

BEFORE THE LAND USE COMMISSION

STATE OF HAWAII

In the Matter of the Petition of)	DOCKET NO. A84-569
)	
DEPARTMENT OF PLANNING AND)	DEPARTMENT OF
ECONOMIC DEVELOPMENT (ON BEHALF)	PLANNING AND
OF HAWAII HOUSING AUTHORITY))	ECONOMIC DEVELOPMENT
)	(ON BEHALF OF HAWAII
To Amend the State Land Use)	HOUSING AUTHORITY)
District Boundary to Reclassify)	
Approximately 5.063 Acres of Land)	
TMK: 5-7-11:11 at Kaluaaha,)	
Island of Molokai, County of Maui,)	
State of Hawaii)	
<hr/>)	

DECISION AND ORDER

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DECISION

Petition

This matter arises from a Petition for an amendment to the Land Use Commission district boundary filed on June 12, 1984, pursuant to Section 205-4 of the Hawaii Revised Statutes, as amended, in Part VI, Rule 6-1, of the Land Use Commission's Rules of Practice and Procedure and District Regulation by the Department of Planning and Economic Development which is requesting that the designation of approximately 5.063 acres of land, situated at Kaluaaha, Island of Molokai, County of Maui, State of Hawaii (hereinafter "Subject Property") be amended from the Rural to the Urban District. The Subject Property is more particularly described as Maui Tax Map Key No. 5-7-11:11.

PURPOSE OF THE PETITION

The Petitioner proposes the reclassification of the Subject Property in order to enable the Hawaii Housing Authority (HHA) to develop an affordable housing project on the Subject Property. The proposed development will consist of 22 single family residential dwellings which will be priced at approximately \$65,000.00 per unit.

THE PROCEDURAL HISTORY

Due notice of the hearing on this Petition was published on August 3, 1984 in the Maui News and the Honolulu Advertiser. Notice of the hearing was also sent by certified mail to all established parties involved on August 3, 1984. Maria M. Hustace was granted permission to intervene. James Berg was permitted to testify as a public witness in this proceeding upon his oral request.

THE HEARING

The hearing on this Petition was held on September 11, 1984 at Kaunakakai, Molokai, County of Maui, State of Hawaii. The Department of Planning and Economic Development, the Petitioner herein, was represented by Daniel Yasui; Staff Planner; The County of Maui was represented by James Takayesu, Deputy Corporation Counsel; and the Intervenor Maria M. Hustace represented herself.

The witnesses presented by the aforementioned parties were as follows:

Department of Planning and Economic Development

Richard Hirata - Development Project Manager, Hawaii Housing Authority.

Stanley Yim - Project Engineer, Stanley Yim & Associates.

Fred D. Bicoy - Coordinator, Molokai Community Action Council.

County of Maui

John Min - Planner, Maui County Planning Department.

Intervenor

Maria M. Hustace

POSITION OF THE PARTIES

County of Maui - Approval. Intervenor Hustace - Denial.

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 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 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, currently owned in fee simple by the State of Hawaii is located at Kaluaaha, Molokai, County of Maui, State of Hawaii and is more specifically identified as Maui Tax Map Key No. 5-7-11:11. The Subject Property comprises approximately 5.063 acres and is located on the mauka side of Kamehameha V Highway and partially across the existing Moana Beach Lots Subdivision. The Subject Property is located about 14 miles east of Kaunakakai and was the former Kaluaaha School grounds from

the late 1800's until the mid 1930's. The school buildings have since been demolished and removed. Except for some large trees and rock walls, the property is overgrown with bushes and tall grass and has remained vacant for over four decades.

2. The Subject Property is currently under the jurisdiction of the State Department of Land and Natural Resources. Intervenor Maria M. Hustace is the widow of Harold P. Hustace, the holder of a month-to-month revocable permit no. (S-4738) issued by the Board of Land and Natural Resources (BLNR), for pasture use of the Subject Property. Intervenor Hustace and her late husband Harold P. Hustace have utilized the Subject Property for cattle grazing for the past 20 years. Although Mr. Hustace passed away on August 23, 1983, the Intervenor has not obtained a BLNR approved transfer of the Permit in her name. The Permit requires payment of rent in the amount of \$11.00 per month and provides that the "permit or any rights hereunder shall not be sold, assigned, conveyed, leased, mortgaged, transferred or otherwise disposed of..." unless approved by the BLNR. Intervenor owns approximately 1,300 acres of land in the area of the Subject Property. The Subject Property represents 5-10% of the total area which Intervenor uses for pasture purposes.

3. The Subject Property is bounded on the North, East and West by vacant property and by Kam V Highway along its southern boundary. Property across Kam V Highway is presently in the State Land Use Urban District. The Subject Property is in the State Land Use Rural District and the adopted Molokai Community Plan (Ordinance No. 1357) designates the Subject Property for single family residential use.

4. The elevation of the Subject Property ranges from 12.5 feet at the eastern corner up to 42 feet at its western corner. The Subject Property slopes from west to east at the rate of approximately 3 percent to 10 percent. In the Mauka-Makai direction the slope averages between 5 to 6 percent. The annual rainfall in the general vicinity of the Subject Property is between 30 to 50 inches. The majority of the rainfall usually occurs during the winter months from November through March. The prevailing wind pattern is from the Northeast and temperature varies between 68 to 80 degrees Fahrenheit, mean minimum and mean maximum. The existing drainage features for both the Subject Property and the adjacent lands have been primarily overland, sheet flow. There is an existing stream located a few hundred feet west of the Subject Property. However, the existing ground elevation and slope on the Subject Property precludes its use for adequately disposing storm runoff because the

ground slopes away from the stream and towards the east. There are no other existing streams, gulches or improved channels to which a new drainage system can connect. Petitioner has represented that it will coordinate their site improvement work with the County of Maui to insure that proper drainage measures are undertaken for the development of the single family dwelling project.

5. The U.S.D.A. Soil Survey classifies the soils of the Subject Property as Kawaihapai stony clay loam, 2 to 6 percent slopes (KlaB) and Mala silty clay, 3 to 7 percent slopes (MmB).

The Kawaihapai soil series consist of well-drained soils in drainageways and on alluvial fans on the coastal plains of the islands of Oahu and Molokai. These soils are nearly level to moderately sloping. Elevations range from sea level to 300 feet. Annual rainfall amounts to 30 to 50 inches and runoff is slow and erosion hazard is slight.

The Mala soil series consist of well-drained soils on bottoms of drainageways and on alluvial fans on the coastal plains. Elevations range from nearly sea level to 100 feet. On these soils runoff is slow and the erosion hazard is slight. The subsurface conditions were explored by means of 12 test pits excavated with a hoptoe to depths of 7.5 to 10.5 feet below the existing grade. In general, the

test pits revealed the site to be overlain by 6 to 24 inches of soft to moderately stiff brown clay. The clays were found to be underlain by silty sands and gravels with boulders and cobbles to the final depths of the test pits.

6. The Department of Agriculture has not classified the Subject Property in the Agricultural Lands of Importance to the State of Hawaii (ALISH) classification system.

7. The Federal Insurance Administration has classified the Subject Property within Zone C, an area of minimal flooding.

8. The Hawaii Housing Authority proposes to develop 22 single family residential house and lot packages on the Subject Property. The purpose of the project is to provide the people of Molokai affordable leasehold homes priced at approximately \$65,000.00. HHA will give purchasers an option to acquire the fee interest in the Subject Property. HHA proposes to lower the cost of the homes by working with the County of Maui Housing Division to process the project under the County's Experimental/Demonstration Housing Program. The actual development of the project will be undertaken by Hadley-Pruyn, Inc., pursuant to a development and sales agreement executed with the Hawaii Housing Authority.

Site development for the project includes clearing, grubbing and grading, water system and site drainage improvements, road improvements, street lighting, telephone system and cesspools for the new homes. The new homes will be of wood construction, one story in height and on post and beam foundations. Each new dwelling will have three bedrooms, one and a half baths, and contain about 1,104 square feet of living area.

9. Hawaii Housing Authority predicts that construction of the project is scheduled to begin as soon as all applicable permits have been obtained with the scheduled completion date to be mid 1985. Hawaii Housing Authority estimates the cost of the project to be \$1,412,725.00. Upon approval by the Governor and the Hawaii Housing Authority Commission, the HHA will make Hadley-Pruyn, Inc., an interim construction loan from its Dwelling Unit Revolving Fund Program. The interim loan will be evidenced by a corporate promissory note personally guaranteed by Richard H. Hadley. The Farmers Home Administration will provide permanent financing primarily through its Section 502 loan program. Additionally, homeowners may also seek other sources of long term financing.

10. Petitioner contends that there is a definite need for affordable housing on the island of Molokai, particularly for those families within the lower income

groups. The proposed Kaluaaha housing project is targeted for these need groups. This project represents the coordination and cooperation of numerous Counties, State and Federal agencies and the private sector. The Hawaii Housing Authority has been working with the Farmers Home Administration, the County of Maui Housing Division, Maui Economic Opportunity, Inc., and Hadley-Pruyn, Inc. in developing the Kaluaaha Housing Project. The County Housing Division will process this project under Chapter 46 of the Hawaii Revised Statutes, pertaining to Experimental and Demonstration Housing Projects which will allow the pre-emption of certain subdivision requirements and allow the project to be built more economically. The monetary savings realized would be passed on to the new home buyers by way of a lower market price for the house and lot. Through the Farmers Home Administration Section 502 loan program, the proposed \$65,000.00 homes may be purchased by individuals whose incomes are as low as \$14,000.00 per annum. The interest rate on the loans may vary from 1% per annum to the current FHA loan rate.

The Hawaii Housing Authority has been working with the Maui Economic Opportunity, Inc., on the Kaluaaha Housing Project. The project was initially conceived three (3) years ago when data compiled by Maui Economic Opportunity, Inc., showed the need for affordable housing on Molokai. Maui

Economic Opportunity, Inc., has assisted Hawaii Housing Authority in compiling a list of 22 interested and potential home buyers for the 22 Kaluaaha Housing Project's houses and lots. Additionally, Maui Economic Opportunity has compiled a second stand-by list comprising 24 individuals.

11. The reclassification of the Subject Property will not unreasonably burden public agencies to provide necessary Urban amenities, services and facilities because:

- a. Water System: Hawaii Housing Authority proposes to serve the 22 single family units from a new 8 inch water line which will be installed and connected to the County's existing 12 inch pipeline presently running along Kamehameha V Highway. The water services will provide domestic service and water to service fire hydrants for fire protection purposes.
- b. Sewage System: Hawaii Housing Authority proposes that each of the new lots in the proposed subdivision utilize cesspools for sewage disposal. Ground elevation and the percolation tests results as determined by the soils engineers for the site show the use of cesspools to be feasible.

- c. Drainage: The proposed project will use drywells to handle the increased amounts of storm runoff resulting from the new hard surfaces in the project. The drywells will be capable of intercepting and handling the increased amount of storm runoff and thereby permit the remaining amounts of water to continue the overland flow pattern in the same manner as in years past. Other storm runoff entering the project site from adjoining areas will be allowed to flow across and through the site. The new homes will be posted and all other improvements built up so that the flows will be able to travel around the new structures with minimal impact.
- d. Electric, telephone and Street Lighting Systems: Electricity and services for the proposed subdivision will be provided from new overhead lines that ultimately connect to the existing overhead wires running along Kamehameha V Highway. Street lights will be installed according to Maui County standards.
- e. Transportation Services and Access: The new residential lots in the subdivision will have access to the new internal road system which

in turn will connect to the State-owned Kamehameha V Highway. The new road within the project site will have a right-of-way width of 44 feet and a pavement width of 28 feet. Hawaii Housing Authority proposes to limit the improvements within the rights-of-way, to omit concrete curves, gutters, and sidewalks. In there place, Hawaii Housing Authority proposes to construct grassed shoulders and swales. The pre-emption of Maui County's roadways standards will be requested through Chapter 359G-4.1, of the Hawaii Revised Statutes to allow these modifications to be made. The modifications will retain the rural atmosphere that is prevalent amongst the neighboring areas. These modifications will also permit Hawaii Housing Authority to keep the site development costs at a minimum and allow the price of the house and lot to be kept within reach of prospective purchases.

- f. Solid Waste Collection and Disposal: The new homes in the subdivision will have County garbage collecting services. Refuse and solid waste is now being collected weekly and taken to the County's landfill for disposal.

- g. Police and Fire Protection: County will provide police and fire protection through the Molokai Police Department and Fire Station located at Kaunakakai.
- h. Schools: Public schools serving the site include the Kilohana Elementary School, Molokai Intermediate and High School. The anticipated increase in student enrollment due to the proposed projects can be accommodated at these school facilities.

12. Hawaii Housing Authority prepared and submitted the negative declaration for the Subject Project to the Environmental Quality Commission and a notice of the negative declaration was published by the Environmental Quality Commission on February 23, 1984, all in conformance with the requirements of Chapter 343 of the Hawaii Revised Statutes. In the negative declaration, Hawaii Housing Authority concluded that the Project should not adversely impact the environment. Petitioner has further represented that it will conform to the requirements set forth by the Board of Land and Natural Resources pursuant to exhibit 16 in regard to the handling of archaeological resources in the area.

13. The proposed project is in conformance with the following Hawaii State Plan:

- a. Objectives and policies for the development of reasonably priced, safe, sanitary, livable homes located in suitable environments that satisfactorily accommodate the needs of Hawaii's people.
- b. Objectives to assist the orderly development of residential areas sensitive to community needs and other land uses.
- c. Objectives and policies for social cultural advancement and public safety.

14. Based on a review of the Petition, the evidence adduced at the hearing and the provisions of Chapter 205 of the Hawaii Revised Statutes, the County of Maui has recommended that the reclassification of the Subject Property be approved.

CONCLUSION OF LAW

Reclassification of the Subject Property, consisting of approximately 5.063 acres of land, situated at Kaluaaha, Molokai, County of Maui, State of Hawaii, from the Rural 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

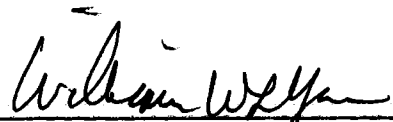
IT IS HEREBY ORDERED:

That the property which is the subject of this Petition in this Docket No. A84-569, consisting of approximately 5.063 acres of land situated at Kaluaaha, Island of Molokai, County of Maui, State of Hawaii shall be and hereby is reclassified from the Rural District to the Urban District and the district boundaries are amended accordingly.

DONE at Honolulu, Hawaii, this 28th day of February, 1985, per Motions November 27, 1984 and December 18, 1984.


LAND USE COMMISSION
STATE OF HAWAII

BY



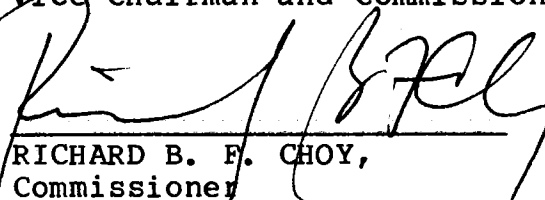
WILLIAM W. L. YUEN,
Chairman and Commissioner

BY



TEOFILO PHIL TACBIAN,
Vice-Chairman and Commissioner

BY



RICHARD B. F. CHOY,
Commissioner

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

By *Toru Suzuki*
TORU SUZUKI,
Commissioner

By *Frederick P. Whittemore*
FREDERICK P. WHITTEMORE,
Commissioner

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Island of Molokai, County of Maui,)	
State of Hawaii)	
_____)	

CERTIFICATE OF SERVICE

I hereby certify that a copy of the Land Use Commission 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
Maui County Planning Department
200 South High Street
Wailuku, Maui, Hawaii 96793

MARIA M. HUSTACE
Star Route 215
Kaunakakai, Hawaii 96748

DATED: Honolulu, Hawaii, this 28th day of February, 1985.

Ray Yuen

GORDON Y. FURUTANI
Executive Officer

DOCKET NO. A84-569 - DEPARTMENT OF PLANNING AND ECONOMIC
DEVELOPMENT (On behalf of Hawaii
Housing Authority)

A copy of the Land Use Commission's Decision and
Order was served upon the following by regular mail on
March 1, 1985.

EVERETT KANESHIGE, Deputy Attorney General
Department of the Attorney General
State Capitol, 4th Floor
Honolulu, Hawaii 96813

H. RODGER BETTS, Corporation Counsel
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