

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of)
)
 PARADISE DEVELOPERS, INC.,)
)
 To Amend the Rural Land Use)
 District Boundary to Reclassify)
 Approximately 28.0 Acres,)
 TMK: 3-9-1: 115 at Kihei,)
 Waiakoa, Island and County of)
 Maui into the Urban Land Use)
 District)
 _____)

DOCKET NO. A80-491

DECISION AND ORDER

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of)	DOCKET NO. A80-491
PARADISE DEVELOPERS, INC.,)	FINDINGS OF FACT,
To Amend the Rural Land Use)	CONCLUSIONS OF LAW,
District Boundary to Reclassify)	DECISION AND ORDER
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Waiakoa, Island and County of)	
Maui into the Urban Land Use)	
District)	
_____)	

FINDINGS OF FACT, CONCLUSIONS
OF LAW, DECISION AND ORDER

The above-captioned Land Use Boundary Amendment proceeding was initiated by the petition of Paradise Developers, Inc., (hereinafter referred to as "Petitioner") pursuant to Chapter 205, Hawaii Revised Statutes, and the Rules of Practice and Procedure of the Land Use Commission, State of Hawaii, to amend the Land Use District Boundary of certain lands (hereinafter referred to as the "subject property") situated at Waiakoa, Wailuku, Maui, Tax Map Key Number 3-9-1: 115, from the Rural to the Urban Land Use District, and the Commission, having heard and examined the testimony and evidence presented during the hearing held on December 2, 1980, in Kahului, Wailuku, Maui, and having considered the proposed findings of fact and conclusions of law and comments to the proposed findings of fact and conclusions of law submitted by the parties in this matter, hereby makes the following findings of fact and conclusions of law.

FINDINGS OF FACT

PROCEDURAL MATTERS

1. The petition for boundary amendment was filed on June 26, 1980, by the representative for the Petitioner to amend the Rural Land Use District at Waiakoa, Wailuku District, Island and County of Maui, in order to reclassify approximately 28 acres of land into the Urban District.

2. Notice of the hearing, scheduled for December 2, 1980, at 9 a.m., Kahului Library, Kahului, Maui, was published in the Honolulu Advertiser and the Maui News on October 22, 1980.

3. The Commission did not receive any petitions for intervention nor requests to be a public witness.

DESCRIPTION OF THE SUBJECT PROPERTY

4. The subject property is located in Kihei at Waiakoa in the Wailuku District of the Island of Maui, approximately 9 miles from the town of Wailuku. It fronts on the mauka (east) side of the new Piilani Highway, at its junction with Ohukai Road.

5. The subject property comprises approximately 28 acres of land and is identified by Tax Map Key 2nd. 3-9-01: 115.

6. The subject property is owned by United Realty, Inc., under a Sub-Agreement of Sale dated December 18, 1978. Both United Realty, Inc., and Paradise Developers, Inc., are Hawaii corporations wholly owned by Ivan Pivaroff, a resident of Honolulu, Hawaii. Walter C. Witte, holder of the fee title; and Edgar D. Kerr and Naoki Tokuhisa, vendees

under an Agreement of Sale dated January 23, 1974, also have an interest in the subject property. All parties with an ownership interest have provided written authorization for the filing of the petition.

7. Access to the subject property is made via Ohukai Road, which road intersects both the new Piilani Highway and Kihei Road.

8. Urban areas are contiguous to the subject property on its three sides. To the north of the subject property is an existing 107 lot urban residential subdivision zoned R-2 (7,500 square-foot lots). To the west of the subject property across Piilani Highway are vacant urban lands and existing urban residential subdivisions with lots averaging 7,500 square feet in size. To the south of the property across Ohukai Road is an approximately 24-acre parcel of land recently reclassified to the urban district by the Commission and rezoned by Maui County for a light industrial center. To the east of the subject property is an existing rural subdivision consisting of 69 one-half acre lots.

9. The subject property is not located within the federally designated flood plain, and can be conveniently developed into house lots. Additionally, its close proximity to Piilani Highway, designated by the State Department of Transportation as Kihei's future primary traffic arterial, will enable residents to avoid use of the overburdened Kihei Road.

10. Elevations on the subject property range between 68 feet to 132 feet above mean sea level. Slopes average less than 5 percent except for the portion of the subject property in the vicinity of a north-south running

bank between elevations 80 feet and 105 feet above mean sea level, which has slopes between 5 percent and 10 percent.

11. The geologic substrata of the subject property is comprised of the Kula volcanic series. The soil has eroded away in some areas, exposing the underlying basalt. The U. S. Soil Conservation Service's, "Soil Survey of the Islands of Kauai, Oahu, Maui, Molokai, and Lanai, State of Hawaii," includes the subject property's soils in the Waiakoa series.

12. The subject property is not classified by the State Department of Agriculture under its Agricultural Lands of Importance to the State of Hawaii (ALISH) classification system.

13. The climate of the Waiakoa-Kihei region is characterized as warm and dry, with mild seasonal changes. Temperatures range between lows of 60° to highs of 85°F, with an average annual rainfall of 12.7 inches.

PROPOSAL FOR RECLASSIFICATION

14. The Petitioner intends to develop a single-family residential subdivision consisting of 130 lots. The proposed zoning is R-2, with lots ranging between 7,500 to 9,500 square feet in size. The Petitioner has represented that approximately 12 percent of the subject property will be used for roadways, sidewalks, and other improvements. Both the interior and exterior roadway rights-of-way will be landscaped with trees.

15. The subject property is vacant and covered with grass and scrub brush. There are remnants of a concrete slab from a former Federal Aviation Administration Transmitter Station used by the old Puunene Airport.

16. The subdivision would be developed in accordance with the County of Maui subdivision ordinance standards requiring paved roadways, curbs, gutters, sidewalks, water lines, sewer lines, underground electric and telephone services, street lighting, drainage improvements, fire hydrants, and landscaping. The Petitioner estimates that development costs will total \$2,404,400 (1981 dollars) or approximately \$18,500 per lot (excluding land costs). This estimate includes \$214,600 for offsite improvements including, among other things, water storage assessment and roadway widening along Ohukai Road fronting the subject property.

17. The Petitioner estimates that the selling prices of the lots will range between \$60,000 to \$85,000 depending on lot size and location. The Petitioner doesn't presently intend to construct houses on lots offered for sale. Houses will be built by individual lot purchasers. The Petitioner estimates that the sale price of a lot plus the cost of a completed house will approximate the average 1979 selling price of \$169,000 for Maui County adjusted for future inflation.

18. The Petitioner has stated that it intends to market the lots on the subject property primarily to middle-income families currently residing on the island of Maui. The Petitioner defines middle-income as Maui's current population minus both the lowest 20 percent of the spectrum who earn only 5 percent of the total per capita income, and the upper 10 percent of the population, who earn approximately 15 percent of the income. The remaining sector of the population have annual family incomes between \$30,000 and

\$50,000 and are the intended market group.

19. The Petitioner has represented that construction will commence after all necessary government approvals have been obtained, which the Petitioner anticipates it will obtain after 15 to 18 months. The Petitioner has also stated that lots will be marketed as soon as bids are issued, bonding obtained, and final County permits and approvals obtained. The Petitioner estimates that construction will take 14 months, with the first purchasers tentatively closing the purchase of the lots in the fall or early winter of 1983.

20. The Petitioner represents that the proposed development will conform to standards adopted by the County of Maui for urban residential subdivisions and will comply with all County of Maui requirements that are placed on all developments in the Kihei area.

STATE AND COUNTY PLANS

21. The subject property is designated as Rural by the County of Maui Kihei Civic Development Plan. This designation permits development of lot sizes of one-half acre. An amendment to the County General Plan will be required for the proposed development.

22. The subject property is designated as Rural by the State Land Use Commission.

NEED FOR GROWTH AND DEVELOPMENT

23. The subject property is one of a few large parcels of land in Kihei that may be used to contribute significantly to the area's housing supply. The Petitioner has represented that the proposed development will be

completed in time to help meet the anticipated housing demand that will be created by 1985 because of Maui County's 3.1 percent population growth rate. The Petitioner has predicted a need for the construction of approximately 4,400 new housing units in Maui County by 1985. No other major subdivision projects in the Kihei area, other than Maui 100 Partners and the Wailea project, may be available to supply Kihei's portion of this anticipated need.

24. The Petitioner desires to proceed with construction before completion of the County's community plans, because the Petitioner estimates that these plans will not be approved for an additional two years beyond the eighteen months the County initially projected for completion. The County has testified that the development of the Community Plans will begin in January, 1981.

25. The subject property is appropriate for an urban classification rather than a rural classification, because there are no mixed agricultural uses that normally characterize a rural classification on the subject property or in its vicinity. The subject property is in an area of urban-type concentration with the accompanying residential uses and infrastructural services.

26. If the subject property was developed for residential use in its rural classification, the prices of finished lots would be higher than the prices affordable by most families in the Petitioner's intended market group.

27. The Kihei urban area has large areas of vacant land; however, the physical characteristics of these vacant urban parcels are hampering their full development. These physical restraints include location within the federally

designated flood plain, unusual lot shapes that hamper both design and marketing efforts; and a large number of small lots owned by people who are reluctant to consolidate and resubdivide.

28. Employment opportunities in the Kihei area are steadily expanding as Kihei becomes a self-contained urban community. Job opportunities should increase when many of the planned resort and apartment complexes in the Kamaole area, Wailea and Makena are completed in the middle or later part of this decade. This expansion of employment opportunities in the Kihei area may also increase the demand for housing. The proposed development will be completed in time to furnish housing for this anticipated employment need.

29. Kihei's new sewage treatment plant, highway, and water supply system have significantly improved the infrastructural support capability to levels sufficient to service the proposed development.

PREFERENCES FOR DEVELOPMENT

30. There is a need for housing affordable by low and moderate income households on Maui and throughout the State. Although lots on the subject property are intended for purchase mainly by middle-income families that collectively form the most populous group on Maui, the Petitioner has agreed to allocate ten percent (10%) of the proposed residential lots for purchase by lower income households that meet State Hula Mae or Federal FHA 245 loan criteria.

RESOURCES OF THE AREA

Agricultural Resources

31. The subject property is not included in the State Department of Agriculture's ALISH classification of agricultural lands. The soil on the subject property is rocky, and badly eroded in some areas. There are no viable agricultural activities in the areas adjacent to the subject property.

Natural Resources

32. Vegetation on the subject property consists mainly of grasses and keawe brush. The State Department of Land and Natural Resources has designated the area around the subject property as a non-commercial keawe-type forest land. The subject property is not a productive wild life habitat.

Water Resources

33. There are no permanent streams on the subject property or in its immediate vicinity. Water intermittently flows through a small gully along Ohukai Road. Groundwater in the area is limited to unconfined water in the basal lens approximately at sea level. The increase in surfaces impervious to water will partially reduce basal lens recharge from rainwater on the subject property but should not cause any significant problems.

Recreational Resources

34. The subject property has little or no value as a recreational resource. Recreational areas are more abundant in the Kihei area than in other areas of Maui, with several developed parks and beaches. The impact on local recreational resources by the development of an additional

80 homes above what is permissible under its present rural classification should be minimal.

Scenic Resources

35. The subject property does not have any significant features of natural beauty or distinction.

Historic and Archaeological Resources

36. The subject property has no known historic or archaeological resources. However, should any unanticipated sites or remains such as artifacts, shell, bone or charcoal deposits; human burials; rock or coral alignments, pavings, or walls be encountered during construction, the Petitioner should stop work and contact the Historic Sites Section of the State Department of Land and Natural Resources.

Environmental Resources

37. Automobile traffic generated by the proposed development may reduce local air quality and raise ambient noise levels. The long-term adverse impact will be insignificant compared to the potential effects on noise levels and air quality caused by traffic using the adjacent Piilani Highway. The proposed tree plantings along both the proposed development's interior roadways and boundary with the Piilani Highway will help buffer noises and reduce air pollutants.

PUBLIC SERVICES AND FACILITIES

Firefighting Services

38. Kihei Fire Station is located four miles from the subject property. The proposed development with wide streets, new fire hydrants, and adequate water pressure can be safely serviced by the fire station.

Police Services

39. Maui County's police force was significantly expanded in 1980, affording Maui County police services superior to that available in past years. The police station is in Wailuku, approximately nine miles from the subject property.

Schools

40. Kihei Elementary and Intermediate School services grades K-8 while Baldwin High School in Kahului services grades 9-12. Both schools have sufficient capacity to accept the anticipated increase in the number of students from the proposed development.

Electrical Utility Services

41. Maui Electric and Hawaiian Telephone officials have represented that services and facilities are adequate and available to the proposed subdivision for reasonable hook-up and user fees.

Water

42. Sufficient quantities of water can be made available to supply the proposed development under existing Board of Water Supply Rules and Regulations. Hook-up to the subject property can be provided by an 18" supply line running along Ohukai Road. The Petitioner has stated its intention to participate in development of water storage facilities, by either assessment or actual construction.

Sewage Treatment and Disposal Services

43. The Kihei Sewage Treatment Plant treats sewage from the Kihei area, including developments adjacent to the subject property. It is designed to treat sewage generated by a population of up to 30,000 persons, and can accommodate

the anticipated increase generated by the proposed development. The Petitioner will provide a sewer hook-up from the proposed development to the nearest sewer main.

Solid Waste Disposal Services

44. Refuse collected on a weekly basis from the proposed development will be disposed of at the Waikapu sanitary landfill by the County's refuse collection service. The County will charge individual homeowners for this service.

Roadway and Highway Services

45. Ohukai Road, a public road, provides access to the subject property from both the Piilani Highway and Kihei Road. The portion of Ohukai Road bordering the subject property will be improved to the County of Maui's urban roadway standards. The proposed development will not cause significant traffic congestion of either Ohukai Road, Piilani Highway, or Kihei Road. According to the State Department of Transportation, however, recent studies indicate that the anticipated traffic in the vicinity of the proposed development will exceed the design forecasts for the proposed Piilani Highway. Therefore, the right-of-way reserved for this roadway will have to be re-evaluated to determine whether additional setbacks would be required.

Drainage

46. The Petitioner has represented that drainage from the proposed development will be designed to channel storm flow at moderate rates into the State's storm drains at the junction of Ohukai Road and Piilani Highway. Drainage impacts on downstream properties as well as erosion control measures to minimize soil loss from storm runoff will be

taken into account in the design of the drainage facilities. The Petitioner will consult with the Maui District Engineer of the State Department of Transportation regarding the adequacy of drainage facilities in the immediate area.

SCATTERIZATION AND CONTIGUITY OF DEVELOPMENT

47. Urban development of the subject property would maximize use of existing services and facilities in Kihei and would not promote scattered urban development. The subject property abuts urban designated land along its northern and southern borders. Residential subdivisions presently abut the subject property along the north and west. The rural classified lands to the east are also in residential use. The urban designated land to the south is the site of the proposed light industrial subdivision.

CONFORMITY TO STANDARDS FOR DETERMINING DISTRICT BOUNDARIES

48. The area surrounding the subject property has reached "city-like" concentrations of people, structures, streets, and urban levels of service.

49. The subject property, after completion of the Piilani Highway, will have convenient proximity to employment centers in Kihei. It will also provide close access to the major highways leading to other employment centers on Maui.

50. The Petitioner has demonstrated the financial capacity to complete the project.

51. Infrastructural support services are either immediately available to the proposed development or can be so provided at reasonable cost.

52. The topography of the subject property is suitable for the proposed use; no unusual drainage problems

are foreseen; and the site is not subject to flooding or tsunami inundation, unstable soil conditions, or other adverse environmental effects.

53. The subject property is contiguous to existing urban areas.

54. The subject property is a logical extension or urban growth from northern Kihei, since lands developed to urban densities are concentrated in this area.

55. Urbanization of the subject property will not contribute towards scattered spot urban development nor necessitate unreasonable investment in public supportive services.

56. Reclassification of the subject property is reasonably necessary to accommodate the anticipated urban growth projected for the Kihei area and the need for residential urban areas to accommodate the urban growth.

RULING ON PROPOSED FINDINGS

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

CONCLUSIONS OF LAW

Pursuant to Chapter 205, Hawaii Revised Statutes, as amended, and the Rules of Practice and Procedure and the District Regulations of the Land Use Commission, State of Hawaii, the Commission concludes that the proposed boundary amendment conforms to the standards established for the

Urban District by the State Land Use District Regulations and guidelines and is consistent with Section 205-2, Hawaii Revised Statutes, as amended.

ORDER


IT IS HEREBY ORDERED that the property which is the subject of the petition of Paradise Developers, Inc., in this Docket Number A80-491, consisting of approximately 28.0 acres of land situated at Kihei, Waiakoa, Wailuku District, Island and County of Maui, State of Hawaii, more particularly identified as Tax Map Key 3-9-01: 115, shall be and is hereby reclassified from the Rural District to the Urban District, and the Land Use District Boundaries are hereby amended accordingly. The reclassification, however, is subject to the following condition:

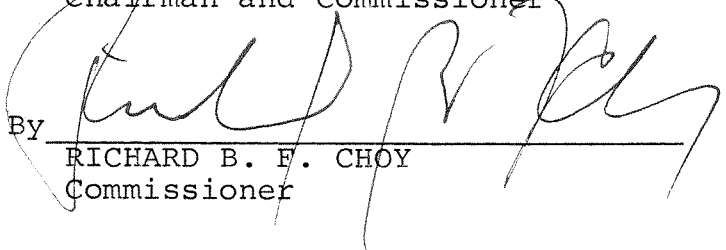
That the Petitioner shall offer for sale, or cooperate with either or both the Hawaii Housing Authority or the County of Maui, to offer for sale on a preferential basis at least ten percent (10%) of the total single-family houselots and/or house-and-lot packages to be developed within the subject property to residents of the State of Hawaii who shall have low and moderate family income as determined by the Hawaii Housing Authority or the County of Maui from time to time. The preferential single-family houselots and/or house and lot packages shall be offered for sale at prices not exceeding prices that enable such purchasers to qualify for state assisted financing (e.g., Act 105 or Hula Mae) or federally assisted financing (e.g. FHA 245) intended to encourage home ownership by low and moderate income households. 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.

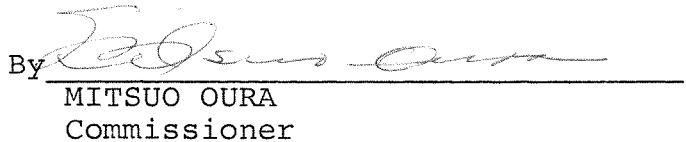
DONE at Honolulu, Hawaii, this 31st day of July, 1981, per Motion on April 9, 1981.

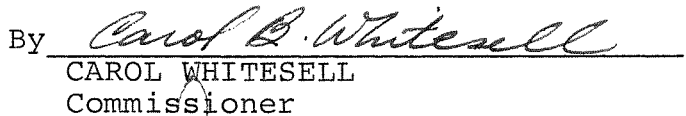
LAND USE COMMISSION
STATE OF HAWAII

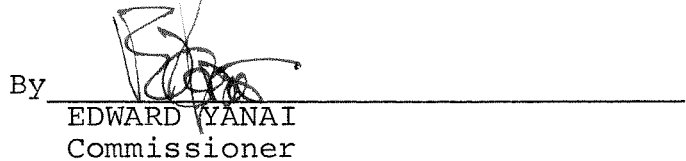
By 
C. W. DUKE
Chairman and Commissioner

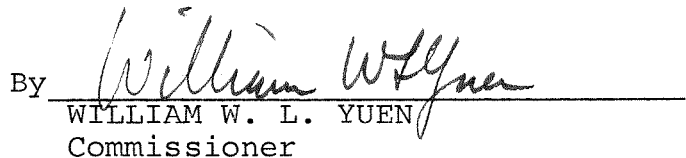
By 
RICHARD B. F. CHOY
Commissioner

By 
SHINSEI MIYASATO
Commissioner

By 
MITSUO OURA
Commissioner

By 
CAROL WHITESELL
Commissioner

By 
EDWARD YANAI
Commissioner

By 
WILLIAM W. L. YUEN
Commissioner

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition)
)
 of)
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 PARADISE DEVELOPERS, INC.) DOCKET NO. A80-491
 for a petition to amend the)
 district boundary of property)
 situated at Waiakoa, Wailuku,)
 County of Maui, State of)
 Hawaii)
)
 _____)

CERTIFICATE OF SERVICE

I hereby certify that a copy of the Land Use Commission's 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:

HIDETO KONO, Director
Department of Planning & Economic Development
State of Hawaii
250 South King Street
Honolulu, Hawaii 96813

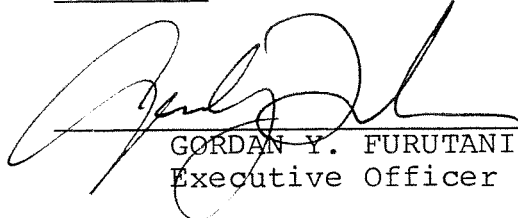
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DATED: Honolulu, Hawaii, this 3rd day of August, 1981.



GORDAN Y. FURUTANI
Executive Officer