

STATE OF HAWAII
LAND USE COMMISSION

Minutes of Meeting

Conference Rooms A, B. & C
State Building
75 Aupuni Street
Hilo, Hawaii

Approved
11/12/81

August 20, 1981 - 9:30 a.m.

COMMISSIONERS PRESENT: William Yuen, Chairman
Carol Whitesell, Vice Chairman
Richard Choy
Everett Cuskaden
Shinsei Miyasato (10:34 a.m.)
Teofilo Tacbian
Robert Tamaye
Edward Yanai

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

Ray Russell, Court Reporter

HEARING

A80-492 - F & N CORPORATION

Chairman Yuen announced that prior to proceeding with the hearing on this petition, he would like to entertain a motion to have the Commission go into executive session to receive legal advice from the Deputy Attorney General regarding the proper procedure to follow in dispensing with some of the questions surrounding this petition.

It was so moved by Commissioner Cuskaden which was seconded by Commissioner Tacbian and the Commission went into executive session.

Chairman Yuen informed that the Commission had received counsel from the Deputy Attorney General concerning the alternatives available to the Commission regarding the motion by F & N Corporation to amend its petition.

Appearances

Stephen Yamashiro, representing Clifford Lum, attorney
for petitioner

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

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

Each party was allowed an opportunity to present oral
arguments pertaining to petitioner's motion to amend the
petition.

Commissioner Yanai moved that the amendment requested by
the petitioner be approved. It was seconded by Commissioner
Tamaye.

Commissioner Whitesell expressed concern over the manner
in which the request had developed and felt the Commission was
in a difficult situation to arrive at a decision since many
issues were involved.

The motion did not carry with Commissioner Yanai casting
the only affirmative vote.

As a result of the foregoing action by the Commission,
the Chair wondered whether petitioner was prepared to proceed
with the hearing on the petition as it was originally filed.
Mr. Yamashiro responded that he was prepared to make an
opening statement and present one witness today.

The staff Planner pointed out the location of the property
on the maps and oriented its location with various surrounding
landmarks.

Public Witness

Virginia Lee - Resident of petitioned area

Oral testimony-----14 to 18

Cross examination by Mr. Yamashiro-----19 to 22

Examination by Vice Chairman Whitesell-----22

Recross examination by Mr. Yamashiro-----23

Examination by Commission Tacbian-----23 to 24

Virginia Lee (cont.)

Reexamination by Vice Chairman Whitesell-----24 to 25

Examination by Commissioner Cuskaden-----26 to 28

Examination by Chairman Yuen-----28

Photos which were utilized by the witness during her testimony, including maps, were marked as LUC Exhibits 1 through 6 and admitted into evidence.

For the record, it was noted that the Commission had been joined by Commissioner Miyasato at 10:34 a.m.

PETITIONER

Mr. Yamashiro's opening statement-----28 to 32

It was brought to the Commission's attention by Miss Chock that the necessary consents from a number of the landowners involved in the petition were still lacking. Chairman Yuen advised that the petitioner will have until the close of business on September 3, 1981 to submit all of the requisite consents, including any other evidence intended for introduction.

It was announced that the hearing will be continued until a later date which will be set by the Commission.

ACTION

A80-494 - JOHN A. HARVEY, III

In the matter of the petition by John A. Harvey, III, a hearing was held by the Land Use Commission on May 5 and 6, 1981.

Appearances

Arnold Abe, attorney representing petitioner

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

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

It was determined by Chairman Yuen that the Commissioners who had not heard the entire proceedings on this petition had

read all of the records and transcripts and therefore qualified to vote on this matter.

The location of the subject property was described by staff planner.

Under the proposed decision procedure, all of the parties were given equal time to present their closing arguments and the petitioner's attorney was given additional time to offer rebuttal.

It was moved by Commissioner Tamaye, seconded by Vice Chairman Whitesell, to approve Docket A80-494.

Objections to the motion was voiced by Vice Chairman Whitesell because of her concern over the question of water availability and the lack of any studies regarding the cesspool problem.

The motion to approve the petition was unanimously defeated.

Thereafter, the Commission adopted the true findings relative to this petition, utilizing the County's proposal as a guide. The petitioner's and DPED's proposals were also considered during the procedure.

The Commission was in recess from 11:45 a.m. to 1:15 p.m.

1:15 p.m.

A80-498 - HUBERT F. RICHARDS

In the matter of the petition by Hubert F. Richards, a hearing was held by the Land Use Commission on March 18 and 19, 1981.

The Commissioners who had not attended the hearings confirmed that they had read all of the records and transcripts relative to subject petition and were ruled eligible to vote on this matter.

Appearances

James Funaki, attorney representing petitioner

Duane Kanuha, Deputy Planning Director, representing
Hawaii Planning Department

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

All of the parties were afforded equal time to present their closing arguments and the petitioner's representative was given additional time to present his rebuttal.

It was moved by Commissioner Tamaye and seconded by Vice Chairman Whitesell to approve Docket A80-498.

Both Vice Chairman Whitesell and Commissioner Cuskaden spoke against approval of the petition on the basis that the actual need for the development had not been shown.

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

Aye: Commissioner Miyasato

Nays: Commissioner Choy, Cuskaden, Yanai, Tacbian,
Tamaye, Whitesell, Chairman Yuen

The Commission reviewed the proposals which had been filed by all of the parties and adopted its true findings.

A80-500 - KAPALAOA, INC.

The staff Planner was called on to point out the location of the subject property on the maps.

Appearances

Arnold Abe, attorney representing the petitioner

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

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

Chairman Yuen qualified the eligibility of all Commissioners to participate in the action on this petition.

Following closing arguments by all of the parties to the proceeding, petitioner's representative was given additional time for rebuttal.

Commissioner Tamaye moved that A80-500 be approved, which was seconded by Vice Chairman Whitesell. The motion was defeated by a unanimous vote.

Utilizing the County's proposal and also reviewing other comments filed by the other parties, the Commission adopted its true findings relative to this petition.

The meeting was adjourned at 2:51 p.m.