

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition)	DOCKET NO. A78-444
of)	
)	LEAR SIEGLER, INC.
LEAR SIEGLER, INC., and LEAR)	
SIEGLER PROPERTIES, INC.,)	
both Delaware corporations,)	
dba "Amfac-Trousdale", a)	
Hawaii registered Joint)	
Venture)	
)	
To Amend the District)	
Boundary of Certain Land)	
Situate at Kalauao, Ewa,)	
Oahu, Hawaii)	
)	
)	

DECISION AND ORDER

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of)	DOCKET NO. A78-444
)	
LEAR SIEGLER, INC., and LEAR SIEGLER PROPERTIES, INC.,)	FINDINGS OF FACT,
both Delaware corporations,)	CONCLUSIONS OF LAW AND
dba "Amfac-Trousdale", a)	DECISION AND ORDER
Hawaii registered Joint Venture)	
)	
To Amend the District Boundary of Certain Land Situate at Kalauao, Ewa, Oahu, Hawaii)	
)	
)	
)	

FINDINGS OF FACT, CONCLUSIONS OF LAW,
AND DECISION AND ORDER

This matter, being a proceeding pursuant to Section 205-4 of the Hawaii Revised Statutes (H.R.S.) and the Rules of Practice and Procedure and District Regulations of the Land Use Commission, State of Hawaii (hereinafter "Commission") to consider a Petition (as amended) to amend District Boundaries and reclassify from Conservation to Urban, approximately 8.4 acres of land situated at Kalauao, District of Ewa, Island of Oahu, State of Hawaii (hereinafter "subject property"), was heard by the Land Use Commission at Honolulu, Oahu, on February 6 and 7, 1979. Lear Siegler, Inc. and Lear Siegler Properties, Inc. (Petitioners herein), the Department of General Planning of the City and County of Honolulu (hereinafter "DGP"), and the Department of Planning and Economic Development of the State of Hawaii (hereinafter "DPED"), were admitted as mandatory parties in this Docket. Under three Petitions for Intervention filed therein, the following were admitted as intervening parties: Under the first, Life

of the Land; Lloyd Gomes; Charles H. Nakagawa; Sierra Club, Hawaii Chapter; Anna C. Kaohelauii; Pig Hunters' Association of Oahu; and Steve Rohrmayr. Under the second, The Pearlridge Estates Community Association, Inc. And under the third, Dr. R. Reginald Patterson. The Commission having duly considered the record and heard the testimony in this Docket, the Proposed Findings of Fact and Conclusions of Law submitted by the Petitioners, hereby makes the following findings of fact and conclusions of law.

FINDINGS OF FACT

PROCEDURAL MATTERS

1. The Petition in this matter was filed on September 25, 1978, by LEAR SIEGLER, INC., and LEAR SIEGLER PROPERTIES, INC., to amend the Conservation District Boundary at Kalauao, District of Ewa, Island of Oahu, to reclassify approximately 8.4 acres of land into the Urban District.

2. A notice of hearing on the petition for boundary change was duly served upon all mandatory parties herein and upon all intervenors hereinafter mentioned, and was duly published on December 30, 1978, in the Honolulu Star Bulletin, a newspaper of general circulation in the State of Hawaii, establishing February 6, 1979, as the date of hearing.

3. A prehearing conference on said Petition was held at Honolulu, Oahu, on January 29, 1979, at which conference exhibits and lists of witnesses were exchanged between said parties and intervenors, who were given an opportunity to make their objections thereto.

4. Prior to hearing in this matter, an Amendment To Petition For Boundary Amendment From Conservation To Urban, Verification, and Exhibits "A" and "B" were filed herein by Petitioners on December 27, 1978, pursuant to Rule 2-2(7) of the Commission's Rules of Practice and Procedure, reducing the area of the subject property from 10.2 acres to 8.4 acres, more or less, on the basis that of the 10.2 acres, approximately 1.8 acres is presently within the urban district, as determined by the Commission's interpretation of land use district boundary made on October 3, 1968, affecting portions of Tax Map Key (1st Division) 9-8-11: 10, including said area of 1.8 acres.

5. Three petitions to intervene as parties were filed in this matter on January 12, 1979: The first by Life of the Land, Lloyd Gomes, Charles H. Nakagawa, Sierra Club (Hawaii Chapter), Anna C. Kaohelauii, Pig Hunters' Association of Oahu, and Steve Rohrmayr (hereinafter collectively "LOL, et al."); the second by The Pearlridge Estates Community Association, Inc. (hereinafter "PECA"); and the third by Dr. R. Reginald Patterson (hereinafter "Patterson").

6. The Petition for Intervention by LOL, et al., was filed pursuant to Rule 6-7(1)(c) and (d) of the Commission's Rules of Practice and Procedure, and is premised, among other things, on the issue of public access which it is claimed should be provided by a right-of-way over the subject property to mountain areas beyond, in order to engage in activities as described in City Ordinance No. 4311, and to pursue other recreational and educational activities. Intervenor PECA's Petition for Intervention was filed pursuant to said Rule 6-7(1)(c) and (d), and Intervenor Patterson's Petition for Intervention was filed pursuant to Rule 6-7

(1)(d). PECA's and Patterson's Petition also claim an interest as to such public access, and express concern over traffic congestion which it is claimed the development would create.

7. A legal memorandum relative to all three Petitions for Intervention was filed by Petitioners on January 22, 1979, denying that any of the Intervenors have a vested property interest as to access over the subject property; setting forth, in part, provisions of said Ordinance No. 4311, under which developers such as Petitioners herein are required to dedicate public access for pedestrian travel to shoreline and mountain areas, as a condition precedent to issuance of a building permit for multiple family development, if adequate public access is not already provided; and arguing that the admission of one of the Intervenors will fairly represent the common interest of all, whereas the admission of all would unnecessarily render the proceedings inefficient, unmanageable, and unduly cumbersome within the meaning of said Rule 6-7.

8. Intervenors LOL, et al., filed a reply memorandum distinguishing issues to be pursued by them as opposed to issues to be pursued by the other intervenors, and claiming that one of them would be prepared to argue that vested rights to an easement across the subject property has been acquired by prescriptive use of long duration. No reply memorandum was filed by either Intervenor PECA or Intervenor Patterson.

9. Written applications to appear as public witnesses under Rule 6-9(2) of the Commission's Rules of Practice and Procedure were properly and timely made by Aiea Neighborhood Board No. 20, represented by its Secretary-Treasurer, Quinna Renner; by Nelson Yrizzary; by Jack Reeves of the Hawaiian Trail and Mountain Club; and by Edward Colozzi. Because of Mr. Colozzi's illness, John L.

Sussot testified in his behalf.

10. Written application and a verbal request to appear as public witnesses were made by Elizabeth Ann Stone and State Senator Norman Mizuguchi, respectively, after the deadline specified by said Rule 6-9(2). The request of Senator Mizuguchi was also not in the form required by said Rule. Appearing in his behalf to present his written testimony was a member of his staff, Sherry Broder.

11. On the first day of the hearing in this matter, i.e., on February 6, 1979, Intervenors PECA and Patterson jointly filed a Memorandum In Opposition To Boundary Reclassification.

12. At the request of Intervenors PECA and Patterson, Subpoena Duces Tecum were issued to Mr. Katsumi Kaneko of Herbert K. Horita Realty and Mr. E. M. Michael of Bishop Estate. However, Mr. Michael, although present, was not called by Intervenors to testify nor to produce any documents.

13. Pursuant to permission granted by the Chairman of the Commission, a Reply Memorandum And Memorandum In Support Of Petition For Boundary Amendment was filed by Petitioners on February 16, 1979.

DESCRIPTION OF THE SUBJECT PROPERTY

14. The subject property comprises 8.4 acres, more or less, identified as a portion of Tax Map Key 9-8-11: 10 situated at Kalauao, District of Ewa, Oahu, Hawaii, and is owned in fee simple by the Bishop Estate. Petitioners are the holders of development rights to the subject property under a development lease from Bishop Estate which has consented to the filing of the Petition.

15. The property is within the Conservation District, as shown on Land Use District Boundary Map No. 0-9, and is

contiguous to the Urban District along its westerly (makai) boundary, as interpreted by the Commission on October 3, 1968. The property is unimproved, vacant land, except for a 12-foot wide paved road (Onikiniki Place) providing access to the property and to a Board of Water Supply ("BWS") tank-reservoir located on a 0.4-acre site adjacent to said property at its mauka extremity. The property lies on the crest of a long, narrow ridge overlooking the Pearlridge Estates Subdivision to the west (makai), a gulch to the north (Ewa side), and a gulch to the south (Honolulu side). The land to the east (mauka) of the subject property is in the Ewa Forest Reserve.

16. The subject property varies from 100 to 400 feet in width, according to topography, and ranges in elevation from about 690 feet at its makai perimeter to 830 feet at its mauka end. The ridge slopes on both sides at a steep angle (1:1 ratio, or one foot of vertical rise to one foot of horizontal plane) to the gulches on each side of the property. The Waimalu Stream flows through the gulch on the Ewa side of the property, and the Kalauao Stream flows through the gulch on the Honolulu side. Slopes of the subject property vary from less than 10% to 30%, with a small area representing about 2% having slopes over 30%. Of this small area, only about 10% will be utilized as building sites.

PROPOSAL FOR DEVELOPMENT

17. Petitioners' plan of development will encompass the subject property of 8.4 acres and the 1.8 acres of urban district land adjoining its makai boundary. The combined area (herein the "project site") is proposed for a planned development of 91 residential condominium units in 16 woodframe buildings of two and two and one-half stories, together with a single access road, parking areas, and recreational facilities. The townhouse design

will call for pole-type foundation to conform as much as possible to natural grade, thus minimizing grading and site excavation.

Where possible, existing trees along the access road and in common areas will be retained, and selected plantings will be added to enhance the beauty and physical environment of the project.

18. The tentative plan of development calls for 30 visitor parking stalls throughout the project.

19. The townhouses will incorporate two and three bedroom units, in a mix to be determined by market conditions. Each of the units will have two or two and one-half baths, a lanai, and at least two parking spaces. Living area, excluding lanai, will range from 1,400+ to 1,500+ square feet for two bedroom units, and 1,575+ to 1,800+ square feet for three bedroom units. Lanai space for two bedroom units will range from 300+ to 400+ square feet, and for three bedroom units from 350+ to 550+ square feet. Purchasers will be offered a furniture and appliance package to choose from.

20. The single road will be constructed to a width of 20 feet to provide access to all units, and will be screened by generous landscaping. The road is intended to be retained in private ownership as an appurtenant common element of the project to be kept and maintained by the association of condominium owners.

21. The development will incorporate three recreational areas. The lower-most, near the entrance to the project, will be a small recreational area designed for passive activity. Midway through the development will be a children's playground. At the uppermost end of the development, on the Honolulu side of the tank-reservoir site, will be the largest recreational area of .75 acre+, which will include a tennis court, swimming pool and cabana, whirlpool, sauna, pavilion, and picnic area. The total area to be set

apart for recreational purposes will comprise some 1.5 acres.

22. The project is expected to be completed in one phase within a period of two and one-half years.

23. Subject to inflationary pressures, it was originally estimated by Petitioners that the townhouse units would be marketed in the \$85,000 to \$115,000 range, or an average of \$100,000 per unit, and that project costs to be assumed by Petitioners, measured in current dollars, for off-site sewer, on-site improvements (including site preparation, utilities, site improvements, etc.), land development rights, engineering and architecture, townhouse buildings, construction financing, real estate sales commissions, permanent financing fees, general excise tax, real property taxes, and overhead would total \$8,099,000, prorated at \$89,000 per unit. Petitioners have cited, as an indicator of rising construction cost, the index of highrise construction costs prepared by First Hawaiian Bank, which shows that for the period November, 1977 to November, 1978, the index increased from 228.6 to 250.6, an increase of 9.6%. However, based on Petitioners' more recent experience in the development of another townhouse project of 177 units called Waiau Gardens Court in lower Waiau, actual bids for construction have indicated that Petitioners' estimate would probably add another \$20,000 to the cost of each townhouse unit, so that the prorated cost per unit would be \$110,000 or \$115,000. It is expected that the selling price of units would be adjusted accordingly.

COUNTY PLANS

24. The Oahu Interim Zoning Control Map, adopted on March 15, 1977, by City and County of Honolulu Ordinance No. 77-25, shows a land use designation for an area of 10.2 acres, including the subject property, as "Residential," and for the BWS tank-

reservoir site as "Public Facility." The City's General Plan Detailed Land Use Map, adopted on March 15, 1977, by Ordinance No. 77-26 also designates said area and the tank-reservoir site as "Residential" and "Public Facility," respectively.

NEED FOR GROWTH AND DEVELOPMENT

25. Petitioners' market study by Monitor Hawaii, Inc., indicates that the market for luxury townhouses in Leeward, Oahu, where the subject property is located, has been entirely neglected. While availabilities of low price range homes and apartments have increased, luxury and middle range availabilities have declined, and virtually no new luxury townhouse apartments are available for sale. During 1978, active new condominium availabilities for Oahu declined from 2,239 to 249. In Leeward Oahu, active new condominium inventories declined from 242 to 15, condominiums listed for resale in the Honolulu Board of Realtors Multiple Listing Service (MLS) declined from 300 to 219, and multiple bedroom availabilities declined from 264 to 146. Townhouse availabilities in the Pearlridge area are relatively low. Of 1,838 townhouse apartments built in this area, 42 or 2.3% are listed for sale through MLS, at prices ranging from a low of \$53,000 to a high of \$93,000. Petitioners conclude that upward pressure on prices can only be relieved by new construction. Reduced rental availabilities, as indicated by a decline from 393 apartments on January 6, 1979 to 212 on December 31, 1978, demonstrate a growing imbalance between demand and supply.

26. The project, as proposed, will offer a balance in the housing inventory, as well as an alternative to single family homes which are priced at the higher end of the market.

27. The demand for townhouses of the quality proposed is represented by two groups of profile buyers. The first group, the primary profile buyer, consists of executives or professionals, whose business or practice is located in the ewa area; and whose grown children have left the family house, thus shifting the family's housing needs to a smaller, though luxurious, dwelling unit. The availability of funds for the downpayment on a luxury townhouse is represented by a substantial equity in the present home. The second profile buyer is represented by the retired military officer, whose social life and leisure time centers in the area where friends, as well as amenities provided by the military (e.g. golf courses, officers' club, etc.), are located or are in close proximity; whose retirement income may be supplemented by private employment and the wife's income; whose combined family income is over \$30,000 per year; whose family currently resides in the area in a single family home in which there is a good equity build-up;) and whose children are either grown or in their teens.

28. Petitioners' market consultant has testified that while its market study in April, 1978 concluded that there is a demand for luxury townhouse condominiums in the Leeward area where that type of housing alternative is not available, the market conditions in Honolulu since then have changed dramatically. Whereas a year ago, there were inventories of unsold new housing throughout the island, that inventory has virtually disappeared. The impact of increased costs has discouraged new development, and evidence of advertised rental availability suggests that housing throughout the island, especially in the Leeward market, will soon be a scarce commodity. Rental availability has declined, and that is an indicator of the general housing market and its condition.

The consultant concluded that the neglected demand from a year ago for luxury housing in the Leeward area has become even more acute today.

RESOURCES OF THE AREA

Natural and Environmental Resources

29. Tradewinds descend from the northeasterly (mauka to makai) direction. Rainfall in the area of the subject property is approximately 45 inches annually, and median temperature varies from 75 degrees Fahrenheit to 82 degrees Fahrenheit.

30. From Petitioners' environmental assessment, it is determined that no significant effect upon the environment would result from the proposed development:

(a) There are no known rare or indigenous species of flora and fauna located on the project site. Existing fauna will probably migrate to mauka adjacent areas where similar vegetation can be found. Man's activities will create temporary disturbances to the avifauna; however, with the retention and plantings of various trees, the avifauna may, as in other areas on Oahu, thrive within the residential area.

(b) No significant impact on the potable water source or its facilities is foreseen, due to the insignificant amount of water needs for the development (i.e. less than 100,000 GPD).

(c) There has been no known instances of flooding on the project site or the residential area along Kaonohi Street. Any increase in surface water runoff from the development is expected to be nominal, and will continue to be diverted down the slopes on both the Ewa and Honolulu sides of the ridge. Adverse impact (e.g. ponding or flooding) to adjacent residential areas is

not anticipated.

(d) Neither the project site nor the residential area along Kaonohi Street is known to be subject to flood hazard though downstream flooding along Kalauao Stream presently exists at varying degrees. Although downstream flooding could be aggravated by the development, the concern is not of sufficient severity and could be addressed by City agencies at the time of rezoning and planned development approval.

(e) Presently, surface water runoff occurs in sheet flows and drain in approximately equal proportions into the two stream gulches bordering each side of the subject property, and some erosion, gullyng, and undercutting of the existing roadway has occurred.

(f) As to water quality considerations vis-a-vis Kalauao and Waimalu Streams, the development will cause an increase in the concentration of phosphorous and suspended soils (from organic materials and fertilizers) and a decrease of nitrogen (released primarily from the soils). However, significant adverse impacts are not anticipated because (i) of the limited amount of hard surfaces to be created and the resulting nominal amount of increased surface runoff; and (ii) both Kalauao and Waimalu Streams receive surface water runoff of a similar chemical content from the existing single family homes within their drainage basins (i.e. the lower portions), and the development should not significantly alter their present stream water quality.

(g) There are no existing recreational resources or historic features upon the subject property. The development will include three on-site recreational areas (totalling 1.5 acres or more) and facilities for the exclusive use of the project's

residents and their guests. No significant impact on public neighborhood parks and recreational uses is anticipated if Petitioners provide access through the subject property to the forest reserve.

(h) The future residents of the project are not expected to create excessive noise. Normal residential sounds (e.g. children playing and occasional passing cars) will be generated as experienced elsewhere in suburban residential communities.

(i) During the construction period, there will be more activity from equipment, trucks, etc., and will slightly increase traffic along Kaonohi Street for a short period; however, peak hour traffic should not be affected. Specific activities related to earth moving will last approximately two months; and all activities must adhere to applicable statutes, rules, and regulations on noise, dust, solid waste disposal, and water pollution.

(j) During the construction phase of the project, the pollutant of primary concern will be suspended particulate matter generated by the wind blowing over cleared building sites or by construction vehicles travelling within the worksite. These emissions are termed "fugitive dust." However, frequent watering down of the dust in construction areas can essentially eliminate this problem. Moreover, days with dry, dusty work conditions at the project site will probably be the exception rather than the rule, inasmuch as the ridgeline of the Koolaus has a far greater abundance of rainfall than the Honolulu/Pearl Harbor rainfall statistics would indicate. Problems with fugitive dust should thus be minimal, and easily controlled (e.g. by watering). The City's

grading ordinance and Health Department regulations will also provide for the control and management of fugitive dust.

(k) The proposed project will also indirectly affect the air quality by creating additional vehicles along adjacent streets and thoroughfares. Apart from hydrocarbons (HC) and nitrogen oxides (NOx), carbon monoxide (CO) is the most abundant of pollutants generated by motor vehicles, and an analysis of its impact provides a very good indicator of the environmental acceptability of any proposed highway project. Following EPA techniques and guidelines for evaluating the impact of projects such as proposed by Petitioners, a microscale carbon monoxide analysis, based on "worst case" conditions (which normally would not occur), was applied to peak hour traffic conditions, using the intersection of Kaonohi Street and Moanalua Road as the receptor site because of its junction as a major intersection and location for the traffic counts taken. The results of the analysis indicate that under unlikely (but possible) worst case conditions, a carbon monoxide concentration as high as 32 mg/m³ could occur at this intersection during evening rush hour. This value is substantially lower than the allowable Federal limit of 40 mg/m³, but considerably exceeds the State of Hawaii standard of 10 mg/m³ for any one hour period. By 1995 even worst case computed CO values are expected to be within the stringent State of Hawaii one-hour limit with or without the projected traffic from Petitioners' proposed project. Although there could be some problems meeting the State of Hawaii eight-hour standard by 1995, this problem would exist whether traffic from the proposed project is considered or not. Furthermore, the worst case conditions are so unlikely for a one-hour time period that the likelihood of their persistence through even 60% of an eight-hour time

period seems infinitesimally small.

(1) The townhouse structures will be constructed to a height of two and two and one-half stories or approximately 30 feet from foundation to rooftop. The visual impact of the structures from Pearl City, Aiea, Pearlridge, and the lower lying residential areas makai of the project site will not be significantly altered. It is expected with a degree of certainty that at the City zoning and PDH review stage, there would be extreme scrutiny on the amount of landscaping, the height prescribed, and the screening of the project.

Agricultural Resources

31. According to the Land Study Bureau's Detailed Land Classification Map Nos. 182 and 197, the soil at the area of the subject property has a master productivity rating of "C" (moderate in production) and "E" (very poor and least suited for agriculture). Selected crop productivity ratings for the greater portion of the area are "C" for all crops, including sugar cane, pineapple, vegetable, orchard, grazing, and forage. The USDA Soil Conservation Service classifies the area 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 percent slopes (PaC)", and "Wahiawa silty clay 3 to 8 percent slopes (WaB)." Soil permeability of Paaloa silty clay is moderately rapid, runoff is slow to medium, and the erosion hazard is light to moderate. Surface water runoff of Wahiawa silty clay is slow and the erosion hazard is slight. A laboratory test of the soils from the project site (i.e. the subject property) was conducted by Harding Lawson Associates, soils consultant. According to its Soils Investigation Report, based on eight test bores through the site to depths of 24 to 37 feet, it was determined

that the natural soil consists of stiff residual silt weathered from basalt rock, and that this material is strong and relatively incompressible. According to the report, the natural slopes of the site appear to be stable based on limited field reconnaissance and examination of aerial photograph pairs. The soils are competent to support the planned development, in which buildings can be supported on spread footings bottomed in either properly compacted fill or the stiff natural ground. Excessive soil creep is not expected, though it is present on all hillside slopes. But due to the strength of the soils, the slopes are stable and suitable for the proposed development of the property. Any excavations to be undertaken can be accomplished with conventional excavation equipment, and no blasting will be required.

32. A small number of macadamia trees exist in the makai portion of the subject property, and a grove of ironwood trees are located somewhat further mauka on the property. Also present on the property are lantana, Bermuda grass, Spanish clover, haole koa, and other grasses and shrubs. The property is also capable of sustaining both mammals (such as mongoose and house mice) and birds. The following birds may exist on the site: Cardinal, barred dove, elepaio, mockingbird, mynah, golden plover, pueo, ricebird, house sparrow, and white eye.

Recreational Resources

33. The existing road (Onikiniki Place) through the subject property has been used by hikers, pig hunters, and others for access to two mountain trails beyond the property, i.e., the Waimalu Ridge Trail and the McCandless Ditch Trail. The Waimalu Ridge Trail head is located mauka of and beyond the subject property. The McCandless Ditch Trail head is located about 300 to 400 yards

into, and on the Wahiawa side, of the subject property in the vicinity where some homes might be built; this may require that the trail head be relocated further mauka. If so relocated, safe access to the McCandless Ditch Trail can still be provided. Intervenor Pig Hunters Association of Oahu has indicated that it could create the new trail head to the McCandless Ditch Trail.

34. Members and guests of the Hawaiian Trail and Mountain Club conduct numerous hikes throughout the year to available mountain trails, principally the McCandless Ditch Trail, and cross the subject property to gain access to them. This amounts to an average of one organized Saturday or Sunday hike every nine months. The Club has no objection to Petitioners' request for boundary amendment, provided a foot-path right-of-way allowing safe access to the ditch trail is made a condition of the amendment.

35. The trails are also used by the Sierra Club in its hiking programs for high schools, a University of Hawaii Section, adults and general members of the club. Provisions for public access is urged if Petitioners' application is approved.

36. Hikers start their walks from the mauka end of Kaonohi Street, entering the subject property and then travelling along the road (Onikiniki Place) to the two trail heads. Cars used by hikers are parked on Kaonohi Street, and no difficulty is experienced in finding parking spaces.

37. Members of the Pig Hunters Association of Oahu also make active use of the mountain trails to hunt pigs in the Waimalu Valley and environs and use either trail head depending where the hunt is to be conducted. Members drive their vehicles through the subject property to gain access to the two trail heads. Because hunters use four-wheeled drive vehicles, no special kind of parking

area is needed, since once they are beyond the subject property and onto the jeep road, they would be able to pull off to the side of the road and park. For access to the Waimalu Ridge Trail head, there would be no change in the present condition.

38. With respect to access over the subject property, City Ordinance No. 4311, amending Chapter 22 of the Revised Ordinances 1969, provides for new Article 6, entitled "Public Access to Shoreline and Mountain Areas." Under Section 22-6.3 thereof, if adequate public access is not already provided, then as a condition precedent to issuance of a building permit for multiple family development, the developer must " * * * dedicate land for public access by right of way in fee or easement for pedestrian travel from a public street to * * * (b) The mountains where there are existing facilities for hiking, hunting, fruit picking, ti-leaf sliding, and other recreational purposes, and where there are existing mountain trails."

39. Petitioners are willing to provide such pedestrian access through the subject property to the mountain areas mauka and beyond, in accordance with said Ordinance No. 4311, and indicate that the most logical access would be over the existing road (Onikiniki Place) over which the Board of Water Supply and Hawaiian Electric Company have access easements. The fee owner of said property, Bishop Estate, has no objection to providing such access as required by said Ordinance.

PUBLIC SERVICES AND FACILITIES

40. Public Services and centers of trades and employment are in reasonable proximity to the subject property, as indicated by the following distances to schools, fire and police stations, medical facilities, military installations, shopping centers, public

recreational facilities, and metropolitan and other areas:

<u>To</u>	<u>Miles</u>
Pearl Ridge Elementary School	1.5
Aiea Intermediate School	3.2
Aiea High School	3.2
Leeward Community College	5.1
Aiea Fire Station	4.0
Waiau Fire Station	3.6
Pearl City Fire Station	5.5
Pearl City Police Station	5.5
Fronk Medical Clinic-Hospital	2.7
Pearl Harbor Naval Yard	5.1
Hickam Air Force Base	6.3
Schofield Army Base	12.3
Pearl Ridge Playground and Park	2.2
Aloha Stadium	2.7
Pearl Ridge Theaters	2.9
Pearl Ridge Shopping Center	2.0
Waimalu Shopping Center	2.7
Waipahu Town	7.3
Honolulu City (Civic Center)	11.5

Firefighting Services

41. The Chief Planning Officer of the City's Department of General Planning (DGP) has concluded that existing public services and facilities, with the possible exception of the Fire Department's response time to fires, have sufficient capacity to accommodate Petitioners' proposed project. The Fire Department has determined that fire insurance rates for the project would be

assessed at 100% according to the Department's fire grading standards, inasmuch as the project site would not be within the Department's desired response time of three to five minutes, because of uphill terrain and distance from the Aiea Fire Station and the proposed fire station at Kaahumanu and Komo Mai Drive. However, based on his evaluation of the proposed development, the City Planning Officer has recommended approval of the Petition.

Schools

42. Pearl Ridge Elementary, Aiea Intermediate, and Aiea High School are the public schools which may absorb the students from the project. Based on projected student enrollment for the period 1975-1980, all three schools will witness moderate growth between now and 1980. Using a figure of one student per dwelling (based on the probability that families within the project will be able to send their children to private schools), approximately 91 students will be generated by the project. This increase is not expected to create a significant stress on public school facilities. As the project progresses, the Department of Education will be contacted so that student projections and the timing of the project can be evaluated and planned for.

Sewage Treatment and Disposal Services

43. Off-site sewer improvement will involve the installation of approximately 1,300 lineal feet of an eight-inch diameter sewer relief main in the level portion of Kaonohi Street below the project, at those sections of the street which measures 56 feet and 40 feet in width; and will be placed about 15 feet off of the mauka side of the street curb. Sewer installation activity will occur during non-peak traffic hours from 8:00 a.m. to 3:30 p.m., and will probably take 30 to 45 days to complete.

44. On-site sewer improvement will consist of the extension of a sewer line from an existing eight-inch sewer main abutting the makai edge of the project which had been stubbed out of the Pearlridge Estates Subdivision for future development. Other on-site improvements include (i) clearing and grubbing of the road and building sites; (ii) minimal grading and excavation for the road and structures, and minimal cut and fill along the slopes; (iii) borings for the poles; (iv) paving for the road parking areas, and recreational facilities; (v) installation of street lights and underground utilities; (vi) construction of dwelling structures and recreational facilities; (vii) landscaping, and a drainage system.

45. Although there will be some increase in surface water runoff from the proposed development due to creation of additional hard surfaces, such as rooftops, paved parking areas, and the roadway, the increased runoff is expected to be nominal, and would have no substantial effect on any flooding of the two streams. Contrary to Petitioners' initial plans, an on-site drainage system will be installed to continue the sheet flow or spreading out of waters down the sides of the gulches, so as not to disturb existing vegetation. The system would be designed for the rainfall of the area, with drainage pipes of 12-inch diameter in accordance with minimum City and County standards.

46. No public drainage system will be required; as to sewer, an on-site sewer line will hook up at the makai end of the project site to an existing sewer main, which had been stubbed out of the Pearlridge Estates Subdivision for future development. An eight-inch sewer relief main will also be installed at a lower section of Kaonohi Street.

Roadway and Highway Services

47. Petitioners' Traffic Impact Statement describes the property as being located in the area served by three major highways, i.e. Kam Highway, Moanalua Road, and Interstate Highway Route H-1, and a series of major collector streets. The main local connector street providing direct access to the project site is Kaonohi Street, whose right-of-way width varies from 56 feet to 80 feet at the lower section. At the upper section of Kaonohi Street, in the area of single family homes, the right-of-way is 44 feet, including pavement width of 28-feet; and parking on both sides of the street is usually permitted. The most critical intersection for Kaonohi Street was determined to be at Moanalua Road.

48. The Traffic Impact Statement is based on traffic volume counts taken by the State Department of Transportation in 1977, and were used by Petitioners' traffic consultant in lieu of 1978 traffic counts, which were lower. The consultant estimates that the 91 condominium units planned for the project site will generate approximately 728 trips per 24-hour day by all modes for all purposes from all origins to all destinations, with the heaviest peak hour volume occurring within a two-hour period in the morning between 6:00 a.m. and 8:00 a.m. (Because afternoon peak hour traffic is concentrated over a longer period from 3:00 p.m. to 6:00 p.m., it usually is not as heavy as the morning peak hour, and therefore will not govern design or capacity of streets, unless it is shown to exceed morning peak hour volume).

49. The additional morning peak hour flow to be generated by the project is projected at an average of 88 cars or approximately 1.5 cars per 60 seconds, which is considerably less than

the capacity of a local street. Even with parking allowed on both sides of Kaonohi Street, the additional 88 cars per hour will not significantly affect traffic conditions.

50. The peak hour volume in one direction for Kaonohi Street is 836 cars, and for Moanalua Road, 1,173 cars. With both streets having a capacity of 1,300 vehicles per hour in one direction, the excess capacity is 464 on Kaonohi Street and 127 on Moanalua Road. Deducting the peak hour volume of 88 from the existing capacity of 464 for Kaonohi Street, the excess capacity will still be considerable at 376 vehicles. The excess capacity of 464 vehicles is equivalent to the peak hour volume generated by an additional 389 dwelling units. The lands served by Kaonohi Street have already attained their ultimate development and any increase in traffic on Kaonohi Street will be nominal.

51. The peak hour flow of 88 vehicles generated by the project is insignificant when included into the future traffic volumes of the highway network and will not add to the traffic congestion. The highway network not only will be adequate to meet both present vehicular demands and future increases but will also have substantial excess capacity.

52. In determining that Kaonohi Street will have excess capacity notwithstanding the additional 88 cars to be generated from the project during peak hour traffic, the traffic consultant took into consideration the worst possible traffic conditions, and described the excess capacity as being at a level of Service C.

53. Based on the study, the traffic consultant concluded that the proposed development would not create any significant adverse impact on traffic conditions. Even with parking on both sides of Kaonohi Street, the additional 88 cars during peak hour

traffic will probably move the level of service from C to D; however, it will not have any significant adverse effect upon traffic conditions, because the shift from one level to the other is very minor.

Water

54. Domestic water need for the project is estimated at less than 100,000 gallons per day, and will be provided by an on-site water line from the City's tank-reservoir. The City's Board of Water Supply has determined the water service limit to be at the 750-foot contour of the subject property. In reviewing the plans for a subdivision or planned unit development, the Board of Water Supply would look at the water service for the entire project, even though the project may extend beyond the present service area, and would not automatically reject plans proposed for development above the 750-foot contour if the proposal indicated some means for servicing that area at no expense to the City. The water usage area to the 750-foot contour is established by the Board of Water Supply at 100-feet below the water tank, as a simple guide for planning purposes, and is not a set limit. The real standard that the Board uses in determining adequacy of water service is water pressure at the point of use. A criterion used by the Board for water pressure is 40 pounds per square inch with respect to maximum domestic flow. In the opinion of Petitioners' engineer, Petitioners will be able to meet the water pressure standards of the Board of Water Supply for the area above the 750-foot contour. This may be accomplished by alternatives such as grading to alter the contour, the use of waterless toilets, or a private water tank system such as that in the Tantalus area. The details of the water system would be worked out with the Board of

Water Supply and the City at the final design stage. It is actually at this stage of detailed designs that the feasibility of the system can be weighed. The cost of developing the system for the project, including the area above the 750-foot contour, is to be assumed by the Petitioners.

SCATTERIZATION AND CONTIGUITY OF DEVELOPMENT

55. The subject property is adjacent to the urban district and developed urban areas, including the PearlrIDGE Estates Subdivision, and will constitute a minor portion of said district.

56. The subject property is proximate to centers of trading and employment.

CONFORMITY TO INTERIM STATEWIDE LAND USE GUIDANCE POLICIES AND DISTRICT REGULATIONS

57. The proposed boundary amendment to an urban district is reasonable; not violative of H.R.S., S 205-2; and it is consistent with the Interim Statewide Land Use Guidance Policy.

58. The amendment is reasonably necessary to accommodate growth and development, and will have no significant adverse effect upon the agricultural, natural, environmental, recreational, scenic, historic, or other resources of the area.

59. Adequate public services are available to the proposed development, and maximum use will be made of existing services and facilities.

60. By virtue of its contiguity to an existing urban district and developed urban area, the proposed boundary amendment will not contribute toward scattered urban development.

61. The proposed development will provide needed housing accessible to existing employment centers.

62. The proposed development conforms to the General

Plan and Detailed Land Use Map of the City and County of Honolulu.

63. It is practicable to reclassify the subject property to an urban district.

64. The economic feasibility of the proposed development has been substantiated by Petitioners. Petitioners are both Delaware corporations, doing business as a Hawaii registered joint venture under the name "Amfac-Trousdale", whose principal place of business and post office address is Suite 1112, Amfac Building, 700 Bishop Street, Honolulu, Hawaii. Among residential projects the Petitioners have previously planned, developed, and marketed in this area of the subject property are the "Ridgeway", a townhouse project of 467 units developed in 1971-1972; "Waiau", a project of 365 single-family dwellings and 1,005 townhouse units developed in phases from 1973 to 1977; and the Pearlridge Estates Subdivision, involving the development and sale of subdivided lots only. Petitioners have demonstrated through their Consolidated Financial Report the financial capability to undertake the residential development proposed for the subject property.

65. Adequate basic services such as sewer, water, sanitation, schools, parks, police and fire protection are or will be available to the proposed development.

66. Topography and drainage of the subject property are satisfactory for the proposed development, and the property is reasonably free from the danger of floods, tsunamis, unstable soil conditions, and other adverse environmental effects.

67. In addition to its contiguity to the existing urban district, the subject property is designated on the General Plan and Detailed Land Use Map of the City and County of Honolulu for future urban use as "Residential."

68. Urbanization of the subject property will not contribute toward scattered, spot urban development, and will not necessitate unreasonable investment in public supportive services.

69. The subject property is desirable and suitable for urban purposes, and 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 the landscape.

RULING ON PROPOSED FINDINGS

Any of the proposed findings of fact submitted by the Petitioners or the other Parties, 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 RELATING TO PROCEDURAL MATTERS

1. The notice of hearing on the Petition for boundary amendment was properly served and published in accordance with Section 205-4, H.R.S.

2. The Amendment To Petition For Boundary Amendment From Conservation To Urban was properly and timely filed.

3. The position of all Intervenorors concerning the proposed reclassification is not substantially the same as the position of any other party already admitted to the proceedings, and the admission of said Intervenorors will not render the proceedings inefficient, unmanageable, or unduly cumbersome. Intervenorors LOL, et al. and Patterson are admitted as parties pursuant to the Commission's Rules of Practice and Procedure, Rule 6-7 (1)(d), and Intervenor PECA is admitted as a party under that part of said Rule 6-7 (1)(c) relating to those whose interest in the proceedings

is clearly distinguishable from the general public.

4. The applications of Aiea Neighborhood Board No. 20, represented by Quinna Renner; Nelson Yrizarry; Jack Reeves of the Hawaiian Trail and Mountain Club; and Edward Colozzi, to appear as public witness were properly made and timely filed.

5. Although the application of Elizabeth Ann Stone to appear as a public witness was not received within the time prescribed by Rule 6-9(2) of the Commission's Rules of Practice and Procedure, the Rule is waived and her written testimony is made a part of the record.

6. Rule 6-9(2) is also waived as to timeliness and the verbal request of State Senator Norman Mizuguchi, and Sherry Broder, the representative of Senator Mizuguchi, is admitted as a public witness to present the Senator's written testimony.

7. The Land Use Commission is without jurisdiction or power to render any conclusions of law relating to issues of prescriptive easement rights, breach of contract, or agency questions involved in this Petition, and therefore declines to rule on these issues as presented in the various memoranda of law submitted by the parties.

CONCLUSIONS OF LAW

Pursuant to Chapter 205, Hawaii Revised Statutes, and the Rules of Practice and Procedure, and the State Land Use District Regulations of the Land Use Commission, the Commission concludes that the proposed boundary amendment conforms to the standards established for the Urban Land Use District by the State Land Use District Regulations and is consistent with Sections 205-2, Hawaii Revised Statutes, and with the Interim Statewide Land Use Guidance Policies established pursuant to

Sections 205-16.1, Hawaii Revised Statutes, and by State Land Use District Regulation 6-1.

ORDER

IT IS HEREBY ORDERED:

That the property which is the subject of the Petition in Lear Siegler, Inc., and Lear Siegler Properties, Inc., in Docket No. A78-444, approximately 8.4 acres, situated at Kalauao, District of Ewa, Oahu, Hawaii, identified as a portion of Tax Map Key 9-8-11: 10, shall be and is hereby reclassified from Conservation to Urban and the District Boundaries are amended accordingly, subject to the following conditions:

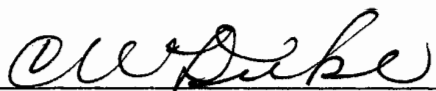
1. That pedestrian access over and across the subject property shall be provided by dedication of a right-of-way in accordance with Ordinance No. 4311 of the City and County of Honolulu.

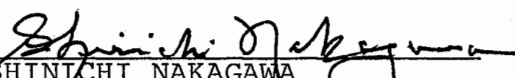
2. That Petitioners cooperate with the Pig Hunters Association of Oahu and Sierra Club, Hawaii Chapter, in providing hunters and hikers with a new trail head for safe access to the McCandless Ditch Trail.

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

DONE at Honolulu, Hawaii, this 29th day of August, 1979, by Motion passed by the Land Use Commission, State of Hawaii, on June 27, 1979.

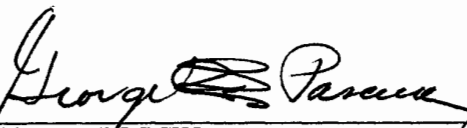
LAND USE COMMISSION

By 
C. W. DUKE
Chairman and Commissioner

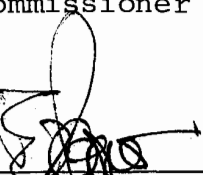
By 
SHINICHI NAKAGAWA
Vice Chairman and Commissioner

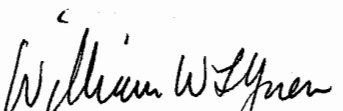
By 
SHINSEI MIYASATO
Commissioner

By 
MITSUO OURA
Commissioner

By 
GEORGE PASCUA
Commissioner

By 
CAROL WHITESELL
Commissioner

By 
EDWARD K. YANAI
Commissioner

By 
WILLIAM W. L. YUEN
Commissioner

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition)	DOCKET NO. A78-444
of)	
)	
LEAR SIEGLER, INC., and LEAR)	
SIEGLER PROPERTIES, INC.,)	
both Delaware corporations,)	
dba "Amfac-Trousdale", a)	
Hawaii registered Joint)	
Venture)	
)	
To Amend the District)	
Boundary of Certain Land)	
Situate at Kalauao, Ewa,)	
Oahu, 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

ANNETTE CHOCK, ESQ., Deputy Attorney General
Department of Attorney General
4th Floor, State Capitol
Honolulu, Hawaii 96813

GEORGE S. MORIGUCHI, Chief Planning Officer
Department of General Planning
City and County of Honolulu
650 South King Street
Honolulu, Hawaii 96813

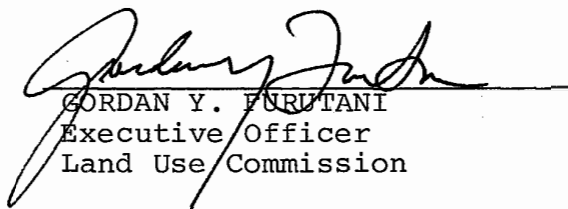
ROGER MOSELEY, ESQ.
Deputy Corporation Counsel
Department of Corporation Counsel
City and County of Honolulu
3rd Floor, City Hall
Honolulu, Hawaii 96813

SCOTT R. NAKAGAWA, ESQ.
Second Floor, Auditorium
205 South Hotel Street
Honolulu, Hawaii 96813

FRANK L. MILLER, ESQ.
Life of the Land
404 Piikoi Street, Suite 209
Honolulu, Hawaii 96814

FRANCIS M. IZUMI, ESQ.
701 C. R. Kendall Building
888 Mililani Street
Honolulu, Hawaii 96813

DATED: Honolulu, Hawaii, this 30th day of August, 1979.


GORDAN Y. FURUTANI
Executive Officer
Land Use Commission