

STATE OF HAWAII
LAND USE COMMISSION

Minutes of Meeting

Kamehameha Ballrooms
Kona Surf Resort and Country Club
78-128 Ehukai Street
Kailua-Kona, Hawaii

*approved
2/18/91*

January 24, 1991

COMMISSIONERS PRESENT: Renton L.K. Nip, Chairman
Allen K. Hoe, Vice-Chairman
Karen S. Ahn
JoAnn N. Mattson
Elton Wada
Delmond J.H. Won
Allen Y. Kajioka (Portion of
Proceeding)

COMMISSIONERS ABSENT: James M. Shinno
Eusebio Lapenia, Jr.

STAFF PRESENT: Russell Suzuki, Esq, Deputy Attorney
General
Steven Tagawa, Staff Planner
Bert Saruwatari, Staff Planner
Darlene Kinoshita, Chief Clerk

Jean McManus, Court Reporter

Chairman Nip called the meeting to order.

Commissioner Kajioka was excused from this proceeding
due to a declared conflict of interest.

ACTION

A90-662 - LANAI RESORT PARTNERS (Koele)

Chairman Nip announced that the Commission would take
action to determine whether the anticipated effects discussed
in the petition's Environmental Assessment to reclassify
approximately 63.526 acres of land currently in the
Agricultural District into the Urban District, approximately
4.382 acres of land currently in the Conservation District into
the Urban District, and approximately 10.885 acres of land
currently in the Agricultural District into the Conservation
District at Koele, Lanai for residential use constitute a
"significant effect" pursuant to Chapter 343, H.R.S.

Appearances

James Funaki, Esq., Attorney for Petitioner

Philip Ohta, Planning Department, County of Maui

Rick Eichor, Esq., Deputy Attorney General, Office of State Planning

Abe Mitsuda, Land Use Division, Office of State Planning

Karen Yamamoto, Land Use Division, Office of State Planning

The letter dated January 12, 1991 from John D. Gray was entered into evidence by the Land Use Commission.

Additional arguments were heard from Mr. Funaki, Mr. Ohta, and Mr. Eichor.

Commissioner Hoe moved for executive session to confer with the Commission's attorney on legal matters. The motion was seconded by Commissioner Wada and unanimously approved by voice votes.

Commissioner Wada moved that Petitioner's request that the Commission issue a negative declaration be denied.

At this time Mr Funaki, Attorney for Petitioner, requested a continuance on the matter.

At this time, Commissioner Wada withdrew his motion and moved to grant Petitioner's request for continuance. The motion was seconded by Commissioner Hoe and unanimously approved by voice votes.

Commissioner Kajioka joined the proceeding at this time.

A73-367 - JOSEPH FLORES (Kauai)

Chairman Nip announced that the Commission would take action to consider Lawai Hillside Estates Limited Partnership's Motion for Modification of Conditions of the Commission's Amended Decision and Order dated April 26, 1977 which reclassified approximately 16.7 acres of land at Lawai Homesteads, Koloa, Kauai.

Appearances

William Yuen, Esq., Attorney for Petitioner

Cynthia Charlton, Esq., Attorney for Petitioner

Neal Alper, Petitioner

Mike Greenberg, Esq., Deputy County Attorney, County
of Kauai

Abe Mitsuda, Land Use Division, Office of State
Planning

Bert Saruwatari, Staff Planner, oriented the
Commission to the subject area on the Land Use District
Boundaries and tax maps.

Arguments were heard from Mr. Yuen, Mr. Greenberg, and
Mr. Mitsuda. The Commission requested copies of the letter
received from the Housing Department, County of Kauai, which
was read into the record by Mr. Greenberg. After hearing
arguments, questions were asked by the Commissioners.

Commissioner Hoe moved to grant Petitioner's motion to
amend conditions in accordance with conditions filed by the
Petitioner today and additional conditions as follows:

1. Petitioner shall develop the Property in
substantial compliance with representations made to the Land
Use Commission in obtaining the reclassification of the
Property. Failure to so develop the Property may result in
reclassification of the Property to its former land use
classification.

2. Petitioner shall give notice to the Commission of
any intent to sell, lease, assign, place in trust, or otherwise
voluntarily alter the ownership interests in the Property,
prior to development of the property.

3. Petitioner shall provide annual reports to the
Land Use Commission, Office of State Planning, and the County
of Kauai, Planning Department in connection with the status of
the subject project and the Petitioner's progress in complying
with the conditions imposed.

4. The Land Use Commission may fully or partially release these conditions as to all or any portions of the Property upon timely motion and upon the provision of adequate assurance of satisfaction of these conditions by Petitioner.

The motion was seconded by Commissioner Mattson.

Commissioner Ahn moved to amend motion by eliminating Condition #4 of Petitioner's Proposed Conditions of January 24, 1991. The motion was seconded by Commissioner Hoe and unanimously carried by voice votes.

The motion to approve Petitioner's motion for modification of conditions as amended was polled as follows:

Ayes: Commissioner Mattson, Wada, Won, Ahn, Hoe, Kajioka, and Chairman Nip.

HEARING

A89-643 - ROBERT S. McCLEAN AS TRUSTEE OF THE ROBERT S. McCLEAN TRUST (Hawaii)

Chairman Nip announced that the present matter before the Commission is a continuation of the hearing which had begun on October 11, 1990.

Appearances

Robert Smolenski, Esq., Attorney for Petitioner

Robert S. McClean, Petitioner

Norman Hayashi, Director, Planning Department, County of Hawaii

Keith Kato, Planner, Planning Department, County of Hawaii

Ann Ogata-Deal, Esq., Deputy Attorney General, Office of State Planning

Abe Mitsuda, Land Use Division, Office of State Planning

Newman Jackson, Land Use Division, Office of State
Planning

Sandra Pechter Schutte, Esq., Attorney for Intervenor

Arguments on motion to amend petition filed by
Petitioner were heard from Mr. Smolenski.

Commissioner Hoe moved to grant motion to amend
petition. The motion was seconded by Commissioner Won and
unanimously approved by voice votes.

EXHIBITS

1. Elizabeth Ann Stone's letter of October 22, 1990
was entered into evidence by the Land Use Commission.

2. Petitioner's Exhibit Nos. 1 through 28 were
admitted into evidence by the Land Use Commission.

3. County's Exhibit No. 1 was admitted into evidence
by the Land Use Commission. County's Exhibit No. 2 was
withdrawn.

4. State's Exhibit No. 1 was admitted into evidence
by the Land Use Commission.

5. Intervenor's Exhibit No. 1 was entered into
evidence by the Land Use Commission.

PETITIONER'S WITNESSES

1. Robert S. McClean

The meeting was adjourned at 6:30 p.m.