

STATE OF HAWAII  
LAND USE COMMISSION

Minutes of Meeting

Conference Room 322  
New State Building  
Honolulu, Hawaii

April 5, 1977 - 9:00 a.m.

*Approved*  
AUG 16 1977

COMMISSIONERS PRESENT: Eddie Tangen, Chairman  
Stanley Sakahashi, Vice Chairman  
James Carras  
Charles Duke  
Shinsei Miyasato  
Carol Whitesell  
Edward Yanai

COMMISSIONERS ABSENT: Colette Machado  
Mitsuo Oura

STAFF PRESENT: Gordan Furutani, Executive Officer  
Michael Marsh, Deputy Attorney General  
Daniel Yasui, Planner  
Dora Horikawa, Clerk Reporter  
  
Ray Russell, Court Reporter  
  
Benjamin Matsubara, Special Deputy  
Attorney General

Chairman Tangen called the meeting to order. Mr. Furutani introduced Mr. Daniel Yasui, new staff planner, to the Commission.

ADDITION TO AGENDA

Upon motion by Commissioner Duke and seconded by Commissioner Whitesell, it was unanimously agreed to add to the agenda the petition by Life of the Land to intervene on the petition by West Beach Development Corporation, A76-421.

SWEARING IN

The Chairman swore in all those planning to testify today.

ACTION

A76-415 - PIONEER PROPERTIES, INC. (Cont.)

It was pointed out by Mr. Gordan Furutani, Executive Officer, that the Proposed Findings of Fact, etc. on the subject petition had been discussed during the January 6th meeting at which time action on the request had been continued, pending information

regarding the highway realignment as it relates to the subject property. At the Commission's direction, staff had communicated with the Department of Transportation concerning this matter and a copy of their response had been made available to the Commissioners. Additionally, Mr. Herbert Tateishi, engineer with the Department of Transportation, was present today for examination.

Upon examination of Mr. Tateishi, the following information was elicited:

1. An area of approximately 3,572 square feet will be acquired by the DOT for the proposed highway alignment.
2. No additional easement or buffer areas were being considered.
3. The right-of-way will be approximately 130 feet wide, which will include a 24-foot 2-lane highway, plus some paved shoulder on both sides.
4. Date of construction for the first increment of the highway will be early in 1978.

It was represented by Mr. Gerald Kremkow, President of Pioneer Properties, Inc., that should the Commission reclassify the subject lands into the Urban District, he would agree to negotiate the acquisition of the right-of-way by the Department of Transportation at the Rural rate.

Some concern was expressed over the status of any remnant piece of land that may result from the highway alignment. Mr. Marsh recalled that any readjustment of the alignment would probably result in a negative adjustment, as indicated by Mr. Tateishi.

It was moved by Vice Chairman Sakahashi to approve the petition, subject to the condition that the acquisition of the right-of-way by the State Department of Transportation will be at the Rural rate. The motion was seconded by Commissioner Duke and unanimously approved.

ALLAN DALE STARR (Remanded by the Second Circuit Court)

Mr. Benjamin Matsubara, Special Deputy Attorney General for the Land Use Commission, reported on the background leading up to the matter before the Commission today.

He advised that there were two documents for the Commission's consideration; i.e. 1) Proposed Findings of Fact and Conclusions of Law submitted by Mr. Starr; and 2) another document submitted by Mr. Matsubara, using the same Proposed Findings, etc. with recommended deletions and additions indicated by the Ramseyer method.

A general discussion ensued over Mr. Matsubara's and Mr. Starr's proposals as set forth in the transcript on pages 17 through 24.

It was moved by Commissioner Duke to approve the petition, which <sup>was</sup> seconded by Commissioner Yanai.

In response to Commissioner Duke's request, Chairman Tangen gave some background information of Mr. Starr's request dating back to the 1974 review.

The motion to approve the petition was carried unanimously.

A73-367 - JOSEPH FLORES (Order to Show Cause - cont.)

Mr. Furutani pointed to the subject property on the map and oriented it with surrounding landmarks.

Mr. Dan Matsukage, prospective purchaser of the subject property, was sworn in by the Chairman.

During the examination of Mr. Flores and Mr. Matsukage by the Commission and Counsellor Marsh, clarification was sought regarding the agreement between Mr. Flores and Mr. Matsukage for the purchase of the property, the proposed uses of said property, the selling prices of the proposed project, etc.

Mr. Matsukage submitted that he will make 22 lots available to Mr. Flores. Mr. Flores in turn will build homes on 5 of these lots and sell them at the highest market value. The profits from the sale of these 5 house and lots and the agricultural lands will be used to subsidize the remaining 17 lots which will be sold to low and moderate income groups. Mr. Matsukage will retain control of 45 lots.

Mr. Matsukage maintained that he will be responsible for development of the 22 lots in the event Mr. Flores should default in any way.

Mr. Marsh advised that it was within the Commission's prerogative to impose conditions to assure that the 17 lots will become available to the low and moderate income group and that the benefits derived from the agricultural land and 5 house/lot sales will accrue to them as represented by the petitioner, and any other conditions relative to time periods, anti-speculation provisions, etc.

Chairman Tangen observed that there was a lack of clarity concerning the feasibility of the project as proposed by the petitioner. Therefore, he advised that the matter will be postponed and directed counsel to draw anti-speculation provisions and other conditions that will assure the ultimate fulfillment of the original intent of the petition.

All parties will be advised of the new date for the final decision on this matter.

INTERVENTION REQUEST BY LIFE OF THE LAND

The Commission considered the Petition for Intervention by Life of the Land and Scott Nakagawa in the application of West Beach Development Corporation (A76-421); and Motion in Opposition to Life of the Land's Petition for Intervention and Motion to Dismiss by West Beach Development Corporation.

Chairman Tangen admonished Life of the Land for its untimely application to intervene, especially since Life of the Land has been one of the most active participants in land use matters and fully aware of the requirements.

In response to a point raised by Mr. Nakagawa, Mr. Marsh advised that the hearing notice had been published 30 days in advance of the hearing date which allowed for application to intervene within a specified period, and he did not believe that the Commission was obligated to reopen the opportunity for intervention at the time the notice for continuation of the hearing was published.

Mr. Nakagawa argued that the first notice did not give notice of the date of the postponement. Moreover, the intervention request by Life of the Land would not cause delays in the proceedings.

Commissioner Duke's motion to deny the intervention request by Life of the Land was seconded by Commissioner Carras and unanimously carried.

SP73-157 - HAWAII LAND CORPORATION (cont.)

Mr. Furutani pointed out the subject property on the map and gave a chronological background of the subject Special Permit.

Mr. James Wohl, President of Hawaii Land Corporation, submitted that he had not had sufficient time to review the legal opinion by the Attorney General's office with respect to his extension request. Therefore, he requested additional time to study the opinion and to discuss the matter further with the County Corporation Counsel.

Mr. Norman Hayashi, staff member of the Hawaii Planning Department, called the Commission's attention to line 6, page 2, of the opinion and pointed out that the date of the denial by the County should be corrected to read December 16, 1976 instead of October 16, 1976.

Mr. Marsh advised that the opinion of the Attorney General was final although there have been instances where State agencies have disagreed with an opinion. He therefore suggested that everyone involved be given an opportunity to review the opinion so that the Commission would have the benefit of input from all concerned before rendering a decision.

Chairman Tangen recommended that Mr. Wohl get together with the Executive Officer to discuss a date that will be agreeable to him for the continuance of the decision on this matter.

#### ADOPTION OF MINUTES

Upon motion by Vice Chairman Sakahashi, seconded by Commissioner Duke, the minutes of January 6, 7, 12, 1977 were approved as circulated.

The meeting adjourned at 11:57 a.m.