

STATE OF HAWAII  
LAND USE COMMISSION

Minutes of Meeting

Kamakahonu Ballrooms  
King Kamehameha Hotel  
75-5660 Palani Road  
Kailua-Kona, Hawaii

January 26, 1989

approved  
2/24/89

COMMISSIONERS PRESENT: Renton Nip, Chairman  
Lawrence Chun, Vice-Chairman  
Allen K. Hoe  
Toru Suzuki  
Robert Tamaye  
Frederick P. Whittemore  
Teofilo Phil Tacbian (Portion of  
Proceeding)  
Sharon R. Himeno (Portion of  
Proceeding)

COMMISSIONERS ABSENT: Allen Kajioka

STAFF PRESENT: Esther Ueda, Executive Officer  
Russell Suzuki, Esq, Deputy Attorney  
General  
Benjamin Matsubara, Special Deputy  
Attorney General  
Raymond Young, Staff Planner  
Darlene Kinoshita, Chief Clerk  
  
Holly Hackett, Court Reporter

Chairman Nip called the meeting to order.

Commissioners Himeno and Tacbian were absent from the proceeding at this time.

ACTION

A88-626 - UNITED REALTY, INC.

Chairman Nip announced that the Commission would take action in the matter of the petition by United Realty, Inc. to reclassify approximately 147.561 acres of land currently in the Agricultural District into the Urban District at Kihei, Maui, Hawaii, for a residential development.

Appearances

Lawrence Ing, Esq., Attorney for Petitioner

Ivan Pivaroff, Petitioner

Ralph Masuda, Deputy Director, Planning Department,  
County of Maui

John Anderson, Esq., Deputy Attorney General, Office  
of State Planning

Abe Mitsuda, Land Use Division, Office of State  
Planning

It was noted for the record by Chairman Nip that the parties filed stipulated proposed findings of fact, conclusions of law, and decision and order.

Closing arguments were heard from Lawrence Ing, Ralph Masuda, and John Anderson. After hearing arguments, parties were questioned by the Commissioners.

It was determined by Chairman Nip that all of the Commissioners present were eligible to participate in the action on the petition.

Commissioner Hoe moved to grant Petitioner's request to amend the district boundary and grant reclassification of the property consisting of approximately 147.561 acres of land currently in the Agricultural District into the Urban District at Kihei, Maui, Hawaii, for a residential development subject to the following conditions as set forth by the proposed stipulations as filed with this Commission on January 24, 1989 by the Petitioner, Count of Maui, and State of Hawaii:

1. The affordable housing requirement shall be satisfied as follows:

A. Petitioner shall provide housing opportunities for low, low-moderate, and moderate income Hawaii residents by offering for sale or rent approximately 18.95 percent of the units at prices which families with an income range below 80 percent of Maui County's median income can afford; and 13.14

percent of the units which families with an income range of 80 to 120 percent of Maui County's median income can afford; and 18.51 percent of the units which families with an income range of 120 to 140 percent of Maui County's median income can afford. This condition may be fulfilled through projects, under such terms as may be mutually agreeable, between Petitioner and the Housing Finance and Development Corporation of the State, or other appropriate governmental agency. This condition may also be fulfilled, with the approval of the Housing Finance and Development Corporation, through the rental of said units to be made available at rents which families in the specified income ranges can afford.

B. The affordable housing requirements may also be satisfied in a manner that meets with the approval of the County of Maui and the State Housing Finance and Development Corporation. Said requirements shall take into consideration affordable on-site or off-site housing units, cash payments, transfer of land title, or other in lieu contributions that satisfy the then current housing needs, or other necessary or desirable community facilities as determined above.

2. A joint planning effort shall be conducted by the Petitioner with the County of Maui as applicable, to ensure that urban design, as well as infrastructural and service systems, are compatible and developed in a timely fashion in accordance with County of Maui requirements. All infrastructure determined as necessary as a result of the project development shall be funded by the Petitioner.

3. Petitioner shall participate in or otherwise provide all additional planning studies as required by the State Department of Transportation. Petitioner shall also participate in the funding and construction of on-site and off-site transportation improvements associated with the proposed development and in designs and schedules required, accepted and coordinated with the State Department of Transportation. Petitioner shall also provide a setback from Piilani Highway and a traffic management system as required by the Department of Transportation.

4. Petitioner shall fund, as required by the County of Maui, the necessary measures required to obtain adequate supplies of water for the proposed development.

5. Petitioner shall fund and develop, as required by the County of Maui, the necessary measures required to expand existing wastewater collection, treatment, and disposal infrastructure facilities for the proposed development.

6. Petitioner shall provide its pro rata share for expansion of existing police and fire facilities as necessary, to the satisfaction of the County of Maui, via the County's impact fee ordinances. Petitioner shall also provide its fair and equitable share for expansion of educational facilities as may be needed to the satisfaction of the State Department of Education.

7. Petitioner shall provide an archaeological survey acceptable to the State Historic Preservation Office of the Department of Land and Natural Resources. Petitioner shall also provide professional archaeological monitoring and execute a historic preservation mitigation plan for the treatment of all significant historic sites before and during all grading digging, or other earthworking phases of project development in accordance with the Department of Land and Natural Resources requirements. Should any archaeological resources such as artifacts, shell, bone, or charcoal deposits, human burial, rock or coral alignments, pavings or walls be encountered during the project's development, Petitioner shall immediately stop work and contact the State Historic Preservation Office.

8. Petitioner shall inform all prospective occupants of possible odor, noise, and dust pollution resulting from surrounding Agricultural District lands, and that the Hawaii Right-To-Farm Act, Chapter 165, Hawaii Revised Statutes, limits the circumstances under which pre-existing farming activities may be deemed a nuisance.

9. Noise barriers along Piilani Highway shall be provided by Petitioner as necessary.

10. A fire break or other sufficient buffer shall be established off-site by Petitioner in cooperation with the adjacent property owners to protect residential areas from possible brush fires as required by the County of Maui Fire Department.

11. Petitioner shall implement appropriate mitigation measures, as recommended by the County and the Department of

Land Natural Resources, to limit air and water soil erosion during construction phases which could potentially impact coastal areas.

12. Petitioner shall give notice to the Land Use Commission of any intent to sell, lease, assign, place in trust or otherwise voluntarily alter the ownership interest in the Property covered by the approved petition prior to the development of the Property.

13. Petitioner shall develop the property in substantial compliance with representations made to the Land Use Commission in obtaining the reclassification of the Property.

14. Petitioner shall provide annual reports to the Land Use Commission, the Office of State Planning and the County of Maui Planning Department in connection with the status of the project and Petitioner's progress in complying with the conditions imposed.

15. The Commission may fully or partially release these conditions as to all or any portion of the Property upon timely, and upon the provision of adequate assurance of satisfaction of these conditions by the Petitioner.

The motion was seconded by Commissioner Suzuki.

The motion to approve United Realty, Inc. subject to fifteen conditions was unanimously approved as follows:

Ayes: Commissioner Hoe, Whittemore, Suzuki, Tamaye, Chun, and Chairman Nip.

A87-613 - THE TRUSTEES UNDER THE WILL AND OF THE ESTATE OF  
JAMES CAMPBELL, DECEASED

Chairman Nip announced that the Commission would take action on Petitioner's Motion to Amend the Decision and Order which incrementally reclassifies approximately 890 acres of land from the Agricultural District to the Urban District for a secondary urban center at Honouliuli, Ewa, Oahu by deleting approximately 77 acres of land from the subsequent increments.

Appearances

Ivan Lui-Kwan, Esq., Attorney for Petitioner

John Anderson, Esq., Deputy Attorney General, Office  
of State Planning

Abe Mitsuda, Land Use Division, Office of State  
Planning

The Department of General Planning, City and County of  
Honolulu was not present to the proceeding.

Arguments on the motion were heard from Ivan Lui-Kwan  
and John Anderson, Esq. After hearing arguments from the  
parties, questions were asked by the Commissioners.

Commissioner Hoe moved to grant Petitioner's motion to  
amend the decision and order which incrementally reclassifies  
approximately 890 acres of land from the Agricultural District  
to the Urban District for a secondary urban center at  
Honouliuli, Ewa, Oahu by deleting approximately 77 acres of  
land from the subsequent increments. The motion was seconded  
by Commissioner Whittemore and polled as follows:

Ayes: Commissioner Hoe, Chun, Tamaye, Whittemore,  
Suzuki, and Chairman Nip.

CONTINUED HEARING

A83-554 - FARMS OF KAPUA

Chairman Nip announced that the present matter before  
the Commission is a continuation of the reopened hearing which  
had begun on April 26, 1988 and December 2, 1988.

Appearances

Jan Sullivan, Esq., Attorney for Petitioner

Roy Takeyama, Esq., Attorney for Petitioner

Duane Kanuha, Director, Planning Department, County of  
Hawaii

Virginia Goldstein, Planning Department, County of  
Hawaii

John Anderson, Esq., Deputy Attorney General, Office  
of State Planning

Abe Mitsuda, Land Use Division, Office of State  
Planning

Paul Lucas, Esq., Esq., Attorney for Intervenor

Alan Murakami, Esq., Attorney for Intervenor

Commissioner Tamaye did not participate in this  
proceeding due to a previously declared conflict of interest.

PETITIONER'S WITNESSES

1. Paul Rosendahl (Continued)

Commissioners Himeno and Tacbian joined the proceeding  
at this time.

PETITIONER'S EXHIBIT

1. Petitioner's Exhibit No. R-8 was admitted into  
evidence by the Land Use Commission with noted objections by  
Intervenor, Pa'a Pono Milolii.

2. Petitioner's Exhibit No. 9 was admitted into  
evidence by the Land Use Commission.

STATE'S WITNESS

2. Martha Yent

PETITIONER'S WITNESSES (Continued)

2. Ralph Portmore

COUNTY'S WITNESS

1. Virginia Goldstein

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Alan Murakami, Esq., Attorney for Pa'a Pono Milolii motioned to admit copies of past Land Use Commission Decision and Orders into evidence. It was determined by the Land Use Commission that judicial notice of these decision and orders would be taken.

The meeting was adjourned at 5:04 p.m.