

STATE OF HAWAII
LAND USE COMMISSION

Minutes of Meeting

*Approved
as amended
2/28/69*

Board Room of the Board of Supervisors
Lihue, Kauai

December 20, 1968 - 2:00 p.m.

Commissioners Present: Shiro Nishimura, Chairman Pro Tempore
Sunao Kido
Leslie Wung
Alexander Napier
Goro Inaba
Keigo Murakami

Commissioners Absent: C. E. S. Burns, Jr.
Wilbert Choi
Shelley Mark

Staff Present: Ramon Duran, Executive Officer
Ah Sung Leong, Planner
Jean Soma, Stenographer

Persons planning to testify before the Commission were sworn in by Chairman Nishimura.

ACTION

PETITION BY HERBERT AND DOROTHY MIYAHARA (A68-196) TO RECLASSIFY 13 ACRES FROM AGRICULTURAL TO RURAL AT OMAO HOMESTEADS, KOLOA, KAUAI

Mr. Leong informed the Commission of the location of the property under discussion on the district map and delivered the staff memorandum in which the staff again recommended that this petition be approved. (See copy of memo on file.)

Directing his reply to Commissioner Kido, Mr. Leong reported that the area below the proposed Rural District is presently zoned agricultural. Staff has recommended that parcels 14 and 61 and several small parcels across the road from the subject property be considered for inclusion in the Omao Rural District when the district boundaries are reviewed in the near future.

Mr. Leong then pointed out the location of parcels 14 and 61 on the map.

The petitioner did not wish to submit any further testimony. Therefore, Commissioner Kido moved that the Commission grant approval of the boundary amendment. Motion was seconded by Commissioner Inaba and was unanimously carried.

PETITION BY JOSEPH S. BRUN (A68-199) TO RECLASSIFY 6 ACRES FROM AGRICULTURAL TO URBAN AT KALAHEO HOMESTEADS, KOLOA, KAUAI

In the staff memorandum presented by Mr. Leong, the staff maintained its original recommendation for approval of Urban Districting the property under consideration. Also, staff was in receipt of a letter from Dr. E. M. Christopherson, Director of the Western Consumer Protection Region, USDA, in which he stated that no slaughtering establishments have been approved for Federal inspection on the island of Kauai.

Executive Officer, Mr. Duran, advised Commissioner Kido that should this request be approved, no conditions can be placed on the approval. The Commission only has the petitioner's word that he will cease to operate his slaughterhouse at such time as he develops his property. Once his property is placed in the Urban District, it will be the County of Kauai's responsibility to plan and zone the property for whatever use they deem appropriate.

Chairman Nishimura informed Commissioner Wung that the nearest slaughterhouse is located on Mr. Andrade's property approximately one mile away from Mr. Brun's slaughterhouse and is also situated in an Agricultural District. The location of this slaughterhouse was pointed out on the district map. It is situated in an Agricultural District and is not within proximity of an urban development. The urban boundary line would be about 3,000 feet away from the agricultural line.

Commissioner Wung was of the consensus that there is a definite need to protect slaughterhouses. In the event that this petition is approved and the petitioner razes his slaughterhouse to develop his property and should Mr. Andrade also decide to discontinue the operation of his slaughterhouse, there will be no slaughterhouse in the area.

Frances Suelto representing the petitioner, Mr. Brun, apprised Chairman Nishimura that she had no idea when Mr. Brun will develop his property.

When question by Mr. Duran as to whether or not there is a need for slaughterhouses on Kauai at present, Frances Suelto stated that there are presently three slaughterhouses on the island. The petitioner is the only proprietor of a slaughterhouse on Kauai that slaughters both cattle and hogs.

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Frances Suelto reiterated her statement from the public hearing held on October 18, 1968, that the Land Use Commission considered the area under discussion for inclusion in the Urban District in 1964. At that time the petitioner requested his property be retained in the Agricultural District because he desired to continue his agricultural activities. Frances Suelto then requested that since he no longer desires to continue his agricultural activities, the Commission act favorably on this rezoning petition.

Chairman Nishimura explained that because a full Commission was not present, the petitioner would need all 6 votes to have this petition approved. He then asked if the petitioner would prefer to have the petition's action deferred until some future meeting when more Commissioners were present. Frances Suelto claimed that she wished action to be taken today and did not desire to defer action.

Commissioner Kido advised Commissioner Wung that in addition to the petitioner's slaughterhouse there is one that slaughters only cattle and one that slaughters only hogs.

In reply to Commissioner Murakami's inquiry, Mr. Duran stated that Mr. Brun's property was placed in the Agricultural District when the temporary district boundaries were established. However, Mr. Brun's property was considered for an Urban District classification when the permanent boundaries were under discussion. Due to Mr. Brun's request, the property was retained in the Agricultural District when the permanent boundaries were finally adopted.

The chair then entertained a motion at which time Commissioner Inaba moved that the petition be approved as recommended by staff, seconded by Commissioner Murakami. Mr. Duran polled the Commissioners as follows:

Ayes: Commissioners Inaba, Murakami, Napier, Kido, and
Chairman Nishimura

Nays: Commissioner Wung

Motion was defeated, and the petition was denied.

Frances Suelto then asked for the name of the Commissioner who cast the only dissenting vote and also his reason for voting unfavorably. Commissioner Wung replied by stating his name and that she should check with the staff after the meeting as his reason for denying the request would be borne out by the records.

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HEARING

PETITION BY FLORO AND TRINIDAD VILLABRILLE AND WILLIAM MAHIKOA (A68-203) TO RECLASSIFY 32.42 ACRES FROM AGRICULTURAL TO URBAN AT KAPAA, KAUAI

The Executive Officer pointed out on the district map the existing Urban District, vacant lands in public ownership, and lands presently occupied by developments surrounding the property under consideration.

Based on staff investigation and analysis, staff tentatively recommended approval of this petition pending the outcome of the studies by the U.S. Corps of Engineers, the Soil Conservation Service, and the consultants for the boundary review program. In addition, staff finds that favorable action on this request would aid in fulfilling the legislative requirement concerning the provision that enough reserve lands for future urban growth be included in the Urban District. (See copy of report on file.)

At this point of the public hearing, staff received a correspondence and a picture on a newspaper clipping showing subject property under water from "one who is concerned" in opposition of the reclassification of the subject parcels. (See letter and newspaper clipping on file.) The contents of the letter were read by Mr. Duran, and both the letter and newspaper clipping were circulated to the Commissioners. The area which is subject to flooding on occasion as shown in the newspaper clipping was pointed out by Mr. Duran on the map.

Chairman Nishimura expressed his concern over the anonymity of the correspondence received.

Mr. Duran was of the opinion that the letter suggested the Land Use Commission should coordinate its action with the Kauai County and the Board of Water Supply, which has been done. The County of Kauai and the Board of Water Supply have both endorsed this petition, and the staff has recommended approval of this rezoning request. Staff has written to the Army Corps of Engineers and the Soil Conservation Service, which is the undertaking of what the anonymous writer has suggested should be done.

In reply to Commissioner Kido's inquiry as to when the cane crop in the area was abandoned, Mr. Duran commented that staff was not knowledgeable of such data.

Mr. Mahikoa, one of the petitioners, reported that the last cane crop was harvested in 1964. The irrigation water for the

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cane was purchased from a Mr. Nakamura, a private landowner. Pointing to the map, Mr. Mahikoa indicated the source and flow of the water. This irrigation water was no longer available in sufficient quantities to supply 20 acres of caneland.

When questioned by Mr. Duran as to his plans for the low-lying land and whether or not he felt that it will be feasible for him to develop this land, Mr. Mahikoa responded that even today there is water in this area.

Mr. Mahikoa then informed Mr. Duran that presently there is no sewer system in the subject area and that he did not know what the plans for such a system would be. In addition, he does not propose to fill the low area at this time.

Mr. Duran related his concern that the flooding condition would adversely affect the cesspools in the event that they are installed into the petitioned area.

Mr. John Texeira, representing the people who are going to develop the area, testified that the photo (newspaper clipping) was taken during an unprecedented flood. Other lands in the area were also flooded. In the past the Kapaa District was planted in rice and was a place for wild ducks. However, the land was filled and was planted in cane. The newspaper clipping is misleading in that it was taken during an exceptional flood which occurs once in a great number of years. The location of the subject land is ideally situated for a subdivision because of its proximity to the bank, stores, and other urban developments. "In the wheels of progress", the problem of housing shortages can be solved if proposed subdivisions such as the petitioners have in mind are approved and developed.

Mr. Texeira reminded the Commission that with big plantations, only a few fee simple parcels are available which are scattered throughout the island.

Because the people interested in developing the land in question have the necessary equipment and facilities accompanied by "know-how", Mr. Mahikoa was convinced that they will build in the petitioned area although it is located in a flood plain and is susceptible to flooding on occasion.

Chairman Nishimura was informed by Mr. Mahikoa that no water comes into his property by way of an irrigation ditch. Mr. Mahikoa estimated the approximate level of the flooded area in the newspaper clipping as being about 6 inches. The petitioner

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has lived on his property since 1926 and has not experienced any flooding. Flooding has occurred only up to the road level that fronts his property.

Perhaps flooding up to 6 inches above the road will occur during a storm if the petitioners develop their land was Chairman Nishimura's opinion.

Due to the fact that the land in the petitioned area is not flat, the petitioners will have to fill in more in some places.

Commissioner Wung felt that if the flood water level meets the edge of the road, it will definitely overflow into the petitioner's property. Mr. Duran added that the same would happen in the event that culverts are installed.

In addition to Commissioner Napier's remark that he was informed that the developer will fill the petitioned area, Mr. Duran added that in order to overcome the flood problem, the developer will of necessity have to fill the area up to a level higher than the road. In this respect, Commissioner Wung suggested that perhaps the filling in of up to a level of 5-6 feet would be advisable.

In further support of this petition, Mr. Texeira attested that no man who intends to develop his property is going to expose himself to law suits in connection with flood problems. Should the petitioners be granted approval of their request and be permitted to accomplish their subdivision development, the outcome will be a community of which the island of Kauai can be proud.

Commissioner Napier questioned Mr. Texeira if he had made arrangements to buy soil to fill the subject parcel before the Commission had granted approval of this request.

Mr. Texeira imparted that the flood water depicted in the newspaper clipping was a combination of rainwater and back-up water from the river. Moreover, the County has made arrangements to bulldoze the area to resolve the problem of flooding.

Attorney Morris Shinsato then came forth and requested that the anonymous letter and the accompanying newspaper clipping received by staff during the course of the public hearing be admitted as part of the records as they represented a fact of the flooding situation. The Waialua Marina has also at one time or another been flooded and was once covered with two feet of water.

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Once lots that are susceptible to flooding conditions are urbanized, it is the primary responsibility of the Land Use Commission to make some sort of provision in this respect. The County will then be responsible for enforcing these provisions.

In addition, Mr. Shinsato continued that there is a considerable demand for houselots in the Urban District on Kauai. Presently, there are only two major direct developments and both are located in the Waialua area. In comparison, the proposed subdivision is in close proximity to the community's amenities.

At this time Commissioner Napier reminded Mr. Shinsato that the Commission was not taking action on this petition today.

On Oahu city engineers required that subdividers provide storm facilities for a 25-year period of storms. Then, the Keapuka flash flood occurred; and the requirements have been raised to a 50-year period. Mr. Duran wondered what standard existed on Kauai on this matter. Chairman Nishimura responded that the County of Kauai is well aware of the stipulations placed on subdividers on Oahu and that storm drains are being installed in new subdivisions on Kauai.

Commissioner Wung related his understanding of Mr. Texeira's statement wherein he stated that the area under petition was flooded by back-up water from the river. To this, Chairman Nishimura commented that it was an accumulation of rainwater from the river rather than back-up water. Commissioner Kido reminded both men that pursuant to Mr. Mahikoa's testimony, it was a combination of rainwater and back-up water. Mr. Mahikoa admitted that he was not present when the flood occurred. In verification of his submittal that flooding occurred because of the combination of rainwater and back-up water from the river, Mr. Mahikoa revealed that the mouth of the river was blocked up thereby causing the overflow and flooding of petitioners' property.

Commissioner Wung asked, in the event the petitioners fill their land in order to prevent flooding of the area, where will the flood water go? Chairman Nishimura suggested that a surveyor take an elevation survey. In this respect, Commissioner Wung declared that the State would have a possible law suit on its hands from the plantation as this is a natural waterway.

Mr. Texeira indicated that the plantation welcomes a flood because of the sediment that will settle on their land. Commissioner Wung was of the consensus that no doubt the

plantation welcomes a flood. However, should they file suit against the State, what would happen then? Most of the land along the river is owned by the plantation was Mr. Texeira's answer.

In response to Mr. Duran's question concerning the County's drainage requirements on any piece of property that is subject to flooding, Mr. Brian Nishimoto, Director, Kauai County Planning Department, advised that the County of Kauai does not have any adopted standards for draining at the present time. However, the County has been utilizing the City and County of Honolulu's adopted standards as a general rule. Mr. Nishimoto mentioned that although the County Engineer was not present, he could best answer Mr. Duran's question. Furthermore, the County Engineer exerts his own discretion in the review of subdivision plans. If he feels that there is a critical problem in drainage, he will apply higher standards to resolve this problem.

Mr. Nishimoto notified Mr. Duran that if the developer disagrees with the County Engineer's standards, the developer will not be allowed to proceed with his subdivision plans. A subdivider must have the County Engineer's approval of his contract, plans, etc., and should the County Engineer deem that the plan or design is improper and unfeasible, the applicant can then proceed to revise said plans so that they meet with his approval.

On the supposition that the subdivider feels the determination made by the County Engineer is not satisfactory, the recourse would be to appeal the County Engineer's decision to the Board of Supervisors.

Attorney Clinton Shiraishi commented that the flood standards for the area under petition are quite high, i.e., for drainage as he has had experience with the Department of Public Works. It was his belief that ninety-eight 10,000 square foot lots can be developed in the petitioned area. Also, in a subdivision of more than 20 lots, the developer must file a very comprehensive subdivision plan. In support of the boundary amendment, Mr. Shiraishi submitted that if the flood problem of the area is the only obstacle, there are adequate safeguards to prevent flooding.

Hearing was closed thereafter.

ADOPTION OF MINUTES

Minutes of November 1, 1968, meeting was approved as circulated.

CONSULTANTS' REPORT

It was suggested that the consultants prepare a report recommendation for the Robinson Trusts et al and HSM Ventures petition (A68-197). Consultants have agreed to do so and are in the process of preparing such recommendation.

NEXT MEETING DATE

The date for the next Land Use Commission meeting was decided on as January 10, 1969, Honolulu, Oahu.

ADJOURNMENT

Meeting was adjourned at 3:25 p.m.