

STATE OF HAWAII
LAND USE COMMISSION

Minutes of Meeting

County Council Room
Hilo, Hawaii

October 30, 1970 - 7 p.m.

APPROVED
DEC 11 1970

Commissioners Present: Leslie Wung, Chairman Pro Tempore
Alexander Napier
Tanji Yamamura
Stanley Sakahashi

Commissioners Absent: Goro Inaba
Sunao Kido
Shelley Mark
Eddie Tangen

Staff Present: Ramon Duran, Executive Officer
Ah Sung Leong, Planner
Walton Hong, Deputy Attorney General
Jean Soma, Stenographer

Acting-Chairman Wung called the meeting to order and the Executive Officer swore in persons wishing to testify before the Land Use Commission.

HEARING

SHORELINE SETBACK

The Executive Officer, Mr. Duran, presented the reasons set forth in the legislative committee report which resulted in Act 136, the Shoreline Setback Law. The details concerning administration, responsibilities and definition of terms were explained by the Executive Officer.

Acting-Chairman Leslie Wung commented that this Commission is mandated only to establish a setback from the shoreline of 20 to 40 feet. He said the hearing is for the purpose of taking evidence in support of a 20 foot setback or a 40 foot setback or some other setback between 20 and 40 feet, and not to argue any other matters about the law. He then

called for testimony from the County of Hawaii.

Mr. Phil Yoshimura, Deputy Planning Director representing the Hawaii Planning Commission, stated that his agency recommended establishment of a 40 foot shoreline setback throughout the County with the exception of a 20 foot shoreline setback for areas where an existing use would be adversely affected by the 40 foot setback. He informed that a map showing these areas will be submitted later to the Land Use Commission.

Mr. Jonathan Osorio, representing a group of students from Hilo College, was concerned about the contamination of shoreline areas and water sources caused by cesspool seepage. He recommended that a 40 foot setback be established from the shoreline.

Mr. Claude Moore, speaking on behalf of Maunakea Sugar Company and Pepeekeo Sugar Company, stated that some of their mills are located very close to the ocean and recommended the establishment of a 20 foot setback in these areas.

Mr. Henry Mott-Smith, business development manager of Boise Cascade, urged discretion in establishing a uniform setback since he felt that some situations called for a 40 foot setback while other situations would not require one at all.

Mr. Robert M. Yamada questioned whether the provisions of Act 136 would apply to fishpond areas and inland bodies of water.

The Commission's legal counsel, Walton Hong, replied that the Attorney General's opinion on this matter is forthcoming.

Mr. Yamada stated that if the setback provisions applied to fishpond areas, it would seriously jeopardize a proposed apartment development which he contemplates. He asked whether there will be any changes from the taxation standpoint.

Mr. Duran replied that the Commission has no control over taxes.

Mr. Paaluhi asked whether an existing structure which is partially situated in the 40 foot setback would have to

be torn down once the shoreline setback is established.

Mr. Duran answered that the existing building would be a non-conforming use and would be permitted to remain. In the event the structure is destroyed, such as by fire or tidal wave, you would be permitted to replace the structure in the same location provided the size and use remained the same.

Mr. Shigekane, an attorney representing certain shoreline property owners testified that because of varying county codes, a shoreline setback at 20 feet appears to be reasonable. He stated that building height and density controls already severely limit the use of property by the owners.

Mr. Jess Boyer supported the recommendation of the Hawaii County Planning Commission. However, he noted that a problem arises when property owners are granted variances because of monetary hardship and are allowed to encroach within the setback area.

Mr. Gilbert Hay inquired whether a residence would have to be relocated if erosion of the shoreline caused it to be located within the shoreline setback.

The Executive Officer replied that the structure will be allowed to remain where it is. However, if another house is built, it would have to be located beyond the shoreline setback line. Accretion along shoreline properties will result in the setback line being moved forward.

Since no one else presented testimony, the Acting-Chairman advised that additional evidence will be received by the Land Use Commission in the next 15 days.

The hearing was closed thereafter.

ACTION

It was announced by Acting Chairman Wung that action on Special Permits SP70-84 and SP70-85 will be taken up at the Kona meeting on the morrow, since the Commission lacked a quorum.

The petitioners who were in attendance verbally agreed to the deferment. The meeting was adjourned.