

STATE OF HAWAII
LAND USE COMMISSION

Minutes of Meeting

Kahului Library Conference Room
Kahului, Maui

February 2, 1982 - 9:00 a.m.

Approved
4/21/82

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

COMMISSIONERS ABSENT: Everett Cuskaden
Edward Yanai

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

Jean McManus, Court Reporter

CONTINUED HEARING

A81-514 - PUKALANI HEIGHTS ASSOCIATES

It was announced by Chairman Yuen that the hearing on the subject petition which was being continued from November 23, 1981 was called for the purpose of allowing submission of a financial statement by the petitioner, and also to ascertain whether the petitioner was willing to set aside a portion of the project for low and moderate income housing.

Appearances

Martin Luna, Attorney representing petitioner

Guy Archer, Deputy Corporation Counsel, representing
the Maui Planning Department

Annette Chock, Deputy Attorney General, representing the
Dept. of Planning & Economic Development

Additional Exhibits

Petitioner's exhibits HH, II, JJ, KK and MM were moved into evidence. The Chairman reserved the ruling on exhibit LL at this time.

PETITIONER

David Takayesu (recalled)

Direct examination by Mr. Luna----- 6 to 8

Cross examination by Miss Chock----- 8 to 13

Examination by Chairman Yuen-----13 to 14

Petitioner's exhibit LL was moved into evidence.

Gilbert M. Ikeda (recalled)

Direct examination by Mr. Luna-----14 to 16

Cross examination by Mr. Archer-----16 to 17

Examination by Vice Chairman Whitesell-----17 to 18

Examination by Chairman Yuen-----18 to 19

All parties elected to defer their closing arguments until the time of the action meeting.

Chairman Yuen instructed all parties of the post-hearing requirements.

ACTION

SP77-273 - OAHU CORPORATION

Conformance of Land Use Commission Action on Kahe Theme Park to Hawaii Supreme Court Decision No. 7112

It was stated by the Chairman that the Commission was in receipt of a communication from the City & County of Honolulu Planning Commission indicating the revocation of the subject special permit due to the decision of the Supreme Court. Therefore, it would be in order for the Commission to take action to note the revocation of the permit by the City Planning Commission and to confirm that the Land Use Commission's approval of the special permit also be revoked.

For the record, Chairman Yuen stated that the request by Mr. Isaac Hall of the Legal Aid Society to present testimony on the subject matter was inappropriate. It was also noted that there was no representative present from the Oahu Corporation.

It was moved by Vice Chairman Whitesell to revoke Oahu Corporation's special permit to establish the Kahe Theme Park. It was seconded by Commissioner Tacbian and the motion was unanimously passed by voice vote.

The Commission was in executive session from 10:35 a.m. to 10:50 a.m.

10:50 a.m.

It was announced by Chairman Yuen that the Commission received legal advice from its Deputy Attorney General concerning the effect of the Supreme Court's decision on the Oahu Corporation case on the Land Use Commission's special permit procedure.

SP82-352 - COUNTY OF HAWAII, DEPARTMENT OF PARKS & RECREATION
To allow the development of a motorcycle training and competition facility at Panaewa, Waiakea, Hawaii

Staff planner oriented the Commission to the subject parcel with the aid of the USGS quad and tax maps. A summary and background of the request was also presented to the Commission.

It was moved by Commissioner Tacbian and seconded by Vice Chairman Whitesell to approve SP82-353, County of Hawaii, Department of Parks and Recreation, subject to the eight conditions imposed by the Hawaii County Planning Commission.

Both Vice Chairman Whitesell and Commissioner Tacbian spoke in support of the subject request on the bases that the concern over the noise problem seem to have been adequately addressed; there were other agricultural lands available for macadamia nut operation; and this request in no way paralleled the Kahe Theme Park project.

Chairman Yuen felt that in light of the Supreme Court ruling, and since the record on subject special permit did not reflect that the Planning Commission considered evidence sufficient to establish findings that the use would not be contrary to the objectives of the Land Use Commission, it would be appropriate to remand the record to the County requesting that proper findings be made, to indicate that the use is both unusual and reasonable.

The Commissioners were polled as follows:

Ayes: Commissioners Tachian, Tamaye, Miyasato, Whitesell

Nays: Commissioner Choy, Chairman Yuen

The motion to approve SP82-352 did not carry.

HEARING

A81-517 - PARADISE DEVELOPERS, INC.

Pursuant to a notice published in the Honolulu Advertiser and the Maui News on December 21, 1981, and notices sent to all parties, a hearing was called by the Land Use Commission in the matter of the petition by Paradise Developers, Inc. to reclassify approximately 148 acres of land from the Agricultural District into the Rural and Urban Districts at Kamaole, Makawao, Maui, Docket A81-517.

Appearances

James Brock, Sr. - Principal of Brock & Associates, Agent for petitioner

Guy Archer - Deputy Corporation Counsel, representing the Maui Planning Department

Annette Chock - Deputy Attorney General, representing the Dept. of Planning & Economic Development

An untimely request to appear as a public witness by Mr. John Bose was considered by the Commission. Vice Chairman Whitesell moved to permit Mr. Bose to testify, which was seconded by Commissioner Tachian and unanimously approved.

Exhibits

Petitioner's exhibits 1 through 8 were identified and moved into evidence.

Maui County's exhibits 1 through 4 were admitted into evidence.

DPED's exhibit 1 was admitted into evidence.

All of the persons who appeared as witnesses today, having been duly sworn in, testified and were examined as set forth in the transcript on the pages noted.

Public Witnesses

Harold Luntley - Homeowner in Kihei

Oral testimony-----36 to 44
 Cross examination by Mr. Brock-----45
 Cross examination by Mr. Archer-----45 to 51
 Cross examination by Miss Chock-----51
 Examination by Chairman Yuen-----51 to 52

John Bose - Chairman of the Maui Group of the Sierra Club

Oral testimony-----52 to 54
 Cross examination by Mr. Brock-----55
 Examination by Commissioner Tacbian-----55
 The Commission was in recess from 12:15 p.m. to 1:30 p.m.

1:30 p.m.

PETITIONER

James Brock - Senior Principal of Brock & Associates

Oral testimony----- 57 to 80
 Cross examination by Mr. Archer----- 80 to 100
 Cross examination by Miss Chock-----100 to 113
 Examination by Vice Chairman Whitesell-----113 to 117
 Examination by Commissioner Tacbian-----118 to 119
 Examination by Chairman Yuen-----119 to 122

MAUI PLANNING DEPARTMENT

Clyde Murashige - Planner, Planning Department

Direct examination by Mr. Archer-----122 to 131
 Cross examination by Mr. Brock-----131 to 135

Clyde Murashige (cont.)

Cross examination by Miss Chock-----135 to 136
Examination by Vice Chairman Whitesell-----136 to 137
Examination by Commissioner Tacbian-----137 to 138
Examination by Chairman Yuen-----138 to 139

DEPARTMENT OF PLANNING & ECONOMIC DEVELOPMENT

Abe Mitsuda - Planner, Land Use Division

Direct examination by Miss Chock-----139 to 143
Cross examination by Mr. Brock-----143 to 149
Cross examination by Mr. Archer-----149 to 192

At the conclusion of the hearing, all parties were advised of the post-hearing procedures. Closing arguments were waived in favor of presenting their statements at the action meeting by the parties.

Adoption of Minutes

The minutes of November 23, 1981 and November 24, 1981 were approved as circulated.