

STATE OF HAWAII
LAND USE COMMISSION

Minutes of Meeting

DOE Board Room
4th Floor, Queen Liliuokalani Bldg.
1390 Miller Street
Honolulu, Hawaii

approved
2/11/90

December 14, 1989

COMMISSIONERS PRESENT: Renton L.K. Nip, Chairman (Portion of Proceedings)
Lawrence Chun, Vice-Chairman (Portion of Proceedings)
Sharon R. Himeno (Portion of Proceedings)
Frederick P. Whittemore (Portion of Proceedings)
Elton Wada
Allen Y. Kajioka (Portion of Proceedings)
Allen K. Hoe (Portion of Proceedings)
Eusebio Lapenia, Jr. (Portion of Proceedings)
James M. Shinno (Portion of Proceedings)

COMMISSIONERS ABSENT:

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

Chairman Nip called the meeting to order.

ACTION

A89-640 - HALEKUA DEVELOPMENT CORPORATION (Oahu)

Chairman Nip announced that the Commission would take action in the matter of the petition by Halekua Development Corporation to consider reclassifying 161.1 acres of land currently in the Agricultural District into the Urban District at Hoaeae and Waikele, Ewa, Oahu for a golf course complex and tennis courts.

Commissioner Kajioka was excused from this proceeding due to a previously declared conflict of interest.

Appearances

Jan Sullivan, Esq., Attorney for Petitioner

Roy Takeyama, Esq., Attorney for Petitioner

Betsy Marcinkus, Dept. of General Planning, City and County of Honolulu

Ann Ogata-Deal, Esq., Deputy Attorney General

Jean Nishida Souza, Land Use Division, Office of State Planning

Arguments were heard from Jan Sullivan, Betsy Marcinkus, and Ann Ogata-Deal. After hearing arguments, questions were asked 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 the petition by Halekua Development Corporation to reclassify approximately 161.1 acres of land currently in the Agricultural District at Hoaeae and Waikele, Oahu for a golf course complex and tennis courts subject to thirteen conditions. And further, that the findings, conclusions and conditions as set forth by stipulation between the parties be adopted. The motion was seconded by Commissioner Whittemore.

The motion to approve the petition subject to thirteen conditions was polled as follows:

Ayes: Commissioner Hoe, Whittemore, Chun, Himeno, Lapenia, Shinno, Wada, and Chairman Nip.

A86-600 - WAITEC DEVELOPMENT, INC. (Oahu)

Chairman Nip announced that the Commission would take action in the matter to consider Petitioner's Motion to Amend Findings of Fact, Conclusions of Law, and Decision and Order which reclassified approximately 547.5 acres of land from the Agricultural District into the Urban District at Waikele and Hoaeae, Oahu for a residential community.

Commissioner Kajioke was excused from this proceeding due to a previously declared conflict of interest.

Appearances

Jan Sullivan, Esq., Attorney for Petitioner

Roy Takeyama, Esq., Attorney for Petitioner

Betsy Marcinkus, Dept. of General Planning, City and County of Honolulu

Ann Ogata-Deal, Esq., Deputy Attorney General

Jean Nishida Souza, Land Use Division, Office of State Planning

Arguments were heard from Jan Sullivan, Betsy Marcinkus, and Ann Ogata-Deal. After hearing arguments, questions were asked by the Commissioners.

Commissioner Hoe moved to grant Petitioner's request to release Condition #2 which, in general, requires Petitioner to coordinate the development with the Department of the Navy and requires Petitioner to construct a berm bordering the designated blast zone area. The motion was seconded by Commissioner Himeno and unanimously carried by the following voice votes:

Ayes: Commissioner Hoe, Chun, Himeno, Lapenia, Shinno, Wada, Whittemore, and Chairman Nip.

Commissioner Himeno was absent from the proceeding at this time.

A89-637 - ATPAC LAND COMPANY LIMITED PARTNERSHIP, WAIKOLOA DEVELOPMENT COMPANY, AND WAIKOLOA LAND AND CATTLE COMPANY (Hawaii)

Chairman Nip announced that the Commission would take action in the matter of the petition by Atpac Land Company Limited Partnership, Waikoloa Development Company, and Waikoloa Land and Cattle Company to reclassify approximately 853.187 acres of land currently in the Agricultural District into the Urban District at Waikoloa, South Kohala, Hawaii for resort, residential, 3 golf courses, and commercial uses.

Appearances

James T. Funaki, Esq., Attorney for Petitioner

Duane Kanuha, Director, Dept. of Planning, County of
Hawaii

Norman Hayashi, Dept. of Planning, County of Hawaii

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

Jean Nishida Souza, Land Use Division, Office of State
Planning

Arguments were heard by Mr. Funaki, Mr. Kanuha, and
Mr. Anderson. After hearing arguments, questions were asked 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 Lapenia moved to approve the petition by
Atpac Land Company Limited Partnership, Waikoloa Development
Company, and Waikoloa Land and Cattle Company subject to the
twelve conditions and Condition Number 13, that "The Commission
may fully or partially release these conditions as to all or
any portion of the property upon timely motion and upon the
provision of adequate assurance of satisfaction of these
conditions by the Petitioner.

The motion was seconded by Commissioner Whittemore.

Chairman Nip moved to amend Condition Number 12 to
read as follows: "Petitioner shall give notice to the Land Use
Commission, the Office of State Planning, and the County of
Hawaii Planning Department of any intent to sell, lease,
assign, place in trust, or otherwise voluntarily alter the
ownership interest in the Property covered in the Petition,
prior to development of the Property and shall provide evidence
that any successor in interest has a willingness and ability
to develop the Property in substantial compliance with
representations made to the Commission in obtaining the

reclassification of the Property in concert and in compliance with the conditions herein." The motion to amend Condition Number 12 was seconded by Commissioner Lapenia.

The motion to approve the petition subject to thirteen conditions as amended was approved as follows:

Ayes: Commissioner Lapenia, Hoe, Kajioka, Shinno, Wada, Whittemore, Chun, and Chairman Nip.

Commissioner Himeno joined the proceeding at this time.

A89-641 - STATE OF HAWAII, DEPARTMENT OF TRANSPORTATION
AIRPORTS DIVISION (Hawaii)

Chairman Nip announced that the Commission would take action in the matter of the petition by the Department of Transportation, Airports Division to consider reclassifying 548.16 acres of land currently in the Conservation District into the Urban District at Keahole, North Kona, Hawaii for airport expansion and development of new facilities.

Commissioner Kajioka and Commissioner Chun were excused from this proceeding due to a previously declared conflict of interest.

Appearances

Lane Ishida, Esq., Deputy Attorney General, Department of Transportation, Airports Division

Robert Chun, Department of Transportation, Airports Division

Duane Kanuha, Director, Department of Planning, County of Hawaii

Norman Hayashi, Department of Planning, County of Hawaii

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

Karen Yamamoto, Land Use Division, Office of State Planning

Raymond Young, Staff Planner, oriented the Commission to the area being requested for reclassification on the Land Use District Boundaries and tax maps.

Arguments were heard from Lane Ishida, Duane Kanuha, and Ann Ogata-Deal. After hearing arguments, questions were asked by the Commissioners.

Commissioner Lapenia moved to accept the Hearing Officer's recommendation to approve the petition by the Department of Transportation subject to seven conditions, as amended. To address the County of Hawaii's concern, Condition Number 3 is amended to read as follows: "Petitioner shall monitor vehicular traffic attributable to the development proposed in the petition area at on-site and off-site locations, and shall undertake subsequent mitigative measures that may be required in coordination with the Department of Transportation, Highways Division."

The motion was seconded by Commissioner Hoe and unanimously carried by the following votes:

Ayes: Commissioner Lapenia, Hoe, Shinno, Wada, Whittemore, Himeno, and Chairman Nip.

A75-404 HONOKAA SUGAR COMPANY (Hawaii)

Chairman Nip announced that the Commission would take action to consider Petitioner's Motion to Delete Conditions No. 1, 2, and 4 of the Decision and Order dated May 28, 1976 which reclassified approximately 42 acres of land from the Agricultural District into the Urban District at Honokaa, Hawaii for residential use and Condition No. 3 of the Decision and Order on Motion to Modify Condition dated July 3, 1978.

Appearances

Steven Lim, Esq., Attorney for Petitioner

Duane Kanuha, Director, Department of Planning, County of Hawaii

Norman Hayashi, Department of Planning, County of Hawaii

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

Abe Mitsuda, Land Use Division, Office of State
Planning

Alan Okamoto, Esq., Attorney for landowners, Milton
Hagiwara,, Leslie Hagiwara, and the partnership called Hamakua
Ocean View Estates.

Steven Lim, Attorney for Petitioner, requested that
the motion to delete conditions be continued for sixty days.

Commissioner Hoe moved to grant Petitioner's request
to continue the motion. The motion was seconded by
Commissioner Shinno and unanimously carried by voice votes.

A82-531 - THEODAVIES HAMAKUA SUGAR COMPANY (Hawaii)

Chairman Nip announced that the Commission would take
action to consider Petitioner's Motion to Delete Conditions No.
1, 2, and 3 of the Decision and Order dated January 27, 1983
which reclassified approximately 76.8 acres of land from the
Conservation and Agricultural Districts into the Urban District
at Kapehu 2, Kaiwilahilahi, and Waipunalei, North Hilo; Ouhi to
Kalua, and Waikoekoe, Hamakua; Hawaii, for residential use.

Commissioner Lapenia and Himeno were excused from this
proceeding due to a previously declared conflict of interest.

Appearances

Steven Lim, Esq., Attorney for Petitioner

Duane Kanuha, Director, Department of Planning, County
of Hawaii

Norman Hayashi, Department of Planning, County of
Hawaii

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

Abe Mitsuda, Land Use Division, Office of State
Planning

Intervenors ILWU, Honokaa Businessmen's Association, and Honokaa Merchant's Association were not present to the proceeding.

The letters received from Pheasant Ridge Corporation and Paauiilo Mauka-Kalopa Community Association were entered into evidence by the Land Use Commission.

Steven Lim, Attorney for Petitioner, requested that the motion to delete conditions be continued for sixty days.

Commissioner Hoe moved to grant Petitioner's request to continue the motion. The motion was seconded by Commissioner Shinno and unanimously carried by voice votes.

A87-614 - HEMMETER VMS KAUAI COMPANY III (Kauai)

Vice-Chairman Chun announced that the Commission would take action to consider Petitioner's Motion for Clarification of Decision and Order which reclassified approximately 299.79 acres of land from the Agricultural District into the Urban District at Kalapaki, Lihue, Kauai for resort.

Chairman Nip, and Commissioners Himeno and Shinno were excused from this proceeding due to a previously declared conflict of interest.

Appearances

James T. Funaki, 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 Planning, County of Kauai was not present to the proceeding. A letter received from the County in this regards was read into the record.

A postcard received on December 14, 1989 from Elizabeth Ann Stone was entered into evidence by the Land Use Commission.

MINUTES - December 14, 1989

Page 9

Raymond Young, Staff Planner, oriented the Commission to the area reclassified on the Land Use District Boundaries and tax maps.

Argument on the motion for clarification was heard from Mr. Funaki. Petitioner's witness, Sidney Fuke, was called to testify for clarification.

Argument on the motion for clarification was heard by John Anderson, Esq. After hearing arguments, questions were asked by the Commissioners.

Commissioner Hoe moved to clarify the Decision and Order dated February 17, 1988 to read as follows:

"Condition Number 1 is clarified to allow the porte cochere of a restaurant and a portion of a parking lot of Petitioner's proposed Phase IV hotel to be located on the Property."

"Condition Number 2: Property owner as referred to in Condition No. 2 is clarified to mean not only the Petitioner but includes all holders of real property interests in the property. The intent is that the avigation easement is to run with the land."

"Condition Number 3: Is clarified and amended to read: The Petitioner shall execute appropriate documents and/or agreements with the State Department of Transportation, binding upon itself, its successors and assigns, that would indemnify and hold harmless the State of Hawaii and all of its agencies and/or employees from any injury, damages, and costs, including, but not limited to, reasonable attorney's fees arising from any action alleging adverse impacts generated by normal airport activities at the Lihue Airport filed by any owners, subtenants, guests, or other users of the Property."

The motion was seconded by Commissioner Kajioka and unanimously carried by voice votes.

A lunch recess was taken at 12:00 p.m. to reconvene at 1:45 p.m.

- 2:03 p.m. -

Chairman Nip joined the proceeding at this time and Commissioners Whittemore, Himeno, and Hoe were not present to the proceeding at this time.

Chairman Nip called the meeting to order.

A84-570 - W. H. SHIPMAN, Ltd. (Hawaii)

Chairman Nip announced that the Commission would take action to consider Petitioner's Motion to Extend Time Within Which to File A Petition for Increment II of the W.H. Shipman Industrial Park consisting of approximately 176 acres of land currently in the Agricultural District into the Urban District at Keeaau, Puna, Hawaii.

Appearances

Alan Okamoto, Esq., Attorney for Petitioner

Robert Cooper, Development Manager for Petitioner

Duane Kanuha, Director, Dept. of Planning, County of
Hawaii

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

Abe Mitsuda, Land Use Division, Office of State
Planning

Arguments on the motion for extension of time were heard from Alan Okamoto, Esq., Duane Kanuha, and Ann Ogata-Deal.

Commissioner Lapenia moved for an executive session to consult with our legal counsel on legal matters. The motion was seconded by Commissioner Kajioka and unanimously carried by voice votes.

Commissioner Lapenia moved to approve A84-570 - W.H. Shipman, Ltd. to extend the time to file a petition for increment II for a period of three years starting February 19, 1990 until February 19, 1993. The motion was seconded by Commission Chun and unanimously carried

by the following voice votes:

Ayes: Commissioner Lapenia, Shinno, Wada, Chun, Kajioka, and Chairman Nip.

Commissioner Hoe joined the proceeding at this time.

SP89-372 - LANAI COMPANY, INC. (Lanai)

Chairman Nip announced that the Commission would take action to consider allowing the establishment of a golf clubhouse, driving range, and two (2) partial golf course holes on approximately 33 acres of land situated within the State Land Use Rural District at Koele, Lanai.

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

Appearances

Lawrence Ing, Esq., Attorney for Petitioner

Tom Leppert, for Petitioner

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

Raymond Young, Staff Planner, oriented the Commission to the area being requested on the Land Use District Boundaries and tax maps and gave a summary report of the special use permit.

The letter from Martha Evans was read into the record and entered into evidence by the Land Use Commission.

Arguments were heard from Lawrence Ing and Ralph Masuda. After hearing arguments, question were asked by the Commissioners.

Commissioner Wada moved that the matter of Petition SP89-372, Lanai Company, Inc. be approved subject to the conditions as recommended by the County of Maui Planning Commission with an amendment to Condition No. 2. Condition No. 2 was amended to require full compliance with the eight Department of Health conditions applicable to golf course development.

The motion was seconded by Commissioner Lapenia and unanimously carried by the following votes:

Ayes: Commissioner Wada, Chun, Lapenia, Hoe, Shinno, and Chairman Nip.

Commissioner Kajioke joined the proceeding at this time.

A89-642 - C. BREWER PROPERTIES, INC. (Wailuku & Piihane) (Maui)

Vice-Chairman Chun announced that the Commission would take action in the matter of the petition by C. Brewer Properties, Inc. to consider reclassifying 624 acres of land currently in the Agricultural District into the Urban District at Wailuku and Piihane, Maui for residential communities.

Chairman Nip was excused from this proceeding due to a previously declared conflict of interest.

Appearances

Eric Maehara, Esq., Attorney for Petitioner

Ralph Masuda, Deputy Director, Dept. of Planning,
County of Maui

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

Karen Yamamoto, Land Use Division, Office of State
Planning

Eric Maehara, Attorney for Petitioner, requested that this matter be deferred until tomorrow morning. There were no objections by the State or County of Maui.

Vice-Chairman Chun deferred the proceeding until tomorrow morning.

MISCELLANEOUS

1. ADOPTION OF MINUTES

The minutes for the following meeting dates were

MINUTES - December 14, 1989
Page 13

approved as circulated: November 16, 1989 and November 17, 1989

2. ADOPTION OF DECISION AND ORDERS

The Decision and Orders of the following dockets were adopted:

A89-640 - Halekua Development Corporation (Oahu)

A89-637 - Atpac Land Company Limited Partnership,
Waikoloa Development Company, and Waikoloa Land and Cattle
Company (Hawaii)

A89-641 - Department of Transportation, Airports
Division (Hawaii)

The meeting was adjourned at 4:09 p.m.