

BEFORE THE LAND USE COMMISSION  
OF THE STATE OF HAWAII

In the Matter of the Petition of )  
 )  
WAIALEALE PARTNERS, a Hawaii Limited ) DOCKET NO. A81-519  
Partnership )  
 )  
To Amend the State Land Use District )  
Boundary by Reclassifying Approximately )  
52 acres, TMK 4-6-13: Portion 1, at )  
Kapaa, Island and County of Kauai, State )  
of Hawaii, from the Agricultural District )  
into the Urban District )  
 )  

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DECISION AND ORDER

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To Amend the State Land Use District	)	FINDINGS OF FACT,
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FINDINGS OF FACT, CONCLUSIONS OF LAW,  
DECISION AND ORDER

The above-captioned land use boundary amendment proceeding was initiated by the petition of WAIALEALE PARTNERS, a Hawaii Limited Partnership (hereinafter "Petitioner"), 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 (hereinafter referred to as the "subject property") situated at Kapaa, Island and County of Kauai, State of Hawaii from the Agricultural to the Urban Land Use District, and the Commission, having heard and examined the testimony and evidence presented during the hearing held on January 15, 1982, in Lihue, Kauai, Hawaii, hereby makes the following findings of fact and conclusions of law.

FINDINGS OF FACT

PROCEDURAL MATTERS

1. The Petitioner filed its petition on October 13, 1981 to amend the State Land Use Agricultural District boundary at Stason Tract, Kapaa Homesteads, Kawaihau, Island and County of Kauai, State of Hawaii, to reclassify approximately 52.5 acres into the Urban District.

2. The Land Use Commission conducted a hearing on

this petition on January 15, 1982 at the State Building, 3060 Eiwa Street, Lihue, Kauai, pursuant to public notice published in the Honolulu Advertiser and the Garden Island on November 30, 1981.

3. The Commission received no petitions for intervention.

4. Betty M. Odo of Odo Farms, Inc. filed a timely request to appear as a public witness on November 30, 1981 and an untimely request to appear as a public witness was received from Elizabeth Ann Stone and children on January 7, 1982.

The Commission accepted testimonies of both witnesses.

#### OWNERSHIP AND DESCRIPTION OF THE SUBJECT PROPERTY

5. Joseph D. Stason, Dorothy M. Milles and Mildred H. Sample are present fee simple owners of the subject property. Petitioner has an option to purchase the subject property and has received authorization from the fee simple owners to apply for a State Land Use District reclassification. Petitioner is a Hawaii limited partnership comprised of 25 partners, four being general partners and 21 being limited partners. Each partner must contribute \$57,700 to the partnership for a total of \$1,442,500.

6. The subject property consists of approximately 52.50 acres and is identified as Kauai Tax Map Key 4-6-13: Portion 1. The property abuts a row of residential dwellings situated along Kawaihau Road to the north. Lands to the northwest are also in residential use. Pasture land and scattered single-family dwellings are situated to the south and east of the site.

7. The subject property is located at Kapaa, Island of Kauai and County of Kauai, State of Hawaii, and approximately two miles west of the Kapaa urban business district and east of the old pineapple cannery at Kapaa.

8. The subject property consists of a gently sloping

plateau which drops into a valley which cuts through the property in a northwesterly to southeasterly direction. The slopes range from 2% to 75%. The property is approximately 200 feet above sea level.

9. The University of Hawaii Land Study Bureau (Detailed Land Classification Study of Kauai 1967) classifies most of the soils on the property with an overall productivity rating of "C" or "Fair." The gully area is classified as "C" (Fair), "D" (Poor) and "E" (Very Poor) for overall agricultural suitability.

10. The U.S. Department of Agriculture Soil Conservation Service Soil Study, 1972, classifies the soils in the area as being of the Puhi Series Pn B (Puhi silty clay loam, 3-8% slopes) and Pn D (Puhi silty clay loam, 15-25% slopes).

11. The State of Hawaii Department of Agriculture's Agricultural Lands of Importance to the State of Hawaii (ALISH) classification system classifies more than one-half of the subject property as "Prime" and "other important agricultural land."

12. The subject site is situated in an area of minimal flooding designated as Zone C according to the Federal Insurance Administration's preliminary Flood Insurance Study for the Island of Kauai.

#### PROPOSAL FOR DEVELOPMENT

13. The Petitioner proposes to subdivide the subject property into single-family residential house lots ranging in size from 5,000 square feet to 45,000 square feet. The mean and median size of these house lots are 7,500 and 6,000 square feet, respectively. Approximately 250 lots will be developed.

14. The Petitioner proposes to develop the project in three increments: The first increment to be completed in 1985; second increment to be completed in 1986; and the final increment to be completed in 1987.

STATE AND COUNTY PLANS

15. The subject property is situated within the State Land Use Agricultural District as reflected on Land Use Commission District Boundary Map K-10 (Kapaa). The subject property is adjacent to the Urban District on its north, west, and east boundaries while adjacent lands to the south are designated Agricultural.

16. The subject property is designated Residential by the Kauai General Plan.

17. The current County Zoning designation of the subject property is Agricultural.

18. The subject property is not situated in the County's Special Management Area.

NEED FOR GROWTH AND DEVELOPMENT

19. The Petitioner estimates that the resident needs for Kauai for the ten-year period 1980 through 1990, will be approximately 7,300 new units, or approximately 730 units per year. This figure comprises the total of: (1) the number of new households expected to be added to the population; (2) the number of units necessary for replacement of housing; (3) the number of units necessary to create a comfortable vacancy margin and (4) the number of units supported by existing pent-up demand of existing Kauai residents for 1,242 additional residential units. This pent-up demand is created by the rapid increase in Kauai's population, the insufficient supply of new subdivision lots developed for sale to Kauai residents, and the fact that construction of single-family homes on the existing inventory of houselots were occurring faster than the development of new lots for single-family residences.

20. There is a critical demand for housing for those residents whose income exceeds the subsidized housing income limits but whose income cannot qualify them for an average priced home in Kauai (being \$163,400). These residents comprise the target group for this proposed project.

## IMPACT UPON RESOURCES OF THE AREA

### Agricultural

21. Portions of the subject property are suited for agricultural use. Prior to 1973, portions have been used for cultivation of pineapple. Since then, the owner has used approximately 30% of the site for the cultivation of bananas and vegetables.

22. Although the ALISH classification system designates more than half of the land as suitable for agricultural purposes, the highest soil productivity rating assigned to the subject property by the Land Study Bureau is "C" or Fair.

23. The extensive and efficient use of the subject property for agricultural activities is limited by a valley which bisects the property into two parcels that are too small for effective use of large scale farm machinery and practice.

24. The site is bounded on three sides by residential properties. Continued use of the subject property for agricultural activities including the use of farm machinery, insecticides, fungicides and other chemicals is inappropriate and incompatible with the nearby urban areas.

### Flora and Fauna

25. There are no rare or endangered species of flora or fauna known to exist on or in the immediate vicinity of the subject property.

### Historic/Archaeological Resources

26. The subject property is neither included on historic properties listed on the Hawaii Register or the National Register of Historic places, nor has it been determined eligible for inclusion on the National Register of Historic places. Archaeological Research Center Hawaii, Inc. found no archaeological resources on the subject property.

### Other Resources

27. There are no significant adverse impacts of the proposed project on environmental, recreational or scenic resources.

### ADEQUACY OF PUBLIC SERVICES AND FACILITIES

#### Firefighting Services

28. County provides fire protection services from the Kapaa-Wailua Fire Station located approximately three miles east of the subject property.

#### Police Service

29. County provides police service to the area from the Lihue Police Station located approximately 16 miles from the subject property.

#### Electrical and Telephone Services

30. Kauai Electric and Hawaiian Telephone provide electrical and telephone services from lines along Kawaihau Road.

#### Water

31. The County's one million gallon storage tank, located approximately two miles west of the site, and a 12-inch transmission line along Kawaihau Road are presently adequate to serve the proposed project. Water from three high-level tunnels and four deep wells, the source of water for the Kapaa-Wailua area, is presently being used at capacity. The State is presently drilling and testing a new Makaleha well. Additional funds are available for the subsequent construction of water pumps and ancillary transmission facilities.

#### Sewage Treatment and Disposal Services

32. The proposed development will utilize cesspools. There is no existing wastewater treatment facility in Kapaa.

Solid Waste

33. The County of Kauai will provide refuse collection.

Roadways and Highway Services

34. Kawaihau Road, a public road which connects to Kuhio Highway, affords access to the subject property. The subject property also fronts Laipo Road to the east. Laipo Road connects to Kawaihau Road near the subject property and with Hauaala Road further to the southwest. Development of the proposed 250 lots will generate an estimated additional 250 vehicle trips during the peak hours and an additional 2,500 vehicle trips per day. Kawaihau Road can adequately accommodate the additional traffic generated by the development.

Drainage

35. Surface runoff from the subject property will be designed to conform to the existing drainage pattern. The improvements will be designed in accordance with the requirements of the Kauai County Department of Public Works.

Schools

36. Kapaa Elementary School and Kapaa Intermediate and High School, which serve the project area, are situated approximately one mile from the subject site. The development of the proposed project will not adversely impact the capacity of said schools.

PREFERENCES FOR DEVELOPMENT

37. The proposed project will provide housing which is close and accessible to existing employment centers on Kauai, and also assist in providing a balanced housing supply. The Petitioner proposes to market house-and-lot packages primarily to Kauai residents who earn too much income to qualify for



subsidized housing but not enough to qualify for an average-price lot and house on Kauai. In partial satisfaction of this commitment, the Petitioner has agreed, as a condition of the Commission's approval of this reclassification, to sell ten percent (10%) of the lots to be developed upon the subject property to the County of Kauai at cost for the development by the County's Housing Agency; or, as an alternative, to offer on a preferential basis, ten percent (10%) of the lots or house-and-lot packages to be developed on the subject property for sale to low or moderate income purchasers at prices not exceeding those that enable such purchasers to qualify for and obtain State-assisted financing (e.g., Hula Mae) or federally-assisted (e.g., FHA 245) financing.

#### COMPLIANCE WITH STANDARDS FOR DETERMINING DISTRICT BOUNDARIES

38. Reclassification of the subject property is reasonably necessary to accommodate urban growth and development projected for the Kapaa-Kawaihau area over the next ten years.

39. The subject property is contiguous to the existing urban district, and will not contribute to scattered spot urban development. Maximum use shall be made of existing services and facilities. Basic public services such as water, sanitation, schools, parks, and police and fire protection are now available, or will be made available prior to completion of the project.

40. The subject lands have satisfactory soils, topography, and drainage for residential development, and is reasonably free from the dangers of floods, tsunami, unstable soil conditions, and other adverse environmental effects.

41. The subject property is close to centers of trading and employment at Kapaa and Lihue.

42. Reclassification of the subject property for urban use will have no significant adverse effects upon agricultural, natural, environmental, recreational, scenic, historic, or other

resources of the area.

43. The proposed district boundary amendment is in conformity with the Kauai County General Plan designation for 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 Waialeale Partners in this Docket Number A81-519, consisting of approximately 52 acres of land situated at Stason Tract, Kapaa Homesteads, Kawaihau, Island and County of Kauai, State of Hawaii, and being also identified as a portion of Kauai Tax Map Key 4-6-13: 01, shall be and is hereby reclassified from the Agricultural District to the Urban District, and the Land Use District Boundaries are amended accordingly, subject, however, to the following condition:


That the Petitioner shall offer for sale to the County of Kauai ten percent (10%) of the developed lots at cost for development by the County's Housing Agency; or, in the alternative, shall offer for sale, on a preferential basis, on its own or in cooperation with either or both the Hawaii Housing Authority or the County of Kauai, ten percent (10%) of the lots or houses-and-lots to be developed on the subject property, to residents of the State of Hawaii of low and moderate family income as determined by the Hawaii Housing Authority or County of Kauai from time to time. The preferential lots or houses-and-lots shall be offered for sale at prices not exceeding that which enables such purchasers to qualify for and obtain state-assisted financing (e.g., Act 105 or Hula Mae) or federally-insured or assisted financing (e.g., FHA or FmHA programs) intended to encourage home ownership by low and moderate income families. This condition may be fully or partially released by the Commission as to all or any portion of the subject property upon timely motion and provision of adequate assurance of satisfaction of this condition by the Petitioner.

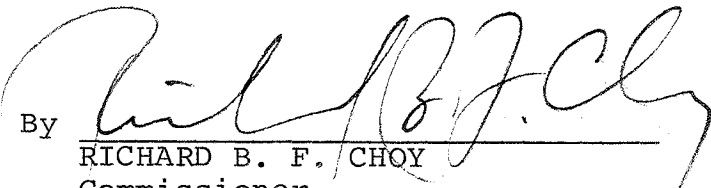
DOCKET NO. A81-519 - WAIALEALE PARTNERS, a Hawaii Limited Partnership

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

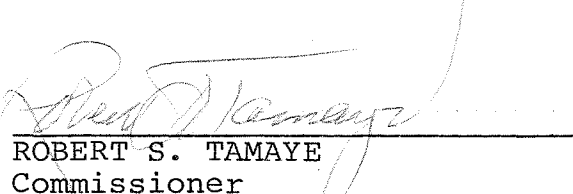
By   
CAROL B. WHITESELL  
Vice Chairman and Commissioner

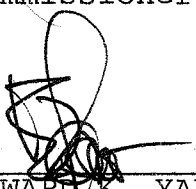
By   
RICHARD B. F. CHOY  
Commissioner

By   
EVERETT L. CUSKADEN  
Commissioner

By   
SHINSEI MIYASATO  
Commissioner

By   
TEOFILO PHIL TACBIAN  
Commissioner

By   
ROBERT S. TAMAYE  
Commissioner

By   
EDWARD K. YANAI  
Commissioner

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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 and 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

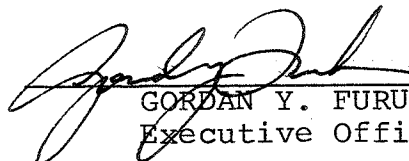
BRIAN NISHIMOTO, Planning Director  
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10th Floor, 915 Fort Street  
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RICHARD S. TAGAWA  
926 Bethel Street  
Honolulu, Hawaii 96813

DATED: Honolulu, Hawaii this 12th day of July, 1982.

  
\_\_\_\_\_  
GORDAN Y. FURUTANI  
Executive Officer