

BEFORE THE LAND USE COMMISSION

OF THE STATE OF HAWAII

In the Matter of the Petition of )  
 )  
PRINCEVILLE AT HANAIEI, A DIVISION )  
OF CONSOLIDATED OIL & GAS, INC. )  
 )  
To Amend the Conservation Land Use )  
District Boundary to Reclassify )  
Approximately .7 Acre, TMK: )  
5-4-11: portion of Parcel 4, at )  
Hanalei, Island and County of )  
Kauai, into the Urban Land Use )  
District )  
\_\_\_\_\_ )

DOCKET NO. A78-446

PRINCEVILLE AT HANAIEI,  
A DIVISION OF CONSOLIDATED  
OIL & GAS, INC.

DECISION AND ORDER

BEFORE THE LAND USE COMMISSION  
OF THE STATE OF HAWAII

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OF CONSOLIDATED OIL & GAS, INC. )	PRINCEVILLE AT HANAIEI,
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DECISION

THE PETITION

This matter arises from a petition for an amendment to the Land Use Commission district boundary filed pursuant to Section 205-4 of the Hawaii Revised Statutes, as amended, and Part VI, Rule 6-1 of the Land Use Commission's Rules of Practice and Procedure and District Regulations by the fee owner of the property who is requesting that the designation of the subject property be amended from the Conservation to the Urban district. The requested change consists of property comprising approximately .7 acre of land, situated at Hanalei, Island and County of Kauai. The subject property is more particularly identified as Tax Map Key No. 5-4-11: portion of Parcel 4.

PURPOSE OF PETITION

Petitioner's stated purpose for requesting the reclassification of the subject property from Conservation to Urban is so that the Petitioner can design and construct a 300 room hotel on the subject property

and the adjoining Urban designated property which Petitioner also owns.

#### THE PROCEDURAL HISTORY

The Petition was received by the Land Use Commission on October 5, 1978. Due notice of the hearing on this Petition was published on December 29, 1978 in the Garden Island and the Honolulu Advertiser. Notice of the hearing was also sent by certified mail to all parties involved herein on December 27, 1978. No timely application to intervene as a party or appear as a witness was received by the Land Use Commission. However, a Ms. Elizabeth M. Stone submitted a letter expressing her particular opinions as to this particular Petition, and no objection being raised by the parties herein, said letter was accepted and included as part of the record herein.

#### THE HEARING

The hearing on this Petition was held on February 2, 1979, in Lihue, Kauai, Hawaii.

Princeville at Hanalei, the Petitioner herein, was represented by Walton D. Y. Hong, Esq.; The County of Kauai was represented by Deputy County Attorney, Michael Belles; and the Department of Planning and Economic Development was represented by Tatsuo Fujimoto.

The witnesses presented by the aforementioned parties were as follows:

#### Petitioner:

Donald Carswell - Development Manager for  
Princeville at Hanalei

Dennis Hirota - Civil Engineer

Richard Van Horn - Planning Consultant

County of Kauai:

Tom Shigemoto - Staff Planner, Kauai Planning  
Department

Department of Planning and Economic Development:

Esther Ueda - Planner

POSITION OF THE PARTIES

County of Kauai - Approval.

Department of Planning and Economic Development -  
Approval.

APPLICABLE REGULATION

Standards for determining the establishment of  
an Urban District is found under Part II, Section 2-2(1)  
of the State Land Use Commission's District Regulations.  
Said regulation provides in pertinent part that:

- "(1) 'U' Urban District. In determining the  
boundaries for the 'U' Urban District,  
the following standards shall be used:
- (a) It shall include lands characterized  
by 'city-like' concentrations of  
people, structures, streets, urban  
level of services and other related  
land uses.
  - (b) It shall take into consideration the  
following specific factors:
    - 1. Proximity to centers of trading  
and employment facilities except  
where the development would gen-  
erate new centers of trading and  
employment.
    - 2. Substantiation of economic fea-  
sibility by the petitioner.
    - 3. Proximity to basic services such  
as sewers, water, sanitation,  
schools, parks, and police and  
fire protection.
    - 4. Sufficient reserve areas for  
urban growth in appropriate  
locations based on a ten (10)  
year projection.

- (c) Lands included shall be those with satisfactory topography and drainage and reasonably free from the danger of floods, tsunami and unstable soil conditions and other adverse environmental effects.
- (d) In determining urban growth for the next ten years, or in amending the boundary, lands contiguous with existing urban areas shall be given more consideration than non-contiguous lands, and particularly when indicated for future urban use on State or County General Plans.
- (e) It shall include lands in appropriate locations for new urban concentrations and shall give consideration to areas of urban growth as shown on the State and County General Plans.
- (f) Lands which do not conform to the above standards may be included within this District:
  - 1. When surrounded by or adjacent to existing urban development; and
  - 2. Only when such lands represent a minor portion of this District.
- (g) It shall not include lands, the urbanization of which will contribute towards scattered spot urban development, necessitating unreasonable investment in public supportive services.
- (h) It may include lands with a general slope of 20% or more which do not provide open space amenities and/or scenic values if the Commission finds that such lands are desirable and suitable for urban purposes and that official design and construction controls are adequate to protect the public health, welfare and safety, and the public's interests in the aesthetic quality of the landscape."

FINDINGS OF FACT

The panel of the Land Use Commission, after having duly considered the record in this docket, the testimony of the witnesses and the evidence introduced herein, makes the following findings of fact:

1. The subject property, owned in fee simple by the Petitioner herein, is located in Hanalei, Island and County of Kauai, and consists of approximately .7 acre, more particularly described as Tax Map Key No. 5-4-11: portion of Parcel 4. The subject property is a portion of Tax Map Key No. 5-4-11: 4, which contains a total area of approximately 15.591 acres.

2. The existing State Land Use classification of the subject property is Conservation. The subject property has been in the Conservation District since the 1969 Five-year Boundary Review, wherein it was reclassified from Agricultural to Conservation.

3. The County of Kauai General Plan and Comprehensive Zoning Ordinance presently designates the subject property as "open". Petitioner has filed a Petition with the County of Kauai for a General Plan amendment for redesignation to "project district", and for rezoning to "RR-20". The subject property lies within the special management area and an SMA permit will be required for the project.

4. Lands immediately to the north of the subject property are in the Conservation district, while the other three boundaries of the subject parcel are joined by Urban designated property.

5. The subject property is presently vacant. The topography of the site is characterized by a pali or cliff setback approximately 125 feet from the shoreline.

6. The elevation of the subject property ranges from 25 feet to 125 feet above sea level. Slopes vary from between 70% at the northern end of the site, to about 30% at the southern end.

7. The average rainfall for the area is approximately 70 inches annually, and the subject site presently drains westward into Hanalei across a portion of the property identified as Tax Map Key No. 5-4-4: 01, being the finger of Urban designated land abutting the subject property. The subject property is not located within a potential flood prone area according to the Map of Flood Prone Areas, Hanalei Quadrangle, prepared by the U. S. Corps of Engineers.

8. The Land Study Bureau's "Detailed Land Classification - Island of Kauai" Map No. 58, indicates that most of the subject property has an overall productivity rating of "E", indicating that the land is poorly suited for cultivation. Under the Department of Agriculture's classification system, "Agricultural Lands of Importance to the State of Hawaii", the subject property is treated as urban development lands and not classified for agricultural purposes. The USDA Soil Conservation Service Soil Survey for Kauai, Sheet No. 16, describes this area as consisting of rough, broken land (rRR), which is characterized as very steep land broken by numerous intermittent drainage channels. Small areas of rock outcrop, stones and soil slips are common.

9. There are no rare or endangered species of flora or fauna on the subject site. The subject site also contains no known sites of archaeological or historic significance. Another portion of which the subject property is a part includes the remains of an old Russian Fort. The remains of the fort have been considered in planning the proposed hotel and construction will not occur thereon. The historic background of the fort will be preserved

through partial restoration of the fort and/or integration within the hotel by means of displays and exhibits.

10. Petitioner proposes to construct a 300 room hotel on the property of which the subject site is a part. The proposed hotel will have winged terraces on the face of the pali with a central corridor. Approximately 60 of the 300 proposed hotel rooms will be located on the subject property. Petitioner states that the entire proposed hotel could be built on the presently Urban designated property without encroaching onto the subject property, however, utilization of the subject property would permit better design flexibility for the hotel. The increased design flexibility will permit preservation of the Russian Fort site, reduce obstruction of the view plane, while satisfying required hotel demands. The hotel will be low-rise in design, consisting of 300 rooms and will also have dining facilities, banquet facilities, meeting facilities, and approximately 8,000 square feet of commercial space for shops. Petitioner is also acquiring some of the land at the base of the pali for use as recreational facilities such as tennis courts and swimming pools.

11. The Petitioner has entered into a hotel management agreement with Marriott Hotels, whereby the Petitioner will construct and Marriott Hotels will operate the proposed 300 room hotel.

12. Petitioner's cost projection indicate that the total hotel development cost will be approximately \$22 million dollars. Construction is scheduled to begin in the latter part of 1979, and be operational by the early part of 1981.

13. Petitioner presented testimony to the effect that the proposed 300 room hotel will create 270 jobs directly connected with the hotel, and due to the multiplier effect of each job, there will in turn be created additional jobs on Kauai so that the total direct, indirect and induced jobs generated by the proposed hotel will total 431. The projected annual wages to be paid to the 270 employees is estimated to be \$2,502,163.00. The approximate construction costs of the hotel of \$22 million dollars will mean additional real property tax in the amount of approximately \$191,400. The visitors utilizing the proposed hotel will expend approximately \$7,000,000., based on statistics provided by the Hawaii Visitors Bureau - 1977 Visitor Expenditure Survey. Testimony was also provided to the effect that State revenues obtained through the 4% gross excise tax would amount to approximately \$280,000.

14. Ninety percent (90%) of the 270 jobs projected to be created by the establishment of the hotel will be filled by existing residents of the Kilauea and Princeville area, thus minimizing the necessity for employees having to move into the area.

15. The testimony was adduced to the effect that the 300 room hotel (the subject property will contain 60 rooms) will not unreasonably burden public agencies to provide necessary Urban amenities, services and facilities because:

(a) Public education system - children of hotel employees could either attend Hanalei or Kilauea Elementary School and Kapaa High School.

(b) Sewers - the presently existing sewage treatment facilities at Princeville at Hanalei,

owned by the Kauai County Public Improvement Corporation, will be utilized. The sewage treatment plant has a capability of handling 1-1/2 million gallons per day, whereas the proposed hotel will generate only 60,000 gallons per day.

(c) Water - domestic water for the hotel is available from the Kauai County Public Improvement Corporation water system. The County of Kauai Department of Water states that at the present time, water facilities appear to be adequate.

(d) Electricity and telephone - electricity and telephone services will be provided by Kauai Electric Company and the Hawaiian Telephone Company, respectively.

(e) Police and fire protection - police and fire protection will be provided to the hotel site from the new combined County Police and Fire station at Princeville at Hanalei, upon its completion. During the interim, fire and police protection will be provided by the police and fire stations at Hanalei town.

(f) Traffic - traffic generated from the proposed hotel will still be well within the estimated traffic capacity of Kuhio Highway.

16. The proposed development will not substantially alter the existing drainage patterns into Hanalei Bay. Petitioner has represented that grading of the subject site will be pursuant to Kauai County Grading Ordinances and that appropriate measures have and will be undertaken to insure that erosion and sedimentation will be controlled during the construction phase.

17. Comments received from the County of Kauai Department of Public Works, the Hawaii Housing Authority, the Department of Agriculture, the County of Kauai Department of Water, USDA Soil Conservation Service, and the Department of Education indicate that the proposed development would not conflict with existing or proposed State programs for the area.

18. The Department of Taxation has stated that the redesignation to Urban of the subject parcel would remove the "sliver" of Conservation land wholly within the Urban district, and eliminate the problem of split classification for real property assessment.

19. The State Tourism Office points out that the subject property abuts lands that are designated for Sanctioned Hotel Uses.

20. The Department of Land and Natural Resources points out that since fishermen will maintain a right of access to the shoreline, the proposed project does not appear to be in conflict with marine fishery values. Petitioner has also indicated that public access to the beach and public parking will be provided. The Department of Land and Natural Resources has also indicated that the proposed land use change will have no direct effect upon any known historic or archaeological site on or likely to be eligible for inclusion in the Hawaii and/or National Registers of Historic Places.

21. Based upon the review of the Petition, the evidence adduced at the hearing, and the policies and criteria of the Interim Statewide Land Use Guidance Policy, the Department of Planning and Economic Development and

the County of Kauai recommended that the reclassification be approved.

CONCLUSIONS OF LAW

Reclassification of the subject property, consisting of approximately .7 acre of land, situated at Hanalei, Island and County of Kauai, from Conservation to Urban and an amendment to the District boundaries accordingly is reasonable, non-violative of Section 205-2 of the Hawaii Revised Statutes, and is consistent with the Interim Statewide Land Use Guidance Policy established pursuant to Section 205-16.1 of the Hawaii Revised Statutes, as amended.

ORDER

FOR GOOD CAUSE appearing, it is hereby ordered that the property, which is the subject of the Petition in this Docket No. A78-446, consisting of approximately .7 acre of land, situated at Hanalei, Island and County of Kauai, identified as Tax Map Key No. 5-4-11: portion of Parcel 4, shall be and the same is hereby reclassified from the "Conservation" district to the "Urban" district classification, and the district boundaries are amended accordingly.

DONE at Honolulu, Hawaii, this 3rd day of May, 1979, per Motion on April 19, 1979, 1979.

LAND USE COMMISSION

By C. W. Duke  
C. W. DUKE  
Chairman and Commissioner

By Shinichi Nakagawa  
SHINICHI NAKAGAWA  
Vice Chairman and Commissioner

By James R. Carras  
JAMES R. CARRAS  
Commissioner

By Shinsei Miyasato  
SHINSEI MIYASATO  
Commissioner

By Mitsuo Oura  
MITSUO OURA  
Commissioner

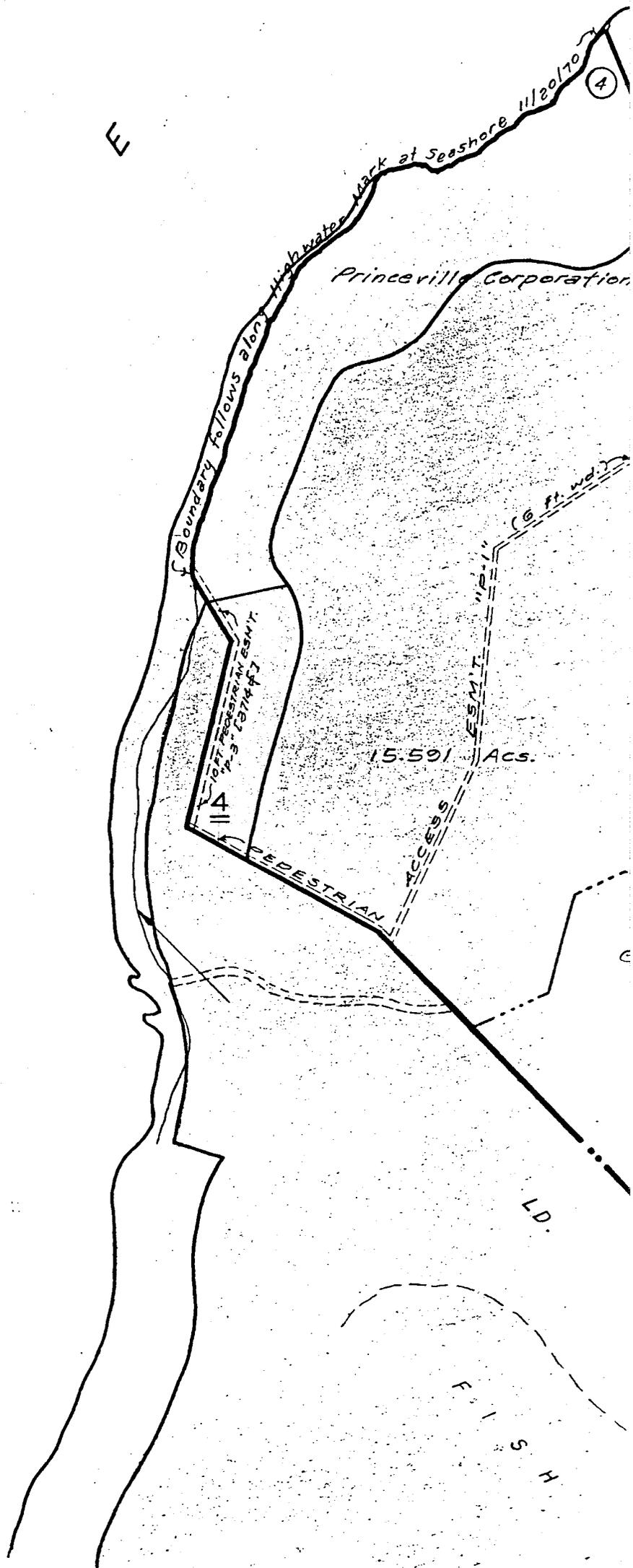
By George R. Pascua  
GEORGE R. PASCUA  
Commissioner

By Carol B. Whitesell  
CAROL B. WHITESELL  
Commissioner

TRUE NORTH  
Scale: 1 in = 200 ft

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A78-446 PRINCEVILLE AT HANALET  
TMK 5-4-11: Portion of 4

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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:

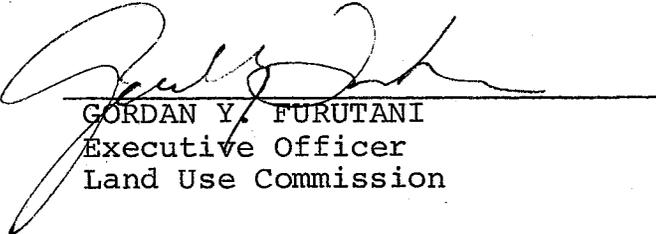
HIDETO KONO, Director  
Department of Planning & Economic Development  
State of Hawaii  
250 South King Street  
Honolulu, Hawaii 96813

BRIAN NISHIMOTO, Planning Director  
Planning Department  
County of Kauai  
4280 Rice Street  
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WALTON D. Y. HONG  
Masuoka & Hong  
P. O. Box 1727  
Lihue, Kauai, Hawaii 96766

PRINCEVILLE AT HANAIEI  
Princeville Center  
Hanalei, Kauai, Hawaii 96714

DATED: Honolulu, Hawaii, this 9th day of May, 1979.

  
\_\_\_\_\_  
GORDAN Y. FURUTANI  
Executive Officer  
Land Use Commission