

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition)
)
 of)
)
 COUNTY OF HAWAII PLANNING)
 DEPARTMENT)
)
 To Amend the Agricultural)
 and Conservation Land Use)
 District Boundaries to)
 Reclassify Approximately)
 1,407 Acres TMK: 1-5-63)
 through 111 (excluding TMK:)
 1-5-65: Parcels 72 through)
 90) at Waiakahiula, Puna,)
 Hawaii into the Urban Land)
 Use District)
)

DOCKET NO. A84-575
COUNTY OF HAWAII PLANNING
DEPARTMENT

This is to certify that this is a true and correct
copy of the Decision and Order on file in the office
of the State Land Use Commission, Honolulu Hawaii.
DEC 2 1985 by *Esther Leide*
Date Executive Officer

DECISION AND ORDER

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OF THE STATE OF HAWAII

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_____)	

DECISION

THE PETITION

This matter arises from a Petition for an amendment to the Land Use Commission district boundary filed on August 27, 1984, pursuant to Section 205-4 of the Hawaii Revised Statutes as amended, and Part VI, Rule 6-1, of the Land Use Commission's ("the Commission") Rules of Practice and Procedure and District Regulation by COUNTY OF HAWAII PLANNING DEPARTMENT to amend the designation of the Property comprising approximately 1,407 acres of land, situate at Waiakahiula, Puna, Island and County of Hawaii, State of Hawaii, identified as Hawaii Tax Map Key No. 1-5-63 through

111 (excluding TMK: 1-5-65: 72 through 90) ("the Property") from the Agricultural and Conservation Land Use Districts to the Urban Land Use District.

PURPOSE OF THE PETITION

The Petitioner requests reclassification of the Property from Agricultural and Conservation to Urban in order to conform the designation of Property to the existing residential use and/or character of the Property. The reclassification to Urban of the Property will enable the State and County governments and the private sector to plan realistically for these areas by recognizing its actual use for residential purposes.

THE HEARING

The Commission's hearing officer conducted hearings on this Petition on February 5, 1985 and June 5, 1985, pursuant to Notice published on December 20, 1984, in the Hawaii Tribune Herald and the Honolulu Advertiser. The County of Hawaii Planning Department, the Petitioner herein, was represented by Norman Hayashi; The Department of Planning and Economic Development was represented by Daniel Yasui, Abe Mitsuda and Jean Nishida. The following witnesses presented testimony at the hearing:

Public Witnesses:

Fred Rocha
Virginia Lee
Walter Gilchrist
Darlene J. Gibbons
George Walters
George Thatchell

Petitioner:

Norman Hayashi - Staff Planner, County of Hawaii
Planning Department.

Department of Planning & Economic Development:

Jean Nishida - Staff Planner, Land Use Division,
Department of Planning & Economic
Development.

POSITION OF THE PARTIES

The Department of Planning and Economic Development
- Approval.

APPLICABLE REGULATIONS

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 Property is located at Waiakahiula, Puna, Island and County of Hawaii, State of Hawaii and consists of approximately 1,407 acres of land, identified as Hawaii Tax Map Key No. 1-5-63: through 111 (excluding TMK: 1-5-65: Parcels 72 through 90). With the exception of three parcels (a 3.5 acre parcel TMK: 1-5-63:1, a 4 acre parcel TMK: 1-5-83:7, and a 7 acre parcel TMK: 1-5-67:35), the Petitioner has no fee simple interest in the Property. Petitioner's authority for filing the Petition is found under Section 5-4.2 of the Hawaii County Charter 1980, as amended, which authorizes the Planning Director of the County of Hawaii to

initiate changes to certain land use designations which would be in the best interest and welfare of the general public and Section 6-1, Part VI of the State Land Use Commission's Rules of Practice and Procedure which authorizes the planning departments of the various counties to initiate petitions to amend the State Land Use District Boundaries. The Property is comprised of lots in three contiguous subdivisions (Hawaiian Beaches, Hawaiian Parks and Hawaiian Shores) and is situated along and off Kahakai Boulevard which connects to the Keaau-Pahoa Road (FAS Route 130). The Property is situated approximately 2.5 miles Southwest of the town of Pahoa. Petitioner proposes to reclassify 1,379 acres from the Agricultural District and 28 acres from the Conservation District into the Urban District, for a total of 1,407. The three subdivisions possess a total of 3,931 lots of which 117 are situated in the Conservation District and the remaining 3,814 lots are in the Agricultural District. The average lot size in the subdivisions is approximately 9,100 square feet. The County estimates that there were 747 single-family dwellings situated in the subdivisions as of May 1983. The State Board of Land and Natural Resources granted the Conservation District Use Permits for the construction of six single family dwellings in the Conservation District.

2) The State Land Use Commission presently classifies the Property in the Agricultural and Conservation districts as reflected on Land Use District Boundary Map H-71 (Pahoa North, Hawaii). The Property abuts Conservation District land along the Makai (Northeast) shoreline and to the South at the Nanawale Forest Reserve. Other abutting lands to the North and Southwest are classified Agricultural. An Urban classified area of approximately 5.3 acres in size is located within the area which was reclassified from Agricultural to Urban in Land Use Commission Docket No. A75-406/Yamada Estates. The County of Hawaii General Plan Land Use Pattern Allocation Guide (LUPAG) Map designates the majority of the Property for Low Density Urban Development. A portion of the Property is also designated for Medium Density Urban Development. The County zoning of the Property is Agricultural 1-acre (A-1a) and Open (O). A portion of the Property is situated within the County's Special Management Area (SMA).

3) The Property rises in elevation from approximately 40 feet at the Makai (Northeast) end of the Property to approximately 400 feet at the Mauka (Southwest) end. The average slope of the Property is approximately 1 to 2 percent. The general area where the Property is located receives between 60 to 90 inches of rainfall annually. The Property is not classified according to the

State Department of Agriculture's Agricultural Lands of Importance to the State of Hawaii (ALISH) classification system. The University of Hawaii Land Study Bureau, in its Detailed Land Classification-Island of Hawaii (1965), classifies the Property as "E" ("very poor") on a scale from "A" to "E", with "A" as the highest and "E" as the lowest productivity rating. The Federal Insurance Administrator's Insurance Rate Map prepared for the County of Hawaii does not in any way designate the Property floodplain but rather an area of minimal flooding of Zone C designation.

4) The Petitioner proposes to reclassify the Property from the Agricultural and Conservation Districts to the Urban District in order to conform the classification to the actual residential nature of the Property and therefore enable government and private sectors to plan realistically for these areas for the future. Petitioner has indicated that if the Urban classification is granted, it intends to initiate appropriate residential zoning of the Property based upon the existing lot sizes in each of the subdivisions. The Petitioner's zoning action will not appreciably increase the residential density of the area, but recognize the actual use of the land for residential purposes rather than as an agricultural community or for conservation-type uses.

5) Reclassification of the Property is not anticipated to have any impact upon the agricultural, archaeological, or historic resources of the area nor adversely impact flora and fauna situated thereon.

6) Reclassification of the Property will not unreasonably burden public agencies to provide necessary amenities, services and facilities because:

- a) Water: The Property is not served by a public water system. A private water system is available within the subdivisions and individual lot owners have the option of either buying into the private water service system or installing individual water catchment systems. The existing private water system is not built to County-dedicable standards because the main waterline is constructed of polyvinyl chloride (PVC) pipes. The source of water for the private system is a well located on the Mauka end of the Property.
- b) Sewage Treatment and Disposal: The Property has no public sewage system. Sewage disposal for residences is by individual cesspool.

c) Roadways and Highways: Kahakai Boulevard serves as the primary vehicular access to the Property from the Keaau-Pahoa Road (FAS Route 130). This roadway has been dedicated to the County of Hawaii. Kahakai Boulevard runs approximately 5 miles in a Mauka-Makai direction along the length of the subdivision. Additionally, 48 lateral roads make up the private-public interior roadway system. The private roads are maintained through assessments which are held in road maintenance escrow funds. Within the shoreline portion of the Property is an old Government Beach Road which extends North and South along the coastline. The State Department of Transportation has stated that the proposed reclassification will not have significant impact upon their programs for the area.

d) Electrical and Telephone Services: Electrical and telephone services are available at the Property.

e) Police and Fire Protection Services: The nearest police substation which provides service to the Property is located approximately 10 miles away at Keaau. Fire protection services are located at Keaau and at Pahoa Town.

f) Schools: Students living within the area can attend Pahoa High and Elementary School.

7) The three subdivisions which comprise the Property were initially created and approved in 1961 prior to the adoption of the State Land Use Law and the County's Comprehensive Zoning Code. The lots are non-conforming in size with respect to existing zoning regulations. The residential uses in this area are typically low-rise, single-family detached dwellings, which are conditionally permitted on lots in the Agricultural District. The proposed Urban classification conforms to the County's General Plan Land Use Pattern Allocation Guide Map which designates the Property for Low Density Urban and Medium Density Urban Development. Residential uses would be permissible under these designations. The Property serves as a bedroom community for persons employed in the South Hilo District. The subject area as well as the Puna District as a whole has experienced rapid population growth

over recent years. Population in the Puna District more than doubled from 5,154 persons in 1970 to 11,751 persons in 1980.

8) Petitioner anticipates the existing tax rate to decrease from \$10.00 per \$1,000.00 assessed valuation to \$8.50 per \$1,000.00 assessed valuation. The County Department of Finance has indicated that the assessed valuation will not necessarily change at this time.

9) 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 Department of Planning and Economic Development has recommended that the reclassification of the Property be approved.

CONCLUSION OF LAW

Reclassification of the Property, consisting of approximately 1,407 acres of land situate at Waiakahiula, Puna, Island and County of Hawaii, State of Hawaii, from Agricultural and Conservation to the Urban District and an amendment to the district boundaries accordingly are 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. A84-575, consisting of

approximately 1,407 acres of land situate at Waiakahiula, Puna, Island and County of Hawaii, State of Hawaii, identified as Hawaii Tax Map Key No. 1-5-63: through 111 (excluding 1-5-65: 72 - 90) shall be and hereby is reclassified from the Agricultural and Conservation Districts to the Urban District and district boundaries are amended accordingly.

DOCKET NO. A84-575 - COUNTY OF HAWAII PLANNING DEPARTMENT

Done at Honolulu, Hawaii, this 2nd day of December
1985, per motions on August 6, 1985 and September 24, 1985.

LAND USE COMMISSION
STATE OF HAWAII

By *T. Tacbian*
TEOFILO PHIL TACBIAN
Chairman and Commissioner

By *Frederick P. Whittemore*
FREDERICK P. WHITTEMORE
Vice Chairman and Commissioner

By *Toru Suzuki*
TORU SUZUKI
Commissioner

By *Winona Rubin*
WINONA RUBIN
Commissioner

By *Richard B. F. Choy*
RICHARD B. F. CHOY
Commissioner

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

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COUNTY OF HAWAII PLANNING DEPARTMENT)
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through 111 (excluding 1-5-65:)
parcels 72 through 90))
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PLANNING DEPARTMENT

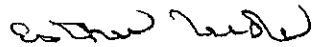
CERTIFICATE OF SERVICE

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

ALBERT LONO LYMAN, Planning Director
Planning Department
County of Hawaii
25 Aupuni Street
Hilo, Hawaii 96720

DATED: Honolulu, Hawaii, this 2nd day of December 1985.



ESTHER UEDA
Executive Officer