

STATE OF HAWAII  
LAND USE COMMISSION

Minutes of Public Hearing and Meeting

County Board Room  
County Building, Hilo, Hawaii

May 28, 1965  
2:00 P.M.

Commissioners

Present:

C.E.S. Burns  
Clarence Hodge  
Goro Inaba  
Shiro Nishimura  
Charles S. Ota  
Leslie E. L. Wung

Absent:

James P. Ferry  
Myron Thompson  
Robert G. Wenkam

Staff

Present:

Raymond S. Yamashita, Executive Officer  
Roy Y. Takeyama, Legal Counsel  
Gordon B. H. Soh, Associate Planner

The meeting was called to order by Commissioner Burns, Chairman Pro Tempore, and the commissioners and staff were introduced. All interested persons who would be presenting testimony during this hearing were sworn in.

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PETITION OF EARL V. TRUEX (A64-78) FOR THE CREATION OF A FIFTY ACRE URBAN DISTRICT ALONG PECK ROAD IN THE AGRICULTURAL DISTRICT NEAR MOUNTAIN VIEW: Described as Third Division parcel TMK 1-8-06: 92

The background and analysis of the above petition were presented by Mr. Gordon Soh (report on file). The staff pointed out that population decline in the Mountain View area reflects a diminishing need for residential uses in this area. Further, staff reported there are strong reasons for limiting low density residential development to hold down public service costs. Staff also points out that the soil classification indicates agricultural potential and the proposed change to residential use will tend to raise tax assessments and thereby discourage legitimate agricultural enterprise in this area. On these bases, staff recommended denial of the petition.

The staff was asked whether the Hawaii Planning Commission has taken any action in this area in recent years.

Mr. Soh replied that the Planning Commission has proposed zoning maps for the area in question. The basic zoning ordinance is being adopted about this time; the maps, however, would have to be adopted on a case by case basis and this seems

to be yet in the offing. None of the attempts to rezone the area has been fully materialized.

Mr. Soh also informed the Commission of a letter received from Mr. Truex (letter on file) acknowledging and thanking the Commission for advising him of the public hearing and that he will not be able to attend the public hearing because of prior commitments at this time.

Legal counsel pointed out that Mr. Truex wants to petition 50 acres of which he is the owner of only 45 acres and that Mr. Truex advised that the requested change would meet with Mr. Haa's approval. Legal counsel queried whether there is any evidence of Mr. Haa's approval to this change or is the staff merely accepting the petitioner's word for it.

Mr. Soh replied that he had spoken to Mr. Haa while on a field trip to this area two weeks prior and he doesn't think that Mr. Haa is thoroughly advised of the pros and cons on this matter.

Legal counsel emphasized that the question is whether Mr. Truex had the approval of Mr. Haa; if not, he can't make it part of the petition. Mr. Soh replied that it can't be said that Mr. Truex got Mr. Haa's approval.

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

The public hearing on Earl V. Truex's petition was closed.

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PETITION OF HILO SUGAR COMPANY (A65-82) TO INCORPORATE A TWO ACRE TRACT (HEREAFTER REFERRED TO AS TRACT A) AND A NINE ACRE TRACT (HEREAFTER REFERRED TO AS TRACT B) INTO THE HILO URBAN DISTRICT FOR AN UNSPECIFIED URBAN USE: Tract A described as a portion of Third Division parcel TMK 2-3-35: 1, Tract B described as Third Division parcels TMK 2-3-39: 3, 4, 5, 6, 7, and 8, a portion of Third Division parcel TMK 2-3-38: 3 and Third Division parcel TMK 2-3-44: 9

Mr. Gordon Soh presented the background and analysis of the petition. The staff recommended approval of only 36,000 square feet of Tract B which has been assigned a "plus value" by the Department of Taxation. This recommendation is made because the 36,000 square foot area meets most of the standards of the Land Use District Regulations, because the area is vacant and not in agricultural use, and because the area recommended is negligible with respect to any measure of need.

Mr. Claude Moore of C. Brewer and Company asked which area was assigned a "plus value." Mr. Soh pointed to the area on the map. Mr. Moore stated it was economically not feasible to have only a small portion available for residential use. He further pointed out that the Kaumana Gardens Subdivision, mauka of Tract B, has developed rapidly and that this reflects the need for low-priced housing in that area. In reference to Tract A, Mr. Moore indicated that a housing development there is desirable because that area is within walking distance to the elementary, intermediate, and high schools.

A brief discussion ensued regarding certain areas of the subject parcels. 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 on this matter was closed.

PETITIONS PENDING ACTION

PETITION OF W. H. SHIPMAN, LTD. (A64-75) TO AMEND THE AGRICULTURAL DISTRICT BOUNDARIES IN THE VICINITY OF KEAAU SO AS TO INCORPORATE 18.4 ACRES WITHIN THE KEAAU URBAN DISTRICT FOR DEVELOPMENT OF VARIOUS URBAN USES: Described as portion of Third Division parcel TMK 1-6-03: 8

Mr. Gordon Soh of the staff presented a memorandum on the petition. The subject area is not only contiguous to an Urban District but is also close to the heart of Keaau and is in various urban uses. The staff recommended approval of the petition on the basis that the lands meet the standards of Regulation 2.7 and that redistricting would genuinely foster urban growth of Keaau.

Mr. Nevels, representing W. H. Shipman, Ltd., was pleased with the staff's recommendation and had no further comments.

Commissioner Inaba moved to accept the petitioner's request on the staff's recommendation. Commissioner Wung seconded the motion.

The Executive Officer polled the commissioners as follows:

Approval: Commissioners Wung, Inaba, Ota, Nishimura, Hodge and  
Chairman Burns

Disapproval: None

The motion for approval was carried.

At this point Mr. Lumen Nevels brought to the attention of the Commission the fact that he was not informed of this hearing until his client had notified him at 2:45 this afternoon. Mr. Nevels inquired whether his client's petition (SP65-13) would be considered at this time. The Executive Officer notified him that action had already been taken on that petition. Mr. Gordon Soh further informed Mr. Nevels that the minutes of March 19, 1965, concerning his client's petition had been adopted yesterday, May 27, 1965. Mr. Nevels informed the Commission that he will attempt to file a petition again and thanked the Commission for their time.

PETITION OF MOLLY D. ZIMRING (A64-73) FOR AMENDMENT OF THE DISTRICT BOUNDARIES IN THE VICINITY OF THE JUNCTION OF KUPULAU ROAD AND AINALOA DRIVE IN HILO FROM AN AGRICULTURAL DISTRICT BOUNDARY TO AN URBAN DISTRICT BOUNDARY SO AS TO INCORPORATE 25.67 ACRES WITHIN THE HILO URBAN DISTRICT FOR DEVELOPMENT OF A 25 LOT SUBDIVISION: Described as Third Division parcel TMK 2-4-36: 1, containing 25.67 acres 1/

A summary of the MOLLY D. ZIMRING petition as amended was presented by Mr. Soh. Denial of the petition was recommended on the basis that the lands under petition did not meet the standards under Regulation 2.7.

Mrs. Zimring stated that findings of facts of the County Planning and Traffic Commission are directly contrary to those in the staff report and requested that findings of fact be made on whatever action is taken on this petition.

Mrs. Zimring raised a question in regard to land adjacent to the Camp 6 area. She asked if it were reasonable to have a land use boundary which is urban on one side of Kupulau Street and agricultural on the other side of the street. Mrs. Zimring further requested written findings to the following four questions when action is taken:

1. Is the parcel of land in agricultural use?
2. Is the parcel of land adjacent to an urban area?
3. Are the areas surrounding the parcel in question presently in agricultural use?
4. Is the present district boundary a reasonable boundary which provides for urban use on one side of the street and agricultural use on the other side?

Commissioner Wung asked why is there a difference between the County's recommendation and the staff's recommendation. Mrs. Zimring stated she was bothered by the fact that staff's reports are made upon the basis of one examination by a person not familiar with the area, and where facts are conflicting with the local body and with testimonies presented before the Commission, the Commission should be more careful in its decisions.

Mrs. Zimring stated that some of the reasons in the staff's report for denial of the petition were untrue and misleading.

Commissioner Ota informed Mrs. Zimring for the record that at the time of the public hearing, the commissioners made a field trip to the subject parcel and that prior to today's meeting, a number of the commissioners again made an inspection of the parcel and its surrounding area.

Commissioner Nishimura asked Mrs. Zimring if she did not concur with the staff that the area was suitable for grazing. Mrs. Zimring agreed and explained that

1/ Summary of original petition subsequently amended.

she tried to lease the land for grazing to Mr. Yagi who is the only person in that area in agriculture and who has a slaughterhouse and that he was paying Mrs. Zimring only enough to pay taxes of \$87.50 every six months.

Mrs. Zimring further added that during the six years she has owned the land and for 15 years under a previous owner, the land was rarely used for grazing because it is poor grazing land and is therefore economically not feasible.

Commissioner Nishimura further asked if staff's statement that 96 percent of the area is not occupied is correct. Mr. Soh explained that specific subdivisions located in the immediate vicinity of the subject parcel are 96 percent or more unoccupied.

In rebuttal, Mrs. Zimring stated that in a two-year period 15 new houses were added in an area and that only 600 units were added in all of the City of Hilo over a three-year period. She further stated that locally this is a big percentage to add in two years and is a tremendous increase in one area. Mrs. Zimring emphasized the demand for cheaper building lots. She stated that although staff report says there are many lots available at 45 to 50 cents a sq. ft. which are unoccupied, the reason they are unoccupied is that the people's income won't permit them to build small homes. She stated that her reason in wanting to subdivide the area is to permit these people to purchase homes at a reasonable cost.

Although staff report says progress is slow in Hilo, Mrs. Zimring feels it otherwise.

In response to Commissioner Hodge's question asking which portions of the staff report were inaccurate, Mrs. Zimring referred to page 9 of the staff's report "that the land in question is as much if not more so, surrounded by agricultural uses as urban uses." Mrs. Zimring claims this statement to be a misstatement because the land in question is not in agricultural use, but is idle land. In reference to staff observations that the area is not clearly identifiable with the existence of Camp 6, Mrs. Zimring stated that she went over that question earlier in the meeting.

To clarify Mrs. Zimring's concept of an agricultural use the Executive Officer, at Chairman Burns' request reviewed the standards used in districting certain areas in Hilo and throughout the State.

Commissioner Nishimura pointed to subject parcel on map and posed some questions to Mrs. Zimring and she replied.

Legal counsel asked Mrs. Zimring if it would be objectionable to her if page 9, sub-paragraph a, of staff's report be amended to read as follows: "That the land in question is as much if not more so, surrounded by agricultural lands as urban lands." Mrs. Zimring replied that there would be no objection but preferred it to read ... surrounded by lands zoned for agricultural uses ... Legal counsel asked also if the Hawaii Planning Commission has submitted, in writing, to the Land Use Commission any findings of fact. Mrs. Zimring replied in the affirmative.

In discussing the relevance of findings of facts, the Executive Officer informed Mrs. Zimring that there are certain bases upon which the Commission must react in making their decisions as set forth in the Commission's Rules and Regulations whereas, the county's listing of findings of fact need not necessarily follow the same bases that this Commission must consider.

In response to Commissioner Inaba's question as to how it is determined which lands should be in an agricultural district or not, the Executive Officer cited some of the Rules and Regulations.

Mrs. Zimring ended her testimony by reiterating her request for answers to the four questions she mentioned earlier. Chairman Burns informed Mrs. Zimring that after these questions are submitted in writing, the Commission will be happy to give them consideration.

Commissioner Nishimura asked Mrs. Zimring if she considered the area in question to be a rural district more than a densely populated subdivision. Mrs. Zimring responded that she would consider the area, with the exception of the old Camp 6 directly opposite in which the lots average about 5,000 sq. ft. with approximately 46 houses placed there, to be rural. A brief discussion ensued.

Commissioner Ota asked if there were any drainage problems. Mrs. Zimring replied that there has been a drainage problem in one certain area (pointing to map). However, as far as her area was concerned, Mrs. Zimring stated that there is no problem.

When asked by Commissioner Nishimura if Mrs. Zimring would provide the necessary improvements for drainage, she replied that she would as soon as the subject area is redistricted.

Before action is taken, the Executive Officer pointed out the fact that as amended, the petition indicates two separate lots contiguous to each other and to the existing urban district.

Commissioner Hodge had a question in connection with the proximity of the chicken farm to the subdivision. He asked what the health regulation was in connection with the distance in which a new subdivision should be with reference to certain types of activities such as this which creates a health hazard.

The Executive Officer replied that once an area is districted urban, the problem of whether it can or cannot be subdivided and under what restrictions becomes a county responsibility. Commissioner Nishimura added that when urban pressures are applied to an agricultural district, the farmer is compelled to move out.

Commissioner Ota made a motion to deny petition A64-73 as amended, on the basis of staff's recommendation. Commissioner Nishimura seconded the motion.

The Executive Officer polled the commissioners as follows:

Approval: Commissioners Burns, Hodge, Inaba, Nishimura, Ota

Disapproval: Commissioner Wung

The motion to deny the petition was carried.

The meeting was adjourned.