

LAND USE COMMISSION

Minutes of Meeting

Conference Room 405
State Office Tower, Leiopapa A Kamehameha
235 South Beretania Street
Honolulu, Hawaii

June 26, 1997

COMMISSIONERS PRESENT: Trudy K. Senda
M. Casey Jarman
Lawrence N.C. Ing
Rupert K. Chun
JoAnn Mattson
Lloyd Kawakami

*approved
7/1/97*

COMMISSIONERS ABSENT: Eusebio Lapenia, Jr.
Herbert Kaopua, Sr.
Merle A.K. Kelai

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

Evelyn Miyata, Court Reporter

Presiding Officer Jarman called the meeting to order.

ACTION

A76-418 - MOANA CORPORATION (Kauai)

Presiding Officer Jarman announced that the Commission would take action to consider Petitioners, First Hawaiian Bank (As Trustee of the Eric A. Knudsen Trust), Hawaiian Trust Co. (As Trustee of the Augustus F. Knudsen Trust), and Sports Shinko (Kauai) Co., Ltd.'s Motions to Amend or Modify Condition No. 9 of the Decision and Order imposed by the Land Use Commission on July 7, 1977, as amended on July 3, 1978, and as amended on December 13, 1979 which reclassified approximately 457.54 acres of land from the Agricultural District into the Urban District at Poipu, Kauai for residential, commercial, outdoor theater, cultural center, and recreational uses.

Appearances

Roy Vitousek, III, Esq., Attorney for First Hawaiian Bank
Gary Slovin, Esq., Attorney for KVH and CGB

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

Allan Zawtocky, for First Hawaiian Bank

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

Abe Mitsuda, Land Use Division, Office of Planning

By letter dated June 25, 1997 from Dee Crowell, Director, Planning Department, County of Kauai, informed the Commission that they would not be present at the proceeding.

On June 23, 1997, the Commission staff received a phone call from Elizabeth Toulon for Milohae Limited Partnership informing the Commission that she and Mrs. Ann Knudsen Baldwin for Baldwin-Knudsen Family Partnership would not be present at the proceeding.

On June 26, 1997, the Commission received a statement from Richard Egged, Jr., Director, Office of Planning.

On June 26, 1997, Sports Shinko (Kauai) Company, Ltd., withdrew its Motion to Amend or Modify Condition No. 9 of the Decision and Order originally filed herein on November 2, 1995 and its Joinder in Movant First Hawaiian Bank's Motion to Modify Condition Imposed by the Land Use Commission Filed Herein on October 31, 1995, as amended by filing date June 25, 1997.

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

Comments on the letter received from the Office of Planning were heard from Mr. Vitousek and additional comments were heard from Mr. Mitsuda.

PUBLIC WITNESS

1. Satoshi Kinoshita

Commissioner Senda moved to grant Petitioner First Hawaiian Bank's Motion to Amend or Modify Condition No. 9, as amended by First Hawaiian Bank's amendment which was filed on June 25, 1997, and as further amended verbally today, to replace the Exhibit 1 to the written amendment with Sports Shinko's Exhibit 3, which was accepted by the Commission today, with further amendments as follows to said Exhibit 3:

1. Condition Nos. 5, 7, and 8 of the Decision and Order dated July 7, 1997, as amended by Orders dated July 3, 1978, December 13, 1979, and October 16, 1995 are hereby confirmed as continuing conditions and will remain as is.

2. Condition No. 9 of the Decision and Order shall be amended and modified as noted on pages 1 and 2 of Sports Shinko's Exhibit No. 3.

3. Paragraphs 3A through M of Exhibit 3, each of the paragraphs which are identified as alphas shall be numbered such that paragraph A would be Condition No. 10, paragraph B, Condition No. 11, and so forth.

4. Paragraph I, Condition No. 18 is amended to read:
"Absent approvals from the appropriate federal, State and County agencies, Sports Shinko or any subsequent owner of the Sports Shinko Property shall not channelize Waikomo Stream for flood control purposes. A reasonable buffer zone from the edge of Waikomo Stream shall also be provided as to any development fronting on Waikomo Stream as may be required by the County of Kauai. Within the approved stream buffer zone landscaping shall be permitted. A copy of the proposed stream buffer area along Waikomo Stream shall be submitted to the Commission on Water Resource Management of the State of Hawaii, State of Hawaii Department of Land and Natural Resources, and the United States Fish and Wildlife Service for comment prior to approval by the County of Kauai."

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

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

Roy Vitousek, III, Esq., informed the Commission that he would be filing a motion to dismiss the order to show cause and attach the amended conditions as approved by the Land Use Commission today.

SP97-391 - STATE OF HAWAII, DEPARTMENT ACCOUNTING AND GENERAL SERVICES (Keaau High School)

Presiding Officer Jarman announced that the Commission would take action to consider a special permit to allow the construction of a new Keaau High School and related improvements on approximately 38 acres of land situated within the Agricultural District at Keaau, Puna, Hawaii.

Appearances

Ralph Morita, for Petitioner

Alice Kawaha, Planning Department, County of Hawaii

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.

Exhibit LL, letter received June 26, 1997 from Gordon Matsuoka to Bruce McClure and signed by Stanley Tamura regarding the coordination of Keaau-Puna Road dedication for Keaau High School was accepted by the Land Use Commission.

Commissioner Senda moved to grant the special request by the Department of Accounting and General Services by adopting the Planning Commission, County of Hawaii conditions 1 through 21 with modifications and a new Condition No. 19 to read as follows: "The Applicant shall timely provide, without any prior notice, annual reports to the County of Hawaii Planning Department and the Land Use Commission in connection with the status of the subject property and the Applicant's progress of the subject property and the Applicant's progress in complying with the conditions imposed herein. The annual report shall be due prior to or on the anniversary date of the issuance of this Decision and Order. The annual report shall be submitted in a form prescribed by the Executive Officer of the Land Use Commission.

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

Ayes: Commissioner Senda, Chun, Ing, Kawakami, and Mattson

Nay: Commissioner Jarman

CITY AND COUNTY PRESENTATION

A presentation by the City and County of Honolulu, Department of Housing and Community Development on affordable housing was heard from Randy Wong and Frances Mossman. After hearing presentation, questions were asked by the Commissioners.

MISCELLANEOUS

1. ADOPTION OF MINUTES

Commissioner Senda moved to approve the minutes for the following meeting date: June 12, 1997. The motion was seconded by Commissioner Chun and unanimously approved by voice votes.

2. ADOPTION OF DECISION AND ORDER

Commissioner Senda moved to adopt the Decision and Order for SP77-271 - H C & D (2nd Amendment) (Maui). The motion was seconded by Commissioner Mattson and unanimously approved by voice votes.

The Commission commended Commissioner Kawakami, Commissioner Lapenia, and Chairperson Senda on their good work while on the Commission and wished them well. The Commissioners term expires on June 30, 1997.

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

The meeting was adjourned at 1:10 p.m.