

BEFORE THE LAND USE COMMISSION  
OF THE STATE OF HAWAII

In the Matter of the Petition of ) DOCKET NO. A80-493  
)  
MR. and MRS. WILLIAM G. AKI and ) MR. and MRS. WILLIAM G.  
MR. and MRS. JOHN A. WILKERSON ) AKI and MR. and MRS.  
) JOHN A. WILKERSON  
To Amend the Agricultural Land Use )  
District Boundary to Reclassify )  
Approximately 1.51 Acres, TMK: )  
5-6-06:21, at Keawanui, Kaamola, )  
County of Maui, Island of Molokai, )  
State of Hawaii, into the Rural )  
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 the Petitioners, Mr. and Mrs. William G. Aki and Mr. and Mrs. John A. Wilkerson who are requesting that the designation of the subject property be amended from the Agricultural to the Rural District. The requested change consists of property comprising approximately 1.51 acres of land, situated at Keawanui, Kaamola, Island of Molokai, County of Maui, State of Hawaii. The subject property is more particularly identified as Tax Map Key No. 5-6-06:21.

PURPOSE OF PETITION

Petitioners' stated purpose for requesting the reclassification of the subject property from Agricultural to Rural is so that Petitioners can subdivide the parcel into

three (3) one-half-acre lots on which they plan to build three (3) single-family dwellings (one dwelling per one-half-acre lot).

#### THE PROCEDURAL HISTORY

The Petition was received by the Land Use Commission on July 29, 1980. Due notice of the hearing on this Petition was published on September 17, 1980, in the Maui News and The Honolulu Advertiser. Notice of the hearing was also sent by certified mail to all parties involved herein on September 8, 1980. No timely application to intervene as a party or appear as a witness was received by the Land Use Commission. During the course of the hearing, however, Mrs. Anna Goodhue orally requested permission to testify as a public witness, and there being no objection raised by the parties, Mrs. Goodhue was permitted to testify as a public witness.

#### THE HEARING

The hearing on this Petition was held on October 30, 1980, in Kaunakakai, Molokai, Hawaii.

Mr. and Mrs. William G. Aki and Mr. and Mrs. John A. Wilkerson, the Petitioners herein, represented themselves; the County of Maui was represented by Staff Planner, John Min; and the Department of Planning and Economic Development was represented by Staff Planner, Abe Mitsuda.

Testimony was presented during the hearing by the following parties:

#### Petitioner:

William G. Aki

John A. Wilkerson

County of Maui:

John Min

Department of Planning and Economic Development:

Abe Mitsuda

Testimony was also presented by public witness Mrs. Anna Goodhue.

POSITION OF THE PARTIES

County of Maui - Approval.

Department of Planning and Economic Development - Approval.

APPLICABLE REGULATION

Standards for determining the establishment of a Rural District are found under Part II, Section 2-2(4) of the State Land Use Commission's District Regulations. Said regulation provides in pertinent part that:

- "(4) 'R' Rural District. In determining the boundaries for the 'R' Rural District, the following standards shall apply:
- (a) Areas consisting of small farms; provided that such areas need not be included in this District if their inclusion will alter the general characteristics of the areas.
  - (b) Activities or uses as characterized by low density residential lots of not less than one-half (1/2) acres and a density of not more than one single-family dwelling per one-half (1/2) acre in areas where 'city-like' concentration of people, structures, streets, and urban level of services are absent, and where small farms are intermixed with the low density residential lots.
  - (c) Generally, parcels of land not more than five (5) acres; however, it may include other parcels of land,

which are surrounded by, or contiguous to this District and are not suited to low density residential uses or for small farm or agricultural uses."

#### 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 adduced herein, makes the following findings of fact:

1. The subject property is located at Keawanui, Kaamola, Molokai, County of Maui, State of Hawaii, and consists of approximately 1.51 acres, more particularly described as Tax Map Key No. 5-6-06:21. The subject property is located approximately 12 miles southeast of Kaunakakai on the makai side of Kam V Highway. Keawanui Fishpond and Kalaeloa Harbor are immediately makai of the subject property. The Petitioners herein each possess a 1/2 undivided vendee's interest in the subject property pursuant to a five-year Agreement of Sale executed on March 23, 1978. The Vendors under said Agreement of Sale are aware of the subject application and do not object to Petitioners efforts to reclassify the subject property.

2. The subject property is presently within the State Land Use Agricultural District. The subject Petition does not conflict with the provisions of the General Plan of the County of Maui (1980 Ordinance 1052). The existing Molokai Island Land Use Plan adopted in 1969 under the procedures established by the General Plan, designate the subject property for resort-commercial and hotel use. Since the subject request is for a classification and use of a lesser intensity than designated on the Molokai Island Land Use Plan, a General

Plan Amendment will not be required. The Maui County Council has also authorized the review and update of all community plans, including the Molokai Land Use Plan during the fiscal year 1980-1981. The subject property is unzoned by Maui County. The subject property is located within the Special Management Area.

3. The subject property is presently vacant and has not been in agricultural use for the past 44 years. The previous owner began diversified farming of the subject property in 1921. In 1935, after an illness in the family, the farming operation was terminated and has not been pursued since. The subject property was occupied until 1951, and since then has remained vacant. Vegetation on the property consists primarily of haole koa, mango trees and shrub vegetation.

4. The subject property is bounded by Kam V Highway on the north and by the State Land Use Conservation District on its western and southern boundaries. The Conservation District to the south includes Keawanui Fishpond which is listed on the Natural Register of Historic Sites. The subject property is situated within an area that can be characterized as a predominantly rural-residential community as evidenced by scattered residential developments, small farms and agricultural and open space areas.

5. The subject property is located at the 10 to 15-foot elevation with a mauka to makai slope of approximately 3 degrees. The natural drainage for the subject property occurs in the direction of the slope into the marsh lands that border Keawanui Fishpond. Rainfall in the area is approximately 10-25 inches per year.

6. The Soil Conservation Service has classified the soil of the subject property in the Mala-Kealia Series. The Mala Series (MmA) consists of well-drained, silty clay with a surface area 7 inches thick and is recommended for pasture, alfalfa, truck crops, orchards and wildlife uses. The Kealia Series (KMW) is coastal flat, silt loam with brackish water table at 12-40 inches and its recommended uses are pasture, wildlife and urban development. According to the Detailed Land Classification - Island of Molokai (1968), the subject property has an overall agricultural capacity of "E" on a scale of A-E with "E" representing lands having the lowest agricultural capacity. The Department of Agriculture, State of Hawaii, has indicated that agricultural activities such as truck farming, livestock and pasture uses are not economically viable due to the small acreage of the subject property. The Department of Agriculture further comments that due to the scattered housing in the area, redesignation of the subject property to the Rural District would preserve the existing rural nature of the area. The subject property is not classified as Agricultural Lands of Importance to the State of Hawaii.

7. The Petitioners intend to develop the subject property into a rural subdivision consisting of approximately three one-half-acre lots fronting on Kam V Highway. The Petitioners Aki and Wilkerson plan to build homes on their respective lots and sell the third lot to allay a part of the land acquisition cost. Petitioner Aki's concern stems from the fact that he and his wife, who is of Japanese ancestry, presently reside on Hawaiian Homes land. Since they have no children, Mrs. Aki would have to leave their present home in

the event Mr. Aki predeceased her. The availability of a lot in the subject property which can in turn be utilized for residential purposes would give Petitioner Aki the security he desires for his wife. Petitioner Wilkerson is an employee of the State Department of Education and is presently seeking a transfer from Oahu to Molokai. Upon transfer to Molokai, Petitioner Wilkerson will construct a single-family dwelling for his family on one of the lots of the subject property. Petitioners both desire to participate in a rural life-style by utilizing their respective lots for gardening and grazing and obtain the highest degree of self-sufficiency attainable. Petitioners in turn have represented that they have the financial capability to construct their own homes.

8. The reclassification of the subject property will not unreasonably burden public agencies to provide necessary urban amenities, services and facilities because:

a. Access - All three lots of the proposed subdivision will front on Kam V Highway which is a 40-foot wide paved State-owned highway.

b. Schools and Parks - Schools and parks are located within a 2-mile radius of the subject property.

c. Sewage - Sewage disposal will be handled by private cesspools.

d. Water, Electrical and Telephone Service - All available utilities are available from existing services which presently exist along Kam V Highway.

9. Since the natural drainage of the property is into the marsh lands which border Keawanui Fishpond, the



Petitioners have represented and agreed to comply with all applicable regulations and ordinances including but not limited to those of the Department of Public Works which will minimize siltation into the wetlands surrounding Keawanui Fishpond during and after construction of improvements on the subject property.

10. Petitioners have also represented and agreed to notify and cooperate with the Historical Site Section of the Department of Land and Natural Resources in the event any archaeological remains are discovered on the subject property.

11. The proposed development and reclassification will not have a significant adverse impact upon the environment or agricultural, recreational resources or on any endangered species of flora or fauna.

12. Both Maui County and the Department of Planning and Economic Development have accepted Petitioners' representations that the principal underlying reason for the request is they intend to eventually construct single-family dwellings on their individual parcels for their personal use. Both agencies recognize that the provision to individuals of the opportunity to provide for their personal housing requirement is an important element to be considered and this is especially true in situations where the requested use will not alter the nature and character of the surrounding area. Both agencies also recognize the existence of an element of personal hardship herein due to the Petitioners' respective positions and accordingly, based on a review of the Petition, the evidence adduced at the hearing, and the provisions of Chapter 205, Hawaii Revised Statutes, the County of Maui and the Department of Planning and Economic Development have

recommended that the reclassification of the subject property be approved.

CONCLUSIONS OF LAW


Reclassification of the subject property, consisting of approximately 1.51 acres of land, situated at Keawanui, Kaamola, Island of Molokai, County of Maui, State of Hawaii, from Agricultural to Rural and an amendment to the district boundaries accordingly is reasonable and non-violative of Section 205-2 of the Hawaii Revised Statutes.

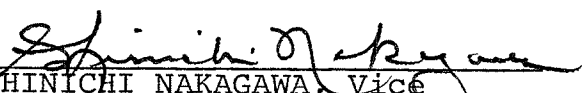
ORDER

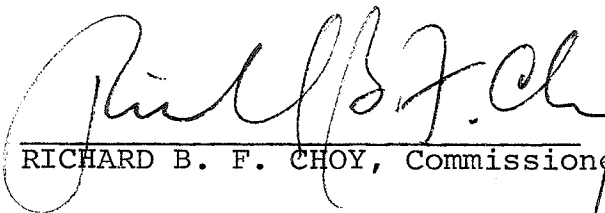
FOR GOOD CAUSE APPEARING, it is hereby ordered that the property which is the subject of the Petition in this Docket No. A80-493, consisting of approximately 1.51 acres, situated at Keawanui, Kaamola, Island of Molokai, County of Maui, State of Hawaii, identified as Tax Map Key No. 5-6-06:21, shall be and hereby is reclassified from Agricultural to Rural and the district boundaries are amended accordingly.

DONE at Honolulu, Hawaii, this 24th day of March, 1981, per Motion on February 4, 1981.


LAND USE COMMISSION  
STATE OF HAWAII

By   
C. W. DUKE, Chairman and  
Commissioner

By   
SHINICHI NAKAGAWA, Vice  
Chairman and Commissioner

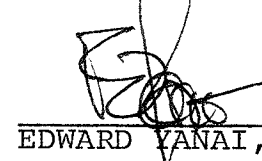
By   
RICHARD B. F. CHOY, Commissioner


By   
SHINSEI MIYASATO, Commissioner

By   
MITSUO OURA, Commissioner

By   
GEORGE PASCUA, Commissioner

By   
CAROL B. WHITESELL, Commissioner

By   
EDWARD YANAI, Commissioner

By   
WILLIAM YUEN, Commissioner

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the Land Use Commission 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

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

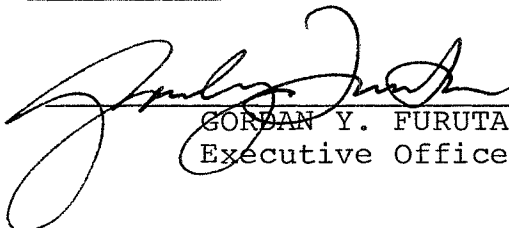
TOSH ISHIKAWA, Planning Director  
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Office of the Corporation Counsel  
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WILLIAM G. AKI  
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JOHN A. WILKERSON  
118 Mokumanu Drive  
Kailua, Hawaii 96734

DATED: Honolulu, Hawaii, this 30th day of March, 1981.

  
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GORDAN Y. FURUTANI  
Executive Officer