

STATE OF HAWAII
LAND USE COMMISSION

Minutes of Meeting

Senate Conference Room No. 6
2nd Floor, State Capitol
Honolulu, Hawaii

December 13, 1978 - 9:30 a.m.

Approved

June 27, 1979

COMMISSIONERS PRESENT: Charles Duke, Chairman
Shinichi Nakagawa, Vice Chairman
James Carras
Shinsei Miyasato
Mitsuo Oura
George Pascua
Carol Whitesell
Edward Yanai

COMMISSIONER ABSENT: Colette Machado

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

Ray Russell, Court Reporter

ACTION

SP78-315 - GROVE FARM COMPANY, INC.
SPECIAL PERMIT TO ALLOW THE ESTABLISHMENT OF A VETERINARY
CLINIC ON APPROXIMATELY 15,000 SQUARE FEET OF LAND AT PUHI,
KAUAI

Mr. Daniel Yasui, staff planner, pointed out the location of the property on the maps and presented a summary of the staff memo.

In response to a question raised by Commissioner Whitesell, Mr. Kawada, Deputy Attorney General, counselled that since it had been indicated that the proposed use will be established under a rental agreement, no subdivision of land would be involved and, therefore, subject request would not be in violation of the provisions under Section 205-4.5, HRS.

Commissioner Whitesell moved to approve SP78-315, subject to the conditions imposed by the Kauai County Planning Commission. The motion was seconded by Commissioner Pascua and unanimously carried.

SP78-325 - ROMAN CATHOLIC CHURCH
SPECIAL PERMIT TO ALLOW THE ESTABLISHMENT OF A YOUTH RECREA-
TIONAL CAMP AT PUNALUU, OAHU

A resume of the subject request was presented by the planner and the parcel identified on the maps.

The rationale for the location of the cesspools as specified by the Department of Health, impact on the aquaculture ponds, etc. were discussed.

Vice Chairman Nakagawa moved that the Special Permit be approved, subject to the conditions set forth by the City and County Planning Commission. It was seconded by Commissioner Oura and unanimously passed.

A78-437 - ROLPH B. FUHRMAN & ULUPALAKUA RANCH, INC.

Motion by Life of the Land to Compel Release of Information,
Correct Erroneous Information and for Supplementation/Correc-
tion of the Record

Mr. Paul McCarthy, representing Life of the Land, explained that they were requesting a clarification of the figure of 32,000 for unbuilt capacity for the Makena and Maalaea area on Maui.

Mr. Roy Yempuku, Deputy Corporation Counsel for Maui, submitted that he would join in with petitioner's attorney, Mr. Roy Takeyama's response to the motion, in objecting to the motion on the basis that it would be improper to allow the reopening of the hearing for the purpose of admitting additional evidence. Also, this could set a precedent that could make difficult the final conclusion of any hearing.

Mr. Takeyama, counselor for the petitioner, also objected to the motion for the same reasons cited by the County of Maui.

Mr. McCarthy reiterated the basis for his request and argued that intervenor had not had sufficient time to challenge the conflicting interpretations regarding the unbuilt capacity in Makena.

Mrs. Ueda, staff planner representing DPED, also agreed with the County's and petitioner's positions that it would be inappropriate at this time to reopen the hearing as requested by the intervenor.

Vice Chairman Nakagawa moved that the motion by Life of the Land be denied, which was seconded by Commissioner Miyasato and unanimously carried.

Petition to reclassify approximately 14.699 acres of land from the Rural District into the Urban District and approximately 5.5 acres of land from the Agricultural District into the Urban District at Makena, Maui

In the matter of the boundary amendment petition by Rolph B. Fuhrman and Ulupalakua Ranch, Inc. Docket A78-437, on which hearings were held on August 8 and 9, 1978, the Commission discussed the following documents which had been previously distributed to the members, prior to taking action on the petition:

1. Proposed Findings of Fact and Conclusions of Law - by Petitioner
2. Proposed Findings of Fact and Conclusions of Law - by Life of the Land
3. Comments on Petitioner's Proposed Findings of Fact and Conclusions of Law - by Life of the Land
4. Comments on Petitioners' (Proposed) Findings of Fact, Conclusions of Law and Decision and Order - by Department of Planning & Economic Development

In response to Mr. Kawada's concern regarding the separation of the proposed findings into two different sections by the petitioner, Mr. Takeyama explained that this was done to indicate the separate ownership of the two parcels in the event of litigation.

Upon motion by Vice Chairman Nakagawa, seconded by Commissioner Pascua, it was unanimously agreed to go into executive session to receive counsel regarding the legality of proceeding with the findings as proposed by the petitioner.

The Commission was in executive session from 10:50 a.m. to 11:25 a.m.

11:25 a.m.

It was Mr. Kawada's advice that the Commission utilize the consolidated proposed findings which he had drafted, in which the separate ownerships are clearly stated.

Upon motion by Commissioner Carras, seconded by Vice Chairman Nakagawa, it was unanimously agreed to consolidate petitioner's two proposed findings into one document. It was also suggested that all parties be granted an opportunity to review the proposed draft recommended by Mr. Kawada.

Therefore, the Chairman called for a recess at 11:40 a.m.

1:30 p.m.

The Commission reconvened at 1:30 p.m., discussed the various documents, and adopted findings of fact, conclusions of law, with respect to the subject petition. Thereafter, the Chairman called for a motion regarding the request.

Commissioner Miyasato moved to approve A78-437, which was seconded by Commissioner Pascua.

Commissioner Whitesell spoke against the motion on the bases that:

1. Other lands zoned for condominium units were available.
2. Unanswered questions regarding the critical erosion area; and the maintenance and operation of the sewage treatment plant.

Both Chairman Duke and Vice Chairman Nakagawa spoke in favor of the petition based on its merits and since it fulfilled the requirements of the Commission's interim state-wide land use guidance policy.

The Commissioners were polled as follows and the motion was carried:

Ayes: Commissioners Nakagawa, Oura, Miyasato, Carras, Pascua, Yanai, Chairman Duke

Nay: Commissioner Whitesell

The Commission discussed conditions to be imposed on the approval of the petition. It was moved by Commissioner Whitesell that the Commission add a condition "That the petitioner shall provide for proper maintenance and operation until such time as they connect to the Kihei Sewage Treatment Plant". The motion was seconded by Commissioner Oura and the votes were cast as follows:

Ayes: Commissioners Whitesell, Oura, Yanai

Nay: Commissioners Pascua, Miyasato, Nakagawa, Chairman Duke

The motion did not carry.

Commissioner Whitesell moved to include DPED's proposed condition "a. The Petitioners' will not request for temporary water service and will not begin construction until the Central Maui Water Transmission System and the Central Maui Water Source Development are completed and in operation." The motion died for lack of a second.

Commissioner Pascua moved to include, as part of the approval, DPED's proposed condition "b. As provided for under their agreement with the County of Maui, Department of Water Supply, the Petitioners shall provide a minimum 6-inch private line from the end of the Central Maui Transmission line at Wailea to the project site to meet domestic and fire flow needs of the project, and shall also be responsible for obtaining all easements for this line." The motion was seconded by Vice Chairman Nakagawa and unanimously passed.

Vice Chairman Nakagawa moved to make DPED's condition c. a part of the approval, with the added stipulation that the responsibility for locating the two accesses shall rest with the Maui County Planning Department. It was seconded by Commissioner Pascua and unanimously passed.

Commissioner Whitesell moved to include DPED's condition d. as a part of the approval. It was seconded by Vice Chairman Nakagawa and unanimously carried.

The Chairman directed Mr. Kawada to include a section dealing with the procedural matters in the Commission's findings, as recommended by DPED.

ADOPTION OF MINUTES

The minutes of September 27, 1978 were approved as circulated.

The meeting was adjourned at 5:30 p.m.