

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of Petition)
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)
)
FINANCE REALTY COMPANY, LTD.)
for a Petition to amend the)
District Boundary of property)
situate at Ewa, Honouliuli,)
Island of Oahu, State of)
Hawaii)
_____)

DOCKET NO. A80-485

DECISION AND ORDER

BEFORE THE LAND USE COMMISSION OF THE STATE OF HAWAII

In the Matter of Petition)	DOCKET NO. A80-485
)	
of)	FINDINGS OF FACT,
)	CONCLUSIONS OF LAW,
FINANCE REALTY COMPANY,)	DECISION AND ORDER;
LIMITED)	EXHIBIT "A"
for a Petition to amend the)	
District Boundary of property)	
situate at Ewa, Honouliuli,)	
Island of Oahu, State of)	
Hawaii)	
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FINDINGS OF FACT,

CONCLUSIONS OF LAW AND DECISION AND ORDER

This proceeding was initiated by the Petition of FINANCE REALTY COMPANY, LIMITED, pursuant to Chapter 205, Hawaii Revised Statutes, as amended, and the Rules of Practice and Procedure of the Land Use Commission, State of Hawaii, to amend the Land Use Boundary of 124 acres of land (hereinafter referred to as Parcels "A" and "B"), situate at Ewa, Honouliuli, Island of Oahu, State of Hawaii from the Urban District to the Agricultural District and to amend the Land Use Boundary of approximately 113 acres of land (hereinafter referred to as "Parcel C" also situate at Ewa,) Honouliuli, Island of Oahu, State of Hawaii, from the Agricultural District to the Urban District. (Parcels A, B and C are hereinafter collectively referred to from time to time as the "subject property"). The Commission, having heard and examined the testimony and evidence presented during the hearing held on October 7, 1980, in Honolulu, Hawaii, and having also considered the proposed findings of fact and conclusions of law and comments thereto submitted

by the parties, in Honolulu, Hawaii, hereby makes the following Findings of Facts and Conclusions of Law:

FINDINGS OF FACT

PROCEDURAL MATTERS

1. The Petition was filed on May 13, 1980, by Finance Realty Company, Limited, to amend the State Land Use District Boundary at Ewa, Honouliuli, Island of Oahu, to reclassify approximately 113 acres of land presently in the Agricultural District into the Urban District and to reclassify approximately 140 acres of land presently in the Urban District to the Agricultural District. By Amendment to Petition for Boundary Amendment, filed at the hearing held on October 7, 1980, approximately 16 acres adjacent to and makai of the H-1 Freeway were deleted from Parcel B of the subject property for which Petitioner sought reclassification to the Agricultural District.

2. Notice of the evidentiary hearing, scheduled for October 7, 1980 at 9:00 a.m., at House Conference Rooms 310 and 312, State Capitol, Honolulu, Hawaii, was published in the Honolulu Star Bulletin and in the Hawaii Tribune Herald on September 3, 1980.

3. No petitions for intervention or requests to be public witnesses were received by the Commission on the Petition.

DESCRIPTION OF THE SUBJECT PROPERTY

4. The subject property is located at Makakilo, Ewa, Honouliuli, Island of Oahu, State of Hawaii, mauka of the H-1 Freeway and approximately 10 miles from Honolulu.

5. The subject property is identified on the Tax Maps of the State of Hawaii as Tax Map Key, 1st Division, 9-2-03: Portion of 2.

6. Parcels A and B consist of a total of approximately 124 acres of land. Parcel C consists of approximately 113 acres of land.

7. The Campbell Estate holds fee title to the subject property and has authorized the initiation of the Petition. Petitioner has acquired the development rights for the subject property.

8. The subject property is presently unused, vacant and non-productive.

9. Parcels A and B are part of a natural system of channels and gulches.

The USDA Soil Conservation Service has classified the soil of Parcel A and B as stony steep land (rSY), which consists of a mass of boulders and stones deposited by water and gravity on sides of slopes of drainageways. The slope ranges from 40 to 70 percent. Stones and boulders cover 50 to 90 percent of the surface. There is a small amount of soil among the stones that provides a foothold for plants. Rock outcrops occur in many places.

10. Parcel C is located from 550 to 900 feet above sea level, with most of Parcel C having an elevation of approximately 750 feet.

Parcel C has slopes of from 5 percent to over 20 percent in some portions.

The U. S. Department of Agriculture Soil Conservation Service Survey (1972) has classified the soil of Parcel C as predominantly Mahana Silty Clay Loams, 6 to

12 percent slopes (McC2), 12 to 20 percent slopes (McD2) and 20 to 35 percent slope (McE2). Most of the surface layer of these soils has been removed by erosion.

11. The average rainfall for the area in which the subject property is located is 23 inches per year.

12. The Land Study Bureau's Overall Master Productivity Soil Rating for agricultural use is, for soils of the subject property, Class "E" or "Very Poor."

13. Petitioner proposes that areas in Makakilo previously classified in the urban district by the Commission, but which Petitioner deems unsuitable for urban development be reclassified in the Agricultural District.

PROPOSAL FOR DEVELOPMENT

14. Petitioner proposes to develop Parcel C as follows:

a. To construct approximately 395 fee simple single family houses on individual lots with a 5,500 square foot minimum lot size. Petitioner proposes to construct 3 and 4 bedroom houses similar in size, design and quality to the houses in the Petitioner's Palehua Heights project.

b. To construct approximately 130 fee simple, three or four bedroom townhouse units. The Petitioner proposes to construct townhouse units similar in size, design and quality to the townhouse units in Petitioner's Palehua Hillside project.

The Petitioner estimated the average price, in 1980 dollars, for the proposed single family houses is

approximately \$130,000 per house and lot. The Petitioner estimated average price, in 1980 dollars, for the proposed townhouse units is approximately \$105,000 per unit.

15. The Petitioner estimated that the development costs, in 1980 dollars, for the proposed single family houses and lots range from \$117,000 to \$123,000 (including costs of building construction and direct and indirect lot development costs) per house and lot. The Petitioner's estimated development costs, in 1980 dollars, for the proposed townhouses, range from \$83,000 to \$88,000 (including building construction costs and direct and indirect lot development costs) per townhouse unit.

16. The Petitioner has agreed to offer at least fifty-three residential dwelling units (ten percent of the units to be constructed on the subject property) at prices affordable by residents of the State of Hawaii who qualify as low and moderate income families under eligibility criteria established by the Hawaii Housing Authority, State of Hawaii, for the Hula Mae mortgage financing program, the City and County of Honolulu or the U. S. Department of Housing and Urban Development for the FHA Section 235 or 245 programs.

17. The Petitioner expects to commence construction eighteen months after all necessary land use and county zoning approvals have been obtained. Petitioner represents that it will complete construction from a year and a half to two and a half years after commencement of construction.

18. The Petitioner has no proposal to develop or use Parcels A and B for agricultural purposes.

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STATE AND COUNTY PLANS

19. The subject property is located within the Secondary Urban Center designated in the 1977 Honolulu General Plan. To implement this objective, the City and County of Honolulu, Department of General Planning has recommended that significant urban growth occur in the Ewa area in the new Development Plan proposed for that district. The major focus of new growth will be in the vicinity of the existing plantation villages and the proposed resort development in the West Beach area, but the Development Plan designates Parcels A and B as Preservation and Parcel C as Agricultural. The Department of General Planning has characterized the Petitioner's urban development proposal as a relatively minor expansion of the Urban District which conforms to General Plan Objectives and Policies of promoting the Ewa area as a Secondary Urban Center.

20. Parcel C is zoned Ag-1 (agricultural). Parcels A and B are zoned R-6.

21. The subject property is designated as residential by the 1977 Interim Zoning Control Ordinance. An Interim Zoning Control Map (Resolution 78-182), which presently serves as the City's land use policy for the area including the subject property, designates (Parcel C) of the subject property for residential use and (Parcels A and B) of the subject property for preservation.

NEED FOR GROWTH AND DEVELOPMENT

22. The Petitioner has estimated that approximately 3,550 new units per year must be constructed on the island of Oahu to meet Oahu's housing demand through the year 2000.

23. The subject property is located near the Campbell Industrial Park, the proposed deep-draft harbor at Barbers Point and the Urban District at West Beach. The Petitioner anticipates that the proposed development may provide housing for workers that may be employed in these areas.

RESOURCES OF THE AREA

Agricultural Resources

24. Parcel C is not presently used for any agricultural purpose. Given the low productivity rating of its soil, Parcel C is not suitable for most agricultural uses. The Petitioner has indicated that it would not be economically feasible to convert and maintain Parcel C for agricultural use. Parcels A and B are also unsuitable for agricultural purposes. These parcels are part of the existing system of natural drainage that traverses the Makakilo Urban District.

Natural Resources

25. Parcel "C" was used for pineapple cultivation until about 20 years ago. Since pineapple cultivation was discontinued, Parcel C has been used for grazing. As a result of such grazing, the vegetative cover on the subject property is relatively limited and there is virtually no growth of indigenous plants. Two endangered animal species, the Hawaiian Owl and the Hawaiian (Hoary) Bat, may be found in the vicinity of Parcel C. The various gulches and other areas in Makakilo that are not planned for development are, according to the Petitioner, sufficient to absorb the breeding and hunting needs of the animals.

Impact on Agricultural Operations

26. Parcel C is located adjacent to sugar canefields cultivated by Oahu Sugar Company, Ltd. Cane burning and harvesting operations may generate noise, smoke, and dust in and around residences to be developed on Parcel C. The Petitioner has agreed to notify prospective purchasers in writing of such adverse conditions.

Archaeological and Historical Resources

27. Development of Parcel "C" will have no effect upon any known historic site on or likely to be eligible for inclusion on either or both the Hawaiian Register or National Register of Historic Places.

PUBLIC SERVICES AND UTILITIES

Schools

28. Parcel C will be served by Makakilo Elementary School (or, if required by student enrollment, the proposed Makakilo Uka Elementary School), Ilima Intermediate School and Campbell High School.

Sewer Facilities

29. The Petitioner has represented that Parcel C will be served by the extension of an existing 10" trunk sewer line from the existing sewer collection system in Makakilo. Disposal of the effluent from Parcel C is expected to be handled by the Honouliuli Waste Water Treatment Plant which is now under construction. Construction of the Honouliuli Waste Water Treatment Plant is expected to be complete in 1983 or 1984. Effluent from Makakilo is presently handled by the Makakilo Sewage Treatment Plant which has an adequate capacity to serve

until at least 1984. Should the proposed Honolulu Waste Water Treatment Plant not be completed on schedule, the Petitioner has stated that the Makakilo Sewage Treatment Plant can be expanded to handle effluent disposal through at least mid-1987.

Water Services

30. Parcel C will be connected to the existing water system at Makakilo. However, adequate water to serve the development is not available at this time. Petitioner proposes to provide water for Parcel C from a well being developed by Campbell Estate in the Waianae aquifer near the intersection of Makakilo Drive and the H-1 Freeway.

Solid Waste Disposal Services

31. Municipal refuse collection will be available for Parcel C.

Electrical and Telephone Services

32. Electrical and telephone distribution facilities will be constructed by the public utility companies along Makakilo Drive as extensions of the existing systems.

Fire and Police Protection

33. Parcel C will be served by the existing fire station on Makakilo Drive and by the existing police station in Pearl City.

Drainage Facilities

34. Major drainage facilities will consist of underground concrete conduits conveying storm runoff to existing natural drainage gullies. The Petitioner has represented that the impact on existing drainage facilities by the proposed development will be minor.

Park Facilities

35. The Petitioner will develop a park on Parcel C and dedicate it to the City and County.

Highway and Roadway Facilities

36. The Petitioner proposes to provide access to Parcel C from a 56-foot wide extension of Makakilo Drive. The Petitioner estimates that the H-1 Freeway interchange at the end of Makakilo Drive will have the capacity to handle the traffic that will be generated by the proposed development of Parcel C.

SCATTERIZATION AND CONTIGUITY OF DEVELOPMENT

37. Parcel C is contiguous to the existing Urban District and is in close proximity to existing and proposed employment centers in the leeward urban areas. The development of Parcel C for residential purposes will provide needed housing accessible to these employment centers.

38. Parcel C is located in close proximity to existing basic public services such as sewers, water, sanitation, schools, parks and police and fire protection. Extension of these services and facilities to Parcel C can be made at a reasonable cost.

39. Reclassification of Parcel C to the Urban District will not contribute toward scattered urban development.

CONFORMANCE WITH DISTRICT REGULATIONS & GUIDELINES:

PARCEL C

40. The Petitioner has demonstrated that it is financially capable of developing Parcel C.

41. Parcel C has satisfactory topography and drainage and it is reasonably free from the danger of floods, tsunami and unstable soil conditions and other adverse environmental effects, in that only a small portion of Parcel C has a slope of more than 20%.

42. Design and construction controls will be adequate to protect the public health, welfare and safety of the public and the public's interests in the aesthetic quality of the landscape near and around Parcel C.

43. Reclassification of Parcel C is reasonably necessary to accommodate urban growth and development and the demand for adequate housing in the leeward areas.

44. The reclassification of Parcel C to the Urban District will not result in any significant adverse effects upon agricultural, natural, environmental, recreational, scenic, historical or other resources located on or in the vicinity of Parcel C. Parcel C is not being used for agricultural production and because of its inferior soil quality, does not have a significant potential for future agricultural production.

NONCONFORMANCE WITH DISTRICT GUIDELINES: PARCELS A & B

45. Parcels A and B do not conform to the standards and guidelines for the Agricultural District since these parcels have neither a high capacity for agricultural production nor a significant potential for agricultural uses.

46. Parcels A & B are characterized by inferior soil quality and extreme slopes. Parcels A and B are not surrounded by or contiguous to agricultural lands in active agricultural use.

47. Parcels A and B are designated for preservation by the City and County of Honolulu. The Petitioner has not demonstrated any need for their reclassification to the Agricultural District.

PREFERENCES FOR DEVELOPMENT

48. There exists a real need for housing affordable by low and moderate income households on Oahu and throughout the State. Although not all the housing proposed by the Petitioner are included for purchase by low and moderate income families, the Petitioner has agreed to reserve at least ten percent (10%) of the proposed townhouses and residential lots in Parcel C for sale to low and moderate income households at prices that will enable the purchasers to meet State Hula Mae, Act 105 or Federal FHA 245 income limitation criteria.

RULING ON PROPOSED FINDINGS

Any of the proposed findings of fact submitted by the Petitioner or the other parties to this proceeding not already ruled upon by the Land Use Commission by adoption herein, or rejected by clearly contrary findings of fact herein, are hereby denied and rejected.

CONCLUSIONS OF LAW

Pursuant to Chapter 205, Hawaii Revised Statutes, as amended, and the Rules of Practice and Procedure and the District Regulations of the Land Use Commission, State of Hawaii, the Commission concludes that the reclassification into the Urban District of Parcel C, consisting of

approximately 113 acres of land situated at Ewa, Honouliuli, Island of Oahu, State of Hawaii, identified as Tax Map Key, 1st Division, 9-2-03: Portion of 2, and more particularly described in Exhibit A attached hereto and incorporated by reference herein, conforms to the standards established for the Urban District by the State Land Use District Regulations and Guidelines and is non-violative of Section 205-2, Hawaii Revised Statutes, as amended. However, pursuant to Chapter 205, Hawaii Revised Statutes, and the Rules of Practice and Procedure of the State Land Use Commission, the Commission concludes that the proposed reclassification of Parcels A and B, consisting of approximately 124 acres of land also situated at Ewa Honouliuli, Island of Oahu, State of Hawaii, does not conform to the standards and criteria established for the Agricultural District by the State Land Use District Regulations and is inconsistent with Section 205-2, Hawaii Revised Statutes, as amended.

ORDER

IT IS HEREBY ORDERED that the property identified as Parcel C herein which is the subject of the Petition in this Docket Number A80-485, consisting of approximately 113 acres, situated at Ewa, Honouliuli, Island of Oahu, State of Hawaii, identified as Tax Map Key, 1st Division, 9-2-03: Portion of 2, and more particularly described on Exhibit A attached hereto and incorporated by reference herein, shall be and is hereby reclassified from the Agricultural to the Urban District and the District boundaries are amended accordingly.

IT IS ALSO ORDERED that the Petition to reclassify Parcels A and B, consisting of approximately 124 acres also situated at Ewa, Honouliuli, Island of Oahu, State of Hawaii, identified as Tax Map Key, 1st Division, 9-2-03: Portion of 2, shall be and same is hereby denied and that said parcels remain in the Urban District.

IT IS FURTHER ORDERED that the reclassification of Parcel C into the Urban District shall be subject to the following conditions:

1. That the sales contracts and the deeds for the conveyance of the townhouses, houses and lots within Parcel C of the Petitioner's proposed development herein described, contain statements of warning and notice to buyers that adverse conditions caused by noise, smoke and dust generated by sugar cane burning activity in and around Parcel C may exist. The Petitioner or its assigns and successors inform prospective purchasers of townhouses, houses and lots within Parcel C, in writing, of such adverse conditions prior to any sale or conveyance of such townhouses, houses and lots.

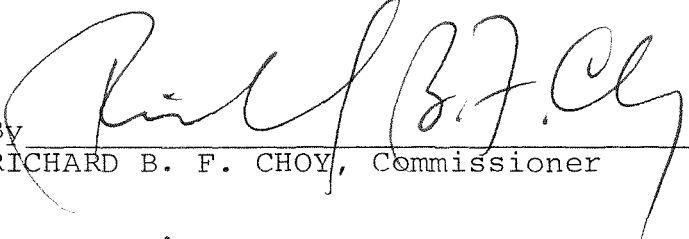
2. That the Petitioner shall offer for sale, on a preferential basis, on its own or in cooperation with either or both the Hawaii Housing Authority or the City and County of Honolulu, ten percent (10%) of the townhouses and houses and lots to be developed within Parcel C to residents of the State of Hawaii who shall have low and moderate family income as determined by the Hawaii Housing Authority or City and County of Honolulu from time to time. The preferential townhouses and houses and lots shall be offered for sale at prices not exceeding prices that enable such purchasers to qualify for and obtain state-assisted financing (i.e., Act

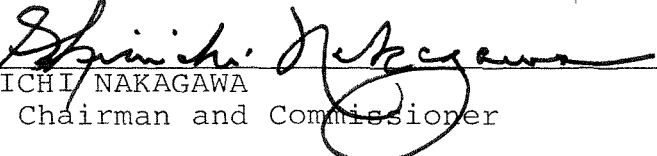
105 or Hula Mae) or federally-insured or assisted financing (i.e, FHA Section 245 program) intended to encourage home ownership by low and moderate income households. This condition may be fully or partially released by the Commission as to all or any portion of Parcel C upon timely motion and provision of adequate assurance of satisfaction of this condition by the Petitioner.

DONE at Honolulu, Hawaii, this 12th day of August, 1981, per Motion on February 4, 1981.

LAND USE COMMISSION
STATE OF HAWAII

By 
C.W. DUKE, Chairman and Commissioner

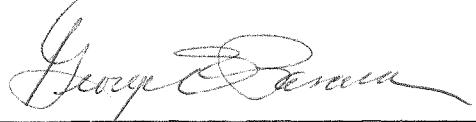
By 
RICHARD B. F. CHOY, Commissioner

By 
SHINICHI NAKAGAWA
Vice Chairman and Commissioner

By 
SHINSEI MIYASATO, Commissioner

By 
MITSUO OURA, Commissioner

By 
CAROL WHITESELL, Commissioner

By 
GEORGE PASCUA, Commissioner

By 
WILLIAM W. L. YUEN, Commissioner

A80-485 FINANCE REALTY CO., LTD.

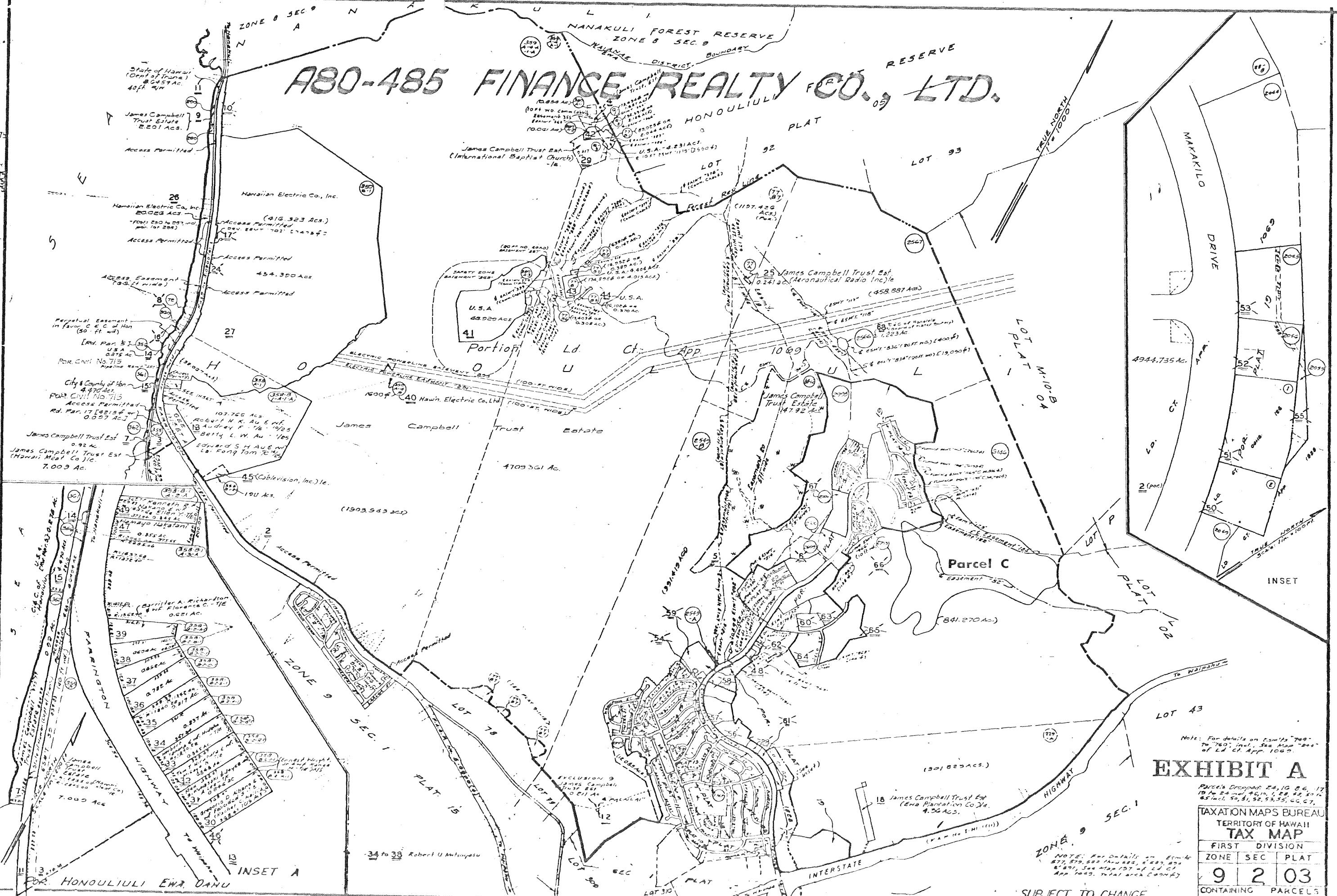


EXHIBIT A

NOTE: For details on Esmt's 700-760, 760-780, 780-800, 800-820, 820-840, 840-860, 860-880, 880-900, 900-920, 920-940, 940-960, 960-980, 980-1000, see Map 100-1000 of Ld. Ch. App. 100-1000.

Parcels Dropped: 24, 10, 8, 6, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200.

TAXATION MAPS BUREAU		
TERRITORY OF HAWAII		
TAX MAP		
FIRST DIVISION		
ZONE	SEC	PLAT
9	2	03
CONTAINING PARCELS		
SCALE: AS NOTED		

SUBJECT TO CHANGE

DEC 1 1950
 NOV 1 1950
 OCT 1 1950
 SEP 1 1950
 AUG 1 1950
 JUL 1 1950
 JUN 1 1950
 MAY 1 1950
 APR 1 1950
 MAR 1 1950
 FEB 1 1950
 JAN 1 1950

DWG No. 1011
 Source: Ld. Ch. App. 100-1000
 BY: P.S.C. & M.N. 10/15/50

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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
Department of Planning & Economic Development
State of Hawaii
250 South King Street
Honolulu, Hawaii 96813

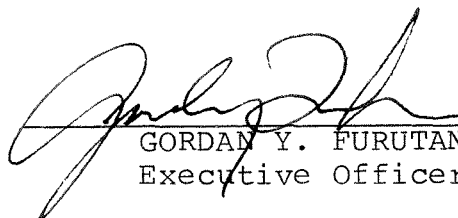
ANNETTE CHOCK, Deputy Attorney General
Department of Attorney General
Capital Investment Building
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Honolulu, Hawaii 96813

WILLARD T. CHOW, Chief Planning Officer
Department of General Planning
City and County of Honolulu
650 South King Street
Honolulu, Hawaii 96813

JANE HOWELL, Deputy Corporation Counsel
Department of Corporation Counsel
City and County of Honolulu
3rd Floor, City Hall
Honolulu, Hawaii 96813

JOURN T. YEE
Finance Realty Company, Ltd.
P. O. Box 3979
Honolulu, Hawaii 96813

DATED: Honolulu, Hawaii, this 13th day of August, 1981.



GORDAN Y. FURUTANI
Executive Officer