

LAND USE COMMISSION
MEETING MINUTES

August 13, 2004

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

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

COMMISSIONERS ABSENT: Pravin Desai

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

Chair Catalani called the meeting to order at 8:40 a.m.

DOCKET NO. SP01-394 DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES –
HAWAII ARMY NATIONAL GUARD AND HAWAII AIR NATIONAL GUARD (MAUI)

Chair Catalani stated this meeting was an action meeting for SP01-394.

APPEARANCES

Joseph Earing, DAGS, Public Works Division, representing the Petitioner
Lt. Col. Alvin Satogata, Hawaii Air National Guard, representing the Petitioner
John Chang, Deputy Attorney General, representing Office of Planning
Abe Mitsuda, Land Use Division, Office of Planning

PUBLIC WITNESS

1. Lunakanawai Hauanio

Mr. Hauanio spoke in opposition to the Project, noting Hawaii judicial precedence of HRS 1-1. There were no questions or comments by the Commission and the parties.

Mr. Saruwatari provided the Commissioners with a map orientation and staff report.

Chair Catalani asked as to the status of the Project. Petitioner stated that the status of project was being very close to completion.

Chair Catalani asked for a formal presentation. Petitioner did not have a presentation to give.

Commissioner Judge sought clarification of 7-acre site within the project. Petitioner stated the entire site is 30 acres and will co-locate with Army National Guard.

Chair Catalani asked about the status of historical resources, as it meets the letter of the condition. Petitioner stated they found bunkers but avoided them.

Office of Planning stated they had no concerns to extend the permit.

Chair Catalani asked the Commissioners how they would like to proceed.

Commissioner Judge submitted a motion to grant an extension as long as the conditions of approvals are complied with. Commissioner Montgomery seconded the motion. Vice Chair Sakumoto asked Deputy Attorney General Erickson if the Commission is able to extend the Special Permit longer than the original Special Permit allows, and questioned if Commission's judgment conflicts with County Council. Chair Catalani asked if it is possible to have a Special Permit for an indefinite time period.

A recess was taken at 9:10 a.m. The meeting reconvened at 9:25 a.m.

Ms. Erickson referenced 205-6E HRS and 15-15-96 HAR and stated the rules allow approval of Special Permit with modifications, however, Ms. Erickson stated she doesn't believe changing the term of the Permit is allowable. Ms. Erickson noted a term imposed by the Commission would allow later review in the future.

Commissioner Judge amended her motion to allow a 10-year extension of the Permit. Commissioner Montgomery seconded the motion.

Commissioner Im stated his opinion that Special Permits should be given out carefully and recommends the Commission issue Special Permits sparingly as these permits do not allow for a full investigation of issues.

The Commission was polled as follows:

Ayes: Commissioner Judge, Montgomery, Fiesta, Formby, Im, Sakumoto, Yukimura, and Catalani

The motion passed with 8 ayes and 1 absent.

A recess was taken at 9:30 a.m. The meeting reconvened at 9:47 a.m.

DOCKET NO. A04-747 KAMEHAMEHA INVESTMENT CORPORATION

Chair Catalani noted this was a continuation of an action meeting and stated that public testimony had been completed yesterday.

Mr. Tsukazaki stated the first issue to be addressed is to note that Commissioner Montgomery performed as a consultant on the Project.

Commissioner Montgomery stated he was hired as a sub-consultant for a week and his findings are part of the exhibits located in the docket. Additionally in March, Commissioner Montgomery facilitated a field trip (unrelated to the Project) for Kamehameha School's students. Commissioner Montgomery stated that he could proceed in an unbiased manner.

The County sought clarification on Commissioner Montgomery's work with Kamehameha School and then had no objections. The State also had no objections. Chair Catalani deemed Commissioner Montgomery fit to serve.

Mr. Tsukazaki listed his order of witnesses. Mr. Tsukazaki provided reasoning for the second set of amended exhibits and stated he will submit a third set of amended exhibits to counter public testimony. Mr. Tsukazaki stated he wishes to leave a 31.5 acre portion of the Property known to be a part of the Kona Coffee Belt in the Rural District, however, he wishes the Golf Course will remain in Agricultural, and not Rural.

Chair Catalani accepted the Petitioner's second set of amended exhibits, having no objections from the parties.

Mr. Tsukazaki stated that he will provide a Master Plan to the Commission at this time as well as the resume of Mr. Randall Okaneku.

Chair Catalani admitted Exhibits 23 and 24, hearing no objections. Chair Catalani stated exhibit 17a was withdrawn from the record.

Commissioner Im made a motion to enter into executive session to determine if various amendments should be considered under the rules.

Chair Catalani sought to combine the proposed executive session with the golf course issue.

After much discussion and deliberation amongst the Commission and the parties, Commissioner Im amended his motion to enter an executive session to include the discussion of boundary issues, the railroad right-of-way, reversion of agricultural land for golf course, and the removal of 31.5 acres of land from the Petition area. Vice Chair Sakumoto seconded the motion. Upon a unanimous vote in favor, the Commissioners entered executive session at 10:35 a.m.

At 11:30 a.m. the executive session was closed and Commissioner Judge excused herself from the proceedings.

A lunch break was taken at 11:30 a.m. The meeting reconvened at 1:10 p.m.

Chair Catalani asked the Petitioner to clarify issues associated with the Petition pertaining to the Petitioner's position on developing the Project with or without the golf course, the lacking public notice concerning the railroad right-of-way, and issues pertaining to the definition of the Petition area.

Mr. Tsukazaki stated the golf course is vital to the Project, and that the Petitioner is willing to modify the Petition to recognize the railroad right-of-way, and requested that Exhibit 16a supercede Exhibit 16 on the basis that the buffer information is incorrect.

There were no objections from the parties to submit Exhibit 16a and withdraw Exhibit 16.

The Commissioners and the parties discussed the definition and preservation measures for the railroad right-of-way. The Petitioner stated they would preserve the right-of-way.

Vice Chair Sakumoto stated the Petitioner needs to amend his Petition to clarify the issues and submit the revisions to the Commission 45 days prior to the next hearing.

PETITIONER'S WITNESS

1. Francis Kauhane

Mr. Kauhane provided a map orientation and stated the intentions of KIC to develop the Property.

A recess break was taken at 2:10 p.m. The meeting reconvened at 2:25 p.m.

Mr. Kauhane stated that the golf course is vital to the Project and that irrigation for the golf course would be provided by a KIC owned sewage treatment plant.

The County presented questions concerning: the proposed re-alignment of Alii Highway in relation to the two archaeological finds, a circulation plan at Mamalahoa Bypass, and the location of on-site affordable housing and phasing.

The State presented questions concerning: the area of the Project located in the Kona Coffee Belt, the preservation of trees on-site, KIC's status of contracting a master planner, location of railroad right-of-way and preservation, requirements of buffers, location of sewer treatment plant, nature of the treated water to be used for irrigation, affordable housing, and familiarity with OP's written conditions of approval.

Chair Catalani announced the meeting would recommence on October 7 and 8, 2004.

The meeting was adjourned at 2:55 p.m.

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