

STATE OF HAWAII
LAND USE COMMISSION

Minutes of Meeting

approved 10-9-70

Conference Room - Ninth Floor
Kamamalu Building
Honolulu, Hawaii

July 10, 1970
2 p.m.

Commissioners Present: Wilbert Choi, Chairman
Goro Inaba, Vice-Chairman
Alexander Napier
Eddie Tangen
Shelley Mark
Stanley Sakahashi
Leslie Wung
Sunao Kido

Commissioner Absent: Tanji Yamamura

Staff Present: Ramon Duran, Executive Officer
Ah Sung Leong, Planner
Walton Hong, Deputy Attorney General
Dora Horikawa, Stenographer

The meeting was called to order by Chairman Choi, then he swore in persons planning to testify.

HEARING

PETITION BY NICHOLAS F. GREENER (A70-251) TO RECLASSIFY
4 ACRES FROM CONSERVATION TO URBAN AT KAHALUU, KOOLAUPOKO, OAHU

Mr. Duran, Executive Officer, presented the staff report, described the property under consideration, and noted that a portion of the property is already situated within the abutting Urban District. He advised that the petitioner would waive any requirement by the Board of Water Supply to service the area above the 135-foot elevation and that he would furnish his own pump to service the area. Mr. Duran also noted that in the event the makai portion of Mr. Greener's property is rezoned, a small boundary adjustment should be

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made possibly during the next five year boundary review for the abutting property on the makai side in order to eliminate a small pocket of Conservation-zoned land which would result from rezoning the Greener property.

In reply to Chairman Choi's question regarding the allowable lot size if the property is rezoned, the Executive Officer replied that under the City's new zoning ordinance, the area would be determined by the slope of the property since the greater the percentage of slope, the larger the lot area requirement.

Since there was no further testimony, the Chairman informed Mr. Greener that he had 15 days to submit additional evidence. The hearing on this matter was closed thereafter.

ACTION

SPECIAL PERMIT APPLICATION BY DUERKSON LANDSCAPING COMPANY (SP70-80) TO ALLOW A SAND MINING OPERATION ON APPROXIMATELY 18 ACRES AT LAIE, OAHU

Mr. Leong, staff planner, referred to the maps on the wall to describe the area in question and presented the staff memo recommending approval of the subject permit subject to the conditions contained in the staff memo (see staff memo on file).

Mr. Haruo Tashiro, abutting property owner and long-time resident of the area, voiced his concern over possible erosion and flood problems which would result from the proposed sand-mining operation.

Commissioner Tangen questioned the staff on the omission of several conditions which the County wanted to impose on the petitioner. Mr. Leong replied that any additional condition may be stipulated by the County when the petitioner appears before the City Planning Commission for a conditional use permit which would be required of the petitioner in addition to the special permit now being considered. Mr. Duran elaborated that the conditions which were omitted are recommendations from the City planning staff to the City Planning Commission for processing the Urban portion of the petitioner's land under a conditional use permit. Processing of the conditional use permit by the County has been held in abeyance pending the outcome of this special permit request. Therefore, the Land Use Commission

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staff is recommending only the minimum requirements to the State Land Use Commission at this time. However, restrictions which would more appropriately be applied at the County level, such as truck mufflers and noise emission can be imposed by the County when a conditional use permit is considered at the Planning Commission and City Council level.

Lincoln Ishida, attorney for the petitioner, was questioned as to whether the sand mining and filling operation will be done in increments or whether all the excavation work will be done before filling commences. He was also asked about the source and type of fill material. Mr. Ishida replied that he was not familiar with the operation and stated that he would be willing to postpone the matter in order to get an answer to the questions from a Professor Hummel.

Walton Hong, Deputy Attorney General, questioned Mr. Ishida whether he had seen the lease agreement between Zions Securities and the petitioner. Mr. Ishida replied in the negative.

Mr. Duran advised the Commission that in view of the facts presented which the staff was unaware of, the staff's recommendation for approval of the request is withdrawn until the issues are clarified. The problem of pollution, type of fill, mode of operation, and future use of the property are questions that should be resolved before a decision is made.

Mr. Allan Sanborn, Planning Director for the Windward Citizens Planning Conference, presented a letter to the Commission and upon the Chairman's suggestion, elaborated on its contents. He testified that the City was not certain whether the back fill would be a sanitary land fill or an earth fill. He stated that it was confirmed by Mr. Marvin Stone of Zion Securities that the main stream floods on occasion; and, therefore, the possibility of contaminating the bay exists. Mr. Stone also confirmed that the grave site is not within the lease area and that there will be a 30-foot setback between the graveyard and the extent of the lease. The problem of dust and noise pollution was also raised by Mr. Sanborn.

Mr. Duran stated that he was not aware that the WCPC would testify on this matter and since he is a member of that organization and since the Commission raised the issue of conflict of interest on the Joe Pao Enchanted Lakes rezoning asked if he should disqualify himself from any further discussion. Since the Commission believed that there was a

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possible question of conflict; and, upon advice of Deputy Attorney General Walton Hong, the Chair requested the Executive Officer be excused from further participation.

Since Mr. Ishida could not answer many of the questions brought up at this meeting, Commissioner Tangen suggested that Mr. Ishida find these answers and thereupon moved that action on this special permit be deferred until the next Commission meeting on Oahu. The motion was seconded by Commissioner Sakahashi and unanimously carried.

SENATE BILL 1139

The Executive Officer summarized past discussions of the shoreline setback bill and noted that the consultants for the boundary review were present to answer questions regarding their recommendation to the Land Use Commission to initiate public hearings for a 40 foot shoreline setback.

Deputy Attorney General Walton Hong, in reply to a question from Commissioner Sakahashi, elaborated that the bill gives the Land Use Commission the discretion to establish a shoreline setback of between 20 and 40 feet. Once the minimum is established by the Land Use Commission, the Counties may expand on the setback but cannot go below the minimum established by the Commission.

The Executive Officer added that the shoreline setback line which will be established after public hearings will be stated in our District Regulations but will not be delineated on our District Maps.

Mr. Hong advised that the setback bill was unclear as to whether public hearings are required on every island. In view of this uncertainty, he recommended that a public hearing be held in each County. Mr. Duran added that this procedure will be fairer to the public and that the hearings may be dovetailed into the regular schedule of meetings.

Land Use Commission consultant, Howard Altman, felt that it should be the landowner or other interested party who should present arguments for the use of land below the 40-foot setback which his firm recommends. Based on the merits of these arguments, the Land Use Commission can then make appropriate adjustments.

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Mr. Hong advised that the bill apparently does not have any provisions for amending the setback once it is established by the Land Use Commission. However, it provides that the Counties may grant variances based on hardship or if it is in the public's interest. In reply to the Chairman's question as to what zoning the setback would come under, Mr. Hong stated that the zoning would remain the same.

Commissioner Kido believed that the 20 to 40 foot setback is based on the Hawaii County shoreline setback which establishes a 20-foot setback for Urban; 30 in the Agricultural District; and 40 in the Conservation District.

Mr. Hong said that since there are no provisions to amend the setback once it is established and if the Land Use Commission decides on different setbacks in the different districts, in the event a shoreline property is rezoned, then the setback applying to the new district would apply. He added that an opinion from the Attorney General's office regarding legislative intent and other questions is still pending clearance by Mr. Kanbara.

It was decided by the Commission that further discussion on this matter be deferred to the August 21 meeting on Maui.

LILIUOKALANI TRUST EXTENSION REQUEST

The Executive Officer read a letter (on file) from Liliuokalani Trust requesting deferral of action on their petition (A69-230) for an additional four months pending completion of the Hawaii General Plan review during the fall of this year.

Commissioner Tangen moved that the request for deferral be granted, seconded by Commissioner Inaba and unanimously carried.

The meeting was adjourned shortly thereafter.