

STATE OF HAWAII  
LAND USE COMMISSION

Minutes of Meeting

October 17, 1975 - 10:00 a.m.

Conference Room 3, State Capitol  
Honolulu, Hawaii

*Approved*  
*12-22-75*

COMMISSIONERS PRESENT: Eddie Tangen, Chairman  
Stanley Sakahashi, Vice Chairman  
James Carras  
Colette Machado  
Mitsuo Oura  
Carol Whitesell  
Tanji Yamamura  
Edward Yanai

COMMISSIONER ABSENT: \*Charles Duke

STAFF PRESENT: Ah Sung Leong, Acting Executive Officer  
Gordan Furutani, Planner  
Michael Marsh, Dep. Attorney General  
Dora Horikawa, Clerk Reporter  
  
Ray Russell, Court Reporter

\*Commissioner Duke joined the proceedings at 5:45 p.m.

The meeting was called to order by Chairman Tangen. He announced that if there were no objections, items 1 and 2 on the agenda will be consolidated since they dealt with the same subject matter.

ACTION

APPLICATIONS BY GROSVENOR-INTERNATIONAL (HAWAII), LTD. (SP75-216 & SP75-217) FOR SPECIAL PERMITS TO CONSTRUCT AND OPERATE A PRIVATE SEWAGE TREATMENT SYSTEM AND A PRIVATE WATER SYSTEM, AT MALAEKAHANA, KAHUKU, OAHU

It was announced by Chairman Tangen that the requests being considered by the Commission today are for the construction of a sewage treatment system and a water system in the Agricultural District, although testimony will not be restricted solely to these two matters as the Commission was aware of the major issues and far-reaching ramifications of these proposed facilities. The Chair requested that the testimony be kept short. He emphasized that the issue before the Commission was not one of whether a park was more appropriate at Malaekahana, but rather one of whether the proposed facilities were reasonable and unusual uses within the Agricultural District.

During the discussion on the taking of additional testimony from the public during an action meeting on Special Permits, Chairman Tangen advised that under the proposed Rules to be adopted, the Commission would be confined to the record sent from the counties. However, pending the adoption of the Rules, it had been decided to accept testimony since it was felt that this would afford maximum information for the Commission.

The Chair called on Mr. Steven Gendel to proceed with a slide presentation of Malaekahana, as requested by Mr. Gendel. For the records, Mr. Gendel stated that he was research assistant to Mr. Olin Pendleton and the Council of Presidents, and not an administrative assistant to Senator Anderson as noted in the staff memo.

The following people testified opposing the sewage treatment system and the water system proposed under the two Special Permits:

1. Olin Pendleton, Council of Presidents
2. Senator Jean King
3. Representative Neil Abercrombie
4. Representative Russell Blair
5. Steve Goodenow, Shoreline Protection Alliance
6. Jack Schweigert, Life of the Land
7. Bobby Fernandez, Waiahole-Waikane Community Association
8. Bob Nakata, Kahaluu Coalition
9. Richard Kimball, SCORE
10. Senator Anson Chong

The testimonies of the foregoing are summarized below:

1. A letter had been received by Mr. Pendleton from Governor Ariyoshi advising him of his intention to release funds for an appropriation of the beach park site at Malaekahana as the first step toward the eventual acquisition of the park site.
2. The Shoreline Protection Act is within a month of being implemented and any major action involving the shoreline at this time would subvert the intent of the Act.
3. The City Department of Land Utilization had retracted its original report to the Planning Commission recommending approval of the two Special Permits, advising that it would have to reevaluate its earlier position in view of recent policy changes by the State and the city relative to the creation of an extensive park in the area.
4. Campbell Estate was offering park lands with a number of conditions attached to them. Also, one of the area was described as the most dangerous swimming sites in the bay.
5. Instead of the much needed low-income housing, the petitioner was proposing second home type development.
6. There were reservations about the amount of available

water in the area and how this is to be utilized.

7. The character of the area will be profoundly altered.
8. Construction at Malaekahana will adversely affect the environmental and recreational resources for the general public.
9. An EIS is required when a shoreline area is affected or when a State action significantly affects an area.
10. The existing highway will not be able to cope with the additional traffic that will be generated by the proposed development.
11. The Governor has indicated that the Windward Regional Plan will soon be developed. Until such time as a plan is completed, the Special Permit should be denied.
12. The townhouse development will be within the Shoreline Protection Act's minimum 100-yard protection boundary.
13. In a letter from Mr. Bob Walden, President of the Koolauloa Council representing community organizations from approximately Punaluu all the way to Waiahole-Waikane, it was stated that "the only support by residents of the Windward communities for the rezoning has been the Housing Corporation of Kahuku."

It was pointed out by Chairman Tangen that Representative Neil Abercrombie's letter addressed to the City Planning Commission had nothing at all to do with the subject under discussion. Representative Abercrombie defended his position that to the degree it affects agriculture and water on the Windward side, it had a bearing.

The Chairman called a luncheon recess at 12:15 p.m.

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The Chair called the meeting to order at 2:15 p.m.

Chairman Tangen noted for the record that Commissioner Duke had not been present nor will he participate in the discussion on the subject Special Permit requests by Grosvenor.

Inasmuch as some of the foregoing testimony opposing the project was based on the imminently effective Shoreline Protection Act, Chairman Tangen felt it only fair to mention that in setting the effective date of the Act, it had been the legislative intent to accommodate those people who had met all the requirements for development or construction prior to the passage of the Act.

At this time, as directed by the Chairman, Mr. Ah Sung Leong, Acting Executive Officer, presented the staff memo relative to

the two Special Permits (see copy of report on file).

Since there were no objections from the Commissioners or the public, Chairman Tangen temporarily suspended the proceedings on SP75-216 and SP75-217 (Grosvenor-International) and departed from the agenda to consider SP75-221, Amfac Communities, Hawaii.

APPLICATION BY AMFAC COMMUNITIES, HAWAII (SP75-221) FOR A SPECIAL PERMIT TO EXPAND AN EXISTING GOLF COURSE IN THE AGRICULTURAL DISTRICT AT KAA NAPALI, LAHAINA, MAUI

Mr. Gordan Furutani, staff planner, presented the staff memo pertinent to the subject Special Permit (see copy of report on file).

There was no discussion on the application. Commissioner Yamamura moved that the Special Permit be granted, subject to the County's 2 conditions. The motion was seconded by Commissioner Carras and unanimously carried.

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CONTINUATION OF PROCEEDINGS ON SP75-216 AND SP75-217

The following people testified during this portion of the discussion on the Grosvenor Special Permit applications.

- 1. Richard Kimball - SCORE
- 2. Robert E. Gibson - Waimanalo Council of Community Organizations
- 3. Dianne Kiel - Sierra Club
- 4. Edith Keagle - We, The People
- 5. Alan Tyler - Friends of the Earth

Their testimonies are summarized below:

- 1. The purpose of the Land Use Law is not to expedite development but to conserve and protect agricultural lands.
- 2. Private development of beach front land is not in the best interest of the public. Once development is permitted, the area will be forever lost to the public as beach parks and open shoreline.
- 3. The proposed use will burden public agencies to provide roads, additional police and fire protection, school facilities.
- 4. 500 vacation homes cannot provide a high level of employment for local people.
- 5. This is the last of our precious beach parks and camping sites.

Mr. Alan Tyler stated that although the Kahuku Housing Corporation had sent a letter to the Governor signed by several community associations rejecting the idea of a beach park at Malaekahana, 3 of these community associations have since reversed their position once they realized the implications of the proposed development. Upon further questioning by the Chairman, Mr. Tyler acknowledged that the Kahuku Housing Corporation, the Kahuku Community Association, the high school and elementary school had not withdrawn their position supporting the proposed development before the City Planning Commission.

Chairman Tangen pointed out that it was important to separate what were actual documented facts on file from what had been implied or intended.

Referring to the question of whether a General Plan Amendment had been initiated by the city for the park site, it was Mr. Tyler's contention that this had been done. To substantiate this, he read a letter from Mr. George Moriguchi, Director of the Department of Land Utilization, stating that there was a letter of intent from the Department of Parks and Recreation to the Chief Planning Officer for a proposed beach park at Malaekahana. Commissioner Whitesell added it was her understanding that a letter of intent was the first step toward the initiation of a General Plan Amendment.

Mr. Ralph Hayward, President of Grosvenor International, Ltd., developers of Malaekahana, submitted the following information in support of his request:

1. The sites involved for the sewer and water facilities are unsuitable for intensive agricultural use, and the proposed uses do not violate the intent and purpose of Section 205-6.
2. The project at Malaekahana envisages a low rise, low density cluster development, designed to preserve views, protect the shoreline and sand dunes. Contrary to earlier testimony, there will not be a wall of units facing the water, but rather open spaces and vegetation through the cluster development plan.
3. The schedule and time involved in the planning, design and processing of the various permits for the project were enumerated as follows:
  - a. Initial contact with the City commenced in April of 1972, and a formal application submitted on December 8, 1972.
  - b. All city requirements were met.
  - c. During the review process by the city, all city agencies were contacted by the Department of Land

Utilization for their review and comments. All these agencies gave favorable written comments which are on file in the Department of Land Utilization.

- d. During this time, neither the city nor the State plans indicated park sites within the proposed development area.
- e. The developer and Campbell Estate met with members of the House, Senate, City Council, who represented the area in question, and no one indicated park requirement within the area.
- f. Upon issuance of all approval to permit developer to proceed, Grosvenor will convey to the city, at no cost, the 5.3-acre park and the 1-acre access park; the 64-acre area at Makahoa Point will remain uncommitted to permit condemnation by the city or the State; there will be public access to the 28 acres at Makahoa Point, plus 2 additional rights of way.

The Commission requested clarification on several matters and Mr. Hayward responded as follows:

1. Essentially, the concept is a second-home community, primarily for people in the Honolulu area.
2. As a result of time lapse and escalation of building costs, the projected price of the homes would be in the region of \$85,000 to \$100,000.
3. There is a tremendous amount of water up in the mountains and petitioner will be responsible for the development of the water facility.
4. It was reiterated that the city was contacted initially in April of 1972 and a formal application submitted on December 8, 1972 and all city requirements were met. During this period, neither the city nor the state indicated that they had any plans for parks in the area.
5. As a result of discussions with the City Parks Department, the 5-acre and 1-acre sites were agreed upon for parks. However, following the \$400,000 appropriation for acquisition of land for a park by the 1975 Legislature, the Parks Department initiated a General Plan change to accommodate the State's acquisition for park purposes.
6. There will be public access to the beach along the entire shoreline.

Mr. Fred Trotter of Campbell Estate pointed out that there was no indication of a park in the city's detailed map. He felt

it unfair that government should take away land from the land-owners without first changing the designation--that government should also proceed according to procedures required of the private citizen.

At this point in the proceedings, Chairman Tangen advised that there were a few matters which needed to be discussed with the Deputy Attorney General in executive session, in view of some of the issues which had been brought to the Commission's attention today. It was explained that this would require a two-thirds vote of the members. Commissioner Carras moved that the Commission go into executive session, which was seconded by Commissioner Yamamura. The motion was unanimously carried.

The meeting went into executive session at 4:40 p.m. and reconvened at 5:33 p.m.

Chairman Tangen announced that the taking of testimony on the two Special Permits was concluded and that the Chair will entertain a motion.

Commissioner Whitesell made the following motion: "I move that the Commission approve Special Use Permit 75-216 and 75-217 to be effective April 20, 1976, if no legal action has been taken by government to acquire for public purpose any lands which the proposed sewer and water treatment facilities would serve. In the event of government proceedings to acquire such lands prior to the effective date of the Special Use Permit, appraisal of the value of such lands shall give no consideration to the potential permission granted under the terms of Special Use Permits 75-216 and 75-217. Approval of the two Special Permits includes all conditions imposed by the Planning Commission of the City and County of Honolulu." The motion was seconded by Commissioner Carras.

Commissioner Whitesell elaborated on the reasons for her motion. She explained that the Commission today was not really dealing with approval of the development per se since that question was addressed in the original granting of urban classification and the General Plan designation for residential use to this land. The issue before the Commission was one of whether the Special Permits were reasonable and unusual uses within the Agricultural District. Should the Commission deny these Special Permits on the basis that they did not meet the criteria, it would be inconsistent at some future date to say that the same uses were reasonable for park purposes. Commissioner Whitesell felt strongly that government should be put on notice that the General Plan and zoning should reflect the intent of government in relation to the land.

Vice Chairman Sakahashi spoke against the motion since he felt it would compromise the legislative body by imposing conditions on which they would be forced to move. Commissioner Whitesell

argued that she would like to see a firm commitment by the Legislature.

The Commissioners were polled as follows:

Ayes: Commissioners Carras, Oura, Yamamura, Whitesell  
Chairman Tangen

Nays: Vice Chairman Sakahashi, Commissioners Yanai, Machado

Absent: Commissioner Duke

The motion was carried.

APPLICATION BY HUALALAI MEMORIAL PARK, INC. (SP75-218) TO  
ESTABLISH A CEMETERY AND MEMORIAL PARK AT AUHAUKEAE 1ST, N. KONA,  
HAWAII

Prior to the presentation of the staff memo on the Special Permit request, Commissioner Yanai left the meeting due to a prior commitment.

Commissioner Duke joined in the proceedings at this time, and the staff memo was then presented by Mr. Gordan Furutani.

Commissioner Oura questioned the need for the cemetery and memorial park at this location since the Commission had granted a Special Permit for a similar use in the Kona area previously.

Mr. Pat Caires, an associate in the proposed project, replied that Kona's population of approximately 12,000 people will require 12,000 plus cemetery plots within the next 50 years. Moreover, population was increasing and people were also purchasing plots for the future. Mr. Caires submitted that their concept was based on the pre-need system and on the guarantee that the family will be together. The need for disinterment due to the rising land costs, especially along the shoreline, will also increase the demand for cemetery plots.

Also speaking in support of the Special Permit, Mr. Frank Krieger, another associate, added that the county had encouraged their project since they wanted a professionally-managed operation in the Kailua-Kona area.

Chairman Tangen observed that the situation may change in the future, but for the moment it did not seem that there was a need for another cemetery in the Kona area. He also noted that generally cemeteries were not very well accepted by the residents in abutting areas.

Commissioner Duke moved that since the county has not indicated in their recommendation that there is a true need for a



cemetery, and due to its prematurity, the Special Permit application be denied. Commissioner Carras seconded the motion and the Commissioners were polled as follows:

Ayes: Commissioner Yamamura

Nays: Commissioners Oura, Carras, Duke, Whitesell, Sakahashi Machado

Chairman Tangen explained that a negative vote meant that one favored approval of the Special Permit, since there was some confusion among the Commissioners. The Chairman then called on Mr. Leong to poll the Commissioners over again.

Ayes: Commissioners Carras, Duke, Whitesell, Chairman Tangen

Nays: Commissioners Oura, Sakahashi, Yamamura, Machado

Absent: Commissioner Yanai

The motion did not carry.

Commissioner Carras moved to approve the Special Permit which was seconded by Commissioner Oura. The Commissioners were polled as follows:

Ayes: Commissioners Yamamura, Oura, Sakahashi, Machado

Nays: Commissioners Duke, Carras, Whitesell, Chairman Tangen

Absent: Commissioner Yanai

The motion failed to carry.

APPLICATION BY ST. BENEDICT'S CATHOLIC CHURCH (SP75-219) TO CONSTRUCT AN ALL PURPOSE PARISH HALL AT HONAUNAU, S. KONA, HAWAII

Since there was no one in the audience, Mr. Furutani summarized the staff memo for the Commissioners.

Commissioner Carras moved to approve the Special Permit as recommended by the county, subject to the conditions imposed by the Hawaii County Planning Commission. It was seconded by Commissioner Duke and unanimously carried.

APPLICATION BY ROY SANTANA/B. P. BISHOP ESTATE (SP75-220) TO EXPAND AN EXISTING GOLF COURSE AT HONAUNAU, S. KONA, HAWAII

The staff memo was summarized by Mr. Leong.

Vice Chairman Sakahashi moved to grant the Special Permit subject to the conditions imposed by the County Planning Commission. The motion was seconded by Commissioner Machado and unanimously passed.

NEXT MEETING DATE

It was announced by the Chairman that the next meeting of the Commission will be held on October 23, 1975 at which time the testimony received during the public hearings on the proposed amendments to the Rules and Regulations will be reviewed. On October 28, 1975, the Commission will act to adopt the Rules and Regulations.

Since there was no further business, the meeting adjourned at 7:48 p.m.