

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition) DOCKET NO. A-79-466
)
 of) FINDINGS OF FACT AND
) CONCLUSIONS OF LAW
 WILLIAM MOWRY and ROBERT KEOWN)
 for a petition to amend the)
 district boundary of property)
 situated at Kapaa Homesteads,)
 Kapaa, Island and County of)
 Kauai, State of Hawaii)
 _____)

FINDINGS OF FACT, CONCLUSIONS
OF LAW, DECISION AND ORDER

This matter, being a proceeding pursuant to Section 205-4, Hawaii Revised Statutes, as amended, to consider a district boundary reclassification concerning certain lands situate at Kapaa Homesteads, Kapaa, Island and County of Kauai, State of Hawaii, was heard on February 14 and 26, 1980, at Lihue, Kauai, Hawaii. The matter was heard in a consolidated hearing procedure together with Docket No. A-79-465 (Malcolm S. Smith). The mandatory parties admitted to the proceedings were petitioners William Mowry and Robert Keown, petitioner Malcolm S. Smith, the Planning Department of the County of Kauai, and the Land Use Division of the State of Hawaii Department of Planning and Economic Development. An untimely request to appear as a public witness by Elizabeth Ann Stone was denied by motion adopted by the Land Use Commission. No other parties sought intervention.

The Land Use Commission, after having duly considered the testimony given, the evidence presented, and the files and records, makes the following findings of fact and conclusions of law.

FINDINGS OF FACT

PROCEDURAL MATTERS

1. The petition of William Mowry and Robert Keown was filed on September 10, 1979, to amend the Agricultural Land Use District Boundary of certain lands at Kapaa Homesteads, Kapaa, Kauai, by reclassifying approximately 5.9 acres thereof (hereinafter "subject property") into the Urban District.

2. A notice of hearing to be held in the State Building, Lihue, Kauai, on February 14, 1980, was duly published in the Honolulu Star-Bulletin and Garden Island News on January 11, 1980.

3. A prehearing conference on the petition was held at Lihue, Kauai on February 4, 1980, and was attended by the parties who submitted and exchanged exhibits and lists of witnesses for the proceeding.

DESCRIPTION OF THE SUBJECT PROPERTY

4. The petitioners are William Mowry, whose residence is Hanalei, Kauai, Hawaii and Robert Keown, whose residence is Koloa, Kauai, Hawaii. Martha Mowry, wife of petitioner William Mowry, is also an owner of the subject property and consented to the proceedings.

5. The subject property is located at Kapaa Homesteads, 4th Series, Kapaa, Kauai, Hawaii, and is more particularly identified as Kauai Tax Map Key: 4-6-09, por. 67, and contains an area of 5.9 acres, more or less.

6. The petitioners are the fee simple owners of the subject property.

7. The subject property is located on the north side of Kawaihau Road, Kapaa, Kauai, Hawaii and is across the former Hawaiian Fruit Packers cannery. The Puu Kaa residential subdivision is two lots removed to the west.

8. The subject property is presently classified as "Agricultural" by the Land Use Commission. The area across Kawaihau Road is presently designated as "Urban" by the Land Use Commission, as are areas two lots removed to the west and two lots removed to the east along Kawaihau Road.

9. The subject property is presently vacant and overgrown.

10. The elevation of the subject property is approximately 240 feet above sea level.

11. Although the slope of the area of the subject property ranges from 0% to 35%, the area for re-classification is relatively flat.

12. The subject property presently drains in a northerly direction away from Kawaihau Road. This existing drainage pattern will be maintained during development.

13. Rainfall on the subject property averages about 65 inches per annum.

14. The United States Soil Conservation Service has classified the soils on the subject property as Puhi silty clay loam, and the Land Study Bureau has classified the soil as having a "C" classification on a scale from "A" to "E".

15. The uses of property surrounding or in the vicinity of the subject property include residential uses, such as the Puu Kaa and Hulu Manu Subdivisions, as well as commercial and industrial uses directly across the street.

PROPOSAL FOR DEVELOPMENT AND NEED
FOR GROWTH AND DEVELOPMENT

16. The petitioners intend to develop the subject property into a residential subdivision of approximately 30 lots, with an average size of about 6,900 square feet per lot. An application for rezoning of the subject property to "R-6" will be submitted by the petitioners to the County of Kauai upon approval of the reclassification request by the Land Use Commission.

17. The projected market for the lots will be the local residents of Kauai, and the petitioners do not intend to market the lots other than on Kauai.

18. The projected selling price, based at the time of the filing of the application for reclassification will be

between \$32,000 to \$40,000 per lot. Ultimate selling price will depend on the time of development and the actual costs of development.

19. The projected costs of developing the proposed subdivision, including on-site and off-site improvements will be in excess of \$300,000.00.

20. The development of the subject property into a 30-lot residential lot subdivision will create an additional 60 cars, assuming each family owned two cars.

21. In response to concern by the County of Kauai with respect to the traffic circulation pattern, the petitioners are willing to provide for access to the abutting properties through stub-outs to both sides of the subject property, as well as deleting direct access to Kawaihau Road from the subject property when an acceptable traffic circulation pattern is completed through the development of the abutting properties.

22. The Kapaa Homesteads area, of which the subject property is a portion, is becoming a large bedroom community for the residents of Kauai.

STATE AND COUNTY PLANS

23. The Kauai County General Plan designates the subject property as "Open" and "Park", and the County of Kauai zoning for the subject parcel is "Open". The petitioner will meet all of the park requirements of the County of Kauai as contained in the applicable ordinances.

24. Other parks in the area include Kapahi Park approximately .9 mile mauka from the subject property, and the parks associated with Kapaa Schools approximately .9 mile makai of the subject property.

ADEQUACY OF PUBLIC SERVICES AND FACILITIES

25. Presently, the water storage facilities for domestic water are adequate. However, the source and transmission facilities are inadequate, although funds have been appropriated to develop the source and transmission facilities. Completion of these improvements to the water system is expected to occur around April, 1982.

26. Other urban amenities, such as electricity, gas, telephone, police and fire protection can be provided to the subject property without unreasonably burdening public agencies.

27. Kapaa High School and Kapaa Elementary School are approximately 1.2 miles distant from the subject property. In addition, St. Catherine parochial school is approximately one mile to the east, and Island School is approximately 2.5 miles distant from the proposed development.

28. The disposal of waste water and sewage will be through the use of cesspools. However, the State of Hawaii Department of Health did express concern about the possibility of the cesspools contaminating the fresh water well located on the former Hawaiian Fruit Packers cannery site across the street from the subject property. Upon

inquiry of the Department of Health and of the landowner of the cannery property, Mr. Taniguchi, it was determined that the owner desired to retain the use of the well for only irrigation purposes, that he will have to remove the distribution lines from the well which could be utilized for domestic purposes, and that the well will not be used for domestic purposes in the future.

IMPACT ON RESOURCES OF THE AREA

29. There are no rare or endangered species of flora or fauna on the subject property.

30. The potential for future agricultural use on the subject property is limited due to its compatibility with the surrounding Urban District and the relatively small size of the parcel.

31. The subject property does not possess any historical, archaeological, recreational or scenic value.

32. Although the proposed development will not create any long term employment, it will generate a number of construction jobs.

33. The petitioners are financially qualified and able to undertake the proposed residential subdivision.

SCATTERIZATION AND CONTIGUITY OF DEVELOPMENT

34. The development of the subject property will not contribute towards scattered spot urban develop-

ment and will not necessitate unreasonable investment in public supportive services.

CONFORMANCE WITH INTERIM STATEWIDE LAND USE
GUIDANCE POLICIES AND DISTRICT REGULATIONS

35. The subject property will be characterized by "city-like" concentration of people, structures, streets, urban level of services and other related land uses.

36. The subject property is in a bedroom community and is in close proximity to businesses and employment facilities, and would generate new employment during construction of the proposed development.

37. Economic feasibility has been substantiated by the petitioners as well as the financial capacity to carry out the proposed development.

38. Basic services such as sewers, water, sanitation, schools, parks, and police and fire protection are available to service the proposed development or can be provided at reasonable cost.

39. The subject property constitutes a reserve area for urban growth based on a ten year or more projection.

40. The subject property has satisfactory topography and drainage for the proposed development, and is reasonably free from the danger of floods, tsunami and unstable soil conditions and other adverse environmental effects.

41. The subject property is contiguous with the existing Kapaa Urban District and will maximize use of existing services.

42. The subject area is in close proximity to existing urban development.

43. The proposed land use reclassification is reasonably necessary to accommodate growth and development.

44. There will be no significant and adverse effects upon agricultural, natural, environmental, recreational, scenic, historic, or other resources of the area.

45. The proposed development will make homesites at reasonable prices available to Kauai residents.

CONCLUSIONS OF LAW

Pursuant to Chapter 205, Hawaii Revised Statutes, and the Rules of Practice and Procedure, and State Land Use District Regulations, the Commission concludes that the proposed boundary amendment conforms to the standards established for the Urban Land District by the State Land Use District Regulations and is consistent with Section 205-2, Hawaii Revised Statutes, and with the Interim Statewide Land Use guidance policies established pursuant to Section 205-16.1, Hawaii Revised Statutes, and by State Land Use District Regulation 6-1.

ORDER

IT IS HEREBY ORDERED that the property which is the subject of the petition of William Mowry and Robert

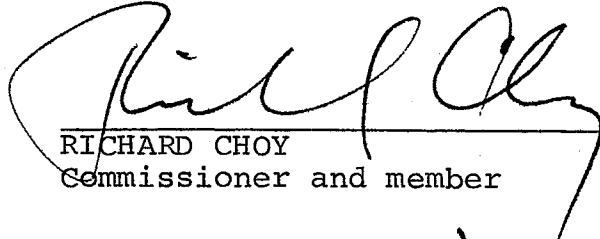
Keown in this Docket Number A79-466, approximately 5.9 acres, situate at Kapaa Homesteads, Kapaa, Island and County of Kauai, State of Hawaii, more particularly identified by Kauai Tax Map Key: 4-6-09: por. 67, shall be and is hereby reclassified from Agricultural to Urban and the Land Use District Boundaries are amended accordingly.

Done at Honolulu, Hawaii, this 15th day of October, 1980, per motion passed by the Commission on July 15,, 1980.

LAND USE COMMISSION
STATE OF HAWAII



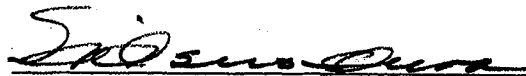
C. W. DUKE
Chairman and member



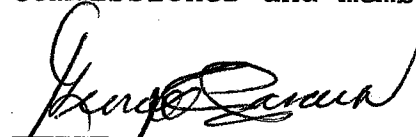
RICHARD CHOY
Commissioner and member



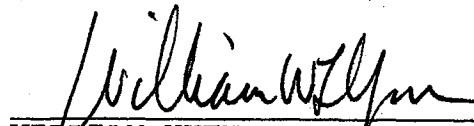
SHINSEI MIYASATO
Commissioner and member



MITSUO OURA
Commissioner and member



GEORGE PASCUA
Commissioner and member



WILLIAM YUEN
Commissioner and member

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CERTIFICATE OF SERVICE

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

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DATED: Honolulu, Hawaii, this 30th day of October, 1980.


GORDAN Y. FURUTANI
Executive Officer