

STATE OF HAWAII  
LAND USE COMMISSION

Minutes of Meeting

Conference Room, State Building  
54 High Street  
Wailuku, Maui

*Approved*  
APR 9 1981

November 19, 1980 - 9:00 a.m.

COMMISSIONERS PRESENT: Charles Duke, Chairman  
Shinichi Nakagawa, Vice Chairman  
Richard Choy  
Shinsei Miyasato  
Mitsuo Oura  
Carol Whitesell  
William Yuen

COMMISSIONERS ABSENT: George Pascua  
Edward Yanai

STAFF PRESENT: Gordan Furutani, Executive Officer  
Joseph Chu, Planner  
Allan Kawada, Deputy Attorney General  
Dora Horikawa, Chief Clerk  
  
Jean McManus, Court Reporter

ACTION

SP80-347 - GEOTHERMAL EXPLORATION & DEVELOPMENT CORPORATION  
Special Permit to allow the exploratory drilling of 9 wells  
within the Agricultural District at Laepaoo, Puna, Hawaii

Chairman Duke called on staff to familiarize the Commission with the location of the subject property. A resume of the staff memo relative to this Special Permit was also presented by Mr. Furutani, Executive Officer.

There was much discussion concerning complaints from residents over the noise resulting from drilling activities being conducted under an earlier Gedco Special Permit. Mr. George Sheets, attorney for the petitioner, was called upon to elaborate and to respond to questions concerning this matter.

Commissioner Oura moved to approve SP80-347, subject to the conditions imposed by the Hawaii County Planning Commission, which was seconded by Vice Chairman Nakagawa. The motion was carried as follows:

Ayes: Commissioners Oura, Miyasato, Nakagawa, Yuen, Choy  
Chairman Duke

Nay: Commissioner Whitesell

HEARING

A80-490 - CHRISTY T. MAMIYA

Pursuant to a notice published in the Honolulu Advertiser and the Maui News on October 8, 1980 and notices sent to all parties, a hearing was called by the Land Use Commission in the matter of the petition by Christy T. Mamiya to amend the land use district boundaries at Peahi, Makawao, Maui for farm lots, Docket A80-490.

Admittance of Intervenors

Chairman Duke announced that 14 petitions for intervention had been received by the Commission; however, these intervenors had authorized Mr. Philip Lowenthal to make the following proposal for consolidation: If the Commission will grant leave to 3 of the applicants, i.e. Peahi Community Association and Barbara Mattson to be represented by Mr. Lowenthal, and Charles Plunkett, Sr. to be represented by Mr. Isaac Hall, the remaining applicants will withdraw their petitions.

Commissioner Yuen moved to permit Mr. Lowenthal to represent the Peahi Community Association and Barbara Mattson, which was seconded by Commissioner Miyasato and unanimously carried.

Commissioner Yuen moved that the request to intervene by Mr. Hall in behalf of Charles Plunkett, Sr. and Dorothea C. Whittle be granted, subject to the condition that Mr. Lowenthal and Mr. Hall act as co-counsel for all intervenors and have one voice to examine any one witness being called by any of the parties. Commissioner Whitesell seconded the motion and it was unanimously passed.

Admittance of Public Witnesses

It was stated that 3 timely requests to appear as witnesses had been received from the following:

Kathy Moser, representing Life of the Land  
John Bose, II, representing the Sierra Club, Maui  
Susan Ball

One untimely request to appear as a witness had also been received from Mr. Jack M. Banks.

Mr. Lowenthal advised that Ms. Ball had expressed her desire to waive her request to appear as a witness.

Commissioner Whitesell moved to admit Life of the Land's and the Sierra Club's representatives to appear as public witnesses, which was seconded by Vice Chairman Nakagawa and carried by voice vote.

It was noted for the record that Mr. Banks was not present today. It was moved by Commissioner Whitesell and seconded by Commissioner Choy to accept Mr. Banks' written testimony as part of the record in lieu of his appearance as a public witness. The motion was unanimously carried. Chairman Duke declared that Mr. Banks' written testimony will become a part of the record as LUC Exhibit 1.

Appearances

Meyer M. Ueoka, attorney representing petitioner

Lee Ohigashi, Deputy Corporation Counsel, representing the Maui Planning Department

Annette Chock, Deputy Attorney General, representing the Department of Planning & Economic Development

Philip Lowenthal, attorney representing Peahi Community Association and Barbara Mattson

Isaac Hall, attorney representing Charles Plunkett, Sr. and Dorothea Whittle

Exhibits

During the course of the proceedings, exhibits of all the parties were identified, objections and reservations noted, and admitted into evidence (see Exhibit File). It should also be noted that various exhibits of both the petitioner and intervenors were withdrawn.

A description of the property was presented by staff planner with the aid of the USGS and tax maps.

All of the persons who appeared today, having been duly sworn in, testified and were examined as set forth in the transcript on the pages noted.

Public Witness

John Bose, II - Representing the Maui Group, Hawaii Chapter of the Sierra Club

Oral testimony-----29 to 31

Cross examination by Mr. Ueoka-----31 to 40

Cross examination by Mr. Lowenthal-----40 to 41

Examination by Commissioner Whitesell-----42

The Commission was in recess from 12:00 noon to 1:30 p.m.

1:30 p.m.

County Deputy Corporation Counsel Ohigashi was replaced by Deputy Corporation Counsel Glenn Kosaka for the remainder of the hearing on this petition.

It was brought up by Counselor Hall that Mr. Ueoka may possibly be in conflict in his capacity as petitioner's counsel inasmuch as he also represented intervenor Mr. Plunkett in other matters. It was therefore moved by Commissioner Oura, seconded by Vice Chairman Nakagawa and unanimously agreed to go into executive session to receive legal advice from Counselor Kawada regarding this matter.

The Commission was in executive session from 2:05 p.m. to 2:23 p.m.

2:23 p.m.

Chairman Duke announced that during the executive session, the Commission had received counsel from Mr. Kawada to the effect that Mr. Ueoka was not in conflict in representing both the petitioner and intervenor in other matters.

PETITIONER

Noriyuki Ueoka - Nursery Operator

- Direct examination by Mr. Ueoka-----75 to 85
- Cross examination by Miss Chock-----85 to 89
- Cross examination by Mr. Lowenthal-----91 to 93
- Examination by Vice Chairman Nakagawa-----93 to 95

Paul T. Yamamura - Pineapple Grower (retired)

- Direct examination by Mr. Ueoka-----96 to 101
- Cross examination by Miss Chock-----101 to 103
- Cross examination by Mr. Lowenthal-----103 to 106
- Redirect examination by Mr. Ueoka-----106 to 107
- Recross examination by Miss Chock-----107 to 109
- Recross examination by Mr. Lowenthal-----109

Christy T. Mamiya - Petitioner and Realtor

Direct examination by Mr. Ueoka-----110 to 132

The hearing was recessed at 4:30 p.m., to be reconvened at 8:30 tomorrow morning.