STATE OF HAWAII
LAND USE COMMISSION

Minutes of Meeting
Kauai Public Library
Lihue, Kauai

November 9, 1976 - 8:30 a.m.

COMMISSIONERS PRESENT:  Eddie Tangen, Chairman
                          Stanley Sakahashi, Vice Chairman
                          James Carras
                          Charles Duke
                          Colette Machado
                          Shinsei Miyasato
                          Carol Whitesell

COMMISSIONERS ABSENT:  Mitsuo Oura
                        Edward Yanai

STAFF PRESENT:  Gordan Furutani, Executive Officer
                Michael Marsh, Deputy Attorney General
                Dora Horikawa, Clerk Reporter
                Ray Russell, Court Reporter

All persons planning to testify during today's proceedings were duly sworn in by the Chairman.

ACTION

APPLICATION BY JOSEPH GONSALVES (SP76-242) TO ALLOW CONSTRUCTION OF A SECOND DWELLING IN THE RURAL DISTRICT AT OMAO HOMESTEADS, KAUA'I

Chairman Tangen noted that action on the subject Special Permit had been deferred from the meeting of July 30, 1976. He called on Mr. Greg Kamm of the Kauai Planning Department to report on developments in the matter since the deferral.

Mr. Kamm, representing Mr. Gonsalves, submitted as follows:

1. Mr. Gonsalves had approached the Department of Land and Natural Resources to request permission to purchase a remnant piece of State land abutting his property which, when consolidated with his parcel, will bring it up to the required one-acre minimum to construct two dwellings within the Rural District.

2. If the Commission will not grant the Special Permit as requested, would it be willing to approve the Special Permit on the condition that the Special Permit will become effective only upon receipt of a firm commitment
from the Board of Land and Natural Resources that it will convey
the necessary acreage to Mr. Gonsalves. This will enable Mr.
Gonsalves to proceed with construction during the period that the
actual acquisition is being processed.

Commissioner Duke strongly recommended that legislative amend-
ment be sought to allow the Commission, at its discretion, some
flexibility in permitting a use under a Special Permit where the
failure to meet the minimum requirements, in terms of the total
acreage, is only minimal.

Commissioner Duke moved to approve the Special Permit, subject
to petitioner's acquisition of sufficient property to meet the
minimum requirements. The motion was seconded by Commissioner
Carras.

Chairman Tangen clarified that there would have to be a firm
commitment from the Board of Land and Natural Resources that it
will allow Mr. Gonsalves to acquire the necessary acreage.

Mr. Marsh, Deputy Attorney General, further elaborated that
the form of the firm commitment would be an action by the Board of
Land and Natural Resources to sell the necessary number of square
feet to Mr. Gonsalves, at which time Mr. Gonsalves could proceed
to obtain a building permit. Mr. Marsh observed that the actual
title exchange may take as long as six months through the normal
bureaucratic process.

Vice Chairman Sakahashi questioned the propriety of issuing
the Special Permit for the proposed use when in fact it did not
meet the minimum requirements for construction of two dwellings
within the Rural District.

It was Mr. Marsh's opinion that it was appropriate for the
Commission to approve a Special Permit, conditioned upon a firm
commitment of sale approved by the Board of Land and Natural
Resources, in order to resolve a problem such as that presented by
Mr. Gonsalves.

In response to further questioning by Vice Chairman Sakahashi,
Mr. Marsh advised that without a Special Permit approval by the
Land Use Commission, the County would not have the authority to
issue a building permit until the title was actually conveyed to
Mr. Gonsalves.

Chairman Tangen called for the motion on the floor to approve
SP76-242 subject to notification of action by the Board of Land and
Natural Resources that it will convey sufficient land to Mr.
Gonsalves to create a one-acre or more parcel, and subject also
to the conditions imposed by the Kauai Planning Commission.

The Commissioners were polled as follows:

Ayes: Commissioners Duke, Whitesell, Machado, Miyasato,
Carras, Chairman Tangen

-2-
Nay: Vice Chairman Sakahashi

The motion was carried.

HEARING

A76-417 – CAN CORPORATION

Pursuant to a notice published in The Garden Island and the Honolulu Advertiser on October 4, 1976, and notices sent to all parties, a hearing was called by the Land Use Commission in the matter of the petition by the Can Corporation, to amend the land use district boundaries for approximately 10.7 acres presently in the Agricultural District into the Urban District at Kilauea, Kauai for residential use, Docket No. A76-417.

It was noted by the Chairman that a pre-hearing conference on the subject petition had been held on November 4, 1976 for the purpose of exchanging exhibits and determining the number of witnesses in order to expedite the hearing procedure.

The hearing procedure to be followed was explained by Chairman Tangen.

APPEARANCES

Walton Hong of the law firm of Masuoka and Hong, representing the petitioner

Gilbert Lee, Deputy Attorney General, representing the Department of Planning and Economic Development

William Hoag, Deputy County Attorney, representing the Maui Planning Department

All of the above were admitted as parties to the proceedings.

Mr. Gordan Furutani, Executive Officer, pointed out the subject parcel on various maps and oriented the parcel with existing landmarks.

PETITIONER

Exhibits

The following documents were marked for identification and introduced into evidence as Petitioner’s Exhibits:

Exhibit A - Map locating subject parcel
Exhibit B - Letter of Authorization
Exhibit C - Financial Statement of Can Corporation
Exhibit D - Amended Proposed Subdivision Map

-3-
Exhibit E - Projected costs for proposed subdivision
Exhibit F - Topographic map of subject parcel
Exhibit G - Soils map of subject parcel

Lawrence L. T. Ching - Witness

Mr. Lawrence Ching, President of Can Corporation, 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. Hong ----------------- 29 to 41
Cross examination by Mr. Hoag ------------------ 41
Cross examination by Mr. Lee ------------------- 41 to 48
Redirect examination by Mr. Hong --------------- 48
Recross examination by Mr. Lee ----------------- 49

Calvin Ching - Witness

Mr. Calvin Ching, Engineer, 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. Hong ----------------- 49 to 57
Cross examination by Mr. Lee ------------------- 57 to 59
Redirect examination by Mr. Hong --------------- 59 to 60

Michael Dyer - Witness

Mr. Michael Dyer, real estate broker, 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. Hong ----------------- 60 to 65
Cross examination by Mr. Lee ------------------- 65 to 69
Redirect examination by Mr. Hong --------------- 69 to 70

KAUAI PLANNING DEPARTMENT

Greg Kamm - Witness

Mr. Greg Kamm, planner with the Kauai Planning Department, having been duly sworn in, was called as a witness, examined and testified as set forth in the transcript on ------- Pages

Cross examination by Mr. Hong ------------------ 70 to 76
Mr. Lee requested that the reading of the testimony prepared by the Department of Planning and Economic Development be waived.

Tatsuo Fujimoto - Witness

Mr. Tatsuo Fujimoto, Head of the Land Use Division, DPED, 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 -------------- 89 to 90
Cross examination by Mr. Hong -------------- 90 to 105
Cross examination by Mr. Hoag -------------- 105 to 106
Redirect examination by Mr. Lee -------------- 106 to 107
Questioned by Chairman Tangen -------------- 107 to 108
Recross examination by Mr. Hong -------------- 108

Chairman Tangen advised the petitioner of the deadline for the filing of the proposed findings of fact and conclusions of law, service to all parties, etc., and announced that the hearing on A76-417 was closed.

ACTION

SP76-250 - OUR LADY OF MT. CARMEL CHURCH
APPLICATION FOR A SPECIAL PERMIT TO CONSTRUCT A NEW PAVILION FOR CHURCH USE AND RELATED FUNCTIONS ON 3.97 ACRES IN THE AGRICULTURAL DISTRICT AT WAIKANE, OAHU

Mr. Furutani presented a summary of the staff report which had been prepared for the subject request.

Commissioner Duke observed that the County's condition No. 1 needed clarification. Chairman Tangen suggested that the Executive
Officer communicate with the City Planning Commission for a clarification of condition No. 1.

Commissioner Duke moved to approve the Special Permit, subject to the conditions imposed by the City Planning Commission and upon verification of condition No. 1 by the City Planning Commission. The motion was seconded by Commissioner Carras and unanimously carried.

SP71-117 - BOISE CASCADE RECREATION COMMUNITIES GROUP REQUEST FOR EXTENSION OF EXPIRATION DATE FOR A PERIOD OF FIVE YEARS TO DECEMBER 17, 1981

The location of the subject parcel was pointed out by the Executive Officer. In response to a question raised by Commissioner Whitesell, Mr. Furutani explained that the conditions imposed in the granting of the original petition related to noise and dust problems.

Commissioner Carras moved that the extension request be approved, subject to the conditions imposed by the Hawaii Planning Commission. The motion was seconded by Commissioner Duke and unanimously passed.

ADOPTION OF MINUTES

Upon motion by Commissioner Duke, seconded by Commissioner Carras, the minutes of September 24, 1976 were adopted as circulated.

MEETING SCHEDULE

Mr. Furutani advised that the next Commission meeting was scheduled for November 22, 1976.

There were no objections from the Commission to Mr. Furutani's request that Mr. Benjamin Matsubara be appointed as the hearing officer to conduct the Commission hearings on the proposed amendments to the Rules and Regulations.

Other future meeting dates were also discussed.

Since there was no further business, the meeting was adjourned.