

LAND USE COMMISSION
MEETING MINUTES

January 22, 2010

Leiopapa A Kamehameha
Conference Room 405, 4th Floor
235 S. Beretania St.
Honolulu, Hawai'i

COMMISSIONERS PRESENT: Duane Kanuha
Ransom Piltz
Kyle Chock
Vladimir Devens
Lisa Judge
Reuben Wong

COMMISSIONERS ABSENT: Nicholas Teves, Jr.
Normand Lezy
Thomas Contrades

STAFF PRESENT: Orlando Davidson, Executive Officer
Bert Saruwatari, Staff Planner
Scott Derrickson, Staff Planner
Riley Hakoda, Staff Planner/Acting Chief Clerk

COURT REPORTER: Holly Hackett

AUDIO TECHNICIAN: Walter Mensching

CALL TO ORDER

Chair Piltz called the meeting to order at 9:11 a.m.

ACTION

A07-774 North Kona Village, LLC. (Hawaii)
National Park Service Petition to Intervene

Chair Piltz announced that this was an action meeting to consider the National Park Service's Petition to Intervene in Docket No. A07-774.

APPEARANCES

Jennifer Benck, Esq., represented North Kona Village, LLC.
Steven Lim, Esq., represented North Kona Village, LLC.
Bryan Yee, Esq., represented Office of Planning
Gregory Lind, Esq., represented the National Park Service
Gerry Bell, National Park Service
Sally Beavers, National Park Service

PUBLIC WITNESSES

There were no public witnesses.

NATIONAL PARK SERVICE

Mr. Lind provided a background and history of the National Park Service (NPS) and stated the reasons why the NPS had submitted its Petition to Intervene. He argued that the NPS was interested in protecting its property interests and the cultural and natural resources of the Kaloko-Honokohau National Park located near the Petition Area. Mr. Lind represented that the NPS had worked out an agreement with Petitioner on a set of development conditions that would be implemented as part of the Decision and Order, and that Petitioner had agreed to comply with the terms of the agreement.

PETITIONER

Ms. Benck stated that the Petitioner had filed a Memorandum to the NPS's Petition to Intervene indicating that the NPS had exceeded the scope of the agreement between Petitioner and the NPS. Ms. Benck noted that due to a timing issue, the agreement between Petitioner and NPS had not yet been executed when the Petitioner filed its Memorandum. Subsequently, the agreement was executed and it was Petitioner's understanding that the NPS's intervention, if granted, would be limited to the interests described in the executed agreement and that Petitioner had no opposition to the Petition to Intervene.

HAWAII COUNTY

Hawaii County had notified the LUC by phone that it had no position on the Petition to Intervene.

OP

Mr. Yee stated that OP had no opposition to the Petition to Intervene.

COMMISSIONERS

Commissioner Kanuha asked Mr. Lind if the NPS was in agreement with the stipulation for limited intervention. Mr. Lind acknowledged that the NPS was in agreement. Discussion ensued to clarify the NPS's criteria for determining intervention and to identify the Petition Area in relation to the Kaloko-Honokohau National Park. Commissioner Kanuha recommended that the NPS consider a "template" of criteria for its future interventions that would standardize matters brought before the Commission and that the proposed agreements between the Petitioner and Intervenor be pre-structured in a manner that would not require any enforcement or regulatory action by the LUC.

Commissioner Judge requested clarification on the details of the NPS agreement. Ms. Benck replied that it was binding on the parties and that the agreement would be recorded once the SMA permit was issued. Discussion ensued on how the implementation of the development conditions of the agreement would occur.

Commissioner Kanuha requested clarification on how the NPS's interest in the Petition for Intervention was different than the general public's. Mr. Lind described how the mission of the NPS was unique and different from other government agencies and the interests of the general public.

Commissioner Devens asked if the intent of the agreement was to limit the issues of the intervention as opposed to binding the LUC to the terms of the agreement. Ms. Benck confirmed that it was and that the Petitioner agreed to be bound by the agreement.

Commissioner Wong moved that the NPS Petition to Intervene be granted. Commissioner Kanuha seconded the motion.

Commissioner Kanuha restated that the Intervention would be limited to the issues as set forth in the stipulation and would not bind the LUC to the stipulation. There were no further questions or discussion.

The Commission was polled as follows:
Ayes: Commissioners Wong, Kanuha, Chock, Devens, Judge, and Piltz.
Nays: None

The motion passed 6-0 with 3 excused.

The Commission recessed at 9:38 a.m. and reconvened at 9:42 a.m.

CONTINUED HEARING

A07-775 Castle & Cooke Homes Hawaii Inc. (OAHU)

Chair Piltz announced that this was a continued hearing on Docket No. A07-775 to amend the Agricultural Land Use District Boundary into the Urban District for approximately 767.649 acres at Waipio and Waiawa, Island of Oahu, State of Hawaii.

APPEARANCES

Ben Matsubara, Esq., Wyeth Matsubara, Esq. and Curtis Tabata, Esq., represented Castle & Cooke Homes Inc.
Laura Kodama, Castle & Cooke Homes, Inc.
Dawn Takeuchi-Apuna Esq., represented City and County of Honolulu Department of Planning and Permitting
Matt Higashida, Department of Planning and Permitting
Bryan Yee, Esq., represented State Office of Planning
Abbey Mayer, State Office of Planning
Richard Poirier represented Intervenor-Mililani/Waipio/Melemanu Neighborhood Board No.25 (NHB#25)
Karen Loomis, NHB#25
Colin Yost, Esq., represented Intervenor-The Sierra Club

PUBLIC WITNESSES

There were no public witnesses.

PETITIONER'S WITNESSES

Mr. Wyeth Matsubara updated the order of witnesses that would be before the Commission and presented Petitioner's first witness.

1. Sharla Nakashima

Ms. Nakashima was qualified as an expert witness in environmental sciences and had submitted prior written testimony (Exh. # 46). Ms. Nakashima had no changes to her submitted report and described how she had conducted her site assessments and what her findings were regarding historic usage and solid waste.

Mr. Poirier asked if Kipapa Gulch was included in the survey. Ms. Nakashima clarified the areas that were included in her survey and stated that she did not know the nature and extent of residual remaining contaminants due to past use for growing pineapple in the area.

There were no other questions for Ms. Nakashima.

2. Don Olden

Mr. Olden was qualified as an expert in medical facilities management and development and had submitted prior written testimony and a study entitled "Koa Ridge Medical Center Facilities Planning Forecast 2015-2025" (Exh. #31 and 11 respectively).

Mr. Olden provided the background and history of Wahiawa General Hospital and identified the range of services currently provided by the facility. Mr. Olden described how his organization had cooperatively worked with Castle & Cooke on feasibility studies for medical facilities in the Koa Ridge Development and expressed his reasons why building the new proposed medical facility in the Petition Area would be beneficial to the community. He also described future plans for converting the older current hospital building to a skilled nursing and geriatric care facility.

Mr. Yee requested clarification on how a nursing home differed from a skilled nursing and geriatric facility. Mr. Olden described the differences in medical care services and facility requirements.

Mr. Poirier requested clarification on how a certificate of need would be obtained and what the estimated waiting period would be till the certificate was received. Mr. Poirier also requested clarification on how emergency vehicles could access the proposed facility.

Mr. Yost requested clarification on the areas of the island that the proposed medical center would provide coverage to and if other locations had been considered. Mr. Olden described how population density considerations limited the site choices for hospitals and indicated the geographic areas of coverage for the region using the exhibit map.

Commissioner Judge requested clarification of the various medical care categories and the associated bed/service demands of each.

Commissioner Judge also inquired where Mililani residents currently go for medical care, what type of entity the Wahiawa Hospital Association was, and what the correlation was between a population base and a hospital's profitability. Mr. Olden responded that he anticipated that Wahiawa Hospital would need less State funding support if the hospital facilities moved towards the larger population base of the Petition Area.

There were no other questions for Mr. Olden.

The Commission went into recess at 10:30 a.m. and reconvened at 10:46 a.m.

Mr. Curtis Tabata presented Petitioner's third witness.

3. Eric Guinther

Mr. Guinther was qualified as a Stream Resources Assessment expert and had submitted prior written testimony and curriculum vitae (Exh. #7A and 45 respectively).

Mr. Guinther provided the methodology, findings and recommendations of his study.

Mr. Yee requested clarification on the type of permitting requirements and mitigation measures that would be necessary for the basins.

Mr. Yost requested clarification on his water restoration, ecological and “green infrastructure improvement” concerns.

There were no other questions for Mr. Guinther.

Mr. Tabata asked Mr. Guinter to clarify the need and purpose for drainage basins mentioned on page four of his submitted written testimony.

4. Dr. Hal Hammett

Dr. Hammett was qualified as an archaeological and cultural assessment expert and had submitted prior written testimony, archaeological surveys and cultural assessments (Exh. # 39 and 7E, 7F, and 19).

Dr. Hammett provided the methodology and findings of his studies in the area.

Mr. Yee requested clarification on what remained to be done by Dr. Hammett to complete his work. Dr. Hammett replied that there were still six sites where data recovery was occurring that needed to be complete.

There were no other questions for Dr. Hammett.

The Commission went into recess at 11:35 a.m. and reconvened at 1:44 p.m.

Mr. Tabata presented Petitioner’s fifth witness.

5. Ann Bouslag

Ms. Bouslag was qualified as a Real Estate Market Assessment and Economic Impacts expert and had submitted prior written testimony and market reports (Exh.# 34 and 7G respectively).

Ms. Bouslag described the methodology and findings of her 2008 studies for the proposed project.

Mr. Yee requested clarification on the economic feasibility for the proposed project and its incremental development.

Mr. Yost requested clarification on the methodology used to determine the economic viability for the proposed development, the affordable housing requirement calculations and the proposed housing product mix.

Mr. Poirier requested clarification on the fiscal government debt service for the proposed infrastructure. Mr. Tabata objected and argued that it was beyond the scope of Ms. Bouslag's expertise. Mr. Poirier had no more questions for Ms. Bouslag.

Mr. Tabata asked if Ms. Bouslag was aware of the proposed relocation of agricultural facilities and what the net economic result would be. Ms. Bouslag stated she was aware of the relocation effort and estimated that there would be no significant economic loss.

Commissioner Judge requested clarification on how a "market study" differed from a "feasibility study". Ms. Bouslag replied that she did not factor cash flows or development costs into her study. Her focus was to determine if there was a need for the product and clarified the terminology she used in her report. Discussion ensued over the market influences affecting demand for housing and its absorption rate.

There were no other questions for Ms. Bouslag.

6. Todd Beiler

Mr. Beiler was qualified as an expert in environmental noise assessment and had submitted an environmental noise assessment report for the Petition Area (Exh. # 7J) and prior written testimony and curriculum vitae (Exh. #43).

Mr. Beiler described the methodology and findings of his 2008 noise assessment studies in the Petition Area and in nearby surrounding areas.

Mr. Tabata requested clarification on the recommended setback distances and other factors that could keep decibel levels in the Petition Area within limits.

Mr. Yee requested clarification on the proposed noise mitigation measures and on how the design features would control noise levels and conform to

prescribed guidelines for the exterior and interior portions of the structures in the proposed project.

Commissioner Piltz requested clarification on noise abatement measures recommending the use of walls and vegetation. There were no other questions for Mr. Beiler and no re-direct.

7. Garrett Matsunami

Mr. Matsunami was qualified as an expert in Engineering and Site Construction and had submitted prior written testimony (Exh. #32).

Mr. Matsunami summarized the details of his report on infrastructure considerations that factored into meeting the demands of the proposed project.

Ms. Takeuchi-Apuna requested clarification on the consequences of ownership changes of the proposed detention basins.

Mr. Yee requested clarification on considerations and requirements for "green infrastructure", "low-impact designs", and the proposed water detention basins.

Mr. Yost requested clarification on the methodology used in determining the demand and availability of drinking water for the Petition Area and its surrounding areas.

Mr. Poirier requested clarification on the contamination levels of the wells and of the possible consequences if the Koa Ridge Association did not accept ownership of the detention basins.

Commissioner Judge requested clarification on how maintenance and upkeep responsibilities would be performed on the water detention basins.

Commissioner Piltz requested clarification on provisions for routine drainage in the Petition Area.

Mr. Yee asked which Petitioner witness would provide water remediation plans for the proposed project. Mr. Matsunami provided the requested information.

Mr. Benjamin Matsubara updated the Commission on the witnesses for the next hearing.

There being no further business, the hearing was adjourned at 2:57 p.m.