

BEFORE THE LAND USE COMMISSION

OF THE STATE OF HAWAII

In the Matter of the)
Reclassification of Certain) DOCKET NO. A77-432
Lands Situated at Kalaheo,)
Kauai, State of Hawaii,) COUNTY OF KAUAI
from "Agricultural" to)
the "Urban" District)
Classification)
_____)

DECISION AND ORDER

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DECISION

THE PETITION

The 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 the fee owners of the property who are requesting that its property designation be amended from the Agricultural to the Urban district. The requested change consists of property comprising approximately 1.35 acres situated in the district of Koloa, Wahiawa-Kalaheo, Island of Kauai, Hawaii. The property is identified as Tax Map Key No. 2-2-01: portion of 11.

PURPOSE OF PETITION

Petitioner's stated purpose for requesting the reclassification of the subject property from Agricultural to Urban is so that Petitioner can develop a single-family residential subdivision for low and moderate income families. The subject parcel and the adjacent lot which is already in the State Land Use Urban district will be utilized for the proposed 109 lot subdivision.

THE PROCEDURAL HISTORY

The Petition was received by the Land Use Commission on September 14, 1977 and amended to correct the Tax Map Key designations on November 3, 1977. Due notice of the hearing on this Petition was published in the Honolulu Advertiser and the Garden Island on November 30, 1977. Notice of the hearing was also sent by certified mail to all of the parties involved herein on November 23, 1977. No timely application for intervention or request to appear as a witness was filed in this matter.

THE HEARING

The hearing on this Petition was held on January 9, 1978 in Lihue, Kauai.

Kauai County, the Petitioner herein, was represented by Michael J. Belles, Esq., Second Deputy County attorney for the County of Kauai. The Department of Planning and Economic Development, the only other party herein, was represented by Dr. Paul Schwind.

POSITION OF DPED ON PETITION

The Department of Planning and Economic Development recommended approval of the Petition.

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 the County of Kauai is located in the district of Koloa, Wahiawa-Kalaheo, Island of Kauai, consists of approximately 1.35 acres and is more specifically identified as Tax Map Key designation 2-2-01: portion of 11. The subject property is located approximately one-fourth (1/4) of a mile east of the town of Kalaheo and is located along Halewili Road approximately 585 feet from its intersection with Kaunualii Highway.

2. The existing State Land Use classification of the subject property is Agricultural.

3. The Kauai County General Plan designation for the subject property is Agriculture and is presently zoned as Agriculture.

4. The subject property is presently being used for the cultivation of sugar, but the tillable portion of

the subject parcel is narrow and of small acreage and harvesting and planting of said property would create noise and dust problems to adjacent proposed housing.

5. The subject property is immediately adjacent on its northern boundary to another County owned parcel of property which was placed in the Urban district by the Land Use Commission in 1974. The adjacent County owned urban parcel is designated 'Single Family Residential' in the County General Plan which has been zoned R-6 by Kauai County and will be utilized with the subject property for the proposed subdivision. The other boundaries of the subject property are contiguous to lands in the Land Use Agricultural District.

6. The topography of the property is relatively flat, having an approximate slope of two percent (2%). The rear portion of the site increases to a slope of approximately twenty percent (20%).

7. The Land Study Bureau's Detailed Land Classification Study describes the soils of the property as non-stony to slightly stony, and well drained. The overall rating for those lands with less than ten percent (10%) slope is Class A 17i. For those areas of the site with slopes between eleven percent (11%) and twenty percent (20%), the rating is Class B 19i. The ratings indicate that the soil is well suited for agriculture, but requires irrigation.

8. The subject property contains no known significant natural, scenic or recreational resources. No known archeologic or historic sites are present on the property. No significant adverse environmental impacts are expected to result from this project.

9. The State Department of Health for the Island of Kauai testified in favor of the petition, but expressed concern over noise and dust problems which would occur during construction of the subdivision and during sugar harvesting. The County of Kauai agreed to consult and the Department of Health agreed to assist each other in resolving the noise and dust concerns.

10. The subject property lies outside the 100 year flood zone and is not subject to localized flooding, tsunami or unstable soil conditions.

11. The subject property will be a part of the Petitioner's proposed 109 parcel subdivision for the low and moderate income population on Kauai. The total development is planned in two phases with the development of seventy-five (75) lots occurring during the first phase and the remaining thirty-four (34) lots being completed during the second phase. The subject property which will be included in the second phase of development will contain approximately nine (9) lots. Construction of homes is projected for October, 1978.

12. That the utilization and development of the subject property in conjunction with the adjacent Urban property will be necessary to comply with Farmer Home Administration requirements which require that the proposed subdivision have two access roads to Halewili Road.

13. Interim financing for the construction of the proposed development will be obtained through the Hawaii Housing Authority in accordance with Chapter 359G, H.R.S. Long term financing will be provided by the Farmers Home Administration, Section 502, Home Ownership Loan Programs.

The County of Kauai has also received a Community Development Block Grant in the amount of \$162,000.00 for this project.

14. That Hawaii Housing Authority financing of the proposed development, the sales price of the house and lot package shall not exceed \$40,000.00. The price of the land will be established according to the costs of acquiring the land and the cost of site improvements. The projected price of the three bedroom homes will be \$25,000.00 while the two bedroom homes are projected to cost approximately \$24,000.00. Estimated selling prices will not exceed \$37,000.00 per home.

15. That a housing survey for the Island of Kauai conducted by the County indicated a tremendous housing shortage on the island, especially for the lower income groups.

16. That as of the date of the hearing, according to a preliminary market survey, a total of one hundred thirteen (113) pre-applications have been received in regard to the proposed subdivision.

17. That sugar production is the primary employment industry on the Island of Kauai and the proposed subdivision is in close proximity to such employment centers; McBryde Sugar Company headquarters is 1.5 miles away; McBryde Sugar Mill at Koloa is approximately five (5) miles away; Olokele Sugar Mill at Kaumakani is seven (7) miles away; and the Kekaha Sugar Company is approximately fourteen (14) miles away.

18. That water will be available to the subject property from the County of Kauai's adjacent planned subdivision. An eight (8) inch waterline from the Kalaheo-Lawai-Omao Water System will be brought along Kaunualii Highway to the proposed subdivision.

19. That cesspools designed to meet the Department of Health requirements are proposed for each unit and because the soil at the site is well drained, negative impacts from the use of cesspools is not anticipated.

20. That due to the subject property's close proximity to Kalaheo Town, basic services such as electricity, schools, churches, shopping areas, parks, police and fire protection are available or readily available.

21. That comments received from the Department of Land and Natural Resources, Department of Health, Department of Agriculture, Department of Education and the Hawaii Housing Authority indicate that the proposed reclassification would have no known adverse impact on any existing or proposed State plans and programs for the area.

22. That the great demand for low cost housing at Petitioner's proposed prices outweighs the need to keep subject remnant parcel in agricultural cultivation.

23. That 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 Department of Planning and Economic Development has recommended that the reclassification be approved.

CONCLUSIONS OF LAW

Reclassification of the subject property, approximately 1.35 acres, situated at Koloa, Wahiawa-Kalaheo, Island of Kauai, from Agricultural to Urban and amendment to 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. A77-432, consisting of approximately 1.35 acres, situated in the district of Koloa, Wahiawa-Kalaheo, Island of Kauai, identified as Tax Map Key No. 2-2-01: portion of 11, 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 4th day of

April, 1978, per Motion on March 7, 1978.

LAND USE COMMISSION
STATE OF HAWAII

By C. W. Duke
C. W. DUKE
Vice Chairman and Commissioner


By James R. Carras
JAMES CARRAS
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
Commissioner