

STATE OF HAWAII  
LAND USE COMMISSION

*approved 10-9-70*

Minutes of Meeting

State Conference Room  
Lihue, Kauai

August 1, 1970  
1 p.m.

Commissioners Present: Goro Inaba, Chairman Pro Tempore  
Alexander Napier  
Eddie Tangen  
Shelley Mark  
Leslie Wung  
Tanji Yamamura  
Stanley Sakahashi

Commissioners Absent: Wilbert Choi  
Sunao Kido

Staff Present: Ramon Duran, Executive Officer  
Ah Sung Leong, Planner  
Walton Hong, Deputy Attorney General  
Jean Soma, Stenographer

Vice-Chairman Inaba swore in persons wishing to testify before the Commission, then called for the first item on the agenda.

HEARING

PETITION BY DEPARTMENT OF ACCOUNTING & GENERAL SERVICES  
(A70-253) TO RECLASSIFY 15.483 ACRES FROM AGRICULTURAL TO  
URBAN AT KIKIAOLA, WAIMEA, KAUAI

Mr. Leong, staff planner, read the staff report. He then called the Commission's attention to the district map and pointed out the existing land uses in the surrounding area, most of which was owned by Kikiaola Land Company and planted in cane.

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In reply to Commissioner Sakahashi's question, Mr. Leong stated that \$85,000 were appropriated to design the first increment of the school but indicated the site has not been acquired. Commissioner Sakahashi questioned all of the alternate sites, and Mr. Leong replied that the Sam Hirota study made in 1968 disqualified all sites except the one under consideration.

Vice-Chairman Inaba questioned the sewage treatment plant installation, and Mr. Leong replied that Kikiaola Land Company's plans showed a proposed sewage treatment plant to service the school site and their 400 acre residential development surrounding the proposed school. Mr. Leong also commented that communications from the Aikahi Elementary School indicated that the treatment plant next to their school emits unpleasant odors.

Mr. Leong in reply to a question from Commissioner Mark stated the population of the Waimea District, including Niihau, was 7,057 in 1960 and 7,911 in 1970 for a 12 percent increase. He also stated that the Kekaha-Waimea area of the district increased only 0.3 percent from 3,969 in 1960 to 3,982 in 1970 with most of the 12 percent increase occurring in the Kamakani area.

Mr. Barton Nagata, District Superintendent, stated they are building an intermediate school which will be a second increment to the Waimea Elementary School. He pointed out that there will be a move from Eleele, Kekaha, and Kamakani to the Waimea area but that they have no thought of closing Kamakani School. In reply to Commissioner Sakahashi's question, Mr. Nagata said the County Master Plan projects an enrollment increase in the Koloa-Kalaheo area which would necessitate building a new intermediate school or a high school combination; but, this is quite a way in the future. He pointed out the original plan was to combine the intermediate and high schools so that the elementary schools would provide kindergarten to grade six. The seventh through twelfth grades would be accommodated in the high school-intermediate school combination. However, the community college has not moved. So, until that is accomplished and until new buildings are built on Kauai High School's site, they will not be moving Kalaheo and Koloa seventh and eighth grades to Kauai School.

In regard to Commissioner Sakahashi's questions on proposed development of the area, Mr. H. B. Faye, Vice President and Managing Director of Kikiaola Land Company,

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stated that in 1966 the company undertook a comprehensive study of the area immediately adjacent to Waimea town because of the demand for housing from the military at the missile range and the normal demand for housing by the local residents. A market study was prepared by John Child and Company. The engineering and planning study was prepared by John Carl Warnecke & Associates; and, Austin, Smith & Associates assembled the study which was coordinated by Amfac Properties. The study indicated a potential market for 225-270 houses and a need for a sewage plant for the development. The Health Department indicated that cesspools and septic tanks were unacceptable in this area. He said in 1968 Waimea Sugar Company, which was a subsidiary of Kikiaola Land Company merged into Kekaha Sugar Company; and, the canelands were leased to Kekaha Sugar Company on a 25-year lease beginning January 1, 1969, and Waimea Sugar Company went out of business. He said they just completed negotiations with the Department of Land & Natural Resources for the purchase of the hospital site west of the existing hospital which adjoins the easterly boundary of the proposed school site. They also negotiated the school site with the Department of Land & Natural Resources and believes this State agency is awaiting the decision of the Land Use Commission before consummating the sale. He pointed out that since Kikiaola Land Company merged in April, 1968, they have no definite plans on the drawing board, that the comprehensive plan is no longer valid, and that the lands planned for development have been leased to Kekaha Sugar Company for growing sugar. He did, however, point out that a portion was reserved for subdivisions. One of the reasons he gave for the absence of any immediate plans is the question of sewage disposal. They have been waiting to see the conclusion of the development of the school.

In reply to Mr. Duran, Mr. Faye said they no longer plan to build a sewage treatment plant. However, they look forward to any cooperative venture on the sewage disposal problem.

Mr. Faye stated in reply to Commissioner Tangen that Kikiaola Land Company can withdraw approximately 50 acres from Kekaha Sugar Company.

Mr. Lloyd Takahashi from the Department of Accounting & General Services stated they have a master plan for cesspools in the area, as they are aware of not having a permanent sewage treatment plant. Vice-Chairman Inaba questioned the condition that the County Department of Public Works imposed that there shall be a sewage treatment plant before

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construction of the school. Mr. Takahashi said the County has not approved the cesspool proposal. Mr. Takahashi stated that the acquisition funds were appropriated some years ago, and Kikiaola Land Company has agreed to the metes and bounds description; and, the subdivision plan is pending approval with the County. He stated that the acquisition of the site was initiated in August, 1968. In reply to Commissioner Mark, Mr. Takahashi said that they will have 16 units constructed by September, 1972, using cesspools.

Vice-Chairman Inaba advised the applicants that they had 15 more days in which to submit further testimony and suggested that they resolve the problem of a sewage treatment plant with the County and advise the Land Use Commission of the conclusions, and the public hearing was closed.

#### ACTION

PETITION BY LAND USE COMMISSION (A70-243) TO RECLASSIFY 12 ACRES FROM AGRICULTURAL TO URBAN AT NAWILIWILI, KAUAI

Mr. Duran, Executive Officer, presented the staff memo. The staff recommended approval of a portion of the area in question (see staff memo on file).

In reply to Commissioner Yamamura's question, Mr. Duran pointed out that there were no objections at the hearing and that all of the people within the area were notified of the hearing and this action meeting.

Mr. Ah You Chow appeared before the Commission and stated that he received a special permit to put two houses on his property and which is a part of the area recommended for approval by the staff. In reply to Mr. Duran, Mr. Chow stated he did not object to the zoning nor did any of his neighbors. He said he has two houses on this lot right now and plans to put more houses on the property for rental purposes if the zoning is changed to Urban. Commissioner Tangen moved that the Commission concur with the staff recommendation, seconded by Commissioner Wung. The Executive Officer polled the Commission, and the motion was carried unanimously.

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PETITION BY MANUEL & BERTHA SANCHEZ (A70-246) TO RECLASSIFY  
30 ACRES FROM AGRICULTURAL TO URBAN AT WAILUA HOMESTEADS,  
WAILUA, KAUAI

Mr. Duran presented the staff memo which recommended denial of the request (see memo on file).

Commissioner Sakahashi wanted clarification of the intent of the dedication provision of the Land Use Law. Mr. Duran explained that the Land Use Law was an attempt to preserve prime agricultural land and protect farmers from having their taxes increased on their property because of the influence of surrounding urban development. The Land Use Law provided farmers the opportunity of dedicating their land for agricultural purposes for ten years in order to receive a more favorable tax assessment. Mr. Duran pointed out that the property in question was dedicated for ten years, five years ago.

Commissioner Sakahashi stated he has done some research and that the Shiraishi property with eight lots has been sold. He said that the Takahashi property with 45 lots and 25 homes built on it indicates an interest in development in the area but that the tight money situation has limited the construction. He cited that he served on the Tax Review Board and that Mr. Oshita with about 30 acres planted in pineapple and another pineapple grower came to the Board complaining about the high taxes and the increased cost to grow pineapple. Mr. Duran replied that both property owners petitioned the Land Use Commission to have their properties placed in the Urban District in 1964. Although dedication petitions were denied in the past by the Department of Planning & Economic Development, the Commission indicated that they should refile their applications and that the Department of Planning & Economic Development's objections would be withdrawn. However, Mr. Duran said these property owners did not file new petitions as was suggested.

Commissioner Sakahashi suggested that we rezone some of these agricultural lands in the Urban District to the Agricultural District in exchange for adding the property in question which is ready for development. Mr. Duran suggested the areas be placed in the Rural District if rezoning is initiated similar to the adjacent land to avoid a possible spot zoning action.

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Mr. Clinton Childs, representing the petitioner, stated that Mr. Duran requested information of a statistical nature and that he had been on the Mainland and just recently returned and was not able to gather the information. He pointed out that of approximately 100 acres in the Wailua Homestead area, 60 percent is controlled by one developer, and 10 percent controlled by another developer. He said the recent legislature appropriated money to develop water in the Wailua Homesteads and Kapaa areas. He said that geologists are investigating two additional sources and additional storage tanks behind the Sleeping Giant range. He said that in order to determine the market for housing pursuant to Mr. Duran's request that he would have to conduct a survey which he hopes to initiate shortly. He, therefore, asked for a deferment until the next meeting of the Land Use Commission.

Mr. Hong, Deputy Attorney General, stated that the Commissioners decided at an earlier meeting that if a petitioner wished to defer an action before the Commission that he had to make his request known before the matter was presented. This was determined in order that the petitioner would not have the opportunity to evaluate the proceedings and decide that his case may not be approved and therefore ask for a deferment. Commissioner Tangen agreed; however, Vice-Chairman Inaba said that this petitioner was not duly informed and was not aware of the Commission's recent decision and that the petitioner did raise his hand during the staff presentation, but he did not want to interrupt. Mr. Duran said that in the future he will notify each petitioner in the letter notifying him of the meeting that should he desire to defer action on his request that he make his wishes known before the item is called on the agenda. Commissioner Tangen pointed out that the petitioner was informed that he had 15 days after the public hearing in which to present additional information to the Commission.

Mr. Childs said that the next meeting on the 28th of this month would be sufficient time to complete his survey and present the evidence to the Commission.

Commissioner Napier moved for an extension, seconded by Commissioner Sakahashi. Mr. Duran polled the Commissioners as follows:

Ayes: Commissioners Napier, Tangen, Inaba, Wung,  
Sakahashi, and Yamamura

Nays: Commissioner Mark  
The motion was carried.

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PETITION BY LAND USE COMMISSION (A70-249) TO RECLASSIFY  
45 ACRES FROM CONSERVATION TO AGRICULTURAL AT WAIMEA VALLEY,  
WAIMEA, KAUAI

Mr. Duran presented the staff memo recommending the request be approved (see memo on file). Mr. Leong presented a map showing the various land uses of the area involved. No one appeared in opposition to this request. Commissioner Sakahashi moved that the change be approved, seconded by Commissioner Yamamura. The Executive Officer, upon request, polled the Commissioners; and, the motion was carried unanimously.

SPECIAL PERMIT APPLICATION BY NICHOLS C. BECK & JERRY T. LYNN  
(SP70-82) TO OPERATE AN ICE CREAM PARLOR AND SANDWICH SHOP AT  
THE HANAIEI MUSEUM, HANAIEI, KAUAI

Staff planner, Mr. Leong, read the staff report. Staff recommended the request be approved, as it meets the criteria for a special permit in an Agricultural District.

Mr. Nichols Beck appeared in support of the request. He stated the museum was not in operation in 1964 when the original boundaries were established. Mr. Beck stated that the Kauai HVB approved an HVB marker by letter dated May 25, 1966, for the museum. He stated that the museum is listed with the American Association of State and Local History, which has a national office in Tennessee and also is listed in the "Small History Museums" directory. He also pointed out that there is a Hawaii Museums Association and that Agnes Conrad of the Hawaii State Archives is President; Selwyn Washington, Honolulu Academy of Arts, is Vice-President; George Button, Bishop Museum, is the Treasurer; and there are directors from the Hawaii National Park, Iolani Palace Restoration Foundation, and the Honolulu Zoo. He stated they do not charge admission although there is an admission sign outside asking for 50 cents. The reason is to discourage vandalism, which has decreased by 90 percent as a result of the admission sign. They only request donations. He said about 30 to 40 people a day visit the museum in reply to Commissioner Mark's question, and not all donate. He said they are open from 12 to 5 in the afternoon, and this place is the only stop where ice cream and sandwiches are available in all of Hanalei during those hours. He pointed out that the Hanalei Taro Inn on the other side of Hanalei is open for lunch from 11 a.m. to 1:30 p.m. They have the only restroom facilities other than at the pavilion

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on the beach. He said the museum is open from 10 a.m. to 6 p.m. Staff planner, Mr. Leong, questioned the lease from Eagle County; and, Mr. Beck stated the lease had not been consummated pending the outcome of this request. He said there was no one residing there. He pointed out that the money was necessary to raise funds to expand the museum. They have applied for State funds on a matching basis. He also pointed out that the Lahaina Restoration project operates on a donation basis.

Mr. John McKenzie testified that he was a visitor from Honolulu and a graduate student and that he had visited the museum and has no connection with the operation or other museums but urged the Commission to approve this request, as the museum is educational and there should be more similar museums in Hawaii.

Commissioner Tangen moved that the Commission concur with the staff's revised recommendation, seconded by Commissioner Wung. Mr. Duran polled the Commissioners, and the motion was carried unanimously.

#### SHORELINE SETBACK BILL

Mr. Duran again explained that Act 136 requires that the Land Use Commission establish a shoreline setback line between 20 and 40 feet throughout the State. He pointed out that the consultants, Eckbo, Dean, Austin & Williams, recommended that a 40-foot setback be initiated.

Mr. Hong said he discussed the matter with Attorney General, Mr. Kanbara, and concluded that a notice of public hearing which states the Commission shall hold a public hearing on a 20 to 40 foot setback is sufficient to satisfy the due process requirement of the constitution, if the Commission wanted to do this. Mr. Duran clarified that the hearings would be conducted in each of the Counties similar to an amendment to the rules and regulations. Mr. Duran again explained that the Commission will not adopt maps showing the district boundary lines throughout the State but need only amend the rules and regulations with the appropriate statements. Mr. Leong pointed out that a pen line on the district maps is about 100 feet. Mr. Hong in reply to Vice-Chairman Inaba's request stated that if the Commission initiates a 40-foot setback for public hearing purposes, the Commission could adopt a setback less than 40 feet. However, if they went to a public hearing and advertised



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a 20-foot setback, then the Commission could not establish a setback line greater than 20 feet without another public hearing.

Commissioner Wung moved that the Land Use Commission initiate public hearings on a 40-foot shoreline setback line, seconded by Commissioner Tangen. Mr. Duran polled the Commissioners, and the motion was carried unanimously.

Mr. Duran said that he would prepare a public hearing notice explaining the purpose of the law and the requirements of the Commission and would submit the notice to the Commission for their approval.

WAIAKEA HOMESTEADS AREA REZONING INITIATED BY THE LAND USE COMMISSION

Mr. Duran advised the Commission that they initiated the rezoning of this area in July to give the agricultural land-owners and farmers in the area an opportunity to file dedication petitions. However, Mr. Duran pointed out that the State has changed from the calendar year to the fiscal year, and petitions will not be accepted for dedication until March of 1971. He, therefore, suggested that the Commission change the initiation date of the rezoning of this area to January, 1971. This will permit the Land Use Commission to process the rezoning application while the farmers are processing their dedication petitions. Mr. Duran pointed out that if the land is rezoned before the petitions are acted upon in June of next year that certain agricultural activities would not be permitted, as they would not be compatible with urban uses.

Mrs. Jane Tegman, Aina Lehua Realty, Inc., appeared representing Kawaihāni Place, Inc. They had a rezoning petition denied pending this rezoning action. She urged the Commission to move as expeditiously as possible, as there is a housing shortage in Hilo.

Commissioner Mark suggested that the Executive Officer meet with the farmers' association and the Agricultural Extension Service so that the farmers are fully apprised of the pending zoning action and appropriate information regarding the Tax Department's rules and regulations for filing dedication petitions to which Mr. Duran agreed.

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On motion by Commissioner Sakahashi, seconded by Commissioner Yamamura, Mr. Duran polled the Commissioners as follows:

Ayes: Commissioners Napier, Tangen, Sakahashi, Yamamura,  
and Wung

Abstention: Commissioner Mark

The Commission discussed the tentative schedule, and the meeting adjourned at 12 noon.