

STATE OF HAWAII
LAND USE COMMISSION

Minutes of Meeting

Conference Room 322
New State Building
1151 Punchbowl Street
Honolulu, Hawaii

APPROVED
4/5/77

January 6, 1977 - 9:00 a.m.

COMMISSIONERS PRESENT: Eddie Tangen, Chairman
Stanley Sakahashi, Vice Chairman
James Carras
Charles Duke
Colette Machado
Mitsuo Oura
Carol Whitesell
Edward Yanai

STAFF PRESENT: Gordan Furutani, Executive Officer
Michael Marsh, Deputy Attorney General
Dora Horikawa, Clerk Reporter

Ray Russell, Court Reporter

The meeting was called to order by Chairman Tangen.

At the Chair's recommendation, Vice Chairman Sakahashi moved to add to the agenda a discussion of the Motion for Intervention, Request to Appear as a Witness, Request for Issuance of Subpoena, etc., pending before the Commission, filed by Attorneys Courtney Kahr and Teresa Tico, relative to the petition by Moana Corporation, Docket A76-418. The motion was seconded by Commissioner Duke and unanimously carried by voice vote.

ACTION

A76-416 - EDWIN TU-KUEI KAM

Chairman Tangen turned the meeting over to Vice Chairman Sakahashi since he had not participated in the hearing for the subject petition. Commissioner Carras was also excused from taking part in the deliberations for the same reason.

In the matter of the boundary amendment petition by Edwin Tu-Kuei Kam, Docket A76-416, on which hearings were held on October 15, 1976, the Commission discussed the following documents which had been previously distributed to the Commission members, prior to taking action on the petition:

1. Petitioner's Proposed Findings of Fact and Conclusions of Law and Order
2. DPED's Objections to Proposed Findings of Fact and Conclusions of Law and Order
3. Shoreline Protection Alliance's Objections to Proposed Findings of Fact and Conclusions of Law and Order

The Executive Officer pointed out the subject property on various maps and oriented it with various surrounding landmarks.

Some of the major issues concerning the present request were discussed as follows:

1. The proposed reclassification did not meet the first criteria in the Interim Statewide Land Use Guidance Policy; that of approving amendments "only as reasonably necessary to accommodate growth and development. . . ."
2. A substantial sum had been appropriated by the Legislature for acquisition of land for the proposed Makena La Perouse State Park.
3. The desirability of designating the whole area for park use; the effect the petitioner's proposal will have on the recreational resources in the area.
4. The absence of any agreement between the petitioner and or other developers regarding the development of a water system in the area to accommodate the development. However, it was noted that petitioner had expressed his willingness to undertake his prorata share of the expenses for developing the water system.
5. The validity of the representation by the petitioner that potentially 36,000 hotel rooms will be needed by the year 1980.

Commissioner Whitesell moved to deny the petition, which was seconded by Commissioner Machado.

Commissioner Duke requested the record indicate that government agencies, both county and state, should act in a timely manner to carry out proposals which affect private property.

The Commissioners were polled as follows:

Ayes: Commissioners Machado, Whitesell, Duke, Oura, Miyasato, Yanai, Sakahashi

The Commission recessed for lunch at 12:00 noon and reconvened at 1:50 p.m.

ACTION

A76-417 - CAN CORPORATION

Chairman Tangen excused Commissioners Oura and Yanai from the deliberation on this petition since they had not participated in the hearing. However, it was announced that they have both read the transcript, reviewed the records, and will be available in the event their votes become necessary for making a decision on the subject petition.

Mr. Furutani, Executive Officer, reoriented the Commission to the area under petition with the use of various maps.

The Commission discussed the following documents which had been previously distributed to the Commission members before taking action on the petition:

1. Petitioner's Findings of Fact and Conclusions of Law
2. DPED's Objections to Findings of Fact and Conclusions of Law

Much of the discussion revolved around the marketing program, the order of priority for the proposed subdivision, qualification requirements of potential buyers, anti-speculative measures, etc.

One of the reasons for DPED's objection to the petition was based on a report by the Department of Agriculture of a state proposal to develop an agricultural park in Kilauea. Chairman Tangen directed that, henceforth, whenever any future proposal for a park, public facility or development by a public agency is called to the attention of the Commission, either during presentation of testimony or in a report, that a representative from the agency be available for cross examination.

It was moved by Vice Chairman Sakahashi, seconded by Commissioner Duke, to approve the petition, and the Commissioners were polled as follows:

Ayes: Commissioners Carras, Duke, Whitesell, Sakahashi, Miyasato, Machado, Chairman Tangen

The motion was carried.

A76-415 - PIONEER PROPERTIES

Chairman Tangen excused Commissioner Carras from the discussion since he was not present at the hearing on the subject petition.

The following documents were discussed by the Commission:

1. Petitioner's Findings of Fact and Conclusions of Law
2. County of Maui's Objection to Proposed Findings of Fact and Conclusions of Law

3. DPED's Objections to Proposed Findings of Fact and Conclusions of Law; Concurrence with Proposed Findings of Fact and Conclusions of Law by County of Maui

Mr. Melvin Yoshii, Deputy Corporation Counsel of Maui, requested that the County of Maui's Objections to the proposed findings #2 be amended to read "the parcel is designated as residential and highway under the existing Maui County General Plan". It was also conceded by Mr. Yoshii that the figure "3,200 feet east of the shoreline" reported in the County's Findings of Fact was a typographical error and should be corrected to read "2,200 feet".

Mr. Michael Marsh, Deputy Attorney General, enumerated the criteria to be followed in approving a boundary amendment as required under the Interim Statewide Land Use Guidance Policy.

Commissioner Duke wondered whether anything had developed since the hearing regarding the alignment of the proposed highway.

Following a short recess, Chairman Tangen recommended that pending a final realignment of the highway by the State Department of Transportation, the Commission continue its action on the subject petition within the mandatory time limits. Mr. Kremkow, representing the petitioner, acknowledged that this was agreeable with him.

Mr. Marsh advised that the Commission communicate with the Director of the Department of Transportation, apprising him of the Commission's concern regarding the effect of the proposed boundary amendment to the realignment of the highway, and requesting that he respond prior to the expiration date for action on the petition.

ACTION ON VARIOUS MOTIONS - A76-418 - MOANA CORPORATION

The Chairman called the meeting to order to discuss and act on the Petition for Intervention, Petition for Declaratory Order, Request for Issuance of Subpoena, etc. by Teresa Tico, authorized representative for respondent-intervenors, in the matter of the petition of Moana Corporation, Docket No. A76-418.

APPEARANCES

Walton Hong, representing Moana Corporation

Tatsuo Fujimoto, representing the Department of Planning
and Economic Development

Teresa S. Tico, representing respondent-intervenors

For the purposes of this proceeding only, Mr. Hong went on record waiving any objections to allowing Miss Tico to appear as the authorized representative of the intervenors.

Mr. Hong also advised that he had been requested to hand carry a letter from Mr. Brian Nishimoto, Kauai Planning Director, stating that he had no objections to the intervention by Miss Tico.

Miss Tico maintained that petitioner had failed to comply with the provision in the Commission's Rules requiring the filing of the latest balance sheet or income statement.

The following motions, requests, etc, were discussed and ruled on as follows:

1. Petition for Immediate Determination of Representation for Respondent-Intervenors by Walter Chang, et al

It was moved by Commissioner Duke and seconded by Commissioner Whitesell to grant leave to Teresa Tico to represent respondent-intervenors. The motion was unanimously carried by voice vote.

2. Petition for Intervention by Walter Chang et al

Mr. Hong objected to the petition for intervention on the basis that it fails to comply with the Rules and Regulations of the Land Use Commission in the following respects:

- a. Incorrect Tax Map Key description of the intervenor's property.
- b. Nature of intervenor's statutory or other rights to intervene.
- c. Service of petition for intervention on all parties.

Upon recommendation of the Chairman, Commissioner Duke moved to waive the deficiencies cited above.

Mr. Marsh counselled that if the intervention request is granted, it would be necessary to establish exactly which property the intervenors own and that this matter should be clarified for the record.

Chairman Tangen declared that Mr. Marsh's advice will be included in the motion, with the consent of the maker and seconder of the motion. The amended motion was unanimously carried by voice vote.

Mr. Hong stated that he will reserve his right to question the intervenors at the time of the hearing regarding actual ownership or interest in the various properties.

In response to a question posed by Mr. Marsh, Miss Tico replied that in order to expedite matters, she would request intervention pursuant to Rule 6-7 (d) of the Commission's Rules and Regulations.

A prolonged discussion ensued over the question of standing of the intervenors named in the Petition to Intervene.

Chairman Tangen announced that the meeting will be continued until 11:00 a.m., January 7, 1977.