

Minutes of Meeting

Approved
10/18/01

Hawai'i Naniloa Resort
Kilohana Room
93 Banyan Drive
Hilo, Hawaii

October 4, 2001

COMMISSIONERS PRESENT: P. Roy Catalani
Bruce Coppa
Pravin Desai
M. Casey Jarman
Stanley Roehrig
Peter Yukimura (portion of proceedings)

COMMISSIONERS ABSENT: Isaac Fiesta, Jr.
Lawrence N.C. Ing
Merle A. K. Kelai

STAFF PRESENT: Anthony J.H. Ching, Executive Officer
John Deller, Esq., Deputy Attorney
General
Russell Kumabe, Staff Planner
Bert Saruwatari, Staff Planner
Teri Hee, Chief Clerk
Holly Hackett, Court Reporter

Presiding Officer Roehrig called the meeting to order at 9:10 a.m.

CONTINUED HEARING

A00-732 – TSA CORPORATION (Hawaii)

Presiding Officer Roehrig announced that this matter before the Commission was a continuation of the hearing which was adjourned yesterday at 4:30 p.m.

Appearances

Nathan Natori, Esq., representing Petitioner

Rodney Funakoshi, Wilson, Okamoto & Associates

Patricia O'Toole, Esq., Corporation Counsel, County of Hawaii

Norman Hayashi, County of Hawaii Planning Department

John Chang, Esq., Land Use Division, Office of Planning

Judith Henry, Land Use Division, Office of Planning

Abe Mitsuda, Land Use Division, Office of Planning

Nicole Walthall, Esq., representing Intervenor KAHO

Stanley Bond, representing Intervenor KAHO

Sallie Beavers, representing Intervenor KAHO

Ms. Walthall introduced Intervenor's Exhibit Nos. 33 through 37. Mr. Natori voiced his objections to Intervenor's Exhibit Nos. 33 through 37 being entered into the record and made an oral motion to strike those exhibits as well as the cross examination of Mr. Fujioka and Dr. Roy Irwin's direct testimony and requested for sanctions against KAHO's counsel. Ms. Walthall presented her rebuttal on Mr. Natori's oral motion. There were no comments from the County or the State. Questions were asked by the Commissioners. After consulting with Deputy Attorney General John Delleria with respect to sanctions, Presiding Officer Roehrig reported that the Commission does not have any kind of sanction authority. He also ruled that Intervenor's Exhibit Nos. 33 through 37 will be received into the record and stated that Petitioner will have adequate opportunity for rebuttal to any cross examination of Intervenor's or any other parties' witnesses.

Mr. Natori made a formal request to have Petitioner's expert witness cross-examine Intervenor's expert witness based on statements made at one of the prehearings that it was permissible. There were no comments from the County or the State. Ms. Walthall voiced her objections to Mr. Natori's request. Presiding Officer

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Roehrig ruled against Mr. Natori's formal request to have Petitioner's expert witness cross-examine Intervenor's expert witness.

EXHIBITS

1. Intervenor's Exhibit Nos. 33 through 37 were admitted into evidence by the Land Use Commission.

INTERVENOR'S WITNESSES (cont'd.)

1. Dr. Roy Irwin

Commissioner Yukimura excused himself from the proceedings at this time.

INTERVENOR'S WITNESSES (cont'd.)

2. Dr. Delwyn Oki

A lunch recess was taken at 11:55 a.m. to reconvene at 1:00 p.m.

- 1:10 p.m. -

INTERVENOR'S WITNESSES (cont'd.)

2. Dr. Delwyn Oki
3. Eric Guinther

ACTION

SP01-394 – DAGS, HAWAII ARMY NATIONAL GUARD & HAWAII AIR NATIONAL GUARD (Maui)

Presiding Officer Roehrig announced that this matter before the Commission was an action to consider a special use permit to construct a new armory, organizational maintenance shop, service, storage, parking and helipad improvements, other related improvements and future spaces for a post exchange and the Hawai'i Air National Guard facilities on approximately 30 acres of land within the Agricultural District at Pulehunui, Maui, Hawai'i.

Appearances

Mike Munekiyo, consultant representing Department of Accounting and General Services

Richard Miyabara, Project Architect

Colonel Vern Miyagi, Chief of Staff, Department of Defense

Colonel Richard Young, Department of Defense

Lance Maja, Department of Accounting and General Services

Colonel Peterson, State Aviation Officer

Colonel Gary Hara, Aviation Support Facility Commander in Honolulu

Richard Minatoya, Esq., representing Maui County Deputy Corporation Counsel

Julie Higa, Maui County Planning Department, Staff Planner

Bert Saruwatari, staff planner, oriented the Commission to the special permit area on the Land Use District Boundaries and tax maps and gave a summary of the special permit request.

Mr. Munekiyo introduced Mr. Miyabara who presented a brief overview of the project as well as proposed designs for the project. Colonel Miyagi presented the purpose, need and operational requirements for this project. Questions were asked by the Commissioners. Various representatives of the National Guard addressed issues presented by Mr. Saruwatari and also addressed nine questions in a letter dated October 1, 2001 that the Commission received from Alan M. Arakawa, Chair of the County Council Land Use Committee to Ms. Gwen Ohashi Hiraga and Mr. Glenn Tadaki of Munekiyo & Hiraga, Inc. More questions were raised by the Commissioners.

Mr. Minatoya presented his arguments. Ms. Higa clarified the differences between the process of a conditional use permit and use variance.

Commissioner Jarman moved to approve with the condition that if Petitioner is going to do substantial develop on their seven acres, that they need to come back to update the Land Use Commission, the special use permit to construct a new armory, organizational maintenance shop, service, storage, parking and helipad improvements, other related improvements and future spaces for a post exchange and the Hawai`i Air National Guard facilities. The motion was seconded by Commissioner Coppa and polled as follows:

Ayes: Commissioners Jarman, Coppa, Catalani, Desai, and Roehrig

ACTION

SP01-396 – U.S. COAST GUARD (Hawai`i)

Presiding Officer Roehrig announced that this matter before the Commission was an action to consider a special use permit to allow for the establishment of a Differential Global Positioning System (DGPS), consisting of a 150-foot lattice tower, two 20-foot lattice towers, antennas, equipment shelter and related improvements on approximately 45.9 acres of land within the Agricultural District at the former Pahoia Airstrip, Pahoia, Puna, Hawai`i.

Appearances

Commander Frederick Wright, representing Petitioner

Chief Warrant Officer Louis Frey, representing Petitioner

Alice Kawaha, County of Hawaii Planning Department, Staff Planner

Russell Kumabe, staff planner, oriented the Commission to the special permit area on the Land Use District Boundaries and tax maps and gave a summary of the special permit request.

PUBLIC WITNESSES

1. Dina Pascua
2. Merlin Keaulana-Dyball

3. Larry Volz

Arguments on the special permit were heard from Mr. Wright. Questions were asked by the Commissioners. Ms. Kawaha reported that condition number two is redundant and should be deleted.

Commissioner Coppa moved to approve with the condition that Petitioner obtain a right of entry from the Department of Land and Natural Resources before they go ahead, the special use permit to allow for the establishment of a Differential Global Positioning System (DGPS), consisting of a 150-foot lattice tower, two 20-foot lattice towers, antennas, equipment shelter and related improvements. Presiding Officer Roehrig clarified that the approval be subject to the requirement that Petitioner gets an appropriate right of entry and granting by the State Land Board of the necessary approval for their operation and that it be accomplished within one year. The motion was seconded by Commissioner Desai and polled as follows:

Ayes: Commissioners Coppa, Desai, Catalani, Jarman, and Roehrig

MISCELLANEOUS

Due to a lack of quorum, the Commission was not able to adopt the Findings of Fact, Conclusions of Law, and Decision and Order for Docket No. A93-701/Kaupulehu Developments.

The meeting was adjourned at 4:55 p.m.