

LAND USE COMMISSION

Minutes of Meeting

Nahele Room  
Sandalwood Clubhouse  
2500 Honoapiilani Hwy.  
Waikapu, Maui

Approved  
11/4/99

October 21, 1999

COMMISSIONERS PRESENT: P. Roy Catalani  
Bruce A. Coppa  
Isaac Fiesta, Jr.  
Lawrence N.C. Ing  
Merle Kelai (portion of proceedings)  
Stanley Roehrig  
Peter Yukimura

COMMISSIONERS ABSENT: Pravin Desai  
M. Casey Jarman

STAFF PRESENT: Esther Ueda, Executive Officer  
James Chang, Deputy Attorney General  
Presley Pang, Deputy Attorney General  
Bert Saruwatari, Staff Planner  
Russell Kumabe, Staff Planner  
Teri Hee, Chief Clerk

Lynann Nicely, Court Reporter

Chairperson Kelai called the meeting to order at 10:00 a.m.

ACTION

DR99-22 - CITY AND COUNTY OF HONOLULU (Oahu)

Chairperson Kelai announced 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 its 1969 Five-Year Boundary Review dated August 14, 1969 and Boundary Interpretation No. 99-12 dated July 30, 1999.

On October 20, 1999, the Commission received a facsimile Testimony of the Department of Land and Natural Resources In Support of Docket DR 99-22.

On October 20, 1999, the Commission received a facsimile letter from Jan Naoe Sullivan, Director of Planning and

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Permitting stating that they will not be attending today's meeting and are in support of this petition.

Appearances

Clayton Ching, Department of Design and Construction,  
Petitioner

Lee William Sichter, Belt Collins Hawaii for Petitioner

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

Abe Mitsuda, Director, Office of State Planning

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

Deputy Attorney General James Chang clarified to the Commission that the substance for the petition for declaratory ruling asks that the Commissioners now look back and determine that the map as it is drawn right now does not reflect what the 1969 Commission's intent was; that the map was erroneously drawn back in 1969.

Arguments on the declaratory ruling were heard from Mr. Sichter and Ms. Ogata-Deal.

After hearing arguments, questions were asked by the Commissioners.

Commissioner Roehrig moved to approve Petitioner's Motion for Declaratory Order. The motion was seconded by Commissioner Ing and unanimously passed by voice votes.

Commissioner Roehrig moved to go into executive session to discuss legal matters on the proposed rule amendments with our deputy attorney general. The motion was seconded by Commissioner Coppa and unanimously moved by voice votes.

ACTION

AR&R98-14

Chairperson Kelai announced that the Commission would be receiving the hearing officer's report and taking action to

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consider adoption of proposed amendments to Chapter 15 of Title 15, Hawaii Administrative Rules of the Land Use Commission.

James Chang, Hearing Officer, presented his report and recommendations to the Commissioners.

After hearing Mr. Chang's report and recommendations, questions were asked by the Commissioners.

Commissioner Roehrig moved to defer action to approve the Hearing Officer's report and to defer action to adopt the proposed amendments to Chapter 15 of Title 15, Hawaii Administrative Rules of the Land Use Commission. The motion was seconded by Commissioner Coppa and passed by voice votes.

#### MISCELLANEOUS

##### 1. ADOPTION OF MINUTES

Commissioner Fiesta moved to approve the minutes for the meeting date of September 23, 1999. The motion was seconded by Commissioner Roehrig and unanimously approved by voice votes.

##### 2. ADOPTION OF DECISION AND ORDER

Commissioner Ing moved to adopt the Order Granting Request For A Time Extension for Docket No. SP94-387 - Fong Construction. The motion was seconded by Commissioner Roehrig and unanimously approved by voice votes.

A lunch recess was taken at 11:20 a.m. to reconvene at 1:00 p.m.

- 1:10 p.m. -

#### CONTINUED HEARING

A92-684 - STATE OF HAWAII, DEPARTMENT OF TRANSPORTATION,  
AIRPORTS DIVISION (Maui)

Vice Chairperson Ing announced that this matter before the Commission is a continuation of the hearing previously held on September 23, 1999 to reclassify approximately 210.471 acres of land currently in the Agricultural District into the Urban District at Kahului, Maui for expansion of Kahului Airport and facilities.

Commissioner Kelai was excused from this proceeding due to a previously declared conflict of interest.

Appearances

Bruce T. Matsui, Esq., Lane Ishida, Esq., Attorneys for  
Petitioner

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

Bill Medeiros, Planning Department, County of Maui

Clayton Yoshida, Deputy Director, Planning Department,  
County of Maui

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

David Blane, Director, Office of Planning

Lorene Maki, Land Use Division, Office of Planning

Isaac Hall, Esq., Attorney for Intervenor

Vice Chairperson Ing entered the following correspondence  
into evidence:

1. Letter from Warren Watanabe, Maui County Farm Bureau,  
dated October 7, 1999.
2. Testimony of Douglas R. Schenk of Maui Pineapple  
Company, Ltd. dated October 14, 1999.

Vice Chairperson announced that the following correspondence  
were received by the Commission:

1. On October 20, 1999, the Commission received  
Supplemental Testimony of the Office of Planning in  
Support of the Petition.
2. On October 20, 1999, the Commission received a  
fascimile letter from Isaac Hall dated October 20,  
1999.

With respect to mediation, the Commission received the following correspondence:

1. Intervenors Memorandum Supporting A Continuance To Allow Meaningful Mediation To Take Place received on October 15, 1999.
2. Office of Planning's Response to the Land Use Commission's Request for Written Arugments Regarding the Conduct of Proceedings During Mediation received on October 13, 1999.
3. Letter dated October 13, 1999, from the Gary W. Zakian, Department of the Corporation Counsel, County of Maui, stating that the Commission should proceed on a dual track.
4. Letter dated October 15, 1999, from Bruce Matsui of the State of Hawaii, Department of the Attorney General, Land/Transportation Division stating that they rescind their letter dated September 30, 1999 in which the Petitioner initially indicated the willingness to proceed with mediation.
5. Letter dated October 20, 1999, from Isaac Hall in response to Petitioner's October 15, 1999 letter.

Discussion with respect to mediation was heard from the Commissioners and the parties.

Commissioner Fiesta moved to go into executive session to discuss legal matters with our deputy attorney general. The motion was seconded by Commissioner Roehrig and unanimously moved by voice votes.

PUBLIC WITNESSES (with respect to mediation)

1. Dana Naone Hall
2. Mark Sheehan

PETITIONER'S WITNESSES (Cont'd.)

1. Dr. Lyle Wong
2. Rosalyn Baker

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3. Eugene Dashiell

Vice Chairperson Ing announced that the Commission will be continuing the hearing on November 4, 1999 at 10:00 a.m.

The meeting was adjourned at 4:26 p.m.