

STATE OF HAWAII
LAND USE COMMISSION

Minutes of Meeting

February 5, 1972 - 10 a.m.

APPROVED

MAR 17 1972

Kaunakakai School Cafeteria
Kaunakakai, Molokai

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

Commissioners Absent: Sunao Kido
Shelley Mark

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

ADOPTION OF MINUTES

Vice-Chairman Tangen moved that the minutes of the November 20 and December 17, 1971 meetings be adopted as circulated to the Commission. The motion was seconded by Commissioner Wung and carried.

HEARINGS

PETITION BY HALE MAHAOLU AND COUNTY OF MAUI (A71-309) TO RECLASSIFY APPROXIMATELY 19.6 ACRES FROM AGRICULTURAL TO URBAN AT KAUNAKAKAI, MOLOKAI

The Executive Officer read the staff report (see copy on file) and noted that the Kaunakakai sewage treatment plant and oxidation pond site is located in the Conservation District makai of the area under consideration. A letter has been received from Hale Mahaolu correcting the area from that which was originally submitted (15 acres) to 19.6 acres. Subsequent to the writing of the staff report, a letter has been received

from Mr. Hanky Yamamoto, President, Molokai Community Action Council (which was read into the record), indicating that the MCAC at its meeting of January 27, 1972, voted to support this rezoning request because housing is a critical problem on Molokai.

Mr. Howard Nakamura, Maui County Planning Director, submitted that the Maui County Planning Commission recommended approval of this petition as indicated in the staff report presented by Mr. Fujimoto. The Maui County Planning Commission feels there is a definite need on the island of Molokai for the type of housing development proposed, and the approval of this boundary amendment would achieve this end. The sponsors of this project, Hale Mahaolu and the County of Maui, have consulted and worked closely with the residents of Molokai through the Molokai Advisory Committee and the Molokai Task Force; and, the Molokai community is in favor of the development occurring at subject locale. In addition, the record of the applicants over the last few years has been one of substantial performance; namely, the construction of 124 units at Lahaina are nearing completion, 70 units are presently under construction at Paia, and 110 units for the elderly have been completed in Kahului. Moreover, the land in question is unsuited for agricultural purposes, although it has been utilized for grazing.

Upon questioning by Commissioner Wung, Mr. Nakamura informed that the General Plan designation for the subject 19+ acres and a portion of the land situated makai of Manila Camp (although presently in agricultural use) is Urban-Residential.

Mr. Robert Ohata, consultant for Hale Mahaolu, introduced Mr. Robert Yokoyama, Corporation Representative, Hale Mahaolu, and Mr. George Tamura, Molokai Task Force. Mr. Ohata then testified that to date petitioners have received approximately 300 applications, of which 123 seem to qualify for the proposed project (low- and moderate-income housing). The project will consist of 91 units; and, conceivably, there will be additional demands in the future for this type of housing. Upon acquisition of the land through negotiations, it is anticipated that construction of the 91 units will commence the middle of this year, so that the purchasers can

LAND USE COMMISSION - MINUTES OF MEETING

February 5, 1972

Page 3

occupy the homes by the end of 1973. An appraiser was engaged; and, although the subject land is currently classified Agricultural, he valued the land at an urban rate on the bases of highest and best use, proximity to urban-zoned lands, and the Maui County General Plan designation is Urban-Residential.

Pursuant to Chairman Inaba's inquiry, Mr. Ohata stated that since Hale Mahaolu is a non-profit organization, it cannot be saddled with surplus lots, as such will result in the misuse of government funds. For this reason, petitioner has requested the rezoning of 19 acres only as a first increment. As the need for housing on Molokai continues, petitioners will come in for a second increment. For example, petitioners are certain that submittal of a boundary change for a second increment of the Paia development will soon be necessary.

Mr. Nakamura advised Commissioner Sakahashi that the Department of Water Supply has advised that some off-site improvements will be required for the project.

In answer to Mr. E. Loy Cluney, Mr. Ohata informed that in the event negotiations for the land acquisition fail, the project will continue because the County of Maui will exercise its right of eminent domain.

Following the above, Commissioner Yamamura commended Hale Mahaolu and the County of Maui for their contributions in providing housing for the residents of Maui, as the County of Maui has been the most progressive in this area.

There being no further discussion, Chairman Inaba advised that the Commission will receive additional evidence during the next 15 days, that the Commission will act on this matter within 45 to 90 days, and thereafter closed the hearing.

PETITION BY DEPARTMENT OF ACCOUNTING & GENERAL SERVICES
(A71-313) TO RECLASSIFY APPROXIMATELY 60.5 ACRES FROM
AGRICULTURAL AND RURAL TO URBAN AT KULA, MAUI

Subsequent to reading the staff report, Mr. Leong oriented the Commission with the property under question on the maps of the area (see staff report on file).

The Executive Officer informed that Mr. Tokunaga from the Department of Accounting & General Services had called and informed that a representative from that department would not be able to attend the public hearing on this matter.

Mr. Tosh Ishikawa, Deputy Director, Maui County Planning Department, stated that he had no comments to offer at this time but would answer any questions from the Commission.

Regarding Commissioner Sakahashi's question, Mr. Ishikawa reported that there are urban-zoned lands situated outside of the subject area and that the hospital located on a portion of the lands under discussion is of a general nature serving the residents of Maui. There are no plans at the present time for the relocation of this hospital.

Upon inquiry by Deputy Attorney General Walton Hong, Mr. Nakamura replied he was not certain as to the amount of acreage presently being utilized by the Kula Sanitarium.

Staff planner, Mr. Leong, commented that the entire area of which subject site is a part is owned by the State of Hawaii.

The Commission reviewed an aerial photo of the area under discussion and of the surrounding lands.

Thereafter, Chairman Inaba closed the hearing and advised that the Commission would receive additional submittals during the next 15 days and the Commission would make a decision on this matter within 45 to 90 days from this date.

February 5, 1972

Page 5

PETITION BY ERNEST G. LOUIS (A71-317) TO RECLASSIFY APPROXIMATELY 7.3 ACRES FROM AGRICULTURAL TO URBAN AT HAIKU, MAUI

Deputy Attorney General Walton Hong advised Commissioner Yamamura that he need not declare a conflict of interest since his property is located approximately 3 miles distance from the land under discussion. Commissioner Yamamura stated he had no interest in the proposed development whatsoever.

The Executive Officer, Mr. Fujimoto, presented the staff report and advised that pursuant to the writing of said report, in a letter addressed to Mr. Chris Mamiya, dated January 26, 1972 (carbon copy received by LUC), "The Maui County Planning Commission, at its meeting of January 25, 1972, deferred action . . . to permit the applicant, staff, and Department of Water Supply to confer further regarding the water situation and future requirements in the area . . ." (see letter on file). Mr. Fujimoto also acknowledged receipt of a letter dated February 2, 1972, from Mr. Carl Kaiama, Director, Department of Water Supply, County of Maui, in which Mr. Kaiama advised that onsite and offsite water system improvements in accordance with the Maui County Board of Water Supply Rules and Regulations would be required because the existing water system in the area is inadequate to support the proposed development.

Mr. Chris Mamiya, realtor representing the petitioner, began his testimony by giving a brief background of the subject property. In March, 1965, the property was acquired by way of agreement of sale by Mr. and Mrs. Louis (Haiku, Maui), Mr. and Mrs. Feiteira (Wailuku, Maui), and Mr. and Mrs. Cabral (California)--each couple has a one-third interest. At that time the property was zoned Agricultural. However, during the 1969 boundary review, the property was rezoned to the Agricultural District. Petitioner is of the intention to construct 20 houselots, minimum of 7,500 square feet and 3 lots at 40,000 square feet each, one for each of the property owners. Arisumi Brothers, home building contractors, have expressed an interest in the development and have selected two model homes for the project; namely, "Model 12"--\$26,000 and "Model 10"--\$30,000. Lot prices will be approximately \$1.30 per square foot with curbs and gutters, underground utilities, and other improvements.

In conferring with the Maui Department of Water Supply personnel, it was observed that: there is a "6-inch watermain terminating at the non-operational Haserot Cannery abutting the subject property. This 6 inch main ties into a 70,000 gallon tank about 3,300 feet on Kuiaha Road. The sytem is substandard and proposals were recommended by the Director of the Water Supply as follows: 1. storage tanks and 2. 8" main (transite pipe authorized) from 70,000 gallon tank to subdivision with a 10 year reserve amortized to the developer".

Soil conservation experts indicate that the parcel is usable and adaptable for urban use.

Subsequently, Mr. Mamiya discussed the student enrollment at Haiku School, number of registered voters for 1968 in the Haiku precinct, and number of recorded house lot transactions within the area (State Tax Office data for the period 1970-71) to substantiate that the trend is toward the suburbs.

In closing, Mr. Mamiya thanked the Commission for its attention and asked for a favorable consideration. He submitted a copy of his testimony; "Arisumi Brothers, Inc., Information Sheet" (Models 12 and 10); "Official Tabulation, Maui County Primary Election, October 5, 1968--Republican Ballot"; and "Monthly Construction Report," December, 1971 (see copy of each on file).

Relative to Commissioner Sakahashi's question, Mr. Nakamura informed that the County's 6-inch waterline is inadequate to serve the proposed subdivision and that there is no sewerage system in the area--only cesspools. In any event, the matter of water will have to be resolved between the petitioner and the Maui County Department of Water Supply. In this regard, Mr. Mamiya submitted that the development cost of the water system will be borne by the petitioner/developer. Also, there is a program on Maui, whereby upon application to develop a water system, 70 percent of the revenues will be returned to the developer over a period of time.

In offering comments on the lands located in close proximity to the subject site, Commissioner Yamamura clarified that he was speaking because of his experience in growing pineapples in the area and was not speaking on behalf of

LAND USE COMMISSION - MINUTES OF MEETING

February 5, 1972

Page 7

the petitioner. He stated that these lands are unsuited for agricultural use as evidenced by Libby's attempt many years ago to grow pineapples and guavas. A portion of the road that runs through this area is often flooded with rain water because of the nature of the terrain.

Replying to Vice-Chairman Tangen, Mr. Nakamura apologized for the Maui County Planning Commission's not submitting a recommendation and explained that the MCPC has not as of this date made a decision on this petition on the bases that two new appointments to the Planning Commission were made by Mayor Cravalho as recently as yesterday and matters such as water needed to be clarified. The MCPC will conduct its next meeting on February 8 at which time action is again scheduled for this petition, and in about 10 days or so this decision will be forwarded to the Land Use Commission.

The Commission agreed with Mr. Hong's suggestion in requesting Mr. Mamiya to obtain a copy of the 1970 Maui County general election tabulation from the Maui County Clerk's office and forward this to the Land Use Commission during the next 15 days. Mr. Mamiya agreed to do so.

At this time Mr. Leong added that the parcel abutting the subject site is presently zoned Agricultural but was in the Urban District during 1964. However, during the course of the five year boundary review in 1969, this property was placed in the Agricultural District upon the recommendation of the consultants.

Before closing the public hearing on this matter, Chairman Inaba notified Mr. Mamiya that the Commission would accept additional data within the next 15-day period and that a decision will be made within 45 to 90 days.

ACTION

SPECIAL PERMIT APPLICATION BY WILLIAM PHELPS (SP71-123) TO ALLOW THE USE OF THE EXISTING RESIDENCE AS A MEETING PLACE FOR WORSHIP SERVICES AT PUKALANI, MAUI

A letter submitted by Mr. William E. Phelps, Pukalani Community Assembly, dated January 28, 1972, was read into the

LAND USE COMMISSION - MINUTES OF MEETING

February 5, 1972

Page 8

record by the Executive Officer. In his letter, Mr. Phelps requested that action on subject special permit application be deferred (see letter on file).

Mr. Fujimoto continued that the special permit request as submitted by the applicant to the Maui County Planning Commission was to utilize a 0.53 acre parcel for residence, worship hall, and day care facility. However, the Maui County Planning Commission denied the requests for use of the subject property for a day care center and to expand the existing residence for a worship hall but approved the use of the existing residence as a meeting place for worship services for a period of two years. Therefore, in the event the Land Use Commission decides to take action on this item today, such action must be confined to that which was approved by the Maui County Planning Commission.

Reverend Woodrow Yasuhara, Superintendent, Hawaii District of the Assemblies of God, in reference to Mr. Hong's inquiry stated that the existing worship hall facility has been in existence for the past two years.

At this point Chairman Inaba asked to review the special permit application as received by the Land Use Commission.

By orienting the Commission with the maps of the area, Mr. Fujimoto pointed out the property under question located in the Rural District comprising 22,915 square feet, the Pukalani Urban District, and the location of a school and playground in this area. He then apprised Chairman Inaba that a 50,000 square foot parcel has been designated for church use on the Pukalani Terrace Plan and that the Maui County Planning Commission approved the use of the existing residence as a meeting place for worship services in anticipation that a permanent worship hall will be located on the church parcel.

Staff planner, Mr. Leong, explained that subject property was classified Rural in that pursuant to acquisition of the property in January, 1969, the applicant upon inquiry was informed by the Maui Planning Department that churches and temples were permissible uses within the Agricultural and Rural Districts. Thereafter, in August, 1969, the

Land Use Commission adopted a more stringent regulation which specified that only public institutions and buildings which are necessary for agricultural practices would be considered permissible uses within Agricultural and Rural Districts, thereby eliminating churches and the like in said districts. Nevertheless, worshipping services at the existing residence were being carried on. Consequently, it is questionable as to whether this is a non-conforming use or not.

With regard to Deputy Attorney General Walton Hong's query, Reverend Yasuhara replied that construction of the parsonage was begun in November, 1969 and that prior to August, 1969, the existing facility was not being utilized as a worship hall.

Mr. Hong quoted a portion of the "State Land Use District Regulations"; namely, 2.20 Casual or Illegal Use of Land, which states "A casual, intermittent, temporary, or illegal use of lands or buildings shall not be sufficient to establish the existence of a non-conforming use." He then stated that although the applicant happens to be a victim of circumstance, an illegality does exist since the Rules and Regulations prohibiting worship services came into effect prior to the utilization of the residence as a worship hall. Nevertheless, Mr. Hong was of the belief that the request before the Commission today can be treated as a special permit per se for the purpose of permitting worshipping activities in the existing residence as this is the only portion of the request which was approved by the Maui County Planning Commission. The Land Use Commission cannot act or touch upon that which was not approved by the Maui County Planning Commission.

Reverend Yasuhara testified that the applicant is requesting a deferral for a period of time enabling him to further review the matter.

Mr. Howard Nakamura offered a chronological list of events pertinent to the discussion as follows:

1. January, 1969 - acquisition of property by applicant (churches permitted in Agricultural and Rural Districts);

2. August, 1969 - adoption of current Rules and Regulations by Land Use Commission (churches no longer permitted in Agricultural and Rural Districts); and
3. November, 1969 - application for building permit by Mr. Phelps to construct residence was approved by County of Maui and advised Mr. Phelps to submit special permit request.

Mr. Nakamura felt that since Reverend Yasuhara wanted additional information to be considered by the County insofar as the day care center and the extension of the worship hall are concerned, applicant should reapply for these portions with the County of Maui. However, since there is a matter pending before the Land Use Commission at the present time, Mr. Nakamura thought it would be in the best interest of all concerned for the Commission to act on this matter.

Mr. Hong stated that the petitioner at this point has two alternatives: (1) withdraw the request for special permit and reapply for the whole thing, including the day care center and expansion of the present residence as suggested by Vice-Chairman Tangen or (2) have the Land Use Commission proceed with that portion of the request to permit worshipping services in the existing residence, and such would not preclude petitioner from submitting another special permit with the County for the two other proposed facilities.

Following the above, Reverend Yasuhara asked permission to confer with Mr. Phelps, to which the Commission agreed.

The meeting resumed after a ten-minute recess at which time Reverend Yasuhara was again given the floor and stated that Mr. Phelps was formally withdrawing the deferral request.

Commissioner Tangen moved that "the special permit request to continue the existing worship practices in the same facility for the period of time (2 years) that was granted by the County of Maui be approved". The motion was seconded by Commissioner Yamamura and passed as follows:

LAND USE COMMISSION - MINUTES OF MEETING

February 5, 1972

Page 11

Ayes: Commissioners Sakahashi, Wung, Yamamura, Napier,
Vice-Chairman Tangen, and
Chairman Inaba.

Absent: Commissioners Kido and Mark.

Reverend Yasuhara thanked the Commission for its kind
consideration of this matter.

PETITION BY SAMUEL Y. AND AKINO AOKI (A71-301) TO RECLASSIFY
APPROXIMATELY 6.3 ACRES FROM AGRICULTURAL TO RURAL AT
WAILUA HOMESTEADS, KAWAIIHAU, KAUAI

The staff memorandum recommending denial of this
petition was presented by Mr. Leong (see copy on file).

Since neither the petitioner nor a representative from
the Kauai County Planning Department was present to testify
regarding this request, Commissioner Wung moved that this
petition be denied as per staff recommendation. The motion
was seconded by Commissioner Yamamura and carried with the
Commissioners voting as follows:

Ayes: Commissioners Yamamura, Napier, Vice-Chairman Tangen,
Sakahashi, Wung, and Chairman Inaba.

Absent: Commissioners Kido and Mark.

PETITION BY KAUAI PLANNING COMMISSION (A71-303) TO RECLASSIFY
APPROXIMATELY 7.7 ACRES FROM AGRICULTURAL TO URBAN AT
WAILUA HOMESTEADS, KAWAIIHAU, KAUAI

Presentation of the staff memorandum was made by the
Executive Officer, in which staff recommended approval of
this petition in order that the service road concept may be
implemented by the County of Kauai, etc. (see copy on file).

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

Ayes: Commissioners Napier, Vice-Chairman Tangen, Wung,
Sakahashi, Yamamura, and Chairman Inaba

Absent: Commissioners Kido and Mark.

Tentative Schedule

The Commission agreed that it would hold its next meeting on Friday, March 17, in Kona, Hawaii. Subsequently, the Executive Officer commented that hopefully an opinion will be rendered by the Attorney General relative to the petition filed by the Department of Hawaiian Home Lands (A71-306). since action on subject petition is scheduled for that date.

Vice-Chairman Tangen notified that he will be out of town from June 10 to July 5.

Letter from Mr. John Bose, II

Mr. Fujimoto informed he was in receipt of a letter from Mr. John Bose, II, Maui Environmental Information Center, dated January 31, 1972, and read it into the record. In his letter, Mr. Bose stated his opposition that the Land Use Commission was conducting today's meeting on Molokai instead of Maui in view of the fact that a major portion of the lands under petition and scheduled for public hearings is situated on Maui. Therefore, Maui residents should be afforded the opportunity to present their views regarding these petitions, etc. (see letter on file). Thereupon, the Chairman directed the Executive Officer to write Mr. Bose informing him of the reasons the Commission decided to conduct today's meeting in Kaunakakai, Molokai, and also that Mr. Bose may submit any comments or evidence concerning any of the petitions within 15 days from this date.

Letter from Michael A. Town re: Petition by Ralph S. Yagi
(A71-294)

After reviewing subject letter, Chairman Inaba advised the Executive Officer that upon conferring with Deputy Attorney General Walton Hong a letter be written to Mr. Town acknowledging receipt of his letter dated January 31, 1972 (see letter on file).

A71-301 - Samuel Y. & Akino Aoki

Mr. Fujimoto apprised the Commission of the fact that at the meeting on November 20, 1971, in Lihue, Kauai, Mr. Aoki had represented to the Commission that he was agreeable to having the action meeting on his petition taken on another island other than Kauai. Hence, this item was scheduled and taken up as one of the action items on today's agenda.

Puaahala Company

Mr. E. Loy Cluney, Chairman, Molokai Advisory Committee, inquired about the status of the vacant urban lands at Puaahala, Molokai, relative to Vice-Chairman Tangen's motion at the October 8, 1971 meeting (see motion on file). Vice-Chairman Tangen explained that at its November 19, 1971 meeting, the Commission voted to defer any action on subject property until the first Oahu meeting after February 1, 1972 to allow the property owners sufficient time to come in with definite development plans for subject property. Accordingly, the Commission requested the presence of the property owners at yesterday's (February 4) meeting. However, one of the principals informed that he would not be able to attend the meeting since his schedule required him to be in Europe and therefore requested a postponement on the subject matter. The Commission again granted a deferral, and the property owners are now scheduled to appear before the Commission in April.

Adjournment

Since there was no further business, the meeting adjourned at 12:05 p.m.