

LAND USE COMMISSION  
MINUTES OF MEETING

April 12, 2007

Leiopapa A Kamehameha  
4th Floor  
Conference Room 405  
235 So. Beretania Street  
Honolulu, Hawaii

COMMISSIONERS PRESENT: Thomas Contrades  
Kyong-su Im  
Lisa Judge  
Duane Kanuha  
Ransom Piltz  
Nicholas Teves  
Reuben Wong

COMMISSIONERS ABSENT: Michael Formby  
Steven Montgomery

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

Chair Judge called the meeting to order at 9:10 a.m.

## ADOPTION OF MINUTES

Commissioner Piltz moved to adopt the minutes of March 15 and 16, 2007. Commissioner Im seconded the motion. The minutes of March 15 and 16, 2007 were approved by voice votes.

## TENTATIVE MEETING SCHEDULE

Executive Officer Anthony Ching reported that the July and August meeting dates have shifted slightly to allow for the 4<sup>th</sup> of July and Admissions Day holiday. Mr. Ching noted that the April 26 and May 3 meetings are scheduled a week apart. Mr. Ching commented that with the exception of these dates, staff would try their best to keep future meeting dates to the usual 1<sup>st</sup> and 3<sup>rd</sup> week calendar.

There were no questions posed by the Commissioners.

## REIMBURSEMENT POLICY UPDATE

Mr. Ching reported that this item would be placed on the agenda for the next meeting for action. Mr. Ching noted that because of heightened operating expenses and number of filings, staff would propose that the policy is clarified and expanded to include preliminary proceedings.

There were no questions posed by the Commissioners.

## A06-763 KAPOLEI PROPERTY DEVELOPMENT, LLC (Oahu)

Chair Judge stated that this was a continued hearing on Docket No. A06-763 Kapolei Property Development LLC to consider the reclassification of approximately 344.519 acres of land currently in the Agricultural District to the Urban District for business industrial park uses at Ewa, Oahu, Hawaii.

## APPEARANCES

Benjamin Kudo, Esq., represented Petitioner

Naomi Kuwaye, Esq., represented Petitioner

Lori Sunakoda, Esq., represented City & County of Honolulu, Department of Planning and Permitting

Ray Sakai, City & County of Honolulu, Department of Planning and Permitting

Bryan Yee, Esq., represented State Office of Planning

Abe Mitsuda, State Office of Planning

Chair Judge entertained a motion to amend the agenda to consider and take action on the motion submitting the written testimony of Brad Myers.

Commissioner Piltz moved to amend the agenda to include action on the motion to submit the written testimony of Brad Myers and amend the exhibit list. The motion was seconded by Commissioner Kanuha.

The Commission was polled as follows:

Ayes: Piltz, Kanuha, Im, Teves, Wong, and Judge

The motion passed with 6 yes, 3 absent

## Admission of Additional Exhibits

Mr. Kudo offered petitioner's exhibit 51, the written testimony of Brad Myers to the record. The State and City had no objections.

Commissioner Wong moved to accept the written testimony of Mr. Myers, petitioner's exhibit 51, to the record. The motion was seconded by Commissioner Piltz.

The Commission was polled as follows:

Ayes: Wong, Piltz, Im, Kanuha, Teves, and Judge

The motion passed with 6 yes, 3 absent

Chair Judge noted that there were no public witnesses.

Petitioner's Witness

1. Brad Myers

Mr. Myers stated that he is the President of Kapolei Property Development (KPD) and oversees and manages the development activities of KPD and Aina Nui. Mr. Myers stated that he is directly involved with all of the projects in the Kapolei long-range master plan owned by KPD. Mr. Myers summarized his written testimony regarding traffic roadway improvements, the Kapolei long-range master plan, and commented that this project is a key piece of the master plan that would create the opportunity for higher paying jobs within the region. Mr. Myers also discussed the financial capacity of KPD and stated that KPD has the economic ability to undertake this project. Mr. Myers also discussed the area's cultural and historical natural resources, the sinkhole preserve area, stewardship, and the Chevron and Hawaii Western Steel waste sites. Mr. Myers re-emphasized that KPD is committed to do the right thing for this project and have great pride in their developments and the benefits that are created for the community.

Ms. Sunakoda stated that the City had no questions for Mr. Myers.

Mr. Yee posed questions regarding the non-potable water sources, the abandoned monitoring well, the preservation area land donation to the DLNR, noise nuisance from the Kalaeloa Airport, ships and harbor operations, and the 2 acres set aside for a weigh station.

A recess break was taken at 10:20 a.m. The meeting reconvened at 10:40 a.m.

Mr. Yee continued to pose questions related to LEED (Leadership in Energy and Environmental Design) standards.

Commissioner Teves questioned if KPD would construct the buildings or sell vacant parcels.

Mr. Myers stated that depending on the demand, they would be constructing some of the verticals, selling and leasing parcels.

Commissioner Wong posed questions regarding the potential use of photovoltaic energy production use and if KPD was willing to commit to a study to determine the cost of construction and the amount of energy to be produced.

Mr. Myers replied in the affirmative.

Commissioner Kanuha questioned if it was in Mr. Myers past experience that an industrial project would or would not create additional housing demands.

Mr. Myers replied that in his experience, an industrial project would not create any housing demands.

Commissioner Im commented that when a job is created within any given area, the individual needs a place to live. To that extent, some housing demands may be created by the creation of a job. Commissioner Im asked if Mr. Myers believed that in general, all developments create housing needs.

Mr. Myers noted that he agreed to that statement.

Mr. Kudo commented that petitioner intends to file with the LUC a post-hearing brief in regards to this specific issue on employee housing and affordable housing conditions.

Commissioner Im continued to pose questions regarding the likelihood for this project to secure its zoning approvals, and construct backbone infrastructure by the year 2018.

Commissioner Wong posed questions in reference to the subdivision approval, the construction time period, and the anticipated date to apply for zoning change.

Mr. Kudo stated that they would be filing an application for zoning for the three projects within the first quarter of 2008.

Chair Judge raised questions related to the sinkhole preserve, the approved cultural preservation plan prior to subdivision, and referenced the letter of January 22, 2007 from DLNR's Peter Young to Steve Kelly, and the January 17, 2007 e-mail regarding the commitment of Campbell Estates to preserve the area's cultural resources.

Mr. Kudo noted that petitioner would submit the January 17, 2007 email letter as a late submittal.

Chair Judge continued to pose questions regarding energy and the best sustainability practices, LEED, and KPD's economic capacities

After a brief discussion, there were no further questions posed for Mr. Myers by the parties or the Commission.

A recess break was taken at 11:30 a.m. The meeting reconvened at 11:45 a.m.

Ms. Sunokoda stated that the City had two witnesses but due to time constraints and scheduling issues, the parties had no objections to some witnesses being taken out of order.

#### Admission of Additional Exhibits

Mr. Yee described and offered OP's exhibits 4A and 10A. The parties had no objections to the submittal of OP's exhibits 4A and 10A. Said exhibits were admitted into the record.

#### States Witness

1. Laura Thielen

Ms. Thielen referenced OP's exhibit 1 and summarized the position of the OP. Ms. Thielen discussed the OP's four recommendations: 1) the approval for reclassification; 2) traffic and roadway improvements; 3) renewable energy requirements; and 4) auto reversion or mandatory order to show cause proceeding in the event the property is not developed.

Ms. Kuwaye posed a few questions regarding clarification of OP's recommended condition no. 16 regarding hazardous materials and condition no. 8 related to established access rights.

Ms. Sunokoda raised questions regarding Ms. Thielen's reference to the Turtle Bay project, a mandatory order to show cause, and examples of economic change, market demands, successive change in owners, etc.

Commissioner Kanuha had a few questions related to OP's proposal for auto reversion and questioned how that would work if the petition area had already secured

county zoning. Commissioner Kanuha also posed questions regarding energy efficiency and the new state law that required State buildings to meet that goal by the year 2020.

Commissioner Contrades entered the meeting at this time.

Commissioner Wong had questions and concerns regarding whether or not the LUC should micro-manage the different phases of the development or if that should be the role of the OP, DOT or the City.

After a discussion, it was requested that Ms. Thielen continue her testimony at the next hearing due to time constraints.

A lunch recess was taken at 1:00 p.m. The meeting reconvened at 2:10 p.m.

Chair Judge noted that she would be leaving shortly. Commissioner Im will become the presiding officer in this matter at that point.

#### City's Witness

1. Kathy Sokugawa

Ms. Sokugawa stated that she was the Chief Planner at the City's Department of Planning and Permitting (DPP). Ms. Sokugawa briefly summarized her testimony and stated that she was familiar with the docket and the testimony of Mr. Myers. Ms. Sokugawa added that the City's affordable housing requirement was not triggered and would not be imposed upon this particular industrial use project.

Chair Judge posed a few questions regarding changes to Maui County's affordable housing policy to include commercial industrial developments, and non-residential projects and zone changes.

Presiding Officer Im asked if the City had ever imposed affordable housing requirements for non-residential zoning changes.

Ms. Sokugawa replied that she was not sure of what happened in the past, however, to her recollection there had been no such occurrence.

Commissioner Kanuha asked Ms. Sokugawa if she had an opinion on whether commercial or industrial rezoning should have an affordable housing requirement.

Ms. Sokugawa stated that it may be required for other jurisdictions, however, this project offers a variety of higher-level skilled jobs. Ms. Sokugawa added that it would also depend on the merits of the project (proposed transit line, etc.)

Commissioner Piltz commented that the petitioner's current rate of affordable housing in the area is 22%. Commissioner Piltz questioned what is the City's standard policy on affordable housing.

Ms. Sokugawa noted that the City's policy is 30% of the total developed units and that 10% would be 80% and below median income levels.

After a brief discussion, there were no further questions for Ms. Sokugawa from the parties or the Commission.

Chair Judge left the meeting at this time.

2. Ray Sakai

Mr. Sakai stated that he is a Planner with the City's DPP. Mr. Sakai was qualified as an expert in the area of land use planning. Mr. Sakai stated that the DPP supports the petition filed in this docket as it satisfies the general plan objectives.

After a brief discussion, there were no further questions for Mr. Sakai from the parties or the Commission.

States Witness (continued)

2. Gail Suzuki Jones

Ms. Suzuki Jones stated that she is an Energy Analyst with the DBEDT Strategic Industries Division. Ms. Suzuki Jones was qualified as an expert in the field of energy conservation. Ms. Suzuki Jones discussed Chapter 196 regarding energy efficiency and renewable energy, and the LEED certification process and provided examples of its implementation. Ms. Suzuki Jones stated that she agreed with OP's recommendation of utilizing LEED standards for this project.

Mr. Kudo posed questions regarding Chapter 196, LEED standards and its environmental and economic benefits.

Ms. Sunakoda had a few questions related to the LEED standards and recourse or appeal process that may be available to the landowner in challenging the USGBC.

Commissioner Wong questioned the additional cost to build a project in the silver standard.

Ms. Suzuki Jones stated that the percentage is approximately 1 to 3% on an average ballpark figure and that anything below silver standard (LEED certified) is potentially less. Ms. Suzuki Jones discussed the energy cost savings and added that a part of the LEED checklist also has water saving devices and construction/demolition recycling where projects divert construction waste to be recycled or reused.

Commissioner Kanuha had a few questions in reference to LEED's standard in determining what constitutes a green building.

Ms. Suzuki Jones stated that it is a building that utilizes the LEED guidelines and checklist for projects early in the conceptual phase and which is incorporated in the final design of the project. Ms. Suzuki Jones added that LEED design guidelines could be accomplished or exceeded by careful construction and architectural practices. The U.S. Green Building Council is not a government agency, rather they are a non-profit agency funded by dues, memberships fees, workshops, conferences, and occasional government grants.

Commissioner Teves had questions and concerns regarding added costs to the developers should they be required to follow LEED standards.

Ms. Suzuki-Jones commented that the cost to the developer would be recovered given the lower energy costs to operate.

After a discussion, there were no further questions for Ms. Suzuki Jones posed by the parties or the Commission.

A recess break was taken at 3:30 p.m. The meeting reconvened at 3:45 p.m.

### 3. Brennon Morioka

Mr. Morioka stated that he is the Deputy Director of DOT Highways Division. Mr. Morioka was qualified as an expert in highway traffic engineering. Mr. Morioka discussed the tentative agreement (MOA) between the DOT and KPD to construct a 4-

lane divided highway that meets State standards, a 2-acre parcel to be used for a weigh station, and an amended TIAR.

Commissioner Wong posed questions regarding the 2-acre weigh station and asked whether this parcel would be donated or sold to the State.

Mr. Morioka stated that they are in the process of finalizing an agreement and noted that the acquisition, whether purchased or dedicated, would be a part of the MOA.

Presiding Officer Im raised questions in reference to the MOA, the 2-acre weigh station, and whether the parcel would be purchased at the price of its current land classification.

Mr. Morioka stated that they are still in discussion on the purchase price, however, he believed that the price when purchased would still be under fair market value. Mr. Morioka added that they would want to have the land set aside in its current zoning.

After a brief discussion, there were no further questions for Mr. Morioka by the parties or the Commission.

## 2. Fred Pascua

Mr. Pascua stated that he is the Planning Section Head for the DOT Harbors Division. Mr. Pascua was qualified as an expert in harbor engineering. Mr. Pascua discussed the importance of Kalaeloa, the commercial harbor system, and stated that this was the 2<sup>nd</sup> busiest harbor on Oahu. Mr. Pascua also commented on the anticipated improvements by the State, County, and private developers. Mr. Pascua discussed the recommended security fencing to keep an un-obstructed view and to prevent people from entering the harbor. Mr. Pascua also discussed noise and nuisances, recommended disclosure (i.e. noise, smell, vehicles, lights, dust, ship operations, horns); since the harbor operates 24 hours a day and these nuisances would only increase as the harbor operation expands.

Commissioner Piltz commented on the need for a 10-foot unobstructed view of the property line for security reasons and questioned if that amount of land from the petitioner would total to more than 25-acres. Mr. Pascua replied that it would not.

Presiding Officer Im had questions related to the 10-foot buffer between the petition area and/or the security fence line, navigational improvements, and the deepening of the channel.

After a discussion, there were no further questions posed for Mr. Pascua by the parties or the Commission.

Mr. Yee noted that Ms. Thielen was no longer available.

Presiding Officer Im noted that the LUC would continue this matter with Ms. Thielen at their next meeting.

Commissioner Wong commented that he had a number of questions of Ms. Thielen regarding the policy issues and wondered if the LUC could consider a special session without the expense of the petitioner on this matter.

Mr. Ching noted that for this particular matter, the LUC has not completed its examination of Ms. Thielen and there can be no earlier date to complete this hearing.

After a brief discussion, Presiding Officer Im noted that this matter would be continued on May 17-18, 2007.

The meeting adjourned at 4:30 p.m.

*(Please refer to LUC Transcript of April 12, 2007 for more details on this matter.)*