

STATE OF HAWAII
LAND USE COMMISSION

Minutes of Meeting

Resolution Room
Kona Hilton Hotel
Kailua, Kona, Hawaii

Approved
9/25/81

May 5, 1981 - 10:00 a.m.

COMMISSIONERS PRESENT: Charles Duke, Chairman
Richard Choy
Mitsuo Oura
George Pascua
Carol Whitesell
Edward Yanai
William Yuen
Shinsei Miyasato (10:55 a.m.)

COMMISSIONER ABSENT: Shinichi Nakagawa, Vice Chairman

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

Ray Russell, Court Reporter

CONTINUED HEARING

A80-500 - KAPALAOA, INC.

Chairman Duke announced that the continued hearing on Docket A80-500 was being held today to afford all parties an opportunity to cross-examine one of the petitioner's witnesses who had not been present at the time of the hearing which was held on April 8, 1981.

Appearances

Kazuhisa Abe - Attorney representing petitioner

Duane Kanuha - Deputy Planning Director, representing the
Hawaii Planning Department

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

Miss Ilima Piianaia was duly sworn in and testified as noted in the transcript.

Ilima Piianaia - Lecturer at the University of Hawaii
(Petitioner's Witness)

Direct examination by Mr. Abe----- 6 to 9

Cross examination by Mr. Kanuha-----10 to 11

Cross examination by Miss Chock-----11 to 13

Examination by Commissioner Yuen-----13 to 15

Post-hearing instructions were announced by the Chairman and the hearing on Docket A80-500 was concluded at 10:35 a.m.

ACTION

A80-490 - CHRISTY T. MAMIYA

Since all of the parties to the proceeding on the subject petition were not yet present, upon motion by Commissioner Yuen, seconded by Commissioner Pascua, the agenda was rearranged to consider Item III in lieu of Item II.

HEARING

A80-494 - JOHN A. HARVEY, III

Pursuant to a notice published in the Honolulu Advertiser and the Hawaii Tribune Herald on March 30, 1981, and notices sent to all parties, a hearing was called by the Land Use Commission in the matter of the petition by John A. Harvey, III to reclassify approximately 130.945 acres of land presently in the Agricultural District into the Urban District at Puaa 1st and 2nd, North Kona, Hawaii, for residential subdivision.

Appearances

Kazuhisa Abe - Attorney representing petitioner

Duane Kanuha - Deputy Planning Director, representing the
Hawaii Planning Department

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

A description of the property was provided by the Executive Officer.

Exhibits

Petitioner's exhibits A through D were admitted into evidence. Admission of exhibits E and F were held in abeyance, pending distribution of the necessary copies to the Commission and all parties.

County's exhibits 1 through 6-A were admitted into evidence.

DPED's exhibit 1 was admitted into evidence.

Since all of the parties to Docket A80-490, Christy Mamiya, were now present, Chairman Duke announced that the proceedings on Docket A80-494, John A. Harvey, III, will be continued until action on the former docket has been completed.

ACTION (cont.)

A80-490 - CHRISTY T. MAMIYA

Pursuant to a request for reclassification of approximately 53.64 acres of land presently in the Agricultural District into the Rural District at Peahi, Makawao, Maui, Docket A80-490, hearings were conducted by the Land Use Commission on November 19 and 20, 1980, and February 10 and 11, 1981.

Chairman Duke outlined the proposed decision procedure which will be followed by the Commission in arriving at a decision on this request.

Appearances

Meyer Ueoka, Attorney representing petitioner

Lee Ohigashi, Deputy Corporation Counsel, representing the
Maui Planning Department

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

Philip Lowenthal, representing Intervenors Peahi Community
Association and Barbara Mattson

It was noted for the records that Mr. Isaac Hall, representing Intervenor Dorothea Whittle was not present today.

The location of the subject property was pointed out by the staff Planner on the maps.

Request for Continuance or Postponement by Intervenors

Pursuant to a request for continuance or postponement filed with the Commission by Intervenors Peahi Community Association and Mrs. William Whittle, through their counsel, each party was allowed equal time to state his position relative to this request.

Commissioner Oura moved to go into executive session to receive counsel regarding some legal questions which were alluded to in Intervenors' request. The motion was seconded by Commissioner Miyasato and carried with the following votes:

Ayes: Commissioners Pascua, Miyasato, Oura, Yanai,
Chairman Duke

Nays: Commissioners Yuen, Whitesell, Choy

The Commission was in executive session from 11:47 a.m. to 12:00 noon.

12:00 noon

Chairman Duke elaborated on the advice the Commission had received relative to the legal questions which were raised by Intervenors.

Commissioner Miyasato moved that action on Docket A80-490, Christy T. Mamiya, be postponed to a future date, which was seconded by Commissioner Oura. Commissioner Miyasato agreed with the Chairman's understanding that he had not designated any particular county in which to conduct the action meeting.

Commissioner Whitesell opposed the motion on the basis of the impending replacement of several of the Commissioners who had participated in the hearings on this docket. Moreover, if the meeting were not held on Maui, it would not serve to fulfill the Intervenor's request.

The motion was carried with the following votes:

Ayes: Commissioners Pascua, Oura, Miyasato, Yanai,
Chairman Duke

Nays: Commissioners Choy, Yuen, Whitesell.

The Commission was in recess from 12:10 p.m. to 1:30 p.m.

HEARING (cont.)

A80-494 - JOHN A. HARVEY, III

It was announced that the hearing on subject petition which had been interrupted this morning will now continue.

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

Public Witness

Upon motion by Commissioner Pascua, seconded by Commissioner Oura, Ms. Rose Schilt was admitted as a public witness.

Rose Schilt - Archaeologist, Bishop Museum, Department of Anthropology

- Oral Testimony-----52 to 55
- Cross examination by Mr. Abe-----55 to 58
- Cross examination by Mr. Kanhua-----58

PETITIONER

John A. Harvey, III - Petitioner

- Direct examination by Mr. Abe-----70 to 76
- Cross examination by Mr. Kanuha-----76 to 81
- Cross examination by Miss Chock-----81 to 100
- Redirect examination by Mr. Abe-----100 to 103
- Recross examination by Mr. Kanuha-----103 to 104
- Examination by Commissioner Yuen-----105 to 106
- Examination by Chairman Duke-----106 to 110
- Examination by Commissioner Whitesell-----110 to 111

Tamotsu Sahara - Conservationist and Soil Scientist

- Direct examination by Mr. Abe-----111 to 116
- Cross examination by Mr. Kanuha-----116

Tamotsu Sahara (cont.)

Examination by Commissioner Yuen-----117

Examination by Commissioner Whitesell-----117 to 118

Hajima Tanaka - Civil Engineer

Direct examination by Mr. Abe-----118 to 120

Cross examination by Mr. Kanuha-----120

Examination by Commissioner Whitesell-----121

Examination by Commissioner Yuen-----121 to 123

At 4:30 p.m., Chairman Duke announced that the Commission will reconvene tomorrow at 8:30 a.m. to continue with the hearing on Docket A80-494.