

BEFORE THE LAND USE COMMISSION

OF THE STATE OF HAWAII

In the Matter of the Petition	)	DOCKET NO. A83-560
	)	
of	)	(LEAR SIEGLER, INC. and
	)	LEAR SIEGLER PROPERTIES,
LEAR SIEGLER, INC. and LEAR	)	INC. dba "HPD DEVELOPMENT")
SIEGLER PROPERTIES, INC., both	)	
Delaware corporations, dba	)	
"HPD Development", a Hawaii	)	
registered Joint Venture	)	
	)	
To Amend the Conservation	)	
Land Use District Boundary	)	
to Reclassify Approximately	)	
5.8 Acres, TMK: 9-8-11:10	)	
(por.), at Kalauao, Ewa,	)	
City and County of Honolulu,	)	
State of Hawaii into the Urban	)	
Land Use District	)	
	)	

DECISION AND ORDER

BEFORE THE LAND USE COMMISSION

OF THE STATE OF HAWAII

In the Matter of the Petition	)	DOCKET NO. A83-560
	)	
of	)	(LEAR SIEGLER, INC. and
	)	LEAR SIEGLER PROPERTIES,
LEAR SIEGLER, INC. and LEAR	)	INC. dba "HPD DEVELOPMENT")
SIEGLER PROPERTIES, INC., both	)	
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To Amend the Conservation	)	
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5.8 Acres, TMK: 9-8-11:10	)	
(por.), at Kalauao, Ewa,	)	
City and County of Honolulu,	)	
State of Hawaii into the Urban	)	
Land Use District	)	
	)	

DECISION

THE PETITION

Lear Siegler, Inc. and Lear Siegler Properties, Inc. both Delaware Corps. filed this Petition for an amendment to the Land Use Commission district boundary on November 23, 1983, pursuant to Section 205-4 of the Hawaii Revised Statutes, as amended, and Rule 6-1, of the Land Use Commission's Rules of Practice and Procedure and District Regulation to reclassify approximately 5.8 acres of land, situate at Kalauao, Ewa District, Island of Oahu, State of Hawaii, from the Conservation District to the Urban District. The subject property is more particularly identified as Tax Map Key No. 9-8-11:10 (por.).

#### PURPOSE OF PETITION

Petitioner proposes to develop thirty two- and three-bedroom unit residential cluster development on the subject property. The Petitioner will also build a 2.9 acre recreational area at the mauka end of the subject property, including a gazebo, picnic tables, and outdoor cooking grills.

#### THE PROCEDURAL HISTORY

The Petitioner filed its Environmental Assessment with the Land Use Commission on November 23, 1983. On December 13, 1983, the Land Use Commission determined that the effect of the proposed project on the environment was not significant and an Environmental Impact Statement was not required. Samuel S.H. Lee, Chairman of Neighborhood Board No. 25 on January 9, 1984, filed and withdrew an application to intervene.

#### THE HEARING

The hearing on this Petition was held on February 8, 1984 pursuant to the Notice published on December 28, 1983, in the Honolulu Star Bulletin and also sent by Certified Mail to all parties.

Lear Siegler, Inc., and Lear Siegler Properties, Inc., dba HPD Development, the Petitioner herein was represented by James T. Funaki, Esq.; the Department of

General Planning for the City and County of Honolulu was represented by Steven S. C. Lim, Deputy Corporation Counsel; and the Department of Planning and Economic Development, State of Hawaii was represented by Tatsuo Fujimoto.

The witnesses presented by the parties were:

Petitioner:

Charles Hamane - President of the Hawaiian Properties Division of Lear Siegler, Inc.

Thomas L. Hedge - President, Pearlridge Community Association

Bernard P. Kea - President, Community Planning, Inc.

Fred Rodrigues - Environmental Communication, Inc.

City and County of Honolulu:

Melvin Murakami - Staff Planner

Department of Planning and Economic Development:

Abe Mitsuda - Staff Planner

POSITION OF THE PARTIES

City and County of Honolulu - Approval with conditions.

Department of Planning and Economic Development - Approval with conditions.

#### APPLICABLE REGULATION

Standards for determining the Urban District establish the following: Section 2-2(1) of the State Land Use Commission's District Regulations. Said regulation provides in pertinent part that:

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

when indicated for future urban use on State or County General Plans.

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

#### FINDINGS OF FACT

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

- 1. The subject property is located at Kalauao, Ewa, City and County of Honolulu, State of Hawaii and consists of approximately 5.8 acres, more particularly

described as Tax Map Key No. 9-8-11:10 (por.). The Estate of Bernice Pauahi Bishop which owns the property in fee simple, has authorized the Petitioner to file this Petition for reclassification. The Petitioner has acquired the development rights for the subject property.

2. The subject property lies on a long narrow ridge flanked by two gulches overlooking the Pearlridge Estates subdivision to the West (makai). To the north is a gulch containing Waimalu Stream and to the south is a gulch containing Kalauao Stream. Access to the subject property is via Onikiniki Place located where Kaonohi Street loops back to the ocean. The subject property is presently unimproved and vacant except for Onikiniki Place, an 8-foot wide paved road which provides access to a Board of Water Supply reservoir site located adjacent to and mauka of the subject property. The Ewa Forest Reserve lies mauka of the reservoir site.

3. The subject property is situate within the State Land Use Conservation District as reflected on Land Use District Boundary Map 0-9, Waipahu, Oahu. The Department of Land and Natural Resources classifies the subject property in the resource and general subzones of the State Conservation District. The objective of the resource subzone is to develop, with proper management, areas to insure

sustained use of the natural resources of those areas. The objective of the general subzone is to designate open space where specific Conservation uses may not be defined, but where Urban use would be premature. The City and County of Honolulu has designated the subject property in "residential" under the Primary Urban Center Development Plan and has zoned this subject property in the (P-1) preservation district.

4. The subject property ranges in elevation from 690 feet to 750 feet at its mauka boundary. Slopes of the subject property generally vary from less than 10% to 20%. Approximately 2% of the property has slopes greater than 30%. Rainfall in the area is approximately 45 inches annually and medium temperature varies from 75°F to 82°F. Tradewinds descend from the northwestern (mauka to makai) direction. The USDA Soil Conservation Service Soil Survey classifies the subject property as rock land, where exposed rock covers 25% to 90% of the surface. The soils of the area are classified "Paaloa silty clay, 3 to 12% slopes (Pac)" and "Wahiawa silty clay, 3 to 8% slopes (WaB)". Soil permeability of Paaloa silty clay is moderately rapid, runoff is slow to medium, and the erosion hazard is slight to moderate. Surface water runoff of Wahiawa silty clay is slow and the erosion hazard is slight.



5. On August 30, 1979, the Land Use Commission (in Docket No. A78-444) approved the reclassification of the 8.4 acres encompassing the subject property from Conservation to the Urban District for a proposed 91 unit residential townhouse development subject to the following conditions:

" 1. That pedestrian access over and across the subject property shall be provided by dedication of a right-of-way in accordance with Ordinance No. 4311 of the City and County of Honolulu."

" 2. That Petitioners cooperate with the Pig Hunter's Association of Oahu and Sierra Club, Hawaii Chapter, in providing hunters and hikers with a new trail head for safe access to the McCandless Ditch Trail."

" 3. That Petitioners, and their successors, and assigns, shall enter into negotiations in good faith, when requested, with the Pig Hunter's Association of Oahu, and The Sierra Club, Hawaii Chapter, for vehicular access through and beyond the mauka perimeter of the subject property."

The Pearlridge Community Association, appealed the reclassification to the Circuit Court of the First Circuit in Civil No. 59261, Pearlridge Estates Community Association, et al. v. Lear Siegler, Inc. et al. a Delaware corporation; Lear Siegler Properties, Inc., a Delaware

corporation in 1979. The Circuit Court affirmed the LUC's decision on July 17, 1982. Life of the Land appealed that decision to the Supreme Court, in no. 7934, Pearlridge Estates Community Association, v. Lear Siegler, Inc., a Delaware corporation; Lear Siegler Properties, Inc., a Delaware corporation, reversed the Land Use Commission's and Circuit Court's decisions and reinstated the Conservation classification to the Subject Property, because the Commission did not assess the effects of the proposed subdivision as required under the Hawaii Revised Statutes section 343-5.

6. The Petitioner proposes to develop the Nahalekeha Development Project, consisting of 30 two- and three-bedroom unit residential cluster development. The Petitioner will determine the mix of the two- and three-bedroom units based on market conditions. The Petitioner also proposes to develop a 2.9 acre recreational area at the mauka end of the project site which will include a gazebo, picnic tables and outdoor cooking grills. The Pearlridge Community Association now supports the present Petition. Petitioner proposes to make the following offsite improvements: extension of telephone, electric and sewer lines, and the following onsite improvements: clearing, grubbing and excavation of interior road and building

sites, paving for the road, parking areas, and recreational facilities, installation of street lights and underground facilities, construction of gateway entrance, dwelling structures and recreational facilities and landscaping. Petitioner proposes to complete the proposed project in three phases over a period of 1.5 years after all governmental approvals have been obtained. Petitioner estimates the total costs of the project to be \$6,000,000. Petitioner proposes to market the residential units at a price range similar to the prices of nearby detached houses, \$200,000 to \$350,000. Consolidated balance sheet for Lear Siegler, Inc. for 1983 shows total current assets of \$500,552,000 and total current liabilities of \$261,767,000.

7. The Petitioner proposes to offer 10% of the total units of the proposed development to be set aside in the College Gardens development which is presently being constructed by the Petitioner next to Leeward Community College, for sale to families of moderate and gap group incomes as determined by the Hawaii Housing Authority and the City and County of Honolulu.

8. Reclassification of the subject property will not unreasonably burden the responsibility of public agencies to provide necessary amenities, service and facilities:

a. Water Service: The City and County of Honolulu Board of Water Supply (BWS) limits water service to the 750 foot elevation which is above the elevation of the subject property.

b. Sewage Treatment and Disposal: The proposed 30-unit residential cluster development will utilize an 8-inch sanitary sewer line situated along Kaonohi Street. The sewer line carries the sewage to Pearl City Pump Station which in turn transports it to the Honouliuli Waste Water Treatment Plant for primary treatment. The treated sewage will then be disposed into the ocean via the Barbers Point Outfall. The City and County of Honolulu Department of Public Works has confirmed that the public sewer system is available and adequate to service the subject project.

c. Flood Control/Storm Drainage: Surface runoff from rainfall presently sheet flows down the slopes of the ridge toward Waimalu Stream and Kalauao Stream. Petitioner knows of no flooding on the project site or the residential area along Kaonohi Street. Petitioner proposes to construct an onsite drainage system to convey runoff down natural courses on both sides of the ridge.

d. Roadway and Highway Services and Facilities: Petitioner projects that each residential unit will generate approximately 6 external trips daily. Petitioner believes that the proposed 30-unit development will increase

traffic by approximately 180 vehicular trips per day on Kaonohi Street. Petitioner believes the existing designed capacity of Kaonohi Street is more than adequate to accommodate the proposed project.

e. Electric and Telephone Services: Hawaiian Electric Company and Hawaiian Telephone Company will provide electrical and telephone service to the subject by lines existing underground along Kaonohi Street.

f. Solid Waste Collection and Disposal: Petitioner proposes to have a private refuse and collection company to collect waste from the subject project for disposal at an appropriate disposal site.

g. Fire and Police Protection: City and County will provide fire service from the Aiea Fire Station, located 2.9 miles from the subject project and the Waiau Fire Station located 3.6 miles away. City and County will provide police service from the Pearl City Police Station, located approximately 4 miles from the subject site.

h. Schools: The State Department of Education has indicated that the proposed 30 housing units will have a negligible impact on student enrollment at the Pearlridge Elementary, Aiea Intermediate and Aiea High School.

8. The proposed project is not expected to impact resources of the area because:

a. Streams: Petitioner anticipates that impacts to the Kalauao Stream and Waimalu Stream located in gulches on both sides of the proposed development will be minimal. Both streams presently receive surface water runoff of a similar chemical content from the existing single-family homes within their drainage basin.

b. Ground Water: The project site contributes ground water to both the Waimalu Stream watershed and the Kalauao Stream watershed. The proposed residential development will reduce ground water percolation by .02% for the Waimalu Stream watershed and .15% for the Kalauao Stream watershed. Petitioner does not anticipate that this reduction in percolation area will significantly impact upon the water supply.

c. Flora and Fauna: There are no known rare or indigenous species of flora or fauna on the project site. Wherever possible, existing mature trees will be retained to conform to a landscaping master plan and fauna presently existing on the site will probably migrate to existing areas.

d. Historical/Archeological Resources: State Department of Land and Natural Resources has indicated that the subject project is neither a historic property listed on the Hawaii Register or the National Register of Historic Places nor determined eligible for inclusion on the National

Register of Historic Places. Department of Land and Natural Resources requests that work be stopped in the event any previously unidentified sites or remains such as artifacts, shell, bone, charcoal deposit, human burials, rock alignments, pavings, or walls are encountered.

9. Based on the review of the Petition, the evidence adduced at the hearing, and the provisions of Chapter 205, Hawaii Revised Statutes, the Department of Planning and Economic Development recommends approval of the Petition of Lear Siegler, Inc. and Lear Siegler Properties, Inc. to reclassify approximately 5.8 acres at Kalauao, Ewa, Oahu from the Conservation to the Urban Land Use District subject to the following conditions:

a) The Petitioner shall provide vehicular access through the subject property to the mauka Conservation District Lands for public safety and public utility purposes. Pedestrian public access for recreational purposes to the mauka Conservation District Lands shall be provided by the Petitioner. Public vehicular access however to the mauka Conservation District Lnads for

recreational purposes shall be subject to conditions mutually agreed to between Petitioner and interested members of the public.

b) Petitioner shall provide housing opportunities for moderate and gap group income Hawaii residents prior to assigning or transferring its interest in the subject property 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, ten percent (10%) of the residential units to be developed on the subject property or on other suitable sites to residents of the State of Hawaii of moderate and gap group family income as determined by standards promulgated by the Hawaii Housing Authority and the City and County of Honolulu from time to time.

Testimony presented during the hearing further clarified the provisions of Department of Planning and Economic Development condition 1 in that the required "public access for recreational purposes to the mauka Conservation District Lands" related to public pedestrian access and that



public vehicular access for recreational and activities would be the subject of further negotiations between the Petitioner and interested parties. The City and County of Honolulu, also concurs with the recommendation and conditions as set forth by the Department of Planning and Economic Development.

#### CONCLUSION OF LAW

Reclassification of the subject property, consisting of approximately 5.8 acres at Kalauao, Ewa, Oahu, State of Hawaii from the Conservation to the Urban Land Use District and amendment to the district boundaries incorporating the two conditions proposed by the Department of Planning and Economic Development, State of Hawaii is reasonable and non-violative of Section 205-2 of the Hawaii Revised Statutes.

#### ORDER

IT IS HEREBY ORDERED:

That the property which is the subject of this Petition in this Docket No. A83-560, consisting of approximately 5.8 acres situated at Kalauao, Ewa District, City and County of Honolulu, State of Hawaii identified as Tax Map Key No. 9-8-11:10 (por.) and on Exhibit A incorporated herein, shall be and hereby is reclassified from Conservation to Urban and the district boundaries are amended accordingly subject to the following conditions:

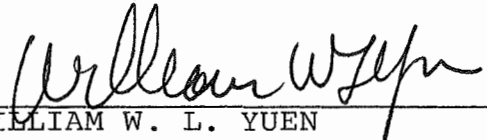
1. The Petitioner shall provide vehicular access through the subject property to the mauka Conservation District Lands for public safety and public utility purposes and shall provide public pedestrian access for recreational purpose to the mauka Conservation District Lands. Any grant of easement affording public vehicular access to the mauka Conservation District Lands for recreational purposes shall be subject to conditions mutually agreed to between Petitioner and interested members of the public.

2. The Petitioner shall provide housing opportunities for low and moderate and/or gap group income Hawaii residents prior to assigning or transferring its interest in the subject property 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, ten percent (10%) of the residential units to be developed on the subject property or on other suitable sites to residents of the State of Hawaii of low and moderate and/or gap group family income as determined by standards promulgated by the Hawaii Housing Authority and the City and County of Honolulu from time to time.

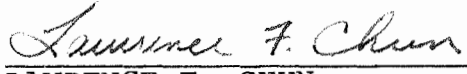
DOCKET NO. A83-560 - LEAR SIEGLER, INC. and LEAR SIEGLER PROPERTIES,  
INC. dba "HPD DEVELOPMENT"


Done at Honolulu, Hawaii, this 31st day of January,  
1985 per motions on May 23, 1984 and July 26, 1984.

LAND USE COMMISSION  
STATE OF HAWAII

By   
WILLIAM W. L. YUEN  
Chairman and Commissioner

By   
RICHARD B. F. CHOY  
Vice Chairman and Commissioner

By   
LAWRENCE F. CHUN  
Commissioner

By   
EVERETT L. CUSKADEN  
Commissioner

By   
WINONA E. RUBIN  
Commissioner

DOCKET NO. A83-560 - LEAR SIEGLER, INC. and LEAR SIEGLER PROPERTIES,  
INC. dba "HPD DEVELOPMENT"

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

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

By *Frederick P. Whittemore*  
FREDERICK P. WHITTEMORE  
Commissioner

EXHIBIT A

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of Hawaii into the Urban Land	)	
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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, Attorney for Petitioner  
Okumura Takushi Funaki & Wee  
Grosvenor Center, Suite 1400  
783 Bishop Street  
Honolulu, Hawaii 96813

DOCKET NO. A83-560 - LEAR SIEGLER, INC. and LEAR SIEGLER  
PROPERTIES, INC. dba "HPD DEVELOPMENT"

DATED: Honolulu, Hawaii, this 31st day of January, 1985.

A handwritten signature in black ink, appearing to read 'Gordon Y. Furutani', is written over a horizontal line.

GORDAN Y. FURUTANI  
Executive Officer