

STATE OF HAWAII
LAND USE COMMISSION

Minutes of Meeting

Conference Room 322-A
Kalanimoku Building
Honolulu, Hawaii

Approved
11/13/81

September 25, 1981 - 9:00 a.m.

COMMISSIONERS PRESENT: William Yuen, Chairman
Carol Whitesell, Vice Chairman
Everett Cuskaden (9:45 a.m.)
Shinsei Miyasato
Teofilo Tacbian
Robert Tamaye

COMMISSIONERS ABSENT: Richard Choy
Edward Yanai

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

Introduction of New Deputy Attorney General

Mr. Allan Kawada introduced Mr. Jay Nelson as the Deputy Attorney General who will replace him as counsel to the Commission.

Addition to the Agenda

It was moved by Vice Chairman Whitesell, seconded by Commissioner Tamaye, and unanimously agreed to add to the agenda a report by Commissioner Tacbian of his attendance at the conference by the American Planning Association in New York City.

REVIEW AND DISCUSSION

1. Proposed Amendments to Land Use Commission Rules of Practice and Procedure and District Regulations

Chairman Yuen announced that the Commission will review the proposed amendments which had been prepared by staff and distributed earlier (see copy attached).

Some of the more significant proposals which were discussed are listed below:

- a. What assurance will there be that an agreement between

the petitioner and HHA for the provision of affordable housing will be carried through. Mr. Furutani suggested that the agreement could be made a part of the petition and the Commission could include that as a condition.

- b. Since presently there is no land use guidance policy, the issue here was one of deciding whether the Commission wished to include its own guidance policy.
- c. Relative to the time frame involved in filing for intervention, Chairman Yuen noted that the Commission was bound by the statutory requirement and referred the matter to the Deputy Attorney General for further study.
- d. It was brought out that quite frequently, substantial additional information is brought in by the petitioner at the time of the pre-hearing conference which makes it difficult for the County and State to state their positions. It was suggested that the petitioner be required to submit a complete petition at the time of the initial filing.
- e. The requirement for an EIS under Chapter 343 and conformance with the Coastal Zone Management policy were discussed.

Additional proposals for amendment to the Rules and Regulations were suggested by Commission members as follows:

- a. The proposed decision procedure should be incorporated into the Rules and Regulations.
- b. The filing fee for boundary amendment should be upgraded.
- c. Under "Enforcement of Conditions", modify the wording to reflect the fact that when there has been a failure to perform according to the conditions imposed, the property does not automatically "revert to its former land use classification", but that a hearing is required.
- d. Should there be more substantive guidelines for the counties to follow in processing special permits under 15 acres in area?
- e. A clarification of the Commission's policy regarding executive session minutes.

- f. Define what constitutes a new petition when it is refiled for the same lands.
- g. Should there be a provision for withdrawal of a petition with or without prejudice?
- h. Prepare guidelines for petitioner in submitting a financial statement based on the kind of information the Commission is seeking.
- i. The question of whether the Commission is precluded from considering changes which had not been publicized for public hearing was referred to the Deputy Attorney General for further analysis.

The Commission was in executive session from 10:45 a.m. to 11:30 a.m.

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The Chairman explained that during the executive session, the Commission sought guidance from the Deputy Attorney General regarding the procedures to follow in adopting the rule changes and discussed the legality of some of the proposed changes.

Vice Chairman Whitesell moved to request the Executive Officer to send out notices to everyone on the mailing list of the fact that the Commission was considering changes and revisions to its Rules and Regulations, and solicit their suggestions, within 21 days. The Commission will then consider these suggestions along with the changes discussed and prepare a final notice to go to hearing. The motion was seconded by Commissioner Tacbian and carried.

Proposal for Monitoring Past Major Urban Reclassifications

Mr. Furutani explained that he had prepared a proposal to continue with the practice of periodically communicating with developers and land owners of major urban developments, and state and county land use regulatory agencies. If it is the Commission's decision to pursue this practice, Mr. Furutani suggested that staff could set up meetings with the landowners and developers in conjunction with some scheduled Land Use meetings. Chairman Yuen felt that this would be the best procedure to handle this matter.

Commissioner Tacbian's Report

Commissioner Tacbian reported on his attendance at the

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Zoning Conference sponsored by the American Planning Association which was held in New York City this past summer.

Adoption of Minutes

The following minutes were adopted as circulated:

April 13, 1981

May 5, 1981

May 6, 1981

August 5, 1981