STATE OF HAWAII
LAND USE COMMISSION

Minutes of Meeting

LUC Hearing Room

Honolulu, Hawaii

1:00 P. M. - February 28, 1964

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| Commissioners Present: | James P. Ferry<br>Shiro Nishimura<br>Charles S. Ota<br>Myron B. Thompson<br>Robert G. Wenkam<br>Leslie E. L. Wung |
| Absent: | Shelley Mark<br>C.E.S. Burns<br>Goro Inaba |
| Staff Present: | Raymond Yamashita, Executive Officer<br>Roy Takeyama, Legal Counsel<br>Richard Mar, Field Officer<br>Amy Namihira, Stenographer |

The meeting was called to order by Chairman Thompson who said a short opening prayer.

ADOPTION OF MINUTES

The minutes of 1/17/64, 1/18/64, 1/24/64 and 1/25/64 meetings and public hearings were accepted as circulated with the understanding that changes would be made in sentence structures and phrases, particularly relating to the minutes concerning Oceanic Properties, Inc.

ELECTION OF A TEMPORARY CHAIRMAN

In view that both Chairman and Vice Chairman would be absent at tonight's meeting at 7:00 p.m., election of a temporary chairman was in order.

Commissioner Nishimura moved to elect Commissioner Ota as temporary chairman, to which Commissioner Wenkam seconded the motion. The motion was carried unanimously.

PETITIONS PENDING ACTION

PETITION OF EUGENE & EVA KENNEDY(A(T)62-27) FOR AMENDMENT TO THE TEMPORARY DISTRICT BOUNDARY FROM AN AGRICULTURAL DISTRICT CLASSIFICATION TO AN URBAN DISTRICT CLASSIFICATION FOR LANDS IN LANIKAI, OAHU: Described as TMK 4-3-2: Por. 1

Mr. William Yim, Counsel for petitioners, presented a letter to the Commission (which was read by the Chairman) requesting a withdrawal of their petition.

In light of this request Commissioner Wung moved to accept the request by Eugene and Eva Kennedy to withdraw their petition; which was seconded by Commissioner Nishimura. The motion was carried unanimously.

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PETITION OF SADAMU TSUBOTA (SP(T)63-6) FOR A SPECIAL PERMIT TO CONSTRUCT A MULTI-UNIT RESIDENCE ON SUBJECT PARCEL LOCATED IN PUNA, HAWAII: Described as TMK 1-5-03: 28 containing 3.00 acres

The Field Officer, Richard Mar, gave a background on the petition, and pointed out the location of the area on a map.

The Executive Officer continued with the staff's analysis and recommendation. The recommendation was for disapproval of the petition on the basis that adequate areas, for which a development plan has already been prepared and for which detailed zoning maps will soon be adopted, have already been placed in the urban district. Approval of an urban use, outside of the areas now designated urban would adversely affect orderly development by setting a precedent which can only lead to further scatteration of developments in the area.

The Commissioners felt that the request was reasonable because the area is now serviced with facilities, the area would be most appropriate for a rural classification, and that the needs of this petition were of an unusual nature.

The Chairman asked whether this petition would be more appropriate for a boundary change rather than a special permit. The Executive Officer replied that the request was for a multi-residence use which was an unusual use. Therefore, the special permit procedure would be more appropriate than a boundary change. He stated that if it were a boundary change, approval would constitute spot zoning.

Commissioner Nishimura felt that these people should be given an opportunity to develop their lands, which are available, to their best and highest use. Commissioner Nishimura, recognizing the opportunity this petition would provide in fulfilling the need for more low cost housing in the area, moved to accept this petition by Sadamu Tsubota. The motion was seconded by Commissioner Wung. The Executive Officer polled the Commissioners with the following results:

Approval: Commissioners Wung, Wenkam and Nishimura.

Disapproval: Commissioner Ota and Chairman Thompson.

The motion was not carried because of lack of votes. The petition was denied.

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PETITION OF GILBERT ASHIKAWA (SP(T)63-7) FOR A SPECIAL PERMIT TO SUBDIVIDE PROPERTY INTO TWO LOTS CONTAINING 19,700 SQ. FT. SITUATED IN NORTH KONA, HAWAII: Described as TMK 7-6-10: 18 consisting of 49,300 sq. ft.

A background of the petition was given by the Field Officer, Richard Mar.

The Executive Officer presented a letter from Mr. Ashikawa which was read into the record (letter on file).

The staff recommended denial of the petition on the bases that:

1. The use petitioned for is common rather than unusual and does not meet the requirements of law in this respect.

2. The granting of this petition would constitute spot zoning and would be, in effect, the granting of a special privilege to an individual unless it is to be also made to all similar future petitions. Since the use and the circumstance are not unusual and hardship is not intimated (as has been true in other cases which have been denied), granting of this petition would set a precedence which would provide opportunity for scattered developments to occur.

The consensus of the Commission was that this area was typical of a rural designation and requested that the staff inform Mr. Ashikawa that the Commission would be considering this area (which includes Mr. Ashikawa's property) in a rural district during its deliberation on the final district boundaries.

Commissioner Ota moved to deny the petition on the basis of the staff recommendation. Commissioner Wung seconded the motion. The Executive Officer polled the Commissioners with the following results:

Approval: Commissioners Wung, Ota, Wenkam, Nishimura and Chairman Thompson.

Disapproval: None.

The motion was carried.

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PETITION OF PUNA SUGAR COMPANY (SP(T)63-8) FOR A SPECIAL PERMIT TO SUBDIVIDE A LOT OF 1.424 ACRES FROM A PARCEL OF 253.751 ACRES IN SIZE AND TO DEED THIS LOT WITH AN EXISTING DWELLING TO AN EMPLOYEE OF THE COMPANY, LOCATED IN PUNA, HAWAII: Described as TMK 1-8-05: 141

The Field Officer, Richard Mar reviewed the background on the petition and pointed out the location of the area on a map.

The Executive Officer reviewed the staff's analysis and recommendation (which is on file). The recommendation was for disapproval.

Commissioner Ferry moved to deny the petition by Puna Sugar Company on the basis of the staff's recommendation. Commissioner Wenkam seconded the motion. The Executive Officer polled the Commissioners with the following results:

Approval: Commissioner Ota, Wenkam, Ferry and Chairman Thompson.

Disapproval: Commissioners Wung and Nishimura.

The motion was not carried because of insufficent votes.

A second motion to grant approval of the petition was made by Commissioner Nishimura and was seconded by Commissioner Wung. The Executive Officer polled the Commissioners with the following results:

Approval: Commissioners Wung and Nishimura.

Disapproval: Commissioners Ota, Wenkam, Ferry and Chairman Thompson.

Motion was not carried because of insufficient votes. The petition was thus denied.

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PETITION OF LIHUE PLANTATION COMPANY, LTD. (SP(T)63-6) FOR A SPECIAL PERMIT TO USE A PORTION OF ITS LANDS FOR THE CONSTRUCTION OF A SOUND MOVIE STUDIO COMPLETE WITH HOTEL, RESIDENTIAL AND RESTAURANT FACILITIES CONSISTING OF 30 ACRES LOCATED IN THE SOUTHWEST CORNER OF HANAMAULU BAY, KAUAI: Described as TMK 3-7-02

The Field Officer, Richard Mar, reviewed the background information on the petition and outlined the location of the area on a map.

The Executive Officer reviewed the analysis and recommendation of the staff report (which is on file). The recommendation was for approval in concurrence with the Kauai Planning and Traffic Commission's reasons as follows:

1. The development is directly necessary to the economic development of the County;

2. it is utilizing vacant lands of poor soil conditions to more productive use; and

3. the proposed use of the land is unusual and reasonable within an agricultual district.

However, the recommendation for approval was limited to the south bank of Hanamaula River where it meets the shore.

The question as to the ownership of about one-half of the Hanamaulu sand beach frontage was raised. Tax maps indicated that the sand beach frontage, which was included in the petitioner's petition, was not included as a portion of lands owned by the petitioner.

Commissioner Ferry moved to approve the petition but limiting the area to lands owned by Lihue Plantation as indicated by the tax maps. The motion was seconded by Commissioner Wung. The Executive Officer polled the Commissioners with the following results:

Approval: Commissioners Wung, Ota, Wenkam, Nishimura, Ferry and Chairman Thompson.

Disapproval: None.

The motion was carried.

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PETITION OF DONN CARLSMITH (SP(T)63-9) FOR A SPECIAL PERMIT TO SUBDIVIDE APPROXIMATELY 10.84 ACRES INTO TWO LOTS (38,160 sq. ft. lot and 9.96 acre lot) AND TO DEED THE PROPOSED 38,160 SQ. FT. LOT TOGETHER WITH A DWELLING AND A ROADWAY EASEMENT TO A PROSPECTIVE PURCHASER SITUATED AT ONOMEA, SOUTH HILO, HAWAII: Described as TMK 2-7-10: 5

A summary of the background of the petition was made by the Field Officer, who located the area on a map.

The Executive Officer reviewed the staff's analysis and recommendation. The staff recommendation was for disapproval on the bases stated in the staff report (on file).

Commissioner Wenkam, in response to a question raised by Commissioner Ota, felt that there was insufficient information available to set any standards that would categorize petitions of this nature.

Commissioner Wenkam, therefore, moved to defer action on this petition. The motion was seconded by Commissioner Wung.

The motion was carried unanimously.

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PETITION OF EDWARD & GLADYS HORNER (SP(T)63-5) FOR A SPECIAL PERMIT TO CONSTRUCT A NEW HOME ON LAND SITUATED IN KOLOA, KAUAI: Described as TMK 2-5-06: 18

The Field Officer reviewed the background of the petition and pointed out the location of the area on a map.

The Executive Officer continued with a review of the analysis and recommendation. The recommendation of the staff was for denial on the bases that: (1) the use is not unusual; (2) approval would constitute spot zoning; and (3) justification for similar future petitions and effective control over scattered developments would be lost.

Commissioner Nishimura stated that the petitioners have been prevented from building on their property over a year and has caused them a great hardship.

The Executive Officer was sympathetic with the petitioners' views but stated that the petitioners' land is now in Agriculture and is proposed for an Urban classification. He stated that the special permit process should not be used to circumvent the procedures of a boundary change.

Commissioner Wenkam stated that the area, in reality, is an urban area and that most of the areas which were classified as agriculture under the interim boundaries were arbitrarily established. The previous zoning of the area in agriculture was in error. The argument that a special permit would be contrary to land uses in an agricultural district is purely a technicality. A factual look on the situation shows that the area should be urban and this Commission would be implementing what should have been done if it were to act on this special permit.

Chairman Thompson inquired as to what the possibility for relief to the petitioner would be should this Commission deny this special permit on a technicality. The Executive Officer replied that a petition for a boundary change would involve a waiting period as long as July 1st or longer. He stated that the denial is not only based on a technicality but also a principle. This Commission is mandated to follow the Law and accordingly should base its decisions and actions as mandated by Law.

Commissioner Nishimura moved to accept the petition for a special permit by Edward and Gladys Horner. The motion was seconded by Commissioner Ota. The Executive Officer polled the Commissioners with the following results:

Approval: Commissioners Wung, Ota, Wenkam and Nishimura.

Disapproval: Chairman Thompson.

The motion was not carried because of lack of sufficient votes and the petition was thus denied.

OLD BUSINESS

PETITION OF OCEANIC PROPERTIES, INC. (A(T)63-38), FOR AMENDMENT TO THE TEMPORARY DISTRICT BOUNDARY FROM AN AGRICULTURAL DISTRICT CLASSIFICATION TO AN URBAN DISTRICT CLASSIFICATION FOR LANDS IN WAIPIO, OAHU: Described as Portions of TMK 9-4 and 9-5. (Discussion only - not to take action)

The possible need for additional information on the above petition was stressed in discussions by Commissioner Wenkam. A suggestion to subpoena individuals was

turned down by the Commissioners, and a request to have the Executive Officer initiate letters to certain individuals was met with great reluctance.

The Executive Officer explained that it appeared there were indications that the area under consideration is in demand and in need for agricultural use. He requested permission to write to those individuals who would be qualified in answering questions which needed clarification. This request was granted by the Commission.

The meeting adjourned at 5:30 p.m.