

LAND USE COMMISSION

Minutes of Meeting

Wilcox School

Lihue, Kauai

10:00 P. M. - August 21, 1962

Commissioners

Present:

Edward C. Bryan
Stanley C. Friel
Wayne D. Gregg
Yuichi Ige
Edward Kanemoto
Franklin Y. K. Sunn
Roger T. Williams

Ex-Officio Members

Present:

Frank Lombardi

Absent:

E. H. Cook

Staff

Present:

R. J. Darnell, Executive Officer (XO)
John Canright, Legal Counsel
W. M. Mullahey, Field Officer
Alberta Kai

Meeting of the Land Use Commission continued at 10:30 p.m. in the auditorium of the Wilcox School in Lihue, Kauai.

The following matters were brought to the attention of the Commission:

1. Supervisor Kunimura (Commissioner Sunn presented question in his behalf) expressed the problem faced by the County concerning uses and lot sizes within an Agricultural district, and posed the question whether single family dwellings can be built on subdivided lots.
2. David F. Wong, Planning Director, expressed the same problem. He presented the case where a variance was granted by the Kauai Planning and Traffic Commission for a hotel use in an area which was later classified in an Agricultural district; and he wondered whether this variance was legal now.
3. Chairman Raymond X. Aki expressed the concern of Kauai's economic problem regarding development being hampered by Act 187. He pointed out that there were a lot of developments which had to be stopped because they fell within an Agricultural district. He requested Commissioners look into the matter of district boundary classifications.
4. The people of Anahola Community presented their recommendations to the Commission on their proposed planning and zoning of the Anahola area. A letter stating their recommendations was presented to the Commission for the record.

XO replied to the problems presented by Supervisor Kunimura and Director David F. Wong in this respect: Legal Counsel has informed the Commission that the proper procedure for the County to follow would be to go to County Attorney to seek his advice; and then for the County Attorney to make a formal request to State Attorney General if problem cannot be resolved.

Chairman Bryan informed Chairman Aki that he would suggest that developers make their petitions to Commission as soon as possible so work can begin right away; but at present the Commission cannot do much until final maps are made.

Chairman Bryan stated that the Commission will look into the recommendations presented by Anahola Community before adopting final preliminary maps; and informed them that the Commission will be holding hearings in January or February of next year for people who wished to be heard on this matter. He also stated he will forward a copy of this letter to Harland Bartholomew and Associates for their consideration in preparation of the final plans. XO suggested also that Anahola Community work with Mr. David Wong, Planning Director, on this problem, and to get a detailed description of this area. He added that if the area is in Urban, the use of the land is entirely up to County.

APPLICATION OF EDWARD S. T. CHING, SP(T) 62-6, FOR SPECIAL PERMIT TO ESTABLISH A SERVICE STATION AND DRIVE-IN FOOD SERVICE USE ON PROPERTY EAST OF KAMUELA: Described as TMK 6-04-03 (22-41-65).

Communications received from County Board of Supervisors and County Planning Commission were in agreement that "Commitments on business use should not be made until the Master Plan of Waimea is further along or completed". Staff's recommendation was for denial of application without prejudice, pending the outcome of the 701 planning project, under study by Bush-Gerakas. One communication was received from a Mr. Hideo Uto requesting Commission grant Mr. Ching's request to rezone his property for business use.

After all of these recommendations were considered by the Commission, Mr. Lombardi made a motion to deny the application, on the basis that the request would not be a proper or suitable use in the area proposed. Commissioner Williams seconded the motion. Chairman polled the Commissioners who objected to this motion. None objected and motion was carried. (Commissioner Gregg was not present during polling, and Commissioner Ige abstained from voting.)

APPLICATION OF EDWARD S. T. CHING, SP(T) 62-15, FOR SPECIAL PERMIT FOR CONSTRUCTION OF DRIVE-IN, SERVICE STATION AND ACCESSORY USES NEAR PAHOA: Described as Third Division, TMK 1-5-03: Portion 3.

Field Officer's report was given and recommendation of Field Officer requested that Commission disapprove application, because the uses applied for were not unusual and reasonable uses for the property in question; and, further, that the general welfare and convenience would not be served by granting of the application.

Commissioner Sunn made a motion to disapprove the application according to staff's recommendation; seconded by Commissioner Friel; and carried unanimously.

PETITION OF LOYALTY ENTERPRISES, LTD., A(T) 62-10, FOR TEMPORARY DISTRICT BOUNDARY CHANGE FROM AN AGRICULTURAL DISTRICT TO AN URBAN DISTRICT CLASSIFICATION: Described as TMK 2-1-08: Por. 42.

A brief description of area involved was outlined by XO. Recommendation by staff was for approval inasmuch as request is in conformance with the plans of the County and the State, and the State's Visitor Destination Area Report.

Chairman asked if any Commissioner felt that petition should not be granted and additional information should be obtained. Commissioners showed no disfavor to the petition.

PETITION OF FRANK AND JESSIE MUNOZ, A(T) 62-11, FOR CHANGE OF TEMPORARY DISTRICT BOUNDARY FROM AN AGRICULTURAL DISTRICT TO AN URBAN DISTRICT CLASSIFICATION: Described as Third Division TMK 2-3-33: 15, 16, 18, 19; AND PETITION OF MAUI PLANNING AND TRAFFIC COMMISSION, A(T) 62-12, FOR CHANGE OF TEMPORARY DISTRICT BOUNDARY FROM AN AGRICULTURAL DISTRICT TO AN URBAN DISTRICT CLASSIFICATION: Described as TMK 2-3-11: 20, 73; 2-3-33: Parcels 1-18 inclusive, 20, 21.

Both of these petitions were considered by the Commission at the same time.

Communications received from the Maui County Board, Planning Commission, and Maui Realty Company, stated their recommendations for approval of petition by Frank and Jessie Munoz for change in district boundary classification. These letters were made part of the record.

Mr. Mullahey informed Commissioners that letters were sent to property owners in Pukalani who were affected by the petition made by the Maui Planning and Traffic Commission for a change of temporary district boundary from Agriculture to Urban. He stated six owners have not been heard from. Those that replied were in favor of change except for a Mr. Carl S. Asato.

Chairman Bryan asked what the Commission should do in the case of Mr. Asato.

Commissioner Williams suggested giving him the opportunity to dedicate his land to Agriculture. XO recommended against leaving a "spot" Agricultural district within an Urban area, unless there were a special reason for doing so.

The Chairman suggested that a determination be made as to whether Mr. Asato is planning to put his property in some use or have it dedicated to Agriculture. Commissioner Williams suggested staff make a research on Mr. Asato's land to find out what the present use of the land is, and whether he is planning to dedicate his land to Agriculture.

PETITION OF EAST MAUI IRRIGATION COMPANY, LTD., A(T) 62-1, FOR TEMPORARY DISTRICT BOUNDARY CHANGE FROM A CONSERVATION DISTRICT TO AN AGRICULTURAL DISTRICT CLASSIFICATION: Described as TMK 2-8-08, Por. 7.

The following letters were received and read by XO:

1. Maui County Board of Supervisors, recommending approval of the petition.
2. East Maui Irrigation Company, expressing their desire for change and the problems created through delay of action on request
3. Department of Land and Natural Resources, suggesting Land Use Commission defer action until completion of consultant contract. (A telephone call was also received from Paul Tajima of the Department of Land and Natural Resources, asking for extension of time to submit this letter, which was granted by XO.)

The XO stated that he would like the right to move to revise his recommendation. Chairman asked what does Mr. Cook's letter say. XO replied under Act 234 the Land Department is required to subzone for this area. Legal Counsel pointed out the difference between this Commission and the Land Office: This Commission does rezoning and the Land Office subzoning in order to retain certain controls over the method under use.

Commissioner Williams suggested the staff write letter to find out why Land Department wants to retain land in a Conservation district. XO explained that Act 234 of SLH 1957 was originally empowered to the Territorial Department of Agriculture and Forestry; but during reorganization under the State, that power was given to the Department of Land and Natural Resources.

The Commission discussed contacting the Department of Land and Natural Resources, to clarify their reasons for recommending deferral of action. The XO stated that he would ask for more definite recommendation from that Department.

Commissioner Sunn suggested having a conference with County attorneys and County officials to go over rules and see what objections they have. Mr. Lombardi also suggested that legislators' views on matter be included, as the Governor would like to have a collective opinion before the session opens in February.

Chairman suggested having County attorneys, County officials, XO and department staff present. XO suggested Harland Bartholomew & Associates be included. Commissioner Ige asked if it were necessary to have HB&A present. Chairman stated Commission will gather information from HB&A and use it for presentation in this conference. Chairman suggested XO pick a date, invite these people and get together with Legal Counsel on this matter.

Commissioner Kanemoto suggested staff let Special Permit applicants know 15 days after hearing what the outcome of their application is. He suggested a formal letter be sent to each applicant after an action has been taken.

XO stated that staff has drafted a form and has submitted this to Attorney General's Office and has been awaiting answer to this matter.

Commissioner Sunn suggested that staff not wait for decision from Attorney General's Office and the Commission agreed that notification should be sent to each applicant, as to whether his request has been granted or denied.

ITEMS PENDING

Mr. Mullahey presented all applications received up to time of meeting and pending for the Commission's consideration.

Chairman Bryan stated that applications on Hilo, Maui & Oahu pending before the Commission will be heard at next meeting scheduled for the 18th and 19th of September. Those to be heard are the following:

HAWAII:

TESHIMA, Fumio, A(T) 62-6

HAWAIIAN HOMES COMMISSION, A(T) 62-15

HILO COUNTRY CLUB, LIMITED, A(T) 62-7

MCKEE, Harry F., SP(T) 62-21

GILLESPIE, J. I., A(T) 62-8

HAWAII COUNTY PLANNING AND TRAFFIC COMMISSION, A(T) 62-9

MAUI:

TAKASAKI, Maurice, A(T) 62-13

OAHU:

OWEN, Philo, A(T) 62-15
GIBSON, Dee, SP(T) 62-20

Commissioner Sunn asked whether all inspection trips will be taken also. XO replied that the Commissioners have inspected only the Takasaki matter, although the areas of the McKee and Owen's items had been seen during the orientation trips.

Meeting adjourned at 12:00 midnight.

Respectfully submitted,

YUICHI IGE
SECRETARY