

BEFORE THE LAND USE COMMISSION

OF THE STATE OF HAWAII

In the Matter of the Petition of) DOCKET NO. A79-455
MAUNA KEA SUGAR CO., INC.,) MAUNA KEA SUGAR CO., INC.
to Amend the Agricultural Land)
Use District Boundary to Reclas-)
sify Approximately 1.25 Acres,)
Tax Map Key No. 2-9-3: portion)
of Parcel 11, at Wailea, Island)
and County of Hawaii, into the)
Urban Land Use District.)

DECISION AND ORDER

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DECISION

THE PETITION

This 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 owner of the property who is requesting that the designation for the subject property be amended from the Agricultural to the Urban district. The requested change consists of property comprising approximately 1.25 acres of land, situated at Wailea, South Hilo, Island and County of Hawaii. The property is identified as Tax Map Key No. 2-9-3: portion of Parcel 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 subdivide the subject property into three (3) residential lots

of approximately 21,000, 18,000 and 15,000 square feet. Each of the proposed lots has an existing dwelling on it which the Petitioner intends to sell as a house and lot package to its salaried employees.

THE PROCEDURAL HISTORY

The Petition was received by the Land Use Commission on April 24, 1979. Due notice of the hearing on this Petition was published in the Hawaii Tribune Herald and the Honolulu Advertiser on August 10, 1979. Notice of the hearing was also sent by certified mail to all parties involved herein on August 8, 1979. A timely request to appear and testify as a public witness in this matter was received by Elizabeth Stone on September 6, 1979.

PRE-HEARING PROCEDURE

Prior to the taking of testimony and evidence in regard to the subject Petition, the Hearing Officer considered the request of Elizabeth Stone to appear and testify as a witness in this proceeding. Since Ms. Stone did not appear personally at the proceeding, the Hearing Officer accepted her submittal as a statement of a public witness in regard to the subject Petition.

THE HEARING

The hearing on this Petition was held on September 14, 1979, in Hilo, Hawaii.

Mauna Kea Sugar Co., Inc., the Petitioner herein, was represented by Thomas B. Crabb, of Hawaiiana Investment Co., Inc.; the County of Hawaii was represented by Norman Hayashi; and the Department of Planning and Economic Development was represented by Esther Ueda.

The witnesses presented by the aforementioned parties were as follows:

Petitioner:

Megumi Saiki

POSITION OF THE PARTIES

County of Hawaii - 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 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 Petitioner herein, Mauna Kea Sugar Co., Inc., is located at Wailea, Island and County of Hawaii, State of Hawaii, and consists of approximately 1.25 acres, more particularly described as Tax Map Key No. 2-9-3: portion of Parcel 11. The subject property is located along the Mauka side of the old government main road in the vicinity of Kolekole Park, and approximately 200 feet South of the Hilo side of Motonaga Garage and Service Station within the community of Wailea.

2. The existing State Land Use classification for the subject property is Agricultural. The Land Use Pattern Allocation Guide Map of the County of Hawaii General Plan designates the area for Low Density Urban Development which permits residential uses at a maximum density of four (4) units per acre. The County Zoning designation is Agricultural 20-acre (A-20a). The subject property is not located within the County's Special Management Area.

3. Although the subject property is presently classified Agricultural, it has been in residential use as plantation housing since 1944 for the now defunct Wailea Milling Company, Hakalau Sugar Company, and Pepeekeo Sugar Company. The subject property presently contains three (3) single-family residential dwellings.

4. The subject property is located immediately adjacent to the Wailea Urban area at its Northern boundary. The remaining surrounding areas are basically in sugarcane production.

5. The subject property is at the 150-foot elevation and has a slope from Mauka to Makai at about 8% to 10%. Rainfall for the subject property averages between

120 to 125 inches annually and follows the natural drainage pattern of the property in a Southeasterly direction into Kaahakini Stream.

6. According to the S. C. S. Soil Survey of the Island of Hawaii, State of Hawaii (December, 1973) soils of the subject property are designated as Hilo series - HoD. Soils in this category are dark-brown to reddish-brown, deep, well-drained, and generally non-stony. The land Study Bureau's overall master productivity rating for Agricultural use is Class "C" or Fair.

7. Petitioner's request is a part of their program to terminate rental employee housing and in turn encourage home ownership by their employees. To accomplish this objective, Petitioner has developed guidelines governing the sale of their present employee rental units in fee simple to their employees. The mechanics of Petitioner's program are as follows:

(a) The market value of each house and lot package sold will be determined by an independent appraiser.

(b) The homes will be offered for sale in the following priorities:

1. Tenants who have occupied the house for five (5) or more years;
2. Salaried employees who have not purchased residential property from Mauna Kea Sugar Co. or Brewer Support Housing, Inc.;
3. Bargaining Unit employees who have not purchased residential property from

Mauna Kea Sugar Co. or Brewer Support
Housing, Inc.;

4. Pensioners of Mauna Kea Sugar Co., Inc.;
5. Employees of C. Brewer and affiliated
companies;
6. All others.

(c) Individuals qualifying for each priority category, except 6., will draw lots for the selection of homes available for sale.

(d) If all categories prior to 6. are exhausted and homes for sale are still available, individuals in said category will be required to bid for the homes with the appraised market value serving as the upset price.

The Petitioner has utilized this program in communities such as Honomu, Moirton, Silverton, Anderton, Andrade Camp, and Kulaimano. Petitioner intends to eventually sell twenty-eight (28) additional existing house and lot packages and only retain the two (2) manager's homes as its own.

8. Public services, utilities and facilities available to the subject property are as follows:

(a) Utilities: Electricity, gas, telephone and water are presently available to and servicing the subject property. Each of the residences existing on the three lots have their individual cess-pools.

(b) Schools: Kalaniana'ole School is located approximately eight (8) miles from the subject area and Hilo High School thirteen (13) miles away, with modern highway and public transportation available.

(c) Police and Fire Protection: The County of Hawaii police and fire services are available to serve the subject property.

9. Based on the fact that the proposed use of the subject property will be the continuation of the existing use, no significant environmental impacts on the subject property and surrounding areas are anticipated. The agricultural impact on the proposed reclassification appear to be negligible. Although the subject property is currently classified within the State Land Use Commission's Agricultural District, it is presently in non-conforming residential use. The U.S.D.A. Soil Conservation Service has indicated that although the subject property is classified as prime agricultural land, they do not protest the boundary change since the land has been committed to Urban use since 1944.

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

CONCLUSIONS OF LAW

Reclassification of the subject property, consisting of approximately 1.25 acres of land, situated at Wailea, South Hilo, Island and County of Hawaii, from Agricultural to Urban and an amendment to the district boundaries accordingly is reasonable, non-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 the subject of the Petition in this Docket No. A79-455, consisting of approximately 1.25 acres, situated at Wailea, South Hilo, Island and County of Hawaii, identified as Tax Map Key No. 2-9-3: portion of Parcel 11, shall 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 13th day of December, 1979, per Motion on November 20, 1979.

LAND USE COMMISSION
STATE OF HAWAII

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

By *Shinichi Nakagawa*
SHINICHI NAKAGAWA
Vice Chairman and Commissioner

By *Shinsei Miyasato*
SHINSEI MIYASATO
Commissioner

By *Mitsuo Oura*
MITSUO OURA
Commissioner

By *George Pascua*
GEORGE PASCUA
Commissioner

By *Carol Whitesell*
CAROL WHITESELL
Commissioner

By *E Yanai*
EDWARD YANAI
Commissioner

By *William Yuen*
WILLIAM YUEN
Commissioner

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into the Urban Land Use District)

CERTIFICATE OF SERVICE

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

HIDETO KONO, Director
Department of Planning and Economic Development
State of Hawaii
250 South King Street
Honolulu, Hawaii 96813

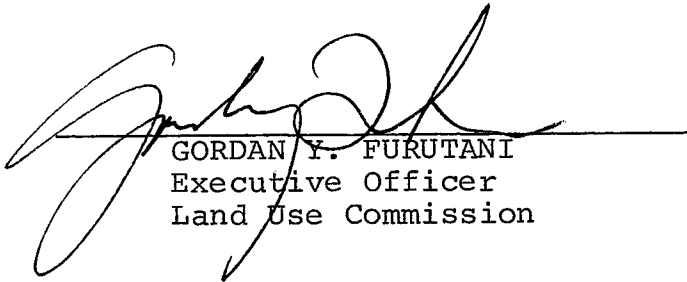
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Office of the Corporation Counsel
County of Hawaii
25 Aupuni Street
Hilo, Hawaii 96720

STEPHEN W. KNOX, Vice President and Manager
Mauna Kea Sugar Co., Inc.
P. O. Box 68
Papaikou, Hawaii 96781

Dated: Honolulu, Hawaii, this 18th day of December, 1979.


GORDAN Y. FURUTANI
Executive Officer
Land Use Commission