

BEFORE THE LAND USE COMMISSION

OF THE STATE OF HAWAII

In the Matter of the Petition of) DOCKET NO. A84-564
KAIWIKI HEIGHTS ASSOCIATES) KAIWIKI HEIGHTS
To Amend the Agricultural Land Use) ASSOCIATES
District Boundary to Reclassify)
Approximately 8.25 Acres,)
TMK: 2-6-17: 2 at Wainaku, South)
Hilo, Island and County 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 Regulation by Kaiwiki Heights Associates, a Hawaii Limited Partnership, hereinafter "Petitioner", who proposes to amend from the Agricultural to the Urban District the district boundary of approximately 8.25 acres of land, situated at Wainaku, South Hilo, Island and County of Hawaii (the "Subject Property"). The Subject Property is more particularly identified as Tax Map Key No. 2-6-17:2.

PURPOSE OF THE PETITION

The Petitioner requests reclassification of the Subject Property from Agricultural to Urban in order to

develop an 18 unit single-family dwelling residential subdivision.

THE PROCEDURAL HISTORY

The Petition was filed with the Land Use Commission on April 2, 1984. Due notice of the hearing on this Petition was published on May 25, 1984 in the Hawaii Tribune Herald and the Honolulu Advertiser. Notice of the hearing was also sent by certified mail to all parties herein on May 25, 1984. 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 June 29, 1984.

Kaiwika Heights Associates, the Petitioner herein was represented by its General Partner Elroy T. L. Osorio; the County of Hawaii Planning Department was represented by Norman Hayashi; the Department of Planning and Economic Development was represented by Abe Mitsuda.

The witnesses presented by the aforementioned parties are as follows:

Petitioner:

Elroy T. L. Osorio - General Partner of Kaiwika Heights Associates

County of Hawaii Planning Department:

Norman Hayashi - Staff Planner

Department of Planning and Economic Development:

Abe Mitsuda - Staff Planner

POSITION OF THE PARTIES

The County of Hawaii Planning Department - 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 considerations 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 Land Use Commission, having duly considered the record in this docket, the testimony of the witnesses and the evidence introduced herein makes the following proposed findings of fact:

1. The Subject Property, owned in fee simple by the Petitioner, is located at Wainaku, South Hilo, Island and County of Hawaii, State of Hawaii and consists of approximately 8.25 acres of land more particularly described as Tax Map Key No. 2-6-17:2. The Subject Property is situated approximately 1.6 miles north of the Hilo Civic Center and is situated west (mauka) of the Hawaii Belt Road (Highway 19) at Kaiwiki Road. The Subject Property, which abuts an Urban Land Use District to the east, is adjacent to and north of Kaiwiki Road. The Subject Property had been used for sugar cultivation by Mauna Kea Sugar Company until 1984. Mauna Kea Sugar Company abandoned plans for further cultivation and the property is currently vacant. The Petitioner purchased the Subject Property from Hawaiiana Investment Company, a subsidiary of C. Brewer Company, Inc. in 1983.

2. Adjacent land to the east (makai) of the Subject Property is within the State Land Use Urban District and zoned Single-Family Residential-10,000 square feet (RS-10) by

the County. Adjacent lands to the north, south and west are within the Agricultural District and zoned Agricultural-20 acre (A-20a) by the County. The Wainaku Camp subdivision, situated approximately 1,500 feet west of the Subject Property, is within the Urban District. The surrounding lands in the area are used for single family residential purposes, sugar cane production, or are vacant.

3. The Subject Property is located approximately at the 200 foot elevation and has a general slope of approximately 3 percent. The average median rainfall for the area in which the Subject Property is located is approximately 135 inches per year. The Subject Property is not included within the State Department of Agriculture's "Lands of Importance to the State of Hawaii" (ALISH) classification system. The United States Department of Agriculture Soil Conservation Service Soil Survey for the island of Hawaii classifies the soils of the subject property as Hilo silty clay loam (HoC) and rough broken land (RB). The subsoil of HoC is about 48 inches thick and soil permeability is rapid, runoff is slow and erosion hazard is slight. The natural vegetation found on HoC includes Hilo grass, California grass, guava, ohia, and tree fern. These soils are used for sugarcane, truck crops, orchards and pasture. RB soil consists of very steep, precipitous land broken by many intermittent drainage channels and occurs primarily in

gulches. It is used for pasture, woodland, wildlife habitat and recreation areas. The Subject Property has a Land Study Bureau Overall Productivity Rating of "C" or "Fair".

4. The Subject Property is presently within the State Land Use Agricultural District as reflected on Land Use District Boundary Map H-66, Hilo, Hawaii. The Land Use Pattern Allocation Guide Map component of the County of Hawaii General Plan designates the area for Intensive Agriculture and Alternate Urban Expansion. The former land use category includes lands which are or can be used for sugar, orchard, diversified agriculture and floriculture. Under the General Plan the designation Alternative Urban Expansion refers to areas which allow alternative development patterns when:

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

The County zoning designation is Agricultural-20 acre (A-20a). Since the property was created prior to the

current zoning designation, it is considered to be not conforming relative to size. The Subject Property is not situated within the Special Management Area (SMA).

5. The Petitioner desires to subdivide the Subject Property into 18 residential houselots, having a minimum lot size of 15,000 square feet. The Petitioner states that the development costs of the residential subdivision will be approximately \$486,000 and that the finished lots are expected to sell for between \$40,000 to \$50,000 per lot. Development of the Subject Property is expected to be completed within one year after all necessary governmental approvals have been obtained. An unaudited Balance Sheet submitted by the Petitioner indicates that the General and Limited Partners of Kaiwika Heights Associates have contributed a total of \$261,485 to partnership capital. Petitioner further indicates that additional pledges to provide financing for the project have been obtained from the partners.

6. Reclassification of the Subject Property should not impact resources of the area because:

- a. Agricultural Resources: The prior owner of the property indicates that the Subject Property's location necessitates excessively costly and complex cane hauling operations. The prior owner decided to remove the Subject Property from cane production after analyzing opportunities to utilize their property more effectively. The State Department

of Agriculture has indicated that the Subject Property is relatively small for sugarcane production and that it is separated from adjoining agricultural uses by Kaiwiki Road to the south and a gulch to the north. The Department of Agriculture therefore does not object to the reclassification.

- b. Historical and Archaeological Resources: The Department of Land and Natural Resources stated that their records do not indicate that the subject project involves historic properties that are listed on the Hawaii Register or National Register of Historic Places or that have been determined to be eligible for inclusion.
- c. Environmental Impacts: There is no evidence of natural hazards such as floods, volcanic activity or serious erosion problems on the Subject Property. No endangered flora or fauna are known to exist on the subject property.

7. Reclassification of the Subject Property will not unreasonably burden public agencies to provide necessary amenities, services and facilities due to the following:

- a. Water Service: Petitioner has obtained a water commitment from the Department of Water Supply to service the Subject Property.
- b. Sewer Service/Solid Waste: Petitioner proposes to utilize cesspools as the means of sewage disposals. Solid waste disposal will be the responsibility of individual home owners.
- c. Roadway and Highway Services and Facilities: The State Department of Transportation has indicated that they foresee no impact on the State highway system if the Subject Property is reclassified.

- d. Schools: The State Department of Education has stated that Haaheo Elementary School, Hilo Intermediate School and Hilo High School are capable of accommodating the student enrollment generated by this development foreseen for the Subject Property.
- e. Electricity, Gas, Telephone Services: Utilities are available or can be made available to the Subject Property.
- f. Police and Fire Protection: Fire protection will be provided by the Central Fire Station in downtown Hilo and police service will be provided by the Hilo Police Station.

8. Based on the review of the Petition, the evidence adduced at the hearing and the provisions of Chapter 205 H.R.S. the County of Hawaii and the Department of Planning and Economic Development have recommended that the reclassification of the Subject Property be granted.

CONCLUSION OF LAW

Reclassification of the Subject Property consisting of approximately 8.25 acres of land situated at Wainaku, South Hilo, Island and County of Hawaii, 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

IT IS HEREBY ORDERED:

That the property which is the subject of the Petition in this Docket No. A84-564, consisting of approximately 8.25 acres of land situated at Wainaku, South Hilo, Island and County of Hawaii, State of Hawaii, identified as Tax Map Key No. 2-6-17:2 shall be and hereby is reclassified from Agricultural to Urban and the district boundaries are amended accordingly.

DONE at Honolulu, Hawaii, this 14th day of November, 1984, per Motions on October 4, 1984 and November 14, 1984.

LAND USE COMMISSION
STATE OF HAWAII

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

By Winona E. Rubin
WINONA E. RUBIN,
Commissioner

By J. Tacbian
TEOFILO PHIL TACBIAN,
Commissioner

By Robert S. Tamaye
ROBERT S. TAMAYE,
Commissioner

By Frederick P. Whittemore
FREDERICK P. WHITTEMORE,
Commissioner

By Toru Suzuki
TORU SUZUKI,
Commissioner

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into the Urban Land Use District)
_____)

CERTIFICATE OF SERVICE

I hereby certify that a copy of the 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
Kamamalu Building
250 South King Street
Honolulu, Hawaii 96813

SIDNEY FUKE, Planning Director
Department of Planning
County of Hawaii
25 Aupuni Street
Hilo, Hawaii 96720

ELROY T. L. OSORIO
Hilo Lagoon Annex
Suite 116
101 Aupuni Street
Hilo, Hawaii 96720

DATED: Honolulu, Hawaii, this 27th day of November, 1984.


GORDAN Y. FURUTANI
Executive Officer

DOCKET NO. A84-564 - KAIWIKI HEIGHTS ASSOCIATES

A certified copy of the Land Use Commission's Decision and Order was served upon the following by regular mail on November 27, 1984:

ANNETTE CHOCK, Deputy Attorney General
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STEPHEN MENEZES, Corporation Counsel
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BENJAMIN MATSUBARA, Hearing Officer
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