

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition)
of ENCHANTED LAKE PARTNERS to) DOCKET NO. A77-433
Amend the Conservation Land)
Use District Boundary to Re-) ENCHANTED LAKE PARTNERS
classify Approximately 2.8)
Acres, TMK 4-2-02: por. 41 at)
Kailua, Koolaupoko, Island)
of Oahu into the Urban Land)
Use District)

DECISION AND ORDER

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_____)

DECISION

THE PETITION

This matter arises from a petition for an amendment to the Land Use Commission district boundary filed pursuant to Section 205-4 of the Hawaii Revised Statutes, as amended, and Part VI, Rule 6-1 of the Land Use Commission's Rules of Practice and Procedure and District Regulations by the fee owners of the property who are requesting that the designation for the subject property be amended from the Conservation to the Urban district. The requested change consists of property comprising approximately 2.8 acres situated at Kailua, Koolaupoko, Island of Oahu, Hawaii. The property is identified as Tax Map Key No. 4-2-02: por. 41 (portion of Lot 955).

PURPOSE OF PETITION

Petitioner's stated purpose for requesting the reclassification of the subject property from Conservation to Urban is so that Petitioner can develop a fourteen lot, single-family residential subdivision. The subject parcel and the adjacent lot which is already in the State Land Use Urban district will be utilized for the proposed fourteen lot subdivision.

THE PROCEDURAL HISTORY

The Petition was received by the Land Use Commission on September 16, 1977. Due notice of the hearing on this Petition was published in the Honolulu Star Bulletin on January 23, 1978. Notice of the hearing was also sent by certified mail to all of the parties involved herein on January 18, 1978. A timely application to appear and testify in this matter was received by the Kailua Neighborhood Board No. 31 on February 14, 1978.

PRE-HEARING PROCEDURE

Prior to the taking of testimony and evidence in regard to the subject petition, the Hearing Officer considered the request of the Kailua Neighborhood Board No. 31 to appear and testify as a witness in this proceeding. The City and County of Honolulu raised objections to the participation of the Neighborhood Board in the subject proceeding while the Petitioner and the Department of Planning and Economic Development took no position on the matter. After considering the arguments of the parties and the written documents submitted for and against the participation of the Neighborhood Board, the Hearing Officer permitted the participation of the Kailua Neighborhood Board No. 31 as a witness on the basis, as previously done by the Land Use Commission, that all relevant and material matters germane to a petition should be considered whenever feasible.

THE HEARING

The hearing on this Petition was held on February 27, 1978 in Honolulu, Hawaii.

Enchanted Lake Partners, the Petitioner herein, was represented by Allen R. Hawkins, Esq.; the City and County of Honolulu was represented by Reginald Minn, Esq., Deputy Corporation Counsel; the Department of Planning and Economic Development was represented by Tatsuo Fujimoto; and the witness who appeared on behalf of Kailua Neighborhood Board No. 31 was Kenneth Kupchak, Esq.

The witnesses presented by the aforementioned parties were as follows:

Petitioner:

Yatsuo Arakaki - Licensed Civil engineer
Henry Alves - Land Consultant

City and County of Honolulu:

Ian McDougall - Planner

Department of Planning and Economic Development:

Abe Mitsuda - Planner.

POSITION OF THE PARTIES

City and County of Honolulu - Approval.

Department of Planning and Economic Development - Approval.

Witness Kenneth Kupchak, Esq. on behalf of Kailua Neighborhood Board No. 31 - Approval on the condition that concerns over accessibility to hiking trails on the ridge-line above the petitioned property remain open and runoff problems during the construction phase of the proposed subdivision are resolved.

APPLICABLE REGULATION

Standards for determining the establishment of an Urban District is found under Part II, Section 2-2(1)

of the State Land Use Commission's District Regulations.

Said regulation provides in pertinent part that:

- "(1) 'U' Urban District. In determining the boundaries for the 'U' Urban District, the following standards shall be used:
- (a) It shall include lands characterized by 'city-like' concentrations of people, structures, streets, urban level of services and other related land uses.
 - (b) It shall take into consideration the following specific factors:
 - 1. Proximity to centers of trading and employment facilities except where the development would generate new centers of trading and employment.
 - 2. Substantiation of economic feasibility by the petitioner.
 - 3. Proximity to basic services such as sewers, water, sanitation, schools, parks, and police and fire protection.
 - 4. Sufficient reserve areas for urban growth in appropriate locations based on a ten (10) year projection.
 - (c) Lands included shall be those with satisfactory topography and drainage and reasonably free from the danger of floods, tsunami and unstable soil conditions and other adverse environmental effects.
 - (d) In determining urban growth for the next ten years, or in amending the boundary, lands contiguous with existing urban areas shall be given more consideration than non-contiguous lands, and particularly when indicated for future urban use on State or County General Plans.
 - (e) It shall include lands in appropriate locations for new urban concentrations and shall give consideration to areas of urban growth as shown on the State and County General Plans.

- (f) Lands which do not conform to the above standards may be included within this District:
 - 1. When surrounded by or adjacent to existing urban development; and
 - 2. Only when such lands represent a minor portion of this District.
- (g) It shall not include lands, the urbanization of which will contribute towards scattered spot urban development, necessitating unreasonable investment in public supportive services.
- (h) It may include lands with a general slope of 20% or more which do not provide open space amenities and/or scenic values if the Commission finds that such lands are desirable and suitable for urban purposes and that official design and construction controls are adequate to protect the public health, welfare and safety, and the public's interests in the aesthetic quality of the landscape."

FINDINGS OF FACT

The panel of the Land Use Commission, after having duly considered the record in this docket, the testimony of the witnesses and the evidence introduced herein, makes the following findings of fact:

1. The subject property, owned in fee simple by the Petitioner herein, Enchanted Lake Partners, is located in Kailua, Koolaupoko, Island of Oahu, and consists of approximately 2.8 acres, more particularly described as a portion of Lot 955, Tax Map Key No. 4-2-02: por. 41, as shown on Map 159, Land Court Application 1508. The subject property is located at the foot of Keolu Hills, adjacent to an existing residential development on the mauka side of Kuuna Street in Kailua, Oahu, Hawaii.

2. The existing State Land Use classification of the subject property is Conservation. The property has been in the Conservation district since 1964.

3. The current Land Use policy of the City and County of Honolulu for the subject property is residential on the Detailed Land Use Map and Preservation P-1 under City and County zoning.

4. The subject property is presently vacant and overgrown with a relatively dense conglomeration of Haole Koa brush and weeds.

5. The subject property, consisting of approximately 2.8 acres is immediately adjacent and contiguous to property of approximately 1.3 acres which is presently in the Urban district. The Petitioner proposes to combine the two parcels of property together to create a fourteen lot subdivision.

6. Approximately four-fifths ($4/5$) of the subject property has a slope under twenty percent (20%). The proposed development will require approximately 20,000 cubic feet of fill of which 10,000 cubic feet will be obtained from the area resulting in a subdivision with lots having a gentle slope.

7. The United States Department of Agriculture Soil Conservation Service has classified the soils in the subject area as being of the Kokokahi series. These soils can be categorized as very sticky and plastic. Workability is difficult because of the sticky, plastic nature of the clay and the narrow range of moisture content within which the soil can be cultivated. The shrink-swell potential is high. The Land Study Bureau classified the soils of the subject areas as land type E105, with a crop productivity rating of "e" for most uses.

8. Rainfall in the area averages 35 inches annually. The area of the proposed development is also characterized by adequate soil conditions and is reasonably free from the danger of tsunami or floods. The subject property is not located in a flood plane as identified on the City and County and Federal Insurance Administration flood hazard maps.

9. The subject property contains no known significant natural, scenic or recreational resources. No known archaeological or historic sites are present on the subject property. No significant adverse and environmental impacts are expected to result from this project. The subject property is not a major scenic or open space resource for the Kailua area according to the Windward Oahu Regional Plan and is not within designated areas of wildlife sanctuary, public hunting, wilderness area, planted forest, watershed, plant sanctuary or scenic reserve.

10. The 2.8 acres concerned in the subject petition is planned to be combined with a contiguous parcel of property owned by Petitioner consisting of 1.3 acres to permit a subdivision consisting of 4.1 acres which will involve a subdivision of fourteen lots, six of these lots and portions of the other eight lots are located on the 2.8 acres requested for the reclassification. The Petitioner intends to develop single-family detached residences consisting of three bedrooms and two baths on each of the fourteen lots in the proposed subdivision. The lots are planned to range in size between 8,200 sq. ft. and 17,880 sq. ft. The house and lot units are anticipated to sell in the

\$75,000.00 to \$80,000.00 price range which the Petitioner states to be "within the financial means of the average buyer."

11. That according to a 1972 study, entitled "1995 PEEP II PROJECTIONS" indications are that there will be a housing need for Census Tract #111 - the Enchanted Lake area.

12. The Petitioner has represented that clearing and grading, construction of street improvements, underground electric, telephone, street lighting systems, drainage system and sanitary sewer system will cost approximately \$310,000.00. Petitioner has also represented that it will take approximately six to eight months to complete and market the fourteen units after appropriate zoning changes have been obtained at the County level.

13. The subject property is accessible to Kailua, Kaneohe, Waimanalo and the Marine Corp. Air Station from Keolu Drive, Kailua Road and Kalaniana'ole Highway. The Honolulu proper is easily accessible via Kalaniana'ole Highway and the Pali Highway.

14. The subject property is located in close proximity to areas of trade and employment by virtue of the fact that Enchanted Lake Shopping Center is one-half (1/2) mile away, Kailua is two (2) miles away, Kaneohe is seven (7) miles away, Kaneohe Marine Corp. Air Station is four (4) miles away and the City of Honolulu is fourteen (14) miles away.

15. That sewer, telephone and electrical service are available to the subject property.

16. That the Honolulu Board of Water Supply has no objections to the Petition in that the subject property

is not considered a prime recharge area and there are no potable ground water resources located there. That if the Petition is approved, the Petitioner will have to submit a water master plan and agree to pay his proportionate share for the development of new water sources or any other system improvements necessary as a result of the development.

17. The Department of Agriculture has no objections to the Petition.

18. That the City Department of Public Works has stated that there will be no adverse impact on the existing downstream drainage system and that the proposed redistricting will have negligible effects upon the Refuse Division's operations.

19. That the Department of Education (Facilities Planning Branch) has stated that the public elementary, intermediate and high schools serving this area have ample capacity to accommodate additional students from the proposed fourteen unit subdivision since enrollment in the area has fallen. That public schools are located within the following approximate distances from the proposed development:

- Enchanted Lake Elementary - 3/4 mile;
- Kaelepulu Elementary - 1 3/4 mile;
- Keolu Elementary - 1 3/4 mile;
- Kailua Intermediate - 2 1/2 miles;
- Kailua High School - 3 miles.

A parochial elementary school, St. John Vianney, is located 1/2 mile distant from the subject property.

20. Kailua Beach Park is located 2 1/2 miles away from the property and two golf courses, Mid-Pacific and Olomana, which are privately owned golf courses, but open

to the general public, are located within 3 miles of the proposed subdivision.

21. The Kailua and Waimanalo Fire Stations are located 2.2 and 4 miles, respectively, from the subject property. The Kailua Police Station is 2.2 miles from the subject property and Castle Memorial Hospital is located 3 miles away.

22. According to the Department of Transportation Services, the traffic generated by the additional fourteen dwelling units is not anticipated to cause problems on local streets or the major arterial Keolu Drive.

22. That the Petitioner has provided adequate preliminary development plans, topographic data, drainage data, and a soils investigation report and has represented that all site improvements during the construction phase will be conducted under the supervision of a qualified soils engineer and according to applicable rules and regulations to prevent excessive runoff.

23. Petitioner has indicated a willingness to further discuss with members of the Kailua Neighborhood Board No. 31 the issue of access to the ridgeline and whether such access can be accommodated.

24. Based on a review of the Petition, the evidence adduced at the hearing and the policies and criteria of the Interim Statewide Land Use Guidance Policy, the Department of Planning and Economic Development and the City and County of Honolulu has recommended that the reclassification be approved.

CONCLUSIONS OF LAW

Reclassification of the subject property, approximately 2.8 acres situated at Enchanted Lakes, Kailua, Koolaupoko, Island of Oahu, from Conservation to Urban and an amendment to the District boundaries accordingly is reasonable, non violative of Section 205-2 of the Hawaii Revised Statutes, and is consistent with the Interim Statewide Land Use Guidance Policy established pursuant to Section 205-16.1 of the Hawaii Revised Statutes, as amended.

ORDER

FOR GOOD CAUSE appearing, it is hereby ordered that the property which is a subject of the Petition in this Docket No. A77-433, consisting of approximately 2.8 acres, situated at Enchanted Lakes, Kailua, Koolaupoko, Island of Oahu, identified as Tax Map Key No. 4-2-02: por. 41 shall be and the same is hereby reclassified from the "Conservation" District to the "Urban" District classification, and the District boundaries are amended accordingly.

DONE at Honolulu, Hawaii, this 10th day of August, 1978, per Motion on July 18, 1978.

LAND USE COMMISSION
STATE OF HAWAII

By C. W. Duke
C. W. DUKE
Chairman and Commissioner

By Shinichi Nakagawa
SHINICHI NAKAGAWA
Vice Chairman and Commissioner

By James R. Carras
JAMES R. CARRAS
Commissioner

By Shinsei Miyasato
SHINSEI MIYASATO
Commissioner

By Mitsuo Oura
MITSUO OURA
Commissioner

By George R. Pascua
GEORGE R. PASCUA
Commissioner

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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
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250 South King Street
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MAURICE KATO, Deputy Attorney General
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ALLEN HAWKINS, ESQ.
Windward Partners
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DATED: Honolulu, Hawaii, this 11th day of August, 1978


GORDAN Y. FURUTANI
Executive Officer
Land Use Commission