

STATE OF HAWAII
LAND USE COMMISSION

Minutes of Meeting

Conference Rooms 322 B and C
Kalanimoku Building
Third Floor, 1151 Punchbowl Street
Honolulu, Hawaii

August 25, 1995

*approved
9/14/95*

COMMISSIONERS PRESENT:

Allen K. Hoe
Eusebio Lapenia, Jr.
Rupert Chun
M. Casey Jarman
Lloyd Kawakami
Merle Kelai
JoAnn Mattson
Trudy K. Senda

COMMISSIONERS ABSENT:

Elton Wada

STAFF PRESENT:

Esther Ueda, Executive Officer
Jon Itomura, Esq.,
Deputy Attorney General
Kathy Yonamine, Staff Planner
Bert Saruwatari, Staff Planner
Teri Hee, Secretary

Evelyn Miyata, Court Reporter

Presiding Officer Hoe called the meeting to order.
Commissioner Kelai was introduced and welcomed to the Commission.

ACTION

SP94-387 - FONG CONSTRUCTION (Maui)

Presiding Officer Hoe announced that this was an action meeting to consider the establishment of a construction baseyard on approximately 31.16 acres of land situated within the Agricultural District at Waikapu, Wailuku, Maui.

Appearances

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

Ann Cua, Maui County Staff Planner

Roderick Fong, Fong Construction

Staff Planner Bert Saruwatari oriented the Commission to the special permit area on the Land Use District Boundaries and tax maps and gave a summary report of the special use permit.

Arguments were heard from Mr. Zakian and Mr. Fong. Questions were asked by the Commissioners.

Commissioner Jarman moved to deny the special permit. Having no second to the motion, the motion failed and Commissioner Senda then moved to approve Fong Construction's special permit request and to adopt all 22 conditions recommended by the Maui County Planning Commission with the following proposed amendments or modifications to those conditions:

Amendment to Condition No. 2 to read as follows:

2. That the conditions of this Land Use Commission Special Use Permit shall be self-enforcing and, accordingly, upon due notice by the Maui County Planning Commission to the permit holder that there is a prima facie evidence that a breach has occurred, the permit shall be temporarily suspended pending a prompt hearing on the continuity of such Land Use Commission Special Use Permit, provided that written request for such a hearing is filed with the Maui County Planning Commission no later than ten (10) days of the date of receipt of such notice of alleged breach. If no request for hearing is filed within the ten (10) day period, the Planning Commission may recommend the revocation of said Land Use Commission Special Use Permit. The Planning Commission's recommendation shall be promptly transmitted to the State Land Use Commission for appropriate action.

Amendment to Condition No. 21 to read as follows:

21. That the following conditions relating to historic preservation shall be adhered to:
 - a) That archaeological subsurface survey work shall be conducted on the prominent dune features within the project area. A report of the findings shall be submitted to the Department of Land and Natural Resources, Historic Preservation Division (DLNR/HPD), and approved prior to the initiation of any earthmoving or vegetation grubbing on the Property. If evidence of human skeletal remains is encountered during the archaeological inventory survey, the

Applicant shall submit a burial preservation or burial treatment plan to the DLNR/HPD for approval. If the burial site appears to be Hawaiian, the treatment plan will be submitted to the Burial Council for their determination.

- b) That a qualified archaeologist shall be on site to monitor vegetation clearing, grubbing, grading, and excavation. A report of the monitoring activities and findings shall be submitted to DLNR/HPD for approval.
- c) That if remains of historic sites are encountered during construction, all work in the vicinity of the find shall stop and the archaeologist shall be given sufficient time to collect information, assess the significance of the find, and confer with the DLNR/HPD regarding appropriate treatment. If human burials are encountered during monitoring, procedures as outlined in Hawaii Revised Statutes §6E-43.6 shall be followed.

Amendment to Condition No. 22 to change the word "Petitioner" to "applicant."

Additional Condition Nos. 23 and 24 to read as follows:

- 23. The applicant shall provide the Maui County Planning Department and the Land Use Commission copies of the final approved metes and bounds map and description of the 31.16-acre Property.
- 24. The applicant shall commence construction of the baseyard no later than one year from the date of filing of this Decision and Order by the Land Use Commission. If the construction of the baseyard does not commence by this period, the Planning Commission may revoke said Land Use Commission Special Use Permit. The Planning Commission, with the concurrence of the Land Use Commission, may extend the time limit if it deems that circumstances warrant the granting of the extension.

The motion was seconded by Commissioner Mattson. Commissioner Jarman voiced her opposition to the special permit. With no further discussions, the Executive Officer polled the Commissioners as follows:

Ayes: Commissioner Senda, Mattson, Chun, Lapenia,
Kawakami, Presiding Officer Hoe.

Nays: Commissioner Jarman

Abstain: Commissioner Kelai

ACTION

A94-710 - WEST MAUI VENTURE GROUP (Maui)

Chairperson Hoe announced that the Commission would take action to consider reclassifying approximately 37.742 acres of land currently in the Agricultural District into the Urban District at Lahaina, Maui for a commercial and light industrial subdivision.

Appearances

Eric Maehara, Esq., Attorney for Petitioner

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

Ann Cua, Planning Department, County of Maui

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

Abe Mitsuda, Land Use Division, Office of State Planning

Arguments were heard by Mr. Maehara, Mr. Zakian and
Mr. Nagle.

Kathy Yonamine, Staff planner, oriented the Commission to the area requesting reclassification on the Land Use District Boundaries and tax maps.

It was determined by the Chairperson that all of the Commissioners present today were eligible to participate in the action on the petition.

Commissioner Senda moved to adopt the Proposed Findings of Fact and Conclusions of Law that was circulated among the parties in Docket No. A94-710/West Maui Venture Group subject to twenty-five conditions. The motion was seconded by Commissioner Jarman and polled as follows:

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

ACTION

A92-683 - HALEKUA DEVELOPMENT CORPORATION (Oahu)

Chairperson Hoe announced that the Commission would take action to consider Petitioner's Motion to Change Ownership Interest in the Petition Area which was reclassified from the Agricultural District into the Urban District at Waikele and Hoaeae, Ewa, Oahu for single and multi-family residential, light industrial park, 18-hole golf course, public park, and school uses.

Appearances

Jan Sullivan, Esq., Attorney for Petitioner

Don Kitaoka, Esq., Attorney for Petitioner

Frances Mossman, Planning Department, City and County of
Honolulu

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

Abe Mitsuda, Land Use Division, Office of State Planning

Paul Matsuo, Department of Agriculture

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

An oral motion was made by Jan Sullivan to replace Exhibit Nos. 2A and 27A to correct the metes and bounds description of the petition area. Exhibit Nos. 2A and 27 were admitted into evidence.

Commissioner Senda moved to grant the motion to correct the metes and bounds description of the petition area. The motion was seconded by Commissioner Mattson and unanimously carried by voice vote.

EXHIBITS

1. Petitioner's Exhibits A through G were admitted into evidence.

All of the persons who appeared today, having been duly sworn in, testified and were examined as set forth in the transcript.

PETITIONER'S WITNESSES

1. Albert Chee
2. Bill Dornbush
3. Herbert Horita

Arguments were heard from Ms. Mossman and Mr. Nagle.

Commissioner Kelai moved to grant Petitioner's request to Change Ownership Interest in the Petition Area. The motion was seconded by Commissioner Chun and approved by voice vote.

PRESENTATION BY THE CITY & COUNTY OF HONOLULU PLANNING DEPARTMENT

Cheryl Soon of the Planning Department, City and County of Honolulu, gave a presentation on the Draft Development Plans for Ewa and Central Oahu.

MISCELLANEOUS

Commissioner Mattson moved to adopt the amended page 2 of the November 1, 1995 minutes and to accept the resolution for Benjamin Matsubara regarding Docket Nos. BR94-707 and A94-708. The motion was seconded by Commissioner Chun and unanimously carried by voice votes.

Commissioner Mattson moved to go into executive session to consult with our Deputy Attorney General on legal matters pertaining to the Circuit Court's ruling in Civil No. 94-4430-11. The motion was seconded by Commissioner Senda and unanimously approved by voice votes.

The meeting was adjourned at 11:55 a.m.