

STATE OF HAWAII  
LAND USE COMMISSION

Minutes of Meeting

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

September 12, 1996

approved  
10/10/96

COMMISSIONERS PRESENT: Rupert K. Chun  
Merle A.K. Kelai  
M. Casey Jarman  
Lloyd Kawakami  
JoAnn Mattson  
Lawrence N.C. Ing

COMMISSIONERS ABSENT: Eusebio Lapenia, Jr.  
Trudy K. Senda  
Herbert Kaopua, Jr.

STAFF PRESENT: Jon Itomura, Deputy Attorney General  
Leo Asuncion, Jr., Staff Planner  
Bert Saruwatari, Staff Planner  
Darlene Kinoshita, Chief Clerk  
  
Holly Hackett, Court Reporter

Presiding Officer, Rupert K. Chun, called the meeting to order.

ACTION

A96-718 - SCHULER HOMES, INC. (Oahu)

Vice-Chairperson Chun announced that the Commission would take action to consider Petitioner's Motion to Withdraw Petition for Land Use District Boundary Amendment.

Appearances

Dennis Lombardi, Esq., Attorney for Petitioner

Frances Mossman, Planning Department, City and County of Honolulu

Winfred K.T. Pong, Esq., Deputy Attorney General, Office of Planning

Lorene Maki, Land Use Division, Office of Planning

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Arguments on Petitioner's Motion were heard from Mr. Lombardi, Ms. Mossman, and Mr. Pong.

Commissioner Mattson moved to accept Petitioner's Motion to Withdraw Petition. The motion was seconded by Commissioner Kelai and unanimously approved by voice votes.

A94-708 - OFFICE OF STATE PLANNING (Oahu)

Vice-Chairperson Chun announced that the Commission would take action to consider Petitioner's Motion to Withdraw Without Prejudice.

Appearances

Winfred K.T. Pong, Esq., Deputy Attorney General, Office of Planning

Marylou Kobayashi, Office of Planning

Frances Mossman, Planning Department, C&C of Honolulu

Richard Bertero and Robert Schneider, Chevron U.S.A., were not present to the proceeding at this time.

Arguments on Petitioner's Motion to Withdraw Without Prejudice were from Mr. Pong and Ms. Mossman.

Commissioner Kelai moved to approve Petitioner's Motion to Withdraw Without Prejudice. The motion was seconded by Commissioner Ing and unanimously approved by voice votes.

A87-613 - THE TRUSTEES UNDER THE WILL AND OF THE ESTATE OF JAMES CAMPBELL, DEC. (Oahu)

Vice-Chairperson Chun announced that the Commission would take action to consider Petitioner's Motion to Release, Discharge and Delete All Conditions Imposed on Certain Lands Made a Part of the Commission's Findings of Fact, Conclusions of Law, and Decision and Order dated September 23, 1988, as amended on March 29, 1989; May 30, 1989; June 4, 1989; and as amended on June 17, 1993.

Appearances

Benjamin Kudo, Esq., Attorney for Petitioner

Kris Nakagawa, Esq., Attorney for Petitioner

Lloyd Haraguchi, for Petitioner

Stephen Sekiya, for Hawaiian Electric Company

Frances Mossman, Planning Department, C&C of Honolulu

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

Lorene Maki, Land Use Division, Office of Planning

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

At this time, Kris Nakagawa, Attorney for Petitioner, moved to amend the tax map key numbers from 9-1-16: Por 34 to 9-1-16: 113. There were no objections by the County and State.

Arguments on Petitioner's motion were heard from Mr. Nakagawa, Ms. Mossman, and Ms. Ogata-Deal.

Commissioner Ing moved to approve Mr. Nakagawa's motion to amend the tax map key numbers. The motion was seconded by Commissioner Jarman and unanimously approved by voice votes.

Commissioner Mattson moved to approve Petitioner's Motion to Release, Discharge and Delete All Conditions Imposed on Certain Lands Made a Part of the Commission's Findings of Fact, Conclusions of Law, and Decision and Order. The motion was seconded by Commissioner Jarman and polled as follows:

Ayes: Commissioner Mattson, Kelai, Kawakami, Ing, Jarman, and Vice-Chairperson Chun

A92-683 - HALEKUA DEVELOPMENT CORPORATION (Oahu)

Vice-Chairperson Chun announced that the Commission would take action to consider Petitioner's Amended Motion to Amend Findings of Fact, Conclusions of Law, and Decision and Order of the Land Use Commission dated December 9, 1993 which reclassified

approximately 504.865 acres of land 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

Frances Mossman, Planning Department, C&C of Honolulu

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

Lorene Maki, Land Use Division, Office of Planning

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

Arguments on Petitioner's Amended Motion were heard from Ms. Sullivan, Ms. Mossman, and Ms. Ogata-Deal.

Petitioner's Exhibit Nos. 1 through 34 were admitted into evidence by the Land Use Commission. Ms. Sullivan also informed the Commission that Exhibit Nos. 3 through 8 are various deeds in which the TMK's for the property were recently changed from being 9-4-2: Por. 1 and 52 to 9-4-2: 1, 70, 71, and Por. of 52.

PETITIONER'S WITNESSES

1. James Hallstrom
2. Albert Chee

After hearing arguments and testimonies, questions were asked by the Commissioners.

Commissioner Mattson moved to amend the Motion to Amend Findings of Fact, Conclusions of Law and Decision and Order dated December 9, 1993 as stated in Petitioner's Second Proposed Amended Findings of Fact, Conclusions of Law and Decision and Order as reviewed by all the parties and as stated to delete Finding of Fact 128, delete Finding of Fact 205 and renumber Findings of Fact accordingly.

Condition No. 1 is replaced by the following:

"Petitioner shall provide affordable housing opportunities for low to moderate income residents of the State of Hawaii to the satisfaction of the City and County of Honolulu. The location and distribution of the affordable housing and other provisions for affordable housing shall be under such terms as are mutually agreeable to the Petitioner and the City and County of Honolulu."

The following conditions 6, 13, and 20 are deleted.

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

Ayes: Commissioner Kelai, Mattson, Ing, Jarman, Kawakami, and Chun.

BR94-712 - OFFICE OF STATE PLANNING (Oahu)

Vice-Chairperson Chun announced that this matter before the Commission is a continuation of the hearing which was previously held on May 16, 1996.

Appearances

Planning Guy Archer, Esq., Deputy Attorney General, Office of

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

Marylou Kobayashi, Office of Planning

Frances Mossman, Planning Department, C&C Of Honolulu

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

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

Vice-Chairperson Chun announced that the Commission would hear additional arguments on Intervenor's Motion to Dismiss that was filed in May. Arguments on the Motion to Dismiss were heard from Mr. Kudo, Mr. Archer, and Ms. Mossman.

Commissioner Mattson moved to go into executive session to discuss with our deputy attorney general legal issues concerning the motion to dismiss. The motion was seconded by Commissioner Jarman and unanimously approved by voice votes.

Commissioner Ing moved that Intervenor's Motion to Dismiss be denied. The motion was seconded by Commissioner Jarman and polled as follows:

Ayes: Commissioners Ing, Jarman, and Mattson

Nays: Commissioners Kelai, Kawakami, and Chun

Commissioner Kawakami moved to go into executive session to discuss with our deputy attorney general legal issues concerning the motion not passing. The motion was seconded by Commissioner Mattson and unanimously approved by voice votes.

Jon Itomura, Deputy Attorney General, informed the parties by reading Section 15-15-13 of the Rules, that regarding votes taken in a Commission action on a motion the majority would be "4" since there are 6 Commissioners present.

Commissioner Kawakami moved to approve Intervenor's Motion to Dismiss. The motion was seconded by Commissioner Kelai and polled as follows:

Ayes: Commissioners Kawakami, Kelai, Ing, and Chun

Nays: Commissioners Mattson and Jarman

#### MISCELLANEOUS

1. The Commission went into executive session to hear status reports on the litigation cases pending before the Circuit Courts from Jon Itomura, Esq., Deputy Attorney General.

The meeting was adjourned at 12:05 p.m.