

STATE OF HAWAII
LAND USE COMMISSION

Minutes of Meeting

Conference Rooms A & B
State Office Building
Lihue, Kauai

Approved
4/26/77

February 3, 1977 - 10:00 a.m.

COMMISSIONERS PRESENT: Stanley Sakahashi, Chairman Pro tem
Charles Duke
James Carras
Shinsei Miyasato
Mitsuo Oura
Carol Whitesell
Edward Yanai

COMMISSIONERS ABSENT: Eddie Tangen, Chairman
Colette Machado

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

Ray Russell, Court Reporter

Chairman Sakahashi called the meeting to order.

HEARING

A76-422 - CLINTON I. SHIRAIISHI, ET AL

Pursuant to a notice published in the Garden Island and the Honolulu Advertiser on December 8, 1976, and notices sent to all parties, a hearing was called by the Land Use Commission in the matter of the petition by Clinton I. Shiraishi, et al, to amend the land use district boundaries for approximately 61.968 acres presently in the Agricultural District into the Rural District at Wailua, Kauai, for low density residential-agricultural uses; Docket No. A76-422.

APPEARANCES

Mr. Roy Takeyama, Attorney representing the petitioner

Mr. Gilbert Lee, Deputy Attorney General, representing the Department of Planning & Economic Development

Mr. Michael Belles, County Attorney's office, representing the Kauai Planning Department

The Executive Officer located the subject parcel on the various maps and oriented the property with various surrounding landmarks.

Mr. Michael Marsh, Deputy Attorney General, reported on the prehearing conference held on January 11, 1977 on Kauai as follows:

1. There were no applications for intervention.
2. Both the County and State had no objections to the admission of petitioner's exhibits A through H. On exhibit I, the County stipulated that they would have no objection so long as Mr. Noonan was available for examination. Petitioner will have 5 witnesses.
3. County's exhibits A1 through E2 were exchanged. The County will have 3 witnesses.
4. DPED provided all parties with a copy of its written testimony and one exhibit. There were no objections to the admission of the exhibit.
5. It was stipulated by all the parties to amend reference to the subject property to reflect the revision of the Tax Map Key number by the Department of Taxation.
6. There were several timely applications to appear as witnesses. However, the large number of persons who applied to testify as witnesses will be represented by a total of 8 individuals who will express their views.

Admittance of Witnesses

Upon motion by Commissioner Whitesell, seconded by Commissioner Duke, the following were admitted as witnesses to the proceedings:

Sally Kaaihue
Valerie Hepa
Sally Jo Soares
August Heldt

It was noted for the records that Mr. Takeyama objected to the admission of the above witnesses on the grounds that they had not submitted evidence to show that they were an organized community group. Arguments in favor of admitting the witnesses pointed to the fact that under the provisions of the APA, virtually any "entity" is permitted to appear before any commission to present evidence.

Upon motion by Commissioner Duke, seconded by Commissioner Whitesell, it was unanimously agreed to admit Ms. Elithe Aguiar Hayden as a witness.

Swearing In

Chairman Sakahashi administered the oath to those planning to testify during today's hearing.

PETITIONER

Exhibits

Petitioner's exhibits A through H were admitted into evidence. However, Mr. Marsh advised that petitioner will have to move for admission of exhibits I through N at an appropriate time since there were objections and reservations by the State and County.

Thomas Sahara - Witness

Mr. Thomas Sahara, consultant on land use, having been duly sworn in, was called as a witness, examined and testified as set forth in the transcript on-----Pages

Presentation of written testimony-----35 to 45

Direct examination by Mr. Takeyama-----45 to 51

Cross examination by Mr. Belles-----51 to 71

Cross examination by Mr. Lee-----72 to 77

Questioned by Commissioner Whitesell-----77 to 78

Questioned by Mr. Marsh-----79 to 81

Randall Shioi - Witness

Mr. Randall Shioi, general contractor, having been duly sworn in, was called as a witness, examined and testified as set forth in the transcript on-----Pages

Direct examination by Mr. Takeyama-----82 to 84

Cross examination by Mr. Belles-----84 to 85

Cross examination by Mr. Lee-----85 to 87

Michael Noonan - Witness

Mr. Michael Noonan, principal broker for Kauai Realty, Inc., having been duly sworn in, was called as a witness, examined and testified as set forth in the transcript on-----Pages

Direct examination by Mr. Takeyama-----87 to 94

Mr. Noonan's letter marked petitioner's exhibit I was admitted into evidence at this time.

Michael Noonan (cont.)

	<u>Pages</u>
Cross examination by Mr. Belles-----	94 to 98
Redirect examination by Mr. Takeyama-----	98
Recross examination by Mr. Belles-----	99 to 100
Cross examination by Mr. Lee-----	100 to 104
Questioned by Commissioner Whitesell-----	104
Questioned by Mr. Marsh-----	105 to 106

Yoshiko Kano - Witness

Mrs. Yoshiko Kano, real estate broker, having been duly sworn in, was called as a witness, examined and testified as set forth in the transcript on-----Pages

Direct examination by Mr. Takeyama-----	106 to 109
Cross examination by Mr. Lee-----	109 to 110
Questioned by Commissioner Duke-----	110 to 111
Questioned by Mr. Marsh-----	111

Kenneth Ibara - Witness

Mr. Kenneth Ibara, consulting engineer and principal in the firm of Kutaka, Portugal & Ibara, having been duly sworn in, was called as a witness, examined and testified as set forth in the transcript on-----Pages

Direct examination by Mr. Takeyama-----	112 to 116
Questioned by Commissioner Duke-----	116 to 118

Petitioner's development plans marked exhibit J were admitted into evidence.

Clinton Shiraishi - Witness

Mr. Clinton Shiraishi, petitioner, having been duly sworn in, was called as a witness, examined and testified as set forth in the transcript on-----Pages

Direct examination by Mr. Takeyama-----	118 to 123
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Much discussion ensued over the admissibility of petitioner's exhibit K consisting of 485 signatures of residents in Kauai

supporting the request by the petitioner. Mr. Marsh advised that in administrative proceedings, the rules of evidence were extremely lax and therefore counselled the Commission to accept the petition into evidence, but that appropriate weight be placed on the document during the Commission's deliberation.

Commissioner Whitesell moved to admit the petition, recognizing that it may not receive as great a weight as some of the other evidence. It was seconded by Commissioner Duke and unanimously passed. Therefore, petitioner's exhibit K was admitted into evidence.

The petitioner's following exhibits were also admitted into evidence at this time:

Exhibit L - Letter from Mr. Kazuya Kuboyama, business agent of the Carpenters Union Local 745, writing in his individual capacity

Exhibit M - Letter from Mr. and Mrs. Yasuo Moribe, owners of adjoining lands

Exhibit N - Letter from Mr. and Mrs. Alexander Thomas, and Mr. and Mrs. Donal Pereira, abutting landowners

Clinton Shiraishi (cont.)

Pages

Cross examination by Mr. Lee-----135 to 136
Cross examination by Mr. Belles-----136 to 137
Questioned by Commissioners Whitesell & Duke-----138 to 139
Recross examination by Mr. Lee-----139 to 140
Questioned by Commissioner Duke-----140 to 141

Public Witnesses

Sally Kaaihue - Witness

Ms. Sally Kaaihue, resident of Wailua Homesteads, having been duly sworn in, was called as a witness, examined and testified as set forth in the transcript on-----Pages

Oral Testimony-----141 to 145

Questioned by Chairman Sakahashi-----145 to 146

Valerie Hepa - Witness

Ms. Valerie Hepa, resident of Wailua Homesteads, having been duly sworn in, was called as a witness, examined and testified as

set forth in the transcript on-----	<u>Pages</u>
Presented prepared statement-----	146 to 151
Cross examination by Mr. Belles-----	151 to 152
Cross examination by Mr. Lee-----	152
Cross examination by Mr. Takeyama-----	155 to 157
Questioned by Commissioner Whitesell-----	157

Mr. Takeyama protested that paragraphs 5 and 6 on page 1, and paragraph 1 on page 2 of Ms. Hepa's written testimony were totally irrelevant to the petition under discussion, and requested that they be deleted from the record. Ms. Hepa agreed to withdraw these paragraphs from her testimony.

Sally Jo Soares - Witness

Ms. Sally Jo Soares, resident of Wailua Homesteads, having been duly sworn in, was called as a witness, examined and testified as set forth in the transcript on-----Pages

Discussion of drainage problem and responses to questions raised by Commissioners, counsel, Mr. Takeyama-----	159 to 163
Presented prepared statement-----	163 to 171

Tax Maps marked Soares exhibits 1 and 2 were admitted into evidence.

Admission of Additional Witnesses

Mr. Marsh advised the Commission of several untimely applications to appear as witnesses which had been filed.

Commissioner Whitesell moved to waive the time requirement and to admit Ms. August Aguiar and Ms. Sharon Mendez to appear as witnesses. The motion was seconded by Commissioner Duke and unanimously carried.

August Aguiar - Witness

Ms. August Aguiar, having been duly sworn in, was called as a witness, examined and testified as set forth in the transcript on-----Pages

Oral testimony-----	175 to 179
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Sharon Mendez - Witness

Ms. Sharon Mendez, resident of Wailua Homesteads, having been duly sworn in, was called as a witness, examined and

testified as set forth in the transcript on-----Pages

Oral testimony-----179 to 182

KAUAI PLANNING DEPARTMENT

Exhibits

Kauai Planning Department's exhibits A through K were admitted into evidence.

Bill Forrest - Witness

Mr. Bill Forrest, District Conservationist for the Soil Conservation Service, Lihue, having been duly sworn in, was called as a witness, examined and testified as set forth in the transcript on-----Pages

Direct examination by Mr. Belles-----183 to 189

Cross examination by Mr. Lee-----189 to 190

Cross examination by Mr. Takeyama-----190 to 193

Questioned by Commissioner Whitesell and also responded to by Mr. Sahara-----193 to 199

Questioned by Mr. Marsh-----199 to 201

Questioned by Commissioner Duke-----201 to 205

Questioned by Commissioner Whitesell-----205 to 206

Dennis Ikehara - Witness

Mr. Dennis Ikehara of the University Cooperative Extension Service, having been duly sworn in, was called as a witness, examined and testified as set forth in the transcript on Pages

Direct examination by Mr. Belles-----207 to 216

Cross examination by Mr. Takeyama-----216 to 219

Cross examination by Mr. Lee-----219 to 222

Questioned by Mr. Marsh-----222 to 223

Greg Kamm - Witness

Mr. Greg Kamm, Planner for Kauai Planning Department, having been duly sworn in, was called as a witness, examined and testified as set forth in the transcript on-----Pages

Direct examination by Mr. Belles-----223 to 226

Greg Kamm (cont.)

Pages

Cross examination by Mr. Takeyama-----	227 to 230
Questioned by Commissioner Whitesell-----	230 to 233
Redirect examination by Mr. Belles-----	234
Questioned by Mr. Marsh-----	234 to 235

DEPARTMENT OF PLANNING & ECONOMIC DEVELOPMENT

Exhibit

DPED's exhibit 1 was admitted into evidence.

Mr. Gilbert Lee referred to the written testimony of Mr. Tatsuo Fujimoto, Head of the Land Use Division, and offered him for examination.

It was pointed out by Mr. Takeyama, and concurred by Mr. Fujimoto, that the statement in DPED's testimony on page 2, 10th line from the bottom, should be corrected to read "The anticipated market is primary residence or possibly as second homes".

The hearing on A76-422 was closed and the Chairman advised the petitioner and parties of the deadline for the filing of the proposed findings of fact, etc., and response thereto.