

LAND USE COMMISSION
MEETING MINUTES

June 27, 2003

Hawaii Naniloa Resort
Crown Room
93 Banyan Drive
Hilo, Hawaii 96720

COMMISSIONERS PRESENT: P. Roy Catalani
Bruce Coppa
Pravin Desai
Isaac Fiesta
Lawrence Ing
Steven Montgomery
Stanley Roehrig
Randall Sakumoto

COMMISSIONERS ABSENT: Peter Yukimura

STAFF PRESENT: Russell Suzuki, Deputy Attorney General
Anthony Ching, Executive Officer
Caroline Lorenzo, Acting Chief Clerk
Holly Hackett, Court Reporter

Chair Ing called the meeting to order at 8:34 a.m.

A02-737 U OF N BENCORP (Hawaii)

Chair Ing announced that this is a continuation of the action meeting last heard on June 26, 2003 to consider the Petition to Amend the Agricultural Land Use District Boundary into the Urban Land Use District for approximately 62 acres at Kailua-Kona, Island, County and State of Hawaii.

APPEARANCES

Steven Lim, Esq., representing Petitioner U of N Bencorp
Patricia O'Toole, Esq., representing County of Hawaii Planning Department
Norman Hayashi, County of Hawaii Planning Department
John Chang, Esq., representing Land Use Division, Office of Planning
Abe Mitsuda, Land Use Division, Office of Planning

Mr. Chang indicated that the State supports the perpetuation of the Hawaiian language and felt that it was a worthwhile endeavor to revitalize the language. However, Mr. Chang indicated that to impose a condition on the Petitioner to dedicate a percentage of their revenues

to support this condition through a nonprofit organization may not be a valid condition to impose upon the Petitioner.

Vice Chair Roehrig expressed to Mr. Spengler and Ms. Broder that whatever decision is made, it has to be voluntary, and that the goal is to find the best students and the ones who have the best chance in successfully teaching the Hawaiian language as certified teachers.

Mr. Spengler indicated that as far as the best student, they would be looking for someone who would be involved with the cultural center with some alignment of values and ideas in their lives.

Ms. Broder indicated that they had not succeeded in reaching any sort of agreement with the Petitioner.

Mr. Lim clarified that their proposal was not an attempt to settle with Ms. Broder, and he further clarified that the Petitioner is proposing a gift, money that will be transferred from the U of N Bencorp to the University of the Nations and be disbursed by the University of the Nations. Mr. Lim indicated that this would be a new finding of fact in which they commit to the Commission as a representation of the Petitioner, which can be enforced by the Commission. Mr. Lim felt that it was important for the University of the Nations to both fund and administer these scholarships. Mr. Lim also submitted an amendment to condition of approval #11, which indicates that the Commission can call back the Petitioner if operations of the cultural center do not begin by January 1, 2008.

Chair Ing referred to Petitioner's Finding of Fact #93A and indicated that there was confusion as to whether the Petitioner shall both select awardees and fund the scholarships.

Mr. Lim indicated that the Petitioner was providing a gift by a private party to enhance and promote the Hawaiian language.

Chair Ing asked what institution would the students be at when the scholarships are awarded. Mr. Lim indicated that there are two students indicated in paragraph A in new condition 93, who are both two-year graduates of the teaching program and have the third and fourth years to go. One of them is currently teaching at `Aha Punana Leo and the other is employed in Kona. The Petitioner hopes to select and fund those students as scholarship recipients to go through the fourth year teaching certificate after which they could be available to teach the Hawaiian language either in the schools in Kona or in the cultural center. This scholarship would be to attend and study at the UH College of Hawaiian Language.

Mr. Spengler indicated that they are committed for five years. Mr. Spengler further indicated that the Petitioner would like to be involved in providing future scholarships to keikis, emersion programs, kupuna, and/or others.

Commissioner Sakumoto excused himself from the proceedings at this time.

Commissioner Coppa made a motion to accept new Finding of Fact 93 and amend Condition 11 relating to the cultural center.

Ms. O'Toole indicated that the County questioned the proposed amendment to Condition #11. The County would want the original language of the condition to remain with the sole amendment to include the last sentence proposed by the Petitioner.

Mr. Chang indicated that the State agreed with the County.

Mr. Lim indicated that the issue of transportation was deleted because in Condition #9, the agreement of the Petitioner with the Department of Transportation and County Department of Public Works as to the level of funding and participation for its pro rata share of local and regional transportation improvements must be reached prior to the Petitioner obtaining County zoning. It addresses the Commission's concern on the impacts of the project on the existing traffic in Kona.

Ms. O'Toole felt that there's a difference in requiring the TIAR and following up with their report on the mitigation efforts that they've made before the cultural center can open.

Commission Fiesta seconded Commissioner Coppa's motion.

Vice Chair Roehrig commented that Proposed Finding #112, which presently indicates that there is little evidence of value, cultural, historical, or natural resources within the property, is contrary to the evidence, and suggested that as part of this motion, Finding #112 should include the notation that substantial evidence as presented in Petitioner's cultural assessment and archaeological inventory survey of valued cultural, historical, and natural resources and customary and traditional native Hawaiian resources existed within the property. The parties indicated that they had no objections with this amendment.

Chair Ing noted that the Movant accepted the amendment.

Vice Chair Roehrig referred to Condition #7 which states that the Executive Officer and the Commission select an individual from the Hawaiian community to serve on this joint committee, and that the intent was to have the Hawaiian community provide its own independent voice on the committee. Vice Chair Roehrig suggested that the condition indicates a list of three names and delete "as selected by the Petitioner," and that this would provide the Commission with flexibility in choosing the best person to serve on the joint committee.

Mr. Lim suggested that the person selected be of native Hawaiian ancestry who is a lineal descendent and knowledgeable on the type of cultural resources on the property and that the names do not have to be selected by the developer.

Ms. O'Toole indicated that the County agreed with the stipulation. Mr. Chang indicated that the State has no objections.

Vice Chair Catalani referred to page 28 of the stipulated order, Finding of Fact #130 regarding the preservation of two trail segments. Vice Chair Catalani indicated that it should be included in both the findings section and as a condition. Mr. Lim indicated that he had no objections to the amendment. It was clarified by the Commission that it would be added to Condition #6 on archaeological , as Condition #6F. There were no objections by the State and County.

Mr. Ching noted that motion was to amend the Findings of Fact, Conclusions of Law, and Decision and Order as stipulated by the parties currently before the Commission by amending Finding of Fact #112 with language submitted by Vice Chair Roehrig, adding a new Finding of Fact #93 as proposed by the Petitioner, amending Decision & Order Condition #11 with no other changes but with the addition of this language, "If for any reason the cultural center does not commence operations by January 1, 2008, the Petitioner shall return to the Commission for a hearing to review compliance of the requirements of this condition. Mr. Ching added that the language contained in Finding of Fact #130 was to be represented as a new Condition #6 in the Decision & Order. The Commission was polled as follows:

Ayes: Commissioners Coppa, Fiesta, Catalani, Roehrig, Desai, Montgomery, and Ing

The motion passed with a vote of 7 ayes and 2 absent.

Commissioner Coppa moved to adopt the stipulated Findings of Fact, Conclusions of Law, and Decision and Order for a State Land Use District Boundary Amendment. Coppa Fiesta seconded the motion, and the Commission was polled as follows:

Ayes: Commissioners Coppa, Fiesta, Roehrig, Montgomery, Desai, Catalani, and Ing

The motion passed with a vote of 7 ayes and 2 absent.

(Refer to the LUC transcripts for more details on this matter.)

A break was taken at 9:13 a.m. The meeting reconvened at 9:22 a.m.

DR02-26 KULEANA KU'IKAHI, LCC

Commissioner Sakumoto was not present to the proceedings at this time.

Chair Ing indicated that this was a status report meeting on Docket No. DR02-26 Kuleana Ku'ikahi, LLC to discuss the withdrawal of the Petitioner for Declaratory Order declaring the subdivision and development of land for homesites in the State Land Use Agricultural District in Lahaina, Maui, that it requires a district boundary amendment.

Chair Ing apologized to the parties and the public for any miscommunications that may have occurred at the June 5, 2003 Commission meeting. Chair Ing indicated that a meeting was scheduled on Maui and most of the Commissioners did not receive word that the Petitioner had filed a withdrawal of the Petitioner letter until the day prior to the meeting. He further indicated that on the day of the meeting, all parties but the State did not appear, and the Commission felt that it was important enough to hear from the parties what had transpired in the mediation meetings.

APPEARANCES

Richard McCarty, Esq., represented Petitioner Kuleana Ku'ikahi, LLC

Richard Kiefer, Esq., appeared on behalf of Interveners Makila Land Company, LLC; Kauaula Land Company, LLC; and Launiupoko Associates, LLC.

Allen Hoe, Esq., Mediator

Jane Lovell, Esq., represented the County of Maui Planning Department

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

Abe Mitsuda, Land Use Division, Office of Planning

PUBLIC WITNESS

1. Vicky McCarty

Ms. McCarty stated that she was not representing Kuleana Ku'ikahi but is before the Commission as a public member. She indicated that the apology was heartwarming and indicated that she was very disappointed that no testimony was taken earlier on Maui.

Chair Ing asked that the parties inform and advise the Commission on the status of the project and welcomed Mr. Allen Hoe, who was a former Chair of the Land Use Commission and was one of the mediators in this matter.

Mr. Hoe stated that he and Dana Hall were asked to mediate meetings amongst the parties and expressed appreciation to the Commission for suggesting mediation and for the support and assistance of the Commission staff. Mr. Hoe reported that the mediators convened three sessions on Maui - May 5, 14, and 21, 2003. Mr. Hoe indicated that there was sincere aloha and the willingness of all parties to devote their time and energy to identify those positions which could mutually be supported and craft a process in which all issues were genuinely addressed. Furthermore, the parties reached the consensus on the identification of mutual concerns and the creation of a process wherein these matters would be addressed and resolved. Mr. Hoe further indicated that there basically two concerns - State and County land issues and issues of limited scope affecting the intercourse of the neighbors within the Kauaula valley. The parties focused their energies toward issues over which they had some control and to defer those other public policy issues at another time and forum. Mr. Hoe stated that significant progress has been made and that the parties are totally supportive. Therefore, Petitioner withdrew its petition for Declaratory Order, and the parties respectfully request that their decision to withdraw the case be honored in the same spirit as this body originally encouraged mediation and that the process established by the parties be allowed to mature for a reasonable

amount of time before inquiry is made. The parties wish to assure the Commissioners that they are cognizant of the broad public policy issues administered by this Commission as well as the County and fully recognize that they are totally focusing on those issues relating to how they live together at Kauaule valley. The parties sincerely request that they are not asked to disclose those matters that they are addressing right now in terms of this joint working group process.

Chair Ing inquired about a written agreement signed by the parties. Mr. Hoe indicated that the parties are in the process of putting together an agreement. Mr. Hoe further indicated that the parties are prepared, once they feel that this process has been established, and are more than willing to provide the documentation, describe their experiences, and provide a review of the whole process to the Commission.

Ms. Lovell indicated that the County participated in those parts of the mediation process where it was appropriate, and that the County is very satisfied with the process, remains as a resource to the parties and is willing to do what is needed to speed their efforts.

Mr. Chang indicated that the State has no position on this matter.

Mr. Hoe indicated that both sides have placed two representatives in this working group and also are going through a selection process to compliment the four of them with three Hawaiian kupuna.

Vice Chair Catalani noted that there were public issues raised regarding the appropriate use of the agricultural district and issues regarding water rights and PASH issues. Vice Chair Catalani suggested that the Commission maintain jurisdiction for purposes of reviewing its conclusion or dealing with public issues. Mr. Hoe indicated that the parties recognized that there are two clear and distinct issues – public policy issues with respect to land use issues, and PASH and water rights. Mr. Hoe indicated that the parties further recognize that their addressing the issues as it relates to them cannot affect public policy and currently are trying to identify and establish a process that they are comfortable with on how they deal with each other in terms of resources in the valley and that whatever is agreed upon has no impact on public policy. Mr. Hoe further indicated that the parties are very much in agreement that they are not going to address land use issues, water commission issues or PASH issues as may be related to public rights and are attempting to resolve the issues as it directly relates to how they deal with each other as neighbors in this valley.

Commissioner Coppa moved to enter into executive session to discuss the legal aspects of this issue. The motion was seconded by Vice Chair Roehrig. The Commission entered into executive session at 10:02 a.m. The meeting reconvened at 10:31 a.m.

Commissioner Sakumoto was present to the proceedings at this time.

Mr. McCarty thanked everyone for its genuine interest on the matter and for the opportunity to mediate. Mr. McCarty also indicated that they are hopeful that this process

would work and will withhold legal involvements for a period of time as a moratorium and withdraw the Petition without prejudice.

Mr. Kiefer reiterated Mr. McCarty's comments and added that the parties have worked hard the past few months and complimented that the two mediators who did an outstanding job.

Chair Ing announced that the Commission will not go into deliberations and expressed appreciation for the input by the parties. Chair Ing asked for a motion to accept or reject the withdrawal of the Petition.

Vice Chair Roehrig indicated that the Commission with the assistance of its counsel has drafted a proposed Order, and if that is in order, moved to adopt the Order. Vice Chair Catalani seconded the motion.

Commissioner Coppa commented that before coming to this Commission, he was an advocate of doing away with this Petition and that the responsibility rested with the County. He further commented that it appeared the County was lax in addressing some of the concerns of the intervener, concerns of the developer, and that the County had a responsibility that they did not fulfill. Commissioner Coppa expressed that in the future, the County should be a little more responsible to ensure that there is adequate water for agricultural lots and to ensure that there is an agricultural plan.

Commissioner Desai agreed with Commissioner Coppa's comments and added that the Commission has seen testimony that someone could build a house but not follow agricultural rules of cultivating agricultural and luxury homes without an agricultural plan. Commissioner Desai suggested that the parties return to the Commission to provide a status report on the agreements that have been made.

Commissioner Fiesta indicated agricultural lots should not be used to build mansions. He stated that a farmer or rancher who depends on the land to make a living should not come here build a million dollar house and a flower garden and a couple of fruit trees. He expressed that the Commission needs to stand behind the law and maintain and protect agricultural lands.

Commissioner Montgomery commented that he is concerned about statewide issues because of all the testimony heard from various people concerning the water that they need and is very much in favor of a motion that will allow the Commission to look a little deeper.

Vice Chair Catalani agreed with Commissioner Desai that the Commission has a record, which has created a lot of disturbing questions about whether or not the lands are used for agricultural purposes. He stated that he is not convinced with the record that stands today.

Vice Chair Roehrig stated that he wanted the Supreme Court of the Republic of Hawaii decision be enforced and believed that there is PASH rights and resources in the Kauaula valley. Vice Chair Roehrig further stated that he is in agreement with the Chair that the

Commission will allow the withdrawal of this Petition, and that the Commission will retain jurisdiction over this matter.

Chair Ing thanked the parties for accepting the request to go into mediation and that the process exceeded the Commission's expectations. Chair Ing asked that the parties come back before the Commission in six months to provide a status report and provide the Commission with a copy of the agreement. If this motion passes, the Commission's Deputy Attorney General will assist the Commission in formalizing an Order for signature.

Mr. Ching stated that the a motion was made to accept the withdrawal of the Petition requiring receipt of a status report in six months as to the progress of the parties implementing the mediated agreement. The Commission was polled as follows:

Ayes: Commissioner Roehrig, Catalani, Coppa, Desai, Fiesta, Montgomery, Ing, and Sakumoto

The motion passed with 8 ayes and 1 absent.

Ms. Lovell stated that on behalf of the County of Maui, she would like the record to reflect that the County understands Commissioner Roehrig's concerns but cannot leave the proceedings without stating that an accusation of such impropriety on behalf of the County, its lawyers and its Planning Director without at least stating on the record that the County objected to that statement of facts as not accurate.

(Refer to the LUC transcripts for more details on this matter.)

A recess was taken at 11:03 a.m. The meeting reconvened at 11:20 a.m.

A00-730 LANIHAU PROPERTIES, LLC

Chair Ing announced that this was a continuation of the last meeting of June 26, 2003 to consider the Petition to reclassify approximately 336.984 acres of land currently in the Conservation District into the Urban District at Honokohau, North Kona, Hawaii for the development of a mix of light industrial and industrial-commercial uses for the Kaloko-Honokohau Business Park.

APPEARANCES

R. Ben Tsukazaki, Esq., representing Petitioner
James Greenwell, Petitioner and President of Lanihau Properties, LLC
William Moore, Planner for the Petitioner
Norman Hayashi, County of Hawaii Planning Department
Patricia O'Toole, Esq., representing County of Hawaii Planning Department
John Chang, Esq., representing Land Use Division, Office of Planning
Abe Mitsuda, Office of Planning
Judith Henry, Office of Planning

Nicole Walthal, Esq., representing Intervener Kaloko-Honokohau National Historical Park
Stanley Bond, Resource Manager, Intervener Kaloko-Honokohau National Historical Park
Geraldine Bell, Superintendent, Intervener Kaloko-Honokohau National Historical Park

Commissioner Montgomery was not present to the proceeding.

Mr. Tsukazaki provided a brief status report on the treatment of archaeological sites and burials and indicated that the archaeological and cultural surveys were completed by the International Archaeological Research Institute, Inc. Mr. Tsukazaki stated that there are three plans currently in process. The first is a burial treatment plan, which is in process and has involved an onsite visit with the family members and discussions regarding the preservation of the burial sites. He further stated that there is a formal regulatory process in search for claimants currently underway, and that once the process is completed, additional consultation will take place and a formal burial treatment plan will be submitted to the State Burial Program. The second mitigation plan is called the preservation plan, and a conceptual preservation plan for culturally sensitive sites or non-burial sites was approved by the State Historic Preservation Division. A final preservation plan will be submitted later this year to the State Historic Preservation Division. The third mitigation plan is called the Data Recovery Plan, and it contains a more in-depth study relating to what's found in the archaeological inventory plan. The Data Recovery Plan was submitted and approved by the State Historic Preservation Division in 2002. Data recovery work started in the spring of 2003 and when completed, a report will be submitted to the State Historic Preservation Division, and copies will be provided to the Commission. The annual report will also contain information regarding what has been done based upon the approved plans.

Commissioner Montgomery entered the proceedings at this time.

Mr. Tsukazaki stated that there was an error in Exhibit 9, which is a matrix showing conditions that were revised from the TSA conditions to the conditions that are contained in the stipulated Decision. Mr. Tsukazaki further stated that the condition shown as 3g on page 5 of the matrix was an error. He indicated that the language was based upon a previous revision between the National Park Service and Lanihau Properties LLC, and the correct revised Condition #3g is as stated in the stipulated decision on page 100. Exhibit 9 needs to be disregarded with regards to its statement on Condition #3g.

Ms. Walthal provided a brief overview of the National Park Resources, the groundwater flow issues, the potential adverse impacts of industrial development on National Park resources, and the precautionary principle, which is the foundation for how an agreement was reached with Lanihau on this matter. Ms. Walthal indicated that the National Park Service intervened on the TSA matter, and used the TSA matter as a model on this matter.

Commissioner Sakumoto stated this his concern was the quarry permit issued may address issues related to the quarrying activities but not necessarily issues concerning water quality. He further stated that although it may be a permitted use under another jurisdiction, it

may violate state water quality standards. Ms. Walthal indicated that Condition 2b addresses State water quality standards, which requires that they not be violated.

Commissioner Sakumoto stated that he is concern with the conditions of the permit is that it created an exclusion from having to engineer, construct, and maintain water containment systems, which is actually the Commission's condition.

Mr. Tsukazaki stated that the EIS, Appendix 1, contains the Conservation District use permit for the quarrying activities, and basically adopts an attachment which was the recommendation of staff and there are no conditions that relate to the issue. The reason the language was revised was to recognize that there were entitlements or current users under that permit.

Commissioner Sakumoto suggested that the condition be re-written so that it does not exclude the need to protect the water quality from things that result from quarrying activities, and rather to say that the Petitioner will do these things but without limiting the uses permitted to do under the quarrying permit, basically protect the rights under quarrying permit but still comply with monitoring the water quality.

Chair Ing referred to page 97, proposed stipulated Condition 2b, and expressed that he felt more comfortable if the Petitioner would include that no state water quality standards will be violated whether federal, county or government agencies, rather than restricting it to the state. Mr. Tsukazaki agreed to the change.

Commissioner Sakumoto added that instead of starting with, "except where uses permitted under the existing quarry permit," to start the paragraph with the way it was originally, "Prior to" and at the end of that say, "The foregoing is not intended to limit the uses permitted under the existing quarry permit." Mr. Tsukazaki agreed to the change. There were no objections by the parties.

Commissioner Montgomery expressed his concern regarding conditions about rare shrimps which are candidates for listing as endangered in OP's Exhibit 1. He asked the Park National Park Service if they are taking any initiative to further the list of these candidate shrimp species which would afford additional protections. Mr. Bond responded that because of a whole variety of issues, the Fish and Wildlife Service has difficulty in moving forward with some of the candidate species onto the list of endangered species.

A lunch break was taken at 12:12 p.m. The meeting reconvened at 1:36 p.m.

Russell Suzuki, Deputy Attorney General for the Land Use Commission, was not present to the proceedings at this time.

Mr. Tsukazaki was also not presenting to the proceedings at this time. Mr. William Moore represented Lanihau Properties, LLC.

STATE'S WITNESS

1. Abe Mitsuda

Mr. Mitsuda stated that the Office of Planning provided written testimony to the Commission, and that the State is in favor of the Petition with conditions. Mr. Mitsuda indicated that the Office of Planning has signed a stipulated Findings and Conditions, and that while the testimony may have indicated some differences, the State agreed to the stipulation.

Mr. Mitsuda indicated that through the transportation forum held, a process has been established to guide future projects in this area. Mr. Mitsuda referred to Exhibit 9b which is a map showing the major state and local roads such as Queen Kaahumanu Highway ("Queen K"), Mamalohoa Highway, Kealakehe Parkway, and Hinalani Street – major streets which border the Petition Area as well as the TSA project and the State project at Kealakehe. He indicated that one of the State's major concern was that Queen K is getting congested and there's a great need for laterals. He also stated that one of HCDCH's concerns was shared improvement costs if Lanihau will be connected to the Parkway. Mr. Mitsuda stated that he was unable to have Stan Tamura of DOT testify due to a prior commitment, but have agreed that the stipulation was flexible enough for the DOT to work on a fair share agreement with the various developments, including Lanihau.

Commissioner Sakumoto referred to Condition 6a on page 103 regarding the stipulated transportation condition. He indicated that the language change made to this condition was different from the condition in the TSA approval. Mr. Moore stated that there was a typo that was inadvertently put in and that it should be the original condition from the TSA order.

Vice Chair Catalani stated that he is not convinced that DOT and the State will come through with the fair share plan, and stated that a transportation witness was needed to testify for the State before the Commission.

Vice Chair Roehrig suggested that a condition be included in the conditions that mandates having a traffic highway safety committee for the West Hawaii region.

Mr. Suzuki was present to the proceedings at this time.

Mr. Mitsuda indicated that the State would cooperate with the Commission if the Commission includes a condition that mandates that a traffic highway safety committee for the West Hawaii region be formed.

Chair Ing commented that the State should bring forth a representative from DOT to testify for the State, and that when a fair share condition is imposed by the Commission, it is the State Office of Planning's responsibility to make sure that the State follows through with this condition.

Mr. Ching indicated that he was invited to address the Statewide Transportation Advisory Committee (STAC). He stated that DOT has both a statewide advisory group as well as a county specific transportation advisory group. He addressed before the Committee the need for DOT and the County to provide timely feedback with respect to transportation issues. Mr. Ching also noted that he had relayed the concerns of the Commission to this transportation committee and asked for specificity, representation and information to the Commission by transportation officials so that the Commission could render a good decision.

Mr. Ching indicated that with respect to the TSA docket, a Pollution Prevention and Transportation Forum was held on November 4, 2002, and that discussions were ongoing with respect to the State project - Queen K and K-K widening.

Mr. Moore referred to OP's Exhibit 9a, which is a road circulation network developed by the County Planning Department and Department of Public Works, and indicated that the Petitioner has been working closely with the Planning Department in trying to ensure that the road network conforms to standards. Mr. Moore indicated that this doesn't satisfy the overall issues but there has been some coordination with Mr. Roy Takemoto and the Planning Director.

Chair Ing inquired about the status of HCDCH's project. Mr. Mitsuda responded that there are pending ceded land issues, which is the reason why the project has not been completed.

A break was taken at 2:26 p.m. The meeting reconvened at 2:46 p.m.

Commissioner Montgomery was not present to the proceedings at this time.

DR02-26 KULEANA KU'IKAHU, LLC (Maui)

Vice Chair Roehrig moved to adopt the Order Regarding Withdrawal of Petition for a Declaratory Order. Commissioner Fiesta seconded the motion, and said motion was unanimously approved by voice votes.

A00-730 LANIHAU PROPERTIES, LLC (Hawaii)

PETITIONER'S WITNESS

1. Jim Greenwell

Mr. Greenwell commented that with respect to prior discussions regarding concerns over traffic issues and the Commission's intent to obtain more aggressive leadership from the DOT, he questioned whether the message be in the form of an additional Finding of Fact, rather than a condition of approval on the Petitioner. He felt that it was of a general regional concern.

Mr. Greenwell stated that he learned a lot from participating in all of the hearings and in some of the TSA hearings, and thanked the parties who were involved for their hard work in putting together the stipulated agreement. He also thanked the Land Use Commission staff for their encouragement and assistance.

Commissioner Montgomery was present to the proceedings at this time.

Chair Ing stated that the Commission would like to thank all of the parties for their efforts and willingness to work together.

Mr. Moore also thanked the parties, especially the National Park Service, for putting in their time, effort, and reasonableness into this docket.

Ms. Walthal stated that the National Park Service would like to reflect the same things to the Petitioner, and the State and County as well, and that it was well worth all the efforts made into this docket.

Chair Ing declared the hearing closed on this matter and will be scheduling an action item on the agenda in the near future.

(Refer to the LUC transcripts for more details on this matter.)

The meeting was adjourned at 2:58 p.m.