

BEFORE THE LAND USE COMMISSION

OF THE STATE OF HAWAII

In the Matter of the Petition of) DOCKET NO. A79-454
AMFAC, INC.,) AMFAC, INC.
to Amend the Agricultural Land)
Use District Boundary to Reclas-)
sify Approximately 11.93 Acres,)
Tax Map Key Nos. 4-6-18: 15 and)
4-6-18: 14 at Lahaina, Island)
and County of Maui, State of)
Hawaii, into the Urban Land Use)
District.)
_____)

DECISION AND ORDER

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DECISION

THE PETITION

This matter arises from a petition for an amendment to the Land Use Commission district boundary filed pursuant to Section 205-4 of the Hawaii Revised Statutes, as amended, and Part VI, Rule 6-1 of the Land Use Commission's Rules of Practice and Procedure and District Regulations by AMFAC, INC., who is requesting that the designation of the subject property be amended from the Agricultural to the Urban district. The requested change consists of property comprising approximately 11.93 acres of land situated at Lahaina, Island and County of Maui, State of Hawaii. The property consists of two separate parcels more specifically identified as Tax Map Key Nos. 4-6-18: 15 and 4-6-18: 14.

PURPOSE OF PETITION

Petitioner's stated purpose for requesting the reclassification of the subject property from Agricultural to Urban is so that Petitioner can develop on 8 acres of the subject property, a single-family residential

subdivision consisting of approximately 39 lots. The balance of the subject property will be graded and planted with grass for use as a passive park and dedicated to the County of Maui.

THE PROCEDURAL HISTORY

The Petition was received by the Land Use Commission on April 23, 1979. Due notice of the hearing on this Petition was published in the Maui News and the Honolulu Advertiser on August 31, 1979. Notice of the hearing was also sent by certified mail to all parties involved herein on August 30, 1979. A timely application to appear and testify in this matter as a public witness was received by John Bose of the Hawaii Sierra Club, Maui Group on September 24, 1979. An untimely request to appear was received on September 27, 1979, from Elizabeth Stone, a member of Environmental Citizens Against Progress.

PRE-HEARING PROCEDURE

Prior to the taking of testimony and evidence in regard to the subject Petition, the Hearing Officer considered the requests of John Bose of the Hawaii Sierra Club, and Elizabeth Stone of the Environmental Citizens Against Progress to appear and testify as witnesses in this proceeding. The timely requests of Mr. Bose was accepted and approved and Mr. Bose testified personally in regard to the Sierra Club's position in regard to this particular Petition. The untimely request of Ms. Elizabeth Stone of the Environmental Citizens Against Progress, was also approved, however since Ms. Stone was not present, her letter, by agreement of the parties, was accepted and received as a statement of a public witness in regard to the subject Petition.

THE HEARING

The hearing on this Petition was held on October 3, 1979, at Kahului, Maui. Amfac, Inc., Petitioner herein, was represented by Gary S. Oliva, Esq.; the County of Maui was represented by Steven R. Scott, Deputy County Attorney for the County of Maui; and the Department of Planning and Economic Development was represented by Tatsuo Fujimoto.

The witnesses presented by the aforementioned parties were as follows:

Petitioner:

Steve MacMillan - Development Manager for Amfac Communities, Maui

Donald Rickard - International Longshoremen's and Warehousemen's Union, Maui Division

County of Maui:

Christopher L. Hart - Administrative Assistant to Director of Maui County Planning Department

Department of Planning and Economic Development:

Esther Ueda - Planner

POSITION OF THE PARTIES

County of Maui - Approval.

Department of Planning and Economic Development - Approval.

APPLICABLE REGULATION

Standards for determining the establishment of an Urban District is found under Part II, Section 2-2(1) of the State Land Use Commission's District Regulations. Said regulation provides in pertinent part:

- "(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 specific 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 consideration to areas of urban growth as shown on the State and County General Plans.
- (f) Lands which do not conform to the above 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 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 interests in the aesthetic quality of the landscape."

FINDINGS OF FACT

The panel of the Land Use Commission, after 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 owned in fee simple by the Trustees of the Estate of Bernice Pauahi Bishop. Petitioner and the Trustees have entered into an agreement whereby Trustees will sell and the Petitioner will purchase the fee simple title to the subject property. The Trustees in turn have appointed the Petitioner as their agent for purposes of securing a change in the Land Use District classification for the subject property from the Agricultural district to Urban district. The subject property is located in Lahaina, Island and County of Maui, State of Hawaii, and consists of approximately 11.93 acres, more particularly described as Tax Map Key Nos. 4-6-18: 15 and 4-6-18: 14. The subject property is located approximately one-half mile Mauka of Lahaina town and is accessible from Lahainaluna Road.

2. The existing State Land Use classification of the subject property is Agricultural. The County of Maui

General Plan designation for the area is Single-Family Residential and Park. The Maui County Zoning for the subject property is Agricultural. The subject parcel is not within the County of Maui's Special Management Area.

3. The subject property consists of two separate parcels - Tax Map Key No. 4-6-18: 15 comprising approximately 7.035 acres and Tax Map Key No. 4-6-18: 14 which consists of approximately 4.891 acres. The two parcels in question are separated by another parcel identified as Tax Map Key No. 4-6-18: 18 comprised of 1.083 acres which is not included within the subject Petition. The subject property is presently vacant and unused and covered by scrub brush. Approximately 7 acres of the subject property were in sugar cultivation until the end of 1977 when said 7 acres were removed from active cultivation along with adjacent land in the Kelawea Mauka III Subdivision. The 7 acres removed from sugar cultivation were replaced by like acreage in a more appropriate area under cultivation by Pioneer Mill Company, Limited.

4. The subject property abuts the Urban district on all sides except its Southern boundary which is in the Agricultural district.

5. The existing land uses surrounding the subject parcels are as follows: To the East (Mauka), the Lahaina Intermediate School site which is currently under development; to the West (Makai), the Kelawea Mauka I single-family residential Subdivision and Lahainaluna Road; to the South (Olowalu), Lahainaluna Road, canefields and land general-plan single-family residential and park; to the North (Kaanapali), proposed Kelawea Mauka III single-family residential Subdivision.

6. The subject property has a slope ranging from between 8% to 12%.

The United States Department of Agriculture Soil Conservation Service classifies the soils for the area as Wainee, very stony, silty clay. The Land Study Bureau has classified those portions of the subject property previously in sugar cultivation as "B" lands, considered good for agricultural activity while the remaining portion of the subject property consists of Class "E" lands, considered very poor for agricultural activity.

7. The subject property is located outside of the 100-year flood plain of Kahoma Stream and Mauka of the potential tsunami inundation area in accordance with the Drainage Master Plan of the County of Maui (1971) by R. M. Towill Corporation.

8. The Petitioner proposes to develop a single-family residential house and lot package project which will be an extension of the Kelawea Mauka III single-family residential Subdivision. The Petitioner is a corporate parent of Pioneer Mill Company, Limited, which owns in fee simple the real property adjacent to the subject property upon which a single-family residential subdivision known as Kelawea Mauka III will be developed. Approximately 8 acres of the subject property is proposed to be subdivided into 39 residential lots having a proposed minimum lot size of 6,500 square feet. The remaining area, consisting of approximately 4 acres is proposed to be dedicated as a public passive park. Petitioner has represented that 4 acres proposed for park use will be graded and planted with grass and dedicated to the County of Maui. The homes constructed

on site will be three bedroom single-family detached dwellings of similar construction and design to those residences presently existing or under construction in Kelawea Mauka I, II and III Subdivisions adjacent to the subject property. Petitioner has entered into an agreement with the County of Maui and the International Longshoremen's and Warehousemen's Union, designed to insure the provision of appropriately priced housing for employees of Pioneer Mill Company and the Kaanapali Beach Resort. Pursuant to said agreement, housing units developed by the Petitioner will be included in a pool of housing units wherein 50% of the housing units in the pool will be offered first to ILWU members on a "first right of refusal" basis. 25% of the units in the housing pool will be offered to the employees of the Hyatt Regency Maui Hotel and the remaining 25% of the housing units will be offered to the employees of the Marriott Hotel under construction in the Kaanapali Beach Resort area. Pursuant to the agreement, all of the housing units will be sold at a price no higher than 2% over Petitioner's actual development and construction cost. All of the housing units sold shall be conveyed subject to an anti-speculation repurchase option in the favor of the County of Maui. Petitioner is also required under the agreement to develop a rental program with an option to purchase if the development and construction costs plus 2% exceeds what hotel employees are able to afford. Petitioner has stated that its anticipated development timetable will be that construction of the subdivision improvements will begin within one (1) year of the Land Use Commission's approval of the boundary amendment

and that the first units completed in the project and ready for occupancy will be within approximately one (1) year after the start of construction.

9. Petitioner has established the need for the proposed development on the subject property by showing the substantial increase in the population of Maui County from 1970 to 1977 due to the growth of the visitor industry and the creation of additional employment opportunities. The increased population growth has in turn caused an increase in the demand for single-family dwellings creating a shortage of approximately 3,000 dwelling units. The housing shortage is most sharply felt in the Lahaina district, which is the largest center of tourist oriented employment which have forced many residents employed in the Lahaina area to live in other Maui districts where affordable housing is available.

10. The availability and adequacy of public services and facilities to the subject property is as follows:

(a) Drainage. Drainage for the proposed development will be integrated with the drainage system for the entire Kelawea Mauka Subdivision, which involves the collection of runoff in cul-de-sac streets and transmitted by 30-inch diameter line along the proposed Hokeo Street and disposed into Kahoma Stream.

(b) Traffic. The Department of Transportation has commented that the proposed development will not have an impact on any of their programs for the area.

(c) Water. Local service lines will be extended and the system will be connected to existing

8, 12 and 16 inch diameter transmission lines along Lahainaluna Road.

(d) Schools. The Department of Education, State of Hawaii has commented that the student enrollment generated by the proposed classification can be accommodated by existing and planned school facilities.

(e) Sewage. Sanitary lines will be extended from the proposed Kelawea Mauka III Subdivision and be collected in a 10-inch diameter line along Lahainaluna Road for transmission to the Honoapiilani Highway forced main and ultimate treatment at the West Maui Waste Reclamation Plant, which is scheduled to be completed before the completion of the proposed subdivision.

(f) Electricity and Telephone. Said services are available from existing lines running along Lahainaluna Road.

(g) Police and Fire Protection. Police and fire services are available in the vicinity of the project and capable of meeting the needs of the proposed development.

11. That there are no known archaeological/historical, recreational/scenic or natural resources on the subject property.

12. That Maui County has requested and the Petitioner has agreed to comply with the following conditions:

(a) That full compliance shall be rendered with all requirements of the County of Maui Change in Zoning and Subdivision Ordinances.

(b) That appropriate measures shall be taken during construction to mitigate the short-term

impact of the project relative to soil erosion from wind and water and increased ambient noise levels.

(c) That a park master plan identifying circulation and appropriate amenities shall be prepared and implemented during the project construction phase.

(d) That a street tree planting plan shall be prepared for implementation during the project construction phase.

(e) That a program for the safe and aesthetic integration of "Lahaina Tank Lot B" within the proposed single-family residential subdivision shall be prepared for final review and approval by the Maui County Departments of Public Works, Water Supply and Planning.

(f) That full compliance with all Federal, State and County requirements shall be rendered.

13. Based on a review of the Petition, the evidence adduced at the hearing and the policies and criteria of the Interim Statewide Land Use Guidance Policy, the County of Maui and the Department of Planning and Economic Development has recommended that the reclassification be approved.

CONCLUSIONS OF LAW

Reclassification of the subject property, consisting of approximately 11.93 acres of land, situated at Lahaina, Island and County of Maui, State of Hawaii, from Agricultural to Urban and an amendment to the district boundaries accordingly is reasonable, non-violative of Section 205-2 of the


Hawaii Revised Statutes, and is consistent with the Interim Statewide Land Use Guidance Policy established pursuant to Section 205-16.1 of the Hawaii Revised Statutes, as amended.


ORDER


FOR GOOD CAUSE appearing, it is hereby ordered that the property which is the subject of the Petition in this Docket No. A79-454, consisting of approximately 11.93 acres of land, situated at Lahaina, Island and County of Maui, State of Hawaii, identified as Tax Map Key Nos. 4-6-18: 15 and 4-6-18: 14, shall be and the same is hereby reclassified from the "Agricultural" district to the "Urban" district classification, and the district boundaries are amended accordingly.


DONE at Honolulu, Hawaii, this 13th day of December, 1979, per Motion on November 20, 1979.


LAND USE COMMISSION
STATE OF HAWAII

By 
C. W. DUKE
Chairman and Commissioner

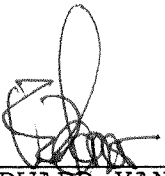
By 
SHINICHI NAKAGAWA
Vice Chairman and Commissioner

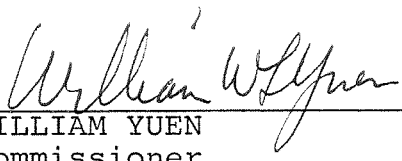
By 
SHINSEI MIYASATO
Commissioner

By 
MITSUO OURA
Commissioner

By 
GEORGE PASCUA
Commissioner

By 
CAROL WHITESELL
Commissioner

By 
EDWARD YANAI
Commissioner

By 
WILLIAM YUEN
Commissioner

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the Urban Land Use District)
_____)

CERTIFICATE OF SERVICE

I hereby certify that a copy of the Land Use Commission's Decision and Order was served to the parties listed by either hand delivery or depositing the same in the U. S. Postal Service by certified mail:

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Department of Attorney General
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Wailuku, Maui 96793

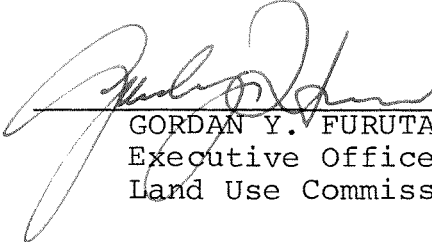
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Development Manager
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P. O. Box 696
Lahaina, Maui 96761

Dated: Honolulu, Hawaii, this 18th day of December, 1979.



GORDAN Y. FURUTANI
Executive Officer
Land Use Commission