

STATE OF HAWAII
LAND USE COMMISSION

Minutes of Meeting

Room 322 A & B
New State Building
1151 Punchbowl Street
Honolulu, Hawaii

Approved

JUL 1 1980

April 2, 1980 - 9:00 a.m.

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

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

Ray Russell, Court Reporter

ACTION

A79-461 - KAMEHAMEHA DEVELOPMENT CORPORATION

In the matter of the petition by Kamehameha Development Corp. to reclassify approximately 880.141 acres of land from the Agricultural District into the Urban District at Keauhou, Kona, Hawaii, a hearing was conducted by the Land Use Commission on December 4 and 5, 1979. Following the announcement that action on this matter will be conducted via the proposed decision procedure, Chairman Duke advised all parties of the procedural order for presenting arguments and rebuttals in support of their positions.

Upon completion of arguments by the counselors for the petitioner, County and the State, petitioner's counselor presented his rebuttal arguments.

Upon motion by Commissioner Yuen, seconded by Vice Chairman Nakagawa, it was unanimously agreed to go into executive session to discuss a legal aspect with the Deputy Attorney General.

The Commission was in executive session from 9:45 a.m. to 10:42 a.m.

It was stated for the record by Chairman Duke that during the executive session, the Commission had received counsel from the Deputy Attorney General regarding the ramifications of the development time frame of the proposed project.

Commissioner Yuen moved to approve the application of Kamehameha Development Corporation to amend the land use district boundaries for Tax Map Key Numbers 7-8-7: portion of parcel 11; 7-8-10: portions of 2 and 4, 29, portion of 30, 41, 50, portion of 51; 7-8-11: 5 and 8 as follows:

To redistrict as described in petitioner's exhibit 12, the incremental development plan of Kamehameha Development Corporation, that portion of the development shown as Phase I to Urban; to conditionally redistrict that portion of Phase II and 2 portions listed as Phase III, specifically those 2 portions in the makai southern portion of Phase III, a portion designated for 40 residential units lying between the golf course of Phase I and the present Urban District, a 40-acre portion, as well as a 10-unit portion immediately adjacent to the existing Urban boundary, to conditionally redistrict these portions to the Urban District on an incremental basis, subject to the petitioner's demonstrating substantial completion of the development of Phase I, and subject also to 2 other conditions:

1. That the petitioner include adequate open space buffer areas as may be required by the State DLNR in the immediate area around the Kahaluu shaft portal and other existing wells within this development, substantially in the manner described in State's Exhibit 1-B, in order to preserve the long-term viability of these wells as a major source of domestic water for the North Kona region;
2. Prior to any development of the subject property, the petitioner shall employ a professional archaeologist to conduct an archaeological survey to identify the nature, location and value of all historic sites present on the subject property.

The motion was seconded by Commissioner Oura.

Chairman Duke requested Commissioner Yuen to point out on the map the specific areas cited in his motion for approval.

Vice Chairman Nakagawa moved to amend the motion to approve the entire 880 acres, Phases I, II, and III, for urbanization on an incremental basis. Both the maker and seconder of the original motion raised no objections to the amendment. The motion was defeated with the following votes:

Ayes: Commissioners Nakagawa, Miyasato, Oura, Yanai, Duke

Nays: Commissioners Pascua, Whitesell, Yuen

Commissioner Yanai moved to amend the original motion to delete the 2 conditions imposed in Commissioner Yuen's motion. There were no objections from the maker or the seconder of the original motion. The Commissioners voted as follows:

Ayes: Commissioners Miyasato, Nakagawa, Yanai

Nays: Commissioners Whitesell, Yuen, Oura, Pascua,
Chairman Duke

The motion was defeated.

Commissioner Whitesell elaborated on her reasons for supporting the motion by Commissioner Yuen.

Chairman Duke stated that although he was not against the motion, he expressed confidence in the petitioner's capability to fulfill its representations as demonstrated by past performances on other projects.

As requested by the Executive Officer, Commissioner Yuen withdrew reference to the Tax Map Keys in his motion to obviate any discrepancy between the Tax Map Key identification and the description of the property.

Commissioner Whitesell moved to amend the motion to include those lands adjacent to Phase I, which were shown as part of Phase III, into Phase I because of their proximity to Phase I. There were no objections from the maker nor the seconder of the original motion.

The Commission was polled as follows on the motion to approve the boundary change for Phase I, and conditionally approve the boundary for Phase II on an incremental basis:

Ayes: Commissioners Nakagawa, Oura, Miyasato, Pascua,
Yanai, Whitesell, Yuen, Chairman Duke

The motion was unanimously carried.

The Chairman recommended that the petitioner's proposed findings be used as a guide in arriving at the Commission's true findings. Vice Chairman Nakagawa moved that the Commission use the petitioner's proposed findings of fact, which was seconded by Commissioner Miyasato, and carried by voice vote.

Thereafter, Chairman Duke turned the proceedings over to Counselor Kawada who led the Commission in a discussion of the

petitioner's proposed findings, adding, deleting and amending the findings in arriving at the Commission's true findings. Where appropriate, DPED's and the County's findings were substituted or added.

Chairman Duke instructed Counselor Kawada to prepare the conclusions of law based on the findings which had been adopted by the Commission.

ADOPTION OF MINUTES

The minutes of December 4 and 5, 1979 were adopted as circulated.

The meeting was adjourned at 1:15 p.m.