

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition) DOCKET NO. A78-443
of)
) TONY HASHIMOTO, ET AL
TONY HASHIMOTO and HILDA)
HASHIMOTO, EVELYN HASHIMOTO,)
HEDY NAOMI KANEOKA, GRACE T.)
TSUTAHARA, SUSAN H. HASHIMOTO,)
and HARRY H. HASHIMOTO)
)
To Amend the District Boundary)
of Certain Land Situate at)
Kihei, Maui, Hawaii)
)
_____)

DECISION AND ORDER

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition)	DOCKET NO. A78-443
of)	
TONY HASHIMOTO and HILDA)	FINDINGS OF FACT,
HASHIMOTO, EVELYN HASHIMOTO,)	CONCLUSIONS OF LAW AND
HEDY NAOMI KANEOKA, GRACE T.)	DECISION AND ORDER
TSUTAHARA, SUSAN H. HASHIMOTO,)	
and HARRY H. HASHIMOTO)	
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)	

FINDINGS OF FACT, CONCLUSIONS OF LAW
AND DECISION AND ORDER

This matter, being a proceeding pursuant to Section 205-4 of the Hawaii Revised Statutes (HRS), and the Rules of Practice and Procedure and District Regulations of the Land Use Commission, State of Hawaii (hereinafter "Commission"), to consider a Petition to Amend District Boundaries and Reclassify from Agricultural to Urban, approximately thirty (30) acres of land situate at Kihei, Island and County of Maui, State of Hawaii (hereinafter "subject property"), was heard by the Commission at Kahului, Maui, on January 11, 1979. Tony Hashimoto, Hilda Hashimoto, Hedy Naomi Kaneoka, Grace T. Tsutahara, Susan H. Hashimoto, Evelyn Hashimoto, and Harry H. Hashimoto, ("Petitioners" herein), the County of Maui Planning Department, and the Department of Planning and Economic Development of the State of Hawaii (hereinafter "DPED"), were admitted as mandatory parties to this docket. The Commission having duly considered the evidence and testimony in the record in this docket, the Proposed Findings of Fact and Conclusions of Law submitted by Petitioner, and the

comments of DPED, hereby makes the following findings of fact and conclusions of law.

FINDINGS OF FACT

PROCEDURAL MATTERS

1. The Petition was filed on August 9, 1978, by Tony Hashimoto, Hilda Hashimoto, Evelyn Hashimoto, Hedy Naomi Kaneoka, Grace T. Tsutahara, Susan H. Hashimoto, and Harry H. Hashimoto, to amend the Agricultural District Boundary at Kihei, Wailuku District, Island and County of Maui, to reclassify approximately 30 acres into the Urban District.

2. Notice of the hearing scheduled for January 11, 1979, at 9:30 a.m., at the Kahului Library Building, Kahului, Maui, was published in Honolulu Advertiser, and the Maui News on December 6, 1978.

3. On January 5, 1979, a prehearing conference on the Petition was held for the convenience of the parties, at the conference room at the Department of Planning and Economic Development (Kamamalu Building), Honolulu, Hawaii.

4. At the hearing on January 11, 1979, the Commission by its own motion allowed the request of John Bose resident at Haiku, Maui, and representing the Sierra Club, Maui Chapter, to appear as a public witness.

5. A letter dated January 2, 1979, from Elizabeth Stone, a resident at Kau, Hawaii, was read into the record.

DESCRIPTION OF THE SUBJECT PROPERTY

1. The property which is the subject of this Petition by Tony Hashimoto and Hilda Hashimoto, husband and wife, and Evelyn Hashimoto, Hedy Naomi Kaneoka, Grace T. Tsutahara,

Susan H. Hashimoto and Harry H. Hashimoto, children of the said Tony Hashimoto and Hilda Hashimoto, to amend District Boundaries and reclassify from Agricultural to Urban, approximately thirty (30.00) acres, is situate at Kihei, Island and County of Maui, and is further identified by the Tax Map of the Second Taxation Division of the State of Hawaii as TMK 3-9-01: 33.

2. The subject property is located approximately 0.7 mile east of Kihei Road, 1.5 miles southeast of Kealia Pond and is 9 miles from Wailuku and Kahului. The property can be described as an irregularly shaped lot, situate at the intersection of Ohukai Road and Kaiola Place. The length of the subject property varies from 1,240 feet to approximately 1,500 feet. The depth of the property ranges from 890 feet to about 1,200 feet. Access to the subject property is from Ohukai Road.

3. Lands immediately north of the subject property are in the Rural District and appear to be vacant. Lands immediately to the west are in the Urban District and consist of two adjoining residential subdivisions, one of which is presently undergoing development. Lands to the east and immediately to the south are in the Agricultural District and appear to be unused. The Makai Heights Subdivision is in a Rural District and is to the northeast of the property. A portion (approximately 56 acres) of the Kaonoulu Ranch property (TMK 3-9-01: 16) to the southwest of the subject property is in the Urban District and appears to be vacant and unimproved land which has access onto Kihei Road.

4. The general character of the area in which the subject property is situate consists of large areas of pasture and open land interspersed with single family residences. The

greatest degree of urbanization exists along Kihei Road. The property itself is mostly vacant, open land, covered with Keawe trees, brush and shrubs. Portions of the property have been used for orchards, the operation of which has been marginal.

5. According to the Department of Agriculture, Soil Conservation Service's 1972 soil survey, the land is identified as part of the Waiakoa soil series. Under this series, the soil is characterized as being extremely stony with slopes ranging from 3% to 25%. Run-off is medium, and the erosion hazard is severe. The capability classification of the series in terms of soil suitability for crops is Class VII. This classification indicates that the soil has very severe limitations for cultivation because of unfavorable soil texture or extremely stony or rocky conditions. Generally, agricultural use of the soil is limited to pasture, woodland or wildlife habitat.

6. The soil of the subject property is thirty inches (30") deep. There is an annual rainfall of ten inches (10"). The subject property has no flood hazards.

7. A map issued by the Department of Agriculture of the State of Hawaii showing Agricultural Lands of Importance to the State of Hawaii (Island of Maui), reveals that the subject property does not fall within any of the classifications considered important to the State of Hawaii.

8. The Land Study Bureau's detailed land classification - Island of Maui, gives an overall productivity rating of class "B," with productivity being good with the application of irrigation. The selected productivity ratings for the subject property are "a" for orchard and "c" for vegetable.

9. Under the County's Drainage Master Plan (1971), the

subject property is not prone to tsunami inundation or 100-year flood plain hazards.

10. There were approximately thirty (30) farmers in the area of the subject property but only a few now remain.

PROPOSAL FOR DEVELOPMENT

11. Petitioners propose to develop the thirty (30) acre subject property in accordance with the plan shown in Petitioners' Exhibit "C," and it will be known as "T. HASHIMOTO INDUSTRIAL PARK." There will be a total of 28 lots ranging in area from 20,900.00 square feet to 48,200.00 square feet. The traffic circulation system will consist of a loop with two access points on Ohukai Road as shown in Petitioners' Exhibit "C." The Department of Transportation's Piilani Highway Project will pass through the western portion of the subject property.

12. The proposal for development includes the following limited uses:

- (a) warehousing;
- (b) cold storage plant;
- (c) light and heavy equipment and product display room;
- (d) wholesale business;
- (e) delicatessen store;
- (f) automotive parts business;
- (g) business offices and agencies;
- (h) catering establishments with not more than five (5) employees;
- (i) hardware and garden supply stores;
- (j) restaurant for the employees;
- (k) construction company baseyard;

(1) new car display room.

No noxious-type businesses will be permitted; the permitted businesses will be limited to the foregoing uses as permitted under the County of Maui Ordinance.

13. "The Kihei General Plan" designates an open/buffer strip along both sides of the proposed highway and along the Petitioners' Ohukai Road frontage. The Petitioners' amended plan provides for a planting strip five feet in width which would give some semblance of separation and yet serve as a buffer zone. It has not been established that a five feet buffer strip would conform to the requirements of the Kihei General Plan. The Maui County Planning Department will determine the adequacy of the buffer when the matter comes before the County.

14. The Petitioners propose to commence the development in February, 1981. The timetable for the development to commence is based upon the following schedule:

- (a) Application before Land Use Commission, August, 1978.
- (b) Application for zoning, County of Maui, July, 1979.
- (c) Application for subdivision, October, 1979.
- (d) Obtain financing, October, 1980.

15. The Petitioners will dedicate a strip along Ohukai Road to bring said road up to County standards.

16. The Petitioners propose to lease all of the industrial lots which will be under the continuous management of the Petitioners through a family corporation. The proposed lease rent will be forty (40) cents to eighty (80) cents annually, per square

foot. Each of the lessees will be afforded an opportunity to build its business during the first five years. The lease term will be for a minimum of twenty (20) years.

STATE AND COUNTY PLANS

17. The subject property has been classified as within the Agricultural District by this Commission. The present County of Maui zoning classification is agriculture.

18. The Kihei General Plan designates the subject property for industrial, open/planting buffer and proposed highway. The plan delineates the proposed highway along the western boundary of the subject property and Kaiola Place. The open/planting buffer is indicated along Ohukai Road and on both sides of the proposed highway. The remaining area of approximately 22 acres is designated for light industrial use. The Petitioners will have to apply for rezoning of the subject property from agriculture to light industrial zoning.

NEED FOR GROWTH AND DEVELOPMENT

19. Presently there is no light industrial tract in the Kihei area. However, Kihei has encountered tremendous growth as a tourist destination area. Wailea with its two golf courses and miles of sandy beaches have attracted large numbers of tourists. The Intercontinental Hotel is already operating and the Western International Hotel is near completion. A number of condominium units have been developed within the Wailea area as well as along Kihei Road. Seibu Corp., Inc., has already started on its project, the first phase being an eighteen (18) hole golf courses.

The area zoned for business in Kihei is very limited. There is a great demand for business zoned properties

and many inquiries have been received for business or light industrial property. Warehouse space is at premium and has been generated by the growth occurring at Kihei.

20. Maui reached the million visitor mark in September of 1978 and has possibly surpassed the 1.5 million visitor count in 1978.

21. Kihei is the largest voting precinct in Maui County. The number of registered voters in 1968 was 570; in 1978, the total reached 2,777.

22. Presently, there are over three thousand (3,000) condominiums and hotel units in Kihei.

23. The lots in the recently completed Wailuku Industrial Tract development have been sold out and the construction of buildings is imminent. Developed industrial lots are not available in the Lahaina and Kahului areas.

24. The denial of applications in Land Use Commission Docket Nos. A65-98 and A72-346 are not relevant to this application. These applications were addressed to residential lots; furthermore, in one instance ten (10) years have lapsed since the denial, and in the other, over five (5) years.

25. Reclassification of the subject property is reasonably necessary to accommodate growth and development as intended by the Maui County General Plan. There is no other area in Kihei which is classified light industrial under the Maui County General Plan.

RESOURCES OF THE AREA

26. Development of the subject property will not affect the agricultural, historic, and ocean resources of the area. There are no natural, recreational, scenic, or

other environmental resources on the subject property or in the area which would be affected by the proposed development.

Agricultural Resources

27. The Land Study Bureau Report entitled, "Maui lands classified by physical qualities for urban uses" (June, 1970), indicates that the subject property is in an area of nonexpanding rocky soil, surface well drained, depth to consolidated material 0 to 5 feet, and 0 to 10 percent slope. The Department of Agriculture states that soils of the subject property are classified as Waiakoa series, and are rated in the Land Study Bureau "Detailed Land Classification of Maui," as having an overall productivity rating of Class "B," and that these lands have good agricultural productivity with irrigation.

28. The Chairman of the Board of Agriculture has stated that the subject property is one of the very few good existing farm sites and it therefore would seem more desirable to relocate the proposed industrial project to some other location where such agricultural land would not be forever lost to a use which does not require such a limited resource. He further stated that it appears that the proposed boundary change will have a significant adverse effect upon agricultural resources. In spite of these comments, however, Petitioners' "Exhibit 6," which is a map issued by the Department of Agriculture of the State of Hawaii, showing "Agricultural Lands of Importance to the State of Hawaii, Island of Maui," does not include the subject property in the foregoing classification. Therefore, the Department's own map does not appear to support the statements of the Chairman of the Board of Agriculture.

29. Only a portion of the property is presently in cultivation for orchard use, while the rest of the land, because of stony conditions, has been left vacant.

30. The Petitioners have faced mechanical problems with their tractors because of the stony condition of the soils on the subject property.

31. The proposed development will not have a significant adverse effect upon agricultural resources of the area.

32. Crops on the subject property have been affected by insecticide and herbicide sprayed from surrounding properties.

33. Petitioners are negotiating for farm property in the Kula area where it is more profitable to farm, and will eventually relocate their farming operation to that area.

Historic Resources

34. The proposed development would not significantly affect any historic resource.

Tsunami and Flood Hazard

35. The subject property is not prone to flooding nor has it been classified as a tsunami inundation area.

PUBLIC SERVICES AND FACILITIES

36. Fire Station. A new Kihei Fire Station is located 4.2 miles from the subject property, and is adequate to accommodate the proposed development.

37. Utilities. Electric power and telephone services are presently available in the area of the subject property and will be available to the proposed development.

38. Sewage Treatment and Disposal Facilities. The County of Maui has a new sewage treatment plant 5.0 miles from

the subject property, which will adequately handle the raw sewage emanating from the development.

39. Schools. The new Kihei Elementary School is located 1.1 miles from the subject property.

40. Post Office. The new Kihei Post Office is located 3.1 miles from the subject property.

41. Parks. Kalama Park is located 4.6 miles from the subject property, and Kamaole Park I is 5.0 miles distant. The Maipoina Oe Iau Memorial Park is located on Kihei Highway, a short distance from the subject property.

42. Highways and Roadways. The State has acquired 6.164 acres of the subject property as a right-of-way for the new Piilani Highway Project (FAP No. RF-031-1) (5 ROW).

The highway will link the area between Mokulele Highway and Kilohana Street and it is anticipated that the highway will be completed in August, 1980. No vehicular access will be permitted from the Piilani Highway directly onto the subject property. Access to the subject property will be from Ohukai Road which will intersect the highway. The State of Hawaii has filed suit for condemnation of the said portion of land in Civil No. 3887, in the Second Circuit Court, State of Hawaii, on September 25, 1978.

After the Petition was filed, a court order was issued granting the State of Hawaii possession of said land effective as of October 11, 1978. In addition, the State of Hawaii has acquired 1.7 acres of a remnant strip which is included in the 6.164 acres to be acquired by the State. Said remant strip, when landscaped, will provide an additional buffer to the residential area below the subject property.

- (a) The Petitioners intend to dedicate a strip of land along Ohukai Road to meet County standards.
- (b) The new Piilani Highway as a Federal Aid Highway, would have limited access onto it and would therefore provide better traffic flow and the elimination of hazardous traffic conditions.

43. Water. A sixteen inch (16") waterline and an eighteen inch (18") waterline run along Ohukai Road and Kaiola Place, respectively, providing adequate water service to the proposed development.

SCATTERIZATION AND CONTIGUITY OF URBAN DEVELOPMENT

44. The proposed development will be an extension of and will be contiguous to an existing urban area.

EMPLOYMENT PREFERENCE

45. Temporary construction jobs for the development of the industrial tract will be created.

46. Permanent jobs will result upon completion and operation of the proposed industrial development.

FINANCIAL CAPABILITY

47. The Petitioners have demonstrated the necessary financial capability to carry out the proposed project.

IMPACT OF PROPOSED DEVELOPMENT

Real Property Taxes

48. The Petitioners presently pay \$310.00 in annual real property taxes for the subject 30 acres of land which

amounts to \$10.34 per acre. Under an Urban Classification, roll back taxes pursuant to Section 246-10 (F) (3), HRS, would be applicable and the assessed value of the subject property would be increased to such a degree that the real property tax revenue would increase significantly. Additionally, the tax on the improvements to the subject property would create additional tax revenues for the County.

Gross Income Tax.

49. Assuming there are 280 employees under the proposed development, ten (10) for each lot of the 28 lots, and assuming each employee earns \$10,000.00, the total taxable income would be \$2,800,000.

In addition, there would be gross income and net income taxes from each of the 28 businesses. Gross income and net income from companies involved in the development would also be generated.

CONCURRENCE BY THE COUNTY OF MAUI AND THE STATE OF HAWAII

50. Both the County of Maui and the State of Hawaii have no objection to the proposed district boundary amendment.

CONFORMITY TO INTERIM STATEWIDE LAND USE GUIDANCE POLICIES AND DISTRICT REGULATIONS

51. The proposed development will be consistent with the General Plan of the County of Maui and is reasonably necessary to accommodate the growth and development of the Kihei area.

52. The proposed development would not have any significant effect upon the natural, recreational, scenic or

other environmental resources of the area, nor any adverse effect upon the agricultural and ocean resources of the area. The subject property is not considered prime farm land nor is it suitable for diversified agriculture.

53. Fire fighting, electrical, telephone, police, solid waste disposal, sewage treatment and disposal facilities, schools, highways, and water services and facilities are adequate and available to the subject property and will not necessitate unreasonable investment in public supportive services.

54. The proposed development is an extension of and is contiguous to an existing urban area and will utilize existing public services and facilities.

55. The proposed development will create many temporary, and over 280 permanent employment positions.

56. The subject property has satisfactory drainage and is reasonably free from danger of floods, tsunami, unstable soil conditions, and other adverse environmental effects.

57. The proposed development will create new centers of trading and employment inasmuch as it will attract new businesses or the relocation of existing businesses into the Kihei area.

58. The Petitioners have demonstrated that the proposed development is economically feasible.

RULING ON PROPOSED FINDINGS

Any of the proposed findings of fact submitted by the Petitioners or comments to any proposed findings submitted by the Department of Planning and Economic Development, not already ruled upon by the Commission by adoption herein, or rejected by clearly contrary findings of fact herein, is hereby

denied and rejected.

CONCLUSIONS OF LAW

Pursuant to Chapter 205, Hawaii Revised Statutes, and the Rules of Practice and Procedure, and the State Land Use District Regulations of the Land Use Commission, the Commission concludes that the proposed boundary amendment conforms to the standards established for the Urban Land Use District by the State Land Use District Regulations, and is consistent with Section 205-2, Hawaii Revised Statutes, and with the Interim Statewide Land Use Guidance Policies established pursuant to Section 205-16.1, Hawaii Revised Statutes, particularly subsections (1), (2), (3), (4), and (6), and is consistent with State Land Use District Regulation Section 6-1.

ORDER

IT IS HEREBY ORDERED: That the property which is the subject of this Petition in Docket A78-443, approximately thirty (30) acres of land situate at Kihei, Island and County of Maui, State of Hawaii, identified on the Tax Map of the Second Taxation Division as TMK: 3-9-01: 33, shall be and hereby is reclassified from Agricultural to Urban and the District Boundaries are amended accordingly, subject to the following condition:

That the project be initiated within one (1) year of the approval of the district boundary amendment, initiated meaning a subdivision application.

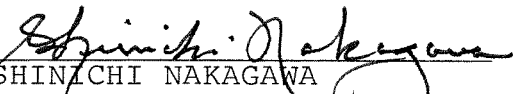
DONE at Honolulu, Hawaii, this 29th day of August, 1979, by Motion passed by the Land Use Commission on the 26th day of June, 1979, in Honolulu,

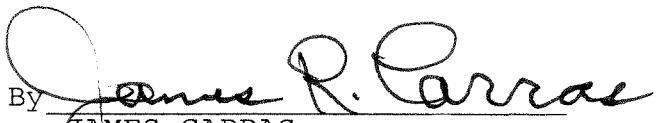
Hawaii.

DATED: Honolulu, Hawaii, August 29, 1979.

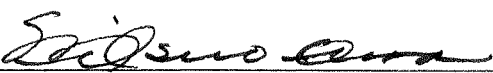
LAND USE COMMISSION

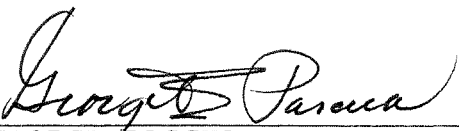
By 
C. W. DUKE
Chairman and Commissioner

By 
SHINICHI NAKAGAWA
Vice Chairman and Commissioner


By 
JAMES CARRAS
Commissioner

By 
SHINSEI MIYASATO
Commissioner

By 
MITUSO OURA
Commissioner

By 
GEORGE PASCUA
Commissioner

By 
CAROL WHITESELL
Commissioner

By 
EDWARD K. YANAI
Commissioner

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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 & Economic Development
State of Hawaii
250 South King Street
Honolulu, Hawaii 96813

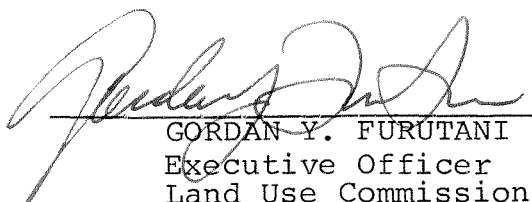
TOSH ISHIKAWA, Planning Director
Maui County Planning Department
200 South High Street
Wailuku, Maui, Hawaii 96793

ANNETTE CHOCK, Deputy Attorney General
Department of Attorney General
State of Hawaii
4th Floor, State Capitol
Honolulu, Hawaii 96813

PAUL MANCINI, Corporation Counsel
Office of the Corporation Counsel
County of Maui
200 South High Street
Wailuku, Maui, Hawaii 96793

MEYER M. UEOKA
Ueoka & Luna
2103 Wells Street
Wailuku, Maui, Hawaii 96793

DATED: Honolulu, Hawaii, this 31st day of August, 1979.



GORDAN Y. FURUTANI
Executive Officer
Land Use Commission