

LAND USE COMMISSION

Minutes of Meeting

Puna Ballroom  
Kauai Marriott Resort  
3610 Rice Street, Kalapaki Beach  
Lihue, Kauai

November 2, 2000

Approved  
12/8/00

COMMISSIONERS PRESENT: Bruce A. Coppa (portion of proceedings)  
Pravin Desai  
Isaac Fiesta, Jr.  
Lawrence N.C. Ing  
Merle Kelai  
Stanley Roehrig  
Peter Yukimura

COMMISSIONERS ABSENT: P. Roy Catalani  
M. Casey Jarman

STAFF PRESENT: Presley Pang, Esq., Deputy Attorney  
General  
Charleen Aina, Esq., Deputy Attorney  
General  
Esther Ueda, Executive Officer  
Bert Saruwatari, Staff Planner  
Russell Kumabe, Staff Planner  
Teri Hee, Chief Clerk

Holly Hackett, Court Reporter

Chairperson Kelai called the meeting to order at 9:35 a.m.

ACTION

A00-732 - TSA INTERNATIONAL, LIMITED

Chairperson Kelai announced that this is an action meeting to consider acceptance of TSA International, Limited's Final Environmental Impact Statement to reclassify approximately 102.3 acres of land currently in the Conservation District into the Urban District at Kaloko, North Kona, Hawaii for the development of a mix of light industrial and industrial-commercial uses.

The following documents were not included in Petitioner's Final Environmental Impact Statement and were entered into evidence by the Commission:

1. Letter dated October 6, 2000, from Gary Gill, Deputy Director of the Environmental Health Administration received by the Commission on October 16, 2000.
2. Letter dated October 16, 2000, from Mr. Peter Rappa of the University of Hawaii at Manoa Environmental Center received by the Commission on October 17, 2000.
3. Response letters from Rodney Funakoshi to Mr. Kenneth M. Kaneshiro of the Natural Resources Conservation Service, Mr. Gary Gill of the Department of Health, and Mr. Peter Rappa of the University of Hawaii at Manoa Environmental Center received by the Commission on October 26, 2000.
4. Letter dated October 20, 2000, from Kenneth M. Kaneshiro, State Conservationist of the Natural Resources Conservation Service received by the Commission on October 30, 2000.
5. Letter dated October 16, 2000, from Don Hibbard, Administrator of the State Historic Preservation Division received by the Commission on October 31, 2000.
6. Letter dated October 12, 2000, from Stephen K. Yamashiro, Mayor of the County of Hawaii, transmitting a resolution relating to the construction of improvements by assessments at Kealakehe, Honokohau, and Kaloko, District of North Kona, Hawaii received by the Commission on October 31, 2000.

Appearances

Nathan Natori, Esq., representing Petitioner

Rodney Funakoshi, Wilson Okamoto & Associates

Ann Ogata-Deal, Esq., Land Use Division, Office of Planning

Abe Mitsuda, Land Use Division, Office of Planning

Chairperson Kelai announced that the County of Hawaii Planning Department was not present to the proceeding.

PUBLIC WITNESSES

1. Jeff Mikulina
2. Gary Barbano

Russell Kumabe, staff planner, oriented the Commission to the subject area on the Land Use District Boundaries map and tax maps and gave background information on the motion.

A disclosure was made by Commissioner Desai. There were no objections by the parties to have Commissioner Desai participate in the proceedings.

Arguments were heard from Mr. Natori and Mr. Funakoshi.

PETITIONER'S WITNESSES

1. Tom Nance

CONTINUED HEARING

A00-731 - DESTINATION VILLAGES KAUAI, LLC (Kauai)

Presiding Officer Yukimura announced that this matter before the Commission is a continuation of the hearing previously held on September 14, 15, 2000 to reclassify approximately 153.696 acres of land currently in the Agricultural District into the Urban District at Makaweli, Kauai, for the development of a resort and accessory uses.

Commissioner Coppa was excused from this proceeding due to a previously declared conflict of interest.

Appearances

Michael Belles, Esq., representing petitioner

Scott Ezer, Helber, Hastert & Fee

Laurel Loo, Esq., Deputy Corporation Counsel

Keith Nitta, Kauai County Planning Department, Staff Planner

Ann Ogata-Deal, Esq., Land Use Division, Office of Planning

Abe Mitsuda, Land Use Division, Office of Planning

Lorene Maki, Land Use Division, Office of Planning

PETITIONER'S WITNESS

1. Dr. William Kikuchi

CONTINUED ACTION

A00-732 - TSA INTERNATIONAL, LIMITED

PETITIONER'S WITNESSES (cont'd.)

2. Steve Dollar
3. Dr. Masu Fujioka

Questions were asked by the Commissioners.

Commissioner Roehrig moved to accept Petitioner's Final Environmental Impact Statement. The motion was seconded by Commissioner Fiesta.

Commissioner Roehrig identified his concerns as follows:

1. There should be a coordinated effort between the Petitioner, Lanihau Partners, the County of Hawaii and all other affected agencies for the development of a sewage treatment facility for the entire industrial area.
2. The Petitioner and the affected agencies and Lanihau Partners should get together immediately and work on the timetable for the implementation of this sewage treatment facility.
3. The sewage treatment facility should be put in place before this project sells any lots or leases them to any individuals for industrial purposes.
4. There should be a storm runoff treatment system preferably on-site to prevent increased runoff into the Kaloko-Honokohau National Historical Park area or into the abutting ocean.

Commissioner Roehrig suggested that Petitioner report back to the Commission before this matter comes up for hearing so that interested groups will have an opportunity to assess what's going to happen.

Commissioner Fiesta addressed his concerns with respect to the need for affordable housing.

The Commissioners were polled as follows:

Ayes: Commissioners Roehrig, Coppa, Fiesta, Ing,  
Yukimura, Desai, and Kelai

A lunch recess was taken at 11:35 a.m. to reconvene at  
1:00 p.m.

- 1:20 p.m.

CONTINUED HEARING

A00-731 - DESTINATION VILLAGES KAUAI, LLC (Kauai)

PUBLIC WITNESSES

1. Joseph Manini

The Commission entered the following correspondence into  
evidence:

1. Copy of September 6, 2000, written testimony from  
Joseph Punilei Manini, Sr. to the Kauai County Council.
2. Facsimile letter dated September 13, 2000 from Emily  
Allgaier.
3. Facsimile letter dated September 13, 2000 from Jeff  
Fishman.
4. Letter from Bruce Pleas on October 30, 2000, with 3  
videotapes.

PUBLIC WITNESSES (cont'd.)

2. Bruce Pleas
3. Cheryl Lovell-Obatake
4. Puanani Rogers

The Commissioner entered a letter dated November 1, 2000,  
from Puanani Rogers of Ho`okipa Network into evidence.

PETITIONER'S WITNESSES (cont'd.)

2. Lew Geysler

EXHIBITS

1. Petitioner's Exhibit Nos. 53, 54, and 55 were admitted into evidence by the Land Use Commission.

2. County's Exhibit No. 5 was admitted into evidence by the Land Use Commission.

PETITIONER'S WITNESSES (cont'd.)

3. Warren Robinson

4. Alan Kennett

COUNTY'S WITNESS

1. Keith Nitta

STATE'S WITNESS

1. Abe Mitsuda

Presiding Officer Yukimura instructed all parties of the post hearing procedures. Proposed findings from the parties are due by December 1, 2000 and the parties have until December 15, 2000 in which to respond.

MISCELLANEOUS

1. ADOPTION OF MINUTES

Commissioner Fiesta moved to approve the minutes for the meeting dates of October 19 and 20, 2000. The motion was seconded by Commissioner Desai and unanimously approved by voice votes.

2. ADOPTION OF DECISION AND ORDER

Commissioner Fiesta moved to adopt the Order Of Preliminary Determination For A Negative Declaratory Of An Environmental Assessment for Docket No. A00-733 - Harrison J. and Sharene Z. Klein. The motion was seconded by Commissioner Roehrig and unanimously approved by voice votes.

Commissioner Roehrig moved to adopt The Order To Consolidate The Proceedings At The Public Hearings For Luc Docket Nos. A88-622, A89-652, and A90-660. The motion was seconded by Commissioner Yukimura and unanimously approved by voice votes.

Commissioner Roehrig moved to adopt the Findings of Fact, Conclusions of Law, and Decision and Order for Docket No. SP89-371 - Christian Broadcasting Association. The motion was seconded by Commissioner Fiesta and unanimously approved by voice votes.

3. LITIGATION MATTERS

- a) Kaupulehu Developments Supreme Court Case; Civil Nos. 96-189K & 96-190K (A93-701) - Mr. Pang reported that he will not be taking a position with respect to the Bill of Costs For Appellants Ka Pa`akai O Ka `Aina, et al. received from Michael J. Matsukawa since the Bill of Costs was not against the Commission.

The meeting was adjourned at 5:30 p.m.