

LAND USE COMMISSION
MINUTES OF MEETING

August 12, 2005

Alii Ballroom
Waikoloa Beach Marriott
69-275 Waikoloa Drive
Waikoloa, Hawaii

COMMISSIONERS PRESENT: Thomas Contrades
Michael Formby
Kyong-su Im
Lisa Judge
Duane Kanuha
Steven Montgomery
Ransom Piltz
Randall Sakumoto

COMMISSIONERS ABSENT: None

STAFF PRESENT: Diane Erickson, Deputy Attorney General
Anthony Ching, Executive Officer
Maxwell Rogers, Staff Planner
Sandra Matsushima, Chief Clerk
Holly Hackett, Court Reporter
Walter Mensching, Audio Technician

Chair Sakumoto called the meeting to order at 8:35 a.m.

A05-757 JAMES W. McCULLY and FRANCINE M. McCULLY

Chair Sakumoto stated that this was an action meeting on Docket No. A05-757 James W. McCully and Francine M. McCully to consider the reclassification of approximately 4.6 acres of land currently in the Conservation District to the Agricultural District at Wailea, South Hilo, Island of Hawaii, to consolidate and re-subdivide the three (3) existing legal lots of record and the contiguous former railroad right of way into three (3) lots in order to provide a more useful lot configuration.

APPEARANCES

R. Ben Tsukazaki, Esq., represented Petitioner
James W. McCully, Petitioner

Bobbie Jean Leithead-Todd, Esq., represented County of Hawaii Planning Department
Norman Hayashi, County of Hawaii Planning Department

John Chang, Esq., represented State Office of Planning

Laura Thielen, Director, State Office of Planning

Abe Mitsuda, State Office of Planning

Lorene Maki, State Office of Planning

Chair Sakumoto stated that yesterday, the State had put on their witness out of order so at today's proceedings, the Commission will continue with the County's witness.

Chair Sakumoto noted that there were no public witnesses.

County's Witness

1. Norman Hayashi

Mr. Hayashi stated that he is a Planner with the County of Hawaii's Planning Department since 1969. Mr. Hayashi discussed his involvement and familiarity of the County's General Plan since it was first adopted in 1971 thru the latest update in February 2005. Mr. Hayashi discussed issues of allowable uses in the agricultural districts, the Northeast Hawaii Community Plan, county protocols for issuing building permits, and farm dwelling requirements.

Both the State and the Petitioner had no questions for Mr. Hayashi.

Vice Chair Montgomery asked if there were any records available that could indicate the basis for preserving the shorelines in the open designation areas and conservation districts. Mr. Hayashi replied that he did not know of any records that were available on this matter.

Commissioner Kanuha posed questions relative to the intentions of the general plan, county open designation and state conservation classification. He noted the differences between the county and state designations, and that the conservation designation is more restrictive in specifying allowable uses.

Commissioner Piltz raised questions regarding building requirements on conservation lands, whether farm dwellings are allowed, the broad interpretation of the county's open designation, and the requirements of the county building permit process.

Vice Chair Judge had questions and concerns relative to the open zone designation in the County General Plan, other homes and agricultural pursuits in the area that are located in the open district, and other diversified agricultural activities which operate under CDUA permits granted by the BLNR.

Commissioner Im posed a few questions regarding the sugar cane plantation prior to C. Brewer's ownership, and the history of the subdivision of the subject parcels.

Commissioner Formby raised questions relative to the verification of the pre-existing lots, the research done by the applicant, and in this particular case, how the Petitioner came to the county, researched and proved that the 10 lots were pre-existing.

Chair Sakumoto posed questions related to the agricultural 20 designation, the county consolidation and re-subdivision process, non-conforming lots, allowable uses, and special management area (SMA) assessment process.

Commissioner Kanuha had a question regarding any enforcement in effect on the county's agricultural 20 zoning within the conservation district. He was informed by the County that county zoning has no effect within the SLU conservation district.

Commissioner Piltz had a few questions relative to the land grant and the railroad path.

Mr. Tsukazaki stated that he has discussed the concerns of the Commission with his client and believes that his client would benefit from having the opportunity to address these concerns with the parties. Mr. Tsukazaki added that they would like to seek a continuance and the opportunity to regroup and study all these issues that were brought forward by the Commission.

Chair Sakumoto noted that a draft of the decision and order be prepared prior to the next hearing date, which incorporates the facts as discussed during this hearing. Chair Sakumoto added that since there will be a continuance on this docket, the Commission would like to have a live person from the DLNR to testify on how they determine whether or not to keep particular parcels in the SLU conservation district and to describe their processes.

Chair Sakumoto then entertained a motion to continue this hearing to the next available date on the Big Island.

Vice Chair Judge moved to continue this hearing to the next available date on the Big Island. Commissioner Piltz seconded the motion. The motion was approved by voice votes.

The meeting adjourned at 9:25 a.m.

(Please refer to LUC Transcript of August 11, 2005 for more details on this matter.)