

STATE OF HAWAII  
LAND USE COMMISSION

Minutes of Meeting  
Hale ~~Hawaii~~ Cultural Center

March 25, 1966 - 1:00 P. M.

*Approved  
June 17, 1966*

Commissioners      Myron B. Thompson, Chairman  
Present:            Leslie Wung  
                     Charles Ota  
                     Shiro Nishimura  
                     Goro Inaba

Absent:             Jim P. Ferry  
                     C. E. S. Burns  
                     Shelley Mark  
                     Robert Wenkam

Staff Present:     George S. Moriguchi, Executive Officer  
                     Roy Takeyama, Legal Counsel  
                     Ah Sung Leong, Draftsman  
                     Dora Horikawa, Stenographer

The Reverend Boshard of Mokuaikaua Church offered a short prayer, which was followed by the usual introduction of Commission members and staff, procedure to be followed, and swearing in of persons testifying during the hearing.

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PETITION OF MAUNA LOA DEVELOPMENT CORPORATION (A65-105), TO AMEND THE URBAN DISTRICT BOUNDARY AT KEAUHOU, HAWAII, identifiable by Tax Map Key 9-9-01: portion 4

Staff report, presented by Mr. Moriguchi, recommended modification of the petition for a Rural District, initially providing for 100 lots, with the country store and inn facility allowed in the area on the basis of a special permit.

Contrary to Mr. Ernest Kai's impression that the schematic subdivision plan for the proposed project had been submitted to the Land Use Commission, the staff was not in possession of the plan at the time report was prepared.

Mr. Moriguchi explained that the recommendation for a rural classification, instead of an urban classification, was based on the developer's statement that there will be two homes on an acre which would fall within the Rural District. It was also pointed out that under an urban classification, the County would be required to provide services and facilities to the development, whereas a rural classification would place this responsibility in the developer's hands. Mr. Moriguchi further explained that the intent of the developer was really for a cluster-type development, rather than for a 2-home per acre plan.

In response to Commissioner Nishimura's request, Mr. Moriguchi gave a detailed account of the proposed and existing uses, such as the dude ranch, golf course and club, country store and inn, the residential subdivision, etc., as projected on the land uses sketch submitted by the petitioner.

Chairman Thompson wondered whether advance appraisal of the schematic subdivision plan might have made a difference in the staff report. Mr. Moriguchi replied that he was unable to comment on this since he had not had the time to study the plan. However, the original data submitted implied that there would be two houses to an acre, although it developed later that this was true only in terms of overall density, that, including the open spaces, the gross density would be one house per half acre. This latter plan would not be permissible under a rural classification, it was pointed out.

Commissioner Nishimura asked whether staff felt that an urban designation in this area would constitute spot zoning. Mr. Moriguchi replied

that under the regulations, staff was required to take into consideration the possibility of scattered urban development, and that this was one of the bases for recommending a rural classification.

The inability to afford vacation lots by most people and environmental factors in the Alii Subdivision in the Volcano area were submitted as possible reasons for the slow rate of sales. Commissioner Wung felt that the inclement weather contributed to the slow sales.

Mr. Philip Yoshimura of the Hawaii County Planning Commission commented that at the time the developers seek County approval for subdivision plans, the Planning Commission would require them to provide all necessary facilities, improvements and services under the County subdivision regulations. In reply to Chairman Thompson's question, Mr. Yoshimura advised that there was no water supply available in the subject area, but that water catchment was possible.

Mr. Moriguchi clarified his earlier statement regarding the County's responsibility as far as providing the necessary services to the proposed development was concerned--that services did not end with the initial cost of constructing facilities for utilities and services, that schools, fire and police protection, etc. also had to be provided, and dedicated roads would have to be maintained by the County.

Mr. Ernest Kai, Secretary-Treasurer of the Mauna Loa Development Corporation, Mr. Edward Fitzsimmons, President of the corporation, Mr. Alex Castro of Bishop Realty who will handle sales, testified in behalf of the petitioners.

Mr. Kai explained that the Mauna Loa Development Corporation was a Hawaiian corporation comprised of Honolulu and Hilo associates, who were

interested in developing the Volcano area. The resort complex will include an existing 18-hole golf course which would be upgraded into first-class condition, club house, tennis courts, swimming pools, archery, riding stable, dude ranch, game hunting, country inn, etc. Mr. Moriguchi had confirmed that golf course and dude ranch were permissible uses in an Agricultural District, so that the developers were requesting urban classification for the remaining 415 acres, designated in yellow and red on the map.

To preserve the natural landscape, the developers had decided in favor of a cluster-type plan over a grid-type development of one house per half acre, as stipulated by the Land Use Regulations within a Rural District. Therefore, the developers were requesting an urban classification to enable them to pursue a cluster-type development.

Mr. Kai advised that the development was geared primarily to meet the needs of island residents for a vacation-type home in the islands with recreational facilities. A poll taken in Honolulu of people in the middle and upper income brackets indicated the great interest and need for such a facility. Governor Burns had also stressed that we were overlooking the available recreational facilities within the islands for the island people, at a tourism seminar held in Hilo.

Mr. Kai has worked out an agreement with the Bishop Estate whereby leases will be for a period of not less than 55 years, with very nominal rental. The developers also plan to permit multiple ownership to enable two or three families joint ownership of a vacation home. This will be a package deal, with nominal down payment within the reach of island residents. Climate in the area is equitable and there will be storage for

water for drinking and irrigation purposes for the golf course. Every purchaser of a lease lot will be given membership in the golf club.

The total development cost would run in the neighborhood of five to six million dollars. There is a great market for this type of development which has never been provided previously for the benefit of island residents.

With respect to the availability of water, Mr. Kai had been informed by the Board of Water Supply that there was no requirement for a water system in the development area, that one tank to each home would be sufficient.

Mr. Kai requested that the schematic subdivision plan be admitted as Exhibit 2-A. He explained that the cluster type development envisions 1/4 acre plus or minus lots with open spaces between and will meet all county standards and requirements.

On the matter of substantiating a need for such a development, Mr. Kai submitted that the most conclusive proof of need could be established by the fact that they had in their possession many signed sales agreement. Although he realized that they could not solicit subscriptions until the subdivision was approved, Mr. Kai stated that there were over 50 people among his acquaintances who had expressed a desire to purchase. He added that if they were compelled to break this up into increments of 100 lots at a time, it would be disastrous since this would cause needless delay and would be too expensive in terms of having to apply to the Land Use Commission each time they started on another increment. It would also ruin their financing arrangement, which has already been negotiated for, since this was based on the whole subdivision.

Regarding staff's recommendation that the developers seek a special permit for the country store and inn, Mr. Kai requested that this also be reclassified urban. He said the country store would serve people in the entire area, including those who utilize the military camps.

The scheme will be rugged in keeping with the Mauna Kea and Mauna Loa background. The lease agreement will incorporate a requirement that the design and color be approved by the developers, and also a two-year building covenant to preclude speculation.

Mr. Alex Castro of Bishop Realty commented that the proposed subdivision not only followed a trend, but it was unique and the only one of its kind in Hawaii. Hawaii boasted a very sophisticated buying market interested in competitive products. During informal discussions with different people, a great deal of interest was expressed. This was a well-conceived project, properly priced with well-built homes. From the realtor's point of view, Mr. Castro felt that it was very important to obtain approval for the whole project, since some people might be making deposits today for a home they may decide to build in the future.

Chairman Thompson wondered about the projected completion date for the whole development. Based on the assumption that approval will be given immediately, it would take the developers at least three months to begin the project. As developers, they would have to plan six months to a year ahead of time and for this very reason it was important to have approval for the whole project.

Chairman Thompson asked whether the development had been correlated with the economic trends as it related to increased leisure time which would result from automation. Mr. Castro replied that they had recognized

that the market demands for vacation and leisure-type homes had increased substantially within the last five years.

Commissioner Nishimura posed the possibility of putting this on a package deal basis instead of the two-year building requirement to discourage land speculation.

It was pointed out that the developers were appealing to the public with a buying power of from \$14,000 to \$16,000 and that some of them did not wish to purchase a package deal.

Mr. Moriguchi wondered about the statement that Mr. Kai had made earlier during his testimony in regard to the signed sales agreement. Mr. Kai commented that perhaps the most impressive evidence to substantiate the need to reclassify the land for the proposed development would be to have signed sales agreement. However, since this was unlawful without approval of the subdivision plans, the petitioner had conducted a poll bearing on the subject, which was appended to the petition as an exhibit, and which confirmed the need.

Presently the golf course was maintained by the Volcano Golf Club, an incorporated private non-profit club, Mr. Kai replied in answer to Commissioner Wung's question.

Mr. Kai assured the Commissioners that if approval for reclassification was granted, the developers would see the project to its completion with proper financing, etc.

Commissioner Ota wondered how the developers justified the 10-acre shopping site within the development. Mr. Kai replied that the country store area would include all sorts of facilities--market, liquor store, camera shop, sporting goods store, meeting place for banquets, etc. and

eventually even a drive-in motel and cabins. He added that there would be enough population within the development and the surrounding areas to support a country store and inn of this scope.

Since there was no further testimony, the hearing was closed thereafter.

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PETITION OF RALPH E. ALLISON, ET AL (A65-107), TO AMEND THE DISTRICT BOUNDARY AT PANAWEA HOUSELOTS, HILO, HAWAII, identifiable by Tax Map Key 2-2-51 and 52.

Mr. Curtis Carlsmith, attorney for the petitioners, asked to be recognized to make a statement on behalf of the Allisons. He pleaded some irregularity in the notice that had been sent out by the Land Use Commission, in that the request for reclassification by the petitioners had been publicized as rural, whereas the petition was filed for an urban designation and rural only if urban were not possible. Therefore, he felt that inadequate notice had been served to the people on Hawaii, and any ruling by the Commission would not have the effect of the law by reason of the fact that statutory notice was not complied with.

In view of the foregoing, Mr. Carlsmith requested that the hearing be postponed until adequate notice could be served to the people on the Island of Hawaii to apprise them of the fact that more intense and more advanced uses of the lands were being sought than implied by the public notice.

Chairman Thompson called for a short recess at 2:15 p.m.

The meeting was resumed at 2:30 p.m. Chairman Thompson announced that by mutual consent, the petition by R. E. Allison, et al was being deferred.



PETITION OF BERNICE P. BISHOP ESTATE (A65-103) TO AMEND THE URBAN DISTRICT BOUNDARY AT KEEI, HAWAII, identifiable by Tax Map Key 8-3-04; 1, 8-3-05: 1 and 8-3-06.

On the basis of the following analysis, staff recommendation was for denial of this petition (see copy of report on file):

1. The need for the urban area in lieu of the conservation area has not been demonstrated.
2. The petitioner's proposal would not be in the best public interest.

Mr. Moriguchi advised that the distance between the present urban boundary and that requested by the petitioner was about 200 feet. The rainfall in the area approximated 34" annually.

Mr. Moriguchi commented that there was considerable change in the matter of the land area, from the original petition submitted and denied a year ago previously. The area colored in yellow on the map was pointed out as the lands involved in the original petition, and the red area as being requested in the present petition.

On the subject of the water system, Mr. Moriguchi commented that the Napoopoo area was not presently being served and that water was provided by rainfall catchment. However, there was a possibility that this might be sought under the Capital Improvement Project.

Mr. Philip Yoshimura of the Hawaii County Planning Commission office stated that approval for the petition had been based on the fact that the County General Plan for the Kona area had designated the subject lands for urban uses. In reply to Chairman Thompson's question, Mr. Yoshimura thought that the Board of Water Supply might require the developer to install its own water system.

Mr. Roy Fernandez, representing the petitioner, clarified a few points. The Bishop Estate had recently granted the Board of Water Supply permission to run a temporary line from the existing line in Keei mauka to the City of Refuge. This was only a temporary line and the original proposal to build a water system to Napoopoo to Honaunau was still in effect.

Mr. Fernandez also submitted that if the petition were approved for an urban designation, it would permit Bishop Estate to go ahead with the development and justify the cost of road construction, which roads in turn will be dedicated to the County.

Mr. Fernandez continued that this was a logical extension of the present Urban District, and that the proposed project would be a high-standard development which would benefit both the County and the State of Hawaii in increased taxes. The petitioners also envisioned a future cluster type subdivision with open spaces in the general area.

Mr. Fernandez advised that these were all lease lands.

In response to Commissioner Nishimura's concern over the fact that the State would be bearing the cost of providing water facilities to the Napoopoo area, Mr. Fernandez remarked that the Board of Water Supply's plans for the area were conceived prior to the petitioner's development plans. He also pointed to the fact that the Bishop Estate and Board of Water Supply are working hand in hand for the overall development of the Island of Hawaii.

Since there was no further testimony, the hearing was closed.

PETITION OF TAKESHI AND CHIZUKO KUDO (A65-104) TO AMEND THE URBAN DISTRICT BOUNDARY AT KEALAKEKUA, HAWAII, identifiable by Tax Map Key 8-1-06: 13

Staff's recommendation for approval was based on the fact that there was a definite upward trend in population growth in the area, urban uses of the subject parcel would most probably not have an adverse effect on agricultural operations and would not create a burden to the general public (see copy of report on file).

Referring to the 15 percent (48 acres) of vacant urban lands mentioned in the staff report, Chairman Thompson wondered about the approximate dates when all of these lands might be in use. Mr. Moriguchi was unable to make this projection due to the fact that the relative development of existing lots as plotted in the Kona area has not been typical of development in other areas. These were mostly family plots, grown in coffee, and kept within the family for sentimental reasons.

Mr. Moriguchi explained that the 15 percent referred to in the Staff Report indicated the area within the Urban District that is either vacant or in low-density use, on the basis of acreage.

Chairman Thompson contended that actually there was a great deal more than 15 percent developable for urban uses, since, for example, a  $1\frac{1}{2}$  acre parcel could be subdivided into five lots.

Mr. Sumio Nakashima, attorney for the petitioner, testified that most of the fee simple lands in the area were in North Kona since Bishop Estate owned a good part of the lands in South Kona. The greatest potential for residential development and most of the future of Kona lay in the North Kona area. Many people desire houselots in this area, and all of the Kudo lots had already been spoken for by relatives.

Replying to Chairman Thompson's question, Mr. Moriguchi commented that the population had increased by approximately 500 in the last decade, from 3,500 to 4,000.

There being no further testimony, the hearing was closed.

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PETITION OF A. C. & EMILY F. GOUVEIA (A65-108) TO AMEND THE URBAN DISTRICT BOUNDARY AT LAALOA, NORTH KONA, identifiable by Tax Map Key 7-7-07-18

Staff Report, presented by Mr. Moriguchi, recommended denial of the petition due to the lack of justification for the need of additional urban lands, and on the basis that approval of the petition would contribute toward scattered urban developments.

Mr. Philip Yoshimura, representing the Hawaii County Planning Commission, stated that their approval had been recommended on the following bases:

1. Existing land use is for single-family residences, around and up to petitioner's property.
2. The general plan indicates that the urban area would move toward the south.
3. This would not impose a burden on the county since there were adequate water and electrical services.

Chairman Thompson wondered whether the Hawaii County Planning Commission contemplated a request for boundary change in the general area. Mr. Yoshimura replied that they were in the process of preparing such a petition and that Mr. Gouveia's parcel would be contiguous to this area.

Mr. Gouveia testified that the general development plan was moving southward from Holualoa. The subject parcel consisted of very poor sub-soil, and it was economically unfeasible to continue agricultural pursuits,

As an example of this, he cited that during the last year he was able to realize only \$600 on an outlay of \$1,242 for coffee crops.

Commissioner Ota commented on the fact that there were larger parcels of ranch land surrounding Mr. Gouveia's property and whether the owners of these lands would accept or look favorably upon subdivision plans for the whole general area.

Mr. Gouveia replied there was no doubt about this--that in fact a preliminary survey had been done on one of the larger parcels, and indicated for houselots.

Referring to the relatively slow development of the subdivided lots in the area, Commissioner Nishimura commented that he felt the Hawaii County Planning Commission was 20 to 30 years ahead in its planning. Mr. Gouveia commented that the lack of water was the greatest problem. However, when the 12" line is installed along the Kuakini Highway, a water line will be hooked on to serve the back lots.

The hearing was closed thereafter.

RULING - LALAMILO HOUSE LOTS (Lloyd Kaneshiro)

Mr. Moriguchi reported that a request had been received from Mr. Lloyd Kaneshiro to investigate the matter of the urban boundary line in the Lalamilo House Lots area. When the temporary boundaries were established, Mr. Kaneshiro's property was included in the Urban District; however, in the process of delineating the boundaries, the urban line was moved and Mr. Kaneshiro found his parcel in the Agricultural District. It was the staff's contention that some discrepancy had occurred, and that the area in question should have been included in the Urban District.

Commissioner Inaba was of the opinion that at the time of the boundary decision, it was the intention of the Commission to include the Lalamilo House Lots in the Urban District. It was highly improbable that the Commission would urbanize the surrounding state lands and leave the Lalamilo House Lots in an Agricultural District.

In response to Commissioner Ota's question, Mr. Moriguchi informed that the lot sizes in the area under discussion were just a little over an acre, and that they did not even qualify under an agricultural classification.

Chairman Thompson commented that the task before the Commission was to determine what the intention was at the time of decision and whether or not a drafting error had been made. He added that if a drafting error had been made the Commission was empowered to make a ruling.

Mr. Takeyama, Legal Counsel, confirmed that the shift in boundary could only be accomplished if it could be established that a drafting error had been made, based on the facts that were presented at the time of the decision. This will have to be done by checking back on the records to determine the Commission's intent.

It was finally decided that the matter be deferred pending research into the records to determine Commission's intent on this matter.

SENATE STANDING COMMITTEE REPORT NO. 98

Mr. Moriguchi read the Senate Standing Committee Report No. 98 from the Committee on Kauai Select, recommending favorable consideration of Commissioner Nishimura's gubernatorial appointment to the Land Use Commission and recommending referral of the matter to the Committee on Lands and Natural Resources.

SENATE RESOLUTION NO. 33

Senate Resolution No. 33 requesting the City Planning Commission and the State Land Use Commission to give ample notice of hearings relating to North Shore Development was presented (see copy on file).

SENATE RESOLUTION NO. 34

Senate Resolution No. 34 was also presented requesting the State Land Use Commission to retain present zoning for University of Hawaii Research farm site in Waialeale (see copy on file).

SENATE RESOLUTION RE AGRICULTURAL LANDS

Mr. Moriguchi informed that there was still another resolution in the Senate, a copy of which had not yet been received by the Commission, introduced by Senator Benjamin Menor, requesting that the Land Use Commission look into the problem of small agricultural lands. The problem was one of subdividing small agricultural lands into several parcels, primarily for the purpose of giving title to the heirs, which had come before the Land Use Commission time and again, and also involved sociological implications.

Chairman Thompson felt that the Commission should conduct such a study, and wondered whether funds would be available for this purpose. Mr. Moriguchi thought that this might be used as a tool for requesting additional funds from the Legislature. He added that the findings will have to be reported to the 1967 Legislature 20 days before they convene.

Mr. Takeyama advised that this was merely a resolution and that it did not have the effect of the law.

No further action was taken on the matter, pending receipt of the certified copy of the resolution.

## REQUEST FROM THE UNIVERSITY EXTENSION SERVICE

A request had been received from Mr. Steven Doue of the University Extension Service for representation from the Land Use Commission to its panel discussions which will be held in the various counties for the benefit of county agents and farmers. Mr. Moriguchi wondered whether the Commissioners would be favorably inclined to participate in such panel discussions. Mr. Moriguchi felt that this was an excellent opportunity to disseminate information to the general public.

Commissioner Nishimura stated that he had been approached by the Extension Service and was in full accord with its request. He felt that each county should be represented by its respective Commissioner and possibly Chairman Thompson.

It was the consensus of the Commissioners that they would be willing and available to participate in these panel discussions.

## NEXT MEETING DATE

The next meeting date was announced as being on April 14, 1966, Thursday. This was necessitated by the fact that statutory requirements placed the cut-off date on a few of the action items as April 14.

Commissioner Nishimura suggested that meeting dates be cleared with Chairman Thompson, especially now that summer is approaching and some of the members may be planning on trips.

## INCREASED WORK LOAD

Mr. Moriguchi commented that additional responsibilities were projected for staff by the Department and he was hopeful of filling the Assistant Planner's position by the 1st of May. However, this would not wholly alleviate the work load needs.



Chairman Thompson followed up on this by stating that during the last beautification conference, it was recommended that by the middle of 1967, work be started on the revision of the land use district boundaries. This means that the next Legislature would have to request that such a revision take place. Therefore, the Commission should start working on it before the session. Perhaps, additional staff service could be solicited on this basis.

Mr. Takeyama recommended that the staff reports presented during hearings on the petitions be mailed out in advance to the petitioners to enable them to prepare adequate rebuttals for the public hearings. Although there was a 15-day period in which the petitioners were allowed to submit rebuttals or additional data, this did not afford the petitioners the full benefit of cross-examining the witnesses or making an adequate presentation to the Commission. To preclude the possibility of newspaper coverage of the staff report in advance, Mr. Takeyama suggested that a note be appended to the report requesting that information contained therein be kept in confidence up to the time of the public hearing. The question was raised as to whether a public hearing could be cancelled in the event of publication of advance information regarding a petition. Mr. Takeyama was not able to say whether this was a legal basis for denying a hearing.

Mr. Moriguchi wondered if this consideration should be extended to persons other than the petitioners, who were interested in the petitions, as for example those persons who might be opposed to a petition.

Mr. Takeyama advised that this should only follow in the case of aggrieved persons. However, this could not be determined until such

time as the aggrieved person came in to request for a motion to intervene or to become a party, either by letter or some other formal means.

Chairman Thompson felt that the confidential nature of the staff report should be explicitly expressed in the memo, with instructions to refrain from any discussion of the contents with any of the Commissioners.

FEDERATION ON NATURAL BEAUTY

Chairman Thompson reported that the Federation on Natural Beauty was still in the planning stages. At the last meeting, the following general outline was agreed upon:

1. That a non-governmental body act as the coordinating agency.
2. Actively seek to have legislations passed.
3. Open up participation to all organizations in the city.
4. A paid staff be employed to carry out the work of the Federation.

There being no further business, the meeting was adjourned.