

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition)
)
 of)
)
 PACIFIC BASIN RESORTS)
)
 To Amend the Agricultural)
 Land Use District Boundary to)
 Reclassify Approximately)
 155.57 Acres at North Kona,)
 Island of Hawaii into the Urban)
 Land Use District)
)

DOCKET NO. A79-468

DECISION AND ORDER

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

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 PACIFIC BASIN RESORTS)
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FINDINGS OF FACT
AND
CONCLUSIONS OF LAW

The above captioned land use boundary amendment proceeding was initiated by the Petition of Pacific Basin Resorts 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 of certain lands consisting of approximately 155 acres, Tax Map Key No.: 7-7-8;11, situated at Pahoehoe 4, La'aloa 1 & 2, Kapala'alaea 1, North Kona, Hawaii, (hereinafter referred to as the "subject property") from the Agricultural to the Urban Land Use District, and the Commission, having heard and examined the testimony and evidence presented during the hearing held on March 11, 1980, in Kailua, North Kona, Hawaii, and having duly considered the record in this Docket, the Proposed Findings of Fact and Conclusions of Law and the comments thereto, hereby makes the following findings of fact and conclusions of law.

FINDINGS OF FACT

PROCEDURAL MATTERS.

1. The Petition was filed on November 30, 1979 by Pacific Basin Resorts, as the authorized agent for, and the attorney-in-fact of Taiyo Fudosan Kogyo Company, Ltd., the fee holder, to amend the Agricultural District at Pahoehoe 4 La'aloa 1 & 2 Kapala'alaea 1, North Kona District, Island and County of Hawaii, to reclassify approximately 155 acres into the Urban District.

2. Notice of the hearing scheduled for March 11, 1980 at 10:00 o'clock a.m., Resolution Room, Kona Hilton Hotel, Kailua, Kona, Hawaii, was published in the Honolulu Advertiser and Hawaii Tribune Herald on February 8, 1980.

3. On February 25, 1980, a Petition for Intervention was received in a timely manner from Elizabeth Ann Stone.

4. A prehearing conference was held on March 4, 1980 at 9:00 o'clock a.m.

5. On March 11, 1980, by Motion duly passed, the Commission denied Elizabeth Ann Stone's Petition for Intervention, which denial was based on said Elizabeth Ann Stone's non-appearance at the hearing.

6. No requests to appear as public witnesses were received.

DESCRIPTION OF THE SUBJECT PROPERTY.

7. The subject property is located at Pahoehoe 4, La'aloa 1 & 2, Kapala'alaea 1, in the North Kona District of the Island of Hawaii, approximately one-half mile north

of Kahaluu Bay. The subject property is bounded on the mauka side by Kuakini Highway, the makai side by a segment of the Great Wall of Kuakini and the White Sands Beach Estates, Unit II, subdivision. The northern and southern boundaries are marked by stacked stone walls that run the length (mauka-makai) of the subject property.

8. The subject property consists of approximately 155 acres and is further identified as bearing Tax Map Key No. 7-7-8:11 (3rd Division).

9. Taiyo Fudosan Kogyo Company, Ltd., a Japan corporation, authorized to do business in the State of Hawaii with a principal place of business at 1-5-30 Minami Sawaicho, Nishi-ku, Yokohama, Japan, holds fee simple title to the subject property. Pacific Basin Resorts is the authorized agent of Taiyo Fudosan Kogyo Company, Ltd., being its development agent in the State of Hawaii and also being its attorney-in-fact under a General Power of Attorney, and is therefore duly authorized by Taiyo Fudosan Kogyo Company, Ltd., to act as its agent for purposes of this petition.

10. Petitioner, Pacific Basin Resorts, is a registered Hawaii General Partnership, being comprised of four (4) general partners: Sanal, Inc., Gregg Kashiwa, Inc., Jon T. Miho, Inc. and James W. Lovell Associates, Inc., all of which are Hawaii corporations.

11. Ground elevation of the subject property rises from approximately 60 feet at the makai boundary to approximately 500 feet at Kuakini Highway, a distance of approximately 4,000 feet. Slopes average 15% across most of the subject property. The makai portions are relatively

flat with slopes ranging from 0-10%, while the mauka areas are slightly steeper, averaging 20% slope.

12. Approximately 140 acres of the subject property are used for cattle grazing under an informal, verbal lease to Mr. Thomas Duarte, Sr. Lease rent is approximately \$600.00 per annum, equivalent to real property taxes. The lease began in 1975. The exact amount of heads of cattle on the subject property is unknown, but is not thought to be very many. Petitioner's agents, while on the property, reported seeing only between 10 to 20 heads of cattle.

Said lessee, is not dependent upon use of the subject property for cattle grazing, owning approximately 2-apartments in Kailua-Kona, raising pigs for supply to King Kamehameha Hotel's Luaus, and also grazing a few cattle at a Kolualoa property which he owns. Neither does the lessee or his family reside on the subject property.

13. One acre in the southwest corner of the subject property was used as a construction lumber yard-field office with a construction shed located there. Said construction shed was removed in late September 1979.

14. The underlying geological material is classified as the Hualalai Volcanic Series, consisting of pre-historic material consisting of basaltic lava flows, intrusive rocks and pyroclastic materials, and a trachyte member, the Waawaa Volcanics which cover a small area on the northern slope of Hualalai. The subject property is generally irregular on the surface with mounds, depressions, lava outcrops and bluffs throughout. Pahoehoe and a'a lavas cover much of the site and by all appearances are moderately

eroded. Soil types include Kaimu Extremely Stony Peat, Punaluu Extremely Stony Peat and Kainaliu Extremely Stony Silty Clay Loam.

15. According to Map 22 of the Land Study Bureau's Detailed Land Classification for the Island of Hawaii, almost all of the land within the subject property has a master productivity rating of "E" or very poor or least suited for agriculture.

16. The subject property is not classified as "PRIME" or "UNIQUE" Agricultural Land on maps delineating Agricultural Lands of Importance to the State of Hawaii published by the State of Hawaii Department of Agriculture. Approximately 75 acres are classified as "Other Important Agricultural Land".

17. The northwest portion of the subject property is within a 100-year flood prone area as determined by the U. S. Department of Interior Geological Survey's Map of the Flood Prone Areas, 1973. The County of Hawaii has represented that it will, at the time of rezoning or subdivision, require Petitioner to provide a detailed drainage study, and subsequent on-site and possibly off-site improvements to handle any expected flooding.

DEVELOPMENT PROPOSAL.

18. Petitioner proposes to develop the subject property as a single-family, residential development.

19. The fee-holder, Taiyo Fudosan Kogyo Company, Ltd., would supply the land and money for the project having total assets in the State of Hawaii in the amount

of \$20,717,000, which assets are committed to the development of the subject property. Petitioner would supply the services and development expertise.

Past projects in the Kona area under the Taiyo Fudosan/Pacific Basin Resorts arrangement include:

(a) Kona Acres Subdivision (1975) -150 one-acre lots, 90 house/lot packages, 60 vacant lots;

(b) White Sands Beach Estates, Unit II - 35 lots, 27 house/lot packages, 8 vacant lots;

(c) Kailua View Estates (1979) - 235 lots; 150 house/lot packages, 85 vacant lots.

60 out of the 235 lots have completed lots in place.

20. Petitioner proposes a 300-325 lot single-family dwelling residential lot subdivision, each lot being about 15,000 square feet, and sold on a turnkey basis. Based on prior experiences, a ratio of 60:40 for house-lot: vacant lot sales are anticipated. A recreational area and park is to be maintained by a private community association of owners within the subdivision.

21. A portion of the subject property would be dedicated to the State Department of Transportation for the Holualoa-Papa Belt Road (40 feet strip makai of, and adjacent to, Kuakini Highway) and to the County of Hawaii for the proposed Alii Drive realignment.

22. Costs are estimated at between \$4,500,000 and \$7,500,000 for site work, with a per unit construction cost estimated at \$75,000 to \$100,000.

23. The subject property was acquired in 1973 at a cost of \$2,500,000. Since then, taxes and other carry over expenses to 1980 approximate another \$200,000.

24. Funding for construction would come from the fee-holder and rolling over of monies from another project, Kailua View Estates. The land is already wholly owned, with no outstanding liens against it.

STATE AND COUNTY PLANS.

25. The vast majority of the subject property is within the State Land Use Agricultural District. However, a small portion of the subject property, approximately 2 acres, in the northwest corner portion of the property is already within the Urban District.

26. The Land Use Pattern Allocation Guide Map of the County of Hawaii General Plan designates the subject property for Low Density Urban Development designation may allow residential uses at a maximum density of four (4) units per acre. Thus, the proposed district boundary amendment is consistent with the General Plan of the County of Hawaii.

27. The current County zoning for the subject property is Unplanned (U). This zoning applies to areas not subjected to sufficient studies to adopt specific district classifications.

28. The subject property is within the Special Management Area, as designated by the County of Hawaii pursuant to Chapter 205A, Hawaii Revised Statutes, as amended by Act 176, SLH 1976. A Special Management Permit would have to be acquired from the County of Hawaii to implement

the proposed development. At that time, an Environmental Impact Statement would be submitted to the County of Hawaii.

29. According to the State Tourism Functional Plan (drafted September 1979), North and South Kona are potential sites for "Major Designated Resort Regions" on the Island of Hawaii. The draft plan defines "North Kona" as the coast between Ke-ahole Point to and including Keauhou Bay. The subject property is therefore included in the potential Major Designated Resort Region.

NEED FOR GROWTH AND DEVELOPMENT.

30. The population of the Kona district is anticipated to double its 1970 population by 1985-1990. From 1970-1977 North Kona increased in population from 4,832 to 7,700 and south Kona from 4,004 to 4,700. The 59.7% increase for North Kona was the largest district increase in the State of Hawaii during that period of time. (Based on Census Statistical Area Committee, 1978 and 1970 State Census).

31. Between 1970 to 1977 there have been 3,156 dwelling units constructed in Kona representing some 36% of the total housing constructed on the Island of Hawaii.

32. It is anticipated that Hawaii County's future housing supply will be produced at rates which are quite similar to those of the recent past, with about 270 to 430 total units per year being built in the Kona area.

33. The Kamehameha Development Corporation is planning a major expansion of the Keauhou resort/resi-

dential area, encompassing 880 acres with 1,350 single-family units, additional golf course expansion, three community parks, and one historic park. The possibility of this future development strongly indicates the general confidence in the viability of Keauhou as a resort area. The maturing nature of Keauhou's resort potential likewise indicates the viability of residential areas which would support this activity. It is estimated that the potential number of new visitor industry employee households may reach 1,060 by 1990 in North Kona. Affordable, non-resort housing will be required to accommodate these additional households within the North Kona area.

34. The subject property is in close proximity to Kailua Town and the Keauhou Resort development, which are the primary resort and service employment areas of North Kona.

35. Past sales and marketing data compiled by Petitioner from its prior or existing projects indicate a strong demand for single-family residential dwellings and for vacant lots.

RESOURCES OF THE AREA.

Agricultural Resources

36. The Land Study Bureau's Overall Master Productivity Rating for agricultural use for the subject property rates about 85% of the property as Class E (very poor).

37. The subject property is now being used for intermittent grazing of only very few heads of cattle. The present lessee does not derive his primary or substantial

source of income from such grazing activities on the subject property.

Water Resources

38. Water for North Kona is supplied by Waiaha Stream and wells located at Kahaluu, having four deep wells at the 855 foot elevation, and having a cumulative pumping capacity of 4 million gallons per day. Makai of the Kahaluu Deep Wells at elevation 600 feet, the three pumps of the Kahaluu Water Development Shaft can provide an additional 6 million gallons per day for the water system. Daily consumption averaged 3 millions gallons per day during fiscal year 1977-1978. A 24-inch transmission main from the shaft portal of the Kahaluu Water Development Shaft parallels the subject property's mauka border.

39. The estimated consumption for the proposed 325 lot subdivision is 0.195 million gallons per day. The Department of Water Supply for the County of Hawaii has committed the necessary water for such daily consumption.

Flora and Fauna

40. The proposed development would transform the subject property from its present undeveloped condition to a new residential community through extensive construction activities.

41. There are no known or endangered plants and animals on the subject property.

Historic Resources

42. Dr. Hallett Hammatt, a qualified expert, has conducted a surface reconnaissance of the subject property, mapping all discovered historical sites, and

determining their potential significance. The next step, aside from preserving those sites deemed to be worthy of preservation is to actually excavate the sites, recording and studying the artifacts found within, if any.

43. The subject property contains 66 archaeological sites, three (3) of which are minor heiau temples. Dr. Hammatt has tentatively recommended said three heiaus for preservation with a limited program of clearing and stabilization. None of said three heiaus are present in the path of the proposed Alii Drive realignment.

44. Petitioner is committed to follow the recommendations and findings of Dr. Hammatt. If required, Petitioner intends to restore and preserve the three heiau sites, and further intends to build a park around those sites, to be maintained by an association of owners of the subdivision. One said significant sites straddles the property line, with about one-half of the heiau being on the subject property.

45. The Department of Planning and Economic Development has requested that a condition be imposed by the Commission, requiring that Petitioner, in "consultation with the Hawaiian Historic Preservation Office", salvage, protect, stabilize and maintain sites "as recommended" by said Hawaiian Historic Preservation Office. Such procedure would very likely result in a delay to development. Further, Dr. Hammatt, who is a member of the Review Board of said Preservation Office, has already prepared an in-depth surface survey the recommendations of which Petitioner has agreed to follow. Petitioner has further offered to invite

at Petitioner's expense, representatives from said Preservation Office to accompany Dr. Hammatt in further studies (including excavation) of sites.

46. The County of Hawaii represented that when Petitioner seeks a subdivision or rezoning application, it will follow quite closely the comments of said Preservation Office.

PUBLIC SERVICES AND FACILITIES:

Firefighting Services

47. Existing fire protection services at Kailua-Kona are available to service the proposed development on the subject property, being about 4-1/2 miles away.

Police Services

48. The Kona District headquarters for the County of Hawaii Police Department is located at Captain Cook and is available to respond to calls within the proposed project. The County is requesting additional capital funds for construction of a station in Kailua.

Schools

49. The State Department of Education anticipates that the student enrollment generated by the proposed project can be accommodated with existing or planned school facilities. Public schools there are organized into the Konawaena High Educational Complex. Holualoa (K-8), Kealekehe (K-8), Konawaena (K-6), Honaunau (K-8) and Hookena (K-8) feed students into Konawaena High and Intermediate Schools. The State has proposed to construct a new school, Kailua-Keauhou Elementary which is scheduled to open in 1982.

Utility Services

50. The Department of Water Supply, County of Hawaii, has committed the necessary water for the proposed project, which water is available from the 12-inch and 24-inch waterlines along Kuakini Highway.

51. The Hawaii Electric Light Company, Inc., (HELCO) has four substations in the area between Keauhou and Keahole Airport, in Keauhou, Kam Development, Kailua and Keahole, having a capacity of 26.5 mega volts amperes, with a current demand of 17.25 MVA.

52. A Hawaiian Telephone Company central office is located on Kuakini Highway south of its intersection with Mamalahoa Highway. The facility has a capacity of 3,500 lines with a current load of 1,000 lines.

Waste Water

53. Two waste water treatment plants serve Kailua and Keauhou. The Kailua Treatment plant, located in the Kona Industrial subdivision serves Kailua Town and areas as far south as the Kona Hilton, having the design capacity of 1 million gallons per day and the present flow of 0.4 million gallons per day. The Heeia Treatment Plant, located near Heeia Bay, serves the Keauhou Resort Community, having a design capacity of 1 million gallons per day with an average daily flow of 0.2 to 0.3 million gallons per day.

54. Cesspools and/or package treatment plants are the primary means of waste disposal in the subject area.

55. Petitioner has represented that it will comply with all requirements, recommendations, as esta-

blished by the County of Hawaii and State Department of Health during the zoning or subdivision processes. The County of Hawaii and State Department of Planning and Economic Development have expressed concerns about the use of cesspools in the subject area.

56. Petitioner has and is investigating various alternatives in reference to waste water disposal. One such alternative is to hook up with the private treatment plant facility in the hearby Kamehameha Development Corporation resort project. In any event, Petitioner has represented that it will abide by all requirements imposed by the County of Hawaii and/or State Department of Health during the zoning of subdivision process.

Solid Waste Disposal

57. As refuse collection services are not provided by the County of Hawaii, persons generally haul their own refuse to the Kona Sanitary Landfill or otherwise contract with commercial haulers. The existing landfill has a life expectancy of 10 years until 1990.

Roads Highways

58. Two of Kona's major thoroughfares border the subject property or provide ready access to it, being Kuakini Highway and Alii Drive. From Alii Drive, Laaloa Avenue and Queen Kalama Drive provide ready access to the subject property. The subject property would be affected by the State Department of Transportation's proposed widening of the Hawaii Belt Road between Holualoa and Papa, requiring Petitioner to dedicate a 40 foot right-of-way on the makai side of the Kuakini Highway. Further, the County

of Hawaii's proposed Alii Drive realignment would run through the subject property, cutting a path of about 150 feet wide throughout.

59. Petitioner is prepared to dedicate the necessary acreage for said State of Hawaii and County of Hawaii highway projects.

CONTIGUITY OF DEVELOPMENT TO URBAN AREAS AND FACILITIES

60. The proposed project is located between existing and proposed developments at the Keauhou Resort area and Kailua Town. It is contiguous to Urban Districts on its mauka and Makai sides. The proposed development thus follow a pattern of in-fill to the urban areas surrounding it.

61. Although the land ownership system in the area has resulted in elongated subdivisions from the mountains to the seas totally unrelated to each other, the County of Hawaii has expressed a desire to formulate a comprehensive plan for the total area which would integrate existing and future developments by basic elements such as a transportation network.

PREFERENCES FOR DEVELOPMENT

62. The subject property is in close proximity to Kailua Town and Keauhou Resort development, the primary service and resort employment centers of North Kona. Further, it is in close proximity to the proposed Natural Energy Laboratory at Ke-ahole Point and Kamehameha Development Corporation's proposed resort/residential/golf course development.

63. The subject property will therefore provide needed housing accessible to said existing and future employment opportunities.

CONFORMANCE WITH INTERIM STATEWIDE LAND USE GUIDANCE
POLICIES AND DISTRICT REGULATIONS

64. There will be no significant adverse effects to the environmental, agricultural, natural and scenic resources of the area. Effects upon historical and archaeological resources will be minimized by Petitioner's plan to study and/or preserve significant historical sites.

65. The subject property is situated between existing urban areas, and is an in-fill between existing and proposed developments in Keauhou and Kailua.

66. The subject property is in close proximity to basic services such as water, recreation facilities, schools, transportation corridors, electrical and telephone utilities, and police firefighting services. Various alternative means of sewerage disposal are available, including the use, if necessary and approved by relevant governmental bodies, of cesspools and a package treatment plant, and tying in with existing or proposed treatment plans, whether privately owned or not.

67. Maximum use of existing services and facilities would be made since water and electrical services are available at the existing urban developments along Kuakini Highway and Alii Drive. Also, the proposed Hawaii Belt Road and the realignment of Alii Drive will improve accessibility to the proposed project. Petitioner would install

internal street networks, water distribution lines and a drainage system to serve the project.

68. The subject property is bounded on its mauka and makai sides by existing urban developments. To its south, lies the Kamehameha Development Corporation's proposed 880 acre resort development.

69. The project will provide needed housing accessible to the existing and future employment opportunities at the Keauhou Resort Area and Kailua Town.

70. The proposed development is consistent with the County of Hawaii's General Plan, being designated Low Urban Density and Alternate Urban Expansion by the County's Land Use Pattern Allocation Guide Map.

71. The subject property is not within the Conservation District.

INCREMENTAL DISTRICTING

72. The proposed project can reasonably be completed within 5 years from the date of Commission approval. Petitioner intends and expects to complete the project within 3 years from commencement of construction, proceeding immediately with the acquisition of other permits and processes, such as obtaining a Special Management Permit.

73. The County of Hawaii has represented that it will impose housing performance and incremental zoning conditions at the rezoning or subdivision level.

RULINGS ON PROPOSED FINDINGS

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

by the Land Use Commission by adoption herein, or rejected by clearly contrary findings at fact herein, are hereby denied and rejected.

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 reclassification of the subject property situated at Pahoehoe 4, La'aloa 1 & 2, and Kapala'alaia 1, North Kona, Island of Hawaii, Tax Map Key No. 7-7-08:11 (3rd Division), containing a total or approximately 155 acres, from the Agricultural to the Urban District and amendment of Land Use District Boundaries accordingly to permit the proposed development is reasonable, will not violate Section 205-2, Hawaii Revised Statutes, and is consistent with the Interim Statewide Land Use Guidance Policies established pursuant to Section 205-16.1, Hawaii Revised Statutes, and by the State Land Use District Regulation 6-1.

ORDER

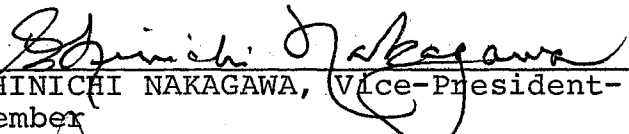
IT IS HEREBY ORDERED that the property which is the subject of the Petition by Pacific Basin Resorts in Docket No. A79-468, approximately 155 acres, Tax Map Key No. 7-7-08:11 (3rd Division) at Pahoehoe 4, La'aloa 1 & 2, Kapala'alaia 1, North Kona, Island of Hawaii be reclassified from the Agricultural to the Urban District.

DONE at Honolulu, Hawaii, this 17th day of
September, 1980, upon motion heard and duly
carried by the Commission on July 16, 1980,
in Honolulu, Hawaii.

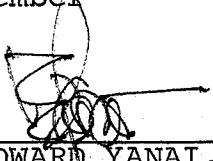
LAND USE COMMISSION, STATE OF HAWAII



CHARLES DUKE, Chairman-Member



SHINICHI NAKAGAWA, Vice-President-
member

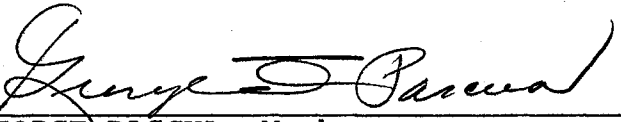


EDWARD YANAI, Member

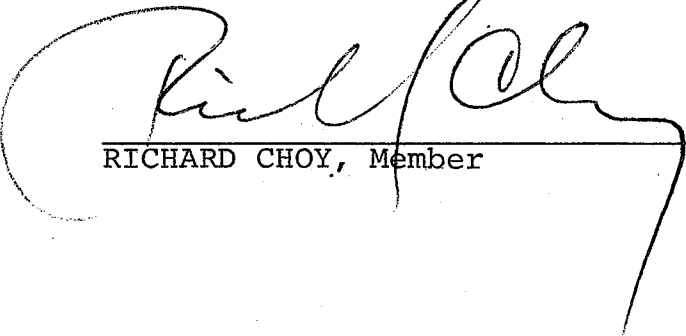
MITSUO OURA, Member



SHINSEI MIYASATO, Member



GEORGE PASCUA, Member



RICHARD CHOY, Member

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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
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DATED: Honolulu, Hawaii, this 19th day of September, 1980.



GORDAN Y. FURUTANI
Executive Officer