

STATE OF HAWAII
LAND USE COMMISSION

VOTE RECORD

ITEM Minutes of May 12, 1976

DATE July 30, 1976

PLACE State Capitol
Honolulu, Hawaii

TIME 10:00 a.m.

NAME	YES	NO	ABSTAIN	ABSENT
SAKAHASHI, STANLEY				
OURA, MITSUO				
MIYASATO, SHINSEI				
CARRAS, JAMES				
DUKE, CHARLES				
YANAI, EDWARD				
WHITESELL, CAROL				
MACHADO, COLETTE				
TANGEN, EDDIE				

Comments:

Adoption of minutes as circulated and as corrected by Commissioner Whitesell to change the word "substitute" on page 9, line 1, to read "change", by voice vote

STATE OF HAWAII
LAND USE COMMISSION

Minutes of Meeting

State Office Building
Lihue, Kauai

May 12, 1976 - 9:30 a.m.

Approved
July 30, 1976

COMMISSIONERS PRESENT: Eddie Tangen, Chairman
Stanley Sakahashi, Vice Chairman
Charles Duke
James Carras
Colette Machado
Mitsuo Oura
Carol Whitesell
Edward Yanai

COMMISSIONER ABSENT: Tanji Yamamura

STAFF PRESENT: Ah Sung Leong, Acting Executive Officer
Michael Marsh, Deputy Attorney General
Dora Horikawa, Clerk Reporter

Ray Russell, Court Reporter

HEARING

A76-411 - MCBRYDE SUGAR COMPANY, LTD.

Pursuant to a notice published in The Garden Island and the Honolulu Star Bulletin on April 7, 1976, and notices sent to all parties, a hearing was called by the Land Use Commission in the matter of the petition by McBryde Sugar Company, Ltd., to amend the land use district boundaries for approximately 103 acres from the Agricultural District into the Urban District at Eleele, Kauai for residential use, Docket No. A76-411.

APPEARANCES

Francis Izumi, Attorney for McBryde Sugar Company, Ltd.

Gilbert Lee, Deputy Attorney General, representing the Department of Planning and Economic Development

Michael Belles, County Attorney's Office, representing the
Kauai Planning Department

The Chairman declared that all of the above were admitted as parties to the proceedings.

The Chairman administered the swearing-in oath to all those planning to testify today.

EXHIBITS

The following documents were marked for identification and introduced into evidence as Petitioner's Exhibits:

- Exhibit 1 - Bound report (indexed Exhibits 1 through 20) submitted with petition
- Exhibit 2 - Estimates of Housing Demand in Hanapepe-Eleele Area for Period 1975-1983
- Exhibit 3 - Letter from Office of the Housing Administration, County of Kauai recommending favorable consideration of subject petition.
- Exhibit 4 - Table of Twelve Year Housing Unit Requirements
- Exhibit 5 - Letter from Department of Water, County of Kauai, dated March 29, 1976
- Exhibit 6 - Letter from Department of Public Works, County of Kauai, dated March 4, 1976

James Bryant Levine - Witness

Mr. James Bryant Levine, Manager of Land Planning, Alexander & Baldwin, having been duly sworn in, was called as a witness, examined, and testified as set forth in the transcript on -- Pages

Direct examination by Mr. Izumi----- 7 to 35
Cross examinatin by Mr. Belles ----- 35 to 36
Cross examination by Mr. Lee ----- 36 to 43
Questioned by Commissioners Whitesell, Sakahashi,
and Machado ----- 43 to 56
Questioned by Chairman Tangen ----- 56 to 63

Questioned by Vice Chairman Sakahashi and
Commissioner Yanai ----- 63 to 65

Redirect examination by Mr. Izumi ----- 66 to 77

A lunch recess was called at 12:05 p.m. and the hearing
recovened at 1:33 p.m.

Akira Fujita - Witness

Mr. Akira Fujita, County Engineer for the County of Kauai and
Head of the Public Works Department, having been duly sworn in, was
called as a witness, examined and testified as set forth in the
transcript on ----- Pages

Direct examination by Mr. Izumi ----- 77 to 84

Cross examination by Mr. Lee ----- 84 to 85

Questioned by Commissioner Whitesell ----- 85 to 86

Redirect examination by Mr. Izumi ----- 87

Walter Lewis Briant - Witness

Mr. Walter Lewis Briant, Manager and Chief Engineer of the
Board of Water Supply, County of Kauai, having been duly sworn in,
was called as a witness, examined and testified as set forth in
the transcript on ----- Pages

Direct examination by Mr. Izumi ----- 88 to 92

Cross examination by Mr. Lee ----- 92 to 93

Mr. Levine was recalled by Mr. Izumi to respond to further
examination concerning the sale price of the house and lot in the
proposed subdivision as set forth in the transcript on -- Pages

Redirect examination by Mr. Izumi ----- 93 to 95

Recross examination by Mr. Belles ----- 95 to 96

Recross examination by Mr. Lee ----- 96 to 97

Questioned by Commissioner Oura ----- 97

KAUAI PLANNING DEPARTMENT

Mr. Michael Belles of the County Attorney's Office submitted into evidence a report prepared by Kauai County Planning Department staff planner Greg Kamm recommending approval of the subject application.

DEPARTMENT OF PLANNING AND ECONOMIC DEVELOPMENT

Mr. Gilbert Lee, Deputy Attorney General, requested that the reading of the State's written testimony be waived and advised that Mrs. Esther Ueda, DPED Land Use Division staff planner, will be available for questioning.

Esther Ueda - Witness

Mrs. Esther Ueda, having been duly sworn in, was called as a witness, examined, and testified as set forth in the transcript on ----- Pages

Cross examination by Mr. Izumi ----- 99 to 101

Questioned by Commissioner Whitesell ----- 101 to 102

Greg Kamm - Witness

Mr. Greg Kamm, planner with the Kauai Planning Department, having been duly sworn in, was called as a witness, examined and testified as set forth in the transcript on ----- Pages

Questioned by Commissioner Whitesell ----- 102 to 104

Chairman Tangen observed that there were several matters which needed clarification, and answers to some of the questions posed by the Commissioners and others which petitioner had been unable to provide. He, therefore, directed Mr. Izumi to submit to the Commission, and serve to all parties within 60 days, answers or clarifications regarding the following issues:

1. Specific buy-back provisions and any other anti-speculation control the company intends to enforce.
2. What restrictions there will be on type of structure and architecture.
3. What time frame will be required of purchaser in terms of erecting residence.

4. In the petitioner's figure of \$2.25/\$2.70 per square foot-- what is the cost of the raw land in that total figure?
5. What is the cost of the land as it is carried on the books of A&B?
6. What will the firm lot prices be?
7. What will the percentage discount be for company employees and retirees?
8. What is the company prepared to do if the discount is insufficient to qualify prospective buyers?
9. What is the petitioner's position on involving potential buyers in the planning of the development?
10. What is the company's position on extending priorities and preference, for the purchase of lots to others in that area and particularly those in housing at Olokele?

Mr. Belles pointed to a discrepancy in the figures presented by Mr. Levine during the earlier discussion relative to the mortgage on the house and lot in the proposed subdivision.

A short recess was called at 2:26 p.m.

The hearing reconvened at 2:33 p.m.

Mr. Izumi acknowledge that an error in computation had occurred and presented for the Commission's review the adjusted figures as follows:

YEAR 1977 - 30-Year 80% @ 8.5% Conventional Loan

	<u>Without Discount</u>	<u>With Discount</u> (30% on Land)
Land	\$20,250	\$14,175
House (1,000 sq. ft.)	<u>30,250</u>	<u>30,250</u>
	50,500	44,425
Down Payment	<u>-10,100</u>	<u>- 8,885</u>
Amount of Mortgage	\$40,400	\$35,540

Monthly Payment (P&I)	\$ 310.65	\$ 273.31
CTF/RP Tax	24.00	24.00
Insurance	<u>7.50</u>	<u>7.50</u>
Total Monthly Mortgage	342.15	304.81
Income to Monthly Payment (4 to 1 ratio)	\$1,368.60	\$1,219.24

Chairman Tangen announced that all parties will have 20 days following service of Mr. Izumi's response to the questions posed by the Chair to submit their comments.

The hearing on A76-411 was closed at 2:40 p.m.

ACTION

A75-402 - AMFAC COMMUNITIES, INC., HAWAII
 PETITION TO RECLASSIFY APPROXIMATELY 34 ACRES FROM AGRICULTURAL TO
 URBAN AT LIHUE, KAUAI

In the matter of the boundary amendment petition by Amfac Communities, Inc., Hawaii, Docket A75-402, on which a hearing was called on January 12, 1976, and continued on February 20, 1976, the Commission discussed and reviewed the following documents which had been previously distributed to the Commission members, prior to taking action on the petition:

1. Petitioner's (Proposed) Findings of Fact, Conclusions of Law and Decision and Order and Exhibit "A"
2. County of Kauai's Proposed Amendments to Findings of Fact, Conclusions of Law, and Decision and Order
3. Comments of DPED on Petitioner's Proposed Findings of Fact and Conclusions of Law

For the record, it was noted that Commissioners Yanai and Yamamura had not been present at the hearing on Docket A75-402, and, therefore, excused from the deliberation on this petition.

It was moved by Vice Chairman Sakahashi and seconded by Commissioner Oura to approve the petition.

Questions were raised regarding a stipulation in the petitioner's proposed findings relative to an agreement between the county and the petitioner for sewer service. Mr. Broadbent clarified that there was an existing agreement between the county and the petitioner whereby Lihue Plantation was given right to

first connection in the sewer system for certain rights extended to the county for the construction of a force main.

Since there were no objections to both the stipulation and motion by the petitioner to correct the transcript of the hearing on A75-402, they were approved.

Mr. Izumi agreed to the deletion of a portion of finding #7 in the petitioner's proposed findings, as suggested by the County of Kauai, but maintained that previous testimony and exhibits submitted will attest to the fact that the gully was located in the makai end of the property and that the water will drain into the gully.

Mr. Izumi also registered opposition to the county's statement that the "applicant proposes to sell the lots individually rather than in blocks to block purchasers", as this may jeopardize sale of 2 or 3 subdivided lots to a single buyer who may wish to consolidate them for various purposes. Chairman Tangen suggested that the findings reflect that it is not the petitioner's intent to sell the entire subdivision to one person.

Other findings discussed related to statements regarding increase in job opportunities, effects on surrounding area, etc. Thereafter, it was agreed to either delete or incorporate certain findings and conclusions proposed by the petitioner into the Commission's final decision and order.

The Commissioners were polled on the motion to approve the petition as follows:

Ayes: Commissioners Duke, Whitesell, Sakahashi, Oura, Machado, Chairman Tangen

Nay: Commissioner Carras

Abstain: Commissioner Yanai

Absent: Commissioner Yamamura

The motion was carried.

Chairman Tangen turned the meeting over to Vice Chairman Sakahashi and directed that the record indicate that Commissioner Machado and he had not participated in the hearing and, therefore, excused from the proceedings on Dockets A75-408, Wailua Heights, Inc., and A75-410, Janet L. Greenblath and Marcia S. Vespoli.

It was also noted that Commissioner Yanai had rejoined the meeting.

A75-408 - WAILUA HEIGHTS, INC.

PETITION TO RECLASSIFY APPROXIMATELY 49.78 ACRES FROM AGRICULTURAL TO RURAL AT WAILUA, KAUAI

In the matter of the boundary amendment petition by Wailua Heights, Inc., Docket A75-408, on which a hearing was held on March 4, 1976, the Commission discussed and reviewed the following documents which had been previously distributed to the Commission members, prior to taking action on the petition:

1. Petitioner's (Proposed) Findings of Fact, Conclusions of Law and Decision and Order
2. DPED's Comments on Petitioner's Proposed Findings of Fact and Conclusions of Law

Mr. Leong oriented the Commission to the area under discussion.

Since there were no objections from any of the parties present, the motions by DPED and the petitioner to correct the transcript of March 4, 1976 were approved.

Commissioner Whitesell expressed concern that the need for the proposed development had not been justified in terms of actual lands that were available for residential purposes because of the county's approach to rural zoning. She elaborated that Kauai County's definition of Rural could more accurately be described as large residential lots. It was her feeling that the Commission should have looked into the availability of subdivided, unsubdivided and future potential of existing rural lands.

Commissioner Duke agreed that a reclassification from Agricultural to Rural was equivalent to a license for subdivision. He also recalled that extensive discussion had taken place on the limited availability of Rural lands on Kauai. He added that it would be appropriate to cancel the agricultural dedication status of the subject property, should the petition be approved.

It was moved by Commissioner Duke and seconded by Commissioner Carras that the petition be approved.

Subsequently, during the discussion that followed, it was agreed to either delete, add or modify certain findings and conclusions proposed by the petitioner, and as recommended by DPED.

Moreover, it was decided to ^{change}~~substitute~~ the term "agricultural-residential" to "residential subdivision" wherever it appeared in the document.

The motion to approve the petition was carried with the following votes:

Ayes: Commissioners Duke, Oura, Yanai, Carras, Whitesell
Sakahashi

Abstain: Chairman Tangen, Commissioner Machado

Absent: Commissioner Yamamura

A75-410 - JANET L. GREENBLATH AND MARCIA S. VESPOLI
PETITION TO RECLASSIFY APPROXIMATELY 6.45 ACRES FROM RURAL TO
URBAN AT KALAHEO, KAUAI

In the matter of the boundary amendment petition by Janet L. Greenblath and Marcia S. Vespoli, Docket A75-410, on which a hearing was held on March 4, 1976, the Commission discussed and reviewed the following documents which had been previously distributed to the Commission members, prior to taking action on the petition:

1. Petitioner's Proposed Findings of Fact and Conclusions of Law
2. DPED's Comments on Petitioner's Proposed Findings of Fact and Conclusions of Law

The subject area was delineated on the map by Mr. Leong.

DPED's motion to correct the transcript of March 4, 1976 relative to the subject petition was approved by the Commission.

It was moved by Commissioner Duke and seconded by Commissioner Carras that the petition be approved.

Commissioner Duke recalled that there had been some testimony supporting the need for additional urban lands in the Kalaheo area during the hearing. Commissioner Whitesell agreed that there was some indication of need, although somewhat vague, and since subject property was comprised of a small acreage and the request was in conformance with the County General Plan, approval appeared reasonable.

The Commissioners were polled as follows:

Ayes: Commissioners Whitesell, Oura, Duke, Carras, Yanai,
Sakahashi

Abstain: Chairman Tangen, Commissioner Machado

Absent: Commissioner Yamamura

The motion was carried.

Chairman Tangen and Commissioner Machado rejoined the proceedings at this point.

APPLICATION BY GIRL SCOUT COUNCIL OF THE PACIFIC, INC. (SP76-237)
FOR A SPECIAL PERMIT TO CONSTRUCT A BUILDING FOR HEALTH CARE,
OFFICE, DINING AND KITCHEN FACILITIES AT THE KILOHANA GIRL SCOUT
CAMP AT HAMAKUA, HAWAII

Mr. Leong summarized the staff memo which had been previously distributed to the Commissioners, and pointed to the area on the map.

It was moved by Commissioner Whitesell and seconded by Commissioner Duke that the Special Permit be approved, subject to the conditions imposed by the Hawaii County Planning Commission.

The motion was unanimously carried with the following votes:

Ayes: Commissioners Machado, Whitesell, Duke, Carras,
Sakahashi, Oura, Yanai, Chairman Tangen

Absent: Commissioner Yamamura

APPLICATION BY HALEAKALA SCHOOL (SP76-238) FOR A SPECIAL PERMIT TO
OPERATE A PRIVATE SCHOOL AT THE FORMER KEALAHOU SCHOOL LOT AT
KEALAHOU, KULA, MAUI

A summary of the staff memo was presented by Mr. Leong.

In response to a question raised by Vice Chairman Sakahashi, Mr. Leong advised that under the County's condition #1, it was within the Commission's prerogative to stipulate that further extension of the Special Permit be also subject to favorable review by the Land Use Commission.

Commissioner Duke moved that the Special Permit be approved, subject to the conditions imposed by the Maui Planning Commission and the additional condition that any further extension favorably reviewed by the Maui Planning Commission shall also be subject to favorable review by the Land Use Commission. The motion was seconded by Commissioner Carras and unanimously carried with the following votes:

Ayes: Commissioners Machado, Whitesell, Duke, Carras, Sakahashi, Oura, Yanai, Chairman Tangen

Absent: Commissioner Yamamura

ADOPTION OF MINUTES

It was moved by Vice Chairman Sakahashi, seconded by Commissioner Oura, and unanimously carried to approve the minutes of March 22, 1976 as circulated.

It was moved by Vice Chairman Sakahashi and seconded by Commissioner Machado and unanimously carried to approve the minutes of March 29, 1976 as circulated.

It was moved by Commissioner Whitesell and seconded by Commissioner Yanai and unanimously carried to approve the minutes of March 30, 1976 as circulated.

TENTATIVE SCHEDULE

Mr. Leong suggested that the Commission next meet on the following dates:

June 2, 1976	- Honolulu
August 5, 1976	- Maui
August 23 and 27, 1976	- Kona

Since there was no further business, the meeting was adjourned.