

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the)	
Classification and)	DOCKET NO. A77-434
Districting of Certain)	
Lands at Waihee)	THOMAS S. YAGI AND
Island of Maui)	THERESA M. YAGI
_____)	

DECISION AND ORDER

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DECISION

THE PETITION

This case 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 fee owners of the property who are requesting that their property designation be amended from the Rural to the Urban district. The property in question consists of .926 more or less of an acre at Waihee, Island of Maui. The property is identified as Tax Map Key No. 3-2-10: portion of 7.

PURPOSE OF PETITION

Petitioners' stated position for reclassifying the subject property from Rural to Urban is so the Petitioners can subdivide the subject property in order that they and their two sons and respective families may reside on the premises.

THE PROCEDURAL HISTORY

The Petition was received by the Land Use Commission on September 28, 1977. Due notice of the hearing on this petition was published in the Honolulu Advertiser and the Maui

News on November 4, 1977. Notice of the hearing was also sent by certified mail to all of the parties to this docket on October 28, 1977. No timely application for intervention or request to appear as a witness was filed in this matter.

THE HEARING

The hearing on this Petition was held on December 9, 1977 in Kahului, Maui.

The Petitioners were represented by Francis M. Izumi, Esq., the Maui Planning Department was represented by Roy Yempuku, Esq., and the Department of Planning and Economic Development was represented by Tatsuo Fujimoto.

POSITION OF THE PARTIES

Maui Planning Department - Approval.

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 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 testimony given, the evidence presented, and the files and records, makes the following findings of fact and conclusions of law:

1. The subject property, owned in fee simple by the Petitioners is located at Waihee, Island of Maui, consists of approximately .926 acre of land and is more specifically identified as Tax Map Key designation 3-2-10: portion of 7. The subject property is located approximately 10 miles north of Wailuku town and lies south of Waihee Stream at Oki Place and makai of Kahekili Highway.
2. The existing State Land Use classification of the subject property is Rural.
3. The Wailuku-Kahului General Plan designation for the subject property is open space use.
4. The subject property is presently being used for residential purposes and contains 3 single-family residential structures. The area in question can be characterized as a residential pocket area due to the fact that there are three (3) other single family dwellings located just south of the subject site along Oki Place.
5. The subject property is bounded to the north and east by the State Land Use Urban District and to the south and west by the State Land Use Rural District.
6. The other property included in Parcel 7, of which the subject property is a part of, was reclassified from the Agricultural to the Urban District during the 1974 Five-year Boundary Review.

7. Surrounding land uses of the subject property are characterized by residential, agricultural and undeveloped areas.

8. The abutting Urban District lands are owned by Wailuku Sugar Co. and are proposed to be developed into a wide range of housing types.

9. Based on Land Study Bureau soil productivity ratings for the area, the subject property is rated as "C" (moderate) and "E" (poor) lands for agricultural use.

10. There are no known archeologic or historic sites present on the property nor are there any significant natural or recreational resource values.

11. Topography of the property is relatively flat with slopes not exceeding 20%.

12. The subject property is not situated within a flood hazard or tsunami inundation area, as defined by the Wailuku-Kahului General Plan (1972) and County of Maui Drainage Master Plan (1971).

13. The Petitioners propose to subdivide the subject property for residential purposes in order that they and their two sons and their respective families may reside on the premises.

14. That the proposed subdivision will consist of three (3) residential home lots of 7,500 sq. ft., 8,500 sq. ft., and 13,500 sq. ft., and a 10,890 sq. ft. roadway lot which will provide access for the proposed residential lots and other urban areas of the property.

15. That the proposed subdivision with three (3) single family residential units which is the same number of such units which presently exist on the subject property.

16. That the proposed residential subdivision would be in keeping with the area's existing low profile residential character.

17. That sewage disposal for the subject property will be by cesspool. Water will be obtained from an existing 1 1/2 inch waterline that runs along Oki Place.

18. That electrical and telephone services are available to the subject site.

19. That comments received from the Department of Education, the Department of Land and Natural Resources, the Department of Health, the Department of Transportation, the Hawaii Housing Authority, the Department of Agriculture and the Department of Taxation indicate that the proposed reclassification would have no known adverse impact on any existing or proposed State plans and programs for the area.

20. That the proposed reclassification will not impose any burden upon public agencies in providing the subject property with the necessary services.

21. That the reclassification request will not have a significant impact on the existing vacant land inventory or housing supply for the area.

22. That the Petitioners have represented that they will develop all water, sewage, drainage, roadway and other improvements as required and/or deemed necessary in accordance with applicable Federal, State and County requirements.

23. Based on a review of the Petition, the evidence adduced at the hearing and the policies and criteria under the Interim Statewide Land Use Guidance Policy, the State

Department of Planning and Economic Development and the Maui County Planning Department has recommended that the reclassification from Rural to Urban be approved.

CONCLUSIONS OF LAW

Reclassification of the subject property, approximately .926 acre, situated at Waihee, Island of Maui, from Rural to Urban and amendment of the District boundaries accordingly is reasonable, not 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 a subject of the Petition in this Docket No. A77-434, consisting of approximately .926 acre, situated at Waihee, Island of Maui, identified as Tax Map Key 3-2-10: 7 (por.), shall be and hereby is reclassified from Rural to Urban and the District boundaries are amended accordingly.

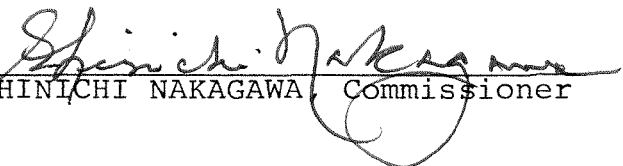
DONE at Honolulu, Hawaii, this 14th day of February, 1978, per Motion on February 14, 1978.

LAND USE COMMISSION
STATE OF HAWAII

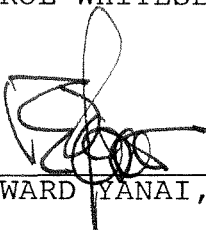
By 
C. W. DUKE, Vice Chairman and
Commissioner

By 
JAMES CARRAS, Commissioner

By 
SHINSEI MIYASATO, Commissioner

By 
SHINICHI NAKAGAWA, Commissioner

By 
CAROL WHITESELL, Commissioner

By 
EDWARD YANAI, Commissioner