

STATE OF HAWAII  
LAND USE COMMISSION

Minutes of Meeting

Hearing Room, Room 204  
State Office Tower, Leiopapa A Kamehameha  
235 So. Beretania Street  
Honolulu, Hawaii

May 16, 1996

Approved  
5/31/96

COMMISSIONERS PRESENT:

Allen K. Hoe  
M. Casey Jarman  
Rupert K. Chun  
Merle A.K. Kelai  
Eusebio Lapenia, Jr. (Portion of  
Proceeding)  
Trudy K. Senda (Portion of  
(Proceeding)  
Elton Wada  
Lloyd Kawakami  
JoAnn Mattson

STAFF PRESENT:

Esther Ueda, Executive Officer  
Jon Itomura, Esq.,  
Deputy Attorney General  
Leo Asuncion, Jr., Staff Planner  
Bert Saruwatari, Staff Planner  
Darlene Kinoshita, Chief Clerk  
  
Evelyn Miyata, Court Reporter

Chairperson Hoe called the meeting to order.

Commissioners Senda and Lapenia were not present to the proceeding at this time.

ACTION

A76-418 - MOANA CORPORATION (Kauai)

Chairperson Hoe announced that the Commission would take action to consider First Hawaiian Bank and Hawaiian Trust Company, Ltd.s' Motion to Continue Hearing and Other Proceedings on Land Use Commission's Order to Show Cause and First Hawaiian Bank and Hawaiian Trust Company, Ltd.s' Application for Bill of Particulars.

Appearances

Roy Vitousek, III, Esq., Attorney for First Hawaiian Bank and Hawaiian Trust Company

Grace Kido, Esq., Attorney for First Hawaiian Bank and Hawaiian Trust Company

Shulammit Kim, Esq, Attorney for Sports Shinko

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

Abe Mitsuda, Land Use Division, Office of State Planning

Carol Eblen, Esq., Attorney for Beneficiaries

Gary Slovin, Esq., Attorney for Beneficiaries

Peter Credo, Esq., Attorney for Beneficiaries

The Planning Department, County of Kauai, notified the Land Use Commission staff that they would not be present to this proceeding at this time and had no objections or position in the matter.

Commissioner Mattson declared a conflict of interest with Hawaiian Trust Company at this time. There were no objections by the parties to allow Commission Mattson to participate in the proceedings.

Arguments on the Bill of Particulars were heard from Mr. Vitousek, Ms. Kim, and Ms. Ogata-Deal.

It was mentioned by Chairperson Hoe that the Commission's Deputy Attorney General had drafted a Bill of Particulars. There were no objections by the parties to accept this Bill of Particulars.

Commissioner Jarman moved to accept the Bill of Particulars that was drafted by the Deputy Attorney General. The motion was seconded by Commissioner Kelai and unanimously approved by voice votes.

Commissioner Mattson moved to amend the agenda to include Petitions to Intervene filed by Mr. Lombardi on behalf of Milohae Limited Partnership, Baldwin-Knudsen Family Partnership, and Moir Family Partnership and Ms. Eblen on behalf of KVH Partners and CGB Partners. The motion was seconded by Commissioner Chun and unanimously approved by voice votes.

Commissioner Wada moved to grant the Petitions to Intervene. The motion was seconded by Commissioner Kawakami and unanimously approved by voice votes.

Commissioner Mattson moved to grant the Motion to Continue Hearing for 90 days. The motion was seconded by Commissioner Kelai and unanimously approved by voice votes.

CONTINUED HEARING

BR94-712 - OFFICE OF STATE PLANNING (Oahu)

Chairperson Hoe announced that the Commission would take action to consider Intervenor's Motion to Dismiss the Office of State Planning's Petition to reclassify approximately 181.1 acres of land from the Agricultural District into the Conservation District at Kahuku, Koolauloa, Oahu for protection of wetland habitat.

Appearances

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

Guy Archer, Esq., Deputy Attorney General, Office of State Planning

Mary Lou 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

Arguments on Intervenor's Motion were heard from Mr. Kudo, Mr. Archer, and Ms. Mossman.

The letter dated May 6, 1996 from Benjamin Kudo, Esq., to Don Hibbard, DLNR was admitted into evidence as Intervenor's Exhibit No. 35.

At this time, Mr. Kudo requested a continuance of the hearing. There was an objection by Mr. Archer.

Commissioner Kelai moved to grant Intervenor's request for a continuance. The motion was seconded by Commissioner Kawakami and unanimously approved by voice votes. The issue of the motion to dismiss filed by Mr. Kudo will be taken under advisement.

A lunch recess was taken at 11:00 a.m. to reconvene at 1:00 p.m.

- 1:00 p.m. -

Commissioners Senda and Lapenia joined the proceeding at this time.

ACTION

A89-649 - LANAI RESORT PARTNERS (Manele)

Chairperson Hoe announced that the Commission would take action to consider an Order to Show Cause and to consider Petitioner's Motion for Order Modifying Condition No. 10 of the Decision and Order dated April 16, 1991.

Appearances

James Funaki, Esq., Attorney for Petitioner

Clayton Yoshida, Planning Department, County of Maui

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

Abe Mitsuda, Land Use Division, Office of State Planning

Alan Murakami, Esq., Attorney for Intervenor

Ron McOmber, Intervenor

Arguments were heard from Mr. Funaki, Mr. Yoshida, Mr. Mitsuda, and Mr. Murakami. After hearing arguments, questions were asked by the Commissioners.

Commissioner Wada moved that a violation of Condition 10 had been found and that the Petitioner comply with Condition No. 10 of the Commission's Decision and Order dated April 16, 1991, and shall immediately cease and desist any use of water from the high-level aquifer for golf course irrigation requirements. It is further ordered that the Petitioner shall

file a detailed plan with the Commission within 60 days specifying how it will comply with this Order requiring water use from alternative non-potable sources outside of the high-level aquifer for golf course irrigation requirements. The motion was seconded by Commissioner Mattson and polled as follows:

Ayes: Commissioners Wada, Senda, Chun, Jarman, Kawakami, Kelai, Lapenia, Mattson, and Hoe.

Commissioner Senda moved to deny Petitioner's Motion for Order Modifying Condition No. 10 of the Commission's Decision and Order dated April 16, 1991. The motion was seconded by Commissioner Lapenia and polled as follows:

Ayes: Commissioners Senda, Wada, Chun, Jarman, Kelai, Kawakami, Lapenia, Mattson, and Hoe.

#### MISCELLANEOUS

##### 1. ADOPTION OF MINUTES

Commissioner Jarman moved to approve the minutes as amended for April 25, 1996. The motion was seconded by Commissioner Kelai and unanimously approved by voice votes.

2. Jon Itomura, Esq., Deputy Attorney General, briefed the Commission in regards to House Bill 1866, House Draft 1, Senate Draft 1, and Conference Draft 1, relating to public agency meetings and also alternative procedures on the reversion of the reclassification for Docket No. A88-626 - Gensiro Kawamoto (Maui).

The meeting was adjourned at 2:25 p.m.