

LAND USE COMMISSION  
MEETING MINUTES  
October 15, 2010

Leiopapa A Kamehameha  
Conference Room 406, 4th Floor  
235 S. Beretania St.  
Honolulu, Hawai`i 96813

COMMISSIONERS PRESENT: Nicholas Teves, Jr.  
Charles Jencks  
Thomas Contrades  
Duane Kanuha  
Normand Lezy  
Lisa Judge

COMMISSIONERS EXCUSED: Vladimir Devens  
Ronald Heller  
Kyle Chock

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**

Vice- Chair Contrades called the meeting to order at 9:40 a.m.

**APPROVAL OF MINUTES**

Vice-Chair Contrades asked if there were any corrections or additions to the October 7, 2010 minutes. There were none. Commissioner Jencks moved to approve

the minutes. Commissioner Kanuha seconded the motion. The minutes were unanimously approved by a voice vote (6-0).

### **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 meeting on October 21-22, 2010, will be focused on the A10-788 HHFDC/Forest City 201H project and will possibly require making meal arrangements with the hotel and having to work late on October 21<sup>st</sup>.
- Any questions or concerns- please contact LUC staff.

### **ACTION**

#### **A07-775 Castle & Cooke Homes Hawai`i, Inc. (O`ahu)**

Vice-Chair Contrades announced that this was an action meeting to adopt the Findings of Fact, Conclusions of Law, and Decision and Order on Docket A07-775 Castle & Cooke Homes Hawai`i. Inc.

### **APPEARANCES**

Benjamin Matsubara, Esq., Wyeth Matsubara, Esq., and Curtis Tabata, Esq., represented 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., Intervenor, The Sierra Club

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

### **PUBLIC WITNESSES**

None

ADOPTION OF FINDINGS OF FACT, CONCLUSIONS OF LAW, AND DECISION AND ORDER

Commissioner Lezy moved to adopt the proposed Findings of Fact, Conclusions of Law, and Decision and Order for discussion purposes. Commissioner Judge seconded the Motion.

DISCUSSION

Commissioner Judge proposed the following amendments to the conditions of the proposed Findings of Fact, Conclusions of Law, and Decision and Order:

- 1) Condition 3- Integrated Solid Waste Management Plan: Amend the last sentence to read: "Petitioner shall, in coordination with appropriate State and City government agencies, plan and establish solid waste recycling facilities within the Petition Area."
- 2) Condition 8- Civil Defense: Delete the phrase "on a fair share basis" so that it reads: "Petitioner shall fund and construct adequate solar powered civil defense measures serving the Petition Area prior to the delivery of the first residential unit, as determined by DOD, OCD, and the City Civil Defense Agency."
- 3) Condition 12- Public School Facilities: Delete the phrase "on a fair share basis" so that it reads: "Petitioner shall contribute to the development, funding, and/or construction of school facilities in compliance with the Educational Contribution Agreement for Castle & Cooke Waiawa and Koa Ridge Makai dated June 13, 2008, between Petitioner and the DOE."

Commissioner Jencks proposed the following amendments:

- 1) Condition 13- Archaeological and Historic Preservation: Delete last sentence.
- 2) Condition 14- Previously Unidentified Burials and Archaeological/ Historic Sites: Delete first sentence.
- 3) Condition 15: Established Access Rights Protected: Delete condition.

Discussion ensued regarding the necessity for restating State laws and County issues in the conditions. Commissioner Judge proposed that the full Commission more closely examine this matter in the near future.

Commissioner Lezy proposed the following amendment to Findings of Fact 277- Incremental Districting: Amend first sentence to read as two separate sentences: "Koa

Ridge Makai and Castle & Cooke Waiawa have separate infrastructure systems. Therefore, Koa Ridge Makai can be developed independently of Castle & Cooke Waiawa."

Commissioner Jencks proposed the following amendments:

- 1) Condition 19- BMPs: Delete condition.
- 2) Condition 26- Annual Reports: Amend condition to add the following sentence: "The requirement for filing an annual report to the Commission will cease upon satisfaction of all conditions or upon completion of the Project."

In response to Commissioner Jencks' proposed amendments, Commissioner Lezy moved for an Executive Session. He related his understanding as to why the conditions were necessary given State law and City requirements, as they would enable the Commission to retain jurisdiction over matters if the Petitioner failed to fulfill its obligations and the State or County did not take action. Commissioner Judge seconded the Motion. By a show of hands, the Commission approved the Motion to enter Executive Session 6-0.

The Commission went into Executive Session at 9:58 a.m. and reconvened at 10:10 a.m.

Commissioner Jencks stated that he would withdraw his recommended proposed changes to Conditions 13, 14, 15, 19, and 26 in favor of future discussions to assess how conditions should be determined.

Vice-Chair Contrades proposed that the word "substantially" be deleted from Condition 16 so that it would read: "Petitioner shall comply with the implementation of the Sustainability Plan, Petitioner's Exhibit 20."

There was no further discussion.

Commissioner Lezy amended his Motion to include the revisions as stated. Commissioner Judge seconded the Motion. Vice-Chair Contrades re-stated the Motion for clarification.

The Commission was polled as follows:

Ayes: Commissioners Jencks, Lezy, Judge, Kanuha, Teves and Vice-Chair Contrades.

Nays: None

Excused: Commissioners Chock, Heller, and Chair Devens

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*Refer to LUC transcripts for further details*

The Motion passed 6-0.

Mr. Matsubara expressed his thanks to the Commission for its efforts during the proceedings of the Petition.

There being no further business, the meeting was adjourned at 10:13 a.m.