

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of)
KUILIMA DEVELOPMENT COMPANY)
For a Special Use Permit to)
Establish a Wastewater Treatment)
Plant on Approximately 20 Acres)
of Land Situate Within the)
Agricultural District at Kahuku,)
Oahu, Tax Map Key No.: 5-7-01:)
Portion of Parcel 21)

DOCKET NO. SP87-363
KUILIMA DEVELOPMENT COMPANY

**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.**

JUN 08 1987 by *[Signature]*
Date Executive Officer

FINDINGS OF FACT, CONCLUSIONS OF LAW
AND DECISION AND ORDER

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STATE OF HAWAII

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FINDINGS OF FACT, CONCLUSIONS OF LAW
AND DECISION AND ORDER

Kuilima Development Company (hereinafter the "Petitioner") initiated this proceeding pursuant to Section 205-6, Hawaii Revised Statutes, as amended, and Subchapter 12 of the Hawaii Land Use Commission Rules. The Land Use Commission (hereinafter the "Commission") having considered the entire record on this matter, hereby makes the following findings of fact and conclusions of law and decision and order:

FINDINGS OF FACT

Procedural Matters

1. The Petitioner filed the Special Permit application with the Department of Land Utilization on October 31, 1986. The public hearing was conducted by the Planning Commission on February 25, 1987. No public testimony was received during the hearing.

2. On January 27, 1987, the Commission received a copy of the Planning Commission's agenda for the February 25, 1987 hearing date.

3. On February 25, 1987, the Planning Commission recommended approval of the Special Permit, with six conditions. The Special Permit was received by the Commission on March 10, 1987.

Description of Property

4. The proposed wastewater treatment plant site is located mauka of the Turtle Bay Resort and Kamehameha Highway, on the Kahuku side of Oio Stream at the base of the foothills of the Koolau Mountain Range.

5. The proposed site is located about 700 feet from Kamehameha Highway and at least 1200 feet away from the nearest condominium, downwind of the resort during predominate tradewind conditions.

6. The proposed site is identified as Oahu Tax Map Key No.: 5-7-01: portion of parcel 21 (hereinafter the "Property") and is owned in fee by James Campbell Estate.

7. The Property and part of the surrounding area is an abandoned agricultural field. Sugarcane was grown on the site up until 1971. The steeper lands and foothills are also vacant.

8. Soils found on the Property are classified as Kaena Clay (KaB) covering about 18 acres, and Waialua silty clay (WkA) covering the balance of about 2 acres.

9. The Land Study Bureau's Agriculture Master Productivity Rating System rates the Property as "C" and "E" ("E" being the lowest rating).

10. The Property is classified by the State Department of Agriculture in its Agricultural Lands of Importance to the State of Hawaii as "Prime Agricultural Land".

11. An archaeological field reconnaissance survey was conducted in March of 1986 for approximately 70 acres encompassing the Property. The survey identified several irrigation ditches associated with past sugarcane cultivation, a terrace, and two small ceramic shard fragments. All articles were deemed to have minimal archaeological significance and were found outside of the Property.

Summary of Proposed Use

12. Petitioner is requesting the Special Permit to allow the establishment of a wastewater treatment facility for the Turtle Bay Resort Expansion Project. The 20 acre site proposed for the Special Permit includes one-story control and treatment buildings, a four-basin facility with a treatment capacity of 1.3 million gallons per day (mgd), and landscaping. This facility will replace the existing waste stabilization pond located in the existing Turtle Bay Resort and will serve the Turtle Bay Resort and Expansion Area and the residences on the westerly side of Kawela Bay.

13. The proposed facility will provide secondary treatment and basically consists of an aerated facultative

lagoon system with mechanical screening, degritting and chlorination. The treated effluent will then be conveyed through transmission mains to holding ponds in the Turtle Bay Resort area for golf course irrigation. Any excess effluent will be disposed by an injection well field located within the resort.

14. Petitioner proposes to dedicate the plant to the City and County of Honolulu following a one-year test period with satisfactory operation.

15. Petitioner will provide a backup system consisting of an emergency generator and fuel enough for seven days of operation, a stand-by air blower and emergency repair equipment.

16. Petitioner will also provide for landscaping to control erosion after grading and to blend the facility with the surrounding topography.

17. Petitioner will provide access along an existing agricultural road located on the Kahuku side of Oio Stream. A six-foot high chain link fence around the Property will minimize potential for vandalism.

State and County Plans and Programs

18. The Property is located in the State Land Use Agricultural District as indicated on O-7 Kahuku of the Land Use District Boundaries Map.

19. The City and County of Honolulu Development Plan Public Facilities Map indicates a sewage treatment plant on the mauka side of Kamehameha Highway.

20. The Property is designated Agriculture under the Koolauloa Development Plan. Zoning for the Property is AG-1 Restricted Agricultural District.

Environmental Concerns

21. The proposed project will be located within or mauka of the Department of Health "Underground Injection Control" (UIC) line and the Board of Water Supply's "No-Pass Line".

22. Petitioner proposes to construct structures with reinforced concrete and line basins with an impermeable sheet to prevent percolation of effluent into the groundwater. Holding ponds for storing effluent for golf course irrigation after treatment and the proposed injection wells will be located within the proposed resort and outside of the UIC and No-Pass zones.

Summary of Other Concerns

23. The State Department of Transportation indicated that the proposed access road lies nearly opposite and conflicts with the Turtle Bay Resort access.

24. The City Department of General Planning pointed out that it is essential that "the ownership of the 20+-acre site, and also the roadway leading to the STP plant, are conveyed to the City and County of Honolulu if the City is to be responsible for operating and maintaining the new wastewater treatment plant."

25. Petitioner submitted an agricultural feasibility and need study for the proposed project which concluded that there is no indicated need for the site for agricultural production because of an excess of good agricultural land.

26. The Department of Agriculture stated that the guidelines for issuance of the special permit appear to have been satisfactorily addressed in the application.

Conformance With Special Permit Tests

27. The proposed use is not contrary to objectives of the State Land Use Law.

a. In its approval of the redistricting of 231 acres of Agricultural land to Urban use to accommodate expansion of the Kuilima resort (Docket No. A85-595/Kuilima Development Company), the Commission recognized the need for a new wastewater treatment plant to serve the resort development, and in its Decision and Order required the applicant to provide such a facility.

b. The site on which the facility is proposed is unsuitable for intensive agricultural use.

c. The proposal supports the objectives of the State Plan which requires coordination of wastewater disposal with State and County growth objectives.

d. The proposal implements the objective of seeking participation from the private sector for the cost of constructing utilities and infrastructure.

28. The proposed use would not adversely affect surrounding property. The Property and surrounding lands have not been recently used for crop production. Establishment of the proposed use at this time would not adversely impact on these lands.

Petitioner will also landscape the Property so that the facility would not be readily seen from the highway.

The location and depths of the injection wells will be coordinated with the Board of Water Supply to ensure proper disposal of excess treated effluent.

29. The proposed use would not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage, and school improvements and police and fire protection.

The facility, as part of the resort expansion proposal, will be installed by the developer at his cost.

30. Unusual conditions, trends, and needs have arisen since the district boundaries and regulations were established.

With the closing of the Kahuku Sugar Mill, the transformation of the area surrounding the existing Turtle Bay Development from agriculture to resort use has resulted in the establishment of the need for support activities such as the proposed wastewater treatment facility.

31. The land upon which the proposed use is sought is unsuited for the uses permitted within the Agricultural District.

The Petitioner proposes to avoid use of higher agriculturally rated lands.

The applicant's Agricultural Feasibility Study also noted the detrimental effect of the stronger trade winds and salt from the ocean and concluded that the site has severe limitations for crop production. With limited rainfall, the report also indicated that grazing would not be feasible.

Planning Commission Recommendations

32. At its meeting of February 4, 1987, the Planning Commission recommended approval of the Special Permit request to establish a wastewater treatment facility subject to the following conditions:

- "1. The applicant shall submit for review and approval, a landscape plan to provide visual screening.
- "2. The dedicated facility shall include an acceptable access driveway to be coordinated with the Department of Public Works and the Department of Transportation Services.
- "3. The applicant shall coordinate the effluent disposal with the Board of Water Supply and/or the Department of Public Works."

CONCLUSIONS OF LAW

The proposed use is an "unusual and reasonable" use as defined in Chapter 205-6, Hawaii Revised Statutes and the proposed use is not contrary to the objectives to be accomplished by the State Land Use Law to preserve, protect and encourage the development of lands in the State for those uses

to which they are best suited in the interest of the public health and welfare.

ORDER

IT IS HEREBY ORDERED that Special Permit Docket Number 83-363 filed by Kuilima Development Company to establish a wastewater treatment facility to include one-story control and treatment buildings, a four-basin facility with a treatment capacity of 1.3 million gallons per day, and landscaping, on approximately 20 acres, situate within the State Land Use Agricultural District at Kahuku, Oahu, Tax Map Key Number 5-7-01: portion of parcel 21, and approximately identified on Exhibit A attached hereto and incorporated by reference herein, be approved subject to the following conditions:

1. The applicant shall submit for review and approval, a landscape plan to provide visual screening.

2. The dedicated facility shall include an acceptable access driveway to be coordinated with the Department of Public Works and the Department of Transportation Services.

3. The applicant shall coordinate the effluent disposal with the Board of Water Supply and/or the Department of Public Works.

4. The applicant shall complete the project within three years after all government approvals have been received.

DOCKET NO. SP87-363 - KUILIMA DEVELOPMENT COMPANY

Done at Honolulu, Hawaii, this 8th day of June 1987,
per motions on April 15, 1987 and June 5, 1987.

LAND USE COMMISSION
STATE OF HAWAII

By *T. P. Tacbian*
TEOFILO PHIL TACBIAN
Chairman and Commissioner

By *Frederick P. Whittemore*
FREDERICK P. WHITTEMORE
Vice Chairman and Commissioner

By *William W. L. Yuen*
WILLIAM W. L. YUEN
Commissioner

By *Lawrence F. Chun*
LAWRENCE F. CHUN
Commissioner

By *Toru Suzuki*
TORU SUZUKI
Commissioner

By *Robert S. Tamaye*
ROBERT S. TAMAYE
Commissioner

By *Richard B. F. Choy*
RICHARD B. F. CHOY
Commissioner

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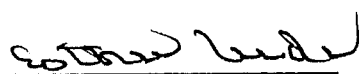
CERTIFICATE OF SERVICE

I hereby certify that a copy of the Land Use Commission Findings of Fact, Conclusions of Law and 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:

CERT. DONALD A. CLEGG, Chief Planning Officer
Department of General Planning
City and County of Honolulu
650 South King Street
Honolulu, Hawaii 96813

CERT. KUILIMA DEVELOPMENT COMPANY
1001 Bishop Street
Pauahi Tower, Suite 1980
Honolulu, Hawaii 96813

DATED: Honolulu, Hawaii, this 8th day of June 1987.


ESTHER UEDA
Executive Officer