DEPARTMENT OF PLANNING AND PERMITTING
OF THE CITY AND COUNTY OF HONOLULU

STATE OF HAWAII

IN THE MATTER OF THE APPLICATION
OF

FILE NO. 2019/DEC-3(MS)

KUILIMA ESTATES COALITION
FOR A DECLARATORY RULING

FINDINGS OF FACT, CONCLUSIONS
OF LAW, AND DECLARATORY RULING

I. PETITION

A. Basic Information:

PETITIONER: Kuilima Estates Coalition
LANDOWNERS: AOAO of Kuilima Estates East and
AOAO of Kuilima Estates West
LOCATION: 57-077 Eleku Kuilima Place and
57-101 Kuilima Drive - Koolauloa (Exhibit A)
TAX MAP KEYS: 5-7-001: 027 and 029
LOT AREA: 32.439 acres
EXISTING ZONING: A-1 Low Density Apartment District (Exhibit B)
EXISTING USE: Multi-family dwelling, short-term rental
SURROUNDING LAND USES: Hotel, retail establishment, restaurants, golf
course, wastewater Treatment Plant, James
Campbell National Wildlife Refuge

On December 11, 2019, the Department of Planning and Permitting ("DPP")
received a petition for a declaratory ruling from Kuilima Estates Coalition
("Petitioner"). The Petitioner requests a declaratory ruling to determine whether
short-term rental is a permissible use at Kuilima Estates East and Kuilima
Estates West ("Kuilima Estates") in accordance with Ordinance No. 19-18,
specifically Land Use Ordinance ("LUA") Section 21-5.1___(a). This declaratory
ruling is issued pursuant to Chapter 3 of the Rules of Practice and Procedure
("Rules") of the DPP.
B. **Statement of Petitioners' Interest:** The Petitioner includes members who own property at Kuilima Estates, business owners and other people interested in real estate and short-term rental. The interpretation of LUO Section 21-5. ___(a) impacts the Petitioner's business and the use of their properties.

**Applicable Ordinance:** The Ordinance relevant to the Petitioner's argument is LUO Section 21-5. ___(a). Ordinance No. 19-18, relating to short-term rentals, added a new section in the LUO, which states:

"Section 21-5. ___ Bed and breakfast homes and transient vacation units.

(a) Bed and breakfast homes and transient vacation units are permitted in the A-1 low-density apartment zoning district and A-2 medium-density apartment zoning district provided:

(1) They are within 3,500 feet of a resort zoning district of greater than 50 contiguous acres; and

(2) The resort district and the A-1 or A-2 district, as applicable, were rezoned pursuant to the same zone change application as part of a master-planned resort community."

C. **Documents:** The Petitioner argues that transient vacation units ("TVU") should be allowed at Kuilima Estates. The Petitioner identifies various documents that supports Kuilima Estates qualification of the two criteria under LUO Section 21-5. ___(a). The Petitioner submitted their Exhibits A through R, which included:

"A" Kuilima Resort Declaration of Covenants, Conditions, and Restrictions (recorded December 30, 1988);

"B" Letter requesting for a boundary reclassification - request for boundary Reclassification (dated January 17, 1985);

"C" Zone Change Application Form;

"D" DPP Zone Change Director's Report - summary description page;

"E" Ordinance. No 4300 (1973) - Amendment to revise Chapter 21 relating to conditional zoning;

"F" Unilateral Agreement ("UA") No. 5532 (recorded September 23, 1986);

"G" Ordinance No. 86-99;

"H" Amendment to UA;
"I" Trustee's Limited Warranty Deed;

"J" 1999 Koolauoa Sustainable Communities Plan ("KSCP");

"K" Turtle Bay Resort ("TBR") Master Landscaping Plan (portion);

"L" 2011 Supplemental Environmental Impact Statement ("SEIS") Preparation Notice ("Preparation Notice");

"M" Public Utilities Commission Decision and Order No. 35648;

"N" Bill 89 (2018), CD1 Status Report;

"O" Hawaii News Now article (posted June 25, 2019);

"P" Email excerpt from DPP staff, Ms. Malynne Simeon (dated July 15 and 17, 2019);

"Q" Star Advertiser Article (dated August 10, 2019); and

"R" Letter from Council Member Heidi Tsuneyoshi to Acting Director Kathy Sokugawa (dated November 20, 2019).
D. **Background:** Below is a chronological list of the zoning history for Kuilima Estate and the surrounding TBR, formerly known as the Kuilima Resort.

<table>
<thead>
<tr>
<th>Approval Date</th>
<th>File No.</th>
<th>Ordinance No.</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>10/3/1969</td>
<td>Zone Change Application No. 69/Z-43</td>
<td>3475</td>
<td>Rezone a portion of R-6 Residential District situated at Kuilima Point Fronting Turtle Bay at Kahuku, Oahu, Hawaii, to H-1 Hotel District. Involved 43.2 acres of land. Note that Ordinance No. 3475 was voided on November 24, 1971. Then, the boundaries were adjusted under Ordinance No. 3881 (see below).</td>
</tr>
<tr>
<td>12/21/1971</td>
<td>Zone Change Application No. 71/Z-33</td>
<td>3855</td>
<td>Rezone a portion of AG-1 Restricted Agricultural District situated at Kahuku, Koolauloa, Oahu, Hawaii, to H-1 Resort Hotel District No. R-11. Involved 8 acres of land (see exhibit C).</td>
</tr>
<tr>
<td></td>
<td>Zone Change Application No. 71/Z-33</td>
<td>3856</td>
<td>Rezone portions of R-6 Residential District and AG-1 Restricted Agricultural District situated at Kahuku, Koolauloa, Oahu, Hawaii, to A-1 Apartment District Nos. R-44 A, B, C, D and E. Involved a total of 129.10 acres of land. R-44 B is currently known as Kuilima Estates West and R-44 C is currently known as Kuilima Estates East (see Exhibit D). Note that the zone change application (No. 71/Z-33) is missing from the file.</td>
</tr>
<tr>
<td>2/7/1972</td>
<td>Zone Change Application No. 69/Z-43</td>
<td>3881</td>
<td>Redefine boundaries of H-1 Resort Hotel District No. R-9 situated at Kahuku, Koolauloa, Oahu, Hawaii. As a result of adjusting the boundaries, the zone change involved effectively reduced the area from Ordinance No. 3475 to 42.4 acres of land. Note that the same zone change application (No. 69/Z-43) was applied to both Ordinance Nos. 3475 (to rezone parcels of land at Kuilima Point) and 3881 (to redefine) (see Exhibit E).</td>
</tr>
<tr>
<td>4/25/1972</td>
<td>Building Permit (BP) Nos. 117983 to 118005</td>
<td></td>
<td>Allow two-story wood frame condominiums on Parcel 29 (formerly identified as TMK 5-7-001: 022) - Building Nos. 1 to 23.</td>
</tr>
<tr>
<td>Approval Date</td>
<td>File No.</td>
<td>Ordinance No.</td>
<td>Description</td>
</tr>
<tr>
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</tr>
<tr>
<td>12/10/1973</td>
<td>BP Nos. 21480 to 21482, 21490 to 21497, and 21499 to 21501</td>
<td></td>
<td>Allow two-story wood frame condominiums on Parcel 27 - Building Nos. 1 to 15.</td>
</tr>
<tr>
<td>3/1/1984</td>
<td></td>
<td>84-15</td>
<td>Adopt Zoning Map No. 19, Kahuku-Laie. Kuilima Estates land and Kuilima Point (hotel property) remained the same Zoning District, A-1 Apartment and H-1 Resort Hotel Districts, respectively.</td>
</tr>
<tr>
<td>8/14/1986</td>
<td>Zone Change Application No. 85/Z-11</td>
<td>86-99</td>
<td>Rezone certain parcels of land situated at Kahuku, Koolauloa, Oahu, Hawaii, from R-6 Residential, AG-1 Restricted Agricultural, P-1 Preservation, A-1 Low-Density Apartment and H-1 Resort Hotel Districts to P-1 Preservation, H-1 Resort Hotel, and B-1 Neighborhood Business Districts. According to the application, the proposal was for 578 acres of land, but rezoned only 295 acres. In addition to those lands, another 236 acres of adjoining lands are to be developed later. This is the zone change for Kuilima Expansion area with Council approved UA, recorded on September 23, 1986.</td>
</tr>
<tr>
<td>9/29/1986</td>
<td></td>
<td>86-120</td>
<td>The LUO was adopted (Ordinance No. 86-96) and as a result, amendments to the zoning map were required to implement various provisions of the LUO. Ordinance No. 86-120 amended portions of Zoning Map No. 19, Kahuku-Laie, City and County of Honolulu, which was adopted by Ordinance No. 84-15. Kuilima Point (hotel property) was identified as an existing Resort District, and Kuilima Estates properties were identified as existing A-1 Low-Density Apartment District.</td>
</tr>
</tbody>
</table>
Additionally, on May 10, 1999, Ordinance No. 99-12 was adopted to make various amendments to and reorganize the LUO, including adding LUO Section 21-5.640, which states:

"Section 21-5.640 Time sharing and transient vacation units.

Time sharing and transient vacation units shall be permitted in the A-2 medium density apartment zoning district provided:

(a) They are within 3,500 feet of a resort zoning district of greater than 50 contiguous acres; and

(b) The Resort District and the A-2 district shall have been rezoned pursuant to the same zone change application as part of a master-planned resort community."

Finally, on June 25, 2019, Ordinance No.19-18 was adopted to better regulate short-term rentals. Ordinance No. 19-18 added Section 21-5. to the LUO. Refer to the aforementioned language above in Section I. Item C.

II. FINDINGS OF FACT

A. Description of Site and Surrounding Area: Kuilima Estates is located on three parcels recognized by Tax Map Keys 5-7-001: 027 (Kuilima Estates East) and 028 and 029 (Kuilima Estates West). The irregularly shaped parcels are collectively 33.055 acres and are located in the A-1 Low Density Apartment District. Kuilima Estates includes 368-individually-owned units in multiple one- and two-story structures. Kuilima Estates also includes common areas, parking lots, tennis courts, and swimming pools. The property to the north of Kuilima Estates includes the 500-unit Turtle Bay Hotel and Ocean Villas, to the east and west are golf courses, and to the south is Kamehameha Highway. Kuilima Drive bisects Kuilima Estates (see Exhibit A).

B. Nonconformities: The LUO requires a Nonconforming Use Certificate (NUC) to operate a bed and breakfast ("B&B") home or TVU. Ordinance No. 89-154 established a process by which an operator of a lawfully established TVU could obtain a NUC to operate legally in areas that would no longer allow transient accommodations. Pursuant to LUO Sections 21-4.110-1(b) and (c), the owner, operator, or proprietor of the TVU must obtain and retain a valid NUC for the unit in order to continue the operation of the TVU. Of the 368 units at Kuilima Estates, approximately 10 percent, or 34 units, have been operating a legal TVU since October 22, 1986, with a valid NUC, as of July 18, 2019.
III. ANALYSIS

A. Kuilima Estates and the Two Requirements of L.U.O Section 21-5. (a): The Petitioner states that the DPP has interpreted L.U.O Section 21-5. (a) (Ordinance 19-18) in a way that precludes TVUs at Kuilima Estates unless the operator or owner has a NUC. L.U.O Section 21-5. (a) is two-pronged and both requirements must be met.

1. Resort District Distance and Size Criteria: B&Bs and TVUs are permitted in the A-1 Low-Density Apartment and A-2 Medium-Density Apartment Districts when the units are within 3,500 feet of a Resort District that is greater than 50 contiguous acres. The first part of this criteria applies to the distance between the A-1 zoning at Kuilima Estates and the Resort zoning in the TBR as measured on the current zoning map. The distance is measured from the closest point of Kuilima Estates A-1 zoning property line to TBR Resort zoning property line. The distance between the property lines is 431 feet. The second part of the criteria is whether the TBR zoning is greater than 50 contiguous areas. According to the zoning map, the Resort District is located makai of Kuilima Estates and is greater than 50 contiguous acres (see Exhibit B). Therefore, the first criteria is met.

2. Zone Change Application of a Master-Planned Resort Community Criteria: The second prong of L.U.O Section 21-5. (a) requires that the Resort District and the A-1 or A-2 Districts were rezoned pursuant to the same zone change application reflecting a master-planned resort community.

The Petitioner submitted a copy of the Kuilima Resort Declaration of Covenants, Conditions and Restrictions (Exhibit A, dated December 30, 1988) that included a description of the leases between the hotel, Kuilima Estates East and Kuilima Estates West. The document identified the joint venture between Del E. Webb Corporation ("Webb") and Prudential Insurance Company of America ("PIC"), which formed INSCON Development Company ("INSCON"), on July 25, 1968. This joint venture entered into an agreement with the Estate of James Campbell ("Campbell Estate") to lease, and/or purchase various portions of land in Kahuku. According to a letter, dated May 23, 1969, to the City's Planning Director from Webb, Webb was the "managing partner for development, construction, and operation, while Prudential is the financial partner." Webb's initial effort of creating the joint venture was the development of the first phase of a "long-range development program for the Kahuku beach area of the Campbell Estate property..."

a. Zone Change Application No. 69/Z-43: According to letters found in zone change application No. 69/Z-43, the Applicant (Webb) had arranged to develop approximately 900 acres of the Campbell
Estate. This included the area that is currently known as TBR and Kuilima Estates. Since a major portion of the Project was scheduled for construction beyond five years and extends up to 1989, Webb decided that the rezoning for the resort development should be processed in phases. In order to facilitate development of the first phase, which included the hotel, cabanas, cottages, parking area, service roads, retail shops, recreational facilities, and restaurants/bars, multiple zone change applications had to be submitted.

According to the first zone change application (No. 69/Z-43) of the entire resort development, Webb requested to change the zoning of approximately 43 acres at Kuilima Point (the existing Turtle Bay Hotel site only and did not include Kuilima Estates sites). The request was approved on October 3, 1969 (Ordinance No. 3475), then voided on November 24, 1971, and finally the boundaries were redefined (Ordinance No. 3881) on February 7, 1972 in accordance with the same zone change application (No. 69/Z-43) (see Exhibit E). Ultimately, the Council rezoned 42.4 acres of the 900-acre Project from R-6 Residential District to H-1 Resort District. The 1969 zone change application file did not include an explanation for voiding Ordinance No. 3475.

b. **Zone Change Application No. 71/Z-33**: The Applicant, INSCON, of Zone Change Application No. 71/Z-33 requested the rezoning of an eight-acre portion of AG-1 Restricted Agricultural District to H-1 Resort Hotel District, and five parcels of R-6 Residential District and AG-1 Restricted Agricultural District to A-1 Apartment District. Two of the five parcels rezoned to the A-1 Apartment District pursuant to Ordinance No. 3856 are the Kuilima Estates (see Exhibit D). Pursuant to Ordinance No. 3855, an eight-acre portion that adjoined the existing H-1 resort zoned parcel at Kuilima Point was rezoned to H-1 Resort Hotel (see Exhibit C). The DPP does not have a copy of the zone change application that would provide detailed information regarding the request. However, minutes from the Planning Commission public hearing, held on September 29, 1971, documented the conversation at the meeting (see Exhibit F). The minutes states that “Mr. Bruce Duncan, staff planner, explained the proposal involving the zoning of five parcels of land containing a total area of approximately 127 acres to A-1 Apartment District and one parcel containing approximately eight-acres to H-1 Resort-Hotel District. Approximately 1,360 apartment units are to be developed while approximately 500 more rooms will be added to the existing hotel use of the area.” The request to change the zoning was intended to allow resort-oriented apartment and hotel development next to the existing resort hotel. The eight-acre parcel
and the remaining five other parcels were rezoned under separate ordinances (Ordinance Nos. 3855 and 3856, respectively) on December 21, 1971. It is unclear why the adoption of this zone change application was done under separate ordinances; this information was not included in the file. As such, the Resort District and the A-1 District parcels were rezoned pursuant to the same zone change application (No. 71/Z-33) as part of a master-planned resort community. Therefore, the second criteria is met.

c. **Zone Change Application No. 85/Z-11**: The application, Kuilima Development Company, of Zone Change Application No. 85/Z-11 rezoned a portion of R-6 Residential, AG-1 Restricted Agricultural, P-1 Preservation, A-1 Low Density Apartment, and H-1 Resort-Hotel to P-1 Preservation, H-1 Resort-Hotel, and B-1 Neighborhood Business Districts. The rezoning was adopted on July 9, 1986, and it took effect on August 16, 1986. (Ordinance No. 86-99). Since this zone change did not include the hotel and Kuilima Estates, the rezoning did not affect these properties.

According to the information above, both requirements of LUO Section 21-5.__(a) are met. Current zoning map shows Kuilima Estates is within 3,500 feet of a Resort District that is over 159 contiguous acres in size. Plans to develop a resort community was evident in the late 1960s. In preparation for the closing of the Kahuku Sugar Plantation and the need for a new source of employment for the residents in the Kahuku area, a resort development that would include hotels, retail, residential, golf courses, and parks was planned at Kuilima Point and the surrounding parcels. This is now known as TBR. The zone change application material provided supporting information that the rezoning of the resort development needed to be handled in phases. Therefore, the zone change application (No. 71/Z-33) included Kuilima Estates parcel and a resort zoned parcel.

B. **Other Evidence Raised by the Petitioner**: The Petitioner provided evidence that support the Kuilima Estates is part of a master-planned resort community.

1. **Koolauloa Sustainable Communities Plan, 1999 (KSCP)**: The Petitioner contends that the KSCP recognizes and supports resort use at Kuilima Estates. The KSCP contains language and exhibits that generally support TVUs in Kuilima Resort (i.e., Turtle Bay area), although not explicitly for Kuilima Estates. The Master Plan that is referenced in the KSCP (Section 3.8.1 Kuilima Resort) describes integrating resort uses (e.g., hotel, condominium, and commercial), recreational uses (e.g., golf and tennis), and wetland and shoreline preserve areas at Kuilima. The KSCP does not describe Kuilima Estates as containing a residential component (meaning strictly residential). On the other hand, there is no textual language that support or prohibit TVUs in Kuilima Estates. This evidence
does not contribute to the determination that Kuilima Estates is part of a master-planned resort community.

2. **2006 Turtle Bay Master Landscaping Plan:** The Petitioner contends that the DPP approved the Master Landscaping Plan, which recognized Kuilima Estates as "Existing Resort Condo." Condition J of the Special Management Area Use Permit and Shoreline Setback Variance (adopted under Resolution No. 86-308) ("Resolution") required the Applicant to submit a landscape plan for the TBR. The landscape master plan, submitted on February 24, 2006, labeled Kuilima Estates as "Existing Resort Condo." The DPP determined that the proposed landscaping on the plans adequately met Condition J of the Resolution, provided the Applicant submit detailed landscape plans for each phase of development within the TBR. Since the review of this document was for compliance with the condition (landscaping at TBR), the DPP did not address Kuilima Estates. Moreover, acceptance of the landscape master plan does not recognize Kuilima Estates as being a "resort" use merely because of an erroneous notation. Therefore, this evidence does not support the Petitioner's claim that Kuilima Estates meets the two criteria of LUO Section 21-5.____(a).

3. **2011 SEIS Preparation Notice for the Turtle Bay Resort Expansion:** The Petitioner contends that the 2011 SEIS Preparation Notice and the SEIS excluded Turtle Bay Hotel, Ocean Villas, and Kuilima Estates from the review, thereby suggesting Kuilima Estates is part of the Turtle Bay master-planned resort community. This evidence does not contribute to the determination that Kuilima Estates is part of a master-planned resort community.

**IV. CONCLUSIONS OF LAW**

The Director concludes:

A. The Petitioner has standing.

B. Del E. Webb Corporation, the Applicant for zone change application No. 69/Z-43, and Prudential Insurance Company of America, entered a joint venture creating INSCON. INSCON is the Applicant of zone change application No. 71/Z-33.

C. Zone change application Nos. 69/Z-43 and 71/Z-33 were reviewed simultaneously by the Planning Commission.

D. Zone change Application No. 69/Z-43 rezoned a 43.2 acre portion of R-6 Residential District to H-1 (Ordinance No. 3475) on October 3, 1969. Ordinance No. 3475 was voided on November 24, 1971.
E. Ordinance No. 3881 redefined the area of Zone Change Application No. 69/Z-43. A 42.4-acre portion of R-6 Residential District was rezoned to H-1 Resort-Hotel District.

F. Zone Change Application No. 71/Z-33 rezoned:

1. An eight-acre portion of AG-1 Restricted Agricultural District to H-1 Resort-Hotel District (Ordinance No. 3855) on December 21, 1971; and

2. Portions of R-6 Residential District and AG-1 Restricted Agricultural District to A-1 Apartment District, including the Kuilima Estates (Ordinance No. 3856) on December 21, 1971.

G. Zone Change Application No. 85/Z-11 rezoned certain parcels of land from the R-6 Residential District, AG-1 Restricted Agricultural, P-1 Preservation, A-1 Low Density Apartment and H-1 Resort-Hotel District to P-1 Preservation, H-1 Resort-Hotel, and B-1 Neighborhood Business Districts (Ordinance No. 86-99) on July 9, 1986 (effective date August 14, 1986).

H. The Kuilima Estates is zoned A-1 Apartment District and is located within 3,500 feet of a resort zoning district of greater than 50 contiguous acres.

I. The Resort District that is of greater than 50 contiguous acres and within 3,500 feet of the Kuilima Estates was rezoned pursuant to the same zone change application (File No. 71/Z-33) as part of a master-planned community.

V. DECLARATORY RULING

Based on the facts presented in this case, the Director of the Department of Planning and Permitting hereby makes the following declaratory ruling:

Bed and breakfast homes and transient vacation units are permitted in the Kuilima Estates East and Kuilima Estates West, located on Tax Map Keys 5-7-001: 027 through 029, pursuant to Ordinance No. 19-18. The zoning map shows that Kuilima Estates is within 3,500 feet of a resort zoning district of greater than 50 contiguous acres. And the Kuilima Estates was rezoned to A-1 Low-Density Apartment District (Zone Change Application No. 71/Z-33) pursuant to the same zone change application that rezoned the Resort District at Turtle Bay Resort, which was to be part of a master-planned resort community.
Dated at Honolulu, Hawaii, this 10th day of February, 2020.

Department of Planning and Permitting
City and County of Honolulu
State of Hawaii

By
Kathy K. Sokugawa
Acting Director

Enclosure
LEGEND
ZONING/SITE
- A-1/SITE
- AG-1
- AG-2
- P-2
- RESORT
- P-1
- B-1

Pacific Ocean

DISTANCE AND AREA OF THE RESORT DISTRICT (EXHIBIT B)

TAX MAP KEY(S): 5-7-001:027 and 029

FILE NO.: 2019/DEC-3

Prepared by: Department of Planning & Permitting
City and County of Honolulu
Date Prepared: 1/27/2020
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H-1 RESORT HOTEL DISTRICT NO. R-11
KAHUKU, Koolaupoa, Oahu, Hawaii
Land situated north of Kamehameha Highway at KahuKu.

Applicant: Inscon Development Company
Tax Map Key: 5-7-01: Portion of 80
Public Hearing: September 29, 1971
Prepared By: Planning Department
City & County of Honolulu
Folder No.: 71/3-33

Ord No. 3855

EXHIBIT A
H-1 RESORT HOTEL DISTRICT NO. R-9
KAHUUKI, KOOOLALOA, OAHU, HAWAII

A portion of land situated at Kuilima Point fronting Turtle Bay.

Applicant: Del E. Webb Corp.
Tax Map Key: 5-7-01: Portion of 20
Public Hearing: August 14, 1969
Prepared By: Planning Department
City & County of Honolulu
Folder No.: G9/2-43

ORD. No. 3681

EXHIBIT A
Meeting of the Planning Commission
Minutes
September 29, 1971

The Planning Commission met in regular session on Wednesday, September 29, 1971, at 2:00 p.m., in the Conference Room of the City Hall Annex with Chairman Rev. Eugene B. Connell presiding:

PRESENT:
Rev. Eugene B. Connell, Chairman
Roy R. Bright
Philip T. Chun
James D. Crane
Thomas H. Creighton
Predda Sullam
Thomas N. Yamabe II (excused at 3:15 p.m.)
Richard K. Sharpless, ex-officio

STAFF PRESENT:
Robert R. Way, Planning Director
Ruth Hood, Deputy Corporation Counsel
Bruce Duncan, Staff Planner
Jack Gilliam, Staff Planner

ABSENT:
James K. Sakai, ex-officio

(Co-Commissioner Yamabe had left the meeting and was not present during the following public hearing.)

A public hearing was held to consider a proposal to change the zoning from AG-1 Restricted Agricultural and R-6 Residential Districts to H-1 Resort-Hotel and A-1 Apartment Districts for six separate parcels of land containing a total area of approximately 137 acres situated on the makai side of Kamehameha Highway between Kawela Bay and the abandoned Kahu 3 Strip in Kahu and identified by Tax Map Keys 5-7-01 and 5-6-03.

The public hearing notice was advertised on September 19, 1971, in the Sunday Star-Bulletin and Advertiser.

Mr. Bruce Duncan, staff planner, explained the proposal involving the zoning of 5 parcels of land containing a total area of approximately 127 acres to A-1 Apartment District and one parcel containing approximately 8 acres to H-1 Resort-Hotel District. Approximately 1,360 apartment units are to be developed while approximately 500 more rooms will be added to the existing hotel use of the area.

As contained in the Director's report to the Commission, comments have been received from the various governmental agencies regarding availability of water and sewer facilities, drainage, school facilities, park, public safety, and traffic.
Based upon the availability of adequate public services and facilities to accommodate the proposed apartment and hotel development and that the existing streets and highways are able to accommodate the traffic generated by the proposed development without seriously impeding the flow of traffic along Kamehameha Highway, the Director recommended approval of the proposed changes in zoning.

Questioned by Commissioner Crane about the traffic situation, Mr. Duncan reported the response of the Department of Transportation at the time of the amendment to the Detailed Land Use Map that probably a 150-foot right-of-way in the area mauka of Kamehameha Highway would be necessary when total development occurs in the area. The Department of Transportation and the Campbell Estate as well as the Zions Securities, the adjoining major property owner, are working on the alignment of this new highway, but its exact location has not yet been determined. A traffic survey made revealed that the afternoon peak traffic in the North Shore area occurs from 2:00 to 3:00 as opposed to 4:00 to 5:00 in the Windward area. The only explanation that can be given to this difference is that the tourists, in their 'round the island trip, reach the North Shore area at about this time. It is believed also that there is a change in shift at the plantation about 3:00 o'clock in the afternoon. Because the apartment and hotel units are intended for the tourist-oriented people, it is anticipated that traffic generation from the development will be evenly distributed throughout the day and not be concentrated at one peak period generally occurring for the working people.

The Director acknowledged receipt of the following letters and petition:

1. Punalu'u Community Association, submitted by its President, Barbara Mills, expressed three areas of concern which preclude their support of the zoning changes at this time. They are: 1) the inadequate highways; 2) inadequate systems which might pollute our pure water, both ocean and artesian; and 3) despoil the beauty of the area by great blocks of concrete.

2. Kaaawa Community Association concurred with the statement of the Punalu'u Community Association.

3. Laie Community Association, signed by its President, Patrick Dalton, supported the request.

4. A Petition, bearing the signatures of about 200 persons, favored the zoning change and requested that the public hearing on the subject matter be held in the evening in Kahuku.

5. John Primacio, Jr., Chairman, ILWU Unit 4101 Kahuku, and also President of the Kahuku Housing Corp., expressed disappointment that the hearing could not be held in Kahuku because the people who signed the petition in support of the change had wished to present oral testimony.

The Director was questioned by the Commission as to the current need for additional hotel rooms and apartments that are resort-oriented and what is meant by the term "resort-oriented" and its effect upon the school
facilities need of the area. The Commission was concerned about overloading the existing school facilities as a result of this development. The Director was also asked whether the Department has had any experience in resort-oriented apartment developments to know the type of residents, in terms of family sizes and so forth, that would come there.

The Director replied as follows:

1. That portion of the property that is being zoned resort is a part of the Kuilima Hotel resort complex. The zoning boundary is being expanded to be in conformity with the boundary of the resort use designation shown on the Detailed Land Use Map. The specific site plan for the resort development does not show additional hotel rooms provided on the site. This area is relatively small as compared to the total hotel complex of about 50 acres; therefore, it will have little effect on the number of hotel rooms permitted under the present zoned acreage.

2. The need for apartments relating to the resort complex was thoroughly discussed and a decision was made at the time the DLUM was adopted for the area.

3. According to the comments from the Department of Education, students from the proposed apartment development can be accommodated at Kahuku High and Elementary School. A further clarification of this statement could be obtained from the Department of Education.

4. The Planning Department has had no prior experience with resort-oriented apartment development. It is assumed that the intent here is to provide an apartment-type facility that would be purchased and subsequently leased and managed by the hotel complex for transient visitors or purchased by an individual and available to him for a certain period of time during the year.

Upon a call by the Chairman, no one responded to speak IN OPPOSITION to the proposed rezoning.

The following persons spoke IN SUPPORT of the proposed rezoning:

1. Joe S. Aubin, Project Manager for INSCON Development Company, developer of the project.

2. Joyce Schaeffer, a resident of Kawela Bay.

3. Donna Maiva, Kahuku Hospital Administrator.

4. O. K. Stender, representative of the Estate of James Campbell, owner of the land.

5. John Primacio, Jr.

The REASONS given for the support were:

a. The development will beautify the area.
b) The economic base plan of the community would be broaden by the development which will make jobs available to the people.

c) The development will provide an invitation to professional people to locate in the area and help the community grow and become a more productive society.

Mr. Aubin was questioned by the Commission and he responded as follows:

1. A feasibility study conducted indicated that approximately 50 percent of all the buyers would be resort-oriented type persons who might occupy the units for possibly two to four months in a year.

2. In most cases, the units would not be rented out on a long-term lease basis because the owner would want his unit available at his convenience. If rented, it probably would be very short, maybe six days a month.

3. The condominium apartment units would be an outright sale to individuals. At some future time, however, some of the units may become rental units and managed either by the hotel or a management group.

Mr. Aubin reported on a letter that appeared in the North Shore News bulletin dated September 16, from the Sunset Beach Group, by Peter Cole, supporting the proposed project.

Mr. James Dwight from the Traffic Department was questioned by the Commission.

Commissioner Crane expressed concern about the traffic situation and asked for clarification as to the type of traffic that would be generated in the area by a resort-oriented development. He recalled a great deal of testimony presented and discussions that were held by the Commission sometime ago about bus traffic and the possible overloading of the highways in the North Shore area as a result of a proposed project that was being discussed at that time. Based upon the fear that traffic generated by that proposed project would over-rload the highways, the Commission had recommended denial of that project.

It was reported by Mr. Dwight that a resort-oriented type of traffic normally generates between 11:00 in the morning and 3:00 or 3:30 in the afternoon when the normal working people traffic is off the road; therefore, the Traffic Department does not believe that there will be a major increase in traffic volume during the peak hours when congestion is the greatest. They do not believe that the building of some 2300 units in the area will over-burden Kamehameha Highway. Regarding bus traffic to the area, they understand that the buses will not be going through the Windward side but rather through the Leeward side by going through Haleiwa and Wahiawa.

Since there was no further testimony, the Commission closed the public hearing and took the matter under advisement upon the motion by Mr. Bright, seconded by Mr. Crane, and carried.
AYES: Bright, Crane, Chun, Creighton, Sullam, Connell;
NAYS: None;
ABSENT: Yamabe.

In a later discussion, Mrs. Sullam wondered what effect the development of resort-oriented apartments and hotels would have on the current housing shortage because of limited resources and limited labor to construct those buildings. She expressed concern that approval of more resort development might cause housing developments to become more expensive.

The other members of the Commission did not believe that the use of construction labor and other facilities for the proposed type of development would inhibit the construction of low cost housing. They believed that the housing shortage is not being resolved at this time for some other reason.

ACTION: Upon the motion by Mr. Chun, seconded by Mr. Bright, and carried, the Commission adopted the Director's report and recommended approval of the zoning changes.

AYES: Chun, Bright, Sullam, Connell;
NAYS: Crane, Creighton;
ABSENT: Yamabe.

Mr. Chun explained his motion by making the following statement:

"Mr. Chairman, the basis of my motion, I think, was answered very well by the Director in his reply to questions earlier this afternoon. I believe our problem in this matter was thoroughly discussed approximately five or six months ago when the Detailed Land Use Map was adopted for this area. I think we went through it completely and in detail, and we knew exactly, at that time, in adopting the General Plan, it was represented to this Commission that within a few months after adoption of the General Plan, a zoning request would come in for a major portion of the development. I believe this is a project which would be classified as a resort destination area type of development which we have advocated in the past rather than an outgrowth or overgrowth of the Waikiki area. On that basis, this Commission and the Council did adopt this plan as one of the two resort destination areas on the Island of Oahu—the other one being Makaha Valley. It was hoped that what this development and the complete development of Makaha Valley, that we would see a stop in the resort development on the Island of Oahu and to take off the overburden off Waikiki and downtown Honolulu, and on that basis, this plan, the entire concept was adopted. I believe, at this point of time, shortly subsequent to the adoption of the General Plan, any action to deny or to deter this development under projected plan of the original development concept would be detrimental to the entire growth of the island and to our planning concepts."

Mr. Crane explained his negative vote, as follows:

"Mr. Chairman, I was not sitting on this Commission when it made

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its original decision. I have some obvious things that's bothering me and I must express it. I think we have to be somewhat consistent. The Commission voted against the extension of the Laie area, the Polynesian Cultural Center because we were fearful of the bus traffic overcrowding the highways and we couldn't see that it would take care of the existing traffic or the proposed traffic that is to come about. I have two major concerns here. I'm certainly not against the economic development of the Kahuku area. I understand the economic problems created by the Kahuku Plantation going out of business, but I am concerned, number one, with the school situation, and the letter from the Department of Education didn't satisfy me, they rarely ever do, and I am concerned about the traffic situation even though we have been told that Kam Highway can take this kind of traffic. We weren't told that it could take the few extra buses that would be created by the extension of the Polynesian Cultural Center and we took that into consideration. I am simply expressing my concern in these two areas."

PUBLIC HEARING
PLANNED DEVELOPMENT
HOUSING DISTRICT
KANEHOE
KANEHOE BAY DRIVE
AT ITS JUNCTION
WITH H-3 FREEWAY
DAN OSTROW
CONSTRUCTION CO.
(OWNER: KANEHOE
RANCH, LTD.
(FILE #71/PD-H-1)

A public hearing was held to consider an application to redesignate approximately 15 acres of land situated on Kaneohe Bay Drive near its junction with the H-3 Freeway to Planned Development-Housing District to permit the construction of one-, two-, and three-story structures for a total of approximately 87 dwelling units.

The public hearing notice was advertised in the Sunday Star-Bulletin and Advertiser of September 19, 1971.

The Planning Director's report explaining the proposal, findings, and recommendations was distributed to the Commission members.

Mr. Jack Gilliam, staff planner, presented the proposal involving the construction of several townhouse buildings grouped together with common open spaces and a recreation center. The development is to be called Yacht Club Knolls. Renderings of the proposed townhouses were displayed.

Testimony AGAINST the proposal was heard from the following:

1. John E. White, Chairman of the Kaneohe Bay Drive Development Problems Committee.

2. Mrs. Ashly J. Frisloe, President of the Kaneohe Outdoor Circle and a member of the Governor's Task Force Studying the Pollution of Kaneohe Bay. (The letter from the Kaneohe Outdoor Circle was placed on file.)

3. Edgar A. Jones, President of the Kaneohe Community Council. (Two letters dated September 14 and 23, 1971, were placed on file.)

4. E. W. Broadbent, resident at 44-464 Aumoana Drive, Kaneohe.