

STATE OF HAWAII
LAND USE COMMISSION

Minutes of Meeting

Lihue Police Station

1:30 P.M. - July 23, 1965

Commissioners

Present:

Myron B. Thompson, Chairman
Jim P. Ferry
Shelley Mark
Robert G. Wenkam
Leslie E. L. Wung
Goro Inaba
Charles Ota
Shiro Nishimura

Absent:

C. E. S. Burns

Staff Present:

George S. Moriguchi, Executive Officer
Raymond S. Yamashita
Gordon Soh, Associate Planner
Ah Sung Leong, Draftsman
Roy Takeyama, Legal Counsel
Dora Horikawa, Stenographer

The meeting was called to order by Chairman Thompson.

ADOPTION OF MINUTES

Mr. Yamashita requested that the adoption of the minutes of the meetings held on May 7, 8, 27 and 28, 1965 be taken up first. Chairman asked for corrections, deletions or additions to the minutes. Commissioner Wenkam referred to page 4, paragraph 8, of the May 7th meeting. It was his feeling that Mr. Hansen's intent was not as recorded--but that Mr. Hansen felt an obligation to the stockholders. Commissioner Wenkam suggested and Chairman Thompson ordered that the following addition be made: "He felt he had to be fair to the stockholders as well."

Commissioner Wenkam also referred to page 32 of the May 7th meeting and requested that an omission be inserted in the minutes--between Mr. Hulten and Commissioner Ferry's conversation--namely, the fact that he made a motion to adjourn, which was seconded by Commissioner Mark.

Chairman Thompson approved the minutes as corrected. Since there were no corrections to the minutes of the May 8, 27 and 28, 1965 meetings, they were approved as circulated.

ACTION TAKEN

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

Mr. Gordon Soh presented the memorandum prepared by staff on the above petition (see memorandum on file). Staff recommended denial of the petition except for transfer of a 36,000 square foot (0.826 acre) portion of the 5.8 acre tract from an Agricultural to an Urban District on which they recommended approval. The denial was based on the lack of evidence on the need for additional urban lands and the agricultural use and potential of the lands under petition. The reasons for approval of the 36,000 square foot portion were the proximity to "city-like" concentrations, satisfactory topography and drainage and consistency with the County General Plan.

In reply to Commissioner Wenkam's query as to whether Hilo Sugar had any master plan of this area, Mr. Soh replied it was part of the County General Plan. Mr. Soh also agreed that the acres being petitioned by Hilo Sugar Company were part of the County General Plan for urban use, but that the staff was recommending urbanization of only a 36,000 square foot portion at this time, in answer to Chairman Thompson's question. To clarify the 36,000 square foot portion in question, Mr. Yamashita pointed out the parcel on the wall map and also stated that all of this parcel was not owned by the Hilo Sugar Company. Commissioner Wung raised the question of legality in the matter of Hilo Sugar Company petitioning for boundary change of land which did not belong to them.

Upon Chairman's invitation, Mr. Bill Hartman of C. Brewer Company testified in behalf of Hilo Sugar Company, after he was duly sworn in by the Chairman. Mr. Hartman proceeded to read a letter addressed to Mr. Martin Black of Hilo Sugar Co., originating from the office of Ushijima and Nakamoto, attorneys in Hilo, in which a firm offer had been made for the parcel under petition. Mr. Hartman continued that there seemed to be a great demand for land in this area. He went on to cite examples of other developments in the vicinity which had been completely sold out. He also pointed out that part of the land was now under planter's lease and assessed at such a high tax rate that the planters could not afford to raise sugar cane to pay the taxes and were about ready to give up this venture.

Following a brief question and answer period, Commissioner Ota moved to deny the petition because the land was being used intensively for agriculture at the present time, and that there were other lands in the Hilo vicinity which could be used for urban purposes. Commissioner Nishimura seconded the motion. The Commissioners were polled as follows:

Ayes: Commissioners Inaba, Ota, Mark, Nishimura, Ferry and Chairman Thompson

Nays: Commissioners Wung and Wenkam

The motion was carried and the total petition was denied.

PETITION OF LIHUE PLANTATION (A64-79) TO AMEND THE URBAN DISTRICT BOUNDARY AT LIHUE SO AS TO PLACE APPROXIMATELY 16.6 ACRES CURRENTLY IN AN AGRICULTURAL DISTRICT INTO AN URBAN DISTRICT, AND APPROXIMATELY 11.1 ACRES CURRENTLY IN AN URBAN DISTRICT INTO AN AGRICULTURAL DISTRICT IN ORDER TO ACCOMMODATE A SPECIFIC PLAN FOR RESIDENTIAL AND INDUSTRIAL DEVELOPMENT: Area described by Fourth Division TMK 3-6 and 3-7 (Portion).

The background and analysis on the above petition were presented by Gordon Soh (copy of report on file). The original staff recommendation of May 7, 1965 to approve petition was revised as follows:

- a) Approve the addition of 16.6 acres to the Lihue Urban District, and
- b) Deny the removal of 11.1 acres from the Lihue Urban District except for that portion petitioned for between the Hoolaka Street extension and the Hanamaulu Cutoff Road alignment.

The revision was based on the petitioner's statement in a letter dated May 13, 1965 to the effect that the petition was merely to accommodate engineering requirements for the development except for the Ahukini triangle; and also on Regulation 2.7 (d) which requires the inclusion of Urban Districts of sufficient reserve areas for urban growth in appropriate locations based on a 10-year projection.

Chairman Thompson opened the floor for discussion. Commissioner Wenkam commented that his familiarity of the Lihue area would lead him to believe that the present Urban District encompassed by the present boundary lines which Lihue Plantation believes will be needed for urban growth over the next five years was a very conservative one. Within the next five years, there would be considerably more land needed in Lihue; that there was a shortage of land in the Lihue area, both fee simple and leasehold. He recommended that we should deny the petition in whole, with the idea that the petitioner will come at a later date to request a more reasonable amount of land to be rezoned in line with the master plan.

Chairman Thompson asked if any representative of the petitioner was present. Mr. Sam Keala, Engineer for Lihue Plantation, was duly sworn in and made the following presentation in behalf of Lihue Plantation.

Mr. Keala pointed out that unlike Oahu and some of the other highly developed islands, which communities have already excelled themselves as far as development is concerned, Kauai was just getting into the development phase. He stated that he believed Lihue Plantation was the only landowner on Kauai who had started such a big development. He felt that urban land presently planted in cane could accommodate the present needs of the people of Kauai. He emphasized that these were in fee simple and not leasehold.

Commissioner Ferry moved that urbanization as recommended by the staff report be accepted. Commissioner Mark seconded the motion. The Commissioners were polled as follows:

Ayes: Commissioners Wung, Wenkam, Mark, Ferry

Nays: Commissioners Nishimura, Inaba, Ota and Chairman Thompson

The motion to accept staff report was not carried.

Chairman Thompson announced that the Commission would now vote on the total petition. Commissioner Wung moved for denial of the petition which was seconded by Commissioner Inaba. The votes were as follows:

Ayes: Commissioners Wung, Inaba, Ota, Wenkam, Nishimura

Nays: Commissioners Mark, Ferry and Chairman Thompson

The motion for denial was carried.

PETITION OF HAWAIIAN HOMES LAND COMMISSION (A64-72) TO AMEND THE KUHIO (PUUKAPU) VILLAGE URBAN DISTRICT BOUNDARY IN KAMUELA TO INCORPORATE A SINGLE LOT OF 0.89 ACRES: Described as a portion of Third Division parcel TMK 6-4-04

Mr. Gordon Soh read the memorandum prepared by staff on the above petition. No additional evidence was submitted to alter original staff findings or recommendations to approve the petition to add a 0.89 acre remnant of an agricultural subdivision to the adjoining Kuhio Urban District. Since there was no further discussion or question, Commissioner Wung moved to accept the staff recommendation, which was seconded by Commissioner Nishimura. The motion was carried unanimously.

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

Staff memorandum on the above petition was presented by Mr. Gordon Soh (See copy on file). Mr. Soh also read a letter written by the petitioner dated July 16, 1965, in which he expressed his dissenting views concerning staff's recommendation to deny his petition. Since there was no further discussion, Commissioner Wung moved that the petition by Mr. Earl Truex be denied, seconded by Commissioner Inaba. The Commissioners were polled as follows:

Ayes: Commissioners Wung, Inaba, Ota, Wenkma, Mark, Ferry, Nishimura and Chairman Thompson

Petition was denied.

PETITION OF DILLINGHAM INVESTMENT CORPORATION (A65-80) FOR AN EXTENSION OF THE URBAN DISTRICT BOUNDARIES AT CAPTAIN COOK, IN THE SOUTH KONA DISTRICT ON THE ISLAND OF HAWAII SO AS TO INCORPORATE AN AREA OF APPROXIMATELY NINE ACRES: Described as a portion of Third Division Parcel TMK 8-0-08: 1

Memorandum prepared by staff was read by Mr. Gordon Soh (See copy on file). Staff denial of petition was based on the fact that no evidence had been presented to substantiate a need for the addition of nine acres to the Urban District and that the existing Urban District provided a sufficient reserve area for foreseeable urban growth. The memorandum also pointed out that the proposed development was inconsistent with the plan for Kona, scattered ribbon developments were contrary to the intent and purpose of the Land Use Law and the potential for economic and urban growth near Captain Cook was currently marginal at best.

Commissioner Inaba wondered about development of the civic center which was being planned for the near future in relation to the petitioner's request for extension of the urban district boundary. Mr. Soh replied that he had been unsuccessful in his attempt to contact the architects in Honolulu to get an exact count of agencies involved and people presently employed.

Mr. Tom Peterson, attorney for the petitioner, asked if it would be possible for the Commissioners to look at the file containing supporting evidence which had been submitted by the petitioner. He proceeded to enumerate the several points outlined in file as follows:

1. The land had no agricultural value.
2. Trading and employment facilities stimulate growth in need for residences at location of lot.
3. Close location of every urban service necessary.
4. Lot is adjacent to area already urban.
5. Vicinity does not have reserve of urban land sufficient for the expected growth of the next 5 to 10 years.
6. Good drainage.
7. Compatible with general plans.
8. Kona's urban growth will be in the "highlands".
9. Coffee orchards are a spare time, family garden project.

Chairman Thompson made reference to the public hearing held previously at which time availability of water had been posed as a problem in this area and the reason for the non-development of adjacent lands. In reply, Mr. Peterson stated that he did not think this would be a major problem since he had seen pipe lines that had been recently installed in the area and his belief that they would continue to put the rest of the line all the way through.

Commissioner Inaba moved to approve the petition, which was seconded by Commissioner Wung. The Commissioners voted as follows:

Ayes: Commissioners Wung, Inaba, Ota, Wenkam, Nishimura, Ferry and Chairman Thompson

Nay: Commissioner Mark

Motion to approve petition was carried.

PETITION OF MAUI PINEAPPLE COMPANY (A(T)64-70), FOR A BOUNDARY CHANGE TO ADD ABOUT 178 ACRES PRESENTLY IN AN AGRICULTURAL DISTRICT AND 136 ACRES PRESENTLY IN A CONSERVATION DISTRICT TO THE HONOLUA URBAN DISTRICT FOR RESORT, HOUSING AND OTHER DEVELOPMENTS: Described as a portion of Second Division TMK 4-2-01

Mr. Gordon Soh presented staff memorandum on the above petition. (See copy on file). Staff recommendation was for incorporation of 93 acres into the Urban Districts of Honolulu and Napili, which together with the existing 85 acres in the Honolulu Urban District, would give a total of 178 acres for urban districting. Mr. Soh pointed out on the map the areas which would remain in conservation if staff recommendation were followed, in answer to Commissioner Wenkam's question.

Commissioner Wenkam expressed his concern over the inaccessibility of beaches and shorelines to the general public whenever a resort hotel was constructed along these areas. He felt that broad public use of the beaches and shoreline should continue to the maximum, and also that the economic well-being of Maui was dependent upon having the shorelines accessible to the general public. He continued that the staff recommendation to conserve the strip of shoreline would not in any way infringe on the plans for the proposed construction by Maui Pineapple Company.

Commissioner Ferry commented that recently the State auctioned several lots, but due to the restrictions imposed by the condition of sale, people were very interested in other available fee simple house lots. He said that these were practically nil in this area. He said that the survival of any business is de-

pendent upon the land prices that prevail, and with urban districting of this particular area, there will be a large portion of the acreage devoted to fee simple residential sale. Commissioner Ferry chose to differ with the impression given that the retention of a portion of the shoreline in conservation would not materially affect the development. He stated that in order for the developer to get the maximum loan possible, the land would have to be unencumbered and free from impediments.

Commissioner Wenkam felt that land was zoned not to create greater market values, but rather in the broad interest of the State and community, and where there was no demonstrated injury to the land owner, he felt the public interest should prevail. He continued that the Land Use Commission was charged with setting up and determining boundaries for conservation to include parks and beaches.

Mr. Colin Cameron, Executive Vice-President of the Maui Pineapple Company, was sworn in by Chairman Thompson. Mr. Cameron opened his testimony with the statement that he wholly agreed with Commissioner Wenkam's views, that he was extremely conscious of the long-term desirability of retaining open areas and that the petitioner's plans called for retention of this area. However, the reason for their request to have the entire area zoned urban was primarily for the purpose of facilitating loan negotiations. The petitioners could not commit large sums of money unless they were fairly certain that they could proceed with the entire development as planned--a plan that would include a well-balanced community of fee simple homes, commercial co-ops, condominium and resort developments, which will be a permanent addition to the welfare of the State. Mr. Cameron stated that the petitioners were looking for long-term improvement and advantages to the community and that they would not think of jeopardizing the long-term plan.

At Chairman Thompson's direction, Mr. Soh pointed out on the map the areas requested for urbanization in the petition, and the areas recommended for urbanization by the staff.

Commissioner Wung wondered whether staff recommendation for urbanization included Kapalua Bay. Mr. Soh replied that staff recommendation was to retain Kapalua Bay in conservation.

Commissioner Mark asked Mr. Cameron how the development would be affected if Kapalua Bay were kept in conservation. Mr. Cameron replied that they had not reached a final agreement with the developer operator and that what they had presented to the Commissioners was just a rough schematic plan.

Chairman Thompson brought up the point that the question before the Commission was the right of way to Kapalua Bay and other beach areas and not one of conservation or urban.

Commissioner Ota responded that accessibility to any piece of property, be it in conservation, urban or agriculture, was important if the land were to be of any use. He felt that there was no problem here if the petitioners agreed with the staff recommendation to keep the beach frontage in conservation.

Mr. Cameron stated that he was not a hotel man and could not say what problems might arise if Kapalua Bay were kept in conservation. However, he pointed out, the success of the proposed development depended upon their being able to proceed with the entire plan. In order to make available reasonably-priced fee simple lots that people could afford, the petitioners had to allocate costs of

major improvements such as water and sewer to other areas. At best it was a slow long-term return project.

Commissioner Ota pointed out that the Commission had granted large areas to petitioners in Kona, Makaha, Kihei without benefit of any proposed plans. However, Maui Pineapple Co. was proposing development of not only a resort area but a growing community for which there was a definite need. He could not see the compatibility of public or semi-public use of Kapalua Bay on which petitioners were proposing to build low-density, high class hotel, and the request to have this area put in urban was not an unreasonable one.

Commissioner Mark wondered about the highway realignment in connection with this petition and when this was going to come about. Commissioner Ferry replied that an appropriation had been made in the last Legislature and, in answer to Chairman Thompson's request for clarification, remarked that this was earmarked for improvement of existing roads. Mr. Cameron interrupted at this point with the information that two appropriations had been made under the 1965 CIP, both affecting the roads in this area--one was for improvement of the present highway and the second was specifically for realignment of the highway.

Mr. Yamashita reminded the Commissioners that about a year ago, the area under discussion was examined by them and it was their conclusion at that time that the land below the highway was appropriately zoned in the Conservation District for reasons of scenic attraction and preservation of recreation and beach facilities. An inquiry was also made as to whether or not the land owners were contemplating any future projects to which they received no reply.

Commissioner Ferry amended the foregoing impression with the statement that the Land Use Commission had zoned this area in conservation at the time the final boundaries were determined, with the thought that the petitioners would wait until this occasion to present their development plans and request a boundary change.

Mr. Yamashita felt that the Land Use Commission had provided more than an adequate amount of land for Urban use in this area. Even the findings of the economic studies made by the petitioners' consultants could only justify the use of approximately 93 acres.

Referring to the staff report that there were adequate reserve urban lands in this area, Commissioner Ota stated that this was not the case and the very reason why prices were going out of hand.

Commissioner Wenkam moved to approve staff recommendations which was seconded by Commissioner Mark. The votes were recorded as follows:

Ayes: Commissioners Wung, Wenkam, Mark

Nays: Commissioners Inaba, Ota, Nishimura, Ferry and Chairman Thompson

The motion was defeated.

Commissioner Ferry moved to grant the petitioners' request, seconded by Commissioner Ota.

Commissioner Mark asked whether Commissioner Ferry would entertain an amendment to the motion to keep the shorelines in the Conservation District.

Commissioner Ferry replied that he would not, for the following reasons. The County of Maui is very well abreast of the development plans of the petitioner and the engineering firm has cooperated with the County in seeing that the scheme of development would not damage any of the conservation areas, a point about which the County is very sensitive.

At this point, Commissioner Mark introduced an excerpt from the Honolulu Star Bulletin which referred to the increasing pressure brought about to turn over the most desirable island areas into tourist resorts, relegating the resident to second-class in his own home land. He wondered if this was not a reference to the petition under discussion.

Commissioner Wenkam made an amendment to the motion to keep the shoreline in conservation, including Kapalua Bay, seconded by Commissioner Mark. Motion to amend was carried by the following votes:

Ayes: Commissioners Wenkam, Inaba, Wung, Mark, Nishimura

Nays: Commissioners Ota, Ferry and Chairman Thompson

Commissioner Ota asked whether he could make another amendment to Commissioner Wenkam's amendment. The Chairman informed him that he could only make an amendment to the original motion which was for urbanization of the total area minus the shoreline.

Commissioner Ota then made a motion to amend the original motion so that it would exclude Kapalua Bay.

At this point, Chairman Thompson called for a short recess.

The meeting resumed in 5 minutes. Chairman Thompson informed Commissioner Ota that his motion was out of order.

Commissioner Nishimura stated that he would like to reconsider his vote on the amendment made by Commissioner Wenkam. Chairman Thompson called for a show of hands to signify approval of Commissioner Nishimura's request. Request was granted.

Chairman Thompson called again for a vote on Commissioner Wenkam's amendment to include all the shoreline in conservation which resulted as follows:

Ayes: Commissioners Wenkam and Mark

Nays: Commissioners Wung, Inaba, Ota, Nishimura, Ferry and Chairman Thompson

Motion to amend did not pass.

Commissioner Ota then moved to amend the original motion to include all the shoreline in conservation except for Kapalua Bay, which was seconded by Commissioner Nishimura. The Commissioners were polled as follows:

Ayes: Commissioners Wung, Inaba, Ota, Ferry, Nishimura and Chairman Thompson

Nays: Commissioners Wenkam and Mark

Motion was carried.

Following this, a vote was taken on the original motion as amended, which resulted in the following:

Ayes: Commissioners Wung, Inaba, Ota, Ferry, Nishimura and Chairman Thompson

Nays: Commissioners Wenkam and Mark

Motion was carried.

MEETING

Chairman Thompson commented that he would prefer to defer the dates of the general session meeting which was scheduled for August to September. Since there were no objections, this was agreed upon.

Commissioner Ferry made a few comments regarding the forthcoming Western States Commissioners' Conference. He felt that this would be a very informative meeting which would also provide many opportunities for the members to share views regarding land use laws with the visiting state officials. He also invited the Commissioners to join the group on their island-to-island trek.

All other matters were deferred until the next meeting.

The meeting was adjourned at 4:30 p.m.

MEETING RECONVENED

The meeting was reconvened at 4:45 p.m. at the request of Mr. Clinton Childs of Lihue Plantation for reconsideration of the action on the petition. Mr. Childs appealed to the Commissioners for reconsideration since their decision would impose a great hardship on the petitioner. Commissioner Wung moved that the Commission schedule a special meeting on either Monday, July 26, 1965 or Tuesday, July 27, 1965, at which time Mr. Childs will present additional testimony in behalf of Lihue Plantation. Commissioner Inaba seconded the motion and it was carried unanimously.