

STATE OF HAWAII  
LAND USE COMMISSION

Minutes of Meeting

November 3, 1972 - 10:30 a.m.

Discovery Room  
Kona Hilton Hotel  
Kailua, Kona, Hawaii

COMMISSIONERS PRESENT: Goro Inaba, Chairman  
Eddie Tangen, Vice Chairman  
Alexander Napier  
Sunao Kido  
Shelley Mark  
Leslie Wung  
Stanley Sakahashi

*Approved*  
AUG 30 1973

COMMISSIONER ABSENT: Tanji Yamamura

STAFF PRESENT: Tatsuo Fujimoto, Executive Officer  
Ah Sung Leong, Planner  
Benjamin Matsubara, Deputy Attorney General  
Dora Horikawa, Clerk Reporter

Chairman Inaba swore in persons wishing to testify during today's proceedings.

ACTION

PETITION BY AGNES P. SMITH (A72-323) TO RECLASSIFY 1.5 ACRES FROM AGRICULTURAL TO URBAN AT KAINALIU, NORTH KONA, HAWAII

It was the staff's recommendation that the petition be approved on the basis of its evaluation (see copy of memo on file).

Commissioner Wung moved to approve the petition, which was seconded by Commissioner Mark and unanimously passed.

✓ PETITION BY GENTRY HAWAIIANA ASSOCIATES, J. V. (A72-325) TO RECLASSIFY 290 ACRES FROM AGRICULTURAL TO URBAN AT SOUTH HILO, HAWAII

Mr. Fujimoto, Executive Officer, presented the staff memo recommending that a 167-acre portion of the property be approved for reclassification from the Agricultural to the Urban District, and the remaining 123 acres (approximate) be retained within the existing Agricultural designation (see copy of report on file).

In response to Commissioner Sakahashi's question, Mr. Fujimoto advised that the 2-bedroom, 2-bath type residential homes will start at the \$33,000 price range based on 1972 costs.

Mr. Glenn Miyao of the Hawaii County Planning staff elaborated that the County's recommendation for approval of the total area was based on the condition that the petitioner apply to the County for zoning within one year, at which time the tentative approval for the non-conforming subdivision will become null and void. Mr. Miyao wondered whether this condition would still be applicable to the 167-acre area that the Land Use Commission staff was recommending for approval. Mr. Fujimoto replied that under the present setup, the Commission could not impose any conditions on boundary amendments so that this will have to be dealt with at the County level. It was also Mr. Fujimoto's feeling that if the petitioner were sincere, he would abide by whatever representation he made before the Land Use Commission.

With respect to the foregoing discussion, Vice Chairman Tangen commented that there was nothing to preclude the Commission from imposing conditions on boundary amendment in concurrence with the County's recommendation. However, Mr. Fujimoto did not feel that Act 187, the enabling legislation, could be implemented at this time without amending the Rules and Regulations after duly conducted public hearings.

Vice Chairman Tangen suggested that perhaps the petitioner could make the representation today to the Commission that he would agree to the two conditions stipulated by the County.

In response, Mr. Paul Tajima, representing the petitioner, stated that some clarification was in order since the total project encompassed 950 lots in a non-conforming subdivision and staff's recommendation to urbanize only a portion of the property would raise a question on the status of the remaining portion. Under the conditions stipulated by the County, approximately 150 of the non-conforming lots would become null and void. Mr. Tajima further observed that the Land Use Commission staff had assumed no change would occur on the non-conforming lots in the area which would remain in the Agricultural District, but the petitioner had not received a similar expression from the County. It was his position that the petitioner's interest should not be jeopardized in terms of the existing 950 lots.

Should the Commission accept staff's recommendation to rezone only the 167-acre portion, Mr. Fujimoto replied that the status of the approximately 150 non-conforming lots would depend upon the

County's interpretation. However, if the County agrees that these lots can exist, the development could result in a higher density.

Commissioner Mark moved for the approval of the petition as recommended by staff, which was seconded by Commissioner Kido.

Mr. Miyao advised that the County's basic intent in recommending approval of the total request was to encourage open spaces within the development which was not possible under the conventional type of subdivision.

Mr. Fujimoto agreed that if the development proceeds as proposed by the petitioner, it would result in a lower density, in terms of the number of units, than what is presently allowed under the non-conforming subdivision approval. He also felt that upon satisfactory performance of the first phase, the Commission could consider urban zoning for the remaining area.

Mr. Miyao further advised that under the grandfather clause, the developer would be bound by the original layout and that no redesign or realignment of the lots, nor change in number of lots, etc., would be allowed. Otherwise, the original approval would become null and void and the agricultural 1-acre minimum would apply.

Mr. Tajima reiterated his earlier concern that if the Commission's action, based on the staff's recommendation, reduced the number of lots from 950 to a lesser figure, he was not certain what course of action the petitioner would take.

Vice Chairman Tangen reflected that the new plan was far superior to the non-conforming subdivision, in terms of density, open space, etc., and agreed with the position taken by the County. However, since there seemed to be some legal implications over the question of density, it was his suggestion that action on this petition be deferred until these questions were clarified.

Commissioners Kido and Sakahashi were of the opinion that the area not rezoned into the urban classification will remain as a non-conforming subdivision.

Mr. Miyao concurred that the County could not declare that the non-conforming subdivision would automatically become null and void. It was hoped that if the total area were urbanized, the petitioner would submit a letter requesting withdrawal of the tentative subdivision approval at the time he applied for zoning.

In response to a question raised by Commissioner Sakahashi regarding the staff's rationale for recommending the 167-acre

portion, Mr. Fujimoto called the Commission's attention to the fact that the plan unit development was reflected in this area. Based on the petitioner's performance, the Commission could consider the remaining area for urbanization on an incremental basis.

Chairman Inaba directed the Executive Officer to poll the Commissioners on the motion on the floor which was defeated with the following votes:

Ayes: Commissioners Napier, Kido, Mark, Sakahashi, Chairman Inaba

Nays: Vice Chairman Tangen, Commissioner Wung

Vice Chairman Tangen announced that he was willing to make a motion to approve the total concept in two increments as recommended by staff and, upon satisfactory performance, the remaining 123 acres will be reclassified to Urban to enable petitioner to proceed with the plan as submitted.

Executive Officer Fujimoto suggested that perhaps the petitioner could elaborate on the time schedule. Mr. Tajima submitted that the area of the townhouse and cluster development will occur in 1973, 1974 and 1975, allowing for appropriate time lag for engineering details, and single family construction will begin in two years. There will be substantial construction in the first increment within 3 years.

Mr. Tajima stated that although he was appreciative of the Commission's concern, it was the petitioner's contention that this was a superior plan and there were several safeguards to protect the Commission's interest.

Commissioner Mark moved to approve the concept on an incremental zoning basis, and at this point reclassify approximately 167 acres as indicated by staff into the Urban District, and upon demonstration of substantial performance by the petitioner within 3 years, that the remaining estimated 123 acres be considered for reclassification to an Urban District. The motion was seconded by Vice Chairman Tangen.

The Commissioners were polled, and the motion was unanimously carried.