

BEFORE THE LAND USE COMMISSION  
OF THE STATE OF HAWAII

In the Matter of the Petition of )  
PUKALANI HEIGHTS ASSOCIATES ) DOCKET NO. A81-514  
To Amend the Agricultural Land Use )  
District Boundary to Reclassify )  
Approximately 28.8 Acres, Tax Map )  
Key No.: 2-3-11: 1 and 2 at )  
Pukalani, Island and County of )  
Maui, into the Urban Land Use )  
District; To Amend the Urban Land )  
Use District boundary to Reclassify )  
Approximately 28.8 Acres, Tax Map )  
Key No.: 2-3-11: 1 and 2 at )  
Pukalani, Island and County of )  
Maui, into the Agricultural Land )  
Use District )  
\_\_\_\_\_ )

LAND USE COMMISSION  
STATE OF HAWAII  
AUG 11 9 30 AM '87

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

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

The Land Use Commission (hereinafter the "Commission"), having filed its Findings of Fact, Conclusions of Law and Decision and Order (the "Decision") in the above captioned Petition on July 12, 1982, and desiring to amend the Decision to incorporate the action on the Order to Show Cause taken by the Commission on June 5, 1987, hereby amends the Decision by replacing the Decision with the following Findings of Fact, Conclusions of Law, and Decision and Order:

FINDINGS OF FACT

Procedural Matters

1. On August 24, 1981, Pukalani Heights Associates filed its Petition to reclassify approximately 28.8 acres of

land identified as Maui Tax Map Key No. 2-3-11: 1 and 2, situated along the eastern (mauka) edge of the residential development of Pukalani (the Property), from the Agricultural District into the Urban District for a residential subdivision and related recreational uses.

2. The hearing on the petition commenced on November 23, 1981, in Wailuku, Maui and continued on February 2, 1982, in Kahului, Maui, pursuant to notices published on October 14, 1981 and January 11, 1982 in the Maui News and Honolulu Advertiser.

3. On July 12, 1982, the Commission, by filing findings of fact, conclusions of law and decision and order, approved the Petition subject to one condition and notified Petitioner's attorney of the requirement to file said condition with the Bureau of Conveyance pursuant to Section 205-4(g) HRS and Section 15-15-92 of the Hawaii Land Use Commission Rules (Commission's Rules).

4. On May 16, 1983, March 9, 1984, and June 26, 1985, the Commission wrote letters to Petitioner's attorney reminding them that the subject condition had not been filed.

5. On April 24, 1986, the Commission received a letter from Petitioner indicating that Petitioner was no longer involved in the project and had no further plans to develop it.

6. On April 29, 1986 and May 1, 1986, the Commission wrote to Raymond Pires, co-landowner, pointing out the need to

file the condition and requested that he file the condition with the Bureau of Conveyances. Subsequent correspondence and communications with the representatives of the landowners dating May 12, 1986, May 20, 1986, July 28, 1986, and July 29, 1986, communicated the specific requirement and need of the condition to be filed with the Bureau of Conveyances in order to enable the reclassification to remain.

7. On November 18, 1986, the Commission approved an Order to Show Cause proceeding to be initiated for the subject docket pursuant to Section 15-15-93 of the Commission's Rules.

8. On January 12, 1987, the Commission notified the State Department of Planning and Economic Development and the County of Maui Planning Department of the Order To Show Cause hearing.

9. On January 15, 1986, the Commission notified the landowners and Petitioner of the Order To Show Cause hearing.

10. The Commission's hearing officer conducted the Order To Show Cause Hearing on February 20, 1987, pursuant to notice published in the Maui News and Honolulu Advertiser on January 16, 1987.

11. No public witnesses testified at the hearing.

#### Description of the Property and Proposed Development

12. The Property had been utilized for pineapple cultivation periodically until 1982, and thereafter until early 1986, the land lay fallow. The Property has since been

replanted with pineapple and has continued to be in pineapple production until the date of the Order To Show Cause hearing.

13. The soils on the Property are classified as Haliimaile silty clay - a loam soil that has an overall productivity rating of class "A" when irrigated for agricultural uses.

14. The land use of the immediate surrounding area is a mixture of residential, agricultural and neighborhood commercial uses. The development surrounding the Property includes pineapple cultivation as well as single-family residential housing and neighborhood commercial areas. The character of the surrounding areas is a combination of both residential and agricultural.

15. Pukalani Heights Associates originally proposed to develop 119 single-family residential lots ranging from 7,700 square feet to 12,200 square feet. Petitioner estimated the selling prices for the lots to be between \$65,000 and \$75,000 with a two year timetable for development once governmental approvals were secured.

16. To date, neither the landowners nor the Petitioner have taken any action to develop the Property for residential purposes. Furthermore, the condition regarding low and moderate income housing was not filed with the Bureau of Conveyances as was required by the Commission in order to complete a reclassification. To date, the Petitioner and the

landowner have not complied with the filing of the condition with the Bureau of Conveyances.

Position of the Parties

17. The Maui County Planning Department did not object to the Property reverting to its former land use classification of an Agricultural District.

18. The Department of Planning and Economic Development testified that it had no objection to the reversion of the Property to an Agricultural District.

19. Linda Roth, who indicated she shared her mother's, Agnes De Lima, one-seventh interest in the Property, testified that the Property is currently under pineapple cultivation and that she and Agnes De Lima had no intention of developing the Property as indicated in the original Petition. Ms. Roth stated she and Agnes De Lima supported the reclassification to an Agricultural District.

20. No other landowner appeared or testified before the Commission.

CONCLUSIONS OF LAW

The Commission concludes that the Property meets the Standards for Determining Agricultural District Boundaries as set forth in Section 15-15-19 of the Commission's Rules as follows:

- a) The Property contains lands with a high capacity for agricultural production. According to the

Land Study Bureau's Detailed Land Classification, the Property has an overall productivity rating of "A" ("E" being the lowest) when irrigated.

- b) The Property is also rated "A" by the Detailed Land Classification for grazing and other agricultural uses if irrigated.
- c) The Property was used for pineapple cultivation until 1982. From 1982 to early 1986, the Property lay fallow. Subsequently, the Property was replanted in pineapple and has continued in production till the present.

Petitioner has demonstrated no action towards obtaining proper County residential zoning, the undertaking of infrastructural improvements, and does not plan residential development of the Property in the near future.

Petitioner has failed to file the condition as required by the Decision and is in violation of Section 205-4(g), HRS, and Section 15-15-92 of the Commission's Rules.

Pursuant to Chapter 205, Hawaii Revised Statutes, as amended, and the Land Use Commission Rules, the Commission finds upon the preponderance of evidence that the reversion of the Property from the Urban District to its original Agricultural District classification, conforms to the standards established in the Land Use Commission Rules, is reasonable and in compliance with Sections 205-2 and 205-4.

ORDER

IT IS HEREBY ORDERED that the Property, subject of Commission Docket No. A81-514 filed by Pukalani Heights Associates, situate at Pukalani, County of Maui, Tax Map Key No. 2-3-11: parcels 1 and 2, consisting approximately 28.8 acres, shall be and hereby reverts from its Urban District classification to the Agricultural District classification and the district boundaries are hereby amended accordingly.

DOCKET NO. A81-514 - PUKALANI HEIGHTS ASSOCIATES

Done at Honolulu, Hawaii, this 14th day of August 1987,  
per motions on June 5, 1987 and July 15, 1987.

LAND USE COMMISSION  
STATE OF HAWAII

BY *T. Tacbian*  
TEOFILO PHIL TACBIAN  
Chairman and Commissioner

BY *Everett Cuskaden*  
EVERETT L. CUSKADEN  
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

BY *Sharon R. Himeno*  
SHARON R. HIMENO  
Commissioner

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District. )  
\_\_\_\_\_ )

CERTIFICATE OF SERVICE

I hereby certify that a copy of the Amended 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:

ROGER A. ULVELING  
Department of Business and Economic Development  
State of Hawaii  
250 South King Street  
Honolulu, Hawaii 96813

CERT. CHRISTOPHER L. HART  
Planning Department  
County of Maui  
200 South High Street  
Wailuku, Hawaii 96793

CERT. RAYMOND M. PIRES  
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3212 Paliuli Street  
Honolulu, Hawaii 96816

CERT. HARRY M. PIRES  
c/o Diana L. Pires  
4921 Milano Way  
Martines, CA 94553

CERT. ISABELLE P. CHUNG  
P. O. Box 82  
Kahului, Hawaii 96732

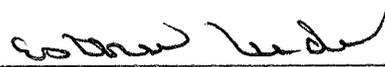
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CERT. LINDA L. ROTH  
c/o Agnes Delima  
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CERT. EVANGELINE P. HIGGINBOTHAM  
2600 Murray Street  
Turlock, California 95380

CERT. GILBERT N. IKEDA  
Pukalani Heights Associates  
Century Center, Suite 2404  
1750 Kalakaua Avenue  
Honolulu, Hawaii 96826

Dated: Honolulu, Hawaii, this 14th day of August 1987.

  
\_\_\_\_\_  
ESTHER UEDA, Executive Officer

DOCKET NO. A81-514 - PUKALANI HEIGHTS ASSOCIATES

A copy of the Land Use Commission's Decision and Order was served upon the following by regular mail on August 14, 1987.

EVERETT KANESHIGE, Deputy Attorney General  
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