

Approved 3/7/02

LAND USE COMMISSION
Minutes of Meeting
Conference Room 405
State Office Tower, Leiopapa A Kamehameha
235 South Beretania Street
Honolulu, Hawaii

February 7, 2002

COMMISSIONERS PRESENT: Merle Kelai
Bruce Coppa
Pravin Desai
Isaac Fiesta, Jr.
P. Roy Catalani
Peter Yukimura
Stanley Roehrig
M. Casey Jarman

COMMISSIONERS ABSENT: Lawrence N. C. Ing

STAFF PRESENT: Diane Erickson, Esq., Deputy Attorney General
Anthony J.H. Ching, Executive Officer
Russell Kumabe, Staff Planner
Bert Saruwatari, Staff Planner
Caroline Lorenzo, Secretary
Holly Hackett, Court Reporter

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

ACTION

A87-614 KAUAI LAGOONS RESORT COMPANY, LTD. (Kauai)

Chairman Kelai announced that this matter before the Commission is a hearing to consider the Petitioner's motion filed on January 30, 2002, to modify condition no. 1 of the Decision and Order relating to the reclassification of approximately 299.79 acres from the Agricultural District into the Urban District at Kalapaki, Kauai, Hawaii.

Appearances

Benjamin Matsubara, Esq., representing Petitioner

Rodney Funakoshi, Senior Planner, representing Wilson Okamoto & Associates

John Chang, Esq., Land Use Division, Office of Planning

Abe Mitsuda, Land Use Division, Office of Planning

Mr. Matsubara oriented staff regarding the purpose of the motion, which is to modify condition no. 1 contained in the Decision and Order issued by the Commission on February 17, 1988. The Department of Transportation's primary concern was that the planned development might affect operations of the Lihue airport. Condition No. 1 was written in a manner, which prohibits development of any kind on the subject property without distinguishing whether or not it affects Lihue airport operations. The proposed modification of condition no. 1 allows the petitioner to develop hotel and resort units on the property outside the 60 DNL noise level and development within the 60-65 DNL noise contour if accompanied by mitigation to reduce interior noise level to the 45 DNL level. Proposed modification balances concerns of the Department of Transportation in its operation of the Lihue airport, while allowing the petitioner the flexibility of planning and developing the areas in the manner which will not affect airport operations.

Mr. Matsubara requested that Mr. Funakoshi be accepted as a land use expert for purposes of this proceeding. There were no objections by the parties and the Commission.

Mr. Funakoshi oriented staff with the project's Exhibit 1 – Existing Conditions, and Exhibit 2 - conceptual master plan, and provided a brief background and overview of the proposed modification to condition no. 1. He also indicated that there is no increase in the overall resort density allowed for this project. It is just a shifting and relocation of existing uses.

Commissioner Yukimura moved to approve the modification to condition no. 1 of the Decision and Order to state the following: “No residential, condominium, or hotel dwelling units shall be constructed within areas greater than the 60 DNL noise contour of Lihue Airport, provided however that such uses may be permitted within the 60 to 65 DNL contour, if there is an accompanying mitigation of interior noise to the 45 DNL noise level.” The motion was seconded by Commissioner Fiesta and polled as follows:

Ayes: Commissioners Yukimura, Fiesta, Roehrig, Desai, Coppa, Jarman, Catalani, and Kelai

ACTION

A00-732 – TSA CORPORATION (Hawaii)

Chairman Kelai announced that this matter before the Commission is a continuation of the hearing last heard on February 1, 2002 to consider reclassifying approximately 102.016 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.

Appearances

Nathan Natori, Esq., representing Petitioner

Rodney Funakoshi, Wilson Okamoto & Associates

Patricia O’Toole, Esq., Corporation Counsel, County of Hawaii

Norman Hayashi, Planning Department, County of Hawaii

John Chang, Esq., Land Use Division, Office of Planning

Abe Mitsuda, Land Use Division, Office of Planning

Judith Henry, Land Use Division, Office of Planning

APPEARANCES (continued)

Nicole Walthall, Esq., representing Intervener KAHO

Stanley Bond, representing Intervener KAHO

Sallie Beavers, representing Intervener KAHO

Executive Officer, Anthony Ching, provided staff's report that included a follow-up to issues raised at the previous hearing, and a summary of particular state and federal environmental regulations.

All parties presented their position statement, exceptions, and recommendations to the Findings of Fact, Conclusions of Law, and Decision and Order before the Commission in the following order: Petitioner, County of Hawaii, and Intervener.

Mr. Chang indicated that the State did not submit updated comments because they felt that comments previously submitted were sufficient to cover the amended proposals, and that the State makes no further comments.

Commissioner Roehrig introduced floor amendments to the conditions before the Commission.

A lunch recess was taken at 12:00 p.m. to reconvene at 1:00 p.m.

- 1:00 p.m. -

The Commissioners discussed and deliberated, and amendments were made to the conditions of the Proposed Findings of Fact, Conclusions of Law, and Decision and Order. The following is a summary of the motions made and approved by the Commission.

Conditions 1a – 1f

Commissioner Coppa moved to adopt Conditions 1a through 1f as amended. Commissioner Fiesta seconded the motion. The motion passed.

Ayes: Commissioners Coppa, Fiesta, Roehrig, Desai, Jarman, Catalani, Yukimura, and Kelai

Conditions 2a – 2h

Commissioner Jarman moved to adopt Conditions 2a through 2h as amended. Commissioner Yukimura seconded the motion. The motion passed.

Ayes: Commissioners Jarman, Yukimura, Catalani, Coppa, Roehrig, Desai, Fiesta, and Kelai

Conditions 3a – 3g

Commissioner Coppa moved to adopt conditions 3a through 3g as amended. Commissioner Roehrig seconded the motion. The motion passed.

Ayes: Commissioners Coppa, Roehrig, Yukimura, Catalani, Desai, Fiesta, Jarman, and Kelai

Condition 4

Commissioner Roehrig moved to accept condition no. 4 as amended. Commissioner Fiesta seconded the motion. The motion passed.

Ayes: Commissioners Roehrig, Fiesta, Jarman, Yukimura, Catalani, Coppa, Desai, and Kelai

Conditions 5a – 5f

Commissioner Roehrig moved to accept conditions 5A to 5E, with the amendment to delete 5f. Commissioner Desai seconded the motion. The motion passed.

Ayes: Commissioner Roehrig, Desai, Jarman, Catalani, Yukimura, Coppa, Fiesta, and Kelai

Condition 6

Commissioner Roehrig moved to adopt condition no. 6. Commissioner Fiesta seconded the motion. The motion passed.

Ayes: Commissioners Roehrig, Fiesta, Jarman, Yukimura, Catalani, Coppa, Desai, and Kelai

Condition 7

Commissioner Roehrig moved to adopt condition no. 7 as amended. Commissioner Fiesta seconded the motion. The motion passed.

Ayes: Commissioners Roehrig, Fiesta, Desai, Jarman, Yukimura, Catalani, Coppa, and Kelai

Conditions 8a – 8b

Commissioner Roehrig moved to adopt condition nos. 8a and 8b. Commissioner Fiesta seconded the motion. The motion passed.

Ayes: Commissioners Roehrig, Fiesta, Desai, Jarman, Yukimura, Catalani, Coppa, and Kelai

Conditions 9a – 11

Commissioner Fiesta moved to adopt conditions 9a through 11. Commissioner Coppa seconded the motion. The motion passed.

Ayes: Commissioners Fiesta, Coppa, Roehrig, Desai, Jarman, Yukimura, Catalani, and Kelai

Condition No. 12

Commissioner Roehrig moved to delete Condition 12. Commissioner Fiesta seconded the motion. The motion passed.

Ayes: Commissioners Roehrig, Fiesta, Catalani, Coppa, Desai, Jarman, Yukimura, and Kelai

Condition No. 13 – 17

No discussion.

Commissioner Roehrig moved to reclassify approximately 102.016 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 and adopt the Findings of Fact, Conclusions of Law, and Decision as amended. Commissioner Catalani seconded the motion. The motion to reclassify passed.

Ayes: Commissioners Roehrig, Catalani, Desai, Coppa, Yukimura, Fiesta, Jarman, and Kelai

Mr. Ching announced that staff intends to amend the decision and order as determined by the Commission, and asked that the Commissioners provide any comments by next Tuesday, February 5, 2002 as to any inaccuracies or difficulties, and also asked the Commission for authority to correct any typographical errors.

CONTINUED HEARING

A00-734 – CASTLE & COOKE HOMES HAWAII, INC. AND PACIFIC HEALTH
COMMUNITY, INC. (Oahu)

This is a continuation of the Land Use Commission hearing previously held on January 31, 2002, to consider reclassifying approximately 1,247.983 acres of land currently in the Agricultural District into the Urban District at Waipio and Waiawa, Oahu, for residential, school, commercial and medical park complex uses.

APPEARANCES

Dickson Lee, Esq., representing Petitioner

Harry Saunders, President, Castle & Cooke Homes Hawaii Inc.

Richard Mirikitani, representing Petitioner

Randolph Hara, Department of Planning and Permitting

Matt Higashida, Department of Planning and Permitting

John Chang, Esq., Land Use Division, Office of Planning

Abe Mitsuda, Land Use Division, Office of Planning

Lorene Maki, Land Use Division, Office of Planning

Jeff Mikulina, Sierra Club Hawaii Chapter

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

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

Mr. Chang stated that the State reserves their cross examination of one of the Neighborhood Board's witnesses until a timeline is reviewed.

Intervener's (Melemanu/Waipio/Mililani Neighborhood Board No. 25) Exhibit 30 was entered as evidence by the Commission.

Petitioner's Exhibits 24a and 25a were entered as evidence by Commission.

Intervener's (Sierra Club Hawaii Chapter) Exhibit 29 to 32b were entered as evidence by the Commission.

Intervener's Witness (Sierra Club Hawaii Chapter)

1. Richard Bowen

MISCELLANEOUS

1. ADOPTION OF MINUTES

Commissioner Fiesta moved to adopt the minutes of the meeting date of the January 31, 2002 and February 1, 2002. The motion was seconded by Commissioner Yukimura and unanimously approved by voice votes.

2. OTHER PENDING MATTERS

Tentative Meeting Schedule – The next commission meeting is scheduled for March 7, 2002.

The meeting was adjourned at 3:23 p.m.