

STATE OF HAWAII  
LAND USE COMMISSION

Minutes of Meeting

Ginger Room  
Outrigger Kauai Beach Hotel  
4331 Kauai Beach Drive  
Lihue, Kauai

February 24, 1994

Approved  
3/24/94

COMMISSIONERS PRESENT: Elton Wada  
Lloyd Kawakami  
JoAnn Mattson  
Trudy K. Senda  
Delmond J.H. Won  
Karen S. Ahn  
Renton L.K. Nip  
Eusebio Lapenia, Jr.

COMMISSIONERS ABSENT: Allen K. Hoe

STAFF PRESENT: Esther Ueda, Executive Officer  
Winfred Pong, Esq.,  
Deputy Attorney General  
Leo Asuncion, Staff Planner  
Bert Saruwatari, Staff Planner  
Darlene Kinoshita, Chief Clerk  
  
Jean McManus, Court Reporter

Presiding Officer Wada called the meeting to order.

ACTION

DR94-17 - JOHN GODFREY (Hawaii)

Presiding Officer Wada announced that the Commission would take action to consider Petitioner's Request for declaratory ruling that a dwelling situated on land located in the State Agricultural land use district must be a "farm dwelling" and that the ohana dwelling law does not eliminate that "farm dwelling" requirement.

Appearances

John Godfrey, Petitioner

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

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

Abe Mitsuda, Land Use Division, Office of State Planning

On February 24, 1994, Petitioner filed a request for  
continuance. Arguments on the request were heard from  
Mr. Godfrey, Mr. Wurdeman, and Mr. Eichor.

Commissioner Lapenia moved to grant Petitioner's  
request for continuance. The motion was seconded by  
Commissioner Won.

Commissioner Mattson moved to go into executive session  
to discuss legal issues concerning deadlines for declaratory  
ruling. The motion was seconded by Commissioner Senda and  
unanimously approved by voice votes.

Commissioner Senda moved to amend the motion for  
continuance. The motion was seconded by Commissioner Won and  
unanimously approved by voice votes.

Commissioner Senda moved that pursuant to 15-15-34,  
HAR, the Land Use Commission waive 15-15-100, HAR, based on  
representations by the parties and that the hearing be set for  
April 21, 1994 in Hilo. The motion was seconded by  
Commissioner Mattson and the motion for continuance, as  
amended, was unanimously carried by voice votes.

A93-700 - OBAYASHI HAWAII CORPORATION (Oahu)

Presiding Officer Wada announced that the Commission  
would take action to consider the Petition to Intervene filed  
by Walter Schoettle, Esq., and Kamuela Price.

Appearances

Lyle Harada, Esq., Attorney for Petitioner

Lloyd Yoshioka, Esq., Attorney for Petitioner

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



Abe Mitsuda, Land Use Division, Office of State Planning

Walter Schoettle, Esq., Attorney for potential intervenors

The Commission received a letter dated February 23, 1994 from the Planning Department, City and County of Honolulu, informing the Commission that they will not be appearing at the action meeting and had no objections to the petition to intervene.

Bert Saruwatari, staff planner, oriented the Commission to the area of concern on the Land Use District Boundaries and tax maps.

Arguments on the petition to intervene were heard from Mr. Schoettle, Mr. Harada, and Mr. Eichor.

Commissioner Won moved to go into executive session to consult with our Deputy Attorney General on legal matters. The motion was seconded by Commissioner Lapenia and unanimously approved by voice votes.

Commissioner Nip moved to grant the petition to intervene for Kamuela Price subject to economic impacts of his property and deny intervention status to Mr. Schoettle, Maui Loa, and the Church of Hawaii Nei. The motion was seconded by Commissioner Won and unanimously approved by voice votes.

A84-572 - FOSTER PETROLEUM; A91-664 - F.B.D. ENTERPRISES USA, INC.; and SP90-373 - F.B.D. ENTERPRISES USA, INC.

#### Appearances

Calvin Murashige, Esq., Attorney for Petitioner

Jonathan Chun, Deputy County Attorney, County of Kauai

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

Abe Mitsuda, Land Use Division, Office of State Planning

Brad Dewan, Esq., Attorney for Intervenor, was not present to the proceeding at this time.

A status report of the above-entitled dockets was heard from Mr. Murashige.

AR&R93-12

Presiding Officer Wada 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."

Winfred Pong, Hearing Officer, gave a brief summary of the proposed amendments and requested approval to conduct public hearings on the proposed amendments.

Commissioner Won moved to grant approval to proceed with public hearings on the proposed amendments. The motion was seconded by Commissioner Kawakami and unanimously carried by voice votes.

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

- 1:30 p.m.

HEARING

\* A89-636 - GROVE FARM PROPERTIES (Kauai)

Pursuant to a notice published in the Honolulu Advertiser and the Garden Island, and notices sent to all parties, a hearing was conducted by the Land Use Commission to approve reclassification of a portion of the Second Increment of the subject docket consisting of approximately 4.5 acres of land currently in the Agricultural District into the Urban District at Lihue, Kauai and to clarify location of Parcel 12 on Increment II lands.

Appearances

Dennis Lombardi, Esq., Attorney for Petitioner

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

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



Abe Mitsuda, Land Use Division, Office of State Planning

Tim Mock, Land Use Division, Office of State Planning

Leo Asuncion, Staff Planner, oriented the Commission to the area requesting approval on the Land Use District Boundaries and tax maps.

EXHIBITS

1. Petitioner's Exhibit No. A through I admitted into evidence by the Land Use Commission.

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

PETITIONER'S WITNESS

1. Greg Kamm

Presiding Officer Wada instructed all parties of the post-hearing procedures and declared the hearing closed. The proposed findings from the parties are due on March 18, 1994 and the parties have until April 1, 1994 in which to respond.

A93-697 - THE COUNTY OF KAUAI AND GROVE FARM PROPERTIES, INC.  
(Kauai)

Pursuant to a notice published in the Honolulu Advertiser and the Garden Island, and notices sent to all parties, a hearing was conducted by the Land Use Commission to consider reclassification of approximately 34.402 acres of land currently in the Agricultural District into the Urban District at Niumalu, Lihue, Kauai for relocation of golf course holes.

Appearances

Dennis Lombardi, Esq., Attorney for Petitioner

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

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

Abe Mitsuda, Land Use Division, Office of State Planning

Tim Mock, Land Use Division, Office of State Planning

Don Heacock, Intervenor

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

EXHIBITS

1. Petitioner's Exhibit A through V, X through BB were admitted into evidence by the Land Use Commission. Petitioner's Exhibit W was deleted.

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

PETITIONER'S WITNESSES

1. Greg Kamm
2. Richard L. Green
3. Phillip Bruner
4. Mayor JoAnn Yukimura
5. Winona Char
6. Paul Rosendahl
7. Allen Fitz

The meeting was adjourned at 5:00 p.m.