

BEFORE THE LAND USE COMMISSION

OF THE STATE OF HAWAII

In the Matter of the Petition)
)
 of)
)
 PACIFIC BASIN RESORTS, INC.)
 and TAIYO FUDOSAN KOGYO CO.,)
 LTD.,)
)
 For Reclassification Of)
 Certain Lands Situated At)
 Auhaueae, North Kona, Island)
 Of Hawaii.)
 _____)

DOCKET NO. A76-412

DECISION AND ORDER

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and TAIYO FUDOSAN KOGYO CO.,))	
LTD.,))	DOCKET NO. A76-412
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Auhaukeae, North Kona, Island))	
Of Hawaii.))	
_____))	

DECISION

This matter, being a proceeding pursuant to Section 205-4 of the Hawaii Revised Statutes to consider a Petition to Amend District Boundaries and reclassify from Agricultural to Urban approximately 145.5 acres of land situated at Auhaukeae, North Kona, Island of Hawaii, was heard by the Commission in Kona on August 19, 1976. Pacific Basin Resorts, Inc., Taiyo Fudosan Kogyo Co., Ltd., the Hawaii County Planning Department, and the Department of Planning and Economic Development, State of Hawaii, were admitted as parties in this Docket. The Commission having duly considered the record in this Docket, the proposed Findings of Fact, Conclusion of Law and Decision submitted by the Petitioner, and the Objections to Findings of Fact, Conclusions of Law and Decision and Proposed Additional Findings of Fact, Conclusions of Law and Order submitted by the Department of Planning and Economic Development,

and the Findings and Clarification of Facts, Conclusions of Law and Decision and Objections to Proposed Additional Findings of Fact, Conclusions of Law and Order submitted by the Hawaii County Planning Department, hereby makes the following findings of fact and conclusion of law.

FINDINGS OF FACT

1. TAIYO FUDOSAN KOGYO CO., LTD. is the fee simple owner of the real property proposed herein for reclassification (herein "subject property"), and PACIFIC BASIN RESORTS, INC. is its developer and is empowered under a general power of attorney to seek reclassification of the subject property and amendment of District Boundaries, and to develop the subject property.

2. The subject property is a portion of Auhaukeae, first and second, situated and North Kona, Island of Hawaii, and is identified by Tax Map Key Third Division 7-5-10:8 and 9, and consists of approximately 145.5 acres. The subject property is bounded on the west by the Hualalai Road, on the east by the Hienaloli-Kahului Road, on the north by the Aloha Kona and the Kona Heights Subdivisions, and on the south by a parcel of land belonging to the Bernice Pauahi Bishop Estate.

3. The subject property is located within the Agricultural Land Use District and Petitioners are seeking reclassification of the subject property into the Urban District, and amendment of District Boundaries accordingly. The contiguous area to the north, east, and south, is within the Agricultural Land Use District. The contiguous area

to the west is within the Kailua-Kona Urban District.

4. The subject property is presently zoned as unplanned by the County of Hawaii. The General Plan Land Use Pattern Allocation Guide Map designates the makai portion of the subject property for medium density urban use, and the mauka portion of the subject property for orchards, extensive agriculture and alternate urban expansion. The proposed Kona Community Development Plan designates the makai portion as single and multi-family zone guide areas and the mauka portion as unplanned.

5. Petitioners proposed to subdivide that portion of the subject property which lies mauka of the proposed alignment of Queen Kaahumanu Highway extension (Kuakini re-alignment project proposed Line 1) into approximately two hundred single family residential lots to be developed and sold either as developed lots or on a house and lot package basis. Petitioner proposes to develop that portion of the subject property which lies makai of the proposed re-alignment for multi-family residential and possibly commercial uses. Petitioner has represented that if the Department of Transportation requires the acquisition of a right-of-way for the realignment over Petitioner's lands, he will sell his lands at prevailing agricultural prices. The subject property is presently used for grazing and the cultivation of oramental plants and flowers.

6. Although the proposed development is contiguous with an existing Urban District on its western boundary only, it is bounded on the north by both the Aloha Kona and the

Kona Heights Subdivisions, which although are located in an Agricultural District, are nevertheless urban developments. The proposed development will extend east no further than the Aloha Kona and Kona Heights Subdivision which extend to Hienaloli-Kahului Road.

7. The proposed development is situated approximately one-half mile from Kailua Village, a major employment center of the North Kona area. Permanent employment opportunities will not be generated by the residential portion of the development, but may possibly be generated if the commercial areas are developed as proposed.

8. The proposed development will not have any significant affect upon the environment nor upon agricultural, recreational, historic, scenic or other resources of the area. There will be some displacement of mammals and birds that presently inhabit the area. The Hawaiian Owl is a native species, but it is not considered an endangered species. The vegetation consists entirely of exotic species, and no endangered native species are located on the subject property. The agricultural use of the subject property consists of limited cattle grazing. The land is unsuitable for crop land use. No historic or archeological sites are listed as being on the subject property by the "Hawaii Register of Historic Places, Volume II 1974." The subject property is, however, within an 8 x 14 mile area referred to as the Kona Dry Field System which may be eligible for listing as a historic site on the National Register of Historic Places. If there is anything

of archeological significance on the subject property relative to the Kona Dry Field System, the County of Hawaii will be able to preserve or protect it prior to subdivision and development.

9. Public services and facilities such as schools, sanitation, drainage, fire protection and police protection are adequate to serve the needs of the development, and the public agencies providing such services will not be unreasonably burdened by the proposed development. Although sanitary sewers are not available in the area, cesspools may be an approved method of liquid waste disposal in areas not served by sewers. The Department of Health, State of Hawaii, may approve the use of cesspools upon a finding that no adverse affect on the environment will occur. Petitioner proposes to utilize cesspools for liquid waste disposal, but if the Department of Health does not approve cesspools for the subject property he will provide the necessary sewage treatment system. The Hawaii County Department of Water Supply has indicated that it intends to improve the water system along Hualalai Road in early 1977. Although Hualalai Road is inadequate now, as soon as the water system improvements are completed the Hawaii County Department of Public Works intends to improve the road. All of the public agencies in charge of providing these services currently have no objection or adverse comment regarding the Petitioner's proposed project.

10. The General Plan designation of the makai portion of the property for medium density urban development will permit single family residential uses at a density of 5.8 units per acre, multiple family residential uses at densities of 11.6 to 35 units per acre, and may allow commercial uses. The General Plan designates the mauka portion of the subject property for alternate urban expansion as well as for extensive agriculture and orchard uses. No General Plan amendments are necessary. Except for possible commercial use of the makai portion of the subject property and for development of the mauka 55 acres of the subject property, the proposed development is consistent with the draft of the Kona Community Development Plan prepared for the County of Hawaii by Donald Wolbrink and Associates, Inc. The preliminary draft of the Kona Community Development Plans Zone Guide Map suggests the lower portion (approximately 25 acres) of the subject property for Multiple Residential uses at densities of one unit per 2000 to 3000 sq. ft. of land. The Kona Community Development Plan also suggests the middle portion (approximately 65 acres) of the subject property for single family residential uses. The proposed plan further recommends that the remaining upper area (approximately 55.5 acres) be left in its present unplanned classification.

11. The population of the North Kona District is projected to increase by approximately 11,900 to 13,500 people by 1980, a population increase of approximately 86 to 111%. Based on a rate of 3.5 persons per household this projected population growth indicates a need for 3,400 to

3,857 housing units by 1980. The proposed development will provide housing close to an existing employment center, Kailua-Kona. The proposed residential development is also consistent with the County General Plan housing goal of providing a variety of housing choices within the immediate area of Kailua Village.

12. The project is not affected by the Environmental Shoreline Protection Act, Act 176 SLH 1975, or any regulations adopted thereto.

13. The makai portion of the subject property consist primarily of soil of the Waiaha Soil series. This soil consists of well-drained silt loams that formed in volcanic ash. The surface layer and sub-soil are about four (4) inches thick and fourteen (14) inches thick, respectively. Permeability is moderately rapid, run off is slow and erosion hazard is slight. The mauka portion of the subject property consists of pockets of Kaimu and Kainaliu Soil series. These soil types have a classification of VII reflecting severe limitations which make them unsuited to cultivation and restrict their use largely to pasture, range, woodland or wild life habitat. The slope of the land ranges from 6 to 20%. The subject area runs from 160 ft. in elevation at its makai end to 700 ft. at the mauka end. The annual rainfall ranges from 20 to 60 inches, varying with the elevation of the subject property.

14. The topography of the property shows that it is suitable for urban development and is free from the dangers of flood, tsunami, unstable soil movement and other natural hazards.

15. The developer has demonstrated its financial ability to undertake a project of this type by funding the development of the Kona Acres Subdivision and the White Sands Beach Estates, Unit II Subdivision. Funds for this project will be supplied by TAIYO FUDOSAN KOGYO CO., LTD.

16. The County of Hawaii recommends reclassification into the Urban District of makai 90 acres of the subject property. The Department of Planning and Economic Development, State of Hawaii, opposes reclassification of any portion of the subject property.

17. The subject property is neither in intensive agricultural use nor has a high capacity for intensive agricultural use.

CONCLUSIONS OF LAW

Reclassification of the subject property, approximately 145.5 acres situated at North Kona, Island of Hawaii, from Agricultural to Urban, and amendment of the District Boundaries accordingly to permit the proposed development is reasonable, not violative of Section 205-2, HRS, and consistent with the interim policies and criteria established pursuant to Section 205-16.1, HRS, particularly subsection (5) thereof which provides, among other things a preference for Petitions which will provide needed housing accessible to existing or proposed employment centers.

RULING ON PROPOSED FINDINGS

Any proposed findings submitted by a party and not already ruled upon by the Commission by adoption herein or rejected by a clearly contrary finding of fact herein, is ruled upon as follows:

1. The first paragraph of the Department of Planning and Economic Development's proposed Finding No. 18 is rejected by the Commission's contrary Finding No. 11 that the projected population growth of the North Kona District indicates a need for 3,400 to 3,857 housing units by 1980. The remaining paragraphs are rejected as inconclusive and therefore not controlling but irrelevant and immaterial.

ORDER

IT IS HEREBY ORDERED:

That the property which is the subject of the Petition in this Docket No. A76-412, approximately 145.5 acres situated at North Kona, Island of Hawaii, identified by Tax Map Key, Third Division 7-5-10:8 and 9, shall be and hereby is reclassified from Agricultural to Urban and the District Boundaries are amended accordingly.

Done at Honolulu, Hawaii, this 15th day of February, 1977, by Motion passed by the Commission on

December 21, 1976 in Honolulu, Hawaii.

LAND USE COMMISSION
STATE OF HAWAII

By *Eddie Tangen*
EDDIE TANGEN
Chairman

Stanley Sakahashi
STANLEY SAKAHASHI
Vice Chairman

James R. Carras
JAMES CARRAS
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CHARLES DUKE
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MITSUO OURA
Commissioner