

BEFORE THE LAND USE COMMISSION  
OF THE STATE OF HAWAII

In the Matter of the Petition of )  
COUNTY OF KAUAI, ) DOCKET NO. A79-464  
To Amend the Agricultural Land Use ) COUNTY OF KAUAI  
District Boundary to Reclassify )  
Approximately 7.155 Acres, TMK: )  
4-6-12: 13, at Kapaa Homesteads, )  
Kawaihau, Island and County of )  
Kauai, into the Urban Land Use )  
District )  
\_\_\_\_\_ )

DECISION AND ORDER

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Kauai, into the Urban Land Use	)	
District	)	
_____	)	

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 COUNTY OF KAUAI, who 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 7.155 acres of land situated at Kapaa Homesteads, Kawaihau, Island and County of Kauai, State of Hawaii. The property is more specifically identified as Tax Map Key No. 4-6-12: 13.

PURPOSE OF PETITION:

Petitioner's stated purpose for requesting the reclassification of the subject property from Agricultural to Urban is so that it can develop the subject property along with 29 acres of adjoining Urban properties into a single-family residential subdivision for low and moderate income residents.

THE PROCEDURAL HISTORY:

The Petition was received by the Land Use Commission on August 30, 1979. Due notice of this hearing was published on January 16, 1980, in the Honolulu Advertiser and the Garden Isle. Notice of the hearing was also sent by certified mail to all parties involved herein on January 15, 1980. A timely application to appear and testify in this matter as a public witness was received from Ms. Elizabeth Ann Stone on February 11, 1980. Since Ms. Stone did not appear personally at the hearing, her letter, without objection from the parties to the proceeding, was accepted as part of the record in this matter as a statement of a public witness in regard to this particular petition.

THE HEARING:

The hearing on this Petition was held on February 21, 1980, at Lihue, Kauai.

The County of Kauai, Petitioner herein, was represented by Deputy County Attorney Michael Belles, and the Department of Planning and Economic Development, State of Hawaii, was represented by Ms. Esther Ueda.

The witnesses presented by the aforementioned parties were as follows:

Petitioner:

Eugene Jimenez - Kauai County Housing Director;  
President Hale O Ka Aina

Keith Nitta - Staff planner, Kauai County Planning Department

Department of Planning and Economic Development:

Esther Ueda - Staff planner.

POSITION OF THE PARTIES:

Department of Planning and Economic Development - approval.

APPLICABLE REGULATION:

Standards for determining the establishment of an Urban District is 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 scattered 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, after 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 is owned in fee simple by the Hawaii Housing Authority, State of Hawaii, which has granted the development rights of the subject property to the Petitioner. The development rights granted by Hawaii Housing Authority to the Petitioner also include the development of adjacent land

owned by the Hawaii Housing Authority consisting of approximately 29.720 acres and more specifically identified as Tax Map Key No. 4-6-12: 35. The subject property is located at Kapaa Homesteads, Kawaihau, Island and County of Kauai, State of Hawaii, and consists of approximately 7.155 acres, more particularly described as Tax Map Key No. 4-6-12: 13. The subject property is situated along the South edge of Kawaihau Road, directly South of the former Hawaiian Food Packers Cannery. The town of Kapaa is approximately one and one-half miles from the subject property.

2. The existing State Land Use classification for the subject property is Agricultural. The existing County of Kauai General Plan designation for the area is Single-Family Residential, and is zoned Agricultural.

3. The subject property which is presently vacant abuts the Urban district on its Northern and Eastern boundaries and the Agricultural district on its Western and Southern boundaries.

4. The property slopes gently from the Western boundary at approximately 5% to a natural gully which bisects the parcel. This natural gully will probably be utilized to handle water runoff from the development. The subject property is not subject to localized flooding or tsunami inundation.

5. The Land Study Bureau's report, "Detailed Land Classification - Island of Kauai," classifies the subject property as having a Master Productivity Rating of "C" and "D". Class "C" land types are moderate in production while Class "D" land types are poor. The USDA Soil Conservation Service Soil Survey Report for Kauai classifies the soils

for the subject property as Puhi Silty clay loam. In a representative profile the surface layer is brown silty clay loam about 12 inches thick. Subsoil is silty clay loam and silty clay about 48 inches thick. The substratum is silty clay. The surface layer is very strongly acid. The subsoil is slightly acid to medium acid. Permeability is moderately rapid. Runoff is very slow, and there is no erosion hazard.

6. Petitioner proposes to develop the subject property and the adjoining 29 acre Urban designated property into a single-family residential house and lot package consisting of approximately 170 homes. The subject property will contain approximately 40 to 43 lots. Minimum lot size for the proposed subdivision will be 6,000 sq. ft. and purchasers will have available to them the option of 3 or 2 bedroom homes. Petitioner has firm commitments for 8.4 million dollars which cover the total projected project cost. The selling price of the house and lot package will be approximately \$46,000.00 with a development timetable beginning in March of 1980 and being completed in October of 1980.

7. That a housing survey conducted by the Petitioner in 1973 indicated a tremendous housing shortage on the Island of Kauai, especially for the lower income groups. Petitioner feels that the proposed project would be a step toward implementing the County's General Plan goal of providing desirable living quarters for all income levels. The Hawaii State Housing Plan dated February, 1979, indicates a need of at least 600 dwelling units for the low and moderate income residents on Kauai for the period covering 1978-1985.

8. That Section 205-16.1(5) of the Interim Statewide Land Use Guidance Policy, provides that:

"Preference shall be given to amendment petitions which will provide permanent employment, or needed housing accessible to existing or proposed employment centers, or assist in providing a balanced housing supply for all economic and social groups."

9. The Petitioner has received approximately 310 applications for the proposed subdivision from applicants which compose a profile consisting of hotel, plantation and middle management employees. Most of the applicants consist of young marrieds which Petitioner has found to be "the gap group" on the Kauai housing market.

10. The availability and adequacy of public services and facilities for the subject property are as follows:

a. Drainage: A natural gully running through the subject property will be utilized to handle the runoff generated from the proposed development.

b. Traffic: The Department of Transportation has indicated that the proposed boundary amendment will have no direct impact on existing State highway facilities. Access to the proposed development will be from Kawaihau Road, a county roadway.

c. Sewage: Cesspools will be provided for each residential unit.

d. Schools: The Department of Education had indicated that the student enrollment generated from the proposed boundary amendments can be accommodated by existing and planned school facilities.

e. Electricity: Electrical service runs adjacent to the subject property and will be available to the project site.



f. Water: That according to the County of Kauai Department of Water, water service is available for the proposed 170 homes for the proposed project.

g. Police and Fire Protection: Available from Kapaa Town located one and one-half miles away.

11. No significant adverse environmental impacts are expected to result from the projects as set forth in a negative declaration filed by the Petitioner as part of the Petition herein.

12. That the Historic Preservation Program Office indicates that the project will have no effect upon any known historical or archaeological sites on or likely to be eligible for inclusion on the Hawaii Register and/or National Register of Historic Places.

13. The Department of Agriculture has indicated that although the subject property is classified as prime agricultural land under the Agricultural Lands of Importance to the State of Hawaii classification system, its proximity to the existing Urban zone may prohibit viable agricultural enterprise.

14. Based on a review of the Petition, the evidence adduced at the hearing, and the policies and criteria of the Interim Statewide Land Use Guidance Policy, the Department of Planning and Economic Development has recommended that the reclassification be approved.

CONCLUSIONS OF LAW:

Reclassification of the subject property, consisting of approximately 7.155 acres of land situated at Kapaa Homesteads, Kawaihau, Island and County of Kauai, State of Hawaii,

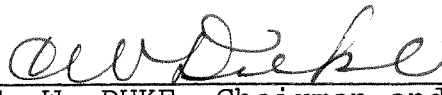
from Agricultural to Urban and an amendment to the district boundaries accordingly is reasonable, non-violative of Section 205-2 of the Hawaii Revised Statutes, and is consistent with the Interim Statewide Land Use Guidance Policy established pursuant to Section 205-16.1 of the Hawaii Revised Statutes, as amended.

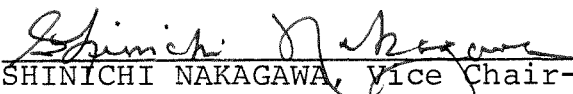
ORDER:

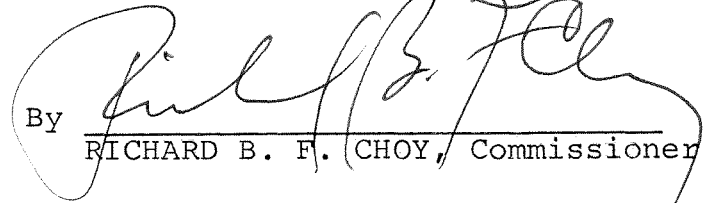
FOR GOOD CAUSE appearing, it is hereby ordered that the property which is the subject of the Petition in this Docket No. A79-464, consisting of approximately 7.155 acres, situated at Kapaa Homesteads, Kawaihau, Island and County of Kauai, State of Hawaii, identified as Tax Map Key No. 4-6-12: 13, shall be and the same is hereby reclassified from the "Agricultural" district to the "Urban" district classification, and the district boundaries are amended accordingly.

DONE at Honolulu, Hawaii, this 6th day of May, 1980, per Motion on April 29, 1980.

LAND USE COMMISSION

By   
C. W. DUKE, Chairman and  
Commissioner

By   
SHINICHI NAKAGAWA, Vice Chair-  
man and Commissioner

By   
RICHARD B. F. CHOY, Commissioner

By   
SHINSEI MIYASATO, Commissioner

By *George R. Pascua*  
GEORGE R. PASCUA, Commissioner

By *Carol B. Whitesell*  
CAROL B. WHITESELL, Commissioner

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 of Kauai, into the Urban Land )  
 Use District )  
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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  
Department of Planning and Economic Development  
State of Hawaii  
250 South King Street  
Honolulu, Hawaii 96813

ANNETTE CHOCK, Deputy Attorney General  
Department of Attorney General  
Capital Investment Building  
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Honolulu, Hawaii 96813

BRIAN NISHIMOTO, Planning Director  
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Lihue, Hawaii 96766

MICHAEL J. BELLES  
Second Deputy County Attorney  
Office of the County Attorney  
County of Kauai  
4396 Rice Street  
Lihue, Hawaii 96766

Dated: Honolulu, Hawaii, this 27th day of May, 1980.

  
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GORDAN Y. FURUTANI  
Executive Officer