

STATE OF HAWAII  
LAND USE COMMISSION

Minutes of Meeting

House Conference Room 310  
Third Floor, State Capitol  
Honolulu, Hawaii

May 2, 1991

*approved*  
*5/30/91*

COMMISSIONERS PRESENT: Allen K. Hoe, Vice-Chairman  
Karen S. Ahn (Portion of Proceeding)  
JoAnn N. Mattson  
Elton Wada  
Allen Y. Kajioka  
Eusebio Lapenia, Jr.

COMMISSIONERS ABSENT: Renton L.K. Nip, Chairman  
James M. Shinno  
Delmond J.H. Won

STAFF PRESENT: Esther Ueda, Executive Officer  
Russell Suzuki, Esq, Deputy Attorney  
General  
Steven Tagawa, Staff Planner  
Bert Saruwatari, Staff Planner  
Leo Asuncion, Student Helper  
Darlene Kinoshita, Chief Clerk  
  
Priscilla Gonzaga, Court Reporter

Vice-Chairman Hoe called the meeting to order.

ACTION

SP91-377 - KAELEKU FARMS, Inc. (Hana, Maui)

Vice-Chairman Hoe announced that the Commission would take action to consider the establishment of a proposed commercial campground on approximately 23.8 acres of land situated within the State Land Use Agricultural District at Kaeleku, Hana, Maui.

Appearances

Martin Luna, Esq., Attorney for Petitioner

Grant Chun, Esq., Attorney for Petitioner

Guy Archer, Esq., Deputy Corporation Counsel, County  
of Maui

Clayton Yoshida, Planning Department, County of Maui

Isaac Hall, Esq., Attorney for Intervenor

Terry Lynch, Intervenor

Bert Saruwatari, 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.

Oral arguments were heard from Mr. Luna.

Commissioner Ahn was absent from the proceeding at this time.

SP91-378 - MILILANI GROUP, INC. (Oahu)

Vice-Chairman Hoe announced that the Commission would take action to consider a special use permit for the existing Mililani Memorial Park and the expansion of the existing Mililani Memorial Park on approximately 112 acres of land situated within the State Land Use Agricultural District at Mililani, Oahu.

Appearances

Tyrone Kusao, for Petitioner

Rex Kuwasaki, for Petitioner

Bill Enriques, Department of General Planning, City and County of Honolulu

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

Arguments were heard from Mr. Kusao.

Commissioner Kajioka moved to approve SP91-378 - Mililani Group, Inc. for a special use permit for the existing Mililani Memorial Park and the expansion of the existing Mililani Memorial Park on approximately 112 acres of land situated within the State Land Use Agricultural District at Mililani, Oahu subject to the five conditions of the City and County of Honolulu, Planning Commission's Order, and Condition Number 6 and Number 7 as follows:

Condition Number 6, Petitioner shall provide a metes and bounds survey map and description of the Special Permit area.

Condition Number 7, Petitioner shall establish the permitted use of the Special Permit Area within 2 years of this Order.

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

Ayes: Commissioner Kajioka, Lapenia, Mattson, Wada, and Vice-Chairman Hoe.

Commissioner Ahn joined the proceeding at this time.

SP91-377 - KAELEKU FARMS, INC. (Hana, Maui) (Continued)

This matter was previously argued by Mr. Luna this morning. Arguments were heard from Mr. Hall.

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

- 1:25 p.m. -

SP91-377 - KAELEKU FARMS, INC. (Hana, Maui) (Continued)

Further arguments were heard from Mr. Luna. After hearing arguments from the parties, questions were asked by the Commissioners.

Commissioner Wada moved for an executive session to consult with the Commission's attorney to discuss legal matters. The motion was seconded by Commissioner Mattson and unanimously carried by voice votes.

Commissioner Wada moved in the matter of SP91-377 - Kaeleku Farms, Inc. to consider the establishment of a proposed commercial campground on approximately 23.8 acres of land situated within the State Land Use Agricultural District at Kaeleku, Hana, Maui subject to the nine conditions as recommended by the Maui Planning Commission and an additional condition as follows:

"If subsurface historic remains such as artifacts, burials or deposit of charcoal or shells are encountered during construction work, the contractor shall stop work in the vicinity of the find and contact the State's historic sites section immediately. This office will assess the situation and recommend mitigation if necessary."

The motion was seconded by Lapenia and polled as follows:

Ayes: Commissioner Wada and Lapenia.

Nays: Commissioner Kajioka, Mattson, Ahn, and Vice-Chairman Hoe.

The motion did not pass.

A89-650 - WAIHE'E OCEANFRONT HAWAII, INC. (Maui)

Vice-Chairman Hoe announced the Commission would take action to consider Petitioner's Motion to Amend and Modify Findings of Fact, Conclusions of Law and Decision and Order dated November 20, 1990 which reclassified approximately 98.922 acres of land currently in the Agricultural District into the Urban District and approximately 26.456 acres of land currently in the Urban District into the Conservation District at Waihee, Maui for an 18-hole golf course, clubhouse, tennis courts, swimming pool, and other golf course accessory buildings.

Appearances

Eric Maehara, Esq., Attorney for Petitioner

Raymond Iwamoto, Esq., Attorney for Petitioner

Donald Hidani, Esq., Attorney for Petitioner

Guy Archer, Esq., Deputy Corporation Counsel, County  
of Maui

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

Burt Sakata, Intervenor

Arguments on the motion were heard from Mr. Maehara.  
In addition to Petitioner's arguments, testimony was heard from  
Petitioner's witness.

PETITIONER'S WITNESS

1. Robin Nelson

Further arguments on the motion were heard from  
Mr. Archer, Mr. Eichor, and Mr. Sakata.

In addition to Intervenor's arguments, testimony was  
heard from Intervenor's witness.

INTERVENOR'S WITNESS

1. Dana Naone Hall

Commissioner Wada moved on Docket No. A89-650 -  
Waihe'e Oceanfront Hawaii, Inc. to consider Petitioner's Motion  
to Amend and Modify Findings of Fact, Conclusions of Law and  
Decision and Order dated November 20, 1990 which reclassified  
approximately 98.922 acres of land currently in the  
Agricultural District into the Urban District and approximately  
26.456 acres of land currently in the Urban District into the  
Conservation District at Waihee, Maui for an 18-hole golf  
course, clubhouse, tennis courts, swimming pool, and other golf  
course accessory buildings be granted subject to the following  
modifications:

1. Findings numbers 82, 83, 84, and 95 shall remain as adopted by the Commission as reflected in the Commission's Decision and Order dated November 20, 1990.

2. Finding 42a as proposed by the Office of State Planning on May 1, 1991 be adopted.

3. New Findings numbers 84a and 84b be adopted.

4. Condition Number 7 of the Decision and Order be amended to read: "There shall be no grading or site disturbance on the sand dunes in areas above the 40 foot elevation contour line with the exception of the green and fairway portions of Hole 9 which shall not exceed the 60 foot elevation; the cart path around the green for Hole 9, connecting Holes 9 and 10, which shall not exceed the 65 foot elevation; the green for Hole 14 which shall not exceed the 60 foot elevation; the cart path around the green for Hole 14, connecting Holes 14 and 15, which shall not exceed the 60 foot elevation; and the cart path around the tee for Hole 15, connecting Holes 14 and 15, which shall not exceed the 50 foot elevation; and portions of the parking area, including portions of the tennis court area and the cart path connecting Holes 9 and 10, which shall not exceed the 50 foot elevation. In the event that the 40 foot requirement adversely impacts upon the feasibility of the project, Petitioner may file a motion seeking modification of this condition."

5. Modifications to Condition Number 18 as proposed by the Office of State Planning on May 1, 1991 with the following addition: "In addition, Petitioner shall undertake additional archaeological testing of the sand dunes affected by the revised concept plan number 2. The report of the findings and recommended treatment shall be approved by the Historic Preservation Division, State Department of Land and Natural Resources, and County of Maui, Department of Planning 30 days prior to hearing of Petitioner's application for project district zoning before the County Council."

6. Condition 29 as follows: "Petitioner shall retain the services of a qualified archaeologist who will be on-site to monitor the project during the grubbing and grading activities. Should historic remains be encountered, Petitioner must stop work in the immediate area and allow the

archaeological monitor adequate time to gather sufficient information to evaluate the remains' significance and to then contact the Maui County, Department of Planning, and the State Historic Preservation Division to determine appropriate mitigation measures if needed. Mitigation must then be carried out before construction continues into the immediate area. A copy of the archaeological report on the monitoring shall be submitted to the State Historic Preservation Division for filing."

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

Ayes: Commissioner Wada, Ahn, Kajioka, Lapenia, Mattson, and Vice-Chairman Hoe.

A90-661 - C. Brewer Properties, Inc. (Kauai)

Vice-Chairman Hoe announced that the Commission would take action to consider reclassifying approximately 16.489 acres of land currently in the Conservation District into the Agricultural District and 0.167 acre of land currently in the Agricultural District into the Conservation District at Kalihiwai, Kilauea, Kauai for agricultural use. A hearing had been conducted by Hearing Officer, Benjamin Matsubara, on May 15, 1991.

Appearances

Walton Hong, Esq., Attorney for Petitioner

Craig Champion, for Petitioner

Pete Moynahan, Petitioner

Peter Morimoto, Esq., Deputy County Attorney, County of Kauai

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

Karen Yamamoto, Land Use Division, Office of State Planning

Benjamin Matsubara, Esq., Hearing Officer

Leo Asuncion, Student Helper, oriented the Commission to the area requested for reclassification on the Land Use District Boundaries and tax maps.

Mr. Matsubara present his report and recommendation to the Commissioners. After giving his report, questions were asked by the Commissioners.

Commissioner Lapenia moved that the hearing officer's report and recommendation regarding A91-661 - C. Brewer Properties, Inc. be adopted in its entirety as proposed by Hearing Officer, Ben Matsubara. The motion was seconded by Commissioner Wada and polled as follows:

Ayes: Commissioner Lapenia, Wada, Ahn, Kajioka, Mattson, and Vice-Chairman Hoe.

A87-617 - SIGNAL PUAKO CORPORATION (Hawaii)

Vice-Chairman Hoe announced that the Commission would take action to consider Petitioner's Motion to Change Petitioner's Name and Motion to Amend Findings of Fact, Conclusions of Law and Decision and Order dated January 17, 1989 which reclassified approximately 1,060 acres of land currently in the Agricultural District into the Urban District at Waikoloa, South Kohala, Hawaii.

Appearances

Jan Sullivan, Esq., Attorney for Petitioner

Bruce Tsuchida, for Petitioner

Norman Hayashi, Director, Dept. of Planning, County of Hawaii

Rick Eichor, 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



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

Commissioner Lapenia moved to grant the Motion to Change Petitioner's Name. The motion was seconded by Commissioner Kajioka and unanimously carried by voice votes.

EXHIBITS

1. Petitioner's Exhibit Nos. 1 through 23 were admitted into evidence by the Land Use Commission.

PETITIONER'S WITNESSES

1. Bruce Tsuchida
2. Gregory Mooers

Arguments on the Motion to Amend Findings of Fact, Conclusions of Law and Decision and Order dated January 17, 1989 were heard from Mr. Hayashi and Mr. Eichor. After hearing arguments, questions were asked by the Commissioners.

Vice-Chairman Hoe instructed all parties that proposed memos on the motion are due on May 23, 1991 and the parties have until June 6, 1991 in which to respond.

The meeting was adjourned at 6:00 p.m.