

LAND USE COMMISSION  
MEETING MINUTES

August 12, 2004

Royal Kona Resort  
Alii Surf Room  
75-5852 Alii Drive  
Kailua-Kona, HI 96740

COMMISSIONERS PRESENT: Pravin Desai  
Isaac Fiesta, Jr.  
Michael Formby  
Kyong-Su Im  
Lisa Judge  
Steven Montgomery  
Randall Sakumoto  
Peter Yukimura

COMMISSIONERS ABSENT: P. Roy Catalani

STAFF PRESENT: Diane Erickson, Deputy Attorney General  
Anthony Ching, Executive Officer  
Bert Saruwatari, Staff Planner  
Max Rogers, Staff Planner  
Holly Hackett, Court Reporter

Presiding Officer Sakumoto called the meeting to order at 10:04 a.m.

ADOPTION OF MINUTES

Commissioner Judge noted a correction in page four, paragraph one the last sentence should be changed from “unfamiliar” to “familiar,” whereas the word “her” should be changed to “the.” Commissioner Fiesta, Jr. moved to adopt the amended minutes, seconded by Commissioner Yukimura. The motion was unanimously approved by voice votes.

TENTATIVE MEETING SCHEDULE

Executive Officer Anthony Ching reported that both September meetings would be held on Maui. Mr. Ching noted for the Commissioners that the HCPO conference is scheduled for September 8<sup>th</sup> to the 10<sup>th</sup>. Mr. Ching stated the November 18<sup>th</sup> and 19<sup>th</sup>

meeting will be held on Oahu and would likely address the Waimanalo Landfill docket. Additionally, the second October meetings will be held on Maui.

A04-747 KAMEHAMEHA INVESTMENT CORPORATION (HAWAII)

APPEARANCES

R. Ben Tsukazaki, Esq., representing Petitioner  
Christopher Yuen, Planning Director, Hawaii County Planning Department  
Norman Hayashi, Planning Program Manager, Hawaii County Planning Department  
Bobbie-Jean Leithead-Todd, Esq., representing Hawaii County Planning Department  
John Chang, Esq., representing Office of Planning  
Abe Mitsuda, Land Use Division, Office of Planning  
Charles G. Bockus, Intervenor

Presiding Officer Sakumoto described the procedure for this docket, and there were no objections to the procedure by the parties.

PUBLIC WITNESS

1. Mahealani Pai

Mr. Pai stated that he represented the Royal Order of Kamehameha. He testified in support of the Project, stating that stewardship of native Hawaiian sites is required and expressed his wish that the education system, economy, and culture of native Hawaiians be re-established. There were no questions or comments by the Commission and the parties.

2. Jim Anderson

Mr. Anderson stated that he represented the Keauhou Alii Drive Condo Association. Mr. Anderson testified in support of the Project, noting that KIC makes decisions based on cultural concerns. There were no questions or comments by the Commission and the parties.

3. Jimmy Trask

Mr. Trask stated that he represented himself. Mr. Trask testified that he lives in the Keauhou resort area and is familiar with the scope of the Project. Mr. Trask spoke in support of the Project. There were no questions or comments by the Commission and the parties.

4. Lunakanawai Hauanio

Mr. Hauanio stated that he represented Hawaii Ka Pae Aina and speaks on behalf of the late Queen Liliuokalani. Mr. Hauanio stated that the Commission and developers are not acting in accordance with Article 12, Section 7 of the State Constitution. Mr. Hauanio testified that the State of Hawaii cannot adequately protect native Hawaiian resources. Mr. Hauanio stated he does not believe land transactions can include native cultural sites, and seeks a balance of native rights and property interests.

Mr. Tsukazaki questioned Mr. Hauanio's appointment by the late Queen. The parties had no further questions.

Commissioner Im stated the witness should address the Commission with proper respect and that it is not within the witness' right to lecture the Commission. Commissioner Im then asked Mr. Hauanio for his recommendation on how to balance the protection of Hawaiian rights and property interests.

Mr. Hauanio stated that a civilized community must respect each other, noting that property rights in Hawaii cannot be fee-simple nor exclude native Hawaiian tradition and culture.

Commissioner Im stated that the Commission considers and seeks to balance both public and private interests.

5. Judith Graham

Ms. Graham stated that she represented herself. Ms. Graham testified on the importance of preserving the West Hawaii Railway feature, citing its historical significance. Ms. Graham stated the Petitioner has previously excluded the West Hawaii Railway site from a previous petition area (A94-705) as the railway abutted the mauka boundary. Ms. Graham noted that the Petitioner is now attempting to develop its project around the West Hawaii Railway site, this time on the project's makai boundary in an effort to exclude the necessary preservation of the railway. Ms. Graham stated that a metes and bounds description of the property should be required for the Petition.

Mr. Tsukazaki asked Ms. Graham if she would be satisfied if the portion of the railroad right-of-way transversing the Property would be physically preserved by his client.

Ms. Graham stated that if preserving the railway is part of the docket, KIC must provide information as per Chapter 205, HRS. There were no questions or comments by the Commission and the parties.

6. Y. Leihulu Marmac

Mr. Marmac stated that he represented Protect Keopuka 'Ohana. Mr. Marmac testified that the State and County must protect and preserve native people, land and culture. Mr. Marmac spoke in opposition to the Project stating the Project would desecrate burial sites and further requesting the discontinuation of building in Hawaii. There were no questions or comments by the Commission and the parties.

7. Richard Wheelock

Mr. Wheelock stated that he represented East West Consultants. Mr. Wheelock testified in support of the Project, stating a reclassification to the Rural district is appropriate. Mr. Wheelock stated his opinion that the petitioner would not desecrate burials. There were no questions or comments by the Commission and the parties.

8. Gerald Bockus

Mr. Bockus stated that he represents himself as a self-affected landowner. Mr. Bockus testified he owns 3.8 acres of land within the Property, as detailed on Petitioner's Exhibit 17. Mr. Bockus stated he is concerned about the Petitioner maintaining a previously made agreement to a no-build buffer adjoining his property. Mr. Bockus requested that a buffer is granted via a condition of approval.

Mr. Tsukazaki verified the map of the witness and had no further questions.

Commissioner Judge sought clarification over Exhibit 17a.

Mr. Tsukazaki stated the Petitioner will use Exhibit 17 and will withdraw Exhibit 17a.

Commissioner Im asked Mr. Bockus if his property is currently used for agricultural uses and would Mr. Bockus be opposed to lifting the buffer restriction based on a change of use.

Mr. Bockus stated he preferred to have the buffer in regardless of the land use in the adjacent petition area.

Commissioner Im felt that the buffer would be inappropriate in the event that Mr. Bockus reclassified his land use from agricultural to another district.

Presiding Officer Sakumoto asked Mr. Bockus if a metes and bounds will be determined for the buffer.

Mr. Bockus stated he would pursue a more specific definition of the buffer.

Mr. Tsukazaki stated he would submit buffers to the same conditions as others such as golf courses, an “as-is” buffer.

9. Jack Kelly

Mr. Kelly stated that he represents Protect Keopuka ‘Ohana. Mr. Kelly testified against the project advocating the preservation of land and culture and suggested a more sustainable model that perpetuates native culture. Mr. Kelly testified that the Project is an Urban and not Rural use, and that the Project will drive up land values, hurting residents and farmers in the area.

Mr. Tsukazaki questioned the witness’s use of “prime” in describing the agricultural capability of the Property.

Commissioner Montgomery sought clarification on the witness’s model to address affordable housing.

Mr. Kelly stated he seeks conditions on affordable housing to remain.

A lunch break was taken at 12:15 p.m. The meeting was reconvened at 1:15 p.m.

10. David Roy

Mr. Roy stated that he represented Kulana Huli Honua. Mr. Roy testified as to the credibility of Kamehameha Schools’ (KS) development priorities particularly KS developing housing instead of schools in Kona. Mr. Roy stated that more educational facilities in agricultural areas should be built to teach Hawaiian traditional farming techniques and cultural ways. Mr. Roy testified that a change in zoning would prevent a reversion back to native practices.

Mr. Tsukazaki sought clarification from the witness that Hawaiians are entitled as constituents to the Master Plan of Keahole.

Mr. Roy stated that all Hawaiians are trustees of Bishop Estate.

The Commissioners had no questions.

11. Jim Medeiros, Sr.

Mr. Medeiros stated that he represents Protect Keopuka 'Ohana. Mr. Medeiros spoke of his concern for the irreplaceable nature of Kona's agricultural lands. Mr. Medeiros testified that KIC has a past history of not being good stewards of native culture in Kona. Mr. Medeiros testified in opposition to the Project, stating the Project has too many unresolved issues to be approved. There were no questions or comments by the Commission and the parties.

12. Marshall Blane

Mr. Blane stated that he represented himself but he is a member of the West Hawaii Citizens Coalition. Mr. Blane testified against the Project stating the region suffers from significant traffic delays and lacking infrastructure. Mr. Blane seeks deferment of Project until infrastructure in the area has improved.

Mr. Tsukazaki questioned the witness's understanding of the scope of the Project.

Commissioner Montgomery clarified the approval process and asked the witness if he wouldn't want to retract the requested deferment.

Mr. Blane changed his position from deferment of the Project to opposition.

13. Kamana Kapele

Mr. Kapele did not state which party he represented. Mr. Kapele read a public notice of the Hawaiian Kingdom Constitution. Mr. Kapele testified that the government must act for the common good. Mr. Kapele presented a statement from the perspective of Hawaiian sovereignty. There were no questions or comments by the Commission and the parties.

A recess break was taken at 2:45 p.m. The meeting was reconvened at 3:00 p.m.

Commissioner Desai excused himself from the proceedings at 2:45 p.m.

Mr. Yuen of the Department of Planning, Hawaii County, answered questions from the Commissioners concerning traffic, zoning and lot sizes, affordable housing, timeframes for zoning changes, and staging development concurrently with infrastructure improvements.

A recess break was taken at 4:13 p.m. The meeting reconvened at 4:28 p.m.

14. Alfred Spinney (aka M. Mahi)

Mr. Spinney stated that he represents the culture of Hawaii. Mr. Spinney testified in opposition to the project stating the likelihood of desecrating Hawaiian culture. Mr. Spinney presented a notice that the Commission was liable in their individual and private capacity to protect native Hawaiian rights. There were no questions or comments by the Commission and the parties.

16. Virginia Isbell

Ms. Isbell stated that she represents herself and community. Ms. Isbell stated four reasons to oppose the project: (1) traffic gridlock, (2) affordable housing, (3) not enough potable water, and (4) Project will make flooding worse. There were no questions or comments by the Commission and the parties.

17. Mikahala Roy

Ms. Roy stated that she represented Kulana Huli Honua. Ms. Roy read written testimony from community members in opposition to the Project. Ms. Roy stated she is opposed to the Project because of the desecration of native sites and respected cultural sites. Ms. Roy presented the Commission with a painting of her kupuna. There were no questions or comments by the Commission and the parties.

Presiding Officer Sakumoto announced that on August 13, 2004, the Commission will take up the Special Permit first, then resume with Petitioners case on Docket No. A04-747.

The meeting was adjourned at 5:20 p.m.

*(Please refer to the Land Use Commission transcript for additional details on all of the above matters)*