

LAND USE COMMISSION
MINUTES OF MEETING

December 9, 2004
Lehua Ballroom
Hapuna Beach Prince Hotel
62-100 Kaunao`a Drive
Kohala Coast, Hawaii 96743

COMMISSIONERS PRESENT: P. Roy Catalani
Isaac Fiesta
Michael Formby
Steven Montgomery
Randall Sakumoto
Peter Yukimura

COMMISSIONERS ABSENT: Kyong-su Im
Lisa Judge

STAFF PRESENT: Diane Erickson, Deputy Attorney General
Anthony Ching, Executive Officer
Maxwell Rogers, Staff Planner
Sandra Matsushima, Chief Clerk
Holly Hackett, Court Reporter
Wade Leland Kersey, Audio Technician

Chair Catalani called the meeting to order at 10:25 a.m.

DOCKET NO. A03-744 HILUHILU DEVELOPMENT, LLC

Chair Catalani stated that this was a hearing on Docket No. A03-744 Hiluhilu Development, LLC to reclassify approximately 725.2 acres of land currently in the Conservation and Agricultural District in to the Urban District for residential, golf course, and mixed uses at Kau, North Kona, Hawaii.

Chair Catalani provided a brief summary and chronology of the list of the exhibits, and noted that during December 6th thru the 9th, 2004, the Commission has received letters in support of the petition from the following:

- Felicity Johnson, Principal of Hualalai Academy;
- Mark McGuffie, Vice President of the Kona-Kohala Chamber of Commerce Board of Directors;
- Eric Von Platen Luder, President of the Kona-Kohala Chamber of Commerce Board of Directors;
- Alan Clark, President of the Rotary Club of Kona; and
- Ann Cooper, Hawaii Community College.

Chair Catalani also noted that for the record, that he is a law partner with Rush Moore Craven Sutton Morry & Beh and that the owner's representative, Guido Giacometti, is the spouse of a partner in the firm. Chair Catalani added that he personally has no financial interest in this matter and will continue to participate in the proceedings.

APPEARANCES

Alan Okamoto, Esq., represented Petitioner

Jerel Yamamoto, Esq., represented Petitioner

Guy Lam, Principal of Hiluhilu

Guido Giacometti, the Owner's Representative

Norman Hayashi, County of Hawaii Planning Department

Bobbie Leithead-Todd, Esq., represented County of Hawaii Planning Department

John Chang, Esq., represented State Office of Planning

Abe Mitsuda, State Office of Planning

PUBLIC WITNESSES

1. Marni Herkes

Ms. Herkes stated that she was testifying on her own behalf and is in support of the project. She urged the commission to approve the petition because of the need for the university and higher education for West Hawaii residents. Copies of her written testimony were distributed to the Commission.

There were no questions by the parties and the Commission.

2. Diana Nui

Ms. Nui stated that she was a retired administrator for the Kamehameha Schools and currently represents the COED (Community Organization for Education Development) in support of this project. Ms. Nui's written testimony was distributed to the Commission.

There were no questions by the parties and the Commission.

3. Lionel Kutner

Mr. Kutner stated that he is the President of COED and was testifying in support of the petition. Mr. Kutner added that there is a need for a West Hawaii university and appreciates the work that petitioner has done to partner with the UH. Mr. Kutner's written testimony was distributed to the Commission.

There were no questions by the parties and the Commission.

Commissioner Montgomery entered the meeting at this time 10:50 a.m.

4. Karen Cobeen

Ms. Cobeen stated that she is a real estate agent with Clark Realty in Waimea. Ms. Cobeen indicated that she is a supporter of the project because there is a shortage of housing for those who work on this side of the island. She added that this project would offer a diversity that is not currently in the area with an educational element. Ms. Cobeen's written testimony was distributed to the Commission.

There were no questions posed by the parties and the Commission.

5. Jerry Rodstein

Mr. Rodstein stated that he is a representative of PASH and in support of the project. Mr. Rodstein discussed the Audubon International's golf course silver and gold standards, toxic chemicals, and protection for the environment. Mr. Rodstein indicated that Hiluhilu has given favorable consideration of these standards and should proceed, at the minimal, with the silver standard as being sufficient for this environment.

Vice Chair Montgomery had questions and concerns related to the toxic chemicals and the alternatives for a safer environment.

After a brief discussion, there were no further questions.

6. George Kahananui

Mr. Kahananui stated that he is a kupuna who has been living in the community for many years and that there have been significant problems in the past. He added that the Commission should look towards the future in order to correct today's problems.

Chair Catalani asked if there was a particular aspect of this project that would make him favorable or not in favor of the application. Mr. Kahananui replied that he did not have anything further.

There were no further questions by the parties and the Commission.

7. Mark McGuffie

Mr. McGuffie stated that he is the Vice President of the Kona-Kohala Chamber of Commerce Board of Directors. Mr. McGuffie testified in support of the petition stating that his development will provide the community with affordable and expanded access to higher education and training. He added that the project would also provide the necessary roadway improvements for the community.

There were no questions posed by the parties and the commission.

Chair Catalani noted that there were no additional public witnesses.

A recess break was taken at 11:15 a.m. The meeting reconvened at 11:30 a.m.

Staff Report

Staff Planner Maxwell Rogers provided the Commission with a staff report and a map orientation of the subject docket using LUC maps 1 and 2 of the subject docket area. Mr. Rogers discussed the summary of significant issues of the project.

Vice Chair Sakumoto asked if the IMCRMP was part of the record. Mr. Rogers replied in the affirmative and noted that it is the last 2 pages of the 2nd volume of the appendix.

There were no further questions by the parties and the Commission.

Admission of Exhibits by the Parties

Mr. Yamamoto introduced and described the resumes and exhibit and witness lists admitting into evidence. There were no objections by the County and the State. Said exhibits were admitted into the record.

Ms. Leithead-Todd stated that the County has one exhibit. Although they have two witnesses listed, they will have only Mr. Hayashi as their live witness. There were no objections by the State and the Petitioner. Said exhibit was admitted into the record.

Mr. Mitsuda indicated that the Office of Planning has submitted 7 exhibits, which includes OP's testimony, three maps consisting of the petition area, roadways, and the existing wells, the guideline to golf courses, DOT's comments, and the December 8, 2004 memorandum from DOT. Mr. Mitsuda added that they would be amending their exhibit list to reflect this memorandum. There were no objections from the County and the Petitioner. Said exhibits were admitted into the record.

Mr. Chang stated that Mr. Mitsuda and a witness from the State's DOT will be testifying on behalf of the DOT. There were no objections by the parties.

Chair Catalani had concerns related to the significant issues that staff has reported, such as the DOE fair share issue, and asked if the State was to present a live witness to address this. Mr. Chang replied that the State would gladly provide a live witness that the Commission feels appropriate.

Reimbursement Policy

Chair Catalani asked Mr. Okamoto if staff had provided notice and if he had any comments with respect to the Commission's reimbursement policy. Mr. Okamoto answered in the affirmative and added that they are clear on what the Petitioner is expected to pay for and understood the Commission's policy.

PETITIONER'S WITNESSES

1. Francis Oda

Mr. Oda stated that he is the CEO of Group 70 International. Mr. Oda discussed the overview of the project elements, residential components, conference center, and the commercial town center.

Mr. Okamoto stated that Mr. Oda's resume was submitted as exhibit 32. Mr. Oda was qualified as an expert in land planning. There were no objections by the parties.

After a discussion, Ms. Leithead-Todd indicated that the County had no questions.

Mr. Chang had a few questions on the impact to other institutions in the Kona area, such as the University of the Nations.

Commissioner Formby had questions and concerns related to the FEIS's comments on the partnership, the building, and the leasing of square footage to the university.

Vice Chair Sakumoto's questions and concerns were relative to the public's testimony supporting the petition because of the university's component.

Vice Chair Montgomery had a few questions on affordable housing and the possibility of the university utilizing the natural resources of the area in their curriculum.

Chair Catalani noted that the Commission has an obligation to access or identify all cultural and archeological impacts and asked Mr. Oda to explain the specifics regarding commitment of the dry land forest in the petition area.

After a discussion, there were no further questions by the parties and the Commission.

A lunch break was taken at 1:00 p.m. and the meeting reconvened at 2:30 p.m.

2. Jan Yokota

Ms. Yokota stated that she is the Director of Capital Improvements for the University of Hawaii. Ms. Yokota discussed issues of the West Hawaii Center, the Hawaii Community College, and the planned development for the university's component of the project.

Vice Chair Sakumoto had questions and concerns related to Mr. Oda's testimony on the conceptual stages of the village and the agreement between the University and the developer.

After a brief discussion, there were no further questions posed by the parties and the Commission.

3. Rockne Freitas

Mr. Freitas stated that he is the Chancellor of the Hawaii Community College. His written testimony was distributed to the Commission. Mr. Freitas discussed issues of the university's admissions, programs, enrollment, and educational opportunities for the community.

Ms. Leithead-Todd had questions relating to articles referring to a 4-year campus in this location.

Mr. Chang's questions were in reference to the impacts towards other educational facilities in the area, such as the Kamehameha Schools.

Vice Chair Montgomery had questions and concerns relative to the coordination of development with other educational facilities, as the University of Nations is also developing a complex in Kailua-Kona.

After a brief discussion, there were no further questions by the parties and the Commission.

4. Kathy Damon

Ms. Damon stated that she is the Director of the University Center. Ms. Damon discussed issues of tuition and the distance for students who need to commute from the other side of the island.

Vice Chair Montgomery had questions and concerns regarding the impact to UH Hilo if these students will be attending a university in Kona.

Commissioner Yukimura's questions were relative to the village center being a mirror image of the university's side, and the possibility of the 500 acres to be developed to a 4-year college.

Commissioner Formby had questions in reference to the development plan for the university at full build out in 2007, and the recommendation of constructing a stub out.

Vice Chair Sakumoto had questions regarding the MOU referencing leases of 5-10 years, estimated move in date of 2007, and the other half of the village located on state property.

Chair Catalani's questions were relative to the 2007 projected commencement date, agreement between the university and the developer, and the current lease expiration date for the university.

After a discussion, there were no further questions posed by the parties and the Commission.

5. Guy Lam

Mr. Lam stated that he is one of the owner's of Hiluhilu Development, LLC and provided the background of the project development.

Ms. Leithead-Todd noted that the County had no questions.

Mr. Chang's questions were related to OP's recommendation of certain conditions.

A recess break was taken at 3:35 p.m. The meeting reconvened at 3:55 p.m.

Commissioner Fiesta left the proceedings at this time.

Mr. Lam continued to discuss issues of transportation improvements, county zoning, and the potential agreement between the DOT and the petitioner.

Vice Chair Montgomery's questions and concerns were in reference to traffic congestion, integrated planning and affordable housing requirements, and suggested the offering of affordable housing to the full time students.

Vice Chair Sakumoto had questions and concerns relative to the timeframe of the university's commencement date, ohana units, and other merits of the development, if for some reason the university component does not materialize.

Chair Catalani had questions and concerns regarding the 2007 target date for the West Hawaii Center in correlation with the county's zoning approval, the amount of acreage in the fairway and golf course, and the use of brackish water and pumpage levels.

Ms. Leithead-Todd had a few questions regarding the county's current review of the affordable housing policy requirements and the potential increase in the number of units to be recommended under this new county policy.

Mr. Chang noted that the State had no questions.

6. Clive Jones

Mr. Jones stated that he conducted the marketing studies on both residential and commercial, and the overall concept of the university village. His resume was submitted as exhibit 35 and he was qualified as an expert in marketing and financial feasibility. There were no objections by the parties.

Mr. Jones discussed issues of housing demand, the mix of development plans based on the potential local market, commercial space based upon the university being an anchor tenant, the connection to the palisades area, and other components, such as a hotel included in the project.

Commissioner Formby had a few questions relative to the analysis and if the survey indicated that the presence of the university was the important factor for this project.

Vice Chair Sakumoto had questions in reference to the analysis and the demand of commercial space in that area, and if that demand was dependent on the presence of the university.

Vice Chair Montgomery's questions were relative to the housing units, the structure type, and if any preference will be given to full time students.

Chair Catalani had questions and concerns regarding the town center's dependency on the university and how it could remain financially capable after the university moves out.

After a brief discussion, there were no further questions posed by the parties and the Commission.

7. Ted Kawahigashi

Mr. Kawahigashi stated that he is the principle of Transportation Engineering at Austin Tsutsumi & Associates. Mr. Kawahigashi's resume was submitted as petitioner's Exhibit No. 30. Mr. Kawahigashi was qualified as an expert in traffic engineering. There were no objections by the parties.

Mr. Kawahigashi discussed issues of the regional traffic impact analysis and referred to the State's Exhibit 3 map.

A recess break was taken at 5:15 p.m. The meeting reconvened at 5:35 p.m.

Ms. Leithead-Todd had questions related to the timeline of the final traffic analysis and preferred access at the intersection of the Keahole Airport.

Mr. Chang's questions were in reference to the EIS preferred access, TIAR, and the recommendations made.

Vice Chair Sakumoto had questions and concerns related to OP's Exhibit 2, the traffic analysis and final TIAR, and the number of recommended roadway improvements.

Commissioner Formby asked for clarification on previous testimony related to the airport access road and impacts. Commissioner Formby then commended Mr. Kawahigashi for his clear explanation of the traffic analysis.

Chair Catalani had a few questions regarding the initial construction of the proposed main street that would be turned over to the county, the TIAR, and mitigation measures with the DOT for its fair share contribution.

8. Robert Rechtman

Dr. Rechtman's resume was submitted as petitioner's exhibit number 33 and he was qualified as an expert in archeology. There were no objections by the parties. Dr. Rechtman stated that he prepared a report for the petitioner and briefly summarized his findings and the reported 83 archeological sites.

Ms. Leithead-Todd had a few questions regarding letters from the Historic Preservation Division, the increased number of historical sites referenced, and the location of lava tubes.

Mr. Chang's questions were in reference to the mitigation plan, the 22 referenced sites, habitation in the lava tubes, and the report of no burial sites in the area.

Vice Chair Sakumoto had questions and concerns in reference to Dr. Rechtman's report on cultural assessment, modern and ancient cultural practices, and the 45-day review process by the state's Historical Preservation Division.

Chair Catalani had a few questions related to the archeological resources analyzed, the traditional cultural practices, and mitigation measures.

Vice Chair Montgomery had a few questions in reference to the management plan, and water collection in the caves.

After a discussion, there were no further questions by the parties and the commission.

The meeting adjourned at 6:45 p.m.

(Please refer to the LUC Transcript of December 9, 2004 for additional details on all above matters.)