

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of)
)
WAIKAPU MAUKA PARTNERS)
)
For a Declaratory Order to Determine)
Whether "Dwellings" Rather Than)
"Farm Dwellings" Are Required on)
State Agricultural District Land)
With Soils Classification of "E",)
and Further, Pursuant to)
Petitioner's Proposed Subdivision,)
That Said "Dwellings" be Deemed to)
be a Permitted Accessory Use)
_____)

DOCKET NO. DR89-13

WAIKAPU MAUKA PARTNERS

This is to certify that this is a true and correct
copy of the document on file in the office of the
State Land Use Commission, Honolulu, Hawaii.

JUN 28 1989

Date

by

[Signature]
Executive Officer

ORDER REGARDING PETITION FOR DECLARATORY ORDER

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ORDER REGARDING PETITION FOR DECLARATORY ORDER

WAIKAPU MAUKA PARTNERS' PETITION FOR DECLARATORY ORDER came on for hearing before the Land Use Commission of the State of Hawaii on May 25, 1989 at its meeting in Wailuku, Hawaii. Present at the hearing were Mr. Edward S. Kushi, Jr., attorney for Petitioner, Mr. Howard H. Hamamoto, representative of Waikapu Mauka Partners, Deputy Attorney General Mr. John Anderson, attorney for the Office of State Planning, State of Hawaii, Mr. Abe Mitsuda representing the Office of State Planning, Deputy Corporation Counsel Ms. Haunani S. Y. Lemn, attorney for the Planning Department, County of Maui and Mr. Clyde Murashige representing the Planning Department, County of Maui. The two questions posed to the Commission are:

1) Do the requirements as set forth in the definition of a "farm dwelling" as promulgated in §15-14-03, Hawaii Land Use Commission Rules, apply to "living quarters or dwellings" permitted on State Agricultural District lands with soil classification rating of "E" by the land study bureau, as set forth in §205-2, HRS, as amended?

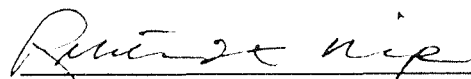
2) Pursuant to Petitioner's proposal to subdivide approximately 680 acres of State Agricultural District land, said land being classified as "E" by the land study bureau, which proposal includes a community nursery/orchard, will the construction of dwellings on the individual lots, without more, satisfy the requirements as set forth in the definition of a "farm dwelling" (§15-15-03, Hawaii Land Use Commission Rules), or the definition of "living quarters or dwellings" (205-2, HRS, as amended)?

As to Petitioner's first question, the Commission has no trouble ruling that for agricultural district lands with soil classified by the land study bureau's productivity rating class as C, D, E or U, the requirement in §205-4.5, Hawaii Revised Statutes, which requires that "dwellings" be "farm dwellings", is not mandatorily applicable to such lands.

As to Petitioner's second question, Petitioner orally amended its Petition to withdraw that question for consideration, without prejudice. Accordingly, the Commission allows the withdrawal, without prejudice, and does not rule on that question.

Dated: Honolulu, Hawaii, this 28th day of June, 1989.

LAND USE COMMISSION
STATE OF HAWAII


By RENTON L. K. NIP
Chairman and Commissioner