

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of) DOCKET NO. A85-598
MILILANI TOWN, INC.) MILILANI TOWN, INC.
To Amend the Agricultural Land Use)
District Boundary into the Urban)
Land Use District for approximately)
1,205.4 acres at Mililani, Ewa,)
Oahu, Hawaii, Tax Map Key Nos.:)
9-5-01:40, portion of 1, portion of)
11, portion of 16; 9-5-02: portion)
of 1)
_____)

FINDINGS OF FACT, CONCLUSIONS OF LAW,
AND DECISION AND ORDER

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FINDINGS OF FACT, CONCLUSIONS OF LAW,
AND DECISION AND ORDER

Mililani Town, Inc., a Hawaii corporation,
(hereinafter referred to as "Petitioner") filed this petition
on September 27, 1985, 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
boundary of approximately 1,205.4 acres of land situate at
Mililani, Ewa, City and County of Honolulu, State of Hawaii,
Oahu Tax Map Key Nos.: 9-5-01:40; portion of 1; portion of 11;
portion of 16; 9-5-02: portion of 1 (hereinafter referred to as
the "Property"), from the Agricultural District to the Urban
District for a residential community use. The Land Use
Commission (hereinafter referred to as the "Commission:),
having heard and examined the testimony, evidence, argument of
counsel, the proposed findings of fact and conclusions of law

presented at the hearing, hereby makes the following findings of fact and conclusions of law, and decision and order:

FINDINGS OF FACT

1. The Commission held hearings on the Petition on December 10, 1985, February 4 and 5, 1986, and March 11, 1986 pursuant to notice published in the Honolulu Star Bulletin on November 8, 1965.

2. The Commission did not receive any requests to appear as public witnesses in this proceeding.

3. The Commission received one timely request to intervene by Samuel S.H. Lee, Chairman of the Mililani/Waipio/Melemanu Neighborhood Board Number 25. The Commission granted Mr. Lee's request for intervention by Decision and Order dated December 23, 1985.

4. At the Commission's action meeting on May 14, 1986, a motion was made by Commissioner Chun and seconded by Commissioner Choy to approve reclassification of approximately 650 acres of the Property from the Agricultural to the Urban District, subject to seven conditions and to deny reclassification of the remaining approximately 555.4 acres. A motion was made by Commissioner Rubin, seconded by Commissioner Whittemore and unanimously approved to amend the main motion by adding an eighth condition. The eight conditions were as follows:

a. Petitioner shall provide housing opportunities for low, moderate and gap income Hawaii residents by offering for sale, on a preferential basis on its own or in cooperation with either or both the Hawaii Housing Authority and the City and County of Honolulu, on or off the Property, a number of residential units not less than ten percent of the number of residential units to be developed on the Property to residents of Hawaii of low, moderate and gap income as determined by the Hawaii Housing Authority or the City and County of Honolulu from time to time. The preferential residential units shall be offered for sale at prices not exceeding prices that enable such purchasers to qualify for and obtain State-assisted financing, for example, FHA Section 245 program, intended to encourage home ownership by low and moderate income families.

b. In the event Petitioner should discover any historic artifacts or archaeological sites during construction, Petitioner shall stop construction in the immediate area and immediately notify appropriate State and County Agencies and take such measures as required by the appropriate State and County agencies to preserve such historical artifacts or archaeological sites.

c. Petitioner shall, in coordination with the State Department of Land and Natural Resources, provide public access to public trail rights-of-way for Waikakalaua and Kipapa Valleys and the ridge mauka of the subject land.

d. Petitioner shall fund the State's share of the design and construction of improvements to the Mililani interchange, including the transitions to H-2, after available federal funds have been applied, to accommodate additional traffic generated by the proposed development as required by the State Department of Transportation. The construction schedule for these improvements shall be subject to the approval of the Department of Transportation.

e. Petitioner shall cause approximately 650 acres, or an amount equivalent to the acreage removed from pineapple production for development of the Property, to be replanted in pineapple.

f. Petitioner shall, by appropriate covenant or other document, subject to the Land Use Commission's approval, disclose the potential noise impacts of aviation activities associated with Wheeler Air Force Base to purchasers of residential units developed on the Property.

g. The Commission may fully or partially release these conditions as to all or any portion of the Property upon timely motion, and the provision of adequate assurance of satisfaction of these conditions by the Petitioner.

h. Petitioner shall, in coordination with the State Department of Land and Natural Resources and the Honolulu Board of Water Supply, provide an adequate supply of contaminant-free domestic water to the Property. In the event water is not

available from existing sources, Petitioner shall develop additional contaminant-free water sources, storage and transmission facilities as required by State and County agencies.

5. Discussion on the motion, as amended, reflected the following reasons for supporting the motion:

a. The proposed motion is not inconsistent with either the State or the City and County's positions on the petition. The state supports the proposed reclassification of the 650 acres, which is the subject of the motion, and the City and County has indicated that they would be in support of the reclassification of the entire property.

b. If the proposed reclassification is denied, it will have profound effects on proposed developments in Central Oahu.

c. Based on the Petitioner's representations that they would be able to develop 723 acres in the first phase of their development, it does not appear to be necessary to require incremental zoning for the proposed development of the proposed 650 acres.

d. The Commission should permit the petitioner to meet low-moderate housing requirements by developing low-moderate units on or off-site to be consistent with housing conditions imposed by the Commission in previous petitions.

e. Concerns raised with respect to the petition area, including concerns with respect to traffic impact, water recharge and the desire to maintain agricultural lands are adequately addressed by the proposed conditions to the motion.

f. Although the subject property is being used for agricultural purposes, the Petitioner should not be forced to retain the lands in agriculture use if it would create an economic hardship for them. In view of the property's proximity to other urban growth areas, Petitioner should be permitted to develop the property for urban purposes.

6. Discussion against the motion reflected the following reasons for not supporting the motion.

a. The proposed amendment to the Central Oahu Development Plan for fiscal year 1985-86 annual review as recommended by the Department of General Planning reflect that the current plans of the City and County of Honolulu would only provide for changing the development plan designation of approximately 250 acres in the petition area to low-density apartment and residential and other related urban uses. Furthermore, this proposed amendment was contingent upon adoption by the City Council of a change to the General Plan that would increase the proposed population ceiling for the year 2005 for the Central Oahu area. At the present time, based on the supply of existing urban lands and the limited growth policy of the City and County of Honolulu, there is only an additional ceiling of approximately 1,000 units in the Central Oahu area.

b. The Commission should consider approval of the petition in conjunction with other planned or proposed petitions and prioritize those areas which are desirable for further urban development in the City and County of Honolulu. Growth should be encouraged closer to the central part of Honolulu where people work, and should not be encouraged in more remote areas which would contribute to increased useage of H-2 and Kamehameha Highway and contribute to further traffic congestion.

c. The mauka portions of the subject property are classified as prime agricultural lands, and the remainder portion of the property are classified as unique agriculture land. Studies considered by the Legislature, and cited for the Commission's consideration classify the entire area as an important agriculture resource to the State of Hawaii.

d. The Mililani Neighborhood Board presented strong opinions of residents of the area and raised concerns regarding the proposed development.

e. The Petitioner has not adequately addressed concerns regarding transportation impacts of the proposed development, and concerns raised by the Air Force regarding impact of further development on their operations, concerns regarding the availability of water for the development, and impacts of the proposed development on water recharge for the area.

f. The petition should be subject to incremental zoning pursuant to the Commission's Rules and Regulations.

g. The ten percent low-moderate housing requirement should be fulfilled by housing within the subject property, not outside of the property.

7. The five Commissioners voting in support of the motion were Commissioner Lawrence Chun, Commissioner Richard Choy, Commissioner Winona Rubin, Commissioner Frederick Whittemore, and Commissioner Everett Cuskaden.

8. The four Commissioners voting against the motion were Commissioner William Yuen, Commissioner Teofilo Phil Tacbian, Commissioner Robert Tamaye and Commissioner Toru Suzuki.

CONCLUSIONS OF LAW

Section 205-1, Hawaii Revised Statutes, provides in pertinent part that "...six affirmative votes shall be necessary for any boundary amendment." Having failed to receive the six votes required to effectuate a boundary amendment, the petition is denied.

DECISION AND ORDER

IT IS HEREBY ORDERED that the Property, which is the subject of the Petition Docket No. A85-598 - Mililani Town, Inc., consisting of approximately 1,205.4 acres of land situate at Mililani, Ewa, City and County of Honolulu, State of Hawaii,

identified by Oahu Tax Map Key Nos.: 9-5-01:40, portion of 1;
portion of 11; portion of 16 and 9-5-02: portion of 1, shall
hereby remain in the State Agricultural District.

DOCKET NO. A85-598- MILILANI TOWN, INC.

Done at Honolulu, Hawaii, this 25th day of June
1986, per motion on May 14, 1986.

LAND USE COMMISSION
STATE OF HAWAII

By *T. P. Tacbian*
TEOFILO PHIL TACBIAN
Chairman and Commissioner

By *Frederick P. Whittemore*
FREDERICK P. WHITTEMORE
Vice Chairman and Commissioner

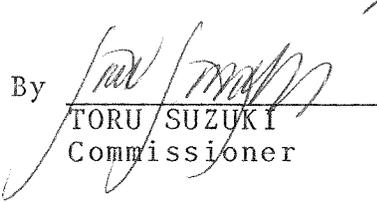
By *William W. L. Yuen*
WILLIAM W. L. YUEN
Commissioner

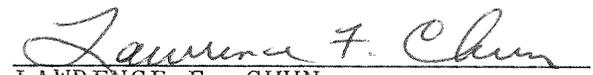
By *Winona E. Rubin*
WINONA E. RUBIN
Commissioner

By *Richard B. F. Choy*
RICHARD B. F. CHOY
Commissioner

By *Robert S. Tamaye*
ROBERT S. TAMAYE
Commissioner

By *Everett L. Cuskaden*
EVERETT L. CUSKADEN
Commissioner

By  _____
TORU SUZUKI
Commissioner

By  _____
LAWRENCE F. CHUN
Commissioner

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the Land Use Commission 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:

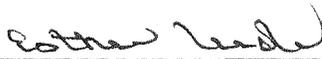
KENT M. KEITH, Director
Department of Planning and Economic Development
State of Hawaii
250 South King Street
Honolulu, Hawaii 96813

DONALD A. CLEGG, Chief Planning Officer
Department of General Planning
City and County of Honolulu
650 South King Street
Honolulu, Hawaii 96813

JAMES T. FUNAKI, Esq., Attorney for Petitioner
Okumura Takushi Funaki & Wee
733 Bishop Street, Suite 1400
Honolulu, Hawaii 96813

SAMUEL S.H. LEE, Chairperson
Mililani/Waipio/Melemanu Neighborhood Board No. 25
P. O. Box 3116
Mililani Town, Hawaii 96789

DATED: Honolulu, Hawaii, this 25th day of June 1986.


ESTHER UEDA
Executive Officer

DOCKET NO. A85-598 - MILILANI TOWN, INC.

A copy of the Land Use Commission's Decision and Order was served upon the following by regular mail on June 25, 1986.

EVERETT KANESHIGE, Deputy Attorney General
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State Capitol, 4th Floor
Honolulu, Hawaii 96813

RICHARD D. WURDEMAN, Corporation Counsel
Department of the Corporation Counsel
City and County of Honolulu
3rd Floor, City Hall
Honolulu, Hawaii 96813

JOHN P. WHALEN, Director
Department of Land Utilization
650 South King Street
Honolulu, Hawaii 96813

COUNCILMEMBER PATSY MINK
City & County of Honolulu
Honolulu Hale, Room 202
Honolulu, Hawaii 96813

WAIHAOLE IRRIGATION COMPANY, LIMITED
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UNITED STATES OF AMERICA
c/o Commander
U.S. Army Support Command, Hawaii
ATTENTION: AP2V - FEI
Fort Shafter, Hawaii 96858

HAWAIIAN ELECTRIC CO., INC.
900 Richards Street
Honolulu, Hawaii 96813

HAWAIIAN TELEPHONE COMPANY
1177 Bishop Street
Honolulu, Hawaii 96813

RUTH MCLEAN BOWERS
615 Belkanat Street
P. O. Box 12199
San Antonio, TX 78212

FINANCE REALTY COMPANY, LIMITED
195 South King Street
Honolulu, Hawaii 96813

DOCKET NO. A85-598 - MILILANI TOWN, INC.

BOARD OF WATER SUPPLY
City and County of Honolulu
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