

STATE OF HAWAII  
LAND USE COMMISSION

Minutes of Meeting

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

November 30, 1995

*approved  
12/14/95*

COMMISSIONERS PRESENT:

Allen K. Hoe  
Lloyd Kawakami  
M. Casey Jarman  
Elton Wada  
Rupert K. Chun  
Merle A.K. Kelai

COMMISSIONERS ABSENT:

JoAnn Mattson  
Eusebio Lapenia, Jr.  
Trudy Senda

STAFF PRESENT:

Esther Ueda, Executive Officer  
Jon Itomura, Esq.,  
Deputy Attorney General  
Kathy Yonamine, Staff Planner  
Bert Saruwatari, Staff Planner  
Darlene Kinoshita, Chief Clerk  
  
Holly Hackett, Court Reporter

Chairperson Hoe called the meeting to order.

ACTION

SP83-358 - C. EARL STONER, JR. ON BEHALF OF S & F LAND COMPANY  
(Fourth Amendment) (Maui)

Chairperson Hoe announced that the Commission would take action to consider a time extension to continue to operate a construction baseyard and related uses on approximately 17.52 acres of land situated in the State Agricultural District at Puunene, Maui.

Appearances

C. Earl Stoner, Petitioner

Daren Suzuki, Planning Department, County of Maui

Kathy Yonamine, staff planner, oriented the Commission to the special use permit area on the Land Use District Boundaries and tax maps and gave a summary of the special use permit.

Arguments on the special use permit were heard from Mr. Stoner and Mr. Suzuki. After hearing arguments, questions were asked by the Commissioners.

Commissioner Wada moved to grant Petitioner's request for a time extension on the special use permit subject to the County of Maui, Planning Department's recommendations and the following amendments and additional condition:

"Condition #2 - That the Land Use Commission Special Permit shall expire on August 30, 1997;

Condition #3 - The the conditions of this State Special Use Permit shall be self enforcing and, accordingly, upon due notice by the Planning Department to the permit holder and the Land Use Commission that there is prima facie evidence that a breach has occurred, the permit shall be automatically suspended pending a hearing on the continuity of such State Special Permit, provided that a written request for such a hearing is filed with the department within ten (10) days of the date of receipt of such notice of alleged breach. If no request for hearing is filed within said ten (10) day period, the Land Use Commission may revoke said State Special Permit; and

Condition #7 - The Applicant shall file with the Land Use Commission a district boundary amendment petition, pursuant to Chapter 205, Hawaii Revised Statutes, for the subject property. The district boundary amendment petition shall be filed no later than August 30, 1997."

The motion was seconded by Commissioner Kelai polled as follows:

Ayes: Commissioner Wada, Jarman, Kawakami, Kelai, Chun, and Hoe.

A88-630 - PALACE DEVELOPMENT CORPORATION AND HAWAII KA'U AINA  
(Hawaii)

Chairperson Hoe announced that this is a reopened hearing to reclassify approximately 2,420 acres of land from the Conservation District and approximately 900 acres of land from the Agricultural District into the Urban District at Kahuku, Ka'u, Hawaii for a self-contained resort, support community, regional airport, and access road.

Appearances

Mark Zenger, Esq., Attorney for Mr. Chidiac, Palace Development Corp.

Thomas Bodden, for Hawaii Ka'u Aina

Richard Wurdeman, Corporation Counsel, County of Hawaii

Royden Yamasato, Planning Dept., County of Hawaii

Jim Nagle, Esq., Deputy Attorney General, Office of State Planning

Abe Mitsuda, Land Use Division, Office of State Planning

Paul Nahoa Lucas, Esq., Attorney for Intervenor, Pa'a Pono Milolii

Glen Winterbottom, was not present at the proceeding at this time.

PUBLIC WITNESSES

1. Bob Barry
2. Carl Winger
3. Halimah Shabazz
4. Clyde Crawfoot
5. David Monfort
6. Anna Cariaga
7. Edward Greene

8. Charles Young
9. Bonnie Goodell
10. Beverly Byouk

On November 14 and November 29, 1995, a Motion to Dismiss and Amendment to Dismiss was filed by Paul Lucas, Esq. and on November 22, 1995, a Joinder of Motion to Dismiss was filed by Glen Winterbottom.

It was mentioned by Chairperson Hoe that on October 5, 1992, a Notice of Substitution of Parties was filed by Ivan Lui-Kwan, Esq., Attorney for Notepower, Ltd.

Commissioner Jarman moved to amend the petition docket name to Notepower, Ltd. successor to Palace Development Corp. and Hawaii Ka'u Aina. The motion was seconded by Commissioner Kelai and unanimously approved by voice votes.

Commissioner Jarman moved for a Motion for Declaration by the Land Use Commission that appropriate parties are Notepower, Ltd., Hawaii Ka'u Aina, County of Hawaii, Office of State Planning, Glen Winterbottom, and Mr. Lucas for Pa'a Pono Milolii. The motion was seconded by Commissioner Wada and unanimously approved by voice votes.

Mark Zenger, Esq., Attorney for Palace Development Corporation, objected to excluding Palace Development Corporation as a party in this docket because there is a court case pending at First Circuit Court.

Chairperson Hoe noted that on November 27, 1995, the Commission received a letter from Dean Robb, Esq., attorney for Notepower, Ltd., informing the Commission that he would not be present at the meeting today and that Notepower, Ltd. had no position, no witnesses, and no evidence to present.

Commissioner Jarman moved to deem that there was a constructive withdrawal of the pending Docket No. A88-630. The motion was seconded by Commissioner Kelai and unanimously carried by voice votes.

A lunch recess was taken at 12:00 p.m. to reconvene at 1:30 p.m.

CONTINUED HEARING

A93-701 - KAUPULEHU DEVELOPMENTS (Hawaii)

Chairperson Hoe announced that this matter before the Commission was a continuation of the hearing which was previously held on November 16 and 17, 1995.

Appearances

R. Ben Tsukazaki, Esq., Attorney for Petitioner

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

Royden Yamasato, Planning Department, County of Hawaii

Jim Nagle, Esq., Deputy Attorney General, Office of  
State Planning

Robyn Loudermilk, Land Use Division, Office of State  
Planning

Abe Mitsuda, Land Use Division, Office of State Planning

Alfred Lerma, Esq., Attorney for Intervenors (Coalition)

Maile David, Intervenor, Ka Lahui

Charles Young, Intervenor, Ka Lahui

Hannah Springer, Intervenor, Kona Hawaiian Civic Club

Karen Eoff, Intervenor, Protect Kohanaiki

Robert Kim, Esq., Attorney for Intervenor, Plan To  
Protect, was not present to the proceeding at this time.

INTERVENORS' (COALITION) WITNESSES

1. Hannah Springer

Commissioner Wada was absent from the proceeding at  
this time.

2. Pua Kanahele

3. Hannah Springer (Continued)

4. Mahealani Pai

MINUTES - November 30, 1995  
Page 6

4. Mahealani Pai

A dinner recess was taken at 5:00 p.m. to reconvene at  
6:30 p.m.

- 6:30 p.m. -

INTERVENORS' (COALITION) WITNESSES (Continued)

4. Mahealani Pai