

BEFORE THE LAND USE COMMISSION

OF THE STATE OF HAWAII

In the Matter of the Petition of)	DOCKET NO. A81-522
)	
JEFFREY CHOI and KATHLEEN T. CHOI)	JEFFREY CHOI and
)	KATHLEEN T. CHOI
To Amend the Agricultural Land Use)	
District Boundary to Reclassify)	
Approximately 1.00 Acre, TMK:)	
2-3-39:39, at Hilo, Island and)	
County of Hawaii, into the Urban)	
Land Use District)	
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DECISION AND ORDER

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JEFFREY CHOI and KATHLEEN T. CHOI)	
To Amend the Agricultural Land Use)	JEFFREY CHOI and
District Boundary to Reclassify)	KATHLEEN T. CHOI
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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 Jeffrey and Kathleen T. Choi who are requesting that the designation of the subject property be amended from the Agricultural to the Urban District. The requested change consists of property comprising approximately 1.00 acre of land, situated at Hilo, Island and County of Hawaii. The subject property is more particularly identified as Tax Map Key No. 2-3-39:39.

PURPOSE OF PETITION

Petitioners' stated purpose for requesting the reclassification of the subject property from Agricultural to Urban is so that Petitioners can subdivide the subject property into approximately four (4) 10,000 square foot sized residential lots, three of which will be sold for \$25,000 to \$30,000 per lot and one of which the Petitioners may retain.

THE PROCEDURAL HISTORY

The Petition was received by the Land Use Commission on November 27, 1981. Due notice of the hearing on this Petition was published on February 10, 1982, in the Hawaii Tribune-Herald and the Honolulu Advertiser. Notice of the hearing was also sent by certified mail to all parties involved herein on February 9, 1982. No timely application to intervene as a party or appear as a witness was received by the Land Use Commission.

THE HEARING

The hearing on this Petition was held on March 17, 1982, in Hilo, Hawaii.

Jeffrey and Kathleen T. Choi, the Petitioners herein, were represented by themselves; the County of Hawaii was represented by County Planner, Norman Hayashi; and the Department of Planning and Economic Development was represented by Esther Ueda.

The witnesses presented by the aforementioned parties were as follows:

Petitioner:

Jeffrey Choi

County of Hawaii:

Norman Hayashi - County Planner

Department of Planning and Economic Development:

Esther Ueda - Land Use Division Planner

POSITION OF THE PARTIES

County of Hawaii - Approval.

Department of Planning and Economic Development - Approval.

APPLICABLE REGULATION

Standards for determining the establishment of an Urban District are found under Part II, Section 2-2(1) of the State Land Use Commission's District Regulations. Said regulation provides in pertinent part that:

- (1) "U" Urban District. In determining the boundaries for the "U" Urban District, the following standards shall be used:
 - (a) It shall include lands characterized by "city-like" concentrations of people, structures, streets, urban level of services and other related land uses.
 - (b) It shall take into consideration the following factors:
 1. Proximity to centers of trading and employment facilities except where the development would generate new centers of trading and employment.
 2. Substantiation of economic feasibility by the petitioner.
 3. Proximity to basic services such as sewers, water, sanitation, schools, parks, and police and fire protection.
 4. Sufficient reserve areas for urban growth in appropriate locations based on a ten (10) year projection.
 - (c) Lands included shall be those with satisfactory topography and drainage and reasonably free from the danger of floods, tsunami and unstable soil conditions and other adverse environmental effects.
 - (d) In determining urban growth for the next ten years, or in amending the boundary, lands contiguous with existing urban areas shall be given more consideration than non-contiguous lands, and particularly when indicated for future urban use on State or County General Plans.
 - (e) It shall include lands in appropriate locations for new urban concentrations and shall give consideration to areas of urban growth as shown on the State and County General Plans.

- (f) Lands which do not conform to the above standards may be included within this District:
 - 1. When surrounded by or adjacent to existing urban development; and
 - 2. Only when such lands represent a minor portion of this District.
- (g) It shall not include lands, the urbanization of which will contribute towards scattered spot urban development, necessitating unreasonable investment in public supportive services.
- (h) It may include lands with a general slope of 20% or more which do not provide open space amenities and/or scenic values if the Commission finds that such lands are desirable and suitable for urban purposes and that official design and construction controls are adequate to protect the public health, welfare and safety, and the public's interests in the aesthetic quality of the landscape.

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 Petitioners are the purchasers of the subject property under an Agreement of Sale with the fee owners. The fee owners have consented to the filing of the subject Petition. The subject property is located at Hilo, Island and County of Hawaii, and consists of approximately 1.00 acre, more particularly described as Tax Map Key No. 2-3-39:39. The subject property is located along the north-east or makai side of Wiliwili Street, across from the Crescent City Heights Subdivision, approximately 1.5 miles mauka (west) of downtown Hilo. Lands surrounding the subject

property consist of single-family residential type uses, and include the Crescent City Heights and the Kaumana Garden Subdivisions. Although the subject property was once used for sugarcane production, at present it is vacant and undeveloped. Vegetation on the one-acre parcel consists primarily of california grass.

2. As reflected on the Land Use District Boundary Map H-66 (Hilo), the subject property is located within the State Land Use Agricultural District. The subject property is one of three one-acre parcels which form a pocket of Agricultural District lands within the Urban District. During its July 8, 1982, meeting, the Land Use Commission approved similar reclassification requests for the other two one-acre parcels (Docket No. A81-521/Lopez and Docket No. A81-510/Chun). Lands adjacent to, and to the east of the subject property were part of a previous petition before the State Land Use Commission (LUC Docket No. A79-462) filed by the Komohana Investors, Inc., for the reclassification of approximately 212 acres from Agricultural to the Urban District for a residential subdivision. This petition was approved by the Land Use Commission on June 3, 1980.

3. The subject property is designated for Medium Density Urban Development on the Land Use Pattern Allocation Guide Map (LUPAG Map) component of the County of Hawaii General Plan. Such a designation allows for single-family residential uses at a maximum density of 5.8 units per acre. Although the County zoning of the subject property is Agricultural 1-acre (A-1a), the Hilo Community Development Plan Zone Guide Map suggests that the subject property be rezoned to Single Family Residential-10,000 square foot (RS-10)

zoned district. The subject property does not lie within the Special Management Area (SMA).

4. The elevation of the subject property running in a makai-mauka direction, ranges from 342 to 356 feet. The average slope of the subject property is about 4%. The subject area receives about 90 to 150 inches of rainfall annually. According to the Flood Insurance Study for the Island of Hawaii, prepared by the Federal Insurance Administration, the subject property is situated in an area of minimal flooding.

5. The soils of the subject property have been classified as Hilo Silty Clay Loam, 0 to 10 percent slopes (HoC) by the U.S.D.A. Soil Conservation Service, Soil Survey.

Hilo Silty Clay Loam, 0 to 10 percent slopes (HoC) has a very strongly acid surface layer consisting of dark brown silty clay loam about 12 inches thick. The sub-soil is strongly acid to medium acid and consists of dark-brown, dark reddish-brown, and very dark grayish-brown silty clay loam about 48 inches thick. Permeability is rapid, runoff is slow, and the erosion hazard is slight. This soil is used mostly for sugarcane. Small areas are used in truck crops, orchards, and pasture.

6. According to the State Department of Agriculture's Land of Importance to the State of Hawaii (ALISH) classification system, the subject property is classified "Prime Agricultural Land." Although the subject property and surrounding lands were formerly used for sugarcane production, since 1972, the subject property has not been used for agricultural purposes. The lands surrounding the subject property too, are no longer being used for agricultural

purposes. The surrounding Urban designated lands are either being used for single-family residences or are proposed to be developed for use as such. The Department of Agriculture has commented that it has no objection to the proposed reclassification.

7. There are no known archaeological or historic features on the subject property. There are no rare or endangered flora or fauna on the subject property.

8. The Petitioners are requesting the Urban reclassification so that they can subdivide the subject property into approximately four (4) 10,000 square foot sized residential lots, three (3) of which will be sold for \$25,000 to \$30,000 per lot and one (1) which the Petitioners may retain. The Petitioners have submitted information regarding their financial status which indicates net equity status in various investments, businesses and real property totaling approximately \$115,000 and gross per annum income of approximately \$82,000. Petitioners list unsecured liabilities at \$10,000.

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

a. Access - The primary access to the subject property will be from Wiliwili Street, which is a County road. The right-of-way width of Wiliwili Street varies between thirty (30) and fifty (50) feet. Approximately 640 feet of the roadway from Kaumana Drive has a right-of-way width of thirty (30) feet. The right-of-way width then increases to forty-five (45) feet for a distance of about

360 feet. The right-of-way width fronting the subject property increases to fifty (50) feet. The reason for the varied widths is due to improvements required for subdivisions created along this roadway. The pavement width of Wiliwili Street from Kaumana Drive to the subject property is about 17± feet. Improvements within this roadway fronting the subject property include a 26-foot wide pavement and curb, gutter, and sidewalk on the mauka or opposite side. The shoulder of the roadway fronting the subject property is a 6-foot wide, oil-treated surface.

b. Schools - The Department of Education has indicated that the proposed development will have a negligible impact on student enrollment and had no objections to the subject petition.

c. Sewage - Since there is no public sewer system in the area, Petitioner Jeffrey Choi has represented that he intends to use cesspools to dispose of sewage.

d. Water - Water for the proposed development is available from a 6-inch waterline along Wiliwili Street. The Department of Water Supply has approved a water commitment for the proposed development until December 31, 1982.

e. Sanitation - As there is no governmental-operated pick up service for solid waste disposal, it will have to be disposed of by commercial refuse collectors or each individual household will have to dispose of its waste at an approved waste site.

f. Drainage - According to the draft Flood Insurance Rate Map prepared by the U.S. Department of Housing and Urban Development, Federal Insurance Administration, the subject property is not within the Flood Hazard Area.

The U.S.D.A., Soil Conservation Service stated that they do not anticipate any major flooding problems in this parcel from overland flows.

10. 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 Hawaii 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 1.00 acre of land, situated at Hilo, Island and County of Hawaii, from the Agricultural District to the Urban District 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. A81-522, consisting of approximately 1.00 acre, situated at Hilo, Island and County of Hawaii, identified as Tax Map Key No. 2-3-39:39, shall be and hereby is reclassified from the Agricultural District to the Urban District and the district boundaries are amended accordingly.

DONE at Honolulu, Hawaii, this 2nd day of
December , 1982, per Motion on September 24, 1982 and
December 2, 1982.

LAND USE COMMISSION
STATE OF HAWAII

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

By *Lawrence F. Chun*
LAWRENCE F. CHUN, Commissioner

By *Shinsei Miyasato*
SHINSEI MIYASATO, Commissioner

By *Winona E. Rubin*
WINONA E. RUBIN, Commissioner

By *T. Tacbian*
TEOFILO PHIL TACBIAN, Commissioner

By *Robert S. Tamaye*
ROBERT S. TAMAYE, Commissioner

By *Frederick P. Whittemore*
FREDERICK P. WHITTEMORE,
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 Richard Street
Honolulu, Hawaii 96813

SIDNEY FUKU, Planning Director
Planning Department
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25 Aupuni Street
Hilo, Hawaii 96720

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Office of the Corporation Counsel
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Hilo, Hawaii 96720

JEFFREY and KATHLEEN T. CHOI
68 Terrace Drive
Hilo, Hawaii 96720

DATED: Honolulu, Hawaii, this 3rd day of December, 1982.


GORDAN Y. FURUTANI
Executive Officer