

JOHN A. BURNS
GOVERNOR



GEORGE S. MORIGUCHI
EXECUTIVE OFFICER

STATE OF HAWAII
LAND USE COMMISSION
426 QUEEN STREET
HONOLULU, HAWAII 96813

September 3, 1965

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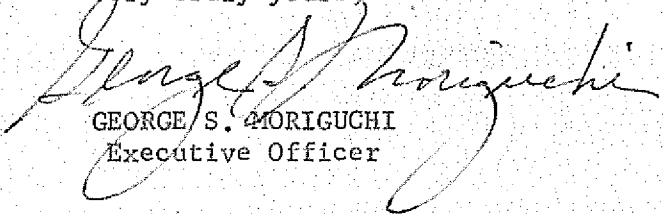
Attention: Mr. Raymond Suefuji, Director

Gentlemen:

At its meeting on August 20, 1965, the Land Use Commission voted to approve the grant of a special permit to David Ota to construct a barber shop which is to be an addition to an existing wood-frame commercial building in a Rural District in Holualoa, Kona, Hawaii, located on a 12-acre portion of a 25.852 acre lot, identifiable as Third Division parcel TMK 7-7-03: 11.

Enclosed for your information is the staff report.

Very truly yours,


GEORGE S. MORIGUCHI
Executive Officer

Encl. - 1
cc: Chairman Thompson
Mr. David Ota
Department of Taxation

STATE OF HAWAII
LAND USE COMMISSION

Hale Halawai Cultural Center
Kailua, Kona, Hawaii

3:00 P.M.
August 20, 1965

STAFF REPORT

Hawaii SP65-14 - DAVID OTA

District Classification: Rural

Background

The record of county proceedings on the application for special permit by David Ota was received from the Hawaii Planning Commission on July 7, 1965. The record shows that the Hawaii Planning Commission favors approval of a special permit to Mr. Ota to construct a barber shop.

It is proposed that the barber shop will be constructed and tacked on to an existing wood-frame commercial building in a Rural District in Holualoa, Kona, Hawaii. The building is located on a 12-acre portion of a 25.852 acre lot, identifiable as Third Division parcel TMK 7-7-03: 11. The building fronts Mamalahoa Highway on the makai side and lies about 1,000 feet south of the junction of the highway with the road from Kailua. It contains a small general store and a small restaurant. The proposed barber shop is to adjoin the restaurant.

The barber shop is an existing operation now located nearly a half mile to the south on the makai side of Mamalahoa Highway. It is presently in an Agricultural District.

The Holualoa Rural District lies between the Kailua-Holualoa Road and an old railroad track, and between the Holualoa and Kuakini Urban Districts.

Within a quarter of a mile of the proposed barber shop site, there are about two dozen homes to which approximately 25 acres may be attributed as residential uses. There is a service station, a Honda dealer and two small stores in the area to which may be attributed about two acres as commercial uses.

There are small areas planted to coffee totalling roughly 5 acres, and there are about 40 acres identifiable as grazing lands. Roughly 45 acres are wild or are undifferentiated for farm uses.

There is no outstanding difference between uses in the Agricultural District above the highway and in the Rural District below the highway. Urban uses are generally located along the highway and are not confined to residential uses alone. Ownership patterns are irregular. Within a single lot uses may be mixed. Large portions are not readily accessible by road and may be in grazing or wild and only in marginal agricultural uses.

Soils are generally of the type containing a shallow layer of Honuaulu clay loam over aa. The area is rough with slopes of about 18% and stony with rock outcrops occurring at short intervals. This combination of characteristics prohibits the use of machinery. Intercropping may be necessary except in areas where terraces and walls have been built to trap soil.

Honuaulu clay loam is about the best soil possible for clay. The shallower phases are only moderately inferior to the parent soil type. Grazing is possible if ways can be found to control shrub and weed growth.

Rainfall is about 40 inches a year with little seasonal variation. Drainage and erosion problems are apt to be negligible, but unusual and unexpected when occurring perhaps between May and September. Winds are negligible, drifting inland during the day and seaward at night. At an elevation of about 1,100 feet, the area under petition is comparatively cool and is generally shielded by cloud cover during daylight hours.

Water is pumped to the Holualoa area and is made available through 8" lines. Power and phone services are also available. There is a school in the Holualoa Urban District about 3,800 feet from the proposed barber shop site. Within the Urban District is a small concentration of commercial facilities and such public facilities as a public library and post office. The nearest hospital, police station and fire station are located in the Kealakekua Urban District,

about six miles south of the proposed barber shop.

Analysis

The record transmitted by the County of Hawaii contains no finding that the proposed use is non-conforming. Action initiated for a special permit, however, clearly indicates that the proposed use is not permissible; otherwise no special permit would be necessary.

Within a Rural District, only agricultural and low density residential uses are permitted. The proposed use is neither of these. The proposed use is a permissible one in Urban Districts, however.

Uses other than agricultural and low density residential uses are permissible in Rural Districts if they are "unusual and reasonable". The record indicates County approval of the application on the basis that the proposed use:

1. Is not contrary to the Land Use Laws and Regulations.
2. Would not adversely affect the surrounding property.
3. Would not unreasonably burden public facilities.
4. Is a necessary convenience for residents of the area.
5. Is justified because unusual conditions, trends and needs have arisen since the district boundaries and regulations were established.

The record, however, contains no facts to substantiate these conclusions and is mute on other guidelines established for determining whether a proposed use is unusual and reasonable. For this reason, your staff would review again the standards (test) for issuing special permits:

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

Rural Districts were added to the classification system by amendment to the original law in 1965. The addition was made not to further the law's original objectives¹ but to mitigate the effects

¹/ Cf. Act 187/SLH 1961, Sec. 1 which cites need for land use controls for economic growth, for tax assessments based in part on land uses, for control of scattered subdivisions, for the preservation of prime agricultural lands and for full use of multiple purpose lands. Cf. Act 205/SLH 1965 which states that Rural Districts have for their purpose mitigation of the law's effects of mixed use areas and development of land in Agricultural Districts which are unsuitable for agricultural uses.

of the law on widespread areas of mixed uses. By specifically identifying the mixture of uses permissible, the Legislature made clear that division of urban uses from agricultural uses was still intended under the law and so preserved the law's original objectives.

The addition of other urban uses to Rural Districts would not only be contrary to the letter of the law--which permits only residential and agricultural uses--but would also dilute, if not violate, the underlying principles of the law.

The effect of the proposed use in terms of the objectives of the land use regulations is discussed in the following paragraphs.

- b) "That the described use would not adversely affect surrounding property."

It is clear from a reading of the Commission's regulations that the proposed use is of a commercial nature customarily provided for in Urban Districts under ordinances and regulations of the Counties.^{2/} The proposed use is accessory to rural uses only in the sense that virtually every commercial and industrial must be.

So long as the area remains in a Rural District, a piggery or a feed lot would be permissible use under the Commission's regulations. Such uses must surely conflict with virtually every urban use except farm and low density residential uses.

So long as the area remains in rural uses, the effect of urban values on farmlands should be minimized if not contained. Where district boundaries are sensibly drawn, agriculturally productive lands can be secluded to a degree from the influence of urban values and taxes. Conversely, the separation would serve to sustain the development of urban areas by focusing available development resources on these areas.

- 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."

A Rural District is potentially, although not necessarily, the most blighting element of the land use classification system permitting residential uses in an area developed to agricultural or near agricultural standards. Roads, sewers, water and drainage systems are built to substandards if they are available at all. Schools and police and fire stations are generally far removed or are underutilized unless employed in conjunction with urban areas.

The proposed use of and by itself will create few demands on public facilities and services. However, to encourage urban uses in an area built to substandards or far removed from urban amenities is to commit, over a period of time, tax revenues to their redevelopment.

Concurrently, it means erosion of productive resources which, however marginal, contributes to the economic base. The double-edged effect serves to explain why naturally endowed areas do not grow but decline, despite intensive infusion of capital resources. Once decline sets in, a diminishing population must be made to sustain increasingly

oversized systems so that little support can be spared for maintenance, let alone expansion.

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

The record indicates that the proposed uses stem from the fact that the barber must relocate from his present site and not because unusual conditions, trends and needs have arisen since the district boundaries and regulations were established.

Staff examination of this matter finds that the most significant events since the establishment of the district boundaries and regulations are:

- 1) elimination or reduction of the interim Keauhou-uka Urban District and
- 2) opening of the Kuakini Highway extension.

Since these two occurrences, there has reportedly been some decline in the Keauhou-uka area. While these changes may explain the shift of the barber shop location toward Holualoa, it is doubtful if the changes can be described as unusual, except in a local context.

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

Both the State General Plan and the Kona Plan prescribe urban use for the particular portion of the land on which the barber shop is to be located. It should be remembered, however, that the matter now before the Commission is not a boundary change proceeding, but a special permit application. It should also be remembered that both the State and Kona plans are based on long-term projections and include a proposal for a new highway just below Mamalahoa Highway. Urban designation for a portion of the property in question is postulated in part on constructing that highway which may not occur until sometime after 1972.

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

The parcel under petition is in mixed uses. The construction of the barber shop will represent an expansion of commercial facilities on the property. Existing commercial facilities are housed in a building 36 to 37 feet long; the barber shop addition will lead to a building about 50 feet long. The character and use of the land will hardly be changed by the addition, except for changes which may result from a partly new integrated facility.

The barber shop would result in a total of about three barbers in the general vicinity of Holualoa which in 1960 had a total population of 704. The addition would represent Commission sanction of a commercial use in what is now a Rural District. Such a use would be atypical of a Rural District, if not in direct violation of statutory provisions.

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

The proposed use would essentially provide a modest urban amenity of a commercial nature to a rural area--rural both in term of the existing districting and existing development densities. But for the present scatter of Urban Districts along the coastal and highway areas makai, it is conceivable that long-term urban development as envisaged by the State and Kona plans could materialize within ten years.

Inconsistency of existing Urban Districts with these plans, however, leads to doubt that the plans are being followed and that resources and markets are being developed according to plan. There are obvious contradictions as to what the highest and best uses of lands in Kona are.

The vast expanse that is Kona should be planned on a comprehensive basis and not in piecemeal fashion. Design principles underlying the Kona plan are essentially correct:

- 1) that the potential for resort development lies along the coast-line,
- 2) that the potential for residential development lies a good deal along the mauka areas,
- 3) that over the long term, some urban concentrations can be hoped for although urban patterns would essentially remain ribbon-like,
- 4) that the urbanization potential for any period of time is not unlimited and that for full and productive use of lands, open space and agricultural uses will continue.

Appreciation of the comprehensive view of the Kona Plan and agreement with the underlying principles lead your staff to conclude that urban use of a portion of the lands under petition would be a reasonable change. However, the change may be untimely and the procedure for change inappropriate.

Recommendation

Denial of the application for special permit is recommended. While the proposed use may be reasonable, particularly over a long period of time, the use is far from unusual.