

STATE OF HAWAII
LAND USE COMMISSION

Approved
JAN 7 1972

Minutes of Meeting

Legislative Auditorium, State Capitol
Honolulu, Hawaii

November 19, 1971 - 1:30 p.m.

Commissioners Present: Goro Inaba, Chairman
Eddie Tangen, Vice-Chairman
Alexander Napier
Sunao Kido
Shelley Mark
Stanley Sakahashi
Tanji Yamamura
Leslie Wung

Staff Present: Tatsuo Fujimoto, Executive Officer
Ah Sung Leong, Planner
Walton Hong, Deputy Attorney General
Dora Horikawa, Stenographer

Chairman Inaba swore in persons wishing to testify during today's proceedings.

HEARINGS

PETITION BY JOHN C. KOPASZ (A71-302) TO RECLASSIFY 7 ACRES FROM CONSERVATION TO URBAN AT LANIKAI, KOOLAUPOKO, OAHU

Mr. Fujimoto, Executive Officer, read a letter dated November 14, 1971, from Mr. Vernon Woo, attorney representing Mr. Kopasz, requesting that the public hearing on subject petition be deferred until the next Land Use Commission hearing on the basis that Mr. Kopasz had not been notified sufficiently in advance of the public hearing to gather his attorney, Mr. Clyde Lockwood, architect, and engineer on the project to appear today (see copy of letter on file).

Mr. Woo submitted that he had been retained by Mr. Kopasz only to request a deferral of the public hearing, and that he was not familiar with the development plans to provide any further information on the proposed development. Mr. Woo

acknowledged the presence of the many Lanikai residents who had planned on testifying today, but appealed for a deferral in light of the money already expended by Mr. Kopasz on the project and his right to be heard.

In response to questions raised by Commissioner Sakahashi, Mr. Woo stated that he had requested the Executive Officer to keep him apprised of the details of any future public hearing on the matter so that Mr. Kopasz could be duly informed.

Commissioner Sakahashi moved that the public hearing on Mr. Kopasz's petition be deferred which was seconded by Vice Chairman Tangen.

Deputy Attorney General Hong advised that it was within the Chairman's discretion to determine whether to permit any testimony on the petition today.

Senator D. G. Anderson requested that since it was the Chairman's prerogative to make this determination and since Mr. Kopasz's attorney had been heard, might the Chair not allow the opponents to express their points of view.

Mr. Richard Pultz, Acting President for the Lanikai Association, observed that Mr. Kopasz had, on another occasion, failed to appear at a public hearing which was scheduled before the Department of Land and Natural Resources for the same condominium complex under a Conservation Use Permit application, and which application was subsequently withdrawn by Mr. Kopasz. He argued that Mr. Kopasz had been duly notified of today's public hearing in the same manner as the residents of Lanikai. Mr. Pultz concluded that the Lanikai residents had made special arrangements so that they could be heard today and requested that they be permitted to do so.

Both Mr. Harvey Gerwig, Vice President of the Lanikai Association, and Mr. Lowery Roobian, resident of Lanikai, expressed views similar to those of Mr. Pultz in opposing the deferment.

In defense of Mr. Kopasz's position, Mr. Woo advised that the application with the DLNR had been withdrawn upon the advice from that department that a better approach would be through a boundary amendment petition before the Land Use Commission. Insofar as the deferral request was concerned, Mr. Woo stated

November 19, 1971

that it was primarily due to Attorney Lockwood's inability to be present today.

Vice Chairman Tangen sympathized with the feelings of the many Lanikai residents who had obviously worked very hard in preparing factual information to present today. However, since the Land Use Commission in the past had approved many requests for deferral for various reasons, in all fairness to Mr. Kopasz and in view of the reasonableness of the request, Vice Chairman Tangen moved to amend the earlier motion to include that the hearing be scheduled for the next Oahu meeting of the Commission on December 17, 1971, and that this be the maximum time limit.

Commissioner Mark suggested that perhaps the community representatives could be heard today with a continuation of the hearing on December 17, and that today's proceedings could be made available to Mr. Kopasz.

Mr. Hong advised that there would be a definite legal problem involved if adverse testimony were permitted in the petitioner's absence, and recommended that the hearing be rescheduled on December 17. He also expressed concern over the expiration of the statutory time limit on November 27 and asked whether Mr. Woo could authorize an extension until December 17. Mr. Woo replied that the petitioner would consent to such an extension.

In response to a question raised from the audience about Mr. Woo's legal authority in this regard, Mr. Hong reiterated that Mr. Woo had been retained by the petitioner to request the deferral, and therefore was authorized to act in the petitioner's behalf.

Mr. Pultz voiced his disappointment at the turn of events, but acknowledged that Vice Chairman Tangen's remarks were very well thought out and that he appreciated the Commission's difficult position. He expressed his appreciation to the great number of people who had turned out for the hearing today and his hope that they would all again attend the December 17th meeting.

The majority of the people in the audience voiced their preference for a night meeting in Kailua on December 17, 1971. Vice Chairman Tangen directed the Executive Officer to confer with Mr. Pultz to work out the details of the time and place

November 19, 1971

of the December 17th hearing.

Chairman Inaba announced that there was a motion on the floor to defer the hearing until December 17 and called for a vote. The motion was carried with Commissioner Mark casting the only dissenting vote.

PETITION BY JAMES T. LAWRENCE (A71-304) TO RECLASSIFY 2,860 SQUARE FEET FROM CONSERVATION TO URBAN AT WAIALAE-NUI, OAHU

Mr. Ah Sung Leong, Staff Planner, reported on the pertinent facts relating to the petition (see staff report on file) and gave a graphic description of the area under petition on the maps.

Mr. Leong advised Commissioner Sakahashi that the petitioner has not had sufficient time to respond to that section in the staff report concerning the December 31st deadline established by Bishop Estate for petitioner to secure subdivision and conveyance requirements.

Deputy Attorney Hong advised Mr. Lawrence that the Commission would have to abide by the statutory time limitations for action on this petition so that it could not act on the petition before the first of the year.

Chairman Inaba closed the hearing on this petition with the recommendation to Mr. Lawrence that he make all the necessary arrangements with Bishop Estate for an extension of time to acquire the remnant parcel.

PETITION BY WILLIAM P. AND RICHARD L. YOUNG (A71-307) TO RECLASSIFY 3.6 ACRES FROM CONSERVATION TO URBAN AT KULIOUOU, OAHU

Mr. Leong read a letter dated November 18, 1971 from the petitioners requesting withdrawal of the petition due to the lack of development plans at the present time (see copy of letter on file).

Mr. Richard Young testified that their agent had applied for the boundary amendment prematurely before the feasibility studies, financing, etc. had been finalized and apologized for any inconvenience this may have caused the Commission. He also acknowledged that he will abide by the regulations requiring an additional \$50 filing fee if he were to reapply in the future.

ACTION

PETITION BY RALPH S. YAGI (A71-294) TO RECLASSIFY 14.8 ACRES FROM AGRICULTURAL TO RURAL AT KULA, MAUI

Commissioner Yamamura excused himself from the discussion on the petition due to a possible conflict of interest.

Mr. Fujimoto advised the Commission that he was in receipt of a letter dated November 18, 1971, from Mr. Yagi, petitioner, requesting deferral of the action on his petition until the Commission's January 7th meeting in Hawaii.

Vice Chairman Tangen moved that the deferral request be granted, which was seconded by Commissioner Napier and carried. Commissioner Yamamura abstained from voting.

MOTION TO REZONE 38.4 ACRES OWNED BY WADCO. INC., TAX MAP KEY 4-7-01: PORTION OF 2, AT KAHALUU, OAHU, FROM URBAN TO CONSERVATION

Vice Chairman Tangen moved that the Land Use Commission initiate a petition to rezone the 38.4 acres owned by Wadco, Inc., Tax Map Key 4-7-01: portion of 2, situated at Kahaluu, Oahu, from the Urban District to the Conservation District, which was seconded by Commissioner Napier.

Vice Chairman Tangen elaborated that this particular piece of property has been in the Urban District for many years and that no land development has taken place although construction plans were submitted to the City and County in 1955. Therefore, for lack of performance for 16 years and for other reasons, Vice Chairman Tangen expressed his strong feeling that subject property should be designated Conservation rather than Urban.

In response to the arguments presented by Commissioner Sakahashi that the owner of the subject property should be notified of the Commission's concern over the lack of development and the potential downzoning prior to actually initiating the boundary amendment petition in much the same way other landowners had been notified, Vice Chairman Tangen observed that the landowner in this instance had never communicated with the Commission to indicate any plans for development,

November 19, 1971

nor had he or his representative appeared at the time of his request for urban zoning of the adjoining 11.2 acres. Moreover, the landowner would be afforded ample opportunity to present his arguments at the time of the public hearing.

The motion to initiate a petition for the Wadco property was passed with the following vote:

Ayes: Commissioners Napier, Yamamura, Kido, Mark,
Vice Chairman Tangen, Chairman Inaba

Nays: Commissioners Sakahashi and Wung

MISCELLANEOUS

The Executive Officer, Mr. Fujimoto, advised the Commission that as directed during the October 8th and November 5th meetings, representatives from Country Club Homes, Inc., Hawaii Loa Ridge, and Puaahala Company were present today to provide information regarding their development plans and to answer questions.

COUNTRY CLUB HOMES, INC.

Mr. Fujimoto gave a brief background of the subject property, including the location and chronological list of events leading to the purchase of the property by the present owner, Takeshi Yokono.

Mr. Morio Omori, attorney for the new owner, T. Yokono and Associates, submitted that an application for a 129-lot subdivision had been filed by the new owner with the Hawaii County Planning Commission and that a decision on the preliminary plans should be forthcoming by December 19. For the records, the following exhibits were submitted by Mr. Omori:

1. Letter from Murray, Smith & Associates, Ltd. to the Planning Department, requesting approval of preliminary plan of the Country Club Estates Subdivision, together with a copy of subdivision plan.
2. Development cost analysis prepared by consultants.

November 19, 1971

3. A letter dated November 10, 1971 from the engineering firm of Murray, Smith & Associates, Ltd. to the Department of Water Supply, submitting a plan for the proposed reservoir site and easement for water service (copy of plan attached).
4. Letter dated November 3, 1971 from the Department of Land and Natural Resources regarding Mr. Yokono's interest in purchasing State-owned flume right-of-way site adjoining his property at Kaumana.
5. Engineering contract between owner and Murray, Smith & Associates, Ltd., dated November 12, 1971.

Mr. Omori further informed that negotiations were already underway between the landowner and the telephone company to relocate the telephone easement on the property to a site mutually acceptable to both; and that Mr. Yokono was amenable to a 10-foot setback from the "green belt" area as indicated by the County Planning Department.

Based on the foregoing testimony, Mr. Omori submitted that the proposed project was well on its way and that the time schedule set April 15, 1972 as the completion date for all contract drawings by the engineering firm. It was also reported by Mr. Omori that Rudy Hirota, realtor, has been retained to handle the sales.

Vice Chairman Tangen observed that it was obvious more action had taken place since possession of the property by the new owner than had been accomplished over the past several years. Mr. Omori added that all of the foregoing had been accomplished in a little over a month.

Mr. Omori agreed that the new owner would keep the Land Use Commission apprised of the development progress.

Vice Chairman Tangen moved that the Land Use Commission accept the explanation and plans of the new owner of the property described as Country Club Homes, Inc., and that no further action is necessary by this Commission, at least at this time, and as long as they carry on as represented today. The motion was seconded by Commissioner Napier and unanimously carried.

HAWAII LOA RIDGE

Mr. Fujimoto presented background information on the subject property and Mr. Leong oriented the Commission to the location on the maps.

Mr. R. S. Ellsworth, developer, representing Mr. Atherton Richards, explained that their problem had been one of consolidating the property owned by Mr. Richards, Mr. Pflueger and Messrs. Paul and Benjamin Cassiday for development purposes. On November 10, 1971, R. S. Ellsworth, Inc. had executed a documented option agreement with the two Cassidays and a similar documentation was presently being completed between Mr. Richards and R. S. Ellsworth, Inc. At the same time, the Pflueger interests have been taken over by Messrs. Ross and Read who have retained the services of Mr. Lewis Ingelson.

Mr. Cassiday confirmed that negotiations had been underway among the landowners Richards, Cassiday and Pflueger for some time. He added that the problem of Hawaii Loa Ridge has been one of engineering at the initial stages.

Mr. Lewis Ingelson, planning consultant for the developers of Hawaii Loa Ridge, advised that a consultant agreement had been executed between himself and the developer in early October. He elaborated that it was the developer's intention to develop the ridge under the Planned Development Housing of the Comprehensive Zoning Code of the City and County and that their design efforts have been in this direction. On October 15, 1971, a letter had been submitted to various city and State agencies, describing the proposed project and the time schedule, e.g. Department of Transportation, Department of Education, Land Use Commission, City Planning Dept., Board of Water Supply, etc., to get an indication of what their policies might be with respect to the proposed development.

Thereafter, a land use plan will be developed to indicate generally the kind of development that is proposed on the property, including site and recreation plans, circulation, utilities, preliminary architectural plans, cost analysis, for review and approval by the owner and various agencies. Once this phase of the work has been completed, a final planned development application will be submitted to the City for review, which would eventually be forwarded to the City Planning Commission and City Council for action.

November 19, 1971

Mr. Ingelson presented a slope analysis to show the slope of the property and how they proposed to accomplish a single road access without danger or extensive grading. With the aid of diagrams and sketches, Mr. Ingelson further elaborated on the road circulation pattern, sun and wind conditions, park systems, pedestrian systems, density, etc.

Vice Chairman Tangen again observed that more activity had taken place in 2 months than in all the years past on subject property. He wondered whether it would be reasonable to assume that the plans as represented by Mr. Ingelson would be substantially completed within 3 months. It was Mr. Ingelson's hope that they would be in a position to submit a formal application for zoning to the City by the end of January.

Mr. Ellsworth offered additional information that the foregoing representations had also been presented by him in New York City recently and that he had a commitment from one of the five largest investment companies to provide the entire financing for the project. He further advised that the makeup of the limited partnership was vested as follows: R. S. Ellsworth, Inc., general partner; Messrs. Ross and Read, who will obtain the Pflueger property, and Leob Rhodes and Company of New York City, limited partners.

In response to Commissioner Mark's question, Mr. Ingelson advised that he had written to the Federal Soil Conservation Service for a geological reading of the area and was awaiting a reply from them prior to proceeding with the development plans. He acknowledged that other problems such as traffic impact, historical sites, etc. will have to be given due consideration.

Mr. Ingelson assured Mrs. Ann Visor, resident immediately affected by the proposed development, that a meeting will be scheduled by the City Planning Department with the community association and adjacent landowners once the formal application is submitted by the developer, possibly some time in spring.

Vice Chairman Tangen moved to defer action on subject property until the first meeting of the Land Use Commission on Oahu after February 19, 1972. He explained that this would afford the property owners 90 days in which to report back to the Commission of the progress they have made and to show that there is a bona fide intent to successfully proceed with the development of this property.

The motion was seconded by Commissioner Sakahashi and carried. Commissioner Napier abstained from voting.

PUAHALA COMPANY

Mr. Fujimoto presented background information and chronological data of the above property on Molokai. Mr. Leong offered a graphical description of the property on the maps.

Mr. Paul Lynch of the law firm of Bortz, Case, Stack, Kay, Cronin and Clause, representing the owner-developer Friendly Isle, Inc., briefly summarized that of the approximately 800 acres sought to be reclassified in the Paialoa Fish Pond area, 183 acres were reclassified into the Urban District by the Land Use Commission on the basis of the petitioner's representation that a 250-unit hotel and marina would be built within 5 years. He submitted, as evidence, a prepared chronological history of acquisition and development of the property beginning in 1969 with the purchase of the property by Puaahala Company from Mrs. Rose Aping, up to the present date (see copy on file), as Exhibit 1; and an aerial photo showing the extensive dredging and fill work, as Exhibit 2.

Mr. Lynch further elaborated that the development had gone through a complete process of reorganization and that Pacific Basin Land Corporation sold its assets to a number of stockholders of the parent firm in April of 1971, so that these are essentially the same people who have been involved in the project from the outset, thus eliminating the speculative element. During the past several months, they have been working on resolving the tax problems and the reorganization of the Pacific Basin Land Corporation. He felt the important thing here was that the development plan that was completed in November, 1970 was still valid and that their problem was one of timing and present market conditions. It was also the developer's feeling that the 5-year time performance to develop the 250-room hotel and marina specified by the Land Use Commission was feasible.

In reply to a point raised by Commissioner Mark, Mr. Dayton, President of Friendly Isle Inc. advised that he did not know the selling price which transferred from Mrs. Aping to Puaahala Company, but that the cost of the property to the Pacific Basin Land Corporation and subsequently to the Friendly Isle Inc. was identical. He added that the cost estimate of \$5,500,000 to \$6,000,000 included only the cost for the public

November 19, 1971

works aspect. He also submitted that once the public works and public utilities requirements are met, it was anticipated that other builders would come in to build the condominiums, etc. It was also brought out that approximately \$1,400,000 had been expended to date on the project.

Vice Chairman Tangen commented that the Commission was primarily interested in information concerning the developer's intent and when and how this would take place.

Mr. Lynch advised that the answer to the foregoing question would depend on the outcome of the stockholder's meeting in New York City in January which had been scheduled in an attempt to line up financing for the continuation of the project.

Vice Chairman Tangen acknowledged that he was satisfied with the reasons submitted for the lack of development and the problems faced by the new company. However, he wondered whether Mr. Dayton would be prepared to come before the Commission at its December 17th meeting with a time and performance schedule for the development which would, of course, be contingent upon their success in acquiring proper financing. In effect, this would enable Mr. Dayton to report to the stockholders that the Land Use Commission was satisfied with the development schedule, at the time that he requests additional financing. Mr. Dayton expressed doubts that he would be able to come up with a precise schedule by December 17.

Commissioner Mark suggested that the stockholders be apprised of the representations made to the Land Use Commission, in terms of type of development, schedule, etc., and that the Commission would take another hard look at any deviation therefrom.

Mr. Dayton replied that he would have no objection to this. He offered that he could keep the Commission apprised of the developments as they occur.

Vice Chairman

/Tangen reiterated his earlier concern that unless Mr. Dayton had some indication from this Commission regarding the future status of the land, he would have a difficult time in securing the necessary financing from the stockholders. Therefore, if some overall plan and statement of intentions could be prepared for the December 17th meeting which would be satisfactory to the Commission, he would then be in a position to make a favorable report to the stockholders.

Commissioner Sakahashi argued that since the project involved a substantial investment and the developers had acted in good faith; and since the rezoning had only taken place in 1969, he did not feel it was reasonable to set the December 17 deadline for the developers to come in with a realistic development plan.

Based on the foregoing discussion, Mr. Lynch asked whether the Commission would consider tabling the matter indefinitely. Mr. Dayton added that zoning was a very important factor in his efforts to obtain financing, so that if the Commission could defer any action on the property for a few months, he would keep the Commission apprised of any new developments, problems, etc.

In response to a question posed by Commissioner Mark, Deputy Attorney Hong advised that today's proceedings on the subject property would not prejudice the Commission's prerogative to either initiate a petition to downzone the property at some future date, if it so desired, or to defer any action indefinitely.

Commissioner Napier moved that action on the subject property be deferred for a period of 5 months and that the matter would again be brought up if the developer's plans were not satisfactory to the Commission.

Mr. Lynch voiced his concern over the possibility of a downzoning action at some future date by the Commission even if its decision is favorable at the December 17th meeting.

In defense of the Commission's position, Vice Chairman Tangen declared that never in the history of this Commission has it failed to fulfill its commitments, so long as the petitioner performs as represented at the hearing, and that the Commission was merely seeking to find a way to resolve the problems faced by the developer.

Chairman Inaba granted a 5-minute recess at Mr. Lynch's request.

Mr. Lynch apologized to Vice Chairman Tangen and explained that he was merely expressing his concern that the stockholders may take a negative view in the face of an adverse action by the Commission.

November 19, 1971

Commissioner Napier moved to amend his earlier motion to defer action until the first meeting on Oahu after February 1, 1972. During the ensuing discussion, it was established that the Commission was satisfied with the good faith of the developers and that no further action will be initiated by the Commission, contingent upon the developer's progress and development plans. Commission Yamamura seconded the motion and it was passed with the Commissioners being polled as follows:

Ayes: Commissioners Yamamura, Wung, Sakahashi, Kido
Napier, Vice Chairman Tangen, Chairman Inaba

Nay: Commissioner Mark

ADJOURNMENT

Since there was no further business, Chairman Inaba declared that the meeting was adjourned.