

STATE OF HAWAII  
LAND USE COMMISSION

Minutes of Meeting

Approved  
JUL 9 1981

North Kohala Courthouse  
Kapaau, Kohala, Hawaii

February 17, 1981 - 10:30 a.m.

COMMISSIONERS PRESENT: Charles Duke, Chairman  
Shinichi Nakagawa, Vice Chairman  
Richard Choy  
Shinsei Miyasato (11:05 a.m.)  
George Pascua  
Carol Whitesell  
William Yuen

COMMISSIONERS ABSENT: Mitsuo Oura  
Edward Yanai

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

HEARING

A80-496 - OCEANIC PROPERTIES, INC.

Pursuant to a notice published in the Honolulu Advertiser and the Hawaii Tribune Herald on January 14, 1981 and notices sent to all parties, a hearing was held by the Land Use Commission in the matter of the petition by Oceanic Properties to reclassify approximately 141 acres of land presently in the Agricultural District into the Urban District at Puehuehu, North Kohala, Hawaii for a residential subdivision, Docket A80-496.

Conflict of Interest

Commissioner Yuen stated for the record that 4 years ago his law firm had served as special counsel to Castle and Cooke, Inc., the parent company of Oceanic Properties. However, he did not feel that this fact would preclude him from participating in the proceedings on this petition. Chairman Duke agreed that there was no conflict and ruled that Commissioner Yuen may take part in the proceedings.

Appearances

James Funaki, Attorney representing Oceanic Properties  
Dickson Lee, Co-counsel with Mr. Funaki

Sidney Fuke, Director, Hawaii Planning Dept.

Annette Chock, Deputy Attorney General, representing DPED

Mr. Furutani, Executive Officer, pointed out the location of the subject property on the USGS and tax maps, and oriented its location with various surrounding landmarks.

Admission of Public Witnesses

Mrs. P. Levine was admitted as a public witness upon motion by Commissioner Whitesell and seconded by Commissioner Pascua.

Mr. Marc Kinoshita, representing the Kohala Alliance Council, was unanimously approved to appear as a witness, upon motion by Commissioner Yuen, seconded by Commissioner Whitesell.

Commissioner Pascua moved, seconded by Commissioner Yuen, to admit Mr. Naves Santiago to appear as a public witness. The motion was unanimously carried.

Mr. David Rotstein was admitted a public witness, upon motion by Commissioner Choy, seconded by Commissioner Pascua.

Admission of Intervenors

It was noted that the following motions were pending before the Commission:

1. Motion to Intervene by Kohala Community Association, filed by Mr. Henry Ross
2. Motion to Oppose Petition to Intervene and Motion to Dismiss, filed by petitioner
3. Memorandum in Support of Intervention, filed by Henry Ross and Jon V. Adams
4. Petition to Intervene, filed by Jon V. Adams

At 11:05 a.m., the Commission was joined by Commissioner Miyasato.

Petitioner's counsel reserved the right to cross examine Mr. Ross on the above motions.

County stated that it had no objections.

Both the County and the State had no objections to allowing Mr. Ross to represent the Kohala Community Association as a party to the proceedings.

As requested by Mr. Lee, he was permitted to examine Mr. Ross to clarify several points relating to the foregoing motions.

Commissioner Whitesell moved to deny petitioner's Motion to Dismiss the Petition filed by Henry A. Ross. It was seconded by Vice Chairman Nakagawa and the motion was unanimously carried.

Commissioner Yuen moved that Mr. Ross be permitted to intervene in an individual capacity only. It was seconded by Commissioner Pascua.

Vice Chairman Nakagawa moved to amend the motion to also include the Kohala Community Association as an Intervenor, which was seconded by Commissioner Whitesell.

Commissioner Choy moved to amend the amendment to restrict Mr. Ross to represent the Kohala Community Association only and not as an individual, and Commissioner Yuen seconded the motion.

Chairman Duke observed that Commissioner Choy's amendment to the amendment was tantamount to defeating the original motion and therefore ruled that it was out of order.

Commissioner Yuen stated that he was withdrawing his original motion and Commissioner Pascua, seconder of the motion, voiced no objections. Both the maker and seconder of the amendment to the original motion submitted that they did not object to the withdrawal of the original motion. Therefore, it was declared that presently there was no motion on the floor.

Commissioner Choy moved that Mr. Ross be permitted to intervene, representing the Kohala Community Association, but not as an individual. It was seconded by Commissioner Yuen and unanimously approved.

The Commission was in recess from 12:20 p.m. to 1:35 p.m.

1:35 p.m.

Mr. Lee represented that he would like to withdraw petitioner's Motion to Oppose Petition to Intervene by Jon V. Adams and Motion to Dismiss, in light of the Commission's ruling relative to Mr. Ross' request.

Commissioner Whitesell moved that Mr. Adams be admitted as an intervenor pursuant to Section (c) of the Commission's Rule 6-7. It was seconded by Vice Chairman Nakagawa and unanimously carried.

Admission of Additional Witness

The Executive Officer informed the Commission of an additional request to appear as a public witness by Mr. Robert Watkins which had been filed in a timely manner. Upon motion by Commissioner Pascua, seconded by Commissioner Whitesell, it was unanimously agreed to approve Mr. Watkins' request to appear as a public witness.

Statement by the County of Hawaii

Mr. Sidney Fuke, Planning Director of the Hawaii Planning Department, requested that the hearing be continued for a period not to exceed 60 days from today. In support of this request, it was submitted that the County was presently studying the housing demand from a regional standpoint and evaluating North Kohala's role in relation to on-coming resort developments in the South Kohala coast, and the County was not totally prepared to state its position today.

Chairman Duke ruled in favor of Mr. Fuke's request to continue the hearing to a later date. However, a request from Commissioner Choy to place the matter to a vote was agreed to by the Chairman.

Commissioner Choy moved to deny the County's request for a continuance of the hearing, which was seconded by Commissioner Whitesell. The Commissioners were polled as follows:

Ayes: Commissioners Choy and Whitesell

Nays: Commissioners Nakagawa, Miyasato, Pascua, Yuen,  
Chairman Duke

The motion to deny the County's request for a continuance was defeated.

Commissioner Yuen moved to continue the hearing as requested by the County of Hawaii, which was seconded by Commissioner Pascua. The motion was carried with the following votes:

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

Nays: Commissioners Whitesell and Choy

Chairman Duke announced that at the conclusion of today's proceedings, the hearing on A80-496 will be continued to April 14, 15 and 16, 1981.

Public Witnesses

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

Marc Kinoshita - Kohala Alliance Council

- Examination by Chairman Duke-----79 to 81
- Oral testimony-----81 to 82
- Cross examination by Mr. Funaki-----82 to 84
- Cross examination by Mr. Fuke-----84 to 85
- Cross examination by Mr. Ross-----86 to 87
- Examination by Commissioner Yuen-----87

Patricia Ann Levine - Concerned Citizen

- Examination by Chairman Duke-----88 to 89
- Oral testimony-----89 to 90
- Cross examination by Mr. Funaki-----90 to 92
- Examination by Commissioner Yuen-----92 to 93
- Examination by Commissioner Whitesell-----93

David Rotstein - Concerned Citizen

- Examination by Chairman Duke-----93 to 94
- Oral testimony-----94 to 96
- Cross examination by Mr. Funaki-----96 to 98
- Cross examination by Mr. Fuke-----98 to 99
- Cross examination by Mr. Adams-----99
- Examination by Commissioner Whitesell-----101

Naves Santiago - Concerned Citizen

Examination by Chairman Duke-----102  
Oral testimony-----102 to 106  
Cross examination by Mr. Fuke-----106  
Cross examination by Mr. Adams-----107 to 108  
Cross examination by Mr. Ross-----108 to 111  
Examination by Commissioner Whitesell-----111 to 112

Robert Watkins - Physician

Examination by Chairman Duke-----112 to 113

Since Dr. Watkins did not feel he could complete his testimony in the short time left before the adjournment of the meeting, Chairman Duke advised that he will be recalled at the time the Commission reconvenes to continue the hearing.

ADOPTION OF MINUTES

The minutes of August 12, 1980, August 13, 1980 and October 15, 1980 were adopted as circulated.

The meeting was adjourned at 3:15 p.m.