

BEFORE THE LAND USE COMMISSION  
OF THE STATE OF HAWAII

In the Matter of the Petition of )  
 )  
 HUBERT F. RICHARDS )  
 )  
 For Amendment of the District )  
 Boundaries and Reclassification )  
 of Certain Lands Situated in )  
 the Land Divisions of Onouli 2nd )  
 and Keopuka, South Kona, Island )  
 of Hawaii )  
 )  
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DOCKET NO. A80-498

DECISION AND ORDER

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Island of Hawaii )	)	
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FINDINGS OF FACT  
CONCLUSIONS OF LAW  
AND  
DECISION AND ORDER

Petitioner HUBERT F. RICHARDS filed his petition in the above-captioned matter pursuant to Chapter 205, Hawaii Revised Statutes, and the Rules of Practice and Procedure of the Land Use Commission, State of Hawaii, to amend the Land Use District Boundary of certain lands consisting of approximately 166 acres and identified as Portion of Hawaii Tax Map Key 8-1-7: 01 (hereinafter referred to as the "subject property") situated at Onouli 2nd and Keopuka, South Kona, Island of Hawaii, from the Agricultural District to the Urban District. The Land Use Commission having heard the evidence presented on this matter during the hearing held on March 18-19, 1981 in Kailua-Kona, Hawaii, and after having further considered the entire record filed in this docket, the evidence presented at the hearing, the arguments of the representatives for the respective parties, the proposed findings of fact and conclusions of law submitted by parties, and the responses and comments of parties made thereto, and all other premises before the Land Use Commission with regard to this matter, hereby makes the following findings of fact and conclusions of law.

FINDINGS OF FACT

PROCEDURAL MATTERS

1. Hubert F. Richards (hereinafter "Petitioner") filed his petition on October 6, 1980, requesting that the Land Use Commission amend the Land Use District Boundary at Onouli 2nd and Keopuka, South Kona, Island of Hawaii, by reclassifying the subject property from the Agricultural District into the Urban District.

2. The legal ownership of the subject property is as follows:

<u>Owner</u>	<u>Undivided Interest</u>
Hubert F. Richards and (Petitioner)	593
Elizabeth A. Richards	<u>625</u>
Miles H. Wilson and Marilyn S. Wilson	8
	<u>625</u>
Charles W. Coupe and Joan E. Coupe	8
	<u>625</u>
Joan E. Coupe As Trustee	8
	<u>625</u>
Marilyn S. Wilson As Trustee	8
	<u>625</u>

3. The owners of the subject property have authorized the Petitioner to act as their agent for purposes of the petition.

4. The Land Use Commission held a Prehearing Conference on March 9, 1981, at 9:00 a.m. attended by all parties.

5. The hearing was held on March 18 and 19, 1981, at the Kona Hilton Hotel, Kailua-Kona, Island of Hawaii pursuant to notice published in the Hawaii Tribune Herald and the Honolulu Advertiser on February 11, 1981, and served by mail on all parties.

6. Elizabeth Ann Stone, President of the Honest Environmental Citizens Against Progress, filed an untimely

request to appear as a public witness. Ms. Stone failed to appear at the hearing, and the Commission entered her written testimony into the record as Commission's Exhibit No. 1 without objection by the parties.

DESCRIPTION OF THE SUBJECT PROPERTY

7. The subject property is located on the makai side of Mamalahoa Highway in the vicinity of the County's Kona Baseyard complex, midway between and one mile from the towns of Kealahou, to the North, and Captain Cook, to the South. The subject property is a 166 acre portion of a 670+acre lot which extends from Mamalahoa Highway to the ocean (mauka-makai direction).

8. The elevation of the subject property ranges between 800 feet above sea level along the makai boundary to 1,400 feet above sea level along the mauka boundary at the Mamalahoa Highway. The subject property's average slope is approximately 13 percent.

9. The U.S.D.A., Soil Conservation Service, in its Soil Survey Report published December 1973, describes the soil as the Kaimu Series (rKED), which consists of well-drained, thin organic soils over Aa lava. The surface layer is extremely stony peat about 3 inches thick. Permeability is rapid, runoff is slow, and the erosion hazard is slight. Kaimu soils are best used for pasture, and the cultivation of macadamia nuts, papaya, and citrus fruits.

10. The subject property is shielded by the mountains from the prevailing northeast tradewinds, giving the area a mild climate throughout the year. The average annual rainfall is 60.19 inches, and the average annual temperature is 70.6° Fahrenheit. The daily average relative humidity ranges from 71% to 77%, and winds vary from 3 to 13 knots.

11. The subject property is presently vacant and undeveloped, except for approximately 27.5 acres in the mauka

portion which is leased to various individuals on a month-to-month basis. The tenants use approximately 16 acres for macadamia nut cultivation.

12. Lands mauka of the Mamalahoa Highway are used for residential and commercial purposes. Other lands in the area are used for macadamia nut cultivation, grazing or are overgrown and vacant.

PROPOSAL FOR DEVELOPMENT

13. The Petitioner proposes to develop the subject property as a residential subdivision consisting of 360 residential lots having a minimum lot size of 15,000 square feet. The Petitioner intends to construct all necessary improvements for roadways, drainage, water and electrical systems for the proposed project in accordance with applicable State and County regulations.

14. Petitioner estimates that the proposed project could be completed in four phases within five years after all appropriate State and County agencies issue the approvals required for the proposed project. The Petitioner intends to develop approximately 90 lots in each phase.

15. The Petitioner estimates the construction cost, based on current prices, for the proposed project as follows:

a. Grading and Roadwork	\$3,764,000
b. Drainage	1,951,000
c. Water	1,599,000
d. Sewage (if sewage treatment plant required)	400,000
e. Electrical (underground)	<u>1,158,000</u>
Total Cost	\$8,872,000

16. The development costs, including a contingency factor, for each of the four phases is as follows:

<u>Phases</u>	<u>Cost</u>
1	\$3,407,250
2	2,252,250
3	2,277,000
4	<u>1,806,750</u>
Total	\$9,743,250

The development of the water source, well and water system would cost an additional \$750,000.

17. The Petitioner intends to sell lots in fee simple, and may develop house-and-lot packages.

18. The Petitioner estimates that prices of the lots will range between \$60,000 to \$70,000, and estimates that the sales price of house-and-lot packages will be approximately \$150,000.

19. The Petitioner intends to sell lots to upper middle income families, and made no commitment to developing housing affordable by low and moderate income families. The Petitioner may be willing to work with the County in developing an affordable housing program within the proposed development.

#### STATE AND COUNTY PLANS

20. The subject property is classified in the State Land Use Agricultural District.

21. The Land Use Pattern Allocation Guide Map component of the County of Hawaii General Plan designates the subject property for Low Density Urban Development and Orchards/Alternate Urban Expansion. The Mauka portion of the subject property along Mamalahoa Highway is designated for Low Density Urban Development. The Makai portion of the subject property is designated for Orchards/Alternate Urban Expansion. The Orchards designation refers to those lands, though rocky in character and content, which may support productive macadamia nut, citrus, and other similar agricultural products.

The Alternate Urban Expansion designation may permit consideration of urban development when designated urban areas are largely developed or are developing too slowly. This designation applies to potential urban areas where development is not imminent due to inadequate infrastructure or demand; or in areas where the urban form of a community has not yet been firmly established in accordance with the goals, policies, and standards of the General Plan.

22. The County zoning designation for the subject property is Agricultural 5-acre (A-5a). In order to develop the proposed project, the Petitioner must obtain a rezoning of the subject property from Agricultural (A-5a) to Single Family Residential - 15,000 square feet (RS-15).

23. The subject property is not within the County of Hawaii Special Management Area.

24. The Petitioner introduced into evidence a market analysis report prepared by John Child and Company, Inc., who projected a demand for additional housing units in the North and South Kona Districts. The market analysis underestimated the amount of vacant residential zoned properties, because it omitted properties under three acres in size.

25. The Kona area contains vast acreages of vacant land classified in the Urban District, which may be used for development of residential units. The State Department of Planning and Economic Development estimates that nearly 50 percent or approximately 3,957 acres, of the total urban districted lands in North Kona are presently vacant. Approximately, 30 to 40 percent of these lands are planned for residential development. In the South Kona area, approximately 322 acres of urban districted lands are presently vacant. Approximately 164 acres of these lands are planned for residential development. Since 1979, the Land Use Commission has classified approximately 564 acres from

the Agricultural District to the Urban District. Developers and owners have proposed to develop approximately 874 residential lots and 180 residential units on these lands. The Commission has also approved the incremental reclassification into the Urban District of 228 acres for the development of 425 lots.

26. Low and moderate income housing is needed in the Kona area. The Petitioner has not addressed this need, either in terms of the selling price of the proposed units or number of housing units to be offered at prices affordable by low and moderate income families.

#### IMPACT ON RESOURCES OF THE AREA

##### Agricultural Resources

27. The State Department of Agriculture is concerned about preserving the agricultural resources of the Kona Coffee Belt areas, which extend from Holualoa and Honaunau on both sides of the old Belt Highway. These areas are presently being used for the cultivation of coffee, macadamia nuts and other orchard type crops. The subject property includes portions of this coffee coffee belt area, and approximately 16 acres are in macadamia nut cultivation. The State Department of Agriculture has testified that development of the subject property would put increased pressure on surrounding property owners to urbanize their lands. The continued existence of macadamia nut and coffee orchards in the area may be threatened by the increasing pressure of higher property taxes and inflated land values.

28. The majority of the subject property is classified as "Other Important Agricultural Land" on the State Department of Agriculture's Agricultural Lands of Importance to the State of Hawaii (ALISH) Map.

29. The subject property has a Land Study Bureau Overall Master Productivity Rating for agricultural use of Class "E" or Very Poor, the lowest rating under the Land Study



Bureau's classification system. The adjacent lands to the north, however, are designated as Class "B" (Good) and Class "C" (Fair) soils.

30. The State has recommended denial of this petition because approval would have direct impacts on the agricultural resources of this coffee belt area. The Petitioner has not clearly demonstrated that a need exists for development, and that suitable alternate areas are not available.

#### Water Resources

31. Water for the Kona area is obtained from the Kahaluu and Keei wells. Due to the rapidly increasing consumption and water commitments in Kona and inadequate transmission line capacities, the County Department of Water Supply will make water available to the proposed development only if a booster pump and transmission line facilities were built and an additional well source were developed by the developer.

32. The Petitioner proposes to develop a new water source and construct a well and water system on the subject property, at Petitioner's cost. The Petitioner will cooperate in developing the water system with the State Department of Land and Natural Resources and the Hawaii County Department of Water Supply, and proposes to dedicate the completed water system to the County of Hawaii. Petitioner will utilize two lots for the well site and water system.

33. The Petitioner proposed to develop a water well near the northern boundary of the subject property in cooperation with the State Department of Land and Natural Resources and the County Department of Water Supply. He also proposed to build two 250,000 gallon storage tanks and necessary pumping improvements. The Petitioner has not conducted any test drilling on the subject property, and testimony that the new well source would yield sufficient water is speculation.

## Natural and Environmental Resources

34. John Rozette, a consulting botanist, conducted a botanical survey of the subject property and concluded that the flora on the subject property is not unique, and is yielding to exotic weed climax vegetation. The project site is not a critical habitat for any rare or endangered animal species.

35. The Petitioner may, under present Hawaii State Department of Health regulations, use cesspools to handle the sewage generated within the proposed project. However, the Petitioner has not adequately determined that raw sewage would not contaminate either the proposed well source or the Class AA waters of Kealakekua Bay.

36. The Petitioner has proposed to use drainage inlets and piping systems to minimize erosion and run-off sediment and household contaminants. The Petitioner has not demonstrated that erosion and run-off will not contaminate or otherwise adversely affect the Kealakekua Bay Conservation District.

37. The Petitioner anticipates that vehicular exhaust emissions will be the only continuing source of adverse impact on air quality. The Petitioner computed the anticipated one hour carbon monoxide concentration level during peak hour traffic under "worst-case" conditions; the projections were within the Federal and State maximum average one hour periods.

## Archaeological and Historical Resources

38. Lloyd J. Soehren, a consulting archeologist, conducted an archeological reconnaissance survey of the subject property. He found no archeological or historical features on the subject property.

## PUBLIC SERVICES AND FACILITIES

### Firefighting Services

39. The Captain Cook Fire Station, located approximately 1.5 miles south, would provide fire protection for the proposed project.

#### Police Services

40. Kona District Headquarters in Captain Cook, located approximately 1.5 miles south of the subject property, would provide police protection for the proposed project.

#### Schools

41. The subject property is within the district served by Konawaena School system, Kealahou, located approximately a half mile away. The Konawaena schools are presently operating at capacity, and the Department of Education projected that existing developments in the area will increase enrollment in the Konawaena schools by approximately 2-3% annually. The main library, located in Kealahou, contains 12,000 volumes, and the Holualoa library contains 3,200 volumes.

#### Recreational Facilities

42. Four existing public parks and six proposed public parks are located within a 4-mile radius of the subject property.

#### Utility Services

43. Electrical and telephone services are available to the subject property.

#### Sewage Disposal

44. There is no municipal sewage system in the Kealahou and Captain Cook areas. The Petitioner proposes to develop individual cesspools to serve the subject property. Cesspools are the primary means of sewage disposal throughout this area. Hawaii State Department of Health regulations permit eight (8) cesspools per acre. The density of the proposed project is approximately 2.2 dwelling units per acre.

#### Roadway and Highway Services and Facilities

45. The subject property abuts and will have direct access to Mamalahou Highway. Mamalahou Highway is a two-lane State Highway with a right-of-way sixty (60) feet wide with a 20-foot wide pavement. It runs in a north-south direction

through South Kona, linking South Kona to other parts of the island. It has a capacity of 1,250 vehicles per hour. The Petitioner proposes to construct an access road from Mamalahoa Highway to the subject property.

46. The State Department of Transportation does not believe that Mamalahoa Highway can adequately accommodate the traffic from the total development. The Department's traffic analysis indicates that the highway is operating between levels of services "E" and "F" near the proposed development.

#### CONTIGUITY OF DEVELOPMENT

47. The mauka portion of the subject property along the Mamalahoa Highway is contiguous to the Urban District. The lower portion of the subject property is surrounded by the Agricultural District and the Conservation District.

#### STANDARDS FOR DETERMINING DISTRICT BOUNDARIES

48. The proposed development does not conform to the applicable requirements of the General Plan, the State Plan, and the State Land Use District Regulations. The State Land Use District Regulations require that an area to be reclassified to the Urban District shall be in proximity to basic services such as sewers, water, sanitations, and schools.

49. The County and State governments will not make water available to the proposed development. The County would require the Petitioner to develop an additional well source and provide a booster pump and transmission lines in order to obtain approval. The Petitioner intends to develop a well on the subject property, but there is no assurance that the well will successfully provide an adequate source of water.

50. There is no public sewer system serving the subject property at the present time. The Petitioner has not determined that the proposed development would not adversely impact ground or coastal water resources.

Mamalaho Highway would not be able to adequately accommodate the traffic from the total development. Schools in the area are presently operating at capacity, and will not be able to accommodate students from the subject property.

51. Adequate public services such as a sewage system, water, highway and school facilities are inadequate or not presently available to the subject property, nor can such services be provided at reasonable cost to the Petitioner. The location of the subject property is not an appropriate location for the development of a residential subdivision.

#### RULING ON PROPOSED FINDINGS

Any of the proposed findings of fact submitted by the Petitioner or the other parties to this proceeding 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

The Petitioner has neither demonstrated a need for the proposed development, nor that the development will assist in providing a balanced housing supply for all economic and social groups. The project is not compatible with either the county's general plan nor with the interim statewide land use guidance policies.

Amendment of the district boundary to accommodate this project is not necessary to accommodate growth and development, and the North Kona area has ample urban zoned district to accommodate growth in the Kona area. The proposed development would have significant adverse effects upon agricultural, natural, and environmental resources of the area.

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 as established 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 guidelines.

ORDER

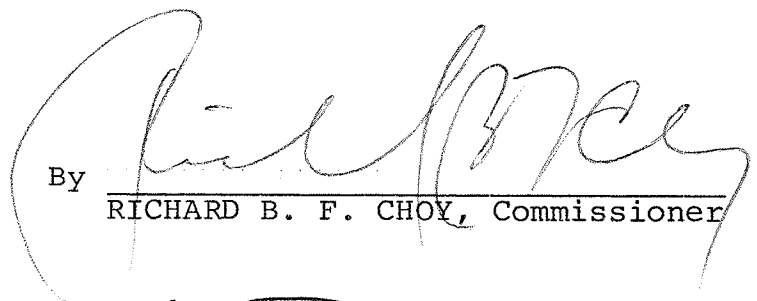
IT IS HEREBY ORDERED that the petition for the reclassification of subject property consisting of approximately 166 acres at Onouli 2nd and Keopuka, South Kona, Island and County of Hawaii, more particularly identified as Tax Map Key 8-1-07: Portion of Parcel 1, be denied and the same remain in the Agricultural District.

DONE at Honolulu, Hawaii, this 7th day of December, 1981, per Motion on August 20, 1981.

LAND USE COMMISSION  
STATE OF HAWAII

By William W. Yuen  
WILLIAM W. L. YUEN, Chairman and  
Commissioner

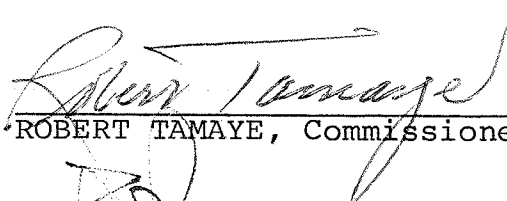
By Carol B. Whitesell  
CAROL B. WHITESELL, Vice Chairman  
and Commissioner

By   
RICHARD B. F. CHOY, Commissioner

By   
EVERETT CUSKADEN, Commissioner

By   
SHINSEI MIYASATO, Commissioner

By   
TEOFILO TACBIAN, Commissioner

By   
ROBERT TAMAYE, Commissioner

By   
EDWARD YANAI, Commissioner

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 situate at Onouli, South Kona, )  
 Island and State of Hawaii )  
 )

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 and Economic Development  
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ANNETTE CHOCK, Deputy Attorney General  
Department of Attorney General  
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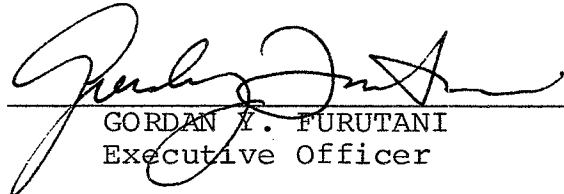
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Kealahou, Hawaii 96750

DATED: Honolulu, Hawaii, this 9th day of December, 1981.

  
GORDAN Y. FURUTANI  
Executive Officer