

LAND USE COMMISSION
STATE OF HAWAII

AUG 9 4 02 PM '77

BEFORE THE LAND USE COMMISSION

OF THE STATE OF HAWAII

In the Matter of the Petition of)

WINDWARD PARTNERS,)

DOCKET NO. A76-423

For the Reclassification of)
Certain Lands Situated at)
Waikane, Koolaupoko, Island of)
Oahu)

_____)

DECISION AND ORDER

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OF THE STATE OF HAWAII

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 WINDWARD PARTNERS,) DOCKET NO. A76-423
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Oahu))
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DECISION

This matter, being a proceeding pursuant to Section 205-4 of the Hawaii Revised Statutes, to consider a Petition to amend District Boundaries and reclassify from Agricultural to Urban approximately 429.20 acres of land situated at Waikane, Koolaupoko, Island of Oahu, was heard by the Land Use Commission in Kaneohe and Waiahole on February 9 and 10, 1977. Windward Partners, the Planning Department of the City and County of Honolulu, the Department of Planning and Economic Development of the State of Hawaii, the Kahalu'u Neighborhood Board No. 29, the Kaneohe Neighborhood Board No. 30, the Waiahole-Waikane Community Association, and Koa Adolpho, Macario Adversalo, Everett C. Davis, Sarah Delos Santos, Mr. and Mrs. Samuel Kakazu, Kenneth Y. Kamiya, Kazuyoshi Kamiyama and Henry Oshiro ("Intervenors"), were admitted as parties in this Docket. Lilinoe B. Ewaliko,

Edward O. Ewaliko, Harriet E. Grube, Margaret K. Kauwale, Aileen E. Cook, and Kuualoha E. Bishaw were also admitted as parties in this Docket, but withdrew when the Commission determined that their land, identified by Tax Map Key No. 4-8-04:3, was not included within the land which is the subject of this Petition. The Commission, having duly considered the record in this Docket, the Petitioner's Proposed Findings Of Fact and Conclusions Of Law, the Comments On Proposed Findings Of Fact and Conclusions Of Law submitted by the Department of General Planning, the Response To Petitioner's Proposed Findings Of Fact and Conclusions Of Law submitted by the Department of Planning and Economic Development, the Response Of The Kahalu'u Neighborhood Board No. 29 To The Petitioner's Proposed Findings Of Fact and Conclusions Of Law, and the Intervenors' Proposed Findings Of Fact and Conclusions Of Law, hereby makes the following findings of fact and conclusions of law.

FINDINGS OF FACT

DESCRIPTION OF THE SUBJECT PROPERTY:

1. The property which is the subject of this Petition by Windward Partners to amend District Boundaries and reclassify from Agricultural to Urban is approximately 429.20 acres of land situated in Waikane Valley, Koolaupoko, Island of Oahu, and is identified by Tax Map Key Nos. 4-8-04:4 and 5, 4-8-05:2, 3, 4, 8 and 9, and 4-8-06:1.
2. The Petitioner presently owns approximately 544 acres of land in Waikane Valley and is unconditionally

committed to acquire the balance of the interest of Elizabeth Loy McCandless Marks in land situated in Waikane Valley mauka of the government highway, approximately 1424 acres, on or before July 1, 1978.

3. Approximately 290 acres of the subject property have a slope of 20% or more, 51 acres are subject to flooding, and 270 acres are subject to severe erosion. Waikane Valley is located in the northernmost watershed areas of Kaneohe Bay which experiences an annual rainfall of 60 inches in the lower lying areas to more than 200 inches at the 2,000 foot level of the Koolau Crest. The subject property receives an abundance of rainfall, at times exceeding 250 inches per year.

PROPOSAL FOR DEVELOPMENT:

4. The Petitioner has proposed to develop the subject property into a residential subdivision of approximately 2,977 units. These units would have two, three, and four bedrooms and would be a mix of residential uses ranging from single-family detached units to single-family attached units and garden apartments or townhouses, in varying densities and lot sizes as indicated in Exhibit VI of the Petition.

5. The proposal for development also includes a Village Neighborhood Commercial Center with such support and service facilities as a supermarket, drug store, bakery, beauty salon, restaurant, banks, service stations, hardware

and garden shops, and other commercial operations consistent with an urban residential development of this scope and size.

6. The development as proposed would be completely constructed by 1988, with sale of the 678 units in Increment I beginning in 1979. The Petitioner proposes to sell all residential units on a fee simple basis, and has represented that the selling price on the 678 units in Increment I will begin at approximately \$48,000.

7. Although Petitioner has represented that the 678 attached units proposed for Increment I will begin to sell in 1979 at sales prices beginning at approximately \$48,000, there was no representation by the Petitioner as to the average selling price of units in Increment I or even how many units will be offered at the selling price of \$48,000. The cost and sales prices of the units in Increment I are subject to debate on the basis of the cost figures submitted to the Commission by the Petitioner.

8. The Petitioner has estimated that units in Increment II will sell for approximately \$75,000 to \$80,000 and that units in Increments III through V will approach a selling price in excess of \$100,000.

9. The Petitioner has further indicated that the market that it is addressing with its proposed development are those persons in the \$14,000 through \$20,000 a year income bracket. Using a 4:1 income to price ratio, however, people in that income bracket can only afford units ranging from approximately \$56,000 to \$80,000.

STATE AND COUNTY PLANS:

10. The subject property has been classified as within the Agricultural District by this Commission. The present City and County of Honolulu zoning classification for the subject property is AG-1 Agriculture District.

11. The General Plan of the City and County of Honolulu contemplates the retention of Waikane Valley as an agricultural and rural area and as such directs growth and development first to the primary urban area of Honolulu to Pearl City, and secondly, to Ewa, and then to the urban fringe and rural areas.

12. The State of Hawaii's Windward Oahu Regional Plan (December, 1976) specifically directs that the rural lifestyles of the Waiahole to Waimea region be preserved, that the rate of population growth in the area be slowed by limiting urban expansion, that growth be directed to the urban areas of Kailua and Kaneohe, and that existing and potential diversified agriculture in the Windward region be preserved, protected, and promoted.

NEED FOR GROWTH AND DEVELOPMENT:

13. The Petitioner has argued that there is an urgent need for low cost housing in Hawaii with approximately 82,000 new dwelling units needed in the State by 1985. The City and County of Honolulu General Plan designates Waiahole-Waikane as a rural area, however. The development proposed by the Petitioner would provide 2,977 residential

units, of which 2,017 are to be single family and 960 will be multi-family units. In 1970 the median number of persons per owner-occupied unit for each housing type on Oahu was 4.0 for single family and 2.2 for multi-family (U.S. Bureau of Census, Metropolitan Housing Characteristics: Honolulu, Hawaii SMSA, Report HC(2)-90, 1970 Table A-8). At those occupancy rates, the Petitioner's development would result in 8,068 persons living in the single-family units and 2,112 persons living in the multi-family units on the subject property, for an estimated total population of 10,180. This figure is twice the proposed population growth for the entire rural Kahaluu-Kahuku area, including Waiahole and Waikane Valleys, for the year 2000, as stated in the General Plan. There are approximately 1,955 undeveloped acres of privately owned residential zoned parcels of more than 1 acre in size in the Windward region of Oahu at this time. If developed, those lands could accommodate reasonable growth and development of Windward Oahu until about 1990.

14. Under the growth and development directives of the General Plan, there is no reasonable need at this time to provide additional Urban land in the Kahaluu to the Kahuku area. This Petition for amendment of District Boundaries and reclassification of the subject property to Urban is contrary to the General Plan of the City and County of Honolulu.

15. Urban development of Waikane Valley as proposed by the Petitioner would be in direct conflict with the State's growth policies for the Windward region as

reflected in the Windward Oahu Regional Plan (December 1976), and reclassification of the subject property is not reasonably necessary to accommodate growth and development as intended by either the Windward Oahu Regional Plan or the General Plan of the City and County of Honolulu.

RESOURCES OF THE AREA:

16. Development of the subject property may affect the agricultural, historic, and ocean resources of the area. There are no natural, recreational, scenic, or other environmental resources of the subject property of the area which would be affected by the proposed development.

Agricultural Resources:

17. The subject property has been classified under the Land Study Bureau's Detailed Land Classification system as overall Class C (fair) and Class D (poor) lands. The Department of Agriculture of the State of Hawaii and the United States Soil Conservation Service have recently developed a new land classification system which classifies land into three categories: (1) Prime Agricultural Land, (2) Unique Agricultural Land, and (3) Other Important Agricultural Land. Under that system, approximately 91 acres of the subject property are classified as Prime Agricultural Land.

18. Agricultural use of the subject property is presently limited to cultivation of diversified crops and pig farming by two full-time farmers on approximately

23 acres. Due to the short tenure of leases, however, farmers have been reluctant to increase the areas they have under cultivation and to improve land for agricultural purposes. Farmers familiar with Waikane Valley testified that the area is well suited to diversified agriculture and that expansion of agriculture has been limited not by the productivity of the soil but by the month-to-month leases.

19. The Petitioner's development plans demonstrate that it intends to build on substantially all of the subject property which is classified as prime farm land and as agricultural lands of importance to the State of Hawaii.

20. If constructed, the proposed development would constitute a significant and adverse effect upon the agricultural resources of Waikane Valley.

Historic Resources:

21. The subject property contains at least one historic site, the Waikane Taro Flats site, which has been listed as an archaeological resource on the Hawaii Register of Historic Places since May 1, 1972, and on the Federal Register of Historic Places since April 11, 1973. The site, numbered 1078, is located on the north-west portion of the subject property (TMK: 4-8-6:1).

22. The significance of site 1078 is that it contains the only known examples of wet taro beds (lo'i) with interior mounds used in a specialized taro growing

technique. Lo'i with these interior mounds had heretofore been known only in literature, with no physical remains having been found. Of all the known taro lo'i on Oahu, the Waikane Valley site 1078 is second in importance only to the great lo'i at Kahaluu.

23. Additional important archaeological resources may also be located on the subject property. No methodical historic or archaeological surveys have been performed in Waikane Valley. Such historic surveys may uncover important historical and archaeological resources in that Dr. Charlot testified that Waikane Valley is one of the most important historic sacred places in ancient Hawaiian religious tradition.

24. The proposed development would not necessarily have a significant adverse effect upon those historic resources, however, in that the Petitioner has represented that he is willing to preserve significant archaeological and historic sites and in that the Commission could condition approval of this Petition for Boundary Amendment upon performance of a comprehensive survey and preservation of all sites of significance.

Ocean Resources:

25. The U.S. Corps of Engineers' flood maps for the area indicate that approximately 51 acres of low land areas adjacent to the stream are subject to flooding. The Petitioner's development plan shows multi-family residential units and a commercial complex sited in the

flood plain area. Petitioner has not adequately considered the effects of the development in this area. Moreover, the off-shore waters in Kaneohe Bay at Waikane Valley are classified AA by the State Department of Health. This designation prohibits any use or discharge which would result in a lessening of the water quality. Run-off from the development would most probably degrade the off-shore waters. No study has been made by the Petitioner to adequately address the degradation of the class AA waters by run-off from the development.

26. That part of Kaneohe Bay which fronts Waikane Valley possesses the best coral growth in Kaneohe Bay and, within a reasonable scientific probability, is a source of recolonizing coral larvae for other parts of Kaneohe Bay. Moreover, it is the only patch reef of its type in Hawaii. Sedimentation has caused coral in Kaneohe Bay, especially the south party of the bay, to die. Urbanization is a major cause of sedimentation in Kaneohe Bay. Colloidal suspension or fractions are a major part of sediment accumulation in Kaneohe Bay.

27. Marine biologists have indicated that sedimentation basins as proposed by the Petitioner, often-times are ineffective against colloidal suspensions. It would also be impractical to have a sedimentation basin as large as would be required to adequately control the storm run-off water.

28. The proposed development would, therefore, have a significant adverse effect upon coral life in

Kaneohe Bay at Waikane Valley, which is a significant ocean resource of the area.

PUBLIC SERVICES AND FACILITIES:

Firefighting Services:

29. With the recent completion of the new Kahaluu Fire Station, there are presently adequate firefighting facilities to accommodate the proposed development.

Electric and Telephone Services:

30. Electric power and telephone services are presently available or can and will be available to the proposed development.

Police Services:

31. Adequate police protection in the area of the proposed development will be available to the people who reside there.

Solid Waste Disposal:

32. Solid waste disposal can be adequately handled by collection of refuse by private and public vehicles until such other time as means of disposal such as incineration and/or sanitary land fill facilities are provided.

Schools:

33. Existing school facilities are inadequate to meet the enrollment increase which the proposed development is projected to cause. The Petitioner has represented,

however, that adequate lands for school and park purposes can and will be dedicated to governmental agencies to meet any increased demands for education or recreation. While CIP funds have not been allocated for construction of schools on the subject property, it is unlikely that schools would not be provided should the proposed development occur.

Highways:

33. Inhabitants of the 678 units of Increment I of the proposed development would add approximately 400 to 470 vehicle trips to the peak-hour traffic, increasing that traffic on Kamehameha Highway between Waikane Valley and Kahaluu. The initial increase in volume of cars would be within the capacity limits of the highway, however. The entire proposed development would not be serviced by adequate highway facilities unless both Kamehameha Highway and Kahekili Highway are widened.

34. There are no appropriations for the widening of Kahekili Highway or of Kamehameha Highway between Kahekili and Waikane Valley. Furthermore, the Multi-Year Program and Financial Plan shows no appropriation for the bienniums beginning 1975-76 and ending 1982-83. The State Department of Transportation has stated that it would not widen either Kamehameha Highway or Kahekili Highway until a new trans-Koolau corridor is constructed. Adequate highway facilities do not exist, nor will they exist in the future with any reasonable probability, to service the proposed development.

Water:

35. The Board of Water Supply has stated that water facilities will be available for only 1,000 of the 2,917 residential units proposed by the Petitioner. The Petitioner has made no showing where or how additional water resources would be made available to the development, and this Commission cannot, therefore, find that there will be adequate water facilities or an adequate water supply to service the proposed development.

Sewage Treatment and Disposal:

36. Public sewers do not extend to the subject property. The Petitioner has proposed to develop a private on-site tertiary sewage treatment plant as an internal method of sewage treatment prior to the development of a public system. The Department of Health strongly opposes the development of private sewage treatment systems.

37. The Department of Health has stated that the use of a private tertiary sewage disposal system emptying into Kaneohe Bay cannot be permitted. Sewage generated by the Petitioner's proposed development would have to hook into the contemplated but unfunded and undesigned Kahaluu facility. The time table for the construction of the Kahaluu sewage treatment plant is not compatible with the Petitioner's development. The Department of Health has indicated that cesspool alternatives would not be feasible nor acceptable for as large a development as is proposed by Petitioner.

38. Adequate public services and facilities in the form of sewage treatment plants and disposal facilities do not exist, nor will they exist in the near future, to service the proposed development.

SCATTERED AND NONCONTIGUOUS URBAN DEVELOPMENT:

39. The proposed development will include "city-like" concentrations of people, structures, streets, urban level of services and other related land uses. The development would constitute a scattered urban development not contiguous to an existing urban area. A small, approximately 650-foot, portion of the makai boundaries of the subject property abuts the Waikane Urban District, but the properties are physically separated by Kamehameha Highway. Moreover, the Waikane Urban District is a relatively small isolated residential area of approximately 50 acres, and is not really an "urban area" as that term is defined in Rule 2-2(1)(a) of the State Land Use District Regulations. The entire western border and portions of the northern boundaries of the subject properties abut a Conservation District. The entire southern boundaries abut lands within an Agricultural District.

40. Nor would the development proposed for the subject property constitute all or part of a self-contained urban center. The Petitioner has proposed to develop 2,917 residential units on the subject property, and the commercial and shopping facilities are intended to provide permanent employment for no more than 150 persons. The proposed development is essentially a "bedroom community".

EMPLOYMENT AND HOUSING PREFERENCE:

41. The proposed development would provide approximately 150 permanent employment positions in the commercial area which would service the proposed development. It will not provide needed housing within reasonable proximity to existing or proposed employment centers.

42. The proposed development would to some extent provide or assist in providing a balance housing supply for all economic and social groups by delivering fee simple, affordable homes to the public. The record does not, however, establish the extent the proposed development would provide or assist in providing a balanced housing supply, in that Petitioner only represented that the proposed development was intended for persons in the \$14,000 to \$20,000 income bracket and that sales would begin at \$48,000, and did not indicate how many units would be sold for \$48,000 or what the average sales price of the residential units would be.

RULING ON PROPOSED FINDINGS

Any proposed findings submitted by a party and not already ruled upon by the Commission by adoption herein or rejected by clearly contrary findings of fact herein, is ruled upon as follows:

1. Petitioner's Proposed Findings of Fact Nos. 1, 2, 13, 17, 18, and 22 are rejected as not supported by substantial evidence on the record.

2. Petitioner's Proposed Findings of Fact Nos. 11 and 14 are rejected as not being relevant to this Commission's decision.

3. Petitioner's Proposed Findings of Fact Nos. 25, 28, and 33 are rejected as being contrary to the preponderance of the evidence.

4. Intervenor's Proposed Findings of Fact No. C, 3 is rejected as not supported by substantial evidence on the record.

5. Intervenor's Proposed Findings of Fact Nos. D, 3 and 4 are rejected as contrary to the evidence.

6. Intervenor's Proposed Findings of Fact Nos. F, 6 and E, 3 are rejected as not being necessary to this Commission's decision.

CONCLUSIONS OF LAW

1. In that the proposed development would be contrary to both the City and County of Honolulu General Plan which directs growth to Leeward Oahu and the Windward Oahu Regional Plan which calls for the preservation, protection, and promotion of existing and potential diversified agricultural activity in the Waiahole to Waimea region, and in that there is enough undeveloped privately owned and residentially zoned land on Windward Oahu to accommodate projected growth and

development through 1990, and in that the proposed development would cause the population of the rural area from Kahaluu to Kahuku area (including Waiahole-Waikane) to be two times the population growth projected by the General Plan for the year 2000, the proposed development is not reasonably necessary to accommodate growth and development.

2. Although the proposed development would not have any significant adverse effect upon the natural, recreational, scenic or other environmental resources of the area, it may have a significant effect upon the historic resources of the area, and it would have a significant adverse effect upon the agricultural and ocean resources of the area. It is impossible to conclude with certainty that the proposed development either would or would not have a significant adverse effect upon the historic resources of the area. Although the Petitioner has represented that he is willing to preserve any significant historic or archaeological sites found during construction, the extent of those sites and resources are unknown in that no methodical historic or archaeological survey of the subject property has ever been performed. With regard to the known historic resources, the Waikane Taro Flats site number 1078, this Commission could condition approval of this Petition so that the site would not be adversely affected by the proposed development, but would be preserved. The Commission could not similarly preclude the significant adverse effect upon the agricultural and ocean resources of the area which will result from the proposed development. Ninety-one

acres of the subject property are classified as Prime Agricultural Land. That land is suitable for diversified agriculture and could be so used if long-term agricultural leases were available. The proposed development would extend over substantially all of this land and would result in a significant adverse effect upon the agricultural resources of Waikane Valley. The proposed development will also cause sedimentation in Kaneohe Bay at Waikane Valley. Sedimentation may significantly adversely effect the patch reef coral life in that part of the Bay which, within a reasonable scientific probability, is the source of recolonizing coral larvae for other parts of Kaneohe Bay. Sedimentation could not be adequately controlled with settling basins, and would result in a significant adverse effect upon the ocean resources of the area.

3. Although firefighting, electrical, telephone, police, and solid waste disposal facilities and services are available to the subject property and schools could be provided at a reasonable cost, adequate highway, water and sewage treatment and disposal facilities are not available to the subject property. Moreover, adequate highway and sewage treatment and disposal facilities will not be available in the foreseeable future and could not be provided at a reasonable cost to the Petitioner. Existing highways are only adequate to serve the initial phase (Increment

I) of the proposed development. Both Kamehameha Highway and Kahekili Highway would have to be widened to serve the entire development, and that is dependent upon the construction of a new trans-Koolau corridor which is quite uncertain. Although the Petitioner has proposed to construct a tertiary sewage treatment system, private sewage systems are opposed by the Department of Health and the Department would not allow disposal from that system into the Class AA waters of Kaneohe Bay off Waikane Valley, but would require connection into the proposed Kahaluu facility which is both unfunded and undesignated at this time.

4. The proposed development would not be contiguous to an existing urban area, would not constitute all or part of a self-contained urban center, would not make maximum use of existing public services and facilities, and would contribute to scattered urban development. Although the subject 429 acres abuts the Waikane Urban District along a 650 foot section of its boundaries, the Waikane Urban District is a relatively small isolated residential area of approximately 50 acres and is not actually an "urban area". The proposed development would, furthermore, not be a self-contained urban area, but would essentially be a "bedroom community". No more than 150 people would be permanently employed in a development with approximately 10,000 residents. Moreover, public facilities such as highways, water, and sewage treatment and disposal are not available to the proposed development. Rather than avoiding scattered urban development, the proposed development,

which would be literally surrounded by land in the Agricultural and Conservation District, would significantly contribute to it.

5. Although the proposed development would provide approximately 150 permanent employment positions in the commercial area which would service the proposed development, this Commission does not think that 150 positions are significant enough to entitle the Petitioner to preference for his proposal to develop 2,917 residential units for 10,000 people. Although this Petition may be entitled to a preference because it might to some extent provide or assist in providing a balance housing supply, this Commission thinks that because the proposed development is contrary to the City and County of Honolulu General Plan and the Windward Oahu Regional Plan and their direction for growth, and because of the lack of adequate public facilities and service, and because of the significant adverse effect the proposed development would have upon the agricultural and ocean resources of the area, that preference would be an insufficient reason to approve this Petition.

6. Reclassification of the subject property, approximately 429.20 acres of land situated at Waikane, Koolaupoko, Island of Oahu, from Agricultural to Urban and amendment of District Boundaries accordingly to permit the proposed development would not be reasonable, would violate Section 205-2, HRS, and is not consistent with the Interim Statewide Land Use Guidance Policies established pursuant

to Section 205-16.1, HRS, particularly subsections (1), (2), (3), (4), and (6).

ORDER

IT IS HEREBY ORDERED:

That the property which is the subject of this Petition in Docket No. A76-423, approximately 429.20 acres of land situated at Waikane, Koolaupoko, Island of Oahu, identified by Tax Map Key Nos. 4-8-04:4 and 5, 4-8-05:2, 3, 4, 8, and 9, and 4-8-06:1, shall remain in the Agricultural District within which it is classified.

DONE at Honolulu, Hawaii, this 9th day of August, 1977, by Motion passed by the Commission on the 27th day of July, 1977, in Honolulu, Hawaii.

LAND USE COMMISSION
STATE OF HAWAII

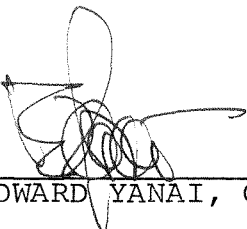
By Charles Duke
CHARLES DUKE, Vice Chairman
and Commissioner

By James R. Carras
JAMES CARRAS, Commissioner

By Colette Machado
COLETTE MACHADO, Commissioner

By Shinsei Miyasato
SHINSEI MIYASATO, Commissioner

By Mitsuo Oura
MITSUO OURA, Commissioner

By 
EDWARD YANAI, Commissioner

By *Carol B. Whitesell*
CAROL WHITESELL, Commissioner