

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

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| In the Matter of the Petition of) | DOCKET NO. A76-424 |
|) | |
| FOSTER PETROLEUM CORPORATION) | |
|) | |
| For Reclassification of Certain) | |
| Lands situated at Maili,) | |
| Lualualei, Waianae, Island of) | |
| Oahu) | |
| _____) | |

DECISION AND ORDER

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

| | | |
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| In the Matter of the |) | Docket No. A76-424 |
| Petition of Foster |) | |
| Petroleum Corporation to |) | |
| amend the Urban district |) | |
| boundary of Oahu for |) | |
| property situated at Maili, |) | |
| Lualualei, Waianae |) | |
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FINDINGS OF FACT AND
CONCLUSIONS OF LAW

This petition having come on for hearing before the Land Use Commission, State of Hawaii, on Tuesday, May 17, 1977, and the Commission having considered the written and oral evidence presented, the credibility of the witnesses, the weight of the evidence presented by the parties, and the record herein, sets forth its findings of fact and conclusions of law as follows:

FINDINGS OF FACT

1. Title to Property: Petitioner Foster Petroleum Corporation, a Delaware corporation, is the owner, in fee simple, of the subject property.
2. Description and Location of Subject Property:
 - a. The subject parcel (Tax Map Key 8-7-04: 45) which encompasses 7 acres of land at Maili, Lualualei, Waianae, Oahu, Hawaii, is located approximately one-half mile mauka of Farrington Highway. The subject property is presently vacant and covered primarily by kiawe trees. It is bound on the east or makai side by Maili Elementary School, located in the adjoining residentially zoned area. On the north and south sides, it is bounded by chicken farms, and on the west or mauka side, by a hog farm.

b. The parcel is accessible to Waianae and Nanakuli from Farrington Highway via Maliona Street, Kulaapuni Street and St. John's Road. The Farrington Highway connection with the H-1 Freeway makes it accessible to the larger urban areas of Ewa, Waipahu, Pearl City and Honolulu.

c. The approximate location of the project area in relation to employment centers include: Waianae, 2 miles; Nanakuli, 4 miles; Kaiser Maili Quarry, one-half mile; Kaiser Maili Cement Plant, 5 miles; Lualualei Naval Ammunition Depot, 6 miles; Campbell Industrial Park, 12 miles; and Waipahu, 15 miles.

d. According to the Land Study Bureau (University of Hawaii): (1) The agricultural qualities of the parcel are classified "D", having poor suitability for most crops and fair to marginal suitability for grazing use; (2) The site is also classified as having well-drained 0-10% surface slopes with non-rocky expanding soil, 0 to 5 feet deep to the ground water table.

e. The soil is classified Mokuleia clay (Mtb) by the Soil Conservation Service, U.S. Department of Agriculture, with very slow runoff and slight erosion hazard capabilities and good stability features.

3. Present Zoning and Land Classification:

a. The existing State Land Use Classification for the subject property is Agricultural.

b. The existing City and County General Plan-DLUM designation is Agricultural.

c. The existing City and County of Honolulu Zoning designation is AG-1 Restricted Agricultural.

4. Petitioner desires a change in Land Use Classification from Agricultural to Urban in order to construct a residential project in the price range of \$54,700 to \$57,000 at today's prices. Petitioner's proposed project consists of zero-lot line, single-family duplex dwelling units with single-family detached dwellings on a zero-lot concept, in line with Ordinance No. 4593.

5. More than 80% of Waianae's families would not meet the \$22,000 income requirement to purchase a home in the \$54,700 to \$57,000 range.

6. Public facilities are available to support the proposed project:

a. Sewer, telephone and electric facilities are available from Maliona Street and St. John's Road.

b. Maili Playground and Maili Elementary School are located just makai of the subject property.

c. Waianae Fire Station and Waianae Police Station are located 1 to 2 miles from the project site.

d. The project site is generally level, sloping at less than 1% towards the ocean. Filling of the proposed lot by approximately 2 feet will provide a positive drainage flow out of the site. Urbanization of the raw undeveloped land will result in increased quantity of runoff. The increased runoff of approximately 12 cubic feet per second from the subject 7 acres should not have any significant effect upon the channel flow.

e. The project site is not located within the Shoreline Management Area for Oahu. The project site is also not situated in a flood plain as identified on the City and County and Federal Insurance Administration flood hazard maps. The site, being at the exterior of a flood plain, is further protected by the Maili Stream channel improvements, but these improvements have not solved the inundation problems. The areas immediately surrounding the subject parcel on the Waianae and makai sides are subject to flooding during periods of heavy rain.

f. The Board of Water Supply has stated that their water sources in the Leeward coast are insufficient to meet present demands. (DPED Exhibit 6) It further states that a water development project may be undertaken individually by the owner or jointly with the Board of Water Supply on a pro rata share basis.

The 8-inch sewer main mauka of Maili Elementary School has the available capacity to accommodate sewage generated by the proposed development. Effluent will be transported to the Waianae Sewage Treatment Plant, which is a primary facility with a design flow of 1.72 million gallons per day (mgd), and has a 3000-foot ocean outfall that terminates at a depth of approximately 30 feet. The present flow, which averages about 0.5 mgd, can handle the anticipated flow of 0.15 mgd from the project site.

Solid waste will be hauled to the Waianae landfill by the City and County refuse collection and disposal crew.

Connection to the existing overhead electric and telephone facilities on Maliona Street will not

overload the system.

Maili Elementary School and Waianae High School are operating under crowded conditions. The Department of Education tentatively plans to open an additional elementary school in Maili in 1980 and has scheduled 10 additional classrooms for Waianae High School for 1978 to relieve these conditions.

Based on Department of Education criteria, the proposed development may cause the following increase in student enrollment:

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| Grades Kindergarten to 6th | - approximately 39 |
| Grades 7th to 8th | - approximately 9 |
| Grades 9th to 12th | - approximately 13 |

In regards to recreation facilities, the area has five beach parks, Waianae-Pililaau Field, which is a district park, and Waianae Regional Park. Also, the project site is located some 1000 feet mauka of the Maili Playground. Other recreational activities available are boating and sailing at Pokai Bay, hiking in the Waianae Range, fishing along the entire Waianae Coast, and horse-back riding and golfing at Makaha.

Overburdening demands upon existing fire and police services are not anticipated, and the traffic generated by the development will not create any inconvenience to the traffic flow on the existing roadways. Also, existing bus service provided by Route 51 (Honolulu-Makaha) and Route 74 (Nanakuli-Makaha) should not experience any overloading.

Demands of the proposed residential development are not anticipated to overburden the existing health and shopping facilities. The Waianae Coast Comprehensive

Health Center located at Mailiilii Point provides medical service to the residents and employs three full-time physicians. It includes x-rays and laboratory services, minor surgery and general clinical functions. Twenty-four hour, on-call medical service is available to the community, and ambulatory service is provided by the adjacent City and County Fire Station which works in conjunction with the Health Center. The Maili Community Service Center located on Kulaaupuni Street provides for the human resource need of the residents of Maili. Included in the scope of this State-operated function are welfare and employment counseling, informational referrals, recreational programs, and public health and baby care services. Retail and grocery needs are provided by the Holiday Mart Store in Nanakuli, small stores and shops, and several restaurants and drive-ins in the area. The Waianae Mall Shopping Center which is located on Farrington Highway approximately 2 miles Makaha of the proposed development has floor space for 30 retail stores, shops and a major supermarket. In addition, plans are underway to develop an 8-acre shopping center in Maili on Farrington Highway in the vicinity of the Maili Channel.

7. The subject site is contiguous to the State Land Use Urban District only on the makai side and is bounded on three sides by the agricultural district. The Detailed Land Use Map identifies the parcel for agricultural use. The new General Plan policies recognize the basic agricultural nature of the Waianae Coast by assigning to it the lowest priority for urban development. A specific applicable policy is to "maintain agricultural land along

the Windward and Waianae Coast for truck farming, flower growing, livestock production and other diversified agriculture."

8. a. None of the existing vegetation and fauna on the subject property is listed on the rare and endangered species list. Development of the site will not involve displacement of people, businesses or agricultural activities from the subject parcel.

b. The intrusion of a residential development into this area of intensive agricultural use will have the following probable effects:

(1) Rising land values affecting the long-range future of agriculture.

(2) An increase of complaints about odors, noise, dust and flies associated with agricultural uses, leading to increased cost to alleviate these problems. However, petitioner shall apply restrictive covenants in favor of the surrounding farms to restrain complaints for such odor or fly nuisances generated by the agricultural activity.

(3) There is an estimated \$2.4 million of agricultural production in the immediate area, presently employing 50 people, which may, as a result of the proposed development, be adversely affected.

9. The General Plan indicates that the entire Waianae Coast would increase by about 11,504 persons by the year 2000. It is expected that the population of Oahu, including Maili, would increase by an additional 323,093 persons by the year 2000.

The Department of General Planning testified that the 1,450 acres of vacant land already designated for

residential or apartment use could accommodate approximately 21,997 housing units which could accommodate about 83,558 persons on the Waianae Coast based on 1975 data. The Maili area alone (Census Tract 96.02) could support an estimated 1,475 units housing approximately 5,605 persons on vacant land already designated for Residential or Apartment Use. There are 1,558 acres of vacant usable land on the Waianae Coast zoned for either residential or apartment development with a potential capacity for 10,252 housing units which could accommodate a population of 38,957. The Maili area residential and apartment zoning for lands which are vacant has an estimated capacity for 1,393 units which could house about 5,293 persons. The anticipated increase in population for the Waianae Coast can be accommodated on lands which are presently vacant and designated for housing purposes by the Detailed Land Use Map. However, there is no evidence that the vacant usable land already designated for residential or apartment use shall be used for such purposes within the near future.

10. To the north or Makaha side of and to the south or Diamond Head side of the subject property are two poultry farms, while mauka of the subject property is a piggery. All three farms presently generate an odor and fly problem for the existing residential community makai of Maili Elementary School. Testimony by the Acting Chief of the Sanitation Branch, Department of Health, has established that the three farms have, on occasion, and particularly during adverse weather conditions, been unable to conform to the sanitation regulations of the Department of Health.

11. Testimony by Randall Kamiya, one of the farmers in opposition to the petition, established that the subject property was previously owned by Thomas T. Kamiya, Don T. Kamiya and Rachel T. Kamiya, relatives of Randall Kamiya, as recently as October of 1975. The property had been sold by agreement of sale to Theodore S. Matsuo and Dorothy I. Matsuo and Wilcey Y. Shibuya and Harue Shibuya, who in turn sold the property by sub-agreement of sale to Foster Petroleum Corporation.

12. These Findings of Fact, insofar as they may be conclusions of law, are incorporated by reference as a part of the Conclusions of Law hereinafter set forth.

CONCLUSIONS OF LAW

1. Reclassification of the subject property approximately seven (7) acres, situated at Maili, Lualualei, Waianae, Oahu, Hawaii, from Agriculture to Urban, and amendment of its District boundaries is not reasonably necessary, and does not meet with the requirements of the State Land Use Commission's District Regulations, Part II, Section 2-2(1), and is inconsistent with the Interim Statewide Land Use Guidance Policy established pursuant to Section 205-16.1, Hawaii Revised Statutes, to-wit:

A. It has not been shown by the petitioner that the proposed boundary amendment is reasonably necessary to accommodate growth and development in the Maili and surrounding areas.

B. The record shows that there are adequate reserves of usable urban lands in the Maili and surrounding areas sufficient to accommodate the potential needs for

urban development in that area.

C. The reclassification of the subject parcel will have a significant adverse effect on agricultural resources in the surrounding area in terms of rising land values, increased costs, and incompatibility with dairy, poultry, and piggery efforts, employment, and production in the area.

D. Although most public services have been shown to be available, the record shows that an adequate water supply in the petitioned area is unavailable, and the petitioner has failed to show that an adequate water supply will be made available.

E. The projected price range of the homes to be provided by the petitioner is beyond the price range affordable by the majority of the people living in the Maili and surrounding areas and, therefore, does not provide or assist in providing a housing supply for this economic group in the Waianae area.

F. The proposed use of the subject parcel is incompatible with the objective of the Revised General Plan to maintain the agricultural nature of the Waianae Coast by assigning to it the lowest priority for urban development.

DECISION AND ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, the record and the clear preponderance of the evidence does not support the petition for reclassification to urban district classification and, therefore, it is hereby ordered that: the parcel of land situated at Maili, Lualualei, Waianae, Oahu, State

of Hawaii, and more particularly identified by Tax Map
Key 8-7-04: 45 and containing an area of 7 acres be denied
reclassification from "Agricultural" to "Urban" District
classification.

DONE at Honolulu, Hawaii, this 10th day of
November, 1977, per Motion on November 3, 1977.

LAND USE COMMISSION
STATE OF HAWAII

By Stanley Sakahashi
STANLEY SAKAHASHI, Chairman
and Commissioner

By Charles Duke
CHARLES DUKE, Vice Chairman
and Commissioner

By James R. Carras
JAMES CARRAS, Commissioner

By Shinsei Miyasato
SHINSEI MIYASATO, Commissioner

By Mitsuo Oura
MITSUO OURA, Commissioner

By Carol B. Whitesell
CAROL WHITESELL, Commissioner

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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:

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Dated: Honolulu, Hawaii, this 10th day of November, 1977.



GORDAN Y. FURUTANI
Executive Officer
Land Use Commission