

STATE OF HAWAII  
LAND USE COMMISSION

Minutes of Public Hearing  
and Meeting

Hale Halawai  
Kona, Hawaii

August 20, 1965 - 3:00 p.m.

Commissioners

Present:

Myron B. Thompson, Chairman  
C.E.S. Burns  
Shelley Mark  
Robert G. Wenkam  
Leslie E. L. Wung  
Goro Inaba  
Shiro Nishimura

Absent:

Jim P. Ferry  
Charles Ota

Staff

Present:

George S. Moriguchi, Executive Officer  
Gordon Soh, Associate Planner  
Ah Sung Leong, Draftsman  
Roy Takeyama, Legal Counsel

Chairman Thompson opened the public hearing-meeting with a short prayer and dispensed with the public hearing procedure outline since this was familiar to those present. Persons presenting testimonies were sworn in.

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PETITION OF HAWAIIAN HOME LANDS, (A65-87) TO AMEND THE URBAN DISTRICT BOUNDARY AT KAWAIHAE, COUNTY OF HAWAII, SO AS TO INCORPORATE ABOUT 119 ACRES IDENTIFIABLE BY FIRST DIVISION TMK 6-1-01-3

Mr. Gordon Soh presented the staff report on the above petition (see staff report on file). Staff recommended denial of the petition based on the following:

1. The 27-acre specific site is usable and adaptable for the proposed use by Hilo Electric Light Co., but for the remainder of the lands proposed for reclassification, with slopes ranging from 10% to 20%, it would be quite unsuitable and impractical for many of the industrial uses suggested by the petitioner.
2. Data submitted do not indicate that the proposed classification is reasonable. However, staff recommended further exploration of technical inadequacies relating to jurisdiction of the lands involved.

Commissioner Burns asked for clarification of the "technical inadequacies" referred to in the staff report.

Mr. Soh explained that a portion of the land under consideration did not belong to the Hawaiian Home Lands.

Mr. Moriguchi elaborated further on this matter. Besides the land owned by Hawaiian Home Lands, the proposed site plan by the Hilo Electric Light Co. for a power plant encompasses all of the lands under the jurisdiction of the Department of Land and Natural Resources. It was a moot question as to whether or not this proposed plan was going to be permitted by the Department of Land and Natural Resources.

Mr. Soh added that the staff was made aware of this situation only very recently. Commissioner Burns suggested that it might be wise to invite comments from the Department of Land and Natural Resources during the period between the hearing<sup>and</sup> the time when a decision is rendered.

Mr. Raymond Suefuji, Acting Director of the Hawaii Planning Commission, stated that the Hawaii Planning Commission had considered this entire area a few months back and recommended amendment of the general plan to show the total area for industrial use. Numerous inquiries had been made by firms about the possibility of locating in this area; therefore, the Commission felt that Hawaiian Home Lands should be extended the requested acreage for development of an industrial and commercial area.

Responding to Commissioner Wenkam's statement that this area appeared to be primarily a residential subdivision rather than an industrial subdivision, Mr. Soh advised that he understood the proposal was for an industrial subdivision of 2 to 7 acres.

Chairman Thompson directed that the word "subdivision" in the staff report on page 3, line 1, be preceded by the word "industrial".

A letter from Belt, Collins & Associates, Ltd., addressed to the Land Use Commission, dated August 20, 1965, was read by Mr. Moriguchi (see letter on file). The engineering firm endorsed the plan of Hawaiian Home Lands insofar as industrial uses north of the harbor were concerned, but looked with disfavor upon development of land immediately mauka of the harbor for any industrial uses.

Upon Commissioner Burns' request, Mr. Moriguchi pointed out the requested industrial areas.

Mr. James C. Clarke, Planning Coordinator for Hawaiian Home Lands, presented the following testimony. The Hawaiian Home Commission had agreed to allow reservation of up to 250 acres by the Hawaiian Home Lands for industrial use. During preparation of possible boundary limits, the Hawaiian Home Lands staff studied the layout and talked to persons who might be interested in these lands. It was their conclusion that a better subdivision would result if the total proposed area could be zoned for industrial use. They agreed that certain lands should not be developed due to unsuitable physical features. However, they were concerned that if the total requested area were not reserved for industrial use now, and the Land Use Commission denied it at a later date, only an isolated development would remain here. The Department of Hawaiian Home Lands owns all of the surrounding area and this was the reason for its proposed plans.

In a letter from the Department of Land and Natural Resources, it was suggested that the Hawaiian Home Lands submit a plan on a 65-year lease to the Hilo

Electric Light Co. Title to the parcel owned by the Department of Land and Natural Resources could be acquired by the Hawaiian Home Lands through an exchange of lands, or a lease agreement could be worked out after development of the land. The Board of Water Supply has assured the Department that a water main could be installed here.

A request had been received from American Factors to locate a lumber yard and also from another party expressing commercial interest in this area. Mr. Clarke commented that if the petition were denied, they would cancel all plans for the total area and go elsewhere to develop an industrial subdivision. He continued that their chief objective here was to make money to enable them to develop home site projects. He stated that they were not too concerned with the portion near the harbor if the Land Use Commission decided against it, although he felt this would be in great demand sometime in the future.

A request was also in their office from a slaughter house for 25 acres, which they proposed to locate in the upper areas. A discussion with the oil companies revealed that they were reticent about committing themselves until they were able to observe the progress of the Rockefeller project.

Eight or nine sites had been studied by the consultants for the proposed new power plant and the subject parcel was one of two sites considered suitable. This was another reason why the Department of Hawaiian Home Lands had started development plans. Mr. Clarke added that the need was immediate.

Commissioner Burns wondered if there would be any advantage if the petitioner changed his petition to the extent of defining more carefully what he required now. Chairman Thompson advised Mr. Clarke that, if he so desired, the petition could be amended by deleting some of the areas.

Mr. Clarke expressed the desirability of having the Land Use Commission approve the back boundary for the total plan, on record now, to insure the proposed future development of this area. Another reason for the request to reserve this area for industrial use was to prevent residential development in here. At the present time, they were faced with the problem and expense of re-locating two families living here.

Commissioner Burns raised the point that since the Hawaiian Home Lands owned all of the land, they had control of the usage as well, and he could not see any problem here. Mr. Clarke replied that the Commission members changed and with it ideas changed also.

In support of the foregoing testimony by Mr. Clarke, Mr. Suefuji emphasized the importance of zoning the subject area for industrial uses now to preclude non-conforming uses in the future.

In answer to Chairman Thompson's questions regarding the County's stand on this matter, Mr. Suefuji replied that it was the County's recommendation to reserve all of the area from the green spot on, as shown on the map, for industrial purposes, and that the County's general plan map showed this area as an industrial zone.

Replying to Commissioner Burns' question, Mr. Clarke stated that although they were not going to use the entire area immediately, urbanization was desirable. He also added that Mr. Belt of Belt, Collins & Associates, consultants,

was concerned with the type of use Hawaiian Home Lands was going to put in this area because of the existing heiau. Mr. Belt could offer no suggestions as to the compatible industrial use in this area. However, it was decided that Hawaiian Home Lands and Belt & Collins would get together and discuss this at the proper time.

Commissioner Wenkam asked if he may suggest the following use--the highest and best possible use. He expressed shock and amazement over the proposed plan by the Hawaiian Home Lands high up on the hillside where it would leave a permanent scar in an area destined for major tourist development. It would be a blight to everyone who rents a hotel room or plans hotel construction in this area. Commissioner Wenkam's reason for proposing the original boundary line was to prevent Hawaiian Home Lands from any further industrial development, except for the areas immediately associated with the highway. In this respect, he disagreed with the County Planning Director. He could not find any need or justification for additional industrial zoning and was of the opinion that the present zoning offered adequate provision for industrial needs. He also felt that Hawaiian Home Lands and others concerned should seriously oppose installation of tanks 100' up in the air.

If the present boundary were maintained, Mr. Clarke felt that they would seriously reconsider any plans they might have had to develop this area because they would not be able to come up with a suitable plan.

Chairman Thompson commented that he wanted to clarify a point here--that if he interpreted correctly the letter from Belt & Collins, which firm is master planning the whole area, they were only opposing industrial development of the portion to the right of the green area.

Commissioner Wenkam suggested that the Hawaiian Home Lands make a study with respect to how development of an industrial area on this slope would affect the tourist destination immediately adjacent to it.

Mr. Arthur Akinaka, consulting engineer for the Hawaiian Home Lands, advised that they had arrived at the suggested layout only after considerable research into available literature and studies of harbor localities such as the San Francisco Bay area. Based on predicted population increase for the island, 60 years into the future, 250 acres would be needed. In further support of their request, Mr. Akinaka stated that a study had been made by the State Highway Department and it was their desire to develop a road from Kawaihae to Mahukona in the future, and that the State should certainly avail itself of federal funds for this purpose. To accomplish this, the Hawaiian Home Lands had no alternative but to comply with limited access all along the road. He referred to Commissioner Wenkam's feeling that the lot sizes were quite small. Mr. Akinaka commented that it was not their intention to keep them small--in fact the latest figures were closer to 30-acre lots. Mr. Akinaka asked that the Commissioners "think big".

Commissioner Wenkam again expressed his feeling that the immediate industrial needs were adequately provided for and no changes should be made at this time. The very person who may invest more capital in this area, Mr. Rockefeller, might not build another square foot if the hillside were scarred with large tanks. Commissioner Wenkam felt that we should make every effort to protect Mr. Rockefeller's \$15,000,000 investment by not allowing indiscriminate land use.

Chairman Thompson asked Commissioner Wenkam to invite Mr. Rockefeller to come in and testify before the Commission.

Mr. Akinaka stated that they had worked very closely with Mr. Walter Collins on all stages of the plan because they believed that only through an integrated and coordinated approach could they act in the best interest of all concerned.

Mr. Clarke added that much criticism had been directed at the Hawaiian Home Lands Department for not putting their lands to use.

Since there were no further comments, Chairman Thompson ruled that the hearing was closed, and that additional information or data could be submitted by the petitioner within 15 days.

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APPLICATION BY DAVID OTA (SP65-14) FOR A SPECIAL PERMIT TO CONSTRUCT A BARBER SHOP AS AN ADDITION TO AN EXISTING WOOD FRAME COMMERCIAL BUILDING IN A RURAL DISTRICT IN HOLUALOA, KONA, HAWAII, IDENTIFIABLE AS THIRD DIVISION PARCEL  
TMK 7-7-03: 11

Mr. Gordon Soh read the background and analysis of the above application, prepared by staff (see copy on file). Staff recommended denial of the application for special permit because while the proposed use may be reasonable, it was far from unusual.

Mr. Suefuji felt that the special permit should be granted since the barber shop was going to be added to an already existing commercial structure and would offer needed personal services to the community.

Commissioner Inaba explained further that it would be difficult to confine any particular area for urban use in this locale because commercial uses were scattered in the whole Kona area.

Replying to Chairman Thompson's question, Commissioner Inaba stated that the petitioner had operated a barber shop in the front portion of his residence for many years and was now seeking a new location since he could not continue here any more. The nearest barber was up in Holualoa and many people would be affected. Commissioner Inaba continued that it was a half mile to the Urban District and that some 50 retail stores were strung all along the highway in an Agricultural District. Commissioner Wung stated that the prime consideration here was whether this was a reasonable and unusual use, and he felt that the petition qualified under these two requirements.

Chairman Thompson commented that the petition could be considered reasonable but was not unusual according to standards. He referred to staff report on page 6, item g., and commented that he sensed there was an uncertainty as to whether this was reasonable within the next 10 years.

Since there was no further discussion, Commissioner Inaba moved, seconded by Commissioner Wung, that the special permit be granted on the basis that the County Commission had recommended approval and the request was a reasonable one. Motion was carried unanimously.

APPLICATION BY KOHALA KIM CHEE, INC. (SP65-15) FOR A SPECIAL PERMIT TO ADD FIVE FEET TO THEIR SMALL KIM CHEE CANNERY IN KOKOIKI, HAWAII, IDENTIFIABLE BY THIRD DIVISION TMK 5-5-04: 42

Staff report was presented by Mr. Soh (see copy of report on file). Chairman Thompson interrupted Mr. Soh's presentation to inquire whether the request by petitioner for a special permit was in order since the requested addition appeared to be an accessory to an agricultural use. Mr. Soh replied that investigation revealed the product used for pickling was produced elsewhere and brought in, which made it a commercial undertaking rather than an accessory to an agricultural use. Staff's denial of application was based on the fact that use was not unusual, although it was by and large reasonable.

Commissioner Wung commented that this appeared to be a similar situation with the barber shop (SP65-14), in that the request was for an addition to an already existing structure.

Commissioner Burns expressed his feeling that a kim chee factory was unusual-- that there were not very many kim chee operations.

Commissioner Wung moved to approve request based on County's recommendation and the fact that it was unusual and reasonable. Motion was seconded by Commissioner Inaba and passed unanimously.

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APPLICATION BY ROBERT LESLIE, JR., AND MADELINE LESLIE (SP65-16) FOR A SPECIAL PERMIT TO CONSTRUCT A NEW STORE ON A PORTION OF 7.30 ACRES DESCRIBED BY TMK 8-5-02: 5 AT KEALIA 1ST, SOUTH KONA, HAWAII

Staff report (see copy on file) recommended denial of the applicant's request based on evaluation of the guidelines established.

Commissioner Nishimura wondered whether the family would suffer any hardship if they were to relocate.

Mr. Suefuji stated that it would and added that this was not a prosperous business and the petitioners were only remaining here to accommodate the residents who would face a hardship if the store were removed.

Commissioner Nishimura moved, seconded by Commissioner Wung, to grant request based on unusual and reasonable nature of the petition. Motion was carried with Commissioner Mark casting the only dissenting vote.

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APPLICATION BY AMADOR DEL CASTILLO (SP65-7) FOR SPECIAL PERMIT TO CONSTRUCT AN "ADULT CARE HOME" ON 1.53 ACRES OF LAND DESCRIBED BY SECOND DIVISION TMK 2-7-25: 4

Chairman Thompson directed Mr. Soh to present the staff report on the above special permit (see report on file). Staff recommended that the application be denied because the proposed use was generally unusual but was not a reasonable one.

Commissioner Burns asked whether there were not a study being conducted in the State now along the lines of solving the problem that this special permit was aimed at.

Chairman Thompson replied that there was such a study being conducted. A comprehensive State mental health plan being currently developed would include such facilities. He felt that the function of the care home under petition was very confusing and incompatible; in that petitioner was proposing to use the facilities to care for the mentally ill as well as the aged. He was surprised that the Department of Health and Department of Social Services had not come out more strongly with their views on the matter, and that he would like to get their thinking on this before acting on the special permit.

Commissioner Nishimura asked whether there were any doctor's services or facilities available in this area, to which Mr. Soh replied that he did not know.

Mr. Soh commented that no reason had been offered by the petitioner for the particular location chosen for the proposed facilities, in response to Commissioner Wenkam's question.

Chairman Thompson noted that approval had been granted on the Kawaiiloa permit earlier because the Department of Health and Department of Social Services had come out very strongly in support of the request.

Commissioner Burns recommended deferral of action on the special permit until the Commission received recommendations from the appropriate departments of the State.

Mr. Soh informed the Chairman that the Commission had 45 days in which to act on the matter.

Commissioner Wenkam wondered whether the matter of multiple uses of facilities could be properly considered by the Commission in granting special permits. Commissioner Burns felt that special permits opened the door for all considerations.

Commissioner Burns moved to defer action on the special permit, pending receipt of further information, which was seconded by Commissioner Inaba. Motion was carried unanimously.

#### ADOPTION OF MINUTES:

Minutes of the June 25, 1965 meeting were approved as circulated.

#### ACTION TO BE TAKEN:

PETITION OF HAROLD G. NISHIHARA, (A65-81) TO AMEND THE URBAN DISTRICT BOUNDARY IN UPPER PALOLO VALLEY, OAHU, SO AS TO INCORPORATE ABOUT TWO ACRES OF A 4½ ACRE PARCEL IDENTIFIABLE BY FIRST DIVISION TMK 3-4-21: 11

Following Mr. Soh's presentation of the memorandum on the above petition, it was moved by Commissioner Wenkam and seconded by Commissioner Nishimura that staff recommendation for approval of petition be accepted. Motion was carried unanimously.

PETITION OF KENZO AKINAKA, ET AL, (A65-83) TO AMEND THE URBAN DISTRICT BOUNDARIES AT SUNSET BEACH SO AS TO INCORPORATE A 1.017 ACRE PARCEL IDENTIFIABLE BY FIRST DIVISION TMK 4-9-14: 13

Staff memorandum (see copy on file) for denial of the petition was based on the following facts: The change would constitute spot zoning, no unique circumstances have been demonstrated, and the change would not be in the best interest of the community as a whole.

Mr. Roy Takeyama, legal counsel, made the following comments with respect to petitioners' attorney Mr. Chikasuye's reference to the decision rendered by Judge Felix in the Third Circuit Court in the matter of James J. Tamura, Appellant, vs. Planning and Traffic Commission, County of Hawaii, Appellee. The appellant had appealed to the Third Circuit Court following denial of special permit by the Hawaii Planning Commission. Judge Felix had rendered a decision mandating and decreeing that the Planning Commission recommend to the Land Use Commission granting of the special permit. However, Mr. Takeyama stated that this judgment was only binding upon the Hawaii Planning Commission and not on the Land Use Commission. He continued that what was applicable in the aforementioned case had no relevance to the problem here because a special permit does not involve a boundary change. Also, Act 187 (which was amended in total by Act 205) was not in effect at the time this special permit was processed. Therefore, Mr. Takeyama could see no reason for the reference to Act 187 in the decision, except perhaps to point out the legislative intent to maintain existing uses as far as practical and reasonable. He continued that maintaining existing uses does not mean vacant lands not in use, and therefore did not apply in this case.

Mr. Soh replied that he did not know whether a subdivision plan had been submitted to the City Planning Department prior to the adoption of the Land Use Law, in reply to Chairman Thompson's question regarding the five lots under consideration.

Commissioner Wenkam moved to accept staff recommendation for denial of the petition, seconded by Commissioner Mark. Motion was carried unanimously.

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PETITION OF THE ESTATE OF GEORGE H. HOLT (A65-84) BY ALEXANDER H. F. CASTRO TO AMEND THE URBAN DISTRICT BOUNDARY IN MAILI, OAHU, SO AS TO INCORPORATE ABOUT 65 ACRES OF A 433 ACRE PARCEL IDENTIFIABLE BY FIRST DIVISION TMK 8-7-10: 2

Staff memorandum (see copy on file) presented by Mr. Soh recommended denial of the petition because although the proposed use would promote public objectives and appeared to be consistent with principles of planning and the Land Use Law, it may mean too much urbanization too soon.

Commissioner Burns asked what the tax rates were on the subject parcel now. Mr. Soh commented that at one time, around 1962, the 470 acres were estimated at a value of \$1,500,00. Now the petitioners feel that the appraisal was not realistic in view of the past disastrous experience in pursuing agricultural uses.

Commissioner Wenkam stated that he had talked to the builders proposing to build on this land and felt that there was a realistic market for \$15,000 homes here. Their approach was a unique method of building homes on a mass production



basis. He explained further that the petitioner anticipated a substantial increase in home construction in this area in the near future and this was the reason he was requesting such a large area at this time.

Chairman Thompson wondered about the swamp lands here, to which Mr. Soh replied there was no swamp land--that this particular development circled around a low-lying parcel.

Commissioner Nishimura remarked that the Mikiola Farm Bureau was strongly opposed to the development of the subject area, to which Commissioner Wenkam remarked that their opposition was primarily one of principle--that they would oppose any further urban development of this area even if it did not encroach on any farm land. He continued that the low land cost here would be one of the important factors to consider.

Chairman Thompson pointed out that if available lands were limited in such places as Waipahu, Ewa, Makakilo, then we would have to ease up somewhere else.

Commissioner Burns commented that if this were good agricultural land, it would presently be in some agricultural pursuit and that the problem here was not one of encroachment into good agricultural land.

Commissioner Wenkam moved, seconded by Commissioner Burns, that the petition be approved since it was a reasonable use and it was needed. The motion was carried with Commissioner Nishimura casting the only dissenting vote.

#### GENERAL MEETING:

Next Meeting Date: In line with Chairman Thompson's request for suggestions as to the next meeting date, Mr. Moriguchi asked if Mr. Frederick Huszagh, representative of the Communications Satellite Corporation, might be recognized. Mr. Huszagh informed that the Communications Satellite Corporation was in the process of taking an option on some property over in Paumalu, Oahu, at present to build a satellite earth station. They had applied for a special permit because under the existing regulations they did not feel this would be a permitted use. They were working under a very tight schedule and were very anxious to have a decision on this matter. The City Board of Appeals had agreed to hold a special meeting to consider their request and they were hopeful that this decision would be in the hands of the Land Use Commission soon after September 10.

Mr. Moriguchi thought that the staff would probably be able to report findings with<sup>in</sup> a week after receipt of recommendation from the city. Chairman Thompson advised Mr. Huszagh that the earliest possible date that the Commission could render a decision on the request would be the 17th of September. However, he wondered if the 24th might be agreeable to Mr. Huszagh. Mr. Huszagh replied that it did not make too much difference one way or the other.

Chairman Thompson advised that there were many items on the agenda for discussion at the next meeting, such as the Hanapepe area on Kauai, the Diamond Head area, etc. Mr. Moriguchi expressed the thought that if the meeting dates were set for September 24th and October 1st, this might be too hectic for the Commissioners.

COMMUNICATIONS:

A letter from Pratt, Moore, Bortz and Vitousek, attorneys for Communications Satellite Corporation, was read by Mr. Moriguchi.

A letter from Mr. Clinton Childs of Lihue Plantation expressing appreciation for consideration of the additional information and the favorable decision rendered.

OTHER BUSINESS:

Commissioner Mark stated that, in a conversation with Governor Burns, the Governor had requested that the Land Use Commission consider inviting all the County Planning Directors to all of its meetings in the future in a non-voting, ex-officio capacity. At one time the Legislature had considered including the planning directors as members of the Land Use Commission but no action was taken because the legislators were led to believe that the directors would be invited to all of the meetings.

Chairman Thompson asked that the Commission go on record as favoring the suggestion made by Governor Burns. He added that an invitation should be issued on a regular basis. Commissioner Mark suggested that a special invitational letter be sent to all the planning directors the first time around.

Chairman Thompson announced that a Governor's Conference on Natural Beauty and Community Appearance will be held on December 2, 3, 4, 1965 and that the Land Use Commission was going to be involved in it in some way. He added that the State Planners Meeting would also be held at this time, either before or after the Conference on Natural Beauty. The conference is going to be open to the public and an attendance of approximately 300 people was anticipated.

The meeting was adjourned at 5:30 p.m.