

STATE OF HAWAII
LAND USE COMMISSION

Minutes of Meeting

State Conference Room
Lihue, Kauai

February 21, 1985 - 9:00 a.m.

Approved
5/15/85

COMMISSIONERS PRESENT: William Yuen, Chairman
Teofilo Tacbian, Vice Chairman
Lawrence Chun
Richard Choy
Everett Cuskaden (10:35 a.m.)
Toru Suzuki
Winona Rubin
Frederick Whittemore

COMMISSIONER ABSENT: Robert Tamaye

STAFF PRESENT: Raymond Young, Planner
Dora Horikawa, Chief Clerk

Benjamin Matsubara, Hearing Officer

Jean McManus, Court Reporter

CONSOLIDATED HEARING

A84-572 - FOSTER PETROLEUM CORPORATION
A84-580 - GEORGE L. SAGEN & JANE A. SAGEN

Pursuant to a notice published in the Garden Island and the Honolulu Advertiser and notices sent to all parties, a consolidated hearing was called by the Land Use Commission in the matter of the request by Foster Petroleum Corporation to reclassify approximately 28 acres of land from the Agricultural District into the Urban District; and by George L. Sagen and Jane A. Sagen to reclassify approximately 5.0 acres of land from the Agricultural District into the Urban District; located at Kilauea, Kauai. Both petitions were proposing a light industrial development.

A84-588 - BETA PACIFIC, INC.

Mr. Walton Hong, representing petitioner, advised that a letter had been sent to the Commission requesting withdrawal of the petition. Chairman Yuen noted the request for the record and accepted the withdrawal.

Appearances

Eric Maehara, Attorney, representing George & Jane Sagen

Clinton Shiraishi, Attorney, representing Foster Petroleum

Max Graham, County Attorney's Office, representing the
Kauai Planning Department

Everett Kaneshige, Deputy Attorney General, representing
the Dept. of Planning & Economic Development

Requests for Intervention

The Commission considered a request from Ms. Jo Ann Yoshimoto, representing the Kilauea Neighborhood Association, to intervene in the Foster Petroleum and Sagen petitions. A request to intervene in the Sagen petition by Mr. Shiraishi, representing Foster Petroleum, was also discussed.

Vice Chairman Tacbian requested Ms. Yoshimoto to submit to the Commission a copy of the minutes of the meeting of the Kilauea Neighborhood Association authorizing her to represent them in these proceedings.

It was moved by Vice Chairman Tacbian to allow Foster Petroleum to intervene in the Sagen petition, and to allow the Kilauea Neighborhood Association to intervene in the Foster Petroleum and Sagen petitions. The motion was seconded by Commissioner Rubin and unanimously carried.

Exhibits

Foster Petroleum's exhibits 1 through 16 were marked for identification and moved into the record.

Sagen's exhibits A through E were identified and admitted into evidence.

County's exhibits 1 through 4 were received into evidence.

DPED's exhibit 1 was admitted into evidence.

A description of the properties being proposed for re-classification was offered by staff planner with the aid of the USGS and tax maps.

A84-572 - FOSTER PETROLEUM CORPORATION

PETITIONER

Edwin Kuniyoshi - Urban Planner

Direct examination by Mr. Shiraishi-----19 to 25
Cross examination by Mr. Graham-----25 to 30
Cross examination by Mr. Mitsuda-----31 to 35
Cross examination by Ms. Yoshimoto-----35 to 37
Examination by Vice Chairman Tacbian-----38
Examination by Commissioner Rubin-----39 to 40
Examination by Commissioner Chun-----40 to 41
Examination by Chairman Yuen-----41 to 47
Recross examination by Mr. Graham-----47 to 48

The Commission recessed the hearing at this point and considered the action items on the agenda.

ACTION

A84-578 - NIUMALU-NAWILIWILI COMMUNITY PLANNING PROJECT, INC.

In the matter of the petition by Niumalu-Nawiliwili Community Planning Project, Inc., a hearing had been conducted on November 19, 1984 by Hearing Officer Benjamin Matsubara.

Mr. Matsubara reported on his findings adduced at the hearing and explained that the primary objective of the Association in requesting this boundary amendment was to protect its members and others in the community from eviction; to obtain fee simple land tenure for its members; and to stop development that would not be in keeping with the low-key residential character of Niumalu and Nawiliwili.

Mr. Matsubara also responded to questions which were posed by Commission members with respect to the disparity in the number of lots available and number of households represented by the Association; location of the other proposed 40.55-acre area involved for future development; the imposition of a condition regarding sales only to low and moderate income families, etc.

Upon motion by Commissioner Cuskaden, seconded by Vice Chairman Tacbian, the Commission voted to go into executive

session to consult with its counsel.

Chairman Yuen announced that the Commission received advice from its counsel regarding the propriety of proposing a condition upon the reclassification at this time, during the executive session.

Vice Chairman Tacbian moved to reclassify approximately 5 acres at Niunalu, County of Kauai from the Agricultural District into the Urban District, and that the first right to purchase the subject lots be offered to the present residents of the Niunalu-Nawiliwili Community at prices affordable to them. It was seconded by Commissioner Rubin and the motion was unanimously carried by voice vote.

A84-574 - MAUNA KEA PROPERTIES, INC.

In the matter of the petition by Mauna Kea Properties, Inc. to reclassify approximately 399 acres of land from the Agricultural District into the Urban District at Ouli 1st, South Kohala, Hawaii, a hearing had been conducted by the Land Use Commission on November 14, 1984.

Appearances

Douglas Ing, Attorney, representing the petitioner

Albert Lyman, Hawaii Planning Director, representing the Hawaii Planning Department

Everett Kaneshige, Deputy Attorney General, representing the Department of Planning & Economic Development

Closing Arguments

By Mr. Ing-----68 to 79

By Mr. Lyman-----79 to 80

By Mr. Kaneshige-----80 to 85

It was moved by Commissioner Cuskaden, seconded by Commissioner Whittemore, and approved, to go into executive session to consult with its deputy attorney general as to the legal propriety of imposing certain conditions on the reclassification of this petition. A lunch recess was also taken at this time, and the meeting was reconvened at 1:45 p.m.

1:45 p.m.

Chairman Yuen advised that during the executive session, the Commission had received counsel from its special deputy attorney general regarding the propriety and legality of proposing conditions upon a reclassification which either took into account or may be performed on adjacent property.

Commissioner Cuskaden moved that in the matter of the petition by Mauna Kea Properties, Inc. to reclassify approximately 399 acres of land from the Agricultural District into the Urban District at South Kohala, Hawaii, the Commission approve on an incremental basis Phase I of the project to consist of sufficient land on which to develop petitioner's proposed golf course and approximately 150 units of single family housing and/or condominium units on a map to be furnished to the Commission by the petitioner; with Phase II to consist of the remainder of petitioner's proposed development; and the approval of Phase II to be granted upon a showing of substantial progress of completion of Phase I and development of the petitioner's proposed Hapuna Beach Resort Hotel; subject also to the condition that the petitioner provide housing opportunities for low and moderate income Hawaii residents and employees by constructing and offering for sale or lease ten percent of the number of units to be developed on Phases I and II of the subject property, or by way of contribution to the development of such housing off site. These conditions may be released upon a showing of compliance or providing assurance of compliance of them to the Commission.

It was seconded by Vice Chairman Tacbian and the Commission was polled as follows:

Ayes: Commissioners Tacbian, Rubin, Suzuki, Whittemore, Cuskaden, Choy, Chairman Yuen

The motion was carried.

Chairman Yuen announced that the Commission will recess for the rest of the day to discuss other administrative matters.

The meeting was adjourned at 2:35 p.m.