



JOHN A. BURNS
GOVERNOR

STATE OF HAWAII

DEPARTMENT OF PLANNING AND ECONOMIC
DEVELOPMENT
LAND USE COMMISSION

426 QUEEN STREET
HONOLULU, HAWAII 96813

December 22, 1964

RAYMOND S. YAMASHITA
EXECUTIVE OFFICER

RECEIVED
PLANNING AND TRAFFIC COMMISSION
DATE: DEC 23 1964
FILE No. #54

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Ref. No. LUC 549

Mr. Edgar A. Hamasu
Director
Planning and Traffic Commission
County of Hawaii
Hilo, Hawaii

Dear Mr. Hamasu:

At its meeting on December 18, 1964, in Honolulu, Hawaii, the Land Use Commission denied the petition for special permit which was submitted by the Department of Land and Natural Resources for TMK 2-4-04: portion of 41, Third Division, containing approximately three acres. The motion to deny was carried by five (5) affirmative votes of the seven (7) commissioners present. There were two (2) dissenting votes to the motion. The denial was based on the staff report which is enclosed for your information.

Should you require additional information, please do not hesitate to contact us.

Very truly yours,

RAYMOND S. YAMASHITA
Executive Officer

Enclosure (1)
cc: Department of Land & Natural Resources
Attention: Mr. Bill Benda

STATE OF HAWAII
LAND USE COMMISSION

10:00 A. M.
December 18, 1964

DP&ED Hearing Room
Honolulu, Hawaii

Staff Report

Subject: Petition for Special Permit, SP64-~~12~~, by Department of Land and Natural Resources

Background

The Planning and Traffic Commission of the County of Hawaii has transmitted its approval of a special permit to the Department of Land and Natural Resources for the purpose of allowing the continuation and to provide for the improvement and/or addition of the existing Hale Manu Craft Shop in Waiakea, South Hilo, TMK 2-4-04: portion of 41 containing approximately three acres.

Access to the property is by a poorly paved one lane road which is called the Old Volcano Road. The land is located about .30 mile from State Highway No. 11 and is approximately three miles from the new Hilo Shopping Center.

A field investigation of the area revealed that the existing Hale Manu Craft Shop is situated on about three acres out of a total of 13 acres in TMK 2-4-04: parcel 41. The shop is located in a dilapidated wooden two story structure which was formerly a CCC barrack and is about 130' long and about 20' wide. The entrance to this building leads into the craft shop where lauhala hats, purses, mats, place mats, and other similar type articles are sold. In addition to the lauhala articles, items such as Hawaiian perfume, post cards, beads, and other tourist type articles are sold. The non-lauhala articles comprise about 30% of the goods for sale. To the rear of the store is the workshop or craft room where about 15 former tuberculin patients are employed weaving lauhala products for sale in the store and elsewhere throughout the State. In addition to the display room and the craft workroom, the building has a kitchen and sanitary facilities. The second floor of the building contains the living quarters where about seven male workers live and act as night

watchmen for the shop. There are four structures on the premise. In addition to the main building, there are two dilapidated work sheds which are used for the drying of the lauhala leaves. Another structure, that looks as if it was ready to collapse, is used as a garage by the owner and the workers.

A Mrs. Park, who is the owner and operator of the Hale Manu Craft Shop, took over the operation in 1958. This original operation was started back in 1948 by the Territory of Hawaii for the rehabilitation of patients who formerly had tuberculosis. Since the owner bought the operation from the Territory of Hawaii, she has retained 15 of the original patients as workers in her craft shop. The owner mentioned that if the craft shop was to cease its operations, there would be no immediate employment for the 15 workers and they would have to apply for welfare benefits to offset the loss of income.

Most of the Hale Manu Craft Shop's business come from passing tourists. During the summer months, approximately three or four bus loads of tourists come by in a single day to look and purchase lauhala products. The commercial operations of the shop are sustained in the winter months by mail orders.

Mrs. Park mentioned that she would like to improve her store by constructing another room for the display of lauhala products. If this could be done, the existing display room would be converted into additional space for the craft workshop. The additional new room would be attached to the existing building where the buses can drive up and let off their passengers.

The only improvements that have been added to the premise is an unpaved cinder road which provides access from the Old Volcano Road. The manager mentioned that additional cinders must be added to the road since the cinder road has not been compacted. The area within the "U" shaped cinder road is planted with tree ferns, lauhala trees, and ti plants. The owner also has plans to bring in lauhala trees

from the nearby forests and plant them on the premise. If enough mature trees can be planted, the owner can pick and dry the leaves on the three acre parcel without having to go out into the rain forests to collect the leaves which is being done under the present situation.

A portion of the Panaewa Forest Reserve lies between the site on the Old Volcano Road and the New Volcano Road. On the opposite side lie undeveloped expanses of State owned lands. The parcel is separated from the Urban District of Hilo by a thousand feet. Most of the parcels in this area range between 3 and 6 acres in size, contain about 12 residences, some agricultural activities and unused areas. Willock's Panaewa Orchard (macadamia) is located on the Old Volcano Road towards Keaau.

Across the new Volcano Highway is the State Panaewa Farm Lots subdivision. This subdivision appears to be going along quite well since there are at least 68 single-family residences in the subdivision. Except for a 20' paved road along Malalika Street, the remaining roads in the subdivision are cinder roads. The area is served by an 8" main water line which runs along State Highway 11. Electricity, telephone and mail service are available in the subdivision. Many of the homes in the subdivision are planting anthuriums.

A 6" water line which originates from an 8" line on Highway 11 serves the craft shop and the 12 residences along the Old Volcano Road.

The slope of land on the subject property is less than 6% and the soils have been classified by the Soil Conservation Service as "Rockland, Pahoehoe lava with Kealakekua, Olaa, or Ohia soil material." The land has a 2" to 6" layer of dark brown or black silt loam and in pastured areas over half of the land is bare of vegetation. Soil covered areas support staghorn ferns, Hilo grass, guava, and other

shrubs. According to the Soil Conservation Service, the land is not very good for pastures since "The carrying capacity is low, and the forage is of poor quality."¹

The rainfall gauge at the Waiakea Mill in Camp 6 shows a median annual rainfall of 167" per year.²

The County of Hawaii has proposed that the area in which the property is situated be zoned as 5-A (5 acre farm lots) while the Land Use Commission's district boundaries have designated the area as agricultural.

Because the Hale Manu Craft Shop is not a permissible use within the Agricultural District, it may be considered to be a non-conforming use. However, the existence of a non-conforming use is a question of fact which has not yet been decided by the County Planning Commission.

Discussion

On this issue, the non-conforming nature of the existing use and the established guidelines in determining an "unusual and reasonable use" need to be examined.

The existence of a non-conforming use is a question of fact to be decided by the County after public notice and hearing. However, the basic nature of the instant use is an urban use, manufacturing and retailing, and is not a permissible use nor a reasonable use in the agricultural district. For all practical considerations, the existing use may be considered a non-conforming use. Further, the County Commission also refers to the use as non-conforming in the transmitted record.

¹ Soil Survey of Territory of Hawaii, p. 634.

² Hawaii Water Authority, Rainfall of the Hawaiian Islands, p. 112.

On this basis, the intent of the Land Use Law is to eventually eliminate, as expeditiously as is reasonable, this existing use; because such elimination "is as much a subject of health, safety and welfare as is the prevention of the establishment of new uses that would violate the provisions of the Land Use Law and regulations". The Land Use Regulations further state that a non-conforming use may be continued but shall not (1) be changed to another non-conforming use, (2) expanded or increased in intensity of use or, (3) re-established after discontinuance and abandonment for a continuous period of one year. In effect, this petition requests that a decision contrary to this non-conformance concept be now rendered. What would be the bases of any decision?

The County Commission's approval is based on 8 listed findings. An analysis of the findings indicate that most of the listed findings are merely statements of facts. Items 6 and 8 in regards to adverse affect upon surrounding properties and unreasonable burden upon public agencies, appear more pertinent. By deduction, the remaining 6 items may be considered supporting statements to the two more pertinent items.

The Land Use Regulations can also be examined for bases to any decision. The Regulations indicate the test of "unusual and reasonable" uses and provides guidelines for determining such "unusual and reasonable" uses which may be permitted. These guidelines are as follows:

- (a) "Such use shall not be contrary to the objectives sought to be accomplished by the Land Use Law and Regulations."

Comment: The Law provides for 4 major use districts. The use should be appropriately relegated to the Urban District as there are no apparent special qualities at the site which the use requires. Adequate areas within urban districts, a portion of which lie but a 1,000 feet away, are available for

such uses. The approval of this petition, under the known circumstances, would also establish a precedence which would make some contribution towards 'scatteration' because there are no special or 'unusual' conditions.

(b) "That the desired use would not adversely affect surrounding property."

Comment: Under the existing conditions, no adverse affect upon surrounding land or uses are apparent. However, any adversities upon future legitimate agricultural uses are unknown. For example, the raising of hogs on an adjacent lot would be a legitimate but incapatible use to the existing use. While the example is only a possibility, the point is that the agricultural district is basically for the protection and encouragement of such agricultural uses. Further, since there are no apparent "unusual" aspects to this petition, there would be no real bases for denying other such special permits elsewhere throughout the agricultural districts -- which fact would increase the potential of incompatible land uses.

(c) "Such use would not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage and school improvements, and police and fire protection."

Comment: The existence of this use, only, does not appear to "unreasonably burden...". However, as a precedence to other such approvals, it would, in time, create unreasonable burdens to public agencies.

(d) "Unusual conditions, trends and needs have arisen since the district boundaries and regulations were established."

Comment: No unusual conditions, trends and needs have arisen since the district boundaries and regulations were established.

(e) "That the land upon which the proposed use is sought is unsuited for the uses permitted within the District."

Comment: While the land is not suited to certain types of cultivated crops, the existence of grazing, poultry, orchards and certain types of floricultural

make the land suitable for uses permitted in the Agricultural District.

It should also be noted that other than agricultural lands may be included in this District.

- (f) "That the proposed use will not substantially alter or change the essential character of the land and the present use."

Comment: Since the use is already existing, the essential character of the land and the present use will not be substantially altered or changed. However, the future desired land use patten, which is the objective of State zoning, will be somewhat frustrated.

- (g) "That the proposed use will make the highest and best use of the land involved for the public welfare."

Comment: The Land Use District Boundaries, as adopted, suggests that an agricultural use is the highest and best use of the land involved for the public welfare. There is no evidence to suggest that whatever benefits, now accruing to the public welfare, would not continue to accrue were the activity located more appropriately in the Urban District. In fact, the benefits to the public welfare would be greater in the long run.

In summary, staff concludes that this petition does not generally meet the established guidelines and the use is not "unusual and reasonable".

As a further commentary, neither the records nor the staff field inspection and analysis revealed any evidence that the site offers anything unique and essential for the continued operation of the existing use. It may be that the site offered a necessary advantage in the existing structures to establish this desired activity. The continued success of the existing desirable activity may also depend on the continued use of the existing structures. However, no such evidence was offered.

On the other hand, the structures are old and somewhat dilapidated, making the removal of this apparent non-conforming use expeditious and reasonable in the near future in accordance with the stated intent in the Regulations.

There is no question as to the desirability of continuing the existing activity in the interests of the public welfare -- but not in that location.

Under the circumstances, staff would conclude that approval of this petition, in effect, would be spot zoning.

Recommendation

Staff recommends disapproval of this petition for special permit on the basis that the use, in the specific location, would not promote the effectiveness and objectives of the Land Use Law.