BEFORE THE LAND USE COMMISSION

OF THE STATE OF HAWAI`I

2000 SEP 22 PM 4 16

PLANNING DEPARTMENT
COUNTY OF HAWAII

In the Matter of the Petition of C. BREWER PROPERTIES, INC., a Hawai`i corporation  To Amend the Agricultural Land Use District Boundary into the Urban Land Use District for Approximately 288.240 Acres of Land at Pu`ueo, South Hilo, Island and County of Hawai`i, State of Hawai`i, TMK Nos.: 2-6-08: 17, 26, 27, 28 (por.), 29, 31 (por.) 32 (por.), 33 (por.), 34 (por.), 36, 37 (por.), 38 (por.), 39; 2-6-29: 14 and 15	DOCKET NO. A92-658 ORDER GRANTING MOTION TO WITHDRAW LAND USE COMMISSION APPROVALS AND REVERT LAND USE DISTRICT BOUNDARY CLASSIFICATION TO AGRICULTURE

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

SEP 20 2000 by
Date Executive Officer

ORDER GRANTING MOTION TO WITHDRAW LAND USE COMMISSION APPROVALS AND REVERT LAND USE DISTRICT BOUNDARY CLASSIFICATION TO AGRICULTURE

LAND USE COMMISSION
STATE OF HAWAII
2000 SEP 20 A 8: 16

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BEFORE THE LAND USE COMMISSION

OF THE STATE OF HAWAI`I

In the Matter of the Petition of C. BREWER PROPERTIES, INC., a Hawai`i corporation  To Amend the Agricultural Land Use District Boundary into the Urban Land Use District for Approximately 288.240 Acres of Land at Pu`ueo, South Hilo, Island and County of Hawai`i, State of Hawai`i, TMK Nos.: 2-6-08: 17, 26, 27, 28 (por.), 29, 31 (por.) 32 (por.), 33 (por.), 34 (por.), 36, 37 (por.), 38 (por.), 39; 2-6-29: 14 and 15	DOCKET NO. A92-680 ORDER GRANTING MOTION TO WITHDRAW LAND USE COMMISSION APPROVALS AND REVERT LAND USE DISTRICT BOUNDARY CLASSIFICATION TO AGRICULTURE

ORDER GRANTING MOTION TO WITHDRAW LAND USE COMMISSION APPROVALS AND REVERT LAND USE DISTRICT BOUNDARY CLASSIFICATION TO AGRICULTURE

On May 15, 2000, David Earl Greer and Doris Rochelle Greer ("Greers") filed a Motion To Withdraw Land Use Commission Approvals And Revert Land Use District Boundary Classification To Agriculture ("Motion"), pursuant to section 15-15-70, Hawai`i Administrative Rules ("HAR"). The Greers requested the Land Use Commission ("Commission") to withdraw its approvals in the above-referenced docket and to revert the district boundary classification of the property subject of the docket from its current "Urban" classification to the "Agriculture" classification. The Greers also requested this Commission for authorization to reverse and rescind the conditions previously

recorded against the property in conjunction with the "Urban" classification.

Attached to the Motion was a Memorandum In Support Of Motion ("Memorandum in Support"), which stated, among other things, that 1) the Greers had purchased the property from Hawaii Land and Farming Company, Inc.[1], under that certain Deed, dated September 16, 1999, and recorded in the Bureau of Conveyances of the State of Hawai`i as Document No. 99-157447 on September 30, 1999; 2) none of the previous owners proceeded with the physical development of the property; 3) the Greers, as the current owners of the property, had no intention of developing the property into residential or commercial lots, as represented by the original Petitioner; 4) the Greers had already begun to implement plans to plant and harvest tropical fruit trees on the property and had coordinated their efforts with the assistance of the Natural Resources and Conservation Service of the U.S. Department of Agriculture; 5) the costs of development in accordance with the current conditions imposed by various governmental agencies, coupled with market conditions, did not justify the residential or commercial development; 6) the Greers did not know of any objections to the removal of the "Urban" district classification of the property in view of the Greer's decision not to proceed with residential or commercial development of the property; and 7) the Greers had filed a request with the County of Hawai`i to repeal Ordinance No. 96-48 to revert the zoning of the property

[1] Successor-in-interest to Petitioner C. Brewer Properties, Inc.

from residential and commercial to its former agricultural and open zoning designations.[2]

Affidavits Of David Earl Greer and Doris Rochelle Greer ("Affidavits"), filed in support of the Motion, stated, among other things, that 1) they were the owners of the property; and 2) they understood that in the event the Commission approved the Motion, a petition to amend the boundaries of the property would need to be filed, considered, and heard in conjunction with all applicable laws and rules and regulations should they decide to once again amend the boundaries of the property from Agriculture to Urban.

On June 8, 2000, the Greers filed a Supplement To Motion To Withdraw Land Use Commission Approvals And Revert Land Use District Boundary Classification To Agriculture ("Supplement"), which provided a true copy of the deed conveying to the Greers the ownership interest in the property.

On August 10, 2000, the Greers filed a Stipulation Of Substitution Of David Earl Greer And Doris Rochelle Greer As Petitioner And To Withdraw Land Use Commission Approval And Revert Land Use District Boundary Classification To Agricultural ("Stipulation"), attached hereto and incorporated by reference herein. The Stipulation was signed by the Greers, the Office of Planning, and the County of Hawai`i Planning Department, and stated, among other things, that 1) the Greers, as the current owners of the property, be substituted herein as the Petitioner;

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[2] C. Brewer Homes, Inc., formerly known as C. Brewer Properties, Inc., had obtained rezoning approval from the County of Hawai`i on May 2, 1996, under Ordinance No. 96-48.

2) all prior Commission approvals in the above-entitled docket be withdrawn; 3) the land use district boundary classification for the 288.240-acre property revert from its current "Urban" classification to its former "Agriculture" classification; and 4) the parties hereto waive the procedural requirements as set forth in chapter 91, Hawai`i Revised Statutes, pertaining to notices, hearings, and proceedings, and agree that this Commission may proceed with the informal disposition of the requests made herein.

The Motion came on for hearing before this Commission on August 17, 2000, in Kailua-Kona, Hawai`i, with appearances by the parties as noted in the minutes. Thereafter, a motion was made and seconded to grant the Motion. Following discussion by the Commissioners, a vote was taken on this motion. There being a vote tally of 8 ayes, 0 nays, and 1 excused, the motion carried.

ORDER

Having duly considered the Motion, the Memorandum in Support, the Affidavits, the Supplement, the Stipulation, and the arguments presented by the parties in this proceeding, and a motion having been made at a hearing conducted on August 17, 2000, in Kailua-Kona, Hawai`i, and the motion having received the affirmative votes required by section 15-15-13, HAR, and there being good cause for the motion, this Commission ORDERS as follows:

> The Motion is GRANTED, and the property, being the subject of Docket Number A92-680/C. Brewer Properties, Inc., consisting of approximately 288.240 acres of land situated at Pu`ueo, South Hilo, Island and County of

Hawai`i, State of Hawai`i, identified as Tax Map Key Nos.: 2-6-08: 17, 26, 27, 28 (por.), 29, 31 (por.) 32 (por.), 33 (por.), 34 (por.), 36, 37 (por.), 38 (por.), 39; 2-6-29: 14 and 15, reverts from the State Land Use Urban District to the State Land Use Agricultural District.

The Greers are authorized to vacate and release the conditions of approval previously recorded against the property pursuant to the classification to Urban.

ADOPTION OF ORDER

The undersigned Commissioners, being familiar with the record and the proceedings, hereby adopt and approve the foregoing ORDER this 14th day of September 2000. The ORDER and its ADOPTION shall take effect upon the date this ORDER is certified and filed by this Commission.

LAND USE COMMISSION
STATE OF HAWAI`I

By _____
MERLE A. K. KELAI
Chairperson and Commissioner

By _____
LAWRENCE N.C. ING
Vice Chairperson and Commissioner

By _____
P. ROY CATALANI
Commissioner

By _____
BRUCE A. COPPA
Commissioner

By (absent)
PRAVIN DESAI
Commissioner

By _____
ISAAC FIESTA, JR.
Commissioner

By (absent)
M. CASEY JARMAN
Commissioner

By
STANLEY ROEHRIG
Commissioner

By
PETER YUKIMURA
Commissioner

Filed and effective on
September 20, 2000

Certified by:

Executive Officer

BEFORE THE LAND USE COMMISSION

OF THE STATE OF HAWAI`I

In the Matter of the Petition of C. BREWER PROPERTIES, INC., a Hawai`i corporation  To Amend the Agricultural Land Use District Boundary into the Urban Land Use District for Approximately 288.240 Acres of Land at Pu`ueo, South Hilo, Island and County of Hawai`i, State of Hawai`i, TMK Nos.: 2-6-08: 17, 26, 27, 28 (por.), 29, 31 (por.) 32 (por.), 33 (por.), 34 (por.), 36, 37 (por.), 38 (por.), 39; 2-6-29: 14 and 15	DOCKET NO. A92-680 CERTIFICATE OF SERVICE

CERTIFICATE OF SERVICE

I hereby certify that a copy of the Order Granting Motion To Withdraw Land Use Commission Approvals And Revert Land Use District Boundary Classification To Agriculture was served upon the following by either hand delivery or depositing the same in the U. S. Postal Service by certified mail:

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THOMAS L.H. YEH, ESQ., Attorney for Petitioner
Tsukazaki, Yeh & Moore
CERT. 100 Pauahi Strteet, Suite 240
Hilo, Hawaii 96720

DATED: Honolulu, Hawaii, this 20th day of September 2000.

ESTHER UEDA
Executive Officer