

STATE OF HAWAII
LAND USE COMMISSION

Minutes of Meeting

Conference Rooms 322 B and C
Kalanimoku Building, Third Floor
1151 Punchbowl Street
Honolulu, Hawaii

December 2, 1993

*Approved
12/15/93*

COMMISSIONERS PRESENT:

Trudy Senda
Allen K. Hoe
Elton Wada
Lloyd Kawakami
JoAnn Mattson
Renton L.K. Nip (Portion of
Proceeding)
Delmond J.H. Won

COMMISSIONERS ABSENT:

Karen S. Ahn
Eusebio Lapenia, Jr.

STAFF PRESENT:

Esther Ueda, Executive Officer
Winfred Pong, Esq.,
Deputy Attorney General
Leo Asuncion, Staff Planner
Bert Saruwatari, Staff Planner
Kathy Murakami, Staff Planner
Darlene Kinoshita, Chief Clerk

Cynthia Murphy, Court Reporter

Presiding Officer Senda called the meeting to order.

ACTION

A92-683 - HALEKUA DEVELOPMENT CORPORATION (Oahu)

Presiding Officer Senda announced that the Commission would take action to consider reclassifying approximately 504.865 acres of land currently in the Agricultural District into the Urban District at Hoaeae-Waikele, Ewa, Oahu for single- and multi-family residential, light industrial park, 18-hole golf course, public park, and school uses.

Appearances

Jan Sullivan, Esq., Attorney for Petitioner

Frances Mossman, Planning Department, City and County of Honolulu

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

Abe Mitsuda, Land Use Division, Office of State Planning

Arguments were heard from Ms. Sullivan, Ms. Mossman, and Mr. Eichor. After hearing arguments, questions were asked by the Commissioners.

It was determined by Presiding Officer Senda that all of the Commissioners present were eligible to participate in the action on the petition.

Commissioner Hoe moved to approve the petition by Halekua Development Corporation subject to twenty-eight conditions. The motion was seconded by Commissioner Kawakami and polled as follows:

Ayes: Commissioner Hoe, Wada, Won, Kawakami, Mattson, Nip, and Presiding Officer Senda

Commissioner Nip was excused from the proceeding due to a previously declared conflict of interest.

A92-680 - C. BREWER PROPERTIES, INC. (Hawaii)

Presiding Officer Senda announced that the Commission would take action to consider reclassifying approximately 288.240 acres of land currently in the Agricultural District into the Urban District at Puueo, South Hilo, Hawaii for residential, commercial, school, park, and open space uses.

Appearances

Eric Maehara, Esq., Attorney for Petitioner

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

Abe Mitsuda, Land Use Division, Office of State Planning

The Planning Department, County of Hawaii, indicated by phone that they would not be appearing at this meeting.

At this time, Eric Maehara, Esq., requested a continuance of this action meeting until the next Land Use Commission meeting. There were no objections by the Office of State Planning.

Commissioner Won moved to grant Petitioner's request for a continuance. The motion was seconded by Commissioner Wada and unanimously carried by voice votes.

Commissioner Nip was absent from the proceeding at this time.

A93-698 - CHARLES P. BOOTH, SANDRA E. BOOTH, EDWARD D. BRUFFEY, AND SHARON L. BRUFFEY (Oahu)

Presiding Officer Senda announced that the Commission would take action to determine whether the anticipated effects discussed in Petitioner's Draft Environmental Assessment to reclassify approximately 15,384 square feet of land currently in the Conservation District into the Agricultural District at Waimea, Kawaiiloa, Oahu for residential use constitutes a "significant effect" pursuant to Chapter 343, H.R.S.

Appearances

Shah Bento, Esq., Attorney for Petitioner

Frances Mossman, Planning Department, City and County of Honolulu

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

Abe Mitsuda, Land Use Division, Office of State Planning

Arguments were heard from Mr. Bento, Ms. Mossman, and Mr. Eichor. After hearing arguments, questions were asked by the Commissioners.

Commissioner Hoe moved to accept Petitioner's Environmental Assessment. The motion was seconded by Commissioner Won and polled as follows:

Ayes: Commissioner Hoe, Wada, Won, Kawakami, Mattson, and Presiding Officer Senda.

Commissioner Hoe moved to have this petition heard by Hearing Officer, Ben Matsubara. The motion was seconded by Commissioner Won and unanimously carried by voice votes.

BR92-685 - STATE OF HAWAII, OFFICE OF STATE PLANNING (Hawaii)

Presiding Officer Senda announced that the Commission would take action to reclassify approximately 2,640 acres of land currently in the Conservation and Agricultural Districts into the Urban District at Keahole, Hawaii for urban expansion including university use.

Appearances

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

Marylou Kobayashi, Office of State Planning

The Planning Department, County of Hawaii, indicated by phone that they would not be appearing at this meeting.

The following letters were received by the Commission:

1. October 7, 1993 from Ka Lahui Hawai'i
2. December 1, 1993 from J. Curtis Tyler, III with attached letter dated 11/22/93 to Sherrie Samuels from J. Curtis Tyler, III
3. December 1, 1993 from Leimana Demate, Kona Hawaiian Civic Club

Arguments were heard from Mr. Eichor.

It was determined by Presiding Officer Senda that all of the Commissioners present were eligible to participate in the action on the petition.

Commissioner Mattson moved to approve the Petition by the Office of State Planning subject to thirty-four conditions. The motion was seconded by Commissioner Wada and polled as follows:

Ayes: Commissioner Mattson, Won, Hoe, Kawakami, Wada, and Presiding Officer Senda.

A89-650 - WAIHEE OCEANFRONT HAWAII, INC. (Maui)

Presiding Officer Senda announced that the Commission would take action to consider the Office of State Planning's Motion to Defer Decision on Petitioner Waihe'e Oceanfront Hawaii, Inc.'s Motion to Amend Amended Findings of Fact, Conclusions of Law and Decision and Order filed on June 3, 1991 and to consider Petitioner's Motion to Amend Amended Findings of Fact, Conclusions of Law and Decision and Order filed on June 3, 1991 which reclassified approximately 98.922 acres of land from the Agricultural District into the Urban District and approximately 26.456 acres of land from the Urban District into the Conservation District and denied reclassification of approximately 6.726 acres from the Agricultural District into the Urban District at Waihe'e, Maui for an 18-hole golf course, clubhouse, tennis courts, swimming pool, and other golf course accessory buildings.

On November 4, 1993 the Commission received a Notice of Withdrawal of OSP's Motion to Defer Decision on Petitioner Waihe'e Oceanfront Hawaii, Inc.'s Motion to Amend Amended Findings of Fact, Conclusions of Law and Decision and order filed on June 3, 1991 from Rick Eichor, Esq. Presiding Officer Senda accepted the Office of State Planning's withdrawal of its motion.

Appearances

Eric Maehara, Esq., Attorney for Petitioner

Brian Miskae, Planning Department, County of Maui

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

Abe Mitsuda, Land Use Division, Office of State Planning

Burt Sakata, Intervenor

Arguments on Petitioner's motion were heard from Mr. Maehara, Mr. Miskae, Mr. Eichor, and Mr. Sakata.

Commissioner Wada moved to grant Petitioner's Motion to Amend Conditions 9, 13, and 19 subject to the following amendments:

Condition #9 - Petitioner shall provide a minimum of \$2,000,000 for management, restoration, and education purposes in connection with the conservation easement(s) of which proposals are to be reviewed and approved by the Office of State Planning and the Maui County Planning Department. At Petitioner's sole discretion, in the alternative, \$100,000 per year shall be contributed for 20 years commencing with approval of this petition by the Land Use Commission. Annual reports relating to the management of the conservation easement(s) shall be filed with the State Department of Land and Natural Resources, the Maui County Planning Department, and the Land Use Commission.

Condition No. 13 - That if permitted, Petitioner shall connect the project to the County sewer system in compliance with County Department of Public Works requirements. In absence of sufficient capacity in the County system, Petitioner may utilize a private temporary sewage treatment plant approved by the State Department of Health and the County Department of Public Works, until such capacity in the County System is available.

Condition No. 19 - Petitioner shall complete a preservation plan approved by the Historic Preservation Division, State Department of Land and Natural Resources and the County of Maui prior to the publication of the notice of public hearing for the Coastal Zone Special Management Area application.

Commissioner Wada also moved to amend Condition No. 25 as follows: "Petitioner shall provide annual reports to the Land Use Commission, The Office of State Planning, the County of Maui, Planning Department, and the Intervenor in connection with the status of the subject project and the Petitioner's progress in complying with the conditions imposed.

The motion was seconded by Commissioner Hoe and polled as follows:

Ayes: Commissioner Wada, Hoe, Kawakami, Mattson, Won, and Presiding Officer Senda.

AR&R93-12

Presiding Officer Senda announced that the Commission would take action to authorize public hearings on the proposed amendment to Subchapter 13 of Chapter 15 of Title 15, Hawaii Administrative Rules, entitled, "Petitions for Section 359G-4.1, H.R.S., Housing Projects."

A summary of the proposed rule amendment was given to the Commission by Winfred Pong, Esq., Deputy Attorney General.

Commissioner Kawakami moved to authorize public hearings on the proposed amendment to Subchapter 13 of Chapter 15 of Title 15, Hawaii Administrative Rules. The motion was seconded by Commissioner Wada and unanimously approved by voice votes.

Commissioner Hoe moved to appoint Ben Matsubara, Esq., as Hearing Officer and Winfred Pong, Esq., as alternate Hearing Officer to conduct the public hearings on the proposed amendment. The motion was seconded by Commissioner Won and unanimously carried by voice votes.

A lunch recess was taken at 12:00 p.m. to reconvene at 1:30 p.m.

- 1:30 p.m. -

CONTINUED HEARING

A92-678 - LUINAKOA DEVELOPMENT (Oahu)

Presiding Officer Senda announced that the present matter before the Commission is a continuation of the hearing previously held on October 20, 21, and 22, 1993.

Appearances

Jan Sullivan, Esq., Attorney for Petitioner

Frances Mossman, Planning Department, City and County
of Honolulu

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

Abe Mitsuda, Land Use Division, Office of State Planning

Rodney Uchida, Esq., Attorney for Intervenor

Brian Choy, Esq., Attorney for Intervenor

John Ishihara, for Ainakoa Community Association

EXHIBITS

1. The following letters were admitted into evidence
by the Land Use Commission:

- a. October 19, 1993 from Robert Takafuji
- b. October 19, 1993 from Rita Andrade
- c. October 20, 1993 from Deborah Yasuda
- d. October 20, 1993 from Mitchell Kawamura
- e. October 21, 1993 from Tad Hara
- f. November 24, 1993 from Stuart, Cindee, Tiffany,
and Tyler Shinn.
- g. October 20, 1993 from James Kagawa
- h. October 15, 1993 from Warren and Sherri Sasaki
- i. December 2, 1993 from Ford Ushijima
- j. October 18, 1993 from Abraham P. Iona
- k. October 18, 1993 from Kathleen M. Iona
- l. October 18, 1993 from Verna Mae Perkins
- m. October 8, 1993 from Dianne O'Steen
and Gregory Ahuna

- n. October 20, 1993 from Edwin K. Nakasone
- o. October 20, 1993 from Marco Yoshikami
- p. October 20, 1993 from Andrew M. Fisher
- q. October 20, 1993 from Christopher & Sarah Allday
- r. October 20, 1993 from Andrew Uchida

2. Petitioner's Exhibit Nos. 34 was admitted into evidence by the Land Use Commission.

On November 22, 1993, Petitioner filed an addendum to its petition. There were no objections from OSP and the Planning Department, but there was an objection by Intervenor. Presiding Officer Senda accepted Petitioner's Addendum into evidence.

PETITIONER'S WITNESS

- 1. Richard Fewell

The meeting was adjourned at 3:30 p.m.