

LAND USE COMMISSION
MEETING MINUTES

March 18, 2010

Leiopapa A Kamehameha
Conference Room 204, 2nd Floor
235 S. Beretania St.
Honolulu, Hawai`i

COMMISSIONERS PRESENT: Duane Kanuha
Normand Lezy
Nicholas Teves, Jr. (arrived at 10:30 a.m.)
Ransom Piltz
Vladimir Devens
Reuben Wong

COMMISSIONERS ABSENT: Kyle Chock
Thomas Contrades
Lisa Judge

STAFF PRESENT: Orlando Davidson, Executive Officer
Diane Erickson, Deputy Attorney General
Bert Saruwatari, 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 9:38 a.m. and announced that the LUC meeting scheduled for March 19, 2010 at 8:30 a.m. was cancelled. Item V on the agenda, the Adoption of Procedural Administrative Rules, would be deferred till a later meeting, and the 1:00 p.m. site visit related to BR09-784 Ka Iwi would be held as scheduled.

APPROVAL OF MINUTES

Chair Piltz asked if there were any corrections or additions to the minutes. There were none. The minutes were unanimously approved by a show of hands (5-0).

TENTATIVE MEETING SCHEDULE

Executive Officer Davidson provided the following:

- The regular tentative meeting schedule for the calendar year 2010 was distributed in the handout material for the Commissioners.
- The upcoming next three meetings in April and May are expected to be intense and all Commissioners were encouraged to attend. LUC staff would be circulating a memo regarding the meetings in the coming week.
- Any questions or conflicts, please contact LUC staff.

There were no questions or comments regarding the tentative schedule.

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.

Rodney Funakoshi, Castle & Cooke Homes, Inc.

Dawn Takeuchi-Apuna Esq., represented City and County of Honolulu Department of Planning and Permitting

Matthew Higashida, Department of Planning and Permitting

Bryan Yee, Esq., represented State Office of Planning

Abbey Mayer, State Office of Planning

Colin Yost, Esq., represented Intervenor-The Sierra Club

PUBLIC WITNESSES

1. Zuki Aki

Mr. Aki stated his concerns about the project and provided his reasons for opposing the Petition. There were no questions for Mr. Aki.

2. Shaina Hunt

Ms. Hunt shared her reasons for opposing the Petition. There were no questions for Ms. Hunt.

3. Brandi Hyden

Ms. Hyden expressed her reasons for opposing the Petition. There were no questions for Ms. Hyden.

4. Koa Luke

Mr. Luke provided his reasons for opposing the Petition. There were no questions for Mr. Luke.

5. Jim Hayes

Mr. Hayes stated his reasons why he felt the Project did not promote State goals and provided his reasons for opposing the Petition. There were no questions for Mr. Hayes.

6. Ashley Ferreira

Ms. Ferreira shared her reasons for supporting the Project. There were no questions for Ms. Ferreira.

7. Wynnie Joy-Hee

Ms. Joy-Hee expressed her reasons for opposing the Project. There were no questions for Ms. Joy-Hee.

8. Alice D. Fisher

Ms. Fisher shared her concerns regarding food security and stated her opposition to the Project. There were no questions for Ms. Fisher.

9. Kea Chun

Mr. Chun provided his reasons for opposing the Project. There were no questions for Mr. Chun.

10. Juanita Kawamoto-Brown

Ms. Kawamoto-Brown described her community affiliations and provided her reasons for opposing the development. There were no questions for Ms. Kawamoto-Brown.

11. Lydi Morgan

Ms. Morgan stated that she represented the Hawaii Farmers' Union and shared the background of her organization. She provided her understanding of the term "sustainability" and shared the reasons why her organization opposed the Project. There were no questions for Ms. Morgan.

The Commission went into recess at 10:30 a.m. and reconvened at 10:45 a.m.

PETITIONER'S WITNESSES

1. Pete Pasqua

Mr. Benjamin Matsubara requested that Petitioner's Exhibit #52-An agreement in principle between the Petitioner and the State Department of Transportation be admitted into evidence. There being no objections, Petitioner's Exhibit #52 was admitted into the record.

Mr. Matsubara offered Pete Pasqua, a Traffic Engineer with Wilson Okamoto Company, as an expert witness in Traffic Engineering and stated that Mr. Pasqua had submitted reports (Petitioner Exhibits #7I, 17A and 18) and written testimony (Exh. #40). Mr. Pasqua had also been involved with the formulation of the DOT agreement (Exhibit#52). There being no objections, Mr. Pasqua was accepted as an expert witness.

Mr. Pasqua explained the details of the Traffic Impact Analysis Report for the Petition Area, described the scope and methodologies used in his study and presented his findings and mitigation recommendations. He used OP's Exhibit #26 to describe the agreement that had been reached between the DOT and the Petitioner.

The County had no questions for Mr. Pasqua.

OP had no questions for Mr. Pasqua.

Mr. Yost requested clarification on the methodology and reasoning used in determining the parameters of the study. Discussion ensued over levels of service, road capacities and INIRX's (a Seattle-based Traffic Study group) findings and a 2008 report by an organization called TRIP.

Commissioner Teves excused himself at 11:16 a.m. and returned at 11:22 a.m. Commissioner Kanuha excused himself at 11:25 a.m. and returned at 11:27 a.m.

Mr. Yost asked for additional information regarding Federal DOT standards, parking facilities, the impact of construction on traffic, the impact of the school year on traffic and for details on how internal trip capture rates were calculated.

Mr. Poirier requested clarification on the future projections for traffic and on the study's findings regarding road improvement construction, commuting times, bottleneck conditions, mitigation measures and access to the Petition Area. Mr. Pasqua responded with his perception of traffic condition remedies and the reasoning and findings that his study supported.

The Commission went into recess at 12:04 p.m. and reconvened at 1:17 p.m.

Commissioner Lezy requested clarification on Petitioner's Exhibit #52 and on when a revised TIAR could be expected and approved. Mr. Pasqua replied that the TIAR would be ready within a week and that the agreement in principle included the assumptions made by the latest revised TIAR and did not have an estimate on when the TIAR would be approved by the DOT.

Commissioner Devens requested clarification on how the data for the study had been analyzed and how certain calculations had been determined. Mr. Pasqua provided details on the volume of cars that would be traveling in the study area and described the results of his analysis for travel times.

Commissioner Kanuha requested clarification on how the boundaries and parameters for the study had been determined. Mr. Pasqua explained the criteria used to make the decisions for designing the study and the accommodations that had been made to satisfy information requested by the Neighborhood Board.

Commissioner Devens asked for further details regarding trip calculation methodology. Mr. Pasqua provided the reference sources for his analysis and described the adjustments made to his study to obtain that data.

Chair Piltz questioned how school trip and internal capture rates were determined. Mr. Pasqua described the methodology for making these calculations in order to respond to DOT requirements.

Mr. Yost requested clarification on how certain assumptions were made to base the traffic generation studies on. Mr. Pasqua provided the reasoning used to structure his analysis.

Mr. Poirier questioned how car count numbers were obtained. Mr. Pasqua explained how his study obtained its figures. There were no further questions for Mr. Pasqua.

Mr. Matsubara stated that Mr. Pasqua was the final Petitioner's witness and concluded his presentation.

OP'S WITNESSES

Mr. Yee requested that OP's Exhibits 1, 10, 11, 24, 25, and 26 be admitted as evidence. There being no objections, the exhibits were admitted into the record.

Mr. Yee stated that his witnesses Michael Hoffman and Kathy Kealoha would not be appearing before the Commission.

1. Sandra Lee Kunimoto- Department of Agriculture (DOA)

Ms. Kunimoto stated her department's position was opposed to the Petition, but described the conditions for an "agricultural easement" that her department would like to have included in a Decision and Order if the Petition was granted.

Mr. Yee requested clarification on Dole Food's ability to comply with the suggested "agricultural easement" condition. Ms. Kunimoto indicated what portions of A and B land owned by Dole Foods would be impacted.

Mr. Matsubara requested clarification on how the policy for the 1 for 1 conveyance to a perpetual easement to the DOA came about. Ms. Kunimoto replied that it was administered on a case by case basis. Mr. Matsubara inquired what the reason was for the change in DOA's position from February 2009 and 2010. Ms. Kunimoto responded with her perception of how the position change evolved.

Discussion ensued over portions of Ms. Kunimoto's written testimony that referred to A92-683 Halekua Development and how the DOA had determined that agricultural easements could be included as a condition for a Decision and Order.

Ms. Takeuchi-Apuna asked what happened to the 150 acres in the Halekua Petition that was transferred to the Department of Agriculture. Ms. Kunimoto provided her understanding of what had happened to the acreage and what would occur if the 1 for 1 conveyance condition was implemented. Discussion ensued over how the conveyance process would be administered.

Mr. Yost requested clarification on Hawaii's abilities to be competitive in agricultural marketplace and on factors that affect the local farmers' ability to do business. Discussion ensued about issues that might impact Hawaii's agricultural industry.

Commissioner Lezy requested clarification on the DOA's development of its policy for land transfer. Ms. Kunimoto provided her understanding of how the policy was formulated.

Chair Piltz questioned the agricultural easement requirement and asked if it had been implemented elsewhere. Mr. Yee provided OP's definition of what an agricultural easement was and explained how OP would utilize the agricultural easement condition in the Decision and Order.

Chair Piltz requested clarification on the amount of agricultural land required to support Hawaii's population. Discussion ensued over what the appropriate amount of land would be to sustain Hawaii.

Commissioner Kanuha asked if the DOA opposed the Project. Ms. Kunimoto replied that it did.

Mr. Yee requested clarification on the timing of how the policy plan came into effect. Ms. Kunimoto provided her perception of how the plan evolved after the Hoopili Petition.

Mr. Yost requested more detailed clarification on the DOA policy. Ms. Kunimoto provided her understanding of how the policy would operate and what factors influenced it.

Mr. Matsubara requested clarification of the DOA policy and whether it was in writing and how certain criteria were established. Discussion ensued over how it had been determined that a policy needed to be implemented.

Commissioner Kanuha asked whether DOA or OP had made the decision to propose the agricultural easement policy. Ms. Kunimoto responded that it was initiated from OP and provided her department's role in the discussions.

There were no further questions for Ms. Kunimoto.

The Commission went into recess at 2:48 p.m. and reconvened at 3:02 p.m.

2. Brennon Morioka

Mr. Morioka represented that he was the Director of the State of Hawaii Department of Transportation and stated that the DOT did not object to the Project. He described how the DOT had been working with the Petitioner on a Memorandum of Agreement (MOA) and had reached full agreement at the conceptual level.

Petitioner had no questions.

Ms. Takeuchi-Apuna requested clarification on the estimated timetable for completing the Pineapple interchange and what effect the latest TIAR might have on the project. Mr. Morioka provided his understanding of the variables involved with the timetable and how changes in the timetable might occur.

Mr. Yost requested clarification on the status of the East Waiawa Interchange capacity levels and on details regarding peak travel times and

preserving level of service (LOS) efficiency. Mr. Morioka provided his department's findings and future plans for this section of highway. Mr. Yost asked for Mr. Morioka's perspectives regarding urban center locations in relation to transportation systems and for clarification on the impact of developments upon highway infrastructures and the role of the DOT in the Central Oahu Sustainable Communities Plan. Mr. Morioka explained the jurisdictions of state and county agencies involved in development of the Petition Area and shared his opinions about mitigation measures for the regional areas.

Commissioner Wong excused himself at 3:13 p.m. and returned at 3:14 p.m.

Mr. Poirier requested clarification on the impact of OMPO and county level decisions on DOT operations. Mr. Morioka provided his understanding of what would be the effect upon his department.

Mr. Poirier requested clarification on future projections for the highway systems and its estimated capabilities. Mr. Morioka identified the East Waiawa sections as areas that will be receiving improvements for operational efficiencies and explained the differences between capacity and queuing issues that presented level of service problems. Mr. Morioka described the reasons why the Hoopili development posed traffic problems which were more difficult and explained the differences between the H1 and H2 systems. There were no further questions for Mr. Morioka

Commissioner Devens **was** excused from the proceedings with the Chair's permission at 3:34 p.m. and did not return.

3. Heidi Meeker

Ms. Meeker, Ms. Kunimoto, Mr. Morioka, and Ms. Suzuki-Jones were offered by Mr. Yee and accepted as expert witnesses with no objections by the other parties and the Commission.

Mr. Yee referred to OP's Exhibit 7 and confirmed with Ms. Meeker that the Department of Education had no position on the proposed development. Ms. Meeker described the estimated student populations for the proposed project and Petitioner's proposal to provide school space

and monetary compensation to assist in providing educational services for the proposed project.

There were no questions by Petitioner or county.

Mr. Poirier requested clarification of the estimated classroom capacities for the proposed Project and on the contingency plans for providing for school children during the different development phases of the Petition Area. Ms. Meeker described the different contingency plans for the various scenarios that the proposed development posed. There were no further questions for Ms. Meeker.

The Commission went into recess at 3:43 p.m. and reconvened at 3:49 p.m.

4. Gail Suzuki-Jones

Mr. Yee referred to OP's Exhibit 12 and offered Ms. Suzuki-Jones as an expert witness in Energy Analysis. Ms. Suzuki-Jones described the Hawaii Clean Energy Initiative and the efforts that the State was involved in to conserve and promote energy efficiency. Ms. Suzuki-Jones described OP Exhibit 25's Green Communities Initiatives checklist and identified the achievements that had occurred in other projects in the State.

Mr. Tabata requested clarification of the use of incentives to accomplish energy conservation objections. Ms. Suzuki-Jones provided her understanding of how the private sector and government could support energy-efficient homes and comply with conservation standards.

The County had no questions.

Mr. Yost requested clarification on the costs involved in seeking energy-efficiency certification and registration. Ms. Suzuki-Jones described the expenses involved and explained how the use of incentives to achieve implementing energy conservation measures was working. There were no further questions for Ms. Suzuki-Jones.

5. Abbey Mayer

Mr. Mayer stated that OP supported the Petition and the redistricting of the land, but in an incremental fashion. He described the key conditions

that the State was seeking and indicated that his testimony was OP's Exhibit 1.

Mr. Mayer identified DOE impact fees, the DOT agreement compliance requirement, and the Department of Public Safety notification to potential owners about the proximity of the Waiawa Correctional facility as key conditions which the State was concerned about. Mr. Mayer stated that a concern of the Agricultural Development Corporation that had not been mentioned was about covering a portion of the Waiahole Ditch that ran through the Petition Area. Mr. Mayer described the proposed solution for fencing off the ditch if SHPD did not approve the covering of the ditch area.

Mr. Mayer provided his perception of OP's role in protecting agricultural lands and described OP's assistance with the development of the DOA policy. He explained how OP expected the agricultural easements to be handled to mitigate the impacts of the development and provided the reasoning used to formulate OP's position.

Mr. Mayer expressed the considerations and efforts that OP made in working with the Petitioner to develop the proposed Incremental Development Plan and timeline. He identified the access infrastructure to the Waiawa portion, the completion of dedication of agricultural easements, and the 20 year completion deadline for the Project as problem areas and offered the proposed conditions that OP had worked out with the Petitioner to mitigate them.

Mr. Mayer stated that OP also wanted to include conditions for an automatic Order to Show Cause and LEED requirements for energy conservation.

Mr. Yee asked what the alternative would be if the LUC did not include the LEED condition. Mr. Mayer replied that the Petitioner should be held to the representations made regarding energy conservation during its presentation.

Mr. Matsubara stated that the Petitioner and OP would identify the areas that would remain contentious in their respective proposed Decision and Orders that would be presented before the Commission and had no further questions for Mr. Mayer.

Ms. Takeuchi-Apuna requested an opportunity to question Mr. Mayer when the hearings resumed on this docket. Chair Piltz acknowledged her request.

The hearing was adjourned at 4:43 p.m. and set to resume on May 20-21, 2010, in Room 405, 4th Floor of the Leiopapa A Kamehameha Building.