

BEFORE THE LAND USE COMMISSION

OF THE STATE OF HAWAII

In the Matter of the)	
Classification and)	DOCKET NO. A76-426
Districting of Certain)	
Lands at Keopuka,)	MASAICHI KIMOTO AND
South Kona,)	HARUE KIMOTO
Island of Hawaii)	
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DECISION AND ORDER

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_____)

DECISION

THE PETITION

This case arises out of a petition for amendment to the Land Use Commission district boundary filed pursuant to Section 205-4 of the Hawaii Revised Statutes by the fee owners of the property who are requesting that their property designation be amended from Agricultural to Urban. The property in question consists of approximately 5.83 acres of land and is situated on the Mauka side of Mamalahoa Highway, approximately 1,100 feet north of the junction of Mamalahoa Highway and the Government Middle Road at Keopuka, district of South Kona, Island of Hawaii. The property is identified as Tax Map Key No. 8-1-06:51 (3rd Division).

PURPOSES OF PETITION

Petitioners' stated position for reclassifying the subject property from Agricultural to Urban is for purposes of selling portions of the subject property to adjoining residential lot owners who wish to increase the size of their residential houselots.

THE PROCEDURAL HISTORY

The petition was received by the Land Use Commission on December 13, 1976. Due notice of the hearing was published

in the Hawaii Tribune-Herald and the Honolulu Advertiser on April 28, 1977. Notice of the hearing was also sent by certified mail to all of the parties to this docket on April 22, 1977.

The hearing on this docket was held on June 7, 1977 in Kailua, Kona, Hawaii.

THE HEARING

The Petitioner was represented at the hearing by Kenneth M. Young. The County of Hawaii Planning Department was represented by Deputy Corporation Counsel Alan Okamoto, and the Department of Planning and Economic Development was represented by Tatsuo Fujimoto.

The witnesses presented by the aforementioned parties were as follows:

Petitioner:

Masaichi Kimoto

County of Hawaii Planning Department:

Sidney Fuke - Planning Director

Ilima Piianaia - Planner

Department of Planning and Economic Development:

Abe Mitsuda - Planner

POSITION OF THE PARTIES

County of Hawaii Planning Department - Approval.

Department of Planning and Economic Development - Approval.

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 Hearing Officer, 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 the Petitioners is located at Keopuka, district of South Kona, Island of Hawaii, consists of approximately 5.83 acres of land and is more specifically identified as Tax Map Key designation 8-1-06:51 (3rd Division) and is situated on the Mauka side of Mamalahoa Highway, approximately 1,100 feet north of the junction of Mamalahoa Highway and the Government Middle Road. The Captain Cook Village is approximately 1/4 mile south of the subject property.
2. The existing State Land Use classification of the subject property is Agriculture.
3. The Hawaii County Zoning of the subject property is Agriculture with a one-acre minimum lot size.

4. The County of Hawaii General Plan Land Use Pattern Allocation Guide Map designates the area for low density urban uses which permits single family residential use at a maximum density of four units per acre as well as ancillary community and public uses.

5. The subject property is presently not utilized for any agricultural activity since coffee growing on the land ended over ten (10) years ago. There are presently two dwellings on the subject property which were previously used by the petitioners as their residence.

6. Surrounding land uses of the subject property include scattered single family subdivisions, agricultural activities such as coffee, macadamia nut, avocado, orchards, truck crops, small livestock operations and vacant lands.

7. The lands adjacent to northern and a portion of the southern boundaries of the subject property are in the State Land Use Urban District. The County zoning for these adjoining Urban districts is Single Family Residential - 10,000 sq. ft., (RS-10). The northern Urban District consists of thirteen (13) residential lots, ranging in size from approximately 11,629 sq. ft. to 18,322 sq. ft., with each lot having its own residential dwelling. Petitioners intend to divide the subject property and sell the property to eleven of these adjacent landowners who would then consolidate said property with their lots to create their own larger lots.

8. That the purpose for the sale of these lots is for purposes of increasing the size of the residential lots and not for purposes of constructing additional dwellings.

9. That if the subject property is reclassified to Urban, the Petitioners will move to rezone the area to a

single family residential - 20,000 sq. ft. (RS-20) zone which results in a downzoning from the present RS-10 zone.

10. The U. S. Department of Agriculture Soil Conservation Service (SCS) indicates that the area has two soil types. The first is of the Honuaula series which are moderately deep, well-drained silty clay loam soils which formed in volcanic ash on the lower slopes of leeward mountains. This soil is from 20-40 inches deep over fragmental 'a'a lava with loose stones covering from 3 to 15 percent of the surface. The second soil type is of the Honaunau series consisting of moderately deep, moderately well-drained silty clay loam soils which also formed in volcanic ash. This soil is from 20-30 inches deep over pahoehoe lava. Both these soil types are low in fertility but respond to fertilization. Erosion hazards are moderate.

11. The Detailed Land Classification, Island of Hawaii, Land Study Bulletin No. 6 published by the University of Hawaii classifies the soils on the subject parcel as C52 and E268. According to these classifications the soils can be used as follows:

C52(b) orchards and grazing

(e) vegetables, sugarcane, orchards and forage

E268(d) grazing

(e) vegetables, sugarcane, orchards and forage crops.

12. The Land Study Bureau's overall master productivity rating for the subject area is C or fair for agricultural use.

13. Rainfall in the subject area averages approximately 60 inches annually.

14. The subject property is not within the shore-line special management area nor is it subject to flood, tsunami or volcanic hazards.

15. That Mamalahoa Highway which fronts the subject property has a right-of-way width of 50 feet. Access to the subject property will be from the existing 30-40 ft. wide existing road easement servicing the existing subdivision.

16. All essential utilities and services are available to the subject property in that there is a drainage system on the existing road easement and adequate power and water are available from Mamalahoa Highway.

17. That the involved State and County Agencies have commented on the subject petition as follows:

a. Department of Land and Natural Resources

DLNR has no objections to the request but requests that they be notified immediately by the petitioner if historic sites or remains are encountered.

b. Department of Agriculture

Their review revealed no major effects to agricultural activities in the area, provided the purpose of the boundary change as submitted, is to enlarge existing residential lots and not to build additional homes.

c. State Department of Transportation

DOT has no objections regarding the proposed district boundary change.

d. State Department of Health

DOH reserves the right to impose future environmental restrictions when final plans are

submitted. The private sewage disposal system must be approved by the Hawaii District Health Office and the private drinking water system must meet the new drinking water standards which will take effect tentatively in June of 1977.

e. State Department of Education

DOE has no objections to the subject petition.

f. Department of Water Supply, County of Hawaii

DWS has no objections if the proposed consolidation/resubdivision action will result in the same number of lots that presently exist.

g. Department of Public Works, County of Hawaii

DPW has no objections or comments to offer.

18. Based on a review of the Petition, the evidence adduced at the hearing and the policies and criteria under the Interim Statewide Land Use Guidance Policy, the State Department of Planning and Economic Development and the County of Hawaii Planning Department has recommended that the reclassification from Agricultural to Urban be approved.

CONCLUSIONS OF LAW

Reclassification of the subject property, approximately 5.83 acres, situated at Keopuka, district of South Kona, Island of Hawaii, from Agricultural to Urban and amendment of the District boundaries accordingly is reasonable, not 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 a subject of the Petition in this Docket No. A76-426, consisting of approximately 5.83 acres, situated at Keopuka, district of South Kona, Island of Hawaii, identified by Tax Map Key 8-1-06:51, shall be and hereby is reclassified from Agricultural to Urban and the District Boundaries are amended accordingly.

DONE at Honolulu, Hawaii, this 2nd day of December, 1977, per Motion on November 14, 1977.

LAND USE COMMISSION
STATE OF HAWAII

By *Stanley Sakahashi*
STANLEY SAKAHASHI, Chairman and
Commissioner

By *Charles Duke*
CHARLES DUKE, Vice Chairman and
Commissioner

By *James R Carras*
JAMES CARRAS, Commissioner

By *Colette Y. Machado*
COLETTE MACHADO, Commissioner

By *Shinsei Miyasato*
SHINSEI MIYASATO, Commissioner

By *Shinichi Nakagawa*
SHINICHI NAKAGAWA, Commissioner

By *Mitsuo Oura*
MITSUO OURA, Commissioner

By *Carol B. Whitesell*
CAROL WHITESELL, Commissioner

By *Edward Yanai*
EDWARD YANAI, Commissioner