

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of)
DONALD E. KRAEMER, INC.)
To Amend the Agricultural Land Use)
District Boundary to Reclassify)
Approximately 16.070 Acres at)
Holualoa 1st and 2nd, North Kona,)
Island of Hawaii into the Urban)
Land Use District)

DOCKET NO. A80-473

DECISION AND ORDER

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of)	DOCKET NO. A80-473
DONALD E. KRAEMER, INC.)	
To Amend the Agricultural Land Use)	FINDINGS OF FACT,
District Boundary to Reclassify)	CONCLUSIONS OF LAW,
Approximately 16.070 Acres at)	DECISION AND ORDER
Holualoa 1st and 2nd, North Kona,)	
Island of Hawaii into the)	
Urban Land Use District)	
_____)	

FINDINGS OF FACT, CONCLUSIONS OF LAW,
DECISION AND ORDER

PROCEDURAL MATTERS

1. The Petition was filed on January 4, 1980.
2. Notice of the hearing, scheduled for July 1, 1980, at 10:00 a.m., at the Kona Hilton Hotel, Kailua-Kona, was published in the Honolulu Advertiser and the Hawaii Tribune Herald on May 28, 1980.
3. No petitions for intervention were received on the Petition.
4. A written request to appear as a witness was received from Hensley F. Towill, but Mr. Towill did not appear at the hearing.

DESCRIPTION OF THE SUBJECT PROPERTY

5. The subject property is located approximately 2.65 miles southeast from the Palani Road/Kuakini Highway junction in Kailua-Kona.

6. The subject property consists of approximately 16.070 acres and is identified on the tax maps of the State of Hawaii as TMK, 3rd Division, 7-6-21: 14.

7. Fee title to the property is held by Petitioner.

8. The subject property is located from 400 to 600 feet above sea level and has a 6 to 10 degree slope.

9. The average rainfall for the area in which the subject property is located is 30 inches per year, with most of the rainfall coming during the winter months.

10. The soil of the subject property is classified as Punaluu (rPYD) soil which occurs on the lower leeward slopes of Mauna Loa as shown on Map #93 of the U.S.D.A. Soil Conservation Service report, Soil Survey of the Island of Hawaii, 1973. The natural vegetation on this type of soil consists of Koa Haole, Christmas Berry, guinea grass, natal redtop, and sand bur. It is generally used for pasture.

11. The Land Study Bureau's Overall Master Productivity Soil Rating for agricultural use is class "E" or "very poor" for soil of the subject property.

12. The subject property is rocky and rugged and is presently vacant and unused except to graze approximately six head of cattle.

13. The subject property is separated from the Kilohana Subdivision by Kailua-Keauhou Middle Road and Kuakini Highway. The subject property is located within the State Land Use Agricultural District and is non-contiguous to urban development. The subject property is mainly surrounded by undeveloped land.

PROPOSAL FOR RECLASSIFICATION

14. Petitioner proposes to subdivide the subject property into 28 one-half acre residential lots.

15. Each lot is intended as a site for one single-family residence.

16. Petitioner will construct, at its cost, all required off-site improvements. The proposed improvements include 50-foot wide rights-of-way for roadways within the proposed subdivision, with 20-foot wide asphalt concrete paving and 2-foot roadway gutters with curbs at areas subject to water runoff and near catch basins. Water mains will be located under the roadway rights-of-way with laterals provided for the individual lots. Electric and telephone lines will be located underground. Catch basins and drain lines will be located along the proposed main roadway and natural runoff will be utilized for all areas of the subdivision.

17. Purchasers of the lots will be responsible for construction of their own homes. One or two model homes will, however, be constructed by Petitioner.

18. Petitioner plans to use covenants, conditions and restrictions to assure the quality of the residence constructed.

19. The intended market for the lots is middle income residents, particularly those whose household heads are employed within the Kailua-Kona and Keauhou areas. It is also anticipated that a number of purchasers will be from the mainland United States and Canada.

20. The Petitioner stated that its definition of low and moderate income housing would be a dwelling unit of 1500 square feet costing \$60 per square foot to build, or \$90,000.

The anticipated price range for lots in the proposed subdivision is from \$65,000 to \$75,000. A house and lot package would cost in the range of \$155,000 to \$165,000.

21. No evidence was provided that this price range is affordable by local residents of low and moderate income.

22. If reclassification is approved, Petitioner will immediately apply for rezoning.

23. Improvements to be constructed by Petitioner are expected to be completed within a year after rezoning and Petitioner anticipates that all lots will have been sold by such time.

24. The estimated cost for improvements to be constructed by Petitioner, including roads, grading, street lights, waterlines and storm catchment basins is \$460,000, exclusive of property acquisition and financing costs.

STATE AND COUNTY PLANS

25. The Land Use Pattern Allocation Guide Map (LUPAG Map) of the County of Hawaii General Plan designates the area as "Extensive Agricultural" and "Alternate Urban Expansion."

26. The County has taken the position that the subject property is suitable for residential or urban type uses.

27. The County of Hawaii Comprehensive Zoning Ordinance has designated the subject property as "Unplanned."

28. It is the general policy of the Department of Planning and Economic Development to support urban expansion as needed, makai of the existing Kuakini Highway and the proposed Queen Kaahumanu Extension, and to oppose urbanization mauka of these highways, so as to keep future options open for the important mauka agricultural lands.

NEED FOR GROWTH AND DEVELOPMENT

29. The subject property may be a highly marketable residential area because it is detached from the more densely populated areas of Kailua-Kona, yet located close to urban and resort areas and to employment centers.

30. However, there is no great shortage in the North Kona area of subdivision lots within the price range proposed by the Petitioner, and the Petitioner has not demonstrated the need for this project. The Kamehameha Development Corporation proposes to develop 885 residential lots in two phases on recently urbanized lands in the Keauhou area. Pacific Basin Resorts, Inc., plans to develop 325 residential lots at the price range proposed by the Petitioner.

31. The Petitioner addresses only the short-term benefits of construction employment for thirty people and probable "domestic and maintenance employment" for the completed project.

RESOURCES OF THE AREA

32. The subject property is vacant and is presently used to graze approximately six head of cattle. Because of its low soil productivity rating and rocky and rugged terrain, the land is not particularly suitable for intensive agricultural use. The subject property is not within the coffee belt and is not immediately adjacent to any property used for intensive agricultural use, but its urbanization may lead to the future development of approximately 200 acres within the Agricultural District immediately surrounding the subject property and the Rural District of approximately 300 acres beyond of which 117 acres is under one ownership. This may place heavy development

pressure on the rural and coffee belt lands beyond. The Department of Planning and Economic Development stated that a general policy to maintain a buffer area between the important mauka agricultural lands and the urbanizing areas makai of the existing Kuakini Highway and the proposed Queen Kaahumanu Highway would keep future agricultural options open and would encourage infilling between Urban Districts makai of the existing Kuakini Highway to maximize the use of existing services and facilities.

NATURAL RESOURCES

33. The subject property has many rocky outcrops and is generally littered with cobbles and small boulders and shows signs of having been grubbed or dragged in the past. There are no endangered flora or fauna on the subject property. The subject property is planted with ekoa. Young kukui and monkeypod trees and a few wild ape are located along the stream channel which is on the north side of the subject property.

ARCHEOLOGICAL AND HISTORICAL RESOURCES

34. A portion of the archeological survey of the subject property stated: "Because the area is pahoehoe lava, there is a possibility that lava tubes will be exposed by construction work. If so, they should be examined by an archeologist for evidence of human occupation or the presence of graves. In the event graves are found which must be removed, whether in a lava tube or elsewhere, provisions of Section 338-25.5, Hawaii Revised Statutes, and of Public Health Regulations, relating to disinternments, are applicable. No features attributable to the aboriginal Hawaiian culture were observed on the parcel."

PUBLIC SERVICES AND FACILITIES

Schools

35. The nearest elementary and high schools are four miles and eight miles, respectively, from the subject property. A third school, the Kailua-Keauhou School, which will serve the subject property is projected for opening in September, 1982. It is not anticipated that the proposed development will significantly contribute toward increased enrollment in the schools in the area.

Sewers

36. There is no sewer system in the area of the subject property. The Petitioner is proposing to use cesspools which will be the responsibility of the individual lot owners.

Solid Waste Disposal

37. Solid waste will be collected and disposed at approved dumps.

Other Utilities

38. Local private utilities supplies can meet all demands for electricity, gas and telephone services.

Police and Fire Protection

39. The County of Hawaii provides police and fire protection which is available to the subject property.

Water

40. The County of Hawaii Department of Water Supply has indicated that water will be available for the proposed

project from a 12-inch line located within 100 feet of the subject property. The cost of hooking on to such line will be borne by the Petitioner.

Roadway and Highway Services

41. Access to the subject property which is proposed via a right-of-way over a neighboring parcel owned by Dillingham Investment Corporation has not been finalized. The Petitioner is still negotiating with Dillingham Investment Corporation. Petitioner will participate financially in the construction of such road, and in the necessary improvements to the Kailua-Kona Middle Road.

Drainage

42. The subject property is situated within Holualoa Flood Plain and is adjacent and to the south of the "Holualoa School Stream." The potential for drainage and/or flooding problems to intensify in the makai area of the subject property is quite real. On-side drainage will be collected in six-foot asphalt concrete shoulders and concentrated in catch basins and then transmitted to on-site drywells built to county standards. Petitioner is prepared to participate on a reasonable basis in the construction of any off-site drainage improvements required by state or local authorities.

CONTIGUITY OF DEVELOPMENT

43. The subject property is separated from the Kilohana Subdivision by Kailua-Keauhou Middle Road and Kuakini Highway. Therefore, the subject property is not immediately mauka of property which is in the Urban District and which is being developed as a residential subdivision.

44. The subject property is not contiguous to any commercially zoned property nor is it contiguous to any Urban District.

45. The proposed project would contribute to a "scattered development pattern."

CONFORMITY TO STANDARDS FOR DETERMINING DISTRICT BOUNDARIES

46. Urban designated lands, used primarily for residential purposes and mauka of Kuakini Highway are not contiguous to nor in the immediate vicinity of the subject property.

47. In comparison to other vacant urban areas makai of Kuakini Highway, the subject property is not "close to urban and resort areas and to employment centers."

48. The proposed project is not needed at this time since there is no shortage of vacant urban land in the North Kona area and it may encourage the development of the surrounding lands before integrated comprehensive plans are formulated. If this type of scattered development pattern is permitted to occur, it may eventually force development pressures on the mauka coffee lands which are considered Unique Agricultural Lands of Importance to the State of Hawaii.

49. Basic services such as water, sanitation, schools, police and fire protection are available to the subject property. No sewage system is available to service the proposed project. Cesspools would be installed by individual lot owners. Problems relating to flood control and vehicular access have been inadequately addressed by the Petitioner.

RULING ON PROPOSED FINDINGS OF FACT

Any of the proposed findings of fact submitted by the Petitioner or the other parties not already ruled upon by the Land Use Commission by adoption herein, or rejected by clearly contrary findings of fact herein, are hereby denied and rejected.

CONCLUSIONS OF LAW

Pursuant to Chapter 205, Hawaii Revised Statutes, and the Rules of Practice and Procedure of the State Land Use Commission, the Commission concludes that the proposed boundary amendment does not conform to the standards established for the Urban District by the State Land Use District Regulations and is not consistent with Section 205-2, Hawaii Revised Statutes, as amended, and by State Land Use District Regulation 6-1.

ORDER

IT IS HEREBY ORDERED that the Petition for Reclassification in Docket Number A80-473, consisting of approximately 16.070 acres of land, more particularly identified as Tax Map Key, 3rd Division, 7-6-21:14, at Holualoa 1st and 2nd, North Kona, Island and County of Hawaii, State of Hawaii, be and is hereby denied, and that said lands remain in the Agricultural District.

Done at Honolulu, Hawaii, this 14th day of
May, 1981, per motion on October 15, 1981.

LAND USE COMMISSION
STATE OF HAWAII

By *Shinichi Nakagawa*
SHINICHI NAKAGAWA, Vice Chairman
and Commissioner

By *Richard B.F. Choy*
RICHARD B.F. CHOY, Commissioner

By *George R. Pascua*
GEORGE R. PASCUA, Commissioner

By *Carol B. Whitesell*
CAROL B. WHITESELL, Commissioner

By *William W. L. Yuen*
WILLIAM W. L. YUEN, Commissioner

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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:

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

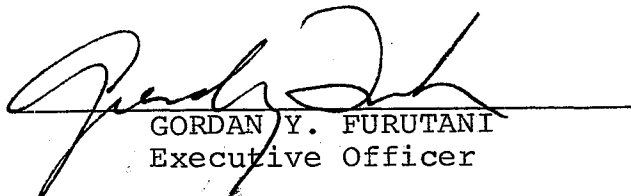
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Ashford and Wriston
P. O. Box 131
Honolulu, Hawaii 96810

DATED: Honolulu, Hawaii, this 18th day of May, 1981.


GORDAN Y. FURUTANI
Executive Officer