

STATE OF HAWAII
LAND USE COMMISSION

Minutes of Meeting

Conference Rooms A, B & C
State Building
Hilo, Hawaii

July 9, 1984 - 9:00 a.m.

*Approved
10/4/84*

COMMISSIONERS PRESENT: William Yuen, Chairman
Teofilo Tacbian, Vice Chairman
Lawrence Chun
Everett Cuskaden
Winona Rubin
Toru Suzuki
Robert Tamaye
Frederick Whittemore

COMMISSIONER ABSENT: Richard Choy

STAFF PRESENT: Gordan Furutani, Executive Officer
Dora Horikawa, Chief Clerk
Rick Congdon, Court Reporter

ACTION

SP73-159 - MAKOTO NITAHARA DBA NANI MAU GARDENS, INC.

Mr. Gordan Furutani, Executive Officer, gave a summary report of the special permit amendment request by petitioner to allow the establishment of individual shops for the sale of locally-produced agriculturally-oriented products, a small gift shop and a snack shop within the State Land Use Agricultural District at Panaewa, South Hilo, Hawaii.

It was moved by Commissioner Tamaye and seconded by Vice Chairman Tacbian to approve the amendment request, subject to the conditions imposed by the Hawaii Planning Commission.

Commission members felt that sale of T-shirts, knick knacks and typical tourist-related merchandise did not fit in with the description of "locally produced agriculturally-oriented products".

Vice Chairman Tacbian moved to table action on this request at this time, which was seconded by Commissioner Cuskaden and carried.

A83-555 - ROYAL HAWAIIAN AIRWAYS, INC. ET AL

At this time, Chairman Yuen excused himself from the proceedings and Vice Chairman Tacbian conducted the meeting.

Appearances

Paul Mancini, Attorney representing petitioner

William McCorriston, Attorney representing Intervenor
Hawaiian Airlines

Annette Chock, Deputy Attorney General, representing the
Dept. of Planning & Econ. Development

Mr. Mancini submitted that petitioner had filed a motion to withdraw its petition and that the motion was self-explanatory. Neither the State nor the Intervenor objected to the motion. The absence of representation from the County of Maui and Intervenor Mid-Pacific Air was noted for the record.

It was moved by Commissioner Cuskaden to allow the voluntary withdrawal of the petition, which was seconded by Commissioner Rubin and unanimously approved.

Vice Chairman Tacbian declared that the petition was hereby withdrawn.

SP73-159 - MAKOTO NITAHARA DBA NANI MAU GARDENS, INC. (cont.)

Chairman Yuen announced that he had received a request from Mr. Matthew Jewell, petitioner's counsel, regarding the special permit amendment request, for permission to address the Commission.

Mr. Jewell elaborated on the reasons he felt the sale of the various merchandise was compatible with the tourist-oriented nature of Mr. Nitahara's operations.

Much concern was expressed by Commission members that a gift shop per se could, in time, remove itself further from the concept of selling agriculturally-oriented products in an Agricultural District.

Vice Chairman Tacbian moved to add three conditions to the approval of the amendment request:

1. The applicant or its sublessee may sell locally-produced agricultural and agriculturally-related products on the premises;

- 2. Applicant or its sublessee may sell pre-packaged snack foods, including but not limited to soft drinks, chips, ice cream that do not require cooking on the premises; and
- 3. The applicant may not sell other tourist items or foods requiring cooking or processing on the premises.

The motion was seconded by Commissioner Tamaye and carried by voice vote.

CONTINUED HEARING

A83-561 - RICHFIELD OF HAWAII, INC.

It was announced that the next item on the agenda was a continuation of the hearing on the subject petition.

Appearances

Mr. Roy Nakamoto, Attorney representing petitioner

Mr. Duane Kanuha, Deputy Planning Director, representing the Hawaii Planning Department

Miss Annette Chock, Deputy Attorney General, representing the Dept. of Planning & Econ. Dev.

No objections were voiced by any of the parties to the additional requests from public witnesses to appear before the Commission today.

It was moved by Vice Chairman Tacbian and seconded by Commissioner Rubin to allow additional testimony from public witnesses. All of the persons who appeared today, having been duly sworn in, testified and were examined as noted in the transcript.

Public Witnesses

Dale Moore - Kapoho Resident

Oral testimony----- 9 to 10

Irene Bender - Kapoho Resident

Oral testimony-----10 to 12

Paul Charbonneau - Kapoho Resident

Oral testimony-----13 to 14
Cross examination by Mr. Nakamoto-----14 to 15
Examination by Chairman Yuen-----16
Examination by Commissioner Cuskaden-----17

Moanikeala Akaka - Hilo Resident

Oral testimony-----18 to 24
Cross examination by Mr. Nakamoto-----24 to 27

Lucrezia Oddie - Pahoā Resident

Oral testimony-----28 to 29
Cross examination by Mr. Nakamoto-----29 to 31

Tia Buchanan - Pahoā Resident

Oral testimony-----31 to 32
Cross examination by Mr. Nakamoto-----32

Vickie Andrews - Pahoā Resident

Oral testimony-----33 to 34

Katherine Marchese - Pahoā resident

Oral testimony-----35 to 37
Cross examination by Mr. Kanuha-----37 to 38

Norman Frane - Hilo Resident

Oral testimony-----38 to 39
Examination by Vice Chairman Tacbian-----40

Chairman Yuen reminded petitioner's counsel that the Commission had made a written request for a certified financial statement from petitioner's accountant; however, it was noted that only an unaudited statement had been submitted.

Mr. Nakamoto responded that petitioner's accountant was prepared to certify that the financial statement was prepared in

accordance with generally accepted accounting principles. He called on the following witness to testify to this effect:

Atsushi Kasamoto - Employee of Melving Kaneshiro, CPA

Direct examination by Mr. Nakamoto-----43 to 44
Examination by Commissioner Whittemore-----44 to 45
Examination by Commissioner Cuskaden-----45 to 47
Examination by Chairman Yuen-----47 to 48

PETITIONER (cont.)

William J. Bonk - Anthropologist

Direct examination by Mr. Nakamoto-----49 to 50
Examination by Commissioner Rubin-----50 to 52
Examination by Commissioner Cuskaden-----52 to 53

George Kaya - Consultant to Petitioner

Direct examination by Mr. Nakamoto-----53 to 56
Examination by Chairman Yuen-----56 to 60

HAWAII PLANNING DEPARTMENT

Brian Nishimura - Planner, Hawaii Planning Department

Direct examination by Mr. Kanuha-----60 to 62
County's exhibit 1 was moved into evidence
Examination by Commissioner Cuskaden-----62 to 64
Examination by Commissioner Rubin-----64 to 65
Reexamination by Commissioner Cuskaden-----66 to 68

DEPARTMENT OF PLANNING & ECONOMIC DEVELOPMENT

Daniel Yasui - Planner, DPED

Direct examination by Miss Chock-----68 to 70

Examination by Commissioner Rubin-----71 to 72

Examination by Commissioner Cuskaden-----72 to 73

Exhibits

DPED's exhibit 1 was identified and admitted into evidence.

Petitioner's exhibits M and N were received into evidence.

The hearing on A83-561 was closed and Chairman Yuen instructed all parties of the post-hearing requirements.

1:35 p.m.

CONTINUED HEARING

A83-554 - FARMS OF KAPUA

Chairman Yuen announced that this hearing on subject petition was being continued from May 16, 1984.

Appearances

Roy Takeyama) - Co-counsel, representing petitioner
Jan Sullivan)

Duane Kanuha - Deputy Planning Director, representing
the Hawaii Planning Department

Annette Chock - Deputy Attorney General, representing
the Dept. of Planning & Econ. Dev.

Meredith Lenell - Attorney, representing Intervenors
Pa'a Pono of Milolii

INTERVENOR PA'A PONO OF MILOLII

Chairman Yuen agreed to issue subpoenas to the following Intervenor's witnesses:

- 1. George Schattauer
- 2. James Juvik
- 3. Matthew Spriggs

Dr. Pat McCoy - Archaeologist, Bishop Museum

Direct examination by Ms. Lenell-----9 to 25
 Cross examination by Mr. Takeyama-----26 to 33
 Cross examination by Mr. Kanuha-----33 to 34
 Cross examination by Miss Chock-----34 to 36
 Examination by Commissioner Cuskaden-----37
 Examination by Commissioner Rubin-----38 to 43
 Examination by Commissioner Chun-----43 to 48

Patty Dela Mare - Real Estate Appraiser, County of Hawaii

Direct examination by Ms. Lenell-----50 to 53
 Cross examination by Mr. Takeyama-----53 to 55

James Juvik - Professor of Geography and Mining, University of Hawaii, Hilo Campus

Direct examination by Ms. Lenell-----58 to 69
 Cross examination by Mr. Takeyama-----69 to 71
 Examination by Vice Chairman Tacbian-----71 to 72
 Examination by Chairman Yuen-----72 to 75

Joe Souza - Former State Parks Administrator, DLNR

Direct examination by Ms. Lenell-----75 to 83
 Cross examination by Mr. Takeyama-----83 to 86
 Cross examination by Mr. Kanuha-----86 to 87
 Cross examination by Miss Chock-----88 to 89

Peter Kahele - Milolii Resident

Direct examination by Ms. Lenell-----89 to 96

Cross examination by Mr. Takeyama-----96 to 97

Cross examination by Miss Chock-----97 to 98

Examination by Vice Chairman Tacbian-----98 to 99

Examination by Chairman Yuen-----99 to 101

Mona Kahele - Kona Resident, Hawaiian Studies Teacher

Direct examination by Ms. Lenell-----101 to 110

The hearing was adjourned at 5:00 p.m., to be resumed tomorrow at 8:00 a.m.