

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of)	DOCKET NO. A84-580
GEORGE L. SAGEN and JANE A. SAGEN)	GEORGE L. SAGEN and
To Amend the Agricultural Land)	JANE A. SAGEN
Use District Boundary into the)	
Urban Land Use District for)	
approximately 5.0 acres at)	
Kilauea, Kauai, Tax Map Key)	
5-2-19:1)	
_____)	

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

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of)	DOCKET NO. A84-580
GEORGE L. SAGEN and JANE A. SAGEN)	
To Amend the Agricultural Land)	GEORGE L. SAGEN and
Use District Boundary into the)	JANE A. SAGEN
Urban Land Use District for)	
approximately 5.0 acres at)	
Kilauea, Kauai, Tax Map Key)	
5-2-19:1)	
_____)	

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

George L. Sagen and Jane A. Sagen, individually and on behalf of J, G & E Industrial Venture, a Hawaii joint venture, (hereinafter "Petitioner") filed this Petition on September 19, 1984, and an amendment to the Petition on February 8, 1985, pursuant to Hawaii Revised Statutes Section 205-4, and the Rules of Practice and Procedure of the Land Use Commission, State of Hawaii, to amend the land use district boundaries of approximately 5.0 acres of land, Kauai Tax Map Key 5-2-19:1, situate at Kilauea, Kauai, State of Hawaii, (hereinafter "Property") from the Agricultural District to the Urban District for a light industrial development. The Land Use Commission (hereinafter the "Commission"), having heard and examined the testimony, evidence and argument of counsel presented during the hearings, and the proposed findings of fact and conclusion of law, hereby makes the following findings of fact and conclusions of law:

FINDINGS OF FACT

PROCEDURAL MATTERS

1. By action on December 18, 1984, the Commission consolidated for hearing this Petition, the Petition of Foster Petroleum Corporation in docket no. A84-572 and the Petition of Beta Pacific, Inc. in docket no. A84-588. The Commission conducted the consolidated hearing on February 21, 1985, at Lihue, Kauai, pursuant to notice published in the Honolulu Advertiser and the Garden Island on January 18, 1985.

2. On February 21, 1985, the Commission accepted the request of Beta Pacific, Inc. to withdraw its petition in docket no. A84-588 and its request to intervene in this Petition. The Commission continued the consolidated hearing on April 16 and 17, 1985, pursuant to notice published in the Honolulu Advertiser and The Garden Island on March 15, 1985.

3. On February 21, 1985, the Commission admitted Foster Petroleum Corporation and the Kilauea Neighborhood Association as Intervenors in this Petition.

4. No public witnesses appeared to testify before the Commission.

DESCRIPTION OF PROPERTY

5. The Property is located in Kilauea on the mauka side of Kuhio Highway and is approximately 1,500 feet northwest of Kilauea Town.

6. J, G & E Industrial Venture, a Hawaii joint venture, comprising of George L. Sagen, Jane A. Sagen and Edward S. Honda owns the Property in fee. The joint venture had authorized George L. Sagen and Jane A. Sagen to continue as named Petitioners in Docket No. A84-580.

7. There is an existing warehouse, truck weigh scale and scale house, and underground gas tank on the Property.

8. The U. S. Department of Agriculture Soil Conservation Service Soil Study, 1972, classifies most of the soils on the Property as Puhi silty clay loam, 3 to 8 percent slopes (PnB) and Puhi silty clay loam, 8 to 15 percent slopes (PnC).

Puhi soils are well-drained soils found on the uplands of Kauai. Puhi silty clay (PnB) and (PnC) have a surface layer of approximately 12 inches. This soil exhibits slow runoff and slight erosion hazard.

9. The Land Study Bureau of the University of Hawaii has evaluated and rated all of the Property in its Detailed Land Classification as Overall (Master) Productivity Rating Class C.

10. The State Department of Agriculture's Agriculture Lands of Importance to the State of Hawaii (ALISH) classification system rates most of the Property as Prime Agricultural Land.

11. The Federal Insurance Administration's Flood Insurance Study for the island of Kauai designates the Property as "Zone C", an area of minimal flooding.

PROPOSAL FOR DEVELOPMENT

12. Petitioner proposes to develop the Property for light industrial uses in two phases.

Phase I

Petitioner will construct four warehouses. Warehouses 1 and 2 will each contain 13 bays of 1,440 square feet for a total of 18,720 square feet. Warehouse 3 will be 15,840 square feet in size and contain 11 bays of 1,440 square feet each. Warehouse 4 will be 7,200 square feet in size and contain 5 bays of 1,440 square feet each. The warehouse space will be rented or leased for limited industrial uses at lease rates of 40 to 50 cents a square foot.

Phase II

Petitioner will develop 4 lots consisting of approximately 11,500 square feet, 11,600 square feet, 20,620 square feet, and 21,340 square feet, and will be sold or leased for development for limited industrial uses.

13. Petitioner proposes to create a ten foot buffer zone by planting tall trees within and around the Property. In addition, the proposed structures will be set back approximately 80 feet from Kuhio Highway.

14. Petitioner estimates that it will complete development of the major infrastructure for the Property, including the necessary off-site improvements, within five years of receipt of all necessary governmental approvals.

15. Petitioner estimates that the total cost to develop the Property, including necessary off-site improvements,

will be approximately \$1,500,000.00.

STATE AND COUNTY PLANS AND PROGRAMS

16. The Property is situate within the State Land Use Agricultural District.

17. The County of Kauai classifies the Property as follows:

<u>Kauai General Plan Update</u>	<u>North Shore Development Plan Update</u>	<u>Kauai Comprehensive Zoning Ordinance</u>
Urban Residential	Limited Industrial	Agriculture

18. Petitioner's proposed development is consistent with the Kauai General Plan Update for Urban Residential which allows appropriate light industrial facilities necessary to support and complement community functions.

19. The Petitioner's proposed development is consistent with the North Shore Development Plan Update (Kauai Ordinance No. 476, adopted June 27, 1985) which identifies the Property for limited industrial use in the North Shore area.

20. Petitioner will need to request an amendment of the Property from Agricultural to Limited Industrial in order to commence development.

21. The Property is not situate within the County's Special Management area.

PETITIONER'S FINANCIAL CAPABILITY TO
UNDERTAKE THE PROPOSED DEVELOPMENT

22. George L. Sagen and Jane A. Sagen's balance sheet as of December 31, 1984, lists total assets of \$1,818,727.00,

and liabilities of \$1,574,584.00.

Edward S. Honda's balance sheet as of December 31, 1984, lists total assets of \$2,139,910.00 and total liabilities of \$1,464,940.00

NEED FOR THE PROPOSED DEVELOPMENT

23. Petitioner's market consultant, Cowell & Co., Inc., projects a pent-up demand for about 15 acres of industrial land in Hanalei and a need for approximately 18 to 37 acres of additional industrial lands to the year 2000 for the Hanalei District which is comprised of the Kilauea, Princeville, and Hanalei areas. Cowell & Co., Inc. calculated the estimated additional demand for light industrial land by using the Department of Planning and Economic Development's projected industrial/service oriented jobs (which include manufacturing; construction; transportation, communications and utilities; other trade and services) increase of 5,500 for Kauai from 1985 to 2000. Cowell & Co., Inc. assumed 50% of this job total to be in the industrial/service sector requiring industrial land and divided this total by the consultant's estimate of 15 employees per industrial zone acre. Cowell & Co., Inc. allocated 10% to 20% of this acreage total to the Hanalei District.

25. Petitioner estimates the demand for industrial land in 5-year increments as follows:

	<u>Projected Increase</u>			
	<u>1985</u>	<u>1990</u>	<u>1995</u>	<u>2000</u>
Industrial/service oriented jobs	800	2,100	4,100	5,500
Assumes 50% industrial	400	1,050	2,050	2,750
Estimated industrial land need (in acres)	27	70	137	183
10% to 20% allocation to Hanalei District (in acres)	2.7-5.4	7-14	13.7-27.4	18.3-36.6

26. Albert Lono Lyman, Inc., in a similar study for Foster Petroleum Corporation, dated May 15, 1984, estimates that approximately 64 to 74 acres of industrial land are needed for the Hanalei and Kawaihau Districts between 1985 and 1995 with two-thirds or 51 acres projected for the North Shore area. This projection does not include an estimated current pent-up demand of approximately 14 acres originating from existing light industrial uses occupying lands zoned for other uses in the North Shore area. Accordingly, Albert Lono Lyman, Inc. estimates that the North Shore area may require up to 65 acres for light industrial uses.

IMPACT UPON RESOURCES OF THE AREA

Agricultural Resources

27. The Property is not presently being used for agricultural purposes.

28. Frank S. Scott, Jr., an agricultural economist, analyzed the impact of removing 50 acres of marginal agricultural land for Foster Petroleum Corporation's light industrial

development proposed makai of Kuhio Highway and northeast of the Property and concluded that the removal of 50 acres will have no impact on agricultural development on Kauai. Mr. Scott pointed out his conclusions would also be applicable for the Property.

29. Air Quality - Petitioner does not anticipate that the proposed development will produce significant adverse air pollutants except for some increase in air pollutants due to increased vehicular emissions.

Petitioner proposes to effect mitigative measures to reduce short-term fugitive dust problems due to construction activities.

30. Noise - Petitioner does not anticipate that the proposed development will produce significant adverse noise problems since the Property is located approximately 2,500 feet away from the residential areas. However, Petitioner expects increase in ambient noise levels due to increased vehicular traffic.

Historic Resources

31. The Property is not listed in, nor has it been determined to be eligible for inclusion in the Hawaii Register or the National Register of Historic Places.

32. Petitioner does not believe surface remains exist due to past agricultural use of the Property.

Flora and Fauna

33. Petitioner does not anticipate any rare or

endangered species exists on the Property due to previous agricultural cultivation.

Drainage

34. The Property drains into a gully and stream located approximately 30 feet to the south. Petitioner does not anticipate that the proposed development's activities on the Property would have any adverse impact upon the stream.

Scenic Resources

35. Petitioner anticipates that the proposed development will not have a significant adverse effect on the present scenic viewplanes from Kuhio Highway or from lands mauka of the Property due to setback requirements and the proposed buffer zone.

ADEQUACY OF PUBLIC SERVICES AND FACILITIES

Electric and Telephone Utilities

36. Kauai Electric, a Division of Citizens Utilities Company, will provide electricity to the Property.

37. Hawaiian Telephone Company will provide telephone services to the Property.

Firefighting and Rescue Services

38. The Hanalei Fire Station, located adjacent to the Princeville Shopping Center, will provide fire protection and rescue services to the Property.

Police Services

39. The Hanalei Police Substation, located adjacent to the Princeville Shopping Center, will provide police

protection to the Property.

Roadway Facilities and Traffic

40. Ingress and egress to the Property will be provided through the existing access off Kuhio Highway.

41. Petitioner will work with the County to mitigate any impacts of increased traffic generated by the development. Petitioner may be required to provide deceleration-acceleration lanes, left turn storage lanes, and other highway improvements, at the Kuhio Highway access.

Solid Waste

42. Petitioner proposes to have solid waste from the Property deposited at the County's Hanalei Landfill. Petitioner will not permit toxic wastes generated from operations carried on at the Property to be deposited at the County landfill.

Water

43. Petitioner proposes to install a 12 inch mainline extension along Kuhio Highway and a connecting 8 inch mainline extension along Kolo Road to the Property to assure adequate fire protection water flow. In addition, Petitioner will install 4,000 feet of parallel 16 inch pipeline to upgrade the existing 12 inch mainline from the Kilauea water tank to Kuhio Highway. Petitioner will absorb the \$300,000.00 estimated costs for water system improvements.

Sewage

44. Petitioner proposes to dispose of sewage by using cesspools located on the Property and will coordinate development with appropriate State and County agencies.

CONTIGUITY OF DEVELOPMENT

45. The Property is in close proximity to the Kilauea Urban District, a residential community with city-like concentrations of people, structures, streets, urban level of services and other related land uses.

PREFERENCES FOR DEVELOPMENT

46. Petitioner estimates the proposed development will generate approximately 15 jobs per acre for a total of 75 full-time jobs.

COMPLIANCE WITH STANDARDS FOR DETERMINING DISTRICT BOUNDARIES

47. The Property conforms to the standards for reclassification into the Urban District in that:

a. The Property is in the vicinity of the Kilauea Town, a community characterized by "city-like" concentrations of people, structures, streets, urban level of services and other related land uses.

b. Petitioner has substantiated the market demand for its proposed limited industrial development.

c. Petitioner has the financial capacity to undertake and complete the proposed development.

d. The Property is near basic services such as electric and phone utilities and police and fire protection.

e. Petitioner will make available sewage disposal and water systems to the Property.

f. The Property has satisfactory topography and drainage, and is reasonably free from the danger of floods, tsunami, unstable soil conditions, and other adverse environmental effects.

g. The Property has been designated for future urban use by the Kauai General Plan Update, and for future limited industrial use by the North Shore Development Plan Update Ordinance.

h. The Property will not contribute towards scattered spot urban development and will not require an unreasonable investment in public supportive services.

i. In order to minimize the impact of the proposed development on the aesthetic quality of the area, Petitioner proposes to limit the height of structures on the Property to 20 feet and to set structures back approximately 80 feet from Kuhio Highway. Petitioner proposes to plant a landscape buffer around the structures.

INCREMENTAL DISTRICTING

48. Petitioner proposes to complete all on-site and off-site improvements within five years of receipt of all necessary governmental approvals.

RULINGS ON PROPOSED FINDINGS OF FACT

Any of the proposed findings of fact submitted by Petitioner or other parties to this proceeding not already

ruled upon by the Land Use 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, as amended, and the Rules of Practice and Procedure and District Regulations of the State Land Use Commission, the Commission finds upon a preponderance of the evidence that the reclassification of the Property, being approximately 5.0 acres located in Kilauea, Island and County of Kauai, State of Hawaii, Tax Map Key 5-2-19:1, from the Agricultural District to the Urban District for limited industrial uses 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, Chapter, 226, Hawaii Revised Statutes, as amended.

ORDER

IT IS HEREBY ORDERED that the Property, which is the subject of the Petition Docket Number A84-580 by George L. Sagen and Jane A. Sagen, consisting of approximately 5.0 acres situate at Kilauea, Kauai, Hawaii, identified as Kauai Tax Map Key 5-2-19: parcel 1, shall be and hereby is reclassified from the Agricultural District to the Urban District, and the Land Use District Boundaries are hereby amended accordingly.

DOCKET NO. A84-580 - GEORGE L. SAGEN and JANE A. SAGEN

Done at Honolulu, Hawaii, this 11th day of October
1985, per motions on August 21, 1985 and September 24, 1985.

LAND USE COMMISSION
STATE OF HAWAII

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

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

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

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

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

By *Toru Suzuki*
TORU SUZUKI
Commissioner

By *Everett Cuskaden*
EVERETT CUSKADEN
Commissioner

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

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of) DOCKET NO. A84-580
)
GEORGE L. SAGEN AND JANE A. SAGEN) GEORGE L. SAGEN
) AND JANE A. SAGEN
To Amend the Agricultural Land Use)
District Boundary into the Urban)
Land Use District for approximately)
5.0 acres at Kilauea, Kauai, Hawaii,)
Tax Map Key: 5-2-19: 1)
_____)

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:

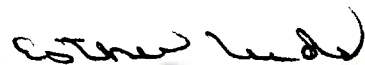
KENT M. KEITH, Director
Department of Planning and Economic Development
State of Hawaii
250 South King Street
Honolulu, Hawaii 96813

AVERY H. YOUN, Planning Director
Planning Department
County of Kauai
4280 Rice Street
Lihue, Kauai, Hawaii 96766

ERIC T. MAEHARA, Attorney for Petitioner
Foley, Maehara, Judge, Choi, Nip & Okamura
737 Bishop Street, Suite 2700
Honolulu, Hawaii 96813

JO ANN YOSHIMOTO, Intervenor
Kilauea Neighborhood Association
P. O. Box 711
Kilauea, Kauai, Hawaii 96754

DATED: Honolulu, Hawaii, this 11th day of October 1985.



ESTHER UEDA
Executive Officer

DOCKET NO. A84-580 - GEORGE L. SAGEN AND JANE A. SAGEN

A copy of the Land Use Commission's Decision and Order was served upon the following by regular mail on October 11, 1985.

EVERETT KANESHIGE, Deputy Attorney General
Department of the Attorney General
State Capitol, 4th Floor
Honolulu, Hawaii 96813

MAX GRAHAM, County Attorney
Office of the County Attorney
County of Kauai
4396 Rice Street
Lihue, Hawaii 96766