

STATE OF HAWAII
LAND USE COMMISSION

Minutes of Meeting

Conference Rooms 322 A and B
Kalanimoku Building
1151 Punchbowl Street
Honolulu, Hawaii

Approved
2/1/84

December 1, 1983 - 9:00 a.m.

COMMISSIONERS PRESENT: William Yuen, Chairman
Richard Choy, Vice Chairman
Lawrence Chun (afternoon session only)
Shinsei Miyasato
Winona Rubin
Teofilo Tacbian
Robert Tamaye
Frederick Whittemore

COMMISSIONER ABSENT: Everett Cuskaden

STAFF PRESENT: Gordan Furutani, Executive Officer
Raymond Young, Planner
Carolee Aoki, Deputy Attorney General
Dora Horikawa, Chief Clerk

Julie Laber, Court Reporter

ACTION

A83-554 - FARMS OF KAPUA

Chairman Yuen announced that the Commission will consider Farms of Kapua's motion to withdraw the negative declaration to enable petitioner to submit an Environmental Impact Statement pursuant to Chapter 343, Hawaii Revised Statutes.

Appearances

Roy Takeyama, Attorney representing petitioner

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

It was noted for the record that the County of Hawaii and Intervenor Pa'Apono were not present today.

Arguments

By Mr. Takeyama----- 7 to 8

Arguments (cont.)

By Miss Chock ----- 8 to 9

Mr. Takeyama submitted that petitioner's reason for the withdrawal motion was to accede to Chapter 343, HRS, and to respond to concerns which had been expressed by members of the public.

Miss Chock responded that the State had no objections to the motion; however, since the Commission, upon its own motion, has the power to reconsider any of its actions, it was her contention that a more appropriate vehicle for handling this matter was for the Commission to merely reconsider its earlier action.

It was moved by Commissioner Rubin that the Commission reconsider its action on the Negative Declaration for the Farms of Kapua project. It was seconded by Commissioner Whittemore and the motion was unanimously carried by voice vote.

REOPENED HEARING

A83-551 - OCEANIC PROPERTIES

(For these proceedings, see transcript prepared and bound separately, dated December 1, 1983.)

The Chairman advised that this was a reopened hearing to receive additional testimony from the petitioner, not on record, concerning developments that have occurred since the closing of the hearing.

Appearances

James Funaki, Attorney representing petitioner

Steven Lim, Deputy Corporation Counsel, representing the
City Department of General Planning

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

Samuel Lee, representing the Mililani Neighborhood Board

A letter from Bill Evanson, Vice President of Voice of the Pacific, was entered into the record as a statement by a public witness.

Petitioner

Exhibits

Petitioner's exhibit 23 was identified and moved into evidence.

Warren Haight - Vice President, Hawaii, Castle & Cooke, Inc.
Chairman, Oceanic Properties

Direct examination by Mr. Funaki----- 5 to 10

Cross examination by Mr. Lim-----11

Cross examination by Mr. Lee-----12

Examination by Commissioner Whittemore-----12 to 13

Post-hearing requirements were cited by the Chairman and the hearing was closed at 9:46 a.m.

ACTION

A83-552 - JOHN DANG AND JAMES DANG

Mr. Benjamin Matsubara, Hearing Officer, reported on his findings adduced at the hearing and recommended that the petition be granted.

Commissioner Tacbian moved that on Docket A83-552, John and James Dang, the boundaries be reclassified from the Urban District into the Agricultural District at Kalaheo, Koloa, Kauai. It was seconded by Commissioner Rubin and carried.

A82-544 - IOLANI SCHOOL

The Commission considered the acceptability of Iolani School's final Environmental Impact Statement Addendum for reclassifying approximately 201.4 acres of land from the Conservation District into the Urban District at Kaneohe, Koolaupoko, Oahu.

Commissioner Whittemore moved to accept the final EIS Addendum for Docket A82-544, Iolani School, to reclassify approximately 201.4 acres of land currently in the Conservation District into the Urban District at Kaneohe, Koolaupoko, Oahu for residential purposes. It was seconded by Vice Chairman Choy and unanimously approved.

A83-556 - HONOLII PARTNERS

The Chairman announced that in the matter of the petition by Honolii Partners, A83-556, the Commission must make a determination as to whether the proposed development constitutes a significant effect on the environment, pursuant to Chapter 343.

A description of the property and the surrounding uses were offered by Mr. Furutani, Executive Officer.

Mr. Wayne Metcalf, counsel for the petitioner, presented arguments in support of his position that there was no significant effect on the environment. He responded to questions which were posed by Commissioner Rubin regarding the petitioner's assessment of the archaeological and historic sites on the property.

Commissioner Tamaye moved for a negative declaration on the environment, which was seconded by Commissioner Tacbian and the motion was unanimously approved.

HEARING

A83-550 - A. R. NYLEN AND RAYMOND H. NYLEN

Pursuant to a notice published in the Honolulu Star Bulletin and notices sent to all parties, a hearing was called by the Land Use Commission in the matter of the petition by A. R. Nylen and Raymond H. Nylen, Docket 83-550, to reclassify approximately 19 acres of land currently in the Conservation District into the Urban District at Kahaluu, Koolaupoko, Oahu for a housing development.

Appearances

Raymond Nylen) - Petitioners
A. R. Nylen)

Steven Lim - Deputy Corporation Counsel, representing the
City Department of General Planning

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

Since the required Environmental Impact Statement had not yet been filed by the petitioner, Chairman Yuen advised that today he will make a ruling on administrative matters, allow the public witness to testify, and permit the petitioners to present as much of their case as they can.

Upon completion of the petitioners' testimony today, the Commission will continue the hearing until such time as an EIS is filed and the Commission has acted upon its acceptability. The State and County will have an opportunity to present their cases at a later date.

Chairman Yuen set June 1, 1984, 6 months from today, as the date for the completion of the EIS by petitioners. However, if an EIS is not submitted by that date, the Commission will have no recourse but to deny the petition.

Exhibits

The petitioners were requested to submit the required number of color photographs of their two maps marked Exhibit 1 (green map), and Exhibit 2 (brown map) to the Commission, as well as copies to each of the parties.

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

Public Witness

Edwin B. Stevens - Secretary of the Kahaluu Neighborhood Board

Oral testimony-----28

Cross examination by Miss Chock-----30 to 31

Examination by Commissioner Tacbian-----31 to 32

Examination by Vice Chairman Choy-----32

Petitioner

Raymond Nylen) - Petitioners
A. R. Nylen)

Oral testimony-----33 to 40

Cross examination by Mr. Lim-----41 to 45

Examination by Commissioner Tacbian-----46 to 49

Examination by Commissioner Rubin-----49 to 51

Examination by Vice Chairman Choy-----51 to 52

Examination by Chairman Yuen-----52 to 55

Chairman Yuen directed petitioners to provide photographs of the model which Mr. Nysten had used during his presentation. He reiterated that petitioners comply with the EIS requirement by June 1, 1984, following which the Commission will schedule the continuation of the hearing.

DR83-9 - DOUGLAS MELLER

It was announced that the subject matter was a request for a declaratory ruling regarding the shoreline and zone of wave action, submitted by Douglas Meller.

Appearances

Douglas Meller, Petitioner

Douglas MacDougal, representing the Trustees under the Will and of the Estate of James Campbell, Deceased

Douglas Meller

Oral testimony-----57 to 67

Douglas MacDougal

Oral testimony-----67 to 72

Kazutaka Saiki - State Surveyor

Examination by Commissioner Tacbian-----73 to 74

Examination by Chairman Yuen-----74 to 75

Reexamination by Commissioner Tacbian-----77 to 79

At the conclusion of the discussion, Chairman Yuen stated that the Commission will take this matter under advisement and issue its decision at a later date.

The Commission was in recess from 12:00 noon to 2:15 p.m.

2:15 p.m.

ACTION

A83-555 - ROYAL HAWAIIAN AIRWAYS, INC. DBA ROYAL HAWAIIAN AIR SERVICE

Proceedings for this petition were conducted by Vice Chairman Choy.

Mr. Furutani reported that in the matter of Hawaiian Airline, Inc.'s petition for leave to intervene, the Commission was in receipt of a letter from the Maui Corporation Counsel indicating that it was taking no position.

Appearances

Paul Mancini, Attorney, representing Royal Hawaiian Air Service

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

Bill McCorriston, Attorney representing Hawaiian Airlines

Arguments

By Mr. McCorriston-----80 to 87

By Mr. Mancini-----87 to 93

Rebuttal

By Mr. McCorriston-----93 to 95

Examination of Mr. McCorriston by Commissioner Tacbian-----95 to 99

Commissioner Tacbian moved that Hawaiian Airlines be given Intervenor status. It was seconded by Commissioner Chun and passed by voice vote.

With respect to Hawaiian Airline's Motion to Conduct Discovery, the Commission went into executive session, upon motion by Commissioner Rubin, seconded by Commissioner Tacbian.

The Commission was in executive session from 2:47 p.m. to 2:59 p.m.

2:59 p.m.

Chairman Choy announced that during the executive session, the Commission discussed Hawaiian Airline's Motion. However, since it had been mutually agreed by petitioner and intervenor to stay their subpoena requests, the matter was now moot.

During the remainder of today's proceedings, William Yuen resumed his position as Chairman.

A83-549 - GAMLON CORPORATION

In the matter of the petition by Gamlon Corporation, Docket A83-549, a hearing was conducted by the Land Use Commission on September 8, 1983. Chairman Yuen determined that all of the Commissioners present today were eligible to participate in the action on this petition.

Appearances

Karl Kobayashi, attorney representing the petitioner

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

Staff planner was called upon to orient the Commission to the property under consideration.

Closing Arguments

By Mr. Kobayashi-----105 to 107

By Miss Chock-----107 to 112

Commissioner Chun moved to approve Docket A83-549, Gamlon Corporation of Hawaii, to reclassify approximately 173.66 acres of land currently in the Agricultural District into the Urban District at Holualoa 1st and 2nd, North Kona, Hawaii for a residential subdivision, subject to the following conditions:

"It is hereby ordered that the lands within Increment I of the petitioner's development plan of the subject property comprising an area of 124.66 acres, more particularly described in said Exhibit A, situated at Holualoa 1st and 2nd, North Kona, County and State of Hawaii, shall be and the same is hereby reclassified from the Agricultural to the Urban classification, and the district boundaries are amended accordingly.

"It is also hereby ordered that the lands within Increment II of the petitioner's development plan of the subject property comprising an area of 49 acres, more particularly identified and described in said Exhibit A, situated at Holualoa 1st and 2nd, North Kona, County and State of Hawaii, shall be and the same are hereby approved for incremental development, pursuant to State Land Use District Regulation No. 6-2.

"And that redistricting from the Agricultural to the Urban classification will be granted upon receipt of an application by petitioner for redistricting of this second phase upon a prima facie showing that petitioner has made substantial completion of the on-site and off-site improvements within Increment I as described above, and in accordance with the petitioner's development

plan as indicated above within five years of the date of this order, including but not limited to partial satisfaction of the Condition A below, to the extent of the number of lots to be created in Increment I and full satisfaction of Condition B below.

"It is further hereby ordered that the reclassification and incremental districting of the subject property shall be subject to the following conditions: Petitioner shall provide housing opportunities for low and moderate-income Hawaii residents prior to assigning or transferring, except by way of mortgage or assignment as security, its interest in the subject property by offering 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, 10 percent of the lots or houses 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 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, that is, Act 105 or Hula Mae or federal insured or assisted financing, that is, FHA Section 245 Program, intended to encourage home ownership by low and moderate-income families.

"And, B, archaeology: In making the ultimate decision as to whether a historic or archaeological site is significant enough to warrant preservation, petitioner shall consult with and accept a determination of the Historic Preservations Officer of the State Department of Land and Natural Resources.

"C. Petitioner shall submit annual progress reports to the Commission, Department of Planning and Economic Development, and the Hawaii County Planning Department as to its progress in satisfying these conditions.

"D. These conditions may be fully or partially released by the Commission as to all or any portion of the subject properties upon timely motion and provision of adequate assurance of satisfaction of these conditions by the petitioner."

The motion was seconded by Commissioner Whittemore and the Commissioners were polled as follows:

Ayes: Commissioners Whittemore, Tachian, Chun, Miyasato, Tamaye, Choy, Rubin, Chairman Yuen

The meeting was adjourned at 3:35 p.m.