

STATE OF HAWAII
LAND USE COMMISSION

MINUTES OF MEETING

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

November 2, 1995

*Approved
12/1/95*

COMMISSIONERS PRESENT: Allen K. Hoe
JoAnn Mattson
Trudy K. Senda
M. Casey Jarman
Rupert K. Chun
Lloyd Kawakami (Portion of Proceeding)
Merle A.K. Kelai
Elton Wada

COMMISSIONERS ABSENT: Eusebio Lapenia, Jr.

STAFF PRESENT: Jon Itomura, Esq., Deputy Attorney
General
Bert Saruwatari, Staff Planner
Leo Asuncion, Jr., Staff Planner
Darlene Kinoshita, Chief Clerk

Evelyn Miyata, Court Reporter

Chairperson Hoe called the meeting to order.

ACTION

SP78-326 - T.T. MEYER, INC. (Molokai) (Third Amendment)

Chairperson Hoe announced that the Commission would take action to consider a time extension to continue to operate a rock and cinder quarry, concert batching plant, crushing and screening plant, and related operations on approximately 25 acres of land situated within the State Agricultural District at Kapuaokoolau, Molokai.

Appearances

Dennis Ing, Esq., Attorney for Petitioner

Daren Suzuki, Planning Department, County of Maui

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

Arguments on the special use permit were heard from Mr. Ing and Mr. Suzuki.

Commissioner Wada moved that applicant, T.T. Meyer, Inc.'s request be granted subject to the eight recommendations by the Molokai Planning Commission, and the following conditions, as amended, and additional conditions:

"Condition #1: That said Special Permit shall be limited to the operation of a rock and cinder quarry, a concrete batching plant, crushing and screening plant, and stockpile areas;

Condition #4: That the time extension of the Special Use Permit shall be valid for the continued operation of a rock and cinder quarry, a concrete batching plant, a crushing and screening plant, and a stockpile area only, and shall be valid until April 18, 2004, subject to extension upon favorable review by the Molokai Planning Commission and the State Land Use Commission. The Applicant is advised to file for an extension at least six months prior to the expiration date to facilitate timely review;

Condition #5: That this Special Use Permit shall be non-transferrable unless prior approval has been obtained from the Molokai Planning Commission and the State Land Use Commission;

Condition #6: That upon termination of the operation or use, the Applicant shall be responsible to suitably restore the subject property (e.g., removal of structures; revegetation; etc.) in a manner determined to be appropriate by the Molokai Planning Commission;

Condition #7: That the conditions of this Land Use Commission Special Use Permit shall be self-enforcing and, accordingly, upon due notice by the Molokai Planning Commission to the permit holder that there is prima facie evidence that a breach has occurred, the permit shall be temporarily suspended pending a prompt hearing on the continuity of such Land Use Commission Special Use Permit, provided that written request for such a hearing is filed with the Molokai Planning Commission no later than ten (10) days of the date of receipt of such notice of alleged breach. If no request for hearing is filed within the ten (10) day period, the Molokai

Planning Commission may recommend the revocation of said Land Use Commission Special Use Permit. The Molokai Planning Commission's recommendation shall be promptly transmitted to the State Land Use Commission for appropriate action;

Condition #9: The Applicant shall provide to the Maui County Planning Department and the Land Use Commission copies of the final approved metes and bounds map and description of the 25-acre property; and

Condition #10: The Applicant shall timely provide, without prior notice, annual reports to the Maui 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 annual report shall be submitted in a form prescribed by the Executive Officer of the Commission."

The motion was seconded by Commissioner Mattson and unanimously approved by voice votes.

SP95-389 - STATE OF HAWAII, DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES (Kauai)

Chairperson Hoe announced that the Commission would take action to consider a special use permit for construction and operation of a new middle (intermediate) school on approximately 17.65 acres of land situated within the State Agricultural District at Kapaa, Kauai.

Appearances

Eric Nishimoto, for Petitioner, DAGS

Taeyong Kim, for Petitioner, from AM Partners

Gary Asahina, for Petitioner, from AM Partners

The Planning Department, County of Kauai, was not present to the proceeding at this time.

Leo Asuncion, staff planner, oriented the Commission to the special permit area 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 from Mr. Nishimoto. After hearing arguments, questions were asked by the Commissioners.

Commissioner Senda moved to approve the special permit request by the Department of Accounting and General Services and adopt the eight conditions by the Planning Department, County of Kauai with the following modification and additional conditions:

"Condition #1: Upon approval by the Planning Department, a copy of the approved plan and building color scheme shall be filed with the Land Use Commission.

Condition #5: The Applicant shall explore this alternative with the Department of Public Works, Planning Department, affected landowners, and the Department of Transportation during the subdivision process for the project.

Condition #9: The Applicant shall prepare a metes and bounds description and map of the approximately 18.01-acre Special Permit area. The metes and bounds description and map shall be prepared by a registered professional surveyor and be submitted to the Planning Department and Land Use Commission.

Condition #10: The Applicant shall timely provide, without any prior notice, annual reports to the 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 annual report shall be submitted in a form prescribed by the Executive Officer of the Land Use Commission.

Condition #11: The Land Use Commission may fully or partially release conditions provided herein as to all or any portion of the property upon timely motion and upon a recommendation by the Planning Commission."

The motion was seconded by Commissioner Kelai.

Commissioner Jarman moved to amend Commissioner Senda's motion to include the following additional condition: "The applicant shall work with the adjacent landowner to develop a plan to ensure that pesticides used on the adjacent agricultural lands do not migrate to the school. There were no objections by Commissioner Senda and Commissioner Kelai to include the additional condition. The motion was unanimously approved by voice votes."

Commissioner Kawakami joined the proceeding at this time.

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

Chairperson Hoe announced that the Commission would take action to consider Petitioner's Motion for Modification of Conditions imposed by the Land Use Commission on October 24, 1994 which reclassified approximately 15,384.915 square feet of land from the Conservation District into the Agricultural District at Waimea, Waialua, Oahu to increase the size of an existing agricultural lot.

Appearances

Cindy Ching, Esq., Attorney for Petitioners

Abe Mitsuda, Land Use Division, Office of State Planning

Lorene Maki, Land Use Division, Office of State Planning

The Planning Department, City and County of Honolulu, was not present to the proceeding at this time.

Commissioner Senda moved to grant Petitioner's motion for modification of Condition No. 1 as follows: "Petitioners shall acquire the Petition Area and obtain all zoning and subdivision approvals for the Petition Area from the City and County of Honolulu by April 24, 1997."

The motion was seconded by Commissioner Kelai and unanimously carried by voice votes.

A76-418 - MOANA CORPORATION (Kauai)

Chairperson Hoe announced that the Commission would take action to consider a motion to issue an order to show cause why approximately 457.54 acres of land reclassified from the Agricultural District into the Urban District at Poipu, Kauai for residential, commercial, outdoor theater, cultural center, and recreational uses should not revert to its former land use classification or be changed to a more appropriate classification.

Appearances

Scott MacKinnon, Esq., Attorney for Sports Shinko

Roy Vitousek, III, Esq., Attorney for Hawaiian Trust

Abe Mitsuda, Land Use Division, Office of State Planning

Lorene Maki, Land Use Division, Office of State Planning

The Planning Department, County of Kauai, was not present to the proceeding at this time. Teresa Tico, Esq., Attorney for Intervenor, notified the Commission staff that she would not be present to the proceeding at this time.

Arguments were heard from Mr. Vitousek, Mr. MacKinnon, and Mr. Mitsuda.

Commissioner Senda moved to schedule the order to show cause hearing only with respect to the undeveloped areas in the petition area. The motion was seconded by Commissioner Mattson and unanimously carried by voice votes.

A95-716 - TOKYO GREEN HAWAII, INC. (Hawaii)

Chairperson Hoe announced that the Commission would take action to determine whether the anticipated effects discussed in Petitioner's Environmental Assessment to reclassify approximately 244 acres of land currently in the Conservation District at Kaloko-Kohanaiki, North Kona, Hawaii for commercial, office/commercial, multi-family and single-family residential, school, and park uses constitute a "significant effect" pursuant to Chapter 343, H.R.S.

Appearances

Ned Dewey, for Petitioner

Richard Wurdeman, Esq., Corporation Counsel, County of Hawaii

Abe Mitsuda, Land Use Division, Office of State Planning

Lorene Maki, Land Use Division, Office of State Planning

Commissioner Mattson moved that Petitioner's Environmental Assessment constitute a significant effect and that an Environmental Impact Statement be prepared. The motion was seconded by Commissioner Kawakami and unanimously carried by voice votes.

CONTINUED HEARING

BR94-712 - STATE OF HAWAII, OFFICE OF STATE PLANNING (Oahu)

Chairperson Hoe announced that the matter before the Commission is a continuation of the hearing which was previously held on July 27, 1995.

Appearances

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

Marylou Kobayashi, Office of State Planning

Frances Mossman, Planning Department, City and County of Honolulu

Benjamin Kudo, Esq., Attorney for Intervenor

Kris Nakagawa, Esq., Attorney for Intervenor

Leo Asuncion, staff planner, oriented the Commission to the petition area on the Land Use District Boundaries and tax maps.

EXHIBITS

1. The letter dated October 25, 1995 from Kahuku Village Association, Inc. was admitted into evidence by the Land Use Commission.

2. The letter dated October 25, 1995 from Councilmember Steve Holmes was admitted into evidence by the Land Use Commission.

On October 30, 1995 the Commission received a Motion to Waive Requirement for Copies of Overlay of Vegetation Map from Exhibit 6 to Exhibit 26 filed by Ann Ogata-Deal, Esq., Deputy Attorney General, Office of State Planning. There were no objections by the parties.

Commissioner Jarman moved to approve Petitioner's motion to waive requirement for copies of overlay of vegetation map from Exhibit 6 to Exhibit 26. The motion was seconded by Commissioner Kelai and unanimously carried by voice votes.

MISCELLANEOUS

1. ADOPTION OF MINUTES

Commissioner Mattson moved to approve the minutes for the following dates: October 3, 1995, October 10, 1995, and October 11, 1995. The motion was seconded by Commissioner Kawakami and unanimously approved by voice votes.

2. ADOPTION OF DECISION AND ORDER

Commissioner Senda moved to adopt the Decision and Order for Docket No. BR94-707 - Office of State Planning (Hawaii). The motion was seconded by Commissioner Kawakami and unanimously approved by voice votes.

3. Commissioner Mattson moved to appoint Jon Itomura, Esq., hearings officer to conduct the hearing on the proposed amendments of the Land Use Commission's Rules and Regulations. The motion was seconded by Commissioner Kawakami and unanimously approved by voice votes.

At this time, the Commission adjourned the meeting to take a field trip to the project site on Docket No. BR94-712 - Office of State Planning (Oahu).

The meeting was adjourned at 10:55 a.m.