area is the second increment of Petitioner's 136 lot development on lands already in the Urban District and zoned for residential use. The Petitioner estimates that the total projected cost for subdividing both increments into 282 lots will be about \$3,800,000. Petitioner plans to commence developing Area 4 in six or seven years, after completing development of Increment I, the area already zoned for residential use.

e. Area 5 (Honokaa Area)

The Petitioner proposes to subdivide the 80+ acres into 261 lots of 10,000 square feet. Petitioner proposes to relocate existing camp homes on 124 lots in the first increment and to build new homes on 137 lots in the second increment. Petitioner proposes to sell the house-and-lot packages for \$70,000, and to sell relocated old-plantation homes for \$37,000. The Petitioner estimates that the projected cost for subdividing Area 5 into 261 lots will be about \$5,800,000, which includes the cost to relocate 124 homes in the first increment. Petitioner proposes to commence Increment I in 1983 after rezoning is approved by the State and County, and to complete Increment I within 5 years.

f. Area 6 (Kukuihaele Area)

The Petitioner proposes to subdivide the 10+ acres into 25 lots and to subdivide adjacent lands that are in the urban district into 20 lots for a total project of 45 lots, 10,000 square feet in size and one 1-acre lot on which the existing Community Service Center is located. Petitioner proposes to use this area as an alternate site for relocating existing camp homes from the Honokaa-Haina area, and also to provide lots for employees who wish to live in Kukuihaele. Petitioner proposes to sell each relocated house-and-lot for \$37,000. Petitioner plans to complete the development of the area within the next five years.

PETITIONER'S FINANCIAL CAPABILITY
TO UNDERTAKE THE PROPOSED DEVELOPMENT

17. The consolidated Balance Sheet of Theo H. Davies & Co., Ltd., and its subsidiaries, including the Petitioner shows, as of December 31, 1981, total assets of \$164,000,000; total liabilities of \$97,210,000; and total equity of \$67,017,000.

STATE AND COUNTY PLANS AND PROGRAMS

18. The State Land Use District (SLUD), County of Hawaii General Plan Land Use Pattern Allocation Guide (LUPAG) Map, County zoning, and the Special Management Area (SMA) designations for each of the six areas are as follows:

<u>Area</u>	<u>Location</u>	<u>SLUD</u>	<u>LUPAG</u>	<u>Zoning</u>	<u>SMA</u>
1	Kapehu Camp	Agricultural Conservation	Low Density Urban/ Conservation	A-20a	Yes (entire area)
2	Portion of Kekoa Camp	Conservation	Low Density Urban/ Intensive Agriculture/ Open	A-1a	Yes (most of camp A-1a)
3	Waipunalei Camp	Agricultural Conservation	Low Density Urban/ Intensive Agriculture/ Open	A-20a	Yes (entire area)

4	Paauilo Area	Agricultural	Low Density Urban	A-40a	No
5	Honokaa Area	Agricultural	Low Density Urban Alternate Urban Expansion/Intensive Agriculture	A-40a	No
6	Kukuihaele Area	Agricultural	Low Density Urban	A-40a	No

19. The Department of Land and Natural Resources designates the areas of the subject properties within the State Land Use Conservation District in the Resource Subzone. Lands classified in the Resource Subzone are to be used to sustain the natural resources of these areas.

NEED FOR GROWTH AND THE PROPOSED DEVELOPMENT

20. The Petitioner's employee housing plan is to phase out its present employee rental housing operation and to sell fee simple house-and-lot packages to its employees. Petitioner's goal is to give each employee an opportunity to own a home, whether it be a new or existing one.

21. The Petitioner intends to retain and expand its established plantation camps at Kapehu, Kekoa, Waipunalei, and Paauilo, Paauhau, Haina, and to relocate or demolish scattered houses along the coast. In order to preserve the unique rural type of camp living, and sell existing homes as house-and-lot packages, Petitioner proposes to obtain variances on road width, lot sizes and setbacks under the County's "older communities" zoning provisions.

22. Petitioner also proposes to develop new residential subdivisions in designated urban centers of the Hamakua Coast to give plantation employees the option to purchase new house-and lot packages for home ownership.

23. New house-and-lot prices, tempered by inflation, have risen to a point where many employees cannot afford to purchase homes on the open market.

24. The people living in existing plantation camps, particularly retirees, have established roots and have deep reservations about leaving the close social interaction established through camp living.

25. Petitioner's proposed relocation program includes:

- a. Relocating some 260 houses from camps scheduled for demolition.
- b. Demolishing or leaving houses vacant whenever one is vacated in camps slated to be phased-out.
- c. Providing interim rental housing in other plantation houses and in apartment units in Papaaloa, Paauilo and Honokaa for employees that are asked to relocate. Petitioner anticipates a two year lead time for the construction of rental units.
- d. Paying a lump sum amount to relocatees who elect to stay in other privately-owned housing units to cover moving and rental expenses.

26. Petitioner intends to utilize Farmers Home Administration mortgage programs to finance employee purchases of house-and-lot packages. In 1982, the Farmers Home Loan program maximum permitted sales price for a new house and lot was \$65,000. Employees can qualify for this program with a maximum annual income of about \$20,000. The Petitioner estimates that at present costs, each home owner's monthly mortgage payment will be under \$300 per month, compared to the State's median mortgage payment of approximately \$600 per month.

27. The Petitioner currently employs approximately 1,100 persons in the North Hilo-Hamakua region. About 33% of them own their homes, another 30% live in employee housing, and the remainder live in other rental units.

28. Petitioner has 513 existing rental housing units in company camps: retirees occupy approximately 160 units, current employees 330 units, and the balance are vacant.

29. The Petitioner estimates its employee housing needs are as follows:

Employees	825+ units
Supervisory	175
Retirees	160
	<hr/>
TOTAL	1,160+ units

Assuming the company hires 50 additional workers per year, or 250 in a five year period, the company would need to provide an additional 250 units over a five year period, for a total of 1,400 house-and-lot packages or new lots, assuming that a small percentage of the new employees would rent or purchase homes from other private land owners.

30. The Petitioner is studying the feasibility of closing the Ookala Mill and reducing its sugar cane acreage. The outcome of this study may have some impacts on Petitioner's estimates of projected new employees.

31. The Petitioner currently owns sizeable acreage classified in the State Land Use Urban District and designated for employee housing. These lands include approximately 119 acres in Papaaloa which are zoned for single family residential use and are unsubdivided at the present time; approximately 43 acres in the Paauilo School area which have not been rezoned to date; and 108 acres in Honokaa which are zoned for single family residential use. Much of the Petitioner's housing demand could be satisfied by developing its existing urban classified lands.

32. The Petitioner proposes to develop the subdivided lots in Area 5 at Honokaa--Increment II more than 6 to 7 years after

receiving zoning approvals. The Petitioner has no development timetable for developing its new house and lot subdivision in the Paauilo area. Petitioner has not substantiated the need to reclassify these areas to Urban at this time.

IMPACTS UPON RESOURCES OF THE AREA

Agricultural Resources

33. The proposed reclassification will result in the removal of approximately 152 acres from active agricultural production. These 152 acres involve areas in Kapehu (Area 1); Paauilo (Area 4); Honokaa (Area 5); and Kukuihaele (Area 6). Area 4, Area 5 and Area 6 consists of prime agricultural lands.

34. Petitioner states that after the relocation or demolition of camps in Kaiaka, Quintana, Nakalei, Paauhau, Haina and the Ookala area, Petitioner will replant these lands in sugar cane, resulting in a net acreage loss of caneland of approximately 79 acres. The productivity of these lands to be converted back into sugarcane production is comparable to areas to be taken out of sugarcane production. The cost of converting these areas back to sugarcane production will be less than the cost to be incurred in placing undeveloped lands back into sugarcane production. The loss of the net 79 acres will have minimal impact on Petitioner's cane operations.

Recreational/Scenic Resources

35. Portions of the subject properties in the Agricultural District have no recreational significance. The shoreline bordering Kapehu, Kekoa and Waipunalei Camp is characterized by sheer 200-foot cliffs, making access to the ocean very difficult. The Department of Land and Natural Resources recommends that all cliff areas together with sufficient land for sea cliff access remain in the Conservation District for aesthetic and recreational purposes.

36. The Conservation District portions of the subject properties have no known shoreline access. The Petitioner agrees that any traditional trails or rights-of-way to the shoreline will remain accessible to the public.

Historical/Archaeological Resources

37. The Petitioner's preliminary survey indicates that no significant historical, cultural, architectural, or archaeological resources exist on the subject properties. The Petitioner will investigate the adjoining gulches and cemeteries thoroughly before development. The State Department of Land and Natural Resources requests that work be stopped and their Historic Sites Section be contacted immediately in the event that any unanticipated sites or remains such as artifacts, shell, bone or charcoal deposits; human burials; rock or coral alignments, pavings, or walls are encountered during construction.

Water Quality

38. The subject properties are located in a high rainfall area and close to the shoreline along the Hamakua coast. The Petitioner intends to employ appropriate mitigative measures to prevent excessive erosion, siltation, sedimentation and seepage during, and subsequent to development.

39. The Lower Hamakua ditch borders along the makai boundary of Area 5. Department of Land and Natural Resources points to the need for protecting the quality of the water in the ditch by having the applicant implement appropriate erosion and sedimentation control measures during and after construction of the project.

ADEQUACY OF PUBLIC SERVICES AND FACILITIES

Water Services

40. Area 1 (Kapehu Camp) and Area 2 (Kekoa Camp):

There is an adequate water source available from the

Laupahoehoe Deep Well No. 2 for the proposed developments. Additional off-site improvements must be installed before the County of Hawaii Department of Water Supply can serve the proposed developments.

41. Area 3 (Waipunalei Camp):

The County of Hawaii Department of Water Supply currently serves the existing 20 dwellings through a master water meter. Since the existing dwellings are served by their water system, subdividing this area will not increase the load on their system. The Department of Water Supply will require that any costs for providing water service to the proposed eight additional units shall be borne by the Petitioner.

42. Area 4 (Paauilo):

The County Department of Water Supply has no objections to the proposed development in this area provided that the Petitioner enters into a written agreement with the Department of Water Supply to supply water for the 282 lots the Petitioner proposes to develop and to make the proper connection to the County's system.

43. Area 5 (Honokaa):

The County of Hawaii Department of Water Supply states that water is available for the proposed development subject to the conditions:

- a. that the Petitioner develop the Haina Well and donate it to the County; and
- b. that the Petitioner make certain off-site improvements.

44. Area 6 (Kukuihaele):

The County Department of Water Supply cannot serve the proposed 45-lot development using the Department's existing water system facilities unless additional source, water line,

and storage improvements are constructed. Currently, no funding is available nor time schedule set for the required improvements. Petitioner is willing to participate in providing necessary off-site water improvements.

Sewage Treatment and Disposal

45. Petitioner proposes to dispose of sewage from the proposed developments by means of cesspools or any other means acceptable to the Department of Health. The Department of Land and Natural Resources points out that in Areas 1, 2, and 3, the location of the proposed cesspools must be shifted further inland to minimize the possibility of seepage into ocean waters.

Solid Waste Disposal

46. Petitioner proposes to use private refuse collectors for solid waste disposal.

Drainage

47. No significant drainage problems are anticipated; should any arise, they will be resolved as a condition of subdivision approval by the County for each project site.

Roadways and Highway Facilities

48. Petitioner does not anticipate that its development will add any significant increase to local traffic because the proposed developments are not to provide for a new influx of residents, but merely to redistribute employee housing along the Hamakua Coast. Petitioner will make minor adjustments to existing public roads to accommodate local traffic. The Petitioner proposes to build a new highway segment through the makai portion of Area 1.

49. The proposed developments will have a negligible effect on the following public school facilities: Laupahoehoe Elementary and High School, Paauilo Elementary and Intermediate

School, Honokaa Elementary and High School.

COMPLIANCE WITH STANDARDS FOR DETERMINING DISTRICT BOUNDARIES

50. Areas 1, 2 and 3, Excluding Proposed Highway and Open Space Areas
- a. Reclassification of Areas 1, 2 and 3, with the exception of the proposed highway and open space areas, is reasonably necessary to recognize the existing residential structures and to accommodate some urban growth and expansion.
 - b. These areas are already in residential use. Although the lands are not within the Urban District, they contain "city-like" concentrations of people, structures, streets and other related land uses.
 - c. These areas have no adverse geographic or topographic constraints to the proposed residential development; no drainage problems; and are not subjected to flooding or tsunami inundation, unstable soil conditions or other adverse environmental effects.
 - d. Infrastructural support services and facilities are now available or the Petitioner will make them available to these areas at reasonable cost.
 - e. These areas are conveniently accessible to employment and service centers in the North Hilo and Hamakua Districts. Reclassification of these areas to Urban will complement the land use designations of the General Plan Land Use Pattern Guide (LUPAG) Map.
51. Proposed Highway and Open Space Areas Within Areas 1, 2, and 3
- a. The reclassification of these shoreline fringe areas into the Urban District is not necessary to

accommodate urban growth, nor for obtaining subsequent governmental approvals of the residential developments proposed. It is more appropriate to retain these shoreline areas in the Conservation District as open space and scenic resources.

- b. The cliff portions of these areas are designated "Open" on the County's General Plan LUPAG Map; therefore, reclassification to the State Land Use District would be in conflict with the General Plan.

52. Area 4 and Increment II of Area 5

- a. The Petitioner has not adequately demonstrated that all of the proposed reclassifications to support new residential house-and-lot packages are necessary at this time; nor has the Petitioner clearly established that the target market, its employees and pensioners, would be willing and able to purchase the housing units proposed.
- b. County water service is not available to Area 4, and is available to limited portions of Area 5.

53. Increment I of Area 5 and Area 6

- a. The Petitioner has not established the exact degree to which its employees and pensioners would be willing and able to participate in its proposed new housing development program but has adduced sufficient evidence to show that it needs more urban lands for housing to accommodate desired growth and development in the locales of Area 5 and Area 6.

- b. Reclassification to Urban of Increment I of Area 5 and all of Area 6 is reasonable, and would not have significant adverse effects upon agriculture despite some portions of these areas being prime or other lands of agricultural importance, because lands currently used for camp sites and of equal or better productivity for agricultural use will be reverted to sugar cane cultivation. The reclassifications would directly support agriculture in these areas, being that the boundary change is to allow housing for sugar industry employees.
- c. Natural, environmental, recreational, scenic or other resources of the areas would not be adversely affected by the reclassifications to Urban.
- d. The subject areas are adjacent or in proximity to existing Urban District lands. Petitioner will make maximum use of existing public services and facilities; other necessary services and facilities can be provided at reasonable costs.
- e. The proposed reclassifications conform to the County's General Plan LUPAG Map and qualify for preference because they would contribute toward a more balanced housing supply in locations accessible to existing employment centers.

RULING ON PROPOSED FINDINGS OF FACT

The Commission hereby rejects any of the proposed findings of fact submitted by the Petitioner or the other parties not already ruled upon by the Land Use Commission by adoption herein, or rejected by clearly contrary findings of fact herein.

CONCLUSIONS OF LAW

Pursuant to Chapter 205, Hawaii Revised Statutes, and the Rules of Practice and Procedure and District Regulations of the State Land Use Commission, based upon the clear preponderance of the evidence the Commission concludes that the following actions are warranted relative to this petition for amendment of the State Land Use District Boundaries:

- Area 1 (Kapehu Camp): Approve only that portion of the area that lies mauka of the proposed highway alignment, consisting of approximately 10.9 acres from Agricultural to Urban and approximately 2.5 acres from Conservation to Urban, as shown on maps attached hereto as Exhibits A and B.
- Area 2 (Portion of Kekoa Camp): Approve that portion of the petition area proposed for residential lots, approximately 2.5 acres from Conservation to Urban, as shown on maps attached hereto as Exhibits A and C.
- Area 3 (Waipunalei Camp): Approve that portion of the petition area proposed for residential lots, approximately 3 acres from Agricultural to Urban and approximately 5 acres from Conservation to Urban, as shown on maps attached here as Exhibits D and E.
- Area 4 (Paauilo Area): Deny reclassification of the entire petition area of 54 acres.
- Area 5 (Honokaa Area): Approve that portion of the petition area proposed as Increment I, approximately 43.4 acres from Agricultural to Urban; deny the reclassification to Urban of that portion of the petition area proposed as Increment II, as shown on maps attached hereto as Exhibits H and I.

Area 6 (Kukuihaele Area): Approve reclassification of the entire petition area of 10 acres from Agricultural to Urban, as shown on maps attached hereto as Exhibits J and K.

Approval of the reclassifications totaling approximately 76.8 acres of the subject properties from the Agricultural and Conservation Districts into the Urban District conforms to the standards established in the State Land Use District Regulations; is reasonable, is not violative of Section 205-2, Hawaii Revised Statutes, as amended; and is consistent with the Hawaii State Plan, as set forth in Chapter 226, Hawaii Revised Statutes, as amended.

The Commission further concludes that reclassification of the remaining portions of the subject properties, totaling approximately 111.4 acres, from the Agricultural and Conservation Districts into the Urban District has not been shown to be reasonably necessary, would not conform to the standards established by the State Land Use District Regulations, and would be violative of Section 205-2 and Chapter 226, Hawaii Revised Statutes.

DECISION AND ORDER

IT IS HEREBY ORDERED that approximately 76.8 acres of land, representing a portion of the total area in the petition by THEODAVIES HAMAKUA SUGAR COMPANY, in Docket No. A82-531, be reclassified from the Agricultural and Conservation Districts into the Urban District, consisting of:

Area 1 (Kapehu Camp): Approximately 10.9 acres is approved from Agricultural to Urban and approximately 2.5 acres is approved from Conservation to Urban, comprised of

only that portion of the petition area that lies inland (mauka) of the proposed highway alignment, identified by Tax Map Key 3-5-02: Portion of 1, and illustrated in Exhibits A and B attached hereto and herein incorporated by reference;

Area 2 (Portion of Kekoa Camp): Approximately 2.0 acres is approved from Conservation to Urban, comprised of only that portion of the petition area proposed for development of residential lots, identified by Tax Map Key 3-5-03: Portion of 35, and illustrated in Exhibits A and C attached hereto and herein incorporated by reference;

Area 3 (Waipunalei Camp): Approximately 3.0 acres is approved from Agricultural to Urban and approximately 5.0 acres is approved from Conservation to Urban, comprised of the petition area proposed for development of residential lots, identified by Tax Map Key 3-6-04: Portion of 10, and illustrated in Exhibits D and E attached hereto and herein incorporated by reference;

Area 5 (Honokaa Area): Approximately 43.4 acres is approved from Agricultural to Urban, comprised of Increment I of the petition area, identified by Tax Map Key 4-5-01: Portion of 2, and illustrated in Exhibits H and I attached hereto and herein incorporated by reference;

Area 6 (Kukuihaele Area): Approximately 10.0 acres is approved from Agricultural to Urban, comprised of the entire petition area, identified by Tax Map Key 4-8-06: Portion of 44, and illustrated in Exhibits J and K attached hereto and herein incorporated by reference.

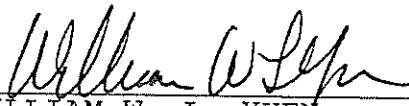
BE IT ALSO ORDERED that reclassification to Urban of the balance of the subject properties is hereby denied, and they shall remain in their current land use districts.

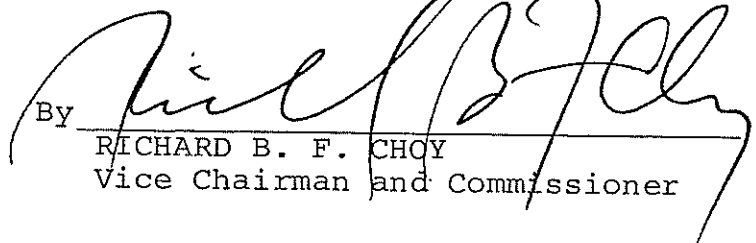
BE IT FURTHER ORDERED that the reclassifications into the State Land Use Urban District described herein shall be subject to the following conditions:


1. That the Petitioner shall offer each subdivided lot, developed and improved on lands reclassified under this Docket, for sale only to employees and pensioners of THEODAVIES HAMAKUA SUGAR COMPANY for at least one full year after completion of development; and
2. THEODAVIES HAMAKUA SUGAR COMPANY shall make provisions for temporary housing for its employees purchasing relocated homes in the proposed housing developments, and shall also provide assistance in relocating employees who do not qualify for financing or are otherwise unable or do not desire to purchase homes in the proposed developments; and
3. These conditions may be fully or partially released by the Commission as to all or any portion of the subject properties upon timely motion and provision of adequate assurance of satisfaction of these conditions by the Petitioner.

DONE at Honolulu, Hawaii, this 27th day of January,
1983, per Motion on December 2, 1982 and February 14, 1983.

LAND USE COMMISSION
STATE OF HAWAII

By 
WILLIAM W. L. YUEN
Chairman and Commissioner


By 
RICHARD B. F. CHOY
Vice Chairman and Commissioner

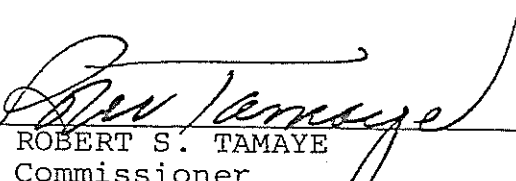
By 
LAWRENCE F. CHUN
Commissioner


By 
EVERETT L. CUSKADEN
Commissioner

By 
SHINSEI MIYASATO
Commissioner

By 
WINONA E. RUBIN
Commissioner

By 
TEOFILO PHIL TACBIAN
Commissioner

By 
ROBERT S. TAMAYE
Commissioner

By 
FREDERICK P. WHITTEMORE
Commissioner

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of)
THEODAVIES HAMAKUA SUGAR COMPANY) DOCKET NO. A82-531
To Amend the Land Use District)
Boundaries for Properties on the)
Island of Hawaii, at North Hilo)
in the Land Divisions of Kapehu)
2nd, Kaiwilahilahi, and Waipunalei;)
and at Hamakua in the Land Divisions)
of Opihilala, Ouhi, Pakiloa 1st and)
2nd, Kalua, and Waikoekoe)

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:

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

SIDNEY FUKU, Planning Director
Planning Department
County of Hawaii
25 Aupuni Street
Hilo, Hawaii 96720

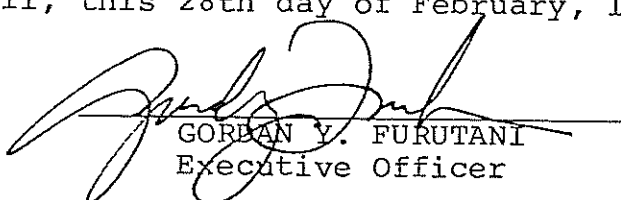
E. N. BUSH
Manager of Land Services
TheoDavies Properties
P.O. Box 3020
Honolulu, Hawaii 96802

HONOKAA BUSINESSMAN'S ASSOCIATION
Honokaa, Hawaii 96727

HONOKAA MERCHANT'S ASSOCIATION
Honokaa, Hawaii 96727

CLARENCE SOUZA, Chairman
ILWU Local 142, Unit 1106
P.O. Box 343
Paauilo, Hawaii 96776

DATED: Honolulu, Hawaii, this 28th day of February, 1983.


GORDAN Y. FURUTANI
Executive Officer