

LAND USE COMMISSION

Minutes of Meeting

Hearing Room

Honolulu, Hawaii

11:45 A.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:

E. H. Cook
Frank Lombardi

Staff

Present:

R. J. Darnell, Executive Officer (XO)
John R. Canright, Legal Counsel
Philip T. Chun, Department of Planning and Research
W. M. Mullahey, Field Officer
Alberta Kai

Chairman Bryan called the meeting to order in the Land Use Commission Hearing Room, 426 Queen Street, at 11:45 A.M., on August 21, 1962.

MINUTES OF PUBLIC HEARINGS AND MEETINGS HELD ON JULY 24 & 25, AND AUGUST 1 & 2, 1962

Commissioner Sunn stated there were two actions omitted in the July 25, 1962 minutes.

1. Approval of Edward S. T. Ching's request for a Special Permit in the Pukalani, Maui area; and
2. Approval for the record of Gilbert Hay's and J. M. Jackson's requests for Special Permits.

The XO stated that action on Edward S. T. Ching's Special Permit for Pukalani, Maui was taken on August 2, 1962. Commissioner Sunn agreed to this but stated that his notes showed that action was also taken on July 24, 1962.

After research through the minutes XO confirmed Commissioner Sunn's statement. XO stated that the July 24, 1962 minutes do state that these actions were taken.

Commissioner Ige corrected sentence on Page 3, 4th paragraph, of July 24, 1962 minutes to read: "Letter received from Mr. Frederick Nunns suggesting the use of the University of Hawaii Extension Service and (instead of the word 'of') the Hawaii Farm Bureau to carry out an educational program to the public on Act 187."

XO noted for the record that there were other typographical errors and sentence phrasing errors in minutes, but from what he could determine, there were no changes in the meaning or sense of what was said.

Chairman Bryan stated if there are no further comments or corrections these minutes will stand as read.

COMMUNICATIONS

1. Letter received from the Office of the County Clerk, County of Hawaii, acknowledging receipt of letter regarding Attorney General's formal ruling on legality of the Land Use Commission interim regulations concerning minimum lot sizes of 5 acres in temporary Agricultural districts; and stating that this letter was presented to the Board of Supervisors on 8/15/62 for its information.
2. Copy of a letter written by Frank Lombardi, Director of Planning and Research, to Harland Bartholomew & Associates acknowledging receipt of copies of HB&A's contracts with various agencies, and informing HB&A that there is no conflict of interest with these contracts and contract entered into by HB&A with the State of Hawaii under Urban Planning Grant Hawaii P-11G for the formulation of land use district boundaries and regulations pursuant to Act 187, SLH 1961.

REPORT OF THE LEGAL COUNSEL

Legal Counsel did not have any pertinent thing to report at this time. He stated he had had conference with XO and he was advised there were 3 great problems before this Commission: (1) The matter of former Counsel Shigezawa's decision for providing regulations for residential areas in Agricultural districts; (2) The matter of two approaches to handling the situation: one, prescribing a regulation that lots in excess of 5 acres might be used for residential purposes; and two, the general regulation that any lot owned as of April 21, 1962 might be so used as a matter of non-conforming use; and (3) the question of whether this Commission can give some answer to redistricting petitions before 45 days after public hearing, so people don't have to wait a month and a half.

Chairman Bryan stated that the Commission still has its own matter of revising its regulations and understands this is in the process now. Commissioner Sunn stated "I thought we generally approved XO's draft." The XO stated that according to Commission's direction, as stated in minutes of July 25, 1962, copies of both opinions of the Attorney General and the Commission's own intention to change the regulations were hand-delivered to the Planning Director of each County at the Maui meeting on August 3, 1962. The proposal to add a separate facet to the regulation that would allow a single family residence to be built on an average 5-acre lot is not a part of this. The XO stated that Mr. Shigezawa advised the Chairman and Commissioners during July 25, 1962 meeting that the Commission could change or drop whole proceedings of staff's report or recommendation entirely after a hearing was advertised and held. Chairman stated that at all hearings the Commission could make these changes. XO replied in the affirmative and stated that this should be brought out at the hearing if Commission intends to make any changes.

The Chairman asked, as a matter of information, when the Commission meets on September 18, in Hilo, will this be one of the matters that will come before the Commission. The XO stated that if the comments and recommendations from the County planning agencies are received in time to advertise 20 days before September 18 or 19. Commissioner Sunn asked, "We don't have to receive their comments, do we? We would want to schedule a hearing as indicated in the minutes on July 25, 1962 to hold these public hearings on each of these islands." The XO stated that, after checking with the Attorney General's Office, it has been verified that the hearings cannot be advertised until the comments and recommendations of the Counties have been received. Chairman stated that perhaps we can ask our present representative of the Attorney General's Office to check this, with the possibility before the end of this month of having this advertised; and on September 18 the Commission can hear this question in Hilo.

Commissioner Kanemoto stated that Hiroshi Kasamoto asked him to bring this up: "What are the steps to be taken by the Hawaii Planning and Traffic Commission on the communication that they received from this office?"

The Chairman answered that the Land Use Commission is proposing the rule change and all they have to do is to give their comments on it: are they for it or against it; or do they propose to include something else. Chairman stated that the question we raise now is without hearing from the Counties, can we schedule on 20 days notice a hearing, or include that in a hearing? XO at this time quoted sections from Act 187 on Amendments to Regulations and Amendments to District Boundaries. Chairman stated that he didn't think these sections require that Commission wait to hear from the Counties before advertisement of hearing. This matter was left for the Attorney General's Office to rule.

REPORT OF FIELD OFFICER'S PUBLIC HEARING

EDWARD S. T. CHING'S (SP(T) 62-15) REQUEST FOR A SPECIAL PERMIT FOR CONSTRUCTION OF A DRIVE-IN, SERVICE STATION AND ACCESSORY USES NEAR PAHOA: Described as TMK 1-5-03: Por. 3.

XO presented his report which copies were given to each Commissioner. Recommendation of XO requested Commission disapprove application because the uses applied for were not unusual and reasonable uses for the property in question. Further the general welfare and convenience would not be served by the granting of this application. (At this time XO was informed by W. Mullahey that Mr. Ching had just phoned and would not be able to attend meeting today.)

Chairman stated as he understood it, the next time the Commission meets in this County, Mr. Ching if he wishes to, may request a review of the matter or a public hearing. XO stated "Or if the Commission itself decide it wishes to review the matter at its next meeting in the County of Hawaii and notifies Mr. Ching of this fact, 20 days in advance, his matter will be reheard. Mr. Ching, on the other hand, if he notifies you 20 days in advance, he may be heard at that meeting."

REVIEW OF PETITIONS AND APPLICATION AWAITING ACTION

The problem of the 45 days' waiting period after public hearing on petition for reclassification, required by Act 187, was brought up for consideration by the Commission. Commissioner Sunn stated that the City and State agencies do give

conditional award of contract and they can indicate what their feeling is on special matters. Commissioner Sunn felt that if Commission gave people an indication as to how they felt, so people could plan accordingly, without claiming a final decision, this would not be deviating from the law. Chairman stated that this was his intention when he suggested that interested parties be present at this meeting.

Legal Counsel's advice and opinion was called upon several times during this discussion which was finally summed up by Chairman's suggesting that he would have the XO outline each case very briefly and locate it on map to re-familiarize the Commission with each matter. Then he would ask Commissioners to state whether they have any questions; or, if they feel that this application should not be granted, to raise that question at this time. If no question is raised the applicant can draw his own conclusion. This was agreed by all.

Oahu:

WAIANAЕ ASSOCIATES' (A(T) 62-3) PETITION FOR AMENDMENT OF TEMPORARY DISTRICT BOUNDARY TO RECLASSIFY, FROM AGRICULTURAL TO URBAN CLASSIFICATION, PROPERTY LOCATED IN THE WAIANAЕ DISTRICT, OAHU: Described as TMK 8-6-01-4, 168.32 acres.

XO gave a brief description of the petition and located area on map for Commissioners. He summarized that the recommendation of the staff is for approval of lower area as per the City and County master plan, leaving out the steepest areas on either side of the property which are not developable for Urban purposes. He stated that there is a coral mining operation in this area on the south side of Waianae Valley Road.

Chairman stated "Is there any Commissioner who feels, on the basis of the facts presented so far, that permit should not be granted; if so, I would instruct the staff to get additional information from now until the end of the 45 day period." There was no response. Chairman then stated if there is no one here who thinks that permit should not be granted, the Commission would go to the next item.

YAMAGUCHI, ET AL'S (A(T) 62-4) PETITION FOR AMENDMENT OF TEMPORARY DISTRICT BOUNDARY TO RECLASSIFY, FROM AGRICULTURAL TO URBAN CLASSIFICATION, PROPERTY LOCATED IN THE NANAKULI AREA, OAHU: Described as TMK 8-7-09-1, 398.438 acres.

XO pointed out area involved, mauka of Nanakuli Village and reaching towards the Maili area, directly across the Lualualei Road and adjacent to the road leading to the Naval Radio Station, across from the Kaiser Permanente Cement Plant on the same road. The recommendation of the staff is that this is a logical expansion of the Nanakuli area and that approval be granted in the lower portion of property, as per the City and County master plan.

Chairman Bryan asked what was the disposition of the dust-health. Is that between the applicant and other agencies?

The XO stated that the staff took the position that it is not possible in the case of an amendment to the district line for the Commission to decide whether

this was going to be used for industrial, commercial, residential, or whatever; because after the boundary is changed, the City and County has that responsibility.

The Chairman stated that the Commission's action would be to take it out from the Agricultural zone. XO confirmed this stating that the Commission would decide whether the land belongs in an Urban, Agricultural, or Conservation district.

Chairman asked if there were any Commission member who felt that for some reason this application should be denied; in which case additional information should be obtained during the remainder of the 45-day period. Chairman stated that if no one so feels, the Commission would go to the next item.

M. KIDO, ET AL'S (A(T) 62-5) PETITION FOR AMENDMENT OF TEMPORARY DISTRICT BOUNDARY TO RECLASSIFY, FROM AGRICULTURAL TO URBAN CLASSIFICATION, PROPERTY LOCATED IN THE HAUULA AREA, OAHU: Described as TMK 5-4-04: 4, 5 & 7, 214.591 acres.

The XO stated that the petition in this case is just north of Hauula and includes a very great deal of steep land. The State General Plan and the City General Plan show a highway on the mauka part of this subdivision; but this has not been developed by the State Highway Division. The recommendation of the staff is to follow the City and County intensive Urban areas which are considered the logical extension of Hauula. He stated that a question was brought up by several Commission members whether the area between Hauula and the area applied for should not be included in the Urban district. Most of that area is covered by a hydroponic tomato farm, but this question was dropped, without taking any particular action, by Commission. The recommendation was for approval of the lower piece of the land.

Chairman asked if there is any Commissioner who feels that this application should be denied for any reason, and that additional facts and information should be obtained during the interim. If not, the Commission would go to the next item.

Maui:

JUICHI KURASAKI'S (SP(T) 62-10) SPECIAL PERMIT TO ESTABLISH AND OPERATE A RESTAURANT: SPECIFICALLY A STEAK HOUSE, ON PROPERTY LOCATED NEAR WAIIEHU: Described as TMK 3-3-01: 45, 0.976 acre.

Mrs. Kurasaki's sister was present, and was asked whether she wished to present additional information. She stated that she wrote a letter to Commission (copies of which had been distributed to each Commissioner), and was present today to get an answer from this Commission if possible.

The following communications were received after hearing on Kurasaki's application; and these were read and made part of the record:

1. The aforementioned letter from Mrs. Kurasaki..
2. Petition from property owners in lower Waiehu area requesting Commission to grant approval of Mrs. Kurasaki's request.
3. Petition signed by 3 property owners in same area expressing their objections to this establishment in this area.

A research through the tax key map was made to locate the exact location of each of these property owners who was objecting to or approving Mrs. Kurasaki's request.

The following matters were brought up and discussed:

1. Background of Escape Road

Commissioners were informed that Plantation Road, fronting beach area and Mrs. Kurasaki's property, was originally used as an escape route. People in the area petitioned for another road for escape in the event of a tsunami and got this present road, which was financed by the State government.

2. County Officials' Recommendations and Comments

Commissioners were informed that county officials were very much in favor of applicants' request. These agencies' recommendations were stated in communications and at the public hearing in Wailuku on August 2, 1962.

3. Flood Situation in Area

Commissioner Kanemoto asked whether there were any facts pertaining to the flood problem. XO stated that, according to Doak Cox of the Tsunami Research Program, Hawaii Institute of Geophysics, University of Hawaii, the record shows that there was flooding in this area during the 1946 tidal wave but no damage occurred. Mrs. Kurasaki's sister stated that at no time did the water come up to road fronting the proposed area.

4. Function of the Commission

Chairman Bryan stated that this Commission is to decide if the purposes of Act 187 can be preserved if this application is approved. The applicants have made a point that while this area is designated as an Agricultural zone, the economics is such that they have been forced out of agricultural enterprise. Commissioner Ige asked how long the applicants have been in agricultural business. Mrs. Kurasaki's sister stated, "Not too long. The family tried raising a small vegetable farm, but the cost was too much to keep up this enterprise. The type of soil and land was very poor for agricultural use."

5. Designation of Area

Commissioner Gregg stated there is some sort of inefficient trial in this area, and was concerned with the development of this area. He stated that he was amazed to see there were a lot of existing houses throughout this designated Agricultural area, though he presumed these were built prior to the adoption of the "Greenbelt". He noted the fact, however, Mr. Silva testified that he intended to build more rental units in this area and Commissioner Gregg wondered whether Mr. Silva is allowed to build without permission from this Commission.

The XO stated that one of the principal reasons that this whole area was not put in an Urban district was that, at the time the temporary districts were adopted, the people in this area were trying desperately to get a service road because of the possible tsunami inundation and isolation. Another reason was that the area contains a loose collection of farm houses, or houses sprinkled about, and was not necessarily considered a village or Urban concentration. He added that the Urban areas were drawn, subject to the approval of the Commission after public hearing, on the basis of existing concentration, which would normally require certain urban facilities to be put in.

The Chairman stated that it may be that this Commission should designate this whole area Urban and let the County establish the exact zoning for it. It's more properly their function. Commissioner Sunn asked if the Commission has any indication from HB&A as to what they intend to recommend in this area. The XO replied in the negative.

6. Clarification on Staff's Report

The XO stated that he wished to clarify some points as far as the staff's recommendation is concerned: "If the business in question were an attempt to provide a public-type commercial service this would be one thing; the use would be a service to the residences around. This was not considered as such an operation. The statement was given by Mr. Ohata that if you had a long desert road, wouldn't you have a commercial district in the middle of it. Of course you would; you might have several, depending on great distance from an Urban area. It was considered in this case that there was no particular, overriding reason in favor of a restaurant. The area itself was not so picturesque or so set that it would make it a natural for a restaurant to draw people; in other words, it doesn't have the attributes to draw people. But if it did (and it very possibly might), there might still be some detriment to the customers, vehicles or property if the area were to be flooded, not necessarily by tsunamis, but by storm."

7. Determining Action

Two questions were raised by Chairman for determination by the Commissioners:

1. What things can be included in area, which are normally County zoning functions, taking into consideration the flood problem, highway access, etc.; and
2. Whether land can be used for agriculture, or can't be used for agriculture, etc.

Mr. Lombardi asked whether the ruling still held that homes can be built on these lands. Chairman stated he imagined so and to his knowledge yes. XO stated, in case it does not, it is the stated intention of the Land Use Commission to take action on the information presented to date.

Commissioner Sunn stated that he was actually very much inclined to go along with the XO's recommendation. However, he didn't believe that Commission would be evading the intent of Act 187 by granting the permit, because it would not result

in a long-term loss to income and growth potential of our economy from this particular area. Commissioner Sunn moved to approve the Kurasaki's application, provided it meets all requirements of the County. Commissioner Friel seconded the motion. Chairman Bryan stated he would poll the votes and all Commissioners who wished to object, to voice so. If Commissioners do not voice any objections, he would count it a 'yes' vote. Commissioners Ige and Lombardi refrained from voting.

For disapproval: none. For approval: Commissioners Kanemoto, Williams, Friel, Sunn, Gregg, Cook and Chairman Bryan.

XO asked for clarification of conditions included in motion. Commissioner Sunn stated that conditions do not require the State in any way to provide the necessary facilities in the area. Chairman stated that no authority is taken away from the County as far as requirements, building restrictions, etc. Commissioner Sunn stated that the general covenants were quite good for requirements and suggested approval of conditions comparable to conditions required in Jackson's approval. This suggestion was met with all Commissioners approval.

Staff was instructed to notify applicants of Commission's action.

Meeting adjourned at 1:00 p.m.

Respectfully submitted,

YUICHI IGE
SECRETARY