

STATE OF HAWAII
LAND USE COMMISSION

Minutes of Meeting

Conference Room 322 A & B
New State Building
Honolulu, Hawaii

May 30, 1979 - 9:30 a.m.

Approved
NOV 20 1979

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

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

Ray Russell, Court Reporter
Benjamin Matsubara, Consultant

ACTION

A79-450 - DEPARTMENT OF PLANNING & ECONOMIC DEVELOPMENT

In the matter of the boundary amendment petition by the Department of Planning & Economic Development, Docket A79-450, a hearing was held on April 6, 1979 by Mr. Benjamin Matsubara, Hearing Officer. Mr. Matsubara presented a comprehensive report of his findings and conclusions, and recommended that the reclassification of 6.8 acres from the Agricultural District into the Urban District be approved. It was submitted by the Hearing Officer that his recommendation was based on the evidence adduced at the hearing, the petition's conformity to the policies and criteria of the Interim Statewide Land Use Guidance Policy and to the Hawaii County General Plan.

Mr. Matsubara responded to questions from the Commissioners regarding the steepness of the slope, grading of the land, etc.

Commissioner Oura moved to approve Docket A79-450 to reclassify 6.8 acres from the Agricultural District into the

Urban District. It was seconded by Commissioner Pascua and unanimously carried.

A76-420 - DEPARTMENT OF PLANNING & ECONOMIC DEVELOPMENT
(Kawainui Marsh)

Chairman Duke explained that the next item before the Commission was to hear oral arguments and to act on an order from the First Circuit Court which remanded the above matter to the Land Use Commission for "(i) a clarification between Findings of Fact No. 2 and 6 as to the marsh acreage of the subject property" and "(ii) a determination of the location of said marsh acreage". The Chairman added that it was gratifying to note the Court had found that the Commission, in reaching its decision and order on this matter in March of 1978, had not committed any procedural error, and had also affirmed all of the Commission's findings of fact and conclusions of law.

Thereafter, all parties were afforded equal time to present their oral arguments and rebuttals.

The County waived its arguments but made it clear that basically its position was in support of DPED's and the Ad Hoc Committee's positions on this matter.

Upon motion by Vice Chairman Nakagawa, seconded by Commissioner Yuen, it was unanimously agreed to go into executive session to seek legal advice regarding a procedural matter.

Mr. Kawada briefed all parties of the procedure the Commission will follow in arriving at a decision on the subject matter; i.e. each of the parties will submit a proposed decision to the Commission and also serve them upon each other. Thereafter, at a date designated by the Commission, each of the parties will make oral arguments before the Commission--the parties to assume, for the purpose of argument, that the Commission will accept the adverse party's proposed decision and order. Following this, the Commission can, at its discretion, make a final decision on the matter.

After consulting with all representatives of the parties, Chairman Duke set June 26, 1979 as the date for final action on the Kawainui remand order.

ADOPTION OF MINUTES

Upon motion by Commissioner Whitesell, seconded by Vice Chairman Nakagawa, the minutes of November 28, 1978 were adopted as circulated.