

LAND USE COMMISSION
MEETING MINUTES

August 19, 2010

Leiopapa A Kamehameha
Conference Room 406, 4th Floor
235 S. Beretania St.
Honolulu, Hawai`i

COMMISSIONERS PRESENT: Vladimir Devens
Nicholas Teves, Jr.
Charles Jencks
Ronald Heller
Kyle Chock
Thomas Contrades
Duane Kanuha
Normand Lezy
Lisa Judge

COMMISSIONERS ABSENT: None

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: Hotai Zerba

CALL TO ORDER

Chair Devens called the meeting to order at 9:34 a.m.

APPROVAL OF MINUTES

Chair Devens asked if there were any corrections or additions to the July 15, 2010 minutes. There were none. Commissioner Contrades moved to approve the minutes. Commissioner Teves seconded the motion. The minutes were unanimously approved by a show of hands (9-0).

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 meetings in October will more than likely be held in Waikoloa as things are occurring for a 201H Petition in the area.
- Any questions or concerns- please contact LUC staff.

Chair Devens introduced Commissioner Jencks to the audience and recognized Commissioner Heller's request to make a disclosure statement.

Commissioner Heller described the relationships that he and his law firm had with the Wahiawa General Hospital and an associated individual which he felt could be perceived as potential conflicts of interest in Docket No. A07-775. Commissioner Heller stated that he felt that he could be impartial and objective in weighing the evidence on the record and would make decisions accordingly; but in the interest of full disclosure, was providing the Parties this notice to allow them the opportunity to object to his participation if there were any such concerns.

Mr. Matsubara stated that the Petitioner had no objections.

Ms. Apuna-Takeuchi stated that the City & County had no objections

Mr. Yee requested clarification on how Commissioner Heller's law firm could potentially benefit from LUC decision making and on the knowledge and types of information regarding Wahiawa General Hospital that he or his firm had access to that was not part of the record before the LUC. Commissioner Heller responded that to his knowledge, his firm was not directly involved with any matters directly related to the Petition and that he could not say whether or not his firm would gain more work if the Petition was or was not granted; and described the type of information about Wahiawa Hospital that he was involved with that related to the planning of the proposed facility. Mr. Yee stated that OP had no objection to Commissioner Heller's participation.

Mr. Yost requested clarification on the possible benefits to Commissioner Heller's law firm under alternative decisional outcomes. Commissioner Heller provided his perspectives of what might occur in each situation. Mr. Yost requested a recess to consider the information presented. Chair Devens responded that he would grant the recess request after hearing whether the Neighborhood Board had any objections.

Mr. Poirier had no objections to Commissioner Heller's participation.

The Commission went into recess at 9:47 a.m. and reconvened at 9:49 a.m.

Mr. Yost raised an objection to Commissioner Heller's participation in decision making and discussion ensued regarding the basis of the objection.

Chair Devens moved for the Commission to enter Executive Session. Commissioner Chock seconded the motion. By a unanimous show of hands (9-0), the Commission voted to enter into Executive Session.

The Commission exited to enter into Executive Session at 9:53 a.m. in the LUC office and reconvened at 9:56 a.m.

Commissioner Heller announced that he would recuse himself from this docket based on the concerns raised by the objection of Mr. Yost.

Chair Devens acknowledged Commissioner Heller's recusal and excused him from the proceedings (Eight commissioners remained).

ORAL ARGUMENT

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

Chair Devens announced that this was Oral Argument 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

Benjamin 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

Robert Harris, Esq. The Sierra Club

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

Richard Poirier, Intervenor-Mililani/Waipio/Melemanu Neighborhood Board No.25

Karen Loomis, Intervenor-Mililani/Waipio/Melemanu Neighborhood Board No.25

PUBLIC WITNESSES

1. Lia Patrick

Ms. Patrick read from her submitted written testimony and remarked about her family's concerns regarding the failure of Castle & Cooke to provide a cultural arts center as promised when they purchased their Mililani Mauka home.

There were no questions for Ms. Patrick.

2. Diane Hunkele

Ms. Hunkele provided her concerns regarding the manner in which Castle & Cooke developed an affordable housing project in lieu of the proposed arts and commercial center for Mililani residents.

There were no questions for Ms. Hunkele

3. Jim Walsh

Mr. Walsh explained why he supported the Petitioner's efforts to provide a medical center in the area.

There were no questions for Mr. Walsh.

4. Maurice Morita

Mr. Morita read from his submitted written testimony on behalf of the Hawaii Laborers-Employers Cooperation and Education Trust and provided the reasons why his organization was supporting the Petition.

There were no questions for Mr. Morita.

5. Al Lardizabal

Mr. Lardizabal stated that he represented the Laborer's Union and described how granting the Petition would help his membership.

There were no questions for Mr. Lardizabal

6. Penny Johnson

Ms. Johnson stated that she was the Director of Nursing and Manager of Surgical Services at Wahiawa General Hospital and provided her reasons for supporting the Petition.

There were no questions for Ms. Johnson.

7. Les Hunkele

Mr. Hunkele expressed his concerns about how Castle & Cooke handled a portion of land designated for an arts center in Mililani Mauka that did not materialize and provided his proposed solution as it related to granting the Petition.

There were no questions for Mr. Hunkele.

8. Les Masutani

Mr. Masutani stated that he was Vice President of Coastal Construction Company and provided the reasons why his company supported the Petition.

There were no questions for Mr. Masutani.

9. Kevin Kobayashi

Mr. Kobayashi expressed his concerns about Castle & Cooke's accountability to promises made to the Mililani community during the development of Mililani Mauka.

There were no questions for Mr. Kobayashi.

10. Geoff Mayfield

Mr. Mayfield described his disappointment with Castle & Cooke's failure to develop and complete their plans as promised for Mililani Mauka and requested better accountability for future developments.

11. Kathy Lau Best

Ms. Best shared the reasons why she and her family members supported the Petition.

There were no questions for Ms. Best.

12. Kika Bukoski

Mr. Bukoski spoke on behalf of William "Buzzy" Hong of the Hawaii Building and Construction Trades Council and stated that he stood on the submitted written testimony in support of the Petition.

There were no questions for Mr. Bukoski.

13. Mary Bowers

Ms. Bowers provided her concerns regarding sustainability and the loss of agricultural lands if the Petition were granted.

There were no questions for Ms. Bowers.

14. Dean Hazama

Mr. Hazama stated that he was Chair of the Mililani Mauka Neighborhood Board No. 35 and had participated as a member of the Koa Ridge Visioning Team. Mr. Hazama described the planning process that Castle & Cooke had used in developing its plans and provided his reasons for supporting the Petition.

There were no questions for Mr. Hazama.

15. Roy Doi

Mr. Doi described his relationship to the Wahiawa General Hospital and provided the reasons why his organization was supporting the Petition.

There were no questions for Mr. Doi.

16. Rayson Sakugawa

Mr. Sakugawa shared his concerns over the potential impact that he felt granting the Petition would have on the Department of Education and the failure of Castle & Cooke to provide a proposed arts center to the Mililani Community.

There were no questions for Mr. Sakugawa.

17. Jose Tansiongo

Mr. Tansiongo expressed why he decided to settle in Mililani and provided his concerns over Castle & Cooke's ability to deliver on its proposed development plan for the Petition Area.

There were no questions for Mr. Tansiongo.

18. Gary Battles

Mr. Battles described his experience with settling in Mililani and provided his concerns about how Castle & Cooke had not developed Mililani as it had initially proposed.

There were no questions for Mr. Battles.

19. Mary Peddie

Ms. Peddie described how she and her husband had decided to purchase a home in Mililani and expressed her disappointment with Castle & Cooke's proposed arts center not being constructed.

There were no questions for Ms. Peddie.

20. Scott Moore

Mr. Moore provided the reasons why he bought a home in the Mililani community and described his disappointment with Castle & Cooke's failure to develop its proposed arts center.

There were no questions for Mr. Moore.

21. Jicky Ferrer

Mr. Ferrer described his experiences with dealing with Castle & Cooke Homes and asked that the Commission review Castle & Cooke's recent actions when considering the Petition.

There were no questions for Mr. Ferrer

22. Representative Marilyn Lee

Representative Lee stated that she had submitted prior written testimony and expressed her support for the concerns of her constituents over traffic, educational facilities, and addition residential development in the area.

There were no questions for Representative Lee.

23. Ann Freed

Ms. Freed stated that she had submitted prior written testimony and expressed her concerns that the developer would not uphold the conditions of the Petition if it were granted.

Mr. Matsubara requested clarification of Ms. Freed's involvement and awareness of what had transpired during the negotiations in attempting to develop the Mililani Arts Center. Ms. Freed provided her understanding of the negotiations, the business plan and fundraising that was to have occurred to construct the art center. Discussion ensued regarding the activity that occurred while Ms. Freed was involved with the Arts Center development attempt.

There were no further questions for Ms. Freed.

The Commission went into recess at 10:49 a.m. and reconvened at 11:00 a.m.

Mr. Matsubara reserved 5 minutes of his allotted time for rebuttal and described the efforts that Petitioner had made to comply with the general expectations of the Office of Planning and specifically for the incremental reclassification of the Petition Area, provided reasons why the perpetual agricultural easements to protect important agricultural lands, and the energy conservation conditions for the project proposed by OP were not appropriate. Mr. Matsubara argued that the Petition should be granted based on these actions and other approval criteria that had been met by the Petitioner.

Ms. Takeuchi-Apuna described how the Department of Planning and Permitting (DPP) supported the Petition for reclassification since it was consistent with the vision of development priorities and phasing of the Central Oahu Sustainable Communities Plan and identified the DPP exceptions to the partial joinder to Petitioner's proposal. Ms. Takeuchi-Apuna described the three conditions that the DPP recommended to have included in the Decision and Order regarding the Pineapple Interchange, TIAR updates, and detention basins to help mitigate the concerns regarding traffic and drainage in the Petition Area and explained why the DPP opposed the proposed OP agricultural easements and argued the reasons for granting the Petition with the County's recommendations.

Mr. Yee described the efforts that OP had made in working with the Petitioner on this docket which included the incremental redistricting and development plan, and other accompanying conditions. Mr. Yee expressed that OP considered the issue of agricultural easements as the most important area of disagreement and explained the reasoning and methodology involved with developing OP's position and argued why the LUC should consider the agricultural land resources of the Petition Area land in its decision making and how the proposed agricultural easements could mitigate the impacts of urbanization. Mr. Yee discussed four issues that were highlighted in OP's pleading- incremental re-districting, sustainability, infrastructure deadline and automatic Order to Show Cause and argued how and why the conditions which pertained to them should be included in granting the Petition.

Mr. Yost argued that the Petition was deficient in providing for the sustainability elements of agricultural lands, traffic and smart growth and should not be granted. He provided his perspective of how difficult it was to implement sustainability and

argued why and how these deficiencies should be considered in the Commission's decision making on the Petition. Mr. Yost expressed that if the Petition were granted, all conditions proposed by the Sierra Club in its written submissions should be strictly enforced and provided for in the ultimate Decision and Order, including the agricultural easement and renewable energy requirements.

The Commission went into recess at 12:10 p.m. and reconvened at 12:21 p.m.

Mr. Poirier argued that the lack of comprehensive state and local planning, the lack of response and action to proposed Neighborhood Board zoning and planning resolutions, the existing Traffic Infrastructure, the lack of a second access road, and educational resources should be factored into the decision making to be done by the Commission and that the conditions proposed by the Neighborhood Board be accepted to mitigate the impacts of the proposed development.

On rebuttal, Mr. Matsubara described how the statutory requirements of the LUC rules and regulations had been satisfied during the docket proceedings. Mr. Matsubara thanked the Commission and concluded his presentation.

Chair Devens inquired if the Commissioners had any questions for the parties. Hearing none, Chair Devens stated that the Commission would take this matter under advisement and adjourned the meeting at 12:29 p.m.