

STATE OF HAWAII
LAND USE COMMISSION

Minutes of Meeting

Conference Room - State Office Building
54 South High Street
Wailuku, Maui

September 24, 1976 - 9:30 a.m.

Approved
NOV 9 1976

COMMISSIONERS PRESENT: Eddie Tangen, Chairman
Stanley Sakahashi, Vice Chairman
James Carras
Shinsei Miyasato
Mitsuo Oura
Carol Whitesell
Edward Yanai

COMMISSIONERS ABSENT: Charles Duke
Colette Machado

STAFF PRESENT: Ah Sung Leong, Acting Executive Officer
Michael Lilly, Deputy Attorney General
Dora Horikawa, Clerk Reporter

Ray Russell, Court Reporter

CONTINUATION OF HEARING

A75-405 - KULA ALII, LTD.

The Chairman announced that the Commission will proceed with a continuation of the hearing of August 5, 1976 on the petition by Kula Alii, Ltd., Docket A75-405.

Since Mr. Crockett, representing the petitioner, submitted that he had no further witness, Chairman Tangen called on the County of Maui to proceed with its presentation.

COUNTY OF MAUI

Mr. Scott, Deputy County Attorney, representing the Maui Planning Department, made reference to the County's written testimony which had been submitted at the initial hearing held on August 5, 1976.

Toshi Ishikawa - Witness

Mr. Toshi Ishikawa, Planning Director, Maui Planning Department, having been duly sworn in, was called as a witness, examined,

and testified as set forth in the transcript on -----	<u>Pages</u>
Direct examination by Mr. Scott -----	4 to 10
Cross examination by Mr. Crockett -----	10
Cross examination by Mr. Lee -----	10 to 27
Cross examination by Mr. Town -----	27 to 35
Questioned by Vice Chairman Sakahashi -----	35 to 39

Yasuo Imada - Witness

Mr. Yasuo Imada, Deputy Director of the Board of Water Supply, County of Maui, having been duly sworn in, was called as a witness, examined and testified as set forth in the transcript on -----
Pages

Direct examination by Mr. Scott -----	39 to 44
Cross examination by Mr. Crockett -----	45 to 46
Cross examination by Mr. Lee -----	47 to 51
Cross examination by Mr. Town -----	51 to 52
Recross examination by Mr. Crockett -----	53 to 54
Recross examination by Mr. Lee -----	54
Questioned by Vice Chairman Sakahashi -----	54 to 58
Questioned by Commissioners Whitesell and Yanai-	58 to 61

DEPARTMENT OF PLANNING AND ECONOMIC DEVELOPMENT

Mr. Lee requested that the reading of the written testimony by DPED be waived. In view of Mr. Crockett's objections, Mr. Lee agreed to retract the attachments to DPED's Exhibit 8, i.e., letter dated November 23, 1962 from the Department of Agriculture to the Governor of Hawaii with accompanying miscellaneous information.

Tatsuo Fujimoto - Witness

Mr. Tatsuo Fujimoto, Head of the Land Use Division, having been duly sworn in, was called as a witness, examined, and testified as set forth in the transcript on -----
Pages

Direct examination by Mr. Lee -----	63 to 68
Cross examination by Mr. Crockett -----	68 to 75

Chairman Tangen announced that before the Commission takes a recess for lunch, he will entertain a motion to add the matter of a request from Amfac Communities-Hawaii for reaffirmation of the validity of Special Permit SP74-183. It was so moved by Vice Chairman Sakahashi, seconded by Commissioner Whitesell, and unanimously passed by voice vote.

The meeting was recessed from 12:05 p.m. to 1:45 p.m.

<u>Tatsuo Fujimoto - Witness (cont.)</u>	<u>Pages</u>
Cross examination by Mr. Scott -----	77 to 86
Cross examination by Mr. Town -----	86 to 88
Redirect examination by Mr. Lee -----	88
Questioned by Commissioner Whitesell -----	89 to 92
Questioned by Vice Chairman Sakahashi -----	92 to 94

MICHAEL TOWN

Mr. Michael Town, representing himself and his wife, having been duly admitted as a party to the proceedings, testified in his behalf and was examined as set forth in the transcript on -----

	<u>Pages</u>
Cross examination by Mr. Crockett -----	101 to 103
Cross examination by Mr. Scott -----	103 to 106

Brief closing statements were submitted by Mr. Lee and Mr. Town and the Chairman advised the petitioner with respect to the deadline for the filing of the proposed findings of fact and conclusions of law, service, etc.

The Chair declared that the hearing on A75-405 was concluded.

ACTION

APPLICATION BY KOHALA TONG WO SOCIETY (SP76-249) TO ALLOW THE CONSTRUCTION OF A PATIO ADDITION TO AN EXISTING CHURCH AT NORTH KOHALA, HAWAII

Mr. Leong, Acting Executive Officer, oriented the subject parcel with the various surrounding landmarks and summarized for the Commission the three conditions imposed by the Hawaii County Planning Commission.

Upon motion by Commissioner Carras, seconded by Commissioner Oura, the subject Special Permit SP76-249 was unanimously approved, subject to the three conditions imposed by Hawaii County Planning Commission.

REQUEST BY JOSEPH FLORES (A73-367)

Mr. Leong noted that a background summary of the request by Mr. Joseph Flores had been circulated earlier to the Commission members (see copy on file).

Chairman Tangen stated that it would appear the conditions which were imposed at the time of the approval of the petition by Mr. Flores had not been fulfilled, and that whenever the Commission has reason to believe that there has been a failure to perform according to the conditions imposed, the Commission's Rules and Regulations provide for issuance of an Order to Show Cause as to why the property should not revert to its former land use classification or to a more appropriate classification. However, in all fairness to Mr. Flores who was present today, he called on him to address the Commission.

Mr. Flores offered a detailed account of the chronology of events which had occurred to explain why he had been unable to fulfill the conditions; i.e. the anticipated funding which had not materialized, the mounting expenses incurred and still owing, etc. Despite these setbacks, he maintained that he would still be able to provide housing for the low-income group. He contended that he had not defaulted in any way and should not be penalized.

Chairman Tangen explained that under the requirements of the statutes and the Commission's Rules and Regulations, the Commission did not have the authority to make a determination today as to whether the land will be reclassified from the Urban District into another classification; rather, that a hearing will be set for an Order to Show Cause, at which time Mr. Flores will have the opportunity to appear before the Commission and present testimony to support his request. A lengthy discussion ensued concerning the possibility of foreclosure by the landowner.

At Mr. Flores' request, the Chair agreed to issue the order within a week to ten days and conduct the hearing on Oahu, if at all possible.

It was moved by Commissioner Whitesell and seconded by Commissioner Carras that the Commission issue an Order to Show Cause as to why the property under Docket A73-367 should not revert to its former land use classification or to a more appropriate classification.

Vice Chairman Sakahashi argued that he felt Mr. Flores was being singled out when there were also other properties in the State which had not been developed according to the conditions imposed by the Commission. It was pointed out by the Chair that Mr. Flores himself had brought this to the Commission's attention and the Commission had no alternative but to abide by its own Rules and Regulations.

The Commissioners were polled as follows:

Ayes: Commissioners Yanai, Carras, Whitesell, Oura, Miyasato,
Chairman Tangen

Nay: Vice Chairman Sakahashi

The motion was carried.

REQUEST TO REAFFIRM VALIDITY OF SPECIAL PERMIT SP74-183, AMFAC
COMMUNITIES-HAWAII

A short recess was called by the Chair for the purpose of reviewing the staff memo regarding the subject request (see copy of memo on file).

Chairman Tangen elaborated that the issue involved in the present request concerned condition #7 imposed by the Maui Planning Commission at the time of approval of the Special Permit, i.e. "That the project shall be initiated within six months of the final approval date, and all relocations implemented within one year."

After much discussion among the Commission members over the definition of "final approval", it was the consensus that henceforth, in approving Special Permits, the following terminologies be more precisely and clearly defined:

1. Final approval (by whom and for what type of request)
2. Initiation date

Mr. Takahashi, President of Amfac Communities-Maui, submitted that the off-site improvements were substantially completed and they were presently at the point of proceeding with the building permit for the on-site structure.

Mr. Stoner, representing one of the parties involved, advised that his client was prepared to apply for a building permit as soon as the subdivision approval is received. He added that an application for subdivision had been filed with the County, and that the construction of the roads, utilities, etc. within the subdivision, will be completed within a week or two.

Chairman Tangen suggested that a condition be added that "within 10 days after the approval by the County of the subdivision request, petitioner will apply for the building permit for the structures".

It was moved by Vice Chairman Sakahashi to reaffirm the validity of Special Permit SP74-183, with the condition that within 10 days of County approval of the subdivision request, a building permit request be made to the County. The motion was seconded by Commissioner Miyasato and unanimously passed.

PROPOSAL BY JACK SCHWEIGERT TO AMEND SECTION 6-14 OF THE COMMISSION'S RULES AND REGULATIONS

Chairman Tangen advised that the Commission's decision today was merely concerned with whether to accept or disapprove the proposal by Mr. Schweigert to amend the Rules and Regulations.

Mr. Leong noted that the Commission had 30 days from September 2, 1976, the date of Mr. Schweigert's request, in which to either deny or accept the proposal for public hearing. It was further pointed out that the notice of public hearing on the amendments to the Rules and Regulations will have to be published 20 days prior to the hearing date. Mr. Leong also suggested that the provisions of Act 4, enacted in 1976, be incorporated in the amendments, should the Commission accept Mr. Schweigert's proposal.

It was moved by Commissioner Whitesell and seconded by Commissioner Miyasato to accept the petition as submitted by Mr. Schweigert to amend the Rules and Regulations. The motion was unanimously carried.

ADOPTION OF MINUTES

Upon motion by Commissioner Yanai, seconded by Commissioner Miyasato, the minutes of August 5, 1976 and August 19, 1976 were approved as circulated.

APPOINTMENT OF EXECUTIVE OFFICER

It was announced by Chairman Tangen that the Commission had met in executive session to review the applications for the position of Executive Officer of the Land Use Commission and that Mr. Gordan Furutani had been selected for the position. Furthermore, that the sub-committee composed of Commissioners Whitesell and Yanai and Chairman Tangen will meet to discuss the matter of salary, job description, starting date, and report back to the Commission with its recommendation. For the record, it was pointed out that the Acting Executive Officer, Mr. Ah Sung Leong, was not a candidate for the Executive Officer's position, and that the selection had been made from among other candidates.

Commissioner Yanai moved to appoint Gordan Furutani as Executive Officer of the Commission, starting date, salary and other matters to remain in abeyance until the sub-committee makes its recommendation. Commissioner Miyasato seconded the motion and the Commissioners were polled as follows:

Ayes: Commissioners Yanai, Whitesell, Sakahashi, Miyasato,
Chairman Tangen

The motion was carried.

The meeting was adjourned thereafter.