

BEFORE THE LAND USE COMMISSION

OF THE STATE OF HAWAII

In the Matter of the Petition of) DOCKET NO. A85-593
DODO MORTUARY, INC.,) DODO MORTUARY, INC.
To Amend the Agricultural Land Use)
District Boundary to Reclassify)
Approximately 3.001 Acres, Tax Map)
Key: 2-6-08:25, at Puueo, South)
Hilo, Hawaii, Island and County of)
Hawaii, into the Urban Land Use)
District)
-----)

DECISION AND ORDER

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Hilo, Hawaii, Island and County of)
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District)
_____)

DECISION

THE PETITION

This matter arises from a Petition for an amendment to the Land Use Commission district boundary filed on March 21, 1985, pursuant to Section 205-4 of the Hawaii Revised Statutes, as amended, in Part VI, Rule 6-1, of the Land Use Commission's ("the Commission") Rules of Practice and Procedure and District Regulations by Dodo Mortuary, Inc. ("Petitioner") to amend the designation of the property comprising approximately 3.001 acres of land, situate at Puueo, South Hilo, Island and County of Hawaii, State of Hawaii, identified as Hawaii Tax Map Key No. 2-6-08:25 ("the Property") from the Agricultural to the Urban Land Use District.

PURPOSE OF THE PETITION

Petitioner is requesting the boundary amendment in order to construct a new and larger mortuary complex to replace the old existing mortuary presently located on an abutting parcel of land.

THE HEARING

The hearing on this Petition was conducted on July 1, 1985, in Hilo, Hawaii, pursuant to notice published on May 17, 1985, in the Hawaii Tribune Herald and the Honolulu Advertiser. The Petitioner was represented by the law firm of Kushi & Kushi, and Mr. William Thompson; The County of Hawaii was represented by Norman Hayashi; and The Department of Planning and Economic Development was represented by Jean Nishida. The following witnesses presented by the parties testified:

Petitioner

William Thompson - Land Use Consultant

County of Hawaii

Norman Hayashi - Staff Planner, County of Hawaii
Planning Department

Department of Planning & Economic Development

Jean Nishida - Staff Planner, Land Use Division,
Department of Planning and
Economic Development

POSITION OF THE PARTIES

The County of Hawaii - Approval. Department of Planning and Economic Development - Approval. The parties have also executed a Stipulation affirming that the Land Use Commission, State of Hawaii, has the requisite jurisdiction to act upon this Petition.

APPLICABLE REGULATIONS

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 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 considerations to areas of urban growth as shown on the State and County General Plans.
- (f) Lands which do not conform to the existing 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 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 Property is owned in fee simple by the Petitioner herein and is located at Puueo, South Hilo, Island and County of Hawaii, State of Hawaii, and consists of approximately 3.001 acres, identified as Hawaii Tax Map Key No. 2-6-08:25. The Property is located in the Puueo district, along the Mauka or western side of Wainaku Avenue. The address of the existing mortuary which is adjacent to the Property is 199 Wainaku Avenue, Hilo, Hawaii, 96720. Until recently, the Property was leased to Hilo Coast Processing Company and was in active sugar cane cultivation and production. The Property abuts the Petitioner's existing mortuary site which includes a mortuary building and parking facilities. Other uses in the immediate area of the Property includes single family dwellings, apartments, the Clem Akina neighborhood park and sugarcane fields.

2. The Property is located within the State Land Use Agricultural District. The Land Use Pattern Allocation Guide Map (LUPAG Map) of the County of Hawaii General Plan designates the Property for medium density urban

development. The Hilo Community Development Plan Zone Guide Map, which was adopted by the Hawaii County Planning Commission in 1965, designates the Property for open-type uses. A portion of the Property abutting the existing mortuary is zoned Open while the remaining portion of the Property is zoned Agricultural 20-acre (A-20a). The abutting parcel of property upon which the existing mortuary is located is within the State Land Use Urban District and zoned Multiple Residential-4,000 square feet (RM-4) by the County of Hawaii. The Property is not within the County Special Management Area.

3. The average slope of the Property is approximately 6% with the steepest slope being about 17%. The area within which the Property is located receives approximately 120 to 180 inches of rainfall annually. The United States Department of Agricultural Department, Soil Conservation Service Soil Survey Report, classifies soil of the Property as the Hilo Soil Series (HoD) which consists of well drained silty clay loams. The surface layer and subsoil are about 12 and 48 inches thick, respectively. Permeability is rapid, run-off is medium and the erosion hazard is slight to moderate. The soil is appropriate for sugarcane cultivation.

4. Petitioner requests the reclassification of the Property from Agricultural to Urban in order to construct a new mortuary complex and necessary parking facilities. The new mortuary complex will consist of two chapels which will permit the Petitioner to accommodate two ordinary size services simultaneously and to have sufficient land area to provide additional parking spaces as required. Upon the completion of the new mortuary complex, the existing mortuary will be demolished and the Property utilized for parking purposes. Petitioner intends to increase the parking capacity from 90 to 150 stalls. Petitioner anticipates that the proposed project can be completed within 18 to 24 months after all governmental approvals have been obtained. The Petitioner projects that the construction and development of the new mortuary complex will cost approximately \$1,750,000.00 to \$2,000,000.00. Petitioner has also submitted an unaudited financial statement which lists Petitioner's stockholders' equity in the amount of \$660,370.00.

5. The Petitioner has presented evidence to reflect that the reclassification of the Property will not adversely impact any resources in the area.

6. The reclassification of the Property will not unreasonably burden public agencies to provide necessary amenities, services and facilities because:

(a) Electrical and Telephone Services: Electrical and telephone services are presently available to the Property.

(b) Police and Fire Protection: Police and fire protection services are presently available from the Hilo Police and Fire Stations.

(c) Sewage Disposal: Petitioner has indicated that sewage will be disposed of by cesspools or other disposal systems in accordance with applicable rules of the Department of Health and County Department of Public Works.

(d) Solid Waste: Solid waste will be disposed of by commercial refuse collectors and dumped at approved disposal sites.

(e) Roadways: The proposed development will front on Wainaku Avenue which has a 50 feet wide right-of-way and a 40 feet wide pavement. Sidewalks and curbs are also present.

(f) Water: Water is presently available to accommodate the proposed mortuary complex from an existing 1-1/2 inch water meter.

7. Petitioner has presented evidence to support the fact that it satisfies and will continue to satisfy two major concerns: health requirements and socio-religious traditions and cultural values. Petitioner has further

indicated that the requirement for building a larger mortuary complex is based on the increasing volume of business and the requirements of the general public that is served by the Petitioner. William Thompson, Petitioner's consultant, projects that the Hilo area's population will continue to increase and that the County of Hawaii will have a higher rate of increase than other Counties. Petitioner has offered a complete range of funeral services for the island of Hawaii since 1900. Petitioner also handles approximately 400 funeral services within the County of Hawaii annually.

8. Based on the review of the Petition, the evidence adduced at the hearing and the provisions of Chapter 205 of the Hawaii Revised Statutes, the Hawaii County Planning Department and the Department of Planning and Economic Development have recommended that the reclassification of the Property be approved.

CONCLUSION OF LAW

The Land Use Commission, State of Hawaii, has the requisite jurisdiction to consider and act upon this docket because the Petition was filed and the hearing conducted prior to the effective date of Act 230, Session Laws Hawaii 1985.

Reclassification of the Property, consisting of approximately 3.001 acres of land, situate at Puueo, South Hilo, Island and County of Hawaii, State of Hawaii, from Agricultural to the Urban District and an amendment to the district boundaries accordingly is reasonable and non-violative of Section 205-2 of the Hawaii Revised Statutes.

ORDER

IT IS HEREBY ORDERED:

That the Property which is the subject of this Petition in Docket No. A85-593, consisting of approximately 3.001 acres of land, situate at Puueo, South Hilo, Island and County of Hawaii, State of Hawaii, identified as Hawaii Tax Map Key No. 2-6-08:25 shall be and hereby is reclassified from the Agricultural District to the Urban District and the district boundaries are amended accordingly.

DOCKET NO. A85-593 - DODO MORTUARY, INC.

Done at Honolulu, Hawaii, this 17th day of December
1985, per motions on September 24, 1985 and December 10, 1985.

LAND USE COMMISSION
STATE OF HAWAII

By *J.P. Tacbian*
TEOFILO PHIL TACBIAN
Chairman and Commissioner

By *Frederick P. Whittemore*
FREDERICK P. WHITTEMORE
Vice Chairman and Commissioner

By *Winona E. Rubin*
WINONA E. RUBIN
Commissioner

By *Lawrence F. Chun*
LAWRENCE F. CHUN
Commissioner

By *Robert S. Tamaye*
ROBERT S. TAMAYE
Commissioner

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

By *Everett L. Cuskaden*
EVERETT L. CUSKADEN
Commissioner

By *Toru Suzuki*
TORU SUZUKI
Commissioner

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District)

CERTIFICATE OF SERVICE

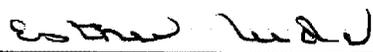
I hereby certify that a copy of the Land Use Commission Decision and Order was served upon the following by either hand delivery or depositing the same in the U. S. Postal Service by certified mail:

KENT M. KEITH, Director
Department of Planning and Economic Development
State of Hawaii
250 South King Street
Honolulu, Hawaii 96813

ALBERT LONO LYMAN, Planning Director
Planning Department
County of Hawaii
25 Aupuni Street
Hilo, Hawaii 96720

LESTER ISHADO, Attorney for Petitioner
Kushi & Kushi
140-A Haili Street
Hilo, Hawaii 96720

DATED: Honolulu, Hawaii, this 17th day of December 1985.



ESTHER UEDA
Executive Officer

DOCKET NO. A85-593 - DODO MORTUARY, INC.

A copy of the Land Use Commission's Decision and Order was served upon the following by regular mail on December 17, 1985.

BENJAMIN MATSUBARA, Hearing Officer
Ukishima & Matsubara
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