

STATE OF HAWAII
LAND USE COMMISSION

Minutes of Meeting

Resolution Room
Kona Hilton Hotel
Kailua-Kona, Hawaii

December 4, 1979 - 9:30 a.m.

*Approved:
April 2, 1980*

COMMISSIONERS PRESENT: Charles Duke, Chairman
Shinsei Miyasato
Mitsuo Oura
George Pascua
Carol Whitesell
Edward Yanai
William Yuen

COMMISSIONER ABSENT: Shinichi Nakagawa, Vice Chairman

STAFF PRESENT: Gordan Furutani, Executive Officer
Daniel Yasui, Planner
Allan Kawada, Deputy Attorney General
Dora Horikawa, Chief Clerk

Ray Russell, Court Reporter

HEARING

A79-461 - KAMEHAMEHA DEVELOPMENT CORPORATION

Pursuant to a notice published in the Honolulu Advertiser and the Hawaii Tribune Herald on October 26, 1979, a hearing was called by the Land Use Commission in the matter of the petition by the Kamehameha Development Corporation to amend the land use district boundaries for approximately 880.141 acres of land presently in the Agricultural District into the Urban District at Keauhou, South Kona, Hawaii, Docket A79-461.

Appearances

James Funaki, Attorney for the Petitioner

Ben Tsukazaki, Deputy Corporation Counsel, representing
the Hawaii Planning Department

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

Petitioner's Motion in Opposition to Ms. Stone's Petition
for Intervention

Mr. Funaki elaborated on his reasons for the opposition to Ms. Elizabeth Stone's petition for intervention.

Ms. Stone defended her request for intervention and submitted her memorandum in opposition to petitioner's motion, which was circulated to the Commissioners and parties. The Chair called for a 5-minute break to afford all parties an opportunity to review Ms. Stone's memorandum.

Based on the chronology of events which was presented by the Executive Officer relevant to subject intervention request by Ms. Stone, it was determined that the request was not timely.

Ms. Stone cited sections within the Commission's Rules and Regulations pertaining to "service upon parties" and argued that she felt she had met the requirements in a timely fashion. She also expressed her strong feelings that a citizen's group representing the public should be allowed to present its views.

Commissioner Oura moved that petitioner's motion to deny Ms. Stone's petition for intervention be approved, which was seconded by Commissioner Pascua.

Commissioner Whitesell spoke against the motion on the basis that although the intervention petition was untimely, she felt that Ms. Stone's position would be different from that of any of the other parties; moreover, she did not believe that the admission of one additional party would render the proceedings inefficient and unmanageable.

Chairman Duke countered that the admission of Ms. Stone as a party could render the proceedings somewhat inefficient.

The motion to deny Ms. Stone's intervention was approved with the following votes:

Ayes: Commissioners Pascua, Yuen, Miyasato, Yanai, Oura,
Chairman Duke

Nay: Commissioner Whitesell

PUBLIC WITNESSES

Commissioner Oura moved that Ms. Stone be admitted as a public witness, which was seconded by Commissioner Pascua.

Commissioner Yuen moved that the foregoing motion be amended to permit Ms. Stone to testify as a public witness,

but that she not be permitted to introduce exhibits, such as animals, etc. The maker and seconder of the original motion had no objections to the amendment and the amended motion was unanimously carried.

Mr. Gordan Furutani, Executive Officer, explained that several people with interests in the property being sought to be reclassified inadvertently had not been notified of the hearing. Therefore, staff had contacted each of these land-owners individually and four had responded that they would like to appear as public witnesses. Chairman Duke announced that these four witnesses, listed below, will be admitted as public witnesses:

- 1. Richard Frazier
- 2. Harvey Weeks
- 3. Richard Ishida
- 4. James Greenwell

Two timely requests to appear as witnesses had been received from the following and they were also admitted as public witnesses:

- 1. Charles G. Bockus
- 2. Timothy Fitzpatrick

All of those appearing during today's proceedings were duly sworn in, testified, and were examined as set forth in the transcript on the pages noted.

Timothy Fitzpatrick, President of the Environmental Law Center of the Pacific

Pages

Oral Testimony-----35 to 39

Cross examination by Mr. Funaki-----39 to 40

Richard M. Frazier

Oral Testimony-----41 to 44

James Greenwell

Mr. Funaki advised that Mr. Greenwell's written testimony will be introduced as part of the petitioner's exhibit.

Richard Ishida - Representing self and 4 individuals who own adjacent properties

Summary of written testimony-----47

Harvey Weeks - Representing 3 individuals with undivided interests in an adjacent property

Oral Testimony-----49

Elizabeth Stone - President of Environmental Citizens Against Progress

Oral Testimony-----52 to 58

Cross examination by Mr. Funaki-----59 to 60

Charles G. Bockus - Resident of Holualoa

Oral Testimony-----62 to 65

The Commission was in recess from 12:16 p.m. to 1:45 p.m.

1:45 p.m.

Exhibits

Petitioner's exhibits 1 through 15 were admitted into evidence. An additional exhibit marked 7-A (an update of exhibit 7 already in evidence) was also admitted into evidence.

County's exhibits 1 through 7 were admitted into evidence.

DPED's exhibits 1-A, 1-B, 2 and 3 were admitted into evidence.

PETITIONER

Guido Giacometti - President of Kamehameha Development Corporation

Direct examination by Mr. Funaki-----78 to 112

At Mr. Tsukazaki's request, Chairman Duke granted permission to the County to defer its cross examination to Mr. Duane Kanuha, Deputy Planning Director.

Cross examination by Mr. Kanuha-----113 to 119

Cross examination by Miss Chock-----120 to 127

Guido Giacometti (cont.)

Redirect examination by Mr. Funaki-----127 to 129

Recross examination by Mr. Kanuha-----129 to 130

Examination by Commissioner Yuen-----130 to 134

Examination by Commissioner Whitesell-----134 to 139

Chairman Duke announced that the hearing will recess until 8:30 tomorrow morning at which time petitioner will continue with his presentation.

The meeting recessed at 4:50 p.m.