

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of)	DOCKET NO. A81-504
)	
JOHN H. MAGOON SR. TRUST)	JOHN H. MAGOON
)	SR. TRUST
To Amend the Agricultural Land Use)	
District Boundary to Reclassify)	
Approximately 7.981 Acres, TMK:)	
6-6-19:13, at Waialua, City and)	
County of Honolulu, Island of Oahu,)	
State of Hawaii, into the Urban)	
Land Use District)	
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DECISION AND ORDER

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DECISION

THE PETITION

This matter arises from a Petition for an amendment to the Land Use Commission district boundary filed pursuant to Section 205-4 of the Hawaii Revised Statutes, as amended, and Part VI, Rule 6-1 of the Land Use Commission's Rules of Practice and Procedure and District Regulations by the John H. Magoon Sr. Trust which is requesting that the designation of the subject property be amended from the Agricultural to the Urban District. The requested change consists of property comprising approximately 7.981 acres of land, situated at Waialua, City and County of Honolulu, Island of Oahu, State of Hawaii. The subject property is more particularly identified as Tax Map Key No. 6-6-19:13.

PURPOSE OF PETITION

Petitioner's stated purpose for requesting the reclassification of the subject property from Agricultural to Urban is so that Petitioner can develop a "moderate-income, single-family housing" development consisting of 42 single-family units and 8 duplex-type units, totaling 50

units, with a density of development of approximately 6 dwelling units per acre. The proposed average single-family lot size is 5,000 square feet and the proposed average duplex lot size is 4,500 square feet.

THE PROCEDURAL HISTORY

The Petition was received by the Land Use Commission on January 23, 1981. Due notice of the hearing on this Petition was published on March 11, 1981, in the Honolulu Star Bulletin. Notice of the hearing was also sent by certified mail to all parties involved herein on March 11, 1981. No timely application to intervene as a party or appear as a witness was received by the Land Use Commission.

THE HEARING

The hearing on this Petition was held on April 13, 1981, in Honolulu, Hawaii.

John H. Magoon Sr. Trust, the Petitioner herein, was represented by Eric T. Maehara, Esq.; the City and County of Honolulu was represented by Deputy Corporation Counsel, Steven S. C. Lim, Esq.; and the Department of Planning and Economic Development was represented by Deputy Attorney General, Annette Y. W. Chock, Esq.

The witnesses presented by the aforementioned parties were as follows:

Petitioner:

Thomas P. Papandrew

Francis W. K. Chun

City and County of Honolulu:

Charles Prentiss - Planner, City and County of Honolulu

Department of Planning and Economic Development

Abe Mitsuda - Staff Planner

POSITION OF THE PARTIES

City and County of Honolulu - Denial.

Department of Planning and Economic Development -
Approval.

APPLICABLE REGULATION

Standards for determining the establishment of an Urban District are found under Part II, Section 2-2(1) of the State Land Use Commission's District Regulations. Said regulation provides in pertinent part that:

- "(1) 'U' Urban District. In determining the boundaries for the 'U' Urban District, the following standards shall be used:
- (a) It shall include lands characterized by 'city-like' concentrations of people, structures, streets, urban level of services and other related land uses.
 - (b) It shall take into consideration the following specific factors:
 - 1. Proximity to centers of trading and employment facilities except where the development would generate new centers of trading and employment.
 - 2. Substantiation of economic feasibility by the petitioner.
 - 3. Proximity to basic services such as sewers, water, sanitation, schools, parks, and police and fire protection.
 - 4. Sufficient reserve areas for urban growth in appropriate locations based on a ten (10) year projection.
 - (c) Lands included shall be those with satisfactory topography and drainage and reasonably free from the danger of floods, tsunami and unstable soil conditions and other adverse environmental effects.

- (d) In determining urban growth for the next ten years, or in amending the boundary, lands contiguous with existing urban areas shall be given more consideration than non-contiguous lands, and particularly when indicated for future urban use on State or County General Plans.
- (e) It shall include lands in appropriate locations for new urban concentrations and shall give consideration to areas of urban growth as shown on the State and County General Plans.
- (f) Lands which do not conform to the above standards may be included within this District:
 - 1. When surrounded by or adjacent to existing urban development; and
 - 2. Only when such lands represent a minor portion of this District.
- (g) It shall not include lands, the urbanization of which will contribute towards spot urban development, necessitating unreasonable investment in public supportive services.
- (h) It may include lands with a general slope of 20% or more which do not provide open space amenities and/or scenic values if the Commission finds that such lands are desirable and suitable for urban purposes and that official design and construction controls are adequate to protect the public health, welfare and safety, and the public's interests in the aesthetic quality of the landscape."

FINDINGS OF FACT

The Panel of the Land Use Commission, having duly considered the record in this docket, the testimony of the witnesses and the evidence introduced herein, makes the following findings of fact:

- 1. The subject property, owned in fee simple by the Petitioner herein, is located at Waialua, City and County of Honolulu, Island of Oahu, State of Hawaii, and consists of approximately 7.981 acres, more particularly

described as Tax Map Key No. 6-6-19:13. The subject property is adjacent to the existing Waialua Urban District, is located makai of the recently developed Paalaa Kai Subdivision, Unit I and is proposed to be accessed by Pa'ahihi Street which exits onto Kaukonahua Road, a 56-foot collector road.

2. According to the Land Use Commission Boundary Map 0-4, Haleiwa, Oahu, the subject property is currently part of the State Land Use Agricultural District and is currently zoned AG-1. The City and County of Honolulu Detailed Land Use Map and the proposed North Shore Development Plan both designate the subject property as Agricultural. The subject property is not within the Shoreline Management Area (SMA).

3. The subject property abuts lands classified as Urban on its southeastern border. Lands bordering to the north, east and west of the subject property lie in the Agricultural District.

4. The subject property was once used for agricultural purposes, but at present, is vacant and overgrown with grass, haole koa and volunteer cane. Since the last farmer of the subject property abandoned his lease in 1972, the subject parcel has not been farmed. The subject property has limited potential for farming because it is located between two major residential areas and access to the parcel is through a residential neighborhood. Land uses nearby include single-family residences (the Paalaa Kai Subdivision) a church, and vegetable farms. The subject property has not been classified under the Agricultural Lands of Importance to the State of Hawaii (ALISH)

classification system. If irrigated, the subject property could possibly be of agricultural use. "No significant adverse effects on the sugar or pineapple industries are anticipated from withdrawal of this land from the Agricultural District because the parcel involves only a small, isolated, area of agricultural land (8 acres), which is not well-suited for large-scale sugar and pineapple operations." In a letter dated March 16, 1981, the Department of Agriculture stated that they had no objections to the approval of the Petition due to the subject property's size, present use and location relative to existing urban areas.

5. The annual rainfall average on the subject property is 27.84 inches. The slope of the subject property is towards the northwest at 1.5 to 3 percent. According to the flood insurance study for the Island of Oahu, prepared by the Federal Insurance Administration, Federal Emergency Management Agency, the subject property does not lie in any designated flood hazard area, but rather in an area of minimal flooding.

6. The U.S.D.A., Soil Conservation Service, (1972: Map No. 39) classifies the soil of the subject property as Waialua Silty Clay, 0 to 3 percent slopes (WkA). Soils of this type have moderate permeability, slow runoff and slight erosion hazard. In general, these soils are used for sugarcane, truck crops, orchards and pasture. If irrigated, this soil type will have a Class I soil capability grouping which indicates that this soil type has few limitations that would restrict its use for agriculture. If not irrigated, however, this soil type has a Class IIIc capability which indicates that it may be severely limited for agricultural use because of low rainfall. The Land Study Bureau's

Detailed Land Classification for the Island of Oahu indicates that the productivity rating of the soil of the subject property is Class "A" (A124i). The selected crop productivity ratings are "b" for pineapple and "a" for vegetables, sugarcane, forage, grazing, and orchards.

7. In a letter dated March 6, 1981, the Department of Land and Natural Resources (DLNR) stated that the proposed project was not situated on any historic properties that are currently listed on the Hawaii Register and/or the National Register of Historic Places or that have been determined eligible for inclusion on the National Register of Historic Places. Because the parcel was formerly in agricultural use, it is unlikely that any sites or artifacts remain near the surface. The Petitioner has represented that if it were to come across any sites or artifact remains during the development of the project, it would notify the Historic Sites Division and the proper authorities.

8. There does not appear to be any unique or endangered species of flora or fauna on the subject property. As the subject property was farmed in the past, this activity more than likely obliterated any kind of unique plant material if there had been any there previously. Wildlife studies of sites similar to the subject property indicate that mongooses, rats and exotic (non-native) bird species are likely to utilize this type of site for shelter and/or forage.

9. The DLNR, in a letter to the Department of Planning and Economic Development dated March 6, 1981, expressed concern over the impacts the proposed construction could have on water resources in the area, particularly

nearby streams such as Paukauila Stream and Kaiaka Bay. If the Petition is approved it is recommended that the following precautions be taken to minimize the risk of adverse impacts such as erosion and runoff:

- "1. Sitework should be scheduled for periods of minimal rainfall.
2. Soils denuded of vegetation should be covered or replanted as quickly as is practical.
3. Provisions should be made with respect to sitework activities and drainage such that construction material, debris, and landscaping substances (such as herbicides, pesticides and fertilizers) will not fall, flow or leach excessively into nearby waters."

10. Petitioner proposes to use the subject property to develop a moderate-income, fee-simple, single-family housing development in a rural setting, consisting of 42 single-family units and 8 duplex-type units, totaling 50 units, with a density of development of approximately 6 dwelling units per acre. The proposed average family lot size will be 5,000 square feet and the proposed average duplex lot size will be 4,500 square feet. Petitioner represented that the proposed development, which will be designed similar to that of the neighboring Paalaa Kai Subdivision, is intended to provide housing for the Haleiwa-Waialua region of Oahu. Petitioner intends to lower the dwelling unit costs of the development and visually approximate the rural character of the adjacent area by instituting the following variances:

- "a. Use of rolled curb at streets and intersections;
- b. Deletion of sidewalks and wheelchair ramps;
- c. Substitution of asphaltic concrete for concrete driveway aprons; and
- d. Use of overhead electrical, telephone, and street lighting systems."

Petitioner has shown that it has the financial capability to undertake the housing project. The sales prices of the proposed units will be dependent on market conditions. The proposed development is anticipated to be completed within one year once the basic governmental approvals are secured. The development of approximately 47 acres of the Paalaa Kai Subdivision by Oceanic Properties, Inc. is nearing completion, leaving very little undeveloped land which is designated for small-lot subdivisions to meet future needs for affordable housing in the region. The demand for the proposed development is evidenced by the applicant list of approximately 900 for about 300 units at the Paalaa Kai Subdivisions. At present, the Paalaa Kai Subdivision has been sold out and there is still a waiting list of approximately 60 people. Petitioner maintains that the proposed project will provide needed moderate-income, single-family housing for the Waialua area. The Hawaii Housing Authority (HHA), in a letter to the DPED dated February 24, 1981, stated that it is supportive of the proposed project based on the following factors:

- "a. The petitioner's interest to develop moderate cost single-family and duplex dwellings in the Waialua area.
- b. The petitioner's interest to preserve the rural life-style of the community to be in consonance with the State Housing Plan.
- c. The regional analysis contained in the State Housing Plan which indicates a moderate rate of growth for this area between 1980 and 1985."

"According to the State Housing Plan and Technical Reference Document by HHA dated September 1980:

"A sizeable proportion of Hawaii's households experience some degree of housing deprivation. Depending upon the standards used, from 28% to 42% of all families have a cost, condition or crowding problem in their present residence. Ability to pay

for available, quality shelter is the most significant aspect of housing need in Hawaii; deprivation is particularly pronounced among renters, the low income and the elderly. Rising home prices have also contributed to formation of a "gap group" whose incomes, though above average, do not permit homeownership. Almost 90,000 new or rehabilitated homes are required to accommodate the State's housing needy; such widespread housing need mandates that the operation of the general market be better jointed to government programs and policies. (p. III-51)" (Emphasis added.)

11. The reclassification of the subject property will not unreasonably burden public agencies to provide necessary urban amenities, services and facilities because:

a. Access - Ingress and egress from the proposed development will be through the Paalaa Kai Unit I Subdivision via Pa'ahihi Street, a 56-foot wide collector road which meets City and County standards. Pa'ahihi Street, which exits onto Kaukonahua Road approximately 2,000 feet southwest of Weed Junction, will be continued as the main street of the proposed project. In a letter to the DPED dated February 13, 1981, the State Department of Transportation stated that the proposed development is not anticipated to significantly affect the State Highway System.

b. Drainage - Site storm runoff will be handled by either (1) overland flow (open channel flow) to Waialua Beach Road or to the cane fields to the south, or (2) by subsurface flow (pipe flow) to the Paalaa Kai System.

c. Water - The Board of Water Supply will not commit water for a project until construction plans meet with their approval. It is proposed that the new well with an additional 1.0 million gallon

reservoir under construction in the area should meet the current demand for water with an allowance for future development.

d. Sewage - Petitioner proposes to construct a package treatment plant on the project site to handle sewage disposal. The plant will be designed as a temporary facility, managed by a certified operator, to be abandoned when hookup to a region-wide system becomes possible. When connection to a permanent regional system is made, (not before 1984), the 3 lots on which the plant would be built could be redeveloped as housing.

e. Schools - The Waialua High/Intermediate School, the Waialua Elementary School and the Haleiwa Elementary School are all located within 1 mile of the project site. In a letter to the DPED dated February 18, 1981, the State Department of Education (DOE) stated that the subject proposal to develop 50 dwelling units would generate approximately 20-40 more students at Haleiwa Elementary and approximately 15-25 more students at Waialua High. The impact of the student enrollment generated by the development could create classroom shortages and the DOE would then be required to relocate portable classrooms to accommodate the anticipated growth.

f. Parks - The Waialua Recreation Center is located within walking distance of the project site, and the two Haleiwa beach parks and boat harbor provide the major ocean-oriented recreational opportunities for Haleiwa/Waialua

residents. In addition, the Parks Division of the State Department of Land and Natural Resources is developing 53 acres for the Kaiaka Beach Park. Essentially, the Waialua/Haleiwa population has almost twice the park acreage per 1,000 residents than the City standard of 2 acres per 1,000 residents.

g. Police and Fire Protection - A fire station is located about 1 mile north of the project site in Haleiwa. A police substation serving the North Shore of Oahu is located in Wahiawa, about 8-9 miles southeast of the project site.

Petitioner has represented that the developer of the site will develop the necessary infrastructure--roads, water, sewage and drainage--in conformance with City and County standards.

12. The subject property is located in an area that is being developed into a residential community. Paalaa Kai Subdivision Units I and II are nearing completion and the subject project's location is practical in terms of a logical extension of public services and facilities, and of the already existing infrastructure. A development such as the proposed subject project would tend to minimize the need to urbanize more productive agricultural land.

13. Based on a review of the Petition, the evidence adduced at the hearing, and the provisions of Chapter 205, Hawaii Revised Statutes, the Department of Planning and Economic Development has recommended that the reclassification of the subject property be approved.

CONCLUSIONS OF LAW

Reclassification of the subject property, consisting of approximately 7.981 acres of land, situated at Waialua, City and County of Honolulu, Island of Oahu, State of Hawaii, from Agricultural to Urban and an amendment to the district boundaries accordingly is reasonable and non-violative of Section 205-2 of the Hawaii Revised Statutes.

ORDER

FOR GOOD CAUSE APPEARING, it is hereby ordered that the property which is the subject of the Petition in this Docket No. A81-504, consisting of approximately 7.981 acres, situated at Waialua, City and County of Honolulu, Island of Oahu, State of Hawaii, identified as Tax Map Key No. 6-6-19:13, shall be and hereby is reclassified from Agricultural to Urban and the district boundaries are amended upon the conditions that (1) the Petitioner shall offer for sale or cooperate with either or both the Hawaii Housing Authority or the City and County of Honolulu, to offer for sale on a preferential basis, 50% of the residences to be developed within the subject property to the residents of the State of Hawaii who shall have low and moderate family income as determined by the Hawaii Housing Authority or the City and County of Honolulu from time to time. The residences shall be offered for sale at prices not exceeding prices that enable such purchasers to qualify for and obtain State assisted financing (i.e., Act 105 or Hula Mae funds) or federally assisted financing (i.e., FHA 245 program), (2) in the event a private sewage treatment plant is installed, the developer of the project shall be fully responsible for its maintenance, operation and upkeep

until such time that the entire development is connected to City and County of Honolulu sewage facilities, and (3) these aforementioned conditions may be fully or partially released by the Commission as to all or any portion of the subject property upon timely motion and provision of adequate assurance of satisfaction of these conditions by the Petitioner.

DONE at Honolulu, Hawaii, this 27th day of July, 1981, per Motion on July 9, 1981.

LAND USE COMMISSION
STATE OF HAWAII

By William Yuen
WILLIAM YUEN, Chairman and
Commissioner

By Carol B. Whitesell
CAROL B. WHITESELL, Vice-
Chairperson and Commissioner

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

By _____
EVERETT L. CUSKADEN,
Commissioner

By C. W. Duke
C. W. DUKE, Commissioner

By Shinsei Miyasato
SHINSEI MIYASATO,
Commissioner

By T. Tacbian
TEOFILO TACBIAN,
Commissioner

By Robert S. Tamaye
ROBERT S. TAMAYE,
Commissioner

By Edward Yanai
EDWARD YANAI, Commissioner

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District Boundary to Reclassify)
Approximately 7.981 Acres at)
Waialua, City and County of Honolulu,)
Island of Oahu, State of Hawaii, into)
the Urban Land Use District)

CERTIFICATE OF SERVICE

I hereby certify that a copy of the Land Use Commission's 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:

HIDETO KONO, Director
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DATED: Honolulu, Hawaii, this 27th day of July, 1981.



GORDAN Y. FURUTANI
Executive Officer