

BEFORE THE LAND USE COMMISSION  
OF THE STATE OF HAWAII

In the Matter of the Petition of ) DOCKET NO. A79-463  
JOSEPH G. KEALOHA, JR., ) JOSEPH G. KEALOHA, JR.  
to Amend the Agricultural Land Use )  
District Boundary to Reclassify )  
Approximately 5.4 Acres, TMK: )  
7-6-13: portion of parcel 11, at )  
Holualoa 1 & 2, North Kona, Island )  
and County of Hawaii, into the )  
Urban Land Use District. )

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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 JOSEPH G. KEALOHA, JR., on behalf of the fee owners of the property, who are 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 5.4 acres of land, situated in the land divisions of Holualoa 1st and 2nd, North Kona, Island and County of Hawaii, State of Hawaii. The property is more specifically identified as Tax Map Key No. 7-6-13: 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 develop a residential subdivision consisting of lots comprising approximately 7,500 sq. ft.

#### THE PROCEDURAL HISTORY

The Petition was received by the Land Use Commission on July 27, 1979. Due notice of the hearing on this Petition was published in the Hawaii Tribune Herald and the Honolulu Advertiser on October 4, 1979. Notice of the hearing was also sent by certified mail to all parties involved herein on October 3, 1979. An untimely request to intervene in this proceeding was received from Ms. Elizabeth Stone on October 22, 1979. The request to intervene by Ms. Stone was also not accompanied with the required filing fee nor the number of copies required by the Land Use Commission's rules and regulations. An untimely request to appear and testify as a public witness was received on October 29, 1979, from Frances Schobel, President of Friends of Kamoia Point.

#### PRE-HEARING PROCEDURE

Prior to the taking of testimony and evidence in regard to the subject Petition, the Hearing Officer considered the request of Ms. Elizabeth Stone to intervene 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 Officer permitted Allan Tyler to testify on behalf of Frances Schobel for Friends of Kamoia Point, as a witness for this Docket.

#### THE HEARING

The hearing on this Petition was held on November 5, 1979, in Kailua-Kona, Hawaii.

Joseph G. Kealoha, Jr., the Petitioner herein, represented himself; the County of Hawaii was represented by Duane Kanuha, Deputy Director of Hawaii County Department of Planning; and the Department of Planning and Economic Development was represented by Ms. Esther Ueda.

The witnesses presented by the aforementioned parties, were as follows:

Petitioner:

Leo Fleming - Civil Engineer

Dr. Hallett Hammatt - Archaeologist

County of Hawaii:

Norman Hayashi - Planner

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:

- "(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 JOHN K. COLLINS and WINONA K. WONG, who have authorized the Petitioner to file the subject Petition, is located in the land divisions of Holualoa 1st and 2nd, North Kona, Island and County of Hawaii, and consists of approximately 5.4 acres, more particularly described as Tax Map Key No. 7-6-13: portion of parcel 11. The Petition as originally filed, requested a reclassification of 10.00 acres, however, the acreage was amended to 5.4 acres during the course of the hearing by agreement of the parties. The subject property is a portion of a 22.9 acre parcel of property. The subject property is located approximately two miles South of Kailua town, Mauka of Alii Drive, and approximately 500 feet South of the Alii Kai Subdivision, between Kuakini Highway and Alii Drive.

2. The existing State Land Use classification for the subject property is Agricultural, while the remaining portion of the 22.9 acre parcel is in the Urban classification. The Land Use Pattern Allocation Guide Map of the County of Hawaii General Plan designates the subject property for low-density Urban development which permits residential use with a maximum density of four (4) units per acre. The County of Hawaii zoning for the area under consideration is Unplanned (U). The remainder of the 22.9 acre parcel is zoned Single-Family Residential - 7,500 sq. ft. (RS-7.5). The subject property is situated within the County's Special Management Area.

3. The subject property is presently vacant and undeveloped. Areas to the North, West and East of the subject property are presently in the Urban district and include the Alii Kai Subdivision to the North and the Kilohana Subdivision to the East of the subject property. Lands South of the subject property is in the Agricultural district, and is undeveloped.

4. The elevation of the subject property runs from 40 to 100 feet above sea level and contains a slope ranging from 6% to 20%. The subject property receives approximately 20-40 inches of rainfall annually.

5. The U. S. Department of Agriculture Soil Conservation Service Soil Survey of the Island of Hawaii (1973), classifies soils of the subject property as primarily Waiaha, extremely stony silt loam, 6% to 12% slopes (WHC). Characteristics of this soil type are: surface layer is extremely stony silt loam about 4 inches thick; subsoil is very stony silt loam about 14 inches thick; substratum is pahoehoe lava bedrock; surface layer is slightly acid; subsoil is neutral to mildly alkaline; in places, surface layer is nonstony. The permeability is moderately rapid, runoff is slow, and erosion hazard is slight. Soils of this nature are normally utilized for pasture use.

The Land Study Bureau's overall master productivity soil rating for the area is Class "E", or very poorly suited for agricultural uses. The subject property is not within an area classified as Prime, Unique, or Other Important Agricultural land under the Department of Agriculture's "Agricultural Lands of Importance to the State of Hawaii" classification system.

6. According to the Flood Insurance Rate Map prepared by the U. S. Department of Housing and Urban Development in March, 1979, the subject property is outside of a flood prone area.

7. Petitioner proposes to subdivide the subject parcel and the adjoining Urban designated property into approximately 80-86 residential lots to be sold in fee simple primarily to Kona residents in the middle-income social economic group. Petitioner proposes to proceed with development immediately upon approval of all State and County agencies and contemplates completion of the required improvements within twelve (12) months. Based on present conditions and time projections, Petitioner anticipates that the lots will be sold for approximately \$45,000.00 each.

8. That the Petitioner has the financial ability to carry out the project as proposed.

9. Public services and facilities available to the subject property are as follows:

a. Electricity, Gas and Telephone: Said services are presently available or will be made available to the subject property to satisfy all demand requirements.

b. Roads and Highways: Access to the subject property will be Mauka over current County standard roads through the existing Kilohana Subdivision. The Department of Transportation, by letter dated August 20, 1979, has indicated that "The district boundary change will not have a significant effect on our State highway facilities or proposed programs in the area."



c. Water: Water for the subject property is available from the Kilohana and the proposed Komohana Kai Subdivision water system. Petitioner will be required to and has agreed to tie into the Kilohana water system into the Alii Kai Subdivision water system.

d. Sewage: Individual lot owners will be required to install at their own cost, cesspools for sewage disposal since there is no public sewage system servicing the area.

e. Schools: Schools servicing the area is Kealakehe Elementary School which is three (3) miles away and Konawaena High School which is eight (8) miles away. The State of Hawaii Board of Education by letter dated August 6, 1979, has indicated that the enrollment generated by the approval of the requested land use change can be accommodated with existing and planned school facilities.

f. Drainage: Petitioner indicates that on-site drainage will be collected in concrete gutters and concentrated in catch basins, then to on-site drywells in accordance with County standards.

g. Police and Fire Protection: The County of Hawaii will provide required police and fire protection services for residents of the subject property.

10. Petitioner has represented that he is willing to comply with all County zoning requirements, housing performance conditions and County requirements relating to development in the Special Management Area.

11. That although the subject property is located within the land use Agricultural district, it appears to have a very low potential for agricultural use due to the poor soil condition and terrain. The subject property is not presently in Agricultural use, and therefore removal of the subject property from its present Agricultural classification to an Urban classification will have minimal impacts on the agricultural resources of the area.

12. That Petitioner has performed an archaeological survey of the subject property and is willing to comply with the recommendations of the said archaeological survey and the requirements of the Department of Land and Natural Resources in regard to their archaeological concerns.

13. The reclassification of the subject property will not have any significant adverse effect upon the environment or historical, recreational and natural resources.

14. 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 5.4 acres of land, situated in the land divisions of Holualoa 1st and 2nd, North Kona, Island and County of Hawaii, State 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

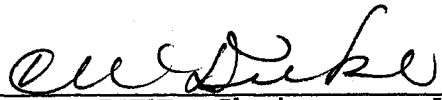
Policy established pursuant to Section 205-16.1 of the Hawaii Revised Statutes, as amended.

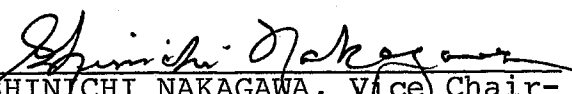
ORDER

FOR GOOD CAUSE APPEARING, it is hereby ordered that the property which is the subject of the Petition in this Docket No. A79-463, consisting of approximately 5.4 acres, situated in the land divisions of Holualoa 1st and 2nd, North Kona, Island and County of Hawaii, State of Hawaii, identified as Tax Map Key No. 7-6-13: 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.

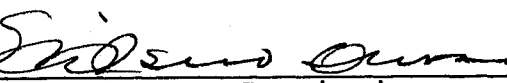
DONE at Honolulu, Hawaii, this 14th day of February, 1980, per Motion on January 31, 1980.

LAND USE COMMISSION  
STATE OF HAWAII

By   
C. W. DUKE, Chairman and  
Commissioner

By   
SHINICHI NAKAGAWA, Vice Chair-  
man and Commissioner

By   
SHINSEI MIYASATO, Commissioner

By   
MITSUO OURA, Commissioner

By George Pascua  
GEORGE PASCUA, Commissioner

By Carol Whitesell  
CAROL WHITESELL, Commissioner

By William W. Yuen  
WILLIAM YUEN, Commissioner



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CERTIFICATE OF SERVICE

I hereby certify that a copy of the Notice of Hearing was served upon the following 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

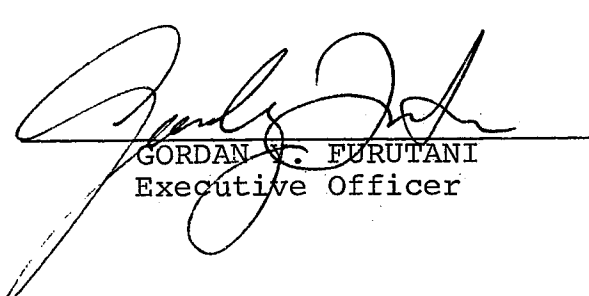
ANNETTE CHOCK, Deputy Attorney General  
Department of Attorney General  
Capital Investment Building  
Penthouse, 850 Richards Street  
Honolulu, Hawaii 96813

SIDNEY FUKU, Planning Director  
Hawaii Planning Department  
County of Hawaii  
25 Aupuni Street  
Hilo, Hawaii 96720

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

JOSEPH G. KEALOHA, JR.  
259-A Waiehu Beach Road  
Wailuku, Maui, Hawaii 96793

DATED: Honolulu, Hawaii, this 19th day of February, 1980.

  
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GORDAN V. FURUTANI  
Executive Officer