

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

In the Matter of the Petition of)	DOCKET NO. A99-727
)	
JOAN BEVERLY S. ASHFORD AND)	FINDINGS OF FACT,
CLINTON R. ASHFORD)	CONCLUSIONS OF LAW, AND
)	DECISION AND ORDER
To Amend the Conservation Land Use)	DETERMINING A NEGATIVE
District Boundary into the Urban)	DECLARATION FOR A STATE
Land Use District for Approximately)	LAND USE DISTRICT
9,350 Square Feet of Land at)	BOUNDARY AMENDMENT
Halekou Place, Kane'ohe, O'ahu,)	
Hawai'i, TMK 4-5-69: por. 1)	
_____)	

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND DECISION
AND ORDER DETERMINING A NEGATIVE DECLARATION FOR
A STATE LAND USE DISTRICT BOUNDARY AMENDMENT

LAND USE COMMISSION
STATE OF HAWAII
JUL 11 1999

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The Land Use Commission ("Commission"), having examined the Final Environmental Assessment ("FEA") filed by Joan Beverly S. Ashford and Clinton R. Ashford ("Petitioners") on May 12, 1999, and upon consideration of the matters discussed therein, at its meeting of May 20, 1999, in Honolulu, Hawai'i, hereby makes the following findings of fact and conclusions of law:

FINDINGS OF FACT

1. The subject area covered by the FEA is located at Halekou Place, Kane'ohe, O'ahu, Hawai'i, and consists of approximately 9,350 square feet, identified as TMK 4-5-69: por. 1 ("Property"). The Property is designated within the State Land Use Conservation District and is zoned P-1 Restricted Preservation by the City and County of Honolulu.

2. The Property represents a portion of Petitioners' 18,286-square-foot parcel. The remaining area of Petitioners' parcel is designated within the State Land Use Urban District and is zoned R-5 Residential by the City and County of Honolulu.

3. The State Land Use Urban/Conservation District boundary bisects the parcel and runs through Petitioners' residence.

4. Petitioners desire to amend the State Land Use Conservation District boundary so that said boundary runs along the perimeter boundary of the Property rather than through Petitioners' parcel.

5. Petitioners do not propose any further development on the Property and plan to continue to use it as their residence as they have been doing since it was constructed in 1965. The Property has been incorporated into the footprint of Petitioners' residence and their lawn and garden.

6. On March 5, 1999, Petitioners filed a Petition for Conservation District Boundary Amendment ("Petition").

7. The Petition included a Draft Environmental Assessment ("DEA") as required by section 343-5(a)(7), Hawai'i Revised Statutes ("HRS").

8. On March 8, 1999, Petitioners filed a First Amendment to Petition.

9. On March 11, 1999, Petitioners filed a Second Amendment to Petition.

10. On March 18, 1999, and by a written Order of Preliminary Determination for a Negative Declaration of an

Environmental Assessment filed on May 11, 1999, this Commission made a preliminary determination of a negative declaration for the proposed action.

11. The DEA was subject to a 30-day public review and comment period pursuant to section 343-5(c), HRS. The review and comment period ended on May 10, 1999.

12. There were a total of 16 Federal, State, and City and County agencies which commented on Petitioners' DEA. The Federal agencies included the Department of the Army ("Army") and the Department of Agriculture, Natural Resources Conservation Service. The State agencies included the Department of Hawaiian Home Lands, the Housing and Community Development Corporation of Hawai'i, the Department of Transportation, the Department of Education, the State Historic Preservation Division ("SHPD"), the Office of Hawaiian Affairs, the Office of Planning ("OP"), the Department of Health, and the Department of Land and Natural Resources. The City and County agencies included the Department of Planning and Permitting ("DPP"), Department of Facility Maintenance, Department of Parks and Recreation ("DPR"), Board of Water Supply, and Department of Transportation Services.

13. With the exception of the agencies listed below, the agencies did not have any objections or comments to the proposed action.

14. The Army noted that the action would not require a DA permit.

15. The SHPD stated that it believed the proposed action will have "no effect" on significant historic sites.

16. The OP noted that the DEA should reflect that the coastal zone management area included all lands within the State and the area extending seaward from the shoreline. The OP also suggested that the Property be zoned to reflect the larger lot size and existing density of the Property.

17. The DPP noted that a zone change would be required for the Property in the event it was reclassified to the Urban District. The DPP added that a Development Plan amendment from Parks and Recreation would be automatically changed to reflect a successful zone change. The DPP further noted that the Property was outside of the Special Management Area ("SMA") and was therefore not subject to the SMA requirements of the City and County of Honolulu.

18. The DPR noted that the proposed action did not adversely impact any of the DPR's facilities or services to the public.

19. The FEA included Petitioners' responses to these comments. Petitioners filed the FEA with this Commission on May 12, 1999.

20. The DPP and OP had no objections to the acceptance of the FEA.

21. Based on the FEA, there are no significant impacts anticipated as a result of the proposed reclassification inasmuch as no development is proposed for the Property.

CONCLUSIONS OF LAW

Pursuant to chapter 343, HRS, and chapter 11-200, Hawai'i Administrative Rules ("HAR"), entitled "Environmental Impact Statement Rules," this Commission, having considered the criteria for determining potential environmental effects provided in chapter 11-200, HAR, and after considering the proposed action, the expected consequences of the proposed action, as well as the short-term and long-term effects of the action, concludes that the proposed action will not have a significant effect on the environment, and therefore does not require an environmental impact statement.

DECISION AND ORDER


IT IS HEREBY ORDERED that the proposed action by Petitioners, and as described in the Petition filed in this docket, will not require an environmental impact statement pursuant to chapter 343, HRS, and chapter 11-200, HAR, entitled "Environmental Impact Statement Rules."


IT IS FURTHER ORDERED that the Petition be deemed a proper filing as of May 20, 1999.

Done at Honolulu, Hawai'i, this 8th day of June 1999,
per motions on May 20, 1999 and June 3, 1999.


LAND USE COMMISSION
STATE OF HAWAI'I


By (absent)
MERLE A. K. KELAI
Chairperson and Commissioner

By 
LAWRENCE N.C. KING
Vice Chairperson and Commissioner

By 
P. ROY CATALANI
Commissioner

By (absent)
RUPERT K. CHUN
Commissioner

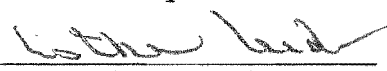
By 
PRAVIN DESAI
Commissioner

By 
ISAAC FIESTA, JR.
Commissioner


By (absent)
M. CASEY JARMAN
Commissioner

Filed and effective on
June 8, 1999

Certified by:


Executive Officer

By (absent)
HERBERT S.K. KAOPUA, SR.
Commissioner

By 
PETER YUKIMURA
Commissioner

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the Findings Of Fact, Conclusions Of Law, And Decision And Order Determining A Negative Declaration For A State Land Use District Boundary Amendment was served upon the following by either hand delivery or depositing the same in the U. S. Postal Service by certified mail:

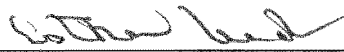
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 Honolulu, Hawaii 96804-2359

CERT. JAN NAOE SULLIVAN, Director
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 City and County of Honolulu
 650 South King Street
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CERT. GENIVIEVE SALMONSON, Director
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 235 S. Beretania Street, Suite 702
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CERT. CLINTON R. ASHFORD, ESQ.
 Ashford & Wriston
 P. O. Box 131
 Honolulu, Hawaii 96810

DATED: Honolulu, Hawaii, this 8th day of June 1999.



ESTHER UEDA
Executive Officer