

STATE OF HAWAII
LAND USE COMMISSION

Minutes of Meeting

Conference Room 322 B
Kalanimoku Building
Honolulu, Hawaii

February 24, 1981 - 9:00 a.m.

Approved
AUG 5 1981

COMMISSIONERS PRESENT: Charles Duke, Chairman
Shinichi Nakagawa, Vice Chairman
Richard Choy
Shinsei Miyasato
Mitsuo Oura
George Pascua
Carol Whitesell
Edward Yanai
William Yuen (9:50 a.m.)

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

Ray Russell, Court Reporter

CONTINUED ACTION

It was moved by Commissioner Whitesell to rearrange the first and second items on the agenda, which was seconded by Commissioner Choy and unanimously approved.

A80-483 - A & B PROPERTIES, INC.

It was announced that action on subject petition will be conducted via the proposed decision route and the procedures to be followed were explained.

Letter from Ethics Commission

In a letter from the State Ethics Commission, the Land Use Commission had been advised that "the Ethics Commission decided upon reconsideration that Mr. Miyasato would not be prohibited from taking action with respect to the petition for the land use boundary change filed by Alexander & Baldwin".

Appearances

Ken Peterson, Senior Counsel for petitioner

Appearances (cont.)

Roger Betts, Corporation Counsel, representing County
of Maui

Annette Chock, Deputy Attorney General, representing
Department of Planning & Economic Development

Staff planner pointed out the location of the subject
property on the USGS and tax maps.

Oral Arguments

Each party was given equal time to present his closing
arguments. Petitioner's counsel waived his rights to rebuttal.

Chairman Duke established that those Commissioners who
had not been present during the hearing had read the transcripts
of the proceedings.

Commissioner Whitesell moved that the Commission approve
A80-483, Alexander & Baldwin Properties, Inc. to reclassify
approximately 619 acres of land presently in the Agricultural
District into the Urban District at Wailuku and Kahului, Maui
for residential use, subject to the conditions as proposed by
the petitioner in his proposed Decision and Order. The motion
was seconded by Commissioner Choy.

Commissioner Whitesell spoke in favor of the motion and
emphasized that this petition was one of the best reclassifica-
tion proposals relating to housing that the Commission had re-
ceived. Moreover, petitioner had indicated that it intended to
provide affordable housing for low and moderate income people.

Vice Chairman Nakagawa argued against the petition on the
basis that the problems of noise, traffic, displacement of
on-going agricultural activities, sewage systems were not
adequately addressed.

Chairman Duke agreed with Commissioner Whitesell and
reiterated that subject petition was one of the better proposals
that the Commission had ever received addressing the housing
needs of the people. Additionally, it was his opinion that the
concerns expressed by Vice Chairman Nakagawa were more than
adequately discussed and considered during the hearing.

The Commissioners were polled as follows:

Ayes: Commissioners Choy, Whitesell, Oura, Miyasato,
Chairman Duke

Nays: Commissioners Nakagawa, Pascua, Yanai

The motion to approve A80-483, A & B Properties, Inc. did not carry.

At the Chairman's request, Vice Chairman Nakagawa moved to defer adoption of the true findings for the subject petition until after action on the second agenda item had taken place. The motion was seconded by Commissioner Whitesell and unanimously passed.

It was noted for the record that the Commission had been joined by Commissioner Yuen (9:50 a.m.).

SP80-351 - HAWAIIAN AIRLINES, INC.

To allow the construction and operation of a new private airport on approximately 124 acres of land situated within the State Agricultural District at Launiupoko, Lahaina, Maui

It was moved by Commissioner Whitesell, seconded by Vice Chairman Nakagawa, and unanimously agreed to go into executive session to receive legal counsel.

The Commission was in executive session from 10:45 a.m. to 10:58 a.m.

10:58 a.m.

Chairman Duke explained that during the executive session, the Commission had been advised by the Deputy Attorney General that the Commission was empowered to amend or alter, but could not make less restrictive, any condition imposed by the County on special permit approvals.

Appearances

Anthony Kim, Attorney for Intervenor Hui O Lahaina Pono'I

Christopher Hart, Deputy Director, Maui Planning Department

Robert Hirano, Attorney, representing petitioner

As announced earlier, the Commission received oral arguments from all of the parties. The parties were reminded by the Chairman that arguments be limited to what was already on the record. Mr. Kim was afforded time to make a rebuttal.

The following motion was made by Commissioner Yuen: "I move that the application of Hawaiian Airlines, Inc., Special Permit Number 80-351, to allow the construction and operation of a new private airport on approximately 124 acres of land situated within the State Land Use Agricultural District at Launiupoko,

Lahaina, Maui, be approved, subject to the mitigative and protective conditions approved by the Planning Commission of the County of Maui, modified as follows: First, that the County's condition number 1 be modified to read as follows: That construction of the proposed project shall be initiated within one year from the date the petitioner has obtained all necessary government approvals including, but not limited to, a land use district boundary amendment as described below and that further consideration for modification or extension of this condition shall be subject to the approval of the Maui County Planning Department and the Land Use Commission. Second, that condition number 2 shall be modified to read as follows: That the special use permit shall be non-transferable and valid for a period of 55 years from the date of its granting, and that said permit may be extended for good cause shown or terminated by the Land Use Commission if the Land Use Commission should deny the petition for land use district boundary amendment as described below. And third, that the following condition number 13 shall be added: That the applicant shall file a petition for a land use district boundary amendment for the subject property to amend the classification of the subject property from the Agricultural District to the Urban District within one year from the date of filing of this Decision and Order of the Land Use Commission, and if such amendment is approved by the Land Use Commission, the petitioner shall subsequently seek an appropriate change in county zoning for the subject property."

The motion was seconded by Commissioner Pascua.

Commissioner Yuen responded to several questions which were raised by other Commission members as to what was sought to be accomplished by the foregoing motion.

Commissioner Whitesell stated it was her feeling that the proposed use was not an appropriate request to pursue under a special permit and that a boundary amendment procedure would be the proper avenue.

Commissioner Yuen agreed with Commissioner Whitesell's views; however, he felt that petitioner had demonstrated enough of a need and the special permit would allow it to continue with the planning process such as obtaining certain necessary permits.

Chairman Duke pointed to the great need for an airport in West Maui to accommodate the many passengers traveling to the Kaanapali resort area.

Vice Chairman Nakagawa moved to amend the motion to act on the special permit separately from the conditions imposed by the maker of the original motion. It was seconded by Commissioner Yanai. Both the mover and the seconder of the original motion voiced no objections.

Commissioner Whitesell raised a point of order--whether it was appropriate to amend a motion to handle a procedural matter rather than on the substance of the motion.

Vice Chairman Nakagawa withdrew his motion to amend the original motion and Commissioner Yanai withdrew his second to the amendment motion.

Chairman Duke noted that the matter was now back to the original motion to approve the special permit, subject to the conditions imposed by the Maui County Planning Commission and as amended by Commissioner Yuen. The Commissioners were polled as follows:

Ayes: Commissioners Whitesell, Yuen, Chairman Duke

Nays: Commissioners Yanai, Miyasato, Nakagawa, Oura, Pascua, Choy

The motion did not carry.

Vice Chairman Nakagawa moved that SP80-351, Hawaiian Airlines to allow the construction and operation of a new private airport on approximately 124 acres of land situated within the State Land Use Agricultural District at Launiupoko, Lahaina, Maui be approved, subject to the conditions imposed by the Maui Planning Commission. It was seconded by Commissioner Oura.

Commissioner Yuen moved to add an amendment to the motion as follows: "The petitioner shall file a petition for a land use boundary amendment to amend the classification of the property from the Agricultural District to the Urban District within 2 years from the date of filing of this decision and order of the Land Use Commission, and if such amendment is approved by the Land Use Commission, that the applicant shall subsequently seek an appropriate change in the county zoning for the subject property." The motion was seconded by Commissioner Yanai and unanimously approved.

Chairman Duke expressed the view that he did not feel the special permit was the proper vehicle to accomplish the proposed use and that a boundary amendment was more appropriate.

The motion to approve the special permit, and as amended by Commissioner Yuen, was approved with the following votes:

Ayes: Commissioners Pascua, Oura, Yuen, Miyasato, Nakagawa, Choy, Yanai

Nays: Commissioner Whitesell, Chairman Duke

The meeting was in recess from 12:35 p.m. to 2:00 p.m.

2:00 p.m.

A80-483 - A & B PROPERTIES (cont.)

Inasmuch as the subject request had been denied, Commissioner Yanai felt that it was the responsibility of the Commissioners who had voted against the petition to arrive at the true findings with Mr. Kawada's assistance. It was agreed that the proposed findings will then be sent to all Commissioners for final adoption.

The meeting adjourned at 2:48 p.m.