





Fact and Conclusions of Law submitted by the Department of Planning and Economic Development, State of Hawaii, hereby makes the following findings of fact and conclusions of law.

FINDINGS OF FACT

1. The property which is the subject of the Amended Petition consist of approximately 26.70 acres, identified by Tax Map Key Nos. 2-2-16:17, a portion of 18, and a portion of 23, situated at Waiohuli-Keokea, Kula, Island of Maui. The Petitioner owns the subject property.

2. The South, North and portions of the West boundaries of the subject property are adjacent to a Rural District. The East boundary and a portion of the West boundary of the subject property are adjacent to a Agricultural District.

3. Petitioner plans to use the subject property which is presently within the Agricultural District, as a site for a residential planned unit development consisting of thirty-two (32) single-family dwellings. The project site will consist of approximately thirty-two (32) acres of land. The dwellings will be clustered, so that the project site will contain large open spaced common areas which will be used for agricultural purposes, primarily for non-commercial grazing of horses and non-commercial orchard uses. The Petitioner's proposal to develop the subject property as a planned unit development for sale in excess of \$100,000 per unit, must be approved by the County of Maui Planning Commission.

4. The recently adopted Makawao-Pukalani-Kula General Plan for the County of Maui designates the area in

which the subject property is located as a General Agricultural District. This Up-Country General Plan is a "policy plan," rather than a map-type general plan. Although the subject property is located within a General Agricultural District, it is also near the "Country Town" of Keokea. The General Plan has the following objectives, policies and programs for agriculture:

OBJECTIVES:

1. To provide for the enhancement and protection of present and future agricultural lands.
2. To discourage land speculation practices on all agricultural lands.

POLICIES AND PROGRAMS:

1. Encourage the continued expansion of agricultural development through promotion of the use of private and governmental forms of technical and financial assistance.
2. Discourage such uses as "large estate" subdivisions, second homes or retirement homes from lands well-suited for diversified agricultural unless used for agricultural purposes.
3. Encourage the continued preferential treatment of water for agricultural activities, except in cases of emergency.
4. The zoning range for Prime Diversified Agricultural land should be 2 to 5 acres of land depending on the findings of the Agricultural Potential Assessment.
5. Zoning of General Agricultural land should be 2 acres.
6. Permit as a special use additional housing at a density greater than one house per parcel when it is clearly established that the additional house be "farm dwelling" as provided under the Agricultural District of the State Land Use Commission.

7. Encourage and assist the creation of an agricultural park development in the Kula area.

5. Although the Kula area is an important agricultural area of the State because of the unique properties which make it ideal for diversified agricultural production, the subject property is poorly suited for agricultural uses. The property is too steep to permit the use of agricultural machinery and could only be farmed if terraced at extreme cost and then with considerable hazard of erosion. The soil is also very rocky, with lava rock outcropping covering a major portion of the land. Although crops could be grown in limited pocket areas of soil, nothing could be grown on an economically feasible basis. There has been no agricultural use for subject property other than grazing. While there are fifteen farms within an estimated 2-mile radius of the subject property, the larger farms are generally located makai of Kula Road rather than on the rocky, steep, mauka side of the road where the subject property is situated.

6. The agriculture objectives, policies and programs of the Makawao-Pukalani-Kula General Plan would not be promoted by retention of the subject property within the Agricultural District. The County of Maui Planning Department believes that the proposed development is not inconsistent with the objectives and policies of this plan, and, therefore, supports reclassification of the subject property.

7. Public utilities, services and facilities, such as electricity, police and fire protections, parks and public schools are presently available to the subject property. Although the existing Kula Water System is inadequate

in times of drought, improvements to the System are presently under construction which when completed in 1977 will be adequate to service the subject property and the proposed development.

8. The proposed development will have no significant adverse effect upon the agricultural, natural, environmental, recreational, scenic, historic, or other significant resource of the area.

9. Although there are 700 acres of land in the Kula area and over 800 acres in the Makawao-Pukalani-Kula area which are classified as Rural and are vacant, and that land could theoretically be subdivided into a maximum of 1,415 to 1,600 one-half-acre lots, there was no evidence that any of these lands are actually available for development as Petitioner proposes to develop the subject property. Furthermore, Petitioner proposes to develop on a house and lot package basis rather than simply marketing developed lots which is the usual development approach in the Kula area. There has also been a recent, significant increase in the low-density residential use of land in the Kula area by persons who are employed in the Wailuku-Kahului urban area. A need exists for more low-density housing in the Kula area and the evidence establishes that there is considerable interest in, and market demand for, house and lot developments in the Kula area such as that proposed by the Petitioner. Reclassification is therefore reasonably necessary to accommodate growth and development on the Island of Maui.

CONCLUSIONS OF LAW

Reclassification of subject property, approximately 26.7 acres situated at Waiohuli-Keokea, Kula, Island of Maui, from Agricultural to Urban, and amendment of the District Boundaries accordingly to permit the proposed development, is reasonable, non-violative of Section 205-2, HRS, and is consistent with the interim policies and criteria established pursuant to Section 205-16.1, HRS.

RULING ON PROPOSED FINDINGS

Any proposed findings submitted by a party and not already ruled upon by the Commission by adoption herein, or rejected by a clearly contrary finding of fact herein, is ruled upon as follows:

1. Intervenors Michael A. Town and Bonnie C. Town's Proposed Finding No. 11 is rejected as presenting conclusions not supported by the evidence.
2. Intervenors Michael A. Town and Bonnie C. Town's Proposed Finding No. 12 is rejected as not supported by the evidence.
3. Intervenors Michael A. Town and Bonnie C. Town's Proposed Finding No. 13 is rejected as inconclusive and immaterial.

ORDER

IT IS HEREBY ORDERED:


That the property which is the subject of the Petition in this Docket No. A75-0405, approximately 26.70

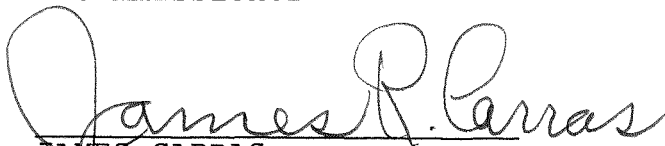
acres, situated at Waiohuli-Keokea, Kula, Island of Maui, identified by Tax Map Key Nos. 2-2-16:17, a portion of 18, and a portion of 23, shall be and hereby is reclassified from Agricultural to Rural and the District Boundaries are amended accordingly.

Done at Honolulu, Hawaii, this 16<sup>th</sup> day of February, 1977, by Motion passed by the Commission on December 20, 1976, in Lanai City, Lanai.


LAND USE COMMISSION,  
STATE OF HAWAII


  
EDDIE TANGEN  
Chairman and Commissioner

  
STANLEY SAKAHASHI  
Vice Chairman and  
Commissioner

  
JAMES CARRAS  
Commissioner

  
SHINSEI MIYASATO  
Commissioner

  
MITSUO OURA  
Commissioner

  
EDWARD YANAI  
Commissioner