

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAI'I

In the Matter of the Petition of)
)
OFFICE OF STATE PLANNING,)
STATE OF HAWAI'I)
To Amend the Land Use District)
Boundary of Certain Lands Situated)
at Honouliuli, Ewa, Island of Oahu,)
State of Hawai'i, Identified by Tax)
Map Key Number of the First)
Division: 9-1-75: 44, Consisting of)
Approximately 66.811 Acres from the)
State Land Use Agricultural)
District to the State Land Use)
Urban District)
_____)

DOCKET NO. BR94-711
ORDER ADOPTING HEARING
OFFICER'S PROPOSED
FINDINGS OF FACT,
CONCLUSIONS OF LAW, AND
DECISION AND ORDER

JUL 31 11 03 AM '95
LAND USE COMMISSION
STATE OF HAWAII

ORDER ADOPTING HEARING OFFICER'S PROPOSED
FINDINGS OF FACT, CONCLUSIONS OF LAW, AND DECISION AND ORDER

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAI'I

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

On April 28, 1995, the duly appointed Hearing Officer Benjamin M. Matsubara, Esq., conducted a hearing on the Petition for Land Use District Boundary Amendment filed by the Office of State Planning ("Petitioner") on December 5, 1994.

On May 25, 1995, the parties in this proceeding filed a Stipulation Concerning Petitioner's Proposed Findings of Fact, Conclusions of Law, and Decision and Order.

On June 21, 1995, Hearing Officer Benjamin M. Matsubara, Esq., submitted the Hearing Officer's Proposed Findings of Fact, Conclusions of Law, and Decision and Order ("Hearing Officer's Proposed Decision and Order") to this Commission and to the parties in this proceeding. No exceptions to the Hearing Officer's Proposed Decision and Order were filed by the parties.

This matter came on for consideration on July 27, 1995, in Honolulu, Hawai'i, before this Commission. Hearing Officer Benjamin M. Matsubara, Esq., appeared before the Commission; Ann Ogata-Deal, Esq., appeared on behalf of Petitioner; and Frances Mossman appeared on behalf of the City and County of Honolulu Planning Department.

This Commission, upon consideration of the Hearing Officer's Proposed Decision and Order, the record and files herein, and good cause existing and upon motion duly passed by this Commission,

HEREBY ORDERS that this Commission shall adopt the Hearing Officer's Proposed Decision and Order as its own Findings of Fact, Conclusions of Law, and Decision and Order.

Done at Honolulu, Hawaii, this 31st day of July 1995,
per motion on July 27, 1995.

LAND USE COMMISSION
STATE OF HAWAII

By *Allen K. Hoe*
ALLEN K. HOE
Chairperson and Commissioner

By (absent)
EUSEBIO LAPENIA, JR.
Vice Chairperson and Commissioner

By *Rupert K. Chun*
RUPERT K. CHUN
Commissioner

By *M. Casey Jarman*
M. CASEY JARMAN
Commissioner

By *Lloyd F. Kawakami*
LLOYD F. KAWAKAMI
Commissioner

By (absent)
JOANN N. MATTSON
Commissioner

By *Trudy K. Senda*
TRUDY K. SENDA
Commissioner

By *Elton Wada*
ELTON WADA
Commissioner

Filed and effective on
July 31, 1995

Certified by:

Cathy Anderson
Executive Officer

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAI'I

In the Matter of the Petition of) DOCKET NO. BR94-711
)
OFFICE OF STATE PLANNING,) CERTIFICATE OF SERVICE
STATE OF HAWAI'I)
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CERTIFICATE OF SERVICE

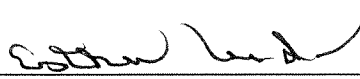
I hereby certify that a copy of the Order Adopting Hearing Officer's Proposed Findings of Fact, Conclusions of Law, and Decision and Order was served upon the following by either hand delivery or depositing the same in the U. S. Postal Service by certified mail:

GREGORY G.Y. PAI, PH.D., Director
Office of State Planning
P. O. Box 3540
Honolulu, Hawaii 96811-3540
Attention: Ms. Judith Henry

CERT. RICK J. EICHOR, ESQ., Attorney for Petitioner
Department of the Attorney General
425 Queen Street
Honolulu, Hawaii 96813

CERT. CHERYL SOON, Chief Planning Officer
Planning Department
City and County of Honolulu
650 South King Street
Honolulu, Hawaii 96813

DATED: Honolulu, Hawaii, this 31st day of July 1995.



ESTHER UEDA
Executive Officer

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAI'I

In the Matter of the Petition of)	DOCKET NO. BR94-711
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STATE OF HAWAI'I)	PROPOSED FINDINGS OF
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Boundary of Certain Lands Situated)	ORDER
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HEARING OFFICER'S PROPOSED FINDINGS OF FACT,
CONCLUSIONS OF LAW, AND DECISION AND ORDER

BENJAMIN M. MATSUBARA
Kendall Bldg., 8th Floor
888 Mililani Street
Honolulu, Hawai'i 96813

BEFORE THE LAND USE COMMISSION
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HEARING OFFICER'S PROPOSED FINDINGS OF FACT,
CONCLUSIONS OF LAW, AND DECISION AND ORDER

The Office of State Planning, State of Hawai'i ("Petitioner"), filed a Petition for Land Use District Boundary Amendment on December 5, 1994, pursuant to section 205-4 and section 205-18, Hawai'i Revised Statutes ("HRS"), to amend the State land use district boundary by reclassifying approximately 66.811 acres of land in the State Land Use Agricultural District situated at Honouliuli, Ewa, Oahu, State of Hawai'i, identified as Tax Map Key Number of the First Division: 9-1-75: 44 ("Property"), into the State Land Use Urban District.

The duly appointed Hearing Officer of the Land Use Commission ("Commission"), having heard and examined the testimony, evidence and argument of counsel presented during the hearing; and the Stipulated Proposed Findings of Fact, Conclusions of Law, and Decision and Order between Petitioner and

the City and County of Honolulu Planning Department, hereby makes the following findings of fact, conclusions of law, and decision and order:

FINDINGS OF FACT

PROCEDURAL MATTERS

1. On December 5, 1994, Petitioner filed a Petition for Land Use District Boundary Amendment ("Petition").
2. No petitions for intervention were received by the Commission by the March 31, 1995, deadline.
3. On April 12, 1995, a prehearing conference on the Petition was held in Honolulu, Hawaii, which was attended by all parties.
4. On April 28, 1995, the Commission's duly appointed hearing officer, Benjamin M. Matsubara, held a hearing on the Petition pursuant to a public notice published in the Honolulu Star-Bulletin on March 16, 1995.
5. There was no public witness testimony heard or received at the April 28, 1995, hearing.

DESCRIPTION OF THE PROPERTY

General Characteristics

6. The Property consists of approximately 66.811 acres of land located in Honouliuli, Ewa, Oahu. The Property lies north of Campbell Industrial park and is roughly bounded by Kalaeloa Boulevard to the west, Malakole Road to the south, Barber's Point Naval Air Station ("BPNAS") on the east, and the Kapolei Business Park to the north.

7. Approximately 58.811 acres of the Property are owned by the State of Hawai'i. The remaining 8 acres are owned by the Estate of James Campbell. The State of Hawaii acquired the approximately 58.811 acres from the Estate of James Campbell by Amended Final Order of Condemnation dated June 21, 1993, in Civil No. 91-4096-12.

8. The Property is contiguous to the State Land Use Urban District at its northern and southern boundary.

9. The Property is fairly level with the highest elevation being approximately 5 feet above mean sea level.

10. The climate of the Ewa Plains, which includes the Property, is relatively warm and dry year-round. Tradewinds from the northwest dominate most of the year, while Kona winds occur occasionally.

11. The average annual rainfall is approximately 20 inches.

12. The normal temperature ranges from the high 60s F to the low 90s F.

13. The United States Department of Agriculture Soil Conservation Service's ("SCS") *Soil Survey of Islands of Kauai, Oahu, Maui, Molokai, and Lanai, State of Hawai'i* classifies the soil within the Property as coral outcrop.

14. The University of Hawai'i Land Study Bureau's ("LSB") *Detailed Land Classification - Island of Oahu (1972)* identifies the Property as "Urban," and thus there is no agricultural productivity rating.

15. The Property is not classified by the Agricultural Lands of Importance to the State of Hawai'i ("ALISH") system.

16. The Flood Insurance Rate Map classifies the Property as Zone D, or areas in which flood hazards are undetermined.

Existing Uses

17. The Property is currently leased to Hawai'i Raceway Park Associates ("HRPA") and is used as an outdoor motorized amusement facility with drag racing and motorcycle/stock car racing activities. Parking for these activities is provided on-site. The facility was established through a Conditional Use Permit authorized by the Honolulu City Council on May 28, 1963. HRPA's lease with the State expires in December 1996. HRPA has requested an extension of its lease from the State and the Estate of James Campbell. HRPA is currently looking at an alternative site for its facilities at BPNAS.

18. There are basically four areas of activities on the Property. Area I consists of the drag strip and support facilities. Support facilities include a tent to shelter cars and equipment, a mobile office building, a small bathroom facility, and the control tower. Area II consists of a stock car race track, a small entrance ticket booth, and a small bathroom facility. Area III is an abandoned vehicle operation which has a contract with the City and County of Honolulu to tow and store abandoned vehicles. The vehicles are used for stock car races, auctioned off, or taken to Hawaii Metal Recycling Company. Area IV consists of an off-road race track for dune buggy events.

19. The Hawaiian Independent Refinery, Inc. holds an easement through the Property for a fuel line. Hawaiian Electric Company, Inc. ("HECO") has a perpetual grant of right and easement, 50 feet wide, for electrical power lines which traverses the Property for utility purposes. The Estate of James Campbell has retained easements on the State portion of the Property for utility, roadway, and drainage purposes.

PROPOSAL FOR RECLASSIFICATION

20. The Petition is based upon a recommendation made by Petitioner as part of the State Land Use District Boundary Review. The *State Land Use District Boundary Review, Oahu, 1992* report recommends that the Property be reclassified to the State Land Use Urban District to conform to its existing use.

21. No new uses are proposed for the Property.

22. Should the State of Hawai'i and/or the Estate of James Campbell propose other uses on the Property in the future, these other uses will need to be consistent with conditions, covenants, and restrictions which run with the Property and are tailored for urban type uses.

PETITIONER'S FINANCIAL CAPABILITY TO UNDERTAKE THE PROPOSED DEVELOPMENT

23. Pursuant to §15-15-50(c) (8), HAR, as an agency of the State of Hawai'i, Petitioner is not required to demonstrate financial capability. Moreover, no new uses are proposed for the Property.

STATE AND COUNTY PLANS AND PROGRAMS

24. The Property is located within the State Land Use Agricultural District, as reflected on the Commission's official map, O-6 (Ewa).

25. In 1992, Petitioner published the *State Land Use District Boundary Review, Oahu, 1992*. The reclassification of the Property to the State Land Use Urban District is supported by this report.

26. The Property is designated as Industrial in the City and County of Honolulu's Ewa Development Plan Land Use Map.

27. The Petition Area is zoned AG-2, General Agricultural District, by the City and County of Honolulu. Under the Land Use Ordinance of the City & County, the Raceway Park is a nonconforming use. As a nonconforming use, the Raceway Park cannot be expanded to add new facilities and activities not approved in the Conditional Use Permit. Any expansion of the Park would require a zone change to the IMX-1 District.

28. The Property is outside of the Special Management Area as defined by the City and County of Honolulu.

NEED FOR THE PROPOSED RECLASSIFICATION

29. Hawai'i Raceway Park has been in existence since 1964 for use as an auto/motorcycle racing facility. Hawai'i Raceway Park is already an urban use and is contiguous on two sides with State Land Use Urban District lands from the Campbell Industrial Park and the Kapolei Business Park.

30. The Property is located close to residential and commercial areas of Kapolei. The reclassification of the

Property from the State Land Use Agricultural District to the State Land Use Urban District will reflect the existing urban use and will be compatible with adjacent urban uses.

ECONOMIC IMPACTS

31. No economic activities will be displaced as a result of the proposed reclassification. The current use of the Property as an outdoor motorized amusement facility with drag racing and motorcycle/stock car racing will continue.

SOCIAL IMPACTS

32. The proposed reclassification will benefit the community by continuing to provide recreational opportunities for drag racing in a controlled environment as opposed to illegal racing on public streets.

33. The Hawai'i Raceway Park employs approximately 110 to 118 full-time and part-time employees. These numbers may vary, depending on the event and the number of spectators expected at the event. With the continued use of the Property, Hawai'i Raceway Park will continue to provide employment for its employees.

IMPACTS UPON RESOURCES OF THE AREA

Agricultural Resources

34. The LSB and the SCS have rated the soils of the Property as generally unsuitable for agricultural use.

35. There are no agricultural activities presently occurring on the Property. Therefore, the proposed reclassification will not have any adverse impacts upon agricultural resources.

Flora and Fauna

36. The Property was surveyed for botanical and fauna resources by Char & Associates and by Phillip L. Bruner, respectively, as part of the Kapolei Business-Industrial Park Environmental Impact Statement, dated April 1990, prepared for the Development Plan amendment for the Estate of James Campbell. Prior to State acquisition, the Property was part of the proposed Kapolei Business-Industrial Park.

37. No plants considered threatened or endangered by the federal and State governments were found on the Property.

38. There were no endemic land birds recorded at the Property; however, the Property may be occasionally used as a foraging area by the Hawaiian Owl or Pueo and the Hawaiian Stilt. There were no resident indigenous land birds noted in the survey; however, the Black Crowned Night Heron may forage in flooded ditches and other temporary wet areas on the Property. The Pacific Golden Plover was recorded, but no other migratory species were found on the site. Other birds on the site were exotic and introduced birds.

39. Cats and mongoose were the only feral mammals observed on the Property.

40. There should be no adverse impacts on flora or fauna due to the proposed reclassification.

Archaeological Resources

41. The Kapolei Business-Industrial Park Environmental Impact Statement includes an archaeological assessment of the

Property conducted by Cultural Surveys Hawaii. The Property did not have any archaeological or paleontological sites.

Groundwater Resources

42. The Property contains a brackish water well. The water from this well is used to prepare the stock car race track for weekend racing. The track is wet-down during the week and regraded and reformed. The well water is not suitable for human consumption.

Recreational Facilities

43. The Property is used as an outdoor motorized amusement facility and is the only such facility on the island of Oahu.

44. There are drag strip facilities on each major island. However, only the Property has a Stock Car Race Track.

Scenic Resources

45. The Property is about 1.5 miles from H-1 Freeway on land which slopes gently down from the freeway. There are a few relatively low structures within the Property with the various race tracks and control tower being the most noticeable features on the land. The main track areas are relatively flat with bleachers around the stock car track and a small bleacher structure along the drag strip.

46. The ocean cannot be seen from the Property, and the Property is not visible from H-1 Freeway. The proposed reclassification will not have any impact on existing visual resources.

ENVIRONMENTAL QUALITY

Noise

47. A Noise Impact Assessment for the proposed Kapolei Business-Industrial Park was completed by Darby and Associates. The existing raceway operations may exceed the State Department of Health ("DOH") standards for noise. Noise mitigation measures for the Raceway Park may involve either relocating the raceway or restricting night racing activities.

48. There are some noise sensitive land uses, such as residential uses within the BPNAS and new low and medium-density apartment uses about 1 mile north of the Property. During racing events, raceway noise may be the dominant noise source. Also, night racing activities may be more noticeable to nearby noise sensitive uses.

49. There have been noise complaints from residents at Nanakai Gardens, which is approximately 2 miles north of the site. However, there have been no complaints of excessive noise from the residential areas located within the BPNAS. The lack of complaints may be due to a relatively thick vegetation buffer between the uses, and because the uses are at the same elevation. The residential units at Nanakai Gardens are located at a higher elevation and there is no buffer to retard noise.

50. The proposed new residential areas are at a higher elevation than the Property with no buffer areas. Thus, there may be some adverse noise impacts to the new residents. Noise mitigation measures may be necessary if noise complaints persist or if new complaints arise from other areas.

Air Quality

51. An air quality study was done for the Kapolei Business-Industrial Park Environmental Impact Statement by J.W. Morrow. The Property and surrounding areas are currently meeting the State and federal air quality standards.

52. The corner of Kalaeloa Boulevard and Malakole Street may exceed the State and federal air quality standards during the morning peak hour traffic.

53. The Hawai'i Raceway Park operates during off-peak hours, primarily on weekends and Friday nights, and thus should not affect air quality in the area.

54. The Stock Car Race Track on the Property is a dirt track and must be regraded every week to prepare for the next race. The track is regraded with a bulldozer and watered down to reduce fugitive dust problems.

HAZARDOUS WASTE

55. During 1983, the Department of Defense ("DOD"), Defense Property Disposal Service, awarded a contract to Pepper Industries Inc. for the transport and disposal of waste from DOD facilities.

56. In 1983, Pepper Industries Inc. disposed of 85,065 gallons of "bilge water" at the Property. Analysis of the "bilge water" determined that it contained between 1 and 10 parts per million of mercury, exceeding the Environmental Protection Agency Toxicity Test for mercury.

57. Further dumping occurred in 1984 by Pepper Industries Inc. of 79,326 gallons of wastewater contaminated with

Gamlen Cold Wash, which is classified as "Hazardous Waste Liquid N.O.S." Gamlen Cold Wash is contaminated with hydrocarbon petroleum distillates and possibly contaminated with heavy metals, organic compounds, and/or other hazardous wastes.

58. The Property was identified as a potential hazardous waste site in January 1992 due to information indicating that it was used for improper disposal of mercury-contaminated waste solvent wash from the Pearl Harbor Shipyard.

59. In June 1992, the Office of Hazard Evaluation and Emergency Response, DOH, completed a preliminary assessment of Hawai'i Raceway Park pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 and the Superfund Amendments and Reauthorization Act of 1986. The preliminary assessment reviewed existing information of the site to assess the threats, if any, to the environment as well as to public health, safety, and welfare.

60. Based upon the information obtained and analyzed in the preliminary assessment, no further investigation is planned for the Property. However, further investigation is warranted under the Hawai'i Environmental Response Law. The DOH advises and the Commission finds that soil sampling and analysis at the Property be done prior to any new development.

ADEQUACY OF PUBLIC FACILITIES AND SERVICES

Transportation

61. Access to the Property is through Malakole Road. Kalaeloa Boulevard provides an additional access to the Property during drag racing events.

62. Kalaeloa Boulevard is a State-maintained roadway, which provides the only access into Campbell Industrial Park and Barbers Point Harbor. It connects the Palailai Interchange of the H-1 Freeway to the north with Malakole Road to the south. It is a four-lane roadway until the intersection with Malakole Road when it becomes two lanes.

63. Malakole Road, which runs in an east-west direction, is the main access to Barbers Point Deep Draft Harbor. It is a two-lane roadway that intersects Kalaeloa Boulevard at a controlled stop intersection.

64. As an outdoor motorized amusement facility, the Hawai'i Raceway Park operates during non-peak hours on weekdays and weekends. The activities on the Property draw people to the park after working hours; thus traffic flows in the opposite direction of normal peak hour traffic. For the most part, there are no adverse impacts to roadways within the region.

65. Once a year, the lessee has a major event, which may bring up to 15,000 people to the Property. During this event, Hawai'i Raceway Park hires police officers to assist with traffic control. Parking attendants also assist with the parking of vehicles entirely on the Property.

Water Service

66. The Property is serviced by the municipal water system. Over a billing period of 24 months, the Property has used an average of about 50,000 gallons of water per month.

67. The potable water is provided by the Hoaeae Wells, Kunia Wells I and II, and the Waipahu Wells. These wells are located near Waipahu, in the vicinity of the Kunia Interchange.

68. The Declaration of Covenants Regarding Water Consumption and Development, Kapolei Business Park, restricts the amount of domestic water which can be consumed on the Property. The State is limited to the consumption of no more than 2,500 gallons of water per acre of the Hawai'i Raceway Park per day for a total of approximately 145,000 gallons of water per day.

Wastewater Disposal

69. The Property is not connected to the municipal wastewater treatment system. The Property utilizes cesspools for wastewater disposal.

70. The Property is not within the Board of Water Supply no pass line for cesspool use.

71. The DOH indicates and the Commission finds that if the structures are renovated or the uses on the Property are intensified, the wastewater system should be upgraded in conformance with the DOH's Administrative Rules, Chapter 11-62, for Wastewater Systems.

72. Under the terms of the Amended Final Order of Condemnation, the State of Hawai'i will be required to either construct a septic system or pay its pro rata share of a new sewer line, if required, in connection with any development on the State's portion of the Property.

Drainage

73. Drainage for the Property is by overland flow towards Malakole Street and the east side of the Property.

74. In the conveyance of the portion of the Property to the State of Hawai'i, the Estate of James Campbell retained drainage easements for the development of its properties.

Solid Waste Disposal

75. The solid waste generated by the uses on the Property is disposed of by a private refuse contractor as needed.

Electrical and Communications

76. The Property is served by HECO.

77. The Property currently has access to the GTE Hawaiian Telephone system.

Police, Fire and Emergency Services

78. The Property is serviced by the Pearl City Police Station. As the Ewa and Kapolei areas are developed, the City and County of Honolulu may build another police station in the Kapolei area, which would also service the Property.

79. The Property is serviced by the fire station in Makakilo, which is a single-engine company with 5 firefighters on a shift.

80. There are several hospitals within the region which service the Property. The closest is the St. Francis Hospital-West located east of the Property. The Kapiolani Hospital at Pali Momi Medical Center is located adjacent to the Pearlridge Shopping Center. Lastly, the Kaiser Hospital is located in Moanalua.

Housing, Schools and Libraries

81. The proposed reclassification of the Property will not create additional demand for housing, school, or library facilities.

Civil Defense

82. The proposed reclassification will have no adverse impacts on State or County civil defense activities.

COMMITMENT OF STATE FUNDS AND RESOURCES

83. The Petition does not involve a short or long-term commitment of State funds or resources. The availability or adequacy of public services will not be affected or unreasonably burdened by the proposed reclassification of the Property to the State Land Use Urban District.

84. The commitment of State funds or resources could change in the future if the State of Hawai'i allows for a change of use on the Property.

CONFORMANCE TO STATE LAND USE URBAN DISTRICT STANDARDS

85. Section 15-15-18, HAR, defines the standards to determine the boundaries for the State Land Use Urban District. The proposed reclassification of the Property conforms to the following standards:

§15-15-18(1): It shall include lands characterized by "city-like" concentrations of people, structures, streets, urban level of services and other related land uses;

§15-15-18(2): It shall take into consideration the following specific factors:

(A): Proximity to centers of trading and employment except where the development would generate new centers of trading and employment.

(C): Proximity to basic services such as sewers, transportation systems, water, sanitation, schools, parks, and police and fire protection.

§15-15-18(3): It shall include lands with satisfactory topography and drainage and reasonably free from the danger of floods, tsunami, unstable soil conditions, and other adverse environmental effects;

§15-15-18(4): In determining urban growth for the next ten years, or in amending the boundary, land contiguous with existing urban areas shall be given more consideration than non-contiguous land, and particularly when indicated for future urban use on State or County general plans;

15-15-18(5): 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;

15-15-18(7): It shall not include lands, the urbanization of which will contribute toward scattered spot urban development, necessitating unreasonable investment in public infrastructure or support services.

CONFORMANCE WITH THE GOALS, OBJECTIVES AND POLICIES OF THE HAWAI'I STATE PLAN; RELATIONSHIP WITH APPLICABLE PRIORITY GUIDELINES AND FUNCTIONAL PLANS

86. The proposed reclassification of the Property is in conformance with the following objectives and policies of the Hawai'i State Plan:

§226-6, HRS: Objectives and policies for the economy --in general

§226-6(a)(1): Increased and diversified employment opportunities to achieve full employment, increased income and job choice, and improved living standards for Hawai'i's people.

§226-6(a)(2): A steadily growing and diversified economic base that is not overly dependent on a few industries.

§226-13, HRS: Objectives and policies for the physical environment--land, air, and water quality

§226-13(b)(7): Encourage urban developments in close proximity to existing services and facilities.

§226-23, HRS: Objectives and policies for socio-cultural advancement--leisure

§226-23(a) Planning for the State's socio-cultural advancement with regard to leisure shall be directed towards the achievement of the objective of the adequate provision of resources to accommodate diverse cultural, artistic, and recreational needs for present and future generations.

§226-23(b)(2): Provide a wide range of activities and facilities to fulfill the cultural, artistic, and recreational needs of all diverse and special groups effectively and efficiently.

87. The proposed reclassification of the Property is in conformance with the following priority guidelines of the Hawai'i State Plan:

§226-104(b)(1): Encourage urban growth primarily to existing urban areas where adequate public facilities are already available or can be provided with reasonable public expenditures, and away from areas where other important benefits are present such as protection of important agricultural land or preservation of lifestyles.

§226-104(b)(2): Make available marginal or nonessential agricultural lands for appropriate urban uses while maintaining agricultural lands of importance in the agricultural district.

88. The proposed reclassification of the Property is in conformance with the following objective and policy of the State Recreational Functional Plan:

Objective II-C: Improve and expand the provision of recreation facilities in urban areas and local communities.

Policy II-C(1): Meet the demand for recreational opportunities in local communities.

CONFORMANCE WITH COASTAL ZONE MANAGEMENT OBJECTIVES AND POLICIES

89. The reclassification of the Property is in conformance with the objectives and policies of the Coastal Zone Management Program as set forth in chapter 205A, HRS.

CONFORMITY TO THE COUNTY GENERAL PLAN

90. The proposed reclassification of the Property is consistent with the following General Plan objectives and policies:

Culture and Recreation

- Objective D: To provide a wide range of recreational facilities and services that are readily available to all residents of Oahu.
- Policy 7: Provide for recreation programs which serve a broad spectrum of the population.
- Policy 10: Encourage the private provision of recreation and leisure-time facilities and services.

Physical Development and Urban Design

- Objective C: To develop a secondary urban center in Ewa with its nucleus in the Kapolei area.
- Policy 2: Encourage the development of a major residential, commercial, and employment center within the secondary urban center at Kapolei.

Economic Activity

- Objective A: To promote employment opportunities that will enable all the people of Oahu to attain a decent standard of living.
- Policy 2: Encourage the development of small businesses and larger industries which will contribute to the economic and social well-being of Oahu residents.

RULING ON PROPOSED FINDINGS OF FACT

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

Any conclusion of law herein improperly designated as a finding of fact shall be deemed or construed as a conclusion of law; any finding of fact herein improperly designated as a conclusion of law shall be deemed or construed as a finding of fact.

CONCLUSIONS OF LAW

Pursuant to chapter 205, HRS, and the Hawai'i Land Use Commission Rules under chapter 15-15, HAR, and upon consideration of the Land Use Commission decision-making criteria under section 205-17, HRS, this Commission finds upon a clear preponderance of the evidence that the reclassification of the Property, consisting of approximately 66.811 acres in the State Land Use Agricultural District situated at Honouliuli, Ewa, Oahu, State of Hawai'i, identified as Tax Map Key Number of the First Division: 9-1-75: 44, into the State Land Use Urban District, is reasonable, conforms to the standards for establishing the urban district boundaries, is nonviolative of section 205-2, HRS, and is consistent with the Hawai'i State Plan as set forth in chapter 226, HRS, and with the policies and criteria established pursuant to sections 205-17 and 205A-2, HRS.

PROPOSED ORDER

IT IS HEREBY ORDERED that the Property, being the subject of this Docket No. BR94-711 by Petitioner Office of State Planning, State of Hawai'i, consisting of approximately 66.811 acres in the State Land Use Agricultural District situated at Honouliuli, Ewa, Oahu, State of Hawai'i, identified as Tax Map Key Number of the First Division: 9-1-75:44, and approximately shown as Exhibit "A" attached hereto and incorporated by reference herein, is hereby reclassified into the State Land Use Urban District, and that the State Land Use District Boundaries are amended accordingly, subject to the following conditions:

1. The developer and/or landowner of the subject Property shall fund and construct adequate civil defense measures as determined by the County and State Civil Defense agencies.

2. The developer and/or landowner of the subject Property shall participate in the funding and construction of adequate wastewater transmission and disposal facilities, on a pro-rata basis, as determined by the State Department of Health and the County Department of Public Works.

3. The developer and/or landowner of the subject Property shall have an archaeological inventory survey conducted by a professional archaeologist prior to submitting an application to the City and County of Honolulu for rezoning or prior to applying for a building permit if county rezoning is not required. The findings of this survey shall be submitted to the State's Historic Preservation Division in report format for adequacy review. This Division must verify that the survey

report is acceptable, must approve significance evaluations, and must approve mitigation commitments for significant historic sites prior to the landowner and/or developer submitting an application to the county for rezoning or prior to applying for a building permit if county rezoning is not required.

4. If significant historic sites are present, then the developer and/or landowner of the subject Property shall agree to develop and execute a detailed historic preservation mitigation plan prior to any ground altering construction in the area. The State's Historic Preservation Division must approve this plan, and that Division must verify in writing to the Land Use Commission that the plan has been successfully executed.

5. Should any human burials or any historic sites such as artifacts, charcoal deposits, or stone platforms, pavings or walls be found, the developer and/or landowner of the subject Property shall stop work in the immediate vicinity and contact the State's Historic Preservation Division. The significance of these finds shall then be determined and approved by the Division, and an acceptable mitigation plan shall be approved by the Division (if needed). The Division must verify that the fieldwork portion of the mitigation plan has been successfully executed prior to work proceeding in the immediate vicinity of the find. Burials must be treated under specific provisions of Chapter 6E, Hawai'i Revised Statutes.

6. The developer and/or landowner of the subject Property shall conduct a flora and fauna survey and prepare and agree to execute a mitigation plan which meets the requirements

of the Department of Land and Natural Resources prior to the developer and/or landowner applying for county zoning or prior to the developer and/or landowner applying for county building permits if county rezoning is not required. The Department of Land and Natural Resources must approve the plan and a copy of the approved plan must be submitted to the Land Use Commission prior to the developer and/or landowner applying for county zoning or prior to the developer and/or landowner applying for county building permits if county rezoning is not required.

7. The developer and/or landowner of the subject Property shall conduct a site characterization of the Property prior to submitting an application to the City and County of Honolulu for rezoning or prior to applying for a building permit if county rezoning is not required. Before conducting the site characterization, the Office of Hazard Evaluation and Emergency Response of the State Department of Health shall be consulted to develop the scope of investigation and determine the type of analysis to be conducted. Findings of the site characterization shall be submitted to the Office to determine if further action is required. If the Office determined that the site poses a threat, the developer and/or landowner, prior to development, shall implement measures to mitigate the threat. Such measures shall be acceptable to the Office.

8. The developer and/or landowner of the subject Property shall prepare a Traffic Impact Analysis Report prior to applying for county zoning or prior to the developer and/or landowner applying for county building permits if county rezoning

is not required. The landowner and/or developer shall also participate in the funding and construction of local and regional transportation improvements and programs including dedication of rights-of-way as determined by the State Department of Transportation (DOT) and the County Department of Transportation Services (DTS). Agreement by the State Department of Transportation on the level of funding and participation shall be obtained prior to the developer and/or landowner applying for county zoning or prior to the developer and/or landowner applying for county building permits if county rezoning is not required.

9. The developer and/or landowner of the subject Property shall monitor the traffic attributable to the proposed project at on-site and off-site locations and shall undertake subsequent mitigative measures that may be reasonably required. These activities shall be coordinated with and approved by DOT and DTS.

10. The developer and/or landowner of the subject Property shall appoint a permanent transportation manager whose function is the formulation, use, and continuation of alternative transportation opportunities that would optimize the use of existing and proposed transportation systems. This shall be done at no cost to the State if the developer and/or landowner is not the State of Hawai'i. In the alternative, the developer and/or landowner of the subject Property may participate in a regional program for transportation management with other developers and/or landowners. This program shall address the transportation opportunities that would optimize the use of existing and

proposed transportation systems. Either option will continue to be in effect unless otherwise directed by the State Department of Transportation. The program for either option shall be reviewed by the State Department of Transportation and the County Department of Transportation Services prior to implementation. The transportation manager or developer and/or landowner of the subject Property shall conduct periodic evaluations of the program's effectiveness and shall make reports of these evaluations available to the State Department of Transportation for program review and modification, if necessary.

11. The landowner/developer of the subject Property shall provide drainage improvements for the Property which are needed as a result of development of the Property and shall, to the extent necessary as determined by the City and County of Honolulu, coordinate off-site improvements with the Estate of James Campbell, the Barber's Point Naval Air Station, adjoining landowners and developers, and/or other Federal, State or County agencies.

12. The developer and/or landowner of the subject Property shall participate in an air quality monitoring program as specified by the State Department of Health.

13. The developer and/or landowner of the subject Property shall cooperate with the State Department of Health and the City and County of Honolulu Department of Public Works to conform to the program goals and objectives of the Integrated Solid Waste Management Act, Chapter 342G, Hawai'i Revised Statutes, and the County's approved integrated solid waste

management plans in accordance with a schedule and timeframe satisfactory to the Department of Health.

14. The developer and/or landowner of the subject Property shall be responsible for implementing sound attenuation measures to bring noise levels from vehicular traffic on the Property down to levels acceptable to the State Department of Health and the State Department of Transportation.

15. The developer and/or landowner of the subject Property shall utilize the Property in substantial compliance with the representations made to the Land Use Commission. Failure to do so may result in reclassification of the Property to its former classification, or change to a more appropriate classification.

16. The developer and/or landowner of the subject Property shall give notice to the Commission of any intent to sell, lease, assign, place in trust, or otherwise voluntarily alter the ownership interests in the Property.

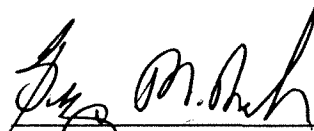
17. The developer and/or landowner of the subject Property shall timely provide without any prior notice, annual reports to the Land Use Commission, the Office of State Planning, and the City and County of Honolulu Planning Department in connection with the status of the existing development and the developer's and/or landowner's progress made in complying with the conditions imposed herein. The annual report shall be submitted in a form prescribed by the Executive Officer of the Commission.

18. The Land Use Commission may fully or partially release these conditions provided herein as to all or any portion of the Property upon timely motion and upon the provision of adequate assurance of satisfaction of these conditions by the developer and/or landowner of the subject Property.

19. Within 7 days of the issuance of the Commission's Decision and Order for the subject reclassification, the developer and/or landowner shall a) record with the Bureau of Conveyances a Statement that the Property is subject to conditions imposed herein by the Land Use Commission in the reclassification of the Property, and b) shall file a copy of such recorded statement with the Commission.

20. The developer and/or landowner of the subject Property shall record the conditions imposed herein by the Commission with the Bureau of Conveyances pursuant to Section 15-15-92, Hawai'i Administrative Rules.

Dated: Honolulu, Hawai'i, this 21st day of June 1995.



BENJAMIN M. MATSUBARA
Hearing Officer

LOCATION MAP

DOCKET NO. BR94-711/OFFICE OF STATE

PLANNING, STATE OF HAWAII

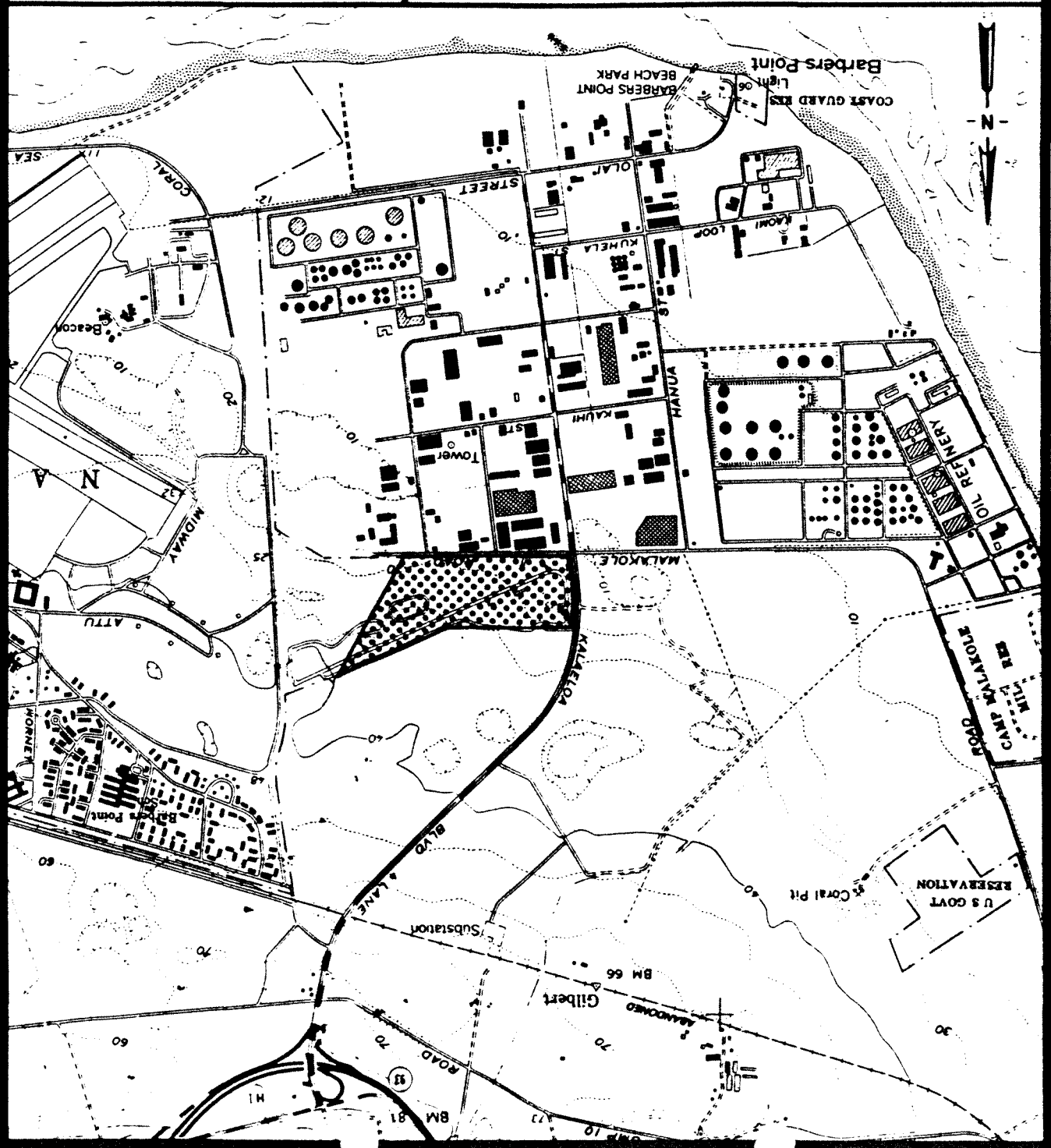
TAX MAP KEY: 9-1-75: 44

HONOLULU, EWA, OAHU

APPROVED AREA



SCALE: 1"=2,000 ft.



BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAI'I

In the Matter of the Petition of) DOCKET NO. BR94-711
)
OFFICE OF STATE PLANNING,) CERTIFICATE OF SERVICE
STATE OF HAWAI'I)
)
To Amend the Land Use District)
Boundary of Certain Lands Situated)
at Honouliuli, Ewa, Island of Oahu,)
State of Hawai'i, Identified by Tax)
Map Key Number of the First)
Division: 9-1-75: 44, Consisting of)
Approximately 66.811 Acres from the)
State Land Use Agricultural)
District to the State Land Use)
Urban District)
_____)

CERTIFICATE OF SERVICE


I hereby certify that a copy of the Hearing Officer's Proposed Findings of Fact, Conclusions of Law, and 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:

GREGORY G.Y. PAI, PH.D., Director
Office of State Planning
P. O. Box 3540
Honolulu, Hawaii 96811-3540
Attention: Ms. Judith Henry

CERT. RICK J. EICHOR, ESQ., Attorney for Petitioner
Department of the Attorney General
425 Queen Street
Honolulu, Hawaii 96813

CERT. CHERYL SOON, Chief Planning Officer
Planning Department
City and County of Honolulu
650 South King Street
Honolulu, Hawaii 96813

DATED: Honolulu, Hawaii, this 21st day of June 1995.



ESTHER UEDA
Executive Officer