

LAND USE COMMISSION
MINUTES OF MEETING

Conference Room 405
State Office Tower, Leiopapa A Kamehameha
235 South Beretania Street
Honolulu, Hawaii

July 10, 2003

COMMISSIONERS PRESENT: P. Roy Catalani
Bruce Coppa
Pravin Desai (morning portion)
Lawrence Ing
Steven Montgomery
Randall Sakumoto (afternoon portion)
Peter Yukimura

COMMISSIONERS ABSENT: Isaac Fiesta
Rae McCorkle Sultan

STAFF PRESENT: Diane Erickson, Deputy Attorney General
Anthony J. H. Ching, Executive Officer
Bert Saruwatari, Staff Planner
Caroline Lorenzo, Acting Chief Clerk
Holly Hackett, Court Reporter

Chair Ing called the meeting to order at 9:35 a.m.

MINUTES

Vice Chair Catalani moved to approve the minutes of the Land Use Commission meeting of June 26 & 27, 2003. Commissioner Montgomery seconded the motion, and said motion was unanimously approved by voice votes.

TENTATIVE MEETING SCHEDULE

Executive Officer, Anthony Ching, noted that on the Tentative Meeting Schedule for July 24-25, 2003, Aha Hui Malama O Kaniakapupu's Motion for an Order to Show Cause Regarding Enforcement of Conditions, Representations or Commitments in

regards to Docket No. A89-635 HENRY H. SHIGEKANE REVOCABLE TRUST, JOANNE H. SHIGEKANE REVOCABLE TRUST, ROBERT R. MIDKIFF, AND ELIZABETH M. MORRIS was listed. The parties had since asked that it be put off the agenda to allow for facilitated discussions.

After discussion with the Commissioners and staff regarding the August meeting, it was decided that the August meeting would be scheduled for August 7 and August 8 (if necessary).

Also discussed amongst the Commissioners and staff was the October meeting schedule. It was decided that the Commissioners would attend the HCPO Conference on Maui on October 8 & 9, and the Commission would convene on October 10 only. Furthermore, it was discussed and decided that the October 10, 2003, meeting would be held at a location near the Kahului Airport.

Mr. Ching further reported that the Commission would have a full schedule for the rest of the year, and that there were pending items coming up, which included a special permit on the Big Island, a petition involving Conservation District lands, a petition involving the Korean Cultural Center, and another petition involving Conservation District lands at Waimea Bay, Oahu.

A93-696 KUKUI'ULA DEVELOPMENT COMPANY, INC. (Kauai)

Chair Ing announced that this was an action meeting on Docket No. A93-696 Kukui'ula Development Company, Inc., to consider the following:

1. Petitioner's Motion for Order Permitting Petitioner to Assign its Interest in Docket No. A93-696 to Kukui'ula Development Company (Hawaii), LLC; and
2. Petitioner's Motion for Order to Amend Findings of Fact, Conclusions of Law, and Decision & Order Dated May 18, 1995 and Supplemental and/or Modified Findings of Fact, Conclusions of Law, and Decision & Order Dated June 22, 1998.

Mr. Ching provided a summary of the testimonies received this morning from Senator Gary Hooser and from Mr. Stanley Erickson.

APPEARANCES

Benjamin Matsubara, Esq., representing Petitioner
Dan Yasui, Petitioner - A&B Properties, Inc.

Laurel Loo, Esq., representing the County of Kauai Planning Department
Keith Nitta, County of Kauai Planning Department

John Chang, Esq., representing the Land Use Division, Office of Planning
Lorene Maki, Land Use Division, Office of Planning
Abe Mitsuda, Land Use Division, Office of Planning

Petitioner introduced its Exhibit and Witness List relating to the second motion and 10 exhibits received by the Commission on July 1, 2003.

The County announced that it would not be providing any exhibits and witness lists at this time.

The State introduced its Exhibit and Witness List and 4 exhibits.

There were no objections by the parties, and the Commission admitted all exhibits and Exhibit and Witness Lists into the record.

Mr. Matsubara presented the Petitioner's case regarding the first motion and indicated that there were two exhibits attached to the motion - Exhibit A, which provided the joint venture profile background and experience and prior projects of both members of the joint venture; and Exhibit B, which provided financial information.

Commissioner Yukimura moved to accept Petitioner's Motion for Order Permitting Petitioner to Assign its Interest in Docket No. A93-696 to Kukui'ula Development Company (Hawaii), LLC. Vice Chair Catalani seconded the motion, and the Commissioners were polled as follows:

Ayes: Commissioners Yukimura, Catalani, Coppa, Desai, Montgomery, and Ing

The motion passed with 6 ayes, 2 absent, and 1 recused.

Following the approval of the first motion, Mr. Matsubara clarified that he was, at this point, representing Kukui'ula Development Company (Hawaii), LLC.

Mr. Matsubara provided a brief summary of Petitioner's second motion. He stated that the project density was reduced to 1,500 units, and that the project could be

completed in 7 to 8 years. He also stated that because of the density reduction, this would reduce the impacts to its surroundings.

PETITIONER'S WITNESSES

1. Tom Shigemoto, Vice President, Kukui'ula Development Company, Inc.

Mr. Shigemoto provided a brief summary of his written testimony, which was provided to the Commission as Petitioner's Exhibit 6. Mr. Shigemoto stated that there was a substantial reduction in total density to 1,500 units. The revised project included single and multi family units, a resort hotel, a wastewater treatment plant, school expansion, and time-share units.

Mr. Chang asked the witness if he objected to the conditions as set forth in the Office of Planning's testimony. Mr. Shigemoto indicated that he had no objections.

There were concerns and discussion by the Commission regarding added traffic problems due to the development of the project. The Commission also expressed concerns regarding affordable housing for the workers of the development.

The Commission inquired about the population at the schools. Mr. Shigemoto indicated that this project included the development of a school within walking distance of the development. He indicated that currently one elementary school in Koloa had a population of 210 students, with a capacity of 460.

2. Michael Roberts, Vice President, Kukui'ula Development Company (Hawaii), LLC; and Vice President of DMB Associates, Inc.

Mr. Roberts provided a brief summary of his written testimony, which was provided to the Commission as Petitioner's Exhibit 7.

There were questions by the County regarding location of the project, its proposed school site, and project breakdown of single and multi-family units.

A break was taken at 10:47 a.m., and the meeting reconvened at 10:58 a.m.

Questions were asked by the State and a request was made that all persons be given full disclosure of homes purchased in the flood hazard zone area.

The Commission expressed concerns regarding lower cost housing for workers moving from other islands to Kauai and the impacts on traffic congestion and how it will be avoided. Mr. Roberts indicated that an existing condition in the zoning case with the County required the Petitioner to build a bypass road from Poipu to Koloa Road to help alleviate traffic.

Mr. Roberts was asked to comment on Mr. Stanley Erickson's written testimony regarding timeshare development, a proposal not included in the Petition Area in Kukui'ula Bay, and drainage issues along Lawai Road.

3. Rodney Funakoshi

Mr. Funakoshi was accepted by the Commission as a qualified expert in the areas of land use and environmental planning.

Mr. Funakoshi provided a brief summary of his written testimony provided to the Commission as Petitioner's Exhibit A, and restricted his summary to page 2, paragraph 6; page 5, paragraph 14; page 7, paragraph 17; and page 11, paragraph 22. He provided information regarding invertebrate fauna, density reduction, flood hazards, and traffic impacts.

STATE'S WITNESSES

1. Abe Mitsuda

Mr. Mitsuda submitted written testimony (OP's Exhibit 1) in which he indicated that the State was working closely with the Petitioner to come to an agreement. Mr. Mitsuda further indicated questions regarding traffic situations could be answered by Ron Tsuzuki of the Department of Transportation who was present as one of the State's witnesses.

2. Ron Tsuzuki

Mr. Tsuzuki represented the State Department of Transportation and provided information on traffic impacts on Koloa Road and Kaumualii Highway. He believed that there was a proposed condition regarding the Petitioner's requirement to pay fair share improvements to Kaumualii Highway and was willing to work with the Petitioner to come up with a fair solution.

The County asked about the negative impacts on Koloa Road and Kaumualii Highway. Mr. Tsuzuki indicated the study showed there was a heavy left turn movement at the intersection, and that there were future plans to widen Kaumualii Highway.

COUNTY'S WITNESS

1. Keith Nitta

Mr. Nitta indicated that he represented the County of Kauai Planning Department. Mr. Nitta explained that the development was on one side of Lawai Road, and that traffic was limited to the amount of development occurring on the road. He believed that A&B Properties had made improvements to the road with sidewalks and curving, and Petitioner was debating whether there should be a connection to the project from Lawai Road, which the County believed was essential to this project. Mr. Nitta noted that this would not impact Lawai Road.

Commissioner Montgomery questioned the witness regarding time-share sales. Mr. Nitta indicated that time shares on Kauai have been an important part of the economy since the hurricane and contributed to steady flow of visitors to the island. He also indicated that the tourism count was high and was maintained at a very good level.

Mr. Matsubara indicated that the Petitioner had prepared a stipulated Proposed Decision and Order and stated that there were no objections by the County and State.

Commissioner Yukimura moved to accept the stipulated proposed Decision and Order. Commissioner Coppa seconded the motion.

Vice Chair Catalani indicated that he would prefer that on the State's language regarding the 1,500-unit cap, the word "approximately" be deleted.

Vice Chair Catalani's friendly amendment was accepted by the Commission and there were no objections to the amendment.

The Commissioner were polled as follows:

Ayes: Commissioners Yukimura, Coppa, Montgomery, Desai, Catalani, and Ing.

The motion passed with 6 ayes, 1 recused, and 2 absent.

A break was taken at 12:00.

A03-738 GENTRY INVESTMENT PROPERTIES (Oahu)

The meeting reconvened at 1:33 p.m. on Docket No. A03-738 Gentry Investment Properties.

Commissioner Desai was not present to the proceedings at this time.

Chair Ing indicated that the Commission would first consider Hawaii Prince Hotel Waikiki Corp.'s Petition for Intervention, followed by the hearing portion of this docket. Chair Ing also indicated that hearing on this docket would continue the next day at 8:30 a.m.

APPEARANCES

Ben Matsubara, Esq., representing Petitioner

Curtis Tabata, Esq., representing Petitioner

David Tanoue, Esq., representing the City and County of Honolulu, Department of Planning and Permitting

Judith Henry, Land Use Division, Office of Planning

John Chang, Esq., representing Land Use Division, Office of Planning

Linnel Nishioka, Esq., representing Intervener – Haseko (Ewa), Inc.

J. Douglas Ing Esq., and Teri Kondo, Esq., representing Intervener - Hawaii Prince Hotel Waikiki Corp.

Mr. Ing, representing Hawaii Prince Hotel Waikiki Corp., indicated that his client sought to intervene in order to participate in the resolution of drainage issues.

Vice Chair Catalani moved to accept Hawaii Prince Hotel Waikiki Corp.'s Petition for Intervention. Motion was seconded by Commissioner Coppa, and the Commission were polled as follows:

Ayes: Commissioners Catalani, Coppa, Montgomery, Yukimura, Sakumoto and Ing

The motion passed with 6 ayes and 3 absent.

Chair Ing announced that this was the hearing portion of Docket No. A03-738 Gentry Investment Properties to consider reclassifying approximately 282.614 acres of

land currently in the Agricultural District into the Urban District at Ewa, Oahu, Hawaii for residential, industrial/commercial, public facility, and open space uses.

PUBLIC WITNESSES

1. Norman Pang, Principal of Honomua Elementary School

Mr. Pang stated that he supported the Petition. He noted that the project would include an 18-acre site for a new middle school (grades 6 through 8), which would alleviate overcrowding at the existing elementary school.

2. Tisha Malama

Ms. Malama indicated that she was a concerned citizen and a member of the Ewa Neighborhood Board who was in favor of the Petition. She indicated that the parcel would link roads from Ewa Beach to Kapolei, which would alleviate traffic impacts.

3. Suzanne Alawa, General Manager, Ewa By Gentry Community Association

Ms. Alawa stated that she supported the approval of the Petition, which represented a continuation of Ewa by Gentry. She noted that the project would include two churches, a day care site, a middle school, and a 2-acre employment center.

Mr. Saruwatari, staff planner, provided a map orientation of the Petition Area. Mr. Saruwatari also provided a narrative to photographs taken of Kalo Gulch on July 6, and 8, 2003.

Mr. Ching added that there were series of gullies and detention areas, vegetated swells, soft surfaces, and holes in the pipes, and that the intent was to have individual property owners return drainage onto the project.

The Petitioner introduced its First Amended List of Witnesses and Exhibits 1 to 8.

The City and County of Honolulu introduced its Second Amended List of Witnesses and Exhibits 1 to 10.

The State introduced its List of Witnesses and Exhibits 1 to 8, and would be submitting an updated Exhibit 7 signed by all parties.

Intervener – Haseko (Ewa), Inc., indicated that they would not be offering any witnesses and exhibits because they were working toward a stipulation regarding the drainage at Kaloi Gulch and would be submitting the stipulation soon to incorporate it into the Decision and Order.

Intervener - Hawaii Prince Hotel Waikiki Corp. indicated that they had not submitted any witness list or exhibits because they hoped to enter into a stipulation with the Petitioner.

All witness and exhibit lists and exhibits introduced before the Commission at this time were admitted into the record.

PETITIONER'S WITNESSES

1. Robert Brant

Mr. Brant submitted written testimony, which was provided to the Commission as Petitioner's Exhibit 2. Mr. Brant provided a brief summary of his testimony, which included the history of the development of Ewa by Gentry, information on how the development would benefit the community, and traffic mitigation.

2. Mark Hastert

Mr. Hastert was accepted by the Commission as an expert on land planning. There were no objections and questions by the parties.

Mr. Hastert provided a summary of his written testimony that was submitted as Petitioner's Exhibit 3. The testimony included a description of the proposed development, topography and soils, flood and drainage conditions, surrounding land uses and structures and present use, development timetable, noise and other impacts, and wastewater disposal.

A break was taken at 2:47 p.m. The meeting reconvened at 2:59 p.m.

A inquiry was made by the City & County as to the date for the buildout of the residential portion. Mr. Hastert responded that buildout was projected for the year 2015.

The State expressed concerns regarding noise impacts from Barber's Point. The State noted that the single-family unit construction was close to the Barber's Point

Kalaeloa Airport. Mr. Hastert indicated that the coast guard still used the runways for rescue operations at all hours of the day and night. Mr. Hastert referenced Appendix II in the Petition, which was an acoustic study by Ewa by Gentry, Figures 15 and 16, on pages 48-49 of the report regarding noise contours.

Mr. Chang relayed concerns by the Office of Hawaiian Affairs that the Petitioner should conduct research to find names that were applicable to the area and make every effort to provide proper place names within the project.

Commissioner Sakumoto raised a concern regarding the State and City land use entitlements. Mr. Hastert indicated that the City required the Petitioner to accommodate Chapter 343 requirements, and that the Petitioner needed to go through the process before City entitlements were accepted.

There was a concern by the Commission about day care centers, preschools, and adult day care. Mr. Hastert indicated that he was aware of the desire by Gentry and some other interested parties that there would be day care facilities as part of the development program.

3. Karen Char

Ms. Char was accepted as an expert in real estate consulting in the area of fiscal and economic impacts. Ms. Char's written testimony was provided to the Commission as Petitioner's Exhibit 4. She provided a brief summary of her testimony.

4. Tom Nance

Mr. Nance was accepted as expert on water resource management in hydrology. He provided a brief summary of his written testimony that was provided to the Commission as Petitioner's Exhibit 6.

Mr. Nance provided a summary of the Kaloi Gulch watershed, the conceptual design for the Kaloi Gulch drainage, and background on the technical solution for potential flooding in the Kaloi Gulch Drainage Basin.

Chair Ing announced that the meeting would reconvene on July 11, 2003 at 8:30 a.m. The meeting adjourned at 3:49 p.m.

(Witnesses' testimonies and additional details on the above matters may be found in the LUC Transcript of July 10, 2003.)