

Approved
3-21-02

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

March 7, 2002

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

COMMISSIONERS ABSENT: Merle Kelai
Pravin Desai
M. Casey Jarman

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

Presiding Officer Ing called the meeting to order at 9:45 a.m.

CONTINUED HEARING

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

The LUC continued the Land Use Commission hearing previously held on February 7, 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

Alan Arakawa, Vice President, Castle & Cooke Homes Hawaii, Inc.

William Yuen, Esq., representing Petitioner

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.

The Commission received postcards from the following individuals in opposition to the proposed development and were entered as evidence into the record:

Laureen Lever, James Hane, W.R. Liggett, Pete Merrifield, A.R. Bento, Justin Fong, Sharon Reilly, Judith Buffington, Annette Kaohelaulii, Maile Sakamoto, Elizabeth L. Weatherford, Vernon E. Knight, Joanne Ogata, Jon Ogata, Sandra Perez, Marie Riley, Thomas Rolfe, Carol Sakamoto, Daniel Sakamoto, David Stafford, Vince Soeda, Chas Woods, D. Gilson, Gail Kong, Hazel Twelke, Zoener Nemec, and L. Young.

PUBLIC WITNESSES

1. William Edward Murphy III
2. Robert D. Harris

Intervenor's (Melemanu/Waipio/Mililani Neighborhood Board No. 25) Third and Fourth Amended Exhibit Lists and Exhibit Nos. 30-46 were entered as evidence by the Commission.

Petitioner's Exhibit No. 25-B was entered as evidence by the Commission.

Intervenor's (Sierra Club Hawaii Chapter) Amended Exhibit List and Exhibit No. 33 were entered as evidence by the Commission.

INTERVENOR'S WITNESSES (Melemanu/Waipio/Mililani Neighborhood Board No. 25)

1. MaryAnne Sealander

Intervenor's (Sierra Club Hawaii Chapter) Amended Exhibit List and Exhibit No. 34 were entered as evidence by the Commission.

INTERVENOR'S WITNESSES (Melemanu/Waipio/Mililani Neighborhood Board No. 25)
continued

2. Laura Brown

Mr. Poirier requested that the Land Use Commission petition the Oahu Metropolitan Planning Organization (OMPO) to utilize its OMPO Travel Frequency Model with and without the bus rapid transit alternative to determine the incremental effect on commuter travel time resulting from the construction of some 25,000 additional housing units not yet built in Central Oahu (14,000 of which are already approved), that a comparison should be made of the travel time to and from Mililani to downtown and Kapolei at (1) the current level of units constructed; (2) at buildout of all previously approved 14,000 units in Central Oahu; and (3) with the construction of the proposed additional 10,000 unbuilt or approved units in Central Oahu.

All parties provided verbal comments regarding Mr. Poirier's request. Commissioner Roehrig also provided verbal comment.

Mr. Chang announced that the State has one rebuttal witness who will be presented after the lunch recess.

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

- 1:05 p.m. -

CONTINUED HEARING

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

State's Rebuttal Witness

1. Sanford Beppu, Department of Education

Commissioner Roehrig requested that the Petitioner provide copies of the original promotional materials describing future development of University of Hawaii facilities at its Mililani Mauka project site.

Presiding Officer Ing requested that each party draw up its own proposed findings of fact, conclusions of law, and decision and order for consideration by the Commission and explained the requirements for submitting draft orders. The proposed findings of fact, conclusions of law, and decision order will be submitted to the Commission and served upon all parties by April 5, 2002. The parties will have until April 12, 2002 to respond with comments and exceptions, if they wish to do so. Action meeting to adopt a proposed findings of fact, conclusions of law, and decision and order for service upon the parties is tentatively scheduled for May 2-3, 2002. After service of the Commission's proposed decision and order on the parties, the parties have until the close of business, May 14, 2002, to file any comments and/or exceptions on the LUC's proposed decision and order. The final action meeting for this docket is tentatively scheduled for May 16-17, 2002. A schedule of the processing timeframe was circulated to the parties for their reference.

Upon completion of presentations by the parties and the issuance of post-hearing instructions, Presiding Officer Ing declared that the hearing on the matter was closed.

Commissioner Catalani was present to the proceedings at this time.

MISCELLANEOUS

1. DBA PROTOCOL

As a continuation on the subject DBA protocol which was last discussed at the December 7, 2001 LUC agency meeting, Executive Officer, Anthony Ching presented the Land Use Commission's DBA Decision and Order Protocol Proposed Flow Chart before the Commission, describing the protocols in preparing a Decision and Order from start to finish.

The Commission accepted, by a show of hands, staff's proposed DBA Decision and Order Protocol as depicted by the attached flowchart.

2. PUBLIC TRUST DOCTRINE

William M. Tam, Esq., made a presentation to the Land Use Commission on the relationship of water resource planning issues and the work of the State Land Use Commission.

3. ADOPTION OF MINUTES

Commissioner Fiesta moved to adopt the minutes of the meeting date of the February 7, 2002. The motion was seconded by Commissioner Coppa and unanimously approved by voice votes.

4. Civil No. 00-1-0192K – Kelly et al. vs. 1250 Oceanside Partners, et al.

Deputy Attorney General, Diane Erickson, reported that trial is set for April 16, 2002 in federal district court, and for all other issues, trial is set for April 23, 2002.

5. OTHER PENDING MATTERS

Tentative Meeting Schedule – Executive Officer, Anthony Ching, reported that the next commission meeting is scheduled for March 21-22, 2002 in Kona, Hawaii. A field trip is scheduled for March 22, 2002 to visit project sites for Docket No. A00-730 Lanihau Properties, LLC, and Docket No. A89-643 McClean Honokohau Properties. On March 21, 2002, there will be an action item for the County of Maui Amendment to Special Permit. There will also be a MACZMAG Coastal Erosion Presentation, and the Kaupulehu Operational Plan will be discussed.

APA Conference – Anthony Ching, Lawrence Ing, and Peter Yukimura will be attending the American Planning Association Conference in April. It is scheduled once a year in April. Each year two commissioners will have the chance to attend the yearly conference.

Legislative Update - HB2662 H.D.1 – Establishes standards and criteria for the identification of important agricultural lands in the State, create a more viable rural district, provide opportunity for the Office of Planning to identify areas for reclassification from the agricultural to the rural sate land use district and authorize the Land Use Commission to issue declaratory rulings on county land use or land development lands involving agricultural and rural district lands. SB2007 S.D.1 – Allows counties to permit home occupations as a permissible activity in the agricultural district.

The meeting was adjourned at 3:15 p.m.