

STATE OF HAWAII
LAND USE COMMISSION

Approved

Minutes of Meeting

JUL 9 1981

Conference Room 322 A & B
Kalanimoku Building
Honolulu, Hawaii

September 16, 1980 - 9:00 a.m.

COMMISSIONERS PRESENT: Charles Duke, Chairman
Shinichi Nakagawa, Vice Chairman
Richard Choy
Shinsei Miyasato
George Pascua
Carol Whitesell
Edward Yanai

COMMISSIONERS ABSENT: Mituso Oura
William Yuen

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

ACTION

A79-471 - LANIHAU CORPORATION

Mr. Joseph Chu, staff planner, oriented the Commission to the property under petition, using the USGS quad and tax maps.

It was announced by Chairman Duke that under the proposed decision procedure, all parties will be given equal time to present their closing arguments, and an additional 10 minutes for rebuttal by the petitioner.

Appearances

James Funaki, Attorney representing Lanihau Corporation

Annette Chock, Deputy Attorney General, representing DPED

Michael Marsh, Attorney representing Intervenors Liliuokalani Trust and the Hart Estate Management Company

Closing Arguments

Transcript Pages

By Mr. Funaki----- 6 to 10

By Miss Chock-----10 to 11

Closing Arguments (cont.)

By Mr. Marsh-----11 to 19

Rebuttal

By Mr. Funaki-----19 to 25

For the record, it was noted that Commissioner Yuen had, as previously, disqualified himself due to a conflict.

Vice Chairman Nakagawa moved that Docket A79-471, Lanihau Corporation, to reclassify approximately 25.783 acres of land from the Agricultural District into the Urban District at Kailua, North Kona, Hawaii for a regional shopping center be approved. It was seconded by Commissioner Miyasato. The motion was unanimously carried.

In view of the foregoing action by the Commission, it was agreed to use the petitioner's proposed findings of fact as a guide in adopting the Commission's true findings.

Thereafter, under Mr. Kawada's guidance, the Commission adopted its findings of fact, taking into consideration the comments and recommendations contained in the documents submitted by all parties.

Chairman Duke instructed Mr. Kawada to draw the conclusions of law to comport with the findings.

The Commission was in recess from 12:00 noon to 1:30 p.m.

1:30 p.m.

Commissioner Yuen joined the Commission for the afternoon session.

A80-480 - MAUI 100 PARTNERS

The Executive Officer pointed out the property in question and oriented its location on the maps with various landmarks.

Appearances

Tamotsu Tanaka, Attorney representing petitioner

Annette Chock, Deputy Attorney General, representing DPED

Mr. Furutani reported that the Deputy Planning Director of Maui County had advised him that the County was waiving its right

to oral argument on the petition by Maui 100 Partners and will not be represented today.

Oral Arguments

By Mr. Tanaka----- 88 to 92

By Miss Chock----- 93 to 94

It was moved by Commissioner Yanai to approve Docket No. A80-480, Maui 100 Partners, to reclassify approximately 94.541 acres of land presently in the Agricultural District into the Urban District at Pulehunui, Kihei, Maui. The motion was seconded by Commissioner Miyasato.

Commissioner Whitesell moved to amend the motion to impose the condition regarding provision of moderate cost housing, with which the petitioner himself had agreed to comply. The amendment was seconded by Commissioner Choy.

Since much concern was expressed regarding the imposition of the above condition, Commissioner Yuen moved to go into executive session to receive counsel as to the propriety of imposing the condition. It was seconded by Commissioner Pascua and the Commission went into executive session.

Deputy Attorney General Kawada explained he had counseled that the only body that can release a condition, once imposed and recorded with the Bureau of Conveyances, was the Commission. The mechanics of accomplishing this were also discussed.

Commissioner Whitesell withdrew her motion in order that the wording of the condition might be modified. Commissioner Choy, seconder of the motion, had no objections.

Commissioner Yuen moved to amend the motion to add the following condition: "The petitioner shall offer for sale or rental or cooperate with the Hawaii Housing Authority and/or the County of Maui to offer for sale or rental within the subject property, 10 percent of the total rental housing units and single family house lots developed, to qualified residents of the State of Hawaii of low or moderate family income as defined by the Hawaii Housing Authority on a preferential basis, with rents and prices consistent with the income guidelines of the Hawaii Housing Authority, provided that this condition may be fully or partially released as to portions of the subject property upon timely motion to the Commission and satisfaction of this condition." The amendment motion was seconded by Commissioner Pascua.

Commissioner Yuen agreed with the Chairman that the Deputy Attorney General be directed to prepare the precise wording of the amendment to ensure that it will be on firm legal grounds and will not cause undue hardship to the petitioner.

Commissioner Yuen moved to amend his amendment by adding: "provide employee housing to the group of eligible purchasers or renters in the 10 percent bracket". There was no objection by the seconder of the first amendment.

The motion to amend the original amendment was unanimously carried.

The motion to approve the petition as amended was also unanimously carried.

The Deputy Attorney General and the Commission reviewed petitioner's proposed findings of fact, taking into account the recommendations, additions, deletions proposed in the documents submitted by the other parties, and adopted the Commission's true findings relative to this petition. Mr. Kawada agreed to draw up the conclusions of law and order in line with the findings just adopted.

A80-492 - F & N CORPORATION

Chairman Duke announced that the Commission was in receipt of a letter from petitioner's counsel apologizing for his inability to be present at the meeting today due to a conflict in court appearance, and waiving his right to argument in the matter. The County likewise indicated that it would waive its right to argument since it was unable to be present today.

The Executive Officer gave a brief description of the property under discussion.

Miss Chock, Deputy Attorney General representing DPED, expressed the State's concern that the subject petition was seriously defective.

Commissioner Whitesell moved that the Commission declare the petition a defective filing and notify the petitioner that the time will start when the defects are corrected. The motion was seconded by Commissioner Pascua and unanimously passed.

Chairman Duke instructed staff to notify the petitioner of the Commission's action.

The meeting adjourned at 4:42 p. m.