

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of) DOCKET NO. A82-541
))
HIROSHI MATSUYAMA) HIROSHI MATSUYAMA
))
To Amend the Agricultural Land Use))
District Boundary to Reclassify))
Approximately 0.852 Acre, TMK:))
7-3-05:27, at Kalaoa, North Kona,))
Island of Hawaii, State of Hawaii,))
into the Urban Land Use District))

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 Hiroshi Matsuyama who is 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 0.852 acre of land, situated at Kalaoa, North Kona, Island of Hawaii, State of Hawaii. The subject property is more particularly described as Tax Map Key No. 7-3-05:27.

PURPOSE OF PETITION

Petitioner's stated purpose for requesting the reclassification of the subject property from Agricultural to Urban is that he can expand the current commercial use of the subject property by subdividing the existing 6,000 square foot building into leasable units to accommodate such

proposed uses as a post office, laundromat, barber shop, snack shop and other neighborhood commercial uses.

THE PROCEDURAL HISTORY

The Petition was received by the Land Use Commission on October 18, 1982. Due notice of the hearing on this Petition was published on February 4, 1983, 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 January 28, 1983. Written testimony was received by the Land Use Commission from Fred Y. Fujimoto, President of the Kona Heavens Association, Inc., on December 13, 1982. An application to appear as a witness was received by the Land Use Commission from Greg Mills on February 23, 1983.

THE HEARING

The hearing on this Petition was held on March 10, 1983, in Kailua-Kona, Hawaii.

Hiroshi Matsuyama, the Petitioner herein, was represented by Bert Matsuyama; the County of Hawaii was represented by Deputy Planning Director, Duane Kanuha; and the Department of Planning and Economic Development was represented by Daniel Yasui.

The witnesses presented by the aforementioned parties were as follows:

Public Witnesses:

Greg Mills

Roy Damron

Adam W. Boose

Rudy Nelson

Petitioner:

Hiroshi Matsuyama

County of Hawaii:

Duane Kanuha - Deputy Planning Director

Department of Planning and Economic Development:

Daniel Yasui - Staff Planner

POSITION OF THE PARTIES

County of Hawaii - Approval.

Department of Planning and Economic Development -
Approval.

APPLICABLE REGULATION

- (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 levels 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 State and County General Plans.
- (f) Lands which do not conform to the existing 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 subject property, owned in fee simple by Hiroshi Matsuyama, the Petitioner herein, is located at Kalaoa, North Kona, Island of Hawaii, State of Hawaii, and consists of approximately 0.852 acre, more particularly described as Tax Map Key No. 7-3-05:27. Located

approximately 4 miles east of the Keahole airport, the subject property is more specifically situated along the mauka (east) side of Hawaii Belt Road, approximately 500 feet south of the Kaimi Nani Drive intersection. Uses of the land surrounding the subject property include residential, grazing and vacant land. Lands mauka (east) of the subject property are used for single-family residential purposes, coffee growing and grazing or are vacant. Lands makai of the Hawaii Belt Road include various nonconforming residential subdivisions and small lot agricultural subdivisions. These include the Kona Palisades (782 lots), Kona Acres (200 lots), Kona Coastview (283 lots), Kona Hills Estates (36 lots) Kona Wonder View Lots (132 lots), and Kona Highlands Subdivisions (366 lots). Hawaii County Planning Department's December 1982 land use inventory indicated that there were approximately 845 single-family dwellings constructed or under construction within these subdivisions. In addition, there are other similar sized lots within the general area of the subject property which are also built up with single-family units.

2. The subject property currently comprises the site of the existing Matsuyama Food Mart complex which includes a general store and gas station. This two-building complex was developed pursuant to a Land Use Commission Special Use Permit (SP 78-305) granted on July 18, 1978. An amendment to the Special Use Permit approved by the Land Use Commission on December 16, 1980, permitted the construction of a second floor for a manager's area and storage area to the originally permitted single story building. In addition to the two-story store/manager's quarters structure and the

service station, there is currently a 33-stall parking lot which accommodates the store and gas station's patrons.

3. As reflected on the Land Use District Boundary Map H-7 (Kailua, Hawaii) the subject property is situated within the State Land Use Agricultural District. All lands surrounding the subject property have been designated Agricultural by the State Land Use Commission. The closest areas classified as Urban are located approximately 0.7 mile south of the subject property and include a 2-acre area reclassified from the Agricultural to the Urban District by the Land Use Commission in July, 1981, to allow Petitioner Marvin Roeder to develop a residential subdivision and a 213.5-acre area reclassified from the Agricultural to the Urban District by the Land Use Commission in January, 1983, to permit Y-O, Ltd. Partnership to develop a residential subdivision at Kaloko. These two areas are located west (makai) of the Mamalahoa Highway.

4. According to the Land Use Pattern Allocation Guide Map (LUPAG Map) component of the County of Hawaii General Plan, the subject property area is designated for Alternate Urban Expansion. This designation allows for alternate development patterns when:

- a. Designated urban areas become largely developed.
- b. Designated urban areas develop too slowly.
- c. Developers proposed to develop marginally acceptable areas and extend their own infrastructure.
- d. The potential for urbanization exists via non-conforming subdivision.
- e. New non-contiguous urban clusters may be desirable.
- f. The urban form of an area has not yet been determined.

The County of Hawaii zoning designation for the subject property is Agricultural 1-acre (A-1a). The subject property does not lie within the County of Hawaii's Special Management Area (SMA).

5. According to the U.S.D.A. Soil Conservation Service, Soil Survey, the soils of the subject property are classified as Kaimu extremely stony peat, 6 to 20 percent slopes (rKED). The Kaimu soils consist of well-drained, thin organic soils over Aa lava. These soils occur at elevations ranging from near sea level to 1,000 feet and receive an annual rainfall between 40 and 60 inches.

In a representative profile the surface layer is very dark brown extremely stony peat about 3 inches thick underlain by fragmented Aa lava. The permeability is rapid, runoff is slow and the erosion hazard is slight. This soil is not suitable for cultivation. Most of the soils are in native woodland and some areas are used for pasture and raising macadamia nuts and citrus fruits.

6. The subject property is not classified according to the Agricultural Lands of Importance to the State of Hawaii (ALISH) classification system. The Land Study Bureau's overall master productivity rating for agricultural use of the subject property is "D" or "Poor." Potential on-site agricultural uses on the subject property were curtailed by the granting of the Special Use Permit for the general store and service station complex. As there are no current agricultural uses occurring on the subject property, reclassification of the site is not expected to affect on-site agricultural resources. Agricultural activities in the vicinity of the subject property include

coffee and macadamia nut growing, and grazing which are located primarily to the north and south, along the mauka portion of Mamalahoa Highway. It is not expected that the proposed reclassification will affect the agricultural uses on these adjacent lands. Also, the Old Mamalahoa Highway serves as a physical barrier between the subject property and other mauka agricultural areas.

7. Before the subject property was improved, there were no known archaeological or historical features on the property. Also, there are no known rare or endangered species of flora or fauna on the subject property.

8. It is the Petitioner's intent to expand the current commercial use on the subject property. The existing store and service station were constructed under a State Special Use Permit granted by the Land Use Commission on July 18, 1978. Existing improvements on the subject site include a two-story, steel frame structure comprising approximately 6,000 square feet, housing the general store and manager's quarters, a service station operating from an adjacent 1,062-square foot structure, and 33 parking stalls for customers.

The uses the Petitioner has proposed for the subject property include a post office, laundromat, barber shop, snack shop, and other neighborhood-type commercial uses. These proposed uses, with the exception of the snack shop, will be located on the second floor of the the existing 6,000-square foot building. Of the 4,800 square feet of leasable floor space available on the second floor, the post office, barber shop and laundromat are expected to occupy approximately 600 square feet each, totaling 1,800

square feet. The approximately 3,000 square feet remaining will be made available for office rentals.

Site improvements the Petitioner has proposed include completion of the two-story building's second floor exterior shell, paving of the back parking lot, and minor additions to sewage, electrical and water amenities.

The Petitioner intends to manage the post office, laundromat, barber shop and snack shop and the remaining office space will be leased to prospective tenants at approximately \$1.00 per square foot. It is anticipated that the post office and office rentals will be operational and open to the public within one year of County rezoning approval.

The Petitioner has represented that Matsuyama Enterprise, Inc., a company comprised primarily of family members who are the development entity of the subject property, has the financial capability to undertake the expansion of the commercial use. Matsuyama Enterprise, Inc.'s, balance sheet, dated June 30, 1982, shows total assets of \$728,105, liabilities of \$599,291 and stockholders' equity of \$128,814.

9. The Petitioner has represented that the Kalaoa community has reached the stage where basic community services such as those being proposed (post office, laundromat, barber shop, snack shop, etc.) are urgently needed. Included in the Petition are tables and information indicating current population estimates of the Kalaoa community and the rapid expansion experienced over the past few years. According to the Petition, growth in the area has reached a point where the designation of an urban center is now appropriate. An Urban designation for the subject

property, the Petitioner believes, will be consistent with State and County policies regarding land use.

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

a. Access - Vehicular access to the subject property is available via Mamalahoa Highway (Hawaii Belt Road) which has a right-of-way width of 80 feet with a 22-foot wide pavement. According to the State Department of Transportation the proposed expansion is not expected to adversely affect existing or proposed programs for the area. In an effort to mitigate traffic accidents, Petitioner has represented that there have been discussions with the Department of Transportation regarding lowering of the speed limit in the general area of the subject property, from 55 miles per hour to 35 miles per hour.

b. Water - As the proposed development is not expected to significantly increase the current water demand, the County of Hawaii Department of Water Supply has no objection to the subject request. Further, the Petitioner has represented that he has entered into an agreement for water exploration in the North Kona area with other developers.

c. Sewage - As there is presently no municipal sewage system servicing the subject area of Kona, sewage disposal on the subject property is handled by cesspools. To provide for the additional sewage

generated by the proposed improvements, the laundromat in particular, a second cesspool may be built. The Petitioner is currently completing a sewage discharge study of the proposed improvements for the State Department of Health and Department of Water Supply.

d. Drainage - There are no known drainage problems associated with the subject property. According to the Flood Insurance Study for the Island of Hawaii, the subject property is not situated on any designated flood plain, but rather in Zone C, an area of minimal flooding.

e. Police and Fire Protection - Kailua Fire Station, located approximately 6 miles from the subject property, will provide fire protection. There is a police station located at Captain Cook, located approximately 18 miles from the subject property.

11. 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 0.852 acre of land, situated at Kalaoa, North Kona, Island of Hawaii, State 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. A82-541, consisting of approximately 0.852 acre of land, situated at Kalaoa, North Kona, Island of Hawaii, State of Hawaii, identified as Tax Map Key No. 7-3-05:27, 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 27th day of May, 1983, per Motion on May 6, 1983, and May 18, 1983.

LAND USE COMMISSION
STATE OF HAWAII

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

By Richard B. F. Choy
RICHARD B. F. CHOY,
Vice-Chairman

By Lawrence F. Chun
LAWRENCE F. CHUN,
Commissioner

By Shinsei Miyasato
SHINSEI MIYASATO,
Commissioner

By Teofilo Phil Tacbian
TEOFILO PHIL TACBIAN,
Commissioner

By Robert S. Tamaye
ROBERT S. TAMAYE,
Commissioner

By Frederick P. Whittemore
FREDERICK P. WHITTEMORE,
Commissioner

DOCKET NO. A82-541 - HIROSHI MATSUYAMA

A certified copy of the Land Use Commission's Decision and Order was served by regular mail to the following on May 27, 1983:

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