

LAND USE COMMISSION

PUBLIC HEARING

Hearing Room

Honolulu, Hawaii

8:00 P.M. - September 19, 1962

Commissioners

Present:

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

Absent:

Edward Kanemoto

Ex-Officio Members

Present:

E. H. Cook
Frank Lombardi

Staff

Present:

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

The Public Hearing was called to order by Chairman Bryan.

Notices of the public hearing published in the newspapers were read and made part of the record.

APPLICATION OF DEE GIBSON, SP(T) 62-20, FOR SPECIAL PERMIT TO CONSTRUCT AND OPERATE A FOOD SERVING AND BAR FACILITY AT SADDLE CITY: Described as TMK 4-1-13: 2.

Chairman Brysn asked if there were anyone present to represent the applicant.

Mr. Leighton S. C. Louis introduced himself, stating that he would be representing the applicant, Dee Gibson.

The XO was asked to outline briefly on the map the area concerned. The XO described the area involved in the application.

Mr. Louis then presented his client's case. A tax map was shown giving the location of property and location of buildings on the premises. Mr. Louis stated that Mr. Gibson started his operation of business in Waimanalo sometime in 1960, with uses permissible under the Rural Protective Zoning Ordinance of

the City and County of Honolulu. Mr. Gibson started off in the beginning with the idea of providing horses and equestrian facilities for people to use for recreational purposes. He now conducts 11 to 12 types of services. The first service he is conducting and which he started off with is providing horses for trail rides. He also is engaged in training horses for various types of activities for jumping or running, etc. He is raising cattle and horses and engages in the sale of livestock, which is at present the heavy part of his operation. He has something like 500 to 600 animals in the Waimanalo area; and as the animals get to a certain size he offers them for sale. He is also engaged in boarding horses for private owners, and at the present time, he has well over 20 horses which are boarded there. He also trains horses for various activities. He provides riding lessons for the young as well as for adults. He conducts rodeos about 4 times a year, and every Saturday night he has a small rodeo affair for the people who use the Saddle City facilities. He also conducts horse shows (this is the showing of some of the fine-bred horses, jumping horses, etc.). The latest outgrowth of his activities is the monthly publication of the Equestrian News and he has at the present time 2,000 people on the circulation list. The way he pays for this publication is through advertisements which people put in the paper (copies of this publication were given to the staff). In the process of developing this very worthwhile type of activity which is one of the most complete on the island of Oahu, he has received quite a number of demands from the users of the premises for full-time restaurant operations as well as bar service. These people who attend the shows and use the premises actively, wish to have a place to sit down and talk about their horses and activities after they have completed their own activities. During the period, around the first part of 1961, he has used one of his buildings for a mess-hall type of activity where the people would bring their lunches or suppers and eat and have a grand time on the premises. Later on, he provided table services which included barbecue affairs and sale of food, which included selling of hamburgers, etc. to people who used the premises. The present traffic through the gates of Saddle City amounts to something like 1500 to 2000 people per week and 100,000 people per year. Local people as well as tourists are drawn to this area. Mr. Gibson, this year, has been able to obtain 5 of the rodeo champions in the United States, the first time there have ever been 5 champions together; and Mr. Gibson expects to continue this type of operation. (As an indication of the interests shown by a number of people, a photograph was presented to Commission.) Mr. Louis stated that the present laws of the City and County do not provide for a full time restaurant and bar operation as an incidental operation to the equestrian activities. As far as the Rural Protective Zoning is concerned, the use is permitted. However, in order to operate on a fulltime basis, there is a question of legality. Therefore, in order to remove any doubts as to the request of operation, the Special Permit has been requested under the existing statutory provision.

Chairman Bryan asked if any member of the Commission wished to ask any questions.

Commissioner Lombardi asked if Mr. Gibson applied for a liquor license for this establishment. Mr. Louis replied that he doesn't believe that Mr. Gibson has and he has not been informed in this respect.

Chairman Bryan asked Mr. Louis if he felt it were necessary for the Commission to

include a bar as a facility. For example, if the Commission would say: "restaurant and food serving", would that give the applicant the legal elbow-room needed. Mr. Louis stated that he thought it would be a lot clearer if the permit included also bar license. He felt if Mr. Gibson obtained the liquor license from the liquor commission he wouldn't have to go through the same public hearing again.

The XO stated that he believed an application has been made for a liquor license on the premises. Mr. Louis checked with his client, and Mr. Gibson replied in the negative to the XO's question.

Chairman Bryan asked the XO to give the staff report.

The following communications were presented by the XO:

1. A reply from the Department of Health, giving their comments on the matter in question stating that the Saddle City Chuck House was started on 2/20/61.
2. A reply from the City Planning Department which stated that after an inspection trip was made of the property, staff presentation was made to their Commission, to which Commission after deliberation voted to defer action due to insufficiency of data to base an appropriate recommendation.
3. Reply from the City Council stating that the matter was referred to the Committee of the Whole.

The XO was sworn in by the Chairman before his presentation of staff report. The XO stated that the staff report would be incomplete. He stated that he had inspected the property and believed it to be a full-fledged restaurant, and had contacted Mr. Louis who informed the XO that if there had been a restaurant in operation, it is not in operation at present. The area in question is being planned for a big fair ground. The XO stated that any recommendation that the staff would make would not be affected by the fact that it is proposed for inclusion in the State Fairgrounds. But since there are a number of questions still unanswered, particularly the ones from the City Planning Department and the City Council, and the fact that the Health Department apparently believes that a permit is in effect for a lunch counter only, the staff would also recommend deferral of the matter until the next meeting in order to resolve some of these questions.

The XO stated that Mr. Louis' testimony is most correct, in that the operation is of considerable community service, and Mr. Gibson is apparently making a very good go of it.

Chairman Bryan asked if any members of the Commission wished to question the staff.

Commissioner Sunn asked the following questions:

1. Would the fair grounds be considered Urban? The XO replied, "Not necessarily. The fair grounds would be a public recreational use; and, as such, would be allowed in any district."
2. Is the Commission requested to some reply or explanation of the lessor as to what comments they might have with regard to leasehold papers to Mr. Gibson? The XO stated that no communications had been had or made directly to the owner of the property or the lessor. Contacts have been with Mr. Louis only who made the application for the owners.

Chairman Bryan asked Mr. Louis if a 30-day delay would be a hardship on applicant or its operation. Mr. Louis stated that a 30-day delay would mean the processing of the liquor license and application. The Chairman stated there would be a 30-day delay instead of 15 days. Mr. Louis stated that they would appreciate a sooner reply or some definite action taken on the matter.

Commissioner Ige asked Mr. Louis whether, in the event the business should grow, would they be asking for any other increase in the building facilities. Mr. Louis replied, "I take it your question is: 'Will there be a request for any increase in any other types of activities?'" Commissioner Ige replied, "I'm speaking of the size of your restaurant." Mr. Louis stated that there will be no request for increase in size of the restaurant, because the primary business operation is confined to the question of the activity and the applicant is asking for this activity, not on other people's property, but on his own land which consists of approximately 3.7 acres, plus a couple other acres in surrounding parcel, plus the leased land. Even if the leases terminate, his activities would still be confined to the arena and to the corral, stables and dwellings. They'll be built on structure substantially larger than what he has now, and they may not have room for the other activities.

Chairman Bryan asked if there were any other questions. He also asked if there were anyone else who wished to be heard on this matter.

Mr. Louis asked to make one comment for the record. He stated that in 1961 Mr. Gibson grossed roughly \$75,000 from this operation. The first half of 1962, because of the increase in interest in his activities, he has grossed \$102,000, which means something like the growth of three times of 2 years of operation.

Commissioner Lombardi asked Legal Counsel if it were possible to grant this permit for Mr. Gibson only and not for the property. In other words, to prohibit conveyance to some other party in the event he would give up the rodeo and horse activities. Legal Counsel stated he would need to take this matter under advisement.

It was brought up by the XO that his recommendation for deferral was based on the very recent understanding from the legal counsel that an action could have possibly be taken tonight.

Legal Counsel stated that with respect to a Special Permit action could be taken at once.

Chairman Bryan asked, "Where were we reading wrong?" Legal Counsel stated that there seems to be some confusion beyond various paragraphs of the statute. There is such a 15 day provision with respect to the adoption of final boundary and which pertains to temporary boundary's but which does not, however, relate to the granting of Special Permits under Section 7. The only restriction under this section which the commission must operate is holding public hearing, governed by Act 103, requiring 20 days notice; and it must be held not less than 30 nor more than 120 days after receipt of the petition or application, but there is no time fixed for a decision.

Commissioner Sunn stated that under Rules of Practice and Procedure it calls for 15 days under Section 1-20f. Legal Counsel stated that he did not take this into effect. If the commission adopted this rule to that effect there is no question that this 15 day waiting period is required.

Chairman Bryan stated that it may be that this point is more academic at this moment and this can be taken up at the meeting later.

The XO stated that his point is that if action could have been taken this evening, staff would recommend deferral. But if action could not be taken a more full staff report would be received by the Commission from the staff at its next meeting on the 24th or sooner if desired.

Chairman Bryan stated that the Commission should have additional information from the County authorities, and he asked the XO to make an attempt to get this by the Commission's next meeting.

Chairman Bryan stated that if there is no one else who wished to be heard, we shall close the hearing on this particular matter, Dee Gibson, and would like to make all letters, documents referred to and testimony given this evening will be part of the record of this hearing. The Chairman noted that the staff report was prepared by the XO personally.

Chairman Bryan also notified the petitioner that the next meeting of the Commission would be about the 24th of October. It is the Commission's intention to have sufficient information available to give you an answer at that time. If the Commission has a meeting before that, a special meeting, the staff will notify you to this effect.

Mr. Louis stated, "I take it at that time we will be given an opportunity to answer some of the statements presented by the City Planning Department or any other questions that you may have in doubt." Chairman Bryan stated, "You have 15 days now to do that in writing if you wish. We will receive any documents or arguments within the 15 days. If at our next meeting the Commission takes action on this and it is pertinent to get additional information or answers from you, I think there is no obstacle in the way of having you make that argument as long as we initiate it." The legal counsel added to the Chairman's statement stating, "There is no objection to simply continue in this area at the next meeting."

The public hearing was closed in the matter of Dee Gibson.

PETITION OF PHILO OWEN, A(T) 62-15, FOR CHANGE OF DESIGNATION FROM AN AGRICULTURAL DISTRICT TO AN URBAN DISTRICT CLASSIFICATION FOR TWO PARCELS OF LAND ON THE NORTHERN SIDE OF WAIMEA BAY, OAHU: Described as TMK 5-9-05: 21 & 23

Chairman Bryan asked if the applicant were present or if there were anyone here to represent applicant.

Mr. Philo Owen introduced himself stating he had no one to represent him and would speak on his own behalf. Mr. Owen was sworn in by the Chairman.

The XO was asked to outline the area in question by the Chairman. The XO stated that Mr. Mullahey would outline the area in question. Mr. Mullahey used the scale map to describe the area.

Mr. Owen stated that at present, parcel 21 is classified as "Highway and Rural Protective" under City and County zoning. The greater portion of that property is sloped and rough terrain. It is definitely unsuitable for agricultural purposes. The adjoining properties are zoned for urban uses, to the right and across the highway, and Mr. Owen felt that, inasmuch as his property is not suitable for agricultural purposes, consideration should be given for change of classification from Agricultural to Urban. Mr. Owen stated that the properties in the direction of Kahuku are zoned Urban, but that those properties are being used for agricultural purposes. He felt it was ironic that the properties that are being presently used for agricultural use are zoned for urban; whereas, in his case, the property is not suitable for agricultural purposes but is zoned for agricultural.

Chairman Bryan asked if it would be satisfactory if the Commission would zone his property for Conservation. Mr. Owen stated that he was not familiar with the Conservation zoning. The Chairman stated that his question was leading to intentions in respect to the use of his property which could not be done under the present classification. Mr. Owen stated that he had intentions of petitioning the City Planning and City Council for resort hotel zoning. He stated that he had a study made by John Child and Company for the best land usage for his property. He stated that that company had definitely recommended that his property lean towards the tourist industry, along recreational usage lines. He stated, however, that the Company recommended that he hold up his plans for at least 12 to 18 months, inasmuch as Oceanic Property has plans for this area.

Chairman Bryan stated "I have no argument with your application: I am just wondering if it would be adequate if you try to include this in the final boundary maps as our final maps should be approved by July 11, 1963. If you are not going to do anything in that length of time I am wondering if that would be satisfactory." Mr. Owen stated that presently he has been granted a loan to construct two houses on his property and that he can not proceed with any definite plans as long as the present zoning is in effect. Mr. Owen stated that he has already gone to considerable expense in regard to his property and is "stuck in the middle" where he can't proceed any further until this matter is settled. Mr. Owen stated that he has been offered considerable money for his property; however, he has no intentions to speculate on making any money on his property. He stated that he plans, eventually, about 5 to 10 years, to develop this property along the tourist industry line for hotel, motel, etc.

Chairman Bryan asked if any member of the Commission had any questions they would like to ask.

The Chairman asked the XO if there were any correspondence or replies from pertinent agencies regarding this matter.

Mr. Mullahey stated that the staff received the following communications:

1. From the City Council, letter dated 9/12/62, which stated that the matter was referred to the Committee of the Whole.
2. From the City Planning Department, letter dated August 8, 1962, which recommended that: 1. Parcel 21: Portion of area westerly of Waimea triangulation station be designated Urban and the remaining area be retained for Agriculture. 2. Parcel 23: Strip of land 20 feet wide for a roadway

containing 1.12 acres be retained in Agriculture. The Planning Director recommended to the Planning Commission after inspection of property to have the front portion of the said parcel, which is very level, be utilized for Urban use and the back portion which is too steep and not suitable for Urban use be retained in Agricultural designation; since in the General Plan this portion of the property is proposed for park use.

3. From the Department of Transportation, stating they had no comments or recommendations to make in this matter; but would like to be informed of future applications for changes in land classification inasmuch as they might affect the highways, harbors and airport plans.
4. From the applicant, giving in more detail the use and development to which he plans to put his property.

Mr. Mullahey was sworn in by the Chairman. Copies of a photographic picture of Mr. Owen's property were distributed. Mr. Mullahey added to his description of property that approximately 5,000 sq. ft. of the very tip of applicant's parcel 21 is included within the Land Use Commission's temporary district urban lines. Dispensing with the description of parcels of the staff report, Mr. Mullahey gave staff's recommendation. He stated that the staff cannot recommend approval of reclassification to Urban, of the larger portion of the subject property, for the reason that such a cliff is not believed to be suitable for urban development. Mr. Mullahey stated that the staff accordingly recommends that the Temporary Urban district boundary adjacent to the property be changed to include the lower portion of parcel 21, of less than 20% slope, in the Temporary Urban district; and that the remainder of Parcel 21 and all of Parcel 23 (the upland easement) remain in the Temporary Agricultural district.

Chairman Bryan asked if any of the Commissioners had any questions they wished to ask of Mr. Mullahey.

Commissioner Sunn asked "How does staff's recommendation of area compare with what was recommended by the City Planning Department." Mr. Mullahey stated that the City Planning Department's recommendation was up to the Waimea tri-station and the staff's recommendation would include 1 acre, more or less, to the pali to the tri-station which consists of 75 feet joining one slope to 271 feet to the Waimea tri-station. Mr. Mullahey stated in area you would add about another 30 feet.

Commissioner Sunn stated that the Planning Department didn't say a strip of 20 feet along the entire ridge was satisfactory for building. Mr. Mullahey stated "No, sir. That was parcel 23, and they recommended that that strip be left in Agriculture."

Chairman Bryan asked Mr. Mullahey whether, if the staff recommendation was changed from 20 to 30%, it would add any increasable variance. Mr. Mullahey replied in the negative, stating that he believed it goes from 20% to a very high percentage up the slope.

Chairman Bryan asked Mr. Owen if he had any questions to ask of the staff. Mr. Owen replied in the negative but asked for permission to make a statement. Chairman Bryan assented and asked Mr. Owen if the staff's recommendation posed any hardship on him at this time. Mr. Owen replied in the affirmative, stating that in his conversation with a staff member of the City Planning Department, Mr. Wallace Kim, Mr. Owen felt that the City's position was most unfair to him. Mr. Owen stated that Mr. Kim had

stated that he would recommend to his Commission the the Land Use Commission retain the present zoning of agricultural for his property, since the City eventually would be interested in his property for park use. Mr. Owen stated that the Planning Commission wished to retain the present setting and condition and naturalness of the land, such as Diamond Head. Mr. Owen stated that he expressed his feelings during this conversation, stating that if the City has intentions of ever condemning his property for park use, then they should do so. Mr. Owen felt that for the City to recommend to this Commission to retain the agricultural zoning for the mere sake of preventing him from doing anything with his property, he thought, was unfair. He felt it was most unfair for the City to tie his hands and stop his efforts from doing anything with his property because of something they have in mind for the future which might take maybe 100 years to put into effect.

Chairman Bryan asked if there were any other Commission members who wished to ask any questions. The Chairman asked if there were any one present who wished to be heard on this particular subject.

Mr. Robert Wenkam was sworn in by the Chairman and stated that he was a member of the Conservation Council of Hawaii and member of the Executive Board and was also speaking as Vice President of the Federation of Western Outdoor Clubs, an organization comprising of almost all of the outdoor clubs in the western United States conservation groups, including Hawaii. Mr. Wenkam presented a map of the area, describing it as a very beautiful remain of natural areas on the Island of Oahu. Its panoramic bay, its green mountain area, its historical site, all represent a great asset of the State. He felt this area should be kept and held as it is in the future. Mr. Wenkam stated that the panorama from the site is unsurpassed throughout the State. The major part of this area is owned by Mun On Chun, Hiram Fong and Finance Realty. He stated that development is being planned by Finance Realty in this area. He pointed out that the property with the heiau is owned by the State. He stated that the State last year spent \$25,000 in construction aid for a passage road to this heiau. Mr. Wenkam stated that he spoke to Mr. Mun On Chun recently about the desirability of this entire peninsula becoming a State or City & County park. Mr. Chun agreed that this would be very desirable as a park and has stopped his subdivision plan for this area. Under discussion now, an attempt is being made to work out various schemes to get property for park under state ownership which would include the entire peninsula adjoining Mr. Owen's property. Mr. Wenkam stated that this area, the entire complex, will become a very beautiful recreational park some time in the future. He felt that this area would not only be a recreational area for people who live on Oahu but a potential stopping point for tourists. He submitted that to encroach on this area in any way with urban development would seriously harm and hamper this area not only as a development as a park but as one of the few beautiful choices of natural assets in the islands today. Mr. Wenkam advised that this area be retained as an agricultural area in order that its natural attractiveness and its importance in relationship to the park area for park development be kept for future use.

Chairman Bryan stated to Mr. Owen that in the next fifteen days the Commission would be very glad to receive any written comments, arguments, or information that anyone may have; that the Commission is required by law to wait 45 days before giving an answer in this type of case. Chairman Bryan stated that the staff will notify you of the time and place of meeting which the Commission will come to a conclusion in this matter and he stated that if Mr. Owen wished to discuss this matter with staff or write to Commission on anything else he wishes to express, he may do so.

Chairman Bryan stated that the staff has asked him to indicate that the fact that this area has been proposed as a park does not have anything to do with the staff's recommendation and that there is no collusion between this staff and the staff of the City Planning Commission.

The Chairman stated that he would like to make all of the letters and other written comments and documents part of the record of this hearing as well as the verbal presentations.

Public hearing closed.