

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of)	DOCKET NO. A79-457
)	
JOHN H. MIDKIFF, JR.,)	JOHN H. MIDKIFF, JR.
)	
To Amend the Agricultural Land Use)	
District Boundary to Reclassify)	
Approximately 1.128 Acres, TMK:)	
6-8-6: 11 at Mokuleia, Waialua,)	
Island of Oahu, City and County)	
of Honolulu, into the the Urban)	
Land Use District.)	

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 JOHN H. MIDKIFF, JR., who is requesting that the designation of the subject property, which he owns in fee simple, be amended from the Agricultural to the Urban district. The requested change consists of property comprising approximately 1.128 acres, situated at Mokuleia, Waialua, City and County of Honolulu, Island of Oahu. The subject property is more particularly identified as Tax Map Key No. 6-8-6: 11.

PURPOSE OF PETITION

Petitioner's stated purpose for requesting the reclassification of the subject property from Agricultural to Urban is so that he can construct a family residence and remove the non-conforming use status of the four small cottages presently established on the property.

THE PROCEDURAL HISTORY

The Petition was received by the Land Use Commission on May 7, 1979. Due notice of the hearing on this Petition was published on June 18, 1979, in the Honolulu Star Bulletin. Notice of the hearing was also sent by certified mail to all parties involved herein on June 15, 1979. No timely application to intervene as a party or appear as a public witness was received by the Land Use Commission.

THE HEARING

The hearing on this Petition was held on July 20, 1979, in the Department of Planning and Economic Development's conference room, Kamamalu Building, 250 South King Street, Honolulu, Hawaii.

The Petitioner appeared and presented his case on his own behalf; the Department of Planning and Economic Development was represented by Deputy Attorney General, Annette Chock; and the Department of General Planning for the City and County of Honolulu was represented by Deputy Corporation Counsel, Roger Moseley.

The witnesses presented by the aforementioned parties were as follows:

Petitioner

John H. Midkiff, Jr. testified on his own behalf in support of the Petition

City and County of Honolulu

Ned Wiederholt - Deputy Director of the Department of General Planning

Verne Winkvist - Staff Planner

Department of Planning and Economic Development

Tatsuo Fujimoto - Chief, Land Use Division

POSITION OF THE PARTIES

Department of Planning and Economic Development -
Approval.

City and County of Honolulu - Denial.

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, owned in fee simple by John H. Midkiff, Jr., Petitioner herein, is located at Mokuleia, Waialua, City and County of Honolulu, Island of Oahu. The subject property consists of approximately 1.128 acres and is more particularly identified by Tax Map Key No. 6-8-6: 11.
- 2. The subject property is located on the mauka (southern) side of Crozier Drive, Mokuleia, Waialua, Oahu,

which is approximately 6 miles from Waialua and 11 miles from Haleiwa shopping and employment facilities. Its northern boundary is contiguous with the existing State Land Use Urban District. The subject property is the only residentially developed property mauka of Crozier Drive in the area. Property mauka of Crozier Drive surrounding the subject property are vacant. Property makai of the subject parcel in the State Land Use Urban District are fully developed. The urban development makai of Crozier Drive consists of residential cottages similar to what presently exists on the subject parcel.

3. The subject property is presently in residential use with four detached single-family dwellings located thereon. The structures presently on the property constitute a non-conforming use pursuant to the non-conformance clauses of the City and County of Honolulu's Comprehensive Zoning Code (Section 21-107 Ord. 3234) and the State Land Use Commission's District Regulations (Part IV, Section 4-2). The subject property was devoted to residential use prior to the effective dates of the aforementioned provisions. (January 2, 1969 and December 21, 1975, respectively). The subject property has been devoted to residential use since it was acquired by the Petitioner's family in 1950. Prior to 1950, the subject property was in pasture use.

4. The subject property is within the State Agricultural District. The City and County of Honolulu General Plan designation for the subject property is Agricultural. The County Zoning Ordinance designation for the subject property is AG-1. The subject property falls within the City and County of Honolulu Special Management Area.

5. The subject property was acquired in September of 1950, by John Howard Midkiff and Pearl Lee Midkiff from the J. P. Mendonca Estate. Between 1960 and 1961, the subject parcel was transferred in two increments to John H. Midkiff, Jr., Petitioner herein, and Annie Bernice Midkiff. On February 27, 1976, Annie Bernice Bisbee (formerly Annie Bernice Midkiff) transferred her interest in the subject property completely to John H. Midkiff, Jr.

6. Petitioner has represented that his family's intention upon acquisition of the property was for residential use as evidenced by the improvements to the property begun at the time of its acquisition and continuing to date. There are presently four small cottages constructed adjacent to the Waialua side boundary with the major portion of the area left in lawn to provide space for future construction of a family residence. Petitioner has represented that for the past 28 years the property in question has been used exclusively for residential purposes.

7. The elevation of the subject property is between 5 to 10 feet above sea level with a very low slope of 0 to 5 percent. Annual rainfall averages approximately 20 inches for the general area and Petitioner has represented that the development proposed for the area will not substantially alter the existing natural drainage pattern of the area which is in the makai direction. The subject property is shown on the U. S. Department of Housing and Urban Development, Flood Insurance Rate Map, Preliminary, February 24, 1978, Map No. 150001 40A, to be within the 100-year coastal flood danger for which the velocity, base flood elevations and flood factors are not determined.

8. The U. S. Department of Agriculture, Soil Conservation Service (SCS) classifies the soils in the subject property as Jaucus series soils. According to the SCS Soil Survey of Islands of Kauai, Oahu, Maui, Molokai and Lanai, State of Hawaii (August, 1972), Jaucus soils are poorly suitable for topsoil and for roadfill, with a low fertility rating, have a slight degree of limitation for septic tank filter fields, and are highly erodible. In terms of agricultural suitability, Jaucus soils fall under Sugarcane Group 1, for which potential yields of 12 to 15 tons per acre per crop are possible. Jaucus soils also fall under Pasture Group 1, for which potential yields of 1,700 to 2,600 pounds of air-dry forage per acre per year on well-managed improved pasture is possible; 400 to 1,300 pounds on unimproved pasture. The capability classification for Jaucus soils is Class IVs if irrigated, and Class VIe if non-irrigated. Class IV soils have very severe limitations that reduce the choice of plants, require very careful management, or both. Subclass IVs soils have very severe soil limitations because of stoniness, shallowness, unfavorable texture, or low water-holding capacity. Class VI soils have severe limitations that make them generally unsuited to cultivation and limit their use largely to pasture on range, woodland, or wildlife habitat. Subclass VIe soils are further severely limited by the hazard of erosion.

The Land Study Bureau classifies the soils of the subject property as Regosols in its publication Detailed Land Classification - Island of Oahu (L.S.B. Bulletin No. 11, December 1972). These are represented on Oahu by Jaucus (catano) coral sands, as previously mentioned. They are

found primarily along the beaches and a short distance inland. These sands are light brown, coarse textured, deep, non-expanding, excessively drained, machine tillable, variably stony and not suitable for cultivation. The land type classification of the Jaucus soils is E-7. These soils have an overall productivity rating of "E" and a Selected Crop Productivity Rating of "e" for all uses except forage and grazing, for which a "d" rating applies. The soil of the subject property is poorly suited for agriculture and was not included within an area designated as agricultural lands of importance by the State Department of Agriculture.

9. Public services and facilities available to the subject property are as follows:

a. Sewers: Due to the unavailability of the municipal sewer system to the subject property, Petitioner has indicated that a private on-site sewage disposal system would be developed in accordance with the Department of Health regulations.

b. Water: Water for the subject property will have to be secured from the Board of Water Supply from the water service that presently runs along Crozier Drive.

c. Electricity: Electrical service to the subject property will be provided by Hawaiian Electric Company.

d. Telephone: Telephone service can and will be provided by Hawaiian Telephone Company.

e. Fire and Police Protection: Fire protection will be provided by the municipal fire station located in Waialua, approximately 3-1/2 miles away. Police

protection will be provided from the Wahiawa Police Station located approximately 12 miles away from the subject property.

f. Schools: The Department of Education has no objections to the proposed boundary amendment and development.

10. Effects upon resources of the area:

a. Environmental and Ecological: The proposed development will not significantly and adversely affect the environmental ecology of the area. There are no rare or endangered species of flora or fauna on the subject site.

b. Agricultural: The agricultural impact of the proposed reclassification will be negligible. Although the subject property is currently classified within the State Land Use Commission's Agricultural district, it is presently in non-conforming use. The agricultural capability of the subject soils is poor and the property has not been cultivated since it was initially acquired in 1950. The overall productivity rating of the subject property for agricultural use is Class "E" in a five class rating of "A" through "E" with "A" representing the highest productivity rating and "E" the lowest. The subject property and the areas immediately surrounding it do not fall within an area designated as agricultural lands of importance by the State Department of Agriculture.

c. Recreational: The proposed development will not result in any loss of recreational facilities or areas.

d. Historic and Archaeological: The subject site has no historical or archaeological value.

e. Scenic: The subject property does not contain any unique or unusual scenic amenity.

f. Traffic Impact: The subject property abuts Crozier Drive, and it is unlikely that any significant traffic impact will be generated on Crozier Drive or nearby roadways by the construction of a family dwelling.

11. Development of the subject property pursuant to Petitioner's plans will not create any appreciable impact to the employment and economic considerations of the State.

12. Petitioner has the financial capability to build his own house on his own property as represented by the Petition filed herein.

13. Based upon 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, State of Hawaii, has recommended that the reclassification be approved.

CONCLUSIONS OF LAW

Reclassification of the subject property, consisting of approximately 1.128 acres of land, situated at Mokuleia, Waialua, City and County of Honolulu, Island of Oahu, 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

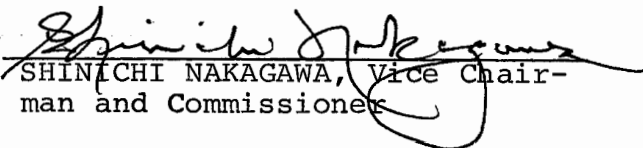
FOR GOOD CAUSE appearing, it is hereby ordered that the property, which is the subject of the Petition in this

Docket No. A79-457, consisting of approximately 1.128 acres of land, situated at Mokuleia, Waialua, City and County of Honolulu, Island of Oahu, identified as Tax Map Key No. 6-8-6: 11, shall be and the same is hereby reclassified from the "Agricultural" district to the "Urban" district classification, and the District boundaries are amended accordingly.

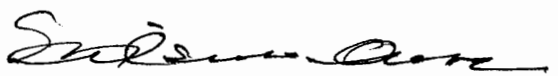
DONE at Honolulu, Hawaii, this 20th day of November, 1979, per Motion on October 16,, 1979.

LAND USE COMMISSION
STATE OF HAWAII


By 
C. W. DUKE, Chairman and
Commissioner

By 
SHINICHI NAKAGAWA, Vice Chair-
man and Commissioner

By 
SHINSEI MIYASATO, Commissioner

By 
MITSUO OURA, Commissioner

By 
GEORGE PASCUA, Commissioner

By 
EDWARD YANAI, Commissioner

By 
WILLIAM YUEN, Commissioner

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City and County of Honolulu
3rd Floor, City Hall
Honolulu, Hawaii 96813

JOHN H. MIDKIFF, JR.
P. O. Box 8873
Honolulu, Hawaii 96815

Dated: Honolulu, Hawaii, this 21st day of November, 1979.


GORDAN Y. FURUTANI
Executive Officer