

STATE OF HAWAII
LAND USE COMMISSION

Minutes of Meeting

1/10/69 approved

Kahilu Hall
Kamuela, Hawaii

November 15, 1968 - 12:00 p.m.

Commissioners Present: Wilbert Choi, Chairman Pro Tempore
Shelley Mark
Sunao Kido
Alexander Napier
Goro Inaba
Leslie Wung
Shiro Nishimura

Commissioners Absent: C. E. S. Burns, Jr.
Keigo Murakami

Staff Present: Ramon Duran, Executive Officer
Ah Sung Leong, Planner
Jack Morse, Legal Counsel
Dora Horikawa, Stenographer

Persons planning to testify during today's proceedings were duly sworn in by Chairman Choi.

HEARINGS

PETITION BY HISAHARU AND KIMIKO IKEDA (A68-198) TO RECLASSIFY 2.95 ACRES IN THE AGRICULTURAL DISTRICT INTO AN URBAN DISTRICT AT KAINALIU, KONA

Mr. Duran presented staff report recommending approval of the mauka portion of the property, comprising approximately one acre, since the property in question is in close proximity to trading and employment facilities, basic services are available, topography is satisfactory, and the land is contiguous to an existing Urban District (see copy of report on file).

A general description of existing uses and districts surrounding subject property was offered by Mr. Duran, with the aid of maps. A design showing the proposed supermarket and surrounding parking area was also presented. Mr. Duran elaborated that staff was recommending that one acre of the property in question be rezoned rather than the 2.95 acres to conform with the

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depth of the existing adjacent Urban District and which would satisfy the land area needs of the contemplated total development of the project.

Mr. Phillip Yoshimura, Deputy Director, Hawaii Planning Commission, advised that the lower portion excluded in the staff recommendation for approval was in the County's five-acre agricultural minimum. He added that most of the urban lands in this area were presently being used.

Mr. Richard Ishida, attorney representing Mr. and Mrs. Ikeda, submitted that petitioners were not adverse to the staff recommendation since the request was primarily initiated to accommodate the Foodland Super Market development, including 90 parking stalls. The land was presently planted in coffee.

Mr. Duran questioned Mr. Yoshimura about possible problems that may arise in leasing or renting the front portion after it is rezoned. Mr. Yoshimura replied that under the present subdivision ordinance, this portion will have to be subdivided and rezoned commercial since it will be an accessory to the shopping center. The remaining portion could be granted a variance since it is already a non-conforming lot in a five-acre minimum Agricultural District.

With reference to the timetable, Mr. Paul Tajima, representing Mr. Sullivan of Foodland Super Market, stated that the architectural firm of Luke and Miyamoto had prepared a preliminary plan and Mr. Sullivan was ready to proceed as soon as all of the legal and zoning problems have been resolved.

Concerning the residential need in the subject area, Mr. Duran observed that since the petitioners had not expressed any pressing need to subdivide the remaining portion for homes and in view of the present boundary review, any consideration for residential use in this area should be held in abeyance until the overall study has been completed by our consultants.

Chairman Choi advised Mr. Ishida that a letter to the effect that petitioners were not adverse to the staff recommendation would aid the Commission in rendering its decision. Mr. Ishida replied that he would be happy to comply.

The hearing was closed thereafter.

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PETITION BY LUI KALANI STONE (A68-200) TO RECLASSIFY 284.5 ACRES FROM CONSERVATION TO AGRICULTURAL AT KAHUALEA, PUNA

It was recommended by Mr. Leong that the petition be approved since withdrawal of the parcel from the National Park no longer necessitated the Conservation classification, and the County General Plan designates the area for agricultural purposes (see copy of report on file).

The abutting existing Agricultural District and Royal Gardens Subdivision, in relation to the petitioned area, were pointed out on the map by Mr. Leong.

Chairman Choi requested clarification of the difference in permitted uses within the Conservation and Agricultural Districts. Mr. Leong advised that agricultural uses were permitted within the Conservation District under the jurisdiction of the Department of Land and Natural Resources. However, subject parcel no longer carried any conservation values since it was withdrawn from the National Park. Furthermore, under the Agricultural District, the petitioners could subdivide the area into a three-acre agricultural subdivision.

Mr. Richard Miyamoto of the law firm of Carlsmith and Miyamoto, representing the petitioner, explained that the petition had been prompted by Mr. Stone at the request of a prospective buyer for the subject land who has indicated that he may possibly develop it into small farm lots for sale. Mr. Miyamoto continued that staff had concurred that agricultural pursuits were feasible on the property, and an informal study had indicated that the land did not contain anything of historical value.

The nearest Rural and Urban Districts, 4 miles away at Kalapana and 15 miles at Pahoa respectively, as well as the land ownership pattern in the general area were pointed out by Mr. Leong.

Commissioner Mark wondered what the County's involvement would be in a subdivision of this nature. Mr. Yoshimura replied that under the Subdivision Ordinance, the subdivider would be required to provide water and other facilities adequate to service the lots and whether this would be privately or publicly owned would depend on the lot sizes. He further commented that according to the County CIP, there will be a reservoir on Pahoa Road leading to Kalapana to be completed in the next two to three years.

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Commissioner Nishimura questioned the justification for such a reservoir in the absence of any development. Mr. Yoshimura advised that this provision in the CIP was based on a 20-year projection for the Kalapana area and the Puna District, the only visitor destination in the area.

Since there was no further testimony, the hearing was closed.

KAUAI HELICOPTERS (SP68-53) - LEGAL OPINION FROM THE ATTORNEY GENERAL'S OFFICE

Mr. Duran discussed the letter received from the Attorney General's office regarding the Kauai Helicopters' special permit. He summarized the legal opinion that in essence the Land Use Commission could not grant lesser restrictions than those imposed by the County on special permits. He reviewed that the Kauai Planning Commission had approved the special permit with an expiration date of June, 1969, but that the Land Use Commission's approval on October 18, 1968, had extended this to December, 1969. Therefore, two alternatives had been suggested by the Attorney General's office, i.e., the Land Use Commission could reconsider its decision to conform to the County's recommendation, or it could send its decision back to the County. It was Mr. Duran's recommendation that it would be more judicious to follow the first alternative since the latter would be complicated by the statutory time limitations and possibly the necessity for another public hearing at the County level.

Commissioner Nishimura commented that the County had set the expiration date merely to coincide with the termination of the petitioner's sublease with KTOH. He did not believe the facilities at the airport would be available by June, 1969, and felt petitioners may require additional time to relocate themselves.

Commissioner Mark observed that if an earlier target date were set for the petitioners, it might serve as an incentive for them to meet the deadline.

Commissioner Kido added that in any event, the Land Use Commission would be mandated to abide by the earlier expiration date, should the County maintain its original decision in a subsequent hearing.

Mr. Jack Morse of the Attorney General's office advised that the first alternative suggested would be the least complicated. Furthermore, if the petitioners are unable to move their

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facilities by June, they could go to the County and initiate a request for an extension.

Commissioner Nishimura moved to amend the Land Use Commission's action of October 18, 1968, to incorporate alternative A recommended by the Attorney General's office (see copy of letter on file). The motion was seconded by Commissioner Inaba and unanimously passed.

NEXT MEETING DATE

November 29th on Molokai was set as the date for the next Land Use Commission meeting.

ASPO CONFERENCE

Mr. Duran reported that a savings of \$2,000 from the salary account in the LUC budget may be available for possibly two members to attend the 1969 ASPO Conference in April. However, insofar as the 1970 Conference is concerned, it would probably cost in the neighborhood of \$700 per conferee so that if 10 were to attend, it would mean an out-of-state travel request of \$7,000 in the budget.

RESCINDING OF SPECIAL PERMITS - COUNTY OF HAWAII

Mr. Duran called the Commission's attention to a letter received from the County of Hawaii requesting that the Land Use Commission rescind two special permits which were open-ended (with no definite construction date or failure to comply with construction date). Mr. Duran advised that this did not apply to the Ben Hess special permit mentioned in the letter since it did carry a time limitation and has expired.

However, in the case of Harry McKee, SP62-21, there was no cut-off date for the special permit to construct an office, restaurant, bar and hotel facilities. It was the County's feeling that ample time had elapsed for the construction to begin. Although a real estate office did exist, this was merely a conversion of an existing dwelling and not part of a new building as indicated in the special permit request.

It was Mr. Duran's feeling that the applicant should be given an opportunity to appear before the Commission and show justification for continuation of the special permit. Mr. Duran requested Mr. Morse to comment on the legal implications involved here.

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Mr. Morse submitted that there was nothing in the statutes or the LUC Regulations governing open-end special permits. He felt that some guidance from the Attorney General's office as to whether the Commission could request petitioner to appear before this body to show cause why the permit should not be revoked might be advisable.

Chairman Choi directed the Executive Officer to write a letter to Mr. McKee requesting that he present evidence to the Commission to show cause for the delay in construction.

FIRST QUARTERLY PROGRESS REPORT FROM ECKBO, DEAN, AUSTIN AND WILLIAMS

Mr. Williams reported that he had been concentrating on the neighbor islands and that he would be completing the formal interviews by the end of November. Mr. Eckbo has conducted 20 interviews on Oahu, and all of the large landowners have been contacted. The questionnaires are presently being processed, and the responses have been encouraging. The petition and special permit analyses and the uses within the Conservation District are pretty much under control, ready to be transferred on to the punch cards.

Mr. Williams advised that two meetings had been held with the Hawaii Planning Director to discuss issues, two with the Maui Planning Director, one meeting with the Kauai Planning Director, and that he had an appointment for December 12 to meet with the Honolulu Planning Commission.

Commissioner Nishimura suggested that Mr. Williams contact Mr. Robinson about the rumored sale of Niihau Island.

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