

LAND USE COMMISSION

Public Hearing

Board Chambers

Wailuku, Maui

November 19, 1962 - 1:00 P.M.

Commissioners Edward C. Bryan
Present: Wayne D. Gregg
Yuichi Ige
Edward Kanemoto
Franklin Y. K. Sunn
Roger T. Williams

Absent: Stanley C. Friel

Ex-Officio Members E. H. Cook
Absent: Frank Lombardi

Staff R. J. Darnell, Executive Officer (XO)
Present: W. M. Mullahey, Field Officer (FO)
John Canright, Legal Counsel

Chairman Bryan called the public hearing to order and followed with an opening prayer.

PETITION OF THE LAND USE COMMISSION TO ELIMINATE CERTAIN PORTIONS OF INTERIM REGULATION 2.1(b) RESPECTING "AGRICULTURAL DISTRICTS," WHICH ALLOWED SINGLE-FAMILY DWELLING UNITS AS A PRIMARY USE OF LAND AND WHICH REQUIRED MINIMUM LOT SIZES OF FIVE ACRES, BOTH OF WHICH PORTIONS HAVE BEEN DECLARED INVALID BY THE ATTORNEY GENERAL; AND ALSO TO ELIMINATE THAT PORTION OF INTERIM REGULATION 2.1(d) WHICH RELATES TO LOT SIZES IN AGRICULTURAL DISTRICTS; TO RENUMBER THE ALLOWED USES UNDER INTERIM REGULATION 2.1(b); AND, TO ADD, TO INTERIM REGULATION 2.1(b) AND 2.1(d) PROVISIONS ALLOWING SINGLE-FAMILY DWELLINGS AS ACCESSORY USES TO THE PRIMARY USES ALLOWED IN 2.1(b) AND AS PRIMARY USES ON ANY LOT IN A SUB-DIVISION HAVING RECEIVED PRELIMINARY APPROVAL BEFORE APRIL 21, 1962.

The following people were sworn in and spoke on the above matter:

Mr. Robert Ohata, Planning Director, Maui County Planning and Traffic Commission.

Mr. Ohata stated that the Planning Commission voted to reinstate in the Rules and Regulations the single family dwelling as a primary use, and asked that the Attorney General's Office review their Opinion 62-38. He pointed

out that the Planning Commission wished to have the single family dwelling to be a primary use and not an accessory use as indicated in Sec. 2, Part 1b-8. He stated that the subdivision regulation within an Agricultural district of the County of Maui restricts lot size and makes lot size large enough so that there would not be tract-type subdivision.

Mr. Eric C. Lindberg of Maalaea Village.

Mr. Lindberg stated that some land in the preliminary zoning classified as Agriculture cannot be used for agricultural purposes. He questioned whether the Commission had the right to do this according to law. He stated that land which has been already assessed by an assessor as house lot and has been put in agricultural zone is taxed very little while land in an Urban designation would be compensating for the difference. He also pointed out that there was no coordination between the State agencies as far as public information is concerned.

Chairman Bryan explained that these Regulations were interim on the map for the purpose of having a starting point for a consultant's study which will be ready for the public by January 11, 1963. He stated that these points would be corrected in the ensuing six months when public hearings would be held in each County during which time anyone could make his views known, and during which time better coordination in land use would be made. Chairman Bryan also pointed out that the agricultural designation was applied to anything that was not clearly Urban or Conservation.

Mr. Ted James, Sr.

Raised a question whether a person having a one-acre lot which is not suitable for agricultural use wishes to cut it in half would need to come before the Land Use Commission to obtain permission. Chairman Bryan replied in the affirmative stating that if it is within an agricultural designation that person would have to make an application to the Land Use Commission.

Mr. James also remarked whether there would be any objections to a sort of beachcombing community within a farm zone district which land is no longer suitable for farming.

Chairman Bryan replied that he understood the problems confronting the public in each County; that people will have to live some where. He stated that these proposed changes in the Regulations are attempting to relieve these problems and to make it primarily understood that a single family dwelling would be allowable as an accessory use to the farm; and secondly, if there is sufficient land involved there should be no question about a single family dwelling being thereon. The Counties are now proposing that providing certain county requirements are met that a single family dwelling would be allowed.

Mr. Robert Wenkam, Vice President of the Federation of Outdoor Clubs and a member of the Conservation Council of Hawaii.

Mr. Wenkam asked for a clarification of the Agricultural zone which he stated appeared to be inclusive of many uses which were clearly not Agricultural. He asked whether the Commission would state clearly what an Agricultural zone entailed.

Chairman Bryan answered that an Agricultural zone is a zone which is used primarily for the uses stated as permissible in the Interim Regulations.

Mr. Wenkam cited the findings and declaration of purpose of Act 187 and stated that it was his interpretation that the law was designed to stop urban sprawl, this being in conflict with the single-family use provided for in the interim regulations. He stated that there is no clear definition of Agriculture which is clearly understandable by the general public.

Chairman Bryan stated that in his opinion the district was defined both in the Act and in the Regulations.

Mr. Wenkam cited the instance of the testimony given in previous hearings, in which petitioners had stated that they could not grow anything on their land, and could not understand why their property was in the Agricultural district.

Chairman Bryan stated that, in answer to that question, he had always said that anything that was not clearly Urban or clearly Conservation was designated Agricultural. He stated further that this problem was being worked on now by the HHFA 701 project consultants.

There were no further discussions and the Chairman closed the public hearing in the matter of the proposed amendment of the Interim Regulations.

11/19/62
Maui Dealing

APPLICATION OF BALDWIN PACKERS (SP(T) 62-25), FOR SPECIAL PERMIT TO OPERATE A RESTAURANT-BAR FACILITY, ACCESSORY USES, AND LIVING QUARTERS FOR RESIDENT MANAGER ON LAND LOCATED IN HONOKAHUA, MAUI: Described as Second Division, TMK 4-2-01: Por. 1.

Chairman Bryan asked if there were anyone present representing the applicant.

Mr. Herbert Welder replied that he would represent the applicant, and was sworn in by the Chairman.

The FO briefly described the area involved and pointed out the location on the map.

Mr. Herbert Welder stated that he was a member of the staff of Alexander and Baldwin, Inc., Agents for Baldwin Packers, Limited. On October 31, 1962 Baldwin Packers was converted into Maui Pineapple Company, Ltd., and the result was that this is the surviving corporation of Haleakala Pineapple Company, Ltd. Hereafter we will be submitting on behalf of this application in the name of Haleakala Pineapple Company, Ltd.

The FO asked whether the application could be clarified to the extent where it says, "Such as personal service shops (flowers, gift, newsstand, etc.)."

Mr. Herbert Welder stated that the Company has a client who wants to use the old residence as a restaurant-bar facility and he felt there might be a lot of tourists who might want to come up and look over the scenery of the other islands, and the added accessory businesses would be something to attract these tourists in the form of jewelry, buttons, flower, gift shop and newsstand. He added it might be proper to define the "etc." as "curio shop".

The FO read the following communication received relating to this matter:

1. Letter of reply from Robert Ohata, Planning Director, Maui Planning and Traffic Commission, informing that the Planning Commission voted to recommend approval of the application for Special Permit by Baldwin Packers, Ltd.
2. The FO stated that the Board of Supervisors were solicited for their comments and recommendations but no reply has been received to date.

The FO was sworn in and gave the staff report, recommending approval of the application subject to certain conditions.

Mr. Lindberg asked what the Commission's ruling was in regard to the stated reason in the application, specifically the "etc." portion. Chairman Bryan replied that there will be 15 days before this Commission will make a ruling. He stated that the applicant has expressed orally what sort of use he is interested in, and the staff report has mentioned specifically what it is

recommending. Mr. Lindberg stated as far as this particular application is concerned, as he understood it, this Commission is going to subject the applicant down to the specific as far as use. Chairman Bryan replied in the affirmative, stating that if the applicant had applied for urban classification, for example, and if this Commission were to approve that, all of that would be up to the County of Maui, they would take care of that. In the case of a special permit, it's a little different. The Law specifies that in the case of a Special Permit it shall be for a specific use and an unusual use, otherwise the whole area would be reclassified as Urban, or Conservation or whatever the designation. The intention of this Commission is to stay out of the zoning and that type of restrictions. Those are County matters. All this Commission does is to approve a special permit of a specific use, as provided by the Law, which does not conform to the general classification of the land in question. This Commission's intention is, when we approve the special use, that this Commission shall not pull the rug out from under the County authority, and so notifies the applicant in pursuing this specific use he must abide by all county regulations.

Commissioner Sunn added that there is another problem regarding this. Many people have interpreted the Law to mean that if the Land Use Commission grants a special permit that will be all, and they will not have to go to the County thereafter. He stated that this Commission is just making doubly sure that whoever gets this special permit still conforms to all the county regulations, and this is the only way this Commission can do it.

There were no further discussion or comments and the Chairman made record all of the letters, reports, and testimonies heard during the hearing.

The public hearing was closed.