

STATE OF HAWAII
LAND USE COMMISSION

Minutes of Meeting

DLNR Board Room
Kalanimoku Building
Honolulu, Hawaii

Approved
JUL 9 1981

February 3, 1981 - 9:00 a.m.

COMMISSIONERS PRESENT: Charles Duke, Chairman
Shinichi Nakagawa, Vice Chairman
Richard Choy
Shinsei Miyasato
Mitsuo Oura
George Pascua
Carol Whitesell
William Yuen

COMMISSIONER ABSENT: Edward Yanai

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

Benjamin Matsubara, Hearing Officer

Ray Russell, Court Reporter

ACTION

A80-483 - A & B PROPERTIES, INC.

Chairman Duke excused Commissioner Yuen from participating in the deliberation of subject petition due to a conflict of interest as previously stated.

Commissioner Miyasato was also excused due to the fact that he is employed by Hawaiian Commercial & Sugar Co., a wholly owned subsidiary of Alexander & Baldwin.

Inasmuch as there were now only 6 Commissioners remaining and 6 affirmative votes needed to effect a boundary change, Chairman Duke announced that it would be an injustice to the petitioner to proceed with action on the petition today. Therefore, he called for a motion to continue action on A80-483, A and B Properties, Inc.

Vice Chairman Nakagawa moved to continue action on Docket A80-483, A and B Properties, Inc. to a later date when the absent Commissioner can be present. It was seconded by Commissioner Pascua and unanimously carried. With the concurrence of all parties, the continuance date was set for February 24, 1981, time and place to be announced later.

A80-488 - SAMUEL HEPA, ET AL

In the matter of the boundary amendment petition by Samuel Hepa, et al, Docket A80-488, a hearing was conducted by Hearing Officer Benjamin Matsubara on October 10, 1980.

It was Mr. Matsubara's recommendation that the petition be denied since the requested boundary amendment was not in conformance with Section 205-2 of the Hawaii Revised Statutes and the applicable rules and regulations of the Land Use Commission. He elaborated that the subject property was not contiguous to an Urban District, was not needed to reasonably accommodate growth and development and if reclassified to Urban will contribute toward scattered spot urban development. It was further reported that although the County was aware of the hardship to the petitioners, it was concerned about urban encroachment and the gradual demise of agricultural lands.

Much discussion ensued over the question of whether there were other avenues available to the petitioner to construct the desired dwellings other than seeking the urban reclassification.

It was moved by Commissioner Pascua and seconded by Commissioner Yuen to defer action on subject petition. The motion was defeated with the following votes:

Ayes: Commissioners Oura, Miyasato, Pascua, Yuen

Nays: Commissioners Whitesell, Nakagawa, Choy, Chairman Duke

Commissioner Whitesell moved that the Commission accept the Hearing Officer's report, thereby denying the petition. The motion was seconded by Vice Chairman Nakagawa and carried as follows:

Ayes: Commissioners Yuen, Whitesell, Miyasato, Nakagawa, Choy, Chairman Duke

Nays: Commissioners Oura, Pascua

A80-482 - T.S.K. ASSOCIATES

Chairman Duke announced that since less than 8 Commissioners had been present during the hearing on subject petition, action

will be conducted under the proposed decision process. It was also determined that the Commissioners who had been absent during the hearing had read the transcript of those proceedings.

Appearances

James Funaki, Attorney representing petitioner

Annette Chock, Deputy Attorney General, representing DPED

Mr. Furutani, Executive Officer, informed that the County will not be represented today and it had waived its right to closing arguments.

Oral Arguments

All of the parties were given equal time to present their closing arguments, and petitioner's counsel was given additional time for rebuttal.

Commissioner Oura moved to approve Docket A80-482, T.S.K. Associates, to reclassify approximately 240.46 acres of land presently in the Conservation District into the Urban District at Kaloko, North Kona, Hawaii for light industrial subdivision. It was seconded by Commissioner Pascua.

Commissioner Whitesell spoke against the motion based on her judgment that it was inappropriate for the Commission to act in opposition to the County Plan.

Chairman Duke argued that planning was a continuous process and changing circumstances require changes in the General Plan. Moreover, Kona was probably one of the fastest growing communities in the State of Hawaii and he felt that the subject request was a valid one and fulfilled a need.

The Commissioners were polled as follows:

Ayes: Commissioners Pascua, Yuen, Miyasato, Oura, Choy
Nakagawa, Chairman Duke

Nay: Commissioner Whitesell

The motion to approve Docket A80-482 was carried.

Thereafter, under Mr. Kawada's guidance, the Commission reviewed all of the proposed findings of fact, responses to the proposals, etc. which had been filed by the parties relative to subject petition and adopted the Commission's true findings.

Mr. Kawada was instructed to prepare the Conclusions of Law and Decision and Order consonant with the findings just adopted.

The meeting was adjourned at 12:40 p.m.