

STATE OF HAWAII
LAND USE COMMISSION

Minutes of Meeting

Conference Rooms A, B & C
Kalanimoku Building
Honolulu, Hawaii

June 27, 1983 - 9:00 a.m.

Approved
9/27/83

COMMISSIONERS PRESENT: William Yuen, Chairman
Richard Choy, Vice Chairman
Lawrence Chun
Shinsei Miyasato
Winona Rubin
Teofilo Tacbian
Robert Tamaye
Frederick Whittemore

COMMISSIONER ABSENT: Everett Cuskaden

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

Barbara Moore, Court Reporter

ACTION

A82-536 - HALEAKALA RANCH COMPANY

In the matter of the petition by Haleakala Ranch Company, A82-536, a hearing was conducted by the Land Use Commission on January 26 and 27, 1983. Action on this petition was conducted by Vice Chairman Choy due to a previously declared conflict of interest by Chairman Yuen.

It was determined that all of the Commissioners present today were eligible to participate in the deliberation and decision of the subject petition.

Mr. Chu, staff Planner, pointed out the area involved in the petition and oriented it with surrounding landmarks.

Appearances

Paul Mancini, Attorney representing the petitioner

Guy Archer, Deputy Corporation Counsel, representing the Maui Planning Department

Appearances (cont.)

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

Closing Arguments

By Mr. Mancini----- 5 to 10

By Mr. Archer-----10 to 12

By Miss Chock-----12 to 16

Rebuttal by Mr. Mancini-----16 to 18

It was moved by Commissioner Chun, seconded by Commissioner Rubin, to approve Docket A82-536, Haleakala Ranch Company, to reclassify approximately 189.7 acres of land currently in the Agricultural District into the Urban District at Kihei, Maui, for a planned residential community. The motion was unanimously carried.

Chairman Yuen presided over the remaining items on the agenda.

A82-530 - AMFAC PROPERTY DEVELOPMENT CORPORATION

In the matter of the petition by Amfac Property Development Corporation to reclassify approximately 78 acres of land currently in the Agricultural District into the Urban District at Lihue, Kauai for a light industrial and resort development, hearings were held by the Land Use Commission on July 15, 1982, September 24, 1982 and February 15, 1983.

Chairman Yuen determined that all of the Commissioners present today were eligible to vote on this matter.

Appearances

Clinton Shiraishi, Attorney representing petitioner

Max Graham, County Attorney's Office, representing the
Kauai Planning Department

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

A description of the property was presented by staff Planner Joseph Chu, using the USGS quad and tax maps posted on the wall.

Closing Arguments

By Mr. Shiraishi-----21 to 26

By Mr. Graham-----26 to 29

By Miss Chock-----29 to 33

Commissioner Tacbian made the following motion:

"On Docket Number A82-530, Amfac Property Development Corporation, I move that site one of the subject property, consisting of approximately 22 acres, situated at Lihue, Kauai, be denied reclassification, and that sites 2, 3 and 4 of the subject property, consisting of approximately 56 acres, situated at Lihue, Kauai be reclassified from the Agricultural District into the Urban District, subject to the following conditions:

"A. The Petitioner shall be required to enter into an agreement with the County of Kauai to offer for sale to the County at 'cost' as employee housing, a portion of the petitioner's Hanamaulu subdivision presently classified Urban by the Land Use Commission. The number of lots offered shall be equivalent to 10 percent of the total units to be constructed on the subject property herein.

The term 'cost' shall be defined by the cost policy used by the County at the time of the transaction. In the alternative, the County may require a cash payment in lieu of the transfer of lots, provided that any such payment shall be used exclusively as part of the County's public housing program.

"B. The Petitioner shall enter into an agreement with the County containing the following conditions:

1. The Petitioner shall make available to the County the lands described in 'Existing Waste Water Disposal Areas' in Petitioner's Exhibit 14, figure 2, and if necessary other suitable lands for the disposal of up to 4.5mg per day of waste water from the Lihue sewage treatment plant.

2. The lands made available to the County shall be in an amount necessary to maintain a saturation factor of no more than 1.0 on the disposal areas.

3. This agreement shall be incorporated into the deeds of the affected lands as easements running with the land in favor of the County of Kauai.

4. The term of these easements shall be for 20 years from the date of approval of this boundary change.

"C. The Petitioner shall construct and implement a system for the disposal of Lihue mill waste water which will insure that neither the lower Lihue fields, nor any other areas subject to the mill waste water disposal, shall have a saturation factor in excess of 1.0.

This condition shall be implemented within five years of the date of the approval of this boundary change.

"D. The Petitioner shall place in all deeds or instruments transferring interest in the subject property, or in the structures or improvements thereon, easements running in favor of the State of Hawaii, the federal government, and the County of Kauai, and indemnify and hold harmless from any complaints or claims due to noise, odor, dust, mosquitoes, and other nuisances and problems emanating from the operation of the Lihue Airport, the use of the lower Lihue fields for agricultural and waste water disposal purposes, and the operation of the Lihue sewage treatment plant.

"E. The Petitioner shall not permit any resort or residential condominium unit to be placed on the subject property within any noise exposure forecast in excess of 25 NEF. However, the construction of no more than 20 percent of the total number of residential or resort condominiums for a particular site may be allowed in NEF contours that do not exceed 30 NEF if the County finds that such placement is compatible with the proposed residential or resort use, and subject to such mitigative measures, including sound attenuating construction requirements, that the County shall impose.

The NEF contours for the subject property shall be established by actual testing once the Lihue runway is completed and in use.

"F. Height restriction to be set by the State of Hawaii for navigational easement purposes pursuant to specifications established in FAA regulations, along the perimeters of the Lihue Airport runways.

"G. Petitioner shall set aside a portion of site 4, at the eastern end for a park and for parking, and shall provide public access to the shoreline.

"H. The Petitioner shall complete all of the conditions contained in subparagraphs A, B, C, and G above, within five years from the date of the boundary change."

The motion was seconded by Commissioner Whittemore.

Chairman Yuen and Commissioner Chun expressed their concerns over the noise level at the airport, waste water disposal, the need for the proposed development, etc.

The Commissioners were polled as follows:

Ayes: Commissioners Tacbian, Whittemore, Chun, Tamaye, Choy, Rubin, Chairman Yuen.

The Chairman directed the Deputy Attorney General to prepare the Commission's Decision and Order reflecting the foregoing action taken by the Commission.

A82-543 - THE EPISCOPAL CHURCH IN HAWAII

Following an orientation of the location of subject parcel by staff Planner, Chairman Yuen called on Hearing Officer Benjamin Matsubara to report on his findings, pursuant to the hearing which was held on May 3, 1983.

Based on the evidence adduced at the hearing, it was Mr. Matsubara's recommendation that the subject request be granted. The Hearing Officer responded to questions which were posed by the Chairman regarding the possibility of imposing a condition to limit the use of the property for school purposes only, and the Department of Agriculture's concern over subsequent urbanization of the adjacent areas that may occur.

Commissioner Chun moved to approve A82-543, The Episcopal Church in Hawaii, to reclassify approximately 9.36 acres of land currently in the Agricultural District into the Urban District at Hamakuapoko, Makawao, Maui for a private coeducational school. It was seconded by Commissioner Miyasato and unanimously carried.

A83-545 - STANLEY G. FRIEL

In the matter of the petition by Stanley G. Friel, A83-545, to reclassify approximately 0.579 acre of land currently in the Rural District into the Urban District at Moana Beach Lots Subdivision, Makawao, Maui, a hearing was conducted by Hearing Officer Benjamin Matsubara on April 18, 1983. It was Mr. Matsubara's recommendation that the petition be approved.

Commissioner Rubin moved to approve A83-545 to reclassify approximately 0.579 acre of land currently in the Rural District into the Urban District at Moana Beach Lots Subdivision, Makawao, Maui. It was seconded by Commissioner Tacbian and unanimously passed.

SP77-265 - GEOTHERMAL EXPLORATION AND DEVELOPMENT CORPORATION

Mr. Chu, staff Planner, presented a resume of the subject request and pointed to the property on the USGS and tax maps.

Vice Chairman Choy moved to approve SP77-265, Geothermal Exploration and Development Corporation, to amend condition 11 for the drilling of exploratory geothermal wells within the State Land Use Agricultural District at Opihikao, Puna, Hawaii, subject to the condition that the Petitioner indemnify the Land Use Commission from any suits that may be filed against the Commission. It was seconded by Commissioner Tamaye.

Commissioner Rubin moved to amend the motion by adding the condition that "should any of the foregoing conditions not be met, the permit shall be automatically void". It was seconded by Commissioner Chun and the motion was carried.

The Commissioners were polled as follows on the motion to approve the request and as amended:

Ayes: Commissioners Tamaye, Choy, Tacbian, Rubin, Miyasato, Chun, Whittemore and Chairman Yuen

SP82-353 - THE ESTATE OF JAMES CAMPBELL
First Circuit Court's Remand

Appearances

Diane Kishimoto, Attorney representing the Petitioner

Steven Lim, Deputy Corporation Counsel, representing the City Planning Commission

There was no representative from the Legal Aid Society.

The property was described on the maps by staff Planner, who also presented background information on the remand order from the First Circuit Court.

Closing Arguments

By Miss Kishimoto-----63 to 64

Mr. Lim waived his rights to closing arguments.

Much discussion ensued regarding the definition of commercial activity and what type of uses were allowable on the site.

Vice Chairman Choy moved to approve the recommendation of the City Planning Commission (with respect to the clarification of the three issues remanded by the First Circuit Court) for SP82-353, Estate of James Campbell, Civil No. 72140, First Circuit Court Remand, which allows stockpiling of dredged coral spoil on approximately 152 acres of land within the Agricultural District at Barbers Point, Ewa, Oahu. The County's finding No. 3 was amended to read "No rock-crushing activity shall occur on the site" instead of "No rock-crushing equipment shall be placed on the site". It was seconded by Commissioner Rubin and the motion, with the amendment, unanimously approved.

Vice Chairman Choy moved to approve the amendment to add conditions A through D, as delineated under number 1 in the staff memorandum. It was seconded by Commissioner Whittemore and carried.

The Commission was in recess from 11:56 a.m. to 1:30 p.m.

1:30 p.m.

A83-550 - A. R. NYLEN AND RAYMOND H. NYLEN

Chairman Yuen announced that the Commission will act to determine whether the anticipated effects discussed in A. R. Nylen and Raymond Nylen's environmental assessment to reclassify approximately 19 acres of land currently in the Conservation District into the Urban District at Kahaluu, Koolaupoko, Oahu, for a residential development, constitute a significant effect on the environment.

A description of the property was presented by staff Planner.

Commissioner Rubin moved that in the matter of A83-550, A. R. Nylen and Raymond H. Nylen, an environmental impact statement be required. It was seconded by Commissioner Tacbian and the motion was carried, with Commissioner Chun casting the only dissenting vote.

A83-554 - FARMS OF KAPUA

The Commission held a discussion to determine whether the anticipated effects contained in the Farms of Kapua environmental

Assessment to reclassify approximately 6,102 acres of land currently in the Conservation District into the Agricultural District at South Kona, Hawaii, constitute a significant effect, pursuant to Chapter 313, HRS.

Staff Planner oriented the Commission to the lands involved in the petition.

Commissioner Chun moved to issue a negative declaration on the basis that there will be no significant effect on the environment, and therefore no environmental impact statement will be required. It was seconded by Commissioner Tacbian.

Chairman Yuen noted for the record that Commissioner Tamaye had declared a conflict of interest relative to the subject petition and excused him from the proceedings.

The motion was carried unanimously.

A82-544 - IOLANI SCHOOL

To act on a request for reconsideration of the Land Use Commission's non-acceptance of the EIS

Commissioner Tacbian submitted that at the time the Commission rejected the EIS prepared for the Iolani School petition, the petitioner had been advised that a new EIS would be required. Therefore, he could see no reason for changing the Commission's position at this time, and moved to deny Iolani School's request for a reconsideration of the Commission's non-acceptance of the EIS. The motion was seconded by Commissioner Rubin and unanimously carried by voice vote.

Adoption of Minutes

The minutes of March 21, 1983, March 22, 1983, April 7, 1983 and April 8, 1983 were approved as circulated.

The meeting was adjourned at 2:30 p.m.

Minutes - June 27, 1983

-7-

Closing Arguments (cont.)