

STATE OF HAWAII
LAND USE COMMISSION

Minutes of Meeting

County Council Room
Hilo, Hawaii

APPROVED

MAR 17 1972

January 7, 1972 - 10 a.m.

Commissioners Present: Goro Inaba, Chairman
Eddie Tangen, Vice-Chairman
Alexander Napier
Tanji Yamamura
Stanley Sakahashi
Sunao Kido
Leslie Wung

Commissioner Absent: Shelley Mark

Staff Present: Tatsuo Fujimoto, Executive Officer
Ah Sung Leong, Staff Planner
Walton Hong, Deputy Attorney General
Jean Soma, Stenographer

ADOPTION OF MINUTES

Upon motion by Commissioner Kido and seconded by Vice-Chairman Tangen, the minutes of the September 17, November 5, and November 19, 1971 meetings were approved as circulated to the Commission membership.

HEARINGS

PETITION BY DEPARTMENT OF HAWAIIAN HOME LANDS (A71-306) TO RECLASSIFY APPROXIMATELY 50 ACRES FROM AGRICULTURAL TO URBAN AT PANAewa TRACT, WAIAKEA, SOUTH HILO, HAWAII

The Executive Officer presented the staff report (see copy on file) and outlined the location of the 50 acres under petition on the maps of the area.

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Mr. Fujimoto informed that the Department of the Attorney General is presently researching the issue regarding the County's right to rezone Hawaiian Home Lands, as this has a definite relevance to Land Use Commission matters. Hopefully, an opinion will be rendered prior to the action meeting on the petition at hand.

Pursuant to questioning by Chairman Inaba, Mr. Fujimoto advised that the Hawaii County Planning Commission recommended denial of this petition. At this time Chairman Inaba asked whether a representative from the Hawaii County Planning Department staff was present in the audience--no one was present.

Mr. Fujimoto continued that the Hawaii County General Plan designates subject area for urban expansion. Commissioner Kido noted the inconsistency between the County General Plan designation and the recommendation for denial by the Hawaii County Planning Commission. Mr. Fujimoto stated the Planning Commission recommended denial of subject petition on the bases that the County General Plan had not yet been adopted, etc. (see Hawaii County Planning Commission's "Amendment of Zone District Boundary"). Subsequent to that time, however, the General Plan for the County of Hawaii was adopted in December, 1971.

Pursuant to Commissioner Kido's inquiry regarding the reconciliation of the fact that there are 160 applicants for residential lots and also that a situation exists whereby there is an abundance of 40 residential lots and construction therewith is going to commence in March of this year, the Executive Officer replied that he could not answer that question for the County. He then pointed out on the map of the area the 40 vacant lots located in the Panaewa Houselots Subdivision, the proposed Puainako Road extension, and the proposed 8-acre park site.

Mr. Thomas Mahaulu, representing the Department of Hawaiian Home Lands, testified that said Department's rezoning request was well stated in the staff report presented by Mr. Fujimoto. He then offered the following information. One of the bases on which the Hawaii County Planning Commission recommended denial of this petition was because there is an

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abundance of vacant lots in the adjacent Hawaiian Home area, which was developed in 1964. Of a total of about 90 developed lots, homes have been constructed on 51, wherein the difference of the approximately 40 vacant lots lies. Hopefully, construction on these 40 vacant lots will commence in March of this year; and, once this construction has been completed, there will not be an abundance of vacant lots. It is anticipated that subdivision of the petitioned 50 acres into 120 lots will be undertaken over a five-year period, and each lot will contain approximately 10,000 square feet. The cost per house will be approximately \$17,500. The Panaewa site was selected after studies were made with the residents of various alternate sites when the Hilo Airport expansion necessitated relocation of affected homes.

Pursuant to Commissioner Yamamura's comment, it was suggested by Chairman Inaba that the Executive Officer write the Hawaii County Planning Department requesting their presence at the decision meeting.

Mr. Thomas Mahaulu apprised Chairman Inaba that when the 160 or so applicants had applied for houselots, the Department of Hawaiian Home Lands indicated to them that the Panaewa area was the site that had been selected. In addition, there are homesteaders in the Keaukaha area that are desirous of relocating to another location because of deteriorated housing conditions.

Mrs. Abby Napeahi, First Vice-President of the Keaukaha Panaewa Community Association, read a letter addressed to the Commission and signed by Mr. Kwai Wah Lee, President of said organization, stating, "A legal doubt now exists. Therefore, Keaukaha Panaewa Community Association asks that the State Land Use Commission defer the subject matter . . . to a later date when jurisdiction has been resolved . . . Before Hawaiian Home Lands requests additional acreage for further residential expansion at Panaewa, it should first consider filling the many available lots at Keaukaha and second, fill the somewhat 40 open lots at Panaewa" (see letter on file).

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In presenting a brief background on the so called illegal zoning of the Keaukaha area to industrial use, Mrs. Napeahi indicated that this area was originally declared a tsunami inundation zone. However, approximately 65 families were relocated to Panaewa in order to accommodate the Hilo Airport expansion. A research team of the Keaukaha Panaewa Community Association found that the industrial zoning for this area was questionable. Subsequently, Hawaii County's Corporation Counsel, Wendell Kimura, rendered an opinion that Hawaiian Home Lands are not subject to zoning restrictions by the County of Hawaii.

In closing, Mrs. Napeahi stated, "We the Hawaiian people do not want to be pushed away from land where we want to live . . . and are beginning to stand for our rights and privileges".

Since no one else wished to testify for or against this petition, Chairman Inaba advised that the Commission will accept additional evidence within the next 15 days and thereafter closed the hearing on this matter.

PETITION BY LYDIA P. HALAS (A71-308) TO RECLASSIFY APPROXIMATELY 2.78 ACRES FROM AGRICULTURAL TO URBAN AT HONALO, NORTH KONA, HAWAII

Mr. Leong, staff planner, read the staff report and noted that the existing access serving the property under consideration is only 10 feet in width.

Under questioning by Chairman Inaba, Mr. Leong informed that subject property is located approximately 1,000 feet from the Kuakini-Mamalahoa Highway Junction and also abuts the mauka portion of the Daifuku Soto Mission parcel. The makai one-third of the area under question is general planned by the County of Hawaii for medium density use and the balance of the area for intensive agriculture, although the soil classification is "C" or fair for overall agricultural use. Mr. Leong added that the petitioner has not indicated the number of lots she intends to develop on subject property.

Chairman Inaba closed the hearing since no one wished to present any testimony.

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PETITION BY OCEAN VIEW INVESTMENT CO., INC. (A71-310) TO RECLASSIFY APPROXIMATELY 52 ACRES FROM AGRICULTURAL TO URBAN AT KAHUKU, KA'U, HAWAII

Mr. Fujimoto delivered the staff report (see copy on file) and subsequently informed the Commission that the Hawaiian Ocean View Estates Subdivision mentioned in the staff report is of a non-conforming status and that the property under consideration is a part of the Hawaiian Ocean View Ranchos Subdivision.

Mr. Paul Tajima, representing the petitioner, introduced Mr. Earl Younker and Mr. Ed Bossing, principals of Ocean View Investment Company, Inc. Mr. Tajima then submitted that a boundary amendment request instead of a special permit was filed taking into consideration the pending status of the Hawaii County General Plan inasmuch as this represents an explicit attempt in the implementation of said plan, as brought up at the Hawaii Planning Commission's public hearing on this matter.

Mr. Earl Younker, Treasurer of Ocean View Investment Company, Inc., clarified the discrepancy in the amount of acreage as submitted by the petitioner in comparison to staff's calculations. Subsequently, the district map of the area and application were amended with the petitioner's approval that TMK 9-2-185: parcels 79 through 87 be deleted. In recognizing the need for a commercial development in this locale, Ocean View Investment Company, Inc. was formed approximately two years ago. Said organization is comprised in most part of professional and businessmen in West Hawaii all of whom are permanent residents of the area and include: Mr. Taylor (owner of Kona Hauling Service will be in charge of warehousing and trucking); Mr. Ed Bossing (developer of Kona Sunshine will establish a real estate office); Mr. Stookey (owner of Stookey Glass and Metal Co. will open up a building supply store); Dr. Mar (President of Ocean View); Mr. Freeman (in the heavy equipment business will temporarily operate a food market); and the spokesman, Mr. Earl Younker (general contractor will set up an office).

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Mr. Younker testified that he had previously applied for a special permit. However, the application was returned by the Hawaii County Planning Department with the suggestion that they pursue a boundary change procedure. Pursuant to receiving assurance of availability of water for this project, petitioner filed a boundary amendment request. The approximate cost for the development of a water system will be \$30,000. It was indicated that the special permit procedure was not followed since the area under consideration is one of substantial acreage. The initial plans call for a general hardware store, post office, and the like. Eventually, petitioner intends to expand the development to include the following: motel-restaurant-bar, barber and beauty shops, automatic laundry, theater, skating rink, bank, warehouse, and recreational area for children.

Mr. Younker then presented some visual aids--map indicating the property in question and also surrounding areas of the Hawaiian Ranchos Subdivision; architectural sketches showing the location of the warehouse, store, etc., Units I and II, and a bird's eye view of the entire area--Units I through V, and floor plans for some of the proposed facilities.

In closing, Mr. Younker requested the Commission's favorable consideration on this petition.

Under questioning by Chairman Inaba, Mr. Younker reported that the Hawaii County Planning Commission suggested that the proposed development be done on an incremental basis. At this time Mr. Fujimoto quoted a portion of the staff report as follows: "At its December 22, 1971 meeting, the Hawaii County Planning Commission voted to recommend approval of the boundary amendment request based on new evidence submitted by the developer. As of this date, staff has not received minutes of the December 22, 1971 meeting and has no further information on the additional evidence that was presented to the County Planning Commission by the applicant." Relative to this matter, Mr. Paul Tajima indicated that he was unable to obtain a copy of said minutes as the secretary is in the process of transcribing them. In any event, the Hawaii County Planning Commission recommended approval of this boundary change on the bases that it be an incremental

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development and that a development schedule for five year incremental periods be submitted.

Upon inquiry by Mr. Fujimoto as to whether there is anything in writing regarding the Hawaii County Planning Department's advice that the petitioner seek the boundary change route as opposed to the special permit, Mr. Younker answered in the negative. However, petitioner has the special permit application which was returned by the Hawaii County Planning Department.

Since a representative from the County of Hawaii Planning Department was not in attendance, Chairman Inaba opened the floor for further testimony and discussion. No one else wished to speak for or against this petition; and, thereafter, the Chairman closed the hearing.

ACTION

PETITION BY DEPARTMENT OF ACCOUNTING & GENERAL SERVICES (A71-300) TO RECLASSIFY APPROXIMATELY 1.5 ACRES FROM AGRICULTURAL TO URBAN AT KAPAAU, NORTH KOHALA, HAWAII

The staff memorandum recommending favorable consideration on this request by the Commission was presented by the staff planner, Mr. Leong (see copy on file).

At this time the Chair entertained a motion, since there was no further discussion and/or testimony relative to this petition.

Commissioner Kido moved that the petition be approved as per staff recommendation, seconded by Commissioner Napier, and the motion was passed.

PETITION BY HARUMI & ASAYO NAKANO (A71-305) TO RECLASSIFY APPROXIMATELY 1.4 ACRES FROM AGRICULTURAL TO RURAL AT KEAUHOU, NORTH KONA, HAWAII

Mr. Leong read the staff memorandum (see copy on file) recommending favorable action by the Commission.

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Mr. Nakano, petitioner, announced he had no testimony to present before the Commission.

Commissioner Napier moved that the petition be approved, seconded by Commissioner Tangen, and the motion was carried.

PETITION BY RALPH S. YAGI (A71-294) TO RECLASSIFY APPROXIMATELY 12.5 ACRES FROM AGRICULTURAL TO RURAL AT KULA, MAUI

Commissioner Yamamura excused himself from the proceedings of this portion of the meeting due to a possible conflict of interest.

Denial of Mr. Yagi's request was recommended by the Executive Officer in the staff memorandum to the Commission. He then proceeded to reorient the Commission with the property under question.

Relative to attorney Michael A. Town's correspondence, which was mentioned in the staff memorandum, Commissioner Sakahashi wondered whether the Commission would be violating the Hawaii Administrative Procedure Act. Deputy Attorney General Walton Hong stated that Mr. Town may have a valid point regarding his position that a new public hearing be conducted on Maui in order that interested persons may be heard in the event the petitioner introduces any new evidence. Nevertheless, the petitioner had represented to Mr. Hong that no new evidence would be submitted during the course of today's meeting. Mr. Hong then advised the Commission that if the petitioner presents new material, the Commission should stop him from so doing.

In view of Mr. Town's letter, Chairman Inaba queried whether the procedures governing the Land Use Commission's meetings would have to be modified. Vice-Chairman Tangen believed that an opinion from the Attorney General's office should be sought relative to the subject matter at hand, i.e., whether the submittal of new evidence after the 15-day period constitutes a case for a new public hearing.

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The Executive Officer apprised Commissioner Sakahashi that the undeveloped areas existing in the Rural Districts in Kula referred to in the staff memorandum, if not being utilized for pasture purposes are vacant, idle lots. Mr. Fujimoto was not certain whether any of these lots are for sale or have been sold.

Referring to a previous question raised by Commissioner Sakahashi regarding action items, Mr. Fujimoto informed that it has been standard office procedure to send the Commission's meeting agenda to interested parties and government agencies. The Commission is not required to have a legal notice published for action items. Additionally, the Chairman announces at the end of each public hearing that any interested person has 15 days to submit testimony to the Land Use Commission. New evidence received after the 15-day period is not considered by the staff in its analysis and recommendation.

In response to Commissioner Kido's inquiry, Mr. Fujimoto reported that subject property is adjacent to an existing Rural District. Furthermore, approximately 2.3 acres of the proposed subdivision are already situated in a Rural classification.

The petitioner, Mr. Yagi, testified that he would not submit any new evidence. Thereafter, he rebutted statements made by the opposition with regard to the following:

1. Lack of access to this parcel - The petitioner is of the intention to have a new access road forming a loop with the existing 40-foot government road to serve the proposed 27-lot subdivision. In addition, the Kula and Haleakala Highways are serving subject area at the present time.

2. Steep topography of the parcel - Petitioner will have to work with the County of Maui in conjunction with clearing and grading the subject property.

3. Inadequate school facilities - Adequate school facilities now exist in the Kula area, e.g., Kula Elementary School, Maui High School, Mauna Olu College, and Seabury Hall to accommodate the educational needs of the proposed 27-lot subdivision.

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4. Commercial capability for Kula grown fruit - In checking with the three largest distributors of vegetables and fruits on the island of Maui (Maui Vegetable Growers Cooperative Association, Maui Farmers' Cooperative Exchange, and Valley Isle Produce) via a questionnaire, petitioner found that other than plums and avocados, there is little or no demand for Kula grown soursop, peaches, apples, bananas, and lilikoi (on file). Petitioner also submitted a "Honolulu Unloads of Fresh Fruits and Vegetables," June, 1971, published by the Federal-State Market News Service (on file).

5. A petition signed by 51 Maui residents in opposition to this request for boundary change - Mr. Yagi attempted to submit a list containing names of those who signed the petition indicating that they do not own any property on the island of Maui and also a list "of people who have signed against boundary change and who own property (but not in immediate vicinity of area under request) either singly or jointly with someone other than the protestors", but Commissioner Tangen did not permit such list to be accepted by the Commission.

Regarding the problem of water, Mr. Yagi was inclined to agree with the opposition. However, the County of Maui has stipulated that in the event the boundary change petition and subdivision approvals are obtained, petitioner must provide a 6-inch waterline for a distance of 1,200 feet.

Since there was no further discussion, Vice-Chairman Tangen moved that this petition be approved on the following bases: matters of access and water can be worked out with the County; upon field investigation of the land under question, he was satisfied that this land is unsuitable for agricultural pursuits; and findings of the Maui County Planning Department regarding this request. He then elucidated that his motion for approval of the petition was "not based on anything that was said here today because these facts were made known to us before". Commissioner Sakahashi seconded the motion, and the Commission voted as follows:

Ayes: Commissioners Tangen, Napier, Kido, Sakahashi,
Wung, and Chairman Inaba.

Abstention: Commissioner Yamamura.

Absent: Commissioner Mark.

The motion to approve this petition was carried.

PETITION BY DEPARTMENT OF ACCOUNTING & GENERAL SERVICES
(A71-298) TO RECLASSIFY APPROXIMATELY 36 ACRES FROM
AGRICULTURAL TO URBAN AT HOOLEHUA, MOLOKAI

Mr. Leong, staff planner, read the staff memorandum
(see copy on file) in which staff recommended that this
boundary amendment request be approved in concurrence with
the Maui Planning Commission.

Commissioner Kido's motion to accept staff recommendation
was seconded by Commissioner Sakahashi and carried as follows:

Ayes: Commissioners Sakahashi, Wung, Yamamura, Tangen,
Kido, and Chairman Inaba.

Nay: Commissioner Napier.

Absent: Commissioner Mark.

SPECIAL PERMIT APPLICATION BY ERNEST LEO MURRAY (SP71-120)
TO CONSTRUCT SHOPPING COMPLEX AT KAHUKU, KA'U, HAWAII

Mr. Fujimoto informed that he had received a telephone
message from the applicant, Mr. Ernest Murray, stating that
his wife had become ill and was therefore taking her to the
doctor. Mr. Fujimoto then called Mr. Murray's residence in
Kona, whereupon he was advised that Mr. Murray was returning
to Hilo. Upon the Executive Officer's suggestion, the
Commission agreed to defer this to the last item on today's
agenda.

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SPECIAL PERMIT APPLICATION BY OCEANIC PROPERTIES (SP71-121)
FOR CONTINUED USE OF PRIVATE REFUSE DUMP FACILITY AT WAIPIO,
EWA, OAHU

Mr. Leong delivered the staff report (see copy on file) and gave a detailed account of the area under consideration.

Chairman Inaba opened the floor for any testimony and discussion. Since there was none, Commissioner Napier moved that this special permit request be approved as recommended by staff, subject to the conditions established by the Planning Commission of the City & County of Honolulu. This motion was seconded by Commissioner Sakahashi and carried.

TENTATIVE SCHEDULE

The Commission decided it would conduct its subsequent meetings on February 4 in Honolulu and February 5 in Kaunakakai, Molokai.

PROCEEDINGS OF THE 1971 MEETING OF THE HAWAII CONGRESS OF PLANNING OFFICIALS

Mr. Fujimoto advised the Commission that the staff is in the process of forwarding a copy of the proceedings of the recently adjourned meeting of the "1971 Hawaii Congress of Planning Officials" to each participant. Members of the congress will also receive a copy of the business meeting minutes and the resolution introduced by the Land Use Commission and as adopted by the congress at the meeting. Mr. Fujimoto noted that Commissioner Tangen's speech on "Land Use Planning: Commissioners' Responsibility" has been incorporated and is a part of the proceedings. The unique cover was designed by staff planner, Gordan Furutani.

PUAHALA COMPANY

Mr. Fujimoto recalled that at its November 19, 1971 meeting, the Commission voted to defer any action on the subject property until the first meeting on Oahu after

February 1, 1972. Therefore, staff would follow up with a letter requesting the presence of the property owners at the February 4, 1972 meeting in Honolulu.

MEETING WITH DR. RICHARD MARLAND, INTERIM DIRECTOR, OFFICE OF ENVIRONMENTAL QUALITY CONTROL

Pursuant to Mr. Fujimoto's notification that he was in receipt of a letter request from Dr. Richard Marland, the Commission decided that Friday, February 4, 1972 at 2 p.m., would be an appropriate time for a meeting between the OEQC and the LUC to discuss the environmental impact statement.

CONTINUATION OF SPECIAL PERMIT APPLICATION BY ERNEST LEO MURRAY

The staff report recommending approval of this request as conditioned by the Hawaii County Planning Commission and the additional conditions that the petitioner be responsible for providing his own water catchment system and adequate landscaping satisfactory to the Hawaii County Planning Director be provided along the portion fronting Belt Road was introduced into the record by the Executive Officer.

After some discussion, Chairman Inaba asked whether the petitioner was present and wished to submit testimony--there was no reply. Vice-Chairman Tangen stated that it would be quite difficult to approve this special permit application since "we had before us just today a public hearing on a 50 acre major commercial complex about the same thing and that they would intend to do it on an incremental basis and I don't understand why the County says one should be a boundary change and the other a special permit. It would be very difficult to have any kind of a shotgun approach to this thing." Vice-Chairman Tangen then moved that this request be denied, seconded by Commissioner Kido. The Commissioners were polled and voted as follows:

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Ayes: Commissioners Napier, Tangen, Yamamura, Kido,
Sakahashi, and Chairman Inaba.

Nay: Commissioner Wung.

Absent: Commissioner Mark.

The motion to deny this special permit request was carried.

ADJOURNMENT

Since there was no further business, the meeting
adjourned at 12:45 p.m.