

Approved
1/9/01

LAND USE COMMISSION

Minutes of Meeting

Conference Room 405
State Office Tower, Leiopapa A Kamehameha
235 South Beretania Street
Honolulu, Hawaii

December 8, 2000

COMMISSIONERS PRESENT: P. Roy Catalani
Bruce A. Coppa
Pravin Desai
Lawrence N.C. Ing
M. Casey Jarman
Merle Kelai
Stanley Roehrig
Peter Yukimura

COMMISSIONER ABSENT: Isaac Fiesta, Jr.

STAFF PRESENT: Charleen Aina, Esq., Deputy Attorney
General
Esther Ueda, Executive Officer
Bert Saruwatari, Staff Planner
Russell Kumabe, Staff Planner
Teri Hee, Chief Clerk

Holly Hackett, Court Reporter

Chairperson Kelai called the meeting to order at 9:30 a.m.

PRESENTATION

COUNTY OF HAWAII PLANNING DEPARTMENT

Chairperson Kelai announced that this matter before the Commission was a presentation by the County of Hawaii Planning Department on the County of Hawaii's General Plan Revision Program.

Mr. Norman Hayashi of the County of Hawaii Planning Department introduced planners Norren Kato and Phyllis Fujimoto, who also worked on the County of Hawaii general plan.

Mr. Hayashi gave a slide presentation on the County of Hawaii's General Plan Revision Program. Mr. Hayashi reported that the proposed changes to the maps will be reviewed by the new

planning director, Christopher Yuen, and submitted to the planning commission sometime in January.

After hearing the presentation, questions were asked by the Commissioners.

CONTINUED ACTION

A99-729 - THE NEWTON FAMILY LIMITED PARTNERSHIP (Hawaii)

Chairperson Kelai announced that this matter before the Commission is a continued action to consider whether the anticipated effects discussed in Petitioner's Amended Draft Environmental Assessment to reclassify approximately 885.40 acres of land currently in the Conservation District into the Agricultural District at Kukuau, South Hilo, Hawaii for an agricultural subdivision constitutes a "significant effect" pursuant to Chapter 343, H.R.S.

On December 7, 2000, Alice Kawaha of the County of Hawaii Planning Department notified the Commission staff that they would not be attending today's meeting.

Appearances

A. Bernard Bays, Esq., for Petitioner

Liane Brown, Esq., for Petitioner

Dr. George Newton, Petitioner

John Chang, Esq., Deputy Attorney General, Office of Planning

Abe Mitsuda, Land Use Division, Office of Planning

Arguments on the amended draft environmental assessment were heard from Mr. Bays.

After hearing Petitioner's arguments, questions were asked by Mr. Chang and the Commissioners.

Mr. Bays reported that Paul Rosendahl was not able to attend today's meeting to address concerns of the Office of Planning with respect to native Hawaiian Rights but offered to get him via telephone. Mr. Chang stated he felt more information on the native Hawaiian rights issue with respect to the Supreme Court

ruling on the Ka Pa'akai case was needed before the Commissioners could make a decision.

Commissioner Jarman questioned the extent to which the Ka Pa'akai case was relevant to accepting or not accepting an environmental assessment. Deputy Attorney General Charleen Aina stated that it was the Commission's responsibility to assess whether or not there was a significant impact and determine whether or not an environmental impact statement was necessary.

Commissioner Jarman suggested the following be addressed to the environmental assessment:

1. Clarify on page 26 the current status of the Hawaiian Hawk.
2. On page 70, 2nd paragraph, last sentence, add "proposed mitigation" measures to be consistent with page 72 under section 13.
3. Clarify the legality of the condition under "Proposed Subdivision".
4. Under Mitigation Conditions - Birds, Bats & Hawks - take out the words "to the extent possible" under the first bullet. Under the next bullet, add DLNR to be provided a copy of the results.
5. Under Plants, 3rd sentence, add the words "but not be limited to" after "Such mitigation measures will include..." Also, specify by whom mitigation measures will be required. Last sentence of first bullet, there is a typo; "muc" should be "much".
6. Under Archaeology, 1st bullet, add "for historic preservation purposes" after "... (which will be preserved....to the extent necessary) ..."
7. Under Traditional Hawaiian Gathering Rights - LUC has to protect the rights, not petitioner because of the Supreme Court ruling.

Commissioner Roehrig moved that the Land Use Commission find that the anticipated effects of this project did not constitute a significant impact pursuant to Chapter 343, H.R.S. The motion was seconded by Commissioner Yukimura. Commissioner Jarman added that the motion be seconded subject to the Petitioner's willingness to address her suggested comments. Mr. Bays agreed that the motion be made with the addition of Commissioner Jarman's concerns as stated. Commissioner Jarman's amendments to the motion was seconded by Commissioner Coppa and unanimously passed by voice votes.

Procedures for Appointment of Successor Executive Officer,
Including Creation and Appointment of Members for Selection
Committee

Chairperson Kelai appointed Commissioners Coppa, Roehrig, Catalani and Jarman, with the help of Executive Officer Esther Ueda, to the selection committee. Chairperson Kelai stated that he will look into having Ms. Ueda work on a part time basis until a new executive officer is hired. Resumes for the position should be submitted two weeks from the date of publication of the ad for the new executive officer. Deputy Attorney General Charleen Aina suggested that a press release go out as soon as possible to give advance notice to the public.

MISCELLANEOUS

1. ADOPTION OF MINUTES

Commissioner Jarman moved to approve the minutes for the meeting dates of November 2, 2000. The motion was seconded by Commissioner Catalani and unanimously approved by voice votes.

2. ADOPTION OF DECISION AND ORDER

Commissioner Roehrig moved to adopt the Findings of Fact, Conclusions of Law, and Decision and Order Accepting an Environmental Impact Statement for A State Land Use District Boundary Amendment for Docket No. A00-732 - TSA International, Limited with the following changes: On page 12, 2nd line, take out the words "such as" and add the word "including". On page 13, 2nd line, take out the words "or during". The motion, as amended, was seconded by Commissioner Desai and unanimously approved by voice votes.

Commissioner Jarman moved to go into executive session to discuss legal matters with our deputy attorney general with respect to litigation on Pacific Star, LLC v. the Sierra Club, et al., and other state and federal litigation by Pacific Star, LLC. The motion was seconded by Commissioner Ing and unanimously moved by voice votes.

The meeting was adjourned at 12 noon.