

STATE OF HAWAII
LAND USE COMMISSION

Minutes of Meeting

Conference Room 322 B
Kalanimoku Building
Honolulu, Hawaii

Approved
7/1/82

April 21, 1982 - 9:00 a.m.

COMMISSIONERS PRESENT: William Yuen, Chairman
Carol Whitesell, Vice Chairman
Richard Choy
Everett Cuskaden
Shinsei Miyasato
Phil Tacbian
Robert Tamaye
Edward Yanai

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

Ray Russell, Court Reporter

ACTION

SP80-347 - GEOTHERMAL EXPLORATION & DEVELOPMENT CORPORATION
Request for a Time Extension to commence drilling
of the first exploratory geothermal well at
Laepaoo, Puna, Hawaii

Mr. Chu, staff planner, presented a summary of the staff memo relative to the request for time extension by petitioner. The location of the property was also delineated on the posted maps and oriented with various landmarks.

Commissioner Tamaye moved to approve the extension request which was seconded by Commissioner Tacbian.

Commissioner Cuskaden moved to amend condition No. 4 to read: "That the drilling of the first well shall be completed within one year from the approval of the extension request by the Land Use Commission." It was seconded by Commissioner Tacbian and carried by voice vote.

The Commissioners were polled on the motion to approve the extension request, subject to the conditions imposed by the Hawaii County Planning Commission and as amended by the Land Use Commission. It was unanimously carried.

SP82-354 - ALLIED HAULING, INC.

To allow rock quarrying, rock crushing, and concrete batching at Pulehunui, Maui

A summary of the staff memo prepared for the subject request was presented by Mr. Chu. A description of the subject property was also offered by staff planner.

Chairman Yuen noted for the record that the Commission was in receipt of a letter from Mr. John Hoskins, representing Ameron, Inc., protesting the special permit request by petitioner. However, the Chairman ruled that Ameron, Inc. may not participate in the present proceedings since it had not been a party during the hearing procedures before the County Planning Commission. Moreover, the Chairman continued that any arguments should have been presented before the County Planning Commission since the Land Use Commission bases its decision only on the record submitted by the Planning Commission.

It was moved by Commissioner Miyasato, seconded by Commissioner Choy, to approve SP80-354, Allied Hauling, Inc.

During the ensuing discussion, questions were raised regarding the improvements that were planned for the access road, the drainage and erosion problems, the water consumption for the project, etc.

Commissioner Miyasato moved to amend his motion by adding the condition that "the quarrying operations commence within one year." It was seconded by Commissioner Choy and carried by voice vote.

The original motion, as amended, was carried with the following votes:

Ayes: Commissioners Miyasato, Tacbian, Tamaye, Choy, Yanai, Chairman Yuen

Nays: Commissioners Whitesell and Cuskaden

SP82-353 - THE ESTATE OF JAMES CAMPBELL

Chairman Yuen advised all parties to the proceedings that oral arguments will be permitted on the subject special permit application inasmuch as the hearing was conducted under a contested case procedure before the City Planning Commission.

Appearances

Diane Kishimoto, Attorney representing the petitioner

Alan Murakami, Attorney representing Na Opio Aloha Aina

Mr. Furutani, Executive Officer, presented a summary of the staff memo which had been prepared for the subject request.

Chairman Yuen announced that before entertaining arguments, it would be in order for the Commission to act on the Motion to Admit Additional Evidence which had been filed by intervenor Na Opio Aloha Aina.

Vice Chairman Whitesell moved to deny the Motion to Admit Additional Evidence, which was seconded by Commissioner Tacbian. The motion was passed by voice vote.

The Chairman cautioned the parties to confine their arguments to the issues involved in the special permit request, i.e. the question of dredging and to the five factors which the Commission must consider in arriving at a decision on special permit applications.

The arguments by the parties and cross examination are recorded in the transcript on the pages noted.

PETITIONER

Diane Kishimoto - Petitioner's Attorney

Closing arguments-----44 to 49

Examination by Vice Chairman Whitesell-----49 to 51

Examination by Commission Cuskaden-----51

Examination by Chairman Yuen-----51 to 54

INTERVENOR

Alan Murakami - Attorney for Na Opio Aloha Aina

Closing arguments-----55 to 67

Examination by Commissioner Cuskaden-----67 to 70

Examination by Chairman Yuen-----70

Examination by Vice Chairman Whitesell-----71 to 75

Examination by Commissioner Tacbian-----75 to 77

Reexamination by Chairman Yuen-----77 to 79

REBUTTAL

By Ms. Kishimoto-----79 to 81

Examination by Commissioner Cuskaden-----81 to 85

Examination by Vice Chairman Whitesell-----85

It was moved by Commissioner Choy to approve SP82-353, The Estate of James Campbell, to allow the stockpiling of dredged coral on approximately 152 acres of land situated within the State Land Use Agricultural District at Honouliuli, Ewa,Oahu. It was seconded by Commissioner Yanai.

Commissioner Cuskaden moved to amend condition No. 2 to read: "That the proposed coral stockpiling use shall be established within one year from the date of approval"; condition No. 3 to read: "That the Applicant, its successors and assigns, shall defend, indemnify and hold the City and County of Honolulu, its agencies (including the Land Use Commission) and Commissioners, harmless from and against any loss....."; and add as condition No. 5: "That the term of this special permit shall be for a term of 15 years from the date of approval." The motion was seconded by Vice Chairman Whitesell.

Commissioner Tacbian requested that the various amendments to the motion be acted on separately.

Chairman Yuen called on the Executive Officer to poll the Commissioners on the first amendment. The amendment was not carried as indicated by the following votes:

Ayes: Commissioners Cuskaden, Whitesell, Chairman Yuen

Nays: Commissioners Tamaye, Tacbian, Miyasato, Choy, Yanai

The Commissioners were polled on the third amendment which also failed as per the following votes:

Ayes: Commissioners Cuskaden, Whitesell

Nays: Commissioners Tamaye, Miyasato, Tacbian, Choy, Yanai, Chairman Yuen

The amendment indemnifying the Land Use Commission against any loss, etc., was unanimously approved by voice vote.

Vice Chairman Whitesell moved that the term of the special permit be limited to 20 years, which was seconded by Commissioner Cuskaden. The Commissioners were polled as follows:

Ayes: Commissioners Cuskaden, Tachian, Whitesell,
Chairman Yuen

Nays: Commissioners Choy, Miyasato, Tamaye, Yanai

The motion did not carry.

It was moved by Vice Chairman Whitesell that the term of the special permit be limited to 25 years, which was seconded by Commissioner Cuskaden and the motion was unanimously carried.

Differing views were expressed regarding the propriety of establishing the proposed use under a special permit procedure. Chairman Yuen expressed his feeling that the petitioner had met the five requirements pursuant to HRS 205.6 for the granting of a special permit.

The Executive Officer polled the Commissioners on the motion to approve the special permit, subject to the conditions imposed by the County Planning Commission and as amended by the Land Use Commission. The motion was carried with Commissioner Cuskaden casting the only dissenting vote.

The Commission was in recess from 12:20 p.m. to 1:30 p.m.

1:30 p.m.

A81-511 - MAUI LAND & PINEAPPLE COMPANY, INC.

Chairman Yuen called on Mr. Benjamin Matsubara, Hearing Officer who conducted the hearing on subject petition, to present his findings and recommendations. Based on a review of the petition, the evidence adduced at the hearing, the provisions of Chapter 205 HRS, Mr. Matsubara reported that the County of Maui and the Department of Planning and Economic Development had recommended that the reclassification of the subject property be approved with conditions.

Subsequent discussion between the Hearing Officer and Commission members brought out the fact that financial assistance will not be provided by the petitioner to employees for the purchase of the lands, the procedures involved in general plan amendment and zoning change, the reason the anti-speculation clause was not recommended as a condition, etc.

Commissioner Miyasato moved to approve the petition of Maui Land & Pineapple Company, Inc. to reclassify approximately 8.5 acres of land currently in the Agricultural District into the Urban District at Kukuiaeo and Kailua, Makawao, Maui, for residential subdivision, subject to the condition that all of the lots of the subject development shall be sold in fee to employees of Maui Land & Pineapple Company. It was seconded by

Commissioner Choy and unanimously carried.

Chairman Yuen directed the Hearing Officer to prepare the findings of fact, conclusions of law and decision and order.

The meeting was adjourned at 2:45 p.m.