

LAND USE COMMISSION

Minutes of Meeting

Nahele Room
Sandalwood Clubhouse
2500 Honoapiilani Hwy.
Waikapu, Maui

March 18, 1999

Approved
4/23/99

COMMISSIONERS PRESENT: Rupert K. Chun
Pravin Desai
Lawrence N.C. Ing
M. Casey Jarman
Herbert Kaopua, Sr.
Peter Yukimura

COMMISSIONERS ABSENT: P. Roy Catalani
Isaac Fiesta, Jr.
Merle Kelai

STAFF PRESENT: Esther Ueda, Executive Officer
Jon Itomura, Deputy Attorney General
Bert Saruwatari, Staff Planner
Teri Hee, Chief Clerk

Lynann Nicely, Court Reporter

Presiding Officer Jarman called the meeting to order at
9:35 a.m.

ACTION

A99-727 - JOAN BEVERLY S. ASHFORD AND CLINTON R. ASHFORD (Oahu)

Presiding Officer Jarman announced that this matter before the Commission is an action to consider (1) Petitioner's Motion for Order Waiving Requirement of HAR §15-15-50(c)(8) for Financial Statements and Order, and (2) whether the anticipated effects discussed in Petitioner's Environmental Assessment to reclassify approximately 9,350 square feet of land currently in the Conservation District into the Urban District at Kaneohe, Oahu for residential use constitutes a "significant effect" pursuant to Chapter 343, H.R.S.

Appearances

Clinton R. Ashford, Pro Se for Petitioner

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

Abe Mitsuda, Land Use Division, Office of Planning

Presiding Officer Jarman announced that the City and County of Honolulu Department of Planning and Permitting notified the Commission that they would not be present to the proceeding.

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

Arguments on the Motion for Order Waiving Requirement of HAR §15-15-50(c)(8) for Financial Statements and Order was heard from Mr. Ashford.

After hearing arguments, questions were asked by Ms. Ogata-Deal and the Commissioners.

Commissioner Ing moved to accept Petitioner's Motion for Order Waiving Requirement of HAR §15-15-50(c)(8) for Financial Statements and Order. The motion was seconded by Commissioner Kaopua and polled as follows:

Ayes: Commissioners Ing, Kaopua, Yukimura, Chun, Desai and Jarman

Deputy Attorney General Jon Itomura briefed the Commission of the 13 criteria of Chapter 11-200 in determining whether the subject petition would have a significant effect on the environment.

Presiding Officer Jarman went over the procedures of what would take place after the Commissioners determine one way or the other regarding the acceptance of the environmental assessment.

Argument on the environmental assessment was heard from Mr. Ashford.

PETITIONER'S WITNESS

1. Scott Ezer

After hearing Petitioner's argument, questions were asked by Ms. Ogata-Deal and the Commissioners.

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Commissioner Chun moved to accept Petitioner's Environmental Assessment. The motion was seconded by Commissioner Ing and polled as follows:

Ayes: Commissioners Chun, Ing, Kaopua, Yukimura, Desai and Jarman

CONTINUED HEARING

A98-725 - A & B PROPERTIES, INC. (Spreckelsville, Maui)

Presiding Officer Jarman announced that this matter before the Commission is a continued hearing which was previously held on October 8, 1998 to consider reclassifying approximately 212 acres of land currently in the Agricultural District into the Urban District at Spreckelsville, Wailuku, Maui for residential units, 9-hole golf course, and park.

Commissioner Kelai and Commissioner Catalani were excused from this proceeding due to a conflict of interest.

EXHIBITS

1. The letter dated October 8, 1998 from Gary Gill and the memorandum dated October 22, 1998 from Timothy E. Johns were admitted into evidence by the Land Use Commission.

Appearances

Benjamin Matsubara, Esq., Attorney for Petitioner

Stanley Kuriyama, A & B Properties, Inc.

Kelly Cairns, Esq., Deputy Corporation Counsel, County of Maui

John Min, Director, County of Maui Planning Department

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

Judith Henry, Land Use Division, Office of Planning

Argument on Petitioner's Motion to Amend Petition for District Boundary Amendment Re: Description of Subject Property was heard from Mr. Matsubara.

After hearing Petitioner's argument, questions were asked by Ms. Cairns and Ms. Ogata-Deal.

Commissioner Ing moved to accept Petitioner's Motion to Amend Petition for District Boundary Amendment Re: Description of Subject Property. The motion was seconded by Commissioner Kaopua and unanimously approved by voice votes.

Mr. Matsubara presented Petitioner's Stipulation to Introduce Additional Exhibits Into Evidence. Having no objections from the parties, Presiding Officer Jarman entered Petitioner's Exhibits 29 through 36 into evidence.

Ms. Cairns presented the Maui County Planning Department's Stipulation to Permit Maui Planning Department to File Revised Position Statement and introduced Exhibits 1, 2, and 3. Having no objections from the parties, Presiding Officer Jarman entered Maui County Planning Department's Exhibits 1, 2 and 3 into evidence.

PETITIONER'S WITNESS

1. Tom Witten

COUNTY'S WITNESSES

1. John Min

PETITIONER'S WITNESS (Re-Cross Examination by County & Re-Direct by Petitioner)

1. Stanley Kuriyama

Presiding Officer Jarman declared the hearing closed and instructed all parties of the post hearing procedures. Proposed findings from the parties are due by April 16, 1999 and the parties have until April 30, 1999 in which to respond.

MISCELLANEOUS

1. ADOPTION OF MINUTES

Commissioner Kaopua moved to approve the minutes for the meeting date of February 25, 1999. The motion was seconded by Commissioner Chun and unanimously approved by voice votes.

2. ADOPTION OF DECISION AND ORDER

Commissioner Kaopua moved to amend the agenda to include the adoption of order for Docket no. DR99-21 - Robert E. & Christine M. Stengle. The motion was seconded by Commissioner Yukimura and unanimously carried by voice votes.

Commissioner Chun moved to adopt the Declaratory Order for Docket No. DR99-21 - Robert E. & Christine M. Stengle. The motion was seconded by Commissioner Kaopua and unanimously approved by voice votes.

3. POSITION VACANCIES

The Executive Officer updated the Commission on the status of filling of LUC position vacancies.

4. LEGISLATIVE MATTERS

The Executive Officer updated the Commission on the status of LUC related bills which were still pending at the legislature.

5. LITIGATION MATTERS

- a) Attorney General Jon Itomura gave a status report on the Molokai Ranch Circuit Court case; Civil No. 97-0383(1), (DR97-20).

Procedures and hearings schedules regarding Docket No. A92-684 - Department of Transportation were discussed. Commission members were reminded to review the record and informed of issues raised at the prehearing with respect to potential conflict of interests.

The Commission had no objections to staff's proposed response letter to James Andrews with respect to Unisyn.

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