

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of the)
COUNTY OF KAUAI) DOCKET NO. A81-515
To Amend the Agricultural Land Use)
District Boundary to Reclassify)
Approximately 66.1 Acres, TMK: 2-8-22:)
Parcel 6, at Weliweli, Island and)
County of Kauai into the Urban Land)
Use District)

DECISION AND ORDER

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of the)	
COUNTY OF KAUAI)	DOCKET NO. A81-515
To Amend the Agricultural Land Use)	
District Boundary to Reclassify)	FINDINGS OF FACT,
Approximately 66.1 Acres, TMK: 2-8-22:)	CONCLUSIONS OF LAW,
Parcel 6, at Weliweli, Island and)	DECISION AND ORDER
County of Kauai into the Urban Land)	
Use District)	

FINDINGS OF FACT, CONCLUSIONS OF LAW,
DECISION AND ORDER

This proceeding was initiated 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 66.1 acres, Kauai Tax Map Key 2-8-22: 6, (hereinafter referred to as the "subject property") situated at Weliweli, Koloa, Island and County of Kauai, from the Agricultural District to the Urban District. The Land Use Commission, (hereinafter, the "Commission") having heard the testimony and reviewed the documentary evidence at the hearing on December 10, 1981 and January 15, 1982, and having duly considered the record, the proposed findings of fact and conclusions of law submitted by the parties, and the responses made thereto, hereby makes the following findings of fact and conclusions of law.

FINDINGS OF FACT

PROCEDURAL MATTERS

1. The petition was filed with the Land Use Commission by the County of Kauai (hereinafter "Petitioner") on September 8, 1981.

2. Pursuant to notices published on October 26 and December 23, 1981, in The Garden Island and The Honolulu Advertiser, the Commission held public hearings on December 10, 1981 and January 15, 1982, in Lihue, Kauai, Hawaii. No petitions for intervention or timely requests to appear as a public witness were filed with the Land Use Commission concerning the subject docket.

3. The Land Use Commission admitted the testimony of public witnesses Richard Cameron (through Jack Claytor) and Elizabeth Ann Stone.

DESCRIPTION OF THE SUBJECT PROPERTY

4. The subject property consists of approximately 66.10 acres of land identified as Tax Map Key 2-8-22: Parcel 6, lot B portion of Land Court Application 1188, and located at Weliweli, Kauai, north of the existing Weliweli Tract Subdivision. The subject property is located approximately one mile from the Poipu Beach and resort area; 3.2 miles from Koloa town; and 15 miles from Lihue, the main employment center and seat of government.

5. The subject property is owned in fee simple by the State of Hawaii, which has authorized the Petitioner to file the subject petition. The subject property is leased to Joseph Brun (General Lease No. S-3691) which lease terminated on March 26, 1982. Petitioner proposes to acquire the subject property from the State of Hawaii through either a land exchange or by means of an agreement of sale.

6. The subject property consists of relatively flat land with slopes of less than 10%.

7. The subject property is currently being used for pasture and grazing.

8. The subject property lies outside of the 100-year flood zone and is not subject to localized flooding, tsunami or unstable soil conditions.

9. The United States Department of Agriculture Soil Conservation Service classifies the soil on the subject property as Wt, or Waikomo very rocky silty clay. This series of soil consists of well drained, stony and rocky soils located on the uplands of Kauai, on gently sloping lands between sea level and 360 feet elevation. It has a capability grouping of VIs, which soils are generally unsuitable for cultivation, and the use of which is limited to pasture or range, woodland, or wildlife habitats. The soils are very stony, very rocky, extremely stony, or extremely rocky. Permeability is moderate, runoff is slow, erosion hazard is slight. This type of soil is severely limited for use as a septic tank filter field since the bedrock is at a depth of less than twenty inches.

10. The Land Study Bureau's "Detailed Land Classification for the Island of Kauai" rates the productivity of the soil located on the subject property as E84, with the E-class soils recognized as the lowest productivity rating. This study further identifies the soil as not suited for machine tillability, and as well drained with a median annual rainfall of 20-40 inches.

PROPOSAL FOR DEVELOPMENT

11. The Petitioner proposes to subdivide the subject property into approximately 375 lots, averaging approximately 6,700 square feet, for sale in fee simple to qualified low and moderate income purchasers. The Petitioner will develop subject property in approximately three or four phases over a period of five years. In addition to developing fully-improved single-family-residential lots, the Petitioner may develop house-and-lot packages or rental units under the federal Housing and Urban Development Section 8 Program.

12. Petitioner intends to market these lots to families who earn between 80% and 125% of the median income for the area; therefore, the target group will consist of families earning between \$18,960 and \$35,728 annually regardless of family size. Approximately 28% (or 4,150) of households on Kauai are in the projected target group.

13. Petitioner will sell all lots subject to such deed restrictions and other measures as Petitioner deems necessary to minimize speculation and insure that prospective purchasers are qualified low and moderate income residents.

14. Petitioner intends to finance the proposed development utilizing approximately \$4,000,000 contained within Petitioner's Revolving Housing Fund. The Revolving Housing Fund is comprised of \$2,000,000 from an August, 1980 bond issue and \$2,000,000 from an assessment upon the Moana Corporation imposed by the County as a condition of zoning changes and subdivision approval, and ratified by the Land Use Commission in Docket No. A76-418. In addition, Petitioner may utilize trust funds contributed to the Petitioner by developers of other projects within the County of Kauai pursuant to specified zoning ordinances.

STATE AND COUNTY PLANS

15. The existing State Land Use classification for the subject property is "Agricultural" as shown on State Land Use District Boundary Map K-8 (Koloa). The existing County of Kauai General Plan and Zoning designations are "Open."

16. The subject property is situated north of the Weliweli Houselots Subdivision and the proposed nine-acre Weliweli Park, both located within the State Land Use "Urban" District, designated "Single-Family Residential" in the County's General Plan, and zoned "Residential District (R-4)." The subject property is bounded on the east by five parcels of land in the State Land Use "Agricultural" District, designated "Agriculture" in the

County's General Plan, and zoned "Open"; and on the west by other lands in the State Land Use "Agricultural" District, designated "Open" in the County's General Plan, and also zoned "Open."

17. The subject property is not located within the County's Special Management Area.

NEED FOR GROWTH AND DEVELOPMENT

18. Since 1970, a 30% increase in the Kauai resident population has sharply increased the demand for housing on Kauai. Although Kauai's housing inventory has increased from 9,021 units in 1970 to 14,828 units in 1980, or 64%, a significant proportion of the inventory (+4,500 units) has been built for resort or vacation use rather than owner-occupant housing. Owner-occupant housing on Kauai represents only 45% of the total housing inventory.

19. Petitioner's "Need Analysis for Weliweli Housing Project, County of Kauai" demonstrates that there exists a demand for the type of low and moderate income housing being proposed in the subject petition. The Petitioner's Public Housing Agency has completed the following similar projects in the last 10 years.

<u>Project Name</u>	<u>Project Proposal</u>	<u>No. of Applicants</u>
Kapaa Meadows	50 units	310
Puu Kaa Subdivision	25 units	225
Kekaha Hale	49 units	150
Kawaihau Estates	18 lots	70
Brydeswood Terrace	109 units	372

Based upon available supply and demand data and applying such data to the group of residents being targeted in the subject petition, Petitioner has determined that the target group will consist of families earning between 80% and 125% of the median income for the area, or approximately \$18,960 to \$35,728 annually which group constitutes approximately 28% (4,150) of the total number of households on Kauai.

20. The Department of Planning and Economic Development

predicts that Kauai's demand for residential housing will increase over the next ten years by 2.7% per annum. A significant portion of the demand is comprised of low- to moderate-income families who desire affordable housing in close proximity to major employment centers such as the Poipu resort area. In this regard, the proposed residential subdivision would provide residential lots upon which part of the demand could be met, particularly for single-family homes. The Petitioner proposes to sell the proposed lots at approximately \$35,000, compared to similar lots in the Poipu region which currently command prices in excess of \$100,000.

IMPACTS ON RESOURCES OF THE AREA

Agricultural Resources

21. The subject property is not classified under the Agricultural Lands of Importance to the State of Hawaii (ALISH) classification system. Development of the proposed project would remove subject property from its present use as grazing land.

22. McBryde Sugar Company, Limited cultivates sugar on adjacent lands situated to the east of the subject property. The development of a residential subdivision in near proximity to these cane fields may pose nuisance problems for both uses. The State Departments of Health and Agriculture have indicated that prospective lot purchasers should be made aware of the smoke, dust, pesticides and noise emanating from the adjacent sugar operations. The Department of Agriculture has further suggested that a buffer zone be provided between the proposed development and adjacent cane lands, to mitigate any adverse environmental effects between the two uses.

23. McBryde Sugar Company, Limited, has suggested that a statement of warning of hazards from cane cultivation be included in all of the deeds for lots in the proposed development.

Archaeological and Historic Resources

24. The Historic Sites Program of the Department of Land and Natural Resources has confirmed that the general area in which the subject property is located is known to contain large numbers of archaeological sites, and has recommended that an intensive archaeological survey be done on the subject property.

25. Petitioner has employed a qualified archaeologist, who recommended that a portion of the existing railroad causeway located on the subject property be stabilized and restored. Petitioner will preserve or salvage any sites of significant archaeological value.

ADEQUACY OF PUBLIC SERVICES AND FACILITIES

Police and Fire Protection

26. Police from the Waimea Substation patrol the Koloa-Poipu area in which the subject property is located. Fire protection services are available from Koloa Town, located approximately 3 miles from the subject property.

Schools

27. The State Department of Education estimates the proposed development will generate the following student enrollment:

<u>School</u>	<u>Grade</u>	<u>Approximate Student Enrollment</u>
Koloa Elementary-Intermediate	K-8	100 - 200
Kauai High School	9-12	40 - 80

The Department of Education notes that Koloa Elementary-Intermediate School is presently operating at capacity. Classroom space for 95 students will be available subject to the completion of the renovation of the former Kauai Community College facilities and the transfer of the 7th and 8th grade students to Kauai High

School. The renovation is expected to be completed by early 1983. To accommodate the balance of the anticipated student enrollment, portable classrooms will be relocated to Koloa. Kauai High School has sufficient classroom facilities to accommodate the projected student enrollment from this development.

Recreational Facilities

28. Petitioner is in the process of developing a nine-acre park located immediately to the south of the subject property and abutting the existing Weliweli Subdivision.

Utility Services

29. A 12-kv electrical line that runs along the western boundary of the subject property will provide adequate electricity for the proposed development. Telephone service is also available to the site.

Water

30. Due to the length of the subject property and its varying elevations, the Mauka (northern) portion of the proposed development will be served by the Koloa Water System and the lower Makai portion of the site will be served by the Poipu Water System. The County Department of Water Supply notes that source and storage facilities of both systems are adequate to service the proposed development. The transmission facilities for the Makai portion of the project are also adequate; but, for the Mauka portion, the transmission mainline which runs through Koloa Town may deliver water at only 30 pounds per square inch of pressure to approximately 5 percent of the project area. The Petitioner will expand the mainline capacity as necessary to provide the Department of Water Supply's recommended minimum standard 35 pounds per square inch of pressure for all of the Mauka portion of the proposed development.

Sewage Treatment and Disposal

31. Petitioner intends to service the development with cesspools. The Department of Health of the State of Hawaii has indicated that cesspools are an appropriate means of sewage disposal under the existing rules and regulations of the Department of Health.

Roadway and Highway Services and Facilities

32. The Petitioner proposes to provide access to the proposed subdivision under one of three alternatives: (1) from the present Weliweli Houselots Subdivision which lies to the south; (2) from Weliweli Road which lies to the north of the site, which alternative would require the purchase and development of approximately 500 linear feet of roadway between Weliweli Road and the northern tip of the property; or (3) from the south, off of Poipu Road, which alternative would utilize the roadway easement of the Weliweli Houselots Subdivision.

33. Petitioner has determined that the maximum carrying capacity of the major thoroughfare, Poipu Road, which would service the proposed development is approximately 2,000 vehicles per hour under ideal conditions. Petitioner estimates that the peak volume of traffic after completion of the development would approximate 1,500 vehicles per hour.

34. Petitioner has estimated that there may be occasions when the roads serving the proposed development will be operating at maximum capacity (at level of service "E") during the 3:00 p.m. to 5 p.m. peak hours when the proposed project is fully developed.

35. As part of the Development Plan for the Koloa-Poipu region, the County of Kauai has proposed the construction of a new roadway from an intersection with Poipu Road northerly along the eastern boundary of the subject property. This Koloa by-pass road would relieve traffic in the area and provide a buffer from sugar cane lands to the east.

Drainage

36. The subject property is situated in an area of minimal flooding of Zone C designation according to the Flood Insurance Study for the Island of Kauai prepared by the Federal Insurance Administration. Development of the subject property will not greatly impact the existing drainage pattern. Water run-off from the development can be accommodated by constructing an underground culvert system or by utilizing open swales which would link to the existing drainage diversion channels located on the adjacent Moana Corporation lands. These channels would direct the runoff in a westerly direction to Waikomo Stream, rather than directly south to the flood-prone areas along the old Poipu Beach Road.

SCATTERIZATION OR CONTIGUITY OF DEVELOPMENT

37. The proposed project site abuts the Weliweli Houselots Subdivision, in the Urban District to the south. The subject residential project may thus be viewed as an extension of the residential use and urban level of public services established in the Weliweli Houselots Subdivision. The subject property is in near proximity to the Urban areas of Koloa and Poipu which also are the trading and employment centers for the region.

COMPLIANCE WITH STANDARDS FOR DETERMINING DISTRICT BOUNDARIES

38. Based upon the foregoing facts, reclassification of the subject property for development of low and moderate income housing is reasonably necessary to accommodate desired urban growth and development in the Koloa-Poipu area. The project will contribute to the availability of a balanced housing supply in the region.

39. Petitioner has the financial and development capability to undertake the proposed project.

40. The proposed development will not have significant adverse effects upon agricultural, natural, environmental, recreational, scenic, historic, or other resources of the area.

RULING ON PROPOSED FINDINGS

Any of the proposed findings of fact submitted by Petitioner, or any other party to this proceeding, not included 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, as amended, and the Rules of Practice and Procedure and District Regulations of the Land Use Commission, State of Hawaii, the Commission finds that the proposed boundary amendment conforms to the standards and guidelines established for the Urban District by the State Land Use District Regulations, is reasonable, is not violative of Section 205-2, Hawaii Revised Statutes, as amended, and is consistent with the Hawaii State Plan, as set forth in Chapter 226, HRS, as amended.


DECISION AND ORDER

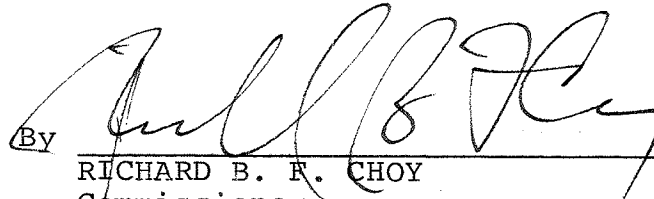
IT IS HEREBY ORDERED that the property which is the subject of the petition of the County of Kauai in Docket Number 81-515, consisting of approximately 66.1 acres of land situated at Weliweli, Koloa, Island and County of Kauai, State of Hawaii, more particularly identified as Tax Map Key 2-8-22: 06, shall be and hereby is reclassified from the Agricultural District to the Urban District, and the Land Use District Boundaries are hereby amended accordingly.

Done at Honolulu, Hawaii this 27th day of May, 1982,
per motion on April 22, 1982.


LAND USE COMMISSION
STATE OF HAWAII


By 
WILLIAM W. L. YUEN
Chairman and Commissioner

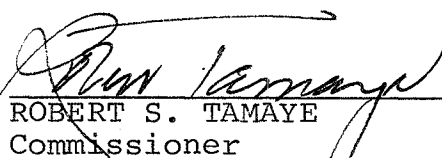
By 
CAROL B. WHITESELL
Vice Chairman and Commissioner

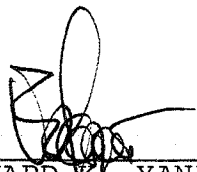
By 
RICHARD B. F. CHOY
Commissioner

By 
EVERETT L. CUSKADEN
Commissioner

By 
SHINSEI MIYASATO
Commissioner

By 
TEOFILO PHIL TACBIAN
Commissioner

By 
ROBERT S. TAMAYE
Commissioner

By 
EDWARD K. YANAI
Commissioner

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of the)
)
COUNTY OF KAUAI) DOCKET NO. A81-515
)
To Amend the Agricultural Land Use District)
Boundary to Reclassify Approximately 66.1)
Acres, TMK: 2-8-22: Parcel 6, at Weliweli,)
Island and County of Kauai into the Urban)
Land Use District)
)
_____)

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

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

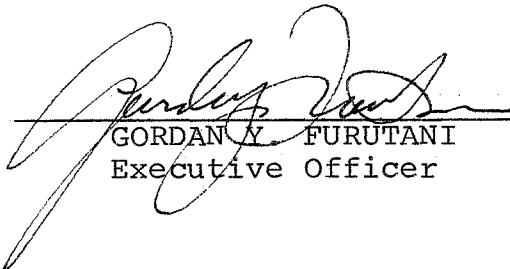
BRIAN NISHIMOTO, Planning Director
Kauai County Planning Department
4280 Rice Street
Lihue, Hawaii 96766

MORRIS SHINSATO, County Attorney
Office of the County Attorney
County of Kauai
4396 Rice Street
Lihue, Hawaii 96766

HONORABLE EDUARDO E. MALAPIT
MAYOR
County of Kauai
4396 Rice Street
Lihue, Hawaii 96766

EUGENE K. JIMENEZ, Housing Administrator
Public Housing Agency
Lihue Shopping Center
4444 Rice Street
Lihue, Hawaii 96766

DATED: Honolulu, Hawaii this 18th day of June, 1982.



GORDAN Y. FURUTANI
Executive Officer