

Approved 10-20-72  
~~8-24-72~~

STATE OF HAWAII  
LAND USE COMMISSION

Minutes of Meeting

Discovery Room, Kona Hilton Hotel  
August 24, 1972 - 1:30 p.m.

COMMISSIONERS PRESENT: Goro Inaba, Chairman  
Eddie Tangen, Vice Chairman  
Leslie Wung  
Sunao Kido  
Alexander Napier  
Stanley Sakahashi  
Tanji Yamamura

COMMISSIONER ABSENT: Shelley M. Mark

STAFF PRESENT: Tatsuo Fujimoto, Executive Officer  
Gordan Furutani, Planner  
Benjamin Matsubara, Deputy Attorney Gen.  
Dora Horikawa, Stenographer

ADOPTION OF MINUTES

The minutes of the meetings of July 20, 1972 and April 7, 1972 were approved as circulated.

Chairman Inaba swore in persons wishing to testify before today's proceedings.

HEARING

PETITION BY AGNES P. SMITH (A72-323) TO RECLASSIFY 1.5 ACRES FROM AGRICULTURAL TO URBAN AT KAINALIU, NORTH KONA, HAWAII

Mr. Gordan Furutani, staff planner, presented the staff report relative to this petition (see copy on file).

In response to questions raised by the Commissioners, Mr. Furutani elaborated that 16 units were initially planned for construction, with an expansion of 10 units contemplated for the future on the northern end of the property.

copy to Howard Nakamura

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Mr. Richard Denison, representing the petitioner, stated that he had nothing further to add to the discussion. Therefore, Chairman Inaba closed the hearing on this petition and advised that additional testimony will be accepted 15 days from today and that action will be taken within 45 to 90 days.

PETITION BY GENTRY HAWAIIANA ASSOCIATES, J.V. (A72-325) TO RECLASSIFY 314 ACRES FROM AGRICULTURAL TO URBAN AT KUKUAU, 2ND, SOUTH HILO, HAWAII

The staff report on the subject petition was read by Mr. Tatsuo Fujimoto, Executive Officer, who also identified the area and the proposed uses on the maps.

During the discussion that ensued between the Commissioners and the staff, it was established that:

1. a non-conforming subdivision within the State's Agricultural District existed on subject lands;
2. the term "super block" employed by the petitioner's consultant referred to the varying densities in a planned development as opposed to the conventional subdivided lots; and
3. the county's favorable recommendation of subject petition did not infer total endorsement of the development concept proposed by the applicant; and that the county will take a closer and harder look at the details of the subdivision and zoning requests at the time of application before the county. However, it was Mr. Fujimoto's feeling that the county favored the concept of a planned unit development as proposed.

In response to Commissioner Kido's concern that this may be subject to substantial change at the time of the county's subdivision and zoning approval even though the LUC may approve the petition based on the development concept represented by the petitioner, Mr. Fujimoto reiterated his earlier belief that the county was in general agreement with the concept of mixed uses and planned unit development.

In this respect, Mr. Glenn Miyao, staff member of the Hawaii Planning Department, elaborated that the Hawaii Planning

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Commission endorsed the basic concept of the project but did not wish to commit itself to the specific density, the different type of uses that were proposed, street patterns, the layout of the cluster housing, etc. He added also that the Commission was not empowered to make a final decision on zoning matters since this is within the jurisdiction of the County Council.

Mr. Paul Tajima, consultant to the petitioner, requested that the brochure entitled "Park Hokulani" submitted to the Land Use Commission staff and Commissioners, containing additional information relative to the proposed development, be entered as part of the testimony of today's hearing.

In further support of the requested amendment, Mr. Tajima testified additionally that:

1. The redesign of the original conventional subdivision plan to the present one reflecting a mix of uses and housing types, still maintained the same overall density in terms of families. By virtue of shifting the density under the design concept of a super block, it reduces the lineal footage of streets by 30 to 40%; puts 20 to 25% of total area into open space; provides for a 14-acre school and park site which will be available to the county or state for \$1.00.
2. The initial increment consists of 100 lots of which approximately two-thirds have been committed and in various stages of construction. These FHA insured homes range in price from \$42,000 to \$47,000. The cluster housing will be offered at \$38,000 to \$43,000; and townhouses will range from \$34,000 to \$39,000. All of these figures are quoted in 1972 dollars.
3. Improvement of Wilder Road required by the county, which will serve as the access to the property, will be executed according to county standards; bond has been posted for the water line; petitioners are presently investigating two alternatives to take care of the sewage problem.
4. All the major roads will be 60 or 80 feet wide and 10 feet will be reserved for a bikeway which will be above curb level, separating it from the vehicular traffic.

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5. There is a preliminary schedule with a tentative marketing timetable for the single family units, cluster town houses, community facilities, school, sewer, water, roads, rights-of-way, etc.
6. Inclusion of cluster and town house units at the reduced price will broaden the market approximately two times.
7. The total project is programmed over a 5-year period.

Since this was already a recognized subdivision, although non-conforming in nature, Commissioner Napier questioned the necessity for the boundary amendment request. Mr. Tajima explained that the urban designation was necessary to enable the petitioner to pursue the cluster and town house type of development. In addition, this will also afford certain amenities which are not available to the conventional type of subdivision. Mr. Tajima felt that this would result in a better product, not only for the developer, but for the County of Hawaii and for the people who live in East Hawaii. He also submitted that the revised plan would make it possible to lower the income requirements from \$15,000 to \$12,000 annually in order to qualify for the low-cost housing.

Mr. Tajima thought that the fire station in lower Kaumana, approximately 4 miles away, would provide the fire protection for the subject area. The petitioner was also considering a community facility in the neighborhood shopping complex which will include a terminal for police and the county was studying the transit requirements. It was Mr. Tajima's hope that the community association would eventually find means to provide some medical services.

Since there was no further discussion, Chairman Inaba declared the hearing closed and added that additional testimony will be accepted within 15 days.

ACTION

PETITION BY C. BREWER & CO., LTD. (A72-321) TO RECLASSIFY 1.25 ACRES FROM CONSERVATION TO URBAN AT PUNALUU, KA'U, HAWAII

Staff memo recommending approval of this petition based on its findings was read by Mr. Furutani (see copy of report on file).

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Upon motion by Commissioner Yamamura, seconded by Commissioner Napier, the request was unanimously approved.

PETITION BY HERBERT T. MATSUNAGA (A72-322) TO RECLASSIFY 40 ACRES FROM AGRICULTURAL TO URBAN AT WAIAKEA HOMESTEADS, SOUTH HILO, HAWAII

Commissioner Wung requested the Chairman's permission to be excused from the proceedings on this petition due to a possible conflict of interest.

Mr. Fujimoto presented the staff memo recommending approval of the petition based on the considerations outlined in the memo (see copy of memo on file). Mr. Fujimoto also pointed out on the maps the 410 acres which had been zoned from Agricultural to Urban in Waiakea by the Land Use Commission in 1971.

Mr. Matsunaga, petitioner, observed that the staff had adequately covered the pertinent facts in its report and he had nothing further to add.

It was moved by Commissioner Sakahashi and seconded by Vice Chairman Tangen that the petition be approved as recommended by staff. The motion was unanimously carried.

APPLICATION BY COUNTY OF HAWAII (SP72-129) FOR A SPECIAL PERMIT TO CONSTRUCT PUBLIC SAFETY FACILITIES WITHIN THE AGRICULTURAL DISTRICT AT KEAHUOLU, NORTH KONA, HAWAII

Based on the staff's findings, it was recommended that the special permit be approved subject to the conditions set forth by the Hawaii Planning Commission (see copy of report on file).

Mr. Furutani advised that it will be necessary for the County to negotiate to purchase the land from the Liliuokalani Trust and apply for subdivision approval for the 3-acre parcel from the County. Mr. Glenn Miyao of the Hawaii Planning Department's staff commented that the subdivision request should not encounter any problems since this is a special permit request.

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The special permit application was unanimously approved as recommended by staff, upon the motion by Commissioner Napier which was seconded by Vice Chairman Tangen.

APPLICATION BY HISAO AND MATSUE FUJII (SP72-130) TO CONSTRUCT  
A SINGLE-FAMILY RESIDENCE AT OLOWALU, MAUI

It was recommended by staff that subject special permit be approved subject to the County's three stipulations, plus the additional conditions imposed by the Land Use Commission in the staff report (see copy of report on file).

Commissioner Yamamura moved to approve the special permit as recommended by staff, which was seconded by Commissioner Sakahashi and unanimously passed.

MISCELLANEOUS

PUAHALA COMPANY

Mr. Daniel Case, attorney representing both the Pacific Basin Co. and Friendly Isle, Inc., offered the following background data relative to this petition:

1. Friendly Isle, Inc. was formed a little over a year ago by the stockholders of Pacific Basin Co. to provide sufficient funds to pay off debts of Pacific Basin Co., and to permit other stockholders to purchase equity which that company held in the Puaahala lands.
2. Mr. Case is President of Friendly Isle, Inc. strictly as an attorney accommodating a client.
3. Stockholders of Friendly Isle, Inc. are strictly those stockholders of the Pacific Basin group and do not have the ability to develop by themselves.
4. It is hoped that all of the time and expenses invested in the Puaahala lands, i.e. lands, studies, engagement of consultant, site work, etc., could be capitalized on by a responsible developer.

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5. Although efforts have continued since last November, there have been no concrete offers to develop project. The Austin Brothers, the original purchasers of the lands from Rose Aping, have expressed interest in developing the lands and Friendly Isle, Inc. is presently negotiating to turn the project over to the Austin brothers. However, Friendly Isle, Inc. is not able to submit any specific performance schedule as of this date.
6. Pacific Basin has invested over a million dollars in principal and interest for the purchase of the land and \$500,000 in actual work for dredging, improvement of site, etc.
7. The intent of the Land Use Law which was instituted to discourage the use of zoning as a source of speculation does not have application to the instant situation since there has been no history of speculative intent.
8. A review of the record shows that at the time of the rezoning three years ago, the Commission had indicated that substantial progress should be made within 5 years toward the first increment, or the construction of the 250-unit hotel. Substantial progress has already been made and there is no reason to believe that this representation still cannot be fulfilled. It seems unfair, and possibly illegal, to downzone the land when so much time, studies, and monies have been expended.

Mr. Case appealed for no action on the part of the Commission, and requested that petitioner be given the opportunity to fulfill the prior representation.

Vice Chairman Tangen agreed with Mr. Case over the serious implications of the potential action by the Commission. However, for the records, he quickly reviewed the chronological events leading to today's consideration of the subject lands as follows:

1. The petition for boundary amendment was received on April 10, 1969; public hearing was held on June 28, 1969, and approval was granted on August 14, 1969.

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2. On April 3, 1970, Mr. Noel sold his interest to Herb and Leroy Austin, less than 8 months following rezoning.
3. Four months later, on July 31, 1970, the Austin brothers sold the lands to Pacific Basin Land Corp.
4. Less than 10 months later, on April 15, 1971, Pacific Basin Land Corp. sold it to Friendly Isle, Inc. and the XYZ Co.
5. Every permit applied for to proceed with the project as outlined before the Land Use Commission and the people of Molokai and the whole State, was expeditiously granted. These included the right to entry, dredging and marine construction, lease for submerged lands, etc.
6. In October, 1971, the Land Use Commission noted that there was a definite lack of progress on the representations that were made. Therefore, the Commission directed the company to present satisfactory time schedule and a development plan or that a petition will be initiated to restore the land back to its original designation. Thereafter, deferrals to appear before the Commission with a performance and time schedule were requested by the petitioner on November 19, 1971, February 4, 1972, April 7, 1972. On July 20, 1972, another request for deferral from the August-Oahu meeting to the October-Oahu meeting was disallowed by the Land Use Commission, and the reason which necessitated Mr. Case's appearance before the Commission today.

Vice Chairman Tangen declared that this was one of the most flagrant abuses of the public rights that have occurred in some time and that it was an injustice to the people of Molokai, in particular, who supported the program for a quality and orderly development to improve the economy of Molokai. There was no reason to believe in any of the commitments that had been made--in fact, there has been nothing but desecration of the property. Moreover, the present urban zoning of the subject property makes it difficult for the Commission to justify additional urban zoning for Molokai even though a responsible developer should come in with a proposal. Therefore,



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based on the above reasons, Vice Chairman Tangen moved that the Land Use Commission withdraw all of the previous approvals by initiating, on its own motion, a petition to restore subject lands to its original designation. The motion was seconded by Commissioner Wung. Vice Chairman Tangen observed, however, that the Commission could reconsider its action upon receipt of evidence that development will take place. Mr. Case blamed the lack of financing for the petitioner's inability to proceed with the development, and that there had not been any intent to ignore the Commission's concerns, nor to abandon the project.

For the records, the Executive Officer read a letter dated August 23, 1972 from the Life of the Land requesting deferment of action on A69-216, Puaahala Company, until a later date (see copy of letter on file).

Mr. Herbert Austin, partner in Puaahala Co. with his brother, submitted that they were presently negotiating with Friendly Isle, Inc. to repurchase the property and were prepared to commence with the project immediately upon consummation of the transaction. However, Mr. Austin did agree with Vice Chairman Tangen that they were presently looking for financing to develop the property. Mr. Austin added that they were unable to exact a commitment from anyone for the development of the marina and the 250-room hotel until they have concluded their negotiations with Friendly Isle.

Commissioner Sakahashi raised the question of whether it would be advisable for the motion to be withdrawn and allow five years for the petitioner to perform as represented before the Commission. The motion was not withdrawn.

Commissioner Napier requested an amendment to the motion to add the stipulation that if petitioner can come back with a satisfactory report within 60 days, the petition to downzone the property will be withdrawn. Vice Chairman Tangen argued that the amendment was out of order and stated that he was prepared to make another motion to withdraw the petition if satisfactory progress of the project is reported back to the Commission within 60 days.

The Chairman requested the secretary to restate the motion and the Commissioners were polled as follows:

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Ayes: Commissioners Tangen, Napier, Wung, Kido,  
Yamamura, Chairman Inaba

Nay: Commissioner Sakahashi

The motion was carried to initiate a petition to restore the Puaahala lands to its original designation.

U. S. FINANCIAL/HAWAII CORPORATION

Mr. Fujimoto called the Commission's attention to a letter received from Shelter Corporation, agent for U. S. Financial, dated August 21, 1972, outlining development plans for the property at Lualualei, Oahu (see copy on file).

Commissioner Sakahashi moved to direct the Executive Officer to advise Shelter Corporation of the Commission's acceptance of the letter and plans as evidence of satisfactory progress, and that the Commission be apprised of any changes from the representations made in the aforementioned letter and plans. The motion was seconded by Commissioner Wung and unanimously passed.

TENTATIVE SCHEDULE

The Executive Officer announced that the next meeting of the Land Use Commission will be held on September 20, 1972 and the Hawaii Congress of Planning Officials on September 21, 22, and 23, 1972 in Kailua, Kona.

Since there was no further business, the meeting was adjourned.