

STATE OF HAWAII
LAND USE COMMISSION

Minutes of Meeting

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

approved
6/30/93

June 16, 1993

COMMISSIONERS PRESENT: Allen Y. Kajioka, Chairperson
Renton L.K. Nip
Allen K. Hoe
JoAnn Mattson
Trudy K. Senda
Elton Wada
Delmond J.H. Won

COMMISSIONERS ABSENT: Eusebio Lapenia, Jr.
Karen S. Ahn

STAFF PRESENT: Esther Ueda, Executive Officer
Russell Suzuki, Esq.,
Deputy Attorney General
Kathy Murakami, Staff Planner
Leo Asuncion, Staff Planner
Darlene Kinoshita, Chief Clerk

Holly Hackett, Court Reporter

Chairperson Kajioka called the meeting to order.

ACTION

A91-668 - DON KARLEEN AND PEGGY KARLEEN (Kauai)

Chairperson Kajioka announced that the Commission would take action to consider Petitioner's Motion to Release Conditions of Approval Due to Satisfaction of Conditions of the Decision and Order filed January 8, 1992 which reclassified approximately 6,606 square feet of land from the Conservation District into the Urban District at Wainiha, Kauai for residential use.

Appearances

Jonathan Chun, Esq., Deputy County Attorney, County of
Kauai

MINUTES - June 16, 1993

Page 2

Rick Eichor, Esq., Deputy Attorney General

On June 14, 1993, the Commission received a letter from Walton Hong, Esq., Attorney for Petitioner, requesting a continuance of the action meeting due to a conflict in his schedule. There were no objections by the County of Kauai and the Office of State Planning.

Commissioner Kajioka deferred the action meeting until the Commission's next meeting.

SP93-384 - DEPARTMENT OF PUBLIC WORKS, COUNTY OF KAUAI

Chairperson Kajioka announced that the Commission would take action to consider the establishment of a municipal solid waste landfill, consisting of approximately 63.18 acres, situated within the State Land Use Agricultural District at Kekaha, Kauai.

Appearances

Kauai Jonathan Chun, Esq., Deputy County Attorney, County of

Dale Burton, Department of Public Works, County of Kauai

Bryan Mamaclay, Planning Department, County of Kauai

Phil Crispell, Consultant for Petitioner

Kathy Murakami, staff planner, oriented the Commission to the area being considered on the Land Use District Boundaries and tax maps and gave a summary report of the special use permit request by Petitioner.

Arguments were heard by Mr. Chun on behalf of the County of Kauai. After hearing arguments, questions were asked by the Commissioners.

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

- a. Letter dated June 15, 1993 from Mayor JoAnn Yukimura.

b. Letter dated June 15, 1993 from Council Chair James Tehada.

c. Letter dated June 16, 1993 from Dale Burton, Solid Waste Division, Department of Public Works, County of Kauai.

d. Letter dated July 6, 1993 to Brian J.J. Choy, OEQC, from Ed Renaud, Deputy County Engineer, Department of Public Works, County of Kauai.

e. Letter dated July 15, 1993 to Ed Renaud, Deputy County Engineer, Department of Public Works, County of Kauai from Brian J.J. Choy, OEQC.

Commissioner Senda moved that SP93-384 - DEPARTMENT OF PUBLIC WORKS, COUNTY OF KAUAI to consider the establishment of a municipal solid waste landfill, consisting of approximately 63.18 acres, situated within the State Land Use Agricultural District at Kekaha, Kauai be approved as follows:

Condition Nos. 1a, 1b, 2a, 2b, 2c, 2d, & 2e as approved by the Kauai Planning Commission.

Condition No. 2f as approved by the Kauai Planning Commission, as amended: "The property may harbor rodents which will be dispersed to the surrounding areas when the site is cleared. In accordance with Chapter 25, Vector Control, Title 11, Administrative Rules, State of Hawaii, the applicant shall ascertain the presence or absence of rodents on the property. Should the presence of rodents be determined, the applicant shall eradicate the rodents prior to clearing the site".

Condition 2g as approved by the Kauai Planning Commission, as amended: "In accordance with Chapter 11-60, Air Pollution Control, Title 11, State Administrative Rules, the property owner/developer shall be responsible for ensuring that effective control measures are provided to minimize or prevent any visible dust emission caused by the construction work and the proposed operation from impacting the surrounding areas including the off-site roadways used to enter/exit the project. These measures include but are not limited to the use of water wagons, sprinkler systems, dust fences, etc."

Condition 2h as approved by the Kauai Planning Commission, as amended: "In accordance with Chapter 11-55, Water Pollution Control and Chapter 14, Water Quality Standards, Title 11, State Administrative Rules, the property owner/developer shall be responsible for ensuring that the best management practices (BMP) to minimize or prevent the discharge of sediments, debris, and other water pollutant into State waters is provided.

The property owner/developer shall be responsible for obtaining all applicable permits from the Department of Health including but not limited to National Pollution Discharge Elimination System (NPDES) permits for storm water, hydrostatic test and dewatering prior to commencing construction."

Additional Condition No. 6 to the Kauai Planning Commission conditions: "The Applicant shall provide the Kauai County Planning Department and the Land Use Commission with copies of the final approved metes and bounds map and a description delineating the Permit Area of approximately 63.18 acres."

Additional Condition No. 7 to the Kauai Planning Commission conditions: "This Permit shall cover only lands that are within the State Land Use Agricultural District."

Additional Condition No. 8 to the Kauai Planning Commission conditions: "The Applicant shall commence operations of Phase II of the Kekaha Landfill no later than four months from the date of filing of this Decision and Order by the Land Use Commission."

Additional Condition No. 9 to the Kauai Planning Commission conditions: "The Applicant shall promptly provide, without prior notice, annual reports to the Kauai County Planning Department and the Land Use Commission in connection with the status of the subject project and the Applicant's progress in complying with the conditions imposed herein."

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

Ayes: Commissioner Senda, Hoe, Nip, Wada, Won, and Chairperson Kajioka.

AR&R93-11

Chairperson Kajioka announced that the Commission would take action to authorize public hearings on amendments to Sections 15-15-37, 15-15-50, and 15-15-74 of the Land Use Commission Rules and Regulations pursuant to Act 227 (1992), Session Laws of Hawaii.

A presentation of the amendments was made by Winfred Pong, Esq., Deputy Attorney General, Land Use Commission. After hearing the presentation, questions were asked by the Commissioners.

Commissioner Hoe moved to authorize public hearings with changes to the proposed amendments. The motion was seconded by Commissioner Won and unanimously carried by voice votes.

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

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

Chairperson Kajioka announced that the Commission would take action to consider Petitioner's Motion to Re-open Hearing on the subject docket which consists of approximately 288.240 acres of land currently in the Agricultural District into the Urban District at Puueo, South Hilo, Hawaii for single- and multi-family 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 attending this meeting.

Arguments on the motion were heard from Mr. Maehara and Mr. Eichor.

Commissioner Won moved to grant Petitioner's Motion to Re-open Hearing. The motion was seconded by Commissioner Senda and unanimously carried by voice votes.

A92-683 - HALEKUA DEVELOPMENT CORPORATION (Oahu)

Commissioner Nip joined the proceeding at this time and Chairperson Kajioka was excused from this proceeding due to a previously declared conflict of interest.

Presiding Officer Mattson 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

Albert Chee, for Petitioner

Frances Mossman, Planning Department, City and County of Honolulu

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

Jean Nishida Souza, Land Use Division, Office of State Planning

Abe Mitsuda, Land Use Division, Office of State Planning

The letter dated June 9, 1993 from Senator Randy Iwase was admitted into evidence by the Land Use Commission.

The Commission received a Stipulation between Petitioner and Office of State Planning on Proposed Findings of Fact, Conclusions of Law, and Decision and order filed on June 14, 1993.

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

Commissioner Hoe moved to continue the action of this petition until the next meeting because of the Commission's concerns on Senate Bill No. 5 which was recently enacted into law. The motion was seconded by Commissioner Senda and unanimously carried by voice votes.

HEARING

A92-678 - WILLIAM CROWDER (Oahu)

Pursuant to a notice published in the Honolulu Star Bulletin on May 5, 1993 and notices sent to all parties, a hearing was conducted by the Land Use Commission to consider reclassifying approximately 8.74 acres of land currently in the Conservation District into the Urban District at Waialae Nui, Honolulu, Oahu for a residential lot subdivision.

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

Jean Nishida Souza, Land Use Division, Office of State Planning

Abe Mitsuda, Land Use Division, Office of State Planning

Brian Choy, Esq., Attorney for Intervenor

John Ishihara, for Ainakoa Community Association

EXHIBITS

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

a. Letter dated May 18, 1993 from Joyce Furukawa

- Inouye
- b. Letter dated May 19, 1993 from Senator Daniel K.
 - c. Letter dated May 20, 1993 from Fred Rohlfing
 - d. Letter dated June 4, 1993 from David Kimo Frankel, Oahu Group, Sierra Club
 - e. Senate Resolution 226, S.D.1 received on April 19, 1993
 - f. House Concurrent Resolution No. 304, H.D.1 received on May 14, 1993

On May 24, 1993, the Commission received a Motion to Continue Hearing filed by Petitioner. On June 10, 1993, the Commission also received a Motion for In Camera Inspection of Financial Statement of Petitioner and a Motion to Change the Petitioner from William Crowder to Luinakoa Development.

On June 14, 1993, the Commission received a Stipulation to Continue Hearing filed by the parties.

Arguments on the motions were heard from Ms. Sullivan, Ms. Mossman, Mr. Eichor, and Mr. Choy.

At this time, the Motion for In Camera Inspection of Financial Statement of Petitioner was withdrawn by Ms. Sullivan.

Commissioner Nip moved to grant Petitioner's motion to change the Petitioner from William Crowder to Luinakoa Development with the understanding that Petitioner submits the necessary documentation, and Petitioner's motion to continue hearing as stipulated by the parties. The motion was seconded by Commissioner Mattson and unanimously carried by voice votes.

MISCELLANEOUS

1. ADOPTION OF MINUTES

Commissioner Won moved to approve the minutes for the meeting dates of May 26, 1993 and June 3, 1993. The motion was seconded by Commissioner Senda and unanimously approved by voice votes.

MINUTES - June 16, 1993
Page 9

2. ADOPTION OF MINUTES

Commissioner Mattson moved to adopt the Decision and Orders for Docket No. SP73-159 - Toyama Gardens Hawaii dba Nani Mau Gardens (Hawaii) and A87-613 - The Trustees Under the Will and of the Estate of James Campbell, Deceased (Oahu). The motion was seconded by Commissioner Senda and unanimously approved by voice votes.

The meeting was adjourned at 11:15 a.m. ,