

STATE OF HAWAII  
LAND USE COMMISSION

Minutes of Meeting

December 5, 1975 - 1:30 p.m.

DOE Board Room #404  
Queen Liliuokalani Building  
Honolulu, Hawaii

Approved  
February 13,  
1976

COMMISSIONERS PRESENT: Eddie Tangen, Chairman  
Stanley Sakahashi, Vice Chairman  
James Carras  
Charles Duke  
Mitsuo Oura  
Carol Whitesell  
Tanji Yamamura  
Edward Yanai

COMMISSIONER ABSENT: Colette Machado

STAFF PRESENT: Ah Sung Leong, Acting Executive Officer  
Gordan Furutani, Planner  
Michael Marsh, Deputy Attorney General  
Benjamin Matsubara, Consultant  
Dora Horikawa, Clerk Reporter  
  
Ray Russell, Court Reporter

The meeting was called to order by the Chairman.

Mr. Leong, Acting Executive Officer, requested the Commission's permission to add two items to the agenda for consideration. He elaborated that one item related to the hiring of a consultant to assist the Commission in the administration and implementation of Act 193; and the other concerned the boundary change petitions pending before the Land Use Commission which would fall under the procedures contained in the newly adopted Rules and Regulations.

Commissioner Duke moved to add the two items to the agenda, which was seconded by Commissioner Yamamura and unanimously carried.

Chairman Tangen announced that a question had been raised by some of the people present today on one of the items on the agenda

which will require a legal opinion. He therefore recommended that the Commission go into executive session to consult with the attorneys on a procedural matter pursuant to the Commission's Rules and Regulations. Mr. Michael Marsh, Deputy Attorney General, advised that this concerned a matter of procedure which may have legal ramifications and should be discussed with the Commission in executive session. He added that this was permitted under the "Sunshine Law".

Commissioner Whitesell requested that for future reference the Deputy Attorney General advise the Commission of the circumstances under which an executive session might be necessary or desirable.

Commissioner Carras moved that the Commission go into executive session to consult with the attorneys. The motion was seconded by Commissioner Duke and the Commissioners were polled as follows:

Ayes: Commissioners Yanai, Carras, Duke, Whitesell,  
Sakahashi, Oura, Yamamura, Chairman Tangen

Absent: Commissioner Machado

The motion to go into executive session was unanimously carried.

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Chairman Tangen called the meeting back to order. It was explained that as a result of the consultation with the attorneys on item #1 on the agenda under "Miscellaneous", extension request by Hawaii Land Corporation (SP73-157), it had been decided to adopt the following procedure:

1. Staff will present its report.
2. No new evidence will be accepted by the Commission.
3. The Commission's decision will be based on the record forwarded by the County.
4. Information contained in the staff's report which had been received subsequent to the decision by the Hawaii Planning Commission will be stricken from the report.

EXTENSION REQUEST BY THE HAWAII LAND CORPORATION (SP73-157) TO CONSTRUCT A RESORT-RESIDENTIAL COMPLEX AT KUPAHUA, PUNA, HAWAII

Mr. Ah Sung Leong, Acting Executive Officer presented the staff memorandum relative to the extension request by Hawaii Land Corporation (SP73-157) (see copy on file).

The ensuing discussion revolved around actual progress on the development since the last extension request, the availability of funding for the project, etc.

It was moved by Vice Chairman Sakahashi and seconded by Commissioner Duke that the extension request be approved as recommended by the Hawaii County Planning Commission. The Commissioners were polled as follows:

Ayes: Commissioners Yamamura, Sakahashi, Oura, Duke,  
Chairman Tangen

Nays: Commissioners Carras, Yanai, Whitesell

Absent: Commissioner Machado

The motion was carried.

REQUEST BY HPM DEVELOPMENT CORPORATION (SP75-224) TO ESTABLISH A CHURCH AT KEOPU 3RD, N. KONA, HAWAII

Mr. Gordan Furutani, Planner, read the staff memo concerning the subject Special Permit (see copy on file).

In response to a question by Commissioner Oura, Mr. Furutani advised that the proposed church will include a worship hall with a seating capacity for 350 people, a cultural hall, classrooms, bishop's and president's houses.

Commissioner Oura moved to approve the Special Permit, subject to the conditions imposed by the Hawaii County Planning Commission, which was seconded by Commissioner Duke and unanimously carried.

REQUEST BY NOBUE OKADA (SP-75-225) TO ESTABLISH A VEGETABLE PROCESSING PLANT AT LALAMILO, S. KOHALA, HAWAII

The staff memo on the subject Special Permit was presented by Mr. Leong (see copy of report on file).

The motion by Commissioner Oura to approve the Special Permit subject to the conditions imposed by the Hawaii County Planning Commission was seconded by Commissioner Carras and unanimously carried.

REQUEST BY NICHOLS & PAMELA BECK (SP75-226) TO ESTABLISH A RECREATIONAL AND OUTDOOR EDUCATIONAL CAMP AT HANAIEI, KAUAI

Following the presentation of the staff memo (copy on file) by Mr. Leong, it was moved by Vice Chairman Sakahashi and seconded by Commissioner Oura that the Special Permit be approved, subject to the

conditions imposed by the Kauai County Planning Commission. The motion was unanimously passed.

REQUEST BY THE REORGANIZED CHURCH OF JESUS CHRIST OF LATTER DAY SAINTS (SP75-227) TO ESTABLISH A RECREATION CAMP AT WAIANAE, OAHU

Chairman Tangen noted for the record that Commissioner Duke had excused himself from the proceedings on this Special Permit.

Mr. Gordan Furutani, Planner, presented the staff memo (see copy on file).

Several questions were raised regarding health problems resulting from pesticide drift from the surrounding agricultural activities, the concern expressed by the Farm Bureau regarding non-agricultural uses within the Agricultural District, odor emanating from neighboring pig farms, etc.

Chairman Tangen pointed out that one of the conditions imposed by the City Planning Commission stipulated that the applicant or any person utilizing this facility shall not complain or object to the agricultural uses or effects generated by such uses. Furthermore, it had been submitted by the petitioner that this would be considered as an agricultural learning experience and introduction to farm life for the children and people from the city.

Commissioner Yamamura moved that in view of the 5 reasons listed on page 9 (see staff memo), and also in view of the intensive agricultural activities in and around this area, and also in view of the position taken by the Hawaii Farm Bureau and the farmers in this area to keep the petitioned land in agriculture, the Special Permit be denied. The motion was seconded by Vice Chairman Sakahashi and the Commissioners were polled as follows:

Ayes: Commissioners Yamamura, Yanai, Sakahashi, Carras

Nays: Commissioners Whitesell, Oura, Chairman Tangen

Absent: Commissioners Duke, Machado

The motion failed to carry.

Commissioner Whitesell then moved to approve the Special Permit, subject to the conditions imposed by the City Planning Commission. The motion was seconded by Commissioner Oura and the Commissioners were polled as follows:

Ayes: Commissioners Whitesell, Oura, Chairman Tangen

Nays: Commissioners Yamamura, Sakahashi, Carras, Yanai

Absent: Commissioners Duke, Machado

The second motion also failed to pass.

At this point, Chairman Tangen directed that Commissioner Duke be requested to rejoin the proceedings.

REQUEST BY THE SPIRITUAL ASSEMBLY OF THE BAHAI'S OF PUNA (SP75-229)  
TO ESTABLISH A COMMUNITY CENTER AT PUNA, HAWAII

Chairman Tangen called on Mr. Gordan Furutani to present the staff memo (see copy on file).

Commissioner Duke moved to approve the application as recommended by the City and subject to the conditions imposed by the City Planning Commission. It was seconded by Commissioner Carras and carried with the following votes:

Ayes: Commissioners Oura, Yamamura, Carras, Duke, Yanai  
Whitesell, Chairman Tangen

Nay: Vice Chairman Sakahashi

Absent: Commissioner Machado

REQUEST BY MAUNA ZIONA CHURCH (SP75-230) TO ESTABLISH RESTROOM  
FACILITIES FOR AN EXISTING CHURCH AT N. KONA, HAWAII

The staff memo was presented by Mr. Leong.

Upon Commissioner Oura's motion, seconded by Commissioner Yamamura, the Special Permit was unanimously approved, subject to the conditions imposed by the Hawaii Planning Commission.

MISCELLANEOUS

EXTENSION OF TIME REQUEST BY VALLEY ISLE THEATERS, INC. ON CONDITION  
IMPOSED ON SP74-190

Mr. Leong read the staff memo relative to the extension request by Valley Isle Theaters, Inc. (see copy on file).

Commissioner Yamamura moved to approve the extension request, subject to the conditions imposed by the Maui Planning Commission. It was seconded by Vice Chairman Sakahashi and unanimously passed.

## CONSULTANT SERVICES

Chairman Tangen expressed his agreement with the staff's request to engage the services of a consultant during the interim period pending the appointment of an Executive Officer, on a part-time basis, to assist staff in the administration and implementation of Act 193. He advised that Mr. Benjamin Matsubara, former Deputy Attorney General assigned to the Land Use Commission, had been approached and had agreed to serve as consultant for approximately 4 to 5 months. Mr. Matsubara will assist the Commission and its staff in carrying out their functions under the new quasi-judicial proceedings as provided for in Act 193, and may be called upon to serve as Hearing Officer at agency hearings.

It was moved by Commissioner Yamamura and seconded by Commissioner Duke to proceed to contract for a consultant on an interim part-time basis. The motion was unanimously carried.

## BOUNDARY CHANGE PETITIONS PENDING BEFORE THE COMMISSION

Since a number of boundary change petitions were filed under the old Rules and Regulations and since the new Rules are not effective as yet, the staff suggested that the Commission consider waiving the requirements regarding the submittal of data under Parts II and VI of the new Rules of Practice and Procedure and Part VI of the new District Regulations for these pending petitions but that the petitioners will have to satisfy at the time of the hearing, through submittal of further evidence, all new requirements established by the new Rules and Regulations. Chairman Tangen advised that a letter will be sent to all of those applicants with petitions pending before the Commission to advise them of this fact.

Commissioner Whitesell moved "that the Commission waive the requirements regarding the submittal of data under Part II of the new Rules of Practice and Procedure, and Part VI of the new Rules and Regulations as regards the filing of the petition itself. The petitioner however shall still have the burden of satisfying at the time of the hearing, through submittal of further evidence, either written or oral, all new requirements established by the new Rules and Regulations. I would like to further move that we notify all petitioners and all those who filed to intervene or those who participated in the case in any way, of this waiver." The motion was seconded by Commissioner Carras.

Commissioner Duke moved to amend the motion by adding after "all new requirements established by the new Rules and Regulations", the following words: "if they are approved". Commissioner Whitesell stated that she had no objections to the amendment. The Commissioners were polled and the motion, as amended, was unanimously carried.

ADOPTION OF MINUTES

Upon motion by Vice Chairman Sakahashi, seconded by Commissioner Oura, the minutes of the meetings of October 7, 8, and 9, 1975, as circulated, were unanimously adopted by voice vote.

STAFF REPORTS

It was suggested by Chairman Tangen that whenever possible, staff memos on special permits be circulated to the Commissioners in advance of the meeting to afford them the opportunity to read them.

Since there was no further business, the meeting adjourned at 5:25 p.m.