

STATE OF HAWAII
LAND USE COMMISSION

Minutes of Meeting

August 3, 1973 - 1:30 p.m.

Queen Liliuokalani Building
Honolulu, Hawaii

Approved
OCT 5 1973

COMMISSIONERS PRESENT: Eddie Tangen, Chairman Pro Tempore
Alexander J. Napier
Sunao Kido
Shelley M. Mark
Stanley Sakahashi
Tanji Yamamura

COMMISSIONER ABSENT: Goro Inaba, Chairman
Leslie Wung

STAFF PRESENT: Tatsuo Fujimoto, Executive Officer
Ah Sung Leong, Planner
Gordan Furutani, Planner
Benjamin Matsubara, Dep. Atty. General
E. John McConnell, Dep. Atty. General
Dora Horikawa, Clerk Reporter

Acting Chairman Tangen called the meeting to order and announced that the agenda will be shifted to discuss the action items prior to the public hearing. Thereafter, all persons testifying during today's proceedings were duly sworn in.

ADOPTION OF MINUTES

Upon motion by Commissioner Kido, seconded by Commissioner Yamamura, the minutes of the meetings of December 1, 1972, December 15, 1972, March 2, 1973, May 4, 1973, May 5, 1973 and May 18, 1973 were approved as circulated.

ACTION

PETITION BY RICHARD R. CLEGG (A73-363) TO RECLASSIFY 5.2 ACRES FROM AGRICULTURAL TO URBAN AT WAIANAE, OAHU

Mr. Clegg, petitioner, requested that action on his petition be deferred to a later date.

Mr. Frederick Erskine, Chairman of the Board of Agriculture, advised that although the Board had initially opposed the subject boundary amendment, additional information had become available to them this morning which they have not had the opportunity to evaluate. Therefore, he concurred with the petitioner that the matter be deferred.

Commissioner Napier moved to defer action on the petition, which was seconded by Commissioner Yamamura, and the motion was carried by voice vote.

PETITION BY WILLIAM O. WHITE (A73-359) TO RECLASSIFY 0.14 ACRE FROM CONSERVATION TO URBAN AT MAUNALANI HEIGHTS, WAIALAE-NUI, OAHU

Mr. Ah Sung Leong, planner, recommended that the subject property be retained in its present classification based on staff's findings (see copy of report on file).

Commissioner Napier moved that the petition be denied as recommended by staff, with the added recommendation that the Bishop Estate be apprised of the consequences of a policy which in effect forces landowners to purchase slivers of property adjacent to their own in order to maintain privacy and other amenities. The motion was seconded by Commissioner Yamamura and unanimously carried.

PETITION BY ELAINE I. NIIMI (A73-362) TO RECLASSIFY 2.4 ACRES FROM AGRICULTURAL TO URBAN AT PUPUKEA, KOOLAULOA, OAHU

Mr. Gordan Furutani, planner, presented the staff memorandum recommending approval of the petition, based upon staff's evaluation (see copy of memo on file).

Acting Chairman Tangen noted that the staff's recommendation for approval was based upon the petitioner's concurrence with the Department of Health's recommendation that a packaged aerobic sewage treatment plant be used, and wondered whether Mrs. Niimi would be willing to abide by this condition. Mrs. Niimi agreed that she will provide a packaged aerobic sewage treatment plant.

Commissioner Napier moved that the petition be approved as recommended by staff. The motion was seconded by Commissioner Yamamura and carried.

APPLICATION BY VALLEY ISLE THEATERS, INC. (SP73-153) FOR A SPECIAL PERMIT TO CONSTRUCT AND OPERATE A DRIVE-IN THEATER AND GOLF DRIVING RANGE WITHIN THE AGRICULTURAL DISTRICT AT WAIKAPU, WAILUKU, MAUI

Approval of the special permit request, subject to the conditions imposed by Maui County Planning Commission, was recommended in the staff memorandum presented by Mr. Leong (see copy of memo on file).

Commissioner Yamamura's motion to approve the special permit as recommended by staff, seconded by Commissioner Sakahashi, was unanimously passed.

Commissioner Mark excused himself from the meeting, due to a prior commitment.

APPLICATION BY TONG WO SOCIETY (SP73-154) FOR A SPECIAL PERMIT FOR THE ADDITION OF A SOCIAL HALL TO AN EXISTING CHURCH WITHIN THE AGRICULTURAL DISTRICT AT HALAWA, NORTH KOHALA, HAWAII

Mr. Gordan Furutani presented the staff memo recommending approval of the special permit request, subject to the conditions set forth by the Hawaii County Planning Commission (see copy of report on file).

Upon motion by Commissioner Sakahashi, seconded by Commissioner Kido, it was unanimously agreed to approve the special permit as recommended by staff.

HEARING

PETITION BY MILILANI TOWN, INC. (A73-364) TO RECLASSIFY APPROXIMATELY 556 ACRES FROM AGRICULTURAL TO URBAN AT WAIPIO, EWA, OAHU

Mr. Tatsuo Fujimoto, Executive Officer, announced that he was submitting the staff report in its entirety for the records but, in the interest of time, will summarize the first 13 pages of the report. He proceeded with a detailed description of the areas involved in the petition, the various uses proposed, the development schedule, surrounding existing developments, the adopted General Plan of the City & County of Honolulu, with the aid of maps and charts.

Letters from the Land Study Bureau, the Board of Water Supply and the Department of Transportation regarding the subject request were also acknowledged by the Executive Officer (see copies of letters on file). Thereafter, the balance of the staff report was presented (see copy on file).

Mr. Wendell Brooks, Vice President and General Manager of Mililani Town, Inc., submitted that funds for the fire station had been appropriated by the City Council and will be constructed within one year. Secondly, from information available to them, the H-2 will be completed on schedule sometime by the end of 1975 or early 1976. Further, an application for zoning for the balance of the area urbanized in 1969 by the Land Use Commission has been filed with the City and County.

Mr. Brooks addressed his subsequent comments to the staff's analysis of the petitioner's application as follows:

1. Lead Time Requirements - Staff had implied that the lead time requirements seemed excessive. However, under the new procedures of the revised City Charter which became effective on July 1, 1973, an additional step in the zoning process will cause additional delays. From their experience, it was found that their projected lead time requirements were more conservative than liberal.
2. Proposed Employment Center - Petitioner was satisfied that an employment center in Central Oahu and the timing to initiate such a program were appropriate. Moreover, the General Plan of the City & County of Honolulu designated the property for light industrial use. Mr. Brooks defended the absence of a site development plan and development time table on the basis that they were only able to proceed up to a certain point since it was necessary to determine that their plans were consistent with the City and County policies. Creation of an employment center near Mililani Town will also create new job opportunities.
3. Need for Direct Access to H-2 - Traffic pressures on Kam Highway, the access to the proposed industrial site, will be alleviated when the H-2 freeway is completed and will provide adequate access.
4. Incremental Zoning - Due to the revised procedure for General Plan Amendments at the County level, it had taken a period of 17 months from May 1971, date of application to amend the General Plan for the 340 acres which had been granted urban zoning in 1969, until October, 1972 to amend the General Plan.
5. School Problem - Petitioners shared the same concerns expressed in the letters from the Department of Education regarding the school problem, but viewed these from different points of view.

Petitioner periodically provided the DOE with their development schedule, and their master plan identifies school sites which are concurred with by the DOE and incorporated in the County's General Plan. However, it was their feeling that problems associated with school problems need not necessarily be addressed at the Land Use Commission level but rather at the County level, which agency relies heavily on the DOE's recommendations and on the General Plan when considering specific zoning changes. Additionally, the DOE's long-range planning precluded areas that were not designated urban.

6. Agricultural Issue - Two points should be kept in mind when considering the agricultural issue:
 - a. Dole Company has announced plans to reduce its pineapple production from 9,000 acres to approximately 4,500 acres. Of the 4,500 surplus acres, 3,200 acres will be transferred to sugar cane production, so that it will result in a substantial net gain in sugar acreage.
 - b. Lands involved in the present petition are under lease to Oahu Sugar Company which firm has indicated that it has surplus acreage under cultivation.

7. Status of Work Being Performed Currently in Existing Urban District - 9 acres were presently in the design phase for a 232 unit low-cost apartment complex. Another 120 low-cost housing units were in the design phase under phase 3, for a total of 350 odd units in low-cost housing. The 1973 inventory of phase 1 was complete; the 1974 inventory was on schedule; and the 1975 inventory was also on schedule with the exception of some uncertainties regarding school facilities, which petitioner will address immediately. Based on their precise time schedule calculations, the timing was appropriate to request the additional acres now.

Commissioner Kido questioned whether the petitioner could give the Land Use Commission any indication or assurance that the conditions recommended by the DOE on page 12 of the staff report, relative to dedication of school sites to the State, etc., will be met. Mr. Brooks replied that since he was not the owner of the land he was not in a position to commit the dedication of the lands. However, in the past, the petitioner had agreed to the relocation of 13 temporary structures, which had no continuing value to the State, at a cost of \$100,000 because it was their feeling that

they had a responsibility to provide needed school facilities for the residents. Should such a policy be adopted and applied equitably to all other developers in similar situations, Mr. Brooks felt that the petitioner could abide by the requirements.

Commissioner Kido reflected that if the conditions recommended by the DOE could not be met, the petitioner's time table projections will be greatly lengthened since it would necessitate an appropriation request before the Legislature for the needed facilities. Mr. Brooks felt they were resourceful to the point that they could resolve the school problem through alternative methods, such as utilizing the recreational center until permanent facilities can be established. Private schools currently operating in the Wahiawa area have also expressed an interest in acquiring a site in Mililani Town.

Commissioner Mark rejoined the hearing at this point.

In response to another question raised by Commissioner Kido, Mr. Brooks again advised that Dole Company's plan in the Central Oahu area included reduction of 9,000 acres presently in pineapple to 4,500 acres for the fresh fruit market and to phase out the balance. Of the 4,500 surplus acres, approximately 3,200 acres will be converted to sugar.

Mr. Frederick Erskine, Chairman of the Board of Agriculture, in a prepared statement, expressed the Board's objection to the conversion of prime class "A" farm lands in Central Oahu to non-farm use, primarily on the basis of the following:

1. Class "A" lands should be the last lands to be considered for urbanization.
2. Land is currently needed for both sugar cane and pineapple production.
3. If released from sugar cane or pineapple production, the land is needed for other agricultural uses.
4. Other less productive lands are available for development in other areas.

(See copy of testimony on file).

Further, in response to questions posed by the Commissioners, Mr. Erskine submitted that it was inconceivable to argue that there will be idle agricultural lands when in fact Del Monte was experiencing difficulty in its search for additional pineapple

lands, and there was also a potato farm that needed double its present acreage in the Central Oahu area. There were others in viable farm operations who were also looking for additional lands. Feed grain production yields have begun to show promise, as well as forage crops in Kahuku and, with technological advances, alfalfa growing should also prove profitable.

Commissioner Mark suggested that it would be helpful to the Commission if Mr. Erskine could provide current information on these comparative land uses during the course of the 5-year boundary review.

Mr. Erskine added that they were not opposed to utilizing appropriate lands which were not class "A" lands for housing.

Referring to Mr. Erskine's earlier statement, Commissioner Sakahashi questioned what agricultural lands in the Central Oahu area were being held for speculation. Mr. Erskine offered the information that this was a 600-acre parcel owned by Gentry Pacific, which was partly in agriculture and partly idle.

Commissioner Napier observed that the Board of Agriculture had indicated it would have no objections to the rezoning of the 306 acres. Mr. Erskine responded that they were reluctantly agreeing to this since they realized the Commission had, in essence, made a moral commitment to the petitioners, but that they would hesitate to endorse any further conversion of class "A" lands.

Miss Jennifer Parijs, representing Life of the Land, read a fable entitled "People of the Palms" (see copy on file).

Mrs. Clara Goto, teacher at Mililani Waena School, expressed concern over the existing inadequate school facilities in Mililani Town and strongly urged that everything possible be done to alleviate the over-crowded situation and to expedite the building of permanent structures to meet the educational needs as they arise. (See copy of testimony on file).

Mrs. Goto concluded that the classrooms in Mililani were already strained and provisions for adequate educational facilities should be provided concomitant with any new development.

Mrs. Jane Helliwell, Chairman of the Mililani Town Education Committee, spoke of the serious educational deficiencies that will result from a zoning change in the area at this time. It was the Committee's feeling that children living in Mililani or due to move in soon should have permanent school facilities before more houses are constructed (see copy of testimony on file).

Insofar as the intermediate and high schools were concerned, contrary to the petitioner's claim that they were under construction, it was Mrs. Helliwell's understanding that the Legislature had not appropriated any money for the second increment and there would be no intermediate school until 1980. She also contended DOE had reported that facilities to accommodate additional enrollment in the K-6 grades could not possibly be constructed before 1976.

Mr. Brooks elaborated on the easement in favor of the Air Force for the construction of underground aviation fuel storage tanks. He submitted that this easement in no way precluded the petitioner's use of the surface of the land although there were certain restrictions regarding any excavation. In no way would there be any encumbrance for a blast zone, and these installations were similar to the naval installations in the Red Hill and Foster Village residential areas. However, Mr. Brooks could understand the DOE's reluctance to the area as a school site and had, therefore, met with its officials to indicate petitioner's willingness to work with them in any way to resolve the school problem. An area across Kam Highway had been offered as an alternative site with an overpass pedestrian walk to insure the safety of the children from the traffic. Approval from the Department of Transportation and the Bureau of Public Roads had already been obtained for the construction of this overpass which was currently in the engineering design phase.

Mr. Brooks added that the area referred to as a high school site on the General Plan map was actually a high school and intermediate school site, and another area adjacent to the subject petition was also designated for an intermediate school site. Also, from information available to him, there will be an intermediate school by 1978, rather than 1980, as reported by Mrs. Helliwell. He reiterated that in order for DOE to plan for its facilities, land acquisitions, etc., the land must first be urbanized. Moreover, it was clear that even if the area were urbanized, development could not proceed without providing for adequate school facilities.

As a result of the presentations and testimonies given today, Commissioner Mark raised several questions concerning the development of Mililani Town and requested that the Commission's staff attempt to answer them by consulting appropriate agencies and individuals. The questions concerned 3 major areas, i.e., the school problem, the military easement and possible blast hazard, and the Central Oahu Planning Study. (See copy of testimony on file).

Since all persons wishing to testify had been heard, Acting Chairman Tangen announced that the hearing on A73-364 was closed, and that the Commission will accept additional evidence for a period of 15 days, and that a decision on the petition will be rendered within 45 to 90 days.

MISCELLANEOUS

SAVE HAWAIILOA RIDGE ASSOCIATION PETITION

Mr. Tatsuo Fujimoto advised that the next item before the Commission concerned the question of who, other than the property owner, had standing to petition the Land Use Commission for a boundary amendment. After allowing the Commissioners adequate time to read the prepared staff memo, Mr. Fujimoto recommended that the Commission rule that the term "Property Owners or Lessees" found in Section 205-4, HRS, means the property owner or lessee of the property sought to be reclassified (see copy of staff memo on file).

Commissioner Sakahashi moved to accept the staff's recommendation, which was seconded by Commissioner Yamamura.

Mr. Boyce Brown, appearing in behalf of the petitioner's attorney Edward C. Kemper, requested permission to respond to some of the comments made in the memo by the Deputy Attorney General. Mr. Brown referred to the example cited in the memo wherein it was concluded the interpretation sought by the petitioner would lead to absurd results; i.e., a resident on Kauai could petition the Land Use Commission to amend the land use designation of property owned and resided on by another individual on the island of Hawaii. Mr. Brown argued that this did not apply to the instant petition since the petitioners involved were people living adjacent to the parcel of land proposed for substantial construction which will result in significant runoff and flooding, affecting the surrounding property owners. Moreover, Supreme Court decisions dealing with landowners in zoning matters had ruled that adjacent landowners did have standing.

Mr. Brown also stated that it was not clear in his mind how the Commission's acceptance of the petition would create a constitutional infirmity in the law, as suggested in the Deputy Attorney General's memo.

Mr. Brown did not believe either of these arguments advanced by the Attorney General's office was persuasive. Therefore, although he recognized that acceptance of the petition will create much additional work for the Commission, he submitted that these people who will be significantly affected by the proposed development did have standing to submit the petition.

Deputy Attorney General Matsubara advised that all of the points brought out by Mr. Brown had been covered in his memo.

Acting Chairman Tangen called on the Executive Officer to poll the Commissioners on the earlier motion by Commissioner Sakahashi. The motion was unanimously carried.

HAWAII LABORERS' HOUSING CORPORATION

Acting Chairman Tangen called the Commission's attention to the letter received by the Commission from Mr. Raymond Aki, General Manager of the Hawaii Laborers' Housing Corporation, dated July 12, 1973, regarding the status of the lands at Kaipapau, Hauula, Oahu, which had been circulated earlier, and stated that a response was in order.

Commissioner Sakahashi made the following motion: "It appears from the letters received by the Commission on June 7, 1973 from Mr. Mizuha, attorney for Adolph Mendonca, and on July 13, 1973 from Mr. Raymond Aki, General Manager of the Hawaii Laborers' Housing Corporation, that the property in question in Hauula, Oahu will not be developed in conformance with the representations made by the petitioner at the public hearing and action meeting involving the boundary amendment of this property. Since the petitioner's representations were the primary reason for the petition's approval, I feel that its non-observance should prompt us to downzone the property. I, therefore, move, Mr. Chairman, that notices be sent to Mr. Aki and Mr. Mendonca, notifying them that the Land Use Commission will entertain a motion to downzone this property at its next regularly scheduled meeting."

The motion was seconded by Commissioner Yamamura and unanimously approved by voice vote.

TENTATIVE SCHEDULE

Mr. Fujimoto announced that the Land Use Commission will next meet on August 30 and 31, 1973, on Maui and Hawaii respectively.

INTRODUCTION OF NEW DEPUTY ATTORNEY GENERAL

Mr. Benjamin Matsubara introduced Mr. E. John McConnell who will service the Land Use Commission from the Attorney General's Office upon Mr. Matsubara's departure.

Since there was no further business, Acting Chairman Tangen adjourned the meeting.