

STATE OF HAWAII
LAND USE COMMISSION

Minutes of Public Hearing

Wilcox School

Lihue, Kauai

2:00 P. M. - March 21, 1964

Commissioners

Present:

Charles S. Ota
Shiro Nishimura
Goro Inaba
Myron B. Thompson
Leslie E. L. Wung
Robert G. Wenkam

Absent:

Shelley Mark
C.E.S. Burns
James P. Ferry

Staff

Present:

Raymond S. Yamashita, Executive Officer
Roy Y. Takeyama, Legal Counsel
Richard E. Mar, Field Officer
Alberta L. Kai, Stenographer

The public hearing was called to order by Chairman Thompson who said a short prayer. The Commission and staff members were introduced, and the procedures to be followed throughout this public hearing were outlined. The Chairman explained the purpose for holding this public hearing; and in the interest of time, performed a mass swearing in of all persons who were to present testimonies during this public hearing.

THE LAND USE COMMISSION'S PROPOSED FINAL DISTRICT BOUNDARIES AS THEY APPLY TO THE COUNTY OF KAUAI

Commissioner Nishimura, representing the County of Kauai, presented the rough draft of the Land Use Commission's proposed final district boundaries as they applied to the County of Kauai. The following persons presented their requests and testimonies (for or against):

Colonel Roesch of the Tropical Inn requested that the area mauka of Wailua Homesteads be changed from a Rural to an Urban classification (written comments on file).

Mr. Roy Fernandez of Bishop Estate requested that portions of Lumahai Beach be changed from a Conservation to an Agriculture classification. The area involves a portion mauka above the forest reserve line which is presently in pasture use. (Written comments on file.)

Mr. Hansen of Lihue Plantation requested that the Kalopa Ridge area be classified either Urban or Agriculture. The area is presently being used for housing for employees of the plantation. Mr. Hansen requested also that portions of the Kilohana area be designated as Agriculture; that the urban lines be extended to include their Kealia subdivision; that the urban lines in the Lihue area between the hospital and the Lihue haul cane road be deleted and exchanged for some of the areas surrounding the plantation's light industrial park; and that the Kalihiwai urban boundaries should move very slightly to include a lot which the local planning commission has already approved for a subdivision.

Mr. Hansen, speaking as an individual, requested that 94 acres in the Kalaheo area be classified as Rural.

Mr. Morgan of Grove Farm stated that Grove Farm lands presently leased to Lihue Plantation for pasture is proposed as Conservation and requested that these areas be designated as Agriculture.

Mr. John D. Texeira, representing 12 property owners, requested that the Kuamoo Road and Opaikaa area be designated as Rural (written comments on file).

Mr. Richard Sloggett of Wailua Homestead requested that 6 acres of his property proposed as Agriculture be designated as Urban.

Mr. Edward Medeiros requested that areas in Kuamoo-Opaikaa-Wailua Homesteads be designated as Urban.

Mr. William Huddy of Moloaa Bay area requested that 48 acres of his land proposed as Agriculture be designated Urban. He stated that this land was poor for Agriculture.

Mr. Roger Bay speaking for Don Foster requested that 27 acres in the Kalaheo-Lawai area proposed for Agriculture be designated as Rural. He stated that from an agriculture standpoint, the land was not productive. He stated, however, that the land is presently in pasture.

Mr. Raymond X. Aki, Chairman, County of Kauai, stated that makai of the main highway in the Wailua area is a championship golf course. Any area around a golf course is choice residential area. Presently the Land Use Commission has the areas surrounding this golf course proposed for Agriculture. Mr. Aki stated that the State anticipates spending \$2,000,000 in this area. The majority of the lands in this area is owned by the State and the remaining by some private landowners. Inasmuch as a strip in this area is designated

as Urban, Mr. Aki requested that the areas surrounding this golf course be designated as Urban. (Mr. Aki was requested to submit his comments in writing.)

Mr. Hansen of Lihue Plantation was against Mr. Aki's request which included lands that were owned by the Lihue Plantation and presently planted in sugar in the Wailua area.

Mr. Jensen, who was sworn in, supported the Land Use Commission's proposed district boundaries for the Aliomanu beach area.

There were no further testimonies given or questions raised by the Commission. The Chairman announced that the Commission will receive additional comments and protests within the next 15 days from this hearing date and will take action 45 to 90 days from this hearing date.

The public hearing on the Land Use Commission's proposed final district boundaries for the County of Kauai was closed.

THE LAND USE COMMISSION'S PROPOSED FINAL DISTRICT REGULATIONS AS THEY APPLY TO THE STATE OF HAWAII

The Chairman opened to the floor any comments concerning the proposed final district regulations or questions that the people may have.

Colonel Roesch asked if he had any recourse should his request not be given favorable consideration?

Legal Counsel replied that Mr. Roesch may continue his operation on a non-conforming basis. Even if the area is designated in Agriculture, it does not mean that he would need to cease his operation.

The Executive Officer replied that Mr. Roesch may also apply for a special permit.

Legal Counsel added that Mr. Roesch may also take his case to the Circuit Court if he wishes to do so.

Mr. Bickel requested that it be clarified why a country club is a permitted use within an Agricultural district, while a resort development like Colonel Roesch's is not?

The Executive Officer stated that the answer to this lies in the direction of what is termed density of the use which occupies the land. When a country club is mentioned, it is usually considered to be an accessory use to an

open land type of land use, and the density over the total area is then very light as compared to a hotel or motel upon a smaller piece of property. Also the intent of a country club is to have the land occupied by a light density use, therefore, one is more acceptable, in degree, than the other.

Mr. Clinton Childs of Lihue Plantation stated that this problem could be solved if this Commission would consider including a resort development as a permitted use within an Agriculture and Rural districts. He felt that this would not only solve the counties problems but would also boost the economy of Kauai and the State as a whole.

Mr. Hansen of Lihue Plantation and Mr. Bud Rogers supported Mr. Childs' statement and requested that this Commission not hamper the growth of Kauai.

Mr. Roy Fernandez of Bishop Estate stated that this Commission was infringing on the constitutional rights of individuals when it classifies individuals' lands into these various uses and say you can do this or cannot do this.

Mr. William Huddy asked what this Commission did to set up these proposed boundaries?

Chairman Thompson stated that this Commission had to work with what they had and do a 12-month job in 2½ months.

Commissioner Nishimura stated that this Commission based its recommendations on the area as it appeared in its present existing land use.

Commissioner Ota stated that the Executive Officer conferred with each county planning director and obtained recommendations.

The Executive Officer stated that this Commission is the third commission to hold office. The prior two land use commissions were in office about one to one and a half years, and accomplished a lot of work which this Commission used. During the period of the second commission the legislature appropriated some \$80,000 for the purpose of hiring a consultant (professional planners) to the Land Use Commission to make recommendations on the land use district boundaries. The majority of the lines as proposed by this Commission was based on the recommendations of this consultant. This Commission also conferred and worked with each county planning director and obtained recommendations.

Mr. John D. Texeira asked that in the event of any conflict between the Land Use Commission and the County regulations who would have the ultimate decision, or whose regulations would prevail?

Legal Counsel stated that if the use is more strict under the County ordinance then the County ordinance will prevail. However, if the permitted

uses in the County is less restrictive than that of the Land Use Commission regulations and law, the Land Use Commission regulations and law will prevail.

In respond to questions raised (concerning areas which were put into the urban district although they were prime agricultural lands or lands being used for agriculture), the Executive Officer stated that wherever urban pressures exist, this factor must be accepted and recognized. Therefore, some of our prime agricultural lands are being used to satisfy this pressure.

There were no further questions or comments that were made by the public.

Commissioner Nishimura made this following closing statement:

"I can see the concern of the members of the Land Use Commission and its Law. But like any Law there is your good and bad. I believe that the Commission are rather fair. As far as the landowner is concerned, we do take this into consideration. Now the outside islands do have a lot of problems because you have most of your legislators from Honolulu and they do not know our local problems. I believe this is why we have commissioners from the various counties representing this Land Use Law. As far as I can see it, we are not perfect; we make mistakes. Like Mr. Hansen says you make one slip as a doctor and the patient may die. But lands do not die, they still live. If we do make mistakes, it is not an intentional mistake. It could be good and it could be bad, but the people have got to be patient on this Land Use Law."

The Chairman announced that the Commission will receive additional comments and protests on the proposed land use district regulations and will take action sometime in the latter part of June 1964.

The public hearing was closed at 4:30 p.m.