

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of)
)
THE DEPARTMENT OF PLANNING AND)
ECONOMIC DEVELOPMENT)
)
for the Reclassification of)
Certain Lands Situated at)
Kawainui, Kailua, Island of)
Oahu)
_____)

DOCKET NO. A76-420

DECISION AND ORDER ON REMAND HEARING TO
CLARIFY FINDINGS OF FACT NUMBERS 2 AND 6
OF THE FINAL DECISION IN DOCKET NUMBER A76-420

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DEPARTMENT OF PLANNING AND ECONOMIC DEVELOPMENT)	DECISION AND ORDER ON REMAND HEARING TO CLARIFY FINDINGS OF FACT NUMBERS 2 AND 6 OF
)	THE FINAL DECISION IN DOCKET
To Amend the Urban Land Use District Boundary to Re-classify Approximately 244.15 Acres, of Certain Lands situated at Kawainui, Kailua, Island of Oahu and City and County of Honolulu, into the Conservation Land Use District.)	NUMBER A76-420
)	
)	

DECISION AND ORDER ON REMAND HEARING TO
CLARIFY FINDINGS OF FACT NUMBERS 2 AND 6
OF THE FINAL DECISION IN DOCKET NUMBER A76-420

This matter, being a proceeding pursuant to the Order of the Honorable Arthur S. K. Fong, Judge of the First Circuit Court of the State of Hawaii, dated April 17, 1979, for the Land Use Commission of the State of Hawaii (hereinafter Commission) to clarify Findings of Fact Numbers 2 and 6 of the final decision of the Land Use Commission in Docket Number A76-420, was heard by the Land Use Commission at Honolulu, Oahu, on May 30, 1979 and June 26, 1979. Mandatory parties to the proceeding were the Petitioner, Department of Planning and Economic Development, and the Department of General Planning of the City and County of Honolulu. The intervening parties to the proceeding were Harold K. L. Castle, et al., and the Ad Hoc Committee for Kawainui.

The Land Use Commission having heard the oral argument of counsel and having considered the memoranda submitted by the parties, together with the record herein, makes the following findings of fact and conclusions of law and issues its decision and order thereon.

FINDINGS OF FACT

PROCEDURAL MATTERS

1. On April 17, 1979, the Honorable Arthur S. K. Fong, Judge of the First Circuit Court of Hawaii entered an Order of Remand, instructing the Land Use Commission to clarify the discrepancy between findings of facts numbers 2 and 6 in its final decision in the Petition for Boundary Reclassification of 244.15 acres of land situate at Kawainui, Kailua, Oahu, City and County of Honolulu, State of Hawaii, (LUC Docket Number A76-420).

2. On May 1, 1979, the Commission held a pre-hearing conference on this matter pursuant to notice mailed to the parties on April 27, 1979.

3. Pursuant to notice to the parties dated May 16, 1979, the Commission held a hearing on May 30, 1979 to receive oral argument by the parties on the clarification of said findings of fact numbers 2 and 6.

4. On June 26, 1979, the Commission reconvened pursuant to notice to the parties dated June 13, 1979, to hear oral argument from the parties on exceptions to any of the opposing party's submission of proposed findings of fact and conclusions of law.

SUBSTANTIVE MATTERS

5. Finding of fact number 2 of the final decision and order of the Commission reads in part, ". . . The total marsh

area consists of approximately 819 acres. Approximately 750 acres are presently within the City-owned Conservation District lands. The remaining 69 acres are included in the subject petition"

6. Findings of fact number 6 of the final decision and order of the Commission reads in part, " . . . Approximately 30% of the subject properties lie within marsh areas"

7. Findings of fact number 2 establishes the marsh area as being 69 acres, whereas findings of fact number 6 establishes the marsh area at 73 acres.

8. The staff of the Land Use Commission upon instructions from and under the supervision of the Commission, prepared a map which is attached to and incorporated with this decision and order and marked as Exhibit "A".

9. The location of the marsh areas within the subject properties are delineated in the color yellow on the map marked as Exhibit "A".

10. The total acreage of marsh area within the subject properties as reflected on Exhibit "A" totals 70.78 acres.

11. The percentage of the subject properties which are marsh lands is determined to be 28.99 percent.

CONCLUSIONS OF LAW

1. The order of the Honorable Arthur S. K. Fong of the First Circuit Court requires the Commission to determine: (a) The number of acres of marsh land on the subject property and (b) the location of said marsh land acreage on the subject property.

2. The Commission determines the number of acres of marsh land on the subject property to be 70.78 acres.

3. The Commission further determines the location of the foregoing 70.78 acres of marsh land on the subject property to be delineated in yellow on the map marked as Exhibit "A".

4. The percentage of the subject properties which are marsh lands is determined to be 28.99 percent.

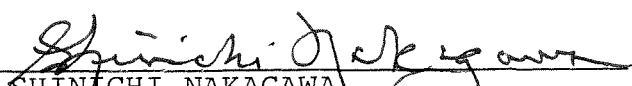
ORDER


IT IS HEREBY ORDERED that the discrepancy between findings of fact numbers 2 and 6 of the final decision and order of the Land Use Commission of the State of Hawaii in Docket No. A76-420 be clarified to show the acreage of marsh land on the subject property to be 70.78 acres, and that the location of said acreage as reflected in the map attached to this decision and order of the Land Use Commission and marked as Exhibit "A", be attached to and become part of the final decision and order of this Commission in Docket No. A76-420.

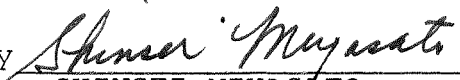
DONE at Honolulu, Hawaii, this 27th day of September, 1979, by Motion passed by the Land Use Commission, State of Hawaii on June 26, 1979.


LAND USE COMMISSION
STATE OF HAWAII


By 
C. W. DUKE
Chairman and Commissioner


By 
SHINICHI NAKAGAWA
Vice Chairman and Commissioner

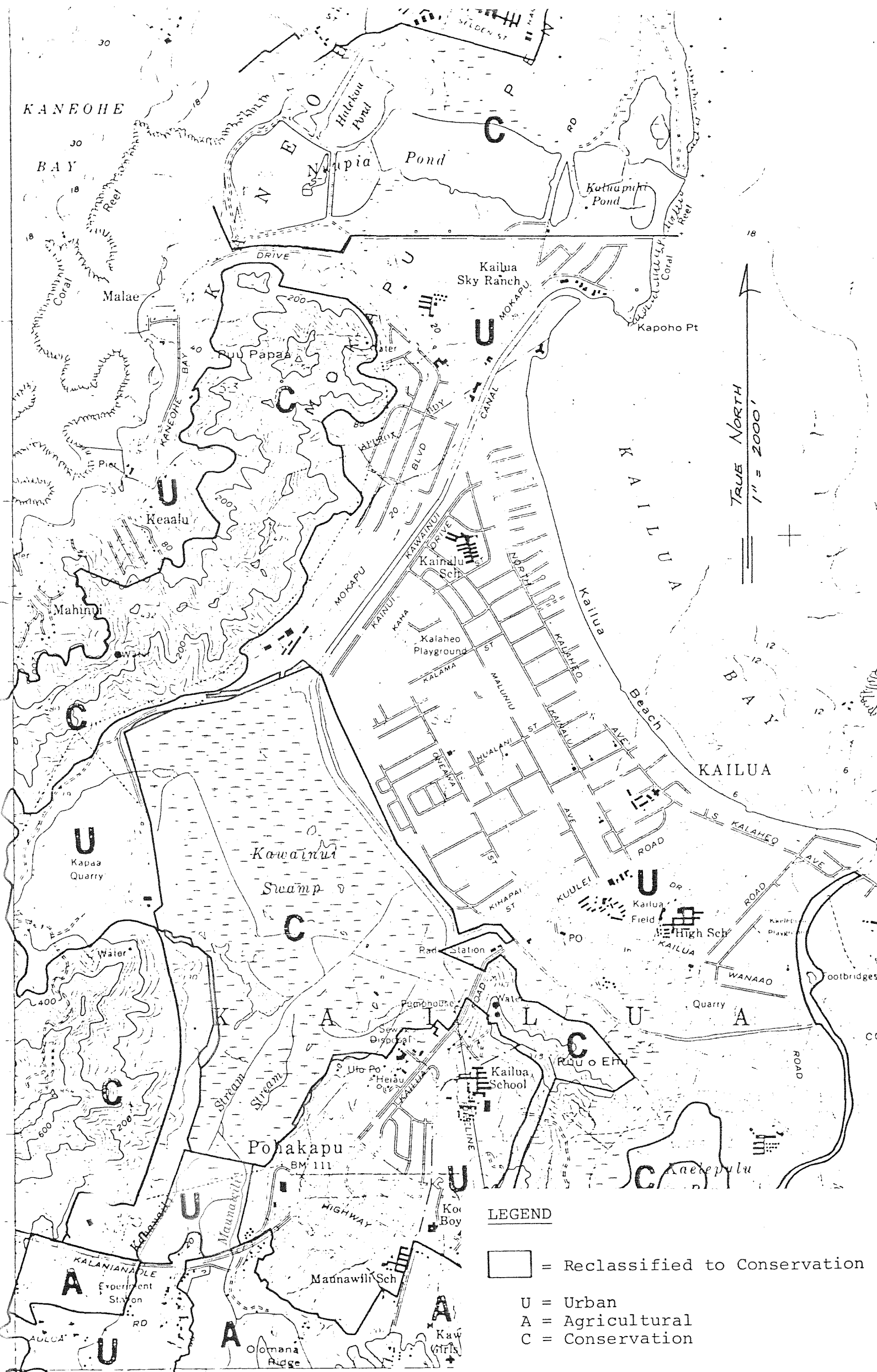
By 
JAMES CARRAS
Commissioner

By 
SHINSEI MIYASATO
Commissioner

By 
MITSU OURA
Commissioner

By 
GEORGE PASCUA
Commissioner

By 
EDWARD YANAI
Commissioner



TRUE NORTH
1" = 2000'

LEGEND

- = Reclassified to Conservation
- U = Urban
- A = Agricultural
- C = Conservation

EXHIBIT "A"