

LAND USE COMMISSION

Minutes of Meeting

Hearing Room 204
State Office Tower, Leiopapa A Kamehameha
235 South Beretania Street
Honolulu, Hawaii

November 1, 1996

*approved
12/12/96*

COMMISSIONERS PRESENT: Trudy K. Senda
Merle A.K. Kelai
M. Casey Jarman
Lloyd Kawakami (Portion of Proceeding)
JoAnn Mattson
Lawrence N.C. Ing
Rupert K. Chun

COMMISSIONERS ABSENT: Eusebio Lapenia, Jr.
Herbert Kaopua, Sr.

STAFF PRESENT: Esther Ueda, Executive Officer
Jon Itomura, Deputy Attorney General
Leo Asuncion, Jr., Staff Planner
Bert Saruwatari, Staff Planner
Darlene Kinoshita, Chief Clerk

Holly Hackett, Court Reporter

Chairperson Senda called the meeting to order.

Commissioner Kawakami was absent from the proceeding at this time.

ACTION

SP90-373 - F.B.D. Enterprises, USA, Inc. (Kauai)

Chairperson Senda announced that the Commission would take action to consider Petitioner's Request to rescind the Special Permit which was approved to establish an 18-hole golf course, clubhouse, and related accessory uses and structures on approximately 204.43 acres of land situated within the Agricultural District at Kilauea, Kauai.

Appearances

Richard Minatoya, Esq., Attorney for Petitioner

Abe Mitsuda, Land Use Division, Office of Planning

The Planning Department, County of Kauai, was not present to the proceeding at this time.

Arguments were heard from Mr. Minatoya and Mr. Mitsuda.

Commissioner Mattson moved to grant Petitioner's request to rescind the Special Permit. The motion was seconded by Commissioner Kelai and unanimously approved by voice votes.

BR94-712 - OFFICE OF STATE PLANNING (Oahu)

Chairperson Senda announced that the Commission would take action to consider Petitioner's Motion to Withdraw Petition to reclassify approximately 181.1 acres of land from the Agricultural District into the Conservation District at Kahuku, Koolauloa, Oahu for protection of wetland habitat.

Appearances

Ann Ogata-Deal, Esq., Deputy Attorney General, Office of Planning

Richard Egged, Jr., Director, Office of Planning

Frances Mossman, Planning Department, City and County of Honolulu

Benjamin Kudo, Esq., Attorney for Intervenor, Campbell Estate

Kris Nakagawa, Esq., Attorney for Intervenor, Campbell Estate

The letter dated October 31, 1996 to Richard Egged, Jr., from David Rae was admitted into evidence by the Land Use Commission.

Arguments were heard from Ms. Ogata-Deal, Ms. Mossman, and Mr. Kudo.

Commissioner Mattson moved to grant Petitioner's Motion to Withdraw Petition. The motion was seconded by Commissioner Jarman and unanimously carried by voice votes.

A76-418 - MOANA CORPORATION (Kauai)

Chairperson Senda announced that the Commission would take action to consider a Motion to Stay Pending Appeal filed by Roy A. Vitousek, III, Esq., attorney for First Hawaiian Bank, as Trustee of the Eric A. Knudsen Trust, and Hawaiian Trust Company, Ltd., as Trustee of the Augustus F. Knudsen Trust.

Appearances

Roy A. Vitousek, III, Esq., Attorney for First Hawaiian Bank and Hawaiian Trust Company

D. Scott MacKinnon, Esq., Attorney for Sports Shinko (Kauai) Co., Ltd.

Gary Slovin, Esq., Attorney for Intervenors, KVH and CGB

Ann Ogata-Deal, Esq., Deputy Attorney General, Office of Planning

Lorene Maki, Land Use Division, Office of Planning

The Planning Department, County of Kauai, was not present to the proceeding at this time.

Further arguments were heard from Mr. Vitousek, Mr. Slovin, Mr. MacKinnon, and Ms. Ogata-Deal. After hearing arguments, questions were asked by the Commissioners.

Commissioner Kelai moved to extend the time frame within which to take action in this docket for a period of six months from November 27, 1996. The motion was seconded by Commissioner Mattson and unanimously approved by voice votes.

At this time, Mr. Vitousek requested to withdraw his motion for stay pending appeal. Chairperson Senda approved Mr. Vitousek's request.

DR96-18 - SALLY RICE AND DEBRALEE KAILIWAI-RAY (Hawaii)

Chairperson Senda announced that the Commission would take action to consider Petitioner's Petition for Declaratory Ruling that a members only 50-unit lodge that is part of a 27-hole golf course, country club and subdivision development is an urban use that cannot be placed in the State Land Use Agricultural District by a Special Permit under §205-6, HRS, and that if said lodge is permitted, the "affected area" of the proposed development includes the golf course/subdivision.

Appearances

Michael Matsukawa, Esq., Attorney for Petitioner

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

Alice Kawaha, Planning Department, County of Hawaii

Ann Ogata-Deal, Esq., Deputy Attorney General, Office of Planning

Abe Mitsuda, Land Use Division, Office of Planning

Sandra Schutte, Esq., Attorney for Big Island Country Club Estates Limited Partnership

A disclosure was made by Commissioner Ing. There were no objections by the parties to have Commissioner Ing participate in the proceeding.

Additional arguments were heard from Mr. Matsukawa, Mr. Wurdeman, Ms. Schutte, and Ms. Ogata-Deal.

Commissioner Mattson moved to go into executive session to consult with the Commission's Deputy Attorney General to discuss legal matters concerning Petitioner's request to withdraw petition for declaratory ruling. The motion was seconded by Commissioner Chun and carried by five voice votes.

Commissioner Kawakami joined the proceeding at this time.

Commissioner Jarman moved to grant Petitioner's request to withdraw petition for declaratory ruling. The motion was seconded by Commissioner Mattson and unanimously carried by voice votes.

At this time, Sandra Schutte, Esq., attorney for Intervenor, requested to withdraw Intervenor's motion to dismiss. Chairperson Senda granted Ms. Schutte's request to withdraw Intervenor's motion to dismiss.

DR96-19 - HAROLD K.L. CASTLE FOUNDATION (Oahu)

Chairperson Senda announced that the Commission would take action to consider Petitioner's Petition for Declaratory Order clarifying and correcting the boundary reclassification of the Land Use Commission under Decision and Order dated June 2, 1975 in Docket No. 074-8 and boundary interpretation dated September 15, 1992 in Boundary Interpretation No. 92-40.

Appearances

James T. Funaki, Esq., Attorney for Petitioner

A disclosure was made by Commissioner Mattson. There were no objections by the parties to have Commissioner Mattson participate in the proceeding.

Arguments were heard from Mr. Funaki. After hearing arguments, questions were asked by the Commissioners.

Commissioner Jarman moved to issue a Declaratory Order correcting the boundary reclassification of the Land Use Commission under Decision and Order dated June 2, 1975 in Docket No. 074-8 and in Boundary Interpretation No. 92-40 to reflect the delineation of TMK No.: 4-2-14: 4 to include 4.442 acres from the Conservation District into the Urban District. The motion was seconded by Commissioner Chun and unanimously approved by voice votes.

A96-717 - C. EARL STONER, JR. ON BEHALF OF S & F
LAND COMPANY, INC. (MAUI)

Chairperson Senda announced that the Commission would take action to consider reclassifying approximately 51.946 acres of land currently in the Agricultural District into the Urban District at Waikapu, Wailuku, Maui for an industrial baseyard and related uses.

Appearances

C. Earl Stoner, Jr., Petitioner

Clayton Yoshida, Planning Department, County of Maui

Ann Ogata-Deal, Esq., Deputy Attorney General, Office of Planning

Ruby Edwards, Office of Planning

Arguments were heard from Mr. Stoner, Mr. Yoshida, and Ms. Ogata-Deal.

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

Commissioner Kelai moved to approve the petition by C. Earl Stoner on Behalf of S & F Land Company, Inc. incorporating the Findings of Fact as circulated to the parties and subject to twenty-six conditions.

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Commissioner Jarman moved to amend Findings of Fact No. 31, 34, 58, and 66. The motion was seconded by Commissioner Ing and approved by Commissioner Kelai.

The motion as amended was polled as follows:

Ayes: Commissioners Kelai, Ing, Mattson, Chun, Jarman, Kawakami, and Senda

MISCELLANEOUS

1. ADOPTION OF DECISION AND ORDER

Commission Jarman moved to adopt the Decision and Order for SP92-380 - Hawaiian Cement (Maui). The motion was seconded by Commissioner Ing and unanimously by voice votes.

2. ADOPTION OF MINUTES

Commissioner Kawakami moved to approve the minutes for the following meeting date: October 10, 1996. The motion was seconded by Commissioner Jarman and unanimously approved by voice votes.

The meeting was adjourned at 11:30 a.m.