

LAND USE COMMISSION
STATE OF HAWAII

Minutes of Meeting

Board Room

Lihue, Kauai

April 25, 1963 - 6:00 P.M.

Commissioners
Present:

E. C. Bryan
Stanley C. Friel
Wayne D. Gregg
Yuichi Ige
Edward Kanemoto
Franklin Y. K. Sunn
Roger T. Williams

Ex-Officio Members
Present:

George Siu

Staff Members
Present:

W. M. Mullahey, Acting Executive Officer
R. Takeyama, Legal Counsel

The meeting was called to order by Chairman Bryan, followed by a short prayer.

ITEMS PENDING ACTION

PETITION OF KAISER HAWAII-KAI DEVELOPMENT CO. (A(T) 62-24), FOR CHANGE OF TEMPORARY DISTRICT BOUNDARY FROM AN AGRICULTURAL DISTRICT TO AN URBAN DISTRICT CLASSIFICATION FOR LAND IN MAUNALUA, OAHU: Described as First Division, TMK 3-9, portions of plats 05, 09, 10, 14, 18, 20, those portions amounting to a total of 2300 acres, more or less.

A change of the temporary boundary classification from agriculture to urban of some 2300 acres in Koko Head Section of Oahu was being requested by Hawaii Kai.

The ^{Acting} XO reviewed the area and request. He pointed out that some 700 acres involved in the petition's request for change of temporary boundary classification from Agriculture to Urban was not included in the land use commission proposed final boundaries for Oahu.

A representative from Hawaii Kai, Mr. Shigekane, was called upon to further clarify the request.

Commissioner Ige asked whether it was necessary to have the temporary boundary set for this request, as the commission had the adoption of the proposed final boundaries pending before them.

Chairman Bryan stated that there was a possibility that the adoption of the permanent boundaries may be delayed for another year, and this may pose a

problem for the petitioner, and he is, therefore, seeking for a change in the temporary boundary classification. The representative of the petition agreed to what was stated by Chairman Bryan.

Commissioner Sunn moved to approve the request for amendment of the temporary boundary according to the staff's recommended approval of the City and County's General Plan; seconded by Commissioner Friel.

The Acting XO polled the commissioners.

Approval: Commissioners Kanemoto, Williams, Friel, Sunn, Ige, Gregg and Chairman Bryan.

Disapproval: None.

PETITION OF C. V. LAND CORPORATION (A(T) 62-25), FOR CHANGE OF TEMPORARY DISTRICT BOUNDARY FROM AN AGRICULTURAL DISTRICT TO AN URBAN DISTRICT CLASSIFICATION ON LAND IN MAKENA, MAUI: Described as Second Division, TMK 2-1-11: 12, 13, 15, 20, 21, 25 & 30.

A review of the request and the area involved was made by the acting XO. The acting XO stated that the County Planning Commission and the Board of Supervisors both recommended approval of the petition. The acting XO stated that the staff's recommendation was for denial of the request and that he did not have any revisions to make to the present staff's recommendation. The acting XO maintained that the logical thing to do to preserve or conserve certain areas where orderly development will probably occur is to set up controls.

Chairman Bryan asked the acting XO if the commission were to make an urban district, wouldn't it be better to make the district a little larger and encompass all those pieces in the area. The acting XO stated that if the commission were to make an urban district in this area, it should logically go as far down to the beach below the coastguard station at Makena, about a mile further on from the area under discussion.

Commissioner Ige questioned whether or not the people of Makena during the public hearings on the proposed final boundaries of Maui County asked that the whole area of Makena go into an urban classification. Commissioner Ige was answered in the affirmative.

Commissioner Sunn asked the acting XO if he felt that the whole area in Makena should go into an urban classification? The acting XO replied in the affirmative. Commissioner Sunn stated that if this is so, there is no problem to urbanizing this spot and eventually changing it so that the permanent boundaries included all of these small areas. The acting XO stated that if the commissioners committed themselves to this, then this would be the initial determination as to how to treat this area.

Commissioner Friel stated that inasmuch as the Board of Supervisors and the Planning Commission of the County of Maui expressed their approval of this petition, he moved that the petition of C. V. Land Corporation be approved; seconded by Commissioner Sunn.

The acting XO polled the Commissioners.

Approval: Commissioners Kanemoto, Williams, Friel, Sunn, Ige, Gregg, Siu, and Chairman Bryan. Disapproval: None.

PETITION OF HOLLYKONA ASSOCIATES (A(T) 62-26), FOR CHANGE OF TEMPORARY DISTRICT BOUNDARY FROM AN AGRICULTURAL DISTRICT TO AN URBAN DISTRICT CLASSIFICATION FOR LAND IN WAIALUA, MOLOKAI: Described as Second Division, TMK 5-7-3: 23.

The acting XO reviewed the area and the request.

The acting XO stated that the staff recommended against rezoning of this area to urban as no precise planning has been accomplished in the area, and of the fact that the road and utility facilities are substandard. The staff's recommendation was for **approval** of a special permit if the road and utility facilities are considered adequate by the County to support Mr. Tobey's request for commercial uses. The acting XO stated that both the Planning Commission and the Board of Supervisors recommended approval of the request.

The acting XO was asked why this matter was not originally handled as a Special Permit rather than a boundary change. The acting XO stated that the land use commission staff was not aware of this activity when the petition was made as the petitioner lives in Los Angeles and evidently dealt directly with the Maui County planning director.

Commissioner Friel made a correction to the staff's report. Commissioner Friel stated that at present there are paved road and utility facilities. He stated that there is just a section in Pukoo, about amles length, that is unpaved, but the rest of the area consists of county's paved road and utility facilities.

Commissioner Friel moved to approve Mr. Tobey's request on the basis that there are presently paved roads and utilities in the area; the Board of Supervisors and the Planning Commission are in favor of this change; and a change to urban would as a result of what Mr. Tobey intends to put in there be a boost to the economy of Molokai. Commissioner Kanemoto seconded the motion.

Discussion: Chairman Bryan asked Commissioner Friel, "Is it my understanding that this land is not in agricultural use at this moment?" Commissioner Friel replied in the affirmative.

The acting XO polled the commissioners.

Approval: Commissioners Kanemoto, Williams, Friel, Ige, Gregg, and Chairman Bryan. Disapproval: Commissioners Sunn & Siu.

PETITION OF EUGENE & EVA KENNEDY (A(T) 62-27), FOR CHANGE OF TEMPORARY DISTRICT BOUNDARY FROM AN AGRICULTURAL DISTRICT TO AN URBAN DISTRICT CLASSIFICATION FOR LAND IN LANIKAI, OAHU: Described as First Division, TMK 4-3-02: Por. 1; that portion being the 50 acres, more or less, situated above the 200 foot contour.

The acting XO reviewed the request and the area.

The acting XO stated that the City Planning Commission has recommended denial of the application and that the area be designated as Conservation by the Land use commission. The acting XO stated that **no recommendation** has been received from the City Council as yet. A communication received since the last meeting was read for the record. A map submitted by the developer showing

the first increment development encompassing an area running up approximately a 300 foot contour was presented to the commission. The acting XO stated that a request of the City Planning Commission to make a separate finding of fact on this first increment subdivision plan as submitted by the developer has not been received as the Planning Commission has insisted that they were not familiar with the area. The acting XO stated that the plans submitted by the developer are considered as Unit I by the City Planning Commission. The acting XO stated that the staff's recommendation at the time of the first hearing when the whole 50 acres were being considered by this Commission was for denial. The petition has now being altered to include Unit I which is divided up into 2/3rds urban, and 1/3rd agriculture.

Chairman Bryan asked if the staff had a new recommendation to make for Unit I. The acting XO replied in the negative stating that: (1) the entire area was recommended for denial by the past XO; and (2) the first unit would require substantial investment which would have to be authorized by subsequent units, and therefore, if the first increment is to be granted, you are in essence granting the second and third increments.

Chairman Bryan asked if the acting XO thought that the burden of providing and scheduling existing water, sewers, economic feasibility, drainage and engineering problems, and problems that bear expenses were up to the developer and if he wishes to spend that much money to develop the area, is it the business of this Commission?

The acting XO replied that he did not think it was this Commission's business to that extent, but it was the business of the commission to consider the possible ramifications of any action they were about to take. He pointed out that over the ridge are the enchanted lake estates and the Keolu Hill people who are surrounded by ridges on three sides and are thinking of subdividing clear to the top of the ridges surrounding their development; and although there is enough room for expansion in these areas and while the esthetic arguments are very untenable, he would maintain that if a preference is set to allow this person to go ahead, this commission would find that it would be somewhat difficult to deny similar requests over the ridge.

Chairman Bryan stated that your explanation is on the basis of esthetics rather than the water, sewers, economic feasibility, drainage and engineering problems that exist.

The acting XO stated that there is no argument that the developer could put in these things since it will be proper, but I would argue on the fact that there is more than enough room for expansion under this Commission's proposed final lines. And further that the overall developments in a region must be considered before extensions of the boundaries are acted upon. Commissioner Sunn stated that it is not this Commission's problem whether or not these open areas should be retained regardless whether it is practical for subdivided lots. It is the problem of this Commission to define whether or not the open spaces above the present residential developments should be retained for open spaces, or whether this Commission has the right to keep it in Conservation; and if this Commission feels it should be in conservation or whatever classification, it should go accordingly.

Commissioner Gregg asked whether out of the total 88 acres, 38 acres have been approved by the City and 50 more is being requested by the petitioner. The

acting XO stated that 30 acres have been included in the Commission's interim lines and Unit I is approximately a 300 to 200 foot contour and is cut into 2/3rds urban, and 1/3rd agriculture. Commissioner Gregg asked, "How much of the 30 or 38 acres have been developed?" The acting XO replied none.

on

A motion to defer action/the Kennedy's petition for request of Change of Boundary until more information could be received on the extension of increment 1 by the City Planning Commission was made by Commissioner Friel, and seconded by Commissioner Ige.

The acting XO polled the Commissioners.

Approval: Commissioners Kanemoto, Williams, Friel, Sunn, Ige, Gregg, Siu and Chairman Bryan. Disapproval: None.

APPLICATION FO JAMES BENDER (SP(T) 62-40), FOR SPECIAL PERMIT TO CREATE A 1.67 ACRE RESIDENTIAL LOT FROM A LARGER PARCEL OF LAND IN KAPAA, KAUAI: Described as Fourth Division, TMK 4-6-14: 61

The acting XO reviewed the area and the request.

No follow-up was made on the deferment of the request because notes were not taken at the last meeting in Kamuela by the acting XO, and the tape did not come through on the recording of the meeting.

The acting XO stated that as the application stands, it is a 4 acre lot with the roadway access creating a residential lot in the middle of the lower third of the property and a 9,000 sq. ft. residential lot on the northwest corner of the larger lot, both of which have residences on at this time.

Commissioner Gregg was asked to enlighten the commissioners on the subject. Commissioner Gregg stated that one of the things the Commission wished to establish was whether the lot on which the applicants were building the new house was a lot of record. He stated that in his talk with Mr. Wong, Mr. Wong was sure that where the applicants were now building was not a lot of record, and where they had built was a lot of record. Commissioner Gregg stated that on the other hand the applicants stated that where they are now building the house is a lot of record and was made that way so they could borrow money against it; the other was not a lot of record because the applicants had owned that house as part of the 15.7 acres. Commissioner Gregg stated that the applicants did not include the whole area other than the lot they wished to sell because the American Security Bank does not require that amount and the applicants did not want that amount in the lease. Commissioner Gregg stated that there are 3 lots involved, but only two lots are lots of record: the lot with the old house and pasture as one; and the lot with the new house which includes 9,000 sq. ft. as the other.

The commission was faced with the problem of resolving whether Mr. Bender's request was unusual and reasonable, and whether there was any hardship. The following comments were made:

Commissioner Gregg felt that the hardship stemmed from the area where the people who own their land could not sell their homes they lived in, unless they are given permission by the Commission.

on motion to defer

Chairman Bryan felt that in this particular county (Kauai) a request for a small houselot for residential purposes only in an agricultural district is apparently unusual because of the County's standard of 3 acres.

Commissioner Sunn stated that in Act 187 it calls for an unusual and reasonable use. If this Commission were to consider this request as an unusual use, the Law states, "and reasonable". If we were to consider this a reasonable use: having an urban lot in this agricultural area, then it is not really much sense in having this Land Use Act and applying these laws to the County of Kauai

Chairman Bryan posed this question before the Commission: "How important to the intent and purposes of Act 187 is this particular parcel of agricultural land?" This problem then became a policy matter to which each commissioner had to ask himself whether or not approval of this request would affect the economy of Hawaii.

Commissioner Gregg moved to approve James Bender's request as being reasonable and unusual in character and not in conflict with the intent and purposes of Act 187, subject to the condition that approval of the County of Kauai be obtained for the proposed use. Commissioner Friel seconded the motion.
acting

The/XO polled the Commissioners: Approval - Commissioners Kanemoto, Williams, Friel, Ige, Gregg and Chairman Bryan. Disapproval - Commissioners Sunn, Siu.

PETITION OF MURRAY YOULIN (A(T) 62-28), FOR CHANGE OF TEMPORARY DISTRICT BOUNDARY FROM AN AGRICULTURAL DISTRICT TO AN URBAN DISTRICT CLASSIFICATION FOR LAND IN HAIKU, MAUI: Described as Second Division, TMK 2-7-3: 14.

The acting XO reviewed the area and the request.

The acting XO stated that the staff is in agreement with the Maui Planning and Traffic Commission's recommendation that the area is already reasonably urban in character. He stated that the staff's recommendation is that the area be zoned for urban. Both the Planning Commission and Board of Supervisors recommended approval.

Commissioner Sunn moved to approve the petition of Murray Youlin according to the staff's recommendation; seconded by Commissioner Kanemoto.
acting

The/XO polled the Commissioners: Approval: Commissioners Kanemoto, Williams, Friel, Sunn, Ige, Gregg, Siu and Chairman Bryan. Disapproval: None.

APPLICATION OF MORGAN BROWN (SP(T) 63-45), FOR SPECIAL PERMIT TO SUBDIVIDE A 7 ACRE PARCEL INTO 7 HOUSELOTS ON LAND IN PUUKAPU HOMESTEADS, WAIMEA, HAWAII: Described as Third Division, TMK 6-4-18: 46.

The acting XO reviewed the area and request.

The acting XO stated that the staff's recommendation is for approval on the basis that the surrounding areas are subdivided into one acre lots which are in effect nonconforming uses; and that the request for a subdivision now is in character with the lands surrounding it.

Commissioner Sunn moved for approval of the request according to the staff's recommendation; seconded by Commissioner Kanemoto.

acting

The/XO polled the Commissioners. Approval - Commissioners Kanemoto, Williams, Friel, Ige, Sunn, Siu, Gregg and Chairman Bryan. Disapproval - None.

APPLICATION OF EVERETT AND RITA CRUMB (SP(T) 63-44), FOR SPECIAL PERMIT TO CREATE TWO HOUSELOTS FROM 9.8 ACRES OF LAND IN WAIAKEA HOMESTEADS, HAWAII: Described as Third Division, TMK 2-4-42: 78.

The acting XO reviewed the area and the request.

The acting XO stated that the area along the road is in scattered residential, and the back up area is in pasture. He stated that the staff recommended at the time the proposed maps were adopted or at one of the meetings at HB&A that consideration be given to stripping the areas along the road between these districts. The staff's recommendation is for approval on the basis of the character of the land the staff's prior recommendation for consideration given to the urban stripping of the road. The acting XO stated that strip zoning has a bad connotation some times in planning, but felt that the area is needed where the surrounding character of land is grazing. In this particular case or instance, it would not be obnoxious as the people have developed along the roadways. The acting XO stated that since the Commission has decided not to adopt this strip policy the staff will still recommend approval of this request. The acting XO stated that the County Planning Commission and Board of Supervisors recommended approval of this request.

Commissioner Sunn moved for approval of the request by Everett Crumb on the basis that: (1) The Board of Supervisors recommended urban zoning; (2) it is adjacent to an urban area; (3) the two lots are being used by the man's son-in-law and son who are engaged in farming activities; and (4) the 20,000 sq. ft. lots complied with the farm lot zoning of Hawaii County. Commissioner Kanemoto seconded the motion.

The acting XO polled the commissioners: Approval - Commissioners Kanemoto, Williams, Friel, Ige, Sunn, Gregg, Siu and Chairman Bryan. Disapproval: None.

No other business the meeting adjourned at 9:00 p.m.