

LAND USE COMMISSION
MINUTES OF MEETING

July 6, 2006

Conference Room 405
Leiopapa A Kamehameha
235 So. Beretania Street
Honolulu, Hawaii

COMMISSIONERS PRESENT: Thomas Contrades
Michael Formby
Kyong-su Im
Lisa Judge
Duane Kanuha
Steven Montgomery
Nicholas Teves
Reuben Wong

COMMISSIONERS ABSENT: Ransom Piltz

STAFF PRESENT: Anthony Ching, Executive Officer
Diane Erickson, Deputy Attorney General
Maxwell Rogers, Staff Planner
Bert Saruwatari, Staff Planner
Sandra Matsushima, Chief Clerk
Holly Hackett, Court Reporter
Walter Mensching, Audio Technician

Presiding Officer Montgomery called the meeting to order at 10:35 a.m.

ADOPTION OF MINUTES

Commissioner Formby moved to adopt the minutes of June 7, 2006, June 8, 2006, and June 22, 2006. Commissioner Kanuha seconded the motion. Said motion was approved by voice votes.

Commissioner Wong abstained from voting, indicating that he was not involved in these meetings.

Presiding Officer Montgomery welcomed Reuben Wong, newest member of the LUC.

TENTATIVE MEETING SCHEDULE

Executive Officer Anthony Ching reported the following schedule:

- August 3 the LUC will hold a half-day meeting on Kauai to amend the decision and order for Docket No. A94-703 Lihue Plantation Company.
- The second August meetings will be held on the fourth Thursday- Friday (August 24-25) instead of the third week (August 17-18) because the third Friday is a holiday (Admissions Day).
- August 24-25 the LUC will be on Maui to open a hearing on an outstanding docket item.

There were no questions posed by the Commission.

Commissioner Kanuha moved to amend the agenda to allow for the nomination and election of a Chairperson and Vice Chairperson for the LUC. Commissioner Formby seconded the motion.

The Commission was polled as follows:

Ayes: Commissioners Kanuha, Formby, Contrades, Im, Judge, Teves, Wong, and Montgomery.

The motion passed with 8 ayes, 1 absent.

ELECTION OF OFFICERS

Commissioner Kanuha moved to nominate Lisa Judge as Chairperson, Steven Montgomery as Vice Chairperson, and Michael Formby as Vice Chairperson. Commissioner Contrades seconded the motion. Said motion was approved by voice votes.

Mr. Ching commented that Vice Chair Montgomery was still a member of the LUC because he has an automatic holdover status. Presently, there is no interim or other nomination to replace him. Vice Chair Montgomery is willing to serve on a holdover basis as allowed under state law until an interim Commissioner is appointed by the Governor or two years maximum, whichever comes first.

A06-766 TOWNE DEVELOPMENT OF HAWAII, INC., ENDURANCE INVESTORS, LLC, AND ASSOCIATION OF II WAI HUI LP (Maui)

Chair Judge stated that this was an action meeting to: 1) Determine Whether the Land Use Commission is the Appropriate Accepting Authority Pursuant to Chapter 343, Hawaii Revised Statutes, for the Reclassification of Approximately 210 Acres of Land Currently in the Agricultural District to the Rural and Urban Districts for Residential and Park Uses at Wailuku, Maui, Hawaii; and 2) to Determine Whether the Proposed Action may have a "Significant Effect" to Warrant the Preparation of an Environmental Impact Statement pursuant to Chapter 343, Hawaii Revised Statutes.

APPEARANCES

Blaine Kobayashi, Esq., represented Petitioner
Chris Lau, Towne Development of Hawaii, Inc.
Bryan Yee, Esq., represented State Office of Planning
Abe Mitsuda, State Office of Planning

Chair Judge noted that the County of Maui has indicated (via email communication) that they would not be present at today's proceedings and have indicated that they have no objection to the LUC being the accepting authority and agrees that the preparation of an EIS is warranted. The county has also requested that a letter of comment to Mr. Mike Munekiyo, whose firm is preparing the EIS, be included in the record for this docket.

Chair Judge noted that there were no public witnesses.

Mr. Kobayashi began his presentation and stated that based on the LUC's statute and rules, petitioner believed that the LUC is the appropriate accepting authority. Mr. Kobayashi also acknowledged that petitioner's proposed development may have a significant effect and as a consequence, has prepared an EISPN.

Mr. Yee noted that the state agrees with the petitioner that the preparation of an EIS is appropriate for this docket and that the LUC is the appropriate accepting authority.

Vice Chair Formby moved that the LUC accept responsibility to review the EIS prepared in this docket as provided for under Chapter 343, HRS. The motion was seconded by Commissioner Contrades.

The Commission was polled as follows:

Ayes: Commissioners Formby, Contrades, Wong, Teves, Montgomery, Kanuha, Im, and Judge.

The motion passed with 8 ayes, 1 absent.

Vice Chair Formby moved that based on petitioner's documents and representations made, the project may have a significant effect such that the preparation of an EIS is warranted.

The Commission was polled as follows:

Ayes: Commissioners Formby, Contrades, Im, Kanuha, Montgomery, Teves, Wong, and Judge.

The motion passed with 8 ayes, 1 absent.

A83-549 GAMREX, INC. (Hawaii)

Chair Judge stated that this was an action meeting to consider Movant Kona Vistas, LLC's Motion To Change Petitioner's Name And Amend Caption.

APPEARANCES

Tim Lui-Kwan, Esq., represented Petitioner

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

Norman Hayashi, County of Hawaii Planning Department

Bryan Yee, Esq., represented State Office of Planning

Abe Mitsuda, State Office of Planning

Chair Judge noted that there were no public witnesses.

Mr. Lui-Kwan stated that the essence of the motions describe the name change for this project. Mr. Lui-Kwan added his clarification that the change of name applies to the entire docket, which includes both Increment 1 (a completed subdivision) and Increment 2.

Both the county and the state had no comments or objections.

Vice Chair Formby had a question on the date of September 1, 2006, as indicated on the first page of the memorandum.

Mr. Lui-Kwan replied that he believed it should be 2005 and not 2006.

Mr. Ching commented that staff had come up with a different date and believed it was 1992, as reflected in the docket files.

Mr. Lui-Kwan noted that 1992 was correct, as he recalled it was the time of the name change from Gamlot to Gamrex.

Commissioner Kanuha moved that the LUC approve petitioner's motion to change petitioner's name from Gamrex, Inc. to Kona Vistas, LLC. The motion was seconded by Vice Chair Formby.

The Commission was polled as follows:

Ayes: Commissioners Kanuha, Formby, Contrades, Im, Montgomery, Teves, Wong, and Judge.

The motion passed with 8 ayes, 1 absent.

A06-767 WAIKOLOA MAUKA, LLC (Hawaii)

Chair Judge stated that this was an action meeting to: 1) Determine Whether the Land Use Commission is the Appropriate Accepting Authority Pursuant to Chapter 343, Hawaii Revised Statutes, for the Reclassification of approximately 731.581 acres of Land Currently in the Agricultural District to the Rural District for Residential Uses at Waikoloa, Hawaii; and 2) to Determine Whether the Proposed Action may have a “Significant Effect” to Warrant the Preparation of an Environmental Impact Statement Pursuant to Chapter 343, Hawaii Revised Statutes.

APPEARANCES

Naomi Kuwaye, Esq., represented Petitioner
Stephanie Uechi, Esq., represented Petitioner
Bobbie Jean Leithead-Todd, Esq., represented County of Hawaii Planning Department
Norman Hayashi, County of Hawaii Planning Department
Bryan Yee, Esq., represented State Office of Planning
Abe Mitsuda, State Office of Planning

Chair Judge noted that there were no public witnesses.

Ms. Kuwaye began her presentation and stated that her client had filed a petition for reclassification for the Waikoloa project. Due to the size of the project, the petitioner believes that the project may have a significant effect on the environment and is consequently ready to prepare an EIS. Petitioner also believes that the LUC is the appropriate reviewing and accepting authority.

Ms. Leithead-Todd stated that the county does not have any objections but did have a concern regarding page 1-3, section 1-4, where the petitioner describes the connection of the proposed development to county lands as a trigger for the EIS.

Mr. Yee noted that the state had no comments except to note that this project would entail more than just a connection to county lands and also believes that the preparation of an EIS is appropriate in this docket. Mr. Yee added that the LUC is the appropriate accepting agency.

Ms. Kuwaye commented that they are being conservative as to the possible traffic improvements that will involve creating county easements and roadways and contend that the EIS is appropriate in this situation.

Commissioner Kanuha sought clarification that the LUC is the accepting authority based on the criteria established in Chapter 343 and that the trigger preparing the EIS was based on petitioner's representation that the projects overall size and scale will have a significant impact on the environment.

Ms. Kuwaye noted that there are two determinations. The first is whether or not Chapter 343 is triggered on the possible use of state and county lands for traffic improvements and the second is whether the EIS is required. Ms. Kuwaye commented that they believed their project may have a significant impact on the environment because of its size and are prepared to proceed with the preparation of an EIS. Ms. Kuwaye added that they believed the LUC is the appropriate accepting authority.

Commissioner Kanuha moved that the LUC is the appropriate accepting authority pursuant to Chapter 343, HRS. Commissioner Teves seconded the motion.

The Commission was polled as follows:

Ayes: Commissioners Kanuha, Teves, Wong, Montgomery, Im, Formby, Contrades, and Judge.

The motion passed with 8 ayes, 1 absent.

Commissioner Kanuha moved that the LUC determine that the proposed action may have a significant effect to warrant the preparation of the EIS. The motion was seconded by Vice Chair Montgomery.

The Commission was polled as follows:

Ayes: Commissioners Kanuha, Montgomery, Contrades, Formby, Im, Teves, Wong, and Judge.

The motion passed with 8 ayes, 1 absent.

Mr. Ching noted that the July 7th meeting would entail a short workshop with appearances by Duane Okamoto from the Department of Agriculture, and Laura Thielen, Director of the Office of Planning. The discussion will be related to Acts 183 and 205, Session Laws 2005 relating to IAL, and the development of new rural district standards.

Chair Judge announced that the workshop meeting would begin at 10:00 a.m.

The meeting adjourned at 11:30 a.m.

(Please refer to LUC Transcript of July 6, 2006 for more details on this matter.)