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BEFORE THE LAND USE COMMISSION

OF THE STATE OF HAWAII

In the Matter of the Petition of OCEANIC PROPERTIES, INC. To reclassify approximately 74 acres of land currently in the Agricultural District into the Urban District at Ainakea, North Kohala, Hawaii, TMK: 5-3-06: 18 and portion of 21	DOCKET NO. A84-573 OCEANIC PROPERTIES, INC.

This is to certify that this is a true and correct copy of the Decision and Order on file in the office of the State Land Use Commission, Honolulu Hawaii.

MAY 21 1985 by
Date Executive Officer

FINDINGS OF FACT,
CONCLUSIONS OF LAW AND
DECISION AND ORDER

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FINDINGS OF FACT,
CONCLUSIONS OF LAW AND
DECISION AND ORDER

OCEANIC PROPERTIES, INC., a Hawaii corporation, (hereinafter "Petitioner") filed this petition on July 20, 1984, 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 for approximately 74 acres of land, Hawaii Tax Map Key 5-3-06: parcel 18 and portion of parcel 21 (hereinafter "Property") situate at Ainakea, North Kohala, Island of Hawaii, from the Agricultural District to the Urban District. The Land Use Commission (hereinafter "Commission"), having heard the evidence presented on this matter and by considering the full record as presented in Docket No. A84-573, hereby makes the following findings of fact, conclusions of law and decision and order:

FINDINGS OF FACT

PROCEDURAL HISTORY

1. The Commission conducted the hearing on this petition on November 1, 1984, pursuant to notices published in the Hawaii Tribune Herald and the Honolulu Advertiser on September 26, 1984.

2. The Commission permitted Naves Santiago, Philip Hooten and Henry Ross to testify as public witnesses on November 1, 1984.

DESCRIPTION OF THE PROPERTY

3. The Property is located at Ainakea, North Kohala, east of and adjacent to the Kapaau Urban District and Hapahapai Gulch, west of Pali Akamoa Gulch, and north of Akoni Pule Highway. The Property contains the Kohala Health Center, (situated on the south western corner) and a Hawaiian Telephone radio station.

4. The Property is owned in fee by Kohala Corporation. Petitioner holds an option to purchase the Property from and is authorized by Kohala Corporation to file this petition. Petitioner and Kohala Corporation are wholly-owned subsidiaries of Castle & Cooke, Inc.

5. The Property consists of rolling pastureland bordered by deep gulches on the eastern and western edges. The Property slopes towards the ocean at a rate of 0 to 10 percent. The Property's average elevation is 450 feet above sea level.

6. Average rainfall on the Property is approximately 50 to 60 inches per year.

7. The United States Department of Agriculture (USDA) Soil Conservation Service Soil Survey classifies soils of the Property as Kohala Silty Clay (KhA, KhC and KhE) for the pasture areas and Rough Broken Land (RB) for the Property's gulch areas.

The soils are more specifically described as follows:

KhA (Kohala silty clay, 0 to 3 percent slopes)
Permeability is moderately rapid, runoff is slow and the erosion hazard is slight. This soil is used for irrigated sugarcane.

KhC (Kohala silty clay, 3 to 12 percent slopes)
This soil is similar to KhA soils except for steeper slopes and runoff is slow to medium and the erosion hazard is slight to moderate. This soil is used mostly for irrigated sugarcane, but small areas are used for pasture, orchards and truck crops.

KhE (Kohala silty clay, 20 to 35 percent slopes)
This soil occurs along drainageways. Runoff is rapid, and the erosion hazard is severe. This soil is used for sugarcane and pasture.

RB (Rough Broken Land)
This classification is a miscellaneous land type that consists of very steep, precipitous

land broken by many intermittent drainage channels. It occurs primarily in gulches with slopes of 35 to 70 percent.

The USDA Soil Conservation Survey classifies approximately one-half of the Property KhA with a capability rating of Class I indicating that the soil has few limitations that restrict cultivation. The Survey classifies the remaining half of the Property KhC, KhE and RB with capability ratings of Class IIIe, VIe and VIIe, respectively, indicating that these soils have severe limitations for cultivation and therefore limits the Property's use primarily to pasture, range, woodland, or wildlife.

8. The Land Study Bureau's "Detailed Land Classification - Island of Hawaii" classifies most of the soil of the Property as "C" when not irrigated, and as "B" when irrigated. The gulch areas on the eastern and western boundaries are classified "E".

9. The State Department of Agriculture (DOA) classifies approximately 90 percent of the Property as "Prime Agricultural Land" in its "Agricultural Lands of Importance to the State of Hawaii" (ALISH) classification system. The DOA classifies a portion of the Property lying north of the Kohala Hospital and a portion of the gulch on the eastern boundary "Other Important Agricultural Land". The remaining gulch areas are not classified.

10. The Federal Insurance Administration (FIA), in its May 1982 Flood Insurance Study for Hawaii County, designates

almost all the Property as Zone C, an area of minimal flooding. The FIA designates the Pali Akamoa gulch area as Zone A, an area subject to the 100-year flood. The 100-year flood has a one percent chance of occurring in any given year.

PROPOSAL FOR DEVELOPMENT

11. Petitioner proposes to develop approximately 120 single-family residential lots ranging in size from 12,000 to 30,000 square feet on the Property. Petitioner proposes to market these lots at approximately $35,000.00 to $40,000.00 per lot in 1984 dollars.

12. Petitioner proposes either to sell to or develop with the County or other public agency, an elderly multi-family project on a 5.3 acre portion of the Property to be located near the Kohala Hospital or to develop ten to fifteen 10,000 square-foot lower priced lots on the 5.3 acre site.

13. Petitioner proposes to retain the existing Kohala Health Center located on the Property with access to continue from the County road. Petitioner will provide space for limited expansion of the health center. Petitioner also plans to retain the existing Hawaiian Telephone radio station located on the Property.

14. Petitioner will develop all infrastructure improvements except sewerage necessary for the proposed subdivision to meet State and County standards including overhead powerlines, but without curbs, gutters and sidewalks. Petitioner proposes that individual lot buyers will install cesspools at

the buyers' cost.

15. Petitioner estimates development cost for the proposed subdivision, without houses, but including off-site and on-site electrical, telephone, water and roadway intersection improvements will be $2,300,000.00 in 1984 dollars.

16. Petitioner proposes to develop the Property within five years after Commission approval of the petition. The development will be built in phases of about 30 to 40 units beginning at the highway and moving makai.

PETITIONER'S FINANCIAL CAPABILITY TO UNDERTAKE THE PROPOSED DEVELOPMENT

17. The balance sheet of Oceanic Properties Inc. as of June 18, 1984 lists total assets of $101,079,000.00, stockholder's equity of $48,874,000.00 and liabilities of $52,205,000.00.

STATE AND COUNTY PLANS AND PROGRAMS

18. The Property is situate within the State Land Use Agricultural District. The Hawaii County General Plan Land Use Pattern Allocation Guide Map ("LUPAG") designates the Property and the general area for Alternate Urban Expansion which include residential uses.

19. The North Kohala Community Development Plan (PC Resolution No. 2-84), adopted by the Hawaii County Planning Commission on September 25, 1984, suggests a density of four residential units per acre (RES-4) for the Property. Petitioner's proposed development is consistent with the RES-4 designation.

20. The Hawaii County zoning designation for the Property is Agricultural 20-acre (A-20a).

21. The Property is not situate within the Special Management Area (SMA).

NEED FOR THE PROPOSED DEVELOPMENT

22. Petitioner proposes to market the 120 moderately priced residential lots (and 5.3 acres of multi-family elderly housing or 10 to 15 lower priced lots) to families desiring to live in North Kohala. These families include South Kohala resort employees presently residing in North Kohala, former Kohala plantation employees and other Kohala residents wishing to own their own home.

23. Petitioner anticipates that future resort expansion of the Mauna Kea, Mauna Lani and Waikoloa resorts in South Kohala will generate employee housing demands which will increase demand for housing in North Kohala.

24. The County of Hawaii, in its North Kohala Community Development Plan, projects resident population growth in North Kohala from 1980 to 1995 to be 904 residents. Petitioner estimates that 291 new residential units, based on an average household size of 3.1 residents, will be needed to meet this additional demand.

25. Petitioner's survey of resort and hotel employees at the Mauna Kea Beach, Mauna Lani, and Waikoloa resorts, employees of Hawaiian Holiday's Kohala operation, Kohala Nursery, the defunct Kohala Sugar Company and members of the

Kohala Senior Citizens Club, indicate that about 256 persons were interested in buying a lot or house and lot in North Kohala. Much of this demand came from people who presently reside in North Kohala.

26. Petitioner's market study of vacant and potential residential land indicate that from among the eight parcels studied, a maximum of 40 to 60 new residential lots may be built over the next five to ten years on the 42 acres of privately owned Urban districted lands considered available for residential development.

27. Petitioner's market study also indicates that since 1960, the only residential subdivisions developed in North Kohala were Petitioner's seven lot Honomakau; Camp 17, a 22-lot subdivision; and the Kaauhuhu Makai, a 27-lot subdivision and the County's 37 lot Kahei development which provides subsidized low and moderate income housing. Of Petitioner's 56 lots and houses, Petitioner has built on 27 lots.

28. Most new homes constructed in North Kohala outside of these four developments occurred on larger agricultural parcels and were not offered at prices affordable by low and moderate income purchasers. These projects includes the $300,000 to $1,200,000 luxury condominiums proposed by the Mauna Kea, Mauna Lani and Waikoloa Resorts and the North Kohala Agricultural developments priced above $100,000 per lot.

Agricultural Resources

29. Kohala Corporation converted most of its lands

from sugarcane cultivation to pasture use after closure of its sugar operations. Kohala Corporation currently has over 11,000 acres of land, including the Property in pasture use. The removal of the Property from pasture use for the proposed development will not significantly impact on the agricultural resources of the area.

Flora and Fauna

30. Earthwatch Environmental Resource Investigators conducted a fauna and flora survey on the Property, and found no rare native plant species or endangered animal species in or near the Property. Petitioner and predecessors have used the Property for sugarcane cultivation since the 1930's prior to forage use.

Historical/Archaeological Resources

31. Chiniago, Inc. conducted an archaeological reconnaissance survey of the Property, and found no evidence of prehistoric or historic significance.

Recreational Resources

32. Petitioner projects that based on the County of Hawaii's recommendation of 5 acres of park space per 1,000 residents, future residents will require 19.2 acres of park space. No adverse impacts on Kohala's existing 64 acres of park space is anticipated.

Air Quality

33. Petitioner will minimize fujitive dust emissions

created by construction and construction vehicle activity by watering of areas of exposed soil.

J. W. Morrow conducted an air quality impact analysis and concluded that levels of carbon monoxide generated by increased traffic in the vicinity of the primary intersection serving the proposed development are not expected to exceed State or federal standards.

Noise

34. Petitioner anticipates that increased noise levels from increased vehicle trips by the proposed development will be within the applicable Federal Highway Administration noise abatement criteria.

ADEQUACY OF PUBLIC SERVICES AND FACILITIES

Water Services

35. Petitioner will construct an 8" pipeline with a pressure regulating unit connecting the Hawaii County Department of Water Supply's Halaula System and the Kynnersley-Kapaau Subsystem to the Property to meet increased demand for domestic and fire water service. The County Department of Water Supply has indicated it has no objection to the proposed connection and has issued a formal water commitment for the proposed development.

Transportation Services and Facilities

36. Ingress and egress to the Property is via the Akoni Pule Highway. Petitioner will construct an internal roadway network to County and State standards.

37. Petitioner estimates the proposed development of 175 units will generate approximately 1,750 trips daily. Based on the Traffic Survey Data (Individual Station), 1982, published by the State Department of Transportation, Highways Division, Petitioner's consultant Belt, Collins & Associates estimates that even if all of the projected peak periods traffic from the proposed development were to travel on Akoni Pule Highway between the Hawi Road intersection and the Kohala Hospital, the volume of traffic will still be less than one-third the highway design capacity of that highway corridor.

Sewage Treatment and Disposal

38. Petitioner will not provide sewerage improvements. Individual cesspools will be constructed and financed by each lot purchaser.

Drainage

39. The Property is bounded on the south by the Akoni Pule Highway and on the east and west by Pali Akamoa and Hapahapai Gulches, respectively. The Akoni Pule Highway serves to divert any surface water runoff from the mauka areas into the adjacent gulches and to drywell sumps approved by the County of Hawaii.

Police and Fire Protection

40. Police service will be provided from the substation located in Kapaau. The Hawaii County Fire Department will provide 24-hour fire protection to the Property from the Kamuela

station. Additionally, a 12-member volunteer fire group will provide primary fire protection for the Property.

Electrical and Telephone Services

41. Hawaii Electric Light Company, Ltd. will provide the necessary electricity to the Property.

42. Hawaiian Telephone Company will provide necessary telephone service to the Property.

Schools

43. The Kohala High-Elementary School located between Hawi and Kapaau serves students from kindergarten to grade 12. The Department of Education has estimated that the proposed development will generate about 55 to 100 students and has indicated that the projected student increase can be accommodated with the existing and planned school facilities.

Medical Services

44. The Kohala Hospital is located next to the Property and can provide needed medical service. The State Department of Health operates a 10-bed acute care facility and a 16-bed long-term care facility. The acute care facility which runs at 60% occupancy is underutilized while the long-term care facility which runs at 85% occupancy is near capacity and may need to be expanded to accommodate an increasing elderly population.

CONTIGUITY OF DEVELOPMENT

45. The Property is contiguous to the Kapaau Urban District.

PREFERENCES FOR DEVELOPMENT

46. Petitioner's proposed development will make available approximately 120 single family residential lots at moderate prices and approximately 5.3 acres of land either for elderly housing or for 10 to 15 lower priced residential lots and will assist toward providing a balanced housing supply for all economic and social groups within the island of Hawaii.

CONFORMANCE WITH THE HAWAII STATE PLAN

47. The proposed development is consistent with the objectives of the Hawaii State Plan, Chapter 226, Hawaii Revised Statutes, which are as follows:

A. Greater opportunities for Hawaii's people to secure reasonably priced, safe, sanitary and livable homes located in suitable environments that satisfactorily accommodate the needs and desires of families and individuals in conformance with Section 19(a)(1).

B. The orderly development of residential areas sensitive to community needs and other land uses in conformance with Section 19(a)(2).

In addition, the proposed development is consistent with most of the policies designed to achieve the housing objectives. These are as follows:

A. Effectively accommodate the housing needs of Hawaii's people, especially the elderly, handicapped, displacees of redevelopment areas, and newly formed households in conformance with Section 19(b)(1).

B. Stimulate and promote feasible approaches that increase housing choices for low-income, moderate-income, and gap-group households in conformance with Section 19(b)(2).

C. Promote design and location of housing developments taking into account the physical setting, accessibility to public facilities and services, and other concerns of existing communities and surrounding areas in conformance with Section 19(b)(5).

COMPLIANCE WITH STANDARDS DETERMINING DISTRICT BOUNDARIES

48. The Property is adjacent to Kapaau Village which includes several commercial establishments, the civic center complex and the Kohala Hospital.

49. Public services and facilities are available to service the Property or can be so provided at reasonable costs to Petitioner.

50. Petitioner's proposal is in conformance with the Hawaii County General Plan LUPAG Map and complements the land use policies of the Hawaii County General Plan and the Kohala Community Development Plan.

51. The Property does not have any adverse geographic or topographic constraints which would hinder or endanger the proposed development nor is it susceptible to drainage problems, flooding, tsunami inundation, unstable soil conditions or other adverse environmental effects.

RULING ON PROPOSED FINDINGS OF FACT

Any of the proposed findings of fact submitted by Petitioner or other parties not already ruled upon by the

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, the Rules of Practice and Procedure and the District Regulations of the State Land Use Commission, the Commission finds upon clear preponderance of evidence that the reclassification of approximately 74 acres for 120 single-family residential lots and an elderly multi-family housing project or lower priced single family lots on a 5.3 acre portion of the Property from the Agriculture District to the Urban District at Ainakea, North Kohala, Island of Hawaii, State of Hawaii, subject to the conditions stated below, conforms to the standards established in the State Land Use District Regulations, is reasonable and non-violative of Section 205-2, Hawaii Revised Statutes, as amended, and is consistent with the Hawaii State Plan as set forth in Chapter 226, Hawaii Revised Statutes, as amended.

ORDER

IT IS HEREBY ORDERED that the Property consisting of approximately 74 acres, identified by Hawaii Tax Map Key 5-3-06: parcel 18 and portion of parcel 21 situate at Ainakea, North Kohala, Island of Hawaii, State of Hawaii, and more particularly described in Exhibit "A" attached hereto and incorporated herein by reference, shall be and the same is hereby reclassified from the Agricultural District to the Urban District, and the District

Boundaries are amended accordingly; subject, however, to the following conditions:

1. Petitioner shall provide housing opportunities for low and moderate income Hawaii residents (as defined below) in any one or combination of the following manners prior to assigning or transferring (except by way of mortgage or assignment as security) its interest in the Property:

a. To offer for sale, on a preferential basis, on its own or in cooperation with either or both the Hawaii Housing Authority or the County of Hawaii, single-family lots to be developed on a 5.3 acre portion of the Property, to residents of the State of Hawaii of low and moderate family income as determined by the Hawaii Housing Authority or County of Hawaii from time to time. The preferential lots shall be offered for sale at prices not exceeding prices that enable such purchasers to qualify for and obtain state-assisted financing (i.e., Act 105 or Hula Mae) or federally-insured or assisted financing (i.e., FHA Section 245 program) intended to encourage home ownership by low and moderate income families; or

b. dedicate a 5.3 acre portion of the Property to the County of Hawaii for the development of an elderly multi-family housing.

2. To afford private doctors an opportunity to continue to lease the existing Kohala Health Center for community medical services.

These conditions may be fully or partially released by the Commission as to all or any portion of the Property upon timely motion and provision of adequate assurance of satisfaction of these conditions by the petitioner.

Done at Honolulu, Hawaii, this 21st day of May, 1985, per motions on March 19, 1985 and April 16, 1985.

LAND USE COMMISSION
STATE OF HAWAII

By _____
WILLIAM W. L. YUEN
Chairman and Commissioner

By _____
TEOFILO PHIL TACBIAN
Vice Chairman and Commissioner

By _____
RICHARD B. F. CHOY
Commissioner

By _____
LAWRENCE F. CHUN
Commissioner

By _____
WINONA E. RUBIN
Commissioner

By _____
TORU SUZUKI
Commissioner

By _____
ROBERT S. TAMAYE
Commissioner

By _____
FREDERICK P. WHITTEMORE
Commissioner

BEFORE THE LAND USE COMMISSION

OF THE STATE OF HAWAII

In the Matter of the Petition of OCEANIC PROPERTIES, INC. To Amend the Agricultural Land Use District Boundary into the Urban Land Use District for approximately 74 acres at Aina Kea, North Kohala, Hawaii, Tax Map Key: 5-3-06: 18 and Portion of 21	)	DOCKET NO. A84-573 OCEANIC PROPERTIES, INC.

CERTIFICATE OF SERVICE

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

KENT M. KEITH, Director
Department of Planning and Economic Development
State of Hawaii
250 South King Street
Honolulu, Hawaii 96813

ALBERT LONO LYMAN, Planning Director
Planning Department
County of Hawaii
25 Aupuni Street
Hilo, Hawaii 96720

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Okumura Takushi Funaki & Wee
Grosvenor Center, Suite 1400
733 Bishop Street
Honolulu, Hawaii 96813

DATED: Honolulu, Hawaii, this 21st day of May, 1985.

Esther Ueda

ESTHER UEDA
Executive Officer