

LAND USE COMMISSION

Public Hearing

HELCO Auditorium

Hilo, Hawaii

9:30 A.M. - November 19, 1962

Commissioners

Present:

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

Absent:

Stanley C. Friel

Ex-Officio Members

Absent:

E. H. Cook  
Frank Lombardi

Staff

Present:

R. J. Darnell, Executive Officer (XO)  
W. M. Mullahey, Field Officer (FO)

Chairman Bryan called the public meeting to order and asked that those present join him in prayer.

The Chairman cited the legal notice of the public hearing published in the Honolulu Star-Bulletin October 30, 1962.

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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 RE-NUMBER 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 SUBDIVISION HAVING RECEIVED PRELIMINARY APPROVAL BEFORE APRIL 21, 1962.

The Chairman read the proposed amendment to the Interim Regulations and explained the purpose to be served. He asked if there were any questions from the floor regarding the proposed amendment. No one came forward.

The Chairman asked the XO to read any pertinent communications regarding the proposal. The XO read a letter from the Hawaii County Planning and Traffic Commission recommending approval of the proposed amendment.

The Chairman asked if there was any further comment on the matter, either from the Commission or the public.

The XO was recognized and stated that he wished to place the recommendation of Harland Bartholomew and Associates on record to avoid the necessity of a rehearing should the Commission wish to adopt the recommendation at a later date: the recommendation was that a single-family dwelling be allowed as a primary use of land in the Agricultural district on any lot having an area of five acres or more.

There was no further comment, and the Chairman closed the public hearing in the matter of the proposed amendment of the Interim Regulations.

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PETITION OF GEORGE VIERRA AND LYDIA TOLEDO, FOR CHANGE OF TEMPORARY DISTRICT BOUNDARY TO RECLASSIFY CERTAIN PROPERTY IN PUUKAPU HOMESTEADS, WAIMEA, NORTH KOHALA, HAWAII, FROM AN AGRICULTURAL DISTRICT TO AN URBAN DISTRICT CLASSIFICATION: Described as Third Division, TMK 6-4-03: 7.

The Chairman asked if the petitioners, or anyone representing them, were present. Mr. Bernard Kinney stated that he was representing the petitioners. The Chairman swore Mr. Kinney in and asked him to be seated while the staff presented the background of the request to the Commission.

The FO outlined the subject area on a map, and described the request.

Chairman Bryan asked Mr. Kinney to outline the petitioners' reasons for requesting the change of district classification.

Mr. Kinney stated that the petitioners proposed to subdivide their land into residential lots in the same manner as their neighbors, Fukushima and Lakeland Subdivision, had already done. He further stated that the subject property was rated very poor for cultivated crops and for cattle grazing. He stated that at present the petitioners have 10 head of cattle on the property.

There was no response to the Chairman's call for questions from the Commission or the audience.

The Chairman asked Mr. Kinney about the status of the two adjoining subdivisions (Fukushima and Lakeland Inc.). Mr. Kinney replied that the majority of the lots in them had been sold but yet no lots have been built upon, to his knowledge.

The XO read the communication pertinent to the petition:

Letter from the Hawaii County Planning and Traffic Commission recommending denial of the petition because of the lack of a proposed subdivision plan and the lack of County control of density in the area, should the petitioners' request be granted by the Land Use Commission.

The Chairman suggested that the hearing be continued until such time as more information from interested agencies was available.

The XO cited the mandatory 45-day waiting period, during which additional communications could be received and presented to the Commission before an action would be taken on the item. The Chairman again suggested that the hearing be continued until the (1) County enacted their zoning ordinance, (2) until the recommendations of the Commission's HHFA 701 project consultant were available and (3) until more information from the interested agencies contacted had had a chance to reply. Mr. Kinney concurred with the continuance. The Chairman asked for an expression from the Commission.

Commissioner Williams moved that the public hearing in the matter of the petition of George Vierra and Lydia Toledo be continued until further information from agencies contacted was received. Commissioner Ige seconded the motion.

Commissioner Sunn asked Mr. Kinney if he understood the ramifications of a continuance, stating that if the hearing were continued, the mandatory 45-day waiting period would not go into effect until such time as the hearing was declared closed.

Mr. Kinney then asked the Commission to proceed with the present public hearing and receive the additional communications during the 45-day waiting period as suggested by the XO.

The Chairman stated that a motion for continuance was on the floor and that he would have to call for a vote on it. A vote was taken on the motion for continuance and was defeated. The Chairman stated that the hearing would proceed.

The FO was sworn in and read the staff report which recommended denial of the petition.

The Chairman asked Mr. Kinney if he had any questions of the staff. Mr. Kinney stated that he had one comment on the soil rating contained in the staff report: where it stated that the land was rated good improved pasture, his comment was that although the soil rating may be good for pasture the parcel owned by the petitioner did not represent an economic unit for the raising of cattle, considering the cost of pasture improvement.

The Chairman asked if the Commission had any questions of the staff. There were no questions.

The XO made the comment to Mr. Kinney that if the Land Use Commission showed a propensity to zone this type of land Urban, the tax office may then look at all grazing land near a town as feasible for residential subdivision and tax it accordingly.

The Chairman asked if there was anyone else who desired to be heard.

Mr. Kinney stated that he would ask that when the Land Use Commission considered this request, they look closely at the character of the area as reflected by the adjoining subdivision activity.

There being no further questions, the Chairman declared the hearing in this matter closed.

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PETITION OF JUDGE WALTER H. HAYSelden RANCH, LTD., FOR CHANGE OF TEMPORARY DISTRICT BOUNDARY TO RECLASSIFY CERTAIN PROPERTY NEAR WAIOHINU, IN THE KAU DISTRICT, HAWAII, FROM AN AGRICULTURAL DISTRICT TO AN URBAN DISTRICT  
CLASSIFICATION: Described as TMK 9-4-02: 3 (228 acres) and  
TMK 9-4-01: 8 (194 acres).

The Chairman asked if there was anyone present to represent the petitioner. Mr. Ernest Kubota and Mr. Claus Hayselden came forward and stated that they were the attorney for the petitioner, and the petitioner, respectively.

The Chairman noted the fact that Mr. Kubota, as an attorney, was not required to be sworn in; and then swore in the petitioner, Mr. Hayselden.

The XO outlined the area on the map and gave additional background concerning the adjacent property owned by Mark Twain Estates, Inc.

Mr. Kubota asked the Chairman to consider a request for change of the petition to a Special Permit. The Chairman stated that, in his opinion, a petition, as filed by the Hayselden Ranch Co., was more in order in this instance than was a Special Permit. The Chairman stated that this posed a legal question which could not be answered at that time due to the absence of the Attorney General's representative. The Chairman suggested that this request be put in writing and submitted to the Commission during the 15-day period following the public hearing so that an opinion on the matter might be obtained from the AG. Mr. Kubota agreed.

The Chairman entertained comment from Mr. Hayselden, who stated that he was president of the Hayselden Ranch Co., which owned the land under petition. He proceeded to give the background of the request, as follows:

The area under petition consists of two parcels: one of 228 acres being surrounded by the Mark Twain Estates, a residential subdivision; and the other parcel, comprising 194 acres abutting the Mark Twain Estates subdivision. The Hayselden Ranch Co. sold approximately 1600 acres of their property to the Mark Twain people for a subdivision due to the

Ranch's decision to go out of the cattle business, based on the incursion of various weeds on their pasture, the expense of clearing which made beef production unprofitable. He further stated that the Mark Twain people were the first of the Big Island Subdividers to apply for an improvement district bond to cover all of the off-site utilities. The bond, approximately 1.5 million dollars, had been underwritten completely by a San Francisco brokerage firm, Hooker and Fay, thus placing no burden upon the County of Hawaii other than the initiation of the bond. He further stated that he had a buyer in Texas who was willing to purchase the land under petition, provided that the Land Use Commission granted the district boundary change as requested.

Mr. Kubota stated that the petitioner had been born and raised on the land and had taken over the operation of the ranch some years before. He amplified upon the pasture problem, outlining the incursion of Christmas-berry and stated that between the years of 1949 and 1960, \$6000 had been spent in an effort to combat the problem with no success.

In answer to a question by Commissioner Ige, Mr. Hayselden replied that it was his understanding that the Mark Twain people would also apply for a boundary change in the not-too-distant future.

The XO outlined the Mark Twain Estates holdings on the map and explained that the area already subdivided fell into the non-conforming use category.

The Chairman asked if any of the other Commissioners had questions of the petitioner, and received no reply. He asked if anyone else who was present wished to speak to the item being heard.

Mr. Robert Wenkam stated that he had a comment to add and was sworn in by the Chairman.

Mr. Wenkam stated that he was speaking as a member of the executive board of the Conservation Council of Hawaii. He cited the many instances of scattered residential subdivisions on the Island of Hawaii and stated that the County could conceivably go bankrupt trying to float improvement bonds for all of them. He further stated that the surrounding areas were used for cattle grazing, and was concerned about the conservation aspects of these undesirable and unsuitable subdivisions and asked that the Commission give consideration to the whole area. It was his conclusion that there were other areas in this district where subdivision could occur where it would be more logical.

Mr. Hayselden asked to speak to the points raised by Mr. Wenkam. He stated that his company is the only private landowner in the district, the balance of the landowners in ~~Kau~~ being large estates who might stymie this sort of development. He stated that the Mark Twain people had picked this area because of the climate, proximity to the South Point tracking station, and the central location between Volcano House and the Kona coast. The Mark

Twain development was to be patterned along the lines of Palm Springs, but it will be 10 or more years until it is completed. The Mark Twain developers are committed to 40 units to house families from the South Point tracking station and anticipate 200 more commitments from the tracking station by mid-1963. He reiterated the bonding arrangement with Hooker and Fay which placed no fiscal obligation upon Hawaii County.

Mr. Kubota stated that all of the 708 lots in Mark Twain's Unit I were sold in 9 months, and that 60% of the 828 lots (covered by the improvement bond) in Unit 2 had been reserved in 2 months.

The Chairman asked if the developers of the Estates were to provide water, sewer, roads, power, etc. Mr. Hayselden replied in the affirmative. Mr. Hayselden further stated that ground breaking on the new 18-hole golf course was to take place within 45-days.

The Chairman asked the XO for correspondence relative to the subject.

The XO read a letter from the Hawaii County Planning and Traffic Commission recommending denial of the petition, due to lack of County control of density should the petition be approved by the Land Use Commission.

Mr. Kubota stated that the Hawaii P&TC did not notify the petitioner of the hearing on the matter so they did not have a chance to present their request.

The XO asked the petitioner about the kuliana located in the middle of parcel 8, and the petitioner replied that the kuliana was undergoing acquisition. The staff stated that they would defer a recommendation until the HHFA 701 consultants had presented their recommended final district boundaries and regulations, which would be before the expiration of the 45-day mandatory waiting period had expired, in this case.

The Chairman asked if there were any questions of the staff by either the Commission or the petitioners and received a negative response.

Chairman Bryan asked the attorney for the petitioners if he had anything further regarding his request that the petition be changed to an application for Special Permit. Mr. Kubota stated that he would defer his request until such time as the Commission took an action; and should the Commission deny the petition, the Special Permit procedure would be investigated by the Ranch company. He stated that at present he wished to leave the petition as it had been presented.

The Chairman closed the hearing in the case of the petition of Hayselden Ranch Co.

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APPLICATION OF MINEO KOYANAGI (SP(T) 62-26), FOR SPECIAL PERMIT TO CREATE ONE RESIDENTIAL LOT FROM A 36.8 ACRE PARCEL ON LAND IN HIENALOLI 6, NORTH KONA: Described as Third Division, TMK 7-5-11: 1

Chairman Bryan asked if there was someone present representing the applicant. There was no response.

The XO briefly described the request and pointed out the area on the map.

The FO was requested to present the communications received from governmental agencies. The following was read:

1. A letter from Hiroshi Kasamoto, Director of Hawaii County Planning and Traffic Commission, informing that the Planning Commission voted to recommend approval of the special permit to the applicant, since it involves subdivision into one house lot.

The FO informed the Commission that the Board of Supervisors of Hawaii County were solicited for their comments and recommendations but no reply has been received to date.

The XO was requested to give the staff report. The following oral report was given by the XO: "The Plan for Kona shows in the Kona urban center that the area on the makai side of the road is to remain in intensive agriculture. The staff is unable to find anything unusual or reasonable in this request that would not apply to thousands of other identical cases up and down the upper Kona road, or possibly on the Big Island, or in the State where you have a large piece of property, if it is in an agricultural district and the intent is to subdivide off an additional acre or so, or to establish a much smaller residential site. The application represents a situation that may be confronted frequently in the future and definite policy should be stated to cover this type of situation. However, in the absence of policy to the contrary regarding this type of request the staff recommends disapproval of the application. It should be noted that the applicant could continue to create small farms from this property without any request to the Land Use Commission. In other words, the square footage is over an acre and it may be that what is intended is to create an acre and a half or so farm, in which case it may not be necessary to come to the Land Use Commission for approval.

In the absence of the applicant, Chairman Bryan requested that the XO submit a copy of the staff report to the applicant. The XO agreed to this and stated that there has been an attempt to locate the applicant.

There was no further discussion on the matter and the Chairman closed the public hearing on Mineo Koyanagi's application for special permit.

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APPLICATION OF JOSEPH & MARGARET CORREIA (SP(T) 62-22), TO CREATE A RESIDENTIAL LOT FROM A 39.28 ACRE PARCEL ON LAND LOCATED IN WAIAKEA CAMP SIX, HILO: Described as Third Division, TMK 2-4-05: 39

The Chairman asked if there was someone present to represent the applicant. Mr. Hiroshi Kasamoto informed the Commissioners that he had called the applicants involved and they stated that they would not be present at this hearing today. Mr. Kasamoto stated that the Planning Commission understands that the applicant

wishes to create a 15,000 sq. ft. lot, 100 foot frontage and 150 feet deep, but he has no plans made as to exact location. He has a large frontage fronting the public road. All he knows is that he is going to build on a 100 x 150 foot lot.

The FO pointed out the area and described the request briefly.

The XO was requested to present the communications received from all interested parties and/or government agencies. The following was read:

1. Letter from Hawaii County Planning and Traffic Commission informing that the Planning Commission voted to recommend approval of granting a special use permit to the applicant, since it involves subdivision into one house lot.

The XO read the staff report, which recommended disapproval of the application.

There were no further comments or discussion, and the Chairman announced that all correspondence, reports, etc., given in the hearing be made part of the record of the proceeding.

The Public Hearing was closed.

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A Mr. Dennison Leeloy was permitted to speak after the hearing. Mr. Leeloy stated that his father owns a piece of property in South Kona. He stated that the property is at present leased for cattle grazing. He now wishes to subdivide his land for his children and would like to know what he would do to go about this.

Chairman Bryan explained that this is a problem that this Commission has with the Land Use Law and its own regulations under the Law. One of the things that this Commission is trying to do to clear this matter is to change its own regulations, which is the reason this Commission is going to each County the next two days to hear problems on the Regulations. There are many people in Hawaii who have this particular problem where there is a family who wishes to divide its land among its children and each parcel becomes less than five acres or some size which it could be said is an agricultural use or pertinent to agriculture. By means of changing its own regulations this Commission hopes to lessen this problem as far as being a burden to the citizens of the State, but can't give you an answer right now except to say to consult with your County authorities and then petition the Land Use Commission for either a permit to subdivide or perhaps attest it if you want, or let it remain in agricultural use. The XO added that, regardless of whether the rule change is approved, a house can be built on every one of the lots as far as the regulations go. As long as the land is subdivided for agricultural purposes and is intended to be used for agricultural purposes, the Land Use Commission has nothing to say about it.