

STATE OF HAWAII
LAND USE COMMISSION

Minutes of Meeting

Conference Rooms 322 A & B
Kalanimoku Building
Honolulu, Hawaii

Approved
1/15/82

November 13, 1981 - 9:00 a.m.

COMMISSIONERS PRESENT: William Yuen, Chairman
Carol Whitesell, Vice Chairman
Everett Cuskaden
Richard Choy
Shinsei Miyasato
Phil Tacbian
Robert Tamaye
Edward Yanai

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

Benjamin Matsubara, Hearing Officer

Ray Russell, Court Reporter

ACTION

A80-501 - KUMAKA, INC.

In the matter of the boundary amendment petition by Kumaka, Inc., Docket A80-501, hearings were conducted by Hearing Officer Benjamin Matsubara on April 13, 1981 and August 10, 1981.

Mr. Chu, staff planner, pointed out the location of the subject property on the maps and oriented it with various surrounding landmarks.

Chairman Yuen informed that a request for oral arguments had been received from the petitioner's attorney and called for a motion concerning this request. Commissioner Cuskaden moved to permit oral arguments, which was seconded by Vice Chairman Whitesell.

Vice Chairman Whitesell commented that there was nothing particularly unusual about the rationale for the foregoing

request which was based on DPED's continuing opposition to the petition despite the fact that the County now supported the request.

The motion for permitting oral arguments was carried by voice vote.

Oral Arguments

By Paul Nolte, Attorney representing petitioner---5 to 10

Hawaii County Deputy Planning Director Duane Kanuha's response to questions raised by:

Commissioner Cuskaden-----10 to 11

Vice Chairman Whitesell-----12

Commissioner Cuskaden-----12 to 13

By Esther Ueda, Planner, representing DPED-----14 to 18

At the conclusion of the oral arguments by all parties, Mr. Matsubara presented a comprehensive report of his findings and conclusions of law based on evidence adduced at the hearings, and recommended that the property be reclassified from the Agricultural into the Urban District.

Vice Chairman Whitesell raised a question concerning the amount of water that the proposed development would utilize and commented on the desirability of eliciting clarification from the County Water Department regarding its policies.

Commissioner Cuskaden moved to approve the petition, which was seconded by Commissioner Tacbian. The Commissioners were polled as follows:

Ayes: Commissioners Tamaye, Yanai, Tacbian, Miyasato

Nays: Vice Chairman Whitesell, Commissioners Choy, Cuskaden, Chairman Yuen

The motion to approve the petition did not carry.

Chairman Yuen requested that the Hearing Officer draw up the Commission's findings of fact, conclusions of law and decision and order, reflecting the Commission's foregoing action.

Upon motion by Commissioner Cuskaden, seconded by Vice Chairman Whitesell, it was moved to revise the agenda to entertain item No. 3, A81-506, Norman L. Greenwell, et al in lieu of item No. 2.

A81-506 - NORMAN GREENWELL & THE ROMAN CATHOLIC DIOCESE

In the matter of the boundary amendment petition by Norman Greenwell and the Roman Catholic Diocese, Docket A81-506, a hearing was conducted by Hearing Officer Matsubara on August 10, 1981.

At the conclusion of a review of his findings adduced at the hearing, it was recommended by Mr. Matsubara that the property be reclassified from the Agricultural District into the Urban District, and that all of the petitioner's representations regarding water, drainage and traffic, including both vehicular and pedestrian, be incorporated as conditions with which the petitioner shall comply.

Mr. Matsubara responded to questions which were raised regarding the water source to serve the proposed use, and the frequency of the use of the building for religious classes.

Commissioner Choy wondered about the status of the litigation presently pending involving the denial of a special permit which had been filed by the petitioner for the same land and for the same use. Mr. Matsubara replied that to date nothing had transpired on this appeal.

It was Chairman Yuen's feeling that until the petitioner's intent is made known with respect to the pending lawsuit, it may be premature for the Commission to act on the present petition. He therefore recommended that action on this petition be deferred until after the Hearing Officer has ascertained the petitioner's position regarding this matter.

Commissioner Cuskaden moved for a continuation of the action on this petition, pending a further report from the Hearing Officer. It was seconded by Vice Chairman Whitesell and unanimously carried by voice vote.

The agenda was again rearranged to dispose of Items II and III on the agenda, upon motion by Commissioner Cuskaden, seconded by Vice Chairman Whitesell.

Item II - Review and Discussion - Proposed Amendments to LUC Rules and Regulations

Mr. Furutani, Executive Officer, reported that there was a legislative mandate to standardize the format of all State

rules and regulations. Chairman Yuen directed that a copy of the Commission's Rules and Regulations, after revision under the new format, be made available to all Commission members.

Vice Chairman Whitesell moved that the format change be approved and that the Hearing Officer be authorized to conduct the hearing on all of the islands. It was seconded by Commissioner Tacbian and unanimously approved.

Item III - Miscellaneous - Adoption of Minutes

The minutes of July 9, 1981, July 22, 1981, August 10, 1981, August 20, 1981, September 25, 1981 were adopted as circulated and as amended.

ACTION (cont.)

A81-505 - COLONY ASSOCIATES

Prior to proceeding with the action on subject petition, Chairman Yuen confirmed that all of the Commissioners who had not attended the hearing proceedings had read the records and transcripts in this matter and were therefore eligible to participate in the deliberations.

Closing Arguments

By Mr. Roy Takeyama, Attorney representing
petitioner-----49 to 59

By Miss Annette Chock, Deputy Attorney General,
representing DPED-----59 to 64

Commissioner Tamaye moved for the approval of Docket A81-505 with the following conditions: That the petitioner shall provide housing opportunities for low and moderate income Hawaii residents in any one, or a combination of the following manner, prior to assignment or transferring (except by way of mortgage or assignment as security) its interest in the subject property: 1) Offer for sale on a preferential basis, on its own or in cooperation with either or both the Hawaii Housing Authority or the County of Hawaii, ten percent of the townhouses, or if the property is developed on a single family lot or house and lot basis, lots or house and lots to be developed on the subject property, to residents of the State of Hawaii of low and moderate family income as determined by the Hawaii Housing Authority or County of Hawaii from time to time. The preferential townhouses, lots or

houses and lots shall be offered for sale at prices not exceeding prices that enable such purchasers to qualify for and obtain state-assisted financing (i.e., Act 105 or Hula Mae) or federally-insured or assisted financing (i.e., FHA Section 245 program) intended to encourage home ownership by low and moderate income households; or 2) To pay to the Hawaii Housing Authority or County of Hawaii, for use in a housing assistance fund or for the benefit of low and moderate income residents of the State of Hawaii a sum determined by the Hawaii Housing Authority or County of Hawaii to be equal to the cost of developing, constructing and marketing a number of residential units to be constructed in the North Kona area for sale to low and moderate income residents of the State of Hawaii at the prices described above, equal to ten percent (10%) of the townhouses, lots or houses and lots to be offered for sale on the subject property; or 3) To construct, either on or off the subject property (on land to be acquired by the petitioner), a number of residential units for sale to low and moderate income residents of the State of Hawaii at the prices described above, of a standard to be approved by the Hawaii Housing Authority, equal to ten percent (10%) of the townhouses, lots or houses and lots to be offered for sale on the subject property. This condition may be fully or partially released by the Commission as to all or any portion of the subject property upon timely motion and provision of adequate assurance of satisfaction of this condition by the petitioner.

The motion was seconded by Commissioner Choy.

Commissioner Cuskaden moved to amend paragraph 2 of the condition as follows: To pay to the Hawaii Housing Authority or County of Hawaii for use in a housing assistance fund or for the benefit of low and moderate income residents of the State of Hawaii a sum determined by the Hawaii Housing Authority or County of Hawaii to be equal to the cost of acquiring land for developing and constructing a number of residential units equal to 10 percent of the number of lots or houses to be offered for sale on the subject property.

Both the maker and seconder of the original motion agreed to the amendment.

The motion to amend the motion was unanimously passed.

Commissioner Tamaye's motion to approve the petition with the conditions and as amended by Commissioner Cuskaden was approved with the following votes:

Ayes: Commissioners Cuskaden, Whitesell, Tacbian, Miyasato, Tamaye, Choy, Yanai, Chairman Yuen

Thereafter, Chairman Yuen directed Deputy Attorney General Nelson to incorporate the appropriate findings as submitted by the petitioner, County and DPED and finalize the Commission's true findings of fact, conclusions of law and decision and order.

The meeting was adjourned at 12:42 p.m.