

STATE OF HAWAII
LAND USE COMMISSION

Minutes of Meeting

October 19, 1978 - 9:30 a.m.

Senate Conference Room No. 5
2nd Floor, State Capitol
Honolulu, Hawaii

Approved

FEB 21 1979

COMMISSIONERS PRESENT: Charles Duke, Chairman
Shinichi Nakagawa, Vice Chairman
James Carras
Shinsei Miyasato
Mitsuo Oura
George Pascua
Carol Whitesell

COMMISSIONERS ABSENT: Colette Machado
Edward Yanai

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

Ray Russell, Court Reporter

ADDITION TO AGENDA

Upon motion by Commissioner Pascua, seconded by Commissioner Carras, it was unanimously agreed to add to the agenda a discussion of the archaeological study which had been submitted by the Moana Corporation, A76-418.

A76-418 - MOANA CORPORATION (Archaeological Study)

Mr. Walton Hong, representing the petitioner, noted that copies of the archaeological and biological surveys, prepared by the Archaeological Research of Hawaii, Inc., relative to the subject petition had been transmitted to the Commission. He recalled that the Commission, in approving the petition, had imposed a condition that archaeological and biological studies be conducted by the petitioner prior to development of the site. Thus, it was explained by Mr. Hong, he was appearing before the Commission to request a determination as to whether this condition had been satisfactorily met.

Following a lengthy discussion concerning Mr. Hong's request, Deputy Attorney General Allan Kawada counselled the

Commission not to take any action inasmuch as there was no requirement in the condition imposed that it be approved by the Commission. He advised that the main consideration here was the certification that the survey was a comprehensive one conducted by a qualified person.

In view of the foregoing comments, and at Mr. Hong's request, permission was granted the petitioner to withdraw the request and to have the Commission consider the studies as merely informational material.

Upon motion by Vice Chairman Nakagawa, seconded by Commissioner Carras, it was unanimously agreed to go into executive session to receive counsel regarding time extensions on Special Permits.

10:36 a.m.

ACTION

SP75-224 - CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS
SPECIAL PERMIT REQUEST TO ALLOW A SIX MONTH TIME EXTENSION TO
COMMENCE CONSTRUCTION OF A CHURCH AT NORTH KONA, HAWAII

Mr. Daniel Yasui, staff planner, oriented the Commission to the location of the subject parcel and read pertinent portions of the staff memorandum.

At the Chairman's request, Mr. Yasui provided a chronological account of the Special Permit; i.e. the dates of the original permit, the first request for extension and its expiration, and the present request. It was also noted by Mr. Yasui that all county planning directors and commissions had been put on notice, via letter, that the "Land Use Commission will not approve requests for time extension which are filed after the stipulated commencement or expiration dates."

Mr. Kawada counselled that upon expiration of the time condition, the permit ceased to be a viable one and therefore the extension request was no longer discretionary with the Commission.

Mr. Duane Kahuha, Deputy Planning Director of the Hawaii Planning Department, read into the record a letter from the Hawaii Planning Director to the Executive Officer of the Land Use Commission, posing several questions regarding procedural requirements and requesting further discussion with the LUC in view of the Commission's position on time extension requests.

It was reminded by Chairman Duke that it was incumbent upon the petitioner to fulfill the requirements of the

conditions that are imposed on the Special Permit, and that the Land Use Commission should take a firm position when time conditions are not met in timely fashion by the petitioner.

Commissioner Whitesell moved that the time extension request be denied, which was seconded by Commissioner Carras.

The Executive Officer requested a short recess to discuss possible alternatives to the problem.

11:50 a.m.

The Chairman called on the Executive Officer for a poll of the motion on the floor. The Commissioners voted as follows:

Ayes: Commissioners Pascua, Whitesell, Oura, Miyasato, Nakagawa, Carras, Chairman Duke

The motion was carried.

The Chairman directed the Deputy Attorney General to draw up a decision and order on the foregoing action of the Commission, clearly delineating the reasons for the denial of the extension request, and also indicating that the Commission was not denying the church the right to construct a building by this action.

SP76-255 - STANLEY SHIMIZU
REQUEST FOR A 6-MONTH TIME EXTENSION TO COMMENCE CONSTRUCTION
OF A FREEZER/STORAGE FACILITY AT SOUTH KONA, HAWAII

Mr. Yasui pointed out the location of the subject property on the maps. A resume of the subject request was also presented.

It was moved by Commissioner Carras and seconded by Vice Chairman Nakagawa to deny the extension request due to the failure of the petitioner to meet the time conditions set forth by the Planning Commission. The motion was unanimously carried.

SP78-319 - YAMADA AND SONS, INC.
SPECIAL PERMIT APPLICATION TO ALLOW THE ESTABLISHMENT OF A ROCK
CRUSHER AT KAPULENA, HAMAKUA, HAWAII

A summary report was presented by the Planner relevant to the subject request and the area was located on the maps.

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

SP78-320 - KONA BAPTIST CHURCH
SPECIAL PERMIT APPLICATION TO ALLOW THE CONSTRUCTION OF A
CLASSROOM BUILDING AT KEAUHOU 1ST, NORTH KONA, HAWAII

Following the presentation of a summary report of the subject request by Mr. Yasui, it was moved by Commissioner Carras, seconded by Commissioner Pascua, and unanimously agreed to approve the Special Permit, subject to the conditions imposed by the Hawaii County Planning Commission.

A lunch recess was called by the Chairman at 12:14 p.m.

1:35 p.m.

A78-438 - GROVE FARM COMPANY, INC.

Commissioner Oura was excused from participating in the discussion of this petition since he was not present at the hearing proceedings.

In the matter of the boundary amendment petition by Grove Farm Company, Inc., Docket A78-438, on which a hearing was held on August 15, 1978, the Commission discussed the following document which had been previously distributed to the Commission members, prior to taking action on the petition:

1. Petitioner's Proposed Findings of Fact, Conclusions of Law and Decision.

It was announced that the Chair would entertain a motion regarding the request, after which the Commission will proceed to adopt appropriate findings and conclusions.

It was moved by Commissioner Pascua and seconded by Commissioner Carras to approve the request by Grove Farm Co., Inc. to reclassify 61 acres from the Agricultural District into the Urban District at Lihue, Kauai. The Commissioners were polled as follows:

Ayes: Commissioners Carras, Nakagawa, Whitesell, Pascua
Miyasato, Chairman Duke

The motion was carried.

Thereafter, Mr. Allan Kawada counselled the Commission in its adoption of the findings and conclusions.

During the discussion, deletions, amendments, additions, etc. were made to the petitioner's proposed document. It was pointed out by Commissioner Whitesell that the findings should be as succinct as possible and that only the most pertinent and relevant facts required to arrive at a conclusion should be included therein.

Commissioner Whitesell moved, seconded by Vice Chairman Nakagawa, to amend proposed finding No. 20, by deleting all but the second and third sentences. The Commissioners were polled as follows:

Ayes: Commissioners Whitesell, Nakagawa

Nays: Commissioners Pascua, Miyasato, Carras, Chairman Duke

The motion did not carry.

Based on the findings that were adopted, the Commission drew its conclusions of law and Chairman Duke directed Counselor Kawada to prepare the Commission's final decision and order on the subject docket.

MISCELLANEOUS

A preview of the draft slide tape presentation on the State Land Use Law, prepared by Mr. Myron Blackman, was offered to the Commission.

ADOPTION OF MINUTES

Upon motion by Vice Chairman Nakagawa, seconded by Commissioner Whitesell, the minutes of August 15, 1978 were adopted as circulated.

TENTATIVE SCHEDULE

Mr. Furutani conducted a discussion of the Commission's tentative meeting schedule.

The meeting adjourned at 4:04 p.m.