

STATE OF HAWAII  
LAND USE COMMISSION

Minutes of Meeting

Ballrooms  
The Royal Waikoloan Hotel  
Kohala Coast, HI

approved  
11/19/95

December 1, 1994

COMMISSIONERS PRESENT: Allen K. Hoe  
JoAnn Mattson  
Trudy K. Senda  
Elton Wada  
Lloyd Kawakami  
M. Casey Jarman  
Allen Y. Kajioka

COMMISSIONERS ABSENT: Eusebio Lapenia, Jr.  
Renton L.K. Nip

STAFF PRESENT: Esther Ueda, Executive Officer  
Winfred Pong, Esq.,  
Deputy Attorney General  
Leo Asuncion, Jr., Staff Planner  
Kathy Yonamine, Staff Planner  
Darlene Kinoshita, Chief Clerk  
  
Jean McManus, Court Reporter

Chairperson Hoe called the meeting to order.

ACTION

A94-705 - PLANNING DEPARTMENT, COUNTY OF HAWAII

Chairperson Hoe announced that the Commission would take action to consider Petitioner's Motion for Waiver of Metes and Bounds on its petition to reclassify approximately 3,785 acres of land currently in the Agricultural District into the Urban District from Kau through Keauhou, North Kona, Hawaii to allow uses for the area consistent with adopted State and County policies and Petitioner's Motion to Waive Requirement for Landowner's Written Authorization to File Petition for TMK No. 7-3-10: 31 consisting of approximately 66.42 acres.

Appearances

Richard Wurdeman, Esq., Corporation Counsel, County of Hawaii

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Jim Nagle, Esq., Deputy Attorney General, Office of  
State Planning

Abe Mitsuda, Land Use Division, Office of State Planning

Arguments on the motion to waive metes and bounds were heard from Mr. Wurdeman and Mr. Nagle. After hearing arguments, questions were asked by the Commissioners.

Commissioner Jarman moved that Petitioner's motion to waive a description of the subject property or increments in metes and bounds pursuant to §15-15-70(c)(3) HAR be granted subject to the following condition, "At any time in the future, when a more accurate metes and bounds description of any portion of the property is needed, at the request of the LUC, the County will provide a metes and bounds description and map."

The motion was seconded by Commissioner Kawakami and carried unanimously by voice votes.

At this time, Mr. Wurdeman requested a continuance on the Petitioner's Motion for Landowner's Authorization until a later date. Chairperson Hoe granted Mr. Wurdeman's request.

DR94-17 - John Godfrey (Hawaii)

Chairperson Hoe announced that the Commission would take action to consider a petition for Declaratory Ruling that a dwelling situated on land located in the State Agricultural land use district must be a "farm dwelling" and that the County's ohana dwelling law does not eliminate that "farm dwelling" requirement.

Appearances

Michael Matsukawa, Esq, Attorney for Petitioner

John Godfrey, Petitioner

Richard Wurdeman, Esq., Corporation Counsel, County of  
Hawaii

Jim Nagle, Esq., Deputy Attorney General, Office of  
State Planning

Robyn Loudermilk, Land Use Division, Office of State  
Planning

Abe Mitsuda, Land Use Division, Office of State Planning

Chairperson Hoe determined that the following public witness letters would not be entered into evidence at this time:

- a. November 25, 1994 from Ronald A. Brown
- b. November 28, 1994 from Karen Clarkson
- c. November 28, 1994 from Dianne Feeney

Arguments were heard from Mr. Matsukawa, Mr. Wurdeman, and Mr. Nagle. After hearing arguments, questions were asked by the Commissioners.

Commissioner Mattson moved to go into executive session to consult with our Deputy Attorney General on legal matters. The motion was seconded by Commissioner Kawakami and unanimously carried by voice votes.

It was determined by Chairperson Hoe that all of the Commissioners present were eligible to participate in the action on the petition.

Commissioner Mattson moved in the matter of John Godfrey, Declaratory Order to determine whether a dwelling situated on land located in the State Agricultural Land Use District must be a farm dwelling and that ohana law does not eliminate that farm dwelling requirement, based on the findings of fact, conclusions of law submitted by the parties along with the finding and conclusion that this Commission has prepared and which are available for review from the executive officer, the Commission orders, for good cause appearing, the Commission hereby rules that dwellings situated on land located in the State Agricultural Land Use District must be a farm dwelling or related to an agricultural activity. Ohana dwelling law under HRS Section 46-4(C) as amended in 1988 does not eliminate the requirement that the two single-family dwelling units must be a farm dwelling or related to agricultural activity. The motion was seconded by Commissioner Kawakami and polled as follows:

Ayes: Commissioner Mattson, Senda, Wada, Jarman, Kajioka, Kawakami, and Hoe

A84-574 - MAUNA KEA PROPERTIES, INC. (Hawaii)

Chairperson Hoe announced that the Commission would take action to consider Petitioner's motions to 1) Extend time to show substantial progress on Phase I, 2) Release housing

condition, and 3) Approve reclassification of the Second Increment of the subject docket consisting of approximately 82.33 acres of land currently in the Agricultural District into the Urban District at Ouli 1, South Kohala, Hawaii for residential development.

Appearances

J. Douglas Ing, Esq., Attorney for Petitioner

William Mielke, Petitioner

Richard Wurdeman, Esq., Corporation Counsel, County of Hawaii

Jim Nagle, Esq., Deputy Attorney General, Office of State Planning

Robyn Loudermilk, Land Use Division, Office of State Planning

Abe Mitsuda, Land Use Division, Office of State Planning

It was determined by Chairperson Hoe that all of the Commissioners present were eligible to participate in the action on the petition.

Commissioner Senda moved in the matter of Docket No. A84-574, Mauna Kea Properties, Inc. to grant Petitioner's Motion to Extend Time and approve the second increment subject to six standard LUC conditions. The motion was seconded by Commissioner Mattson and polled as follows:

Ayes: Commissioner Senda, Wada, Jarman, Kajioka, Kawakami, Mattson, and Hoe.

HEARING

A93-701 - KAUPULEHU DEVELOPMENTS (Hawaii)

Pursuant to a notice published in the Honolulu Advertiser, West Hawaii Today, and Hawaii Tribune-Herald, a hearing was called by the Land Use Commission in the matter of the petition by Kaupulehu Developments to consider reclassifying approximately 1,010 acres of land currently in the Conservation District into the Urban District at Kaupulehu,

North Kona, Hawaii for various uses including residential uses, a 36-hole golf course and clubhouse, supporting commercial center, arch preservation areas, residents club, recreational area with public facilities, shoreline access, and resort service area, roads, open space and buffers.

Appearances

R. Ben Tsukazaki, Esq., Attorney for Petitioner

Richard Wurdeman, Esq., Corporation Counsel, County of Hawaii

Jim Nagle, Esq., Deputy Attorney General, Office of State Planning

Robyn Loudermilk, Land Use Division, Office of State Planning

Abe Mitsuda, Land Use Division, Office of State Planning

Robert Kim, Esq., Attorney for Plan to Protect

Alfred Lerma, Esq., Attorney for Ka Lahui, Kona Hawaiian Civic Club, and Protect Kohanaiki Ohana

Angel Pilago, Protect Kohanaiki Ohana

Arguments on the Petition for Interventions were heard from Mr. Tsukazaki, Mr. Wurdeman, Mr. Nagle, Mr. Kim, Mr. Lerma, and Mr. Pilago.

Commissioner Mattson moved to grant the petitions for interventions filed by Kona Hawaiian Civic Club, Ka Lahui, and Protect Kohanaiki Ohana as represented by Mr. Lerma. The motion was seconded by Commissioner Senda and unanimously approved by voice votes.

Arguments on the motion to withdraw as intervenor by Kona Village Associates and withdrawal of Exhibit and Witness List were heard from Mr. Tsukazaki, Mr. Wurdeman, Mr. Nagle, Mr. Kim, and Mr. Lerma.

Commissioner Mattson moved to grant the withdrawal of Kona Village Associates as intervenor and its exhibit and witness list. The motion was seconded by Commissioner Senda and unanimously carried by voice votes.

At this time, the meeting was conducted by Presiding Officer Senda.

EXHIBITS

The following public witness letters were admitted into evidence by the Land Use Commission:

- a. September 23, 1994 from John R. De Sa with attached letter dated September 21, 1994 from John E. Dawrs, County of Hawaii Police Department.
- b. September 23, 1994 from Rodney Oshiro, Na Ala Hele
- c. September 26, 1994 from Brooks Harper, U.S. Department of Interior, Fish and Wildlife Service.
- d. September 29, 1994 from John P. Powell
- e. September 29, 1994 from Congresswoman Patsy Mink
- f. September 30, 1994 from Charles Young and Maile David, Ka Lahui Hawaii
- g. October 20, 1994 from Rodney Oshiro, Na Ala Hele
- h. October 28, 1994 from Don Hibbard
- i. November 17, 1994 from Roy Price
- j. November 29, 1994 from Trina Meinsen and family
- k. November 30, 1994 from Josh Dankovchik
- l. November 30, 1994 from Robert D.S. Kim
- m. December 1, 1994 from Hannah Springer
- n. December 1, 1994 from John Broussard
- o. December 1, 1994 from Lois Tyler for Douglas Blake, Kona Conservation Group
- p. December 1, 1994 from April Mayberry, West Hawaii Sierra Club
- q. December 1, 1994 Office of Hawaiian Affairs

Presiding Officer Senda announced that Petitioner's Motion to Bar Documentary Evidence will be dealt with at the appropriate time in the future.

Kathy Yonamine, staff planner, oriented the Commission to the area requesting reclassification on the Land Use District Boundaries and tax maps.

Objections to the Commission taking the field trip today were heard from Mr. Kim, Mr. Pilago, Mr. Lerma, Ms. David, and Ms. DaMate.

It was further argued by Mr. Lerma that if the field trip was going to be conducted today, then his clients would be boycotting the field trip. Mr. Lerma also requested a continuance of the hearing.

Presiding Officer Senda denied Mr. Lerma's request for a continuance.

PUBLIC WITNESSES

1. Ruby MacDonald
2. Janice Palma

At this time, Mr. Lerma, Attorney for Ka Lahui, Kona Hawaiian Civic Club, and Protect Kohana-iki Ohana withdrew their decision to boycott the field trip and decided to participate in the field trip provided that a second field trip would be provided if need be in the future.

At this time the Commission adjourned the meeting to take a field trip to the project site on Docket No. A93-701 - Kaupulehu Developments.

The meeting was adjourned at 1:10 p.m.