

Minutes of Meeting

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

Approved  
8/26/99

August 5, 1999

COMMISSIONERS PRESENT: P. Roy Catalani  
Pravin Desai  
Isaac Fiesta, Jr.  
Lawrence N.C. Ing  
Merle A. K. Kelai  
Stanley Roehrig  
Peter Yukimura

COMMISSIONER ABSENT: M. Casey Jarman

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

Holly Hackett, Court Reporter

Chairperson Kelai called the meeting to order at 9:30 a.m.

ACTION

A73-367 - JOSEPH FLORES (Kauai)

Chairperson Kelai announced that the Commission received a letter dated July 29, 1999 from Petitioner's counsel, Walton Hong, informing the Commission that he would not be able to attend today's meeting and asking for a continuance to the next Commission meeting. Chairperson Kelai granted the request and this matter will be deferred to our next meeting in Maui on August 26, 1999.

HEARING

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

Pursuant to a notice published in the Hawaii State & County Public Notices of MidWeek and notices sent to all parties, a

hearing was called by the Land Use Commission in the matter of the petition by Joan Beverly S. Ashford and Clinton R. Ashford to consider reclassifying approximately 9,350 square feet of land currently in the Conservation District into the Urban District at Kaneohe, Oahu, for residential use.

Appearances

Clinton R. Ashford, Pro Se for Petitioner

Joan Beverly S. Ashford, for Petitioner

Gail Renard of Helber, Hastert & Fee

Gary Okino, Department of Planning and Permitting

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

Abe Mitsuda, Land Use Division, Office of Planning

The Commission entered the following correspondence into evidence:

1. Facsimile letter dated June 14, 1999 from Don Hibbard to David W. Blane.
2. Facsimile memorandum dated July 8, 1999 from Timothy E. Johns to Mr. David Blane.
3. Memorandum dated July 27, 1999 from Roy C. Price, Sr., Vice Director of Civil Defense.

Russell Kumabe, staff planner, oriented the Commission to the petition area on the Land Use District Boundaries and tax maps and gave a summary of the boundary amendment permit request.

EXHIBITS

1. Petitioner's Exhibit Nos. 1 through 12 were admitted into evidence by the Land Use Commission. Petitioner introduced Exhibit 13 (location map attached to the Proposed Findings of Fact, Conclusions of Law, and Decision and Order) which was also entered into evidence by the Land Use Commission.

2. County's Exhibit No. 1 was admitted into evidence by the Land Use Commission.

3. Office of Planning's Exhibit Nos. 1 and 2 were admitted into evidence by the Land Use Commission.

Arguments were heard from Mr. Ashford, Mr. Okino and Ms. Ogata-Deal. Questions were asked by the Commissioners.

Commissioner Ing moved to adopt the Stipulated Proposed Findings of Fact, Conclusions of Law, and Decision and Order with the following amendments as shown in ramseyer format:

Findings of Fact Nos. 1 and 2 and all other findings affected should read as follows (all references should be made to the "Petitioners" and not "Petitioner" and plural conjugations should be used subsequently):

1. [Petitioner] Petitioners submitted a Petition for District Boundary Amendment dated March 5, 1999, a First Amendment to Petition for District Boundary Amendment dated March 8, 1999, and a Second Amendment to Petition for District Boundary Amendment dated March 11, 1999. The [Petitioner] Petitioners also filed a motion for Order Waiving Requirement of HAR §15-15-50(c)(8) for Financial Statements and Order.

2. [Petitioner is] Petitioners are JOAN BEVERLY S. ASHFORD and CLINTON R. ASHFORD, husband and wife, whose mailing and residence address is 45-628 Halekou Place, Kaneohe, Hawaii 96744.

Findings of Fact No. 28 should read as follows:

28. [There will be no direct or indirect employment impacts as a result of the reclassification.] The reclassification will not generate direct or indirect employment changes, but the reclassification may impose higher real property taxes when subsequent City and County rezoning to higher residential use designation is approved.

Finding of Fact Nos. 38 and 39 should read as follows:

38. Since the Petition Area had been in continuous residential use since 1965, the reclassification of the Petition Area will not impact existing air quality in and around the Petition Area.

39. Since the Petition Area had been in continuous residential use since 1965, the reclassification of the Petition Area will not impact the quality of existing water resources.

Findings of Fact No. 45 should read as follows:

45. [The Petition Area does not currently meet the standards applicable to the Conservation District.] The Petition Area is presently in residential use and is required to have a Conservation District Use Permit as provided for in the rules of the State Department of Land and Natural Resources, title 13, and chapter 183C, HRS. Petitioners received permission for existing residential use from the State Department of Land and Natural resources on August 27, 1965.

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

Ayes: Commissioners Ing, Fiesta, Yukimura, Catalani, Roehrig, Desai and Kelai.

#### MISCELLANEOUS

##### 1. ELECTION OF OFFICERS

Commissioner Fiesta moved to elect Merle Kelai as Chairperson. The motion was seconded by Commissioner Ing and unanimously approved by voice votes. Commissioner Fiesta moved to elect Lawrence N.C. Ing as Vice-Chairperson. The motion was seconded by Commissioner Yukimura and unanimously approved by voice votes.

##### 2. ADOPTION OF MINUTES

Commissioner Fiesta moved to approve the minutes for the meeting dates of July 8, 9, 1999. The motion was seconded by Commissioner Ing and unanimously approved by voice votes.

##### 3. ADOPTION OF DECISION AND ORDER

Commissioner Yukimura moved to adopt the Order Granting County of Maui Planning Department's Oral Motion to Amend the June 24, 1999 Transcript for Docket No. A92-684 - State of Hawaii, Department of Transportation, Airports Division. The motion was seconded by Commissioner Ing and unanimously approved by voice votes.

Commissioner Fiesta moved to amend the agenda to include the adoption of order for Docket No. SP73-159 - Toyama Gardens Hawaii Corporation, dba, Nani Mau Gardens, Inc. The motion was seconded by Commissioner Roehrig and unanimously carried by voice votes.

Commissioner Fiesta moved to adopt the Findings of Fact, Conclusions of Law, and Decision and Order for Docket No. SP73-159 - Toyama Gardens Hawaii Corporation, dba, Nani Mau Gardens, Inc. The motion was seconded by Commissioner Roehrig and unanimously carried by voice votes.

4. LITIGATION MATTERS

a) Deputy Attorney General James Chang reported to the Commission that the deadline for opening briefs on the Lanai Resort Partners Supreme Court case is at the end of this month.

b) The Kaupulehu Development Supreme Court appeal is still pending.

5. EXECUTIVE SESSION

The Executive Officer informed the Commission that there will be an executive session at the next meeting in Maui to discuss procedural matters.

6. AR&R98-14

The Commission authorized approval to have the Deputy Attorney General conduct the upcoming hearings in September regarding the rule amendments to implement Act 164 and in the event that he cannot attend, staff will conduct the hearings.

7. RESIGNATION

Chairperson Kelai informed the Commission that Commissioner Kaopua has resigned from the Land Use Commission to accept a position as Commissioner of the Board of Water Supply.

8. LEGISLATIVE MATTERS

The Office of Planning is working on comprehensive legislative proposals for the next legislative session. The LUC staff will be coordinating with OP with respect to the proposal, including amendments to the enforcement authority of the Commission.

The meeting was adjourned at 10:10 a.m.