

LAND USE COMMISSION

Minutes of Meeting

Ko`olau Ballroom, Salon 3  
Kauai Marriott Resort  
3610 Rice Street, Kalapaki Beach  
Lihue, Kauai

September 14, 2000

Approved  
9/29/00

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

COMMISSIONERS ABSENT: Pravin Desai  
M. Casey Jarman

STAFF PRESENT: Presley Pang, Esq., Deputy Attorney  
General  
Bert Saruwatari, Staff Planner  
Russell Kumabe, Staff Planner  
Teri Hee, Chief Clerk  
  
Holly Hackett , Court Reporter

Chairperson Kelai called the meeting to order at 9:30 a.m.

ACTION

A00-733 - HARRISON J. & SHARENE Z. KLEIN

Chairperson Kelai announced that this is an action meeting to consider whether the anticipated effects discussed in Petitioner's Draft Environmental Assessment to reclassify approximately 2.621 acres of land currently in the Conservation District into the Urban District at Keonepoko Iki, Puna, Hawaii for the cultivation of ti-leaf plants, coconut trees and palms, and recommence a commercial farming operation constitutes a "significant effect" pursuant to Chapter 343, H.R.S.

Appearances

Steven S.C. Lim, Esq., representing petitioner

Ann Ogata-Deal, Esq., Deputy Attorney General, Office of Planning

Abe Mitsuda, Land Use Division, Office of Planning

Lorene Maki, Land Use Division, Office of Planning

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

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.

Arguments were heard from Mr. Lim and Ms. Ogata-Deal.

Questions were asked by the Commissioners.

Mr. Lim will be providing additional information to the Commission before the Commission determines whether the anticipated effects discussed in Petitioner's Draft Environmental Assessment constitutes a "significant effect" pursuant to Chapter 343, H.R.S.

#### MISCELLANEOUS

##### 1. ADOPTION OF MINUTES

Commissioner Catalani moved to approve the minutes for the meeting dates of August 16 and 17, 2000. The motion was seconded by Commissioner Fiesta and unanimously approved by voice votes.

##### 2. ADOPTION OF DECISION AND ORDER

Commissioner Catalani moved to adopt the Order Granting Petitioner's Request To Withdraw The Motion To Release, Discharge And Delete All Conditions In The Land Use Commission's Findings Of Fact, Conclusions Of Law, And Decision And Order Filed April 6, 1992 for Docket No. A91-665 - Kamaaina Eight. The motion was seconded by Commissioner Coppa and unanimously approved by voice votes.

Commissioner Fiesta moved to adopt the Order Granting Motion To Withdraw Land Use Commission Approvals And Revert Land Use District Boundary Classification To Agriculture for Docket

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No. A92-680 - C. Brewer Properties, Inc. The motion was seconded by Commissioner Ing and unanimously approved by voice votes.

Commissioner Fiesta moved to go into executive session to discuss legal matters with respect to the Supreme Court's September 11, 2000 Opinion on the Land Use Commission reclassification granted to Ka`upulehu Development. The motion was seconded by Commissioner Coppa and unanimously moved by voice votes.

Commissioner Coppa moved that the Land Use Commission not request the Supreme Court to reconsider its decision. The motion was seconded by Commissioner Fiesta and unanimously carried by voice votes. The Commission directed staff to set up a presentation regarding the issues of gathering, traditional, and customary rights.

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 July 20, 21, 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., Deputy Attorney General, Office of Planning

Abe Mitsuda, Land Use Division, Office of Planning

Lorene Maki, Land Use Division, Office of Planning

The Commission entered the following correspondence into evidence:

1. Facsimile testimony dated July 18, 2000, from E. Kalani Flores.
2. Letter received on July 24, 2000, from Jim Kitamura.
3. Letter received on July 24, 2000, from Rob Swigart.
4. Letter dated July 20, 2000, from Richard S. Morris.
5. Letter received on August 1, 2000, from Barbara Guthrie.
6. Letter received on August 8, 2000, from Raymond, Jaclyn and Cody Mierta.
7. Letter received on August 25, 2000, from Blair Goldberg.
8. Letter dated July 20, 2000, from Ken D. Bray.
9. Letter received on September 12, 2000, from Bruce Pleas.
10. Letter dated September 13, 2000, from Laure Dillon notifying the Commission that Sunny Greer of the Kahea Board of Directors will be testifying on behalf of Kahea at today's hearing.
11. Approximately 95 facsimile letters in opposition to the project. (Staff read sample of letter into the record.)

EXHIBITS

1. Petitioner's Exhibit No. 52 was admitted into evidence by the Land Use Commission.

PUBLIC WITNESSES

1. Joseph Manini

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2. Sunny Greer
3. Judy Naumu-Steward
4. Bruce Pleas
5. Don Heacock
6. Butch Kekahu
7. Cheryl Lovell-Obatake

A lunch recess was taken at 11:45 a.m. to reconvene at 1:00 p.m.

- 1:00 p.m.

PETITIONER'S WITNESSES (Cont'd.)

1. Scott Ezer
2. Phil Bruner
3. Steve Dollar
4. Ann Bouslog
5. Winona Char
6. Tom Nance

The meeting was adjourned at 4:20 p.m. with the announcement that the Commission will reconvene tomorrow at 9:00 a.m.