

LAND USE COMMISSION

Minutes of Meeting

Ginger Room
Outrigger Kauai Beach Hotel
4331 Kauai Beach Drive
Lihue, Kauai

June 12, 1997

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

*approved
6/24/97*

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

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

Cindy Denholm, Court Reporter

Presiding Officer M. Casey Jarman called the meeting to order.

ACTION

SP77-271 - AMERON H C & D (2nd & 3rd Amendment) (Maui)

Presiding Officer Jarman announced that the Commission would take action to consider an amendment to the special permit deleting approximately 59.686 acres of land from Ameron's quarry operations situated within the Agricultural District at Puunene, Maui and also to consider an amendment to the special permit to add approximately 41.2 acres of land situated within the Agricultural District at Puunene, Maui for expansion of Ameron's quarry operations.

Appearances

B. Martin Luna, Esq., Attorney for Ameron

Tracy Fujita Villarosa, Esq., Deputy Corporation Counsel,
County of Maui

Clayton Yoshida, Planning Department, County of Maui

Don Schneider, Planning Department, County of Maui

Leo Asuncion, staff planner, oriented the Commission to the special permit area on the Land Use District Boundaries and tax maps and gave a summary of the special permit requests.

Arguments on the special permit request to delete approximately 59.686 acres were heard from Mr. Luna and Mr. Yoshida.

After hearing arguments, questions were asked by the Commissioners.

Commissioner Kelai informed the parties that he works for Matson Navigation Co. and its parent company is Alexander and Baldwin who is the owner of this property. There were no objections by the parties to have Mr. Kelai participate in this proceeding.

Commissioner Chun moved to approve the special permit by H C & D to delete approximately 59.686 acres of land situated within the Agricultural District at Puunene, Maui. The motion was seconded by Commissioner Kelai and polled as follows:

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

Commissioner Ing moved to approve the special permit by H C & D to add approximately 41.2 acres of land situated within the Agricultural District at Puunene, Maui subject to the Planning Commission conditions. The motion was seconded by Commissioner Mattson and polled as follows:

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

SP97-390 - COUNTY OF MAUI, DEPARTMENT OF PUBLIC WORKS & WASTE
MANAGEMENT, SOLID WASTE DIVISION

Presiding Officer Jarman announced that the Commission would take action to consider a special permit for expansion of the Central Maui Landfill on approximately 29.340 acres of land situated within the Agricultural District at Puunene, Maui.

Appearances

David Good, Dep. Director, Dept. of Public Works and Waste Management, County of Maui

Elaine Baker, Dept. of Public Works and Waste Management, County of Maui

Jennifer Hernando, for Petitioner

Tracy Fujita Villarosa, Esq., Deputy Corporation Counsel, County of Maui

Clayton Yoshida, Planning Department, County of Maui

Don Schneider, Planning Department, County of Maui

Leo Asuncion, staff planner, oriented the Commission to the special permit area on the Land Use District Boundaries and tax maps and gave a summary of the special permit request.

Arguments were heard from Mr. Good.

Commissioner Kelai informed the parties that he works for Matson Navigation Co. and its parent company is Alexander and Baldwin who is the owner of this property. There were no objections by the parties to have Mr. Kelai participate in this proceeding.

Commissioner Ing moved to approve the special permit request by the Dept. of Public Works and Waste Management subject to the Planning Commission's conditions with the following amendments:

Condition No. 1 - " That the Land Use Commission Special Use Permit shall be valid for a period of ten (10) years from the issuance of the Land Use Commission's decision and order, subject to extensions by the Maui Planning Commission and the State Land Use Commission upon a timely request for extension filed at least ninety (90) days prior to its expiration."

Condition No. 3 -"Applicant shall begin construction of the landfill expansion within 6 months from the issuance of the Land Use Commission's decision and order. Construction shall include any improvements necessary to operate the landfill pursuant to all applicable laws and regulations;" and

Add capital A to applicant as noted on the other conditions.

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

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

SP94-387 - FONG CONSTRUCTION (1st Amendment) (Maui)

Presiding Officer Jarman announced that the Commission would take action to consider a request for time extension in which to establish a construction baseyard on approximately 31.16 acres of land situated within the Agricultural District at Waikapu, Maui.

Appearances

Roderick Fong, for Petitioner

Tracy Fujita Villarosa, Esq., Deputy Corporation Counsel,
County of Maui

Clayton Yoshida, Planning Department, County of Maui

Joseph Alueta, Planning Department, County of Maui

Bert Saruwatari, staff planner, gave a summary report on the special permit use.

Arguments were heard from Mr. Fong and Mr. Yoshida. After hearing arguments, questions were asked by the Commissioners.

Commissioner Kelai informed the parties that he works for Matson Navigation Co. and its parent company is Alexander and Baldwin who is the owner of this property. There were no objections by the parties to have Mr. Kelai participate in this proceeding.

Commissioner Ing moved to approve the time extension for the special permit by Fong Construction subject to the Planning Commission's conditions and the following amendments to its conditions:

Condition No. 1 - "That the State Land Use Commission Special Use Permit shall be invalid until September 30, 2001, subject to further extensions by the Maui Planning Commission and the Land Use Commission upon a timely request for the extension filed at least one hundred twenty (120) days prior to its expiration. The Maui Planning Commission may require a public hearing on the time extension."

Condition No. 21a - "Archaeological subsurface survey work shall be conducted on the prominent dune features within the project area. A report of the findings shall be approved prior to the initiation of any earthmoving or vegetation grubbing on the property. If evidence of human skeletal remains or cultural deposits are encountered during the archaeological inventory survey, compliance with Chapter 6E must occur and an acceptable mitigation plan must be prepared. The State Historic Preservation Division must verify in writing to the County that the plan has been successfully executed, prior to any land altering activities."

Commissioner Senda requested a clarification of Commissioner Ing's amendment to Condition No. 1.

Commissioner Mattson moved to amend Commissioner Ing's Condition No. 1 to read as follows: "That the State Land Use Commission Special Use Permit shall be valid until September 30, 1998, subject to further extensions by the Maui Planning Commission and the Land Use Commission upon a timely request for extension filed at least one hundred twenty (120) days prior to its expiration. The Maui Planning Commission may require a public hearing on the time extension."

The motion was seconded by Commissioner Kelai, accepted by Commissioner Ing, and polled as follows:

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

Nay: Commissioner Jarman

A76-418 - MOANA CORPORATION (Kauai)

Presiding Officer Jarman announced that the Commission would take action to consider Petitioner Sports Shinko (Kauai) Co., Ltd.'s Motion to Continue Hearing on Land Use Commission's Order to Show Cause, and the Motion of First Hawaiian Bank to Stay Further Proceedings on Order to Show Cause.

Appearances

Gary Slovin, Esq., Attorney for KVH and CGB

D. Scott MacKinnon, Esq., Attorney for Sports Shinko

Roy Vitousek, III, Esq., Attorney for First Hawaiian Bank

Guy Archer, 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.

Arguments on the motions were heard from Mr. MacKinnon, Mr. Slovin, Mr. Vitousek, and Mr. Archer.

Commissioner Mattson moved to approve the Motion to Continue Hearing filed by Sports Shinko. The motion was seconded by Commissioner Ing and polled as follows:

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

At this time, Roy Vitousek, Esq., Attorney for First Hawaiian Bank, withdrew its motion to stay further proceedings on order to show cause. The withdrawal was accepted by the Commission.

AR&R94-13

The letters dated June 10, 1997 from Ken Melrose, Waikoloa Development Co. and Dan Davidson were accepted into the record by the Commission. The letter dated June 12, 1997 from Tom Shigemoto, Hawaii Resort Development Conference was accepted into the record by the Commission.

Additional comments were heard from Richard Egged, Jr., Director, Office of Planning.

Commissioner Kelai moved to adopt certain amended rule changes submitted by the Office of Planning and to resubmit the rules to the Governor for approval. The motion was seconded by Commissioner Ing and unanimously approved by voice votes.

MISCELLANEOUS

1. ADOPTION OF MINUTES

Commissioner Senda moved to approve the minutes for the following meeting date: May 7, 1997. The motion was seconded by Commissioner Mattson and unanimously approved by voice votes.

Commissioner Senda moved to go into executive session to discuss with the Commission's Deputy Attorney General on the status of litigation matters. The motion was seconded by Commissioner Mattson and unanimously approved by voice votes.

The meeting was adjourned 1:00 p.m.