

## BEFORE THE LAND USE COMMISSION

In the Matter of the Petition ) DOCKET NO. A80-487  
 )  
 of ) LONE STAR HAWAII, INC.  
 )  
 LONE STAR HAWAII, INC. )

To Amend the Conservation Land Use District Boundary to Reclassify Approximately 71.9 Acres, TMK: 4-2-04: 1 (por.), 15 (por.), and 23 (por.) at Kailua, Koolaupoko, Oahu, Hawaii into the Urban Land Use District

LAND USE COMMISSION  
STATE OF HAWAII  
JAN 16 11 01 AM '87

### DECISION AND ORDER

## BEFORE THE LAND USE COMMISSION

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 of ) LONE STAR HAWAII, INC.  
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 To Amend the Conservation Land )  
 Use District Boundary to )  
 Reclassify Approximately 71.9 )  
 Acres, TMK: 4-2-04: 1 (por.), )  
 15 (por.), and 23 (por.) at )  
 Kailua, Koolaupoko, Oahu, )  
 Hawaii into the Urban Land )  
 Use District )  
 )

DECISION ON MOTION  
TO REDISTRICT SECOND INCREMENT

MOTION

This matter arises from a Motion To Redistrict Second Increment filed on July 12, 1986, pursuant to Part III, Section 3-13 and Part VI, Section 6-2(3) of the Land Use Commission's ("the Commission") Rules of Practice and Procedure and District Regulations by LONE STAR HAWAII PROPERTIES, INC. ("the Petitioner") to amend the designation of the property comprising of approximately 37.8 acres of land, situate at Kailua, Koolaupoko, Oahu, Hawaii from the Conservation to the Urban Land Use District.

#### PURPOSE OF THE MOTION

The Petitioner is requesting by its Motion the redesignation of the second increment of its residential development complex which will consist of a mixture of single family residences and attached residences.

#### THE HEARING

The hearing on this Motion was conducted on September 5, 1986, in Honolulu, Hawaii, pursuant to Notice published on July 18, 1986 in the Honolulu Star Bulletin. Petitioner was represented by Lincoln J. Ishida, Esq.; The Department of General Planning, City and County of Honolulu was represented by Deputy Corporation Counsel Diane Kawauchi; The Department of Planning and Economic Development was represented by Deputy Attorney General Everett Kaneshige; and Intervenor Kailua Neighborhood Board No. 31 was represented by Anthony Locricchio, Esq. The following witnesses presented by the parties testified:

#### Petitioner:

Gail Sims, President of Lone Star Properties, Inc.

#### City and County of Honolulu:

Betsy Marcinkus, Planner

#### Dept. of Planning and Economic Development:

Abe Mitsuda, Planner

#### Kailua Neighborhood Board No. 31:

Donna Marie Wong, Chairman of Kailua Neighborhood Board No. 31

#### POSITION OF THE PARTIES

City and County of Honolulu - approval. The Department of Planning and Economic Development - approval. Kailua Neighborhood Board No. 31 - continuance of a decision on the Motion until additional information and evidence could be obtained by Kailua Neighborhood Board No. 31. In the event the Motion was denied, Kailua Neighborhood Board No. 31 would be opposed to the Motion To Redistrict the Second Increment.

#### PROCEDURAL MATTERS

At the conclusion of the hearing, the Hearing Officer considered Intervenor's oral motion to continue the hearing for the purpose of allowing Intervenor additional time to obtain evidence to compare whether the Petitioner was consistent with representations made to the Neighborhood Board regarding the construction of Petitioner's project.

After considering the arguments of the parties, the Hearing Officer denied Intervenor's oral motion to continue the hearing based on the fact that: 1) Intervenor had adequate advance notice of the scheduled hearing and presented no credible evidence as to why the additional information and evidence they desired to present could not have been obtained prior to the opening of the scheduled hearing and 2) the concerns raised by Intervenor as

reflected in their written and oral testimony could be appropriately raised at future hearings for zoning approval before the City and County of Honolulu.

#### APPLICABLE REGULATIONS

Standards for determining the Petitioner's request for approval of a portion of the Second Increment into the Urban District are found under Part VI, Rule 6-2 of the State Land Use Commission's District Regulations. Said regulation provides in pertinent part that:

#### 6-2 INCREMENTAL DISTRICTING

- (1) Petitioners submitting applications for redistricting to Urban shall also submit proof that development of the premises in accordance with the demonstrated need therefor will be accomplished within 5 years from the date of Commission approval. In the event full urban development cannot reasonably be completed within such period, the petitioner shall also submit a schedule for development of the total of such project in increments, each such increment to be completed within no more than a 5-year period.
- (2) If it appears to the Commission that full development of the total premises cannot reasonably be completed within 5 years and that the incremental development plan submitted by the petitioner is reasonable, and if the Commission is satisfied that all other pertinent criteria for redistricting the premises or part thereof to Urban are present, then the Commission shall redistrict to Urban only that portion of the premises which the petitioner plans to develop first and upon which it appears that total development can

reasonably be completed within 5 years. At the same time, the Commission will indicate its approval of the future redistricting to Urban of the total premises requested by the petitioner, or so much thereof as shall be justified as appropriate therefor by the petitioner, such approval to indicate a schedule of incremental redistricting to Urban over successive periods not to exceed 5 years each.

- (3) Upon receipt of an application for redistricting to Urban of the second and subsequent increments of premises for which previous approval for incremental development has been granted by the Commission, substantial completion of any offsite and onsite improvements of the urban development, in accordance with the approved incremental plan, of the preceding increment redistricted to Urban will be prima facie proof that the approved incremental plan complies with the requirements for boundary amendments.

#### FINDINGS OF FACT

The Commission, having duly considered the record in this Docket, and the record in Docket No. A80-487, the testimony of the witnesses and the evidence introduced herein, makes the following findings of fact:

1. The Land Use Commission, State of Hawaii, by its Decision and Order dated June 12, 1981, in Docket No. A80-487, approved the reclassification from the Conservation District to the Urban District of the First Increment of the Petitioner's proposed residential development. The First Increment consisted of approximately 34.1 acres was approved for Urban classification effective July 12, 1981, while the

Second Increment consisting of approximately 37.8 acres of land was approved for incremental redistricting. In its Decision and Order of July 12, 1981, the Commission stated that "---- the lands within Increment I of the Petitioner's development plan of the subject property including a portion of Phase 1 (2.6 acres) and all of Phase 3 (16 acres) and all of Phase 4 (15.5 acres), comprising a total of 34.1 acres, situated at Kailua, Koolaupoko, Oahu, Hawaii, more particularly identified as Oahu Tax Map Key Numbers 4-2-04: portion of 1, portion of 15, and portion of 23; and more particularly described in Exhibit A situated at Kailua, Koolaupoko, Oahu, State of Hawaii, shall be and the same is hereby reclassified from the Conservation to the Urban classification and the district boundaries amended accordingly."

"It is also hereby ordered that the lands within Increment II of the Petitioner's development plan of the subject property consisting of Phase 5 (14 acres), Phase 6 (12.5 acres) and Phase 7 (11.3 acres), comprising a total of 37.8 acres, more particularly identified by Oahu Tax Map Key Number 4-2-04: portion of 1, portion of 15, and portion of 23; and more particularly described in said Exhibit A, situated at Kailua, Koolaupoko, Oahu, State of Hawaii, shall be and the same are hereby approved for incremental

development pursuant to State Land Use District Regulations 6-2, and that redistricting from the Conservation to the Urban classification will be granted upon receipt of an application by Petitioner for redistricting of the Second Increment upon a prima facie showing that Petitioner has made substantial completion of the onsite and offsite improvements within Increment I --- in accordance with the Petitioner's development plan -- within 5 years of the date of this Order." The Commission's order was also subject to housing condition which required as follows:

THAT the Petitioner shall offer or cooperate with either or both the Hawaii Housing Authority or the City and County of Honolulu, to offer for sale on a preferential basis, at least ten percent (10%) of the total single family detached and attached residences to be developed within the subject property to the residents of the State of Hawaii who shall have low and moderate family income as determined by the Hawaii Housing Authority or the City and County of Honolulu from time to time. The preferential single family detached and attached residences shall be offered for sale at prices not exceeding prices that enable such purchasers to qualify for and obtain State financing (i.e., Act 105 or Hula Mae funds) or federally insured financing (i.e., FHA 245 program) or other federally assisted program. This condition may be fully or partially released by the Commission as to all or any portion of the subject property upon timely motion and provision of adequate assurance of satisfaction of this condition by the Petitioner.

2. The Petitioner submitted evidence relating to the development of Increment I and indicated that it has expended approximately \$7,260,000.00 relating to the

construction of onsite and offsite improvements for the entire project which include the following:

- (a) Phase 1 - development of 19 lots, 11 of which were sold as a house and lot package in 1984. The remaining 8 lots will be sold in 1986. Site improvement costs for Phase 1 including the construction of the extension of Akamai Street and a portion of Kanapuu Drive was \$780,000.00.
- (b) Phase 4 - development of 81 single-family residential lots approximately 6,700 sq. ft. in area are presently being sold. Site improvement costs for Phase 4 was \$2,800,000.00.
- (c) Phase 5 - development of five single-family residential lots which will be marketed in 1986.
- (d) Phase 8 - will be developed into cluster project with 12 units which will be sold in 1987.
- (e) Petitioner has constructed two 500,000 gallon water resevoirs at the 272 foot and 390 foot level to serve the project at a cost of \$2,400,000.00.

- (f) Constructed 5,600 lineal feet of eight and twelve inch water transmission lines together with a maintenance road for the Board of Water Supply at a cost of approximately \$700,000.00.
- (g) Constructed approximately 1,300 lineal feet of eight inch sewer lines at a cost of approximately \$80,000.00.
- (h) Constructed a 144 inch drainage culvert at a cost of \$500,000.00.
- (i) Petitioner has also entered into an agreement with the City and County of Honolulu on September 8, 1986, to make available 10% of the units of the projected 400 units for low moderate income families. An initial increment of 10 units will be developed as rental units with rents not to exceed the affordable rent as provided by the City and County of Honolulu's multi-family rental housing program.

3. Based on the evidence adduced at the hearing and the provisions of Chapter 205 of the Hawaii Revised Statutes and the State Land Use Commission's Rules of Practice and Procedure and District Regulations, the Department of General Planning, City and County of Honolulu, and the Department of Planning and Economic

Development, State of Hawaii, has recommended that the redesignation of the Second Increment be approved because the request is reasonable and fulfills the conditions and terms of the Commission's July 12, 1981 Decision and Order.

4. Intervenor Kailua Neighborhood Board No. 31 opposes the Motion on the basis that the Petitioner has not constructed its residential project according to representations made to the Board following the June 12, 1981 Land Use Commission decision. It should be noted that the Intervenor opposed the Petitioner during both the 1981 hearing and the hearing on the subject Motion.

#### CONCLUSIONS OF LAW

The Commission finds upon a preponderance of prima facie evidence that pursuant to Chapter 205, Hawaii Revised Statutes, the Rules of Practice and Procedure and Section 6-2 of the District Regulations of the Land Use Commission, Petitioner has substantially completed construction of the off-site and on-site improvements comprising the First Increment of Petitioner's proposed development and concludes that the reclassification of the Second Increment, consisting of approximately 37.8 acres as Oahu Tax Map Key Numbers: 4-2-04: portion of 1, portion of 15, and portion of 23; and approximately identified in Exhibit A attached hereto and incorporated by reference

herein, situate at Kailua, Koolaulupoko, Oahu, which is the subject of the Motion in Docket No. A80-487 by Lone Star, Hawaii, Inc., for the development of the Second Increment conformed to the standards established in the State Land Use District Regulations, is reasonable and non-violative of Section 205-2, Hawaii Revised Statutes, and Section 6-2 of the Commission's District Regulations.

ORDER

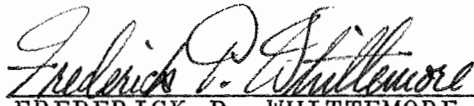
IT IS HEREBY ORDERED that the Second Increment, consisting of approximately 37.8 acres situate at Kailua, Koolaulupoko, Oahu, identified as Oahu Tax Map Key Numbers: 4-2-04 portion of 1, portion of 15, and portion of 23; and approximately identified in Exhibit A attached hereto and incorporated by reference herein which is the subject of the Motion for Docket Number A80-487 by Lone Star Hawaii, Inc., shall be and the same is hereby reclassified from the Conservation District into the Urban District and the State Land Use District Boundaries are amended accordingly.

DOCKET NO. A80-487 - LONE STAR HAWAII, INC.

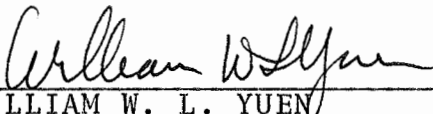
Done at Honolulu, Hawaii, this 16th day of January, 1987  
per motions on December 2, 1986 and December 16, 1986.

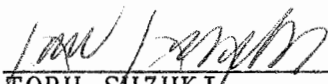
LAND USE COMMISSION  
STATE OF HAWAII

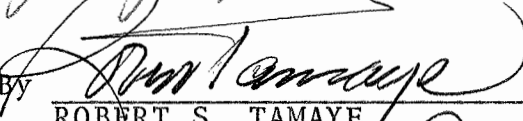
By   
TEOFILO PHIL TACBIAN  
Chairman and Commissioner

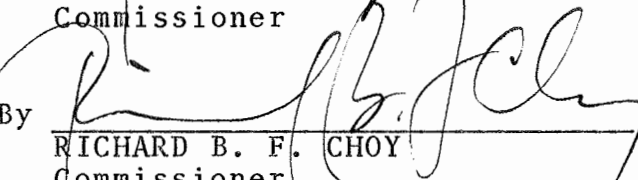
By   
FREDERICK P. WHITTEMORE  
Vice Chairman and Commissioner

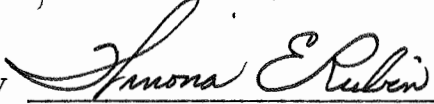
By   
EVERETT L. CUSKADEN  
Commissioner

By   
WILLIAM W. L. YUEN  
Commissioner

By   
TORU SUZUKI  
Commissioner

By   
ROBERT S. TAMAYE  
Commissioner

By   
RICHARD B. F. CHOY  
Commissioner

By   
WINONA E. RUBIN  
Commissioner



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District Boundary into the Urban	)	
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71.9, TMK: 4-2-04: 1 (por.),	)	
15 (por.), and 23 (por.) at Kailua,	)	
Koolaupoko, Oahu, Hawaii, into the	)	
Urban Land Use District	)	
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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:

ROGER A. ULVELING, Director  
Department of Planning and Economic Development  
State of Hawaii  
250 South King Street  
Honolulu, Hawaii 96813

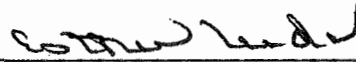
DONALD A. CLEGG, Chief Planning Officer  
Department of General Planning  
City and County of Honolulu  
650 South King Street  
Honolulu, Hawaii 96813

LINCOLN J. ISHIDA, Attorney for Petitioner  
Kaito & Ishida  
PH, C. R. Kendall Building  
888 Mililani Street  
Honolulu, Hawaii 96813

ANTHONY P. LOCICCHIO, Esq.  
903 Maunawili Circle  
Kailua, Hawaii 96734

KAILUA NEIGHBORHOOD BOARD NO. 31  
c/o Kailua Satellite City Hall  
629A Kailua Road  
Kailua, Hawaii 96734

DATED: Honolulu, Hawaii, this 16th day of January, 1987.



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ESTHER UEDA  
Executive Officer

DOCKET NO. A80-487 - LONE STAR HAWAII, INC.

A copy of the Land Use Commission's Decision and Order was served upon the following by regular mail on January 16, 1987.

EVERETT KANESHIGE, Deputy Attorney General  
Department of the Attorney General  
465 South King Street, Room 200  
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