

STATE OF HAWAII
LAND USE COMMISSION

Minutes of Meeting

Land and Natural Resources Board Room

9:45 A. M. - June 12, 1964

Commissioners

Present:

C.E.S. Burns
James P. Ferry
Charles S. Ota
Shiro Nishimura
Goro Inaba
Myron B. Thompson
Shelley Mark
Robert G. Wenkam
Leslie E. L. Wung

Staff

Present:

Raymond S. Yamashita, Executive Officer
Roy Y. Takeyama, Legal Counsel
Richard E. Mar, Field Officer
Amy Y. Namihira, Stenographer

Chairman Thompson called the meeting to order.

ADOPTION OF MINUTES

The minutes of March 21, 1964 was adopted as circulated. The minutes of April 4, 1964 was adopted as circulated with one correction - Commissioner Burns was not present. The minutes of April 10, 1964 was adopted as circulated.

EXTENSION OF STENO II POSITION

The Executive Officer stated that only 5 months of the requested 1 year extension was approved. The position will terminate November 30, 1964.

SUIT BY KULA DEVELOPMENT CORPORATION

Legal Counsel stated that Mr. Ellis filed a motion for default and he (Legal Counsel) filed a counter-motion to set aside the motion for default. After a discussion with Mr. Ralph Corey, attorney for Mr. Ellis, they stipulated the motion to set aside default would be withdrawn and the State would be given up till July 1 to answer his initial pleading. Legal Counsel stated that he is asking the Commission to adopt the boundaries of Maui because if the land is maintained in the Urban area, he will withdraw his suit. Requested that the Commission act on Maui boundaries soon so that he will have enough time to answer the initial pleading.

The Commission agreed that the County of Maui will be taken up first.

Executive Officer suggested that the Commission adopt the regulations, Maui boundaries, Kauai boundaries and possibly Molokai boundaries at the next weekend meeting (June 19, 1964). It was agreed by the Commissioners that they will meet on June 19, 1964 at 9:30 a.m. and adopt the regulations and final boundaries for the County of Maui and Kauai.

DELIBERATION ON FINAL DISTRICT BOUNDARIES FOR COUNTY OF HAWAII - KONA PROTESTS

Bishop Estate requested agricultural districting instead of conservation districting of Honokane, Kohala. Staff recommended approval of TMK 5-1-1: 17 which is a substantial valley and is contiguous to Pololu Valley, which is in the agricultural district. Staff recommended denial of TMK 5-1-1: 16 since it is a small and relatively isolated valley. The question raised was the consistency regarding removal of any land in forest reserve out of the conservation district to an agricultural district. The Commission agreed that as long as the conservation values were not in danger and the area is presently being used intensively for agricultural purposes, it would be redistricted to an agricultural district. Commission approved TMK 5-1-1: 17 for agricultural and denied TMK 5-1-1: 16.

Conservation Council protested the agricultural districting of Pololu Valley, North Kohala, and requested conservation districting. Staff recommended denial of the request since agriculture is the existing use and there is no evidence that the use is detrimental to conservation values. Commissioner Wenkam stated that the area is not being used extensively for agricultural purposes. The Commission denied the request for conservation districting.

Chairman Thompson announced that the Commission will continue deliberation on the County of Hawaii after meeting with Mr. Edward Burns, Director of the Department of Taxation.

MEETING WITH MR. EDWARD BURNS, DIRECTOR, DEPARTMENT OF TAXATION

After introducing Mr. Burns and Mr. Landgraf to the Commission, Chairman Thompson proceeded with the meeting. He stated that the purpose of this meeting was to clarify and inform the Commission on the relationship between tax assessment and land use districting.

Mr. Burns gave a general presentation and the following are some of the points or comments made:

1. The State Real Property Tax Law provides that the evaluation of real property is to be based on highest and best use and fair market value at the highest and best use. The law sets forth certain standards and guide lines upon which these evaluations on properties are made for assessment purposes.
2. The Pittsburg Law, which is partially in effect this year and will be fully effective January 1, 1965, made reference to the decisions of the Land Use Commission with regard to districting of land.

3. The Tax Department will follow both guides on the grounds that both the County Planning Department and the Land Use Commission are making their decisions based upon a great deal of data pertaining to land uses which the Tax Department should accept as a guide.
4. Hardship for certain enterprises will be a consideration. For example, Oahu Sugar Company is being hit rather heavily on property taxes due to the land use changes.

Commissioner Ferry stated that the Commission was very concerned about zoning the Conservation area. If a locale has scenic values, even privately owned land will fall within the Conservation District. Consequently, the owners are very concerned as to how these lands will be taxed. Commissioner Ferry asked whether there were any conclusions drawn by Mr. Burns and his staff. Mr. Burns replied that there are certain limitations on land uses in these Conservation areas imposed by the law itself. Consideration must be given to factors such as time, availability of utilities, water and other things that would make it possible for the lands to be put to such uses.

Commissioner Ferry stated that within a Conservation zone there are existing uses such as agriculture and some residences. He asked whether the Department of Taxation has a specific proposal to handle taxes of this sort. Commissioner Ferry stated that the regulations provide for the consideration of other permitted uses in certain areas within a Conservation zone. These permitted uses can be a quarry operation, grazing, livestock raising, orchard and possibly residential. Mr. Landgraf stated that the Department of Taxation will base its decision on the fair market value of comparable land or sales within the neighborhood and subject to other amenities, such as water, electricity and roads.

Commissioner Ferry asked how a shoreline property, being used for residential purpose but located in the Conservation District, will be taxed. Mr. Landgraf replied that it would be taxed on the basis of its use as residential. Commissioner Ferry asked if there would be any discount because it is in the Conservation zone and development would be limited and subject only to the will of the Board of Land and Natural Resources. Mr. Landgraf replied in the negative.

The meeting with Mr. Burns and Mr. Landgraf was adjourned at noon.

The meeting reconvened at 1:30 p.m. in the Land Use Commission Hearing Room.

Chairman Thompson called the meeting to order followed by a short prayer. He outlined the procedures to be followed throughout this phase of the meeting. Persons entering testimonies were sworn in at this time.

PETITION OF WALTER S. S. ZANE (A(T)63-53) FOR AMENDMENT TO THE TEMPORARY DISTRICT CLASSIFICATION TO AN URBAN DISTRICT CLASSIFICATION FOR ONE ACRE ESTATE TYPE SUBDIVISION IN KIHEI, MAUI: Described as TMK 3-9-01: 35

The Field Officer, Richard Mar, presented a brief summary of the petition. The general character of the area, in which the subject parcel is situated, consists of large areas of pasture and open land. The subject parcel is in the Temporary Agricultural District and is being proposed as such in the final district boundaries. On October 22, 1963, the Maui Planning and Traffic Commission voted unanimously to recommend disapproval of Mr. Zane's petition for a boundary change. The Commission's disapproval was "based on the fact that there are ample urban zone in Kihei (2000 acres with only 371 homes), and that the road to the lot is not paved." The staff recommends denial of this petition for the following reasons:

1. Staff concurs with the recommendation of the Maui Planning and Traffic Commission that there is no need for additional urban lands at this time.
2. The petitioner has not submitted the necessary proof that the land is required for the use being petitioned. Staff can find no evidence that this parcel is required for urban use.
3. A liberal amount of land (2,900 acres) has been placed in the proposed urban district and further urban additions would promote scatteration and therefore violate one of the major tenets in the land use law.

The original application requested an Urban classification, but was subsequently amended to a request for a Rural classification on April 21, 1964.

Mr. Zane stated that schools, stores, park, etc. is just a five minutes drive from the subject area. Also, the drive from the airport to Kahului town is only about 20 minutes. He stated that the land is now vacant and the soil is not suitable for agricultural use. He asked that the Commission not consider the issue of sufficient urban lands, but the best use of the land--the maximum use.

The Executive Officer stated that the rural districts should not be adjacent to the urban districts. He stated that there is no real basis for granting this petition, although he regrets the hardship which will be on the petitioner.

Commission Ota stated from a letter received from the Maui County engineer that improvement standards in the rural district must conform to urban district standards.

Commissioner Burns moved to defer this matter for further comments from the County of Maui on the amendment of this petition from Urban to Rural. Commissioner Wung seconded the motion.

Chairman Thompson asked the petitioner if deferral would work a hardship on him. Mr. Zane replied in the affirmative.

Mr. Edward Ching, who is in favor of this petition, stated that the subdivision would be a benefit to the community.

Chairman Thompson took a head count of the Commission who were for or against deferring this matter. The majority of the Land Use Commission decided to take action.

Commissioner Nishimura moved to accept the petitioner's request for a Rural classification. Commissioner Ota seconded the motion.

After a brief discussion, Commissioner Ota withdrew his second and suggested that this matter be deferred till the adoption of the proposed final boundaries for the County of Maui.

Commissioner Inaba then seconded Commissioner Nishimura's motion for a Rural classification.

Commissioners Nishimura and Inaba withdrew their motion and second after further discussion by the Commission to further study the relationship of this petition to other protests against the proposed final district boundaries in that area.

Commissioner Ota then moved to defer this matter till the adoption of the proposed final district boundaries. Commissioner Nishimura seconded the motion. This motion for deferral was carried unanimously.

Chairman Thompson announced that this petition will be deferred until final action is taken on the proposed final boundaries of this area.

PETITION OF B. P. BISHOP ESTATE (A(T)63-56) FOR AMENDMENT TO THE TEMPORARY DISTRICT BOUNDARY FROM AN AGRICULTURAL DISTRICT CLASSIFICATION TO AN URBAN DISTRICT CLASSIFICATION FOR SHORELINE HOUSELOTS IN KEEI, HONAUNAU: Described as TMK 8-3-05 and 8-3-06

The Field Officer, Richard Mar, presented the summary of the petition. The petitioner's land is in the temporary agricultural district. Under the proposed land use district, the land is being classified as conservation. The preservation of this scenic area is deemed necessary not only in the interest of economic development but necessary for the health, welfare and enjoyment of this and coming generations of local folks. Staff recommended disapproval of this petition.

Mr. Roy Fernandez stated that the Board of Water Supply, County of Hawaii, will supply the water from Honaunau to Napoopoo.

The Executive Officer stated that the size of an urban district is important. If an area is too small, there will be a problem in furnishing the necessary facilities and services and at reasonable costs.

Commissioner Wenkam stated that he feels this particular area is suitable for an urban districting.

Commissioner Inaba moved to accept this petition. Commissioner Wenkam seconded the motion.

Executive Officer polled the Commissioners as follows:

Approved: Commissioners Wung, Inaba, Wenkam, Burns and Chairman Thompson.

Disapproved: Commissioners Ota, Nishimura, Mark and Ferry.

The motion to approve the petition was not carried.

CONTINUE DELIBERATION ON FINAL DISTRICT BOUNDARIES FOR COUNTY OF HAWAII - KONA PROTESTS

Mr. James Clark, representing Hawaiian Home Lands, requested urban districting of some 250 acres of Hawaiian Homes Commission land located at Kawaihae, Hawaii for industrial use under the General Plan for the County of Hawaii. The area fronts the harbor and extends up to the 200 foot contour line, bordered by Palihae Gulch on the South and Honokoa Gulch on the North.

There followed a discussion on the visual effect of this proposed development on the nearby resort development and the amount of land area that would be required for the foreseeable future. It was concluded that there was not sufficient bases to grant the entire request. Commissioner Ferry moved to approve that area about a 1,000 feet wide along the shoreline and extending northward from the existing urban district. Commissioner Wenkam seconded the motion which was then unanimously carried.

Richard Hunt requested a rural classification instead of an agricultural classification for a parcel in Kohala containing 7.6 acres. Staff recommended denial of the request. The area is agricultural in nature and does not conform to rural standards. Commission denied the request.

Parker Ranch requested an agricultural district instead of a conservation district of North Kohala. Staff recommended approval of the request. Commission approved the request.

Alex Smith, for Queen's Hospital, requested a change of classification from agricultural to urban of Kawaihae, containing 60 acres. Staff recommended approval of the request. The State General Plan designates the area for residential use. The area is in logical relation to the existing and proposed resort uses along the shore. Commission approved the request.

Mabel M. Davis requested a change of classification from agricultural to urban of 2.84 acres in Kamuela, South Kohala. Staff recommended denial of the request. The land does not fit an urban designation. Much of the surrounding land is being used for agricultural purposes. However, parcel is contiguous to an urban district on one side. Commission approved the request for urban.

Parker Ranch requested the following:

Kamuela, South Kohala - Requested a change of classification from agricultural to urban of 60,000 sq. ft. Staff recommended denial of the request. This subject area is dedicated land on which the protestee would now like to construct some business offices. The owner is presently seeking a special permit with the County. The Commission denied the request.

Kamuela, South Kohala - Requested an urban district instead of an agricultural district of 8 acres more or less. Staff recommended denial of the request. The parcel is dedicated land. The Commission approved the request.

Kamuela, South Kohala - Requested a change of classification from agricultural to urban of 17.09 acres. Staff recommended denial of the request. Commission denied the request on the basis that there is no justification to include these lands in the urban or rural zone.

Kamuela, South Kohala - Requested a change of classification from agricultural to urban of 85 acres more or less. Staff recommended approval of the request. Commission approved the request.

Kamuela Associates (Cadinha) requested a change of classification of 43.35 acres from agricultural to rural in Kamuela. Staff recommended denial of the request. The character of this area is agricultural. The Commission denied the request for a rural district.

C. L. Worthington requested a change of classification from agricultural to urban of 97,875 sq. ft. in Kamuela. Staff recommended denial of the request. There is no basis for urban districting. The Commission denied the request.

E. Y. Wun requested an urban district instead of an agricultural district of 97,881 sq. ft. in Waimea, South Kohala. Staff recommended denial of the request. There is no basis for urban districting. The Commission denied the request.

Harold Fukunaga requested an urban district classification instead of an agricultural district classification of 13.7596 acres on Waimea, South Kohala. Staff recommended denial of the request. Commission denied the request.

Conservation Council requested a change of classification from agricultural to conservation of Waipio Valley, South Kohala. Staff recommended denial of the request. The area is presently being used for agricultural purposes and adds to the "unique scenic charm." Commission denied the request.

Hawaiian Trail and Mountain Club requested a change of classification from an agricultural district classification to a conservation district classification of Waipio Valley, South Kohala. Staff recommended denial of the request. Agriculture is existing use and enhances the beauty of the valley. Commission denied the request.

Huehue Ranch requested a change of classification from conservation to agricultural of Kukio I, North Kona, comprising 690 acres more or less. Staff recommended denial of the request. There is no currently known economic and reasonable use for it. Commission denied the request.

Huehue Ranch requested a change of classification from conservation to agricultural of 650 acres more or less at Kau, North Kona. Staff recommended denial of the request. The Commission denied the request.

Huehue Ranch requested an agricultural classification instead of a conservation classification of Kaloko, Kohanaiki and Ooma, North Kona. Staff recommended denial of the request. The Commission denied the request.

Bishop Estate requested a change of classification from conservation to urban of Kaupulehu (Kahawai Bay) North Kona, comprising 150 - 170 acres. Staff recommended denial of the request. The Commission denied the request.

Mervin Gilliland, for American Factors, requested a change of classification from agricultural to urban of Kaloko, Kailua-Kona, comprising 20 acres more or less. Staff recommended denial of the request. There are no urban facilities or services except roads and power. Commission denied the request.

Bishop Estate requested a change of classification from conservation to agricultural of 200 plus acres of Puaa 1, North Kona. Staff recommended approval of the request. The land has never been part of the Waiaha Spring Forest Reserve and should be excluded from the conservation district. Commission approved the request.

Liliuokalani Trust requested a change of classification from agricultural to urban of Keauhuolu, Kailua-Kona, consisting of 105 acres more or less for industrial use and 550 acres more or less for resort - residential use. Staff recommended approval of the industrial - commercial area and recommended denial of the resort - residential area. Commission concurred with staff and approved the industrial area and denied the resort area.

F. R. Greenwell requested a change of classification from agricultural to urban of Kaumalumu, North Kona, containing 6 acres. Staff recommended approval of the request. Although substantial urban areas have already been designated, this parcel is small. The area may be included in the urban district without a demonstrable adverse affect upon scatteration or a logical pattern of land use. Commission approved the request for urban use.

Sumio Nakashima, for W. Hooper and P. North, requested a change of classification of Hienaloli, North Kona, from agricultural to urban, comprising 4.115 acres. Staff recommended approval of the request. Commission approved the request.

Earl and Rose Lee requested a change of classification from agricultural to urban of 2.70 acres in Kailua-Kona. Staff recommended approval of the request. Commission approved the request.

Bishop Estate requested a change of classification from agricultural to urban of Keauhou Bay comprising 1,188.025 acres. Staff recommended approval of a portion of Keauhou Bay which is now in the temporary urban district and denial of the remaining area. Commission approved the entire requested area for urban districting.

Bishop Estate requested a change of classification, from agricultural to urban, for a parcel in Kahaluu of less than 10 acres. Staff recommended approval of the request. Commission approved the request.

Bishop Estate requested a change of classification of Keauhou (Mauka), North Kona, from agricultural to urban. Staff recommended denial of the request. Extensive and adequate areas already provided along Kailua-Keauhou shoreline. The area is isolated. The Commission denied the request.

Bishop Estate requested an urban district classification instead of a conservation district classification of Kei Beach Lots, comprising 23.15 acres. Staff recommended denial of the request. The Commission denied the request.

Mysie Duarte requested a change of classification from agricultural to urban of 5 acres at Holualoa, Kona. Staff recommended denial of the request. The Commission approved the request.

Lloyd Mannes requested a change of classification from agricultural to urban of 65 acres more or less at Kapalaalaea, Kona. Staff recommended denial of the mauka section and approval of the makai section. The Commission agreed with staff.

H. I. Tanaka, for Pedro Oro, requested a change of classification from agricultural to urban of 2.068 acres at Kealakekua, Kona. The Commission approved the request.

J. M. Tanaka Investment Company requested a change of classification from agricultural to urban of 35.967 acres at Keauhou, Kona. Staff recommended denial of the request. The Commission denied the request.

Charles Murray, for Robert Wade, requested a change of classification of 4 acres at Holualoa from agricultural to urban. Staff recommended denial of the request. The Commission denied the request.

Donn W. Carlsmith, for Dillingham Development Corporation, requested a change of classification from agricultural to rural of 334 acres more or less at Holualoa 1-4, Pua Puaa 2, North Kona. The Commission approved the request except for parcels located above the Kailua-Holualoa Road.

Tom L. Peterson, for Kaupa Heuer, requested a classification change from agricultural to urban of about 15 acres at Kawanui. Staff recommended denial of the request. Commission denied the request.

Sumio Nakashima, for Clarence Nakahara, requested a change of classification from agricultural to urban, consisting 26 acres. Staff recommended denial of the request. The Commission approved the request.

Kazuhisa Abe, for Richard Choy and William Lee, requested a change of classification from agricultural to urban at Kuakini, Holualoa. The Commission approved the request.

Kid McCoy requested a change of classification from agricultural to urban of 68.24 acres at Kailua-Kona. Staff recommended denial of the request. The Commission denied the request.

The meeting was adjourned at about 6:00 p.m.