

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of)	DOCKET NO. A83-547
)	
RICHARD T. TAJIRI &)	RICHARD T. TAJIRI &
HELEN H. KAWAHARA)	HELEN H. KAWAHARA
)	
To Amend the Agricultural Land)	
Use District Boundary to)	
Reclassify Approximately 1.75)	
Acres, TMK: 2-7-08: 106 at)	
Haiku, Island and County of Maui,)	
State of Hawaii, into the Urban)	
Land Use District)	
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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 Richard T. Tajiri and Helen H. Kawahara 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 1.75 acres of land, situated at Haiku, Island and County of Maui. The subject property is more particularly identified as Tax Map Key No. 2-7-08: 106.

PURPOSE OF PETITION

Petitioners' stated purpose for requesting the reclassification of the subject property from Agricultural to Urban so that Petitioners can subdivide the property into six single-family residential lots for the personal use of the Petitioners and their four (4) children.

THE PROCEDURAL HISTORY

The Petition was received by the Land Use Commission on March 4, 1983. Due notice of the hearing on this Petition was published on May 4, 1983, in the Maui News and The Honolulu Advertiser. Notice of the hearing was also sent by certified mail to all parties involved herein on May 3, 1983. 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 at Kahului, Maui, on June 9, 1983.

Richard T. Tajiri and Helen H. Kawahara, the Petitioners herein, were represented by Edward M. Tsuji, Esq.; the County of Maui was represented by Patrick Matsui; and the Department of Planning and Economic Development was represented by Esther Ueda.

The witnesses presented by the aforementioned parties were as follows:

Petitioner:

Daniel J. Cretton - Petitioners' son-in-law.

Richard T. Tajiri

County of Maui:

Patrick Matsui - Staff Planner
Maui Planning Department

Department of Planning and Economic Development:

Esther Ueda - Staff Planner
Land Use Division

POSITION OF THE PARTIES

County of Maui - Approval.

Department of Planning and Economic Development -
Approval.

APPLICABLE REGULATION

Standards for determining the establishment of a
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
service 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 service 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 FACTS

The Land Use Commission, having duly considered the record in this docket, the testimony of the witnesses and the evidence introduced herein, makes the following findings of fact:

1. The subject property, owned in fee simple by the Petitioners herein is located at Haiku, Island and County of Maui, State of Hawaii, and consists of approximately 1.75 acres, more particularly described as Tax Map Key No. 2-7-08: 106. The subject property is triangular in shape and is not presently being utilized for the cultivation of crops. There is presently two (2) existing dwellings on the property being utilized by

Petitioner Richard T. Tajiri and his daughter and her family. The remainder of the property is overgrown with grass.

2. The subject property is currently situated within the State Land Use Agricultural District. The subject property abuts the old Kahului Railroad tracks on its northern boundary beyond which are lands in pineapple cultivation owned by Alexander & Baldwin, Inc. These lands are in the State Land Use Agricultural District. Land west of the subject property are also within the State Land Use Agricultural District and include subdivided lots used for residential purposes. Lands to the south of the subject property are in the State Land Use Urban District and include the Toma Garage gas station and areas developed for residential purposes. In a prior action, the State Land Use Commission approved the Franco/Tavares Petition (Docket No. A82-533) to reclassify approximately 2.707 acres at Haiku, Maui from the Agricultural to the Urban District. The proposed use, approved on 1-19-83, was for purposes of subdividing the property into eight (8) residential houselots. The Franco/ Tavares property is located approximately 1/2 mile southwest of the subject property.

3. The subject property is designated as Single Family Residential (SF) on the Paia-Haiku Community Plan

which was adopted by the Maui County Council in April 1983. The subject property is not situated within the County of Maui's Special Management Area.

4. The subject property is relatively flat with slopes of approximately 3 to 7%. According to the Flood Insurance Study for Maui County prepared by the Federal Insurance Administration, the subject property is located in an area of minimal flooding of Zone C designation.

5. The Soil Conservation Service Soil Survey report identifies the soils of the subject property as Haiku clay, 3 to 7 percent slopes. Runoff on this soil is slow and erosion hazard is slight. Soil with these characteristics is used for pineapple cultivation, pasture and homesites. The subject property has a Land Study Bureau Overall Master Productivity Rating of "C". Class "C" lands are moderate in production. The subject property is not classified by the Agricultural Lands of Importance to the State of Hawaii Classification System.

6. The Department of Agriculture, State of Hawaii has indicated that it does not object to the proposed reclassification considering the location of the subject property which is adjacent to the Urban District, the existing dwellings, the size of the parcel and the abandoned railroad right-of-way which acts as a boundary between the subject property and the adjacent agricultural activity.

7. Petitioners propose to subdivide the subject property into six (6) single-family residential lots ranging in size from approximately 8,000 to 10,000 sq. ft. The proposed development envisions a single family dwelling on each lot occupied by the Petitioners and each of their four (4) children and their respective families. The estimated site preparation cost for the proposed subdivision is approximately \$100,000 and construction is scheduled to begin as soon as all necessary governmental approvals have been received. A statement of financial responsibility attached to the Petition indicates that Petitioners and their children have the financial capability to undertake the proposed development.

8. Reclassification of the subject property will not unreasonably burden public agencies to provide necessary amenities, services and facilities due to the following:

(a) Water - water is presently available for the two existing dwellings on the subject property via a 6" pipeline along Haiku Road. The Petitioners and their children have further expressed a willingness to pay the appropriate assessments to cover pipeline improvements and storage as requested by the Maui Department of Water Supply for purposes of providing water to the proposed subdivision.

(b) Sewage Disposal - Waste disposal will be accomplished by means of individual cesspools constructed on each lot.

(c) Access - Access to the proposed subdivision will be through a 20' wide, 700' long driveway from Kauhikoa Road which Petitioners have been using since 1935. The Petitioners further indicate a willingness to conform to all access requirements of the County of Maui.

(d) Drainage - The sloping terrain of the subject property provides adequate runoff for localized rain showers. Petitioners intend to comply with drainage requirements of the County of Maui Public Works and Planning Department.

(e) Schools - Comments from the State Department of Education indicated that the proposed boundary change will have negligible impact on the schools servicing the area.

(f) Public Utilities - Electric and telephone services are presently available for the subject property.

(g) Fire Protection - Fire protection would be provided from the Makawao and Paia fire stations.

9. Due to the existing residential use and its previous agricultural cultivation, there are no known rare or endangered species of flora or fauna on the subject

property. The Department of Land and Natural Resources indicates that their records do not indicate the presence of historical, cultural, architectural and/or archeological resources on the property which are listed on the Hawaiian Register and/or the National Register of Historic Places, or that have been determined eligible for inclusion on the National Register of Historic Places.

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 Maui 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 1.75 acres of land, situated at Haiku, Island and County of Maui, State of Hawaii, from Agricultural to Urban and an amendment to the district boundaries accordingly is reasonable and non-violative of Section 205-2 of the Hawaii Revised Statutes.


ORDER

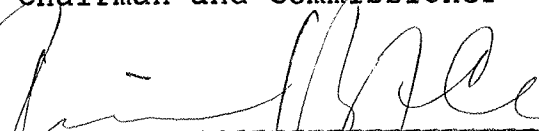
FOR GOOD CAUSE APPEARING, it is hereby ordered that the property which is the subject of the Petition in this Docket No. A83-547, consisting of approximately 1.75 acres,


situated at Haiku, Island and County of Maui, identified as Tax Map Key No. 2-7-08: 106, shall be and hereby is reclassified from Agricultural to Urban and the district boundaries are amended accordingly.

DONE at Honolulu, Hawaii, this 1st day of December, 1983, per Motion on October 4, 1983.

LAND USE COMMISSION
STATE OF HAWAII

By 
WILLIAM W. L. YUEN,
Chairman and Commissioner

By 
RICHARD B. F. CHOY,
Vice-Chairman and Commissioner

By 
LAWRENCE F. CHUN,
Commissioner

By 
EVERETT L. CUSKADEN,
Commissioner

By 
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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Reclassify Approximately 17.75)
Acres, TMK: 2-7-08: 106 at)
Haiku, Island and County of Maui,)
State of Hawaii, 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:

KENT M. KEITH, Director
Department of Planning and Economic Development
State of Hawaii
250 South King Street
Honolulu, Hawaii 96813

TOSH ISHIKAWA, Planning Director
Planning Department
County of Maui
200 South High Street
Wailuku, Hawaii 96793

EDWARD M. TSUJI, ESQ.
Carpenters Union Building
1311 Houghtailing Street
Honolulu, Hawaii 96817

DATED: Honolulu, Hawaii, this 8th day of December, 1983.



GORDON Y. FURUTANI
Executive Officer

DOCKET NO. A83-547 - RICHARD T. TAJIRI & HELEN H. KAWAHARA

A certified copy of the Land Use Commission's Decision and Order was served by regular mail to the following on December 8, 1983:

ANNETTE CHOCK, Deputy Attorney General
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