

STATE OF HAWAII
LAND USE COMMISSION

Minutes of Meeting

Board of Supervisors' Chambers

Lihue, Kauai, Hawaii

4:00 P. M. - November 5, 1964

LUC Present:

Myron B. Thompson, Chairman
C.E.S. Burns, Vice Chairman
Charles Ota
Goro Inaba
Shiro Nishimura
Robert Wenkam
Leslie Wung

Raymond Yamashita, Executive Officer
Roy Takeyama, Legal Counsel
Richard Mar, Field Officer

KP&TC Present:

Masashi Kageyama, Chairman
Itsuo Ibara
Norman Hashisaka
Toshihara Yama
Thomas Yamasaki, Secretary
David Wong, Director

Chairman Kageyama convened the meeting and introductions of those present followed.

The first item was a question raised by Mr. Wong on the definition of land use boundaries around the Poipu Crater area (Kauai TMK 2-8-20). He felt that the northern boundary of the crater area should have been drawn to include all of the lot in question in the Urban District. General discussion centered around the following two major points:

1. The exclusion of the portion of the parcel from the Urban District could have been a drafting error or resulted from following property lines shown on an older tax map. The urban boundary followed property lines which have since been adjusted and shown on the more recent tax map.
2. Should it be concluded that the exclusion is a result of an error on the part of the Land Use Commission, should not the Land Use Commission initiate the procedure for correction?

Mr. Wong felt the parcel was left out of the Urban District because the Land Use Commission used the older tax maps rather than the newer tax maps which were available at the time the boundary lines were being drawn. He also felt that the intent of the Land Use Commission was to include all the parcels around the Poipu Crater area as part of the Urban District.

Commissioner Wenkam agreed with Mr. Wong and pointed out that it was his intent to go around the Poipu Crater lots and the Land Use Commission should correct this error by including it in the Urban District on its own motion.

The Executive Officer questioned whether or not this was a drafting error or that it had been the intent of the Land Use Commission to include the currently excluded portion of the parcel from the Urban District. The fact of the matter is that a very definite boundary line had been proposed, examined by all concerned and adopted. Because the boundary line is so definite, it is not a question of interpretation. And, while the contention may be true, it would be undesirable for the Land Use Commission to set the precedence of initiating petitions for boundary changes for such cases.

The Commission's Legal Counsel mentioned that legal support could be given to either interpretation. However, he felt that if the Land Use Commission corrected this problem by considering it under Paragraph 2.11, Interpretation of District Boundaries, and without going through the amendment procedures, it would likely open a Pandora's Box of other similar cases. Legal Counsel said the Land Use Commission can follow rule 2.11 (c) but the problem is to determine whether the Poipu area can fall under this rule.

Chairman Thompson said the following two solutions are available:

1. Utilization of rule 2.11 (c).
2. Amend the boundaries through public hearings.

The Chairman suggested perhaps it would be wise to see if other similar cases will develop and that the Poipu problem will be taken under advisement.

II. ENFORCEMENT PROCEDURES

The Kauai Planning Director brought up the problem of enforcement procedures. He explained that his County notifies violaters and if the violation is not corrected within six months from the date of notification, the Kauai Planning Department informs the County's attorneys to make charges. It was suggested that each Island Land Use Commissioner be the enforcer of the Law. The Planning Director felt that the problem of enforcement should be clarified.

Particular questions on the enforcement problem centered around the wording of the Law on enforcement and on dual responsibility. If the County does not enforce the Law, should the State take over?

Legal Counsel mentioned that the enforcing of the Law is the responsibility of the County as spelled out in the Law and that this is a County function and not a State problem.

III. RULE 2.3 (e) PAGE TWO

The Kauai Planning Director suggested that the reference to "Rule 7.5 (g), infra" should be 2.39 (g) on page 25 of the Land Use District Regulations. This was taken under advisement by the Commission.

IV. 2.3 (p) PAGE THREE

Mr. Wong brought up the point on the "lot of record". He wanted to know if it meant a recorded lot in the Department of Taxation. He felt the "lot of record" should refer to the Bureau of Conveyances and this section should be amended and a cut-off date be provided.

Chairman Thompson said this matter will be taken up under advisement.

V. 2.16 (b) PAGE FOURTEEN

Mr. Wong said 2.16 (b) in the second sentence should be as follows: "there shall be no less than one single-family dwelling per one-half ($\frac{1}{2}$) acre."

General discussion continued on the interpretation of one-half ($\frac{1}{2}$) acre lots in the Rural District. Commissioner Wenkam said that as long as the density requirement is being fulfilled, there is a possibility for a subdivider to develop cluster subdivisions in a Rural District. Commissioner Wenkam cited the example of the dairy in the Waiawa area where 15 homes were constructed in a small area.

*Amended
& adopted
12/18/64
See Attachment
awc*

The Legal Counsel felt that a person cannot put two houses on an acre lot in a Rural District if the acre lot has not been subdivided. He cited the example of a person having 100 acres in a Rural District in which the owner could put 200 homes in a small area. This action by the subdivider would create an urban atmosphere which would be contrary to the intent of the Rural District. An interpretation of lot sizes in relation to the intent of the Land Use Law must be taken into consideration.

Commissioner Wenkam discussed the fact that the City and County attorney had interpreted that such a person can put two houses on a two acre lot in an Agricultural District. Commissioner Wenkam said that the City and County was concerned with maintaining the proper density in the Agricultural District.

Chairman Thompson said this matter will be taken under advisement.

As there were no further questions, the meeting was adjourned at 5:15 p.m.

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The Legal Counsel made a passing comment that a person cannot put two houses on an acre lot in a Rural District if the acre lot has not been subdivided. He cited the example of a person having 100 acres in a Rural District in which the owner could put 200 homes in a small area. This action by the subdivider would create an urban atmosphere which would be contrary to the intent of the Rural District. An interpretation of lot sizes in relation to the intent of the Land Use Law must be taken into consideration.

Commissioner Wenkam brought up the problem of agricultural subdivisions on the Island of Oahu. He said that the City and County was concerned with maintaining the proper density in the Agricultural District.

Chairman Thompson said this matter will be taken under advisement.

As there were no further questions, the meeting was adjourned at 5:15 p.m.