

STATE OF HAWAII
LAND USE COMMISSION

Minutes of Meeting

Kamakahonu Ballrooms
King Kamehameha's Kona Beach Hotel
75-5660 Palani Road
Kailua-Kona, Hawaii

approved
12/17/92

November 12, 1992

COMMISSIONERS PRESENT: Renton L.K. Nip, Chairman
Allen K. Hoe (Portion of Proceeding)
Allen Kajioka (Portion of Proceeding)
Karen S. Ahn
Trudy K. Senda
JoAnn Mattson
Eusebio Lapenia, Jr.
Elton Wada

COMMISSIONERS ABSENT: Delmond J.H. Won

STAFF PRESENT: Esther Ueda, Executive Officer
Russell Suzuki, Esq., Deputy
Attorney General
Bert Saruwatari, Staff Planner
Darlene Kinoshita, Chief Clerk

Holly Hackett, Court Reporter

Chairman Nip called the meeting to order.

ACTION

A92-685 - STATE OF HAWAII, OFFICE OF STATE PLANNING (Hawaii)

Chairman Nip announced that the Commission would take action to determine whether the anticipated effects discussed in the Petitioner's Environmental Assessment to reclassify approximately 2,589 acres of land currently in the Conservation District and Agricultural Districts into the Urban District at Keahole, Hawaii for urban expansion including university use constitutes a "significant effect" pursuant to Chapter 343, H.R.S.

Appearances

Ann Ogata-Deal, Esq., Deputy Attorney General, Office
of State Planning

Mary Lou Kobayashi, Office of State Planning

Fred Gianini, Esq., Deputy Corporation Counsel, County
of Hawaii

Connie Kiriou, Planning Department, County of Hawaii

Bert Saruwatari, oriented the Commissions to the area
being requested for reclassification on the Land Use District
Boundaries and tax maps.

Arguments were heard from Ms. Ogata-Deal and
Mr. Gianini.

Commissioner Lapenia moved in the matter of A92-685 -
STATE OF HAWAII, OFFICE OF STATE PLANNING that an Environmental
Impact Statement be required. The motion was seconded by
Commissioner Wada and carried unanimously by voice votes.

SP92-381 - WAIKOLOA DEVELOPMENT CORPORATION (HAWAII)

Chairman Nip announced that the Commission would be
taking action to consider the establishment of a quarry
operation which includes blasting, drilling, rock crushing and
screening, concrete ready-mix batching, pre-casting, asphaltic
concrete products, manufacturing equipment and materials,
storage and repair, and other related uses and activities on
approximately 220 acres of land situated within the State Land
Use Agricultural District at Waikoloa, South Kohala, Hawaii.

Appearances

Gary Slovin, Esq., Attorney for Petitioner

Ken Melrose, for Petitioner

Fred Gianini, Esq., Deputy Corporation Counsel, County
of Hawaii

Connie Kiriou, Department of Planning, County of Hawaii

Bert Saruwatari, staff planner, oriented the Commission to the area being considered on the Land Use District Boundaries and tax maps and gave a summary report of the special use permit request by Petitioner.

EXHIBITS

The following letters were admitted into evidence by the Land Use Commission:

1. September 30, 1992 from William Paty, Chairperson, Department of Land and Natural Resources.
2. October 2, 1992 from Ken Melrose to Norman Hayashi.
3. October 3, 1992 from Elsbeth McKeen, Esq., Attorney for Ernestine and Glen Felton.
4. October 22, 1992 from Norman Hayashi to Ken Melrose.
5. October 27, 1992 from Ken Melrose to Sam Lemmo.
6. November 2, 1992 from Don Hibbard, State Historic Preservation Division to Norman Hayashi.
7. October 1992, Resurvey for Ophioglossum Concinnum, Waikoloa Quarry Site by Winona Char.
8. November 12, 1992 testimony of Ken Melrose.

PUBLIC WITNESS

1. Glen Felton

The testimony of Ken Melrose was heard at this time.

Arguments were heard from Mr. Slovin and Mr. Gianini. After hearing arguments, questions were asked by the Commissioners.

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Commissioner Lapenia moved to approve the special use permit by Waikoloa Development Company based on the following conditions as set forth by the Planning Commission on September 22, 1992 with the exception of Condition Number 4 which by letter from Mr. Melrose to Mr. Hayashi, he provided two copies of maps and metes and bounds of the property and the amendment of Condition Number 15 as follows:

Condition Number 15 - An annual monitoring report shall be submitted to the planning director and Land Use Commission prior to the anniversary date of the approval of the permit. The report shall include but not be limited to the amount of material quarried, a detailed listing of public complaints or problems and their disposition. Should a complaint arise which cannot be mitigated or mediated, the quarry operations shall cease upon the appropriate findings by the Planning Commission that the introduced use will have an adverse impact on the surrounding properties. The report shall also include applicant's progress in complying with the conditions imposed.

The motion was seconded by Commissioner Hoe.

Chairman Nip moved for no deletion of Condition Number 4. The motion was seconded by Commissioner Hoe. There was no objections by Commissioner Lapenia for this motion.

The motion for approval of the special use permit subject to the Planning Commission's conditions and amendment to Condition Number 15 was polled as follows:

Ayes: Commissioner Lapenia, Hoe, Kajioka, Mattson, Senda, Wada, Ahn, and Chairman Nip.

A lunch recession was taken at 11:45 a.m. to reconvene at 1:00 p.m.

- 1:00 p.m. -

Commissioner Kajioka was absent from the proceeding at this time.

CONTINUED HEARING

A92-677 - NORTH KONA DEVELOPMENT GROUP, a Hawaii limited
partnership (Hawaii)

Chairman Nip announced that the present matter before the Commission is a continuation of the hearing which had begun on September 24 and 25, 1992.

Appearances

Jan Sullivan, Esq., Attorney for Petitioner

Fred Gianini, Esq., Deputy Corporation Counsel, County of Hawaii

Connie Kiriū, Department of Planning, County of Hawaii

Ann Ogata-Deal, Esq., Deputy Attorney General, Office of State Planning

Lorene Maki, Land Use Division, Office of State Planning

Abe Mitsuda, Land Use Division, Office of State Planning

EXHIBITS

1. Petitioner's Exhibit Nos. 33 and 34 were admitted into evidence by the Land Use Commission.

2. The letter dated September 27, 1992 from Keith Wallas, Na Ala Hele and the letter dated October 22, 1992 from Norman Piianaia, Na Ala Hele were admitted into evidence by the Land Use Commission.

PETITIONER'S WITNESSES

1. William Davidson

Commissioner Hoe was absent from the proceedings at this time.

2. Michael Hands

COUNTY'S WITNESS

1. Connie Kiriu

STATE'S WITNESS

1. Abe Mitsuda

Chairman Nip instructed all parties of the post-hearing procedures and declared the hearing closed. The proposed findings from the parties are due on December 11, 1992 and the parties have until December 24, 1992 in which to respond.

A91-666 - KAHALA CAPITAL CORPORATION (Hawaii)

Chairman Nip announced that the present matter before the Commission is a continuation of the hearing which had begun on March 19, 1992.

Appearances

Roy Vitousek, III, Esq., Attorney for Petitioner

Nani Rapoza, Esq., Attorney for Petitioner

Norbert Schlei, Petitioner

Robert Van Dorpe, Petitioner

Fred Gianini, Esq., Deputy Corporation Counsel, County of Hawaii

Connie Kiriu, Department of Planning, County of Hawaii

Ann Ogata-Deal, Esq., Deputy Attorney General, Office of State Planning

Karen Yamamoto, Land Use Division, Office of State Planning

Abe Mitsuda, Land Use Division, Office of State
Planning

Kelly Moorhead, Intervenor

Jason Verity, Intervenor

EXHIBITS

1. Petitioner's Exhibit Nos. 113 through 121 were admitted into evidence by the Land Use Commission.

2. OSP's Exhibit No. 4 was admitted into evidence by the Land Use Commission.

On November 4, 1992, the Commission received a Motion of Conflict and Motion for Continuance filed by William Zimmerman, Esq., on behalf Intervenor, Hui He'enalu O Kona and Pai Ohana.

Arguments on the motion were heard from Mr. Verity, Mr. Vitousek, and Ms. Ogata-Deal.

Commissioner Senda moved for an executive session to consult with the Commission's attorney to discuss legal matters. The motion was seconded by Commissioner Lapenia and unanimously carried by voice votes.

Commissioner Senda moved that the motion for continuance filed by Mr. Zimmerman for Intervenor be denied on the condition that Intervenor's right to cross-examine is preserved and that the form of cross-examination to take place in the future will be in a mutually acceptable manner between the parties. The motion was seconded by Commissioner Mattson,

Chairman Nip moved to amend Commissioner Senda's motion to add: "either mutually acceptable to the parties or if they can't agree, as determined by the Land Use Commission." There were no objections by Commissioner Senda and Mattson.

The motion to deny the motion to continue upon the understanding that the right to cross-examine shall be preserved in a manner and fashion acceptable to the parties or in the absence of mutual agreement as determined by the Land Use Commission was unanimously carried by voice votes.

PETITIONER'S WITNESSES

1. Norbert Schlei

MISCELLANEOUS

1. ADOPTION OF MINUTES

The minutes for the following meeting date were approved as circulated: October 29, 1992.

The meeting was adjourned at 5:45 p.m.