

STATE OF HAWAII
LAND USE COMMISSION

approved 11/1/68

Minutes of Meeting

Lihue District Court Room
Lihue, Kauai

August 16, 1968 - 2:00 p.m.

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

Staff Present: Ramon Duran, Executive Officer
Ah Sung Leong, Planner IV
George Pai, Legal Counsel
Jean Soma, Stenographer

The meeting was called to order by Chairman Burns, followed by the swearing in of persons testifying before the Land Use Commission today.

DEFERRAL REQUEST BY LOUIS PHILLIPS

Mr. Duran announced that the staff was in receipt of notification from Mr. Phillips, petitioner, that he would like to have the action on his petition deferred until the August 30th meeting in Honolulu because the engineering firm of Shoma, Hotta and Associates are presently drawing a preliminary Subdivision Map which would give the Commission a better idea of the layout of the subdivision and also because his wife has been ill and could not attend the meeting: There was no objection of having this petition deferred.

RAYMOND SUEFUJI'S LETTER RE: SP(T) 62-7 - GILBERT HAY

Mr. Duran acknowledged receipt of a copy of Raymond Suefuji's, Planning Director of the County of Hawaii, letter addressed to Mr. George Pai.

Chairman Burns stated that the best way to resolve a definite date of expiration of Mr. Hay's Special Permit would be to ask Mr. Hay to come in and report to the Commission why the permit should be continued if he does not have any plans to develop his property. Mr. Duran stated that Mr. Hay was authorized resort development and accessory uses and that no time limitation was stipulated on this petition.

It was agreed that the applicant, Mr. Hay, be called in to appear before the Commission. Chairman Burns asked Mr. Duran to circulate a resume regarding Mr. Hay's case to all of the Commissioners.

HEARING

PETITION OF IRVING JENKINS AND JOSEPH TEXEIRA (A68-191) TO RECLASSIFY 18.8 ACRES FROM AGRICULTURAL TO URBAN AT KAPAA, KAUAI

Recommendation for denial of Mr. Jenkins' request was presented by Mr. Leong based on the fact that the petitioner's property is extremely steep and unsuited for residential development and is not contiguous to an Urban or Rural District. However, the staff concurred with the Kauai County Planning & Traffic Commission in recommending approval for Urban Districting parcels 7 and 61 owned by Mr. Teixeira on the grounds that the general topography of the area is not too unreasonable for residential development provided the developer conforms to the County's subdivision rules and regulations (see copy of report on file). It was further recommended that parcel 63 (flag lot owned by the Henriques family) be included in the Urban District in the coming boundary review. Mr. Leong indicated that no correspondence was received from Mr. Henriques indicating that he is interested in a boundary change.

Commissioner Wung inquired whether or not it would be a case of spot zoning if the Kauai County Planning & Traffic Commission asked for Rural Districting for Mr. Jenkins' property. In reply, Mr. Leong stated that the County did not act on the rural request by Mr. Jenkins and that they recommended to deny his urban request. It was subsequent to County action that Mr. Jenkins requested Rural Districting. Mr. Leong also added that Mr. Jenkins' property and Mr. Teixeira's property are not abutting each other.

Commissioner Murakami queried why Mr. Henriques' land was being considered under the same petition. Chairman Burns answered that the Henriques' land is not related to the Jenkins/Teixeira petition and will be considered during the coming boundary review.

Mr. Teixeira, one of the petitioners, testified that his property is adjoining the Henriques' property and that Mr. Henriques did not ask for the rezoning of his property.

When Commissioner Murakami questioned Mr. Teixeira as to the approximate cost of his improvement, Mr. Teixeira replied that it would amount to 35 cents per square foot. Mr. Teixeira further submitted that he feels it will be feasible to subdivide his property although it is going to be an expensive development.

The hearing was closed since there was no further testimony.

ACTION

PETITION OF FRANCIS H. I. BROWN (A68-175) TO RECLASSIFY 170 ACRES FROM CONSERVATION TO URBAN AT KALAHUIPUAA, SOUTH KOHALA, HAWAII

Mr. Duran reported that the staff recommended the denial of Mr. Brown's request for a boundary change because of the numerous developments proposed along the coastline between Kawaihae and Kailua and due to the fact that there are no facilities or access available to the Brown property at this time. Also, it is doubtful that there will be any power or road access to the property within the next five years. And, since a boundary review is in progress, it will give the Land Use Commission an opportunity to look at the total

August 16, 1968

coastline and all of the implications that the vast number of plans the landowners have for developing their land and the effect of these plans on the Conservation District.

Mr. Ernest Kai, attorney representing the petitioner, stated that his client, Mr. Brown, desires a decision on his application today if possible.

Mr. Kai further submitted that at a public hearing held on July 24 and 25, 1968, in Kamuela, Hawaii, Mr. Asato of the State Highway Division stated that the proposed road is 24 miles in length from Hapuna to the proposed Keahole Airport. The schedule of construction for the petitioner's proposed development is as follows:

1. Completion of the planning stage by May, 1969.
2. Completion of design by August, 1970.
3. Construction to commence on the first increment by September, 1970.
4. Completion of the first increment by September, 1971.
5. Completion of the highway by June, 1974.
6. Mr. Brown's area will be served by September, 1971.

In further support of the boundary change, Mr. Kai submitted that Mr. Brown has held his property since 1931 and would like to put his land to its highest and best possible use since he is advancing in age--he will be 76 years old this year. Mr. Kai continued that his client would like to have a permanent classification of his property at this time because once the classification is set, financing will be obtained so that Mr. Brown can proceed with his development.

Mr. Kai disclosed that Mr. Brown is having the problem of the rising cost of property tax on his land. The only feasible way Mr. Brown can solve this problem is to have the Land Use Commission grant his request for a boundary change of his property.

Commissioner Wung moved that the Commission grant Mr. Brown his request for a boundary change from Conservation to Urban. The motion was seconded by Commissioner Napier. The Commissioners were polled as follows:

Ayes: Commissioners Murakami, Wung, Inaba, Choi, Napier, Nishimura,
Chairman Burns

Nays: Commissioners Mark, Kido

The motion was carried and petition approved.

PETITION BY MARIANA O. ORNELLAS (A68-181) TO RECLASSIFY 30,466 SQUARE FEET FROM AGRICULTURAL TO URBAN AT KAPAA, KAWAIHAO, KAUAI

Since the petitioner or a representative was not present, the Field Officer, Mr. Leong, at the request of the Commission dispensed with the presentation of the staff memo which recommended approval of the request.

Commissioner Nishimura moved that the boundary change from an Agricultural to an Urban District be approved. Vice-Chairman Choi seconded the motion.

August 16, 1968

The Chairman called for the question, and the Commissioners were polled as follows:

Ayes: Commissioners Murakami, Wung, Inaba, Mark, Kido, Choi, Napier, Nishimura, Chairman Burns

Nays: None

The motion was unanimously carried and the petition approved.

PETITION BY DEPARTMENT OF LAND & NATURAL RESOURCES (A68-184) TO RECLASSIFY 70 ACRES FROM AGRICULTURAL TO URBAN AT KEKAHA, KAUAI

Mr. Duran, the Executive Officer, reported that no additional evidence for or against the petition was received since the hearing. Therefore, the original recommendation for approval of the petition was maintained.

Commissioner Napier questioned Mr. Duran as to the demand for housing. Mr. Duran assured the Commission that there is a definite demand for housing at the present time. The plantation wants to raze some of the old plantation houses and also with the expansion of the Kokei Tracking Station in that area, there is a need for limited housing for people in this area. Mr. Duran further stated that most of the urban area is developed at present. Therefore, in order to move people from the blighted areas of Kekaha, these people will have to go to another area.

In answer to a question raised about the classification of the abutting cane lands, the Executive Officer replied that the area in question is E, "very poor" and the cane fields are in the "B" classification or "good" cane land and produces one of the highest yields of any irrigated cane lands in the State. In addition, Commissioner Nishimura pointed out that there is a canal that runs parallel to the urban line and separates the property in question from the cane fields.

In behalf of the Department of Land & Natural Resources, Commissioner Kido submitted that the Department is going to lease the entire first increment. As far as the other lands are concerned, it is the intention of the Department to evoke provisions of Act 68, 1968, wherein DLNR would allow a private developer to develop residential houselots. The immediate development would probably take place in the first 15 acres.

Commissioner Murakami asked Commissioner Kido if the DLNR would have no control as to the cost per square foot or the cost of the land. In reply, Commissioner Kido answered that they would have all the control in accordance with the lease set by the Land Board.

Commissioner Nishimura moved that the Commission accept the staff's recommendation to approve the petition. The motion was seconded by Commissioner Napier.

The Commissioners were polled as follows:

Ayes: Commissioners Choi, Napier, Mark, Inaba, Wung, Nishimura, Murakami, Chairman Burns

August 16, 1968

Abstain: Commissioner Kido

The motion was carried and petition approved.

APPLICATION BY KAUAI HELICOPTERS (SP68-53) FOR HELIPORT USE AT LIHUE, KAUAI

The recommendation that the Land Use Commission should reiterate its original decision and deny the Special Permit request was presented by the Executive Officer, Mr. Duran.

Mr. Duran advised that the present use of the site as a heliport is in violation of the Land Use Law and that the operation is situated only 370 feet from a new housing development.

When questioned about the Federal Aviation Administration's approval of the airspace as opposed to the fact that it does not meet the minimum requirements, Mr. Duran answered that each case is investigated on its own merits; and the FAA does make exceptions. However, the point is that Kauai Helicopters' site does not meet the minimum recommended standards as set by the FAA in their "Heliport Design Guide."

In a letter dated February 15, 1968, William T. Klopp, General Aviation Officer, Airports Division, Department of Transportation, Mr. Klopp stated that he had examined the location of the heliport site and fully endorses its retention as a heliport. Further, Mr. Klopp added that space is not available for aircraft at the Lihue Airport at present. Regarding this matter, Mr. Duran commented that he had contacted Lihue Airport's local manager. The manager advised that space is presently available for aircraft and that he was not aware of Mr. Klopp's correspondence to the Land Use Commission.

Mr. Duran assured Vice-Chairman Choi that the heliport operation is not part of the KTOH Radio Station and that the applicant, Kauai Helicopters, is subleasing the site from KTOH. Kauai Helicopters' operation is not permitted under the Land Use Law without a Special Permit from the LUC. Therefore, the heliport operation of Kauai Helicopters is violating the Land Use Law. KTOH Radio Station indicated in Kauai Helicopters' last petition (SP67-47) that they were going to relocate their operation. However, they are still operating their transmitter at the site.

Tatsuo Asari, attorney representing the applicant, submitted that the applicant was in receipt of a letter dated February 1968, from Mr. Clark of Lihue Airport stating that no sites are presently available for any aircraft at the airport.

Attorney Asari further commented that the presently located heliport site has been approved by the federal government, State agencies, and also the Kauai County Planning & Traffic Commission. He further stated that the sole landowner of the immediately surrounding adjacent urban area advised that the heliport site is not a nuisance or a detriment to the residential development. Also, it is not merely the Manager of Kauai Helicopters himself stating that it is a desirable and possibly the only site available for the operation but also the various agencies who expressed their feeling that the present heliport site is not of a hazardous nature.

Jerry Robinson, Manager of Kauai Helicopters, reported the reason why the heliport operation is located at its present site. In January, 1967, they applied through the local airport (Lihue Airport) for use of an airport hangar building and an underground fuel tank; and this application was active for six months. In the meantime, KTOH Radio Station informed Kauai Helicopters that they were relocating their studio but that their transmitting facilities would still be at the present location. Therefore, Kauai Helicopters withdrew their application for aircraft space at the Lihue Airport and entered into a sublease agreement with KTOH. Upon being notified by the Kauai Planning & Traffic Commission that they were in violation of the Land Use Law by operating at the KTOH Radio Station site, the applicant applied for a Special Permit which was approved by Kauai County. The Land Use Commission, however, denied the Special Permit. The applicant's reason for a rehearing on this heliport operation is that from the LUC staff's recommendation (denial of request), there seems to be a great deal of misunderstanding about the manner in which Kauai Helicopters is conducting their heliport operation.

In further support of the application, Mr. Robinson reported that they do not wish to relocate their heliport operation at the local airport because "none of the buildings are big enough for our helicopters." In addition, the jet blasts created by the jets can use severe damage to the helicopters. Furthermore, being located at their present site, the noise generated by the helicopters blends in with the already-existing noise from the airport thereby causing no real noise problem with the helicopters. However, Mr. Robinson admitted that the noise created by the helicopters can be heard as far as the Tip Top Motel several miles away.

In reply to Commissioner Inaba's question as to any proposed building being erected, Mr. Robinson replied that the only building they intend to construct is a roof over the side away from the road no higher than the existing building and extending out about 30 feet and will not be visible from the road.

Commissioner Murakami questioned Mr. Duran if there has ever been a similar situation--two types of businesses in a non-conforming area--which has been approved by the Land Use Commission. Mr. Duran's reply was that to his knowledge there has never been such a case.

It was agreed upon that the Executive Officer, Mr. Duran, correspond with the Lihue Airport Manager and ask if there is a possibility of space being available for Kauai Helicopters' aircraft.

George Pai, Legal Counsel, added that there might be an enlargement of the scope of the non-conforming use while on the other hand, this case can be treated as if it were an agricultural use. Vice-Chairman Choi requested that Mr. Pai investigate whether or not a non-conforming use would ever become revocable because of not conforming to the original intent.

Action on this Special Permit was deferred until a later LUC meeting due to further investigation of this matter.

August 16, 1968

APPLICATION OF GROVE FARM CO., INC. (SP68-55) FOR A COMMERCIAL LAUNDRY AT
NAWILIWILI, KAUAI

Field Officer, Mr. Leong, presented the staff report (see report on file) that this request be approved in view of the fact that the subject parcel is situated in an Agricultural District but unsuited for agricultural purposes and that the request will not adversely affect surrounding industrial and agricultural properties.

Commissioner Kido queried Mr. Moragne, Manager of Grove Farm, as to who is going to develop the site--Grove Farm or Young Laundry. In reply, Mr. Moragne stated that Grove Farm will have to clear the area; but Young Laundry will have to erect their own building.

In answer to Commissioner Kido's question as to there being any possibility of Kauai County taking the extra 20 feet widening of Niumalu Road, Mr. Leong replied that the setback area does take into consideration the future widening of Niumalu Road.

Commissioner Wung moved that the Commission accept the staff's recommendation to approve this request. The motion was seconded by Commissioner Napier and was unanimously carried by the following votes:

Ayes: Commissioners Choi, Napier, Mark, Kido, Inaba, Wung, Nishimura,
Murakami, Chairman Burns

Nays: None

TENTATIVE SCHEDULE

August 30, 1968, on Oahu was decided on as the next meeting date.

ADJOURNMENT

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