

LAND USE COMMISSION
MEETING MINUTES

May 23, 2003

Ekahi Room
King Kamehameha's Kona Beach Hotel
75-5660 Palani Road
Kailua-Kona, Hawaii

COMMISSIONERS PRESENT: P. Roy Catalani
Bruce Coppa
Steven Montgomery
Stanley Roehrig
Randall Sakumoto
Peter Yukimura

COMMISSIONERS ABSENT: Pravin Desai
Isaac Fiesta
Lawrence Ing

STAFF: Diane Erickson, Esq., Deputy Attorney General
Anthony Ching, Executive Officer
Russell Kumabe, Staff Planner
Caroline Lorenzo, Acting Chief Clerk
Madeline Gable, Court Reporter

Presiding Officer Roehrig called the meeting to order at 9:04 a.m.

A02-737 U of N Bencorp

Presiding Officer Roehrig announced that this was a continued hearing of the Land Use Commission on Docket No. A02-737 U of N Bencorp, last heard on May 22, 2003, to consider reclassifying approximately 62 acres of land currently in the Agricultural District into the Urban District at Kailua -Kona, Island, County and State of Hawaii.

Mr. Chang introduced State's Exhibit No. 5 with no objections from the parties. The Commission admitted this into the record.

STATE'S WITNESSES

1. Abe Mitsuda

Mr. Mitsuda provided the State's support of the reclassification request with the following concerns: affordable housing needs of a campus setting; coordination of project development with the community, UHH, and other attraction developers; impacts upon County and State facilities and services, including regional wastewater treatment, drainage, traffic flows and regional transportation issues; impacts upon archaeological resources in the Petition Area; impacts upon groundwater supplies; and proposed landscaping proposals.

Mr. Mitsuda pointed out that if Petitioner changes the project to all residential uses, it would need to come back to the Commission.

Upon inquiry from the Commission of the State's proposed conditions, Mr. Lim responded that Petitioner agreed to address the issues raised but it will disagree with the specific language imposed.

Vice Chair Catalani expressed concerns of the effectiveness of the standard fair-share transportation condition in resolving transportation concerns and problems. Mr. Mitsuda responded that the condition provides a framework to address the complexities of resolving regional transportation issues.

2. Pua Alokalani Aiu

Ms. Aiu indicated that the position of the Office of Hawaiian Affairs ("OHA") concurs with the State, and OHA will recommend additional conditions. She pointed out the following: the chances for burials in the Petition Area is high due to high populations in the past; Petitioner's burial treatment plan should consult with the Burial Council for Hawaii and the lineal descendants of the property; OHA concurred with the preservation of the indicated archaeological sites and added two trail sites for preservation; and OHA has concerns of the water use needs for the project.

Mr. Lim confirmed that Petitioner would commit to preserving those sites indicated by OHA, and Petitioner would establish buffers for burial sites.

Commissioner Yukimura disclosed to the Commission that Ms. Aiu's father was the doctor who delivered his two children.

Vice Chair Catalani recommended that OHA coordinate with the State regarding the revision of the State's conditions.

Mr. Lim introduced Petitioner's Exhibit Nos. 37 and 38 with no objections from the parties. The Commission admitted these exhibits into the record.

Presiding Officer Roehrig recommended that the County assign one deputy corporation counsel to the Kahu Waiaha Development Committee.

(Refer to the Commissioner's Order and transcripts for more details on this matter.)

MINUTES

Mr. Ching, Executive Officer, indicated that the volume or quantity of the minutes reflect an increase vigilance on the part of staff to produce summary minutes more substantive than before, that staff is looking for a style that would provide more substance to the minutes, and asked for the Commission's indulgence.

It was mentioned that the transcripts are always available for public view. Presiding Officer Roehrig suggested that staff discuss with the court reporter about posting the transcripts on the LUC website and discuss assessing a fee.

Vice Chair Catalani moved to approve the minutes of the April 9, 2003 Land Use Commission meeting. Commissioner Coppa seconded the motion, and said motion was unanimously approved by voice votes.

Commissioner Coppa moved to approve the minutes of the April 25, 2003 Land Use Commission meeting. Commissioner Montgomery seconded the motion, and said motion was unanimously approved by voice votes.

TENTATIVE MEETING SCHEDULE

Mr. Ching reported on the upcoming Commission hearings. He indicated that the next hearing would be held on June 5-6, 2003, in Wailea, Maui to continue hearing testimony regarding Docket No. DR02-26 Kuleana Ku'ikahi, LLC. Also, the application for intervention filed by the Kaloko-Honokohau National Park Service regarding Docket No. A00-730 Lanihau Properties, LLC, will be acted upon by the Commission.

Mr. Ching also indicated that on June 26-27, 2003, the Land Use Commission hearing will be held in Hilo, Hawaii.

A recess break was taken at 9:43 a.m. until the next witness arrived to the proceedings.

The meeting reconvened at 10:24 a.m.

STATE'S WITNESSES (continued)

3. Ronald Tsuzuki

Mr. Tsuzuki indicated that DOT met with Petitioner to discuss the inclusion of the State's concerns in Petitioner's revision of the final traffic impact study. He provided an overview of the State's transportation projects in North Kona including: the widening of the Queen Kaahumanu Highway ("QK"), including Phase 1 from Henry Street to Kealakehe Parkway and Phase 2 from Kealakehe to the Keahole Airport; the completion of Kealakehe Parkway from QK to Mamalahoa Highway; and the southern QK widening extension from Henry Street to Kuakini Highway and Kam III.

Mr. Tsuzuki stated that the State is coordinating with the County to address traffic congestion including updates to the Hawaii long range transportation plan (25-year timeframe), and the short range plans (5 to 6-year timeframes).

Upon inquiry from Petitioner, Mr. Tsuzuki clarified DOT improvements planned and implemented near the Petition Area, and construction priorities. He also clarified that DOT provides technical assistance to the State's conditions and DOT does not establish any position of support/non-support for any project.

Upon inquiry from Commissioner Coppa, Mr. Tsuzuki stated that funding was the greatest obstacle in DOT's planned improvements and he was not aware that the County had \$70 million due from impact fees (Refer to Petitioner's Exhibit Nos. 37 and 38). He indicated that the Commission's broad transportation condition provided flexibility for compliance such as the Ewa fair share working group. He clarified that he was unsure of DOT's position on fair share policy direction with a new Director.

Upon inquiry from Commissioner Sakumoto, Mr. Tsuzuki described the major steps in constructing roadway improvements including: the planning phase (2 - 10 years) including the EIS process, public input, and acquiring the right of way; the design phase (2 years) including the right of way finalization, coordination with the

utilities, and resolving engineering and technical issues; approval from the Federal Highway Administration; and construction.

Upon inquiry from Vice Chair Catalani, Mr. Tsuzuki responded that the Ewa fair share model has not been applied elsewhere pending new policy directions. He discussed the role of impact fees in roadway improvements. He also stated that concurrency problems are due to lengthy project development time frames that contributes to lagging infrastructure.

Upon inquiry from Commissioner Yukimura, Mr. Tsuzuki discussed how fair share funds are used. He also stated that a condition specifying a fair share formula amount may be beneficial but will be problematic due to the Commission's lack of expertise and resources.

Presiding Officer Roehrig believed that Hawaii should have a LOTMA-like organization and Petitioner's project may have the requirement imposed.

Commissioner Montgomery expressed that an inflation factor needed to be included for impact fees and offered the Commission's assistance for such models.

Vice Chair Catalani excused himself from the proceedings at 11:15 a.m.

A recess break was taken at 11:20 a.m. The meeting reconvened at 11:30 a.m.

Presiding Officer Roehrig suggested that DOT address statewide traffic problems and issues of fair share collection. He also stated the need for a transportation managing committee such as LOTMA and it required application to the project.

Ms. O'Toole indicated that the County would submit additional exhibits by the end of next week.

Mr. Lim requested that the hearing be closed, but limited to receiving County's exhibit and stated that he would work with parties on a stipulated Draft Findings of Fact, Conclusions of Law, and Decision and Order which would be submitted to the Land Use Commission within two weeks. The hearing was declared closed by the Commission.

(Refer to the Commission's transcripts for more details on this matter.)

The meeting was adjourned at 11:44 a.m.