

STATE OF HAWAII
LAND USE COMMISSION

Minutes of Meeting

Conference Room 322 B & C
Kalanimoku Building
Honolulu, Hawaii

January 19, 1982 - 9:00 a.m.

Approved
3/31/82

COMMISSIONERS PRESENT: William Yuen, Chairman
Carol Whitesell, Vice Chairman
Richard Choy
Everett Cuskaden
Shinsei Miyasato
Phil Tacbian
Robert Tamaye

COMMISSIONER ABSENT: Edward Yanai

STAFF PRESENT: Gordan Furutani, Executive Officer
Joseph Chu, Planner
Jay Nelson, Deputy Attorney General
Dora Horikawa, Chief Clerk

Benjamin Matsubara, Hearing Officer

CONTINUED ACTION

A81-506 - NORMAN L. GREENWELL, ET AL

It was announced by Chairman Yuen that the subject matter before the Commission today was a continuation of the action which had begun on November 13, 1981. He called on Mr. Benjamin Matsubara, Hearing Officer, to report on his findings to the Commission.

Mr. Matsubara reported that, as requested by the Commission, he had contacted petitioner's counsel regarding the status of an appeal presently pending before the Circuit Court for a special permit which had been denied by the Commission. Petitioner's counsel had indicated that, should there be a favorable decision by the Commission on the pending petition, Mr. Greenwell will withdraw the appeal.

It was moved by Commissioner Tacbian and seconded by Commissioner Miyasato to approve Docket A81-506. The Commissioners were polled as follows:

Aye: Vice Chairman Whitesell

Nays: Commissioners Tamaye, Choy, Tacbian, Cuskaden
Miyasato, Chairman Yuen

The motion did not carry.

Adoption of the Commission's findings and conclusions were deferred until later in the day.

ACTION

A81-507 - ROBERT C. PALMER

Mr. Matthew Ihara, petitioner's representative, submitted that Mr. Palmer wished to withdraw his petition at this time in view of the problems with water availability. Chairman Yuen announced that no further action was required.

A81-508 - MADELINE LESLIE

It was recommended by Mr. Matsubara that the petition by Madeline Leslie be approved on the bases of the evidence adduced at the hearing as enumerated in his report.

Mr. Matsubara responded to questions that were raised regarding sewage disposal, the proposed highway alignment, petitioner's intent regarding conveyance and transfer of deeds, etc.

The Commission went into executive session to receive counsel regarding transfer of ownership as submitted by the petitioner, upon motion by Commissioner Cuskaden, seconded by Commissioner Tacbian.

The Commission was in executive session from 9:55 a.m. to 10:02 a.m.

Chairman Yuen informed that the Commission had received counsel from its Deputy Attorney General regarding the legality of imposing a condition on the transfer of ownership of subject parcel as per petitioner's testimony.

Commissioner Tacbian moved to approve the petition by Madeline Leslie, which was seconded by Vice Chairman Whitesell.

Along the lines of the Commission's concern regarding the imposition of the condition as discussed above, Mr. Matsubara noted that there were past court decisions that had ruled that

representations made by the petitioner during a hearing could be construed as conditions.

The motion to approve the petition was unanimously carried.

Chairman Yuen directed Mr. Matsubara to prepare the Commission's Decision and Order consonant with the foregoing action.

A81-506 - NORMAN L. GREENWELL, ET AL (cont.)

Chairman Yuen reviewed the proposals which had been filed and recommended appropriate findings and conclusions for adoption by the Commission. It was moved by Commissioner Cuskaden and seconded by Commissioner Tacbian that the findings as recommended by Chairman Yuen be adopted by the Commission. The motion was carried with Vice Chairman Whitesell casting the only dissenting vote.

SP77-265 - GEOTHERMAL EXPLORATION & DEVELOPMENT CORPORATION
(Third extension request)

Staff presented the memorandum regarding the request by petitioner to amend condition No. 5 of SP77-265 for the drilling of exploratory geothermal wells within the State Land Use Agricultural District at Opihikao, Puna, Hawaii. As requested by Vice Chairman Whitesell, Mr. Chu gave a chronological account of the present request, including the date that the extension request was filed.

Vice Chairman recalled the problems that the Commission had encountered in the past when extension requests had been filed after the expiration date. As a result, the Commission had adopted a strong position to deny any requests for extension on special permits that had lapsed. However, in this case, she felt that the letter request which had been filed one day prior to the expiration date could be considered as a timely indication of petitioner's desire to extend the permit.

Mr. Ed Craddick, petitioner's representative, was called upon to respond to questions from the Commission members regarding the nature of the geothermal operation, the drilling activities, the hours of operation, etc.

Upon motion by Commissioner Cuskaden, seconded by Commissioner Tacbian, the Commission went into executive session from 10:37 a.m. to 11:05 a.m.

Chairman Yuen explained that the Commission had received counsel from its Deputy Attorney General regarding the Commission's jurisdiction and power to entertain the present request.

Commissioner Tacbian moved to approve the extension request, subject to the 14 conditions imposed by the Hawaii Planning Commission. It was seconded by Vice Chairamn Whitesell.

Chairman Yuen suggested that condition No. 12 be amended by adding the words "and the Executive Officer of the Land Use Commission" after the words "Planning Director".

Commissioner Tacbian moved to amend the motion as recommended by the Chairman. It was seconded by Vice Chairman Whitesell and carried unanimously.

The motion to approve the extension request, and as amended, was also unanimously approved.

The meeting was adjourned at 11:10 a.m.