

*Approved
October 13, 1967*

STATE OF HAWAII
LAND USE COMMISSION

Minutes of Meeting

Hale Halawai Cultural Center
Kona, Hawaii

July 28, 1967 - 1:00 p.m.

Commissioners Present: C. E. S. Burns, Jr., Chairman
Wilbert Choi
Shelley Mark
Leslie Wung
Goro Inaba
Keigo Murakami
Shiro Nishimura

Commissioner Absent: Jim P. Ferry

Staff Present: Ramon Duran, Executive Officer
Roy Takeyama, Legal Counsel
Ah Sung Leong, Planner III
Dora Horikawa, Stenographer

ADOPTION OF MINUTES

The minutes of the meetings of March 31, 1967 and May 26, 1967 were approved as circulated.

Chairman Burns swore in persons planning to testify before the Commission.

HEARINGS

PETITION OF TOSHIO NAKAMOTO & IWAO JYO (A67-51) TO RECLASSIFY 3.2 ACRES OF LAND FROM AN AGRICULTURAL DISTRICT TO AN URBAN DISTRICT AT PAHOEHOE 1ST, NORTH KONA, HAWAII, TMK 7-7-08: 18

Mr. Ah Sung Leong presented the staff report recommending approval of the petition on the basis of the statements outlined therein (see copy of report on file).

Since there was no testimony from the petitioners, nor any questions from the Commissioners, the hearing was closed.

PETITION OF YASUO KUWAYE AND HIROMU YAMANAKA TO RECLASSIFY 33 ACRES FROM THE AGRICULTURAL TO THE URBAN DISTRICT, FOR LANDS LOCATED IN HILO, HAWAII, TMK 2-4-22: PARCELS 8, 9, 17 to 30 INCLUSIVE

Mr. Ramon Duran's staff report enumerated the reasons for recommending denial of the petition (see copy of report on file). It was pointed out that

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the Komohana Extension reported as being under construction, ~~had since been~~ completed.

Chairman Burns observed that Hilo seemed to have a greater total of vacant urban areas than any other town in the State. Staff advised that there were approximately 2,400 acres of vacant urban lands in the Hilo area today.

Mr. Roy Nakamoto, attorney representing the petitioners submitted supplemental information with respect to petitioners' land as follows:

1. Generally speaking, the soil in the petitioned area was characterized by rock outcroppings, lava with pahoehoe below the soil surface, which resulted in poor drainage and shallow material and not suited for agriculture. Cane cultivation had been abandoned 10 years ago and the lands had reverted to California and Wainaku grass.
2. The tax structure in the area rendered petitioners' lands uneconomical for agricultural uses.
3. Contrary to staff's reference to the sparsely developed surrounding areas, a 26-lot subdivision was opened up in 1965 on which presently there are 8 houses completed, one under construction and one in the process of financial negotiation. This was an extremely fast-growing area in Hilo and highly in demand for residential use.
4. Approximately one-half of the subject land is in the Urban District and the other half in the Agricultural District. If petitioners were permitted to develop only the L-shaped piece as suggested by staff, it would price the project out of the real estate market due to the high cost of road construction which would only serve one row of homes.
5. Komohana Street will be one of the principal roads providing a connection between Waiakea Puka and Kaumana Aina Koa, and thus the whole area is destined for urbanization. Therefore, the change in boundary to include the subject rectangular piece in the Urban District is warranted.
6. The applicants are purchasing the entire property under an Agreement of Sale. If they are compelled to purchase the entire area and permitted to develop only a portion, it would be economically unfeasible for them to enter into the transaction.

In rebuttal of the Commission staff's reasons for recommending denial of the petition, Mr. Nakamoto submitted as follows:

1. The vacant urban lands referred to in the report were not available on the market. A great segment of these lands were owned by the State, and the privately-owned lands were being retained by the owners for future construction or for their children. The substantial acreages reserved for elementary, high school, and university uses were also

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pointed out. In addition, the 2,400 acres of vacant urban lands included undevelopable streams, gullies, and valleys. Also, there was no access road to much of these vacant urban lands.

2. Subject lands are contiguous to an Urban District on both sides. There will not be any burden to the tax payers to provide services since these were already available.
3. Approval of petition would not constitute spot-zoning since lands were adjacent to an Urban District. Denial to develop these lands would result in artificially high land prices.
4. The change in boundary will not be in conflict with the General Plan of the County of Hawaii nor with the principles of zoning, as supported by the County in its recommendation for approval.
5. With reference to the area "not being characterized by city-like concentration", unlike Honolulu, Hilo residences will always be marked by some type of backyard agricultural activity.

The Executive Officer advised that although 66 acres were petitioned and involved in the proposed subdivision, a boundary change is necessary for only 33 acres which are in the Agricultural District; the remaining acreages are already in the Urban District.

In direct response to Commissioner Nishimura's questions, Mr. Yamanaka, petitioner, offered the following data:

1. Approximately 151 lots were contemplated for the subdivision.
2. Between 50 to 80 of these lots will be sold within 6 months to a year.
3. Of the sales that were consummated in early 1966 in the Komohana Subdivision, 14 homes have already been completed or in the process of being built.
4. Under normal conditions, petitioners anticipate completion of approximately 50% of the homes within 2 years.

Mr. Philip Yoshimura of the Hawaii Planning Commission commented that the Agricultural District in the City of Hilo had been zoned either A-1 or A-2, and that the area under petition was designated A-1 or as being reserved for farm lands. However, a restudy of the general area was presently being conducted and a public hearing was scheduled in August.

Mr. Takeyama expressed the opinion that since property lines were generally followed in determining the boundaries, had the lots been consolidated, the L-shaped parcel would have been included in the Urban District together with the front parcels. Mr. Duran added that this was perhaps due to the fact that the front portion had already been platted into smaller parcels.

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Mr. Duran suggested, in support of denying the request, that the urban portion of the subject lands could be subdivided now into 50 or 60 lots, utilizing all of the roads on both sides, adequately meeting the need for the anticipated sale during the first year as projected by the petitioner. In the meantime, the Land Use Commission will be reviewing the district boundary for this whole area which will be re-evaluated in light of the Komohana Extension into Hilo. At the same time, the Land Use Commission will have received the benefit of the County's new plan for the Waiakea area.

Chairman Burns wondered whether there were any unique features in the proposed subdivision that would make it more marketable than some of the other existing subdivisions. Mr. Yamanaka submitted that he had received 40 to 50 inquiries from interested buyers in the proposed subdivision and there was a great demand for this area. One of the reasons for this was due to the fact that it was situated near a very progressive school whose students came from desirable families.

The hearing was closed thereafter.

PETITION BY EVELYN FOO, ET AL (A67-154) TO RECLASSIFY 21.46 ACRES FROM AN AGRICULTURAL DISTRICT TO AN URBAN DISTRICT AT KEALAKEHE, NORTH KONA, TMK 7-4-09: 19

Staff memorandum presented by Mr. Leong recommended approval of the petition on the basis of the discussion as outlined in the report (see copy of report on file).

The only demonstration of need for this type of development was the petitioner's statement to the effect that workers in the Kailua-Kona area were experiencing difficulty in finding home sites.

Mr. Nakamoto, representing petitioner, agreed with the staff report and also commented that most of the urban areas in Kailua followed along the shore lines and were priced between \$3 to \$4 a square foot, which made it highly uneconomical for most people.

Mr. Foo testified that approximately 85% of subject lands had already been reserved by various people, and that the going price would be about 65¢ per square foot.

Mr. Janos Gereben of the Kona Torch pointed to the acute shortage of suitable home sites in Kona.

ACTION

PETITION BY HAWAII HOUSING AUTHORITY (A67-149) TO RECLASSIFY APPROXIMATELY 5 ACRES AT KEALAKEHE, KONA, HAWAII FROM AN AGRICULTURAL DISTRICT TO AN URBAN DISTRICT

Staff memorandum presented by Mr. Leong recommended that the petition be approved in view of favorable developments and the absence of any negative evidence (see copy of report on file).

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Mr. Leong stated that the construction of the proposed Kealakehe School is scheduled for about the first of the year and that the target date for completion was September of 1968.

Commissioner Inaba moved for approval of the petition as recommended by staff, which was seconded by Commissioner Mark, and passed unanimously.

PETITION BY EDWARD & AIKO FUKUNAGA (A67-150) TO RECLASSIFY 1.2 ACRES AT KEOPUKA, SOUTH KONA, FROM THE AGRICULTURAL DISTRICT TO THE URBAN DISTRICT

Mr. Duran presented the staff memo recommending denial of the petition on the basis that the requested amendment would not serve the purposes of Act 205, and that substantiating evidence for the need to redistrict was lacking (see copy of report on file).

Commissioner Wung moved to approve the petition on the basis that it was contiguous to an urban area, it will not adversely affect the surrounding area, and utilities were presently available. Commissioner Murakami seconded the motion and the following discussion ensued.

The petitioner's predicament was reviewed by Chairman Burns as one of inability to subdivide 12,000 square feet of his 1-acre parcel which he wishes to deed to his son, as long as the parcel is in the Agricultural District.

Mr. Yoshimura of the Hawaii Planning Commission staff advised that if the parcel were subdivided, Mr. Fukunaga would be required to provide the difference between the existing 10' road and the required 50' right of way.

Commissioner Nishimura felt that it was unfair for the County to require the petitioner to pave the 50' right-of-way when the other property owners would also benefit by this improvement, that this should more properly be effected through a district improvement. Therefore, he felt that the County should never have recommended approval of the petition because of its implications to the petitioner.

At this point, Mr. Yoshimura corrected his earlier statement and quoted the County Zoning Ordinance which read "each lot shall be provided with adequate access".

Mr. Yoshimura also advised that if the owner were unsuccessful in soliciting the participation of the surrounding landowners in the District Improvement, the County would have to deny his subdivision request on the basis of inadequate access.

The motion by Commissioner Wung to approve the petition was restated and the Commissioners were polled as follows:

Ayes: Commissioners Murakami, Inaba, Wung

Nays: Commissioners Nishimura, Choi, Mark, Chairman Burns

The motion was denied.

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SPECIAL PERMIT

SPECIAL PERMIT APPLICATION BY JAMES B. RICHMOND, ET AL (SP67-44) TO BUILD AND OPERATE A RESORT HOTEL AT KEAWANUI, MOLOKAI

The Executive Officer advised that subsequent to receiving a special permit application from the County of Maui in the name of James B. Richmond, et al, to build and operate a resort hotel in Molokai, staff had received a letter from the petitioner requesting deferral of action on the special permit until such time as they are able to arrange favorable financing for the project.

Commissioner Choi moved to defer action on the special permit as requested, seconded by Commissioner Wung, and the motion was passed unanimously.

SPECIAL PERMIT APPLICATION BY KNUI BROADCASTING COMPANY (SP67-45) TO CONSTRUCT AND OPERATE A STANDARD RADIO BROADCASTING TRANSMITTER ON A 5.74 ACRE PARCEL NEAR KEALIA POND, MAUI, TMK 3-8-05 PORTION OF 2

The reasons for recommending approval of the special permit request were outlined in the staff report by the Executive Officer (see copy of report on file).

The site for the construction of the proposed transmitter was pointed out on the map in relation to some of the major surrounding areas such as the Kihei Urban District, Kealia Pond, Malae Bay, Wailuku, Kahului, etc., by Mr. Duran.

Chairman Burns wondered about the Maui Planning Commission's stipulation "that the commercial broadcasting station shall not be located on the site". Mr. Duran explained that their concern was over the traffic that would be generated should the broadcasting station be located on the site to conduct its various programs.

Mr. Duran assured Commissioner Nishimura that there was a letter in the files from the Federal Aviation Agency indicating that they would have no objection to the construction of a 200-foot high transmitting tower on the subject site.

Commissioner Choi moved to approve the special permit application which was seconded by Commissioner Wung. The motion was approved by 6 affirmative votes with Commissioner Murakami abstaining due to conflict of interest.

SPECIAL PERMIT APPLICATION BY LAHAINA KAA NAPALI & PACIFIC RAILROAD, LTD. (SP-47) TO CONSTRUCT AND OPERATE A PASSENGER RAILROAD BETWEEN LAHAINA AND KAA NAPALI ON THE ISLAND OF MAUI

Staff recommended approval of the special permit request on the basis that it was reasonable and unusual, subject to the conditions the project conform substantially to the plans and method of operation as presented by the applicant and that construction be initiated within one year from the date of the approval (see copy of report on file).

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In response to Commissioner Mark's question, the two figures quoted as annual passenger figures in the staff report were clarified by Mr. Duran, with confirmation from Mr. McKelvey, as follows:

1. 200,000 passengers by 1975 - Total number of passengers annually by 1975.
2. 1,387,600 passengers by 1975 - Total accumulated number of passengers by 1975.

After being duly sworn in by the Chairman, Mr. A. W. McKelvey, President, Lahaina-Kaanapali & Pacific Railroad, Ltd., presented a very comprehensive account of the proposed project with the aid of charts, maps and photographs. The following is a resume of the aforementioned presentation.

Background

Last September, petitioners engaged the Economic Research Associates of Los Angeles and Washington, to conduct an economic feasibility study for their proposed project. This firm had just completed a 9-month analysis for American Factors of the tourist potential in the Kaanapali-Lahaina area up to the year 1980. Petitioners had also retained a civil engineering firm to lay out the proposed route plan as indicated on the map.

Proposed Route Plan

The train will start from the Lahaina Dispensary site, go straight mauka across the highway to the old abandoned Pioneer railroad right of way, follow the railroad right of way down to and along the beach, then up into the cane field and along a haul cane road, then gradually descend into Kaanapali. The first stop would be at the golf pro shop in Kaanapali. Aerial photographs of the proposed route were also shown. An observation point on this route will afford passengers a view of Kahoolawe, Lanai, Molokai, North Lahaina and South Kaanapali.

A description of the terminal and type of train being constructed for the railroad was also submitted.

Potential Market Analysis

The portion of the ERA report prepared for American Factors dealing specifically with tourist potential on Maui cited that Maui was in a state of transition from a day-sightseeing area to one of major resort designation area. Again charts were employed to illustrate the visitor count to Hawaii, length of stay, per cent of this anticipated tourist trade that will be channeled into Kaanapali, etc., between the periods 1954-1980.

Kaanapali is presently considered the largest destination resort development outside of Honolulu. A majority of the employees working in Kaanapali live in Lahaina and consequently there is a definite need for some convenient form of transportation between the two points. In terms of visitor days to

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Hawaii, it is anticipated that it will increase to 7,500,000 in 1970, to about 9,600,000 in 1976. Of this, Maui's portion of this increase is estimated at 19% by 1970 and 27% by 1975.

The increase in employees at Kaanapali by 1970 was quoted at 1,800, and over 3,100 beyond 1975.

Projected Market Penetration

Local benefits from the proposed project were listed as follows:

1. To remedy the absence of organized recreational activities in this part of the island.
2. To provide much needed mass transportation system between Lahaina and Kaanapali.

The fair schedule being proposed is as follows:

1. \$1.75 for the first round trip for visitors and \$1 for the first one-way trip.
2. Discount to visitors who take subsequent trips will bring the round-trip fare to \$1.
3. Kaanapali employees living in Lahaina will pay approximately 12¢ one way.

Projected Financial Performance

Estimated Revenue per sales unit (the number of passengers and the dollar revenue from those passengers):

First year - Ticket sale of \$489,000
 1975 - Ticket sale of \$1,175,000

Estimated Gross Sales and Profit

First year	\$529,000
Expenses	<u>198,800</u>
Gross Operating Profit	330,200
Depreciation	<u>21,700</u>
Net Profit Before Taxes	308,500
Taxes	<u>164,000</u>
Net Profit for the First Year	\$144,500

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The foregoing figures were provided to the petitioners by the Economic Research Associates and support the sound financial basis of the project.

Major Advantages to Maui

1. Provide convenient mass transportation for over 5,000 employees by 1980.
2. Will give Maui the only operating railroad in the State.
3. Will enhance the Lahaina Restoration Program.
4. Greatly reduce automobile highway traffic between Lahaina and Kaanapali.
5. Will reduce auto parking requirements in Lahaina which will release lands for higher use, resulting in higher taxes.
5. It will restore the old plantation railroad theme as a significant tourist attraction for Maui and Hawaii.

Major Advantages to the State of Hawaii

1. It will provide an estimated \$216,300 to the State in franchise taxes for the first 8 years.
2. Will receive national and international publicity. The major airlines and travel agencies have indicated full cooperation in this respect.
3. Will provide one of the most beautiful sight-seeing trips in the State of Hawaii.

In response to questions raised by staff and the Commissioners, Mr. McKelvey submitted as follows:

1. No commercial operation such as restaurants, stores, etc. will be conducted.
2. Construction for the project was expected to begin in October and ready for operation around February of next year.
3. The trains will be operating twice in an hour, with minimum noise and smoke since a low voluble fuel will be used.
4. Carrying capacity per load will be about 200 passengers.

Commissioner Murakami moved to approve the special permit application on the staff's recommendation and presentation made by Mr. McKelvey. Commissioner Choi seconded the motion and it was passed unanimously.

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MISCELLANEOUS

VALDEMAR KNUDSEN CAMPSITE IN KAUAI

Mr. Duran reported on the investigation staff conducted, at the request of the Commission at its last meeting, concerning the construction of a recreational campsite by Valdemar Knudsen in the State's Agricultural District, Island of Kauai (see copy of memo on file).

Mr. Duran agreed that it was the staff's belief that Mr. Knudsen had acted in good faith in attempting to comply with the necessary State and County regulations before proceeding with the project, and that he had been issued a building permit by the County of Kauai (see copy of memo on file).

Mr. Takeyama, legal counsel, advised that the best course to follow in correcting the situation would be the one as suggested in the staff report; i.e. informing the Kauai County Planning Commission, by letter, what the intent of the Commission is with regard to "open land" types of recreational uses and that the case in question should have been processed as a special permit.

Mr. Duran pointed to the possible non-permitted uses in the Agricultural District which could be pursued by the owners if they were not bound to their present plans by a special permit.

Mr. Takeyama suggested that the Land Use Commission could advise Mr. Knudsen to file a special permit application with the County of Kauai without committing itself.

Chairman Burns directed staff to encourage Mr. Knudsen to initiate a special permit application. The staff was also requested to prepare a draft of an amendment to the Land Use Regulations which would clarify the intent of the Commission with respect to "open land type recreational use", and that the draft be circulated to the Commissioners for their review.

TENTATIVE SCHEDULE

September 8, 1967 on Kauai was agreed upon as the next Land Use Commission meeting date and place.

NURSING HOME AT KAPAKAHI RIDGE IN THE CONSERVATION DISTRICT

Mr. Duran advised that he had received a copy of an application filed with the Department of Land and Natural Resources by Pack and Associates for construction of a 3-story 96-bed nursing home on the Kapakahi Ridge in the Conservation District. He advised that this will require a public hearing by the Land Board since it is not a permitted use within its use regulations.

Commissioner Mark felt that it would not be inappropriate for the Land Use Commission to appear before the Land Board during its hearing to express the Commission's views, especially if it helped the Land Board in conducting its business.

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Mr. Duran reviewed the fact that the same subject area had been previously denied an urban designation by the Land Use Commission and questioned whether this proposed use was in keeping with the intent of the Land Use Law.

Chairman Burns recommended that a firm recommendation be formulated by the Commission for presentation to the Land Board at the time of its hearing.

Commissioner Wung suggested that a copy of the Commission's record outlining the reasons for previous denial of the urban designation be transmitted to the Land Board.

It was the consensus of the Commission that the Executive Officer represent the Commission during the hearing.

PERMITTED USES IN AGRICULTURAL DISTRICT

A suggestion received by staff to delete item (e) "Public Institutions and Building" under 2.14 "Permissible uses within the 'A' Agricultural District" of the Land Use District Regulations was brought to the attention of the Commission.

Mr. Duran pointed out how the character of the area and the district boundaries have been affected as a result of permitting public institutions such as schools, libraries, fire stations, etc. within the Agricultural District. If these permitted uses within the Agricultural District were properly channeled through special permit applications, it would afford the Commission the opportunity of reviewing each project and the impact such use would have on the district.

Mr. Duran also pointed to other areas that required clarification beyond the question of "open land type recreational use", such as (g) "Public, private, and quasi-public utility lines....." also under 2.14 of the Regulations. Under the broad term of "utilities", sewage treatment plants, railroad tracks, transformer stations, sub-stations and anything connected with gas, water, telephone, could be interpreted as permissible uses, except as specifically prohibited.

Chairman Burns felt that this might be an appropriate time for staff and legal counsel to review the Regulations for possible changes and revisions and submit a summary of their thinking to the Commissioners so that they might be better equipped to act on the matter.

Mr. Takeyama suggested that staff study the declaratory rulings that had been rendered by the Commission on the different issues. He also agreed to review the Regulations with the Executive Officer.

Commissioner Mark indicated it might be opportune at this time for the Executive Officer to keep in touch with the various planners who are involved in the preliminary decisions to apprise them of the implications of their planning with respect to the Land Use Law.

There being no further business, the meeting was adjourned.