STATE OF HAWAII
LAND USE COMMISSION

Minutes of Public Hearing and Meeting

Lihue, Kauai

1:00 P.M. - April 9, 1965

Commissioners Present:	Myron B. Thompson C.E.S. Burns Jim P. Ferry Shelley M. Mark Charles S. Ota Goro Inaba Shiro Nishimura Robert G. Wenkam Leslie E. L. Wung
Staff Present:	Raymond S. Yamashita, Executive Officer Roy Takeyama, Legal Counsel Gordon Soh, Associate Planner Alberta Kai, Stenographer

The public hearing was called to order by Chairman Thompson who said an opening prayer. The procedures of the public hearing were outlined and the commissioners and staff were introduced. All interested persons and staff members who would be presenting testimonies were sworn in by the Chairman.

PETITION OF HARRY M. FLAGG AND PAUL R. MILLER (A64-76) FOR AN AMENDMENT OF THE URBAN DISTRICT BOUNDARY AT KALAHEO-KAI TO INCORPORATE APPROXIMATELY 37 ACRES FOR RESIDENTIAL USE: Described as Fourth Division, TMK 2-3-02: 30 and 31

Mr. Gordon Soh presented the background and analysis on the above petition. The staff recommended that the petition be denied on the basis that:

1. There is no evidence that the land is needed for a use other than that for which the district in which it is situated is classified;

2. The instant parcels do not substantially meet the standards for determining district boundaries adopted by the Land Use Commission.

Commissioner Nishimura corrected staff's statement that the residential lot prices in the subject area were 60¢ a sq. ft. He stated that they were 30¢ a sq. ft.

Mr. Matsuo Asari, practicing attorney, represented the petitioner. He informed the commissioners that Mr. Clinton Shiraishi was the petitioners' regular representative but due to prior commitments Mr. Shiraishi was not able to make this hearing. Mr. Asari stated that the overall impression he got from the staff report is that:

1. The land is physically unsuitable for farming;

2. The land is unsuitable for pasturing economically -- physically possible, but economically not; and

3. There is no demand for residential house lots and for that reason (in spite of the fact that it is agriculturally unsuitable) economically it should not be classified as Urban.

Mr. Asari stated that the rules of the Commission specify urban uses to be more than just residential and that the rules seem to define urban uses to be uses other than agricultural. He suggested that urban uses can be other than residential uses and that such uses could be restricted by an agricultural classification.

Mr. Asari pointed out that although the report mentions population concentration and housing development of only 12 homes built in the immediate vicinity in recent years, on an island with only 27,000 people, 12 homes are a considerable number.

Mr. Asari stated that the report's findings relative to the Commission's districting standards are not directly unfavorable except for subparagraphs a and b. He stated the other findings indicate no specific objections.

He stated that there would be no drainage problems resulting because of small lot sizes. The petitioner does not propose small contiguous lots but large lots.

In rebuttal to a statement in the report that there is no sewer line, Mr. Asari informed the Commission that there is only one sewer system on the island of Kauai, that the only system is in Eleele, that no other place has one, and that there is in the foreseeable future no indication that there will be a sewer system in the other locale. By way of rebuttal to a statement in the report that the schools are $\frac{1}{2}$ mile away, Mr. Asari noted that a statistical report from the School Department cites that out of some 7,000 public school students, about 3,000 live between $\frac{1}{2}$ a mile and 1 mile, about 2,000 live more than a mile, and about 2,000 students live within the $\frac{1}{2}$ mile area.

In response to the inference that petitioner's lands are far removed from the Kalaheo-Uka area, Mr. Asari quoted a staff report prepared for the special permit application by Stanley Ueunten a year ago (pointing to map to show Mr. Ueunten's property which adjoins the property now under petition) in which staff recommended that Mr. Ueunten's petition be approved on the basis that the Kalaheo urban district was logically one.

Mr. Asari stated that the staff earlier argued that the two Kalaheo districts are essentially a unit, that the implication is that the staff would support any kind of urbanization to join the two districts and that this report was made only a year ago. Mr. Asari stated that it is his understanding that in approving Mr. Ueunten's petition, Mr. Ueunten's property was reclassified as Urban without a request from the landowner. It was reclassified Urban by the Commission without the request of Mr. Ueunten.

He stated that if it be agreed that the lands under petition are not city-like it should also be pointed out that there are many places on Kauai that do not have schools, do not have any public facilities, and still are classified Urban in the immediate Lihue area. These areas have no sewer system, no public facilities whatsoever, and yet are classified Urban. He stated he could not reconcile the basic argument of less than a year ago that the Kalaheo Urban Districts should be physically integrated and now stating that it should not be so. The parcel under petition lies directly between the areas classified as Urban.

Mr. Asari felt that there is some justification that this parcel would perhaps not be a booming residential area with thousands of people living there. This lot was intended to be subdivided and a good deal of money spent on it. However, the Urban classification will not restrict the owner to residential use alone. Mr. Asari's understanding, from Mr. Shiraishi -- and not from the petitioner -- is that the petitioner has in mind the development of cabins in the area taking advantage of the existing small but expanding golf course. Mr. Asari asserted that agricultural use of the parcel is not possible and there is no economic value in using it for pasture.

Mr. Asari stated that the parcel is in an area where there is great demand for development. He questioned whether demand is a proper criteria relative to development. He pointed out that the Kalaheo area is not a situation where there are a 100 people looking for a house and lot and taking what is referred to them. He suggested that such a situation may possibly exist in Lihue where only a limited number of residential lots are available. He argued that the instant case is not a situation where the land is offered to known buyers. Mr. Asari stated that perhaps the problem of the demand for houselots on the outside islands can be explained.

In response to questions raised by the Commission, Mr. Asari stated that he did not agree with staff's contention that the land is not good for urban purposes. He stated that the lack of an industry is no basis for arguing that the land under petition be kept in agricultural use. He explained that he is not talking about economics in the sense of money making but rather economics relative to the best use of the land and what would be best insofar as the people are concerned.

There were no further questions raised from the Commission or the public, and no further testimonies presented. The Chairman announced that the Commission will receive additional written testimonies or protests within the next 15 days and will take action on this petition 45 to 90 days from this hearing.

The public hearing was closed on the petition by Flagg and Miller.

PETITION BY GROVE FARM COMPANY (A64-77) FOR REMOVAL FROM THE CONSERVATION DISTRICT OF 920 ACRES TO BE PLACED IN AN AGRICULTURAL DISTRICT: Described as a portion of Fourth Division TMK 3-4-01: 1

Mr. Gordon Soh presented the background and analysis on the above petition (see report on file). The staff recommended approval, stating that the agricultural use of the land might be better fostered if the land is placed in an Agricultural District. Planting the site to cane would be a more productive use, the benefits from which could be reflected in higher standards of living and a broader tax base. In the absence of any conservation need for the site, productive uses should be encouraged.

Mr. W. M. Moragne represented Grove Farm. He was very pleased with staff's recommendation. He had nothing to add except to bring the Commission up-to-date on Grove Farm's proposed plan for this area.

There were no additional testimonies or comments made and the Chairman announced that this Commission will receive additional written testimonies or protests within the next 15 days and will take action on this petition 45 to 90 days from this hearing.

The public hearing was closed.

PETITION BY TOMITA SAKAI (KAUAI SP64-4) FOR A SPECIAL PERMIT TO ADD TWO HOUSES ONTO 40.139 SQ. FT. OF PROPERTY SITUATED IN A RURAL DISTRICT IN THE HEIGHTS ABOVE KALAHEO: Described as Fourth Division TMK 2-4-05: 84

Mr. Gordon Soh presented the staff's analysis and background on the above petition (see report on file). The staff's recommendation was for denial on the bases that:

1. The proposed use is not "unusual and reasonable."

2. The proposed use would not promote the effectiveness and objectives of the law because:

    a. It would violate the integrity of Rural District zoning.

    b. It would confuse rather than clarify districting as a basis for real property assessments and force lands from uses for which Rural Districts were devised to protect.

Correction to staff's statement in regard to the area involved was made after questions were raised by the Commission. The area under petition contains 40,139 sq. ft. instead of 49,139 sq. ft. as stated. Mr. David Wong, Kauai Planning and Traffic Commission Planning Director, confirmed that the parcel contains 40,000 sq. ft.

Discussion relating to this petition and Ann Kali's request was held. A commission member of the Kauai Planning and Traffic Commission requested that the Land Use Commission reconsider their action made on the Ann Kali petition.

Commissioner Nishimura asked whether the application was for one or two additional homes. It was pointed out by Commissioner Ota that the applicant was seeking to construct two additional homes on his lot.

Commissioner Nishimura moved to deny the petition for a special permit for construction of two additional homes. Commissioner Ferry seconded the motion. The Executive Officer polled the commissioners as follows:

Approval: Commissioners Wung, Inaba, Ota, Wenkam, Burns, Nishimura, Mark, Ferry and Chairman Thompson.

Disapproval: None

The motion to deny was carried.

ACTION ON PETITION BY JOSEPH R. PAO (A64-71) FOR A BOUNDARY CHANGE

The Executive Officer read into the record a letter from Joseph R, Pao dated 4/6/65 (see files) requesting that the Commission defer action on his petition until their next meeting. The Commission unanimously agreed to defer action until the Commission's next meeting.

DISCUSSION ON SENATE BILL 262

The Chairman informed the Commission that Senate Bill 262 has been passed and was now in the House Lands and Agricultural Committee. The Commission discussed the merits and demerits of the bill. It was the consensus of the Commission that it continue in opposition of this bill.

REVIEW OF THE ANN KALI'S PROPERTY

The Chairman stated that at its last meeting it was decided that a field survey of the Ann Kali property be made by the Commission to review the possibility of reclassifying a portion of the Hanapepe Rural District to Urban. He stated that this has been made this morning.

Commissioner Nishimura stated that the boundary lines should be changed from Rural to Urban. He stated that there were areas in there for possible house lot development. He pointed out that prime agricultural lands had been taken away for the Hanapepe house lot subdivision. He objected to the staff making an evaluation of the area and requested that the Commission initiate a public hearing for a boundary change in this area.

Commissioner Ferry stated that this Commission should consider whether this land is Urban in nature.

The Chairman stated that the staff will make an evaluation of this area to determine whether this area should be urbanized and to have its recommendation ready at the Commission's next meeting.

TENTATIVE SCHEDULE FOR MAY 7 and 8, 1965

The tentative schedule for May 7 and 8, 1965 Lihue, Kauai and Lahaina, Maui was approved by the Commission. The consensus of the Commission was that action on the Joe Pao petition would also be held at this meeting.

DISCUSSION ON UNUSUAL AND REASONABLE USES FOR HARDSHIP CASES

Discussion was held on whether or not the Land Use Commission should allow subdivision of family properties for the exclusive use of family members and for a given period under special permit.

The Executive Officer summarized the ensuing discussion and stated that the issues involved are:

1. to alleviate social problems

2. to alleviate family financial hardship and

3. to discriminate between lands that are usable for agriculture and lands that are not.

He stated that it would seem proper to think about where most of our people are living. The way the land use is set up almost 80% or more are living in the urban areas. The Commission is solving only about 20% of this problem. He stressed that granting of special permits should be made on facts whether it is an unusual and reasonable use.

COMMUNICATIONS

Letters from Thomas O. Wells, Chairman, Community Beautification Committee, Chamber of Commerce of Honolulu, dated April 8, 1965; and from David C. Sanford, Historic Sites Committee Chairman, Conservation Council for Hawaii, dated April 6, 1965 were read into the record (see files for letters). In essence these letters requested that the Commission review and redetermine the Conservation District lines in the Diamond Head area.

Commissioner Wenkam stated that the Commission should inquire whether there is a need to change the boundary lines and to determine where the lines are in this area.

A lengthy discussion was held on this subject. The Chairman, however, stated that the staff will make a study and a review of this area to report back to the Commission at its next meeting.

The Commission adjourned this meeting at 4:45 p.m.