

STATE OF HAWAII  
LAND USE COMMISSION

Minutes of Meeting

Kamehameha Ballrooms  
Kona Surf Resort and Country Club  
78-128 Ehukai Street

August 23, 1994

COMMISSIONERS PRESENT: JoAnn Mattson  
Allen K. Hoe  
Trudy K. Senda  
Lloyd Kawakami  
M. Casey Jarman  
Elton Wada  
Allen Y. Kajioka

*approved  
8/28/94*

COMMISSIONERS ABSENT: Renton L.K. Nip  
Eusebio Lapenia

STAFF PRESENT: Esther Ueda, Executive Officer  
Winfred K.T. Pong, Esq.,  
Deputy Attorney General  
Leo Asuncion, Jr., Staff Planner  
Teri Hee, Secretary

Cynthia Murphy, Court Reporter

Presiding Officer Hoe called the meeting to order.

ACTION

SP94-386 - DEPARTMENT OF PUBLIC WORKS AND WASTE MANAGEMENT,  
COUNTY OF MAUI (Lanai)

Presiding Officer Hoe announced that this was a continuation of the action meeting previously held on August 9, and 10, 1994 to consider expansion of the existing Lanai Sanitary Landfill on approximately 25 acres of land situated within the Agricultural District at Lanai City, Lanai.

Appearances

Gary Zakian, Esq., Deputy Corporation Counsel, County of Maui

Charlie Jencks, Deputy Director, Department of Public Works and Waste Management, County of Maui

Mr. Jencks answered questions raised by the Commissioners.

Commissioner Wada moved that SP94-386 - Department of Public Works and Waste Management, County of Maui to consider expansion of the existing Lanai Sanitary Landfill on approximately 25 acres of land situated within the State Land Use Agricultural District at Lanai City, Lanai, be approved as follows:

Condition Nos. 1 and 2 as approved by the Lanai Planning Commission.

Additional Condition 3 to the Lanai Planning Commission conditions: "Petitioner shall initiate proceedings to terminate the Special Permit issued in LUC Docket No. SP88-368 within 30 days of the issuance of this decision and order.

Additional Condition 4 to the Lanai Planning Commission conditions: "Petitioner shall begin construction of the landfill expansion within six months from the issuance of this decision and order. Construction shall include the removal of any debris or waste material currently in the encroached area and any improvements necessary to operate the landfill pursuant to all applicable rules and regulations."

Additional Condition 5 to the Lanai Planning Commission conditions: "Petitioner shall utilize non-potable water to the extent possible for grading and dust control of the landfill."

Additional Condition 6 to the Lanai Planning Commission conditions: "Petitioner shall ensure that impacts from wind-blown debris into Kalamaiki Gulch is mitigated in a timely manner."

Additional Condition 7 to the Lanai Planning Commission conditions: "Petitioner shall immediately stop work and contact the State Historical Preservation Division, Department of Land and Natural Resources should any previously unidentified archaeological resources such as artifacts, shell, bone, charcoal deposits, human burial, rock or coral alignments, pavings or wall be encountered during the development of the Special Permit area."

Additional Condition 8 to the Lanai Planning Commission conditions: "Petitioner shall timely provide without any prior notice, annual reports to the Land Use Commission and the County of Maui Planning Department in connection with the status of the subject project and Petitioner'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."

Additional Condition 9 to the Lanai Planning Commission conditions: "The conditions imposed herein may be fully or partially released upon timely motion to the Lanai Planning Commission and Land Use Commission and upon the provision of adequate assurance of satisfaction of these conditions by the Petitioner.

Additional Condition 10 to the Lanai Planning Commission conditions: "Petitioner shall fully comply with requirements of the State Department of Health for sanitary landfill operation."

The motion was amended by Allen Hoe to include in Condition No. 8 that Petitioner should also report the remaining capacity of the landfill in the annual report.

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

Ayes: Commissioner Wada, Kajioka, Kawakami, Mattson, Senda, Jarman, and Presiding Officer Hoe.

#### HEARING

#### DR94-17 - JOHN GODFREY

Pursuant to a notice published in the Hawaii Tribune, Herald, West Hawaii Today, and Honolulu Advertiser on July 1, 1994 and notices sent to all parties, the hearing was opened by Presiding Officer Hoe in the matter of the petition by John Godfrey 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 County's ohana dwelling law does not eliminate that "farm dwelling" requirement. The dwelling is located on approximately 10.469 acres of land identified as the "Crazy Horse" subdivision in Kaloko, North Kona, County and State of Hawaii, Tax Map Key No.: 7-3-08: 67, 113-121.

#### Appearances

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

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Robin Loudermilk, Land Use Division, Office of State  
Planning

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

Virginia Goldstein, Planning Director, County of Hawaii

Michael Matsukawa, Esq., Attorney for Petitioner

John Godfrey, Petitioner

EXHIBITS

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

- a. August 17, 1994 from Mark Van Pernis
- b. August 22, 1994 from Pete Crackel
- c. August 23, 1994 from John Broussard
- d. August 23, 1994 from Saundra Duffy
- e. August 23, 1994 from Roger V. Meeker

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

PUBLIC WITNESSES

1. Joseph Nakea
2. Ruth Glatt
3. Stephen Martin
4. Lawrence McKee
5. Jim Schleiger
6. Fanny Auhoy
7. Roger Meeker
8. John Broussard
9. William Lazenby

10. Hank Kekai
11. Mariam Wilkins
12. Shannon Rudolph
13. Jim Rosenfeld

EXHIBITS

1. Petitioner's Exhibit Nos. 1 through 14 were admitted into evidence by the Land Use Commission.
2. County's Exhibit Nos. 1 and 2 were admitted into evidence by the Land Use Commission.
3. OSP's Exhibit No. 1 was admitted into evidence by the Land Use Commission.

A lunch recess was taken at 1:30 p.m. to reconvene at 2:15 p.m.

- 2:30 p.m. -

Commissioners Mattson and Wada were absent from the proceeding at this time.

PETITIONER'S WITNESS

1. John Godfrey

STATE'S WITNESS

1. Rick Eichor

COUNTY'S WITNESS

1. Virginia Goldstein

ADDITIONAL PUBLIC WITNESSES

1. David Tarnas
2. Mel Chamberlain
3. Teri Leicher

4. Janet Butler

Presiding Officer Hoe instructed all parties of the post-hearing procedures and declared the hearing closed. The proposed findings from the parties are due on September 15, 1994 and the parties have until September 29, 1994 in which to respond.

MISCELLANEOUS

1. ELECTION OF OFFICERS

The Election of Officers was deferred until the next meeting on September 8, 1994.

The meeting was adjourned at 4:00 p.m.